REDACTED PUBLIC VERSION

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 21-4060-PET

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	)

PREFILED REBUTTAL TESTIMONY OF
AUGUST ANKUM, PH.D.
ON BEHALF OF THE
VERMONT DEPARTMENT OF PUBLIC SERVICE

April 14, 2022

Summary: Dr. Ankum responds to Consolidated's prefiled rebuttal testimony on various proposed conditions for the 2022-2025 Vermont Incentive Regulation Plan, including but not limited to criteria for determining Tier 2/competitive municipalities, inclusion of business BLES and enhanced bill credits. Dr. Ankum also addresses Consolidated's rebuttal testimony on BLES revenue shortfall and current market conditions.

Dr. Ankum Sponsors the Following Exhibits:

Exhibit DPS-AA-3	Department Proposed IRP (Updated)
Exhibit DPS-AA-4	Tier 2 Areas
Exhibit DPS-AA-5	Map of Tier 1 and Tier 2 Areas

REBUTTAL TESTIMONY OF AUGUST ANKUM, PH.D.

I. INTRODUCTION

Q1. Please state your name and title.

A1. My name is August Ankum. I am a founding partner of QSI Consulting, Inc. ("QSI") and currently serve as its Chief Economist. My business address is 626 Avenue B, Trevose, Pennsylvania 19053.

Q2. Are you the same August Ankum who submitted prefiled direct testimony in this proceeding?

A2. Yes, I am. My prefiled direct testimony was submitted in this proceeding on January 21, 2022.

Q3. What is the purpose of your rebuttal testimony in this case?

A3. My rebuttal testimony focuses on certain Incentive Regulation Plan ("IRP") proposals discussed in the prefiled rebuttal testimony of Sarah Davis. I will also address certain issues raised in the prefiled rebuttal testimony of Kenneth Martin regarding the current conditions in Vermont's local telecommunications market.[1] There are three exhibits to my rebuttal testimony. **Exhibit DPS-AA-3** reflects the Department's most recent IRP proposal, including a few modifications that the Department explains in its rebuttal testimony. **Exhibit DPS-AA-4** is a list of the Tier 2 Areas that result from the

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[1] Other Department witnesses are sponsoring testimony on certain issues related to the proposed IRP not covered in my testimony.

Department's IRP proposal. **Exhibit DPS-AA-5** is a map that shows the Tier 1 and Tier 2 Areas that result from the Department's IRP proposal.

Q4. Please summarize your rebuttal testimony.

A4. This case boils down to determining the appropriate regulatory framework for Consolidated's basic local exchange service ("BLES"). Competitive developments in the industry notwithstanding, the truth is that tens of thousands of customers in Vermont continue to rely on Consolidated's BLES. Some of these are captive customers lacking alternatives and others simply continue to value the voice service to which they subscribe and do not want or need higher-priced alternatives. These types of customers may be viewed as what the Federal Communications Commission ("FCC") has referred to as a "persistent minority." *See* FCC Wireline Competition Bureau ("WCB") "Report on the State of the Lifeline Marketplace," p. 21. Now, with inflation at a 40-year high and the cost of necessities like groceries and gasoline squeezing household budgets, the availability of a reliable, affordable basic voice service remains important.

When developing its proposed framework for Consolidated's BLES, the Department took great care to balance various objectives. Specifically, the Department's IRP proposal adheres to 30 V.S.A. § 226b(c), accounts for varying conditions in Consolidated's service territory, considers the merits of Consolidated's original proposal, addresses long-standing concerns in Vermont, promotes network modernization and economic development and provides important safeguards for BLES customers.

The Department also considered Consolidated's claim that it provides BLES at a loss. Upon examination, however, that claim was found to be unsupported. Further, after reviewing the entirety of Consolidated's rebuttal testimony, I continue to recommend that the Department's proposed benchmark for identifying Tier 2/competitive areas (*i.e.*, 98% broadband availability at 25/3 speeds) be adopted as the best approach. Indeed, the data presented by Consolidated demonstrate the reasonableness of the Department's proposed benchmark. Also, Consolidated did not address the support I provided in my prefiled direct testimony – including the discussion of long-standing public policy – showing that business BLES should be treated the same as residential BLES and remain in the IRP. Regarding the Department's enhanced bill credit proposal, Consolidated's criticisms ignore a simple solution to the issue: to avoid issuing credits, Consolidated only need provide quality of service consistent with applicable standards. This is a particularly reasonable expectation given that Consolidated has requested more time (*i.e.*, 48 versus 24 hours) to restore service outages.

Ultimately, the Department's proposals will better serve the public interest because they are customer-focused while Consolidated's proposals appear to be driven by a narrower objective to deregulate as much of its Vermont service territory as possible. In sum, the Department's proposed IRP best satisfies the requirements of 30 V.S.A. § 226b(c) and I recommend that it be adopted.

II. AREAS OF AGREEMENT

Q5. Would you like to highlight certain important issues in this proceeding on which the Department and Consolidated appear to agree?

A5. Yes. There are certain threshold issues on which the Department and Consolidated appear to agree. Identifying these areas of agreement can help to delineate the parties' positions and to then concentrate efforts on determining which party's position on the primary contested issues best meets the criteria of 30 V.S.A. § 226b(c).

First, both the Department and Consolidated agree that incentive regulation pursuant to 30 V.S.A. §226b is the appropriate regulatory model for Consolidated's BLES, and that a successor IRP should be adopted by the Commission to replace the existing IRP that expires on July 31, 2022. Agreement on this threshold issue allows the parties to focus on the appropriate components to be included in the successor IRP, rather than debating the regulatory model that should apply.

Second, the parties agree that certain areas of Consolidated's Vermont service territory are more competitive than others, and that the successor IRP should reflect this by allowing for a degree of regulatory flexibility for Consolidated's BLES in areas where competition is more prevalent. Agreement on this issue allows the parties to focus on the method for distinguishing these areas and craft needed protections for BLES customers in those areas that lack sufficient competition.

Third, both parties propose to employ a bright-line benchmark (*i.e.*, broadband availability to X% of locations in a municipality) to distinguish between Tier 1/non-competitive and Tier 2/competitive areas using the same highly-reliable data set compiled, analyzed and authenticated by the Department.[2] While the parties propose different benchmarks, they agree on an effective and practical methodology that largely avoids extensive arguments over how to quantify the presence (or lack) of competition for BLES from sources such as competitive local exchange carriers ("CLECs"), VoIP providers, wireless providers and satellite providers.

Q6. Are there specific components of the Department's IRP proposal that Consolidated agreed to in its rebuttal testimony?

A6. Yes. Consolidated has no objection to the Department's proposal that customers can purchase BLES service along with other stand-alone services. *See* Davis Rebuttal, p. 12, lines 15-18; Ankum Direct, p. 53, lines 13-18; Exhibit DPS-AA-2 (corrected), Section II(C). Consolidated also agrees with the Department's proposal to add quarterly retail service quality reports pursuant to Docket 5903, as a "required report" on Attachment A to the IRP. *See* Davis Rebuttal, p. 13, lines 17-22; Ankum Direct, p. 55, line 7 – p. 56, line 5; Exhibit DPS-AA-2 (corrected), Attachment A. I consider these two issues resolved.

[2] As discussed in my Direct Testimony, the terms "competitive" and "non-competitive" are used as a shorthand indicator of certain essential differences but do not reflect a more formal finding on the state of competition in Vermont.

Q7. Are there other Department IRP proposals that Consolidated conditionally accepted in its rebuttal testimony?

A7. Yes. There are two Department IRP proposals that Consolidated indicated it could accept provided that certain other Department proposals with which Consolidated disagrees are not adopted. The provisionally acceptable Department IRP proposals are: (1) the term of the successor IRP; and (2) continued rate regulation in Tier 2 Areas. However, Consolidated does not explicitly identify the specific Department proposals that would need to be omitted in order to obtain Consolidated's agreement on these two issues.

Q8. Please address the first issue, the term of the successor IRP.

A8. Consolidated "sees no issue with a three-year IRP" as proposed by the Department in lieu of the two-year Consolidated proposal "as long as it does not include the Department's more unreasonable conditions…" *See* Davis Rebuttal, p. 7, lines 16-17. Consolidated goes on to say that "[i]f the Commission were to order those [more unreasonable] conditions, Consolidated would need to seek a successor plan as soon as possible." *See* Davis Rebuttal, p. 7, lines 17-19. In other words, Consolidated does not object to a longer IRP term if it agrees with the requirements of the plan, but seeks a shorter term if it disagrees with the requirements so that the company can seek to change/eliminate them.

Viewed from a public policy perspective, however, the duration of the IRP should not be contingent upon Consolidated's agreement/disagreement with the plan's requirements. Instead, the term of a Commission-approved plan should be long enough for it to be implemented effectively and the impacts to be evaluated, but not too long such that its provisions become stale or obsolete. I explained at pages 22-25 of my prefiled direct testimony why the Department's proposed three-year term is a more effective and appropriate time period for the successor IRP. Consolidated's rebuttal testimony did not disagree with my testimony on this issue.

Q9. Please address the second issue, continued rate regulation in Tier 2 Areas.

A9. The Department proposes caps on price increases in areas designated as Tier 2. They are: $5 in year one and $10 in year two. No cap on price increases would apply for Tier 2 Areas in year three. *See* Ankum Direct, pp. 36, 45; Exhibit DPS-AA-2 (corrected), Section II(B).

Consolidated states that while it "does not agree with continued rate regulation in competitive areas […] Consolidated would not oppose this if conditions, which Consolidated does oppose, were not ordered here." *See* Davis Rebuttal, p. 11, lines 1-3. I explained at pages 44-46 of my prefiled direct testimony that the Department's proposal is intended to be a glide path to BLES pricing flexibility in Tier 2 Areas while providing a degree of protection to customers against rate shock. The fact that Consolidated has stated it could conditionally accept this proposal suggests that the proposed caps on price increases for Tier 2 Areas in years one and two do not hinder the company's plans and provide a measure of pricing flexibility that is satisfactory to Consolidated. Therefore, the Department's proposed caps on pricing appear to strike a reasonable balance between providing important consumer protections and establishing a path toward pricing flexibility in Tier 2 Areas.

Q10. Consolidated conditioned its acceptance of these two provisions on the Commission not adopting other Department proposals Consolidated considers unreasonable. Is the Department proposing to eliminate any of its original proposals in order to gain the Company's acceptance of these two provisions?

A10. No. These two conditions – term of the successor IRP and glide path to pricing flexibility in Tier 2 Areas – stand on their own as reasonable and appropriate. While the Department's rebuttal testimony contains certain potential alternatives to its original proposals, they are not a result of attempting to gain Consolidated's acceptance of these two provisions. Instead, these alternatives serve to provide the Commission options in devising an IRP that best meets the requirements of 30 V.S.A. § 226b.

III. BENCHMARK FOR CLASSIFYING TIER 2/COMPETITIVE AREAS

Q11. Consolidated states that the Department's proposed benchmark for classifying municipalities as Tier 2 (*i.e.*, broadband availability at 25/3 Mbps speeds to 98% of locations) is "too high" and "too restrictive." *See* Davis Rebuttal, p. 9, line 1. How do you respond?

A11. I disagree. First, data presented by Consolidated in its rebuttal testimony demonstrate the reasonableness of the Department's proposed 98% benchmark. The following two quotes are taken from Mr. Martin's rebuttal testimony:

> "…over 99.9% of households in both Vermont as a whole and within Consolidated's footprint as of 2020 are in census blocks having access to at least 25 down and 3 Mbps up speeds from at least two broadband providers…"
> *See* Martin Rebuttal, p. 3, lines 12-16.

> "Using FCC Form 477 data, we can see that within Consolidated's ILEC territory all towns have at least 2 broadband competitors on a weighted average basis with at least 25/3 Mbps."
> *See* Martin Rebuttal, p. 12, lines 7-9.

Consolidated is attempting to have it both ways. On the one hand, the company relies on data showing widespread availability of 25/3 broadband speeds from multiple providers to support its claim of "robust competition." On the other hand, Consolidated criticizes a lower percentage (*i.e.*, 98% versus 99.9%) of broadband availability at 25/3 speeds from fewer providers (*i.e.*, at least one versus at least two) to support its opposition to the Department's proposed benchmark. Indeed, Consolidated's own testimony about the prevalence of broadband availability at 25/3 speeds undercuts it claims that the Department's proposed benchmark is "too high" and "too restrictive."

Q12. Do you disagree with Consolidated's criticism of the Department's proposed benchmark for other reasons?

A12. Yes. A comparison of the outcomes associated with each party's proposed benchmark for classifying Tier 2/competitive areas demonstrates the reasonableness of the Department's proposal. The Department's proposed benchmark results in 29 municipalities being initially[3] classified as Tier 2. *See* **Exhibit DPS-AA-4**. Consolidated's proposed benchmark results in 58 municipalities being initially classified as competitive. *See* Davis Rebuttal, p. 10, lines 12-13.

As explained in the Department's response to the Commission's March 11, 2022 Request for Information, 22 municipalities in Consolidated's service territory in Maine have been deregulated by statute. While Maine law provides a process for Consolidated to seek deregulation in additional municipalities, it is my understanding that to date, Consolidated has not sought deregulation beyond the initial 22 municipalities. The 22 deregulated municipalities in Consolidated's Maine service territory provides a "sanity check" of sorts on the outcomes associated with the parties' benchmark proposals – *i.e.*, 29 deregulated municipalities under the Department's proposal and 58 deregulated municipalities under Consolidated's proposal. This comparison casts doubt on Consolidated's claim that the Department's proposed benchmark is "too high" and suggests that Consolidated's proposed benchmark (which would deregulate over 2.5 times more municipalities in Vermont than in Maine) is too low.

[3] The word "initially" is used because under both proposals the number of Tier 2/competitive municipalities can grow each year if additional municipalities meet the criteria.

Q13. Consolidated is concerned that under the Department's proposed benchmark a "very small number of remote locations" could prevent the entire municipality from achieving Tier 2/competitive status. Please respond.

A13. A relatively small number of locations in smaller municipalities could determine classification status under both parties' benchmark proposals. Consolidated is concerned that the Department's proposal would prevent municipalities with 200 or fewer locations from achieving Tier 2 status if broadband at 25/3 speeds is not available to just four locations. *See* Davis Rebuttal, p. 9, lines 4-14. Under Consolidated's proposal – which uses 91% broadband availability at 25/3 speeds[4] – these same municipalities would not achieve competitive status if 18 locations did not have available broadband at 25/3 speeds. And these municipalities would not achieve Tier 2 status under a 95% benchmark (that Consolidated refers to as "more moderate") if broadband was unavailable at 10 locations.

While four is a smaller number than 18 and 10, they are all a relatively small number of locations and Consolidated does not explain why four locations is "very small" and too restrictive while 18 or 10 locations is not. In addition, as indicated in Consolidated's testimony, ongoing state and federal broadband investment initiatives are expected to bring higher broadband speeds to more rural areas in Vermont in coming months and

[4] Consolidated's proposed benchmark also requires broadband availability at 4/1 speeds to 97% of locations. As I explain at page 31 of my Direct Testimony, the Department disagrees with using 4/1 broadband speeds in part because that primarily counts Consolidated's own DSL service and is not indicative of facilities-based investment by alternative service providers. Consolidated does not address this point in its rebuttal testimony.

years. *See* Martin Direct, pp. 31-32.[5] These new investments will be incorporated into the classification of municipalities on an annual basis under both parties' proposals. Therefore, Consolidated's concern about a "very small number of remote locations" preventing a municipality from achieving Tier 2/competitive status should diminish over time.

Q14. Should the Commission reject a benchmark proposal because a very small number of locations could disqualify some municipalities from achieving Tier 2/competitive status?

A14. No. The potential for seemingly anomalous outcomes is not unique to the Department's proposal but inherent in the adoption of any percentage-based benchmark. For example, *****BEGIN CONFIDENTIAL** [redacted] **END CONFIDENTIAL***** Under all three benchmarks referenced above (*i.e.*, 98%, 95%, and 91%), just one unserved/underserved location would disqualify this municipality from achieving Tier 2 status. Further, such anomalous outcomes should be few and occur in smaller municipalities that may not meet either Consolidated's or the Department's benchmark. For instance, of the 222 municipalities in Vermont with an appreciable number of locations in Consolidated's territory (*see* Ankum Direct, p. 30, footnote 5), 16

[5] "Recent Rural Development Opportunity Fund ("RDOF") auctions will result in additional providers offering higher broadband speeds in rural areas in Vermont…It is expected that all of Vermont's nearly a dozen CUDs will eventually provide high speed broadband options to their towns' residents. Based on the historical trajectory of broadband expansion, recent announcement of network plans, and the availability of additional federal and state funding, growth in broadband availability and speeds can be expected to continue."

municipalities – or just 7.2% – have fewer than 200 locations[6] and none of those 16 municipalities classify as Tier 2/competitive areas under either party's IRP proposal. *See* Exhibit CC-SD-3 and Exhibit DPS-AA-4.

The merit of a percentage-based benchmark is that it ensures near ubiquitous facilities-based competition throughout a municipality before being irreversibly designated as Tier 2/competitive.

Q15. Consolidated focuses heavily on the issue of a small number of locations determining Tier1/Tier 2 status for an entire municipality. Does this issue highlight a fundamental difference between the parties' priorities in determining the appropriate level for a percentage-based benchmark?

A15. Yes. Consolidated's focus emphasizes a clear difference in objectives when developing its respective benchmark proposals. Consolidated states:

> "Consolidated tried hard to provide a *delicate balance* between ensuring real competition in areas to be deregulated and not allowing a few outlying locations from removing that municipality in its entirety. There is no perfect solution…"
> *See* Davis Rebuttal, p. 9, lines 16-19 (emphasis added).

Based on this testimony, a primary objective of Consolidated in developing its proposed benchmark was to avoid a situation where a small number of unserved locations (*i.e.*,

[6] Those towns are: Warren Gore, Searsburg, Ferdinand. Landgrove, Lemington, Granby, Victory, Brunswick, Averys Gore, Glastenbury, Goshen, Lewis, Somerset, Stannard, Warners Grant and West Haven.

customers) would disqualify a municipality from being classified as competitive. In other words, a primary objective for Consolidated was to maximize the number of municipalities deemed competitive.

By contrast, when developing its benchmark proposal, the Department tried hard to provide a "delicate balance" between allowing competition to take the place of regulation where appropriate and not leaving customers stranded without viable alternatives. Stated differently, the Department used a customer-focused approach in developing its proposed benchmark.

As shown at pages 39-44 of my Confidential Direct Testimony, the Department analyzed and compared various benchmarks (98%, 95%, 91%) and their respective impacts on customers. As the benchmark percentage goes down, the number of customers without viable alternatives goes up. The Department selected a benchmark that granted Consolidated regulatory relief in a meaningful number of municipalities but did not leave stranded customers who may not have access to broadband speeds of 25/3 without other facilities-based alternatives. As such, the Department's customer-focused analysis strikes the better balance from a public policy perspective.

Q16. Consolidated references a "more moderate 95% threshold at 25/3" that "would add another 28 municipalities to the Department's Tier 2 municipalities." ***See*** **Davis Rebuttal, p. 10, lines 4-6. Does the Department recommend the 95% threshold be adopted by the Commission?**

A16. No. Selection of the benchmark should not be a results-driven exercise based on the number of Tier 2/competitive municipalities it produces. The Department's position remains that a benchmark of broadband availability at 25/3 speeds to at least 98% of locations is the best option. However, if the Commission is inclined to consider the lower 95% benchmark mentioned in Consolidated's rebuttal testimony, then it should refer to pages 40-44 of my Confidential Direct Testimony, which compares the impacts on customers from using a 95% benchmark versus a 98% benchmark.

IV. BUSINESS BLES

Q17. Consolidated opposes the Department's proposal for business BLES to remain in the IRP. Consolidated states: "[t]here is no reason the plan needs to continue to include business service, and the Department points to no evidence of a continued need in this market." ***See*** **Davis Rebuttal, p. 8, lines 4-5. Did the Department explain and provide support for keeping business BLES in the IRP?**

A17. Yes, but Consolidated ignored it. Specifically, at pages 26-28 of my Prefiled Direct Testimony I discuss a number of deficiencies in Consolidated proposal. They are:

- Consolidated inappropriately groups all business customers together and glosses over critical customer class distinctions;
- Small business customers – who purchase business BLES – are more comparable to residential customers than they are medium/large business customers;

- It is well-established in the industry that regulators and policy-makers group small business customers together with residential customers because of similarities between the two customer classes; and
- Consolidated's reference to higher revenues associated with business services does not apply to business BLES.

Consolidated does not address any of these deficiencies in its rebuttal testimony. Instead, Consolidated reiterates the same flawed claims. For instance, Consolidated states: "[t]here is a robust and competitive business market…making regulation unnecessary." *See* Davis Rebuttal, p. 8, lines 5-8. Consolidated also states that its "performance with respect to business BLES is already subject to market pressure so regulation is not needed." *See* Davis Rebuttal, p. 11, lines 17-18. By referring to the "business market" as a whole, Consolidated ignores my previous testimony explaining that it is critical when examining business BLES to distinguish small business customers (who purchase BLES) from medium/large business customers (who typically purchase higher-revenue, more sophisticated telecommunications services).

Likewise, Consolidated states that "business services throughout the state are competitive, and therefore, should not be subject to any service quality metrics." *See* Davis Rebuttal, p. 11, lines 16-17. By lumping all business services together, Consolidated ignores my previous testimony showing that the FCC has repeatedly grouped small business customers with residential customers (collectively "mass market" customers) because they "have similar patterns of demand, are served primarily through mass marketing techniques, purchase similar volumes and communications services and would likely face the same competitive alternatives without a geographic market." *See*

Ankum Direct, p. 27. Thus, there is no basis for treating business BLES any differently than residential BLES within the context of the IRP.

Q18. Consolidated states that "the ILEC rate structure has always relied on business services to subsidize the residential customers" and that "[l]imiting business service price increases in the Department's Tier 1 municipalities to the same $2 that applies to residential customers does not make sound business sense." ***See*** **Davis Rebuttal, p. 8, lines 10-13. Please respond.**

A18. Consolidated's criticism is a collateral attack on the existing IRP that has been in place for over six years. *See* Ankum Direct, p. 24, lines 11-15. As explained in my Direct Prefiled Testimony, the cap on price increases for residential and business BLES in Tier 1 Areas under the Department's proposal (*i.e.*, $2 or 11% in a 12-month period) carries forward the same cap that applies to both residential and business BLES under the existing IRP. *See* Ankum Direct, p. 36, lines 7-8; p. 37, lines 14-16; p. 44, lines 18-20.

Moreover, to the extent that Consolidated has always relied on business services to subsidize the residential customers, the existing cap which has been in place for several years has not deterred Consolidated's ability to do so. Consolidated's existing business BLES rate is twice the rate of residential BLES and this price disparity will not be disturbed by any of the price cap proposals for the successor IRP. *See* Consolidated Communications VT PUC No. 1 Basic Local Exchange Services, Part M Section 1, 3rd revised page 6.

V. ENHANCED BILL CREDITS

Q19. Does Consolidated oppose the Department's enhanced bill credit proposal?

A19. Yes. Consolidated states that the enhanced bill credit proposal ignores that Consolidated provides BLES at a loss and that enhanced bill credits put further financial strain on the company. *See* Davis Rebuttal, p. 12, lines 8-11. I will address Consolidated's claim that it provides BLES at a loss later in my testimony.

Q20. Is there a way that Consolidated can avoid entirely any financial consequences that an enhanced bill credit requirement may present for the Company?

A20. Yes, by providing quality of service to customers that meets applicable standards. The enhanced bill credit proposal will cost the company nothing if Consolidated consistently meets its service quality obligations. To be sure, the enhanced bill credit proposal is intended as an incentive, not as a rate reduction or revenue reduction proposal.

Further, it is important to note that the enhanced bill credit proposal was made in conjunction with the Department conditionally accepting Consolidated's proposal to modify the OOS Troubles Cleared metric by lengthening the timeframe from the existing 24 hours to 48 hours. The intent of the enhanced bill credit proposal is to establish a financial incentive to ensure that Consolidated does not abuse the additional time granted by a modified OOS Troubles Cleared metric and allow its retail service quality to backslide. *See* Ankum Direct, p. 50, lines 10-17. Under the Department's proposal, the enhanced bill credits would be triggered only if Consolidated fails to restore outages in Tier 1 areas within the longer 48-hour period granted by a modified metric.

Q21. Consolidated states that "at $10 per day, Consolidated could very quickly begin paying its customers to provide service." ***See*** **Davis Rebuttal, p. 12, lines 12-13. Is this an accurate portrayal of the Department's enhanced bill credit proposal?**

A21. No. The proposal is described at pages 50-51 of my prefiled direct testimony. If Consolidated fails to restore service within 48 hours, the following daily credits would apply after the initial 48 hours: $5 per residential customer and $10 per business customer. For telephone outages lasting longer than 10 days, those daily credits double for the 11th and succeeding days. Therefore, the $10 per day credit referenced by Consolidated would only apply to business customers after 48 hours or to residential customers after 10 days.

Since Consolidated has consistently met the applicable OOS>24 hours metric for business customers since early 2019, it should experience no problems continuing to meet this metric, particularly with additional time to restore service. *See* Ankum Direct, p 50, lines 6-7. And for the $5 daily bill credit for residential customers, it would take an outage extending for approximately six days before the credit overtakes the tariffed monthly rate for residential BLES. Again, the intent of the enhanced bill credit proposal is *not* for Consolidated to credit customers or for customers to make money; rather, the intent is to provide incentives for Consolidated to consistently meet quality of service standards.

Q22. Consolidated states "[i]f the Commission were to order enhanced bill credits they should be low amounts, not to exceed a customers' [sic] monthly charges, and not include business BLES." ***See*** **Davis Rebuttal, p. 12, lines 11-12. If the Commission were to consider adopting a modified version of the enhanced bill credit proposal, should it adopt any of Consolidated's proposed modifications?**

A22. I do not believe that any modifications to the Department's original proposal are warranted. The Department's enhanced bill credit proposal is very similar to a bill credit proposal agreed to by an ILEC (Frontier) in the state of Minnesota and has been in place for approximately two years. The fact that this proposal has been implemented elsewhere demonstrates that it is feasible and presumably Frontier would not have agreed to these bill credit amounts in Minnesota if it thought they would create a financial hardship. Moreover, if bill credit amounts swell to the level of exceeding the monthly service charges, that means that customers are experiencing extended outages, in which case compensating affected customers for inconvenience and potential safety implications is reasonable.

That said, if the Commission has concerns about the magnitude of the potential bill credit amounts under the Department's proposal, then it could consider capping the bill credits at a customer's monthly service charges and eliminating the escalation amounts for outages lasting longer than 10 days.

VI. MISCELLANEOUS CONDITIONS

Q23. At pages 59-60 of your direct testimony, you explain the Department's disagreement with Consolidated's proposal to strike language from the IRP discussing special access services. Did Consolidated respond?

A23. Yes. In rebuttal, Consolidated states that it "does not believe that intrastate special access is a product that is ordered anymore" and that "every service that is ordered is likely interstate in nature." *See* Davis Rebuttal, p. 15, lines 1-3. Consolidated proposes eliminating this language from the IRP "because there should be very little or no demand." *See* Davis Rebuttal, p. 15, line 4.

Q24. Is Consolidated correct that there is very little or no demand for intrastate special access?

A24. No. Consolidated's response to discovery request DPS.CC.2.5 states in part:

> "Consolidated Communications of Vermont Company, LLC currently has 1002 intrastate special access circuits in service in Vermont."

Therefore, the basis for Consolidated's proposed elimination of the language – i.e., all special access is interstate and there is very little or no demand for intrastate – is flawed. In fact, there is demand for intrastate special access circuits, and as such, the Department remains opposed to Consolidated's proposal to strike this language. *See* Exhibit DPS-AA-2 (corrected) Section IV.

Q25. Consolidated states that the Department's proposal to require semi-annual reports on RDOF and fiber-to-the-home build out is unnecessary. *See* Davis Rebuttal, p. 14, lines 8-15. What is your response?

A25. After further consideration, the Department is no longer proposing to require this report. As explained in the rebuttal testimony of Clay Purvis, the Department is modifying its proposal regarding the acceleration of RDOF investments, and in turn, modifies its proposal to require semi-annual reports detailing RDOF buildouts. The Department will continue to receive address-level data from Consolidated on an annual basis for mapping purposes, which should serve the intended purpose of monitoring fiber investments and identifying any potential investment backsliding during the term of the IRP.

Q26. Consolidated takes issue with the Department's proposal to require quarterly status reports detailing efforts to mitigate host-remote isolation vulnerabilities. Does the Department continue to believe these reports are useful and should be required?

A26. Yes. Consolidated opposes this reporting requirement because it disagrees with the Department's proposal to require host-remote vulnerability mitigation efforts as a condition of the IRP. *See* Davis Rebuttal, p. 14, lines 1-6. Department witness Clay Purvis addresses Consolidated's opposition to the host-remote vulnerability mitigation condition in his rebuttal testimony.

If the Commission adopts the Department's proposed mitigation condition, then the associated reporting condition will help monitor progress of mitigation efforts over the life of the IRP. However, even if the Commission agrees with Consolidated and chooses not to adopt the Department's proposed host-remote vulnerability mitigation condition, it should still adopt this reporting requirement. Given the serious public safety concerns facing customers in areas vulnerable to host-remote isolation events, the company should be continuously examining ways to resolve the vulnerabilities – even if it is not required by the IRP.

For instance, Consolidated has previously informed the Commission that it "addresses potential further [host-remote vulnerability] mitigation opportunities through the development of recent programs" such as the Vermont Community Broadband Board enacted by Act 71. *See* **Exhibit DPS-CP-2**. If these efforts result in addressing and fixing existing vulnerable areas, it makes sense that Consolidated would want to inform the Commission about those improvements and that the Commission would want to be aware of that progress. The quarterly reports proposed by the Department are a good way to keep the Commission informed on these important issues.

VII. ALLEGED REVENUE SHORTFALL

Q27. Consolidated states that the fees collected from Vermont customers for BLES do not cover the cost to Consolidated to provide BLES and that Consolidated loses over $5.5 million per year providing BLES. *See* Davis Rebuttal, p. 5, lines 13-18. Have you been able to verify Consolidated's claim regarding BLES revenue shortfall?

A27. No. Consolidated has provided no information that supports the cost estimates it uses to calculate the reported BLES revenue shortfall. This impedes an informed review of Consolidated's BLES revenue shortfall analysis (**Confidential Exhibit CC-SD-4**) and prevents me from validating or invalidating Consolidated's claim.

Q28. Please elaborate on the importance of reliable cost support information when evaluating Consolidated's BLES revenue shortfall claim.

Q28. Consolidated's claim is based on an analysis contained in **Confidential Exhibit CC-SD-4**. A brief explanation of the contents of this exhibit helps to emphasize the importance of reliable cost support information. **Confidential Exhibit CC-SD-4** is a three-page document. The exhibit lists the wire centers in Consolidated's Vermont service territory. For each wire center, the following information is listed: *****BEGIN CONFIDENTIAL**

[redacted]

[redacted] **END CONFIDENTIAL*****This is the process Consolidated uses for its claim that it loses "over $5.5M on an annual basis" from providing BLES. *See* Davis Rebuttal, p. 5, line 18. *****BEGIN CONFIDENTIAL** [redacted] **END CONFIDENTIAL*****

Q29. Did the Department ask Consolidated to provide all documentation supporting its cost estimates?

A29. Yes. The Department issued discovery request DPS:CC.2.6 seeking "all underlying data supporting" **Confidential Exhibit CC-SD-4** including "work papers, cost data, assumptions, source documentation, supporting studies, formulae and calculations." In response to this request, Consolidated provided **Confidential Attachment DPS.CC.2.6**.

Q30. Does discovery response DPS.CC.2.6 provide any support for Consolidated's cost estimates?

A30. No. Discovery response DPS.CC.2.6 is an Excel spreadsheet consisting of two tabs: *****BEGIN CONFIDENTIAL** [redacted] **END CONFIDENTIAL***** However, what is conspicuously missing from **Confidential Attachment DPS.CC.2.6** is any information supporting Consolidated's cost estimates. To be sure, all of the *****BEGIN CONFIDENTIAL** [redacted] **END CONFIDENTIAL*****

Q31. Are there other reasons to question the accuracy of Consolidated's estimated $5.5 million annual shortfall?

A31. Yes, it is incomplete. Consolidated states that "the ILEC rate structure has always relied on business services to subsidize the residential customers." *See* Davis Rebuttal, p. 8, lines 10-11. Therefore, an analysis of the revenues and costs of all BLES (residential plus business) is needed to determine whether the fees collected for BLES cover the cost to Consolidated to provide BLES. Consolidated's shortfall estimate *****BEGIN CONFIDENTIAL** [redacted] **END CONFIDENTIAL***** Consolidated's response to Department information request DPS.CC.2.7 states that "Consolidated has not performed a [surplus/shortfall] study specifically for business."

VIII. COMPETITION IN VERMONT

Q32. Consolidated takes issue with your testimony stating that Consolidated overgeneralizes actual alternative services available to Vermont consumers and that the focus should be directly on conditions within Consolidated's Vermont service territory. Please respond.

A32. Consolidated states:

> Dr. Ankum states in his answer to Question 7 on pages 5 and 6 of his testimony that **[1]** "Consolidated overgeneralizes the extent to which these alternative communications media translate into actual alternative services available to Vermont consumers…" and argues that **[2]** "[t]o accurately understand how competition is impacting Consolidated and its customers, one must focus more directly on conditions within the Company's service territory."
> *See* Martin Rebuttal, p. 3.

In quote [1] shown above, Consolidated omits important language from my testimony and replaces it with an ellipsis. The entire passage from my testimony is as follows:

> "However, Consolidated overgeneralizes the extent to which these alternative communications media translate into actual alternative services available to Vermont consumers**, particularly those who are current subscribers to Consolidated's BLES.**" (emphasis added)

The omitted language is extremely important in this context because BLES is a lower-priced voice product with basic functionality – *i.e.*, dial tone and calling within a local exchange area. *See* Consolidated Communications VT PUC No. 1, Basic Local Exchange

Services Part A Section 1, original page 2. The overgeneralization I was referring to was Consolidated's assumption that all of the various alternative services serve as a viable alternative for BLES customers. That point is lost without the full quote.

Quote [2] above should be non-controversial; that is, when developing the best regulatory framework for Consolidated's BLES services, it is important to focus on the conditions within Consolidated's service territory. This point should be non-controversial because Consolidated's proposed benchmark distinguishes between competitive and non-competitive municipalities using the specific conditions within the municipalities in Consolidated's service territory.

Q33. Consolidated states, "[i]f there were not alternatives [to landline service] as Mr. Ankum states, Consolidated would have far more than approximately 70,000 access lines, a number that continues to decline every month." ***See*** **Davis Rebuttal, p. 5, lines 6-8. Is it your testimony that there are not alternatives to landline service?**

A33. No.[7] I discussed the transformative impact of mobile wireless and broadband networks and services on the telecommunications industry in my testimony. *See* Ankum Direct, p. 4, lines 5-7; p. 5, lines 9-12. As the adoption of these alternative technologies has increased, the demand for traditional landline service has decreased. However, there are

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7 Similarly, Consolidated states mobile wireless "should in Dr. Ankum's view be dismissed as a competitive option for consumers." Martin Rebuttal, p. 10, lines 6-8. I do not dismiss mobile wireless as a competitive option for consumers. Instead, my testimony discusses factors that can impact whether an existing BLES customer chooses to switch to mobile wireless, such as network coverage, price, functionality and demographics. These factors provide important context and are not addressed in Consolidated's discussion of market conditions.

currently tens of thousands of Vermont customers, including captive customers, who continue to rely on BLES.

Q34. Consolidated references your previous testimony that "[a]ffordability is likely one reason we continue to see many residential BLES subscribers throughout Consolidated's Vermont service territory despite the existence of alternative means of communication." ***See*** **Davis Rebuttal, p. 5, lines 10-13. Would you like to elaborate on this point?**

A34. Yes. An affordable basic service is increasingly important given rising inflation. The annual inflation rate for the U.S. is 7.9% for the 12 months ending February 2022 – the highest inflation in 40 years.[8] The cost of basic necessities such as groceries, energy and gasoline are rising to historical levels and having a serious adverse impact on household budgets. As household budgets get squeezed, affordable basic service can provide an important connection to family, friends and emergency services, particularly for senior citizens and households on fixed-incomes. *See* Ankum Direct, p. 33-34. In addition, with the cost of living rising, existing BLES customers are less likely to switch to higher-priced voice alternatives and customers who have previously switched may be more apt to seek out a lower-priced alternatives like BLES.

[8] U.S. Inflation Calculator, citing U.S. Labor Department data. Available at https://www.usinflationcalculator.com/inflation/current-inflation-rates/.

Q35. Are there other recent developments that underscore the importance of affordable basic local exchange voice service?

A35. Yes. The FCC recently recognized the importance of affordable stand-alone voice services when it delayed implementation of the phase-out of Lifeline support for voice-only services. In June 2021, the FCC's WCB issued its "Report on the State of the Lifeline Marketplace."[9] One of the findings in the report is that "a persistent minority of Lifeline subscribers opts for voice-only Lifeline plans" and "those subscribers still value the voice service to which they subscribe as those plans are only eligible for the lower voice reimbursement amount that is currently set at $5.25." *See* Marketplace Report, p. 21. The Report indicates that 73% of Lifeline subscribers use less than 250 minutes of voice service per month. *See* Marketplace Report, p. 21. These Lifeline customers do not seem to need or want higher-priced alternatives. The WCB states: "the removal of Lifeline support for voice-only services may push some Lifeline consumers into bundled plans that they are unable to afford." *See* Marketplace Report, p. 23.

Following issuance of the Marketplace Report, in November 2021, the FCC delayed the phase-out of Lifeline support for voice-only service, which was previously scheduled to take effect in December 2021. The FCC said:

> [V]oice service is a popular communication channel for older Americans, and the elimination of Lifeline support for voice-only service plans may particularly hamper the ability of those unable or unwilling to adopt emerging technologies to connect to emergency services…Lifeline support for voice-only services is still necessary or desirable, given the significant percentage of Lifeline consumers who continue to prioritize

[9] Marketplace Report, available at: https://docs.fcc.gov/public/attachments/DOC-373779A1.pdf

> voice-only service…As such, an elimination of voice-only support may force subscribers seeking voice-only services to either move to a more expensive bundled broadband plan, or forego voice service altogether.
>
> *See* Lifeline and Link Up Modernization; Order, WC Docket No. 11-42, November 5, 2021.

This delay is further support for the notion that affordable, basic stand-alone voice service still serves a vital role for many consumers and, as such, preserving and protecting BLES remains an important public policy objective.

Q36. Does this conclude your rebuttal testimony?

A36. Yes.