STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Petition of Consolidated Communications of Vermont Company, LLC and Consolidated Communications of Northland Company for Approval of a successor Incentive Regulation Plan, pursuant to 30 V.S.A. § 226b	)))))	Case No. 21-4060-PET

PREFILED DIRECT TESTIMONY OF
CLAY PURVIS
ON BEHALF OF THE
VERMONT DEPARTMENT OF PUBLIC SERVCE

January 21, 2022

Summary: Mr. Purvis introduces the subject matter experts testifying on behalf of the Department and provides a summary of the Department's recommendations in this case. His testimony explains the vital importance of Consolidated's Incentive Regulation Plan continuing to protect captive customers with no true competitive service alternative. Specifically, Mr. Purvis' testimony: (1) highlights the importance of continued rate regulation for residential and business basic local exchange service for captive customers; (2) recommends that, in order to grant certain regulatory relief in Tier 2 Areas, greater protections must be imposed for captive customers in Tier 1 Areas; and (3) summarizes the Department's recommended modifications to current service quality metrics and proposed enhanced bill credits. His testimony also recommends that Consolidated accelerate its fiber build-out in areas where it receives Rural Digital Opportunity Fund monies and commit to making measurable progress in resolving host-remote isolation events in those exchanges where they persist.

Mr. Purvis Sponsors the Following Exhibits:

Exhibit DPS-CP-1	Consolidated Territory/RDOF Winnings Overlay

Direct Testimony
of
Clay Purvis

Q1. Please introduce yourself.

A1. My name is Clay Purvis. I am the Director for Telecommunications and Connectivity in the Telecommunications and Connectivity Division of the Vermont Department of Public Service ("Department"). I have worked at the Department for approximately eight years and have been Director for approximately five years. I previously served as the Department's Connectivity Development Manager and prior to that, its Telecommunications Infrastructure Specialist.

Q2. Have you previously testified before the Vermont Public Utility Commission ("Commission")?

A2. Yes. I have testified in Dockets 8837, 8428, 8881 and Case Nos. 18-1543-PET and 18-3231-PET.

Q3. Please summarize your testimony.

A3. The purpose of my testimony is to introduce the subject matter experts testifying on behalf of the Department and to summarize the Department's recommendations with respect to Consolidated's Incentive Regulation Plan ("IRP"). The Department's primary interest is in protecting those customers who have no viable service alternative (i.e., "captive" customers) outside of Consolidated's basic local exchange service ("BLES"), and the recommendations herein reflect that interest.

Specifically, I highlight the importance of continued rate regulation for residential and business BLES for captive customers while acknowledging that Consolidated faces competition in areas of the state that merit a degree of regulatory flexibility. I also explain that, in order to grant certain regulatory relief in what the Department defines as Tier 2 Areas, greater protections must be imposed for captive customers in Tier 1 Areas. These protections include continued regulation of residential and business BLES, modifications to service quality metrics and adoption of enhanced bill credits. The Department's recommendations also include a commitment by Consolidated to accelerate fiber build-out in areas that the company has already committed to build with Rural Digital Opportunity Fund ("RDOF") monies and a commitment to make measurable progress in resolving host-remote isolation events in those exchanges where they persist.

Q4. Please identify the witnesses other than yourself that will submit testimony on behalf of the Department and the scope of their testimony.

A4. In addition to my testimony, the Department will submit testimony from Carol Flint, the Department's Director of Consumer Affairs and Public Information. Ms. Flint summarizes Consolidated's recent service quality, customer service history and reliability and public comments and consumer complaints filed with the Department and the Commission. Ms. Flint presents the Department's proposed service quality metrics for Consolidated under the successor IRP, which are designed to effectively protect captive customers and Emergency Households.

The Department will also submit testimony from Dr. August Ankum of QSI Consulting, Inc. Dr. Ankum presents on behalf of the Department a number of data-driven recommendations crafted to provide Consolidated with a level of regulatory flexibility in areas where it faces prevalent facilities-based competition while simultaneously providing captive customers with continued regulatory protections. Dr. Ankum makes the crucial point that what is considered a competitive service is more nuanced than that described by Consolidated, especially for captive customers. Dr. Ankum's testimony recommends that competition and potential deregulation in competitive areas should be based on speed of service at 25/3 Mbps, but at higher availability rates (98%) than that proposed by Consolidated (91%).

Q5. Please explain the terms of the current IRP.

A5. The current IRP maintains BLES as a rate-regulated service and provides Consolidated relief from tariffing of all other retail telephony services. BLES is currently available throughout the entirety of Consolidated's Vermont territory. The current IRP's deregulatory policy provides Consolidated with the flexibility to change prices quickly and offer bundle deals that help the company respond to competitive pressures in the market. For many consumers located in competitive areas, this regulatory flexibility has provided more options and more affordable prices. For those consumers located in captive areas, the IRP ensures that prices are affordable despite the fact that such areas are more expensive to serve. Further, the IRP holds the company accountable to those service quality metrics outlined in Docket 5903. While service quality has improved since 2018, as Ms. Flint testifies, maintaining adequate service in captive areas continues to be a challenge for Consolidated.

Q6. Please explain how and why the Department's proposed IRP differs from that proposed by Consolidated.

A6. Consolidated proposes to completely eliminate regulation of BLES in what it considers competitive areas and maintain regulation of the service in noncompetitive areas with adjusted service quality metrics. While the Department agrees with Consolidated that competition can obviate the need for regulation of BLES, as the testimony of Dr. Ankum explains, the competitive market as defined by Consolidated must be more narrowly construed in order to effectively protect captive customers who do not have a viable service alternative. The Department therefore proposes that the IRP contain provisions to ensure these consumers continue to be protected based on the Department's Tier 1 and Tier 2 analysis.

The Department agrees with Consolidated's proposal to modify the 24-hour Out of Service ("OOS") Troubles Cleared metric to OOS Troubles Cleared within 48 hours with a Baseline Level of 80% and Action Level of 70%, albeit with certain caveats aimed to protect captive customers dependent on Consolidated for telephone service. As explained by Ms. Flint and Dr. Ankum, a 48-hour OOS Troubles Cleared metric would apply in Tier 1 Areas as defined by the Department. Further, as detailed in Dr. Ankum's testimony, should customers experience outages longer than 48 hours, the

Department recommends that Consolidated be required to issue enhanced bill credits. It is the position of the Department that if Consolidated is to be relieved from meeting its service quality obligations in competitive or Tier 2 Areas, any newly adopted IRP should have strengthened service quality protections for captive customers in the form of enhanced bill credits.

Q7. Please explain why captive customers need continued regulatory protections.

A7. The majority of Vermonters have enjoyed the benefits of a competitive market through increased options for services and lower prices, as further explained herein. However, captive customers have not been able to enjoy the same benefits as their urban and suburban counterparts. Rural areas in which captive customers live have generally suffered from a lack of investment. Captive customers have disproportionately experienced poorer service quality and could be subject to higher prices than their urban and suburban counterparts. Captive customers still rely on Consolidated's voice services as their one and only option for telephone service because, as explained in Dr. Ankum's testimony, they lack a true competitive service alternative. It is for these reasons the Department remains deeply concerned about captive customers.

The IRP is a tool for enhancing the competitiveness of Consolidated by giving the company the flexibility it needs to respond to competitive pressures in those areas where competition exists. Nevertheless, because there remain thousands of Consolidated customers without competitive alternatives, it is imperative that the regulatory framework governing Consolidated continue to protect and promote the interests of captive customers. The Department has therefore made the interests of captive customers the focus of its recommendations.

Q8. Why is BLES important?

A8. As further explained in Dr. Ankum's testimony, BLES remains an essential service for thousands of Consolidated customers who have no viable service alternative. Should regulation of business and residential BLES cease in those areas Consolidated describes as competitive, it will leave those customers without any recourse when inevitable service quality problems arise.

Q9. Please explain why the Department's enhanced bill credit recommendation should be adopted.

A9. It has been the Department's longstanding position that enhanced bill credits are the best means through which to provide financial incentive for Consolidated to promptly resolve service outages experienced by captive customers. As explained in the testimony of Dr. Ankum, should captive customers experience outages longer than 48 hours, an enhanced bill credit will provide them with financial recourse. Further, the Commission made clear in its January 31, 2020 Order in Case No. 18-3231-PET that adoption of an enhanced bill credit proposal may be appropriate for a successor IRP. Pursuant to that Order, the Department believes that now is the appropriate time to adopt the enhanced bill credit proposal.

Q10. Please summarize the evolution of the telecommunications market in Vermont.

A10. The telecommunications market in Vermont has become increasingly competitive since enactment of the Telecommunications Act of 1996 ("Act"). Designed to facilitate market competition that in turn would provide consumers with increased choice at a lesser price, the Act opened up what was once a monopoly-driven telecommunications environment for incumbent local exchange carriers ("ILECs") to competition in the form of competitive local exchange carriers ("CLECs"). By the early 2000s, cable video operators began offering Internet access over cable video systems, ILECs had migrated to digital subscriber line ("DSL") service and access to mobile voice telephony increased, all of which gave consumers alternatives to plain old telephone service ("POTS") traditionally offered by ILECs. By 2008, most cable television providers had introduced Voice over Internet Protocol ("VoIP") as a POTS alternative. Between 2007 and 2020, Vermont also saw a large expansion of mobile wireless service as hundreds of new cell towers came online.

The market has also experienced consolidation and retraction of the traditional ILEC. Verizon in 2008 sold its Northern New England properties to FairPoint Communications. FairPoint then sold to Consolidated in 2017. During this time, as consumers took advantage of POTS alternatives like VoIP and mobile voice, the Northern New England property saw a precipitous decline in lines in service. Whereas during the early aughts, the Verizon/FairPoint properties were once the dominate carrier in Vermont, today Consolidated is a minor player in the market for residential voice and telephony services.

Q11. Please explain changes in the telecommunications market since the current IRP was adopted in 2016 in Docket 8337.

A11. Since the current IRP was adopted in 2016, several changes in the telecommunications space have the potential to accelerate current market conditions. The primary change is the new emphasis on fiber-to-the-home Internet services. In Vermont, large amounts of federal and state funding are being directed to municipal governmental entities ("Communications Union Districts" or "CUDs") to build new fiber-to-the-premises ("FTTP") systems with an emphasis on unserved and underserved areas. The Vermont General Assembly appropriated $150 million to the CUDs to bring rural fiber service to the state and more appropriations are expected over the next two years.

A second change is the shift in federal support for rural high-cost areas. Beginning in 2015, Consolidated and its predecessor received Connect America Fund Phase II ("CAF-II") high-cost support from the Federal Communications Commission ("FCC") in order to expand DSL services in rural areas. This program provided six years of subsidies to expand DSL and maintain voice service. The successor to that program, the RDOF, directs that same source funding to multiple carriers, which is awarded on a competitive basis. Although Consolidated was a significant RDOF winner in

Vermont, its share of total award is just over $19 million over 10 years, which is significantly less than the $60 million it received in CAF-II funding.

Both investment in CUDs and RDOF funding have the potential to further change the Vermont telecommunications landscape for the better. That said, their success will not manifest for several years, and the fact remains that there are captive customers with no viable alternative outside of Consolidated's current voice service offerings.

Q12. Please describe host-remote isolation and the Department's recommendation.

A12. Host-remote isolation is a specific type of wireline telephone system outage that arises in the Public Switched Telephone Network. It occurs when the link between a "remote switching unit" controlled by a "host switching unit" is severed, usually due to a fiber cut or other single point of failure. This "isolation event" leaves a landline telephone user in an impacted area with dial tone and the ability to complete local calls to numbers within that user's exchange, but with the inability to place calls outside of the exchange, including calls to 9-1-1. Such isolation vulnerabilities and corresponding lack of redundancy raise legitimate safety concerns because despite a continuing decline in the number of 9-1-1 calls placed from landline telephones, they persistently affect rural exchanges in Vermont. The solution for host-remote isolation events is the deployment of geographically diverse, redundant circuits.

Host-remote isolation presents a serious danger to consumers – who are more often than not captive Consolidated customers – living in these rural exchanges. It should therefore be treated as a service quality issue crucial to protecting captive customers. The Commission has explored this issue in detail in Case No. 19-0869-PET. According to Consolidated's November 5, 2021 status report, there are currently 11 wire centers with no path diversity and 17 exchanges with partial diversity. The Department recommends that the Commission condition approval of a successor IRP on a commitment from Consolidated to reduce the number of exchanges subject to partial diversity by half and the number of exchanges with no diversity by three. This work should be completed during the Department's proposed term of the IRP and Consolidated should be encouraged to seek federal and state grants or partner with other providers to complete the work.

Q13. Please explain the Department's recommendation regarding Consolidated's federal awards under the RDOF.

A13. Rural service quality problems, and specifically the OOS troubles that persist for Consolidated, are best remedied by replacing aging copper infrastructure with fiber optic networks. However, statewide deployment of FTTP is cost prohibitive. The state and the federal government have both recognized that rural broadband expansion is uneconomical without public subsidies and, to that end, several programs now provide monetary support to providers to expand FTTP services in rural communities. As discussed above, Consolidated was a winner in the FCC's RDOF Phase I auction and has accepted $19 million in support over 10 years to build out FTTP service to unserved and underserved areas of the state, as detailed in **Exhibit DPS-CP-1**. This is a significant commitment that will assist Consolidated in resolving service quality problems in captive areas.

The FCC's RDOF rules require construction of all services within six years of receipt of funding. Specific milestones must be met within that six-year timeframe. Specifically, RDOF recipients are required to complete 40% of deployment work by year three and 20% of work each year thereafter through year six. It is the position of the Department that, consistent with similar commitments made by Consolidated in Docket 8881, Consolidated can drastically improve service quality in unserved and underserved areas of the state with a voluntary commitment to complete RDOF construction under an accelerated schedule. The Department therefore recommends that the company complete construction in four years instead of six.

Q14. Does this conclude your testimony?

A14. Yes.