

1 STATE OF NEW HAMPSHIRE

2 PUBLIC UTILITIES COMMISSION

3
4 **May 24, 2010** - 9:13 a.m.
Concord, New Hampshire

DAY 1

5 {REDACTED FOR PUBLIC USE}

6
7
8 RE: DT 10-025
 FAIRPOINT COMMUNICATIONS, INC.:
9 Reorganization.10
11 **PRESENT:** Chairman Thomas B. Getz, Presiding
12 Commissioner Clifton C. Below
 Commissioner Amy L. Ignatius

13 Sandy Deno, Clerk

14 **APPEARANCES:** **Reptg. FairPoint Communications, Inc.:**
15 Patrick C. McHugh, Esq. (Devine, Millimet...)
16 Frederick J. Coolbroth, Esq. (Devine...)
 Harry Malone, Esq. (Devine, Millimet & Branch)
 Shirley Linn, Esq., General Counsel17 **Reptg. BayRing Communications:**
18 Alan M. Shoer, Esq. (Adler, Pollack...)19 **Reptg. Otel Telekom:**
 Gregory M. Kennan, Esq. (Fagelbaum & Heller)20 **Reptg. One Communications:**
21 Paula Foley, Esq.22 **Reptg. CRC Communications of Maine:**
 Trina M. Bragdon, Esq.23 COURT REPORTER: STEVEN E. PATNAUDE, LSR No. 52
24

APPEARANCES: (C o n t i n u e d)

Reptg. segTEL, Inc.:

Carolyn Cole, Esq.

Kath Mullholand

Reptg. Comcast Phone of N.H. LLC:

Susan S. Geiger, Esq. (Orr & Reno)

Stacey L. Parker, Esq.

Reptg. Irene Schmitt:

Alan Linder, Esq. (N.H. Legal Assistance)

Reptg. Residential Ratepayers:

Meredith Hatfield, Esq., Consumer Advocate

Office of Consumer Advocate

Reptg. PUC Staff Advocates:

Peter C.L. Roth, Senior Asst. Atty. General

(N.H. Dept. of Justice-Office of Atty. Gen.)

F. Anne Ross, N.H. PUC, General Counsel

Reptg. PUC Non-Advocate Staff:

Harold T. Judd, Esq. (Accion Group), Esq.

Edward N. Damon, Esq.

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RAYMOND ALLIERI

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FP-1	NHPUC Merger Order in Docket DT 07-011	premarked
FP-2	Settlement Agreement among the Joint Petitioners and Staff in Docket DT 07-011	premarked
FP-3	Memorandum of Understanding between FairPoint and NHLA on behalf of Irene Schmitt in Docket DT 07-011	premarked
FP-4	Post-Filing Regulatory Settlement - New Hampshire	premarked
FP-5	Post-Filing Regulatory Settlement - Maine	premarked
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FP-7P	Testimony of Alfred C. Giammarino, including attachments	premarked
FP-7C	<u>CONFIDENTIAL</u> Testimony of Alfred C. Giammarino, including attachments	premarked
FP-8P	Testimony of Jeffrey W. Allen, including attachments	premarked
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FP-9	Testimony of Thomas P. Nolting, including attachment	premarked

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FP-10	Testimony of Richard Murtha, including attachments	premarked
FP-11	Testimony of Bryan Lamphere, including attachments	premarked
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FP-13	Testimony of Lisa R. Hood, including attachments	premarked
FP-14	Rebuttal Testimony of Thomas P. Nolting	premarked
FP-15	Rebuttal Testimony of Richard Murtha	premarked
FP-16	2nd Amended Plan of Reorganization	premarked
FP-17	2nd Amended Disclosure Statement	premarked
FP-18	First Supplement to Plan Supplement (includes modified Credit Agreement)	premarked
FP-19	Modified Second Amended Joint Plan of Reorganization	premarked
FP-20	RESERVED (Re: Form ILEC-3 Annual Report)	24
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FP-25	Response to Oral Data Request ODR-2 (05-14-10)	72
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BR-1	Testimony of Wendy Wilusz	premarked
BR-2	Liberty Consulting Status Report dated 07-08-09 and Staff Memo dated 07-14-09, as filed in DT 07-011	premarked
BR-3	Liberty Consulting Group Comments on FairPoint's Stabilization Status dated 09-02-09 and Staff Letter dated 09-03-09, as filed in DT 07-011	premarked
BR-4	FP Response to Joint CLEC 2	premarked

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BR-5	FP Response to Joint CLEC 3	premarked
BR-6	FP Response to Joint CLEC 18	premarked
BR-7	FP Response to Joint CLEC 21	premarked
BR-8	FP Response to Joint CLEC 23	premarked
BR-9	FP Response to Joint CLEC 25	premarked
BR-10	FP Response to Joint CLEC 30	premarked
BR-11	FP Response to Joint CLEC 31	premarked
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BR-13	FP Response to Joint CLEC 33	premarked
BR-14	FP Response to Joint CLEC 34	premarked
BR-15	FP Response to Joint CLEC 35	premarked
BR-16	FP Response to Joint CLEC 36	premarked
BR-17	FP Response to Joint CLEC 37	premarked
BR-18	FP Response to Joint CLEC 38	premarked
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BR-22	FP Response to Joint CLEC 44	premarked
BR-23	FP Response to Joint CLEC 45	premarked
BR-24	FP Response to Joint CLEC 47	premarked
BR-25	FP Response to Joint CLEC 49	premarked

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BR-26	NH Staff Advocates Response to CLEC 2	premarked
BR-27	NH Staff Advocates Response to CLEC 3	premarked
BR-28	NH Staff Advocates Response to CLEC 4	premarked
BR-29	NH Staff Advocates Response to CLEC 5	premarked
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BR-31	NH Staff Advocates Response to CLEC 8	premarked
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Comcast-1	Comcast Phone of N.H., LLC's First Set of Data Requests	premarked
Comcast-2	Requests to FairPoint	premarked
Comcast-3	FairPoint's Responses to Comcast's First Set of Data Requests	premarked
CRC-1	Testimony of Nicholas Winchester	premarked
CRC-2	Testimony of Ed Tisdale	premarked
CRC-3	FairPoint Response to Staff-47	premarked
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CRC-5	FairPoint Response to Staff-50	premarked
CRC-6P	FairPoint Response to Staff-51	premarked
CRC-6C	FairPoint Response to Staff-51 CONFIDENTIAL	premarked
CRC-7	FairPoint Response to Joint CLEC 33	premarked
CRC-8	FairPoint Response to Joint CLEC 34	premarked
CRC-9	FairPoint Response to Joint CLEC 43	premarked
CRC-10	FairPoint Response to Joint CLEC 49	premarked
CRC-11	CLEC Issue List Created by Liberty Consulting based upon calls with CLECs and Maine, New Hampshire, and Vermont Staff	premarked
CRC-11A	CLEC Issue List Created by Liberty Consulting based upon calls with CLECs and Maine, New Hampshire, and Vermont Staff - Version created by CRC that contains the exact same information but has been sorted by topic area and formatted	premarked
CRC-12C	Sample of Weekly Directory Listing Report sent to FairPoint (CONFIDENTIAL)	premarked
CRC-12P	Sample of Weekly Directory Listing Report sent to FairPoint (Public)	premarked

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CRC-13C	Sample Audit of Directory Listings (CONFIDENTIAL)	premarked
CRC-13P	Sample Audit of Directory Listings (Public)	premarked
CRC-14	Email concerning untimely provision of Directly Listing Verification Report	premarked
CRC-15	Email concerning SPOC Process	premarked
OC-1	FairPoint response to Level 3-4	premarked
OC-2	FairPoint response to Comcast 1-29	premarked
OC-3	NH Staff Advocates response to Com: Staff ADV-6	premarked
OC-4	NH Staff Advocates response to Otel: Staff ADV-14	premarked
OC-5	FairPoint Response to CLECS-1	premarked
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OC-7	FairPoint Response to CLECS-8	premarked
OC-8	FairPoint Response to CLECS-12	premarked
OC-9	FairPoint Response to CLECS-14	premarked
OC-10	FairPoint Response to CLECS-15	premarked
OC-11	FairPoint Response to CLECS-16	premarked
OC-12	FairPoint Response to CLECS-17	premarked
OC-13	FairPoint Response to CLECS-26	premarked

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OC-14	FairPoint Response to CLECS-28	premarked
OC-15	FairPoint Response to CLECS-48	premarked
OC-16	FairPoint Response to Otel-11	premarked
OC-17	FairPoint Response to Staff-19	premarked
OC-18	FairPoint Response to Staff-25	premarked
OC-19	FairPoint Response to Staff-44	premarked
OC-20	Liberty Consulting Group: FairPoint Trend Analysis-End of April Update-Late Order Graphs (05-11-10) (Provided to parties in VT PSB Docket No. 7599)	premarked
OC-21	New Hampshire PAP/CCAP Market Adjustment Summaries Jan. 2009 through Mar. 2010	premarked
OC-22	FairPoint PAP Waiver Petitions, denoted as (A), (B) and (C)	premarked
OC-23	Comments of One Communications, Docket DT 07-011 (filed 11-20-08)	premarked
OC-24	In the Matter of Applications Filed by Frontier Communications Corporation, Inc., for Assignment or Transfer of Control, Ex Parte Filing of One Communications, et al., WC Docket No. 09-95 (filed January 28, 2010)	premarked
Otel-1	FairPoint Response to Data Request Otel 7	premarked
Otel-2	FairPoint Response to Data Request Otel 11	premarked

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EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
Otel-3	FairPoint Response to Data Request Otel 16	premarked
Otel-4	FairPoint Response to Data Request Comcast 1-3	premarked
Otel-5	FairPoint Response to Data Request CLECs 31	premarked
Otel-6	FairPoint Response to Data Request CLECs 35	premarked
Otel-7	FairPoint Response to Data Request CLECs 48	premarked
Otel-8	FairPoint Response to Data Request CLECs 49	premarked
Otel-9	Staff Advocates' Response to Data Request Otel: Staff ADV-12	premarked
Otel-10	Staff Advocates' Response to Data Request Otel: Staff ADV-13	premarked
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Otel-14	Staff Advocates' Response to Data Request Otel: Staff ADV-18	premarked
Otel-15	Staff Advocates' Response to Data Request Otel: Staff ADV-19	premarked
segTEL-1	Direct Testimony of Kath Mullholand	premarked

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Non-Advocate Staff-1	Testimony of Alan Kessler, Raymond Gross and Ronald Cassel (04-19-10)	premarked
Non-Advocate Staff-2P	Initial Report of Accion Group, Inc., as corrected (04-19-10)	premarked
Non-Advocate Staff-2C	Initial Report of Accion Group, Inc., as corrected (04-19-10) (CONFIDENTIAL VERSION)	premarked
Non-Advocate Staff-3P	Supplemental Report of Accion Group, Inc. (05-17-10)	premarked
Non-Advocate Staff-3C	Supplemental Report of Accion Group, Inc. (05-07-10) (CONFIDENTIAL VERSION)	premarked
Non-Advocate Staff-4	Form 8K filing of FairPoint announcing forthcoming financial restatements (02-23-10)	premarked
Non-Advocate Staff-5	Form 10Q filing for quarter ended Sept. 30, 2009 (11-20-09)	premarked
Non-Advocate Staff-6	Data request and response: Non-Advocate Staff to FairPoint STAFF-13 by Mr. Skrivan (March 2010)	premarked
Non-Advocate Staff-7	Data request and response: Non-Advocate Staff to FairPoint STAFF-14 by Ms. Hood (March 2010)	premarked
Non-Advocate Staff-8	Data request and response: Non-Advocate Staff to Advocate Staff by Ms. Bailey (March 2010)	premarked

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EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
Non-Advocate Staff-9	Declaration of Meade Monger in Support of Confirmation of the Debtor's Modified Second Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code dated March 10, 2010 (05-07-10)	premarked
Non-Advocate Staff-10	Declaration of Neil Augustine in Support of Confirmation of the Debtor's Modified Second Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code dated March 10, 2010 (05-08-10)	premarked
Non-Advocate Staff-11	Declaration of Lisa R. Hood in Support of Confirmation of the Debtor's Modified Second Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code dated March 10, 2010 (05-07-10)	premarked
Non-Advocate Staff-12	Letter and Attachment re: Issue for Discovery from Debra Howland (03-09-10)	premarked
Non-Advocate Staff-13	RESERVED (FairPoint Communications' 2009 Annual Financial Statement, SEC Form 10-K	RESERVED
Non-Advocate Staff-14	RESERVED (2009 Annual Report of Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE	RESERVED

CHAIRMAN GETZ: Okay. Good morning, everyone. We'll open the hearing in docket DT 10-025. I will start out for the record with a brief recap of the procedural history, then we'll move to taking appearances. I'll review briefly some of the ground rules for procedures in this case, address any remaining preliminary matters that need to be taken care of, and then we'll turn to the first panel of witnesses from the Petitioner.

With respect to procedural background, on October 26, 2009, FairPoint Communications filed for voluntary reorganization under Chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of New Hampshire. On February 11, 2010, FairPoint filed with the Bankruptcy Court its First Amended Joint Plan of Reorganization under the Code. And, on February 24, 2010, it filed with the Commission a petition requesting certain approvals in connection with the Reorganization Plan. We issued an order of notice on February 26, which set a prehearing conference in this case on March 9th. Subsequently, on March 16, we issued a secretarial letter that, among other things, approved a procedural schedule and granted Petitions to Intervene.

With that, let's start with appearances,

1 beginning with Mr. McHugh.

2 MR. McHUGH: Good morning, Mr. Chairman,
3 Commissioner Below, Commissioner Ignatius. Patrick
4 McHugh, of the law firm of Devine, Millimet & Branch, here
5 on behalf of FairPoint Communications, Inc., and it's
6 subsidiaries. Sitting next to me is my partner, Frederick
7 Coolbroth. Also, with me at counsel table today Ms.
8 Teresa Rosenberger, State President-New Hampshire for
9 FairPoint Communications, Peter Nixon, President of
10 FairPoint Communications, and Shirley Linn, Executive Vice
11 President and General Counsel of FairPoint. Behind me are
12 the first witness panel of Ray Allieri, Lisa Hood, Lee
13 Newitt, and also Harry Malone, of Devine, Millimet &
14 Branch.

15 CHAIRMAN GETZ: Okay. Good morning.

16 MR. MALONE: Good morning.

17 CHAIRMAN GETZ: Mr. Kennan.

18 MR. KENNAN: Good morning, Mr. Chairman,
19 Commissioner Below, Commissioner Ignatius. Gregory
20 Kennan, from the law firm of Fagelbaum & Heller, LLP, on
21 behalf of Otel Telekom. And, with me in the back of the
22 room is Mr. Alihan Ciftcioglu from Otel Telekom.

23 CHAIRMAN GETZ: Good morning.

24 MR. SHOER: Good morning. Alan Shoer,

1 from Adler, Pollack & Sheehan, representing BayRing
2 Communications.

3 CHAIRMAN GETZ: Good morning.

4 MR. SHOER: Thank you.

5 MS. FOLEY: Good morning. Paula Foley,
6 for One Communications.

7 CHAIRMAN GETZ: Good morning.

8 MS. BRAGDON: Good morning. Trina
9 Bragdon, for CRC Communications of Maine.

10 CHAIRMAN GETZ: Good morning.

11 MR. LINDER: Good morning. Alan Linder,
12 from New Hampshire Legal Assistance, representing
13 Intervenor Schmitt.

14 CHAIRMAN GETZ: Good morning.

15 MR. LINDER: Good morning.

16 MS. COLE: Good morning, Commissioners.
17 I'm Carolyn Cole, General Counsel for segTEL, and with me
18 is Kath Mullholand.

19 CHAIRMAN GETZ: Good morning.

20 MS. GEIGER: Good morning, Chairman
21 Getz, Commissioner Below, Commissioner Ignatius. I'm
22 Susan Geiger, from the law firm of Orr & Reno,
23 representing Comcast Phone of New Hampshire, LLC., and
24 with me today is Stacey Parker.

1 CHAIRMAN GETZ: Good morning.

2 MS. HATFIELD: Good morning,
3 Commissioners. Meredith Hatfield, for the Office of
4 Consumer Advocate.

5 CHAIRMAN GETZ: Good morning.

6 MR. ROTH: Good morning, Commissioners.
7 Peter Roth, from the New Hampshire Attorney General's
8 Office, for the Staff Advocates. With me today are Kate
9 Bailey, the Director of Telecommunications, Public
10 Utilities Commission; Anne Ross, General Counsel for the
11 Public Utilities Commission; and John Lisciandro, a member
12 of Deloitte, our consultant and witness. Thank you.

13 CHAIRMAN GETZ: Good morning.

14 MR. JUDD: Good morning, Commissioners.
15 My name is Harold Judd, and I'm representing the rest of
16 the Staff. And, with me is Edward Damon, counsel to the
17 Commission; David Goyette; Amanda Noonan; Michael Ladam;
18 and also Alan Kessler and Raymond Gross, who are advisors
19 to the Staff. Thank you.

20 CHAIRMAN GETZ: Good morning, everyone.
21 Is there any other parties who have petitioned to
22 intervene that need to make an appearance today?

23 (No verbal response)

24 CHAIRMAN GETZ: Okay. Hearing nothing,

1 then let's turn to some of the procedural issues I want to
2 make sure that we have under control here.

3 Order of witnesses: We have a filing
4 made by Mr. Judd on May 17. And, the cover letter
5 indicates that this was made in consultation with the
6 participants in the docket, and recognizing that actual
7 time for witnesses will vary. So, Mr. Judd, I assume then
8 that this order of witnesses was put together with parties
9 indicating who would be seeking cross-examination and some
10 estimate of potential length of the cross-examination, is
11 that fair?

12 MR. JUDD: That's correct, Mr. Chairman.
13 However, you spoke in terms of what had been sent around
14 on the 17th. There was a subsequent schedule that was
15 provided to the Executive Secretary of the Commission, I'm
16 hoping it made its way to you. I don't think there was
17 much of a change. The difference would be that it did
18 identify the expected time of when breaks would take
19 place, as well as provided for the opportunity, if
20 necessary, for confidential panels. If I might approach,
21 I'd be happy to provide the copy that I'm referring to.

22 CHAIRMAN GETZ: The copy I have from the
23 17th seems to include that.

24 (Atty. Judd handing document to

1 Chairman Getz.)

2 MR. JUDD: It also provided
3 identification of the subject matter of the panels.

4 CHAIRMAN GETZ: I think we have the same
5 document.

6 MR. JUDD: Okay. Thank you.

7 CHAIRMAN GETZ: Well, I'm going to ask
8 this. I don't think it's necessary for the panels that
9 we're going to see this morning, but, beginning this
10 afternoon, if we could get just informally a list
11 coordinate with all of these witnesses, indicating who
12 intends to cross, so I can have a better picture of how
13 things may play out over the next several days.

14 And, I'm also assuming, is it correct,
15 that the competitive local exchange carriers have
16 coordinated their cross? Is that a fair conclusion on my
17 part?

18 MR. SHOER: Sure.

19 MR. KENNAN: Yes.

20 CHAIRMAN GETZ: Okay. Did you get that,
21 Steve?

22 MR. PATNAUDE: I think --

23 CHAIRMAN GETZ: I will indicate that
24 Mr. Kennan and Mr. Shoer are in agreement with my

1 supposition.

2 MR. PATNAUDE: Thank you.

3 MR. JUDD: Mr. Chairman, if I might,
4 just so there's no misunderstanding. Individually the
5 parties advised me of how much time they expected, and it
6 was nearly unanimous, of course, reserving that, if
7 subject matters were covered, they would not be redundant
8 and that we would move this process along as quickly as we
9 could. So, I'll be happy to put together a list with the
10 parties as to who expects to cross. But I think we did
11 factor in here how much time people thought they would
12 need, but that was a cumulative number, it did not take
13 into account that it may be less. Okay. Thank you.

14 CHAIRMAN GETZ: Thank you. Well, then
15 let's turn to order of cross-examination. And, this is my
16 expectation, at least with the FairPoint witnesses, and
17 would be a similar order of cross-examination with the
18 Advocate Staff. With the FairPoint witnesses, the cross
19 would begin with the Advocate Staff, then opportunity for
20 the Consumer Advocate, then turn to New Hampshire Legal
21 Assistance, and then the competitive local exchange
22 carriers who may be cross-examining, and then would end
23 with the Non-Advocate Staff, and then, of course,
24 opportunity for redirect. And, we'll have a similar order

1 of cross when we get to the other parties, but that should
2 take us through today and at least part of tomorrow.

3 Any concerns about the order of
4 witnesses or order of cross-examination?

5 (No verbal response)

6 CHAIRMAN GETZ: Okay. Hearing nothing
7 there, let's turn to the premarked exhibits. We have
8 filed with us, which is very helpful, is the proposed
9 premarking by all of the parties. And, I'll just note for
10 the record that's premarking for purposes of
11 identification only. At the end of the hearing, we'll
12 address any objections there might be to admitting into
13 evidence any of these particular designated exhibits.

14 Any questions about premarking of the
15 exhibits?

16 (No verbal response)

17 CHAIRMAN GETZ: The one thing I would
18 want to add is, for the FairPoint exhibits, we would
19 reserve Exhibit FP-20 for the Company's Annual Report, and
20 consistent with a letter that we issued May 17 that was
21 provided to the service list in this docket, we granted an
22 extension of time for the filing of the Annual Report to
23 June 4, but we'll reserve an exhibit for that Annual
24 Report.

1 MR. JUDD: Mr. Chairman, if I might ask,
2 while we're reserving, if you would reserve FairPoint-21
3 for the 2009 10-K that is going to be filed after we close
4 the testimony phase of this docket.

5 CHAIRMAN GETZ: Any objections to that?

6 MR. McHUGH: No. So, we're going to do
7 20 would be the Form ILEC-3 Annual Report, and then 21
8 would be the Securities & Exchange Commission Form 10-K
9 Annual Report?

10 CHAIRMAN GETZ: Yes.

11 MR. McHUGH: That's fine.

12 CHAIRMAN GETZ: Thank you.

13 (**Exhibits FP-20** and **FP-21** were
14 reserved.)

15 CHAIRMAN GETZ: Okay. Then, also, on
16 May 20, we issued a letter that addressed some of these
17 issues. It included the order of witnesses, the
18 premarking of exhibits, also indicated that our intent is
19 to begin the hearings each day at 9:00 a.m., and to
20 generally proceed in 90-minute increments, that I assume
21 will assist all of us, and Mr. Patnaude as well. Of
22 course, there will be some flexibility around those times,
23 if we have an opportunity to complete a panel or an issue
24 of cross-examination. We also indicated that the

1 witnesses to qualify in the normal manner, but we're not
2 expecting a full summary, only a brief recitation of the
3 purpose of the testimony of any particular witness. The
4 witnesses will be also permitted, as is the usual case, to
5 revise or correct testimony. And, we also noted that,
6 consistent with earlier procedural schedule approval in
7 the case, that, in lieu of oral closings, we'll accept
8 written submissions. We did address one particular issue,
9 which was the filing made by the Petitioner on March 31,
10 with respect to a broadband deployment deadline. And,
11 we'll permit either that that issue be addressed orally at
12 the end of the hearings or that can be handled through the
13 written submissions.

14 Any questions about the -- well, I'll
15 have one more issue, and that's with confidential
16 material, how we're going to handle that. But, with
17 respect to any of the issues I've raised so far, are there
18 any questions?

19 (No verbal response)

20 CHAIRMAN GETZ: Okay. Then, with
21 respect to confidential material, of course, I'd like to
22 avoid, to the extent possible, going into confidential
23 sessions. But, to the extent it's necessary, then we will
24 go into confidential sessions. And, of course, during

1 those periods, only parties who are permitted to hear such
2 information will be permitted in the room. And, as a
3 matter just of process, and consistent with the proposed
4 hearing schedule, we'd ask that parties reserve their
5 questions on confidential materials so we can address
6 those confidential issues in concentrated blocks, so we
7 don't have people coming and going multiple times. But it
8 looks like that's already been considered as part of the
9 proposed hearing schedule.

10 I think that covers my checklist.
11 Nothing else from the Bench. Then, is there any other
12 preliminary matter we need to address, before we hear from
13 the Petitioner's first panel?

14 (No verbal response)

15 CHAIRMAN GETZ: Okay. Hearing nothing,
16 then, Mr. McHugh, please proceed.

17 MR. McHUGH: Thank you, Mr. Chairman.
18 We call the panel of Ms. Lisa Hood, Raymond Allieri, and
19 Lee Newitt to the stand please.

20 (Whereupon *Lisa R. Hood, Raymond Allieri*
21 and *Lee D. Newitt* were duly sworn and
22 cautioned by the Court Reporter.)

23 **LISA R. HOOD, SWORN**

24 **RAYMOND ALLIERI, SWORN**

1 **LEE D. NEWITT, SWORN**

2 **DIRECT EXAMINATION**

3 BY MR. McHUGH:

4 Q. Ms. Hood, could you state for the record your full name
5 and your title with FairPoint Communications?

6 A. (Hood) Lisa R. Hood, Senior Vice President, Corporate
7 Controller, and interim Chief Financial Officer.

8 Q. Mr. Newitt, your full name, as well as your position
9 with FairPoint please.

10 A. (Newitt) Lisa -- Sorry. Lee David Newitt.

11 Q. Second question, Mr. Newitt.

12 A. (Newitt) Director of Corporate Development and
13 Financial Planning and Analysis.

14 Q. And, Mr. Allieri, would you please.

15 A. (Allieri) Raymond Allieri. I'm Executive Vice
16 President and Chief Strategy Officer.

17 Q. I have a series of preliminary questions, I'm just
18 going to go through one each. Ms. Hood, I'll start
19 with you. Ms. Hood, have you agreed to co-sponsor a
20 portion of the prefiled testimony of Mr. Alfred
21 Giammarino that was dated February 24, 2010, and that
22 we've premarked as FairPoint Exhibit 7-P for "public"
23 and 7-C for "confidential"?

24 A. (Hood) I have.

1 Q. And, can you tell the Commission please what sections
2 of that testimony that you've sponsored for purposes of
3 the hearing?

4 A. (Hood) I am sponsoring Sections I, II, and III.

5 Q. And, have you had an opportunity to fully review that
6 prefiled testimony?

7 A. (Hood) Yes.

8 Q. And, is it true and accurate to the best of your
9 knowledge?

10 A. (Hood) Yes, it is.

11 Q. And, do you adopt it here today as your own testimony?

12 A. (Hood) Yes, I do.

13 Q. And, Ms. Hood, are you the same individual who prefiled
14 supplemental testimony, dated April 30th, 2010, that
15 we've premarked as FairPoint Exhibit "FP-13"?

16 A. (Hood) Yes, I am.

17 Q. And, is that testimony true and correct to the best of
18 your knowledge?

19 A. (Hood) Yes.

20 Q. And, do you adopt it here today?

21 A. (Hood) Yes.

22 MR. McHUGH: Mr. Chairman, just briefly,
23 I know the secretarial letter of May 20th afforded
24 FairPoint a little opportunity to ask some direct with

[WITNESS PANEL: Hood|Allieri|Newitt]

1 respect to the Accion Report, as well as issues related to
2 the pledge of the membership interests of the Telephone
3 Operating Company of Vermont. So, I have a few questions
4 for Ms. Hood related to those issues. And, then, with
5 respect to, I'll just point out to you, Mr. Chairman,
6 then, with respect to the Accion Report, we'll also have a
7 few questions for Mr. Nixon, centered primarily around the
8 conditions contained on Page 15 of Accion's Report.

9 CHAIRMAN GETZ: Okay. Thank you.

10 BY MR. MCHUGH:

11 Q. Ms. Hood, let me just ask you first, as Senior Vice
12 President and interim Chief Financial Officer, who do
13 you report to?

14 A. (Hood) I report to the Chief Executive Officer,
15 Mr. David Hauser.

16 Q. Okay. Can you provide the Commission again with, as
17 you might have heard the Chairman, a very brief
18 statement of the purpose of your testimony, both the
19 adopted testimony from Mr. Giammarino and then your
20 supplemental testimony of April 30th?

21 A. (Hood) Yes. The purpose of the testimony is to assist
22 with the approval of the order to approve the change in
23 control of FairPoint Communications, as well as the
24 approval of the Regulatory Settlement that was agreed

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1 to, and the pledging of the membership interest of the
2 Telephone Operating Company of Vermont.

3 Q. And, what was the purpose of your supplemental
4 testimony of April 30th?

5 A. (Hood) To introduce and file the amended Form 10-Qs for
6 the first, second, and third quarter of 2009.

7 Q. And, did you not also describe in the supplemental
8 testimony your experience with FairPoint?

9 A. (Hood) Yes, I did.

10 Q. Okay. Let me ask you, Ms. Hood, do you have with you
11 the Accion Group Report dated May 17 of 2010?

12 A. (Hood) Yes.

13 Q. Do you have the public or confidential version?

14 A. (Hood) I have the confidential version.

15 Q. Okay. I'm going to ask you some questions, and they're
16 really all public, just so you know. First, could you
17 turn to Page 3. Yes, it's Page 3. It starts out "Item
18 3. Board of Directors". Can you explain to the
19 Commission how the Board is made up? How the Board of
20 Directors came to be appointed or nominated for
21 purposes of FairPoint's emergence from bankruptcy?

22 A. (Hood) Yes. The Board of Directors is a seven-member
23 panel. Five of the members have been nominated by the
24 secured lenders; one member has been nominated by the

1 unsecured lenders; and the final member is our CEO.

2 Q. Now, Ms. Hood, on Page 3, there's a reference to a firm
3 named "Angelo, Gordon" towards the bottom. Do you see
4 that?

5 A. (Hood) Yes, I do.

6 Q. Can you tell me, will Angelo, Gordon or one of its
7 affiliates have an ownership stake in FairPoint as of
8 the effective date of its emergence from bankruptcy to
9 the best of your knowledge and information today?

10 A. (Hood) Yes. A company called "Silver Oak Capital,
11 LLC", will own -- currently owns approximately
12 15 percent of the secured debt.

13 Q. And, how will that convert into an ownership stake in
14 the Company upon emergence from bankruptcy?

15 A. (Hood) It will convert into a similar ownership
16 interest in the equity ownership of the Company.

17 Q. And, does the debt continue to be traded as of today?

18 A. (Hood) Yes. The debt does continue to trade and will
19 trade up until the effective date.

20 Q. Can you describe for the Commission, Ms. Hood, in your
21 opinion, as to whether or not the Commission should be
22 concerned with respect to the percentage of ownership
23 of Silver Oak Capital that it will have, at roughly
24 that percentage, based on the information you know

1 today?

2 A. (Hood) Yes. In my opinion, there shouldn't be a
3 concern in relation to that ownership, largely due to
4 the independence of our Board of Directors. Again, all
5 seven members are independent -- all six of the seven
6 are independent, and the board of directors also have
7 to be re-elected annually after the first anniversary
8 of their appointment.

9 Q. Ms. Hood, could you please turn to Item 7 in the Accion
10 Report, which is on Page 6. Can you describe whether
11 or not, in the most recently filed version of
12 FairPoint's Credit Agreement, whether or not there were
13 changes in any of the covenants in comparison to an
14 earlier filed version?

15 A. (Hood) Yes. There were not any changes in the
16 covenants that would have had a negative impact in
17 relation to the Company. However, there were a few
18 changes that I felt like would be important in relation
19 to positive impacts for FairPoint. Individually, for
20 the calculation of the consolidated EBITDAR, there were
21 slight adjustments made to allow us to add back three
22 additional items in relation to that calculation. But,
23 more importantly, in my opinion, would be the change of
24 the senior leverage covenant, was changed from an

1 actual negative covenant to an incurrence test, meaning
2 that we wouldn't have to meet that covenant on a
3 quarterly basis. What that has is the effect of giving
4 additional cushion from the standpoint that FairPoint
5 could actually miss their covenant EBITDAR by as much
6 as 30 percent and still not trigger any of the
7 financial covenants in the credit facility.

8 Q. Now, Ms. Hood, you also, I trust, heard me reference
9 the pledge of the membership interests in Vermont --
10 I'm sorry, Telephone Operating Company of Vermont, LLC?

11 A. (Hood) Yes.

12 Q. Can you please explain to the Commission why FairPoint
13 is requesting permission to pledge those membership
14 interests to its secured lenders?

15 A. (Hood) Yes. I would refer to my oral data requests,
16 ODR-3, that was filed on May 14th. The importance in
17 relation to pledging of the membership interest of the
18 Telephone Operating Company of Vermont is that the
19 secured lenders require the pledge of all of the stock
20 of our operating telephone companies. Historically,
21 that has been done in relation to our previous Credit
22 Agreements. It did not occur previously with the
23 Telephone Operating Company of Vermont simply because
24 of the timing of when that company was formed, in

1 relation to when we closed on our last credit facility.
2 Therefore, the banks are requesting that we pledge all
3 stock, as well as membership interests of all of our
4 operating companies, in relation to this particular
5 security agreement.

6 And, what's important and significant,
7 in my opinion, in relation to pledging of the shares,
8 that it does allow us to complete the Plan of
9 Reorganization as we've agreed to with the Bankruptcy
10 Court, and allows FairPoint to emerge from bankruptcy
11 with, in effect, \$1.7 billion in reduction of debt,
12 making FairPoint, as it emerges, a much more
13 financially stable company to provide ongoing services
14 to the ratepayers.

15 Q. And, for clarification, Northern New England Telephone
16 Operations LLC owns of record and beneficially all of
17 the membership interest in what we call "Vermont
18 Telco", is that right?

19 A. (Hood) That's correct.

20 Q. To your knowledge, do those membership interests
21 constitute utility assets used to provide telephone
22 service in New Hampshire?

23 A. (Hood) No. It would not constitute a pledge of the
24 utility assets in the State of New Hampshire, nor do I

[WITNESS PANEL: Hood|Allieri|Newitt]

1 believe that it would affect any provisioning of
2 telephone service to the customers in the State of New
3 Hampshire.

4 Q. And, is it your understanding that Vermont Telephone
5 Company -- I'm sorry, Vermont Telco does not provide
6 telecommunications services to the residents of the
7 State of New Hampshire, correct?

8 A. (Hood) That's correct. They do not.

9 MR. McHUGH: I don't have anything
10 further, Mr. Chairman. The witnesses are available for
11 cross.

12 MR. JUDD: If I might, and I realize I'm
13 going a bit out of order, but, if I might, counsel --

14 MR. McHUGH: I apologize. I can have
15 Lee Newitt and Ray Allieri adopt their testimony, the
16 portions of Mr. Giammarino's.

17 MR. JUDD: I can wait, if you wish. But
18 you had just referenced a data response, perhaps you
19 wanted to address it?

20 MR. McHUGH: No, go ahead.

21 MR. JUDD: Well, I believe that's not
22 been marked for identification.

23 MR. McHUGH: I'm happy to have that
24 marked as "FairPoint Number 22" for identification, Mr.

[WITNESS PANEL: Hood|Allieri|Newitt]

1 Chairman. And, before -- I'm sorry.

2 CHAIRMAN GETZ: Yes.

3 MR. McHUGH: I'm sorry. Have the other
4 two witnesses qualified for the panel?

5 CHAIRMAN GETZ: Yes. Let's continue the
6 qualification of the witnesses.

7 BY MR. McHUGH:

8 Q. Mr. Newitt, are you the same individual who adopted a
9 portion of Mr. Giammarino's prefiled testimony dated
10 February 24, 2010?

11 A. (Newitt) Yes.

12 Q. And, you've adopted that jointly with Mr. Allieri,
13 correct?

14 A. (Newitt) Yes.

15 Q. And, what sections did you and Mr. Allieri adopt of Mr.
16 Giammarino's prefiled testimony?

17 A. (Newitt) Section IV and portions of Section V.

18 Q. And, is that testimony true and correct to the best of
19 knowledge?

20 A. (Newitt) Yes.

21 Q. Do you adopt it here as your sworn testimony today?

22 A. (Newitt) I do.

23 Q. And, Mr. Allieri, same questions for you. Have you
24 adopted or co-sponsored a portion of Mr. Giammarino's

1 testimony dated February 24, 2010?

2 A. (Allieri) Yes, I have.

3 Q. Same sections as Mr. Newitt?

4 A. (Allieri) Yes.

5 Q. Have you reviewed that testimony and is it true and
6 correct in all respects -- in all material respects to
7 the best of your knowledge?

8 A. (Allieri) Yes, it is.

9 Q. Do you adopt that testimony as your sworn testimony
10 here today?

11 A. (Allieri) I do.

12 Q. Just want to -- and, then, one procedural. Mr. Newitt,
13 can you tell the Commission who you report at
14 FairPoint?

15 A. (Newitt) I report to Mr. Allieri.

16 Q. And, Mr. Allieri, who do you report to at FairPoint?

17 A. (Allieri) I report to the CEO, Mr. Hauser.

18 Q. And, very briefly, Mr. Allieri, could you provide a
19 statement of the purpose of Mr. Giammarino's testimony,
20 to the extent you've adopted it?

21 A. (Allieri) Yes. The purpose is to gain approval for the
22 change in control and the settlement agreement and the
23 collective membership interests in Telco Vermont.

24 MR. MCHUGH: The witnesses are available

1 for cross.

2 CHAIRMAN GETZ: Let's clarify this issue
3 with respect to FairPoint 22. Then, that's a discovery
4 request. What's the number again on that?

5 MR. McHUGH: We were issued an oral data
6 request during the last technical session. So, it's Oral
7 Data Request Number 3, response dated May 14, 2010,
8 sponsored by Ms. Hood.

9 CHAIRMAN GETZ: And, all of the parties
10 have copies of that, I take it, is that correct?

11 MR. McHUGH: Correct.

12 CHAIRMAN GETZ: But we do not, I
13 believe, have copies of that.

14 MR. McHUGH: We have copies, Mr.
15 Chairman. We'll be sure to provide some.

16 CHAIRMAN GETZ: Okay. If we can get
17 that after the break.

18 MR. McHUGH: After the break, certainly.
19 (The document, as described, was
20 herewith marked as **Exhibit FP-22** for
21 identification.)

22 CHAIRMAN GETZ: Okay. Then, let's turn
23 to cross-examination. Mr. Kennan? Or, has there been
24 some agreement among the competitive local exchange

[WITNESS PANEL: Hood|Allieri|Newitt]

1 carriers as to order?

2 MR. ROTH: I think, Mr. Chairman, --

3 CHAIRMAN GETZ: Oh, I'm sorry. I'm
4 sorry. I've already violated one of my own rules.

5 MR. KENNAN: You caught me by surprise,
6 Mr. Chairman.

7 CHAIRMAN GETZ: I'm looking at the wrong
8 list. Let's turn to Mr. Roth.

9 MR. ROTH: Thank you. Does this, does
10 the microphone work?

11 MR. PATNAUDE: Yes.

12 MR. ROTH: I have only a couple of
13 questions.

14 **CROSS-EXAMINATION**

15 BY MR. ROTH:

16 Q. The first question is, and anybody on the panel can
17 address this, can you speak to what became of
18 Mr. Giammarino and why he's not here sitting along up
19 there this morning?

20 A. (Hood) Yes. Mr. Giammarino resigned from the Company
21 at the end of March due to personal reasons.

22 Q. Anybody care to elaborate on that at all?

23 A. (Allieri) No.

24 A. (Newitt) No.

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[WITNESS PANEL: Hood|Allieri|Newitt]

1 Q. Okay. Now, with respect to the pledge of the Vermont
2 shares, is there any change, as far as New Hampshire's
3 interests are concerned, from the way this was before
4 the bankruptcy?

5 A. (Hood) I don't believe there are any, there is any
6 change. It was a timing issue in relation to the
7 original Credit Agreement, that the Telephone Operating
8 Company of Vermont had not yet been formed, and,
9 therefore, was not pledged in the old Credit Agreement.
10 So, it's really just a technical change to clean that
11 up and allow the banks to have a pledge of all the
12 stock and membership interests of all our operating
13 companies.

14 Q. And, do any of you know whether approval for this
15 pledge was sought in Vermont?

16 A. (Hood) Yes, it was.

17 Q. And, was there any controversy about that that you're
18 aware of?

19 A. (Hood) None that I'm aware of.

20 MR. ROTH: Thank you. That's all.

21 CHAIRMAN GETZ: Okay. Ms. Hatfield.

22 MS. HATFIELD: Thank you, Mr. Chairman.

23 Good morning, panelists.

24 WITNESS NEWITT: Good morning.

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1 BY MS. HATFIELD:

2 Q. I'd like to direct your attention to the Accion Report
3 that was filed I believe on May 18th of this year. Do
4 you have a copy of that with you?

5 A. (Newitt) Yes.

6 A. (Allieri) Yes.

7 Q. And, I'm going to be referring to the confidential
8 version, but I don't believe any of my questions are
9 confidential. But, please remember, we are on the
10 public record now. So, if you do have a confidential
11 response, we'll leave and deal with it later. If you
12 could turn to Page 14 of that report. And, do you see
13 the header on that page says Section "VII. Conclusion"?

14 A. (Allieri) Yes.

15 A. (Newitt) Yes.

16 Q. And, have you had a chance to familiarize yourself with
17 the conclusions in the Accion Report?

18 A. (Hood) Yes.

19 A. (Newitt) Yes.

20 A. (Allieri) Yes.

21 Q. Does the Company agree with them or do you have any
22 particular issues with the findings in this report?

23 A. (Hood) Overall, we agree with the conclusions.

24 However, we would not -- at this point, we would not

1 agree in relation to the additional conditions
2 associated with this report. It's our preference and
3 objective to get -- to have the Regulatory Settlements
4 approved in their current forms, and not subject to
5 additional conditions, such that FairPoint can emerge
6 from bankruptcy in a more timely manner.

7 Q. And, if you would look at the first paragraph under the
8 "Conclusion", the second to last sentence states
9 "Further, the Company has yet to provide evidence of
10 specific planned initiatives intended to support their
11 projected revenues." Do you agree with that statement?

12 A. (Hood) Yes.

13 Q. And, does the Company have a plan to provide that
14 additional information?

15 A. (Hood) The Company does not have plans to provide
16 additional information at this time. We believe that
17 we have provided sufficient information for the
18 approval of the Regulatory Settlement.

19 Q. In the third paragraph, which is related to the Success
20 Bonus Plan, the Accion Report states that they are
21 "awaiting information regarding the identity of
22 eligible personnel." Do you see that?

23 A. (Hood) Yes.

24 Q. And, has the Company provided that information yet?

[WITNESS PANEL: Hood|Allieri|Newitt]

1 A. (Hood) We have not provided that information.

2 Q. Will you provide it?

3 A. (Hood) We do not intend to provide it in relation to
4 the approval. I can speak to the overall plans. The
5 Success Bonus Plan, in particular, it was -- as it was
6 filed in the supplemental information, provided total
7 amounts in relation to dollars to be awarded, as well
8 as the criteria in which to earn those bonuses. We do
9 not intend to provide individual data by employee,
10 because we consider that to be confidential employee
11 information. In relation to the Long Term Incentive
12 Plan, the recipients of those awards have not yet been
13 determined.

14 Q. And, that Bonus Plan is described more fully on Page 5
15 of the Accion Report, is that correct?

16 A. (Hood) Yes.

17 Q. And, if I look at the second paragraph, at the end, it
18 says "FairPoint estimates that the payments will total
19 approximately \$5.8 million." Is that correct?

20 A. (Hood) That's just an estimate. Again, it cannot be
21 completely determined until such time as we can measure
22 the Cumulative EBITDAR, as well as the other
23 performance requirements, to achieve those bonuses.

24 Q. And, is that an annual estimate?

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1 A. (Hood) No. That estimate applies to the -- the Success
2 Bonus Plan is designed to cover the period of time from
3 when the bankruptcy was filed through the emergence or
4 effective date.

5 Q. Earlier, Ms. Hood, when you testified just a few
6 moments ago that the Company "didn't support additional
7 conditions", were you referring to the bulleted points
8 on Page 15 in the Accion Report?

9 A. (Hood) In relation to the specific question, yes. But,
10 in general and overall, we would be opposed to any
11 additional conditions in relation to the Regulatory
12 Settlement.

13 Q. Are there any of the items in those bullet points the
14 Company would agree to?

15 A. (Hood) Again, it's our goal to have the Regulatory
16 Settlements approved in their current form.

17 Q. If you would look at the second to last bullet, and
18 just read it for me please.

19 A. (Hood) In relation to -- I believe this is the one that
20 starts "in the event"?

21 Q. Yes.

22 A. (Hood) "In the event regulatory approvals in Vermont or
23 Maine include conditions or requirements that the
24 Commission believes would be appropriate in New

[WITNESS PANEL: Hood|Allieri|Newitt]

1 Hampshire, FairPoint agrees to extend those conditions
2 or requirements to its operations in New Hampshire."

3 Q. And, is your -- I think your testimony is the Company
4 won't agree to that?

5 A. (Hood) We have not agreed to any other conditions in
6 the other two states. So, at this point in time, I
7 don't believe that that bullet point is applicable.

8 Q. In the event that the Maine or Vermont Commissions, in
9 any order approving the plans that you filed in those
10 states, added new conditions or requirements, would you
11 agree to extend those to New Hampshire?

12 A. (Hood) Yes, we would.

13 MS. HATFIELD: I have no further
14 questions. Thank you.

15 CHAIRMAN GETZ: Thank you. Mr. Linsider
16 [Linder?]]?

17 MR. LINDER: I don't have any questions
18 of these witnesses. Thank you.

19 CHAIRMAN GETZ: Thank you. And,
20 Mr. Kennan, back to you.

21 MR. KENNAN: Thank you, Mr. Chairman.
22 Good morning.

23 WITNESS NEWITT: Good morning.

24 WITNESS ALLIERI: Good morning.

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1 BY MR. KENNAN:

2 Q. Ms. Hood, if you would please turn to Page 17 of the
3 February 24th testimony of Mr. Giammarino that you've
4 adopted. And, in Lines 1 and 2 on Page 17, you state
5 that "Based [on] discussions with our operating and
6 sales personnel, I believe that the Chapter 11
7 indicates has been largely transparent from a customer
8 perspective." You're confining that statement to
9 discussions with operating and sales personnel, are you
10 not?

11 A. (Hood) Yes, I am.

12 Q. If you were to define "transparent" as "you can't see
13 it or you can't detect it", that statement would not be
14 true from the financial perspective of FairPoint's
15 customers, would it?

16 A. (Hood) I have not spoken to specific FairPoint
17 customers to determine the financial implications of
18 our bankruptcy filing on them.

19 Q. Well, you are aware that many of FairPoint's customers,
20 including wholesale customers, have had to file proofs
21 of claim in the Bankruptcy Court to receive money that
22 is owed to them by FairPoint, is that not correct?

23 A. (Hood) That's correct.

24 Q. And, that involves some amount of effort on their part?

1 A. (Hood) Yes.

2 Q. And, presumably, they had to hire -- some of them might
3 have had to hire lawyers to do that and incur expenses
4 in connection with that, is that correct? Could you
5 imagine that?

6 A. (Hood) That is possible, yes.

7 Q. And, the claims process in the Bankruptcy Court has not
8 yet run its course, is that correct?

9 A. (Hood) That is correct.

10 Q. Page 25 please. And, beginning on Line 10, you
11 describe the types of claims, certain classes of claims
12 that are deemed "unimpaired and will receive
13 100 percent recovery on their allowed claims." One of
14 the classes is "Class 6 NNE Subsidiary Unsecured
15 Claims". Northern New England Telephone Operations is
16 an NNE subsidiary under the Plan, isn't it?

17 A. (Hood) Yes, it is.

18 Q. So, allowed unsecured claims against Northern New
19 England Telephone Operations will be paid in full?

20 A. (Hood) Yes, they will.

21 Q. Are credits under the Performance Assurance Plan NNE
22 subsidiary unsecured claims?

23 A. (Hood) Yes, they are.

24 Q. And, those claims then will be paid in full?

[WITNESS PANEL: Hood|Allieri|Newitt]

1 A. (Hood) Yes, they will.

2 Q. We just had some discussion about the Success Bonus
3 Plan. Do you happen to have that with you in an
4 exhibit, I believe it's part of Exhibit FairPoint-18?

5 MR. KENNAN: If not, I have an excerpt
6 from FairPoint 18 from the Supplemental Plan, which this
7 may be more convenient for the witness to look at, if she
8 cares to.

9 MR. McHUGH: That's fine.

10 CHAIRMAN GETZ: Yes. Please provide it
11 to her, Mr. Kennan.

12 (Atty. Kennan distributing documents.)

13 CHAIRMAN GETZ: And, as you said, this
14 is a portion of FP-18?

15 MR. KENNAN: Yes. It's a portion of the
16 Plan Supplement that was filed on or about April 23rd.

17 BY MR. KENNAN:

18 Q. The purpose of the Success Bonus Plan is to reward the
19 participants for achieving specified financial and
20 operational goals in connection with restructuring,
21 isn't it?

22 A. (Hood) That's correct.

23 Q. And, Exhibit A to the Supplemental -- I mean, I'm
24 sorry, the Success Bonus Plan lists the participants?

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1 A. (Hood) Yes, it does.

2 Q. And, the copy that we have in front of us is redacted,
3 and I'm not going to ask you for the personal
4 information about anybody, but I presume that these are
5 management personnel?

6 A. (Hood) Yes, they are.

7 Q. And, would you characterize them as "upper management
8 personnel" for the most part who would be subject to
9 this plan?

10 A. (Hood) I think that is a fair characterization, yes.

11 Q. So, relatively speaking, they're higher salaried
12 individuals within the Company?

13 A. (Hood) Yes. As well as the individuals that are
14 engaged in relation to the overall restructuring plan.

15 Q. Now, as you've described this -- excuse me. Withdraw
16 that. Under the Success Bonus Plan, the participant
17 receives or may receive 11 percent of the bonus for
18 achieving each of three specific performance measures,
19 am I correct?

20 A. (Hood) Yes.

21 Q. And, if standards under these -- specified standards
22 under these performance measures are met, the
23 participant qualifies for that part of the bonus,
24 right?

1 A. (Hood) Yes, that's right.

2 Q. If other service quality metrics applicable to the
3 Company improve, that has no effect on the individual's
4 participation in the Success Bonus Plan, am I right?

5 A. (Hood) It would not have an effect on these three
6 specific items. But, to the extent that the Company's
7 performance improves, I would conclude it would have a
8 positive impact on the Cumulative EBITDAR, which is a
9 67 percent component of the Success Bonus.

10 Q. That's a much more attenuated relationship though,
11 wouldn't you agree?

12 A. (Hood) No. I think the fact that 67 percent is tied to
13 the Company performance incents the Company to perform
14 in relation to all of its performance metrics.

15 Q. And, with respect to the three particular performance
16 measures as to which the participant made that
17 11 percent for each, other service quality metrics has
18 no effect on the participant's participation -- as to
19 the three individual measurements referred to in the
20 Success Bonus Plan, the achievement or failure to
21 achieve other service quality measurements has no
22 effect on the possibility that the participant will get
23 a bonus on those three?

24 A. (Hood) On those three, that would be correct.

[WITNESS PANEL: Hood|Allieri|Newitt]

1 Q. Turn to Page 42, and I think this is part of
2 Mr. Newitt's and Mr. Allieri's section, if I'm not
3 mistaken. First of all, am I correct that this is Mr.
4 Newitt's and Mr. Allieri's portion of the testimony?

5 A. (Allieri) Yes, it is.

6 A. (Newitt) Yes.

7 Q. Starting on Page 42, Line 1, the testimony states that
8 FairPoint, in connection with its Reorganization Plan,
9 is projecting significant increases in special access
10 revenues?

11 A. (Allieri) That's correct.

12 Q. And, that's over a four year projection period?

13 A. (Allieri) That's correct.

14 Q. 2010 through 2013 is the projection period, is it not?

15 A. (Allieri) Correct.

16 Q. However, these projected revenue increases for special
17 access are not based on increases in rates for special
18 access services, is that correct?

19 A. (Allieri) That is correct.

20 Q. And, in fact, FairPoint's financial projections also do
21 not assume increases in switched access rates, is that
22 correct?

23 A. (Allieri) Correct.

24 A. (Newitt) Yes.

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[WITNESS PANEL: Hood|Allieri|Newitt]

1 Q. And, FairPoint's financial projections don't assume any
2 increases in UNE rates, correct?

3 A. (Allieri) Correct.

4 A. (Newitt) Correct.

5 Q. And, they don't assume any increases in collocation
6 rates, is that correct?

7 A. (Newitt) Yes.

8 A. (Allieri) Uh-huh.

9 Q. And, is the following correct, that FairPoint's
10 financial projections do not assume that the increases
11 in special access revenues will be based on the fact
12 that network elements, currently available as UNEs,
13 will in the future only be available as special access?

14 A. (Newitt) Yes.

15 A. (Allieri) Yes, that's correct.

16 Q. On Page 52, beginning on Line 19, continuing over to
17 53, Line 1, based on these financial projections, the
18 Company states that the Company will have the
19 "financial resources so that operations under the Plan
20 will not have an adverse effect on rates, terms,
21 service and operations of Northern New England
22 Telephone Operations within New Hampshire." Will you
23 confirm that?

24 A. (Allieri) Yes.

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1 A. (Newitt) Yes.

2 Q. And, that includes wholesale rates, terms, service and
3 operations?

4 A. (Allieri) It includes our -- it's a broad statement,
5 including all rates, terms, service, yes.

6 Q. If I could ask you to turn back to Page 42. And,
7 beginning on Line 19, you discuss costs and expenses.
8 Part of the Plan projections over this four-year period
9 is that the cost of goods sold will increase?

10 A. (Newitt) Yes.

11 Q. And, that's primarily related to access rates?

12 A. (Newitt) No.

13 Q. I'm sorry, I misread this. "Primarily includes access
14 charges paid to other telephone companies"?

15 A. (Newitt) It's a large component, yes.

16 Q. And, operating expenses, other than cost of goods sold,
17 are expected to decrease during 2010 and 2011?

18 A. (Newitt) Correct.

19 Q. And, then, you're projecting a modest increase in 2012
20 and 2013, consistent with inflation?

21 A. (Newitt) Yes.

22 Q. And, in particular, in the early part, when costs are
23 expected to go down, integration costs are expected to
24 be eliminated in 2010?

1 A. (Newitt) Yes.

2 Q. And, those -- that refers to the integration of the
3 transaction from Verizon to FairPoint?

4 A. (Newitt) Yes.

5 Q. And, cutover-related costs will be eliminated in 2010?

6 A. (Newitt) Broadly defined, yes.

7 Q. Just like to circle back a little bit to some of the
8 discussion we had earlier in your testimony, and that
9 is about this company called "Silver Oak Capital". The
10 projection is that Silver Oak Capital will be acquiring
11 more than 10 percent of the stock of FairPoint,
12 correct?

13 A. (Hood) They currently own more than 10 percent of the
14 secured debt, correct, which will -- the owners of the
15 secured debt will receive equity ownership at
16 emergence.

17 Q. And, this company, Silver Oak Capital, is first
18 mentioned in the Accion Supplemental Report that was
19 filed on May 18th? Is that correct?

20 A. (Hood) I don't have any reference as to whether it was
21 mentioned previously or not, but it is mentioned in the
22 Accion Report.

23 Q. Well, is it mentioned anywhere in FairPoint's filed
24 testimony?

1 A. (Hood) Well, excuse me, let me -- I need to review the
2 Accion Report. I don't know that "Silver Oak Capital"
3 is mentioned in the Accion Report. Can you direct me
4 to where in that Report they're mentioned?

5 Q. Bear with me one second. The first I saw it was this
6 morning, so --

7 (Short pause.)

8 CHAIRMAN GETZ: Is it relevant to your
9 question, Mr. Kennan, where it's mentioned or can you
10 address this just from a substantive standpoint?

11 MR. KENNAN: No, I think I can address
12 it more generally.

13 BY MR. KENNAN:

14 Q. Does -- let me try the question in a different way.
15 Where, in FairPoint's filed testimony, is this owner,
16 whatever its identity, of potentially more than
17 10 percent of the stock of FairPoint mentioned?

18 A. (Hood) I'm not familiar of anywhere in our prefiled
19 testimony where it's mentioned.

20 Q. And, they're not a party to this proceeding, this
21 person, whoever it is, is that correct?

22 A. (Hood) That's correct.

23 Q. And, they haven't sought to intervene?

24 A. (Hood) Not to my knowledge.

[WITNESS PANEL: Hood|Allieri|Newitt]

1 Q. And, they haven't presented any testimony in this case
2 either?

3 A. (Hood) They have not.

4 MR. KENNAN: No further questions, Mr.
5 Chairman.

6 CHAIRMAN GETZ: Thank you. Mr. Shoer.

7 MR. SHOER: Thank you. Good morning. I
8 am Alan Shoer. I represent BayRing, one of the
9 competitive companies in the proceeding.

10 BY MR. SHOER:

11 Q. You mentioned a little bit about the Bonus Plan this
12 morning, and Mr. Kennan covered most of the questions I
13 had. I had just a couple of quick questions about the
14 Bonus Plan. You mentioned that there were certain
15 high-level management people at FairPoint that would be
16 eligible for the Bonus Plan, is that correct?

17 A. (Hood) That is correct.

18 Q. And, would these individuals be responsible for
19 wholesale service and operations, as well as retail
20 service and operations?

21 A. (Hood) Yes, they would.

22 Q. And, are there particular metrics in your Success Bonus
23 Plan that would reward those management employees for
24 certain targets or revenues obtained from wholesale

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1 customers?

2 A. (Hood) Yes. Sixty-seven (67) percent of that bonus is
3 based upon Cumulative EBITDAR, and the revenues
4 associated with all of our customers would impact that
5 measure.

6 Q. Okay. Could you turn, if you have it available, I
7 think it's your Exhibit 3, Ms. Hood, the 10-Q ending
8 third quarter September 2009. Do you have that?

9 A. (Hood) Yes, I do.

10 Q. You do? Could you turn to Page -- I believe it's
11 Page 61 or 62 of that. The section that explains a
12 little bit more in detail about the source of revenues
13 of FairPoint. Do you see that section?

14 A. (Hood) Yes, I do.

15 Q. Okay. That's the section that describes the breakdown
16 of FairPoint's revenues. As I see it, it breaks the
17 revenues into four general categories. Is that
18 correct?

19 A. (Hood) Yes.

20 Q. Now, looking at the revenues for what's described as
21 "local calling services", as I read the description
22 "local calling services" includes -- includes wholesale
23 revenues from unbundled network elements,
24 interconnection revenues from competitive local

1 exchange carriers and wireless carriers, and some data
2 transport revenue. That's correct, isn't it?

3 A. (Hood) Yes, it is.

4 Q. Okay. So, if we look at -- if we look at the "local
5 calling services" revenues that's in the restated part
6 of your report, it says that that represents -- am I
7 correct that that represents 37 percent of revenues?
8 Am I reading that correctly?

9 A. (Hood) For the three-month period ending September 30,
10 2009, that would be correct.

11 Q. Okay. And, can you tell me -- can you tell me what
12 percentage of that, if you can, can you tell me what
13 percentage of that local calling service revenues is
14 made up from wholesale customers?

15 A. (Hood) I'm sorry, I do not have that data.

16 Q. You don't have that data?

17 A. (Hood) I'm not -- I don't know it off the top of my
18 head, no, I don't.

19 Q. Okay. Do you have any sense or a proportionate
20 estimate of how much of your revenues for local calling
21 services are made up of wholesale as compared to retail
22 services?

23 A. (Hood) I do not have a data point right now for that,
24 no.

[WITNESS PANEL: Hood|Allieri|Newitt]

1 Q. May I ask that in the form of a data question, if
2 that's -- is that information that's readily available
3 from the Company?

4 CHAIRMAN GETZ: Well, we have
5 procedurally a couple of options. We can reserve a data
6 request to answer it. But, if this information can be
7 procured during a break, I guess that goes to Mr. Shore's
8 question. How readily available is this?

9 WITNESS HOOD: I don't think we would
10 have it available for a break. We would want to take the
11 time necessary to make sure that the data being provided
12 is accurate.

13 CHAIRMAN GETZ: Okay. Let's reserve an
14 exhibit record request, and let's put that as "FP-23".

15 **(Exhibit FP-23 reserved)**

16 MR. SHOER: Thank you, Mr. Chairman.

17 BY MR. SHOER:

18 Q. Ms. Hood, on Page -- might be, I can't recall if this
19 was from Mr. Giammarino's testimony or if it was yours.
20 But there was a Page 54, it must be Mr. Giammarino's
21 testimony. And, I'm not sure who this question is
22 directed to. To the panel, if you look at Page 50 --
23 oh, I'm sorry, strike that. I'm back to the 10-Q, Page
24 54, or a few pages before. This section here talks

1 about "Service Quality Penalties". Do you see that in
2 Section (c)?

3 A. (Hood) Yes.

4 Q. All right. And, that estimates -- there's a section in
5 here that says that your "estimated liabilities for
6 service quality penalties", and I believe that there's
7 a figure in here that says that "The Company has
8 recorded a total liability of 22.4 million on the
9 condensed consolidated balance sheet at September 30,
10 2009." Do you see that?

11 A. (Hood) Yes, I do.

12 Q. Okay. Do you know if that -- if that figure includes
13 service quality penalties for retail, the SQI
14 penalties, as well as wholesale PAP penalties or
15 credits? Do you know if that's included?

16 A. (Hood) Yes, I do. This particular section refers to
17 the service quality penalties only, and would exclude
18 the PAP credits.

19 Q. Okay. Give me one second please.

20 A. (Hood) If I could clarify?

21 Q. Sure.

22 A. (Hood) The PAP credits are accrued within the
23 liabilities of our financial statements. It's just not
24 covered in relation to this specific footnote.

[WITNESS PANEL: Hood|Allieri|Newitt]

1 Q. Okay. And, so, this is all retail, this 22.4 million?

2 A. (Hood) Yes.

3 Q. That's all retail? And, do you have some sense of what
4 the wholesale PAP service quality accrual is, as you
5 describe?

6 A. (Hood) Unfortunately, I don't have that reference point
7 as of September 30th, 2009 with me.

8 Q. Okay. Is that reference point readily available?

9 A. (Hood) Yes, it is.

10 MR. SHOER: May I ask just as a quick
11 follow-up request?

12 CHAIRMAN GETZ: Ask that it be provided
13 as a separate data response?

14 MR. SHOER: Yes. As a separate
15 response.

16 CHAIRMAN GETZ: Okay. We'll reserve
17 FP-24 for that answer.

18 **(Exhibit FP-24 reserved)**

19 BY MR. SHOER:

20 Q. Do you have a figure in mind as to how much has
21 actually been paid or credited to CLECs for PAP credits
22 to date?

23 A. (Hood) I do not.

24 Q. Now, there was a question this morning about the Accion

1 Report. Do you have the Supplemental Report available?

2 A. (Hood) Yes, we do.

3 Q. Could you turn to Page 6. And, this is the section,
4 Section (a), related to "Excess Cash Flow and Cash
5 Sweeps" section. Now, on Page 6, there's a summary
6 here of the Credit Agreement and the Cash Sweep section
7 here. Do you see that paragraph where it begins "The
8 Plan Supplement", under Section (a)?

9 A. (Hood) Yes.

10 Q. The "Excess Cash Flow"? Okay. The last sentence of
11 that first paragraph there concern me, I had a question
12 about this. It says "The "Excess Cash Flow" provisions
13 also include deductions from EBITDAR for capital
14 expense carryovers dedicated to budgeted projects not
15 actually paid in a calendar year and [an] allowance for
16 regulatory penalties paid or credited." Can you
17 explain, what is that reference there with regard to
18 "allowance for regulatory penalties"? What does that
19 mean?

20 A. (Hood) That would be referencing the SQI and the PAP
21 penalties.

22 Q. Okay. So, am I correct that the SQI and the PAP
23 penalties are removed or taken away from the
24 calculation of revenues for purposes of this cash sweep

1 and what's available for cash sweeps?

2 A. (Hood) Yes. They are subtracted from the calculation
3 of EBITDAR, yes.

4 MR. SHOER: Okay. I have no further
5 questions.

6 CHAIRMAN GETZ: Thank you. Ms. Foley?

7 MS. FOLEY: No questions. Thank you.

8 CHAIRMAN GETZ: Ms. Bragdon?

9 MS. BRAGDON: Yes. Thank you.

10 BY MS. BRAGDON:

11 Q. Following up on the question that Mr. Shoer just asked
12 you, I want to make sure I understand, in the
13 definition of "EBITDAR" and the add-back for the
14 service quality penalties. You just testified that
15 that add-back is for both retail service quality
16 penalties and wholesale?

17 A. (Hood) That's correct.

18 Q. Do you recall testifying in Maine, and the answer was
19 "just retail"?

20 A. (Hood) I do recall. And, what's different between the
21 hearing date in Maine and today would have been the
22 filing of the Amended Plan Supplement, which included
23 the Amended Credit Agreement, which included the
24 add-back for the PAP penalties, which was a provision

1 that wasn't in place when we held the Maine hearings.

2 Q. Okay. Very good. Thank you for clarifying that. I

3 think this question goes to Mr. Newitt. Does

4 FairPoint's financial model include assumptions

5 regarding the payment of PAP penalties in 2010?

6 A. (Newitt) Yes. There's no explicit assumption in our

7 financial projections for that. But, when we prepared

8 our financial model, we derived units, an average

9 revenue per unit forecasting tool, which takes revenues

10 by category and divides the appropriate units into

11 those revenues, develops effectively a rate, forecasts

12 out the units in the rate. At the time we prepared our

13 projections, we were incurring -- or, I should say

14 "accruing" PAP penalties. And, so, therefore, they

15 would be embedded in some of the average revenue per

16 unit that are in our model.

17 Q. And, what time frame were you using for your average

18 revenue per unit?

19 A. (Newitt) Approximately January through May.

20 Q. Of 2009?

21 A. (Newitt) Yes. Sorry.

22 Q. Okay. On Page 43 of the testimony, I'm not sure who

23 will answer this, maybe Mr. Newitt, it states that "All

24 integration and Cutover related costs are expected to

1 be eliminated in 2010." Do you see that or recall
2 that?

3 A. (Newitt) Yes.

4 Q. And, that -- and, this testimony was filed back in
5 February. Is that still your expectation today?

6 A. (Newitt) Yes. And, I'd like to expand a little bit.
7 "Cutover" is kind of a term that's been used throughout
8 various proceedings. When we talk about "Cutover",
9 we're talking about the period leading up to and right
10 around the integration of the Verizon systems and the
11 new FairPoint systems last year. And, those
12 expenditures, which would have included some
13 significantly higher payments to Capgemini, other
14 contractors, over time, that sort thing, have come down
15 significantly. Our projections continue to assume,
16 obviously, an IT workforce. We have engaged Capgemini
17 on a long-term contract, and they will continue to work
18 for us to improve and enhance, and there is some
19 element of, you know, system modification that's going
20 to happen throughout the Plan projection period. So,
21 at the end of 2010, we expect the large bubble, if you
22 will, in costs related to the Cutover last year to be
23 behind us. But we will continue to have the workforce
24 and appropriate parties help us maintain and improve

1 and enhance our IT systems.

2 Q. And, is that -- so, actually, I take from what you just
3 said that, after 2010, the expectation would be a flat
4 line? Or, would it be a descending line? Or, are you
5 assuming additional costs in the next early years that
6 will diminish?

7 A. (Newitt) Well, the Plan -- the projections in the Plan
8 assume -- I would characterize "Information Technology"
9 broadly as our "internal IT workforce", any capital
10 expenditures that are made for hardware and software,
11 kind of in the ordinary course, which would include
12 enhancements, and then the Capgemini contract. The
13 Capgemini contract, in particular, does gradually
14 decline over the contract period. I wouldn't say that
15 decline is huge, but it's, you know, two to
16 three million dollars a year. And, so, I guess
17 "gradually declines" is a fair statement.

18 Q. Okay. So, you're basically assuming that the bulk of
19 the work to be done --

20 (Court reporter interjection.)

21 BY MS. BRAGDON:

22 Q. I'm sorry. So, you are assuming that the bulk of the
23 work, of the costs associated with the work to bring
24 the back-office systems to a fully operational state

1 will be done this year?

2 A. (Newitt) I would want to let other witnesses determine
3 "fully operational". I think I'm not the right person
4 to answer specific system questions, where we are
5 today, where we plan to be at the end of the year.
6 What I can tell you is, we've assumed an IT workforce
7 of approximately 100 individuals and a Capgemini
8 contract every year, which is, you know, today I think
9 is approximately \$25 million a year, that gradually
10 declines consistent with the contract.

11 Q. Okay. And, I understand what you just said about your
12 not the witness to talk about exactly what "business as
13 usual" or "fully operational" means. But how did
14 decide, you're the person with the spreadsheet, how did
15 you decide what to put in them?

16 A. (Newitt) We consulted with the various department
17 leads, the people on that particular item who are
18 responsible for maintaining that side of the house.
19 And, those individuals were comfortable that the
20 Capgemini contract and the internal workforce that we
21 have was sufficient to run the business going forward.

22 Q. Okay. And, so, just to clarify my understanding of
23 your role, your role was to crunch the numbers, not to
24 subjectively evaluate the numbers that were being given

1 to you?

2 A. (Newitt) I would say it's somewhere in between those
3 two. My team is responsible for consolidating and
4 analyzing figures. Obviously, if something is wildly
5 irrational, we would question it. But, at the end of
6 the day, it's a good dialogue between the Finance
7 Planning and Analysis Department and the various
8 department leads that are charged with executing all
9 these plans.

10 Q. And, so, you were comfortable with the assumptions
11 relating to wholesale operations in particular that are
12 in your spreadsheets?

13 A. (Newitt) I couldn't speak to that, wholesale operations
14 in particular. Like I said, we have the Information
15 Technology staff, a large team, and the Capgemini
16 contract fully baked into our projections. My
17 understanding, at the time we prepared the projections,
18 was the individuals responsible for executing all that
19 were comfortable that will be sufficient to meet the
20 business needs going forward.

21 Q. Okay. And, then, when it came to assumptions regarding
22 penalties, who would that have come from?

23 A. (Newitt) Which type of penalties?

24 Q. PAP penalties.

[WITNESS PANEL: Hood|Allieri|Newitt]

1 A. (Newitt) That would have been -- that would have been
2 in conjunction with the various department leads again.
3 And, at the time, -- at the time, we knew what we were
4 incurring. And, I don't think we expected to incur
5 more -- greatly more or greatly less. And, we knew
6 that that figure was embedded in our average revenues
7 per unit, and we forecast that forward, and the
8 Executive Team was comfortable with that projection.

9 Q. Okay. So, you --

10 MS. BRAGDON: Okay. Very good. Thank
11 you.

12 CHAIRMAN GETZ: I guess, Ms. Cole?

13 MS. COLE: No questions for these
14 witnesses. Thank you.

15 CHAIRMAN GETZ: Okay. Ms. Geiger?

16 MS. GEIGER: Yes. Thank you, Mr.
17 Chairman. I would like to remain seated, if that's
18 possible, so I'll be closer to the microphone. Good
19 morning, Ms. Hood. We haven't met. I'm Susan Geiger.
20 And, I represent Comcast Phone of New Hampshire, LLC.

21 WITNESS HOOD: Good morning.

22 BY MS. GEIGER:

23 Q. Would you please turn to Page 7 of the testimony that
24 you filed in this docket, as opposed to

1 Mr. Giammarino's testimony.

2 CHAIRMAN GETZ: Ms. Geiger, are you
3 referring there to what's Exhibit FP-13?

4 MS. GEIGER: I believe so, Mr. Chairman.

5 WITNESS HOOD: You said "Page 7"?

6 MS. GEIGER: Yes, please.

7 WITNESS HOOD: I'm there.

8 BY MS. GEIGER:

9 Q. Now, at Lines 10 through 12, you state that "FairPoint
10 will not reject any wholesale agreements with
11 competitive local exchange carriers, for example,
12 Section 252 interconnection agreements." Correct?

13 A. (Hood) That's correct.

14 Q. And, then, later on, you also say that FairPoint will
15 not reject "settlement agreements related to its
16 acquisition of Verizon's assets in DT 07-011."
17 Correct?

18 A. (Hood) Correct.

19 Q. But, later on, on Line -- starting on Line 18, you
20 point out that "FairPoint's bankruptcy reorganization
21 plan allows for the possibility of further contract
22 rejections, but FairPoint does not intend to exercise
23 that right with respect to these agreements with
24 wholesale customers." Is that your testimony?

1 A. (Hood) That is my testimony, yes.

2 Q. What does FairPoint intend to do with respect to its
3 interconnection agreement with Comcast?

4 A. (Hood) As indicated here in my testimony, it's not
5 FairPoint's intent to reject any of the interconnection
6 agreements.

7 Q. But, isn't it true, Ms. Hood, that you've answered an
8 oral data request, I believe it was dated May 14th, but
9 parties received it from opposing counsel under a cover
10 letter dated May 21st, indicating that, "in the event
11 FairPoint rejects an interconnection agreement with a
12 CLEC prior to the effective date..., then FairPoint
13 plans to continue to offer the CLEC the same services
14 at the same rates, terms and conditions as contained in
15 the rejected contract pending the parties' entering
16 into a new interconnection agreement." Is that not
17 correct?

18 A. (Hood) That is correct. That's in relation to the oral
19 data request that I did file on May 14th.

20 Q. And, isn't it also true that that answer was filed in
21 response to a question that is stated "May FairPoint
22 reject CLEC interconnection agreements up to and
23 including the effective date of FairPoint's emergence
24 from bankruptcy?"

1 A. (Hood) That's correct.

2 MS. GEIGER: Mr. Chairman, I'd like to
3 have marked for identification the answer that Ms. Hood
4 was just referring to, the answer to the oral data
5 request, ODR Number 2.

6 CHAIRMAN GETZ: Okay. We'll mark that
7 for identification as "FP-25".

8 (The document, as described, was
9 herewith marked as **Exhibit FP-25** for
10 identification.)

11 MS. GEIGER: And, I believe the parties
12 all have a copy of this, of this response.

13 BY MS. GEIGER:

14 Q. So, Ms. Hood, in light of the answer to this oral data
15 request, what is the latest date on which FairPoint can
16 reject its interconnection agreement with Comcast?

17 A. (Hood) It's my understanding in the bankruptcy
18 proceeding that we can still reject contracts up to the
19 effective date of the Plan.

20 Q. So, it's possible then that this Commission, as well as
21 the Bankruptcy Court, can give FairPoint their
22 respective approvals both of the Reorganization Plan
23 and the approvals that FairPoint is seeking in this
24 docket, and then FairPoint can reject its

1 interconnection agreement with Comcast?

2 A. (Hood) It is possible. But I would refer to the oral
3 data request that we explained, during the technical
4 session and again today, that it is not FairPoint's
5 intent to reject any of those contracts.

6 Q. But, if FairPoint does, in fact, reject its
7 interconnection with Comcast, what assurance does this
8 Commission have that traffic will continue to be
9 exchanged between Comcast and FairPoint such that
10 end-use retail customers of both companies are not
11 harmed by the lack of an interconnection agreement?

12 A. (Hood) I would refer that specific question to Mr.
13 Skrivan, who will testify later. It is my general
14 understanding that we would continue to operate under
15 the same services, at the same rates and conditions
16 contained in the existing contracts, until such time as
17 we were able to renegotiate a contract with the CLECs,
18 with an overall understanding that we are required to
19 continue to provide those services to the CLECs.

20 And, again, Mr. Skrivan can speak in
21 relation to more of the technical terms associated with
22 the specific interconnections and requirements that we
23 have in relation to our relationships with the CLECs.

24 Q. And, Ms. Hood, if that is, in fact, FairPoint's plan

[WITNESS PANEL: Hood|Allieri|Newitt]

1 and intent to continue to honor the terms and
2 conditions of its interconnection agreement with
3 Comcast, would FairPoint have any objection to this
4 Commission ordering, as a condition of its approval of
5 the Regulatory Settlement in this docket, that
6 FairPoint must keep its interconnection agreements with
7 New Hampshire CLECs in place for the period specified
8 in the CLEC Settlement in DT 07-011?

9 A. (Hood) Again, as I've stated previously, we would ask
10 that the Regulatory Settlement be approved in its
11 current form. And, FairPoint would be opposed to any
12 additional conditions imposed outside of that
13 Regulatory Settlement.

14 MS. GEIGER: Thank you. I don't have
15 any other questions.

16 CHAIRMAN GETZ: Okay. Thank you. I
17 think we will actually adhere to the schedule. It's
18 10:30. Let's take a 15-minute recess, and then we will
19 resume with Mr. Judd.

20 (Whereupon a recess was taken at 10:33
21 a.m. and the hearing resumed at 11:00
22 a.m.)

23 CHAIRMAN GETZ: Okay. We're back on the
24 record with cross-examination of the Company's first

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1 panel. And, turning to Mr. Judd.

2 MR. JUDD: Thank you, Mr. Chairman.

3 BY MR. JUDD:

4 Q. Regarding the adoption of Mr. Giammarino's testimony,
5 by my count, there were parts of that that have not
6 been adopted by any one of you, is that correct? So
7 that you've sliced and diced it, but there were some
8 things, other than his personal information, that is
9 not included, am I correct?

10 A. (Allieri) Yes. I think that's correct. That's been --
11 parts of this have been adopted by Mr. Skrivan, I
12 believe.

13 Q. Right. Thank you. When do you expect the revised plan
14 to be confirmed by the Bankruptcy Court? Do you have a
15 current expectation?

16 A. (Hood) It's currently scheduled for the first week of
17 July.

18 Q. And, the expected effective date is what?

19 A. (Hood) Effective date would be pending final approval
20 by the SEC. We're currently projecting late third
21 quarter.

22 Q. One of the requests you've made of this Commission is
23 to approve a change of control. Can you briefly inform
24 the Commission who's in control of the Company today?

[WITNESS PANEL: Hood|Allieri|Newitt]

1 A. (Hood) Currently, the Company has been controlled by
2 its existing Board of Directors. And, going forward,
3 as we've discussed previously, the Company will be
4 controlled by the new Board of Directors that will be
5 in place effective at emergence.

6 Q. I have a few questions about the Vermont Telco. Does
7 that entity provide any managerial or revenue support
8 to FairPoint NNE?

9 A. (Hood) No.

10 Q. And, can you describe for us any impact that a pledge
11 of those assets would have on the financial soundness
12 or flexibility of FairPoint NNE?

13 A. (Hood) I don't believe it will have any impact.

14 Q. The revenue projections that are included in the basis
15 for your Plan of Reorganization, I have a few questions
16 about that. It probably doesn't surprise you.

17 MR. JUDD: Mr. Chairman, I'm going to be
18 very -- I'm going to try to be very careful here and not
19 deal with confidential information. And, I'd ask the
20 panel as well, that we're going to speak more in
21 generalities, if we can, so we can avoid the need to go
22 into a confidential session.

23 CHAIRMAN GETZ: Well, I appreciate that.
24 But, if we need to, then let's do it.

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1 MR. JUDD: Absolutely. Thank you.

2 BY MR. JUDD:

3 Q. The financial model that was used in the Plan, in that
4 model, the last month of actual data for revenues was
5 March of 2009, is that correct?

6 A. (Newitt) No. The last month was May of 2009.

7 Q. Was May of 2009?

8 A. (Newitt) Yes.

9 Q. Thank you. And, that model was run in September,
10 August of 2009, is that correct?

11 A. (Newitt) Yes, I should clarify. We -- The projection
12 process actually involved multiple models, multiple
13 Excel files. And, the revenue model, in particular,
14 had actuals populated through May. We also had a
15 portion of the model that you can kind of envision as a
16 P&L, where we incorporated revenue assumptions, expense
17 assumptions, and that was updated through July. So,
18 the actuals were through July. The reason we didn't go
19 back and change the sort of stand-alone revenue
20 forecasting tool, that's a lot more detail, was that we
21 were tracking on plan, so it wasn't -- it was
22 unnecessary to go back and refresh it through July.
23 But the last month of actuals in our forecast was July
24 of 2009.

1 Q. The revenues in the -- as presented in the Plan are
2 projected to decrease and then flatten and then
3 slightly increase over time, is that correct?

4 A. (Newitt) And then flatten again, correct.

5 Q. And then flatten again?

6 A. (Newitt) Yes. We forecast kind of a trough during the
7 Chapter 11 period, and then the business turning around
8 as we emerge, and then flattening out at the end of the
9 forecast period.

10 Q. And, your actual experience in 2009, was that
11 consistent with your projection in the Plan for your
12 revenue stream?

13 A. (Newitt) The trajectory certainly was, yes.

14 Q. The trajectory. In that the revenues continued to
15 decrease, is that correct?

16 A. (Newitt) Yes.

17 Q. Did they decrease more than projected or less than
18 projected?

19 A. (Newitt) I think we would -- I'm not sure if we want to
20 address that in confidential session or not.

21 Q. I'm not asking you for a percentage and I'm certainly
22 not asking you for a dollar amount. But, if you would
23 prefer, we can reserve that?

24 A. (Newitt) We just haven't filed our 2009 financials, so

1 --

2 CHAIRMAN GETZ: Well, I'm having trouble
3 understanding. You're not talking about it quantitative
4 -- or, in a kind of a qualitative sense, whether it's more
5 or less than projected. If you have that information,
6 let's get that on, I think that's suitable for the public
7 record.

8 WITNESS ALLIERI: Mr. Chairman, I think
9 that the concern is simply that, because we still -- the
10 debt still trades publicly, that any information that
11 would provide a direction about whether we were a little
12 above or a little below is information that has not been
13 imparted to the public as yet. And, so, it might be
14 risky, it might put us in violation.

15 CHAIRMAN GETZ: Okay. Let's take that
16 under advisement.

17 MR. JUDD: That's fine, Mr. Chairman.
18 Fine. And, I appreciate your sensitivity and I appreciate
19 you sharing your concern.

20 BY MR. JUDD:

21 Q. The 2010 -- strike that -- 2009 10-K, do you -- that is
22 due on the 31st of this month, is that correct? Or,
23 what is the date you expect to file that?

24 A. (Hood) We expect to file that by the end of this week.

[WITNESS PANEL: Hood|Allieri|Newitt]

1 Q. And, that will provide the actual data for your
2 experience in 2009, correct?

3 A. (Hood) That's correct.

4 Q. Can you, and probably Mr. Allieri, but I'd be happy to
5 address this to anyone on the panel who wants to take a
6 swing at it, can you explain how your direct and
7 operational expenses are impacted in relation to the
8 decline in revenue?

9 A. (Newitt) Yes. Could you --

10 A. (Allieri) I'm not sure I understand.

11 A. (Newitt) Yes, I don't understand.

12 Q. I'm sorry?

13 A. (Newitt) Could you just explain the question a little
14 bit more please.

15 Q. Certainly. As revenues decline, do operational
16 expenses decline at the same rate?

17 A. (Newitt) I think of expenses in three ways. There's
18 "wholly variable costs", which we call "cost of goods
19 sold" for management purposes. Then, you can think of
20 "operating expenses" or sort of "overhead" as "fixed"
21 and "step fixed". So, step fixed is somewhere between
22 wholly variable and fixed. And, an example of a step
23 fixed operating expense would be, for every dollar of
24 revenue you lose, you wouldn't necessarily reduce

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1 overhead by a dollar. But, as -- if you lose a certain
2 amount of revenue, there comes a point where you need
3 to re-evaluate your cost structure and reduce overhead.
4 But they don't -- that doesn't take care of itself on
5 the variable side, and we're paying third party vendors
6 a rate per month per subscriber. So, if subscribers go
7 down, our revenues go down, so does the rate we're
8 paying or the amount we're paying third parties.

9 Q. So, the -- pardon me -- the expenses that would be
10 fixed and would not fluctuate with revenues would be
11 things such as rent, perhaps, insurance, other fixed
12 costs?

13 A. (Newitt) Yes, I guess it's, not to parse words, it's a
14 little bit of a continuum. If we're, you know, in a
15 terrible situation, if revenue declined drastically, we
16 would certainly look at reducing our real estate
17 footprint. But, I would agree that, on the continuum,
18 those types of items are much -- have a much longer
19 lead time to control, operating taxes would be another
20 example.

21 Q. Now, returning to the question about your projection on
22 revenues. Again, your Plan shows that you're going to
23 end the decline in revenues and get it to flatten out
24 after a slight increase. Would one of you be the

[WITNESS PANEL: Hood|Allieri|Newitt]

1 witness who would address how the Company is going to
2 turn around the revenue stream?

3 A. (Allieri) Sure. I can start.

4 Q. Great.

5 A. (Allieri) And, there's really two primary areas, and
6 that's in data and in access, and predominantly in
7 special access. And, that's really a function of the
8 next generation network. And, so, we now have a
9 greater capability that allows us to be able to deliver
10 new type of services, Ethernet-based services, that we
11 think have a very high demand, and we've identified
12 some of that demand already. And, so, we expect that
13 our special access is going to grow. And, on the data
14 services side, we have two areas that we think we'll be
15 able to grow; access is the first, and then data is the
16 second. And, specifically, high speed data, that's
17 related again to the expansion of the network. And,
18 so, that really gets driven in two ways. The first is
19 the expansion of the footprint, so we increase our
20 reach. And, through that reach, we're able to get to
21 customers that we weren't able to get to before with a
22 new set of services, specifically high speed Internet
23 service. And, then, in addition to that, we're able to
24 offer that higher speed type of service across our

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1 existing customer base, and we expect to be able to
2 derive additional revenues there as well.

3 Q. You mentioned "data services". What percentage of your
4 revenue today is represented by data services?

5 A. (Allieri) I don't know off the top of my head. Hold on
6 for one second please.

7 Q. Go ahead.

8 A. (Hood) Based upon our third quarter 10-Q that was
9 recently filed, the percent of data and Internet
10 services was 10 percent.

11 Q. And, the local and long distance revenue stream, you
12 expect that to decline at the same rate that it has?

13 A. (Newitt) We expect local revenues to decline -- to
14 continue to decline, but, over time, at a moderating
15 pace. It continues to be negative, it's just not as
16 negative every year for the projection period. And,
17 then, long distance is largely flat over the projection
18 period, or slightly declining.

19 Q. I'd like to revisit the conversation about the proposed
20 conditions of Accion Group in the Supplemental Report,
21 May 17. As I understood your earlier testimony, it was
22 that, other than the fourth suggested condition, which
23 I will characterize as "most favored nations" clause,
24 that FairPoint would not be amenable to any of the

1 other conditions. Is that correct?

2 A. (Hood) That is correct. Again, we want -- our goal is
3 to have the Regulatory Settlements approved largely in
4 their existing form. And, I would like to take an
5 opportunity to clarify my response in relation to
6 Ms. Hatfield's earlier question. I indicated that we
7 would be in favor of that Condition 4. But, in
8 reality, I should clarify, I don't believe that
9 condition is necessary, because it's already covered in
10 relation to Section 4.5 of the existing Regulatory
11 Settlement. So, again, I don't think it needs to be
12 considered as an additional condition.

13 Q. Thank you for that clarification. I'd like to just
14 briefly discuss these conditions with you. The first
15 one, and perhaps it was misunderstood, so let me make
16 sure there is no misunderstanding, would be that, once
17 this Commission issues an order, that FairPoint would
18 not then turn to the Bankruptcy Court to reject the
19 order of this Commission. So, is it still your
20 position that you would not want the Commission to
21 reserve that position?

22 A. (Hood) Well, again, we have indicated to the
23 bankruptcy, and within our Plan of Reorg., the three
24 Regulatory Settlements have been filed as a specific

[WITNESS PANEL: Hood|Allieri|Newitt]

1 part of that Plan of Reorg. So, there is, in my mind,
2 there is zero likelihood that the Regulatory
3 Settlements would actually be agreed to, if they're
4 agreed to -- if they are agreed to in their existing
5 form, I don't see any scenario where those agreements
6 wouldn't be in place in relation to the confirmation of
7 the Plan of Reorg. They're already filed as a part of
8 the Plan of Reorg., and it would be our intention to
9 honor them in their current form.

10 Q. The Plan of Reorganization, Section 15, specifically
11 reserves to the Bankruptcy Court continuing
12 jurisdiction over the Plan, including language, and I'm
13 going to paraphrase it, that suggests that the
14 Bankruptcy Court could preempt the state regulatory
15 authority. Are you familiar with that provision in the
16 Plan?

17 A. (Hood) I understand that there is a provision in the
18 Plan, Section 15. However, not being an attorney, I
19 would not be comfortable speaking to any specifics in
20 relation to that section.

21 Q. Is any member of the panel prepared to address whether
22 it's FairPoint's position that the Bankruptcy Court
23 could preempt the regulatory authority of the State of
24 New Hampshire?

1 A. (Allieri) I don't think we're in a position to comment
2 any further on that.

3 Q. Mr. Newitt? Well, your boss just said "no". How do
4 you feel?

5 A. (Newitt) Correct. I agree.

6 Q. Let's talk about the Litigation Trust a bit, if we
7 could. And, again, I'm going to ask you to be
8 circumspect in your responses. "Litigation Trust",
9 could you briefly describe its function so that the
10 Commissioners are more familiar with it?

11 A. (Hood) Yes. In general, the Litigation Trust has been
12 put into place in order to transfer any FairPoint
13 claims to the secured and unsecured creditors in
14 relation to any claims that may or may not exist
15 against Verizon.

16 Q. And, is that the only creditor who would be covered by
17 the Litigation Trust? You mentioned "Verizon".

18 A. (Hood) That's correct.

19 Q. And, is there a limit on the amount that FairPoint has
20 to contribute to the Litigation Trust?

21 A. (Hood) Yes, there is.

22 Q. And, could you briefly describe for the Commission the
23 benefits to -- potential benefits to FairPoint of
24 having this Litigation Trust in place?

1 A. (Hood) I don't know that I would speak necessarily to
2 any specific benefits FairPoint would gain in relation
3 to the Litigation Trust going forward, because any
4 proceeds would go to the creditors. In relation to the
5 Plan of Reorg., I think it was key to agreeing to have
6 that in place in relation to our unsecured creditors to
7 gain their support and approval of the Plan of
8 Reorganization.

9 Q. Returning to the question of access and data revenues,
10 do you have -- can you tell us your expectation for
11 what they would represent in the future as part of the
12 revenue stream for FairPoint?

13 A. (Newitt) As a percentage?

14 Q. Yes. As a -- thank you.

15 A. (Newitt) I think that was confidential also. I think
16 that was discussed, and the information was provided,
17 but it was confidential.

18 Q. The covenants in the Plan that you touched on briefly
19 before, how confident, and I think, Ms. Hood, I'd like
20 to pick on you on this one, if I might?

21 A. (Hood) Sure.

22 Q. How confident are you that none of the triggers will be
23 met on those covenants?

24 A. (Hood) In relation to -- getting comfortable myself in

1 relation to the financial feasibility of the Plan, we
2 had previously provided sensitivity analyses showing
3 the impact of the Plan if we were to have both a 10 and
4 a 20 percent miss in relation to our covenant EBITDAR.
5 Both of those sensitivity analyses showed that there
6 was still plenty of room in relation to those covenants
7 with a 10 to 20 percent miss. I think, though, what's
8 important as well is the fact that, in those
9 sensitivity analyses, the first trigger seemed to be
10 the senior leverage ratio. And, as I mentioned
11 previously, in the amended credit facility, the senior
12 leverage ratio has been changed to an incurrence test.
13 So, we looked at those sensitivity analyses again.
14 And, when you remove the senior leverage ratio, the
15 20 percent sensitivity analysis actually increases to
16 slightly over a 30 percent cushion that would allow us
17 to actually have a covenant EBITDAR miss of over
18 30 percent before we would trigger either one of the
19 financial covenants included in the current credit
20 facility.

21 Q. You mentioned and then you tie that to EBITDAR. Do you
22 have a sense of what would happen if revenues under
23 performed by similar numbers, 10 percent or 20 percent
24 that you mentioned as the triggers for EBITDAR, of your

1 sensitivity testing around EBITDAR?

2 A. (Hood) All right. To the extent that a revenue miss
3 would fall directly to the bottom line in relation to
4 covenant EBITDAR, it would fall within the same
5 percentages. However, the Company, and in relation to
6 the business plan, will continue to assess the
7 performance of the Company. And, if we were to see a
8 significant decline in revenues of that level,
9 operating expenses would also have to be addressed in
10 relation to the overall plan. And, again, the drivers
11 would come back to covenant EBITDAR. So, it's hard to
12 speculate whether a dollar-for-dollar decline would
13 impact that, because there would be other measures the
14 Company would take if we saw that level of decline.

15 Q. So, would it be fair to say that, in your sensitivity
16 testing, you accounted for a decline in revenues of
17 10 percent, and it still was in an acceptable range, as
18 far as the covenants would be concerned?

19 A. (Hood) Yes. Again, if revenues were to decline
20 10 percent -- I should rephrase that, I think. Again,
21 the sensitivity analyses were all performed in relation
22 to an actual percentage miss on covenant EBITDAR. So,
23 I need to step back and clarify that a 10 percent
24 decline in revenues would be substantially more, I

1 think, than a 10 percent decline in covenant EBITDAR.
2 So, if we were to see that kind of result, again, a
3 significant decline in revenues, other actions would
4 need to be taken in relation to managing our overall
5 operating expenses as well.

6 A. (Newitt) I could maybe clarify a little bit. Ms. Hood
7 a moment ago mentioned a 30 percent figure. If you
8 assumed that EBITDAR cushion figure, if you assumed a
9 50 percent margin, which is not quite where we get in
10 our plan, but just kind of for simplicity, a 30 percent
11 EBITDAR cushion is the same as a 15 percent revenue
12 cushion. If we lost 15 percent, if we lose up to 15
13 percent of revenue versus the plan, it would be okay.
14 Certainly, that wouldn't happen overnight. If that
15 trend were happening, we would definitely be taking
16 actions on the expense side. So, a 15 percent revenue
17 loss, with no change in the expense structure, is the
18 amount of cushion that we have.

19 Q. Mr. Newitt, if you could just clarify something for me.
20 When you speak in terms of the sensitivity analysis you
21 did, up to 15 percent of revenue, was that from the
22 plan or is that from --

23 A. (Newitt) Yes, from the plan.

24 Q. From the plan. Okay. Thank you. There's another area

[WITNESS PANEL: Hood|Allieri|Newitt]

1 I'd like some clarification on. And, that is that, in
2 the event the Regulatory Settlement is not approved by
3 this Commission or not approved in a form that you
4 would find acceptable, would FairPoint be obligated to
5 pay the penalties from the -- that would otherwise be
6 due March of this year for violating the 2008
7 settlement? I can restate that, if I put in too many
8 pieces for you?

9 A. (Hood) If you don't mind. I think I know generally
10 where you are going.

11 Q. That's fine. FairPoint has requested a suspension of
12 the broadband penalties that otherwise would have been
13 due from 2008. And, that was, as I understand it, due
14 to the Regulatory Settlement and how that standard
15 would deal with meeting -- the Company meeting its
16 broadband commitments. If that Regulatory Settlement
17 were not approved, what is FairPoint's position
18 concerning the 2008 settlement and broadband
19 commitments and, flowing from that, penalties?

20 A. (Hood) In my opinion, if the Regulatory Settlements are
21 not approved in their current form, that would
22 potentially trigger other issues within the overall
23 Plan of Reorganization. The Plan of Reorganization was
24 developed over a period of time, taking into

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1 consideration all of the Regulatory Settlements, as
2 well as agreements with our various parties and
3 creditors, as well as the unions. And, the concern
4 would be that, if any portion of the Regulatory
5 Settlements weren't approved, that would require us to
6 revisit other areas in relation to the overall Plan of
7 Reorganization.

8 Q. Earlier -- thank you for that. Earlier, there was a
9 conversation with Ms. Hood concerning the summary and
10 characterization in the Accion Supplemental Report,
11 starting on Page 6, concerning the cash sweeps. In
12 general, do you agree with the summary and
13 characterization of those sweeps as presented in that
14 Report?

15 A. (Hood) Yes, I do.

16 Q. Now, could you expand on -- would you please expand on
17 the restrictions on dividends as they relate to the
18 cash sweeps?

19 A. (Hood) Yes. Again, I think it's properly communicated
20 on Page 9 of the Report you referenced, under Section
21 (b), where it speaks to actually the specifics in
22 relation to the Company's restriction on the payment of
23 dividends. And, again, I can read that, if you'd like
24 me to?

1 Q. I don't think it's necessary to read it. The
2 clarification I guess that would be helpful is, is it
3 your understanding that, if FairPoint pays a penalty,
4 they are then not in default and they can issue
5 dividends?

6 A. (Hood) It's my understanding that, in relation to the
7 actual payment of penalties in these three states, is
8 that the context of your question?

9 Q. Yes, it is. Thank you.

10 A. (Hood) Yes. I do not believe that the payment of
11 penalties in relation to the three states would
12 prohibit us from paying dividends under the credit
13 facility, as long as we're in compliance with the other
14 areas within the credit facility that govern the
15 payment of dividends.

16 Q. Okay. Thank you. I think this is a Mr. Newitt
17 question, perhaps not. Operating expenses, returning
18 to that issue. What percentage of the Company's
19 expenses would you consider fixed operating expenses?

20 A. (Newitt) Well, fixed and step fixed, I guess I would
21 put it around 70 to 80 percent of our total cost
22 structure.

23 Q. Thank you. Mr. Hood -- excuse me, Ms. Hood, returning
24 to you. Returning to the question of the cash sweeps.

1 Is it your understanding that a broadband coverage
2 failure is not cured until the penalty payment is
3 actually made?

4 A. (Hood) I believe that is correct. I think, in relation
5 to your question, perhaps we should go to the actual
6 Regulatory Settlement, Section 4.7 [4.8?]. I'm not
7 sure if that's where you're going. But, in relation to
8 4.7 [4.8?] of the Regulatory Settlement, it speaks to
9 how the dividend payment and the Regulatory Settlement
10 would work together. And, it states that "such
11 dividend restriction shall apply only for so long as
12 FairPoint has not cured said material breach" in
13 relation to this Regulatory Settlement.

14 Q. And, you put your finger right on it, and that is "what
15 is meant by "cured"?" Because it -- my understanding,
16 and I'd be delighted to be corrected or at least have
17 it explained, my understanding of that provision is
18 that FairPoint can essentially defer the payment of a
19 penalty for some period of time, if they're doing the
20 build-out on broadband. Is that your understanding?

21 A. (Hood) Excuse me. Mr. Newitt is correct in that I've
22 got the wrong Regulatory Settlement in front of me.

23 Q. Perhaps from another jurisdiction?

24 A. (Hood) Yes. All right.

1 Q. Do you want to return to that question about "most
2 favored nations" again?

3 A. (Hood) I probably do. So, in relation to that, in
4 relation to the "most favored nation" clause, in the
5 New Hampshire agreement, it is Section 4.5 as well.
6 So, I think that's still okay. Now, in relation to
7 your dividend question, 4.8 is the actual provision in
8 the New Hampshire agreement that speaks to the dividend
9 restrictions.

10 Q. And, the point I'm trying to get your help with in
11 clarifying, is, as I read that section, you can incur
12 the obligation to pay the penalty, but you can defer
13 the actual payment for some period of time. Is that
14 your understanding as well?

15 A. (Hood) Yes. That would be my understanding in relation
16 to the deferral of the payments of the SQI penalties
17 for 2008.

18 Q. So -- thank you. So, the clarification I'm trying to
19 drive to here is, in the situation where you have made
20 the commitment to, if you will, pay the penalty in the
21 future, under that circumstance, would you be able to
22 issue dividends before the penalty is actually paid?

23 A. (Hood) Just the interpretation of this clause, I would
24 respond to that as that this indicates that we shall

[WITNESS PANEL: Hood|Allieri|Newitt]

1 not pay any dividends during any period of time in
2 which FairPoint is in breach of any material terms of
3 its Regulatory Settlement. So, I would have to assume
4 that, in relation to future penalties, if they -- if we
5 have gone beyond the payment period for the SQI
6 penalties, if that's considered to be a material
7 breach, then I think we would be prohibited from paying
8 those dividends.

9 If necessary, maybe this would help
10 this, later in the testimony, Mr. Nixon and Mr.
11 Skrivan, who were actually involved in the negotiation
12 of this Regulatory Settlement, will be a witness.

13 Q. That's fine.

14 A. (Hood) And, in order to facilitate your question, if I
15 could defer to them.

16 Q. Of course. I'm certainly not trying to get you to
17 address something that you have less than perfect
18 knowledge of. Thank you.

19 A. (Hood) I think I'm just getting caught up in the
20 details. So, Mr. Nixon will take that question later.

21 MR. JUDD: That's all we have now.

22 Thank you, Mr. Chairman.

23 CHAIRMAN GETZ: Thank you. Commissioner
24 Below.

1 BY CMSR. BELOW:

2 Q. Ms. Hood, a couple times you've used the phrase
3 "effective at emergence". Is that essentially the same
4 as the "effective date under the Plan of
5 Reorganization"?

6 A. (Hood) Yes, it is.

7 Q. Okay. I have a question that comes out of the request
8 for approvals in connection with the Reorganization
9 Plan. And, I don't know what exhibit that is. But, on
10 Page 6, in summarizing the Plan, it refers to the
11 claims of lenders under the Prepetition Secured Credit
12 Agreement as being satisfied by several provisions, one
13 of which is a *pro rata* share of new term loans in the
14 aggregate principal amount of a billion dollars,
15 another one talks about the *pro rata* share of certain
16 stock. And, another provision says "a *pro rata* share
17 of cash in an amount equal to all cash of FairPoint on
18 the effective date of the Plan in excess of 40 million
19 after taking into account" certain other details. And,
20 I was just wondering if you could indicate at this
21 point whether you expected whether there would be --
22 well, just wait, before I ask that question, I presume
23 that this is -- falls outside the bounds of the
24 language about cash flow distributions and dividends.

[WITNESS PANEL: Hood|Allieri|Newitt]

1 This is a one-time event related to the bankruptcy
2 that's outside of those Credit Agreement terms, is that
3 correct?

4 A. (Hood) That is correct.

5 Q. Okay. And, then, at this point, do you have an
6 expectation whether there's likely or not likely to be
7 such excess cash after taking into account all the
8 various considerations?

9 A. (Hood) I would be concerned that that should be held
10 for the confidential session.

11 CMSR. BELOW: Okay. Let's hold that
12 then.

13 CHAIRMAN GETZ: And, just for the sake
14 of the record, let me note that I think what Commissioner
15 Below is referring to is the petition filed on February
16 24, which we did not assign an exhibit number to. Is that
17 correct?

18 MR. McHUGH: That's correct, Mr.
19 Chairman.

20 CHAIRMAN GETZ: And, we will move into a
21 confidential session and deal with that issue afterwards.

22 CMSR. BELOW: That's all.

23 CHAIRMAN GETZ: That's all?
24 Commissioner Ignatius.

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[WITNESS PANEL: Hood|Allieri|Newitt]

1 CMSR. IGNATIUS: Thank you. Good
2 morning.

3 WITNESS ALLIERI: Good morning.

4 BY CMSR. IGNATIUS:

5 Q. Ms. Hood, a couple of questions about the status of the
6 Plan and where we are as of today. The agreement that
7 was reached with the unions I don't think had gone to
8 any sort of a vote at the time things were filed.
9 What's the current status?

10 A. (Hood) The vote has taken place and they have approved
11 that agreement.

12 Q. So, there's nothing still outstanding as to the unions
13 on the petition in the Bankruptcy Court?

14 A. (Hood) That's correct.

15 Q. And, I know that there's been talk of hiring an IT
16 position to oversee. What's the status of that?

17 A. (Hood) We have hired our Chief Information Officer.
18 Her name is Ms. Kathleen McLean, and she is scheduled
19 to testify later in the proceedings.

20 Q. Oh, you're right. I appreciate that. We've also been
21 told that FairPoint would need an order of this
22 Commission by June 24th. What's the basis for that
23 date being required?

24 A. (Hood) We've asked for that date in order to get final

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1 approval from all three states, so that we can get
2 final confirmation of the Plan of Reorganization at the
3 confirmation hearing that's been scheduled in July.

4 Q. What's the date for the confirmation hearing?

5 A. (Hood) I believe it's July the 8th.

6 Q. So, issuance of an order by June 24th is in order to
7 have it in hand by the time you go to the Bankruptcy
8 Court?

9 A. (Hood) Yes.

10 Q. Is it a requirement of the Bankruptcy Court that it be
11 issued by that date?

12 A. (Hood) It is a requirement that we have the Regulatory
13 Settlements approved before we'll get final
14 confirmation of the Plan. We already had a
15 confirmation hearing with the Bankruptcy Court already.
16 And, the only pending items in relation to getting a
17 final confirmation was the final approval of all three
18 Regulatory Settlements, as well as any final objections
19 in relation to the Litigation Trust. So, it is
20 important that, in relation to timeliness of emergence
21 from bankruptcy, if we could get those regulatory
22 approvals by the date we've requested to keep the
23 confirmation process moving forward, and to allow us to
24 emerge more timely from the bankruptcy process.

1 Q. And, you've stated, I believe earlier, that you expect
2 the SEC filing for 2009 to be made by the end of this
3 week?

4 A. (Hood) Yes, I do.

5 Q. And, following that SEC filing, which is on an
6 aggregated basis, the Company will be developing New
7 Hampshire specific numbers for 2009?

8 A. (Hood) Yes. The Annual Report in the State of New
9 Hampshire has been -- I believe the request is to file
10 that by June the 4th, and we will comply with that
11 request.

12 Q. Mr. Allieri and Mr. Newitt, I have some questions about
13 your -- the overall business plan and the projections
14 that you're making. I think, looking at
15 Mr. Giammarino's testimony is where we should begin,
16 and that's FairPoint Exhibit 7. And, we can use public
17 testimony, I believe. If you look at the projections
18 on drop of access lines and the revenue that comes from
19 them, increasing pressures in competition, some of the
20 other issues that the Company has noted, can you first,
21 just in a very general sense, give us kind of a summary
22 of what you see the business plan for the next three
23 years for this company to be?

24 A. (Allieri) Meaning what would be the drivers?

1 Q. Yes. I mean, if you're facing the kinds of pressures
2 and the expectations in revenue of decreasing in
3 certain categories, what's the big picture of how it's
4 going to succeed?

5 A. (Allieri) I think there are a couple of things that
6 benefit us. I think, first and foremost, once we
7 re-emerge as a company out of bankruptcy, we have
8 competitors today that are emboldened by that position
9 that we are in, and so it restricts us to some degree
10 to be able to respond in kind. As importantly, though,
11 we have a next generation network that is at its core
12 complete, and we're now expanding out to these remote
13 terminals to be able to bring the capability further
14 and further out into the territories. And, that allows
15 us to be able to deliver services that we just haven't
16 been able to deliver before. And, so, specifically,
17 when it comes to high speed data, we have competitive
18 offerings that will be much more competitive in
19 relation to the existing competitors in the
20 marketplace, and will allow us to be able to offer
21 similar products or potentially superior products from
22 a high speed data perspective. That also helps us to
23 be able to protect our access lines that we have today,
24 because we can bundle services that we could not bundle

1 before, and gives us the capability again to be more
2 competitive in the marketplace there. And, finally, it
3 gives us an opportunity to address the business market
4 in a way that we've not been able to address before
5 with new services, that will bring us at least to par,
6 and then we anticipate give us some level of
7 competitive advantage in the kinds of services we can
8 deliver. And, so, those are the primary areas through
9 the next generation network that really allow us to be
10 able to be more competitive.

11 Q. Your projections regarding broadband expansion, I got a
12 little lost in one of the sentences, so I ask if you
13 can just look at this and help me understand it. At
14 Page 42 of the testimony of Mr. Giammarino that you've
15 adopted, if you look to Lines -- starting I think it is
16 at Line 14. You see that?

17 A. (Allieri) Uh-huh. Yes.

18 Q. Can you either help me understand the sentence or just
19 forget the sentence and tell me what your projections
20 are regarding your forecast for the levels that you
21 hope to be in by 2013?

22 A. (Allieri) We'll probably need to deal with the specific
23 numbers in confidential testimony. But, in a broad
24 sense, what it means is that our penetration level is

1 fairly low compared to what we have seen in our markets
2 that have been more mature, with services that we
3 believe we're now going to be able to offer through
4 this next generation network. And, so, we believe we
5 can bring those penetration levels up to a level that
6 we see historically in other territories where we've
7 had similar capabilities.

8 Q. But, when you say, in Line 16, that you forecast to
9 "reach the levels attained currently in the pre-merger
10 markets by 2013." Seems we're going forwards and
11 backwards in that sentence. So, I guess I don't really
12 know what you're trying to say there.

13 A. (Newitt) Actually, I can help. So, today, pre-merger
14 FairPoint, also called "Legacy FairPoint" or "Telecom
15 Group", FairPoint excluding the Verizon, the properties
16 acquired from Verizon, that cluster of properties, has
17 broadband penetration of roughly 40 percent today.

18 A. (Allieri) That's what I was saying, maybe we might want
19 to --

20 A. (Newitt) That's public.

21 A. (Allieri) It is public? Okay. Very good.

22 Q. It is now.

23 A. (Newitt) And, so, our plan assumes we have -- we can
24 replicate that success in these markets. And, I think

1 it speaks a little bit to some conservatism that four
2 years from now we're planning to be in these markets
3 where we are in the former legacy markets today.

4 Q. Thank you. Turning to Page 44, again, in
5 Mr. Giammarino's testimony, the very top of Page 44
6 says that "In 2013, the financial projections reflect
7 no revenue growth compared with 2012." Is that correct
8 that your revenue projections are to have no increase
9 2013 over 2012 or is that only specific to broadband
10 and special access?

11 A. (Newitt) That is total revenue.

12 Q. And, why is that?

13 A. (Newitt) Why is it not -- can you help me with your
14 question? Why is it not positive or why is it not
15 negative?

16 Q. Well, the projection to be flat 2012 to 2013, is that
17 because you have no further customers to attain, --

18 A. (Newitt) Oh, I see.

19 Q. -- because your expenses will have gone up
20 considerably? Why is it that your revenue does not
21 increase as your new generation technologies bring you
22 to new markets, new customers?

23 A. (Newitt) Yes. The assumption is not that all revenue
24 line items will be flat from 2012 to 2013. The

1 assumption is that the more legacy products, and I'm
2 sorry to use the word "legacy" over and over, but this
3 is just traditional POTS services, will continue to go
4 away and be replaced with next generation network
5 enabled services. And, those two revenue forecasts
6 offset to produce flat revenue 2012 to 2013.

7 Q. Going further to Page 52, at Lines 9 through 11, the
8 testimony is that, and I'll paraphrase here, because
9 there are financial penalties at stake for failing to
10 reach certain metrics that will incent the Company to
11 perform well and meet those metrics, is that a fair
12 restatement of that?

13 A. (Allieri) Could you ask the question again? I would
14 just -- I would also make reference, I'm happy to try
15 to answer your question here, but this is the portion
16 of the testimony that we did not actually adopt.
17 That's Mr. Skrivan's testimony.

18 Q. I'm sorry. All right. Well, then, if better, I can
19 wait for Mr. Skrivan. Thank you. Then, Ms. Hood, a
20 couple more questions about your concerns about some of
21 the Accion Report recommendations. And, so, if you'll
22 look at the Supplemental Report, Non-Advocate Exhibit 5
23 [Non-Advocate Exhibit 3?], that's the May 17 filing.
24 On Page 14, in the "Conclusion" section, at the end of

[WITNESS PANEL: Hood|Allieri|Newitt]

1 that first paragraph under "Conclusion", the Accion
2 Report recommends that "the Commission establish strict
3 milestones for tracking FairPoint's progress in meeting
4 revenue and other operational projections." Are you
5 opposed to that taking place?

6 A. (Hood) In general, we're opposed to any additional
7 conditions in relation to the overall Regulatory
8 Settlement. I believe that, in relation to the
9 Commission's responsibilities, if you will, that there,
10 in relation to any monitoring that the Commission needs
11 to be done in relation to FairPoint, you would always
12 continue to have the authority to call FairPoint in, in
13 relation to any areas within the business in the future
14 that you would see or have concerns with. And, I don't
15 believe that the Regulatory Settlement would impact
16 your authority to do that on a go-forward basis.

17 CMSR. IGNATIUS: Thank you for that
18 clarification. I have no other questions. Thank you for
19 your time.

20 CHAIRMAN GETZ: Okay. Thank you.
21 Mr. McHugh, let's turn to opportunity for redirect on
22 what's been discussed so far, and then, when that's --
23 well, do you have redirect on what's been discussed so
24 far?

1 MR. McHUGH: I do.

2 CHAIRMAN GETZ: Okay. Let's do that.

3 And, then, after that's completed, we'll go into a
4 confidential record.

5 MR. McHUGH: And, I just have a couple,
6 Mr. Chairman.

7 **REDIRECT EXAMINATION**

8 BY MR. McHUGH:

9 Q. Ms. Hood, do you recall the questions you were asked by
10 Attorney Geiger, counsel for Comcast Phone of New
11 Hampshire, with respect to the interconnection
12 agreements and your response to the oral data reports
13 -- data requests dated May 14?

14 A. (Hood) Yes, I do.

15 Q. Can you explain what -- to your knowledge, why some of
16 the language is in the Plan with respect to FairPoint's
17 ability to further reject executory contracts?

18 A. (Hood) Yes. The language in relation to the Plan of
19 Reorganization for the ability to continue to reject
20 the executory contracts is largely there in a general
21 sense that as a necessity in relation to the ongoing
22 claims reconciliation process. In conjunction with the
23 actual bankruptcy proceedings, we've received numerous
24 claims filings, and we'll have to undergo an extensive

[WITNESS PANEL: Hood|Allieri|Newitt]

1 review of all those claims and the reconciliation of
2 those claims. And, in conjunction with that process,
3 if there were any adverse conditions or other things
4 that would result from that, we need to protect
5 ourselves in relation to the ability to continue to
6 reject contracts.

7 In no way was the language associated
8 with the ability to reject contracts put in place in
9 the Plan of Reorg. to specifically seek out, if you
10 will, the CLECs and the interconnection agreements.
11 So, that provision is important in relation to the Plan
12 of Reorg. for us to be able to continue with the claims
13 reconciliation process as a whole.

14 Q. Thank you. And, to your knowledge, is Mr. Skrivan the
15 witness to address issues related to interconnection
16 agreements and the Commission's jurisdiction over
17 arbitration proceedings related to those agreements?

18 A. (Hood) Yes. He is the appropriate witness.

19 MR. McHUGH: I don't have anything
20 further, Mr. Chairman.

21 CHAIRMAN GETZ: Okay. Thank you. Is
22 there anything that we need to address then, before we
23 address some of the confidential issues. And, I know
24 Commissioner Below has at least one issue. And, Mr. Judd,

[WITNESS PANEL: Hood|Allieri|Newitt]

1 were there other issues that you had intended to cover?

2 MR. JUDD: I would like to revisit some
3 of the things that were held over, yes. Thank you.

4 CHAIRMAN GETZ: Okay. Then, if we can
5 ask everyone who shouldn't be here during the confidential
6 portion of the proceedings, if they could leave the room
7 at this point. And, as we're doing this, just to indicate
8 that our intention is to end the hearings for the lunch
9 recess at 12:30, and to resume in the afternoon at 1:30.

10 (Pages 111 through 117 of the hearing
11 transcript is contained under separate
12 cover designated as "**Confidential &**
13 **Proprietary**".)
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[WITNESS: Nolting]

1 (Hearing transcript resumes on the
2 public portion of the transcript at
3 12:08 p.m.)

4 CHAIRMAN GETZ: Mr. McHugh.

5 MR. McHUGH: FairPoint calls Mr. Thomas
6 Nolting to the stand, Mr. Chairman.

7 (Whereupon **Thomas P. Nolting** was duly
8 sworn and cautioned by the Court
9 Reporter.)

10 **THOMAS P. NOLTING, SWORN**

11 **DIRECT EXAMINATION**

12 BY MR. McHUGH:

13 Q. Mr. Nolting, could you state for the record your full
14 name and your position with FairPoint please.

15 A. Thomas P. Nolting, Vice President - Billing
16 Support/Revenue Assurance.

17 Q. And, Mr. Nolting, are you the same individual who
18 prefiled testimony in this case dated February 24, 2010
19 that we've premarked as "FairPoint Exhibit 9"?

20 A. Yes.

21 Q. And, Mr. Nolting, did you also file rebuttal testimony
22 dated May 7, 2010 on behalf of FairPoint, which we've
23 premarked as "Exhibit FP-14"?

24 A. Yes.

[WITNESS: Nolting]

1 Q. Is that testimony true and correct in all material
2 respects?

3 A. Yes, it is.

4 Q. Do adopt that testimony as your own here today?

5 A. I do.

6 Q. Mr. Nolting, in your testimony dated February 24th,
7 2010, is there any correction that now needs to be
8 made?

9 A. Some of my responsibilities have changed since that
10 testimony was filed. Specifically, at that point, I
11 had, in my organization, a function, a bill production
12 function, which has since been transferred within our
13 IT organization with our other back-office production
14 functionality that have been consolidated for
15 organization under Kathleen McLean.

16 Q. Now, Mr. Nolting, you provided the general purpose for
17 your testimony on Pages 2 and 3 of FairPoint Exhibit 9
18 that was filed on February 24th, 2010. But, very
19 briefly for the Commission, could you describe the
20 purpose of your testimony here today, sir?

21 A. The purpose of my testimony as described is to explain
22 ongoing efforts to reduce and improve -- reduce bill
23 errors and improve bill quality, describe what have
24 been initiatives, programs underway to deploy a Revenue

[WITNESS: Nolting]

1 Assurance Program within FairPoint.

2 MR. McHUGH: Thank you. I have no
3 further questions, Mr. Chairman. The witness is available
4 for cross-examination.

5 CHAIRMAN GETZ: Okay. Thank you. Let's
6 start then with Mr. Roth. Do you have questions for this
7 witness?

8 MR. ROTH: I have no questions for this
9 witness.

10 CHAIRMAN GETZ: Ms. Hatfield?

11 MS. HATFIELD: Thank you, Mr. Chairman.
12 Good afternoon, Mr. Nolting.

13 WITNESS NOLTING: Good afternoon.

14 **CROSS-EXAMINATION**

15 BY MS. HATFIELD:

16 Q. Mr. Nolting, when did you -- the current position that
17 you're in with FairPoint, when did you start that
18 position?

19 A. I started that position, I was promoted into that
20 position in September 2009.

21 Q. And, were you with the Company prior to that?

22 A. I was hired with the Company in April of 2009.

23 Q. And, are you familiar with all of the billing problems
24 that FairPoint has had since Cutover?

[WITNESS: Nolting]

1 A. I believe I am, yes.

2 Q. And, in your opinion, is the Company on track to meet
3 the requirements of the Commission Staff, in terms of
4 fixing the problems especially from a retail customer
5 perspective?

6 A. "The requirements", could you be more specific?

7 Q. Are you familiar with reports that were prepared for
8 Commission Staff by Liberty Consulting over the last
9 couple of years?

10 A. Yes.

11 Q. And, are you familiar with some of the recommendations
12 that Liberty made with respect to fixes that FairPoint
13 needed to implement in order to fix billing problems?

14 A. I'm familiar with some of them, yes.

15 Q. And, is it your opinion that FairPoint is on track now
16 to implement some of those fixes in order to address
17 those problems?

18 A. Yes, we are.

19 Q. And, do you believe that, from a retail customer
20 perspective, that you're 100 percent where you need to
21 be or 95 percent or where do you think you are in terms
22 of really reducing the retail customer problems with
23 billing?

24 A. Is the question "are we 100 percent on track?" Or,

[WITNESS: Nolting]

1 "are we 100 percent where we need to be?"

2 Q. Maybe we'll take both of those.

3 A. Okay. I don't believe we're 100 percent where we need
4 to be. It's hard to peg a number or percentage of
5 where we are in that spectrum. As far as "are we on
6 track?" I would say, with a very high level of
7 confidence, that we are on track. Between programs
8 we've started, for example, the Revenue Assurance
9 Program and deployment of practices and tools to run
10 systemic audits between our systems, to identify
11 billing errors ahead of customers identifying those
12 billings errors, having much enhanced, more robust
13 capabilities correlating those billing errors to
14 customers, and to assigning those to a bill deployment
15 fix process. That is one.

16 As well as a number of the CDIP, the
17 Customer Delivery Improvement Program Initiative, the
18 15 high priority initiatives that are underway, that
19 most of them or quite a few of them specifically, if
20 not directly, or indirectly or directly are going to be
21 improving our bill quality.

22 Q. And, I think you just testified a few minutes ago that
23 the bill production has been transferred to IT?

24 A. Right.

[WITNESS: Nolting]

1 Q. And, has that been helpful to your work? Have you
2 found that that transfer has been supportive of the
3 changes that needed to be made?

4 A. I think it has. Prior to that, billing was the only --
5 bill production was the only function outside of the IT
6 organization. Now, we have the management of the bill
7 production within the same unit as the development team
8 and the overall back-office production support groups.
9 So that I think has given a lot more focus in just the
10 quality and the overall administration of the bill
11 production. From my team's perspective, we've been
12 able to give much more of emphasis and resources for
13 customer issues, residential/wholesale customer issues,
14 being able to diagnose those, correlate them to known,
15 existing bill incidents and to root cause and give some
16 prescriptive fixes.

17 Q. And, how do you interface with Ms. Weatherwax,
18 especially with respect to that plan that you're
19 referring to?

20 A. A number of my team are on Ms. Weatherwax's program,
21 the CDIP initiatives. I'm the executive sponsor on a
22 number of those, of the top 15. I would say it's a
23 collaborative effort at this point.

24 Q. And, who do you report to?

[WITNESS: Nolting]

1 A. I report to Steve Rush, Senior Vice President, and
2 reports to Jeff Allen.

3 MS. HATFIELD: Thank you. No further
4 questions.

5 CHAIRMAN GETZ: Thank you.

6 (Chairman and Commissioners conferring.)

7 CHAIRMAN GETZ: Mr. Kennan.

8 MR. KENNAN: Thank you, Mr. Chairman.
9 Good morning, Mr. Nolting.

10 WITNESS NOLTING: Good morning.

11 BY MR. KENNAN:

12 Q. Mr. Nolting, the first thing I want to do is just to
13 try to obtain a clarification. If you would turn to
14 Page 6 of your testimony dated February 24th please.

15 A. Okay. I'm there.

16 Q. And, also, by the way, do you happen to have with you
17 FairPoint's response to Otel Data Request 16? It's
18 been marked as "Otel 3" for identification.

19 A. "Otel 3" you say? I have a number of them. I'm not
20 sure if I have that one.

21 Q. It's FairPoint's response to Otel Telekom's Data
22 Request 16. You were the respondent.

23 A. Right. I believe I do have it. I'm just not seeing it
24 identified as "16".

[WITNESS: Nolting]

1 Q. It's not "Exhibit 16", it's "Question 16".

2 A. Question 16. Yes, I have that.

3 Q. On the bottom of Page 6 through the top of Page 7 --

4 A. Uh-huh.

5 Q. -- of your prefiled testimony, you refer to some errors
6 that FairPoint's audits and bill reviews have
7 uncovered, and these errors existed prior to system
8 Cutover.

9 A. Right.

10 Q. And, in fact, some of them existed even prior to the
11 merger?

12 A. Possibly.

13 Q. Well, Page 7, Lines 2 to 3, is more definitive than
14 "possibly"?

15 A. Yes.

16 Q. Then, on the data request to Otel Request Number 16,
17 which has been marked as "Otel Exhibit 3" for
18 identification, the question asked, made specific
19 reference to this testimony, Page 6, Line 21, through
20 Page 7, Line 4, and asked "whether the review and audit
21 programs that Mr. Nolting describes resulted in some
22 back bills?" The answer is "This section of the
23 testimony refers to the switch-to-bill audit." Is this
24 testimony so limited to just the switch-to-bill audit?

[WITNESS: Nolting]

1 A. No.

2 Q. So, this is more general and refers to uncovering
3 efforts through various audit programs that you have?

4 A. Correct.

5 Q. And, in fact, some of the audits that FairPoint has
6 done in connection with its Cutover remediation efforts
7 have resulted in back bills to customers, to wholesale
8 customers, is that correct?

9 A. Yes.

10 Q. As well as credits?

11 A. Right.

12 Q. For example, the special access mileage audit that you
13 did resulted in both some back bills and some credits,
14 is that correct?

15 A. That's correct.

16 Q. Thank you for the clarification. On Page 23 of your
17 February testimony please.

18 A. I'm there.

19 Q. Here you're talking about the "data synchronization"
20 projects?

21 A. Right.

22 Q. First, to be clear, data synchronization issues are the
23 result of Cutover, aren't they?

24 A. Not entirely. Some of these existed prior to Cutover.

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[WITNESS: Nolting]

1 Q. But, at least in part, some they are related to
2 Cutover?

3 A. Yes.

4 Q. Sorry. Excuse me, I apologize, just for one second.

5 MR. KENNAN: Excuse me. I can't even
6 read my own writing. I apologize, Mr. Chairman.

7 BY MR. KENNAN:

8 Q. Oh. I'm sorry. Back to Page 21, and the question on
9 Lines 10 through 12. And, the goals of the data
10 synchronization project include the reduction of
11 billing errors, better order flow-through, and on-time
12 installations?

13 A. Correct.

14 Q. And, will these goals benefit wholesale customers, as
15 well as retail customers?

16 A. Yes.

17 Q. Back on Page 23, you refer to the selection of "MDA" as
18 your "software partner for the larger enterprise-wide
19 solution deployment"?

20 A. Right.

21 Q. "MDA" is "Martin Dawes Analytics", is that right?

22 A. Right.

23 Q. And, "enterprise-wide" means "throughout FairPoint",
24 "throughout the Company"?

[WITNESS: Nolting]

1 A. Right.

2 Q. Page 24, Line 5, you say that "Following an expected
3 12-month schedule,... a scalable software pollution" --
4 "pollution", excuse me, "a scalable software solution
5 will be in place to effectively identify, assimilate,
6 reconcile, and remediate core subscriber data",
7 etcetera. So that the conclusion of the data -- am I
8 interpreting this correctly that the conclusion of the
9 data synchronization process will take a 12-month
10 schedule?

11 A. The point of reference, as of February 24th that I had,
12 was looking at our complete deployment of both the data
13 synchronization, as well as our remediation process.
14 So, it is a reference to the data synchronization.
15 We've since -- the schedule for the data
16 synchronization, the timeline, I think has since been
17 revised and moved forward.

18 Q. What is the current projected date for the conclusion
19 of the data synchronization process?

20 A. We have September of this year.

21 Q. September of 2010?

22 A. Right.

23 Q. And, the end result will be improved service data
24 delivery intervals, is that right?

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[WITNESS: Nolting]

1 A. Among other benefits.

2 Q. And overall service quality?

3 A. Right.

4 Q. Bill accuracy, quality, and reduced operating costs?

5 A. Yes.

6 Q. At the end of this process, which you say will be in
7 September 2010, will service delivery intervals,
8 overall service quality, bill accuracy, and operating
9 costs be at optimal levels, as far as you're concerned?

10 A. I think, at the conclusion of this roll-out of the
11 cross-system synchronization deployment, we'll be in a
12 position to better manage that. I wouldn't state that,
13 as of that date, we'll be at optimal levels.

14 Q. Well, presumably, if you're not at optimal levels by
15 that date, you'll keep working on it until --

16 A. Absolutely.

17 Q. -- you get to an optimal point, is that right?

18 A. Right.

19 MR. KENNAN: No further questions, Mr.
20 Chairman.

21 CHAIRMAN GETZ: Okay. Thank you. Mr.
22 Shoer?

23 MR. SHOER: No questions. Thank you.

24 CHAIRMAN GETZ: Ms. Foley?

[WITNESS: Nolting]

1 MS. FOLEY: No questions. Thank you.

2 CHAIRMAN GETZ: Ms. Bragdon?

3 MS. BRAGDON: Yes, just a few. Good
4 morning -- good afternoon.

5 WITNESS NOLTING: Good afternoon.

6 BY MS. BRAGDON:

7 Q. I want to just ask a couple questions related to your
8 rebuttal testimony.

9 A. Yes.

10 Q. And, on Page 1 of your rebuttal, you state that the
11 problem discussed in Mr. Tisdale's testimony concerning
12 the billing of resale services was corrected as of
13 "March 18th", correct?

14 A. Correct.

15 Q. And, if that were the case, that CLEC should have seen
16 a change in their April bills, is that right?

17 A. Right. That's right.

18 Q. And, in particular, if we had a bill at the end of
19 April, April 30th, you would have expect that fix to be
20 reflected?

21 A. In some cases, it may have been a May bill. It may
22 have had individual rates that hadn't been updated as
23 of that May -- March 18th release, and it could have
24 been -- it could have fallen into a May bill cycle.

[WITNESS: Nolting]

1 Q. Okay. So, it's possible, and it wouldn't surprise you,
2 to learn that there might be still some examples of it
3 not --

4 A. Residual, right. It wouldn't surprise me.

5 Q. And, your testimony is that you've made further changes
6 to -- so that the May bill should be correct? I'm just
7 trying to understand where.

8 A. Correct. Yes. It was -- some of these, it was a
9 functionality that we fixed with a deployment. And, in
10 some cases, we needed to come back to individual
11 contracts and individual billing accounts to verify and
12 correct what was being billed as retail rates rather
13 than wholesale rates.

14 Q. Okay. And, if we were to have an issue with that, we
15 should just bring it up with you and submit a claim?

16 A. Absolutely.

17 Q. And, on Page 2 of your testimony, your rebuttal I'm
18 speaking of, --

19 A. Yes.

20 Q. -- you state that "For all of 2010, and a few months
21 before that, FairPoint has been accurately billing for
22 trouble tickets in accordance with its tariff."

23 A. Right.

24 Q. You see that?

[WITNESS: Nolting]

1 A. Uh-huh.

2 Q. And that, I think, was in response to some testimony
3 from Mr. Tisdale about CRC being billed at retail
4 rates?

5 A. Correct.

6 Q. And, so, again, are you claiming that there are
7 absolutely no instances?

8 A. I wouldn't claim "absolutely no", I don't have control
9 over human errors that might have been introduced.
10 But, certainly, we've fixed what were the systemic
11 problem.

12 Q. Okay. So, if, in fact, there were additional
13 instances, you're saying that it's human error, not
14 system error?

15 A. It could be, it could be a human error or they have
16 rated it at a rate retail, incorrectly, a retail
17 trouble ticket. In which case a claim or an adjustment
18 would be applied.

19 Q. Okay. But the idea of the fix was so that it wouldn't
20 occur, correct?

21 A. That's right.

22 Q. Okay. And, then, I just have one, I'm perpetually
23 confused --

24 A. Okay.

[WITNESS: Nolting]

1 Q. -- by the term "known billing error" --

2 A. Right.

3 Q. -- and "bills known to be in error".

4 A. Okay.

5 Q. And, I'd really like -- maybe let me just ask you to
6 explain in your own words whether those are one in the
7 same? And, if they're not, what the difference is?

8 A. I'm sorry, comparing --

9 Q. "Known billing error" --

10 A. Right.

11 Q. -- and "known accounts in error".

12 A. I see. We report on accounts -- "known accounts in
13 error", and it may be mislabeled at times as "known
14 billing errors". And, the source for that comes from
15 three areas. First of all, customers, customer
16 inquiries, billing inquiries, that are researched and
17 identified to be a bill incident, an error on a bill.
18 Secondly, we have our own bill review team that is
19 inspecting a percentage, a sample of every monthly bill
20 cycle, to identify overcharges, undercharges, any kind
21 of display issues, which also contribute to a source of
22 known billing errors. And, then, finally, increasingly
23 we have our validation automated programs running, and
24 comparing our back-end systems with billing -- our

[WITNESS: Nolting]

1 automated validations, and comparing our back-office
2 systems with billing. And, also generating from those
3 validations discrepancies, which may or may be billing
4 errors.

5 So, the conversion from a billing error
6 to accounts in error is what we have an analyst team
7 determining. First of all, they determine whether this
8 individual error is systemic in nature. Does it impact
9 more than just this one account or is it part of a
10 product that has been rated incorrectly? And, through
11 that analysis, they identify the universe of impacted
12 accounts. So, this one billing incident is impacting
13 beyond this one account, it's impacting x number of
14 accounts.

15 Q. So, just to make super clear, if there was a billing
16 error, the charge was 25 cents, instead of 50 cents, or
17 whatever?

18 A. Right.

19 Q. That would be one known billing error?

20 A. Right.

21 Q. And, if you knew that charge was applied to 100
22 customers, --

23 A. Right.

24 Q. -- you'd have 100 known accounts in error?

[WITNESS: Nolting]

1 A. Yes.

2 Q. If that was all that was there?

3 A. That's right.

4 MS. BRAGDON: All right. Thank you for
5 clarifying.

6 WITNESS NOLTING: Sure.

7 MS. BRAGDON: That's all I have.

8 CHAIRMAN GETZ: Thank you. Ms. Geiger,
9 do you have questions for this witness?

10 MS. GEIGER: No questions.

11 CHAIRMAN GETZ: Okay. Then, it appears
12 to be 12:30. Is that correct? I think we'll take the
13 lunch recess and pick up with Mr. Nolting at 1:30.

14 (Whereupon the lunch recess was taken at
15 12:33 p.m. and the hearing reconvened at
16 1:50 p.m.)

17 CHAIRMAN GETZ: Okay. Good afternoon,
18 everyone. We're back on the record in DT 10-025. I
19 apologize for the delay in getting starting. We were
20 trying to conduct some other business during the lunch
21 recess. And, we are in the midst of the cross-examination
22 of Mr. Nolting. Ms. Cole, do you have any questions for
23 --

24 MS. COLE: We have no questions of this

[WITNESS: Nolting]

1 witness.

2 CHAIRMAN GETZ: Mr. Linder?

3 MR. LINDER: No questions.

4 CHAIRMAN GETZ: Thank you. Mr. Judd.

5 MR. JUDD: Thank you, Mr. Chairman.

6 BY MR. JUDD:

7 Q. Mr. Nolting, briefly could you just explain the
8 difference between billing support and billing
9 production. You said there's been some sort of a
10 bifurcation there.

11 A. Sure. Yes. Billing production is the maintenance of
12 the actual systems, the production systems, this being
13 Kenan, for one of our billing systems, and CDG, Control
14 Data Group, for another. And, so, it's the ongoing
15 management of the production cycles, as well as the
16 development, any kind of enhancements, or bill
17 incidents resolutions. What I have is a group that
18 does the detection, diagnosis, and prioritization of
19 identified bill errors, bill incidents, as well as
20 reconciling what are known billing problems with
21 individual customers.

22 Q. So, these are billings to customers, is that correct?

23 A. Yes.

24 Q. And, do you consider the payphone locations in New

[WITNESS: Nolting]

1 Hampshire to be customers as you've defined your area
2 of the Company?

3 A. It depends on, there's different types of payphones,
4 some are located in businesses, others are public
5 payphones. In both cases, we treat them as customers.

6 Q. Fair enough. So, they would be in your responsibility,
7 is that correct?

8 A. Yes.

9 Q. Now, it is our understanding that, in the bankruptcy
10 process, FairPoint has rejected contracts with
11 customers who have payphones on their premises. Are
12 you familiar with that?

13 A. I am not.

14 Q. Well, we were -- perhaps I could explore this a little
15 further. We were told that the reason for rejecting
16 those contracts is that the billing system cannot
17 support the calculation of commissions due to those
18 customers. Are you familiar with that point?

19 A. I have heard of that, but I am not familiar with the
20 details.

21 Q. That's not your department?

22 A. I would have some ownership of that. But the
23 development, if there's insufficient capabilities
24 within our billing system, that would most likely be

[WITNESS: Nolting]

1 something I would address back with my IT group.

2 Q. Well, --

3 A. To develop a --

4 MR. JUDD: Can you help me, or perhaps
5 your counsel can, which of the witnesses who will be
6 appearing in this docket does have ownership of that
7 responsibility?

8 MR. McHUGH: Well, I think Mr. Skrivan
9 can answer questions about payphones. And, if you're
10 looking for information about the systems, that would be
11 Ms. McLean.

12 WITNESS NOLTING: And, I'd also
13 volunteer a data request to go back and answer.

14 MR. McHUGH: Don't volunteer.

15 MR. JUDD: Spoken as a man who wants got
16 his draft notice.

17 BY MR. JUDD:

18 Q. So, just to make sure, before you get to escape, --

19 A. Yes.

20 Q. -- questions about how FairPoint will be managing the
21 relationship with customers who have payphones on their
22 premises are not within your responsibility of the
23 Company? Did I understand that correctly?

24 A. I'm not in position to answer that right here, sitting

[WITNESS: Nolting]

1 here today.

2 MR. JUDD: Okay. Thank you. I have
3 nothing further, Mr. Chairman.

4 CHAIRMAN GETZ: Commissioner Below?

5 CMSR. BELOW: No.

6 CHAIRMAN GETZ: Commissioner Ignatius?

7 CMSR. IGNATIUS: I do have some
8 questions. Thank you. Good afternoon, Mr. Nolting.

9 WITNESS NOLTING: Good afternoon.

10 BY CMSR. IGNATIUS:

11 Q. I have a number of questions based on your prefiled
12 testimony, Exhibit 9, that are similar in why I'm
13 asking them. So, I'll give you the overview, and then
14 you can help sort this out.

15 A. Sure.

16 Q. There's a lot of description of structures, solutions,
17 audits, protocols in your testimony. And, what I want
18 to know is, what's a concept that you'll be working on
19 and what's in place? And, so, if it helps to go
20 through it section by section, we can do that. If it's
21 easier for you to just describe the changes that have
22 been made and what's implemented, as opposed to changes
23 that are still in the development stage, --

24 A. Sure.

[WITNESS: Nolting]

1 Q. I'll leave to you.

2 A. I can explain it, and then you can, if there's anything
3 that's not clear, ask me, feel free to ask me
4 questions. The concept, starting with a Revenue
5 Assurance platform, which was something I led the
6 effort of last -- the second quarter of last year, was
7 to deploy not only an organization, but software
8 capabilities, that would be existing and persistent in
9 our back-office, to be able to collect, extract data
10 from disparate systems, be able to transplant that data
11 so that the data could be compared with each other, and
12 then to be analyzing the data to identify
13 discrepancies, data integrity problems, that are either
14 causing service errors or causing billing errors.

15 That, the pilot of that, with the Martin
16 Dawes Analytic software package, was focused on one
17 particular area, that was a switch-to-bill audit,
18 looking at translations, customers served out of our
19 digital switches, and basically tying those, mapping
20 those to our billing systems. Fundamentally, the
21 initial cut was just to see if they existed. Do we
22 have an existence of a customer that's in service and
23 is it also existing in the billing system?

24 The further elaboration of that type of

[WITNESS: Nolting]

1 audit is then to look at "what are the services for
2 that customer?" Do we have consistency in what's being
3 provided to the customer and how it's been provisioned,
4 and also how it's been billed?

5 Q. Is the pilot complete in that instance?

6 A. The pilot is complete and was successful. It satisfied
7 what were objectives. That this was a tool kit that
8 gave us the capability to be able to manage from end to
9 end basically, to give us better visibility from all of
10 our core back-office systems, and to be able to segment
11 and diagnosis where we had any kind of data integrity
12 problems. So, the time horizon there, it took us into
13 the last part of fourth quarter December to actually
14 physically deploy the hardware and software for this
15 Martin Dawes Analytic system. We've since built on
16 that, this -- what was this Revenue Assurance Pilot,
17 and it's evolved into the data synchronization project.

18 Q. So, before we get -- let me make sure I understand, is
19 the result -- are the results of the pilot now being
20 expanded across the board? And, what's the
21 implementation status of that?

22 A. It's been expanded beyond the switch-to-bill and the
23 voice network, if you will, to now encompass also the
24 data networks. So, we've gained access, collection

[WITNESS: Nolting]

1 tools for pulling in DSLAM information for our DSL
2 customers, of being able to rationalize and relate that
3 data to our inventory system, and, in turn, to our
4 service order system, and, finally, to our billing
5 systems. And, so, once those relationships are built,
6 then we create graphs and validation audits that are
7 now running and comparing, to make sure that you have
8 synchronization between the three -- or, between the
9 four.

10 Q. So, you've completed that expansion to pick up the data
11 side as well?

12 A. We're in the midst of it. It's a difficult process.
13 It requires, as you can imagine, a lot of unique
14 circumstances. Things that were built certain ways for
15 certain customers that you need to sort of uncover, and
16 get the people in the business who know the logic and
17 the situation of why it was built the way it was built.
18 So, I would characterize it as it's being built out,
19 and we're growing a work product that is going to be a
20 permanent fixture in the network in our back-office,
21 that will be continuing to run and manage kind of the
22 health of our data integrity in our back-office.

23 Q. And, the time frame when you think realistically that
24 you'll have it fully developed and tested out is what?

[WITNESS: Nolting]

1 A. The deployment with the Cross System Synchronization is
2 on track to be completed in September of this year, and
3 that is looking across all of our core systems. I'm
4 not sure how familiar you are with our back-office
5 systems, but our M6, the MetaSolv inventory system, our
6 network elements, our Siebel CRM, Customer Relationship
7 Management system, the Kenan billing system, as well as
8 our CDG carrier access billing system.

9 Q. Between now and September, when this is fully developed
10 and implemented, will customers continue to see
11 problems that they will have to work through on a
12 manual basis? Will there be an improvement in their
13 billing problems? How do we get from here to there?

14 A. Yes. And, I should characterize, this isn't the only
15 effort underway to be trying to address bill accuracy.
16 You know, one of the other contributing factors with
17 billing errors, customer billing errors, has been our
18 service orders getting to billing, and the cycle time
19 for orders once they're placed, of actually adds and
20 disconnects getting into billing. For example, a
21 disconnect that is ordered and is not worked through to
22 billing, a customer will see charges for that service
23 that's already been disconnected. So, we've gotten
24 much better visibility, much more rigorous monitoring

[WITNESS: Nolting]

1 of our process of each of the service orders, knowing
2 where we have any interfaces where orders may fall out
3 and working those orders.

4 We've also, in the last 60 days,
5 introduced a functionality for us to be able to much --
6 to add now individual customer-based pricing
7 automatically. So, our large business customers, our
8 wholesale customers, after Cutover, those customers
9 that were under some type of a discount plan, whether
10 it be a term or a volume discount plan, we didn't have
11 any capability -- system capability to recognize those
12 service orders, apply the right logic and identify what
13 rates -- what discounted rate should be put on those
14 orders. In the last 60 days, as I've said, we've added
15 functionality into our service order process now, to be
16 applying those correct rates to those customer orders,
17 both on the business and the wholesale side.

18 So, these are examples of other
19 initiatives. We're not waiting on the Cross System
20 Synchronization as kind of the only big project to
21 solve all of our problems.

22 Q. Do you measure the number of billing-related complaints
23 that are pending?

24 A. We measure the outstanding accounts that are in error.

[WITNESS: Nolting]

1 And, we have -- and that's what we report on. So, our
2 percentage that we show of known -- we were talking
3 about "known accounts in error", those are essentially
4 order -- accounts that are waiting for a bill fix to be
5 deployed.

6 Q. What's your current number of accounts in error or
7 percentage of accounts, however you track it?

8 A. Yes. As of -- it changes frequently, as you can
9 imagine. I think, as of Friday, we were at
10 3.7 percent.

11 Q. That's 3.7 percent of?

12 A. Billing -- of the numerator being accounts in error and
13 the denominator being total accounts.

14 Q. And, that's New England wide?

15 A. That's Northern New England wide.

16 Q. Excuse me, Northern New England. And, do you have a
17 New Hampshire number?

18 A. We don't measure it by state.

19 Q. Do you break out retail versus wholesale customers?

20 A. We don't.

21 Q. So, do you have even a ballpark sense of the
22 3.7 percent, how that breaks out in a general sense
23 between wholesale and retail?

24 A. I don't, while I sit here. No, I don't.

[WITNESS: Nolting]

1 Q. In your rebuttal testimony, you said that the assertion
2 that there was an "unacceptable level of errors" was no
3 longer the case. If you don't track it -- and that was
4 from a wholesale company. If you're not tracking it on
5 a wholesale basis, then how do you know that it's
6 reached a level that's acceptable?

7 A. We do have a measure of claims, how many claims have
8 been submitted, and the dollar amounts of those claims
9 from our wholesale customers. A disproportionate amount
10 of those claims in the first -- in 2009 had to do with
11 the inability or our over-billing essentially of new
12 installs, customers who had signed onto wholesale
13 tariff contracts or other type of individual
14 customer-based contracts that we were provisioning
15 orders and consistently over pricing those orders. So,
16 we've taken, since the start of this year, initially
17 was manual fixes, we had people in the systems actually
18 applying the right rates. And, we've now converted
19 that to system fixes on all new installs, and going
20 back and correcting the embedded base of orders that
21 were placed from Cutover.

22 Q. Also in your rebuttal testimony, you identified some of
23 the claims that -- excuse me -- some of the CLECs had
24 made were no longer an issue, they have been resolved,

[WITNESS: Nolting]

1 or they were, you know, isolated quirks.

2 A. Yes.

3 Q. They weren't a real concern. Is that your
4 understanding of the bulk of the billing-related
5 complaints that were identified in the CLEC testimony?
6 I mean, you spoke to maybe four particular ones. Are
7 there other billing-related problems that are still
8 ongoing and can't really be resolved in the way that
9 those four that you identified are now appearing to be
10 resolved?

11 A. We still need to do better with processing orders. You
12 know, orders not being processed through to billing,
13 that fall out at one of our interfaces. And, either
14 we're not billing in a timely way or, as I said,
15 disconnects, we're still billing for services that had
16 had been disconnected, as one example.

17 Q. And, is your synchronization program that you're
18 working on something that will address that problem?

19 A. It will. As well as ongoing, as I mentioned, work to
20 much more -- have a much more rigorous monitoring,
21 daily monitoring of orders and where they are in a
22 flow. And, if they have fallen out, exactly where they
23 have fallen out and what's the disposition of that
24 order and how it needs to be resolved.

[WITNESS: Nolting]

1 CMSR. IGNATIUS: All right. Thank you.
2 That's helpful.

3 WITNESS NOLTING: Sure.

4 CHAIRMAN GETZ: Redirect, Mr. McHugh?

5 MR. McHUGH: Just really one, Mr.
6 Chairman.

7 **REDIRECT EXAMINATION**

8 BY MR. McHUGH:

9 Q. Mr. Nolting, at the end of Attorney Judd's questioning,
10 he was trying to ask you about your responsibilities at
11 FairPoint in connection with payphones, and you seemed
12 to indicate to me that you weren't prepared to answer.
13 And, so, I need you to either clarify your answer or
14 explain it to me.

15 A. I'm not familiar with the specifics of any kind of
16 deficiencies we have with billing of payphones as I sit
17 here right now. And, it may be a known technical
18 incident, a technical defect. I'm just -- I'm not
19 familiar with it to speak to it. It is within my
20 domain, within my organization's domain, to be
21 supporting payphones and businesses with payphones in
22 their premises.

23 MR. McHUGH: Thank you. Nothing
24 further.

[WITNESS: Nolting]

1 CHAIRMAN GETZ: And, doesn't appear to
2 be anything further for the witness, so you're excused.
3 Thank you, Mr. Nolting.

4 MR. McHUGH: FairPoint calls Mr. Allen
5 and Mr. Lippold to the stand.

6 (Whereupon **Jeffrey W. Allen** and **Brian M.**
7 **Lippold** were duly sworn and cautioned by
8 the Court Reporter.)

9 **JEFFREY W. ALLEN, SWORN**

10 **BRIAN M. LIPPOLD, SWORN**

11 **DIRECT EXAMINATION**

12 BY MR. McHUGH:

13 Q. Mr. Allen, could us please state for the record your
14 full name and title at FairPoint?

15 A. (Allen) Yes. My name is Jeffrey W. Allen. I'm
16 Executive Vice President of the Northern New England
17 Operations.

18 Q. And, are you the same Mr. Allen who prefiled testimony
19 in this docket dated February 24, 2010 that we've
20 premarked as "FairPoint Exhibit 8P" for "public" and
21 "8C" for "confidential"?

22 A. (Allen) Yes, I am.

23 Q. And, have you reviewed that testimony, prepared it in
24 connection with this docket, and is it true and

[WITNESS PANEL: Allen|Lippold]

1 accurate to the best of your knowledge?

2 A. (Allen) Yes, it is.

3 Q. Do you adopt that testimony here today as your own
4 under oath?

5 A. (Allen) I do.

6 Q. Mr. Lippold, could you please state for the record your
7 full name and your title with FairPoint.

8 A. (Lippold) Brian Lippold. I'm Senior Vice President of
9 Network Planning and Engineering.

10 Q. And, to whom do you report to at FairPoint?

11 A. (Lippold) Mr. Allen.

12 Q. And, were asked to co-sponsor a portion of Mr. Allen's
13 testimony?

14 A. (Lippold) I was.

15 Q. And, can you tell us what sections you've agreed to
16 co-sponsor with Mr. Allen?

17 A. (Lippold) Yes. On Page 22, beginning at Line 15,
18 through Page 26, Line 8.

19 Q. And, Mr. Lippold, could you tell us, is the testimony
20 true and accurate in all respects as you sit here
21 today?

22 A. (Lippold) Yes, it is.

23 Q. And, do you adopt it as your own?

24 A. (Lippold) I do.

[WITNESS PANEL: Allen|Lippold]

1 Q. Could you state for the record briefly, Mr. Lippold,
2 what your job responsibilities entail at FairPoint.
3 Not just your title, but what you actually do?

4 A. (Lippold) I'm responsible for the planning of the
5 network, the expansion of the network, how it's
6 engineered and the equipment is deployed. So,
7 essentially, everything except for the outside
8 technician workforce and the maintenance aspects of the
9 network.

10 Q. And, does part of your responsibilities include the
11 construction and build-out of the VantagePoint network,
12 Mr. Lippold?

13 A. (Lippold) Yes, it does.

14 Q. Okay. Mr. Allen, just very briefly, could you tell the
15 Commission what the purpose of your testimony is today.

16 A. (Allen) Yes. It's to support FairPoint's requested
17 approvals associated with the indirect acquisition of
18 control that may occur upon the effectiveness of
19 FairPoint's Bankruptcy Reorganization Plan, the
20 Regulatory Settlement, and the requested modifications
21 of the Commission's New Hampshire 2008 order.

22 Q. And, I should have asked, Mr. Allen, I apologize, but
23 is there any corrections to your prefiled testimony
24 that we've marked as "Exhibit 8C" and "P"?

[WITNESS PANEL: Allen|Lippold]

1 A. (Allen) There are not.

2 MR. McHUGH: Thank you. The witnesses
3 are available for cross-examination, Mr. Chairman.

4 CHAIRMAN GETZ: Okay. Thank you.
5 Mr. Roth?

6 MR. ROTH: I have no questions for these
7 witnesses.

8 CHAIRMAN GETZ: Ms. Hatfield?

9 MS. HATFIELD: Thank you, Mr. Chairman.
10 Good afternoon, gentlemen.

11 WITNESS ALLEN: Good afternoon.

12 WITNESS LIPPOLD: Good afternoon.

13 MS. HATFIELD: Sorry you have to look so
14 far over to your right.

15 **CROSS-EXAMINATION**

16 BY MS. HATFIELD:

17 Q. Mr. Allen, I had a few questions for you. I'm going to
18 be referring to your testimony, if you have it there
19 with you?

20 A. (Allen) I do.

21 Q. Beginning on Page 7 of your testimony, you give us an
22 assessment of the -- at that time the existing service
23 quality levels, do you recall that?

24 A. (Allen) I do, yes.

1 Q. And, then, going on, at the top of Page 7, you actually
2 give us some numbers. And, I'm wondering, can you give
3 us an update on how FairPoint is performing now, in
4 May, because we're three months later than when you
5 filed your testimony?

6 A. (Allen) Certainly. After the April results, we filed
7 with the Commission on May 20th. Out of the 12 defined
8 measurements in the SQI for April, FairPoint hit 10 of
9 the 12. The two that were missed, one was the
10 "Customer trouble report rate per hundred lines in the
11 network", and that was a measurement that we hit in
12 January, February, missed in March due to the storms,
13 and, although improved substantially in April, had some
14 residual effect from the restorations from the storm.
15 So, we expect to hit that again going forward.

16 The other measurement that we did not
17 meet, which was the "Held orders average total delay",
18 with a baseline of 6.46 delay days, we were 9 in April,
19 we did hit it in March with two days. I think it
20 should be noted in that particular measurement that the
21 universe of total orders is a very small universe. In
22 the month of April, for example, there were a total of
23 two orders that were delayed based on lack of
24 facilities. In the month of March, there was one

1 order; in the month of February, there were two orders.
2 So, although the percentage is off, I think, if you
3 look at the impact to customers, it is very, very
4 minimal. And, outside of those two, we hit every other
5 metric. And, it should be noted, the percentage of
6 "Out of service troubles cleared within 24 hours",
7 which is a very aggressive measurement, that
8 historically had never really been reached either by
9 Verizon, or us when we first took over. We hit this
10 past month at 87 percent of the "troubles cleared
11 within 24 hours".

12 Q. In your testimony, you describe a meeting that you had
13 with Commission Staff in December of last year. Do you
14 recall that?

15 A. (Allen) Can you point me to the particular section?

16 Q. Well, why don't we look at Attachment -- or, Exhibit
17 JWA-2 to your testimony.

18 A. (Allen) Okay.

19 Q. Do you have that?

20 A. (Allen) I do, yes.

21 Q. And, it looks like that is a report that FairPoint
22 provided to Commission Staff and to the Office of
23 Consumer Advocate, is that correct?

24 A. (Allen) Yes, it is.

1 Q. And, in the second paragraph, it references a meeting
2 in December of 2009, do you see that?

3 A. (Allen) Yes.

4 Q. In your testimony, you talk in several places about the
5 fact that FairPoint has had difficulty in reporting
6 metrics, is that true?

7 A. (Allen) That's correct.

8 Q. And, this Exhibit 2 to your testimony, is it fair to
9 say that that is trying to capture changes that
10 FairPoint is making in its reports, to kind of clean up
11 what you're reporting and to account for the fact that
12 you're trying to fix some of those data problems?

13 A. (Allen) It's certainly -- I'd have to read in more
14 detail, it certainly is seeking to clarify exactly what
15 is being measured for each of the different
16 measurements. It should also be noted that, in March
17 of this year, in conjunction with one of our system
18 projects, with the CDIP projects, was the complete
19 audit and review of the metrics programs. And, at that
20 particular point in time, any adjustments were put in
21 place and a restatement was also filed with the
22 Commission at that time.

23 Q. And, did that include your final report on metrics for
24 2009?

1 A. (Allen) I believe it did, yes.

2 Q. And, would I understand correctly to read that the
3 settlement that you entered into with the Advocate
4 Staff in this case to try to memorialize the metrics
5 that you believe are appropriate going forward, based
6 on these discussions that you've been having with
7 Staff, and also based on what you've learned from your
8 systems since Cutover?

9 A. (Allen) I'm not sure I understand your question. Are
10 you speaking of the five measurements that we were
11 looking at?

12 Q. Well, yes. In the settlement that you've reached with
13 Staff in this docket, I think you've made some changes
14 -- you're proposing some changes to the metrics. And,
15 I was wondering if you could talk about that a little
16 bit.

17 A. (Allen) My understanding is the metrics themselves, a
18 number of the metrics, the measurement or the baseline
19 was made more rigorous in 2010, as compared to 2009,
20 actually in four of the different areas. In the
21 Settlement Agreement, what we agreed to was to take the
22 2009 penalty, defer it, and then have five key
23 measurements that was agreed on with the Staff and
24 FairPoint as the key measurements within the state. If

1 those could be achieved in 2010, there would then be a
2 waiver of past penalties that had been incurred by
3 missing some of the metrics in 2009.

4 Q. And, do you know if New Hampshire -- or, if FairPoint
5 is performing in New Hampshire consistent with your
6 service quality levels in Maine and Vermont?

7 A. (Allen) Yes. I would characterize them as "very
8 similar". As you're aware, the measurements in each
9 state are different, different things are measured.
10 But, if you look at the percentage of completion, the
11 percentages of attainment, as I mentioned, in New
12 Hampshire, we hit 8 out -- or, 10 out of 12
13 measurements. The two that we missed, one was
14 storm-related, and the other one, although we will
15 diligently look to hit it, did not really impact any
16 customers. I would say that's consistent with the
17 performance we've had in both Maine and Vermont, where
18 we are also consistently hitting the metrics.

19 Q. And, on Page 15 of your testimony, you provided the
20 numbers back in February for the number of open
21 escalations in New Hampshire. Do you see that?

22 A. (Allen) Yes.

23 Q. And, do you have the more recent information as to the
24 open escalations in New Hampshire?

[WITNESS PANEL: Allen|Lippold]

1 A. (Allen) Yes. The report that came out today show 25
2 open escalations in New Hampshire, versus the 50 that I
3 testified to back in February of 2010.

4 Q. Then, I believe it's on Page 16 of your testimony, you
5 discuss collections and the related activities. And,
6 I'm wondering if you could just give us an update on
7 that status in New Hampshire?

8 A. (Allen) I don't know that I can speak specifically to
9 our collection activity in New Hampshire, although I
10 think I could speak to the collections process that I'm
11 referring to in the prefiled testimony. After Cutover,
12 in actually all of the states, we stopped doing any
13 collection activity, for a variety of reasons. One was
14 the agreement, and, secondly, was to make sure that we
15 improved on some of our systems and our billing before
16 we entered into collection activity. There was also a
17 lot of discussion at the time with the Staff, and there
18 was a request to hold off for those very reasons; we
19 did so.

20 And, when we began collections, what we
21 found was there was a higher than normal amount of
22 customers that had a higher balance than what would
23 typically happen. We identified, there's a number of
24 customers that typically don't pay until there's some

1 treatment activity that begins, and, unfortunately, in
2 those particular instances, their balances had grown to
3 a much higher level. Consequently, when we began our
4 collection activity, we set very high thresholds of who
5 we treated or sent collection notices to. But, as
6 that's worked its way through the system, we've had a
7 much higher percentage of disconnects based on
8 non-payment than we would historically have achieved,
9 and nor is it -- and it's also much higher than what we
10 expect in the future.

11 Q. And, in light of that, is FairPoint taking any
12 additional steps to address people who have high
13 balances or arrearages?

14 A. (Allen) Well, the steps that we've taken, which I think
15 are pretty consistent with what we've done really from
16 the beginning, is we offer payment plans to any
17 particular customer that has an inability or an
18 inability to pay when they receive the amount due.
19 And, we continue to ramp up our efforts to contact the
20 customer and make sure we can make sure that they're
21 aware of those payment alternatives that they have
22 available to them.

23 Q. Beginning on Page 23 -- or, excuse me, Page 22 of your
24 testimony, you provide an update on FairPoint's

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1 broadband plans. Do you recall that?

2 A. (Allen) Yes.

3 Q. And, is there any additional update that you can
4 provide us that's occurred since the time of your
5 testimony?

6 A. (Allen) At this point, let me turn this over to Mr.
7 Lippold, who was asked here today as our broadband
8 specialist.

9 Q. Thank you.

10 A. (Lippold) So, I think the most significant update would
11 be the quarterly filing that was made on April 16th,
12 where the current broadband qualifications as of the
13 beginning of April have increased to 76.1 percent,
14 against our goal at the end of the year of 85 percent.
15 Within New Hampshire, we've turned -- we've qualified
16 about 55,000 new lines on the network, on the
17 VantagePoint network, that were primarily in areas that
18 were previously unserved. So, I think that would be
19 the lion share of the change.

20 MS. HATFIELD: I have no further
21 questions. Thank you.

22 CHAIRMAN GETZ: Thank you. Mr. Linder?

23 MR. LINDER: I have no questions. Thank
24 you.

[WITNESS PANEL: Allen|Lippold]

1 CHAIRMAN GETZ: Mr. Kennan?

2 MR. KENNAN: Thank you, Mr. Chairman.

3 Good, Mr. Allen, Mr. Lippold.

4 WITNESS ALLEN: Good afternoon.

5 WITNESS LIPPOLD: Good afternoon.

6 BY MR. KENNAN:

7 Q. Mr. Allen, do you have up there FairPoint's response to

8 Otel Telekom's Data Request Number 11?

9 A. (Allen) I do, yes.

10 MR. KENNAN: And, for the record, this

11 has been marked as "Otel Exhibit 2" for identification.

12 CHAIRMAN GETZ: Let me just note, I

13 think in case this may not have been apparent. My

14 understanding is all of the discovery responses that were

15 intended to be used as exhibits were circulated to the

16 parties, but they haven't necessarily been given to the

17 Commission. So, if there's something you want us to read

18 along with, then we're going to need those copies.

19 MR. KENNAN: Well, I thought I left

20 copies up there already, Mr. Chairman, earlier this

21 afternoon -- or, this morning.

22 (Documents distributed to the Chairman

23 and Commissioners.)

24 CHAIRMAN GETZ: Okay. Thank you.

[WITNESS PANEL: Allen|Lippold]

1 Because sometimes the witnesses don't need the actual
2 exhibits, but, if you want us to read them, then this will
3 help.

4 MR. KENNAN: It's Exhibit 2 for
5 identification, Mr. Chairman, or was premarked.

6 BY MR. KENNAN:

7 Q. Mr. Allen, just a couple of minutes ago with
8 Ms. Hatfield --

9 MR. KENNAN: I'm sorry, Mr. Chairman,
10 are you ready?

11 CHAIRMAN GETZ: Yes.

12 BY MR. KENNAN:

13 Q. A couple of minutes ago with Ms. Hatfield you were
14 talking about the effort to look at and remediate
15 service quality reporting measures. Do you recall that
16 discussion you had with her?

17 A. (Allen) Yes.

18 Q. And, if you would look at Otel Exhibit 2 for
19 identification, do you recognize this data request as
20 asking you about that service quality remediation
21 effort?

22 A. (Allen) Yes.

23 Q. And, this metric remediation effort, that's part of the
24 CDIP, CDIP set of initiatives, is that correct?

1 A. (Allen) That's correct.

2 Q. And, the metrics remediation have to do with both
3 retail service quality metrics, as well as the C2C and
4 PAP metrics used on the wholesale side, is that
5 correct?

6 A. (Allen) That's correct, yes.

7 Q. And, they both come from the same system within
8 FairPoint, the CAMP system?

9 A. (Allen) Yes.

10 Q. If you would look on Page 2 of Otel 2 for
11 identification, and there's a small letter "d" on the
12 left side. And, the sentence that starts right after
13 the "d: "The remaining outstanding issues are being
14 researched. And, if deployment action is required to
15 remedy the issue, it will be scheduled accordingly."
16 And, I'm curious about that. First of all, we're
17 talking about computer systems here, are we not?

18 A. (Allen) As far as -- yes, we are.

19 Q. And, so, a deployment would be what? A system
20 modification?

21 A. (Allen) It could be, yes.

22 Q. What else could it be?

23 A. (Allen) It could be a system modification, it could be
24 a system enhancement, it could be a system fix.

1 Q. But, in any event, something having to do with the
2 systems?

3 A. (Allen) That's correct.

4 Q. And, you'd agree that it's important to have accurate
5 service quality data, is it not?

6 A. (Allen) Yes.

7 Q. And, FairPoint's goal is to have accurate data and
8 accurate reports in terms of service quality?

9 A. (Allen) Correct.

10 Q. And, the Metrics Remediation Project is one of the
11 measures that FairPoint is undertaking to achieve that
12 goal, is that right?

13 A. (Allen) That is correct.

14 Q. If I could ask you to look at Page 21 of your February
15 testimony please. And, starting on Page 6, here you
16 describe --

17 A. (Allen) I'm sorry, Page 21 or Page 6?

18 Q. Page 21, beginning on Line 6.

19 A. (Allen) Line 6. Okay.

20 Q. And, the question asks "what FairPoint has done to
21 address billing issues with its wholesale customers?"
22 And, this is asking about cutover-related issues, is it
23 not?

24 A. (Allen) It would be both cutover-related issues or

1 issues that existed pre-cutover.

2 Q. But, again, issues with the FairPoint computer systems?

3 A. (Allen) Well, in some instances, yes; in some
4 instances, they would have been pre-cutover issues,
5 which would have been on the previous Verizon systems.

6 Q. But the solution at this point has to do -- lies within
7 FairPoint's computer systems?

8 A. (Allen) Certainly, on an ongoing basis, that would be
9 true, yes.

10 Q. And, in this answer, you refer to the "Special Access
11 mileage audit" that -- well, you refer to a "Special
12 Access mileage audit". Is that the same thing I was
13 talking about with Mr. Nolting when he was on the
14 stand? Did you hear that discussion?

15 A. (Allen) I didn't hear specifically when you spoke to
16 him, no.

17 Q. Well, in this "Special Access mileage audit" that you
18 are referring to in your testimony, that audit
19 identified some over-billing and under-billing
20 conditions, did it not?

21 A. (Allen) It did, yes.

22 Q. And, as the result of that, there were some adjustments
23 to customer bills?

24 A. (Allen) Yes, there were.

1 Q. There were some credits given?

2 A. (Allen) Yes.

3 Q. And back bills sent to customers as well?

4 A. (Allen) Yes.

5 Q. In the last three lines of this answer, you also
6 describe some other wholesale billing initiatives that
7 FairPoint has undertaken, correct?

8 A. (Allen) That is correct.

9 Q. Is it logical to think that these wholesale billing
10 initiatives described on Lines 18 through 20 will
11 result in adjustments to customer bills?

12 A. (Allen) I would think that there's a likelihood that
13 that could occur, yes.

14 Q. And, if there were over-billings, FairPoint would
15 adjust and give credits to the customers who were
16 over-billed?

17 A. (Allen) That is correct.

18 Q. And, if there were under-billings, does FairPoint plan
19 to charge, to back bill customers for those
20 under-billings?

21 A. (Allen) Typically, yes.

22 Q. These initiatives that are described in Lines 18
23 through 20, when is FairPoint planning to do these?

24 And, if we need to break them up one by one, we can do

1 that, too.

2 A. (Allen) These are all ongoing processes that are
3 currently being done on a normal basis within
4 FairPoint.

5 Q. Is there a planned completion date for these billing
6 initiatives described on Lines 18 through 20?

7 A. (Allen) I don't view these as items that have a start
8 and stop. I view them as normal process activities
9 that we would continue on to ensure that the billing is
10 always accurate.

11 Q. So, these initiatives could occur at any time, they're
12 ongoing?

13 A. (Allen) Yes.

14 Q. And, FairPoint has no particular end date in its plans
15 for these initiatives?

16 A. (Allen) I would say that any telecommunications company
17 I've worked with in the past, we've always looked at
18 these things every month for the history of the
19 company.

20 MR. KENNAN: Nothing further,
21 Mr. Chairman.

22 CHAIRMAN GETZ: Thank you. Mr. Shoer.

23 MR. SHOER: Thank you, Mr. Chairman.

24 Good afternoon, Mr. Allen, Mr. Lippold.

[WITNESS PANEL: Allen|Lippold]

1 WITNESS ALLEN: Good afternoon.

2 MR. SHOER: My name is Alan Shoer.

3 BY MR. SHOER:

4 Q. Picking up quickly on the same page that Mr. Kennan was
5 asking you about on the bottom of Page 21, it says that
6 "FairPoint [will be undertaking the] wholesale billing
7 initiative, which includes intermediate term projects
8 reviewing contract and tariff plans." Could you
9 elaborate on what you mean by "tariff plans"?

10 A. (Allen) One of the things that we, as I mentioned a few
11 minutes ago, do as a normal course is we look at, with
12 either the contractual agreement that a customer has
13 with us or the tariffed agreement that they have with
14 us, we make sure that all of the billing that takes
15 place with that customer falls under the right contract
16 or tariff, and that the pricing is consistent,
17 including all discounts for that particular customer.

18 Q. And, in the event that you say, that you describe or
19 your analysis comes up with the change in the tariff,
20 which you consider to be the rate that's being charged,
21 you talked about issuing a potential back bill to
22 recover amounts that you believe are owed to the
23 Company?

24 A. (Allen) I think what I said is, if we identify that

1 there was a bill produced in error, on whether it's a
2 back bill that would require a credit or an additional
3 charge, within the reasonable amount of time, I think
4 we've been talking since Cutover, we would apply that
5 charge or issue that credit.

6 Q. Right. And, in the event that it's a back bill, where
7 you're allowed to recover or should recover the amount,
8 is there a particular time frame under which you will
9 not go back to recover that amount? How far back, in
10 other words, will you consider your -- this review
11 project?

12 A. (Allen) Well, I could speak to most of the items that I
13 have looked to date, and virtually all the items I've
14 looked at to date either have a credit or a back bill
15 and they go back to Cutover. And, if we identify that
16 there was incorrect billing either way that went back
17 to that particular point in time, we would apply the
18 proper charges to the customer. This is very
19 consistent as well with how we are billed by our -- as
20 a user of wholesale services, how we're billed and back
21 billed by our suppliers as well.

22 Q. So, just to help my memory, when you say "to the point
23 of Cutover", was that about February of last year,
24 February of 2009?

1 A. (Allen) That's correct.

2 Q. Okay. Now, on Page -- on Page 23, these questions
3 might be directed to Mr. Lippold, I can't tell. But
4 this question is related to the broadband build-out,
5 the next generation network part of the testimony. Do
6 you see that?

7 A. (Lippold) Yes.

8 Q. Okay. Is that -- This is the project that was referred
9 to earlier today with regard to the primary area of
10 projected growth in FairPoint's revenues. Is this the
11 type of project that is in relationship to that
12 discussion?

13 A. (Lippold) I believe that Mr. Allieri referred to the
14 "VantagePoint network". The "next generation network"
15 is one in the same, "VantagePoint" being somewhat of a
16 brand name for us for our next generation network. So,
17 yes, that network is the driver behind our future
18 growth.

19 Q. And, this growth is -- was described this morning in
20 terms of data services, as well as Special Access
21 services, I believe?

22 A. (Lippold) I think there may be a little bit of
23 confusion. The VantagePoint network itself is a data
24 network. And, that is -- our focus is to grow our data

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1 business. The five year plan of the Company lumps that
2 revenue into a line item referred to as "Special
3 Access". But, "Special Access", in the "regulatory"
4 definition, actually won't ride over that VantagePoint
5 network.

6 Q. And, this is essentially a plan to provide a build-out
7 of fiber and other facilities to expand broadband
8 speeds up to, it says here, "15 megabits per second"?

9 A. (Lippold) That is one of the products that will ride on
10 that VantagePoint network, yes.

11 Q. Okay. Now, is this -- this market for data services
12 that you describe, is that a market that you would
13 describe as a "competitive market" right now? In other
14 words, do you face competition with other companies for
15 the sale of those services?

16 A. (Lippold) Yes, we do.

17 Q. And, you'll face competition with Comcast, for example?
18 Are they in that business?

19 A. (Lippold) That is one of the competitors in that
20 business. There are many.

21 Q. All right. And, who else are your other competitors in
22 that business?

23 A. (Lippold) Time Warner, segTEL, BayRing.

24 A. (Allen) AT&T.

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1 A. (Lippold) AT&T.

2 A. (Allen) Verizon Business. You know, virtually
3 everybody that's in the telecom space is typically
4 offering either high speed, and you can also include
5 broadband wireless in that, in the consumer segment,
6 and other very high speed products in the business
7 segment. As well as, in many cases, carrier services
8 to the wholesale customers.

9 Q. Okay. Thank you. Now, so, with regard to the
10 wholesale customers, so, these customers are -- would
11 it be correct for me to say that these customers are
12 competitors, as well as potential customers for those
13 types of services from you, but on a wholesale basis?

14 A. (Lippold) Yes.

15 Q. And, could you please just explain or describe how
16 wholesale customers would benefit from this next
17 generation network that you're talking about?

18 A. (Lippold) Want me to take it? So, they would benefit
19 by the ability to resell services over that network.

20 Q. Uh-huh.

21 A. (Lippold) Many of our wholesale customers today resell
22 our DSL product. And, we intend to offer other
23 services that we provide over that VantagePoint network
24 to wholesale customers to resell as well.

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1 Q. Okay. If it turns out that that becomes a very
2 successful product for the sale of these services to
3 wholesale customers, does that negatively impact what
4 your revenue projections are or would be in this data
5 service or special services?

6 A. (Allen) I would view it as just the opposite. Right
7 now, the wholesale market is a very significant portion
8 of our revenue stream, as well as our new acquisition
9 stream. And, the more successful we can make that, in
10 addition to our retail business, on the new network,
11 the more successful we'll be.

12 Q. Very good. Thank you. There was a question earlier
13 about the Metrics Remediation Program. One of the
14 areas about the metrics that I understand is that
15 there's a project in place to produce or create a
16 simplified metric or PAP that's used for measuring
17 wholesale service quality. Are you aware of that
18 project?

19 A. (Allen) I'm generally familiar, yes. It depends on the
20 level of detail in your question.

21 Q. Okay. And, are you -- Mr. Allen, would you be
22 knowledgeable about when that revised simplified PAP
23 will be prepared or produced for the wholesale
24 community?

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1 A. (Allen) I think, for that particular question, you're
2 better directing that to Mr. Skrivan, when he testifies
3 tomorrow morning.

4 MR. SHOER: Thank you. I will hold
5 that. I will hold those questions for Mr. Skrivan then.
6 Thank you. No further questions.

7 CHAIRMAN GETZ: Thank you. Ms. Foley?

8 MS. FOLEY: Yes. Good afternoon, Mr.
9 Allen and Mr. Lippold.

10 WITNESS LIPPOLD: Good afternoon.

11 WITNESS ALLEN: Good afternoon.

12 BY MS. FOLEY:

13 Q. Mr. Allen, are you familiar with FairPoint's
14 Stabilization Plan?

15 A. (Allen) I am, yes.

16 Q. Was the Stabilization Plan implemented last year, in
17 2009?

18 A. (Allen) Yes, it was.

19 Q. Was it implemented shortly after Cutover occurred?

20 A. (Allen) Yes, it was.

21 Q. Was one of the goals of the Stabilization Plan to
22 ensure FairPoint's return to "business as usual" by the
23 end of second quarter 2009?

24 A. (Allen) I don't recall the exact day, but it was in

1 that ballpark certainly, yes.

2 Q. And, under the Stabilization Plan, was the term
3 "business as usual" synonymous with "pre-cutover levels
4 of service"?

5 A. (Allen) In that plan, we did use those terms
6 synonymously, yes.

7 Q. So, under the plan, FairPoint intended to return to
8 pre-cutover levels of service by the end of second
9 quarter 2009?

10 A. (Allen) That's correct.

11 Q. And, by what method did FairPoint use in the plan to
12 ensure its return to pre-cutover levels of service?

13 A. (Allen) I'm not sure I understand your question. What
14 activities did we take?

15 Q. How did FairPoint intend to return to pre-cutover
16 levels of service under the Stabilization Plan?

17 A. (Allen) Well, it was broken into several different
18 areas. And, what we looked at was trying to define
19 what was the current state before Cutover, which in
20 many instances was difficult, because many of those
21 items that we were looking at were not previously or in
22 the future measured by Verizon or anyone else. So, we
23 did our best estimate where there were not specific
24 service quality metrics in place to estimate what that

1 should be. We then looked at the different primary
2 areas of the business, which included the call centers,
3 included order delivery, which included provisioning
4 and late orders, that looked at both the retail and the
5 wholesale segments. We looked at billing. And, we
6 looked -- there were a couple of other items that had
7 never been problematic, such as the network results
8 that we didn't include in the plan, but, certainly,
9 internally, we also looked at those metrics.

10 Q. And, did FairPoint set specific milestone goals to
11 achieve what it considered to be pre-cutover levels of
12 service?

13 A. (Allen) We did, yes.

14 Q. And, did FairPoint meet those goals by the second
15 quarter of 2009?

16 A. (Allen) We did not, no.

17 Q. After the second quarter of 2009, did FairPoint
18 implement a successor plan to the Stabilization Plan?

19 A. (Allen) I don't know that I would characterize it as a
20 "successor plan". What we did was we looked at where
21 we were, and identified the areas that needed
22 improvement and the right ways to accomplish that
23 improvement. One of the main pieces that came out of
24 that was the work by Accenture and the CDIP projects

1 that you've heard about, and certainly we'll hear more
2 about. That prioritized, not only from our own
3 perspective and input we could provide, but also by a
4 third party expert, Accenture, coming in and looking at
5 it and getting their feedback on the items they felt
6 needed the most attention. And, then, we set up a
7 project plan. We prioritized those into 15 primary
8 items. Set up a project plan to accomplish each of
9 those things and what it would attain at the end of
10 that. And, then, we've been implementing that plan
11 really since that point in time.

12 Q. And, is there a projected end date for the CDIP plan?

13 A. (Allen) Yes. Many of the projects are already
14 completed. A number of them also complete in June.
15 And, I think the last completion date is September of
16 this year.

17 Q. I'm sorry, did you say "many have already completed"?

18 A. (Allen) That's correct.

19 Q. And, some will complete in June, but the rest will be
20 completed by September?

21 A. (Allen) The specific dates of which one of the projects
22 and when they will complete could be provided by Ms.
23 McLean and Ms. Weatherwax. But, as I mentioned, the
24 majority of the CDIP projects are completed. And,

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1 there's another group that's going to be completed in
2 June, and the last one in September. And, one thing I
3 should clarify is, if you look at the 15 projects,
4 they're made up of, I couldn't tell you the number, but
5 hundreds of tasks and different subprojects that make
6 that up. So, when I say "the majority have been
7 completed", over 70 percent of the tasks and the
8 subprojects have been completed. And, each one of
9 these projects don't have a hard start and stop from
10 the perspective of when you see progress. So, as
11 different tasks get completed, we see progress
12 incrementally as time goes on.

13 Q. And, at the end of September, when the CDIP projects
14 officially end, will we be back at pre-cutover levels
15 of service at that point?

16 A. (Allen) I think, today, in many instances, we are far
17 better than pre-cutover levels.

18 Q. Will we be entirely back to pre-cutover levels of
19 service by the end of September?

20 A. (Allen) Do I believe our service levels will be better
21 in September than they were prior to Cutover? The
22 answer to that's "yes."

23 Q. But is it your belief that we are currently at
24 pre-cutover levels of service?

1 A. (Allen) It is my belief that in many areas we are
2 better than pre-cutover levels, and there are some
3 areas that we are not quite there yet.

4 Q. Okay. And, could you turn to your prefiled testimony
5 please, at Page 13.

6 A. (Allen) Certainly. Okay.

7 Q. The question at Lines 5 to 7, there are a number of
8 paragraphs fall in that. I wanted to confirm whether
9 your answer also pertains to wholesale metrics, in
10 addition to retail metrics?

11 A. (Allen) The answer, saying that "I think we will be at
12 pre-cutover levels at September, or above in many
13 instances"?

14 Q. Oh. I'm sorry. This question pertains to the Metrics
15 Remediation Project.

16 A. (Allen) Yes.

17 Q. And, FairPoint's ability to report service metrics.

18 A. (Allen) Okay.

19 Q. Does your answer to this question also pertain to
20 FairPoint's ability to report wholesale service
21 metrics?

22 A. (Allen) Is there a specific part of the question?

23 Q. It's the question in general.

24 A. (Allen) The answer to this question would apply to both

1 service quality retail measurement, as well as PAP and
2 C2C.

3 Q. On Line 19, you reference the "Metrics Remediation
4 project". Is that one of the "70 percent of completed
5 projects" that you mentioned earlier?

6 A. (Allen) The Metrics Remediation project's been
7 complete.

8 Q. And, when did that complete?

9 A. (Allen) In March.

10 Q. March of 2010?

11 A. (Allen) Yes.

12 Q. On Line 9 of Page 14 of your testimony, are you there?

13 A. (Allen) Yes.

14 Q. You indicate that "FairPoint has worked diligently to
15 convert these measurements to access data points in our
16 more than 70 newly implemented systems." Is that
17 correct?

18 A. (Allen) That's correct.

19 Q. Isn't it true that you knew these service quality
20 requirements prior to implementing the 70 systems?

21 A. (Allen) That would be correct.

22 Q. On Page 15 of your testimony, Line 6, you indicate
23 "FairPoint restates previous measurements when
24 appropriate and data is available." Is that correct?

1 A. (Allen) That is correct.

2 Q. So, from that statement, can we conclude that some of
3 FairPoint's previous reporting has been inaccurate?

4 A. (Allen) Yes.

5 Q. And, some of FairPoint's previous PAP reporting in
6 particular has been inaccurate?

7 A. (Allen) I would say some of FairPoint's previous PAP
8 reporting had been inaccurate, that's correct. I
9 think, when we talked about this previously, one of the
10 things that we pointed out was that, when we did the
11 restatement of the SQI, we did look at the PAP and the
12 C2C. Had we gone through and been able to capture all
13 the data and gone back and restated it, it would have
14 reduced some of the penalties that we had paid out to,
15 and we chose not to do so.

16 Q. And, the Metric Remediation project that you discuss on
17 Page 13 of your testimony, that was designed to cure
18 the inaccuracies that you noted in the PAP and the
19 service quality reporting?

20 A. (Allen) I'm sorry, I missed one of those words. Could
21 you restate that please?

22 Q. You reference the "Metrics Remediation project" on Page
23 13.

24 A. (Allen) Yes.

[WITNESS PANEL: Allen|Lippold]

1 Q. Was the purpose of that project to correct the
2 inaccuracies that existed in the PAP and the retail
3 service quality reporting?

4 A. (Allen) It was to specifically do an audit to determine
5 if there were any inaccuracies, and, where any were
6 found, was to correct them.

7 Q. On a going forward basis then, are the PAP reports
8 accurate?

9 A. (Allen) To the best of my knowledge, they are. Yes.

10 Q. Are you now able to report all of the metrics that are
11 required under the PAP and the C2C?

12 A. (Allen) We are not reporting all of the metrics in the
13 PAP and the C2C at this point.

14 Q. You are not?

15 A. (Allen) We are not.

16 Q. Which ones are you not reporting?

17 A. (Allen) I don't have the specific list. Although, Ms.
18 McLean could speak to that tomorrow. But we did, in a
19 November filing, ask for a waiver on some of the
20 measurements, especially those that were specific to
21 the Verizon systems, that would not be able to be
22 captured in our systems.

23 MS. FOLEY: Could I ask for a data
24 request of the metrics that are not being reported

1 currently?

2 CHAIRMAN GETZ: Well, I'm not sure if we
3 need a data response.

4 WITNESS ALLEN: I think, if you ask
5 Ms. McLean tomorrow, she could provide that.

6 MS. FOLEY: Okay. I'll ask Ms. McLean
7 that. Thank you. Thank you. That's all I had.

8 CHAIRMAN GETZ: Thank you. Ms. Bragdon.

9 MS. BRAGDON: Thank you.

10 BY MS. BRAGDON:

11 Q. I'm just going to follow up on one of the questions
12 that Ms. -- your answer to one of Ms. Foley's
13 questions, where you stated that you believe "FairPoint
14 was providing better -- far better service than prior
15 to Cutover in some areas." I take it that is not
16 wholesale?

17 A. (Allen) For some of our wholesale customers, that's
18 very much the case. Repair, for example, that applies
19 as much to wholesale, as it does to retail. Our repair
20 results are better today than they were the last
21 several years anyway with Verizon.

22 Q. And, when you say "repair results", what specifically
23 are you talking about?

24 A. (Allen) If you look at customers out of service.

1 Q. Number of customers out of service?

2 A. (Allen) Both numbers of customers out of service and
3 the speed by which we clear service calls.

4 Q. Okay. Let me turn back to a more general question.
5 Would you agree that, as we sit here today, there are
6 still a large number of manual interventions in place
7 to handle work that FairPoint anticipated would be
8 mechanized at the time of Cutover or after Cutover?

9 A. (Allen) I would certainly agree that there are manual
10 interventions or manual processes in place today that
11 we had anticipated would be automated, yes.

12 Q. And, do you have an estimate of how many of those
13 manual interventions remain in place today?

14 A. (Allen) I don't have an estimate of the number of
15 processes. What we have is a, primarily, in the CDIP
16 project, is a project to remediate and automate some of
17 the manual processes that we're currently providing
18 today.

19 Q. And, could you give me a rough breakdown, in terms of
20 your total number of manual interventions, retail
21 versus wholesale, what that breakdown is? Do you have
22 a feel for that?

23 A. (Allen) I don't know that I could come anywhere close
24 to estimating how many current processes we have in the

1 business overall, versus how many were automated versus
2 how many were manual. The majority of our systems work
3 in a similar manner, both for wholesale and retail.
4 So, with some minor exceptions, I would expect that the
5 same processes that are done manually in the wholesale
6 environment are also done manually in the retail
7 environment.

8 Q. And, is there a specific schedule in place? I mean, I
9 understand that the CDIP program is in place. Is that
10 expected to eliminate all of the manual interventions
11 that were -- had previously been anticipated would be
12 mechanized at Cutover? Is that going to close the
13 loop, if you know what I mean?

14 A. (Allen) Yes. I would answer it this way. I keep
15 mentioning the "CDIP projects", but there's also a
16 significant number of other deployments that take place
17 as a normal basis within our IT Department. So, we
18 have a defined IT deployment schedule. This year,
19 we've gone to a once-a-month deployment schedule.
20 Actually, in the second half of the year we're going to
21 back off of that a little bit, which allows for
22 significantly more testing, training, and preparation
23 when we do a deployment on a monthly basis. And, the
24 majority of the high-impact manual processes that we

1 use today to deliver service the way we need to, the
2 majority of those would be automated through either a
3 CDIP project or another deployment that takes place in
4 IT.

5 Q. By when?

6 A. (Allen) Well, as I stated before, the majority -- or,
7 the CDIP projects will complete by September. And, the
8 majority of all of the manual processes would be
9 completed by that particular point in time. There are
10 always going to be instances that we're going to look
11 to automate some things that we do manually today if it
12 makes good sense for the business and helps us be more
13 competitive.

14 Q. Do you recall testifying in Maine that "our system
15 conversion is behind us"? Do you recall that testimony
16 of yours?

17 A. (Allen) I don't recall exactly what I said.

18 Q. Well, is it your belief that the system conversion is
19 behind FairPoint at this point?

20 A. (Allen) I think the system conversion is behind us,
21 with the exception of the items that primarily have
22 been mentioned or would be mentioned tomorrow. I think
23 data synchronization is the biggest last conversion
24 process, which puts all the data in a consistent format

1 throughout all the systems.

2 Obviously, with the size of the IT
3 Department that we have, there will always be continual
4 adjustments and changes and improvements that will take
5 place in the systems. From a conversion perspective, I
6 would say that's the last large projects that we have
7 planned.

8 Q. Have you had a chance to review what's been marked for
9 identification as "CRC Exhibit Number 11"? It was the
10 list developed by Liberty and the three state staffs
11 relating to wholesale issues?

12 A. (Allen) I have not. I'm not sure I'm familiar with
13 what you're speaking of.

14 (Documents distributed.)

15 BY MS. BRAGDON:

16 Q. Were you aware that Liberty and the three state staffs
17 had developed that list?

18 A. (Allen) I believe that Liberty provided this to us, at
19 least I saw it last week was the first time.

20 Q. Okay. And, so, and have you had a chance to -- you
21 have not looked at it?

22 A. (Allen) I did look at it. I wasn't sure what you were
23 referring to.

24 Q. Okay. And, so, is it your position that the issues

[WITNESS PANEL: Allen|Lippold]

1 that are listed there are going to be covered by the
2 completion of the CDIP program?

3 A. (Allen) I would suggest that you direct the question
4 with regard these to Mr. Murtha tomorrow. He's been
5 the person on our team that is the most familiar with
6 the information and could answer it more appropriately.

7 Q. Okay. I will do so. Can you explain the Capgemini
8 settlement? Specifically, what was settled and what
9 hasn't settled?

10 A. (Allen) I can't -- I wasn't a party to the actual
11 settlement itself, so I don't know that I could give
12 you many details outside of what has been stated in
13 several documents. No, I can't beyond that. Unless
14 you have a specific question I might be able to help
15 you with.

16 Q. Do you recall testifying in Maine, when asked about
17 this subject and why CapGemini was retained, and I'm
18 paraphrasing, and you can correct me here, but,
19 essentially, you said that "because of the
20 institutional knowledge that Cap had, your feeling was,
21 if you changed horses at that point, you would have
22 gone backwards or come to a standstill before going
23 forward." Do you recall that?

24 A. (Allen) I do. It was in a little bit different line of

1 questioning. I think the questioning was more about
2 "why did we retain CapGemini?", as opposed to the
3 settlement itself.

4 Q. Okay. And, what I stated in Maine, and would reiterate
5 here, is I was involved in a discussion, decision on
6 "should we look for a different partner at that
7 particular point in time?" And, this was near the end
8 of our third quarter of last year or fourth quarter of
9 last year. My position was, I was much more interested
10 in looking forward. And, basically, at that particular
11 point in time, the activities that we had scheduled,
12 the deployments that we had planned, the knowledge
13 level of CapGemini as a partner, both with our systems,
14 as well as our processes, I felt, if we made a change
15 at that particular point in time, our service levels
16 would be hurt. We would take a couple of steps back
17 before we could even consider moving forward. And, I
18 thought it was in the best interest of both us, as well
19 as our customers, to stay with CapGemini at that point.

20 Q. And, that was despite, I'm guessing, some unhappiness
21 on FairPoint's part with CapGemini's performance?

22 A. (Allen) Again, my point of reference and focus was,
23 "from that point going forward, what was the best
24 decision for the Company and our customers?" And, I

[WITNESS PANEL: Allen|Lippold]

1 think the best decision at that point, which I, looking
2 back on it, would agree with, was to stay with
3 CapGemini.

4 Q. And, you didn't feel like you had a whole lot of other
5 choices?

6 A. (Allen) There are an awful lot of choices. There's a
7 lot of companies out there that would have loved to
8 step up and provide service, like CapGemini, as a
9 partner to FairPoint; Accenture being one of them.
10 And, again, as I looked at it, and looked at what would
11 be involved in a changing of partners at that
12 particular point in time, and what we were getting from
13 CapGemini, and we were able to get, it would have been
14 very detrimental to the business and to our customers
15 to make a change.

16 Q. Mr. Lippold, just a couple of question for you. Were
17 you here this morning when Mr. Newitt was testifying?

18 A. (Lippold) I believe I was. I think I was here the
19 entire time.

20 Q. Okay. Do you recall hearing him testify that it was
21 "FairPoint's goal, in terms of broadband penetration,
22 was to reach the level of experience by FairPoint
23 Classic"?

24 A. (Lippold) I do recall that.

1 Q. Okay. And, when we say "FairPoint Classic", we're
2 basically referring to the rural LECs --

3 A. (Lippold) It would be the --

4 Q. -- located throughout the country, --

5 A. (Lippold) Yes.

6 Q. -- including New England, but not the Verizon
7 territories?

8 A. (Lippold) The properties that were present prior to the
9 acquisition of the Verizon properties, yes.

10 Q. And, is my understanding correct that most of those are
11 considered "rural LECs"?

12 A. (Lippold) I'm not certain what the legal definition of
13 "rural LEC" is. But, I think, largely they are in
14 rural areas. There are some that are abutting
15 metropolitan areas and are turning into more
16 metropolitan.

17 Q. Are they areas where FairPoint faces competition for
18 broadband?

19 A. (Lippold) I don't have specific knowledge of the
20 competitive landscape of all of those properties. I am
21 aware that many of them have cable providers that
22 compete with them for broadband services. And, of
23 course, there are wireless. And, there's a number of
24 different competitors out there.

[WITNESS PANEL: Allen|Lippold]

1 Q. And, so, you agree that that assumption of reaching a
2 rural LEC penetration rate is reasonable in a
3 competitive marketplace, as you just described to Mr.
4 Shoer?

5 A. (Lippold) I'm not certain that I'm the expert as far as
6 the penetration that can be achieved. My job is to
7 build the network. And, it's up to the marketing folks
8 to see how much they can achieve from a penetration
9 perspective.

10 Q. But you must have to -- there must be some interplay,
11 right? You can only build what can be financially
12 supported, correct?

13 A. (Lippold) Well, no. Actually, we are building in a lot
14 of areas that are not really financially supported, but
15 we're doing it as part of the settlement.

16 MS. BRAGDON: Okay. All right. Thank
17 you.

18 CHAIRMAN GETZ: Ms. Cole?

19 MS. COLE: No questions.

20 CHAIRMAN GETZ: Ms. Geiger?

21 MS. GEIGER: No questions.

22 CHAIRMAN GETZ: Mr. Judd?

23 MR. JUDD: Yes, I do.

24 BY MR. JUDD:

1 Q. Mr. Lippold, an issue in this docket is a complaint
2 anonymously received by the Commission concerning the
3 fiber deployment. In regard to that, have you read the
4 FairPoint -- strike that -- the Accion Report of
5 April 19th of this year, regarding the issue of the
6 fiber deployment practices and the issues related to
7 that?

8 A. (Lippold) I have.

9 Q. And, do you consider it to be accurate?

10 A. (Lippold) Yes, I do.

11 Q. And, do you have anything you wish to add to that or
12 anything you believe needs to be clarified?

13 A. (Lippold) No, I think that it was an accurate
14 representation. It was not, in my mind, a significant
15 issue, and it was mitigated immediately upon discovery.

16 Q. Thank you. The 2008 Settlement Agreement, and I'm
17 going to ask you a series of questions, one is the 2008
18 Settlement Agreement and one regards the 2010
19 Agreement, which I will refer to as the "Regulatory
20 Settlement" in an attempt to avoid confusion. The 2008
21 Settlement Agreement, there was a -- as I think you had
22 had testified earlier, you had a commitment to achieve
23 85 percent broadband coverage by March of this year, is
24 that correct?

[WITNESS PANEL: Allen|Lippold]

1 A. (Lippold) By March 31st of this year, yes.

2 Q. And, you gave us a number a little while ago about
3 where you were now on that. Could you -- I believe it
4 was 76 percent, is that correct?

5 A. (Lippold) Yes. It was 76.1 percent was at the
6 beginning of April.

7 Q. Now, under the Regulatory Settlement, the deadline for
8 reaching a build-out, that build-out requirement would
9 be extended to December 31st. If that were not
10 extended, do you know what the penalty would be that
11 FairPoint would owe for failing to meet that
12 85 percent?

13 A. (Lippold) I don't recall. I don't have that language
14 with me, as far as what the penalty amount would be.

15 Q. Well, subject to check, would you accept it's
16 approximately \$4 million?

17 A. (Lippold) Subject to check, yes.

18 A. (Allen) Yes. I would agree that that's about what it
19 would have been.

20 Q. Thank you. Now, under the Regulatory Settlement, what
21 penalty amount would FairPoint owe, not retained for
22 its own use, if the coverage level is not achieved by
23 December 31, 2010? Do you know that number?

24 A. (Allen) I believe it's 500,000.

1 Q. Thank you. Could you briefly describe what contributed
2 to the inability to achieve the 85 percent build-out by
3 March 31st of this year?

4 A. (Lippold) Obviously, the financial difficulties
5 FairPoint had leading up to the filing of Chapter 11.
6 As we built the network out, we discovered many more
7 areas where we had to deploy fiber, because the fiber
8 that we had acquired from Verizon wasn't capable of
9 transmitting the signals that we were going to employ
10 in our network. So, there was additional construction
11 time involved and additional cost to do so. And, then,
12 finally, I think that we could have done a better job
13 of project managing the plan.

14 Q. Thank you. And, I appreciate your candor. Under the
15 proposed Regulatory Settlement, other than moving the
16 goal post to the end of this calendar year for the
17 build-out, are there other changes regarding broadband
18 build-out that would be affected?

19 A. (Lippold) The only other change that comes to mind is
20 the potential to utilize a wireless technology for the
21 last, I believe, 8 percent of the achievement level,
22 should we deem that viable.

23 Q. Fair enough. In response to an earlier question, I
24 believe it was from Ms. Hatfield, you were able to

[WITNESS PANEL: Allen|Lippold]

1 identify how some tracking matrix or information you
2 have about your performance to date. Could you just
3 give us a little more detail of how it is that you're
4 tracking that? Is that on a monthly basis? A weekly
5 basis? Mr. Allen, you're nodding your head, I think
6 you know what I'm talking about.

7 A. (Allen) Well, Mr. Lippold may get it more than this,
8 but what I get every week is the results of what we've
9 built out in that particular week, how many customers
10 we made or we are now addressing that we could provide
11 service if they so chose. As Mr. Lippold mentioned, in
12 the last couple months, in New Hampshire alone, that
13 number has been 50 -- almost 55,000, just shy of that.
14 The number each week goes up between three and four
15 thousand a week, depending on the particular week and
16 what the project schedule is.

17 So, although Mr. Lippold's got the
18 responsibility of managing it, and can probably tell
19 you on a go-forward basis how many lines will become
20 addressable that week, I see every week what the
21 results were of the work that was done.

22 Q. Regarding your build-out on DSL, the capital equipment
23 that you're deploying, do you have a sense for the
24 useful life of that, of those assets?

[WITNESS PANEL: Allen|Lippold]

1 A. (Lippold) I would say it would vary. Obviously, the
2 fiber optic cable and any copper facilities that we
3 deploy would have a significant life to them. The
4 electronics that we're deploying, my guess would be
5 that it would have at least ten years. But we really
6 don't know what technology is going to bring a year
7 from now or five years from now. So, I really don't
8 know.

9 Q. Could you put a little finer point on what you mean by
10 "significant life" of the fiber optic?

11 A. (Lippold) I would say that, you know, those type of
12 facilities have a 20, 25, 30 year lifespan.

13 Q. Uh-huh. Thank you. And, there was a brief discussion
14 a few minutes ago regarding I believe you're calling it
15 "FairPoint Classic", I think I've also heard it
16 referred to as "Legacy", "FairPoint Legacy". You're
17 familiar with those other companies. Can you identify
18 for us one that you would consider comparable to
19 FairPoint in New Hampshire?

20 A. (Lippold) Well, I think that FairPoint in New Hampshire
21 covers the full spectrum of a dense metropolitan area
22 to the most rural exchanges. So, to compare FairPoint
23 New Hampshire to one of those others, it would be
24 difficult. They would all compare in one form or

1 another.

2 Q. We like to think we're unique in many ways, and you're
3 saying that your company fits that fold, is that right?

4 A. (Lippold) Yes.

5 A. (Allen) Very well said.

6 Q. I see. Fair enough. Getting back to the Regulatory
7 Settlement, Section 2.7, and you don't need to look at
8 it, but it commits the Company to use what otherwise
9 would be broadband penalties to invest in its network.
10 And, that, though, is subject to the approval of the
11 Commission. Is it your understanding that FairPoint
12 would be seeking pre-approval from the PUC before
13 making those investments?

14 A. (Lippold) Let me just read that more thoroughly.

15 Q. I was afraid that would happen if I gave you a cite.

16 A. (Lippold) I don't think it specifically speaks to that,
17 but that would be my expectation.

18 Q. If we could return for a moment to the question of
19 Legacy FairPoint, do you know if, while there's not an
20 exact match, there's no comparable company out there,
21 are there CLECs in those other, the Legacy FairPoint
22 territories, do you know?

23 A. (Allen) I don't believe there's any CLECs in those
24 territories. As Mr. Lippold mentioned before, there's

1 very significant cable competition in many of those
2 particular environments. And, in some of those
3 environments, they compete with us not only in voice
4 and data, but also in video.

5 Q. Thank you. And, in the Legacy companies, is there
6 another one that serves a metropolitan area that is
7 comparable to what you have here in New Hampshire?

8 A. (Allen) I think, rather than guess, quite frankly,
9 we're better off deferring some of those questions to
10 Mr. Nixon, who is very familiar with all of the Legacy
11 companies and can answer your questions more
12 specifically.

13 Q. Thank you. The Regulatory Settlement recognizes that
14 the -- what I'll refer to as the "final 8 percent" of
15 your broadband build-out obligation that could be met
16 with -- through reselling arrangements. And, you're
17 nodding your heads. I think both of you are familiar
18 with what I'm referring to?

19 A. (Allen) Yes.

20 A. (Lippold) Yes.

21 Q. Great. Can you tell me what your plan is for working
22 with the Commission in establishing the reselling
23 arrangements that would be appropriate to meet that
24 obligation?

[WITNESS PANEL: Allen|Lippold]

1 A. (Lippold) I would say, first of all, we have no plans,
2 no current plans to resell services to meet that final
3 8 percent. And, off the top of my head, I don't recall
4 if there's a requirement in the Stipulation to have
5 that pre-approved by the Commission. Although, if we
6 were to do that, we have agreed that the service that
7 we resold would meet the standards that are required
8 for the broadband commitment overall. So, we wouldn't
9 propose a resell arrangement that didn't meet those
10 service characteristics.

11 Q. But, at this point, you do not have a business plan for
12 availing yourself of resell opportunities, is that
13 correct?

14 A. (Lippold) No. That's correct.

15 A. (Allen) That's correct.

16 A. (Lippold) We don't have a plan.

17 MR. JUDD: Nothing further. Thank you.

18 CHAIRMAN GETZ: Thank you. Commissioner
19 Below.

20 CMSR. BELOW: Thank you.

21 BY CMSR. BELOW:

22 Q. As more lines and locations become addressable, how
23 does that information become known within the Company
24 and to retail customers or potential customers?

1 A. (Lippold) So, each week we provide our Marketing
2 Department with a list of those lines that are newly
3 qualified as addressable. And, the Marketing
4 Department then has a program where they begin the
5 efforts to proactively market to those customers
6 through various direct marketing efforts. As well as
7 the systems are updated, so that, if a customer calls
8 in, and it's available in their area, then the Service
9 Rep. has access to that information.

10 Q. Okay. And, on Page 23 of your testimony, at Line 6 and
11 7, it refers to the fact that the "VantagePoint will
12 offer broadband speeds of up to 15 megabits per second,
13 compared to maximum speeds of 7 megabits per second
14 with the existing ATM network." That's -- that says
15 "in the near term". Do you have some sense of when
16 that will roll out? Or, is this something that's being
17 made available now? Is this -- are these speeds that
18 are potentially offered to the premises?

19 A. (Lippold) Yes. For the 15 megabit per second, that's
20 being offered on the VantagePoint network. So, for
21 those 55,000 lines that we have qualified thus far in
22 New Hampshire on the new network, some of those would
23 be capable of reaching the 15 megabits. That is a --
24 it's distance sensitive. So, if they are 18,000

[WITNESS PANEL: Allen|Lippold]

1 kilofeet or 18,000 feet out, away from the central
2 office or the remote terminal, they wouldn't be able to
3 receive 15 megabit per second. But, if they were
4 closer in, they would be, yes.

5 Q. And, is that available over existing copper pairs?

6 A. (Lippold) Yes.

7 Q. So, when you mention that this is going to support new
8 products, including the possibility of
9 fiber-to-the-home and IPTV, is that still sort of off
10 in the distant future or is that a capacity that you're
11 actively preparing to be able to offer?

12 A. (Lippold) When we designed and built the core of the
13 network, it was sized such that we would have the
14 capacity to provide all of those services. When we
15 talk about the qualifying lines for DSL on the new
16 network, that is specific to DSL services. But the
17 core of the network has the capacity to provide all of
18 those services, plus some. All right? So, and the
19 core of the network is also being utilized to offer
20 business class services, such as Ethernet services and
21 so forth that the customers are looking for.

22 CMSR. BELOW: Okay. Thank you. That's
23 all.

24 CHAIRMAN GETZ: Thank you. Commissioner

1 Ignatius.

2 CMSR. IGNATIUS: Thank you. Good
3 afternoon, gentlemen.

4 WITNESS ALLEN: Good afternoon.

5 BY CMSR. IGNATIUS:

6 Q. Mr. Allen, you testified earlier this afternoon that
7 you were ahead of some of the pre-cutover levels, and
8 you said that was "in many areas". You spoke with
9 Attorney Bragdon about some of the wholesale areas you
10 thought were doing well and better than pre-cutover.
11 Are there retail areas that you think are doing better?
12 Can you enumerate any of those?

13 A. (Allen) Yes. I would categorize, when I spoke about
14 repairs specifically to Ms. Bragdon, I was trying to
15 bring out an area that's better than it was that
16 effects both retail and wholesale. Specific to retail,
17 our call center results have been outstanding across
18 all the call centers. And, historically, the Consumer
19 Call Center did reasonably well. Our service levels
20 have been in the 90 odd percent plus range for several
21 months consistently, week in, week out, as a matter of
22 fact, almost day in, day out. Our Business Call Center
23 for our business customers has a similar result. And,
24 really, since the beginning of the year, we've been

1 able to also have those kind of numbers consistently
2 every week in the Repair Center, which was an area that
3 historically went up and down, based on the number of
4 calls that came in and the number of activities that
5 were taking place in the environment. So, overall, the
6 call center results have been also substantially better
7 than they were previously.

8 Q. And, is that uniform throughout Northern New England?
9 Or, I guess, more importantly, is there anything about
10 the New Hampshire numbers that are not as good as what
11 you've just described?

12 A. (Allen) No. As a matter of fact, in the call centers
13 we use universal reps. So, although, for example, on
14 the Repair Call Center, we can measure the repair calls
15 by state, and we do so and report so. And, you'll see
16 that the relates across the three states are
17 consistent. But the general business office call
18 center, the Consumer Call Center, gets the first
19 available rep. in any one of the centers that can
20 handle a call.

21 Q. Have you experienced since Cutover a greater percentage
22 of problems on the wholesale side than on the retail
23 side?

24 A. (Allen) I would say, in some areas, yes. The one thing

[WITNESS PANEL: Allen|Lippold]

1 that is different in a wholesale environment versus a
2 resale environment is the front-end system of getting
3 the information to us, and then it also becomes the
4 system that we utilize to provide the information back
5 to the CLEC. That's typically in an automated fashion.
6 And, because there is an extra step associated with
7 providing the wholesale service, which is the step I
8 just described, that has contributed to some issues.
9 And, you add that to whatever the retail customers are
10 receiving, that would be true. So, I would say, in the
11 order processing piece, if you go back to Cutover and
12 look forward, and the aspects that were associated with
13 that, there may have been a few more problems.

14 One of the things that's different is I
15 wouldn't characterize that the information is different
16 or that the systems are different. There's far more
17 control in a retail environment. So, for example,
18 you'll hear some things about pre-ordering, where
19 you're getting the customer information and you're
20 using that to place an order. The process works
21 virtually identical, whether you're an internal retail
22 customer or external wholesale. And, the quality of
23 the information, although dramatically better than what
24 it was, there was a point in time where that

[WITNESS PANEL: Allen|Lippold]

1 information was limited. Both parties would then have
2 to go through a manual process of fixing it. Both had
3 a similar process that they went through and similar
4 difficulties in getting it. The only difference was
5 there was an interface, and you had less control if
6 there was a wholesale customer on the other side,
7 versus a retail customer.

8 Q. Is your sense that that manual study to get to a
9 solution is pretty much over with by this point?

10 A. (Allen) The majority of it is complete. I don't know
11 that I'd quite characterize it as that "we're over it",
12 in a sense. One of the things that Mr. Murtha will
13 talk about I believe tomorrow, if asked, is there was a
14 specific process or program that we had with many of
15 our competitive local exchange company customers.
16 Where they came in, brought in their work, worked it
17 with us and our systems folks in the systems
18 themselves. Identified different categories of issues
19 that they wanted to have resolved. Within each of
20 those categories, the specific things that they thought
21 needed to be addressed. A large majority of those have
22 been addressed, but there are still some items on that
23 list. And, you know, I think, until you get to the
24 point that those items that we identified, we agreed we

1 were going to take care of, until they're completely
2 off the list, I would say there's still things to do.

3 Q. In your prefiled testimony, Exhibit 8P, on Page 21, you
4 said that you had regular meetings instituted with
5 wholesale customers given twice a week, meetings to
6 deal with problems. Are those meetings ongoing?

7 A. (Allen) Yes, there are several meetings. I think,
8 specifically, I was referring to some of the billing
9 meetings that Mr. Nolting and his team hold with some
10 of the CLEC customers. There were also a variety of
11 other forums that Mr. Murtha and his team hold,
12 including a Users Forum, as well as an ongoing periodic
13 call with the wholesale customers.

14 Q. And, I take it you have no problem with continuing
15 those sorts of meetings for as long as there continue
16 to be issues that have to be worked out?

17 A. (Allen) That's correct. I would also add that several
18 of our wholesale customers have requested that, on a
19 periodic basis, whether it's once a quarter, every six
20 months, whatever it might be, that we have executive
21 sessions with their team. And, we also are more than
22 happy to have those continue.

23 Q. Mr. Lippold, a couple of questions to you. You had
24 stated, I think in response to a question by Mr. Shoer,

[WITNESS PANEL: Allen|Lippold]

1 that the revenue from -- "the Special Access revenue
2 included revenues that were to be generated from
3 services running over the VantagePoint system. But
4 those weren't services that you would, in a regulatory
5 sense, consider Special Access services." Did I get
6 that close enough?

7 A. (Lippold) That is correct.

8 Q. Then, why are the revenues lumped together?

9 A. (Allen) I can answer the "why they're lumped together?"

10 Q. Okay.

11 A. (Allen) And, then, the other parts of the question, Mr.
12 Lippold can address those. The reason they were lumped
13 together is, when the model was done, there was the
14 certainty of when the deployment of the VantagePoint
15 network and the Ethernet services and over carrier
16 grade products would come off of that network was
17 uncertain. So, if you look at, instead of, let me put
18 it this way, instead of for the plan putting in a
19 separate category and trying to decide what kind of
20 conversion you would get from your standard Special
21 Access products to your Ethernet products, all of those
22 services were just put into one category for the
23 purposes of modeling. So, for the purposes of selling
24 and the purposes of provisioning, providing the

1 service, and reporting on it ultimately, from a
2 regulatory perspective, everything will be in the right
3 bucket. For the purposes of modeling the financial
4 model, it made it simpler to include all of those
5 categories together.

6 Q. Mr. Lippold, would the delay in some of the broadband
7 deployment, with everything else that you've described
8 has been going on, do you have concerns about your
9 ability to meet the deadlines imposed, not just as
10 you've requested, December of 2010, but into 2011?

11 A. (Lippold) I think that the toughest goal to hit is at
12 the end of 2010. And, if I recall correctly, in New
13 Hampshire, the next deadline is 2013, to hit the
14 95 percent.

15 Q. You're right. I apologize. I'm accelerating you more
16 than I meant to. So that, by slowing down during this
17 period, you have a plan that will -- that won't be a
18 problem, you'll be able to get back and stay on track
19 in the future?

20 A. (Lippold) Yes. We have a plan. We are executing
21 against that plan. And, we believe that we will
22 deliver and meet or exceed the 85 percent by the end of
23 this year.

24 Q. There's a number of details about how you intend to

[WITNESS PANEL: Allen|Lippold]

1 expand the broadband in your confidential filing, and I
2 don't want you to get into confidential information in
3 response to this. And, if need be, we can do that in a
4 moment. But, let's see, you filed your status of
5 broadband deployment in that confidential document back
6 in February. That's "FairPoint Exhibit 8C". Are you
7 on track with the information that you filed in
8 February? And, if not, either ahead or behind the
9 game, I guess I will ask that we do go into
10 confidential session later this afternoon to explore
11 any those problem areas.

12 A. (Lippold) Do I have a copy of that here?

13 MR. McHUGH: Jeff does.

14 WITNESS ALLEN: It's not that one?

15 WITNESS LIPPOLD: I'm not certain what
16 she's referring to.

17 CMSR. IGNATIUS: Maps that were produced
18 and attached to Mr. Allen's testimony.

19 WITNESS LIPPOLD: Ah. I do have that.

20 BY CMSR. IGNATIUS:

21 Q. And, I'm really asking a very general question right
22 now. And, it may be that we don't need to go to a
23 confidential. If we do, we should take that a little
24 bit later in the afternoon.

1 A. (Lippold) Go ahead and ask. Your question again was
2 related to the deployment?

3 Q. Where you are in terms of are you on track with the
4 projections that were made as to items anticipated for
5 completion in 2010 and plans for 2011?

6 A. (Lippold) Yes. We are on track. And, in fact, the
7 plan is more robust now than what is indicated here.
8 So, many more remote terminals have been identified for
9 upgrade. And, we've been moving along nicely in
10 accordance with our plan.

11 Q. Is there a mechanism in place for submitting those
12 plans and evaluating them in consultation with the
13 Commission Staff? I don't know if the old sort of
14 planning dockets that there used to be on those types
15 of investments, if that's still ongoing or not.

16 A. (Lippold) I don't know that, I mean, we're making the
17 quarterly filings. I don't know that there is a
18 specific requirement to review those plans with the
19 Commission Staff on a regular basis, although I would
20 offer that we are willing to do that. And, what may be
21 appropriate is to establish a meeting, after we file
22 the quarterly report, to review the status of the plans
23 and where we're at with the Commission Staff. We'd be
24 more than happy to do that.

[WITNESS PANEL: Allen|Lippold]

1 CMSR. IGNATIUS: Thank you. Nothing
2 further.

3 CHAIRMAN GETZ: Redirect?

4 MR. McHUGH: No redirect.

5 CHAIRMAN GETZ: Unless you want to
6 admonish your witness for volunteering something?

7 (Laughter.)

8 MR. McHUGH: We'll do that later, Mr.
9 Chairman.

10 CHAIRMAN GETZ: Is there anything
11 further for these witnesses then?

12 (No verbal response)

13 CHAIRMAN GETZ: Hearing nothing, then
14 you're excused. Thank you, gentlemen.

15 I think this would be a good time for
16 the afternoon recess. But, let me make sure, the next
17 step would be Mr. Murtha and Mr. Lamphere, they're here,
18 available to begin their direct?

19 MR. McHUGH: I believe so, Mr. Chairman.

20 CHAIRMAN GETZ: Okay. Then, let's
21 recess until 4:00.

22 MR. McHUGH: Thank you.

23 (Whereupon a recess was taken at 3:40

24 p.m. and the hearing resumed at 4:06

[WITNESS PANEL: Allen|Lippold]

1 p.m.)

2 CHAIRMAN GETZ: Good afternoon. We're
3 back on the record. And, Mr. Judd.

4 MR. JUDD: Thank you, Mr. Chairman.
5 When you opened the hearing this morning, you asked if we
6 could give you a heads-up on cross-examination. We did
7 receive earlier some indications of which witnesses folks
8 would want to cross. I got no, at least I believe, no one
9 indicated they wanted to cross any of the CLEC witnesses.
10 I've just confirmed that the Applicant, the Consumer
11 Advocate, the Advocate Staff, and the rest of the Staff
12 have no questions for those witnesses. And, I understand
13 that, at least in the Maine Commission, that permitted the
14 testimony to simply be stipulated as admitted as prefiled.
15 So, I offer that up as one opportunity for the Bench to
16 make a decision on the schedule. Thank you.

17 CHAIRMAN GETZ: Okay. Thank you.

18 MS. BRAGDON: And, I guess I would say,
19 if we could make that decision -- I have witnesses who are
20 travelling to be here tomorrow. So, if, for some reason,
21 you don't want them here, I should let them know.

22 (Chairman and Commissioners conferring.)

23 CHAIRMAN GETZ: Ms. Bragdon, I'm afraid
24 I don't have an answer at this point in time. We will try

[WITNESS PANEL: Allen|Lippold]

1 to give a definitive answer when we close the hearings for
2 today. But, right now, I would expect to have the CLEC
3 witnesses available, subject to changing our mind by 5:00.

4 MS. BRAGDON: Well, and I wanted to make
5 clear, we're very happy to be here.

6 CHAIRMAN GETZ: Okay.

7 MS. BRAGDON: So, we'll plan on them
8 being here, unless we hear otherwise.

9 CHAIRMAN GETZ: Well, let me make sure I
10 understand, though. Is that there are no parties
11 interested in cross-examining. So, the alternative is
12 then to, putting aside for a second the possibility of
13 questions from the Bench, to just accept the testimony
14 without the witnesses and moving them into evidence?

15 MR. McHUGH: That would be fine with
16 FairPoint, Mr. Chairman.

17 CHAIRMAN GETZ: Okay. All right. And,
18 we will give you a definitive answer before we leave
19 today.

20 MS. BRAGDON: That's fine. And, like I
21 said, I'm happy to have them here.

22 CHAIRMAN GETZ: Thank you. So,
23 Mr. McHugh.

24 MR. McHUGH: FairPoint calls Mr. Richard

1 Murtha and Mr. Bryan Lamphere as witnesses.

2 (Whereupon **Richard T. Murtha** and **Bryan**
3 **Lamphere** were duly sworn and cautioned
4 by the Court Reporter.)

5 **RICHARD T. MURTHA, SWORN**

6 **BRYAN LAMPHERE, SWORN**

7 **DIRECT EXAMINATION**

8 BY MR. McHUGH:

9 Q. Mr. Murtha, could you please state for the record your
10 full name and title with FairPoint Communications.

11 A. (Murtha) Richard Murtha, Vice President of Wholesale
12 Operations.

13 Q. And, are you the same Richard Murtha who prefiled --
14 or, I'm sorry, filed prefiled testimony in this docket
15 dated February 24, 2010 that we've premarked as
16 FairPoint "Exhibit FP-10"?

17 A. (Murtha) I am.

18 Q. And, is that testimony true and accurate in all
19 material respects?

20 A. (Murtha) Yes, it is.

21 Q. And, do you adopt that testimony here today as your own
22 sworn testimony?

23 A. (Murtha) I do.

24 Q. Did you also file prefiled rebuttal testimony dated

1 May 7, 2010 that we've marked as FairPoint "Exhibit
2 FP-15"?

3 A. (Murtha) I did.

4 Q. And, is that testimony true and accurate in all
5 material respects?

6 A. (Murtha) It is.

7 Q. And, do you adopt that testimony as your own here
8 today?

9 A. (Murtha) I do.

10 Q. Who do you report to at FairPoint, Mr. Murtha?

11 A. (Murtha) I report to the Senior Vice President, Steve
12 Rush.

13 Q. And, can you tell the Commission very briefly what the
14 purpose of your testimony is?

15 A. (Murtha) The purpose of my testimony is to talk about
16 the recent organizational changes in the Company and
17 how it affects the Wholesale organization, and of the
18 work that we've been doing with the CLEC community and
19 system enhancements that we've been implementing
20 through the CDIP initiatives and the CLEC forums.

21 Q. Mr. Lamphere, would you state your full name for the
22 record please.

23 A. (Lamphere) Bryan Lamphere.

24 Q. And, what's your title at FairPoint Communications?

[WITNESS PANEL: Murtha|Lamphere]

1 A. (Lamphere) I'm the Director of Engineering and
2 Operations System Support.

3 Q. And, who do you report to, sir?

4 A. (Lamphere) John Smee.

5 Q. Are you the same Mr. Lamphere who prefiled testimony in
6 this docket on February 24, 2010 that we've premarked
7 as "FairPoint Exhibit 11"?

8 A. (Lamphere) I am.

9 Q. Is that testimony true and correct in all material
10 respects?

11 A. (Lamphere) It is.

12 Q. And, do you adopt that testimony as your own sworn
13 testimony here today?

14 A. (Lamphere) I do.

15 Q. Can you state very briefly for the Commission what the
16 purpose of your testimony is, Mr. Lamphere?

17 A. (Lamphere) The purpose of my testimony is to show
18 initiatives and programs in place, set initiatives to
19 stabilize operations immediately following Cutover, and
20 then to improve operations post Cutover.

21 MR. MCHUGH: And, with that, Mr.
22 Chairman, the witnesses are available for cross.

23 CHAIRMAN GETZ: Thank you. Mr. Roth?

24 MR. ROTH: I have no questions for this

1 panel. Thank you.

2 CHAIRMAN GETZ: And, Mr. Kennan.

3 MR. KENNAN: Thank you, Mr. Chairman.

4 Good morning, gentlemen.

5 WITNESS MURTHA: Good afternoon.

6 WITNESS LAMPHERE: Good afternoon.

7 **CROSS-EXAMINATION**

8 BY MR. KENNAN:

9 Q. When Mr. Allen and Mr. Lippold were on the stand just a
10 few minutes ago, you may recall Commissioner Ignatius
11 asking you some questions -- or, asking them, excuse
12 me, some questions about some of the meetings that have
13 occurred between CLECs and FairPoint.

14 A. (Murtha) Yes.

15 Q. Were you here to hear that testimony?

16 A. (Murtha) I was.

17 Q. I believe one of the sets of meetings or meetings that
18 were discussed were the CLEC forums, is that correct?

19 A. (Murtha) That's correct.

20 Q. And, also, there were some periodic calls, I believe,
21 with Mr. Nolting's operation. Are you familiar with
22 those calls?

23 A. (Murtha) Yes, I am.

24 Q. Just with respect to the calls with Mr. Nolting's

1 operation, do you know how many such calls there were
2 or have been?

3 A. (Murtha) I don't know exactly how many calls have been
4 held by Mr. Nolting's organization specifically with
5 each individual CLEC. You'd have to ask that directly
6 of Mr. Nolting.

7 Q. These were individual calls, so far as you know,
8 though, not group calls, not conference calls?

9 A. (Murtha) That's correct. But Mr. Nolting has also
10 attended the CLEC calls that we have held in the past
11 or representatives of his team to address billing issues
12 with the entire CLEC community.

13 Q. Well, let's talk about the calls that your organization
14 has held. Are these weekly, monthly, something like
15 that, periodically like that?

16 A. (Murtha) There's a biweekly call that's held with the
17 CLEC community. Then, there's a monthly Wholesale User
18 Forum call. And, then, there's a monthly change
19 management call.

20 Q. And, on these biweekly calls, can you give me an idea
21 of how many CLECs attend those calls?

22 A. (Murtha) It's an open bridge that they do not have to
23 announce. When we put up a WebEx, we usually have
24 between 30 and 40 CLECs that attend.

1 Q. And, how long have these biweekly calls been going on?

2 A. (Murtha) We've been running these calls since before
3 Cutover.

4 Q. And, can you tell me what the purpose of the biweekly
5 calls is or what subjects are discussed?

6 A. (Murtha) On the call, we talk about system enhancements
7 that are going in for releases. We talk about testing
8 that's going on. We talk about any issues that are
9 relevant to the CLEC community. And, it's a two-way
10 forum, where they're allowed to share with us any
11 issues that they have, and we're receptive to that.
12 And, we share with them any updates in the -- from
13 either of the systems, an enhancement or a process
14 change that we're putting in place.

15 Q. And, when you say "CLECs can share with you issues that
16 the CLECs have", you mean problems that they have
17 encountered that they want to bring to your attention?

18 A. (Murtha) Absolutely.

19 Q. And, when CLECs bring the problems to your attention,
20 do they go on an issues list that you work your way
21 through?

22 A. (Murtha) That's correct.

23 Q. And, you also said you had a "monthly call"?

24 A. (Murtha) That's correct.

1 Q. And, I didn't catch the name of it?

2 A. (Murtha) It's called a "WUF", it's W-U-F, which is the
3 "Wholesale Users Forum".

4 Q. And, what happens on that call?

5 A. (Murtha) That is where we will share additional
6 information, would be to pull in somebody like Mr.
7 Nolting to talk about billing initiatives that are
8 going in place or somebody from product to talk about a
9 product or service that's going to come in place. And,
10 it also has the IT team is on that call as well.

11 Q. And, on those calls, similarly, are CLECs given the
12 opportunity to bring issues of theirs to your
13 attention?

14 A. (Murtha) Yes.

15 Q. And, would the same be true of the change management
16 calls you referred to?

17 A. (Murtha) Yes. The change management call is a two-way
18 interaction, in which we talk about the enhancements
19 we're putting in place. And, we also meet with the
20 CLECs for the changes that they are looking for. And,
21 then, we try to schedule and prioritize those changes.

22 Q. We also discussed the -- or, rather, I shouldn't say
23 "we", but Commissioner Ignatius and Mr. Allen also I
24 think we're talking about the CLEC forums. And, that's

1 particularly within your business, Mr. Murtha?

2 A. (Murtha) That's correct.

3 Q. And, these were meetings that occurred in September of
4 last year?

5 A. (Murtha) That was not a forum. That was a -- the forum
6 is the Wholesale User Forum. That's a monthly event.
7 In September of last year, we held a CLEC face-to-face
8 meeting. Where we invited the CLEC community to bring
9 a representative to represent the entire CLEC
10 community. We held a four-day session, two days
11 initially, the first day was on local service requests,
12 the second day was on access service requests. And, we
13 put together an end-to-end team of FairPoint resources
14 that represented all of our systems and entry points
15 for the order processing, then allowed the CLECs to
16 bring their orders in that they were having issues
17 with, where we sat down and took the order through the
18 entire process. Opened up FairPoint's systems to the
19 CLECs to view, and went through each of the order types
20 to identify areas of issue that we had. Between us
21 working collaboratively with the CLECs, we identified
22 and walked away with 162 issues.

23 Q. And, these four-day sessions that occurred in September
24 of 2009, is that correct?

1 A. (Murtha) That's correct.

2 Q. There were 22 CLEC representatives from 16 different
3 CLECs at those four-day meetings?

4 A. (Murtha) That's correct. Plus, there was a bridge and
5 a WebEx for others to view, but to not directly
6 participate.

7 Q. Do you have any sense of how many people viewed the
8 WebEX or --

9 A. (Murtha) We had between 40 and 50 on each day on the
10 bridge and WebEx at different times.

11 Q. And, you mention these "162 issues". Is FairPoint
12 working through those issues?

13 A. (Murtha) One hundred forty-two (142) of the items are
14 complete. We have 20 that are scheduled to complete --
15 19 scheduled to complete by the end of June. And, the
16 last one is the data synchronization, which is part of
17 the CDIP project, which will complete in September of
18 2010. Although, phases of it will complete between now
19 and September of 2010.

20 Q. And, if, for some reason, they're not done, you'll just
21 continue working on them until they are done?

22 A. (Murtha) We will continue working on it. And, it
23 should be stated that we have already scheduled an
24 additional CLEC face-to-face meeting, coming in to do

1 the same thing, on July 27th and 28th, with the second
2 two days of August 25th and 26th.

3 Q. And, do you expect the same number of participants at
4 that meeting?

5 A. (Murtha) I would like to hold it to the same number,
6 because, if you have more than that, it's not an
7 effective working session.

8 Q. But you'd still expect some 20 or so people at the
9 meeting?

10 A. (Murtha) I would expect that to be in attendance, so
11 that it is a good work session between FairPoint and
12 the CLECs.

13 Q. And, this is part of your effort to just continue to
14 work through these problems and get them solved and get
15 them done?

16 A. (Murtha) It's part of my effort to continue the
17 relationship with each of the CLECs and continue to
18 work together cohesively, as they are my customer.

19 Q. And, this is to solve the Cutover problems and whatever
20 else happens?

21 A. (Murtha) It's to solve any issue that any CLEC has that
22 they want to raise.

23 Q. Would you say that the participation of the CLECs in
24 the face-to-face meetings or the weekly calls is

1 helpful to FairPoint in resolving these issues?

2 A. (Murtha) It's very helpful, because it is a two-way
3 street of us working together, because there are --
4 there are issues that affect both the CLEC and there
5 are issues that affect both FairPoint. And, the goal
6 here is to get the orders to be able to come in the
7 first time and to be able to process and flow through
8 without additional communication having to go back and
9 forth. My goal is to increase first time yield, so,
10 when they bring an order into me, it does not reject
11 back. That all the information is appropriate and
12 correct. My goal is then to help the CLEC be able to
13 make the due date that they have committed to their
14 customer. So, it's a two-way street or negotiation to
15 help us.

16 Q. And, just focusing just for another minute on the
17 follow-up face-to-face meeting that you've described
18 that you'd like to hold in July and August. Do you
19 anticipate compiling another list like the 162 issues
20 at that meeting?

21 A. (Murtha) I do. I anticipated, based on the list that I
22 just received from Liberty and the PUC from the CLEC
23 call that you all had, I anticipate that I'll be
24 receiving more information and other order types.

1 Q. Will you use the Liberty report to form the basis of
2 some of your action items?

3 A. (Murtha) I've already utilized the Liberty report.

4 MR. KENNAN: I have nothing further.

5 Thank you, Mr. Chairman.

6 CHAIRMAN GETZ: Thank you. Mr. Shoer.

7 MR. SHOER: Thank you, Mr. Chairman.

8 Good afternoon.

9 BY MR. SHOER:

10 Q. Mr. Murtha, on Page 8 of your testimony, there's a
11 reference here to this paragraph, I believe this is the
12 paragraph of information you were just talking to
13 Mr. Kennan about. This is the description about,
14 beginning on Line 6, about the "141 of the 162 items"
15 that you were just -- I think that's the reference
16 point you were just talking about, isn't it?

17 A. (Murtha) That's correct.

18 Q. Okay. And, you mentioned that there were 19, 19 that
19 were still pending completion by June?

20 A. (Murtha) That's correct. By June 30.

21 Q. Okay. For June 30 of this year?

22 A. (Murtha) Yes, sir.

23 Q. Okay. And, are you -- is the nature of the problem
24 with those 19 that there are certain root cause

1 problems that you're still trying to figure out, still
2 trying to get access to?

3 A. (Murtha) No. We have them each identified. They are
4 in our IT road map. And, it's -- they're also working
5 in conjunction with our CDIP initiatives to be
6 completed.

7 Q. Okay. And, then, it says here that, in that, on Line
8 7, it says that they're "completed, subject to
9 real-world testing and verification by wholesale
10 customers"?

11 A. (Murtha) That's correct.

12 Q. And, when you're talking about a "real-world testing",
13 do you envision another a Liberty Consulting analysis
14 to verify whether those are working as you think they
15 should be working?

16 A. (Murtha) No.

17 Q. What do you mean by that?

18 A. (Murtha) What I mean by that is FairPoint considers
19 them complete, but we do not consider them done until
20 we go back to the CLEC that opened up the issue
21 themselves, and ask them to test it and acknowledge
22 that it is complete.

23 Q. Okay. Now, I believe we asked a question in data
24 questions concerning the division of responsibilities

1 for wholesale customers. You may not have that in
2 front of you. It was regards to the
3 post-reorganization wholesale operations, it was CLECS
4 30.

5 A. (Murtha) I have that.

6 Q. Oh, you do. Okay. That's great. You'll see there,
7 down below in your response, where it says, under (a),
8 "There will be no change with respect to the
9 employees." But my question is concerning (b). Where
10 it says "Following effectiveness of the Plan, as may be
11 further amended, all employees assigned to wholesale
12 ordering (including OCC "Order Completion Center"),
13 sales and billing will be dedicated to serving
14 wholesale business only, which is the same as prior to
15 effectiveness."

16 And, my first question with that
17 paragraph is, are there any, where it says "as may be
18 further amended", is there anything in place right now
19 that changes the answer that you gave?

20 A. (Murtha) No.

21 Q. Okay. Then, following that paragraph, you say "The
22 remaining provisioning, maintenance and repair
23 organizations are cross-functional and will handle all
24 orders regardless of customer." Am I correct that that

1 means that the provisioning, maintenance and repair
2 organizations are the same people handling retail
3 provisioning, maintenance and repair problems, as well
4 as wholesale for CLEC customer provisioning,
5 maintenance and repair problems?

6 A. (Murtha) That's correct. Once the order gets into the
7 system and goes downstream, the order is generic. It
8 doesn't show the difference between wholesale and
9 retail. And, the technician in the field receives both
10 orders.

11 Q. And, that's -- I'm glad you anticipated my -- sounds
12 like you anticipated my question. Yes. How is it that
13 you're going to -- how are those people in the field
14 going to be able to distinguish wholesale and retail,
15 whether it's a wholesale order or retail order?

16 A. (Murtha) The goal is not for them to distinguish. It's
17 for them to treat both orders the same. It's for them
18 to receive an order and provide the service.

19 Q. Okay. So, there's no priority that's given to a retail
20 service order as compared to a wholesale service order?

21 A. (Murtha) No, sir. It's parity between both wholesale
22 and retail.

23 Q. Okay. And, with regards to parity, am I correct that
24 the wholesale C2C metrics will test if, in fact, you

[WITNESS PANEL: Murtha|Lamphere]

1 are providing parity-type services to wholesale
2 customers, as compared to your retail customers?

3 A. (Murtha) Those C2C measurements that are based on a
4 parity result, yes.

5 CHAIRMAN GETZ: Let me just note for the
6 record that the reference to Joint CLEC 30 is I think
7 identified as "BayRing-11".

8 MR. SHOER: Thank you. Thank you, Mr.
9 Chairman.

10 MR. McHUGH: Mr. Chairman, in my book,
11 it's "BayRing-10".

12 MR. SHOER: I think it might be -- yes,
13 I think that's correct. It should be "BayRing Number 10".

14 CHAIRMAN GETZ: Okay. Well, we have
15 BayRing-10 as "Joint CLEC 25".

16 MR. SHOER: Is that true with all of
17 your --

18 MR. McHUGH: I have that as "BayRing-9".

19 CHAIRMAN GETZ: Okay.

20 WITNESS MURTHA: Anybody for 8?

21 CHAIRMAN GETZ: I'd glad I tried to
22 clarify this.

23 MR. SHOER: We'll clarify it. I have
24 extras.

[WITNESS PANEL: Murtha|Lamphere]

1 MR. McHUGH: Mr. Chairman, I think
2 Attorney Shoer has extra books up there.

3 MR. SHOER: Yes.

4 MR. McHUGH: Maybe you -- I don't know
5 what you have, but what I'm looking at is the binder that
6 was provided.

7 MR. SHOER: Right. They should be all
8 the same. Go to 10, see if that works.

9 (Atty. Shoer handing binder to Witness
10 Murtha.)

11 WITNESS MURTHA: We'll take a set in
12 case we don't have the document.

13 CHAIRMAN GETZ: It looks like there is
14 some mismatch here, but we'll just have to review these
15 lists that were filed and clarify. But, I guess, for
16 purposes of this afternoon, we'll call it "BayRing10".

17 BY MR. SHOER:

18 Q. And, while you have that book there, Mr. Murtha, just
19 give me one second here and I'll find the reference
20 point I want to ask you. The question, here it is,
21 it's identified as "BayRing Number 19", Exhibit 19, Tab
22 19, which is "CLECS-39". Do you have that?

23 A. (Murtha) I do.

24 Q. Okay. That's a question we asked, that was asked about

1 the network improvements and upgrades, specifically, I
2 believe this is the network upgrades that Mr. Lippold
3 was just referring to a moment ago. Is that correct?

4 A. (Murtha) Yes.

5 Q. Okay. And, in that question, we asked how these
6 improvements would help wholesale customers or could be
7 served by wholesale customers? And, there's an answer
8 that says that these services -- the fiber deployment
9 will be "available for resale." You see that?

10 A. (Murtha) Yes.

11 Q. Okay. And, also, that the -- it would be increasing
12 the footprint availability, would also be available to
13 wholesale providers who choose to resell FairPoint
14 broadband products, correct?

15 A. (Murtha) Yes.

16 Q. And, were these these Ethernet products that Mr.
17 Lippold referred to? Is that what we're talking about?

18 A. (Murtha) Yes.

19 Q. And, would a -- are those the same products that are
20 going to be made available to FairPoint's retail
21 customers, its business customers?

22 A. (Murtha) Some of them will be available to FairPoint
23 retail customers. And, we're working with Mr. Allieri
24 on which products are going to be available for

1 wholesale as well.

2 Q. Okay. Have you made any determinations of how those
3 products will be available for wholesale customers?
4 Whether they will be tariffed products or whether they
5 will be available only by contract?

6 A. (Murtha) We're working with Legal on that right now and
7 Mr. Allieri's team.

8 Q. Okay. And, will there be requirements that a wholesale
9 customer who wants to take advantage of that product
10 forgo or give up its opportunities to buy for purchased
11 products, say, out of a tariff?

12 A. (Murtha) Some of the products will be forborne products
13 that are not regulated and will be under contract.
14 And, I think Mr. Skrivan would probably be able to
15 answer more of those questions tomorrow for you.

16 Q. Okay. Would those same restrictions be applied to a
17 retail customer? Do you know if those restrictions
18 would be the same?

19 A. (Murtha) For retail customers, we would be looking to
20 do contract services as well for some of these
21 products. But, again, I would defer that to Mr.
22 Skrivan.

23 MR. SHOER: Okay. Fair enough. Thank
24 you.

[WITNESS PANEL: Murtha|Lamphere]

1 CHAIRMAN GETZ: Ms. Foley.

2 MS. FOLEY: Good afternoon, Mr. Murtha
3 and Mr. Lamphere.

4 WITNESS MURTHA: Good afternoon.

5 WITNESS LAMPHERE: Good afternoon.

6 BY MS. FOLEY:

7 Q. I have a few questions for Mr. Lamphere.

8 A. (Lamphere) Okay.

9 Q. Could we start off with just a definition of "order
10 flow-through" please.

11 A. (Lamphere) "Order flow-through" is the automated order
12 receipt and provisioning of a service order.

13 Q. I'm sorry, I didn't catch that last piece.

14 A. (Lamphere) It's the order -- It's the automated order
15 receipt and provisioning of a service order.

16 Q. And, that pertains to both wholesale and retail service
17 orders?

18 A. (Lamphere) Correct.

19 Q. And, could you turn to your prefiled testimony please,
20 Page 14. At Lines 11 through 14 on that page, you talk
21 about three specific CDIP projects, is that correct?

22 A. (Lamphere) That is correct.

23 Q. And, those three projects are "End-to-End Architecture
24 Team, End-to-End Flow-Through Reporting, and End-to-End

1 Flow-Through Improvement"?

2 A. (Lamphere) Correct.

3 Q. And, you indicate that those three projects "will have
4 a significant impact [on improving] flow-through
5 performance"?

6 A. (Lamphere) I do.

7 Q. What is the status of those three projects?

8 A. The Business Architecture Team is nearing completion.
9 The End-to-End Flow-Through Reporting recently
10 completed, and we've just deployed that report in the
11 production environment. We are now expanding the
12 audience of that report. It gives us visibility into
13 the lifecycle of an order from the time it's received
14 until it's actually through the provisioning systems
15 and into the billing platforms, if it's a provisional
16 order, and through its process if it's not a
17 provisional order. So, it shows us the entire universe
18 of service orders. Where as, previous to the
19 development of that report, we did not have any such
20 visibility. So, it let's us focus on specific areas
21 that require improvement.

22 Q. Okay. I'm sorry, I got a little lost. The End-to-End
23 Flow-Through Improvement project?

24 A. (Lamphere) No, I'm sorry, that was the End-to-End

1 Flow-Through Reporting.

2 Q. And, you said that one has been completed?

3 A. (Lamphere) That project is complete. My team is now
4 expanding the audience of the report, and providing
5 training on what the report means and how to use it.

6 Q. And, the End-to-End Architecture Team project has been
7 completed?

8 A. (Lamphere) That has not been completed.

9 Q. No. And, the End-to-End flow-Through Improvement
10 project, has that been completed?

11 A. (Lamphere) That has not completed either.

12 Q. Okay. Are those projects supposed to be completed by
13 the September 2010 deadline for the overall CDIP
14 project completes?

15 A. (Lamphere) They are. Yes.

16 Q. I'd like to ask you a couple questions, if I could,
17 about what's been marked for identification as "OC-20".
18 If you don't have a copy of that, maybe I can provide
19 it to you.

20 A. (Lamphere) I do not.

21 (Atty. Foley handing document to Witness
22 Lamphere.)

23 MS. FOLEY: I did hand out the One
24 Communications' exhibits this morning. Do you have that,

1 Commissioners?

2 CMSR. IGNATIUS: Yes. Thank you.

3 BY MS. FOLEY:

4 Q. Mr. Lamphere, is this a document from Liberty
5 Consulting Group?

6 A. (Lamphere) Yes, it is.

7 Q. Is this Liberty Consulting Group's trend analysis of
8 FairPoint?

9 A. (Lamphere) It appears to be.

10 Q. Could you turn to Page 7 please of this report.

11 A. (Lamphere) Okay.

12 Q. On this page, do you see two graphs regarding LSRs?

13 A. (Lamphere) I do.

14 Q. And, are LSRs wholesale orders?

15 A. (Lamphere) They are local service requests.

16 Q. Do these graphs chart FairPoint's progress from the
17 time period 11/2/2009 to April 26, 2010?

18 A. (Lamphere) Yes, they do.

19 Q. Could you identify the second graph on this page
20 please.

21 A. (Lamphere) The second graph is the "Percent of Pending
22 LSRs that are Late and Percent of Late LSRs that are
23 Late for more than 20 Days".

24 Q. Regarding the percent of LSRs that are late, would you

1 agree that during the six-month period shown on this
2 chart there is a slight decrease during the six-month
3 time period?

4 A. (Lamphere) I would agree with that.

5 Q. So, according to the last date indicated on this chart,
6 it's roughly around 10 percent of LSRs are late?

7 A. (Lamphere) That's correct.

8 Q. And, it has remained at roughly 10 percent since the
9 beginning of April, according to this chart?

10 A. (Lamphere) I would agree with that.

11 Q. Is 10 percent of LSRs being late LSRs "business as
12 usual" or pre-Cutover levels of performance?

13 A. (Lamphere) I think that you would need to look at the
14 percentage of total orders that are completed on time
15 to make that determination. I don't think, by looking
16 at one specific order type, particularly LSRs, which
17 are subject to various business rules on FairPoint's
18 side that we have to hold them for port-outs, for
19 example. If the customer neglects to port the number
20 on the day that the order is due, we have to hold that
21 order for 30 days and await a supplemental due date or
22 a cancellation.

23 Q. So, you expect this to further decrease to a "business
24 as usual" level or would you consider a rate higher

1 than 10 percent to be "business as usual"?

2 A. (Lamphere) Again, I think you need to look at the
3 universe of orders and the percentage of on-time
4 delivery of service orders, not just specific to LSRs.
5 Any one product category, depending on order types that
6 are received and the incoming volumes, that would be a
7 very difficult percentage to tag as "acceptable".

8 Q. All right. So, you are unable to tell us what a
9 "business as usual" or pre-Cutover level of service
10 would be for this particular graph?

11 A. (Lamphere) That, coupled with that I have no historical
12 pre-Cutover data to just it against, I couldn't.

13 Q. And, could you turn to Page 8 please. Could you
14 identify the second graph on this page please.

15 A. (Lamphere) This is the "Percent of Pending ASRs that
16 are Late and Percent of Late ASRs that are Late for
17 more than 20 Days."

18 Q. And, ASRs are also a form of wholesale orders?

19 A. (Lamphere) They are access service requests.

20 Q. If you could look at the percent of late ASRs on that
21 second graph. Would you agree that, although there's
22 been some fluctuation over the six-month period on this
23 chart, there has been a very slight decrease in the
24 percent of late -- excuse me, percent of ASRs that are

1 late?

2 A. (Lamphere) I would agree there is a downward trend,
3 yes.

4 Q. And, with regard to the percent of late -- excuse me,
5 ASRs that are late for more than 20 days on that graph,
6 would you agree that it appears that the percentage has
7 increased since roughly mid April?

8 A. (Lamphere) I would agree with that.

9 MS. FOLEY: Thank you. I have no
10 further questions.

11 CHAIRMAN GETZ: Thank you. Ms. Bragdon.

12 MS. BRAGDON: Thank you. Mr. Lamphere,
13 we'll finish up with you, and then we'll turn to Mr.
14 Murtha.

15 WITNESS LAMPHERE: Certainly.

16 BY MS. BRAGDON:

17 Q. I just have one question for you. Well, on Page 11 of
18 your testimony you discuss late pending orders, and you
19 just had a discussion with Ms. Foley. Am I correct,
20 however, that late pending orders would not include
21 orders that had been improperly rejected by FairPoint's
22 systems?

23 A. (Lamphere) I'll actually let Mr. Murtha speak to the
24 front-end edits in order acceptance and rejecting.

1 And, then, if you have questions regarding late orders
2 themselves, once they're into the systems, that's my
3 area of expertise.

4 Q. Well, let me ask you what you include in "late pending
5 orders" there?

6 A. (Lamphere) In "late pending orders" would be all orders
7 that have been accepted into FairPoint's systems.

8 Q. Okay. So, by definition, then an order that is
9 rejected, rightly or wrongly, is not included in the
10 late pending --

11 A. (Lamphere) We track rejected orders, but it's not
12 counted in the pending orders category, correct.

13 Q. Okay. Okay. I think that answers my question. Okay.
14 Mr. Murtha, I know you have in front of you, because I
15 handed you a copy of them, what have been marked
16 "CRC-11" and "11A", "CRC-12C", "CRC-13C", "CRC-14", and
17 "CRC-15". And, while some of them are marked
18 "confidential", I don't think we'll have any need to
19 disclose that information. The confidential
20 information is customer names and addresses.

21 On Page 1 of your rebuttal, in response
22 to some testimony from Mr. Winchester, you stated that
23 you didn't think that CRC fully understood the
24 FairPoint SPOC process, correct?

1 A. (Murtha) Yes.

2 Q. And, in particular, you stated "Calls are actually
3 directed to [the] SPOCs by design. The current
4 FairPoint process is to have a SPOC handle all of the
5 issues for the assigned customer." Right?

6 A. (Murtha) Yes.

7 Q. And, so, the idea is that the SPOC is the conduit
8 through which the CLEC needs to work to get orders that
9 have either been rejected or there have been a problem
10 with them handled?

11 A. (Murtha) It is a conduit, it is not "the only conduit".
12 For instance, you have the Wholesale Help Desk, which
13 has been set up to handle missing notifiers, *et cetera*,
14 you have a service manager that is assigned to the CLEC
15 to work alongside the sales team. And, then, there is
16 also the Wholesale Service Center, which handles your
17 expedites and escalations as well. And, then, there's
18 the SPOC, who is -- you have multiple SPOCs, one for
19 the LSR side and one for the ASR side. So, yes.

20 Q. So, when Mr. Winchester was making a point in his
21 testimony about "not being able to call into the
22 Wholesale Help Desk, but have to go to a SPOC", that
23 led to you saying "CRC didn't understand the SPOC
24 process"?

1 A. (Murtha) Well, I believe in his testimony he talked
2 about calling into the Wholesale Service Center and not
3 the Help Desk, versus the SPOC.

4 Q. Okay. All right. Let's talk, in your testimony, in
5 not your rebuttal, but your regular testimony, your
6 direct testimony, you discuss improvements made to
7 wholesale issues and, you know, as you were discussing
8 earlier, 141 of 162 of the items from the September
9 CLEC meeting have been completed. Correct?

10 A. (Murtha) I'm looking for where you are in my testimony.

11 Q. Page -- in Pages 5 through 8, there's the discussion
12 through there.

13 A. (Murtha) Yes.

14 Q. And, is it fair to say the idea was to give the
15 Commission the idea that wholesale issues have
16 improved?

17 A. (Murtha) The idea was to say that we continue to work
18 with the CLEC community to close out the issues that
19 have been identified and continue to make progress.

20 Q. Okay. And, have you had a chance to review CRC
21 Exhibit 15? And, in particular, there are two e-mails
22 in that group. We'll use the first one, between
23 Jennifer Dunn and Nick McLennan.

24 A. (Murtha) Yes. I saw this Friday for the first time.

1 Q. Okay. And, the e-mail -- well, to understand where the
2 e-mail starts, you have to read from the bottom, right,
3 and it's -- Nick initiated it on Wednesday, May 19?

4 A. (Murtha) Yes. And, for the Commissioners, Nick is --
5 Nick McLennan is the single point of contact for
6 CRC/Pine Tree.

7 Q. Right. And, I was just going to say, and Jennifer Dunn
8 is our Director of Wholesale Provisioning.

9 A. (Murtha) That's correct.

10 Q. Correct. Okay. And, so, Nick acts as CRC's SPOC,
11 correct?

12 A. (Murtha) On the LSR side.

13 Q. On the -- right. And, so, if you look at this e-mail,
14 and I'll summarize it, and you can tell me if you
15 disagree with it. But, essentially, Mr. McLennan is
16 saying "I want to limit CRC to sending only 100
17 rejected orders at a time on the spreadsheets, correct?

18 A. (Murtha) Correct.

19 Q. Okay.

20 A. (Murtha) Well, he was -- my summation of it was he was
21 looking to work 100 at a time, close them out, and then
22 move on to the next hundred. He had a process in place
23 for Pine Tree, he had a process in place for CRC. And,
24 then, as you all brought the company together, he was

1 trying to put one process in place for all of the telco
2 going forward. But he was looking to still address all
3 of your issues, but wanted to do it in blocks of 100.

4 Q. Right. And, he noted that there's currently six to 900
5 on the spreadsheets?

6 A. (Murtha) That's correct.

7 Q. Which he was finding overwhelming. And, I think, at
8 this point, it might be helpful, to better understand
9 this e-mail, if we were to look at Exhibit 12, which is
10 an example of the weekly report that CRC sends to
11 Mr. McLennan.

12 A. (Murtha) This is "CRC-12C"?

13 Q. Yes.

14 A. (Murtha) Okay. And, basically, this is a printout of
15 an Excel spreadsheet that had four different tabs on it
16 and labeled tabs on the actual pages. And, the first
17 one being "Rejects Ack. Accept", which would be
18 "Rejects Acknowledge Accept" status, is that correct?

19 A. (Murtha) That is correct.

20 Q. Okay. And, that goes on for a long time, and, subject
21 to check, would you agree 18 pages and 858 entries?

22 A. (Murtha) The only thing I don't know on here is which
23 ones are rejected and which ones are in "Acknowledge
24 Accept" state.

1 Q. Okay.

2 A. (Murtha) So, I wouldn't know that without some
3 additional information.

4 Q. Okay.

5 A. (Murtha) Because "Acknowledge Accept" is a good status
6 for an order that's being worked in the system.

7 Q. But do orders sometimes get stuck in "Acknowledge
8 Accept"?

9 A. (Murtha) We had an issue where, and that was one of the
10 issues we worked in the CLEC face-to-face forum. And,
11 my last report of that is that that was less than a
12 hundred total orders, that we have to work with IT to
13 get through the middleware portion, and that is one of
14 the reasons for the enhancement to Enterprise OM, so we
15 have line-of-sight of every one of those orders.

16 Q. Okay. And, without going through every one of the
17 tabs, the last -- there are two final tabs, one's "Cap
18 Escalations" and one's "Portland Escalations".

19 A. (Murtha) Yes.

20 Q. And, those would be orders that the SPOC has to -- he
21 can't take care of himself, he has to push them either
22 to IT, I guess, "Cap" would mean "IT", is that right?

23 A. (Murtha) It's working with our IT organization. And,
24 this is the reason that we are working the data synch

1 project between SuperMedia, which is the holder or
2 provider of the directory listings, and our own Siebel
3 resource. So, this is an identified issue that we are
4 working on to get coordinated and complete by the end
5 of June.

6 Q. And, then, the Portland escalations, that's another set
7 of issues?

8 A. (Murtha) That's, again, part of that same process.
9 We're creating the golden source between SuperMedia, or
10 formerly Idearc, Verizon Yellow Pages. They hold the
11 data that provides the information that goes into the
12 phone books, and our system that matches up the data
13 between the two. So, we're synching those two
14 databases together as well.

15 Q. And, it's important to synch those, because that's the
16 information that goes into the phone book and 411,
17 right?

18 A. (Murtha) Absolutely, it's important. That's the
19 information that goes in the phone book and also
20 provides you your LVR, your Listing Verification
21 Report.

22 Q. And, if we don't get the directory listing orders right
23 up front, it creates more work on the back end, when
24 we're trying to put the books together, right?

1 A. (Murtha) That's correct.

2 Q. And, that's work on the FairPoint side and work on the
3 CLEC side, correct?

4 A. (Murtha) That would be correct.

5 Q. And, so, if we go back to that e-mail between Jennifer
6 and Nick, the part that's written by her is, again,
7 I'll just summarize, she seems -- she's upset, and
8 she's concerned, because she's got a backlog of these
9 directory listings rejected, and another 80 to 120
10 generated each week, correct?

11 A. (Murtha) That's correct.

12 Q. And, so, how do you respond to that concern, if the
13 SPOC is going to limit the number of orders work to
14 100, there's a backlog of 2,800, and another 100 are
15 generated each week, how are we going to ever get ahead
16 or caught up?

17 A. (Murtha) Well, the SPOC -- the SPOC submitted this
18 without my recommendation. We're not going to limit
19 you to 100 if you have those issues. We're going to
20 work in partnership with you, like we do on all other
21 issues, and get this issue resolved. As we've talked
22 about, we did a Directory Summit. We have many efforts
23 going on on the directory listing front, such as on
24 CDIP 5, which has the BAN consolidation effort

1 clean-up, which was taking place in the data prior to
2 the conversion. And, in addition, we've brought in
3 resource from SuperMedia to work on the data
4 synchronization. And, we're going to continue to work
5 with you to resolve these issues.

6 Q. Okay. So, there's not been any directive from you or
7 any of your managers --

8 A. (Murtha) No.

9 Q. -- instructing the SPOCs to limit the amount of work?

10 A. (Murtha) No. And, I've had a conversation with all
11 parties involved since receiving this e-mail.

12 Q. Very good. Let's turn, just to close the loop on your
13 rebuttal testimony, with your statement that "CRC
14 didn't" -- "might not understand the SPOC process".
15 Isn't it true that you testified in Maine that it was
16 your goal to get away from the SPOC process and move
17 towards a single line where all CLECs would call in?

18 A. (Murtha) That's correct.

19 Q. Okay. Turning to the issue of ASR and LSR intervals
20 that were discussed in your rebuttal as well. And, you
21 cited some specific statistics --

22 A. (Murtha) Yes.

23 Q. -- in your testimony. Would your statistics regarding
24 LSRs and ASRs completed on customer desired due date

1 reflect or indicate whether those orders had been
2 previously erroneously rejected by FairPoint?

3 A. (Murtha) No. These would be indicated by what the
4 latest version of the ASR or LSR was. So, there is
5 potential that a order on a previous version, but this
6 would be what was the CDDD, or customer desired due
7 date, of the latest version of the order was and the
8 completion of that order.

9 Q. Okay. So, it doesn't necessarily -- so, meeting the
10 desired due date may not reflect the real-world
11 experience of submitting an order, having an issue,
12 having to get it worked, having to supp it with a new
13 due date?

14 A. (Murtha) It would -- these numbers encompass the entire
15 universe of orders that were out there, for LSR and
16 ASR.

17 Q. Okay. But they -- Okay. Let's just take a
18 hypothetical. Today, I put in an order, and it's
19 rejected for a FairPoint issue. Let's just say there's
20 -- you don't recognize the address and it has to be
21 built. But, when I put in my order today, I put in the
22 standard due date of, let's say, five days from now.
23 But now we have to build an address. I'm going to have
24 to supp that order with a new due date. And, so, now

1 your statistic is going to reflect that that due date
2 is met?

3 A. (Murtha) If the address did not exist in the system,
4 then that is a valid reject. We had to build in the
5 address. Once we built in the address and provided you
6 the update and received a new version of your order,
7 that's the first valid mark.

8 Q. But, if the address didn't exist because of the data
9 synchronization issue, are you saying that's the CLEC's
10 fault?

11 A. (Murtha) I didn't say it was anybody's fault. You
12 know, if the address did not exist in our systems to be
13 picked up and recognized or on a -- if the address was
14 not available on the pre-order functionality, then
15 there was a -- it was a valid reject that we had to
16 build that address into our database.

17 Q. Okay. And, your statistics also wouldn't reflect
18 orders went to --

19 (Interjection by the court reporter.)

20 MS. BRAGDON: I'm sorry. Usually, I'm
21 very loud.

22 BY MS. BRAGDON:

23 Q. Your statistics would not reflect -- your on-time
24 statistics would not reflect or perhaps they would

1 reflect orders that went to premature BCN, but had not
2 actually been worked, correct?

3 A. (Murtha) They would, because the CDDD, the customer
4 desired due date, would have been affected by an order
5 that would have completed prematurely. So, it would
6 have impacted this number, brought the number down.

7 Q. Can you explain that? Sorry, I just didn't understand
8 it.

9 A. (Murtha) Sure. If you requested a due date of today,
10 May 24th, and we completed the order early, on May
11 22nd, your CDDD date was May 24th, and we completed it,
12 it would show as a minus two. That's outside of the
13 parity of the CDDD, the customer desired due date.

14 Q. So, you count against yourself when you hit your
15 provisioning intervals earlier than expected?

16 A. (Murtha) On that case, I would have, yes.

17 Q. Okay. Now, okay, let's turn to Exhibit CRC-11 and 11A
18 they're, just so the Commission understands, they're
19 the same document, they have just been sorted. It's
20 the Liberty list, and I sorted it, just put a couple
21 labels on it. It's got the same information. And,
22 have you had a chance to review this?

23 A. (Murtha) Yes, I did.

24 Q. And, this list identifies over 109 continuing issues?

1 A. (Murtha) It identified 109 individual statements.

2 There was no specifics in this list, as far as
3 identification of any telephone number, customer, PON.

4 It was generic issues, which I believe have already
5 been identified or identified via the CLEC
6 face-to-face. Many of which have been resolved or have
7 been identified and are being worked via the CDIP
8 process or other initiatives that we have going on.

9 Q. So, it's your position that some of the issues listed
10 here, on this Liberty list, have been resolved?

11 A. (Murtha) Yes.

12 Q. Okay. And, would it surprise you to know that the
13 criteria for being put on that list was that an issue
14 be continuing?

15 A. (Murtha) That wouldn't surprise me that that's what was
16 requested to have been put on the list. But, you know,
17 some of the statements that were on the list were very
18 generic. For instance, "when FairPoint fixes
19 something, they break something else." I don't know
20 how I'm supposed to answer that.

21 Q. Understood. And, that's a particular -- you picked the
22 one or two that probably fit in that category. There
23 are a lot of others that were quite specific.

24 A. (Murtha) Well, they were specific statements, but not

1 specific to a product or a service, or whether it was
2 an LSR or an ASR. So, they were very generic
3 statements that, as I read through and reviewed and put
4 my answers together to provide to the Commissions, I
5 tried to pull as much information as I could, based on
6 the 142 or the CDIP, and provide that as updates for
7 the Commissions.

8 Q. And, are you, just following up on something that
9 Mr. Kennan asked you, are you prepared to meet with the
10 CLECs and perhaps incorporate some of this list into
11 sort of the master 162 list?

12 A. (Murtha) Absolutely. If the CLECs perceive that
13 something is an issue, it's my job, as owning the CLEC
14 relationship, to make sure we resolve that as an issue.

15 Q. Okay. One, one final issue. In terms of -- directory
16 listings are near and dear to my heart. Would you
17 agree that, in order to produce an accurate phone book
18 in a wholesale environment, you need to get the
19 wholesale customers an LVR in a reasonable time frame
20 for them to review it for accuracy?

21 A. (Murtha) Yes.

22 Q. And, have you had a chance to look at CRC-14?

23 A. (Murtha) I haven't seen it yet, but I assume this has
24 to do with the Portland LVR.

1 Q. Yes. And, the fact that CRC had to put in a trouble
2 ticket in order to get an LVR?

3 A. (Murtha) Yes, I am familiar with it. And, I have
4 already participated with both SuperMedia and the
5 Center on getting an extension on the Portland book for
6 the LVR that was delivered to CRC I believe two weeks
7 late.

8 Q. Okay. And, normally, they should just be posted --

9 A. (Murtha) Should be posted ahead of time, give you 30
10 days to work with it, and then 30 days to process your
11 orders, so that we can have it cleaned up and go into
12 the book close process.

13 Q. Because what the CLEC has to do, once they get the LVR,
14 is essentially audit it?

15 A. (Murtha) Absolutely.

16 Q. And, that's what Exhibit CRC-13 is. I gave you a
17 sample. It's a sample from a Maine book. But,
18 basically, the CLEC has to go through and identify
19 which listings are in its system, but not in your
20 system, which listings are in your system, but not in
21 theirs?

22 A. (Murtha) Correct.

23 Q. Correct? And, again, significant amount of work, if
24 there are problems with the directory listings?

[WITNESS PANEL: Murtha|Lamphere]

1 A. (Murtha) Right. And, that's why we're committed to
2 getting that database synched up, so that the LVRs are
3 clean and work best for you as our customer.

4 Q. And, you'd agree with me that this particular
5 Dover-Foxcroft audit that I gave you, Dover is a pretty
6 small phone book in Maine?

7 A. (Murtha) Yes.

8 Q. Wouldn't compare to, say, the size of the Nashua or
9 Concord or Manchester phone books?

10 A. (Murtha) No.

11 Q. Okay. This audit would likely be much longer?

12 A. (Murtha) Yes.

13 MS. BRAGDON: I think that's all I have.
14 Thank you.

15 WITNESS MURTHA: Thank you.

16 CHAIRMAN GETZ: Thank you. Let's take
17 stock of where we are. It's after 5:00. We've indicated
18 our objective was to conclude by 5:00 each day. Ms. Cole,
19 do you have questions?

20 MS. COLE: I have no questions.

21 CHAIRMAN GETZ: Ms. Geiger?

22 MS. GEIGER: One question.

23 CHAIRMAN GETZ: One question. Mr. Judd?

24 MR. JUDD: Just a couple. And, if they

[WITNESS PANEL: Murtha|Lamphere]

1 will say "yes" to each of them, it will go very quickly.

2 WITNESS MURTHA: I can't guarantee that.

3 CHAIRMAN GETZ: Would you like them to
4 prefile their "yeses"?

5 MR. JUDD: Yes.

6 CHAIRMAN GETZ: All right. Then,
7 Ms. Geiger.

8 MS. GEIGER: Thank you, Mr. Chairman.

9 BY MS. GEIGER:

10 Q. Mr. Murtha, is Comcast one of the CLECs that
11 participated in the various Wholesale and CLEC forums
12 and meetings that you discussed earlier in your
13 testimony?

14 A. (Murtha) Yes.

15 MS. GEIGER: Thank you.

16 CHAIRMAN GETZ: Mr. Judd.

17 MR. JUDD: Thank you.

18 BY MR. JUDD:

19 Q. If the Plan of Reorganization is approved by the
20 Bankruptcy Court and the Regulatory Settlement is
21 approved here, what issues will exist that will
22 adversely affect FairPoint's ability to meet its
23 commitments to its wholesale customers?

24 A. (Murtha) The Plan of Reorganization or the Regulatory

1 Settlement, it is not --

2 Q. Yes, I'm sorry. Let me just restate it. If you emerge
3 from bankruptcy, what issues are you still going to
4 face that are going to adversely affect your ability to
5 meet the commitments you've made to your wholesale
6 customers?

7 A. (Murtha) There's nothing that's going to adversely
8 affect me from making my commitments to the wholesale
9 customers. I'm going to continue with the same
10 projects, and continue to work with the CLECs on a
11 daily basis, to continue to improve our processes.

12 Q. You had a conversation with Mr. Shoer about a list that
13 was developed by Liberty Consulting and the three New
14 England states, as well as the CLECs. Was that the 172
15 issues -- excuse me, 162 issues that you identified?

16 A. (Murtha) No, sir. The 162 came out of a joint session
17 between FairPoint and the CLECs. The list that Mr.
18 Shoer and Ms. Bragdon both regarded was a call that
19 took place between the CLECs and Liberty Consulting on
20 two separate Thursdays, and they combined that list.

21 Q. And, you testified earlier, I believe, that you used
22 the Liberty list to address some of the concerns of the
23 CLECs, is that correct?

24 A. (Murtha) Yes, sir. I just received that list on

1 Wednesday of last week, and I worked that list on
2 Thursday and Friday.

3 Q. And, have you completed your work through that list or
4 are there still some outstanding issues?

5 A. (Murtha) I completed probably 90 of the 109 items.

6 MR. JUDD: Thank you. I have nothing
7 further.

8 CMSR. BELOW: No questions.

9 CHAIRMAN GETZ: Commissioner Ignatius.

10 CMSR. IGNATIUS: Thank you.

11 BY CMSR. IGNATIUS:

12 Q. Mr. Murtha, when you say you've "completed" some of
13 those items, many of those items, can you just give an
14 example of what "completed" would mean?

15 A. (Murtha) "Completed" would be where I've identified the
16 process that we've improved or, you know, for instance,
17 we opened up 12 items regarding Customer Service Record
18 at the September meeting. And, we've closed out 11 of
19 those 12 items at that meeting, that we say are "done
20 done". That means that we have had CLECs sign off and
21 say that was completed, and yet it showed up on this
22 list. Now, there's going to be issues that show up
23 because of the data reconciliation. But it doesn't
24 mean that that is an issue in the system that's

1 affecting that CSR going forward. We did have a number
2 of issues at Cutover that affected the ability to pull
3 a CSR or a CSI. And, we've made a lot of progress on
4 these things. We still identify that there are issues
5 out there. And, I went through each of these examples,
6 whether it was a billing example, a maintenance
7 example. Mr. Lamphere and his team worked on the list
8 as well with me, and so did Mr. Nolting. And, we
9 answered each one to try to provide you as much data as
10 we could that we have this identified, this is not a
11 new issue. We have been working this with the CLECs
12 previously and this is where we intend to have that
13 completed and fixed.

14 Q. Well, one of the things I'm struggling with is
15 understanding why solutions to problems seem to, in
16 some cases, be true solutions, and, in some cases, seem
17 to be a step along the way that isn't really a
18 resolution, and we go back to the same issue again the
19 next month and the month after that, and the
20 frustration growing on the part of customers. And, the
21 testimony today seemed similar to that. Your prefiled
22 testimony suggests things are pretty much resolved, and
23 there's a few isolated events. And, then, there's
24 lists like we've seen here from Liberty that are very

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1 extensive, and the descriptions sound significant. But
2 you've testified just a moment ago that you dealt with
3 90 out of 100 of them or something like that and it's
4 kind of taken care of again. And, I confess I'm a
5 little bit lost in what it all means.

6 A. (Murtha) I think you need to put it into context of
7 "what do we do on a daily basis?" We're processing
8 40,000 local service requests a month. We process over
9 4,000 access service requests a month. As Mr. Lamphere
10 stated before, you have to look at what our delivery is
11 of service on the due date. You know, we continually
12 get hit on late orders. But, if you go back and you
13 look, at the end of the year we had 1,200 late orders;
14 right now we have 500 late orders. So, that's a huge
15 reduction. And, then, when you look at it and you say
16 you have 500 late orders, on a base of 44,000 orders
17 that you're taking in the course of that month", and,
18 okay, the percentage is 10 percent late on LSR or
19 30 percent late on ASR, but, it's such a small number,
20 when you compare the entire universe of orders that
21 you're receiving and processing and delivering day in
22 and day out.

23 Now, are there still issues?

24 Absolutely. And, we'll continue to work on that. I

1 worked for Verizon in wholesale for years and years.
2 We always had issues that we continued to work. It's
3 the -- we're going to continue to make progress every
4 day that we can to streamline this process and to get
5 as many orders to flow through as we can. But, if you
6 look at -- you have to look at the entire base when
7 you're looking at the numbers we're talking about or
8 the graphs that we're talking about to see what's truly
9 being affected.

10 Q. Mr. Lamphere, in your prefiled testimony, which is
11 FairPoint 11, on Page 11, you have a few New Hampshire
12 numbers that I just want to ask you to take a look at.

13 A. (Lamphere) Certainly.

14 Q. And, specifically, the bottom of Page 11, Lines 20
15 through 22. You have those?

16 A. (Lamphere) Okay.

17 Q. These were current as of February 2010. And, you had a
18 current total of late pending customer orders in New
19 Hampshire of "441". Do you have more updated numbers
20 for us?

21 A. (Lamphere) I do. In fact, this should be coming in as
22 an updated exhibit. But this is as of April 30th
23 numbers.

24 A. (Murtha) It "should be".

1 MR. McHUGH: I appreciate his
2 enthusiasm, Commissioner Ignatius.

3 **BY THE WITNESS:**

4 A. (Lamphere) So, total in New Hampshire, under the same
5 criteria as outlined in my testimony, 369 past due
6 orders. Of those, 91 are business orders, 192 are
7 residential orders, 86 are wholesale orders. Of those
8 369, 59 of them are past due for customer reasons, 285
9 of them are past due for lack of FairPoint action, for
10 lack of a better term. I can't use the term I
11 generally do. And, then, past due for facilities
12 construction, there's 25 of those 369.

13 BY CMSR. IGNATIUS:

14 Q. And, when you say those numbers that are "past due
15 beyond 20 days", do you know how old some of them are?

16 A. (Lamphere) Well, I do, actually. As of April 30th, of
17 the 59 orders that are late for customer reasons, three
18 of them were due in October, three of them were due in
19 February. So, this would be October of 2009.
20 February 2010, there were three. March, there was 12.
21 April, there was 37.

22 Q. So, you're in a kind of holding pattern, until
23 customers take a certain action?

24 A. (Lamphere) Correct. And, in many cases, some of these

[WITNESS PANEL: Murtha|Lamphere]

1 very, very old ones likely will just get canceled. But
2 I can't cancel their order. So, under the "company
3 miss" categories, there are several different buckets
4 that I would put these orders in. There's those that
5 are held for company reasons. And, when I say "company
6 reasons", there's a list of probably 15 jeopardy codes
7 we would assign an order that would be a company
8 reason. Those, primarily, 80 percent of those are from
9 April. Very few of them are older than January of
10 2010.

11 CMSR. IGNATIUS: Thank you.

12 WITNESS LAMPHERE: You're welcome.

13 CMSR. IGNATIUS: I have nothing else.

14 Thank you very much.

15 CHAIRMAN GETZ: Redirect, Mr. McHugh?

16 MR. MCHUGH: Nothing further,

17 Mr. Chairman.

18 CHAIRMAN GETZ: Then, I don't believe
19 there's anything else further for these witnesses. So,
20 you're excused. Thank you, gentlemen.

21 WITNESS MURTHA: Thank you.

22 CHAIRMAN GETZ: Getting back to the
23 question of the CLEC witnesses for tomorrow, I don't think
24 we're in a position to definitively say this afternoon

1 that we won't have questions. And, so, we would like to
2 see the witnesses present to do the live direct and to see
3 if there are questions from the Bench. And, I believe
4 we'll be starting with Ms. Weatherwax and McLean tomorrow
5 morning, first panel?

6 MR. MCHUGH: That's correct, Mr.
7 Chairman.

8 CHAIRMAN GETZ: Okay. Is there anything
9 else we need to address before we adjourn for today? Mr.
10 Shoer.

11 MR. SHOER: Mr. Chairman, I think I
12 identified the discrepancy that we mentioned. I updated
13 my exhibit list on I believe it was Friday, by taking out
14 the New Hampshire CLEC Settlement Agreement, which was
15 listed as number "2" in my original document. But,
16 Mr. McHugh, he informed me that he has included that in
17 his exhibits. So, I removed that and updated my list.
18 And, the books that have been provided, they are the
19 updated exhibit lists.

20 CHAIRMAN GETZ: Okay. Thank you. Then,
21 we can make the corrections to the exhibit list we have --

22 MR. SHOER: Thank you.

23 CHAIRMAN GETZ: -- for your client.
24 Anything else today?

1 (No verbal response)

2 CHAIRMAN GETZ: Hearing nothing, then we
3 will adjourn for the day and begin at 9:00 tomorrow
4 morning. Thank you, everyone.

5 MR. McHUGH: Thank you.

6 (Whereupon the hearing was adjourned at
7 5:21 p.m., and the hearing to resume on
8 Tuesay, May 25, 2010, commencing at 9:00
9 a.m.)

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