

1 STATE OF NEW HAMPSHIRE

2 PUBLIC UTILITIES COMMISSION
3 (Redacted - Confidential Pages Removed)

4 October 29, 2007 - 9:05 a.m.
5 Concord, New Hampshire

Day VI

6 RE: DT 07-011
7 VERIZON NEW ENGLAND, ET AL:
8 Transfer of Assets to FairPoint
9 Communications, Inc.

NHPUC NOV05'07 PM 3:47

10 PRESENT: Chairman Thomas B. Getz, Presiding
11 Commissioner Graham J. Morrison
12 Commissioner Clifton C. Below

13 Jody O'Marra, Clerk

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20 Reptg. One Communications:
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2
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PROCEEDINGS

CHAIRMAN GETZ: Okay. Good morning.

3 Everyone. We'll reopen the hearings in docket DT 07-011.

4 Can we begin by getting appearances on the record please.

5 MR. McHUGH: Good morning, Mr. Chairman,
6 Commissioner Below, Commissioner Morrison. Patrick
7 McHugh, from Devine, Millimet, here on behalf of FairPoint
8 Communications, Inc. With me is Attorney Fred Coolbroth
9 and Attorney Kevin Baum, from Devine, Millimet. Sitting
10 at the table with counsel is Peter Nixon, President of
11 FairPoint, and Walter Leach of FairPoint as well.

12 CHAIRMAN GETZ: Good morning.

13 CMSR. MORRISON: Good morning.

14 CSMR. BELOW: Good morning.

15 MR. DEL VECCHIO: Good morning,
16 Mr. Chairman, Commissioner Morrison, Commissioner Below.
17 Victor Del Vecchio and Sarah Knowlton, representing
18 Verizon. And, with us today is Sheila Gorman, Shawn
19 Nestor, and Alan Cort.

20 CHAIRMAN GETZ: Good morning.

21 CMSR. MORRISON: Good morning.

22 CSMR. BELOW: Good morning.

23 MR. CIANDELLA: Good morning, Mr.

24 Chairman. I'm Rob Ciandella, at Donahue, Tucker &

1 Ciandella. I'm here representing the seven intervening
2 municipalities.

3 CHAIRMAN GETZ: Good morning.

4 CMSR. MORRISON: Good morning.

5 CMSR. BELOW: Good morning.

6 MR. MANDL: Good morning, Commissioners.

7 Alan Mandl, representing the New England Cable &
8 Telecommunications Association and Comcast Phone of New
9 Hampshire.

10 CHAIRMAN GETZ: Good morning.

11 CMSR. MORRISON: Good morning.

12 CMSR. BELOW: Good morning.

13 MR. PRICE: Good morning. Ted Price,
14 representing One Communications.

15 CHAIRMAN GETZ: Good morning.

16 CMSR. MORRISON: Good morning.

17 CMSR. BELOW: Good morning.

18 MR. RUBIN: Good morning. Scott Rubin,
19 representing the Communications Workers of America and the
20 International Brotherhood of Electrical Workers. With me
21 at the table is our consultant, Randy Barber, and, from
22 IBEW, Robert Erickson.

23 CHAIRMAN GETZ: Good morning.

24 CMSR. MORRISON: Good morning.

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1 CMSR. BELOW: Good morning.

2 MR. LINDER: Good morning. My name is
3 Alan Linder, from New Hampshire Legal Assistance,
4 representing Verizon residential customer Irene Schmitt.
5 With me at the table is Attorney Dan Feltes from Legal
6 Assistance.

7 CHAIRMAN GETZ: Good morning.

8 CMSR. MORRISON: Good morning.

9 CMSR. BELOW: Good morning.

10 MS. HATFIELD: Good morning,
11 Commissioners. Meredith Hatfield, for the Office of
12 Consumer Advocate, on behalf of residential ratepayers.
13 And, with me is Rorie Hollenberg, Susan Baldwin, and Ken
14 Traum.

15 CHAIRMAN GETZ: Good morning.

16 CMSR. MORRISON: Good morning.

17 CMSR. BELOW: Good morning.

18 MS. FABRIZIO: Good morning,
19 Commissioners. Lynn Fabrizio, on behalf of Staff. And,
20 with me today are Bob Falcone, Chuck King, John Antonuk,
21 of Liberty Consulting, and Kate Bailey of the Telecom
22 Division staff.

23 CMSR. MORRISON: Good morning.

24 CMSR. BELOW: Good morning.

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1 CHAIRMAN GETZ: Good morning. I want to
2 start with addressing a couple of issues before we hear
3 from the panel, and then I guess also hear if there are
4 any other procedural issues that need to be addressed
5 before we begin today. The first is ruling on Verizon's
6 motion to exclude testimony regarding the -- and dismiss
7 intervenors' requests that reimbursement for maintenance
8 expenses be imposed as a condition upon approval of
9 petition -- of the petition, with respect to expenses from
10 the electric utilities that are intervenors in this case.

11 I'll first note that we deny the Verizon
12 motion to exclude, but we're going to defer consideration
13 of the underlying legal question regarding jurisdiction,
14 despite, I think, the assertion in one of the filings that
15 this was not a complex issue, I think it requires
16 additional consideration. Accordingly, we're going to
17 continue with the testimony and cross-examination, so that
18 we will have a record on which to base a decision, in the
19 event we determine that this proceeding is indeed the
20 appropriate forum for resolution of that dispute between
21 Verizon and PSNH and Unitil. I will also note that,
22 continuing in this vein, it's reasonable inasmuch as the
23 related fundamental question surrounding what the public
24 interest requires, in order that Verizon may be relieved

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1 of its disputes and obligations, remains unresolved. So,
2 we will move ahead with the testimony from Mr. Hybsch,
3 Meissner, and I guess Ms. Warren as well, and then hear
4 from Mr. Nestor and the related cross-examination. I
5 guess it's expected to occur tomorrow, depending on how
6 far we get today.

7 The second issue is with respect to the
8 witnesses from the Town of Portsmouth and the Joint
9 Municipalities. And, wanted to establish whether there's
10 cross-examination for those witnesses? Whether those
11 witnesses can be released and their testimony entered into
12 the record as if they had testified in this proceeding?
13 Is there any party here that wants to cross-examine either
14 the City of Portsmouth's witnesses or Mr. Ciandella's
15 witnesses?

16 (No verbal response)

17 CHAIRMAN GETZ: Mr. Ciandella, I mean, I
18 guess it's up to you, whether you want to have your
19 witnesses actually come and testify. What's your
20 preference?

21 MR. CIANDELLA: If there's no
22 questioning of my witnesses, I'll tell my witnesses
23 they're relieved, and they'll be relieved.

24 MS. FABRIZIO: Mr. Chairman, Suzanne

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1 Woodland, who represents the City of Portsmouth, actually
2 canvassed all the parties by e-mail. I wonder if
3 Mr. Ciandella should do the same, just in case there's
4 somebody not here today who might be interested?

5 MR. CIANDELLA: I have no objection to
6 that. I'll do that.

7 CHAIRMAN GETZ: Okay. If you do that,
8 and report back. But, I guess, at this point it looks
9 like then we will not be cross-examining the panel of
10 Gregg and Parkinson or the panel of Griffin, Brown and
11 Malasky, which were scheduled to be the last sets of
12 witnesses. But, if we could just nail that down, then
13 that would be helpful.

14 Is there anything else we need to
15 address this morning, before we hear from the panel?

16 MR. RUBIN: Mr. Chairman, just very
17 briefly. In our initial, I guess, submission of estimated
18 cross-examination for various witnesses, I don't believe
19 we had indicated that we had questions for this panel.
20 And, going through our notes, we think some of the
21 questions we had for Mr. Nixon are probably better asked
22 of this panel. So, I will have some questions for them.
23 And, hoping they don't refer them back to Mr. Nixon, but
24 we'll see.

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1 CHAIRMAN GETZ: Let's see. Yes, for the
2 Brown/Harrington/Smee panel, I have -- well, initially,
3 BayRing had indicated that they would have cross, which
4 appears not to be the case. Mr. Ciandella, are you going
5 to have cross for this panel?

6 MR. CIANDELLA: Yes, very brief.

7 CHAIRMAN GETZ: Okay. And, then,
8 Mr. Rubin has indicated he has some brief cross? Well,
9 you didn't characterize it.

10 MR. RUBIN: I would think no more than
11 ten minutes.

12 CHAIRMAN GETZ: And, then, Consumer
13 Advocate and Staff, is what I have on my records.

14 MR. MANDL: Mr. Chairman, I had I think
15 one or two questions to Mr. Lippold that were referred to
16 Mr. Smee. So, I imagine some very brief cross on license
17 administration issues.

18 CHAIRMAN GETZ: Okay. All right. Then,
19 we'll start with, when we get to it, with Mr. Ciandella,
20 go to Mr. Mandl, then to Mr. Rubin, Ms. Hatfield, and
21 Ms. Fabrizio. Anything else to address before we start?

22 (No verbal response)

23 CHAIRMAN GETZ: Mr. Patnaude, if you
24 could --

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5 CHAIRMAN GETZ: Good morning, gentlemen.

6 WITNESS BROWN: Good morning.

7 WITNESS SMEE: Good morning.

8 WITNESS HARRINGTON: Good morning.

9 CHAIRMAN GETZ: Mr. McHugh.

10 MR. MCHUGH: Thank you, Mr. Chairman.

11 Good morning, gentlemen. If I could just ask you to
12 please speak one at a time, so the stenographer is able to
13 get everything down.

14 MICHAEL S. BROWN, SWORN

15 MICHAEL L. HARRINGTON, SWORN

16 JOHN F. SMEE, SWORN

17 DIRECT EXAMINATION

18 BY MR. McHUGH:

19 Q. First start by asking, starting with Mr. Brown, if you
20 would each state your full name, job title, and
21 business address for the record please.

22 A. (Brown) Okay. My name is Michael Scott Brown. I am
23 Vice President of Access Network Engineering. My
24 business residence is 105 Second Street, Southeast,

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1 Yelm, Y-e-l-m, Washington 98597.

2 Q. Mr. Smee.

3 A. (Smee) My name is John F. Smee. I am the Director of
4 Operations for FairPoint Communications. And, my
5 business address is 155 Gannett Road, South Portland in
6 Maine.

7 Q. And, Mr. Harrington.

8 A. (Harrington) Michael L. Harrington, Vice President -
9 Network. My business address is 30 East Main Street,
10 Westfield, New York.

11 Q. And, if I could start with Mr. Harrington, are you the
12 same Michael Harrington who prefiled direct testimony
13 on behalf of FairPoint Communications, dated March 23
14 of 2007, which we have premarked as "FairPoint Exhibit
15 13P", for "public"?

16 A. (Harrington) Yes, I am.

17 Q. And, is there any changes or corrections to that
18 testimony, Mr. Harrington?

19 A. (Harrington) Not to the direct testimony.

20 Q. Okay. Do you adopt that direct testimony as your own
21 here today?

22 A. (Harrington) Yes, I do.

23 Q. Okay. If I could direct your attention then, still
24 with Mr. Harrington, to the joint rebuttal testimony,

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1 which we filed on behalf of the panel, on behalf of
2 FairPoint Communications, on September 10, 2007. Are
3 you the same Mr. Harrington who filed a portion of that
4 testimony, sir?

5 A. (Harrington) Yes, I am.

6 Q. Are there any changes and corrections to that testimony
7 as it relates to your information, Mr. Harrington?

8 A. (Harrington) Yes, I do have some corrections.

9 Q. Okay. Can you point them out please for the record?

10 A. (Harrington) First of all, on Page 9, Line 18, the word
11 "Nortel", the vendor, Nortel, "the STP is a Nortel
12 product", should be corrected to a "Tekelec product",
13 spelled T-e-k-e-l-e-c. And, the same change would be
14 on Line 20, same page, should read "one Tekelec STP".

15 Q. Are there any other changes or corrections,
16 Mr. Harrington, to the joint rebuttal testimony?

17 A. (Harrington) Yes. There's one more, on Page 22, Line
18 20. Where it states "SLPs", that should read "SCPs".

19 Q. Are there any other changes or corrections,
20 Mr. Harrington?

21 A. (Harrington) No, there are not.

22 Q. And, do you adopt this joint rebuttal testimony, to the
23 extent you prepared it, as your own here today?

24 A. (Harrington) Yes, I do.

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1 Q. Mr. Brown, can you tell us, are you the same Michael
2 Brown who filed the panel testimony on behalf of
3 FairPoint, dated September 10 of 2007, which we
4 premarked as "FairPoint Exhibit 14P", for the public
5 version, and "14C", for the confidential version?

6 A. (Brown) Yes, I am.

7 Q. Are there any changes or corrections as to your
8 testimony, Mr. Brown?

9 A. (Brown) No, there are not.

10 Q. Okay. Do you adopt this testimony as your own?

11 A. (Brown) I do.

12 Q. Okay. And, Mr. Smee, same questions. Are you the same
13 Mr. Smee who filed the joint rebuttal testimony with
14 the date of September 10, 2007?

15 A. (Smee) Yes, I am.

16 Q. Are there any changes or corrections to your testimony,
17 Mr. Smee?

18 A. (Smee) No, there are not.

19 Q. And, do you adopt this testimony as your own here
20 today?

21 A. (Smee) Yes.

22 MR. McHUGH: The witnesses are available
23 for cross-examination, Mr. Chairman.

24 CHAIRMAN GETZ: Thank you.

1 Mr. Ciandella.

2 MR. CIANDELLA: Thank you, Mr. Chairman,
3 Commissioners. Good morning. I have a few questions for
4 Mr. Smee and for Mr. Brown.

5 **CROSS-EXAMINATION**

6 BY MR. CIANDELLA:

7 Q. I'll start with Mr. Smee. In your rebuttal testimony,
8 at Pages 16 and 17, you propose a definition of
9 "governmental services", this is in connection with
10 reservation of space on the poles for municipalities.
11 You propose a definition of "governmental services"
12 which would define the uses to which a municipality
13 could put facilities attached to a pole in a reserved
14 space. And, I want to understand your testimony a
15 little bit more. You testified that a municipal
16 communications services should be "limited to a non-fee
17 purpose for inter-connecting government administrative
18 facilities, emergency management systems, and public
19 safety systems", correct?

20 A. (Smee) That is what it says, and that is correct, yes.

21 Q. All right. And, what I want to ask you is, to the
22 extent an emergency management plan adopted by a
23 municipality requires a municipality to have fiber
24 connections, two-way communication, to its government

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1 infrastructure, in a full sense, water supply, police,
2 fire. I take it that that would be within your
3 understanding of an appropriate emergency management
4 use?

5 A. (Smee) Yes, that's true.

6 Q. And, to the extent an emergency management plan
7 requires connections to schools, for evacuation
8 purposes, to get real-time information on capacity of a
9 gymnasium or something like that, that would be within
10 your definition as well?

11 A. (Smee) For the purposes for which you described, yes.

12 Q. Okay. And, to the extent the emergency management plan
13 requires connections to hospitals, to know availability
14 of beds, emergency services, drugs, in the event of
15 emergency, would that be within your definition as
16 well?

17 A. (Smee) For those purposes, yes.

18 Q. And, to the extent, and, again, this is within an
19 emergency management plan, to the extent the emergency
20 management plan requires connection to shelter
21 facilities, which could be private, a VFW hall, a
22 private school, a church, again, if it's designated in
23 the emergency management plan, would that be within
24 your definition?

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1 A. (Smee) For the purposes of the emergency management
2 plan, yes.

3 Q. Thank you. I just want to ask you just a couple of
4 very quick questions on the MOU with the Electrics,
5 just so -- just to wrap up a couple points. As I
6 understand the MOU, there will be a six-month
7 evaluation period, with a view toward matching the
8 electric response times within 24 months, is that
9 broadly correct?

10 A. (Smee) Broadly correct, yes.

11 Q. And, there's going to be a Joint Pole Coordinator, and
12 I take it that the Joint Pole Coordinator, both in the
13 initial stages and in subsequent stages, will be
14 interacting or soliciting the view of municipalities,
15 among other stakeholders, in the license administration
16 process?

17 A. (Smee) Yes, indeed. That is the intent.

18 Q. Thank you, Mr. Smee. Mr. Brown, you testified at Page
19 39 of your rebuttal testimony that "the Staff
20 recommendation of 95 percent broadband penetration
21 should not be borne entirely by FairPoint and imposed
22 on FairPoint as an obligation, but should be something
23 that's shared with other providers." That's correct?

24 A. (Brown) Yes, sir.

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1 Q. Would those other providers that you contemplate in
2 your testimony include public/private joint ventures,
3 where a municipality uses the authority that's been
4 granted by the New Hampshire Legislature to bond for
5 broadband infrastructure purposes?

6 A. (Brown) What our intention is is to work with the
7 municipalities and joint ventures, whether or not we
8 install the fiber or whether or not we use joint funds
9 to install the fiber. That was my intent.

10 Q. So, I take it that, again, if a municipality acting
11 lawfully, pursuant to New Hampshire law, bonding for
12 broadband infrastructure purposes, that FairPoint would
13 be open to -- that's among the other providers that
14 would bear that burden of 95 percent penetration for
15 broadband, correct?

16 A. (Brown) Correct.

17 Q. At Page 39 of your rebuttal testimony, you testified
18 that "FairPoint will support the fiber-to-the-home
19 deployment by Verizon" -- "the existing
20 fiber-to-the-home deployment by Verizon." For those
21 communities where Verizon has deployed, but the
22 deployment has reached only a portion of the
23 municipality, will FairPoint extend that fiber
24 deployment to the balance or remaining portions of

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1 those municipalities?

2 A. (Brown) We'll take a look at each one of the markets
3 individually, and see whether or not it makes a
4 financial sense for us to do that. But we do continue
5 to -- intend to continue to support the network
6 infrastructure that's now called "FiOS".

7 Q. What are the elements you'd be looking at in that
8 evaluation that you just talked about?

9 A. (Brown) We would look at the density of the market. We
10 would look at availability of being able to extend the
11 fiber in there in a cost-effective method. If it
12 requires all directional boring, which is a mechanism
13 of burying via boring underground, then that's more
14 costly. So, we would factor all those equations in.

15 Q. And, would those elements also be in play in a
16 circumstance where density, in a municipality where
17 Verizon has deployed on the poles, but not subsurface,
18 so, in an area where there is pole deployment, same
19 density, but there's underground utilities, say, on a
20 block or in a subdivision, what would be the type of
21 evaluation FairPoint would undertake to establish
22 whether it should go underground to that subdivision?

23 A. (Brown) We'd take a look at the density. We would take
24 a look at the number of customers. And, we'd look at

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the revenue that we would receive from that offering,
we would compare it against the CapEx, and make the
decision based off of those factors.

4 Q. And, based on the deployment of what you had earlier in
5 these proceedings talked about an "agnostic technology"
6 that FairPoint would deploy through, if, having gone
7 through that analysis, FairPoint decides that it will
8 not be extending fiber to, use my subdivision as an
9 example where there's underground facilities, what
10 would be the -- would FairPoint offer a broadband
11 product of any type to those areas in the municipality?

12 A. (Brown) Yes, we would continue to build our DSL
13 technology into those locations using the existing
14 copper facilities.

15 MR. CIANDELLA: Thank you very much.

16 Thank you.

17 CHAIRMAN GETZ: Thank you. Okay,
18 Mr. Mandl.

19 MR. MANDL: Thank you. Good morning.
20 Just a couple of brief questions for Mr. Smee.

21 BY MR. MANDL:

22 Q. If I could refer you to Pages 19 around 20 of your
23 rebuttal testimony.

24 A. (Smee) I'm there.

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- 1 Q. Starting at line 19, on Page 19, you indicate that
2 "FairPoint plans to develop a license administration
3 group." Could you explain for us the functions of the
4 license administration group that you're planning to
5 develop?
- 6 A. (Smee) Sure. There is a -- The license administration
7 group deals largely with pole attachment issues and
8 other related infrastructure needs. The group exists
9 today in Verizon, but outside the three-states area, so
10 we'll be developing it in the Northern states. They
11 will deal with the requests for attachment, it will
12 deal with the ongoing contracts having to do with the
13 attachments, all of the documents that are passed back
14 and forth between the telco and the attaching
15 companies. And, they will care for ensuring that
16 timely work is done in order for the attachers to be
17 able to make use of those utility pole services.
- 18 Q. Am I correct that FairPoint will be developing its own
19 license administration group from the ground up,
20 without any transfers of employees from Verizon's
21 existing Licenses Administration Group?
- 22 A. (Smee) That is correct. As I said, the existing
23 License Administration Group that cares for these --
24 New Hampshire and the other two Northern states,

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1 they're not within these three states. So, during post
2 close and during the Transition Services Period, that
3 existing License Administration Group will continue to
4 operate and support New Hampshire. During the period
5 between the close and cutover, we will be staffing and
6 training a license administration group here, here in
7 the Northern states.

8 Q. So, is it FairPoint's current plan to complete that
9 staffing and training of its license administration
10 group, prior to giving Verizon the irrevocable notice
11 of readiness to cut over?

12 A. (Smee) I don't know that I can say that with certainty,
13 that full completion of training will be done. But,
14 certainly, staffing and readiness will be done, because
15 of the time frame involved between the readiness to cut
16 and the actual cutover. So, readiness to cut in regard
17 to this particular function, which will be staffed by
18 about six administrative assistants and a couple of
19 specialists, "readiness to cut over" doesn't
20 necessarily mean that they are ready at that moment,
21 but that we have a path forward, that we can see the
22 progress they have made in staffing, training, and
23 capability, is such, at this moment in time, that
24 within X amount of time following, but prior to

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1 cutover, they will be capable of performing the
2 functions. So, I can't guarantee that they will be
3 fully trained and capable at time of readiness to cut
4 over, but, certainly, you would expect them to be well
5 on path in regard to that.

6 Q. To your knowledge, has the Company agreed to report to
7 a third party consultant or to the Commission regarding
8 the staffing and training of the license administration
9 group prior to cutover?

10 A. (Smee) To my knowledge, no.

11 Q. Have you had an opportunity to become familiar with
12 Verizon's aerial attachment agreements with attaching
13 entities, such as CLECs and cable operators?

14 A. (Smee) Only in a very minimal way so far.

15 Q. And, just to clarify, the license administration group
16 would also handle applications for conduit attachments?

17 A. (Smee) That is correct.

18 Q. You indicate at Page 20 that it's the Company's
19 intention to develop forms related to the pole and
20 conduit attachment process with minimal disruption to
21 outside users. I'd like to ask you, does FairPoint
22 intend to engage the cable industry in any type of
23 dialogue regarding the continued use of forms that
24 Verizon uses today and any changes in those forms that

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1 FairPoint may wish to implement?

2 A. (Smee) Absolutely.

3 Q. Is there a timetable for doing that, between closing
4 and cutover?

5 A. (Smee) There is not a timetable established at present,
6 but it will occur.

7 Q. Would it be reasonable, in your view, to continue with
8 Verizon's existing forms for some period of time after
9 cutover, to allow for the type of dialogue you describe
10 to occur?

11 A. (Smee) It would be reasonable to do so, if those forms
12 are, first of all, if we are able to legally continue
13 to use them. And, then, secondarily, if the forms are
14 compatible with the new systems that will be turning
15 after cutover.

16 Q. You're aware, are you not, that the license -- aerial
17 license agreements of Verizon contain a number of
18 Verizon forms as attachments to those license
19 agreements?

20 A. (Smee) Uh-huh.

21 Q. And that, if you were to make changes in those forms,
22 that would require amendments to the license
23 agreements?

24 A. (Smee) I did not know that. I'm not an attorney. But

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1 I will accede to your understanding.

2 Q. Is it your understanding that the New Hampshire
3 Legislature has recently enacted pole attachment
4 legislation that would confer jurisdiction over pole
5 attachment rates and terms upon the Commission?

6 A. (Smee) I did not know that.

7 MR. MANDL: I'll stop there. Thank you.

8 CHAIRMAN GETZ: Thank you.

9 MR. MANDL: Thank you.

10 CHAIRMAN GETZ: Mr. Rubin.

11 MR. RUBIN: And, thank you, Mr.
12 Chairman. Good morning, gentlemen. I think my questions
13 are all for Mr. Smee. And, if I could ask you to perhaps
14 raise your microphone a little? I'm having some trouble
15 hearing you.

16 WITNESS SMEE: Sure.

17 MR. RUBIN: Thank you.

18 BY MR. RUBIN:

19 Q. Well, first, am I correct, Mr. Smee, that, after
20 closing, you will be responsible for the regional, I
21 guess, call it a "customer service center", which
22 includes repair calls?

23 A. (Smee) That is correct.

24 Q. Can you explain briefly how a repair call gets from the

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1 customer to the service technician in the field?

2 A. (Smee) Do you mean today?

3 Q. Well, yes, we can start with today, if you're familiar
4 with it.

5 A. (Smee) And, you know, I should preface that by saying
6 it's not going to be significantly different in the
7 future, but the systems being used will be different in
8 the future.

9 Q. Yes, I --

10 A. (Smee) But, process-wise, it will largely be the same.
11 A telephone call will come in from a customer. A
12 customer service attendant will answer that call in the
13 repair service center. They will query the customer on
14 the problem. Do a small amount of troubleshooting with
15 the customer. And, if they're able to fix it or
16 resolve it on that initial phone call, that will
17 happen. A determination will be made through the
18 troubleshooting that that customer service attendant
19 performs, as to where the trouble should be routed to
20 next, if that is not fixed on the initial call. And,
21 if it is needed to go to an "Outside Plants Technician"
22 and "Installation/Maintenance/Splice Service Tech", by
23 title, a ticket would be dispatched through the
24 dispatch center, and then onto the appropriate

technician in the field to handle that ticket. Systems
along the way will care for that, it's true today, and
will in the future.

3 Q. Well, yes. Right, that was my next question. When you
4 say it will be, you know, routed to the dispatch
5 center, and then eventually to a -- I'll just call them
6 generally a "field technician", if that's all right?

7 A. (Smee) Sure. That's perfect.

8 Q. Is that all done through computer systems?

9 A. (Smee) Today it is, and it will be when we do our
10 cutover.

11 Q. All right. And, how will that function occur during
12 that -- I guess we've been calling it the "cutover
13 period", that roughly five-day period when the computer
14 systems aren't up and working yet?

15 A. (Smee) Right. And, it is going to require manual
16 intervention, involving telephone calls and faxes, and
17 extra people over and above our planned existing staff
18 for a short period of time, to be able to move those
19 trouble tickets back and forth smoothly and
20 expeditiously.

21 Q. Okay. Do the field technicians today, do they have
22 mobile computers that ties them into these systems?

23 A. (Smee) Some do, some don't. And, so, I guess that's

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1 it. It's as simple as that.

2 Q. Okay. And, I -- it sounds like those mobile computers
3 won't be functioning during that five-day cutover
4 period either?

5 A. (Smee) Well, let's -- that is generally the case.
6 There are sort of three different categories of
7 situations for the field technicians, as we understand
8 it. There are field technicians who have no mobile
9 hand-held device at all. There are those who have a
10 device that is a unique, specialized device. And,
11 there are those who have laptop computers. The two
12 devices that are being utilized are not wirelessly
13 connected. There is no broadband wireless connectivity
14 for those laptops. So, they will continue to operate
15 as test tools or whatever other function that they can
16 perform. But, in terms of any connectivity that would
17 be required to the systems, when the system's not
18 functioning, then the laptop or hand-held device would
19 not be capable of using that system.

20 Q. Okay. Do you know approximately how many repair calls
21 Verizon -- well, either Verizon receives today or how
22 many you're anticipating receiving, after you become
23 responsible, say, on a typical day in late May or early
24 June?

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1 A. (Smee) Take me a minute here to --

2 Q. Sure.

3 A. (Smee) You know, I'm doing the math, I'm not sure if
4 it's right, in my head, because of the number you're
5 asking me is not one that I have memorized. Let me
6 speak about that. We know that Verizon gets, in the
7 State of New Hampshire, two reports for every 100 lines
8 that are in service per month. We know how many lines
9 approximately, and I don't know that it's -- I have to
10 question here if line count in service is a
11 confidential number?

12 CHAIRMAN GETZ: Would this be better
13 handled through a record request rather than --

14 MR. RUBIN: Well, no, I'm actually very
15 interested in what Mr. Smee is taking us through, if it's
16 all right with you, Mr. Chairman.

17 BY MR. RUBIN:

18 Q. And, I would note that total line counts by state were
19 in FairPoint's S-4 filing with the Securities &
20 Exchange Commission. I don't think you can break it
21 down by residential and business and so on. But at
22 least the total lines in each state is a public number.

23 A. (Smee) Okay. Well, there's approximately half a
24 million lines in service here. I'll use that --

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1 there's approximately half a million lines in service
2 in the State of New Hampshire, and it is -- I use the
3 term advisedly, because the number, depending on which
4 lines you count, retail, wholesale, etcetera, and the
5 changing dynamics of the business, customers coming and
6 going. But, if you take two reports per hundred lines
7 in service, and per month, on 500,000 lines, if my
8 mental math is correct, that tells me 20,000 trouble
9 reports per month for the State of New Hampshire,
10 divided by -- I'm looking for verification from -- all
11 right. Okay.

12 Q. I'm sorry, I'm trying to follow with you and do the
13 same math in my head. Two percent of 500,000, --

14 A. (Smee) Let me do it.

15 Q. -- would be 10,000, I think?

16 A. (Smee) That's right. Thank you. Thank you for the
17 correction. So, 10,000 divided by number of calendar
18 days in the month or -- I'm sorry. I apologize --
19 10,000 trouble reports per month, divided by either 30
20 calendar days or 21 work days, depending on how you
21 would choose to do the math, in terms of the reporting,
22 will give you the number of reports per day.

23 Q. So, it sounds like, and that's just for the State of
24 New Hampshire, it sounds like you're in the

1 neighborhood of perhaps three or four hundred repair
2 calls or trouble calls per day?

3 A. (Smee) Yes.

4 Q. And, do you know how that number changes during, say, a
5 serious rainstorm or a very wet weather event that
6 might occur, again, late May/early June?

7 A. (Smee) Sure. It can double easily.

8 Q. Mr. Smee, are you familiar with -- this is something
9 that Mr. Smith testified about last week, I'm not sure
10 if you were here that day, that currently Verizon has a
11 -- I'll call it a "call center", in general terms, to
12 serve customers with disabilities and other special
13 needs. Are you generally familiar with that?

14 A. (Smee) Yes, I am.

15 Q. And, that they also have a call center that supports
16 customers who do not speak English?

17 A. (Smee) Yes.

18 Q. And, Mr. Smith indicated that those functions would be
19 provided by Verizon during -- well, under the
20 Transition Services Agreement, and then, after cutover,
21 it was up to FairPoint to create those functions and
22 staff them. Is that accurate?

23 A. (Smee) Uh-huh.

24 Q. And, I'm sorry, I'll let you finish drinking. I

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1 apologize. Can you tell us what FairPoint's plans are
2 to staff those functions after cutover?

3 A. (Smee) I can't speak with great specificity in regard
4 to either of those two topics, because it includes not
5 only the inbound repair center effort, but also the
6 larger call center organizations, which would take
7 customer calls for billing issues, payment issues, and
8 orders. And, the work is being led by the folks in
9 that organization, to determine, in -- particularly in
10 terms of the multilingual issue.

11 Q. All right. I hate to do this, but do you know if
12 that's something that Mr. Nixon would be more familiar
13 with? Or, if there's another FairPoint witness who's
14 coming up?

15 A. (Smee) I don't know that there is another FairPoint
16 witness coming up. And, this may require perhaps an
17 oral data request.

18 Q. All right. That's fine. Well, I think we'll just ask
19 Mr. Nixon. And, if he wants to suggest a data request,
20 that's fine.

21 A. (Smee) Yes.

22 MR. RUBIN: All right. Thank you.

23 That's all I have for this witness, Mr. Chairman.

24 CHAIRMAN GETZ: Thank you. Ms.

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1 Hatfield.

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

3 Good morning, gentlemen.

4 WITNESS BROWN: Good morning.

5 WITNESS SMEE: Good morning.

6 WITNESS HARRINGTON: Good morning.

7 BY MS. HATFIELD:

8 Q. Mr. Harrington, your position is "Vice President for
9 Network Engineering Services", is that correct?

10 A. (Harrington) That's correct.

11 Q. So, do you have responsibilities for all of the
12 FairPoint classic companies?

13 A. (Harrington) My responsibility is in regard to network
14 engineering initiatives, you know, primarily in the
15 central office and such plant arena and long-range
16 strategic planning in support of the network. Outside
17 plant engineering is handled by the local operating
18 groups, you know, throughout our footprint. Also have
19 a number of Tier 2 subject matter experts that report
20 directly to me that support the rest of the
21 organization.

22 Q. So, your duties, after the closing, would include
23 supervision of reports that will be focussed on the
24 Northern New England system?

- 1 A. (Harrington) The organization that will be supporting
2 the Northern states, primarily, like the network
3 operations center, a lot of the tier two functions that
4 my group has been supporting will be handled by
5 Mr. Smee's -- under Mr. Smee's leadership. Network
6 engineering will report to a different person in a
7 different group that will be situated up here.
- 8 Q. So, it sounds like you won't have duties related to
9 Northern New England after closing or at least after
10 the systems are in place?
- 11 A. (Harrington) My duties will be corporate-wide in
12 nature, primarily related to strategic network
13 planning.
- 14 Q. And, Mr. Brown, your position, I believe, is Vice
15 President of Access Network Engineering, and you're
16 based in Washington state, is that correct?
- 17 A. (Brown) That is correct.
- 18 Q. And, will your duties include supporting the Northern
19 New England states after the closing?
- 20 A. (Brown) They will.
- 21 Q. But you'll remain in Washington?
- 22 A. (Brown) At this time my intentions are to remain in
23 Washington.
- 24 Q. And, will you have direct reports to you that are

1 located in Northern New England?

2 A. (Brown) I will for the broadband initiative and
3 building that project. The day-to-day engineering
4 operations will be located in the Northern states, and
5 be under different supervision.

6 Q. And, Mr. Smee, you are Director of Operations based in
7 Portland, Maine, correct?

8 A. (Smee) That is correct.

9 Q. And, who do you report to?

10 A. (Smee) I'm sorry?

11 Q. Who do you report to?

12 A. (Smee) I report to Peter Nixon.

13 Q. And, your duties will focus only on the Northern New
14 England states, is that correct?

15 A. (Smee) That is correct.

16 Q. I'd like to ask you a few questions about the broadband
17 plan. My intention is to stay completely public. But,
18 if you do feel as though we're moving into confidential
19 information, please let me know. I'm wondering if one
20 of you, perhaps Mr. Brown, could define what FairPoint
21 intends when it uses the terms "DSL" and "broadband"?

22 A. (Brown) Struggling with understanding the question
23 perfectly. With "DSL", DSL is a technology that uses
24 the copper infrastructure to provide broadband to the

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1 customer. And, it has a data range that's associated
2 with it, on the high end being 25 megabits per second,
3 and, on the low end, pretty much goes down to 768
4 kilobit.

5 Q. So, when we see the term "broadband", should we think
6 of your definition of "DSL"?

7 A. (Brown) Not necessarily. Because the network that we
8 are building supports multiple different technologies.
9 It supports DSL. It also supports VDSL, too, which is
10 a newer, higher bandwidth technology, a little bit
11 shorter loop length distances. We also have the same
12 type of network, the same equipment supports
13 fiber-to-the-home in a couple of different flavors,
14 being a GPON technology, which is a passive optical
15 networking, and also a gigabit Ethernet or a Active
16 Ethernet solution as well. So, when we talk about
17 "broadband", we're looking at the entire network from
18 beginning to end. That last mile link has multiple
19 flavors of how you reach that customer.

20 Q. And, how you reach the customer and the speeds that
21 they get, is that driven by their distance from either
22 a central office or from a remote terminal?

23 A. (Brown) It is when you're dealing with a copper
24 technology, yes. It is distance limited, yes. When

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1 you're dealing with the fiber, it is distance limited
2 as well, but your distances go farther.

3 Q. On Page 32, going over to Page 33, in your rebuttal
4 testimony, you state that addressability means that a
5 wire center has the capability for DSL, but "does not
6 mean that every access line served by that wire center
7 can be immediately connected to provide DSL service."
8 And, there are a few places where you use the term
9 "addressability", and then you use "availability", and
10 then there's also a reference to something you call
11 "qualified lines". And, I'm wondering, can you just
12 explain to us if there are any differences between
13 those three terms, and, if so, what they are?

14 A. (Brown) There are some differences between
15 "addressability" and "qualified". The "qualified" is a
16 term that Verizon has been using. And, basically, what
17 it means is, that customer has already been
18 pre-qualified for being capable of getting that
19 service. And, their limitations are 18,000 feet. Any
20 customer beyond 18,000 feet is considered
21 "nonqualified". Our approach, when we did
22 "addressability", means that the equipment is in place
23 to be able to provide service to that customer. Now,
24 FairPoint does not stop at 18,000 feet. We also look

1 at other technologies to be able to extend that reach
2 out a little bit further. And, so, that's why we try
3 and -- we give an addressable number, and a qualified
4 number is something that Verizon uses that's been
5 pre-tested. We do plan to use other technologies to be
6 able to extend that reach out a little bit further than
7 18,000 feet.

8 Q. So, is it fair to say that "addressable" and
9 "available" are one in the same?

10 A. (Brown) In my definition of "available", it means that
11 the customer is -- can pick up the line, call customer
12 service, and get that service. And, so, whenever we do
13 the final engineering on a project, we will actually
14 provide the available customers that can get that
15 service.

16 Q. On Page 28 of your joint rebuttal testimony, Mr. Brown,
17 you discuss what the broadband plan includes. And, I
18 would direct you to Lines 5 through 11. And, you state
19 that "FairPoint proposes to increase the percentage of
20 broadband qualified lines in the State of New Hampshire
21 to approximately 71 percent within 24 months of the
22 closing of the merger." So, under that proposal, that
23 would mean that, by February 2010, 71 percent of lines
24 in New Hampshire will be broadband available?

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2 A. (Brown) That would be correct. And, if I could follow
3 up on that somewhat. That would be on what we would
4 call the low end of the spectrum. That is, using the
5 18,000-foot as a cut-off point would be 71 percent. We
6 do intend to use other technologies, including the
7 Smartcoil technology, which is a loop extender type
8 service, and also other services, like an Adreniline,
9 which is a doubler technology, to be able to reach
10 further out. So, 71 percent would be the absolute
11 minimum number of customers that we would be able to
call "available".

12 On the upper end of that spectrum would
13 be closer to 82 percent. And, so, our intention is, we
14 will fall somewhere in between there. As we get down
15 to final engineering, we'll be able to determine that
16 number. So, there is a low end and a high end.

17 Q. And, is FairPoint willing to make that proposal a
18 condition of approval of this transaction?

19 A. (Brown) I hate to do this, but I'm going to have to
20 defer that one to Mr. Nixon.

21 Q. And, do you know, Mr. Brown, is FairPoint proposing any
22 consequences if it fails to meet that 71 percent
23 benchmark that you're setting forth in your testimony?

24 A. (Brown) To my knowledge, we have not.

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1 Q. And, do you know if FairPoint would be willing to do
2 so?

3 A. (Brown) I would defer that one to Mr. Nixon.

4 Q. And, is there any chance or any likelihood that you
5 wouldn't be able to meet that 71 percent rate within 24
6 months, if you ran into some problems that at this
7 point you aren't expecting?

8 A. (Brown) We've tried to take into consideration every
9 possibility that we could run into. We have been able
10 to do a lot more due diligence since the initial time
11 that I was in here testifying. I'd say there is a very
12 low probability that would take place. However, this
13 is -- you're in an engineering world, you're in the
14 real world, there's always things that can happen to a
15 project that cause risk to it. But my confidence level
16 being able to reach that in 24 months is extremely
17 high.

18 Q. On Page 28, and you go onto Page 29, you discuss the
19 different phases of the broadband planned build-out.
20 And, I'm wondering, you also talk about reaching
21 83 percent at a later point. And, I'm wondering if you
22 can just clarify what percentages you're planning to
23 reach under each phase, and also when -- how many
24 months out you would reach that 83 percent?

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1 A. (Brown) Okay. Phase I is there will be no additional
2 customers added on, that's when we build what we call
3 the "core network". And, our intention is to build --
4 kind of build an overlay network on top of what is
5 already there today. And, the reason is, we want to
6 build a network that is a future-looking network, and
7 so we're building this IP/MPLS network, and those are
8 kind of technical. But basically what it means is,
9 most of the data that goes across the Internet today is
10 in IP packets. And, so, what we're doing is we're
11 building a network that extends that Internet further
12 out into the edge network. And, so, Phase I strictly
13 builds the core network and gets that in place to be
14 able to handle the traffic that we're going to put on
15 the network. And, so, no customers will be added in,
16 as far as new customers, in Phase I.

17 Phase II, we will begin to add equipment
18 into the central office locations. And, there's a
19 couple of different things that happen here. There's
20 22 central offices that today do not have any broadband
21 capacity at all. Those offices will be
22 broadband-enabled in Phase II, and so there will be
23 customers that will be added in, somewhere around --
24 well, that gets into confidential numbers, so -- but

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1 there is some that will be added in at that point in
2 time. In addition to that, there will be transport
3 facilities put in place to be able to provide service
4 to the digital loop carriers that hang off of these
5 central offices. And, that moves into Phase III.

6 Phase III is where we actually do the
7 digital loop carriers, which are these small boxes that
8 you see out in the field that push the electronics
9 further into the network and closer to the customer.
10 That is where the majority of the customers will be
11 added onto the network.

12 Q. And, would it be at the end of Phase III that you would
13 reach the 83 percent that you're planning?

14 A. (Brown) That would be correct.

15 Q. And, how many months from closing would that happen?

16 A. (Brown) Our target is 24 months.

17 Q. I thought earlier we had said that you were planning to
18 reach 71 percent within 24 months, is that not correct?

19 A. (Brown) Well, once again, it's the book end approach.
20 It will be 71 percent up to the 82 to 83 percent. It
21 will be somewhere in between that number that will
22 actually be qualified at that time. And, whenever we
23 do the final engineering on each one of these work
24 orders, we will look at every possibility to be able to

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1 provide service to every customer out there. We do
2 believe there will be a small percentage that will be
3 longer loop lengths than we'll be able to provide in
4 this initial phase.

5 Q. Mr. Brown, does FairPoint currently offer IPTV anywhere
6 across the FairPoint classic system?

7 A. (Brown) Yes, we do.

8 Q. And, where is that?

9 A. (Brown) Yelm, Washington, and also in the cities of
10 Carney, Missouri and also Platt City, Missouri.

11 Q. And, do you know how many -- roughly, how many access
12 lines FairPoint serves in those cities?

13 A. (Brown) In Yelm, Washington, it's 13,000 access lines.
14 And, in Carney/Platt City combined, it's around 3,600
15 access lines.

16 Q. And, do all of those customers have access to the IPTV?

17 A. (Brown) No. There are some customers that do not
18 qualify due to loop length considerations. It's a very
19 small percentage in the Yelm area, but there are some.

20 Q. And, would you happen to know what the take rate is
21 roughly of the people who do have access to it?

22 A. (Brown) I do not have those numbers.

23 Q. Last week, Mr. Leach testified that, ultimately, it is
24 FairPoint's goal to reach all of its customers with

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1 some form of broadband access, whether through DSL or
2 some other technology. Is that your understanding that
3 that's the company's long-term goal?

4 A. (Brown) Yes, it is.

5 Q. When would you develop a plan to try to reach all of
6 your customers?

7 A. (Brown) I would probably say within the first 12 to 18
8 months after running the Company, we would have access
9 to all the records necessary to develop that plan.

10 Q. On Page 40 of your rebuttal, you state that your plan
11 is to "mirror the current Verizon prices". Can you
12 explain what you mean by "mirror" pricing?

13 A. (Brown) Well, my goal was, and I must confess I do not
14 deal with pricing, I only deal with network builds.
15 And, what my goal was was to make sure that the network
16 was built to support the existing packages that are
17 offered with Verizon today, and also have the ability
18 to go further in additional network -- or, packages as
19 well. But the initial push and the initial objective
20 was to mirror those that are offered today.

21 Q. And, by "mirror", do you mean "offer the same pricing
22 as Verizon"?

23 A. (Brown) By "mirror", I'm dealing with the engineering
24 side of it. So, I'm only looking at the network

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1 capacity and the capacity to offer the 1.5 and 768 and
2 the 3 megabit service packages to the customers. On
3 pricing, I do not deal with pricing.

4 Q. And, do you know who would be the best witness to talk
5 about pricing?

6 A. (Brown) I'm going to have to defer to Mr. Nixon on that
7 one.

8 Q. On Page 43, Lines 15 through 18, you state that
9 existing Verizon personnel will need to be retrained in
10 order to implement the FairPoint broadband plan. And,
11 I believe you estimate that three weeks of training
12 will be needed, is that correct?

13 A. (Brown) That is correct.

14 Q. And, when do you plan to have that training start?

15 A. (Brown) Well, actually, we'll begin some of the
16 training before close on this particular project, and
17 that's because we want to be very aggressive in our
18 rolling out this particular project. And, so,
19 therefore, I will need to do some of the training of
20 some of the techs that we will hire beforehand. And,
21 we will get them trained. And, then, our intention is
22 for them to begin to start the installation. And,
23 then, we will train the existing forces. There's a lot
24 of training that's going to be taking place with them

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1 during this time period. So, our intention is to train
2 the existing forces post cutover.

3 Q. And, is the cost of that training built into the
4 broadband plan?

5 A. (Brown) Yes, ma'am, it is.

6 Q. And, on Page 47, Line 7 through 10, you estimate that
7 around three crews of two people will be required to be
8 able to do the installation work. And, by my math,
9 that is six people. And, I'm wondering, is that
10 sufficient manpower to build out your broadband plan?

11 A. (Brown) We believe it is, yes.

12 Q. And, is that why it's estimated to take 24 months?

13 A. (Brown) That's correct.

14 Q. Do you think, if you put more people on that job, that
15 you could do it more quickly?

16 A. (Brown) I really don't, because it's a matter of
17 expanding the network. You have to build a core
18 network, and then you have to get the rest of the
19 equipment in place. And, so, you've got to be able to
20 build it, you've got to be able to test it. And,
21 there's also some fiber splicing that has to take place
22 to be able to make sure that your fiber availability is
23 there. This timeline that we've got is realistic. The
24 manpower that we have is realistic. To try and

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1 accelerate that by throwing manpower at it, I just
2 don't think that it would be able to accomplish that.

3 Q. And, I want to refer you to a confidential document,
4 and I don't plan to ask you any specific questions
5 about any of the numbers, but it is Exhibit BHS-1. So,
6 it's the exhibit to your rebuttal testimony. And, this
7 is the latest update of the budget for the broadband
8 plan. And, my question to you is, will you be
9 continuing to update that as we get closer to close,
10 and even post close?

11 A. (Brown) We will continue to refine the project as we
12 go, because it's -- we've been coming from a high
13 level, whenever we first testified here, I mentioned
14 that we were at the 30,000-foot view, and we're
15 continuing to drop that view on down. We have been
16 through a request for proposal process. We have gotten
17 the vendor information back in. And, so, we are
18 continuing to refine the plan. And, as we get to each
19 one of the individual work orders, we'll also update,
20 for example, if we have said in our proposal that we
21 will be able to provide service to 173 customers, and
22 we've had some customers leave, we will provide updated
23 numbers, say it's 169, or whatever the number actually
24 is at that time, or, if it's increased, we will provide

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1 those numbers. So, it will be through a constant
2 working process to continue to refine those numbers.

3 Q. And, when you talk about refining them and continuing
4 to provide them, is it your intention to provide those
5 to the Staff of the Commission and to the interested
6 parties in this docket?

7 A. (Brown) I will be providing reporting on the process of
8 this project throughout the project. And, I will be
9 providing those to Mr. Nixon. I will have to defer to
10 him whether or not he provides them outside of that.

11 Q. On Page 38, Lines 16 through 21, you're discussing the
12 fact that you're not planning to build fiber to the
13 premises. And, you discuss -- I think what you're
14 referring to are what's been called "Greenfield"
15 developments earlier in these proceedings. And, I
16 think you're saying that it's easier to build out fiber
17 to "Greenfield" developments, which I think are newer
18 residential and commercial developments, is that
19 correct?

20 A. (Brown) That is correct.

21 Q. And, it's more difficult to try to bring fiber to a
22 retrofit or a "Brownfield" development, is that your
23 understanding?

24 A. (Brown) That is my understanding. But, by the same

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1 token, we also want to make sure that the offerings or
2 what the customer is requesting requires that a
3 fiber-to-the-prem be built as well. Because, if it's
4 existing Internet-only connection or something like
5 that can be handled through the capacity of the
6 existing copper structure, then it makes a lot of sense
7 to continue to use that copper.

8 Q. You also state in that same section that FairPoint has
9 no large scale plan to increase fiber-to-the-home in
10 New Hampshire due to economics, especially in the rural
11 areas. Can you just explain that for us?

12 A. (Brown) Well, our intention is to -- we have no plans
13 at this time to do a wholesale fiber-to-the-prem. But,
14 once again, I will go back to, in a "Greenfield"
15 application, if there is a new business complex, if
16 there is a new subdivision that's put in, and there's
17 an MSAN unit that's very close to this -- an MSAN, a
18 Multiple Service Access Node, my apologies, in that
19 case, we will look into offering fiber-to-the-prem at
20 that location. And, we've done that in every location
21 that we've done this type of network design. We are
22 doing fiber-to-the-home in all new subdivisions and all
23 new business complexes.

24 Q. And, that's currently in the broadband plan as it

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1 stands now?

2 A. (Brown) The broadband plan has the network and the
3 equipment that is capable of supporting that. Each one
4 of those offerings, let's say there's a new subdivision
5 that comes into a certain location where there's a
6 digital loop carrier there that has one of the MSAN or
7 Multiple Service Access Nodes there. Then, we will
8 look at that time the blade and the cabling that's
9 necessary would be a work order off the existing CapEx
10 budget that would do that. So, the network is there in
11 our broadband plan, but the individual work orders
12 building out to those customers would be individual at
13 a later date.

14 Q. And, I have a follow-up question that was asked last
15 week of Mr. Skrivan, and I'm not sure you're the right
16 witness, but I'll try it with you. Mr. Skrivan was
17 asked regarding how much of the broadband plan
18 investment would support basic service, and therefore
19 could be booked as intrastate assets. Can you help us
20 with that question?

21 A. (Brown) I can't give exact numbers. I've been working
22 with Mr. Skrivan to get that finalized. I will be able
23 to say this, though, that the network that we're
24 building is capable of supporting voice, data and video

1 services. So, whereas the initial push is strictly for
2 broadband purposes, the network does have the
3 capability of supporting all three services.

4 Q. If you and Mr. Skrivan are working on those details,
5 I'd like to make a record request to provide the amount
6 of the proposed broadband plan budget that will support
7 basic service.

8 MR. McHUGH: I thought we had that as a
9 record request, is what I understood the record request to
10 be last week?

11 CHAIRMAN GETZ: Previously with Mr.
12 Skrivan, you mean?

13 MR. McHUGH: Yes.

14 CHAIRMAN GETZ: Well, let's verify that.
15 And, if it's an issue, we can raise it after the break.

16 MS. HATFIELD: Thank you.

17 BY MS. HATFIELD:

18 Q. Mr. Brown, do you think that there's any technical or
19 engineering reason why Verizon could not build out the
20 broadband plan that FairPoint has proposed?

21 A. (Brown) There is no technical reason, no. With the
22 exception, I will say, that their systems integration
23 that they have makes it a little bit more challenging
24 to be able to do this.

1 Q. Does that make it more expensive?

2 A. (Brown) I would have to defer that to Verizon, because
3 I really don't know. I do not know the cost of their
4 systems.

5 Q. So, when you say "more challenging", you mean from a
6 technical or engineering perspective?

7 A. (Brown) I would say from a operations perspective.

8 From a engineering perspective, as far as what we are
9 doing and everything, there is no technical reason they
10 could not do that. I do not know their systems
11 integration well enough to know whether or not it would
12 be able to work with their existing systems.

13 Q. Thank you. On Page 15 of his prefiled direct
14 testimony, Mr. Harrington refers to FairPoint's
15 willingness to work with the Commission to address
16 existing service quality problems, is that correct?

17 A. (Harrington) Could you point out where this was in my
18 testimony again please?

19 Q. Sure. It was in your prefiled direct testimony, on
20 Page 15, lines 8 through 14.

21 A. (Harrington) Okay, I've located it. And, what was your
22 question?

23 MS. HATFIELD: Excuse me for just a
24 moment.

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1 BY MS. HATFIELD:

2 Q. In one of Mr. Nixon's responses to a data request, OCA
3 2-26, which is OCA Exhibit 93P, Mr. Nixon states also
4 that "FairPoint is willing to work with Staff and the
5 parties to identify service quality issues and to
6 establish metrics that FairPoint will achieve, as well
7 as reporting procedures by which FairPoint's
8 performance can be monitored." And, my question is,
9 Mr. Harrington, would you be the person working with
10 Mr. Nixon and with the parties in New Hampshire on that
11 or would someone else be charged with that?

12 A. (Harrington) Mr. Smee has done a lot more investigation
13 on this since that testimony, so I'd like to defer to
14 him.

15 Q. Okay.

16 A. (Smee) I'm not quite sure how to answer the question,
17 because there's a couple of paths I see. In terms of
18 any discussions regarding the existing metrics in the
19 State of New Hampshire, to which Verizon is currently
20 held accountable, and which FairPoint has agreed to
21 become accountable, there is -- we have no dispute with
22 those metrics. We have said, clearly, that we will
23 work to achieve the target levels in those existing
24 metrics. So, in terms of -- in terms of working with

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1 the Commission for discussion of alternative forms of
2 metrics, I don't know that we've actually gone down
3 that path, in fact, I think we've actually stated we
4 wouldn't even consider going down that path for several
5 years.

6 Q. And, if you could direct your attention to OCA
7 Exhibit 100P.

8 A. (Smee) I have it.

9 Q. And, this is a page from the Maine Public Utilities
10 Commission website. And, it's for Verizon Maine. But
11 it's an example of what the public can access for each
12 company in Maine. And, my question is, would FairPoint
13 be willing to work with the Staff and other parties in
14 New Hampshire to develop a tool such as this for
15 customers to be able to access in New Hampshire?

16 A. (Smee) Well, I think it's my understanding there is a
17 prohibition against sharing -- an existing prohibition
18 against public disclosure of metrics in the State of
19 New Hampshire right now.

20 Q. But my question is, would FairPoint be willing to work
21 with the parties and Staff to address that issue, so
22 that the public could have more access to information
23 on service quality?

24 A. (Smee) I would have to say, I don't see any immediate

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1 reason why we wouldn't be willing to discuss that
2 prohibition and the potential agreement we have.

3 Q. And, on Page 13 in the rebuttal testimony, on Lines 12
4 to 13, you discuss the estimated cost of work required
5 to address existing service quality problems. And, you
6 actually provide a figure that's confidential, so I'm
7 not going to read it. But, in Exhibit OCA 108C, which
8 is your response to OCA Data Request R-53 you do
9 provide an amount. Am I correct in understanding that
10 those amounts are costs for remediation work related to
11 service quality, and that those are not costs included
12 in the broadband plan?

13 A. (Smee) That is correct.

14 Q. So, that would be what we referred to as "CapEx" in
15 addition to the broadband plan?

16 A. (Smee) Yes.

17 Q. So, those amounts would be included in the Company's
18 overall modeling and budgeting for the transaction?

19 A. (Smee) That is correct.

20 Q. And, what happens if you underestimated that amount,
21 where would additional funds come from?

22 A. (Smee) If we've underestimated the amount for the
23 remediation necessary to bring the report rates into
24 line with the target metrics?

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1 Q. Yes.

2 A. (Smee) We'd need to assess what our capital plan was at
3 the time we determined that we were in shortfall to
4 achieve the remediation efforts. And, we would
5 determine, within the balance of the entire business,
6 where the funding would come from to do that.

7 Q. If you could turn to OCA Exhibit 109P. This is your
8 response to OCA Data Request R-54.

9 A. (Smee) Uh-huh. I have it.

10 Q. And, if you could turn to the second page of that
11 exhibit, to letter (d), the paragraph at (d).

12 A. (Smee) Uh-huh.

13 Q. If you could just read paragraph (d) into the record
14 for me.

15 A. (Smee) Certainly. "FairPoint agrees to be measured
16 against the statewide and wire center metrics which
17 exist today in New Hampshire. We only sought
18 forbearance of the imposition of the financial
19 penalties. The SQI metrics target levels remain the
20 same, and we will be working to achieve full on-target
21 performance with progress coming in phases over the 2
22 years post cutover."

23 Q. Can you explain what you mean by "forbearance of the
24 imposition of the financial penalties"?

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1 A. (Smee) I need to read the question. I do believe this
2 answer references, unfortunately, I believe this answer
3 references a situation in the State of Maine, and the
4 text was incorrectly inserted in here.

5 Q. So that, in New Hampshire --

6 A. (Smee) There are, at present, there are no financial
7 penalties in the State of New Hampshire for service
8 quality metrics.

9 Q. And, at the end of the paragraph that you just read,
10 you talk about "working to achieve full on-target
11 performance with progress coming in phases over the 2
12 years post cutover." And, can you talk about the
13 phasing approach and how you would plan to achieve
14 those service quality standards within two years?

15 A. (Smee) Sure. For the most part, the service quality
16 metrics here in the State of New Hampshire are being
17 met by Verizon today. And, the two that are most
18 problematic are, in a sense, are the "out of service
19 over 24/cleared within 24 hours" and then individual
20 wire center report rates running significantly above
21 the target of two. Taking a joint approach to both of
22 those issues, that primarily what we're going to do is,
23 we'll be bringing additional folks on board, splice
24 service technicians, building a proactive maintenance

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1 group, utilizing the new employees and existing
2 employees, and that proactive maintenance group will
3 care for routine maintenance work on the outside plant
4 infrastructure, which will prevent troubles from
5 occurring. They will also be charged with the project
6 type goal of reducing the network -- or, the customer
7 trouble report rate in the targeted wire centers where
8 the numbers are significantly higher than they have
9 been. That targeted project approach to those wire
10 centers that are significantly higher will include
11 identifying specific problem areas within the outside
12 plant in those wire centers for remediation, which
13 might mean a replacement of a remote terminal battery
14 string. It might mean closing a closure that had not
15 been properly closed and weather was impacting service
16 there. It might mean replacement of some spans of old
17 cable that are defective. And, all of that effort
18 takes time. So, there are, in our first year, we
19 anticipate going after about 16 of these wire centers.
20 The smaller ones total about 36,000 lines or so in
21 those 16 wire centers. And, we will begin work and
22 we will focus the effort on these 16 wire centers.
23 But, in terms of your question about the
24 phased effort, it will take time to get the work done

1 in each of these 16 wire centers. We expect we can do
2 those 16 in the first year. There's another dozen or
3 so that we look to do in the second year. And, you
4 know, over those two years post cutover, we expect that
5 those wire centers that are running in what is
6 described I believe as the "surveillance level"
7 routinely, it will no longer be doing that. As a
8 result, there will be fewer troubles for customers.
9 They will have better service. And, the technician
10 force that deals with the troubles that do come in will
11 be more readily available to get them fixed in a timely
12 fashion.

13 Q. So, under this phased approach, if cutover happens as
14 scheduled on May 30th, 2008, that would mean that the
15 earliest that the Company would be in compliance with
16 all of the service quality standards would be May 30th
17 of 2010, is that correct?

18 A. (Smee) That's two years later, correct.

19 Q. And, if you would look back again at OCA Exhibit 109P,
20 if you could read your response to paragraph (e)
21 please.

22 A. (Smee) "E" as in "Edward"?

23 Q. Yes.

24 A. (Smee) Thank you. "FairPoint will not challenge the

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1 existing PUC-established quality of service standards
2 before 6 months following the date by which FairPoint
3 is required to meet the wire center level objectives."

4 Q. And, the date that you're proposing that FairPoint be
5 required to meet the wire center level objectives,
6 that's the date you just discussed of "May 30th, 2010"?

7 A. (Smee) That is correct.

8 Q. Okay. So, what you're committing to in subparagraph
9 (e) is that you will not challenge those standards for
10 at least six months after you're proposing when they
11 would apply?

12 A. (Smee) That is correct. And, in response to the
13 question "would you be willing to commit to" -- "pick a
14 date when you would be willing to commit to not
15 challenging those standards."

16 Q. And, the maximum allowed time that you're willing to
17 commit is six months?

18 A. (Smee) Six months past that two year period.

19 Q. If you could turn to OCA Exhibit 92P. That's actually
20 Mr. Nixon's response to OCA 2-25. I believe it was
21 filed before you had joined the Company. So, I'd like
22 to give you an opportunity to talk about this with us.
23 If you could read the last paragraph of the reply
24 please.

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1 A. (Smee) "FairPoint is committed to meeting the service
2 level obligations required by regulatory agencies and
3 the contractual obligations required under contracts
4 that will be assigned to them or negotiated by them.

5 If the current quality of service by Verizon does not
6 meet such service level obligations, it would not be
7 deemed acceptable."

8 Q. And, I think you just talked with us about at least two
9 of the standards that Verizon is not meeting, is that
10 correct?

11 A. (Smee) I did, yes.

12 Q. The "out service over 24 hours" and the individual wire
13 centers that have significant issues?

14 A. (Smee) That is correct.

15 Q. And, it sounds like it's FairPoint's plan to
16 immediately begin addressing those issues?

17 A. (Smee) That is correct also.

18 Q. Mr. Smee, I wanted to turn to the issue of staffing
19 with you briefly. And, if you look at Page 10 of the
20 rebuttal testimony, in your answer beginning on Line
21 13, you're discussing how you will address some of
22 these service quality issues.

23 A. (Smee) Uh-huh.

24 Q. And, you state that you will ensure the retention of

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1 adequate technician staff to handle the volume of
2 trouble reports and installation requirements. And, my
3 question is, how is FairPoint working with Verizon to
4 ensure that adequate technician staff remain with the
5 Company after close?

6 A. (Smee) Well, as it stands today, Verizon continues to
7 operate the business, and operate the business in the
8 normal course, I think is the term we've used a lot.
9 They are maintaining the staff they have today. We do
10 see routine regular reports in regard to the head count
11 that exists here in New Hampshire and the other three
12 [two?] northern states and by job function. And, we
13 have seen that it is effectively maintaining that
14 number. There is -- you know, month over month, when
15 you're talking about, in the State of New Hampshire, a
16 thousand employees or more, there are some variations
17 in that number, but it has not been a significant
18 change. We are aware that there are potentials for
19 retirements to take place. And, we are aware of the
20 percentage of union members in particular who are
21 pension-eligible. And, we are working to understand
22 what we need to do to fill any holes that occur if
23 there is a significant drop in employment or head count
24 at Verizon as we get closer to close.

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1 Q. And, in addition to the issue of head count, are you
2 also working with Verizon in reviewing reports that
3 they are providing that show you detail on the
4 background and the experience and the skill level of
5 people that are filling positions?

6 A. (Smee) Some of that information is coming to us. We
7 certainly understand the experience level of the
8 employees and the years of service that they have with
9 Verizon. That is a specific number that we get each --
10 as part of the information that we get routinely from
11 Verizon. So, I suppose the answer is "yes".

12 Q. So, you're looking at both the skills and the
13 experience, in terms of number of years of service of
14 people that are filling positions, is that what you
15 stated?

16 A. (Smee) Well, we do not have access to -- Verizon is --
17 We don't have access to information on, when a new
18 person is hired by Verizon today or yesterday, where
19 that individual came from. And, therefore, we are not
20 given access to it, and we don't believe it's necessary
21 to understand where -- what the skill set is of a new
22 employee. Is that --

23 Q. So, if a new employee is hired that replaces someone
24 with extensive experience in a particular technical

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1 job, you don't at this time, it sounds like, know the
2 skill level of the new hire, and it sounds like you
3 won't find out until after close, is that correct?

4 A. (Smee) That's generally true, yes. And, here is what I
5 think I can say about the staff at Verizon, from what
6 we see. Particularly, in terms of the technician
7 workforce, I don't think there are any technicians in
8 the State of New Hampshire who have fewer than six or
9 seven years' worth of service with the Company right
10 now. So, in terms of people being hired directly off
11 the street, untrained, I don't think we're seeing that
12 at all.

13 Q. And, your statement that they "have six or seven years
14 experience", is that drawn from a Verizon report that
15 they're providing to you?

16 A. (Smee) Yes, it is.

17 Q. And, would you happen to know, could you direct me to
18 that report? Was it provided in discovery, do you
19 know?

20 A. (Smee) I do not know that.

21 MS. HATFIELD: Mr. Chairman, I'd like to
22 just reserve a record request, if it's needed, but I could
23 also speak with the Company and speak with Mr. Smee,
24 during a break, to see if we have received that

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1 information. I don't want to ask for something that we
2 have already received.

3 CHAIRMAN GETZ: Yes, let's handle that
4 during a break then.

5 MS. HATFIELD: Thank you.

6 BY MS. HATFIELD:

7 Q. Mr. Smee, on Page 13, Lines 4 through 6, you state that
8 "FairPoint is working to identify the garage locations
9 serving the wire centers in need, where additional
10 technicians would be best placed to effect this
11 effort." And there, are you referring to those wire
12 centers that you discussed previously that require
13 service quality related investments immediately?

14 A. (Smee) Yes, it's a combination of two things. It's the
15 garages that serve those wire centers and the garages
16 that serve the wire centers where the "out of service
17 over 24 hour" is most out of line.

18 Q. And, you state there that you're "working to identify
19 those locations". Is that work still underway?

20 A. (Smee) It's essentially done right now. We know which
21 garages. I do not have them memorized, so I can't tell
22 you right now. I could provide them if you wanted.
23 However, I would add that, between now and close, just
24 as we've said with the wire centers that we're going to

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1 target, you know, and we gave a specific list of wire
2 centers that we're going to target first, we've stated
3 that conditions in the network and conditions -- and
4 the service quality levels in the network can change
5 between now and close, which would alter where we would
6 place our efforts. Which would then alter where we
7 would look to hire those additional employees. So, if
8 conditions worsened somewhere, we might move the wire
9 center and/or garage higher up on the list. And, if
10 conditions improved, because Verizon continues to do
11 work to improve their network and put new plant in
12 place, adding at a wire center that today looks like it
13 is not achieving target, and jobs are completed by
14 Verizon between now and close that make that wire
15 center on target, then we don't need to add a person
16 there. So, the answer is, the work is effectively done
17 for now, but it's an ongoing view of what we will be --
18 where we will be looking to add those people.

19 Q. And, as part of your job, do you also have to develop a
20 budget for making the changes that are needed to
21 address service quality issues?

22 A. (Smee) I have not been asked to create a budget at a
23 real fine-line budget level yet.

24 Q. But, if you -- if, after close, you realize that the

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1 problems are worse than you had expected, how will you
2 address any budgetary changes that are needed?

3 A. (Smee) If it turns out that the estimations that we've
4 made in terms of cost for the remediation effort are
5 inadequate for any particular wire center, we will
6 discuss what is necessary, what it's impact is, we'll
7 create a picture and a plan for what the cost is for
8 that remediation effort. We will discuss what impact
9 that has on other necessary functions of the business
10 and other plans for the spending in the business, and
11 we'll make a determination as to how we would
12 reallocate funds to care for what we need to care for.

13 MS. HATFIELD: Mr. Chairman, I have
14 several confidential questions with respect to due
15 diligence and staffing. And, I think I can ask one of
16 them publicly, so I'll go ahead and do that now. But I
17 wanted to let you know I do have confidential questions.

18 CHAIRMAN GETZ: Well, let me ask this.
19 And, is that then the end of this segment of your
20 questions?

21 MS. HATFIELD: I just have one more
22 public, and then I would need to go into confidential.

23 CHAIRMAN GETZ: Okay. And,
24 Ms. Fabrizio, you have some cross-examination?

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1 MS. FABRIZIO: Probably about 45
2 minutes.

3 CHAIRMAN GETZ: Okay. For scheduling
4 purposes, it's 10:30 now, I was anticipating taking the
5 morning recess at 11:00, coming back around 11:30, then
6 going from 11:30 to 1:30. I have to be on a conference
7 call at 1:30, so we'll take the lunch recess from 1:30 to
8 2:30, and then come back for the afternoon session. So,
9 maybe what we do then is, Ms. Hatfield, finish up with
10 your public questions, go to Ms. Fabrizio, and then, when
11 we return -- do you have any confidential questions?

12 MS. FABRIZIO: I have one or two that
13 may require confidential treatment.

14 CHAIRMAN GETZ: Okay. We'll deal with
15 it as a block then, after we come back from the morning
16 recess. So, Ms. Hatfield.

17 MS. HATFIELD: Thank you.

18 BY MS. HATFIELD:

19 Q. Mr. Brown, if you could turn to OCA Exhibit 105P.

20 A. (Brown) I'm there.

21 Q. And, that is your response to OCA R-50, and it's
22 discussing some of the due diligence that the Company
23 undertook. And, if you look at your response on the
24 second page, under paragraph (c), you discuss the

1 locations that FairPoint selected to do due diligence
2 on the outside plant. Can you just discuss the
3 locations that you did choose and why you chose them?

4 A. (Brown) I have to clarify, I myself was not involved in
5 this. So, I obtained this information from other
6 parties. But, basically, what we wanted to do was we
7 wanted to look at a cross-section of the towns that we
8 were dealing with. We wanted to deal with the larger
9 towns, and we wanted to get all the way down to the
10 smaller towns. And, so, we chose Concord, because of
11 the size of it, and we went all the way down to
12 Newmarket, because it was a smaller town. That way we
13 were able to take a look at the larger cable
14 cross-sections, we were able to look at the more
15 distributed rural markets as well.

16 Q. So, Newmarket was the most rural town that you looked
17 at?

18 A. (Brown) That is correct.

19 Q. Then, in the next paragraph under (c), you talk about
20 additional towns where you state that you've performed
21 a "visual inspection"?

22 A. (Brown) That's correct.

23 Q. Can you tell us the difference between a "visual
24 inspection" of those eight towns, many of which seem to

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1 be in the North Country, versus the review that you did
2 of the other towns you listed previously?

3 A. (Brown) The inspections were pretty much the same. In
4 these areas, they may have gone out a lot more of the
5 rural routes, in addition to taking the major routes
6 through town. The additional towns that I've looked
7 at, it was, whenever I was driving through the area,
8 and I did take a few side trips on some side roads as
9 far as -- and I also stayed on the main routes. It's
10 my nature, being in this industry for 28 years,
11 whenever I ride down the road, I'm naturally looking at
12 cables, I'm naturally looking at the condition of them.
13 It is just part of my nature that I do all the time.
14 So, whenever I ride through an area, I'm constantly
15 looking at it. So, I made an effort to ride
16 specifically through the North Country so I could look
17 at some of these areas, just do a visual inspection.

18 Q. So, a "visual inspection" means just that, you just
19 visually looked at the facilities from the outside?

20 A. (Brown) "Visual inspection" means I would find the
21 central office in town, and then I would look at the
22 routes leaving that central office and continuing out
23 of town, inspecting it, looking at the closures,
24 looking at the cable, looking at the poles. Pretty

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1 much everything that's involved in the outside plant,
2 so I just do a visual inspection of it.

3 Q. But my understanding is, on the four towns, Concord,
4 Dover, Hanover, and Newmarket, those were actually
5 inspections where folks went inside the central office,
6 is that correct?

7 A. (Brown) No, they did not. They were strictly outside
8 plant visual inspections.

9 Q. And, I think you testified that you were not involved
10 in those inspections?

11 A. (Brown) That is correct.

12 Q. Were any of the other members of the panel involved?

13 A. (Brown) No, they were not.

14 Q. Do you know if there were any other FairPoint witness
15 in this proceeding who was involved?

16 A. (Brown) There is not.

17 MS. HATFIELD: Thank you, Mr. Chairman.
18 That concludes my public questions.

19 CHAIRMAN GETZ: Thank you.

20 Ms. Fabrizio.

21 MS. FABRIZIO: Thank you, Mr. Chairman.
22 Good morning, gentlemen.

23 WITNESS BROWN: Good morning.

24 BY MS. FABRIZIO:

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1 Q. The first few questions I have regard general due
2 diligence, and I'm going to direct them to
3 Mr. Harrington. Mr. Harrington, approximately how many
4 central offices does Verizon have in New Hampshire?

5 A. (Harrington) Central offices, I seem to recall,
6 including post -- well, I cannot refer to the central
7 office buildings, but to switches, approximately 348
8 switches and remotes.

9 Q. And, that's in New Hampshire?

10 A. (Harrington) No, that's across the three states. I'm
11 sorry. There are 27 switches and 96 remotes in New
12 Hampshire.

13 Q. Okay. Thanks. And, how many of those switches are
14 actually remote switching locations served by a host
15 switch? Are all of those?

16 MS. FABRIZIO: Hold on. Disconnecting
17 my knowledge of terminology here.

18 BY MS. FABRIZIO:

19 Q. In total, how many New Hampshire central offices did
20 FairPoint actually visit as part of its due diligence?

21 A. (Harrington) In the inside plant inspection, myself and
22 my team visited four New Hampshire central office
23 building sites.

24 Q. And, were any of those four in rural areas of the

1 state?

2 A. (Harrington) I would characterize the most rural as
3 being Newmarket.

4 Q. And, were any of those four offices remote switching
5 locations?

6 A. (Harrington) No, they weren't.

7 Q. And, who selected those offices that FairPoint visited
8 as part of the due diligence effort?

9 A. (Harrington) FairPoint provided Verizon with a profile
10 of the types of facilities and assets that we wanted to
11 visually have an opportunity to review. Verizon
12 provided a suggested list of sites. And, once we
13 received that list, I requested that one specific site
14 be added. Well, it wasn't a specific site, it was a
15 site that contained specific equipment, and that was
16 added at our request.

17 Q. Thank you. Now, the next questions may go to Mr. Brown
18 as well. In your testimony, on Page 6, Lines 16 to 18,
19 when you talk about the due diligence performed, you
20 state that you visited four locations, that's Concord,
21 Dover, Hanover, Newmarket, and that's beginning on line
22 16, Page 6. Now, I'm going to refer to a confidential
23 data response and attachments that FairPoint provided.
24 I don't believe the answer requires a confidential

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1 response, but let me know if you think it does. In the
2 confidential documentation, and that on our list is
3 actually Staff Exhibits 49C and 50C, it's FairPoint's
4 supplemental response to Staff Data Request 2-8 and
5 confidential Attachments CFPNH 2050 through 2057.
6 Could you please explain the difference between the
7 number stated in your testimony here and the number
8 actually reported on those confidential documents, with
9 regard to the number of central offices that were
10 actually inspected as part of the due diligence effort
11 that FairPoint conducted? And, I would just note that
12 the confidential memo that I've cited refers to
13 "outside plant inspections".

14 A. (Brown) Okay. I am still trying to locate that
15 confidential memo.

16 Q. Sure.

17 MR. DEL VECCHIO: Excuse me, Lynn, what
18 was that again?

19 MS. FABRIZIO: 49C and 50C.

20 (Atty. Fabrizio handing document to
21 Witness Brown.)

22 **BY THE WITNESS:**

23 A. (Brown) This exhibit was not performed by myself. I
24 will try to answer any questions related to it, but it

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1 was not replied to by myself.

2 BY MS. FABRIZIO:

3 Q. And, in the memorandum that you see, FairPoint lists
4 the one office in New Hampshire.

5 A. (Brown) And, we're dealing with Exhibit 49C?

6 Q. That should be -- yes.

7 A. (Brown) Okay. I see it.

8 Q. Okay. Could you explain the difference in numbers that
9 appears from this documentation versus what you've
10 stated in your rebuttal testimony?

11 CHAIRMAN GETZ: I'm sorry, Ms. Fabrizio,
12 could you move the microphone closer please.

13 MS. FABRIZIO: Sorry.

14 BY MS. FABRIZIO:

15 Q. There seems to be a discrepancy in the reporting of the
16 number of offices.

17 A. (Brown) It appears that I -- whenever I did my
18 testimony, I forgot about Portsmouth, New Hampshire, as
19 being one of the towns that was inspected.

20 Q. And, the memorandum that you are looking at, which is
21 confidential, seems to list only one central office in
22 New Hampshire.

23 A. (Brown) That is true, but there were additional
24 locations as well.

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1 Q. So, this is not the most current report or --

2 A. (Brown) This report does appear to leave out those.

3 Q. Okay. And, was the central office that was listed in
4 that memorandum actually visited on the inside?

5 A. (Brown) The outside plant teams that went out did not
6 inspect the inside of any buildings. They did give
7 reference here to inspection of the outside of the
8 buildings, but they were unable to see the inside.

9 Q. Okay. Thanks. I think I'll take the exhibits from
10 you. Okay. And, as part of its initial due diligence
11 effort, did FairPoint inspect any of the fiber-fed
12 remote terminal cabinets that it plans to upgrade in
13 conjunction with its broadband expansion plans?

14 A. (Brown) We did not.

15 Q. Okay. And, then to move onto a discussion of broadband
16 generally.

17 A. (Brown) Okay.

18 Q. And, as we've noted, through your discussions with Ms.
19 Hatfield, FairPoint uses a number of different terms in
20 its testimony. And, we'd just like to clarify and
21 confirm some of the explanations. On Page 32 of your
22 rebuttal, starting on Line 17, you discuss the term
23 "DSL addressable". Could you explain again for us what
24 FairPoint means by that term?

- 1 A. (Brown) What "DSL addressable" means is the line has
2 the ability, has equipment on the other end that can be
3 wired to be able to provide DSL services.
- 4 Q. Okay. And, on Page 31, you use the term "broadband
5 addressable". And, could you explain that term again
6 and how it differs from "DSL addressable"?
- 7 A. (Brown) In my mind, whenever, as a broadband engineer,
8 I tend to look at all broadband services. I use the
9 term "broadband" more often than I do "DSL", because
10 DSL is a particular technology. Whereas, broadband
11 encompasses several different technologies.
- 12 Q. Okay. Thank you. So, could I just confirm for my
13 understanding, a line considered to be "DSL" or
14 "broadband addressable" does not necessarily mean that
15 that line is capable of supporting DSL services?
- 16 A. (Brown) That would be correct.
- 17 Q. On Page 30, Lines 3 and 4 of your rebuttal, you also
18 use the term "broadband capability". Could you explain
19 what you mean by that and how that differs from
20 "broadband addressability"?
- 21 A. (Brown) Okay. That was Page 30, --
- 22 Q. Page 30, Lines 3 around 4.
- 23 A. (Brown) "Capability" would be that that central office
24 or that exchange has the equipment capable of providing

1 broadband services.

2 Q. Okay. And, Page 28, Line 6, you refer to "broadband
3 qualified". And, could you distinguish that -- tell us
4 what you mean by that and distinguish from "broadband
5 capable"?

6 A. (Brown) Okay. The "capable" means that the equipment
7 exists to be able to provide that service. "Qualified"
8 means that the line itself is qualified for broadband
9 services. That means it has been pretested and proven
10 to be capable of supporting broadband.

11 Q. Great. Thank you. And, let's see, what is the minimum
12 data speed in the downstream direction that a line must
13 be capable of delivering before FairPoint considers it
14 "DSL capable"?

15 A. (Brown) What we looked at is 768 kilobit down speed,
16 which was the minimum configuration or the minimum
17 offering that Verizon has today.

18 Q. And, on Page 28, Lines 5 to 8 of your rebuttal, you
19 state that "FairPoint will increase the percentage of
20 broadband qualified lines in New Hampshire to
21 approximately 71 percent within 24 months." Is that --

22 A. (Brown) That's correct. If I could clarify on that,
23 that 71 percent would also be the bottom range, as we
24 were discussing with Ms. Hatfield. There is a range

1 that we have because we do not cut off everything at
2 18,000 feet, we continue to do engineering detail to be
3 able to expand that offering. So, that would be the
4 bottom end of the spectrum.

5 Q. Okay. Great. And, on Page 30, Line 5, you state that
6 Phase II of FairPoint's deployment plan will add
7 broadband capability to "an additional 12,289 access
8 lines", is that correct?

9 A. (Brown) That's correct.

10 Q. Okay. And, on Page 31, you state, on Line 16, you
11 state that Phase III of the plan will make 57,800
12 additional lines "broadband addressable", is that
13 correct?

14 A. (Brown) The 57,800 would be the total number of access
15 lines. So, at the completion of Phase III, that would
16 be the total.

17 Q. Okay. So, that's not in addition to the 12,289?

18 A. (Brown) No, it's not.

19 Q. It's including?

20 A. (Brown) It's including.

21 Q. All right. Okay. So, do the total lines, at the
22 completion of Phases II and III, that's 57,800 you're
23 saying?

24 A. (Brown) That's correct.

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1 Q. Okay. And, does that total equate to the increase in
2 New Hampshire broadband-qualified lines from the
3 current 61 percent to the 71 percent within 24 months
4 of close?

5 A. (Brown) Yes.

6 Q. Okay.

7 A. (Brown) Once again, that 57,800 would be on the low end
8 of the spectrum. Our goal, we'd be able to do above
9 that 57,800.

10 Q. Okay. Great. And, then, on Page 32, Lines 11 through
11 14, of your rebuttal, you indicate that, following the
12 implementation of FairPoint's broadband deployment plan
13 the percent of DSL addressable access lines in New
14 Hampshire "will be approximately 83 percent". What
15 exactly does that number represent and how does it
16 relate to the 57,800 lines?

17 A. (Brown) Okay. Once again, in this one, the 83 percent
18 would be on the high end of the spectrum. So, it would
19 be -- 71 percent would be on the low end, 83 would be
20 on the high end. 83 makes the assumption that every
21 line out of that RT or that central office would be
22 able to receive broadband services. Whereas, the
23 71 percent would be if -- nothing other than the ones
24 that Verizon has tested today would qualify.

1 Q. Okay. I think I understand. I have two highly
2 confidential questions on this subject that I will
3 return to later. Okay. Now, turning to Mr. Smee. On
4 Page 26 of your rebuttal, beginning on Page -- Line 19,
5 and continuing to Line 1 on Page 27, you provide two of
6 FairPoint's reasons for seeking a two year waiver from
7 meeting the Commission's service performance standards.
8 And, at Line 19, you state that "After cutover,
9 FairPoint needs some period of time to ensure the
10 systems are operating as contemplated and all cutover
11 based issues (if any) are resolved. Any newly hired
12 FairPoint employees must be trained, especially the new
13 I&M technicians." Is that your statement, Mr. Smee?

14 A. (Smee) That is correct.

15 Q. Could you please explain what you mean by that
16 statement? And, specifically, does FairPoint intend to
17 cut over before it has fully tested its newly developed
18 systems to ensure that they'll operate as contemplated
19 and before you've completed training of the new hires?

20 A. (Smee) I'll answer your second question first. No, we
21 don't intend to cut over before we are ready, before
22 the training is complete, and all full testing is
23 completed. And, the simple point here is that there
24 are -- because this answer, and this is the second part

1 of an answer, of the total answer, is in reference to
2 why, from the time we take over operating the business,
3 until cutover, we might not be able to make as much
4 progress in improving the service quality metrics as
5 otherwise would be desirable. And, the first part of
6 the answer describes the necessity of preparing for
7 cutover, that provides the majority of the reason why
8 we wouldn't be able to move forward rapidly in
9 addressing the service quality issues.

10 The second part of the answer describes
11 a small possibility that, at cutover, there, despite
12 all human best efforts, whenever there's a project,
13 there will be some things that will go wrong. We don't
14 anticipate anything major. We don't anticipate
15 anything catastrophic at all. Very minor issues will
16 undoubtedly occur, and we'll need a week or two to work
17 through those. That's all -- That's really all it's in
18 reference to.

19 Q. You'll need a week or two to work through those minor
20 glitches. Why are you asking for two years of --

21 A. (Smee) Well, as I described earlier, that the answer to
22 that particular question that I -- that you just
23 referenced is in a request for, in effect, "why doesn't
24 FairPoint start immediately at close addressing the

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1 service quality issues?" And, the answer effectively
2 is, we need to prepare, we need to focus our efforts on
3 getting new folks on board, getting them trained,
4 preparing for cutover, and doing the cutover. Now,
5 once that has occurred, as I described earlier, the
6 effort to fix the wire centers that are not achieving
7 at the report rate level that is the target, will be a
8 phased approach. It will take teams of people focussed
9 on Wire Center A, Wire Center B, to identify the
10 problem, to analyze the locations where troubles are
11 coming from, to put teams to work doing maintenance
12 level fixes, like fixing closures or cross box
13 rehabilitations, to put engineering teams to work on
14 writing engineering jobs for capital expenditures for
15 plant replacements. And, all of that effort cannot
16 happen simultaneously in all wire centers at once. It
17 takes time to get there. And, I guess I would say it
18 took time for it to become the way it is right now. It
19 will take some time for it to come back to the way we
20 would like it to be.

21 Q. Great. Thank you. Still on the same page, you further
22 state that it will not be possible for FairPoint to
23 begin the work necessary to bring the Verizon's network
24 up to standard until the Verizon network is operating

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1 on the new FairPoint systems. Prior to this testimony,
2 FairPoint has provided data responses suggesting that
3 the service quality issues can be addressed by
4 increasing the number of outside plant technicians.

5 Could you explain why FairPoint now determines that it
6 cannot begin the work necessary until the network is
7 operating on the new systems?

8 A. (Smee) Sure. Well, there's two, I mean, what we've
9 spoken of largely here today, and I think is in
10 evidence in the service quality metric overall picture
11 for the State of New Hampshire, we've spoken of two
12 particular metrics that are problematic. One being the
13 troubles -- out of service troubles not cleared within
14 24 hours or percentage cleared within 24 hours, and the
15 wire center level report rate. The wire center level
16 report rate issue to be addressed requires all of the
17 work I just described, in order to rehabilitate the
18 network to the degree in those small wire centers that
19 need to be rehabilitated, that's a time-consuming
20 effort.

21 In terms of the out of service 24 hour
22 commitment, that is largely a balance between workload
23 and workforce. If you have sufficient workforce
24 against the workload that is coming in, and an

1 adequately trained staff, you routinely are able to fix
2 a higher number of troubles within 24 hours. You have
3 employees available to attend to do the troubles that
4 come on that basis. So, we are taking the approach
5 that says "we know we need to bring more people in in
6 order to attend to the out of service over 24".
7 However, we also know we need to reduce the trouble
8 reports, because we cannot operate the business in a
9 long-term perspective by just allowing trouble report
10 volumes to grow, creating poor service for the
11 customers, and then consequently needing to hire more
12 and more employees to deal with the number of troubles
13 that come in and to attend to them. So, we have taken
14 this dual approach that requires us to hire additional
15 people to deal with both the 24 hour commitment problem
16 and to deal with the network report rate problem.

17 Q. Thank you. Just one follow-up to that. Does FairPoint
18 plan to start providing the Commission with reports of
19 this work immediately after cutover on the performance?

20 A. (Smee) On the performance of?

21 Q. On their service quality performance measures?

22 A. (Smee) Do you mean the existing service quality metrics
23 that are in existence today?

24 Q. Yes.

1 A. (Smee) And that are reported today by Verizon --

2 Q. Yes.

3 A. (Smee) -- on a routine monthly basis? It is our intent
4 to continue doing that. During the TSA period, the
5 transition period, post close and after cutover, using
6 the Verizon systems, and then, upon cutover, using our
7 systems to report the same thing.

8 Q. Okay. Great. Thanks. Okay. Let's see. FairPoint
9 has previously committed that it will meet the
10 Commission's service quality standards beginning six
11 months after cutover is complete. Please explain what
12 has changed that prompted FairPoint to change its
13 commitment from six months after cutover to two years
14 after cutover?

15 A. (Smee) I'm going to have to ask you to refer me to
16 where that was said.

17 Q. Yes. Sure. And, I refer you to Staff Exhibit 45.
18 It's actually a non-confidential response to OCA FDR
19 II-17(a).

20 A. (Smee) Do we have that up here?

21 MS. FABRIZIO: Mr. Chairman, I can
22 provide a copy on the screen.

23 BY MS. FABRIZIO:

24 Q. You see the response under (a). Could you read that

1 please.

2 A. (Smee) Response (a) says -- well, you're looking at the
3 reply?

4 Q. Yes.

5 A. (Smee) "FairPoint will meet the PUC's service quality
6 standards commencing six months after the cutover is
7 complete. To do so will require an increase in
8 technicians. FairPoint intends to hire those
9 additional technicians." And, this was in June of this
10 year. I guess, the answer I would give -- or, June of
11 "2207". The answer I guess I would give you is, at
12 that point in time, the level of detail that we had
13 regarding the service quality metrics was not as great
14 as it is today. And, our view into the wire centers
15 that are not achieving at the target rate was much
16 broader. We did not have, I believe at that point, a
17 view into the Code 4 report rates, which are the
18 outside plant report rates at this juncture. And, I
19 think, simply put, deeper analysis of the situation has
20 yielded the current view that it will take this time to
21 achieve the targets.

22 Q. Thank you. Now, has Verizon provided all the
23 information that FairPoint requires to perform a root
24 cause analysis of the service quality problems that

1 exist in New Hampshire?

2 A. (Smee) Verizon has provided us -- provided us at
3 FairPoint all of the information we have asked for in
4 order to perform the root cause analysis at this time.
5 There are, as I described our effort to finalize the
6 root cause analysis, there is more information
7 available in the Verizon systems. But the key to that,
8 the use of that information, is actually having the
9 Verizon employees and the staff required to do the
10 analysis and do the troubleshooting and build the jobs
11 to fix it. So, absolutely, Verizon has provided us
12 everything we need. We really need, in order to do the
13 final analysis to determine specifically what needs to
14 be fixed in any particular wire center, we do need
15 additional data. But, more importantly, we need the
16 employee staff, the staff to actually do that analysis
17 and make the determinations about what needs to be
18 done.

19 Q. And, when do you expect your root cause analysis to be
20 completed?

21 A. (Smee) Well, it would begin shortly after close, and
22 with the development and identification of the
23 proactive team, proactive manager, and the
24 implementation of project meetings to begin the network

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1 report rate reduction. So, when it would be done, I
2 would expect it would be done sometime around -- fully
3 done, at least in terms of the wire -- the final wire
4 centers that we are going to target or the final list
5 of wire centers that we would target, again, referring
6 back to the fact that, between now and close, wire
7 center issues may improve or deteriorate, the final
8 list would be determined and the targeted approach and
9 the project time line would be put in place, and then
10 post cutover the work would effectively get underway.

11 Q. Let's see. On Page 11, Lines 9 to 11 of your rebuttal,
12 you state that "While clearing troubles in a timely
13 fashion is a measure of service quality, FairPoint
14 plans to address the number of troubles overall." And,
15 yet, you don't provide any details on how you plan to
16 drive down the number of total overall troubles. Could
17 you please explain how you plan to proactively drive
18 down those total troubles experienced by customers?

19 A. (Smee) Sure. And, it's a little bit of what I've
20 spoken about already. But, organizationally, as I just
21 referenced, we're going to create a proactive
22 workforce, larger than we understand exists in Verizon
23 today. We expect it to be led by the manager who will
24 report directly to the Vice President of Engineering

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1 and Operations. That proactive workforce would consist
2 of around 66 splice service technicians in total across
3 the three states, 23 or 24 of them here in New
4 Hampshire. There will be central office technicians
5 assigned to the work. And, there will be
6 administrative assistants assigned to this team also.
7 There will be an outside plant engineer assigned to the
8 proactive team working for the manager. And, that will
9 be the -- sort of the direct line responsibility for
10 that manager and that team. They will be charged with
11 creating, implementing, and maintaining a proactive
12 maintenance routine schedule, to include things like
13 remote terminal electronics, routine maintenance
14 visits, having to do with batteries and filters and
15 grounding, to running what are referred to as "A lit
16 tests", mechanized loop tests on a routine basis on
17 areas in the outside plant to identify upcoming and
18 potential failure points, and to do routine inspections
19 on the outside plant in particular geographies. So
20 that, and then the technicians themselves will be
21 charged with performing the functions that will fix the
22 problems that have been identified through the routine
23 maintenance activities and through the mechanized loop
24 testing of the systems.

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1 I should have very importantly included
2 in the -- included in the routine maintenance effort
3 will also be the ongoing effort to maintain the air
4 pressure systems, which Verizon is maintaining well
5 today, and that will be part of the effort also. The
6 air pressure system is to keep the cables under
7 pressure and keep moisture out. So, all of those
8 efforts will both, by getting ahead of pending
9 problems, and fixing them before they turn into real
10 problems that customers can notice, that will reduce
11 trouble reports for customers.

12 The other side of it, on the project
13 side of it, whereby this proactive manager will pull
14 together not only his or her direct report team, but
15 also dotted line reports from the central office
16 organization and from the repair organization, and from
17 individual garages and wire centers, the supervisors
18 and technicians out in the field to go after these
19 individual wire centers that are running too high a
20 report rate, that project then will focus heavily on
21 those wire centers. Routine maintenance activities
22 need to continue, but we also need to identify very
23 quickly those particular locations within any wire
24 center where the trouble is arising from, and then put

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1 in place a remediation plan. Some of which may be
2 capital, which would require outside plant replacement.
3 Spans of cable being replaced, engineering jobs written
4 in order to do that, and then the construction crews
5 engaged to do that. Some of which would be more
6 maintenance activity, which I think I referenced
7 earlier, such as rehabilitating a cross box or getting
8 up on a pole and fixing a closure that had been left
9 open. So, all those things, to both routinely and
10 proactively stay ahead of potential problems. And,
11 simultaneously going, on a project basis, after areas
12 where we know are already problems, where problems
13 exist, those will reduce troubles from occurring.

14 I will make perhaps an inaccurate
15 analogy. But routine preventive maintenance is
16 something we all live with all the time. We change the
17 oil in our automobiles to make sure they continue
18 running. If we don't, the engine will cease up
19 eventually. While the telephone plant is largely
20 digital today inside and it's electronics and
21 computers, it doesn't have a lot of moving parts that
22 break and need a lot of maintenance. The outside plant
23 is subject to weather, and it is -- is of different
24 vintages, and that's not unique to New Hampshire,

1 that's true across virtually the entire country. Some
2 cable is brand new, because there's a constant upgrade,
3 some cable is ten years old, some twenty, some thirty,
4 and some forty. The older the cable is, the more
5 maintenance activity you require. There's some older
6 cable here, and maintenance activity needs to be
7 maintained on it in order to keep it healthy and
8 operating well for the customers. That's what this is
9 about.

10 Q. Thanks. And, has FairPoint been able to estimate the
11 capital cost of improvements, the remedial improvements
12 that you're talking about?

13 A. (Smee) Yes, to a degree. I mean, clearly, you know, it
14 will require, as Michael referenced earlier, it's the
15 30,000-foot, 15,000-foot, 10,000-foot view. We will
16 need to get into the analysis with the staff, the
17 Verizon staff, when they become FairPoint staff, and
18 the data, in order to understand exactly what it will
19 cost in each individual wire center. But we've made an
20 estimate based on the size of the wire centers. All of
21 the ones that we would be targeting, as I said earlier,
22 are relatively small. We've made an estimate of that
23 cost. And, I think it's in the --

24 Q. And, can you tell us approximately?

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1 A. (Smee) Yes, approximately 5 to \$6 million in the state
2 of New Hampshire for the first year, and a similar
3 number for the second year.

4 Q. And, that's in New Hampshire you said?

5 A. (Smee) Yes.

6 CHAIRMAN GETZ: Ms. Fabrizio, does this
7 complete this particular line of questioning? This may be
8 a good time to take the morning recess.

9 MS. FABRIZIO: No, but I'd be glad to
10 take the recess.

11 CHAIRMAN GETZ: Okay.

12 MS. FABRIZIO: I still have about 15
13 minutes for Mr. Smee.

14 CHAIRMAN GETZ: Okay. I guess what I
15 would suggest then -- well, let me verify first,
16 Ms. Hatfield and Ms. Fabrizio both, is it confidential or
17 highly confidential, what --

18 MS. FABRIZIO: I have highly
19 confidential, just two questions.

20 MS. HATFIELD: And, I believe my
21 questions are all just confidential.

22 CHAIRMAN GETZ: Okay. Well, I guess, in
23 an attempt to minimize hubbub, why don't we -- when we
24 return at 11:30, let's start with the confidential and the

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1 highly confidential questions, and then we'll return onto
2 the public record. So, we'll be back at 11:30.

3 (Recess taken at 11:09 a.m.)

4 (PUBLIC HEARING RESUMES AT PAGE 129)

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1 (PUBLIC HEARING RESUMES FROM PAGE 95)

2 CHAIRMAN GETZ: Okay. Then let's move
3 back into the public record. And, actually, off the
4 record.

5 (Discussion was held off the record.)

6 CHAIRMAN GETZ: Thank you.

7 MS. FABRIZIO: All set?

8 CHAIRMAN GETZ: Please proceed.

9 **CROSS EXAMINATION**

10 BY MS. FABRIZIO:

11 Q. Mr. Smee, if we could return to our earlier discussion,
12 you were talking about the proactive work force that
13 would be in place.

14 A. (Smee) Yes.

15 Q. Who will manage that particular work force?

16 A. (Smee) Who will manage it?

17 Q. Uh-huh.

18 A. (Smee) There will be a manager chosen to do that.

19 Q. Not yet ---

20 A. (Smee) Not yet chosen, right. We've had some
21 discussions with our Verizon counterparts, but it is
22 not appropriate for us to be hiring people into
23 positions inside Verizon until we get there.

24 Q. Thanks. And in your work with Verizon on service

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1 quality issues, have you been working primarily with
2 Mr. Nestor? Is that your key contact at Verizon?

3 A. (Smee) No, there's a host of people at Verizon that
4 we're dealing with. There's an entire structure of
5 single points of contact between FairPoint and Verizon,
6 along with subject-matter experts who are identified to
7 participate with us and with our partners at Capgemini
8 to pull together for us the information we need. So
9 it's not Mr. Nestor.

10 Q. Okay. Great. Thank you. And what is your contingency
11 plan if many of the experienced Verizon technicians and
12 management personnel who are retirement-eligible choose
13 to retire prior to the close of this transaction?

14 A. (Smee) We are developing a plan that will identify for
15 us the steps necessary to take to fill in large
16 quantities of employees in -- that are related to
17 service issues, things such as a pandemic or,
18 unfortunately, a labor issue where large numbers of
19 people are no longer able to come to work. That
20 particular plan will also be able to guide us in
21 dealing with how to rapidly acquire additional
22 employees if so necessary at the time of close or
23 shortly thereafter.

24 We recognize that pension-eligible union

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1 membership runs in the ***CONFIDENTIAL*** range for
2 those who have thirty years of service and able to
3 retire with no penalty. And that, again, is similar to
4 the number you -- we spoke of earlier in regard to the
5 folks who have already left in the OPT title. So it
6 is -- while it's not an insignificant number, it is not
7 catastrophic if ***CONFIDENTIAL*** even if all
8 ***CONFIDENTIAL*** of the pension-eligible folks were
9 to leave, which certainly could happen, but that would
10 be an extreme case.

11 Q. Great. Thank you. Now, will FairPoint, from an
12 operational point of view integrate FairPoint classic
13 lines in New Hampshire, Maine and Vermont into the
14 Spinco operations?

15 A. (Smee) We have no immediate plans to do so. And I
16 think Mr. Nixon can speak to that in greater detail.

17 Q. Okay. So I should reserve these questions for
18 Mr. Nixon?

19 A. (Smee) Perhaps.

20 Q. Okay.

21 A. (Smee) That one in particular.

22 MS. FABRIZIO: That concludes my
23 questions more rapidly than anticipated.

24 CMSR. MORRISON: I'm going to leave my

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1 questions open to whoever would feel best could answer
2 them.

EXAMINATION BY CMSR. MORRISON

4 BY CMSR. MORRISON:

5 Q. What I'll start with is the simple things. What speeds
6 of DSL does FairPoint offer today?

7 A. (Brown) I'm going to try and look at you and talk into
8 the microphone at the same time, which is a little bit
9 challenging.

10 Today, we offer speeds of up to 3
11 megabits ---

12 O. No, no, no, no. I want each increment. 768.

13 A. (Brown) We offer 768. We offer one point or 1 megabit,
14 and we offer 3 megabit, as well.

15 Q. Okay. Thank you. Now, on each of those three levels,
16 what's the -- what are the distances that are supported
17 from the CO?

18 A. (Brown) With the 768 offering, we've gone out to
19 22,000 feet and, in some cases, beyond, using doubler
20 technology. We've also -- the 3 megabit -- the 1.5,
21 we've pushed out to 18,000 feet. We've also pushed the
22 1.5 out further in some locations, as well, in the
23 Midwest, for example. We have used Smart Coil
24 technology to be able to extend that out further.

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1 We've also done -- the 3 megabit offering is primarily
2 around 10,000 to 12,000 feet.

3 Q. On each of those speeds, what are the upload speeds,
4 because what you gave me was download.

5 A. (Brown) The download (sic) speeds are primarily going
6 to be -- I think, with the 768 offering, I believe it's
7 128 up. With the 1 megabit, I believe it's 768. And
8 with the 3 megabit, it's also 768.

9 Q. Okay. Thank you. What is the price for each of those
10 three on a monthly basis?

11 A. (Brown) It depends on the company and the territory.

12 | Q. Okay.

13 A. (Brown) It's not uniform across FairPoint.

14 Q. Okay. So I'm going to assume you don't know the
15 pricing for New Hampshire.

16 A. (Brown) No, I do not.

17 CMSR. MORRISON: Mr. Coolbroth, can I
18 get a record request for that information?

19 MR. COOLBROTH: Yes, you may,
20 Commissioner.

21 CMSR. MORRISON: Thank you.

22 BY CMSR. MORRISON:

23 Q. Earlier today, someone mentioned VDSL2. Is VDSL2
24 deployed anywhere in any of your networks today?

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1 A. (By Mr. Brown) No, it's not, at this time. We actually
2 have a trial that's about to take place, using VDSL2.
3 VDSL2 has been ratified for a while, but the chip-set
4 manufacturers have not been real aggressive at this
5 point. On the CPE side, the customer primary
6 equipment, the ---

7 Q. Yeah.

8 A. --- chip set on the -- for the equipment has been
9 available for a little while, but you've got to have
10 the CPE to match up to 'em.

11 Q. What are your best estimates on VDSL speeds and
12 distances?

13 A. (Brown) We haven't really done any engineering studies
14 on that yet.

15 Q. The manufacturer specs, what do they say?

16 A. (Brown) Manufacturer specs, it's up to 50 megabits out
17 to about 3,000 feet. Then, it actually -- from that
18 point on, the nice thing about VDSL2 is it resorts over
19 to ADSL2+ standards and has the same slope
20 characteristics as the ADSL2+.

21 Q. Okay. Thank you. I'm going to move on here to a
22 different topic.

23 Earlier today, it was testified that
24 several cities in FairPoint -- in the FairPoint

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- 1 family -- have IPTV; is that correct?
- 2 A. (Brown) That's correct.
- 3 Q. What is the network speed for those -- for those
- 4 networks with IPTV?
- 5 A. (Brown) Presently, the back bone and core network are
- 6 operating at 1 gigabit speeds because of the number of
- 7 customers that are involved.
- 8 Q. What about the -- down to the customer prem?
- 9 A. (Brown) Down to the customer prem, we're looking at 10
- 10 megabits to the customer.
- 11 Q. Is that bi-directional?
- 12 A. (Brown) No, sir. That's ADSL, so it's using
- 13 asynchronous.
- 14 Q. Now, you're giving me speeds for people who are using
- 15 all three, the triple play.
- 16 A. (Brown) That's correct.
- 17 Q. Okay. Thank you. What's the maximum loop length for
- 18 your IPTV offering?
- 19 A. (Brown) Presently, we're pushing that out to 10,000 to
- 20 12,000 feet.
- 21 Q. Okay. Thank you. For those -- for your IPTV, do you
- 22 require more than two pair?
- 23 A. (Brown) No, sir. We're doing a single pair.
- 24 Q. Single pair everywhere? Okay. Thank you.

1 Searching FairPoint's Web site, I could
2 find absolutely no reference to IPTV. Do you know why
3 that is?

4 A. (Brown) I don't know why that is. I know, for a fact,
5 we are doing it in Yelm, Washington. And like I said,
6 also ---

7 Q. But a search ---

8 A. --- in Missouri, as well.

9 Q. But a search shows absolutely nothing.

10 I'd like to make a record request for
11 all the marketing literature for the IPTV product. I'd
12 like it whether it's print or electronic. And I would
13 like the information whether it was to approval boards
14 or down to the customer. So materials -- they had to
15 get approval for these franchises. I'd like the
16 materials that were presented for those fran- -- to get
17 the franchise, and as well as what they presented to
18 customers.

19 CHAIRMAN GETZ: Please confirm that will
20 be Exhibit 57?

21 MS. O'MARRA: 57.

22 CMSR. MORRISON: And beyond that, I'd
23 like to know what the price is for that bundling. And the
24 last thing I'd like, associated with that, is I'd like the

1 complete channel lineup offered.

2 BY CMSR. MORRISON:

3 Q. Next topic. Pertaining to COs, considering that you
4 visited so few and there appears to be questions of
5 maintenance and their state of repair, why haven't you
6 visited more?

7 A. (Harrington) As it relates to central-office
8 facilities, the equipment contained within them -- you
9 know, first of all, we did -- we did see 100 percent of
10 the network in the form of the data room.

11 Q. Mm-hmm.

12 A. (Harrington) So we had extensive access to information.
13 The four buildings, the five central-office switches
14 that we saw, we felt, were fully indicative of the
15 balance. And also, given the access lines that those
16 central offices supported, we felt that it was -- it
17 was an excellent cross-section of what was present in
18 the state of New Hampshire.

19 We saw each switch type. We saw -- I
20 mean, it was five different switches, all three
21 switches -- well, four switch types. We saw one of the
22 two STPs that were in place and literally hundreds of
23 multiplexer deployments. We had the opportunity to see
24 just about every kind of network element -- and in vast

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1 quantities, by the way, that was deployed.

2 Q. Thank you.

3 I want to move now to emergency
4 services. Are you aware that, this past spring, a
5 complete CO was destroyed in New Hampshire?

6 A. (Harrington) Yes, I am.

7 Q. With that in mind, what are your emergency response
8 capabilities?

9 A. (Harrington) FairPoint is currently in the process of
10 pulling together a business continuity plan that will
11 formally document how we're going to, you know,
12 approach this within this three-state area.

13 As it relates to our pre-existing
14 operations, we do have plans where -- you know, for
15 central-office equipment, for example, we would make
16 arrangements with the vendor, the switching vendor,
17 much like Verizon would -- to replace a central office
18 if there was a catastrophic loss like the site in New
19 Hampshire.

20 Q. So you have no established disaster-recovery team?

21 A. Not a formally focused, only for this type of process,
22 but we have teams of people that are in each one of our
23 operating companies that are charged to take the
24 leadership in this role.

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1 (Discussion was held off the record.)

2 (Recess)

3 CHAIRMAN GETZ: Please be seated.

4 Okay. We're back on the record with the
5 examination of the panel by Commissioner Morrison.

6 BY CMSR. MORRISON:

7 Q. Again, for anyone on the panel: So it's your position
8 that, today, there is no real disaster-recovery plan
9 for any of the circumstances or areas that FairPoint,
10 today, services?

11 A. (Harrington) No.

12 Q. I'm sorry. Go ahead.

13 A. (Harrington) I must have characterized that improperly.
14 We are working on a much more comprehensive, more
15 focused business-continuity plan as part of this
16 transaction. We do have in place, within our classic
17 operations, you know, disaster-response plans
18 appropriate for the size of our corporation.

19 Q. Okay. Will the new plan include a mobile disaster
20 recovery of some sort that would be complete with
21 switches and power cross-connects or would your plan
22 say, "We're going to acquire all this stuff and then
23 install it"?

24 A. (Harrington) That detailed level of planning has not

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1 been completed yet. I would not be surprised that, at
2 minimum, it would engage our vendors in some mode. But
3 how much farther down that path we'd go, I don't know
4 yet.

5 Q. When do you envision that this plan would be available
6 to be ready?

7 A. (Harrington) It's my understanding that the preliminary
8 plan is due to be completed in mid-December.

9 CMSR. MORRISON: I'd like to make a
10 record request for, whenever that is available, we would
11 like a copy, please. Thank you.

12 And that concludes my questions.

13 CHAIRMAN GETZ: Commissioner Below.

14 CMSR. BELOW: Thank you.

EXAMINATION BY CMSR. BELOW

16 BY CMSR. BELOW:

17 Q. On page 25 of your pre-filed joint rebuttal testimony,
18 you talk about provisioning of wholesale services and
19 state, at line 7, "We will utilize the existing Verizon
20 wholesale provisioning team in New Hampshire." And
21 then, at line 10, it says, "All members of this team
22 are moving over to FairPoint." Would anyone care to
23 qualify that statement?

24 A. (Smee) I'll speak to that. There are a variety of

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1 different wholesale-services or access-services
2 organizations. So there are -- there's an outside-
3 plant or splice service technician force that is solely
4 dedicated to the access-services or wholesale
5 organization here in this state of New Hampshire. That
6 group is moving over to us.

7 There is an access-services, for want of
8 a better term, back-office organization comprised of
9 somewhere in the range of eighty central-office
10 technicians that is at a location here in New Hampshire
11 that does provisioning of services and maintenance of
12 services for those customers.

13 And then, beyond that, there's the --
14 there are the -- who are -- those 89 are dedicated
15 specifically to the access-services and wholesale
16 organization. So I think that comprises the full body
17 of folks.

18 Q. Well, and wouldn't it also be true that some current
19 members of that team, before close, might retire or
20 transfer to other positions within Verizon, so it will
21 be only those members who are still part of that team
22 as of the closing date?

23 A. (Harrington) Certainly, that's true of any Verizon
24 employee today, no matter what service they're

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1 performing; correct.

2 CMSR. BELOW: Okay. Thank you. That's
3 all.

4 CHAIRMAN GETZ: Redirect, Mr. Coolbroth?

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

6 **REDIRECT EXAMINATION**

7 BY MR. COOLBROTH:

8 Q. Now, Mr. Harrington, I believe you described the
9 central-office due diligence that was performed by
10 FairPoint in connection with this transaction?

11 A. (Harrington) Yes.

12 Q. Do you believe that that due diligence was adequate?

13 A. (Harrington) Oh, yes.

14 Q. Why do you believe that?

15 A. (Harrington) I've been involved in multiple
16 acquisitions before, probably ten -- well, no, 13,
17 myself, over the past number of years. And, you know,
18 the process has been the same.

19 And in this case, we had multiple
20 opportunities to visit the Verizon data room that was
21 located in Texas where 100 percent of the network
22 detail was provided to us. Also had the opportunity
23 to -- well, throughout that investigation, to look at
24 capacities equipped, wire-report capacities, you know,

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1 sizes, you know, types of technology, software loads,
2 the whole bit. And then, cap that off with a visit of
3 ten central-office sites spread throughout the three
4 states, four of them within New Hampshire.

5 And like I stated before, we had the
6 opportunity to see some really critical host central-
7 office facilities. Those are the most-important sites
8 in any -- in any network. The five switches that we
9 saw just alone represents close to 19 percent of all of
10 the host switches in the state. The central offices
11 themselves, as well as the remotes that they supported,
12 comprised approximately 17 percent of the access lines.
13 If we wanted to expand that to include the DLCs hanging
14 off the remotes, obviously it's a far greater number.
15 But we had direct visibility of all of that.

16 All the power systems looked to be in
17 excellent shape. Most of the环境amentals looked to
18 be in excellent shape. There was one site we saw where
19 it was a little on the warm side. But I actually
20 saw -- well, I knew the reason for it. There was new
21 equipment being installed and there was a lot of duct
22 work being modified in the overhead. So that was being
23 addressed.

24 As I had stated before, we had the

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1 opportunity to see every type of technology that was
2 deployed. And albeit some of this is Alcatel-Lucent
3 SLC 96s or Lightspan -- some might claim that it's old
4 equipment, but I would counter and say it's rock-solid
5 equipment. I mean, it's really good equipment. It's
6 been serving well. It's going to continue to serve
7 well.

8 So, you know, I guess -- you know, at
9 this point in time, given the profile of access
10 tandems, post switches, stand-alones, STPs, transport
11 equipment, DACs equipment and all of the data that we
12 had the opportunity to visit in the data room, I would
13 say that we have an extraordinarily good grasp of the
14 inside-plant facilities.

15 Q. And Mr. Brown, do you feel the same about the outside-
16 plant facilities?

17 A. (Brown) Yes, I do. I think we have a pretty firm
18 understanding of what the network is like, what the
19 outside-plant facilities are like. We have identified
20 additional maintenance that we do believe is required
21 to maintain the outside plant. But as far as the
22 overall aspect of the ability to support services today
23 and also tomorrow, we have a high level of confidence
24 that we will be able to support those services.

1 Q. Mr. Brown, you were asked about whether you had
2 inspected remote terminals, do you recall, in
3 connection with the preparation of your broadband plan?
4 Do you recall that question?

5 A. (Brown) I do recall that question.

6 Q. And I think you indicated you had not inspected?

7 A. (Brown) That's correct.

8 Q. Why is that and how does that affect your plan?

9 A. (Brown) The remote terminals are somewhat -- I hate to
10 use the term "cookie-cutter," but they are somewhat
11 cookie-cutter. There are certain-size cabinets that
12 are out there and there are a certain number of network
13 elements. And we had all that information provided to
14 us. We were able to take into consideration.

15 The bottom line is, in the remote
16 terminal, there's either room for our new equipment or
17 there is not. And there's either power facilities or
18 there is not. In each one of the locations where it
19 was questionable, we did specify a new outside-plant
20 cabinet to be collocated at that location to be able to
21 provide for the new services that we plan to offer.

22 Q. Mr. Smee, you were asked to look at OCA Exhibit 80C.

23 Do you recall that?

24 A. (Smee) I do.

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1 Q. And do you have that before you?

2 A. (Smee) I do.

3 Q. I ask you to turn to page 2 of that document. I ask
4 you to look about a third of the way down the page. Do
5 you see a table that says "Outside-Plant Technicians"?

6 A. (Smee) Correct.

7 Q. Do you see the number at January ---

8 MULTIPLE SPEAKERS: That's confidential.

9 MR. COOLBROTH: Oh, shoot.

10 CHAIRMAN GETZ: Is this the single area
11 of inquiry you have related to confidential?

12 MR. COOLBROTH: It is.

13 CHAIRMAN GETZ: Do you have other
14 redirect?

15 MR. COOLBROTH: No. That's my last
16 question.

17 CHAIRMAN GETZ: Okay. Can we ask folks
18 to leave the room for a few minutes so we can get this
19 confidential question on the record? I'm expecting this
20 will just take a minute.

21 MR. COOLBROTH: It will.

22 CHAIRMAN GETZ: Don't go far.

23 (PUBLIC HEARING RESUMES AT PAGE 150)

24

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1 (PUBLIC HEARING RESUMES FROM PAGE 146)

2 CHAIRMAN GETZ: All right. Then
3 anything else for this panel?

4 Hearing nothing, then you're excused.
5 Thank you, gentlemen.

6 MR. COOLBROTH: FairPoint calls
7 Dr. Douglas Sicker.

8 Mr. Chairman, if Dr. Sicker appears to
9 be in a bit of a hurry, he needs to -- he's going to have
10 a class full of eager college students at 9:00 o'clock
11 tomorrow morning at the University of Colorado and is
12 anxious to complete.

13 CHAIRMAN GETZ: They'll all be in
14 mourning, won't they?

15 (Laughter)

16 **DOUGLAS C. SICKER, Ph.D., Sworn.**

17 MR. COOLBROTH: Dr. Sicker is not here
18 to talk about the game, Mr. Chairman.

19 **DIRECT EXAMINATION**

20 BY MR. COOLBROTH:

21 Q. Dr. Sicker, could you please state your full name for
22 the record?

23 A. Douglas C. Sicker.

24 Q. And what is your employment?

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1 A. I am the director of the interdisciplinary
2 telecommunications laboratory at the University of
3 Colorado and assistant professor in computer science.

4 Q. And did you prepare or have prepared under your
5 supervision a document which has been identified as
6 FairPoint Exhibit 5, which is the rebuttal testimony of
7 Douglas C. Sicker, Ph.D., dated September 10, 2007?

8 A. Yes, I did.

9 Q. And do you have any corrections or updates to that
10 testimony?

11 A. No, I don't.

12 Q. Do you adopt it as your own, as though read into the
13 record?

14 A. I do.

15 MR. COOLBROTH: The witness is available
16 for cross examination.

17 CHAIRMAN GETZ: Okay. Thank you.

18 My notes indicate that it's the Consumer
19 Advocate and Staff? Anybody else intending to cross
20 Dr. Sicker?

21 Hearing nothing, then, Ms. Hatfield.

22 MS. HOLLENBERG: Actually, it's my turn.

23 CHAIRMAN GETZ: Ms. Hollenberg.

24 MS. HOLLENBERG: If I might approach the

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1 witness, just to give him a copy of the exhibits, please.

2 **CROSS EXAMINATION**

3 BY MS. HOLLENBERG:

4 Q. Good afternoon, Dr. Sicker.

5 A. Good afternoon.

6 Q. I just handed you a packet of exhibits. And if you
7 could, just take a moment to briefly review those
8 exhibits and confirm for yourself that they are
9 responses provided by you on behalf of FairPoint in
10 this docket.

11 A. Yes, they are.

12 Q. And you would agree that OCA Exhibit 88P is your
13 response on behalf of FairPoint to OCA R-97?

14 A. Yes.

15 Q. And OCA Exhibit Sicker 89P is your response on behalf
16 of OCA R-98?

17 A. Yes.

18 Q. And OCA Exhibit Sicker 90P is your response on behalf
19 of FairPoint to OCA R-100?

20 A. Yes.

21 Q. And lastly, OCA Exhibit Sicker 91P is your response on
22 behalf of FairPoint to OCA R-103?

23 A. Yes.

24 Q. Thank you. Could you give me your definition of

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1 broadband, please?

2 A. Well, it's a little difficult ---

3 CHAIRMAN GETZ: One second, please. I
4 want to make sure. Do we have these? I don't see these
5 in our...

6 MS. HOLLENBERG: Okay. Sorry about
7 that.

8 CHAIRMAN GETZ: Okay. I think we're
9 set. Thank you.

10 BY MS. HOLLENBERG:

11 Q. Thank you. And I believe I asked you what your
12 definition of broadband was, please.

13 A. Yes. Broadband is a very relative term. And it's
14 relative depending on when you would be defining it.

15 When I was at the FCC, we made an
16 attempt -- which is kind of a long, long life that I
17 thought would have gone away a long time ago -- that
18 the 200 kilobits per second was a data rate. However,
19 that's obviously no longer a sufficient data rate,
20 given the demand.

21 So broadband really is going to be a
22 function of what the network can provide. So the
23 offer, as well as what the users are needing. So as
24 people start moving -- you know, when it was just Web

1 surfing, you needed a certain data rate. But now, as
2 we start adding more and more services, the data rate's
3 starting to go up.

4 So to give a label, to give an absolute,
5 is rather difficult. And that's also dependent so much
6 on the network, the distance from the facility, as well
7 as the customer's demands, so...

8 Q. Okay. Well, what would -- how would you define
9 broadband as it's used in the FairPoint broadband plan?

10 A. I would define it as being -- offering higher data-rate
11 services for bulky media-rich applications.

12 Q. And what is your definition of higher data-rate
13 services?

14 A. I mean, higher data rate could be anything above voice
15 service, which is a very low kilobit, you know.

16 Q. What is that? Could you be specific?

17 A. Sure. I mean, most data rates for voice can be
18 anywhere in the -- below 100 kilobits per second.
19 Whereas, when you start offering and wanting to surf
20 the Web or do multiple things, such as phone service
21 and Web or phone service, Web and television, you start
22 getting this additive effect of requiring higher and
23 higher data rates.

24 Q. So under the plan, it could be above 100 kilobits? Is

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1 that what you said?

2 A. Oh, certainly. I mean, we're talking, you know, in the
3 area of 1 megabit and above. And this, again, is
4 dependent upon how far a customer might be from the
5 central office and what they want.

6 If consumers are very far away, but they
7 don't want high data rates, then it's sufficient, you
8 know, to have seven -- you know, 700 kilobits, in that
9 ballpark. However, there will be customers who will
10 want very high data rates, such as businesses. And in
11 that sense, you'll have to consider above 10 megabits
12 per second.

13 Q. And in your assessment of the FairPoint broadband plan
14 and whether or not that provides benefits, what is your
15 understanding of the needs and wants of customers in
16 New Hampshire?

17 A. I had only a limited look into customer demands. I
18 read some documents that New Hampshire -- a development
19 authority within New Hampshire wrote some years ago.
20 And they were, at that time, seeing that they were
21 satisfying their high -- their band-width demands. But
22 I think that was too dated.

23 So as time goes on, you will be looking
24 at, you know, these higher data rates, as I said,

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1 because of demand from users. I was not given much
2 insight into what the actual consumer demands are, but
3 I know that what was going on was that the FairPoint
4 plan made available a much higher data-rate service
5 across most of the territory.

6 Q. Much higher in comparison to what?

7 A. To the Verizon network. The percentage -- let's say
8 the percentage of available broadband.

9 Q. Now, you've heard this morning -- I believe you've been
10 here this morning -- some discussion about
11 addressability and availability. And I'd like to get
12 your sense of whether -- whether or not those two
13 things are different, what they are, and how they're
14 different.

15 A. Well, I've heard those terms defined differently by
16 different companies and different segments of the
17 industry.

18 I think what Michael Brown described is
19 how FairPoint is using it at this point. Whether the
20 electronics on either end are available, as well as the
21 line is capable, is driving both of those definitions.

22 Q. And I guess -- correct me if I'm wrong, but I guess
23 when I heard Mr. Brown testifying, it sounded to me
24 that, in order for a customer to be able to order and

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1 receive DSL or broadband, it sounded like the three --
2 three things had to occur. There had to be
3 availability, capability, and qualification or be
4 qualified. Is that your understanding?

5 A. Again, we're getting into these descriptions which
6 might be best to actually talk about the details of the
7 system rather than trying to label it with a term,
8 "availability" or whatever.

9 I mean, clearly, in a network, you have
10 to have facilities either in the central office or in a
11 remote switch to be able to handle a higher-rate
12 service. The line going from that central office to
13 the home has to be of a certain length. It has to have
14 a certain characteristic -- characterized in a certain
15 way to be able to support the signal. And then, even
16 little things like home wiring and such come into the
17 equation.

18 So the way to think about it is the
19 central office or remote switch has to be able to
20 support -- in other words, have the equipment, have the
21 gear -- and then you have to have the line condition.
22 There's another component to it, too, which is very
23 important to consider in this situation, which is it's
24 not just the central office to the user, it's also the

1 central office to the network. And you want to make
2 sure that you have your core network built in such a
3 way so that you will be able to provision the service
4 in a meaningful way to the customer.

5 I mean, it's the analogy, as I said, you
6 don't put racing tires on an old car. You know, you
7 don't put very high-speed data rates to a central
8 office that's not -- that doesn't have a back-bone
9 connection that's of equal high rate.

10 Q. I guess, as a lay person, in terms of broadband, I'm
11 trying to understand how many people, after FairPoint's
12 broadband plan has been fully deployed as described
13 this morning, will be able to call FairPoint up and
14 say, "Can I have broadband turned on at my house?" Is
15 it 71 percent, 80 percent, 83 percent? What is your
16 understanding?

17 A. My understanding is that it's in the ballpark of
18 80 percent. But again, this is kind of a bit of a
19 moving target. I've seen multiple plans, broadband
20 plans, over the last several months, as FairPoint's
21 gotten more information about the network, the Verizon
22 network, the existing network, and has made plans on
23 what equipment they could deploy, how they could deploy
24 it.

1 And there's obviously an engineering
2 economic that has to go into play where you're looking
3 at, "Well, what gear would I deploy where and when?
4 What is the cost of that? How can I get the most bang
5 for my buck," so to speak. And then, what technology
6 to deploy.

7 But to answer your question, I'm under
8 the impression that it's looking at 80 percent of the
9 customers.

10 Q. What's the most-recent plan that you've seen from
11 FairPoint?

12 A. I actually have it in front of me. I believe it's from
13 the middle of September.

14 Q. Okay. And is that -- I guess, Mr. Chairman, that is a
15 more-recent plan than the Office of Consumer Advocate
16 has seen and I would like to make a record request,
17 then, for the company to provide that.

18 MR. COOLBROTH: I don't know what the
19 witness is looking at.

20 WITNESS SICKER: It's the plan that Pat
21 had sent to me. I'm happy to share it.

22 MR. COOLBROTH: If it's not been
23 provided before, we'll provide it. I'm still not clear
24 what he's looking at.

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1 We'll provide it.

2 CHAIRMAN GETZ: Okay. We'll reserve

3 Exhibit 59.

4 MS. HOLLENBERG: Mr. Chairman, what I
5 would like to do is to ask that we have access to a copy
6 of that document over the lunch period of time, if that's
7 possible, in case we do have some additional questions for
8 any of the witnesses that have testified today.

9 CHAIRMAN GETZ: We'll make sure that
10 copies are made available during the lunch recess.

11 MS. HOLLENBERG: Thank you.

12 BY MS. HOLLENBERG:

13 Q. Would you agree that you did not specifically look at
14 FairPoint's broadband plan to determine the extent to
15 which FairPoint's financial integrity could be affected
16 by the plan?

17 A. I didn't look to the details of it, but I did have
18 discussion with individuals. I asked, you know, "With
19 this plan, is this a plan that you can undertake and
20 still remain financially viable?" And I was told yes.

21 Q. Okay. And who were those discussions with?

22 A. It was with a number of individuals at FairPoint. It
23 was technologist Michael Brown. It was consultants
24 Balhoff and Rowe.

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1 Q. And you do not personally know about the financial
2 conditions of FairPoint, do you?

3 | A. Not in detail, no.

4 Q. And you did not do any cost studies regarding the cost
5 of upgrading the service in New Hampshire?

6 A. Again, not in detail.

7 Q. Nor in Maine or Vermont, do you agree with that?

8 A. That's right.

9 Q. And you haven't looked at the likely return on
10 | FairPoint's broadband investment; correct?

11 A. No.

12 Q. And you'd agree that you're not an expert on economics
13 or investment?

14 A. Well, I can't claim to be an expert in economics, but I
15 have been actually -- I've worked a great deal in the
16 area over the years. I am a professor in
17 interdisciplinary telecommunications, which is
18 economics and technology. So I've taught classes on
19 economic modeling, but I don't claim to be an expert in
20 it. I don't have advanced degrees in economics.

21 Q. Okay. Or investment. Would you agree with that?

22 A. That's correct.

23 Q. Thank you. I won't hold it against you.

24 Would you agree that FairPoint has

1 touted its broadband deployment as one of the most-
2 important benefits of the proposed transaction?

3 A. I would say that they've touted the network upgrade,
4 which is much more than just broadband and the narrow
5 access perspective. You know, really, the -- what's
6 interesting about this network upgrade is that it's
7 very radically different from general systems, in that
8 you're looking at gigabit Ethernet, you're looking at
9 MPLS, you're looking at technology on the edge that
10 would support a broad plethora of access technologies.

11 So it's not simply -- when we say
12 "broadband," oftentimes people are just thinking about
13 the access technology, the DSL at the end. So I would
14 say what they've been touting and what I've heard in
15 our discussions is the big overall network picture:
16 Thinking about the core, thinking about these services,
17 thinking about how to make it flexible.

18 Q. And that broadband or the ability to deploy broadband
19 further, though, is an important aspect of that network
20 upgrade?

21 A. Oh, without question.

22 Q. And would you agree that broadband deployment, as
23 proposed, is a fundamental part of the Commission's
24 public-interest determination in this case?

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- 1 A. Let me just restate it. Do I believe that it's
2 important to the Commission that this broadband plan is
3 sufficient?
- 4 Q. Do you believe that it's an important aspect of their
5 determination of whether or not this transaction is in
6 the public interest?
- 7 A. I would say that I do, based on what I've seen in
8 documents from New Hampshire, in that they're looking
9 at how do we enhance broadband capability and how do we
10 work with local players to make that enhancement. And
11 also, just in the general measurement, which is another
12 role that New Hampshire has, you know, understanding
13 what broadband is, what's out there and how to improve
14 it.
- 15 Q. Thank you. And you've heard, I believe, this morning
16 -- and you probably have -- you know this already --
17 but FairPoint has offered to make broadband available
18 to somewhere in the vicinity of 71 to 83 percent of its
19 Spinco customers within 24 months of close. Do you
20 recall that?
- 21 A. Yes, I do.
- 22 Q. And in your testimony at page 25, lines 16 and 17, you
23 state that FairPoint has explicitly stated how much
24 will be invested and when.

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- 1 A. I'm sorry. Which page again?
- 2 Q. Sure. Page 25.
- 3 A. Page 25.
- 4 Q. Starting at line 16.
- 5 A. Yes.
- 6 Q. So FairPoint has explicitly stated how much it will
7 invest in the network and when the investment will
8 occur. And then, you continue to describe -- to state
9 that the FairPoint plan also describes the types of
10 technology that will be deployed and how the technology
11 supports migration toward higher-speed architecture
12 such as fiber-to-the-home. Did I read that correctly?
- 13 A. Certainly, the first part. I'll read it.
14 "It also describes the types of
15 technology that would deploy and how the technology
16 supports migration toward higher-speed architectures
17 such as fiber-to-the-home."
- 18 Q. Okay. If I could have you look at page 2 of your
19 rebuttal testimony, please.
- 20 A. Yes.
- 21 Q. Lines 16 to 18, you state here that the goal of
22 increasing broadband deployment is not well-served by
23 ordering a specific deployment with specific data
24 rates, specific technology, and specific timelines.

1 A. Yes.

2 Q. And I guess I'm wondering if, given that FairPoint has
3 identified explicitly how it will invest, when it will
4 invest, how much it's going to invest, is it your
5 position that the PUC should not make FairPoint's
6 proposed undertakings mandatory conditions of approval?

7 A. No. And -- no, I'm not stating that. Let me separate
8 those two.

9 What FairPoint has promised in their
10 broadband plan is they've talked about a number of
11 different technologies, not one technology. For
12 example, there was not an -- there was not a statement
13 saying, "We're going to provide fiber-to-the-home to
14 everybody."

15 Secondly, there's not a specific data
16 rate that's dictated for all users. I think that would
17 be a mistake. To say it has to be 1 megabit or it has
18 to be 5 megabits could be problematic, because either
19 you're going to underserve people or overserve people.
20 What you want to do is be able to provide a service
21 based on what the network can support and how you can
22 upgrade it and pass the upgrade.

23 The third is the timeline. Now, that
24 one is where I'd say there's closest coupling, which is

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1 a certain percentage of broadband at a certain time
2 period. But this is really a range, because what
3 they've -- what they've said is, in their broadband
4 deployment plan, is over so many months they're going
5 to look at broadband availability to increase general
6 broadband availability and upgrade the core network and
7 upgrade the access network and everything else
8 associated with it. That has more to do with what
9 network changes are being done, what's going to be
10 looked at. So I differentiate those in that way.

11 Q. I guess I'm wondering, if the PUC does not make some
12 sort of objective requirements a part of their order,
13 how it enforces any of these undertakings that the
14 companies are agreeing to provide?

15 A. Well, again, I think differentiating it from specific
16 data rates -- as I said, specific technology. In other
17 words, that it has to be 10 megabits fiber to
18 everybody, that would be, I think, a mistake. Because
19 I think, again, you're going to underserve people and
20 you're probably going to breach the viability of a lot
21 of different companies.

22 What they have done with their broadband
23 plan is said -- they've stated goals and goals of
24 percentage of available broadband service. I think

1 that's reasonable. I don't -- I can't speak for the
2 company to say that they should or should not be
3 obligated.

4 With my days -- I used to be at the FCC,
5 for those of you who don't know that. You know, we
6 weren't specific to technology, we weren't specific to
7 data rates, but we did have goals. And that -- we
8 thought that those were important. Trying to encourage
9 companies to invest, trying to work -- you know, have
10 companies working with state government and federal
11 government to get tax breaks or whatever other things
12 would be removing right-of-way problems. Those are
13 useful things that allow companies to make investment
14 decisions to move ahead.

15 Q. Would you agree -- would you agree that -- the sense
16 that I got, in reading your testimony -- after reading
17 that statement, which it struck me as different from
18 what you're describing -- that you were really opposed
19 to any kind of standards set by the PUC for FairPoint
20 to achieve their goals.

21 Would you agree that your testimony is
22 primarily concerned with a suggestion that's been made,
23 perhaps not directly in this docket, but in the public,
24 that fiber is better than DSL and fiber should be

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1 what's deployed?

2 A. Certainly -- and I described this when I was in Vermont
3 -- rather, in Maine. What brought me into this all was
4 Bob Rowe called me -- and he's called me many times
5 over the years, even when he was a commissioner --
6 chairman, rather -- and asked me a technical question,
7 which I'm often asked technical questions by PUC
8 members.

9 And he said, "Is DSL dead?" And I said,
10 "Oh, of course not." I said, "It's an emerging
11 technology. It's advancing. There's all sorts of
12 things going on." He said, "Do you think that fiber is
13 going to supplant it?" I said, "I think they're going
14 to work in tandem. I think you're going to see fiber
15 deployment."

16 So that's how I was brought into it.
17 Certainly, my original interest was to express that DSL
18 has not been a dead technology. Later, after I wrote
19 an initial white paper for FairPoint describing why DSL
20 is not dead, I was asked to look at their overview of
21 their broadband plan to say does this make sense. And
22 I did that.

23 What I wanted to do was, then, look at
24 the bigger picture, not just DSL, but what are they

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1 doing at their core of their network. How are they
2 upgrading things. What are they putting -- what new
3 technology are they putting in. Are they moving away
4 from ATM, which, again, is something I embrace, moving
5 to MPLS network.

6 So it moved from, as you said in your
7 question about DSL versus fiber, into an assessment of
8 how should networks evolve. And there's a lot of best
9 practices that are being looked at. There's a lot of
10 work in that area to say, you know, we really need to
11 start thinking differently. We need to start following
12 what's been learned in the data comp world, because
13 that's what's taking over. That's how data's being
14 moved now.

15 CHAIRMAN GETZ: "Data comp" meaning data
16 compression?

17 WITNESS SICKER: I'm sorry. It used to
18 be -- you know, you've probably heard the term that there
19 was the telco network, the phone network, and then there
20 was like the Internet. And in some ways, those were
21 competing rival -- competing industries. There were
22 people who made routers that routed IP packets, Internet
23 traffic. And there were people who made switches like
24 Lucent and NorTel and others.

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1 And over time, what's happened is
2 there's been this convergence of services -- voice, video
3 and data -- onto data networks that are primarily
4 Internet-based. And that change is what's driven a lot of
5 the changes in the architecture as to whether you can do
6 circuit switching or packet switching, whether you would
7 use traditional circuit-switch gear or rather packet-
8 switch gear and everything that's associated with that.

9 So this change has really been a part of
10 thinking about voice services, cable services -- when I
11 say "cable," I mean television services -- Internet
12 services, all coming together over one pipe. And that
13 convergence of those -- of those different services onto
14 that pipe has driven this change from traditional telco
15 architectures, a circuit-switch architecture, to a packet-
16 switch architecture that we now see.

17 Q. Could I have you look at your testimony at page 24,
18 please? It looks like you're citing some goals
19 enumerated by the New Hampshire Division of Economic
20 Development. And I think you mentioned those before
21 in -- a little while ago when you were testifying.
22 What are the dates of those goals?

23 A. These were quite a few years ago. These were 2002, I
24 believe, 2003, that time period. It was the last

1 document that I could find talking about that at the
2 time.

3 Q. Okay. And you would agree that goal number 2 states,
4 "Work with providers of telecommunications services,
5 educators and municipal, county, state and other
6 government officials to assist efforts to enhance the
7 deployment of telecommunications services."

8 A. Yes.

9 Q. Would you agree that this goal contemplates government
10 efforts to deploy broadband where telecommunication
11 providers do not?

12 A. Like muni Wi-Fi? Government paying for...

13 Q. Sure.

14 A. I believe that this goal could include that.

15 Q. Okay. And would you agree that wireless initiatives by
16 providers other than FairPoint should not be opposed by
17 FairPoint?

18 A. Yes.

19 Q. Okay. And would you agree that a wireless solution may
20 be more appropriate in some areas of New Hampshire
21 because of the geography and other specific needs?

22 A. I would say there could be wireless. There could be
23 many different technologies that might be more
24 appropriate or less appropriate depending on the

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1 terrain and the deployment and what's there, what's
2 available.

3 Q. Mr. Leach testified the other day that FairPoint
4 expects to serve, with broadband, a hundred percent of
5 the Spinco customers. What, in your opinion, is the
6 likelihood of that happening?

7 A. You mean -- at what time? I mean, in five years, in
8 ten years?

9 Q. In five years.

10 A. I think it's certainly possible. The thing is, though,
11 you'd need to know the details of all of the loop
12 reaches, understand what the outside-plant looks like.
13 You'd have to understand where you could position other
14 technology. And again, FairPoint doesn't have to just
15 use wireline technology. They can use wireless, as
16 well. And I encourage them to do it where it's
17 applicable. They could use fiber.

18 Q. But you didn't do any assessment in terms of a plan or
19 the loop-specific ---

20 A. I don't have detailed specifications -- the specifics
21 of the Verizon network now. I don't know to the extent
22 that FairPoint has the details; that you would need to
23 really -- you know, because at some point, Michael's
24 team, Michael Brown's team, will have to look at the

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1 details of the network in great -- you know, great
2 detail and understand what can be done, how it can be
3 done, what services can be offered, and how to best
4 reach these customers. But I certainly think that you
5 can get all of the customers. But then the question
6 is, at what cost.

7 Q. Mm-hmm.

8 A. And some of these customers out at, you know, the 99th
9 percentile of difficulty, it's very, very hard. It's
10 very expensive.

11 Q. What is the minimum reasonable data rate?

12 A. Again, as I alluded to at the beginning, I think that's
13 really dependent upon so many things. Somebody who's
14 very, very far out, you might not even be able to get
15 broadband to them presently. Somebody who's close in
16 and a large business, certainly, you'd want to be able
17 to give several megabytes to tens of megabytes -- or
18 megabits per second, rather, I'm sorry.

19 So I can't say that there is an absolute
20 number, because it does ride a curve, depending upon
21 the demand of the customer, as well as the
22 characteristics of the network.

23 Q. Under the FairPoint plan, do you have an opinion about
24 what the minimum reasonable data rate would be?

1 A. Well, again, I mean, I know that they're going to be
2 deploying everything from things that are in the 700
3 kilobit per second, all the way up to 20, maybe even
4 higher, that you'd want the technology, 20 megabits per
5 second. I think those are all reasonable. And again,
6 I think this needs to be tailored to the demands of the
7 customer. As I said before, you wouldn't want to say
8 it has to be 5 megabits per second when the customers
9 aren't going to be willing to pay for it.

10 Q. You testified in the comparable proceedings in Maine?

11 A. Yes.

12 Q. And do you recall testifying that the minimum
13 reasonable data rate was above a megabit per second?

14 A. Yeah. And again, we -- in that proceeding, in that
15 testifying, we talked about different data rates. And
16 I do believe that you could say 1 megabit might be the
17 new number that the FCC should have as a goal and --
18 but it's a goal, again. And there's the realities of
19 it, which is, you know, somebody who's nearby who can
20 be provisioned by VDSL should be able to get 10
21 megabits or 20 megabits per second or higher. But
22 somebody who's very far out from a facility, you're
23 going to have a very different situation there.

24 Q. Could you -- thank you. Could you look at page 12 of

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1 your testimony, please?

2 CHAIRMAN GETZ: Well, I think I may have
3 to interrupt at this point, Ms. Hollenberg. Do you ---

4 MS. HOLLENBERG: I have two questions
5 about this table and I think they're going to be very
6 quick.

7 CHAIRMAN GETZ: Okay. That's good.

8 Because my conference call started two minutes ago, but go
9 ahead.

10 BY MS. HOLLENBERG:

11 Q. Okay. Thank you.

12 Do you have that page before you?

13 A. Yes, I do.

14 Q. Okay. Thank you. Would you agree that FairPoint's
15 buildup plan focuses on ADSL2+ technology?

16 A. Yes, it does.

17 Q. And could you tell me how many New Hampshire customers
18 would be able to obtain service at the 44 megabyte per
19 second speed?

20 A. Twenty-four megabits do you mean?

21 Q. I'm sorry. Is it 24?

22 A. Twenty-four megabits.

23 Q. Thank you.

24 A. I can't speak to that. So as you probably are well

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1 aware of, those are maximum data rates, so it goes from
2 there and down. But there's also technology that could
3 -- that's looking at bonding ADSL2+ which could give up
4 to 40 megabits per second. But I can't speak to the
5 details because I don't have information about those
6 loop lanes and the loop conditions to be able to speak
7 to that.

8 Q. So you don't know how many will be served at 24
9 megabytes. I presume that you also don't know how many
10 will be served at 6 megabytes per second?

11 A. No, I do not.

12 MS. HOLLENBERG: Okay. Thank you very
13 much. No further questions.

14 CHAIRMAN GETZ: Okay. Then, we'll take
15 the lunch recess and pick up with Dr. Sicker when we
16 return at 2:30.

17 Thank you.

18 (Lunch recess taken at 1:35 p.m.)

19 (Hearing reconvened at 2:50 p.m.)

20 CHAIRMAN GETZ: Good afternoon. We're
21 back on the record in DT 07-011. Before we resume with
22 Dr. Sicker, Mr. Del Vecchio apparently has something.

23 MR. DEL VECCHIO: Mr. Chairman,
24 anticipating your question. Two matters. One is a

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1 procedural matter and the other is just a note. First, we
2 noticed this morning that Staff had identified as certain
3 of its exhibits discovery responses bearing Mr. Smith's
4 name. And I've had discussions with Ms. Fabrizio about
5 the fact that some of these -- and so far, we've
6 identified Staff Exhibit 52, Staff Exhibit 53C and Staff
7 Exhibit 56C that do not reflect the most updated versions
8 of discovery responses, that there have been supplements.
9 And we just wanted to make sure that, consistent with the
10 approach the Commission has taken, that the supplements
11 would also be included as part of those responses. And I
12 think Ms. Fabrizio said that would be fine. But we'll
13 discuss that offline with Staff and make sure that there
14 are no other Mr. Smith discovery responses that fall in
15 that category.

16 And the second, Mr. Chairman, Verizon
17 would just like to note for the record, with respect to
18 the Commission's decision this morning on the issue of the
19 exclusion of testimony, that Verizon would note its
20 objection for the record regarding the issue of the
21 monetary damages covered by that testimony; and further,
22 that the company reserves its right should the Commission
23 conclude that it has the authority to award monetary
24 damages, whether directly or by way of condition, to

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1 request reconsideration and to undertake an appeal if
2 necessary to a court of competent jurisdiction at the
3 appropriate time. Thank you, sir.

4 CHAIRMAN GETZ: And to the extent that
5 this part of our final decision in this case -- well,
6 let's step back. We'll do the cross-examination
7 testimony. And you can brief that issue, and then it will
8 take the normal course after that.

9 MR. DEL VECCHIO: Exactly.

10 MR. COOLBROTH: Mr. Chairman, also,
11 shortly before lunch a question arose about a document
12 that Dr. Sicker had in his possession, an updated
13 broadband plan. Over lunch we have retrieved that
14 document, and actually, attachments that can go with that
15 document that Dr. Sicker actually did not see but are
16 consistent with our prior iterations of the broadband
17 plan. We have prepared an Exhibit 59 that we have
18 circulated. The first two pages of that are what Dr.
19 Sicker had, and we have determined that those can be
20 public. The budget itself we believe is confidential.
21 And then there's a bunch of access line-count information
22 that we believe is competitively sensitive and should be
23 highly confidential.

24 So we have premarked 59P, FairPoint

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1 Exhibit 59C and FairPoint Exhibit 59HC, and Attorney Baum
2 is in the process of distributing that to parties. I will
3 say that at the time that that was developed, it was at
4 the very deadline of preparation of the rebuttal
5 testimony. And the Commission could look at the
6 discussion commencing on Page 27 of the
7 Brown/Harrington/Smee panel testimony, and the substance
8 of what Dr. Sicker was looking at is in that testimony
9 attributed to Witness Michael Brown. Thank you.

10 CHAIRMAN GETZ: I think there was also
11 an issue on previous iterations of broadband plans. One
12 was marked highly confidential and one was marked
13 confidential. Is that the distinction?

14 MR. COOLBROTH: Well, we looked at --
15 yeah, the original version in June was marked highly
16 confidential. We believe that that was appropriate. The
17 version in July was submitted at a time when we had the
18 five levels of confidentiality. Having looked back, we
19 believe that that actually should have been -- that plan
20 should have been designated as highly confidential as
21 well. It has central office access line information, you
22 know, attached to it that we believe is competitively
23 sensitive and that should have been handled as highly
24 confidential. I don't know what else to say about that,

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1 other than we believe it should continue to have that
2 designation.

3 CHAIRMAN GETZ: Okay. I think there was
4 one other issue raised by Ms. Hatfield about whether
5 certain information already existed in data responses or
6 required an additional record request. Do I take it you
7 folks are still working on that?

8 (No verbal response)

9 CHAIRMAN GETZ: All right. We'll deal
10 with that later then. Mr. Del Vecchio?

11 MR. DEL VECCHIO: I might be able to
12 assist on that. Perhaps the parties can focus on Staff
13 follow-up Data Request Group I 1-1 because that might
14 represent monthly supplements which are being provided.

15 MS. HOLLENBERG: Mr. Chairman, if I
16 might just speak to what Mr. Coolbroth just mentioned
17 about the updated broadband plans. As he did indicate, we
18 only just received this. And as a result, I do have one
19 question of Dr. Sicker, which I've spoken with both Dr.
20 Sicker and Attorney Coolbroth about, which I'd like to do
21 before Staff commences its questions. But I also would
22 like to just note for the record and respectfully request
23 that we have the ability to, if necessary, recall the
24 Brown/Harrington/Smee panel and Mr. Nixon after we have a

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1 chance to review the broadband plan which we only got
2 minutes before starting this afternoon. We're not going
3 to have a meaningful opportunity to do that before the end
4 of the day today.

5 MR. COOLBROTH: Well, the substance
6 of --

7 CHAIRMAN GETZ: Well, I guess your
8 position is that it's substantially the same, so there
9 won't be that need. But I think it's helpful to let the
10 parties confirm that for themselves. I'm not sure where
11 that puts us in terms of -- well, I assume this really
12 doesn't involve Dr. Sicker. It's more the
13 Smee/Brown/Harrington or one --

14 MS. HOLLENBERG: That's correct.

15 CHAIRMAN GETZ: -- of the three, all of
16 the three?

17 MS. HOLLENBERG: I'm not sure at this
18 point in time. But I don't believe we will need to recall
19 Dr. Sicker. I do believe, though, it may be necessary to
20 call one or more of the witnesses testifying at least
21 today.

22 MR. COOLBROTH: Well, Mr. Chairman, they
23 had the information that's on the front part of that plan.
24 There were no questions for these witnesses about any of

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1 the information that's in the back part of that plan,
2 which they're now getting the third iteration of. I
3 believe it would be kind of surprising to have to call
4 back witnesses over material that we didn't get a data
5 request on, that they haven't asked about with respect to
6 the other iterations of the plan. I'm concerned about
7 wrapping up these proceedings and not having to call
8 witnesses back.

9 CHAIRMAN GETZ: I still think they need
10 an opportunity to compare the two documents, the two
11 exhibits, and then we'll see where we go from there.

12 Any other procedural issues before we
13 return to Dr. Sicker? Mr. Mandl?

14 MR. MANDL: Yes. There was a procedural
15 conference that Mr. Kreis presided over back around
16 October 9th. And I think at that time there were
17 discussions or concerns expressed by NECTA and Comcast
18 Phone of New Hampshire about ongoing discussions between
19 the three states' staffs and FairPoint concerning plans to
20 develop a cutover readiness proposal.

21 I was given a document by Staff today,
22 literally moments ago, which appears to document some type
23 of arrangement involving the cutover readiness process,
24 which we believe is highly relevant to this proceeding. I

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1 am not sure at this point what would be the most efficient
2 way to present this information to the Commission, whether
3 it be through Mr. Nixon, through Mr. Antonuk, you know,
4 whose firm is mentioned in the document. But I think it's
5 a highly relevant document. It does need to come before
6 the Commission, you know, in an efficient way, but in a
7 way that also preserves our rights to ask a relevant
8 witness questions about it.

9 CHAIRMAN GETZ: Has everyone seen this
10 document?

11 MS. FABRIZIO: Mr. Chairman, that was
12 e-mailed to the service list just -- well, during the
13 lunch break. And I would also suggest that questions
14 could be addressed to Mr. Falcone and Mr. King in their
15 panel.

16 And just for clarification, an agreement
17 was reached with the other two states, Maine and Vermont,
18 just in -- very recently.

19 CHAIRMAN GETZ: Okay.

20 MR. DEL VECCHIO: I would just note for
21 the record that this agreement does not necessarily
22 reflect agreement with Verizon and that we are in the
23 course of reviewing it as we speak.

24 CHAIRMAN GETZ: Mr. Coolbroth, do you

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1 have --

2 MR. COOLBROTH: FairPoint is reviewing
3 it as well, Mr. Chairman.

4 CHAIRMAN GETZ: Well, I'm not sure that
5 we're going to get through Mr. Nixon today. I guess,
6 obviously, this document should be put in the record and
7 there should be some opportunity for the parties to review
8 it and to follow up with either some combination of Mr.
9 Nixon, Mr. Falcone, King or Antonuk. And I guess maybe
10 the best way to do that is to see how far we get today and
11 then try to deal with the facts of the agreement tomorrow
12 morning.

13 MR. MANDL: Thank you.

14 CHAIRMAN GETZ: Thank you. Anyone else?
15 Hearing nothing, then Ms. Fabrizio. I'm sorry. One
16 question from Ms. Hollenberg, please.

17 MS. HOLLENBERG: Yes. Thank you.

18 CROSS-EXAMINATION, RESUMED

19 BY MS. HOLLENBERG:

20 Q. Dr. Sicker, good afternoon.

21 A. Good afternoon.

22 Q. Just one question. When you spoke earlier, I asked you
23 what the most recent version of the FairPoint broadband
24 plan was that you had reviewed, and you indicated it

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1 was a document dated in around September of 2007. Do
2 you recall that?

3 A. That's correct.

4 Q. Okay.

5 MS. HOLLENBERG: And if I might just
6 approach the witness, please.

7 BY MS. HOLLENBERG:

8 Q. I'd like you to just look at this document that I have,
9 and if you could confirm that that's the document that
10 you're referring to. It's a two-page document titled
11 "Broadband Plan."

12 (Witness reviews document.)

13 A. Yes, it is. That's the document.

14 Q. Thank you.

15 A. Thank you.

16 Q. And it's --

17 MS. HOLLENBERG: I'm sorry. Just for
18 the record, it's titled "FairPoint Communications, Inc.'s
19 Broadband Plan for the State of New Hampshire." And it is
20 not dated, although I'll accept your representation that
21 it was in around September 2007 and it is proprietary.

22 Thank you.

23 MR. COOLBROTH: Actually, that version
24 is public. That's the same as FairPoint Exhibit 59P.

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1 MS. HOLLENBERG: Excuse me?

2 MR. COOLBROTH: That document you just
3 showed Dr. Sicker is the same document as FairPoint
4 Exhibit 59P.

5 MS. HOLLENBERG: Okay.

6 BY MS. HOLLENBERG:

7 Q. And Dr. Sicker, just one other question. This is the
8 entirety of the document? You didn't review any
9 attachments to this document?

10 A. I did not.

11 MS. HOLLENBERG: Thank you. That's --
12 no further questions. Thank you.

13 CHAIRMAN GETZ: Thank you. Ms.
14 Fabrizio.

15 MS. FABRIZIO: Thank you.

16 CROSS-EXAMINATION

17 BY MS. FABRIZIO:

18 Q. Good afternoon, Dr. Sicker.

19 A. Good afternoon.

20 Q. On Page 2 of your rebuttal testimony, Lines 13, 14, you
21 indicate that you believe DSL is a logical solution
22 and, in fact, the technology of choice for expanding
23 broadband service in New Hampshire. Can you please
24 tell us why you believe this is the case?

1 A. Sure. First, by saying the logical choice or
2 technology of choice, I'm referring to the fact that
3 most broadband providers that are not cable -- in other
4 words, those not using hybrid fiber coax -- are using
5 DSL to deploy broadband services -- the highest
6 percentage, in other words. So it is the technology
7 that's being used for broadband. It is the most
8 popular flavor of technology.

9 Next, since there is already an
10 installed base of copper -- there's a copper plant that
11 already exists throughout New Hampshire and all of the
12 United States, for that matter, most of the world --
13 it's a very prudent, logical approach to extend what
14 you already have in trying to build out broadband
15 capabilities over that plant. And so that's why I say
16 it's a logical choice.

17 Q. All right. Thanks. Could you tell us what in your
18 view are the positives and negatives of FairPoint's
19 proposed implementation of DSL technology?

20 A. Just the DSL component.

21 Q. Hmm.

22 A. Well, certainly the positives, as I said, it will be
23 probably the most time-efficient. You'll be able to
24 get the most rapid deployment, as opposed to trying to

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1 pull fiber or something from a new facility. That
2 would be a positive. Again, there's a cost per bit.
3 Maybe we could think of it that way as a metric, which
4 is how much would it cost the company to be able to
5 upgrade the plant now to provide that broadband
6 service. So that's another logical area, another
7 logical reason to think that.

8 You know, ultimately the downside would
9 be, in the long run, you would be thinking about very
10 high data rates. But DSL is still a migratory path.
11 So, you know, if you had all the money in the world to
12 invest and that wasn't an object, you could run fiber
13 to every home and have these huge data rates. It
14 happens that it wouldn't probably be the architecture
15 that's being proposed now by or even being implemented
16 by most companies now. For example, even GPON
17 technology, the passive optical networks, you would
18 probably run fiber from every house -- from the CEO to
19 every house, individual fibers. Hugely expensive. But
20 if you do that, it would be very future-proof, because
21 then you would just be turning up electronics on either
22 end. But the truth is, there's no demand and no
23 justification for that. So... do you want me to expand
24 on that?

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1 Q. No. I think, if I understood correctly, the negative
2 to expanding with DSL technology is just lesser
3 speeds --

4 A. That's right, sir.

5 Q. -- potential.

6 Okay. And in your testimony you refer
7 to broadband availability a number of times, as we've
8 discussed earlier. If I understood you correctly, you
9 would define "broadband" as any data speed greater than
10 dial-up; is that correct?

11 A. You know, yes. But I guess I would caveat that. You
12 know, no, I don't want to say greater than dial-up. I
13 certainly think it needs to be at least 200 megabits
14 per second -- rather -- I'm sorry -- 200 kilobits per
15 second. And that's even a rather low threshold. You
16 know, and as I suggested before, there's no absolute.
17 It's very difficult to say it should be one megabit or
18 five megabits. That's all depending on the network,
19 the demand and the loop lengths. But I certainly think
20 it's going to be, you know, in the area of maybe 700
21 mega -- 700 kilobits per second, because that's
22 certainly a common offering now. So, 700 and up is
23 going to be where you would think of as being
24 reasonable broadband. But likewise, you'd want to be

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1 able to offer 1.5 or 2 or 3 if you can. So I'd hate to
2 have a spiral-down sort of thing where everybody's
3 trying to focus on the lower, you know, on an absolute
4 lower and not being able to provision as you can.

5 Q. And did I understand you correctly when you were
6 discussing these issues with Ms. Hollenberg, that it is
7 your belief that the definition of broadband will
8 continue to evolve?

9 A. Yes. I think we're going to see every couple of years
10 people are going to say -- expect a higher data rate.
11 So, certainly the 200 kilobits per second that the FCC
12 proposed back almost 10 years ago now is very low. And
13 as technology evolves and as the plant is built out,
14 we'll see higher and higher data rates. That's also
15 going to be driven by demand, by the customer. And
16 it's one of those things that as you build a more
17 capable network, people will start using it and use
18 higher data rate services on top of that. But I do
19 believe at this point that we have -- it's very common
20 to think about one megabit per second. But I think in
21 five years from now we'll be thinking 10 megabits per
22 second and so on.

23 Q. Okay. So the minimum data speed you're talking about
24 is about 200 kilobits. Are higher speeds possible?

1 A. I'm sorry. One more time?

2 Q. You seemed to decide that a minimum speed would be the
3 200 kilobits. Is that correct?

4 A. Well, that's not even acceptable. I think, you know, a
5 reasonable speed would be around, on the lower end, 700
6 kilobits per second; and on the higher end, it could be
7 20 megabits per second or more.

8 Q. Bear with me here as I try to absorb all these numbers.

9 A. Sure.

10 Q. When you say 700 and up is a reasonable speed, what
11 does that mean? Reasonable for what?

12 A. For much of what people use a broadband pipe for
13 nowadays, where you have combined possibly web surfing,
14 Internet access and voice services over the same media.
15 You can even do some very low data-write video, but not
16 what we think of as IPTV, which is generally in the
17 area of 2 megabits per second.

18 Q. And will FairPoint be able to provide higher speeds in
19 New Hampshire, given the DSL technology they're
20 currently using?

21 A. Yes, much higher than that. I think, you know, the way
22 again of thinking about it is in long range -- in the
23 longer reach, 700 kilobits is probably going to be
24 about as good as they can get until they continue to

1 build out and get better technology, Smart Coil and
2 other sorts of things out there. But for customers who
3 are nearer to the CEO or nearer to remote terminals, it
4 shouldn't be surprising to see 2 megabits or 6 megabits
5 per second, or even higher.

6 Q. Thank you. Would you please turn to Page 12 of your
7 rebuttal, Figure 4, the table, "Distances for Various
8 DSL Technologies." This table shows the maximum loop
9 length and data speeds for various DSL services;
10 correct?

11 A. That's correct.

12 Q. The first on the list is ADSL G.lite which shows
13 downstream data speed of 1.5 megabits on local loops up
14 to 18,000 feet in length; correct?

15 A. That's correct.

16 Q. However, isn't it true that the data speed that can be
17 achieved on a line will be affected by other
18 characteristics on that line besides the length of the
19 line?

20 A. That's definitely the case, and condition.

21 Q. Can you elaborate on those factors?

22 A. Sure. There are a number of factors that can
23 influence: The gauge of the copper plant, both the
24 thickness of the diameter of the wires; the maintenance

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1 of that plant; what the bundles look like; how it's
2 been terminated, how many connections. There are all
3 these little things in terms of add-ons that were done
4 to telephone networks over the years to improve voice
5 quality. So these things have to be removed. And
6 there's a whole lot of things along those lines that
7 can influence and mean that the data rates at that
8 range might be lower. And while that does say a
9 maximum reach of 18 kilo feet, that's not an absolute.
10 You can push beyond that. And people have. I know
11 FairPoint does, and I know a lot of DSL providers do.
12 And the question is how much do you degrade in the data
13 rates up and down as you go beyond 1800 kilo feet --
14 or, I'm sorry, 18 kilo feet.

15 And then the other thing is there's new
16 technology that does -- you can think of it as
17 minimizing the noise on the line that allows you to
18 have longer reaches of DSL out into, you know, 22 kilo
19 feet. So these numbers are put down as examples of
20 estimated length, you know, reach, and estimated data
21 rates. But they're not absolutes. You can go beyond
22 them. And again, you can play with new technology to
23 improve either the data rate or the reach. But there
24 is a relationship between the two.

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- 1 Q. Again, if I heard you correctly, the wire gauge can be
2 a factor?
- 3 A. That's correct.
- 4 Q. Number of bridge taps, the length and location of those
5 bridge taps?
- 6 A. Yeah.
- 7 Q. And you mention --
- 8 A. Coils.
- 9 Q. -- noise interference as well.
- 10 A. Yeah. Sometimes the plant will be adjacent --
11 sometimes wiring will be adjacent to outside
12 interference, called ingress -- noise going from the
13 outside in -- and that could cause problems. And it
14 could be anything mechanical. A lot of things out in
15 the real world create noise that can be absorbed into
16 the cable.
- 17 Q. Great. Thank you. Now, based on all of those possible
18 variables that could potentially affect the data speeds
19 a line is capable of supporting, isn't it true that
20 until the actual physical make-up of a line is known,
21 it's difficult for the DSL service provider to
22 determine what data speeds that line will support,
23 especially in cases where the length of the line is
24 very long -- in other words, 18,000 feet or greater?

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1 A. Just to clarify, I mean, there are tests you can do
2 from -- there's tests you can do remotely from the
3 central office to understand what that loop is capable
4 of providing. So it's not as if you have to go out and
5 physically analyze the whole length of the loop to be
6 able to decide what type of data rates you can get on
7 that -- metallic loop-testing and other sorts of things
8 along these lines that allow you to understand, oh,
9 this is probably what data rate I can get on it. Does
10 that clarify?

11 Q. Yes. Thank you. Now, based on your work with
12 FairPoint, what drove the changes that FairPoint has
13 made to its broadband plan?

14 A. I don't think I can speak to that. I don't know. I
15 haven't worked that closely with them. It's usually,
16 you know, I'll talk to Mr. Brown about what they're
17 doing. We talked a great deal about the proposed
18 architecture, the MPLS network and things like that,
19 personally because it's of great interest to me, but
20 not what drove decisions to change percentages or which
21 central office -- you know, that kind of broadband
22 rollout plan, we didn't talk to the details of that.

23 MS. HOLLENBERG: Okay. Thank you. That
24 concludes my questions for Dr. Sicker.

1

EXAMINATION

2 BY COMMISSIONER BELOW:

3 Q. On Page 20 of your testimony, at the bottom you state
4 that ATM has a 20-percent overhead, Ethernet has a 5-
5 to 6-percent overhead due to encapsulation, but Gigabit
6 Ethernet can reduce that overhead to 1 percent. What
7 does that mean? What does "overhead" mean in this?8 A. Sure. The way of looking or the way of thinking about
9 this, when you send data from your computer up onto the
10 network, all those devices along the way, your DSL
11 modem and subsequently, wrap additional data around it,
12 add more bits to that information that's going across.
13 So the first thing that happens is it's getting chunked
14 up into your computer. There's little packets that are
15 being formed. And as it's being passed down through
16 the computer to exit the computer, additional
17 information is being added. More bits are being added
18 that allow the network to ensure that it hasn't
19 degraded, so that you can recover if there's an error,
20 to know where it needs to go and so on. So it's
21 addressing information, error-correcting information
22 and so on. Different technologies, networking
23 technologies -- whether it's ATM, Frame Relay, Gigabit
24 Ethernet, regular Ethernet -- all have different ways

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1 of approaching this. What Gigabit Ethernet allows you
2 to do is minimize that overhead by allowing you to send
3 larger chunks of data. So it's just more efficient in
4 that sense; whereas, ATM, ATM cuts the data into very,
5 very small segments, which at the end of the day are 53
6 bytes. Not very large at all. And there's a high
7 amount of overhead associated with that just because
8 the cells are so small. So that's what it means. It
9 just means that, depending on the network protocols
10 you're using, you might add more or fewer bits of
11 overhead.

12 Q. Okay. Is it your understanding that the IP/MPLS
13 switching technology, is that going to be replacing the
14 ATM, or is it Sono --

15 A. Sonet.

16 Q. -- Sonet in its entirety? Or is it going to, to some
17 extent, run alongside of it?

18 A. So you can do -- you can approach this in many
19 different ways. You could have IP/MPLS over a Sonet
20 network. There's a lot of different ways that these
21 things can be mixed. I think the best thing you could
22 say is, MPLS in many ways has been dubbed as a --
23 identified as a replacement for ATM. And MPLS is very
24 similar in many ways to ATM, but it has a lower

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1 overhead. What MPLS allows you to do is mark different
2 bits of traffic for different handling across the
3 network. So you can say, oh, I want these bits or
4 these packets or frames to go down a certain path that
5 has a certain reliability or quality of service. And
6 it's very common to use that in the core of the network
7 or to traffic-engineer the network; so that voice data
8 gets better service, presumably, than web surfing,
9 because web surfing, you can drop packets and it
10 doesn't really matter. It doesn't matter if it's
11 delayed much. But voice, we're very sensitive to those
12 kind of delays.

13 Q. So what will happen to voice traffic, as you understand
14 it, with the improvements to the backbone system? Will
15 some of the voice traffic move off of the ATM and onto
16 the IP switching?

17 A. I don't know the particulars of how FairPoint plans to
18 roll that out. They could. Or they could still be
19 using the ATM. Or they could do both, actually.

20 Q. Okay. Thanks. That's all.

21 CHAIRMAN GETZ: Redirect?

22 MR. COOLBROTH: Thank you, Mr. Chairman.

23 **REDIRECT EXAMINATION**

24 BY MR. COOLBROTH:

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1 Q. Dr. Sicker, just returning to that last question. I'd
2 like to clarify. The circuit-switched voice traffic
3 does not travel over the ATM network, does it?

4 A. You can't -- well, it depends on where you're saying
5 circuit-switched voice. There is circuit-switched
6 voice on the edge that then could subsequently, in the
7 core of the network, be carried over ATM, yes.

8 Q. I see. Okay. Just to try to clarify a bit the
9 difference between the traditional ATM and Sonet
10 architecture and FairPoint's proposed architecture --
11 and to try to ask this is going to display my
12 ignorance. But as I understand it, the ATM-over-Sonet
13 architecture is basically a star-type architecture, so
14 that any message you send out of your computer to
15 another computer has to pass through a central ATM
16 switch before reaching another computer? Is that
17 correct?

18 A. I'm trying to think of what's the best way of
19 differentiating these. It has much less to do, in many
20 ways, about whether it's a star architecture or not and
21 more about how the data is handled across the network
22 and how easy it is to get that data off of that network
23 and take advantage of the movement or an IP -- and when
24 I say IP, I mean Internet protocol. That's the big

1 change. I mean, when you look at FairPoint's newer
2 network design, this is very much embracing the next
3 generation networks. This is moving away from ATM,
4 moving away from Sonet. It's moving toward MPLS,
5 moving toward Gigabit Ethernet. It's embracing, again,
6 more of the data communication approach to networking,
7 and it's looking more at flexibility in the design of
8 the network and trying to take advantage of the
9 dropping costs of data communications equipment.

10 Q. And in this discussion, we tend to focus on broadband
11 availability to the people furthest out who don't have
12 access to broadband now. And that's understandable to
13 have that concern. What other benefits does
14 FairPoint's proposed broadband plan offer, apart from
15 reaching the people who are furthest out?

16 A. I mean, well, first of all, it's -- one of the first
17 phases of the network is to upgrade the core. And when
18 you upgrade the core, you benefit everybody because
19 you're allowing for a more efficient network and
20 removing bottlenecks. Then, as you look at some of the
21 phasing, you know, move to the next phase where you're
22 implementing, upgrading digital loop carrier and
23 implementing these access nodes that can support a lot
24 of different technology, you're likewise continuing

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1 this kind of general upgrade across the networks. So
2 it's kind of good for everybody. And you're right.
3 You could say, well, you do the opposite. You could
4 say, no, just focus on the most remote people furthest
5 out. But if you do that, then you wouldn't be
6 serving -- you could be investing money way out in the
7 edge of the network to reach people who are far out and
8 then forgetting your closer, nearby customers and the
9 technology that can be upgraded for them along the way,
10 which is actually the majority of your customer base.

11 MR. COOLBROTH: No further questions,
12 Mr. Chairman.

13 CHAIRMAN GETZ: Okay. Then I think that
14 concludes the examination, Dr. Sicker. Thank you. You're
15 excused.

16 WITNESS SICKER: Now I run to the
17 airport.

18 MR. COOLBROTH: We could ask him, "How
19 about those Red Sox?"

WITNESS SICKER: Be nice.

21 MR. COOLBROTH: We call Peter Nixon.

22 CHAIRMAN GETZ: I'd just note that Mr.
23 Nixon's already been sworn in this proceeding. We've al-
24 established that.

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1 Mr. Coolbroth.

2 MR. COOLBROTH: Thank you.

3 **PETER G. NIXON, PRECIOUSLY SWORN**

4 **DIRECT EXAMINATION**

5 BY MR. COOLBROTH:

6 Q. Good afternoon, Mr. Nixon.

7 A. Good afternoon.

8 Q. I'd like to direct your attention to a document that's
9 been marked as FairPoint Exhibit 6 in this proceeding,
10 entitled "Direct Testimony of Peter G. Nixon," dated
11 March 23, 2007. Do you have that before you?

12 A. I do.

13 Q. Is that your prefilled testimony that was filed in March
14 of 2007?

15 A. It is.

16 Q. Do you have any updates or corrections to make to that
17 testimony?

18 A. No, I do not. I'm sorry. To the direct? My position
19 has changed since that direct testimony was filed. I'm
20 now president of FairPoint. That would be a change on
21 Page 1.

22 Q. And are there perhaps updates in your rebuttal
23 testimony?

24 A. In my rebuttal, there would be.

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1 Q. Subject to those updates, is this testimony true and
2 accurate to the best of your knowledge, information and
3 belief?

4 A. It is.

5 Q. And do you adopt it as your own, as though read into
6 the record?

7 A. I do.

8 Q. I'd like to direct your attention to what has been
9 marked as FairPoint Exhibit 7 in this proceeding,
10 entitled "Rebuttal Testimony of Peter G. Nixon,"
11 premarked as FairPoint Exhibit 7 and dated
12 September 10, 2007. Do you have that before you?

13 A. I do.

14 Q. And do you have updates or corrections to that
15 testimony?

16 A. I have two. On Page 4, Line 15, it would now read,
17 "FairPoint will invest approximately \$16 million..."
18 And then on Page 7, Line 12, it would now read,
19 "...expansion plan provides for addressability to over
20 57,000 additional access lines..." And both of those
21 corrections were to conform with Mr. Brown's updated
22 plan.

23 Q. And with those changes, is your testimony true and
24 accurate to the best of your knowledge, information and

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1 belief?

2 A. Again, there were two updates. One would be in the
3 rebuttal I addressed, the discussion with regard to the
4 New Hampshire Legal Assistance. And I believe we're
5 going to incorporate or ask that we incorporate that
6 memorandum of understanding as part of mine, as opposed
7 to going through it line by line and making those
8 changes.

9 And the second, in my rebuttal testimony
10 I also addressed numerous issues with regard to CLECs.
11 And I believe we were going to incorporate the
12 settlement stipulation that was referred to the other
13 day, as opposed to going through a line-by-line
14 correction.

15 Q. And this was the settlement with the CLEC coalition?

16 A. That's correct.

17 Q. And actually, while on the subject of the memorandum of
18 understanding with New Hampshire Legal Assistance, I
19 just wanted to clarify one point. You were asked when
20 you appeared previously about FairPoint's recommended
21 rate-making treatment of the cost of the
22 public-interest pay phones that FairPoint is going to
23 fund. Have you had opportunity to talk to Mr. Skrivan
24 some more about the appropriate rate-making treatment

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1 of those phones?

2 A. I did. Last week, the question was with regard to the
3 treatment for the public pay phones and whether or not
4 that treatment would be, if you will, above the line or
5 below the line. And at that time I indicated, based
6 upon my knowledge, that I thought it would be above the
7 lines as regulated service. Based upon some further
8 work that Mr. Skrivan's done in the meantime, I
9 understand that to be below the line as a non-reg
10 service. We would therefore treat those expenses as a
11 below-the-line expense.

12 Q. And just as another update, with respect to the CLEC
13 settlement that you have referenced, do you have a
14 comment on the discussion regarding -- I believe Mr.
15 Skrivan had regarding the appropriate -- the method
16 contemplated in that settlement for determining whether
17 items needed to be provided under Section 271?

18 A. I do, and it's an important clarification. And that is
19 that we're proposing that FairPoint, although we're not
20 a BOC, would be -- would provide the competitive
21 checklist items as set forth and prescribed by the FCC,
22 whether it's a network element or service, those that
23 are generally required be provided by the FCC, and from
24 there went into some additional discussion and

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clarification from Mr. Skrivan on how those would be insured from the starting point that I wanted to make sure that we addressed today. The starting point are those checklist items as determined set forth from time to time by the FCC.

6 MR. COOLBROTH: Witness is available for
7 cross-examination.

8 CHAIRMAN GETZ: Okay. Thank you. My
9 list indicates that there are questions from Mr. Price,
10 Mr. Mandl, Mr. Ciandella, Mr. Rubin, Ms. Hollenberg or Ms.
11 Hatfield, and Ms. Fabrizio. Does that cover everyone?

12 (No verbal response)

13 CHAIRMAN GETZ: Okay. Well, let's start
14 with Mr. Ciandella.

CROSS-EXAMINATION

16 BY MR. CIANDELLA:

17 Q. Mr. Nixon, you can respond to me from here?

18 A. I can.

19 Q. I notice this morning I was one of two people to stand
20 up. Since it's after lunch, I'm going to reserve my
21 energy.

22 I have a few questions for you which
23 flow from your rebuttal testimony at Page 43, Lines 6
24 through 8. You testified in those lines that FairPoint

1 does not have a specific plan for dates by which it
2 would initiate video service offerings. I'm going to
3 ask you a couple questions to elaborate on that.

4 What I'd like to know, what are the
5 things that FairPoint must do before it provides video
6 services? And in your answer, what I'd ask you to do
7 is answer in the context of those communities where
8 Verizon has already deployed its fiber-to-premises
9 product and the balance of communities. And also, as
10 you go through and itemize the things that must be
11 done, if you could assign a time frame or a projected
12 time frame for each of those items.

13 A. Let me give it a shot. The items that we would be
14 looking at for the initiation of video services would
15 include such things as acquisition of franchises that
16 would be necessary. And we would begin that process --
17 we have not begun that process. We hope to begin that
18 process shortly after regulatory approval so we can get
19 a head start on that effort. And we would propose that
20 we'd be doing those on a community-by-community basis.

21 Number two, we would need to develop a
22 channel lineup. So we would be looking against the
23 competitive products. And once you do that, you need
24 to begin to and you have to acquire the content

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1 necessary.

2 Third would be to design, locate,
3 install, test and deploy the head-end equipment that
4 would be necessary. And then in terms of, I think
5 responsive to your question, would be assess the
6 networks that are available and could be most readily
7 available for the deployment of video. Certainly from
8 our perspective, we like to look at those communities
9 and those areas that have network availability for a
10 rapid start. And so as we take a look at the broadband
11 initiation and the issue that we have, we would
12 probably in this case look to those communities that
13 have an existing infrastructure, such as a fiber-based
14 infrastructure where we could do a rapid start. Ours
15 is how quickly can we get to market, how quickly can we
16 begin serving the customers and begin to make an impact
17 in the communities of the customers in the market, and
18 certainly our revenue stream.

19 So again, we do not have a specific
20 plan. We are in the final stages right now of bringing
21 on board a video product manager. That person then
22 would be the one who would be assigned this as their
23 primary duty, to manage and to accelerate and to build
24 and deploy the video product. I would expect that we

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1 would be able to have first market launch sometime
2 in -- assuming a January 31st close of 2008, we'd be
3 looking in 2009 for a market launch.

4 Q. And I take it from your answer that you would
5 anticipate that, because of the network characteristics
6 in the communities where Verizon has deployed its fiber
7 to premises, those would be communities that would
8 likely be -- you would launch first, or sooner rather
9 than later.

10 A. Certainly we'd have our engineers evaluate and make
11 sure we had a thorough understanding of the network,
12 the architecture, and our ability to do the inserts,
13 you know, into that network. Based upon what we know
14 today, that would be a logical place for us to begin
15 the initiative.

16 Q. And just within those communities where Verizon has
17 deployed its fiber-to-premises product, would -- and in
18 anticipation of this video service offering -- would
19 FairPoint complete the fiber deployment, to the extent
20 there are portions of the municipality that weren't
21 reached by the fiber by the Verizon deployment?

22 A. I think Michael Brown said this morning, and I would
23 agree with his assessment, that that's not a
24 precondition to offering the IPTV services. We have

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1 markets today that we provide that service on a DSL or
2 fiber basis. You know, our objective is how can we get
3 the services desired by the customers to the customers
4 in the most expeditious way and with the least cost.
5 And if that means we can use an existing fiber network
6 that we don't have to upgrade or change, we would
7 certainly attempt to do that. It also means that where
8 there are customers even within that same community
9 that may be served by copper today, that we have the
10 capacity, as Mr. Brown indicated, to use a DSL-based
11 solution. So our objective -- you know, we tend to be
12 pretty technology agnostic. It's what are the
13 applications that the customers need? What technology
14 can best deliver those applications, and how quickly
15 can we get them to them?

16 Q. Just so -- and I think I do understand you. So what
17 Mr. Brown said this morning in the context of extension
18 of broadband services, in terms of the mix-and-match
19 fiber and copper, applies as well to the video service
20 offering.

21 A. It does.

22 Q. Okay. This is my final question. New Hampshire, as
23 most states, has a level -- what they call a level
24 playing field provision in its state law governing

1 cable franchising. And it says that municipalities
2 cannot grant an additional franchise on terms or
3 conditions more favorable or less burdensome than
4 existing franchises. And Mr. Nixon, municipalities
5 have an interest in getting competitive video providers
6 in their communities, but at the same time, they have
7 an interest in not finding themselves in the middle of
8 a legal struggle between the incumbent cable provider
9 and a competitive provider. So I guess I would ask
10 you, in light of that statutory provision, how will
11 FairPoint deploy its video services product, keeping in
12 mind that statutory provision?

13 A. I understand that statutory provision's under some
14 debate and consideration at the time. And ours is not
15 to debate the legal aspects of that in this, in the
16 hearings this week. We would comply with the rules,
17 regulations and statutes as they were current at the
18 time.

19 Q. Just a quick follow-up on that. As part of your -- you
20 had mentioned that franchising is obviously going to be
21 a part of what you do as a prerequisite to rolling out
22 the video product. Will you be looking at the
23 incumbent franchises to begin to at least get some
24 sense of what the existing cable franchises are in a

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1 particular community?

2 A. We will. We have experience within our own markets in
3 cable franchising. We'd look at those within the
4 existing communities, certainly, to understand what the
5 current expectations are. That would be the most
6 logical place to start. Again, that's -- we'll put
7 that -- that will become one of the duties of the
8 market -- of the product manager, getting in the market
9 and begin to do that work.

10 MR. CIANDELLA: Thank you. I have
11 nothing further.

12 CHAIRMAN GETZ: Thank you.

13 Mr. Price.

14 MR. PRICE: Thank you, Mr. Chairman.

CROSS-EXAMINATION

16 BY MR. PRICE:

17 Q. Good afternoon, Mr. Nixon.

18 A. Good afternoon.

19 Q. I wanted to ask you about the joint stipulation that
20 FairPoint has entered into with three CLECs in this
21 proceeding that you mentioned has now been incorporated
22 into your testimony.

23 Mr. Lippold and Mr. Skrivan have
24 testified that certain provisions of the joint

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1 stipulation apply to all CLECs in New Hampshire and
2 others apply only to the three CLECs that are a party
3 to the joint stipulation. Is that also your
4 understanding?

5 A. That's correct.

6 Q. Now, one of the provisions that applies to all CLECs is
7 Section 3 -- excuse me -- Section 2a, which I think you
8 alluded to this earlier as FairPoint's obligation -- or
9 taking upon itself the obligation to provide
10 Section 271 elements as if it were a BOC, without
11 conceding that it's a BOC; is that correct?

12 A. That would be correct.

13 Q. So my question has to do with enforcing this provision.
14 My understanding from Mr. Skrivan's testimony is that
15 CLECs that are not a party to the stipulation may go to
16 the New Hampshire Public Utilities Commission to ask
17 that FairPoint's commitment to provide these elements
18 be enforced, but that in order to make a determination
19 about what the pricing is that applies to those
20 elements, CLECs that are not a party to the stipulation
21 would need to go to the FCC. Is that also your
22 understanding?

23 A. That's my understanding.

24 Q. Okay. Can you tell me what the rationale is for this

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- 1 difference of treatment among similarly situated CLECs
2 in New Hampshire?
- 3 A. To negotiate a settlement. And the terms of the
4 negotiations were unique to the parties that entered
5 into this agreement.
- 6 Q. Do you agree, though, that if you have one -- two
7 different forums making determinations about pricing,
8 that that could lead to conceivably one CLEC paying a
9 certain amount for a Section 271 element and a
10 different CLEC paying a different amount for the same
11 element?
- 12 A. Again, I don't believe that would be the case, because
13 both of those have the obligation to follow the FCC's
14 just and reasonable pricing guidelines.
- 15 Q. So what's the point of having two different forums to
16 begin with?
- 17 A. It depends who raises the questions first, I suppose.
- 18 Q. Do you consider it to be -- because the CLECs that
19 signed on to the joint stipulation have the ability to
20 go to the New Hampshire Commission, do you see that as
21 an added benefit for them?
- 22 A. They thought so.
- 23 Q. Have you considered whether the FCC even has
24 jurisdiction to make a determination like this for the

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1 other CLECs?

2 A. I believe Mr. Skrivan indicated that in the section
3 with regard to pricing, that it is our belief that they
4 do under Section 201(b) and 202(a).

5 Q. Section 2a of the joint stipulation discusses the
6 pricing standard that you mention. And it says that --
7 let me read the quote here. FairPoint will provide, as
8 you mentioned, Section 271 competitive checklist
9 network elements at -- and I'm quoting now -- "at
10 rates, terms and conditions that are just and
11 reasonable and not unreasonably discriminatory, as if
12 governed by Sections 201(b) and 202(a) of the
13 Communication Act." So that seems to indicate that
14 they're not actually governed by 201 and 202 of the
15 Communications Act, but that you will act as if they
16 are governed by that.

17 A. Yeah. Again, this is not an area of expertise for me.
18 I think Mr. Skrivan addressed this the other day. And
19 my understanding is his, that those would be governed
20 by exactly as it says, 201 -- Sections 201(b) and
21 202(a). That is my understanding.

22 Q. Okay. But doesn't this read that they actually are not
23 governed by 201 and 202, but that you will act as if
24 they are governed by 201 and 202?

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1 A. Again, my understanding is that we would be required
2 to -- that we are required to price it in that accord.

3 Q. Not just because you're committing to do that, but
4 because there's some independent legal obligation that
5 you have to do that?

6 A. That's my understanding.

7 Q. Okay. Other than the joint stipulation, has FairPoint
8 entered into or committed to enter into any agreement,
9 arrangement or understanding with any of the CLECs that
10 are a party to the joint stipulation?

11 A. No.

12 Q. Let me direct you to some language in Section 8b of the
13 joint stipulation. It says in the first sentence, or
14 only sentence, "The parties agree that these terms are
15 part of a partial settlement proposal..." Can you
16 explain how this is a partial settlement and what the
17 other elements of the settlement are?

18 (Witness reviews document.)

19 A. I'm not sure. Happy to take a whole data request. I'm
20 not sure.

21 Q. Okay.

22 MR. PRICE: Yes. Could we ask for a
23 record request on that?

24 CHAIRMAN GETZ: Can you give me the cite

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1 again, please?

2 MR. PRICE: I'm sorry?

3 CHAIRMAN GETZ: The citation.

4 MR. PRICE: It's Section 8b of the term
5 sheet that's attached to the joint stipulation.

6 CHAIRMAN GETZ: I just note for the
7 record that this is FairPoint Exhibit 15 that we've been
8 discussing. I think that's the citation. Okay. We'll
9 reserve Exhibit 60 for the response.

10 MR. COOLBROTH: I'd remark, Mr.
11 Chairman, it would be a first if we had a full settlement
12 and two weeks of hearings. But we'll provide an answer.

13 BY MR. PRICE:

14 Q. Other than the joint stipulation, has FairPoint reached
15 a settlement with any other CLEC intervenors in New
16 Hampshire?

17 A. I believe we have. I'm not sure about the exhaustive
18 list, but we do have settlement agreements with other
19 CLECs. And I believe that they were intervenors in New
20 Hampshire, but I'm not sure.

21 Q. And under those settlements, does FairPoint commit to
22 providing any services or elements to those settling
23 parties?

24 A. Again, I'm not really familiar with the details of

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1 those agreements. I think there have been certainly
2 press releases on who they are. And so it's not -- I
3 think we know who the companies are, but I'm not
4 familiar with all the details.

5 Q. Well, DSCI, Paetec, Level 3 are companies that have
6 withdrawn from --

7 A. Exactly.

8 Q. -- you have entered into settlement agreements?

9 A. I'm not -- settlement agreements? Subject to check,
10 yeah.

11 Q. Okay. But are you aware of whether as a result of
12 the -- as part of these settlement arrangements,
13 FairPoint has committed to providing any specific
14 services or network elements to those companies?

15 A. Not unique to what this is here.

16 Q. Can you tell me what FairPoint has agreed to in these
17 agreements?

18 A. I cannot.

19 MR. COOLBROTH: I'm going to object to
20 this line of questions as well, Mr. Chairman. Those are
21 confidential settlement agreements. We've been through
22 the fact that those were not being filed with the
23 Commission. And we are under obligation to the parties to
24 those agreements not to disclose their contents and

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1 therefore object to the line of questioning as well.

2 CHAIRMAN GETZ: Well, we'll note that he
3 said he doesn't know the answer. But that's a pending
4 issue we need to resolve, is the status of those other
5 agreements. So for the time being...

6 MR. PRICE: Well, I was asking the
7 question merely to -- I understand that this is a pending
8 issue. I was merely trying to elicit whether or not there
9 are services that may be provided on a discriminatory
10 basis to certain parties and not to other parties as a
11 result of the transaction.

12 I have no further questions. Thank you.

13 CHAIRMAN GETZ: Thank you. Mr. Mandl.

14 **CROSS-EXAMINATION**

15 BY MR. MANDL:

16 Q. Good afternoon, Mr. Nixon.

17 A. Good afternoon.

18 Q. I'd like to first ask you a clarifying question based
19 on something that came up during the panel of
20 Mr. Brown, Mr. Harrington and Mr. Smee. There was some
21 questioning on Page 25 of their panel rebuttal
22 testimony. And I believe I had heard that, in answer
23 from Mr. Smee, that FairPoint intended to have 89
24 dedicated outside plant technicians for its wholesale

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1 operations. Could you either confirm that or --

2 A. I cannot.

3 Q. -- indicate your understanding?

4 A. I cannot do either. Mr. Smee is much closer to that
5 than I. And we'd be happy to verify that if you'd
6 like. But I cannot confirm or address that question.

7 MR. MANDL: Could I ask that as a record
8 request, just if we could for clarification?

9 MR. COOLBROTH: What is the page
10 reference from the panel testimony?

11 MR. MANDL: The panel testimony was
12 Page 25, and it talked about utilizing Verizon's wholesale
13 provisioning team. And I believe I had heard a reference
14 to 89 outside plant technicians. And I'm just trying to
15 confirm whether that's 89 outside plant --

16 WITNESS NIXON: I don't think he --
17 subject to check, I think the record will show he said
18 central office technicians, perhaps, in the provisioning
19 center. But again, we'll let the transcripts speak for
20 themselves.

21 MR. MANDL: Yeah. I just want to make
22 sure the record is clear whether it was --

23 CHAIRMAN GETZ: Well, let's step back,
24 'cause I'm having trouble recalling. I don't recall it

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1 exactly the way that you're characterizing it. But what's
2 the question you want answered, that you'd like a record
3 request on?

4 MR. MANDL: I guess on Page 25 of the
5 panel rebuttal testimony it talks about sort of the number
6 of personnel dedicated to wholesale operations. It refers
7 to the Verizon wholesale provisioning team which may also
8 have central office responsibilities. And then it refers
9 to dedicated outside plant technician work force for
10 wholesale orders. And I heard the figure 89 mentioned,
11 and I'm just trying to get a clear record on the number of
12 employees who will be dedicated to the wholesale
13 customers, and are they outside plant technician work
14 forces, or do they have other dedicated responsibilities
15 to wholesale operations?

16 CHAIRMAN GETZ: All right. Let's
17 reserve Exhibit 61 for the record response.

18 MR. MANDL: Thank you.

19 BY MR. MANDL:

20 Q. If you could turn to Page 14 of your direct testimony,
21 Mr. Nixon.

22 A. I'm there.

23 Q. And looking at your testimony on Lines 1 through 3, at
24 the time you filed your direct testimony, you had an

1 expectation that FairPoint would establish units
2 designated to serve residential, business and wholesale
3 customers; is that correct?

4 A. That's correct.

5 Q. And would you agree that FairPoint could separate its
6 retail and wholesale units?

7 A. It could be done. However...

8 Q. Go ahead. I knew you were going to do something
9 different than you said in Vermont.

10 A. I think it's important that our commitment and our
11 obligation is to serve the customer constituents and
12 run and operate an efficient business using the
13 systems, the personnel and the resources that we have
14 available. And when we originally looked at the
15 crafting of the structure, we thought about doing it
16 one way. And as we began, as we brought people on
17 board and their expertise, and further the work and
18 services that we'd have supporting those constituent
19 groups, we were -- and I continue to be very
20 comfortable with the structure that we have now, that
21 was further articulated by Mr. Lippold. So again, I
22 just wanted to add a follow-up to the question.

23 Q. All right. So we agree to disagree. There's more than
24 one way to do it.

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1 A. I hope a year from now you'll agree to agree.

2 Q. Let's turn to Page 22 of your prefilled direct.

3 A. I'm there.

4 Q. All right. If you could refer to Lines 7 and 8. You
5 testify that there is no need to attempt to convert
6 systems prior to being completely ready; is that
7 correct?

8 A. That's what it says. That's correct.

9 Q. Okay. That's still your position today?

10 A. Yes.

11 Q. Do you believe it would be reasonable for the
12 Commission to take steps to assure itself that
13 FairPoint is, in fact, completely ready before it gives
14 Verizon the irrevocable notice of readiness for
15 cutover?

16 A. I do. And FairPoint has actually advocated for the
17 third-party monitor. We recognize this as a keen
18 importance to the states, the Commissions, the
19 customers, the shareholders, all the constituent
20 groups. And we are absolutely dedicated and committed
21 to making it a successful cutover, but recognizing that
22 there is a need to have some additional level of
23 examination and monitoring of the efforts. And so we
24 have advocated for the third-party monitor that would

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1 be selected, one third-party monitor representing all
2 three states. And we think that's an appropriate
3 process to follow. So I'd say we were the first to
4 advocate for that.

5 Q. If you could turn to Page 33 of your direct testimony.

6 A. I am there.

7 Q. All right. Look at your answer at Lines 13 through 17.

8 (Witness reviews document.)

9 A. Okay.

10 Q. You indicate that FairPoint has no intention of trying
11 to position the acquired exchanges as rural under the
12 federal statutes that you reference in your testimony;
13 correct?

14 A. I think this is a different -- this is for the
15 safety-valve conversation? Is that what you're
16 referencing?

17 Q. Yes.

18 A. That's correct.

19 Q. And would FairPoint agree to make that a merger
20 condition?

21 A. We will look at all the conditions in the aggregate
22 from all three states. And it is my hope and my
23 expectation that the commissions will put forth those
24 conditions they think are most important and have the

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1 greatest weight and of the keenest interest to the
2 states and to allow the company to operate in an
3 efficient way. So I'm -- I will -- we don't believe
4 it's necessary for this to be a condition, and we would
5 hope that the commissions would -- you know, as you
6 develop your order and you develop your positions,
7 would identify those that have the keenest importance.

8 Q. Would you agree, Mr. Nixon, that prior to FairPoint
9 filing its rebuttal testimony in this proceeding, that
10 there were parties who filed testimony in Vermont,
11 including the Vermont Department of Public Service, who
12 had requested that there be a third-party monitor?

13 A. I think that those requests were for each state to have
14 a third-party monitor.

15 Q. And was there not testimony from certain parties
16 requesting actual third-party testing?

17 A. That could be.

18 Q. Now if we could turn to Page 25 and 26 of your rebuttal
19 testimony.

20 A. I'm there.

21 Q. You discuss a number of KPIs, or key performance
22 indices; is that correct?

23 A. I do.

24 Q. Has FairPoint developed the wholesale performance KPIs

1 at this point?

2 A. I think the KPIs that we'll be primarily using for the
3 wholesale would be the PAP.

4 Q. If the PAP did not include number-porting intervals or
5 trunk-ordering intervals, would you agree to include
6 those as key performance indices?

7 A. I'd do that.

8 Q. Will the KPIs that FairPoint develops be provided to
9 the Commission and to wholesale customers?

10 A. No, they will not. These are for -- these are for the
11 company's internal management of the business. And
12 those are things that we look at over and above which
13 may be required by regulatory convention, the PAP
14 obligations or that such. These are metrics or key
15 performance indices that any business will establish to
16 help them run and manage and operate their business to
17 meet the goals and objectives. Therefore, they're
18 internal measurements. They're internal performance
19 indices and would not need to be provided to the
20 external community.

21 Q. All right. I take it then, there would be no external
22 consequences to FairPoint if it failed to meet its
23 internal wholesale KPIs?

24 A. These are internal goals and objectives. That would be

1 correct.

2 Q. Okay.

3 A. Let me -- you know, that's -- I would add that I
4 believe Mr. Lippold indicated that our -- that will be
5 forum. And maybe I'm not using the right terminology.
6 But a CLEC user forum. But there's a particular
7 distinguishing way that has been called in the past.
8 And we would look for the CLEC community to keep us
9 apprised of the issues, their concerns, their areas of
10 performance that they would like to see enhanced.

11 Mr. Lippold, under his directive, is to
12 grow the business. I've got two choices: We can grow
13 the business on our net by using retail and wholesale
14 arrangements or watch competitors take the business off
15 our network. Mr. Lippold is expected to grow the
16 business on the network, wholesale and retail. To do
17 that, we've got to be responsive to our customers,
18 wholesale and retail alike. I would expect us, as you
19 will be our -- as the CLEC community as our customer,
20 to provide us guidance and input on how we can do that
21 better.

22 Q. And what alternatives would a facilities-based carrier
23 have for number-porting intervals other than FairPoint
24 if this transaction is approved?

1 A. There are -- those number-porting obligations exist
2 today from the various companies. And there are
3 various ways to exert and seek recourse if they're not
4 being done in the proper time.

5 Q. You'd agree, though, that a facilities-based carrier
6 could not take its number-porting requirements to any
7 other service provider. It would be required to deal
8 with FairPoint in order to carry out number-porting?

9 A. I'm sure if FairPoint was not living up to the
10 obligations on number-porting, that that said carrier
11 would seek recourse with the appropriate jurisdictional
12 body.

13 Q. I'd like to refer you to, I think an exhibit to -- I
14 believe it's your rebuttal testimony, PGN-9.

15 A. I'm sorry. Is there a...

16 Q. I think it's an attachment to your rebuttal testimony.

17 A. Is that the organizational chart?

18 Q. I think that's part of it, yeah. Let's see. PGN-7 is
19 the leadership team.

20 A. Okay.

21 MR. COOLBROTH: If you're referring to
22 PGN-9, it is the very last page of your rebuttal testimony
23 for submission, the very last page.

24 MR. MANDL: Yeah. It's entitled,

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1 "Business Integration Operations, Design, Build and
2 Launch."

3 I'd just like to confirm this. Is that
4 a public document?

5 MR. COOLBROTH: Yes, it is.

6 A. I have it.

7 Q. Could you briefly explain what this exhibit is all
8 about, what it's designed to show?

9 A. At a high level, this exhibit shows the milestones as
10 appropriate for the three different releases that the
11 company is -- has designed. First is the systems and
12 the readiness at close. Second would be the systems
13 and milestones to get there at a macro level at
14 cutover. And third is the systems of readiness, what
15 we call a Delta release, which is six months following
16 cutover. So those would be the three major milestones.
17 Mr. Haga referenced when he was here what they call
18 builds. And a build, in my way of thinking, is the
19 systems staging intervals where we will increase the
20 complexity of the testing, the orders and the processes
21 as we go from the initial system setup all the way
22 through to prior to cutover readiness. So those would
23 be -- that would be my high-level explanation. Mr.
24 Haga is the one who lives with this day in and day out,

but that would be a high-level explanation.

2 Q. Thank you. I notice that this exhibit was updated as
3 of June 11th, 2007. Is there a more recent version of
4 this document?

5 A. I'll be happy to check. The dates haven't changed.

6 The dates of the cutover, close and Delta release have
7 not changed. But I'll be happy to check.

8 Q. Okay.

11 WITNESS NIXON: We can do that as either
12 a supplemental update to a data request, whatever the
13 appropriate protocol is.

14 MR. MANDL: If the exhibit has changed,
15 I would be interested in seeing an update. If it's the
16 same and it hasn't changed, then just --

17 CHAIRMAN GETZ: Let's just find out the
18 answer to the question. If we need to make it an exhibit,
19 then we will give it an exhibit number.

20 MR. MANDL: Thank you.

21 BY MR. MANDL:

22 Q. Mr. Nixon, there have been some premarked NECTA/Comcast
23 Phone exhibits that were responses to three data
24 requests that have been marked as Exhibits 55P through

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1 57P. I just wanted to check to see if you had them and
2 if you could just verify that they are your responses
3 to those three data requests.

(Witness reviews document.)

5 A. I have 55, 56. And for some reason I'm not looking at
6 57. If you've got that handy, I'd be happy to take a
7 look.

(Mr. Mandl hands document to witness.)

9 A. Thank you. These are indeed all of my responses.

10 Q. Thank you.

11 MR. MANDL: That completes my cross for
12 Mr. Nixon. Thank you.

CHAIRMAN GETZ: Thank you.

Mr. Rubin?

MR. RUBIN: Thank you, Mr. Chairman.

CROSS-EXAMINATION

17 BY MR. RUBIN:

18 Q. Good afternoon, Mr. Nixon.

19 A. Good afternoon.

20 Q. I'd like to start with a question that's been bounced
21 around a little bit, I guess. We started with Mr.
22 Smith and tried it with Mr. Smee, and now it's coming
23 to you. And this concerns how FairPoint will be
24 handling a function that -- actually, two functions

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1 that Verizon performs today: Dealing with customers
2 who have disabilities or other special needs and also
3 with customers for whom English is not their primary
4 language. Are you familiar with FairPoint's plans to
5 develop the capability to serve these customers?

6 A. Generally.

7 Q. Could you give us your general understanding of what
8 FairPoint will be doing?

9 A. These are services that are being provided to FairPoint
10 under the TSA. FairPoint has -- we recognize that
11 those -- these are services that we'll be taking over.
12 There is a team that's identified that are working on
13 it and will be presenting a plan and the outcome on how
14 FairPoint will be taking up those duties over at
15 cutover. I do not have that plan today. But there is
16 a team of people who are working on it.

17 Q. And do you know if the plan will be for FairPoint to
18 provide these functions using its own employees or
19 whether it intends to contract with another provider
20 for those services?

21 A. I do not know that at this time.

22 Q. How does FairPoint provide these services today for its
23 existing operations?

24 A. I'm not sure that we have those services generally

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1 available.

2 Q. So if you have a customer today who does not speak
3 English, they're out of luck? Or do you know --

4 A. I'm not -- no, I'm not sure I have that -- I do not
5 know what the procedure or the process is or whether we
6 have a third-party provider today that we can bring on
7 board. At one time, I know we had a third-party
8 provider that we could conference in. But I'm not sure
9 of the status of that.

10 Q. All right. I think it's fair to say from what you said
11 earlier, that you are familiar with the realignment of
12 Verizon's operations in New England that we discussed
13 with Mr. Smith last week; is that right?

14 A. Generally that's correct.

15 Q. Does this realignment have any effect on FairPoint's
16 announced plans to hire 675 new employees in northern
17 New England?

18 A. No, it does not.

19 Q. Do you know approximately how many of those 675 new
20 employees will be in positions covered by a collective
21 bargaining agreement? Again, I'm just looking for an
22 approximate number or percentage.

23 A. And I believe we've said that -- and this is just my
24 estimate. I believe today that might be 30 percent.

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1 Q. As far as you know, do all of the union or unionized
2 positions in the three states have pension benefits?

3 A. That would be correct.

4 Q. And do -- again, as far as you know, do they also have
5 other post-employment benefits, such as retiree
6 healthcare?

7 A. To my knowledge.

8 Q. Is FairPoint proposing to eliminate the pension or
9 other post-employment benefits for new employees who
10 would be covered under the collective bargaining
11 agreement?

12 A. We are not.

13 Q. Are you familiar with the employee attrition assumption
14 that's built into FairPoint's financial model?

15 A. I am.

16 Q. And last week we discussed that with Mr. Leach, where
17 he indicated that the assumption was a loss of 4 to
18 4-1/2 percent of the work force each year starting in
19 2009. Is that your understanding also?

20 A. That's my understanding.

21 Q. Approximately how many employees will FairPoint start
22 with?

23 A. About 3500.

24 Q. All right. So you would expect to lose a net of about

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1 140 to 150 employees per year? Is that the effect of
2 that attrition assumption?

3 A. It would be whatever the multiplier is times the 4 to
4 4-1/2 percent on a net basis, you said. That would be
5 correct.

6 Q. And just so we're clear, we're using these terms, and I
7 want to make sure we're using them in the same way.
8 When I think about attrition, we're talking about --
9 and we both just used the term -- a net effect of
10 people who leave the company compared to those who come
11 into the company. And the net difference between those
12 is what we're referring to as attrition. Is that how
13 you're using the term?

14 A. I think that's right. Certainly we have -- we will be
15 maintaining the work force and numbers so that we can
16 continue to provide -- so we will continue to provide
17 the service to the customers to meet our obligations
18 for -- whether it be the broadband plan, the service
19 quality and central office remediation plan.

20 But to the question that was raised
21 here, once you take the loss, there may be times -- and
22 I expect will be times -- when we'll hire back in. But
23 the net number's what I'm referring to.

24 Q. Okay. Over the last few years -- well, I guess I

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1 should say, first, without considering the effects of
2 this proposed transaction -- so let's say up through
3 the end of 2006 -- over the last few years, has
4 FairPoint increased or decreased the size of its work
5 force?

6 A. We've increased through acquisitions.

7 Q. And again, without considering any impacts from this
8 proposed transaction, has FairPoint's line count
9 changed significantly in the last few years?

10 A. Our line count has increased through acquisitions. If
11 you remove the acquisitions, our access line losses --
12 we've had access line losses.

13 Q. So on a net basis, do you know your access line counts,
14 say at year-end 2006, compared to what it was two or
15 three years before that?

16 A. Again, I believe this information is public. But it's
17 I think about a 3-percent loss per year.

18 Q. Okay. I'd like to turn for a moment to DSL deployment,
19 but again, in very general terms. Will FairPoint be
20 using its own employees for work related to DSL
21 deployment? Or maybe another way to think about it is,
22 will any of that work be done by outside contractors?

23 A. I do not anticipate that any craft work would be done
24 by contractors.

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- 1 Q. Okay. Now, when you say "craft work," what does that
2 encompass, as you use the term?
- 3 A. Those functions and duties that normally would be
4 covered under a collective bargaining agreement, as
5 distinct from management functions.
- 6 Q. All right. Well, for example, if a customer calls up
7 to order DSL service, will they be talking to a
8 FairPoint employee when they do that?
- 9 A. That's correct.
- 10 Q. And if someone has to go out and do some physical work
11 on the line, whether it's removing load coils or
12 whatever in order to provide that customer with DSL,
13 will that be a FairPoint employee doing that work?
- 14 A. To the best of my knowledge, that's correct. I believe
15 that there are five job classes within the IBEW
16 contract that have particular reference to contracting.
17 And subject to check, I believe that's one.
- 18 Q. If a customer has problems with their DSL service, and
19 again they call up to try to either troubleshoot the
20 problem or have somebody come out to take a look at it,
21 is that work that would be done by FairPoint employees?
- 22 A. That would be the repair center you're referring to?
- 23 Q. Well, I don't know. It's your business, so --
- 24 A. No. You just referred to some function. And the

1 function you just described would be a FairPoint
2 person.

3 Q. Okay. 'Cause I know, for example, with some carriers,
4 if it's a DSL problem, they call a completely different
5 number than if it's a problem with their dial tone.

6 A. If it is a -- if the customer is having a problem with
7 a network, then they report a network problem, and that
8 would be a FairPoint person. If they have a problem
9 with their Internet, that would go to an Internet help
10 desk.

11 Q. Is that going to be a -- is it going to be FairPoint
12 employees staffing that Internet help desk, or will
13 that be a function that's outside of FairPoint?

14 A. Outside of FairPoint.

15 Q. At this point, do you know who will be providing that
16 function for FairPoint?

17 A. We have not finalized the contract negotiations.

18 Q. Do you know if that function will be provided within
19 the Continental United States?

20 A. It will.

21 Q. Mr. Nixon, I'd like to take a moment to focus on the
22 timeline for the proposed transaction. If all goes
23 according to your plans, you expect to close with
24 Verizon at the end of January, 2008; is that right?

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1 A. That's correct.

2 Q. And then about two months later you hope to send
3 Verizon a notice of readiness for cutover to start the
4 process of terminating the transition services
5 agreement; is that right?

6 A. That would be correct.

7 Q. And then about two months after that, roughly the end
8 of May, you hope to have cutover and move completely
9 onto FairPoint's own systems; is that correct?

10 A. That's the current plan.

11 Q. Now, when in that time frame does training take place
12 on those new FairPoint systems?

13 A. We have a training plan that we have just finished the
14 first draft of that plan. We will begin training on
15 those systems, and I believe that it is the first part
16 of February and -- I believe it's the first part of
17 February that we'll begin training on the systems.

18 Q. Do you have an approximate or approximation of the
19 number of people that will have to be trained?

20 A. About 3500.

21 Q. That's what I thought. I'm just making sure. What
22 you're talking about affects essentially every employee
23 of FairPoint; is that right?

24 A. Every employee who will touch the new systems, get

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1 reports from the new systems or interface with new
2 systems will be need to be trained to become familiar
3 with. That will take different levels of training,
4 different levels of familiarity, different levels of
5 length of course and curriculum.

6 Q. Okay. In order for some of that training to be done,
7 will FairPoint need to hire any temporary employees or
8 somehow provide for service to continue while your
9 employees are being trained?

10 A. Yes, we will. FairPoint is contemplating several
11 different aspects, one of which would be the
12 possibility of doing exactly that, hiring temporary
13 employees that could act as that -- who will be trained
14 on the Verizon Legacy systems, to allow us then to
15 rotate the permanent employees through the training
16 curriculum and courses on the new systems.

17 Q. Okay. Can you again, without getting too technical,
18 can you walk us through how that works? You bring
19 somebody in as a temporary employee. Do they have to
20 be trained on the existing systems before one of your
21 existing employees can, you know, leave for a training
22 course? How does that work?

23 A. Again, depending upon the training that's required and
24 the position that's required, the temporary employees,

1 if that's the course we took, would need to have some
2 training on the basics of the current Legacy systems so
3 they could handle and process, for instance, calls
4 coming in, whether done for billing inquiry or for
5 basic service order entry. They would need to be
6 trained to handle those functions to provide some
7 relief to the group to go through the training.

8 Q. Do you know how long that training of the temporary
9 employee would take?

10 A. It depends on what they're being trained for. Again,
11 we have our -- the initial plan has been completed.
12 We'll be submitting it later this week to the staff on
13 how that is working and what the plan is. And I don't
14 know -- I've got the particular details that will speak
15 for itself.

16 Q. Okay. Now, in FairPoint's previous acquisitions, has
17 it ever had a transition services agreement?

18 A. Not since I've been with the company.

19 Q. Which is how long?

20 A. Ninety-seven.

21 Q. Okay. Again, since 1997, has FairPoint had to create
22 new systems in order to integrate a system or a network
23 that it was acquiring?

24 A. Not since '97. But we did -- I think it was indicated

1 that we did when we purchased the exchange and lines in
2 New England back in '94, I believe it was.

3 Q. Yeah, pretty early on in --

4 A. Right.

5 Q. Obviously, at some point you had to create something in
6 order to get started.

7 A. I'm sorry. These were lines I believe that were
8 purchased, I believe, from GTE. They did not come with
9 the infrastructure. Certainly on a smaller scale than
10 we're talking about here. So FairPoint did create,
11 deploy and convert to a new set of systems that we had
12 to build.

13 Q. All right. But that was, I think -- if I remember
14 right, that was for, what, 20- or 30,000 lines?

15 A. I think that's right.

16 Q. Again, since you've been with FairPoint, have you ever
17 had to undertake the kind of training effort that
18 you're talking about now with having to train perhaps
19 3,000 people or more in a fairly short time period?

20 A. No, we haven't, which is why we have gone through the
21 process to bring on board senior leaders and key
22 management personnel who have, why we've engaged a firm
23 that has done this at this level with this type of
24 complexity. So, to that exact point, I have not.

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1 Classic FairPoint has not. The people we're bringing
2 on board have. The company we're engaging to help us
3 with this has. And again, that's one of the
4 commitments we have is to bring that kind of expertise
5 on right now, prior to close.

6 MR. RUBIN: Okay. Thank you. That's
7 all I have for the witness, Mr. Chairman.

8 CHAIRMAN GETZ: Thank you.

9 Ms. Hatfield.

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

11 CROSS-EXAMINATION

12 BY MS. HATFIELD:

13 Q. Good afternoon, Mr. Nixon.

14 A. Good afternoon.

15 Q. I'd like to start by referring you to Line -- excuse
16 me -- Page 9 of your direct testimony.

17 A. I'm sorry. Page 9?

18 Q. Yes.

19 A. I am there.

20 Q. On Lines 9 and 10 you state, "FairPoint will have a
21 lower debt-to-earnings ratio than Verizon would have,
22 as explained by Mr. Smith." And I'm wondering, can you
23 direct me to a reference in Mr. Smith's testimony that
24 describes that?

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1 A. Let me read the context of that, please.

2 Q. Sure.

3 (Witness reviews document.)

4 A. I cannot, right offhand, do that.

5 Q. Could you help me understand? Are you referring to the
6 debt-EBITDA ratio, or are you referring to a different
7 ratio?

8 A. That is probably a leverage ratio is what that was
9 referring to, which would be a debt-to-EBITDA ratio.

10 Q. And do you know what the specific figures are that
11 you're comparing, in terms of the two ratios of two
12 companies?

13 A. I am not.

14 Q. Okay. Do you -- could you direct me to another witness
15 who can answer that?

16 MS. HATFIELD: Or could I get a record
17 request to just provide that answer?

18 WITNESS NIXON: I'd be happy to try to
19 track that. I think I might be about the last FairPoint
20 witness.

21 CHAIRMAN GETZ: Well, I'm expecting that
22 we'll be continuing tomorrow with Mr. Nixon. I think
23 that's a fair expectation at this point.

24 So if you could track that down --

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WITNESS NIXON: If I can get that
2 tomorrow, I certainly will do that.

3 BY MS. HATFIELD:

4 Q. Thank you. Mr. Nixon, if you would turn to Page 29 of
5 your direct testimony.

6 A. I am there.

7 Q. Okay. Starting on Line 5 through Line 10, you're
8 discussing conditions imposed upon Verizon/MCI. And
9 you're stating that they don't appear applicable to the
10 FairPoint transaction. Do you see that?

11 A. I do.

12 Q. And I'm wondering, at the end of that section you state
13 that -- in that last sentence that starts on Line 6,
14 you state, "To the extent that some conditions remain
15 in effect following the closing date of the FairPoint
16 transaction, such as the special access and stand-alone
17 ADSL conditions, FairPoint would expect to review with
18 regulators whether such conditions are merited in the
19 context of the present transaction." And with respect
20 specifically to the stand-alone ADSL condition, does
21 FairPoint propose to offer such a service in New
22 Hampshire?

23 A. I believe, again, subject to check, the stand-alone DSL
24 offering that Verizon has today has a sunset on it; so

1 it terminates at some point. FairPoint, however, as
2 part of our commitment, would continue that for one
3 year from closing if that period is beyond the current
4 sunset, which I believe it is.

5 Q. So are you proposing to end that service after one
6 year, or are you just saying at this time that's the
7 maximum that you would commit to?

8 A. That's the maximum we'd commit to.

9 Q. Turning to Page 43 in your rebuttal testimony --

10 A. I'm sorry. Forty-three?

11 Q. Yes.

12 A. I'm there.

13 Q. On Page -- excuse me -- Line 9, you're answering a
14 question from the OCA regarding whether you would make
15 some broadband deployment information public. And
16 we've had some discussion today about the confidential
17 level of information included in that plan. But my
18 question is, would you be willing to provide certain
19 information that you didn't think was competitively
20 sensitive to key state policymakers who are working to
21 deploy broadband in the state, such as the Department
22 of Resources and Economic Development and the
23 Telecommunications Advisory Board, in order to ensure
24 that FairPoint and the state are working together and

1 not working in ways that are redundant or in ways that
2 conflict?

3 A. Let me, if I might -- two answers to that: First is, I
4 believe in one of my responses to a data request I
5 indicated that we're providing the information that's
6 confidential every six months to the parties so they
7 can monitor and track our performance. Your question,
8 I believe, was with regard to non-confidential
9 information. We believe it's extremely important for
10 us to work with, in a collaborative way, the
11 communities, the agencies and the departments to deploy
12 broadband across the state. And we would not only look
13 forward to doing that, but we've already started.

14 FairPoint -- we have now been working in
15 the market since August, meeting with community
16 leaders, meeting with economic development agencies,
17 economic development leaders, sharing with them our
18 plans for how -- not only our broadband initiative, but
19 how can we work with them for the -- to develop an
20 economic development initiative based upon a
21 connectivity model, which is somewhat what Dr. Sicker
22 was talking about, whereby our approach is more geared
23 toward the application needs of the customers than what
24 network do you need to meet those application needs.

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1 So, long answer to a short question: I'd be happy to.

2 Q. And you talked about having been in the market since
3 August. Is there -- I think there's a particular
4 organization that you're working with. Could you
5 just -- I forget the name of it. But you've been
6 reaching out to community leaders in partnership with
7 an organization. What is the name of it?

8 A. We've engaged a consultant, Frank Knott, with a
9 community called ViTAL Economy, who I've worked with
10 Mr. Knott for probably 10 or 15 years doing exactly
11 this. And he currently has initiative in Southern
12 Illinois that's similar. And so he has been working on
13 our behalf, as has Stu Arnet and others.

14 Q. And would the outcome of that work be a plan, a
15 statewide plan that's similar to something that I've
16 just heard reference to before called Connect Kentucky?

17 A. I'm not sure how the similarities would be. It's been
18 certainly referenced. The plan that we anticipate
19 first is that we don't pretend to come in with the
20 answer on economic development needs for the state.
21 What we do is we want to meet with and to listen to the
22 economic development leaders, the communities, the
23 different constituents, on what are the needs, what are
24 the applications. And then we would be -- what our

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1 objective is, is to bring in the resources and tools
2 that can help them accomplish those objectives and
3 create an organization reporting to me that would help
4 us accomplish that, including a trial -- a pilot,
5 rather, in each of the three states that would seek to
6 have collaborative approach to connectivity-enabled
7 economic development across communities. And this does
8 not anticipate that FairPoint would be the only
9 broadband provider. This is anticipating that there
10 would be those who are in the network would be part of
11 the process. And at the end, our objective is if we
12 worry about dividing up an ever-shrinking pie, then
13 nobody is going to win at the end of the day. Our
14 objective is how can you grow the size of the economy
15 and have a greater participation in a growing economy.
16 And we believe that there are ways to do that. There
17 are ways to use a connectivity approach, enable an
18 approach to supplement economic development. The
19 example I give, there's a great book out called "Moving
20 to a Small Town." It says it's 35 million people who
21 live where they work and work where they live. Why
22 would they all want to work and live here? So how do
23 communities take advantage of those people? Primarily
24 through broadband. So again, that would be our effort.

1 Q. And will FairPoint pursue that initiative if the
2 transaction is not approved?

3 A. No, ma'am. Not here. We certainly are looking at
4 doing that in our classic areas. Now, we would not be
5 able to take that to the entire state.

6 Q. Would you be willing to make FairPoint's broadband plan
7 implementation a condition for the approval of this
8 transaction?

9 A. At first, I thought no. But I believe that the
10 broadband plan is a cornerstone of what FairPoint is
11 proposing. It's a cornerstone of what we believe will
12 be of significant value enhancement to New Hampshire;
13 and therefore, I would agree to make it a condition to
14 the merger.

15 Q. And I believe it was with Mr. Brown this morning, or
16 someone on the Brown/Harrington/Smee panel, that they
17 were asked questions about implementation of the
18 broadband plan and enforcement from the state's
19 perspective. I'm wondering, since it is a cornerstone
20 of your proposal, how would you propose that we ensure
21 that you do meet the goals laid out in that plan?

22 A. Market forces are the primary driver for us to
23 accomplish that plan. As I said, certainly as we've
24 laid out the plan, once it's made a part of the merger

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1 condition, the Commission, I believe, has the ability
2 to enforce it. I do not believe that any other
3 consequences are required beyond that.

4 Q. I'd like to ask you a few questions about service
5 quality. So if you could turn to Page 23 in your
6 direct testimony.

7 A. Yes, ma'am.

8 Q. And there you're discussing that FairPoint has a
9 strategic imperative to provide a customer experience
10 that meets or exceeds customer expectations. And it
11 sounds like it's your opinion that maintaining high
12 service-quality standards is important to maintaining
13 and growing your business; is that correct?

14 A. Yes, ma'am.

15 Q. And are you familiar with one of Mr. Smee's responses
16 to one of our data requests? It actually was made an
17 exhibit this morning. It was OCA Exhibit 111P. And in
18 that response, Mr. Smee lays out the timing of
19 achieving your broadband plan. He lays out the time
20 frame of 24 months. And I wanted to ask you, as
21 president of FairPoint, do you -- does Mr. Smee have
22 executive-level support for his statements regarding
23 implementation of the broadband plan?

24 A. He does. He's been a key architect in the development

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1 of that. He's done significant research and work into
2 all the analysis done to date. And he's been really a
3 key, fundamentally driven that, and he has my full
4 support.

5 Q. And if you would turn to your rebuttal testimony on
6 Page 39.

7 A. Yes, ma'am.

8 Q. Lines 5 through 7, you state, "FairPoint specifically
9 agrees to be bound by the standards that currently
10 apply to Verizon." And I believe you're referring to
11 service-quality standards. And you state, "Additional
12 metrics and penalties would be excessive and
13 inappropriate." Do you agree with that?

14 A. I do.

15 Q. So, in New Hampshire, what are the consequences if
16 FairPoint fails to achieve the service-quality
17 standards that are in place today?

18 A. I believe the Commission could open up a docket and
19 bring us in and ask us to explain what we're doing and
20 not doing and set forth the consequences, if there were
21 to be any.

22 Q. And do you know if FairPoint will face or if Verizon
23 today would face financial penalties for failure to
24 meet service-quality standards in Maine?

1 A. Yes, they do in Maine.

2 Q. And do you know, would FairPoint in the future, or
3 Verizon today, face financial penalties for failure to
4 meet service-quality standards in Vermont today?

5 A. They do.

6 Q. And I think we heard testimony from Mr. Smee that
7 FairPoint has a plan in place and a budget to address
8 outstanding service-quality issues in New Hampshire; is
9 that correct?

10 A. Yes, ma'am.

11 Q. But if FairPoint faces penalties in Maine and they face
12 penalties in Vermont, but they don't face them in New
13 Hampshire, doesn't that give the company an incentive
14 to really focus on those other two states first and to
15 focus on meeting the New Hampshire standards last?

16 A. No, it doesn't. The implication -- and I know where
17 you're going with the line of questioning. The
18 implication is that the company is responsible only to
19 penalties. That is the furthest thing from the truth.
20 The company is extremely responsive to the market
21 forces. We have talked about and heard about in many
22 cases the alternatives customers have for their service
23 provider. We have -- we must provide that kind of
24 service quality to our customers if they're going to

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1 remain our customers. We have to earn that service.

2 It's going to take us, as Mr. Smee said,
3 a couple years for us to turn a couple of areas around.
4 By and large, the services from a statewide-level
5 basis, the network trouble report rate is pretty good.
6 There are surveillance-level areas, some wire center
7 areas that need remediation. I think Mr. Smee was
8 extremely correct. We can't come in here and promise
9 we're going to fix something overnight and then take
10 two years to do it. I'd much rather sit here and tell
11 you it's going to take us two years. It's going to
12 take us -- my commitment to the team is that for the
13 first -- from close until cutover, we will focus on the
14 cutover. I do not want to add additional demands on
15 teams that would distract them from that cutover, which
16 is why Mr. Smee said it's going to take us two years to
17 get there and why we can't start until cutover. It's
18 not that we don't want to. Doesn't mean we don't
19 recognize the need to. It's just a matter of let's put
20 the priorities where they have to be: A smooth and
21 successful cutover. But the imperative for us is
22 market force. It isn't the penalties that make us do
23 what we have to do.

24 Q. And Mr. Nixon, do you think it's fair to say that if

1 FairPoint is stepping into Verizon's shoes, that today
2 Verizon faces the same competitive pressures that
3 FairPoint will face?

4 A. I'm not sure about the "stepping in Verizon's shoes."
5 Certainly, there are market forces. The market -- the
6 northern New England states will represent over
7 85 percent of our business. It is, therefore,
8 mission-critical that we serve and support and provide
9 high-quality service to these customers. You know, our
10 approach is that this is the area where we have to put
11 our focus.

12 Q. And what I think I hear you saying is that you don't
13 need any -- or that New Hampshire doesn't need
14 enforcement mechanisms because the market will be
15 enough of an incentive for you to meet those standards.

16 A. It is. I believe that as part of our plan, Mr. Smee
17 indicated that we'd be meeting with the staff to review
18 those wire centers that are in surveillance areas. So
19 there will be continual dialog with the staff for the
20 input to give you update on where we are. But in a
21 day, the customers will be the ones that drive our
22 behavior.

23 Q. And would you be willing to include OCA in those
24 meetings with staff?

1 A. Yes, ma'am.

2 Q. And I wanted to direct you to another OCA exhibit,
3 which is 99P, which was another exhibit from the
4 Brown/Harrington/Smee panel. And I had two questions
5 about that, too. Do you have that in front of you, Mr.
6 Nixon?

7 A. 99P?

8 Q. Yes.

9 A. Bear with me a minute. That's a public?

10 Q. Yes, it is.

11 A. P. I'm sorry.

12 Q. That's okay.

13 A. Boy, I do not.

14 Q. Okay. I can put it up on the screen here for you.

15 A. Yes, ma'am.

16 Q. My first question is -- I'm not sure who this person
17 is. Mr. Chris Baron is listed as director of corporate
18 development. But does he have responsibility for
19 service-quality issues?

20 A. No, he does not.

21 Q. So would you be willing to adopt this response as your
22 own?

23 A. Let me read it first.

24 Q. Sure.

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1 A. I have to be careful who I adopt.

2 (Witness reviews document.)

3 A. I'm not sure I would adopt that. I think there's been
4 a lot of knowledge gained since April. I think
5 Mr. Smee is probably the person closest to the
6 service-quality issues, concerns and docket. And I'm
7 not sure at this point that I can adopt that as my --
8 I'm not sure I find fault with it. I'm just not sure
9 that I can say I would adopt it entirely. I think Mr.
10 Smee has probably been extremely articulate in the area
11 of service quality. Just a quick review, I'm not sure
12 I see something that's incorrect. I think there's been
13 a lot of time has passed since.

14 Q. Okay. As you can see, I've marked on that Paragraph A
15 in your response that last sentence. And that
16 paragraph refers to the open service-quality docket
17 with Verizon that this Commission has already taken
18 administrative notice of in this proceeding. And I
19 noted that sentence because it says, "Once this docket
20 is complete, FairPoint will be in a better position to
21 comment upon such issues." And my question to you is:
22 Is it FairPoint's intention, if the transaction is
23 approved, to engage in this docket with the parties to
24 try to resolve those service-quality issues?

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1 A. Yeah. I'm not completely familiar with that docket. I
2 do know that Mr. Smee has done a lot of work to
3 understand what the service-quality issues are, has
4 provided to the parties our plan to address those.
5 FairPoint -- we'd be happy to -- I'm just -- at this
6 point, I'm just not sure what the response would be, in
7 terms of would we be -- review with the parties the
8 response and the outcome? I suppose.

9 MS. HATFIELD: So I'd like to ask the
10 company if they could provide an updated response with the
11 appropriate witness who's willing to address this issue.

12 WITNESS NIXON: And you want us to
13 address the A in particular? Is that what that is?

14 MR. COOLBROTH: We'll take the whole
15 response, Mr. Nixon.

16 WITNESS NIXON: Okay.

17 CHAIRMAN GETZ: I guess I'm trying to
18 understand, 'cause I thought -- it seems some of the
19 problem here is this answer was not entirely responsive.
20 I thought Mr. Smee had really answered a lot of these
21 questions. Is it necessary to -- has Mr. Smee not
22 answered these questions, Ms. Hatfield? Do you think you
23 need more?

24 MS. HATFIELD: Well, I guess if the

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1 company would just review this, because I think Mr. Nixon
2 said it's not -- he wouldn't adopt it as it is today with
3 the additional information they have. So perhaps Mr. Smee
4 could review it and provide an updated response.

5 WITNESS NIXON: I think I said I
6 wouldn't adopt it because a lot of time has passed and
7 Mr. Smee has done a lot more research on the
8 service-quality area. And I think his current responses
9 are indicative of the company's position.

10 MS. HATFIELD: Okay. The alternative is
11 that this goes in the record as it is. And that's fine
12 with the OCA.

13 MR. COOLBROTH: Well, I mean, it goes
14 into the record with a person who's not a witness and with
15 Mr. Nixon not having adopted it.

16 MS. HATFIELD: And this is not the only
17 incidence of that, Mr. Chairman. There's several exhibits
18 I think have been marked by different parties with -- that
19 are sponsored by --

20 CHAIRMAN GETZ: Yeah. I don't want to
21 get off on the procedural issue. I'm just trying to nail
22 down -- I thought Mr. Smee answered these questions either
23 in his written testimony or on the record today. If
24 that -- if what he said is not responsive, you know, I'd

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1 like to get that clarification. But I would just ask
2 this, Mr. Coolbroth and Ms. Hatfield: I want to make sure
3 we have a meeting of the minds on what needs to get on the
4 record here and if we could come back with a
5 recommendation in the morning. If this needs to be
6 updated, then that's fine. If it's really now just
7 obsolete because of the timing, then let's get that on the
8 record as well.

9 MS. HATFIELD: Thank you.

10 MR. COOLBROTH: I think the focus of the
11 prior document was concern about whether FairPoint had met
12 the quality-of-service standards that had been prescribed
13 as a result of one of the mergers. I think it was the
14 Nynex Bell Atlantic merger. And FairPoint's testimony is
15 that it will meet those standards. And we provided a
16 timeline and provided cost. So I think that has been
17 answered.

18 CHAIRMAN GETZ: Okay. Well, then, as I
19 asked, if you can see if you can get a meeting of the
20 minds with the Consumer Advocate and make sure we get it
21 clear on the record what the status is.

22 BY MS. HATFIELD:

23 Q. Mr. Nixon, if you would turn to your rebuttal testimony
24 on Page 25.

1 A. Yes, ma'am.

2 Q. Following up on Mr. Mandl's question, he asked you
3 about key performance indices. And I think you said
4 those were internal performance measures or goals and
5 objectives that were just internal to the company; is
6 that correct?

7 A. That's correct.

8 Q. And so that they don't relate to the service-quality
9 standards that you must meet in New Hampshire; is that
10 correct?

11 A. Not necessarily. We would incorporate within the KPIs
12 those requirements by each state. And where we're
13 obligated to file that information, as we may be
14 required to file the information, we would. But we
15 will certainly include those within our KPIs.

16 Q. And on Page 29 of your rebuttal testimony --

17 A. Yes, ma'am.

18 Q. -- Line 11, you referred to a business continuity plan
19 that FairPoint will develop. And I'm wondering, I
20 think one of the earlier witnesses responded to
21 questions by Commissioner Morrison about a plan, more
22 of a disaster or emergency plan. And I'm wondering, is
23 that what you mean by business continuity plan?

24 A. There's different aspects of the business continuity

1 plan, everything from a disaster recovery -- similar to
2 the Raymond central office would be one. There would
3 be a disaster business continuity plan in the event of
4 a data center outage or event, if you will. There
5 would be a business continuity plan for a -- in case
6 insufficient labor were available to be available and
7 do business. So whether it's staffing, whether it's an
8 event, it would be all those different aspects for
9 business continuity. Our plan will be available.
10 We'll have that completed in December, well before
11 close. And included in there would be, I think -- I
12 don't want to assume where you're going -- a mutual aid
13 agreement that we're working on right now, whereby the
14 other neighboring companies would -- there would be an
15 agreement beforehand -- in the case of some ice storm
16 or something else that required assistance, would come
17 to the aid. Sort of a mutual aid type of thing.

18 Q. And did I hear correctly, a witness testified earlier
19 that that plan would be developed by December 1st of
20 this year?

21 A. I don't think it was December 1st. In December.

22 Q. And is that something you'd be providing to the
23 parties?

24 A. I will. I'm not sure about the confidential treatment.

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1 But yes, we absolutely would provide that.

2 Q. If you could turn to Page 18 of your rebuttal.

3 A. Yes, ma'am.

4 Q. And if you look on the very first lines on that page,
5 Lines 1 through 3, you state that Verizon must run the
6 business in the normal course; is that correct?

7 A. That's correct.

8 Q. And then if you look at OCA Exhibit Nixon 21P --

9 A. I have it.

10 Q. -- which is your response to OCA R-132, we asked you to
11 define "in the normal course."

12 A. Correct.

13 Q. And if you would just read your response to Paragraph A
14 into the record, that would be helpful.

15 A. The response is, "To operate the business as if the
16 merger agreement had not been signed; pricing,
17 introduction and sales of products and services,
18 performance metrics at historic levels and consistent
19 with other states, and capital expenditures as if the
20 merger had not been announced."

21 Q. And I asked this question earlier of one of the
22 witnesses on the panel. But what is the recourse for
23 FairPoint if after you close you find that Verizon
24 hasn't been running the business in the normal course?

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- 1 What type of action can you take?
- 2 A. I don't believe there's any contemplated in the merger
3 agreement, which is -- and I -- again, it's an
4 important follow-up. I believe it was Mr. Smee, but
5 one of the witnesses this morning indicated we are in
6 daily conversations with the counterparts at Verizon.
7 So this is not just at a senior level with Steve Smith
8 and myself. This would be, for instance, with John
9 Smee and the operations, senior-level operations down
10 to and including the head of the dispatch center at
11 Verizon. We are working, you know, literally at the
12 director and management level to understand the
13 business, understand how they're running the business.
14 We receive a monthly report from them by position, by
15 department, by location, the employees, and what's
16 changed in those employees counts. We don't have it as
17 if we're sitting there running it. But we have a
18 vested interest, of course, in knowing what it's going
19 to look like when we get it.
- 20 The other thing I think is important to
21 keep in mind, Verizon shareholders will own 60 percent
22 of the equity of the business following close. They
23 have a huge vested interest to make sure they pass to
24 FairPoint a business that's being run in their normal

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1 course.

2 Q. And looking at your answer that you just read,
3 Paragraph A, it does not include explicitly staffing
4 levels. In your mind, does the normal course include
5 appropriate staffing levels?

6 A. It includes appropriate staffing levels to run the
7 business in the normal course.

8 Q. And is FairPoint planning to conduct some type of audit
9 after the closing to get a finer level of detail on the
10 entire network, including its condition and the
11 requirements, both financial and staffing-wise, to
12 improve it the way FairPoint plans to?

13 A. I think Mr. Smee indicated that we'd be doing a
14 root-cause analysis following the close and cutover.
15 It will be targeted at those wire centers -- I believe
16 he said 16 -- that were running at surveillance
17 level -- which I believe is 2.5 on a network trouble
18 report rate on a consistent basis. And so our
19 objective is to do a targeted assessment based upon
20 what the data is telling us where the troubles or where
21 there's some issues that might be pervasive. So for
22 us, it's going to be the right people following close
23 and doing a target root-cause analysis. I'm sorry.
24 Looking over here.

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1 Q. On Page 33 in your rebuttal testimony --

2 A. Yes, ma'am.

3 Q. -- on Lines 15 to 20 where you're discussing the fact
4 that Verizon has to transfer a skilled work force to
5 FairPoint, you note that Verizon has placed the unions
6 on notice that surplus jobs exist in New York,
7 Massachusetts, Rhode Island and the Mid-Atlantic
8 region. And you go on to say, yet no such notice has
9 been issued in connection with the northern New England
10 states. But does it concern FairPoint that northern
11 New England employees may leave to take advantage of
12 those surplus jobs in the other states?

13 A. I think this is important, and this is my
14 understanding: When we say "surplus jobs," I think it
15 has the reverse effect, where Verizon has indicated
16 they have more employees than they need in the other
17 states. Now, what they haven't done is made that same
18 announcement in northern New England. What that's
19 done, essentially, is provide that, but for the
20 transaction -- I'm speculating here -- so, but for the
21 transaction, one might assume that a surplus notice or
22 notices may have been given by Verizon. I don't know
23 that for a fact. They have not told me that for a
24 fact. But I think you could make the case that, but

1 for the transaction, those notifications would have
2 been given that there were more employees than they
3 needed to run the business in the normal course. If
4 that were the case, that would tell us then that there
5 is a buffer that's been built into the head count to
6 accommodate -- partially accommodate, maybe not
7 entirely, but partially accommodate the concern, and
8 legitimate concern about retirees, about providing a
9 work force that would be available so we could
10 transition through the training programs and be able to
11 again look at those areas that would help us with some
12 comfort that there is some contingency plan for that
13 possibility.

14 Q. So, does the statement from your testimony, that
15 Verizon has placed the unions on notice that surplus
16 jobs exist, does that not mean there are openings in
17 those other states?

18 A. I think the context of that was intended to be a
19 surplus notification. And a surplus notification is
20 indicative of that there's more employees than
21 necessary than it is to run the business. And that's a
22 very shorthand way. That's not a legal or collective
23 bargaining definition of what that term means.

24 Q. You have several attachments to your rebuttal

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1 testimony. One of them is PGN-7.

2 A. Yes, ma'am.

3 Q. And that includes an organizational chart of both the
4 senior leadership team and then also many of their
5 reports, does it not?

6 A. That would be correct.

7 Q. And it's dated August 20th, 2007?

8 A. Yes, ma'am.

9 Q. And I've noted within it there are still several boxes
10 within the chart that just have a title but not a
11 person's name; is that correct?

12 A. Yes, ma'am.

13 Q. And I'm wondering, have you filled some or all of those
14 positions since August 20th?

15 A. We'll be providing this week an update to the org
16 chart. And we have and continue to hire and to fill
17 these in.

18 MS. HATFIELD: And Mr. Chairman, I'd
19 like to make that a record request so it could be an
20 exhibit.

21 CHAIRMAN GETZ: Okay. We will reserve
22 Exhibit No. 62 for the org chart.

23 BY MS. HATFIELD:

24 Q. Mr. Nixon, I wanted to ask you a few questions about

1 rates. And on Page 40 of your rebuttal testimony --

2 A. Yes, ma'am.

3 Q. -- on Lines 8 and 9, you say FairPoint has no plans to
4 increase basic local rates and agrees not to seek an
5 increase in basic rates for one year. Is that still
6 your position?

7 A. That's correct.

8 Q. And when you say "basic local rates," what does that
9 include, in your mind?

10 A. At the time, it would include a business, residential
11 regulated service. These would be -- I would expand
12 this to say regulated services.

13 Q. And in Mr. Leach's rebuttal testimony, he says that
14 FairPoint would consider a two- to three-year stay-out
15 if it was in both directions -- meaning, the company
16 would commit to stay out, but also the Commission would
17 commit not to call the company in. Do you support
18 that?

19 A. I do.

20 Q. So that somewhat modifies your commitment in your
21 rebuttal testimony?

22 A. I'm not sure it modifies it as much as it indicates
23 that the company is seeking the best environment that
24 we can to do two things: One, provide the company some

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1 indication and predictability, if you will, of the
2 revenue stream over some several years, as well as give
3 our customers that same type of comfort. And if we
4 were to have a mutual arrangement, as Mr. Leach
5 indicated, you know, I believe that would work.

6 Q. And if there was a two- or a three-year stay-out
7 provision during which time FairPoint couldn't increase
8 rates, that would be more consistent with the length of
9 time that you need to stay out in Maine and Vermont
10 under their AFOR plans; is that correct?

11 A. It would have -- in a mutual arrangement, it would have
12 that summer calendar effect.

13 Q. Turning to the issue of video.

14 A. Can I just -- that would be an effective date, not a
15 file date. As we were talking about as the various
16 discussions we had this last discussion, it would be
17 effective dates as opposed to file dates.

18 Q. So what you're saying is, if you had a three-year
19 stay-out, you could file after two years, but that the
20 permanent rate increase wouldn't go into effect until
21 after three years?

22 A. In that scenario, that would be the case.

23 Q. And do you think the company would seek temporary rates
24 at the time that they filed, or would they agree to a

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1 complete stay-out for the full period on any rate
2 increase?

3 A. I don't think we -- we did not visualize this at the
4 time. So I'm not sure I'm prepared to indicate --

5 MR. COOLBROTH: I'm not sure the witness
6 is familiar with our temporary rate statute, Mr. Chairman.

7 WITNESS NIXON: I understand there may
8 be a true-up at the end. But again, I need to -- the
9 point -- I'm not sure this is -- I have sufficient
10 familiarity on the process that I want to be making that
11 kind of commitment today.

12 BY MS. HATFIELD:

13 Q. Turning to video on Page 43 in your testimony, you've
14 already discussed with Mr. Ciandella the fact that
15 FairPoint doesn't have specific plans to initiate video
16 service offerings in northern New England. And I have
17 a question about -- my understanding is that, for the
18 customers who currently have FiOS, that FairPoint will
19 be supporting that fully. Is that correct?

20 A. We'll be supporting the voice and data services. We
21 can't, of course, call it FiOS. That's a trademark
22 name. But we'll be supporting the services they're
23 currently getting, currently receiving.

24 Q. So do you know if any FiOS customers now are receiving

1 a video product?

2 A. Not that I'm aware of.

3 | Q. On Page 12 of your rebuttal testimony --

4 A. Yes, ma'am.

5 | Q. -- on Line 17, you state that FairPoint will establish
6 a three-state advisory board; is that correct?

7 A. That's correct.

8 Q. And do you know how many members that advisory board
9 would have?

10 A. This advisory -- I do not. But this advisory board
11 would be reporting and working directly with me. I
12 have not decided on the size or the make-up, except to
13 say that we are very interested in making sure we have
14 a cross-section of the communities, the businesses,
15 and, you know, all the constituent groups that make up
16 the states. So I'm not focused right now on the size
17 of that, recognizing that something too large gets to
18 be unwieldy. The desire would be that we would have
19 one advisory board representing all three states. I
20 believe there's some commonality between them and
21 certainly some commonality in their needs from
22 FairPoint. So we have not decided on the size or
23 make-up of the board.

24 Q. Do you envision it having an equal number of members

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1 from the three states?

2 A. Again, I've not gotten to that level of specificity.

3 I'd want -- I would make sure that there was a
4 well-rounded representation from all three states.

5 Q. And do you know how the candidates would be chosen for
6 the advisory board?

7 A. I do not at this time.

8 Q. And do you know what the board, the advisory board
9 would be charged with doing?

10 A. Primarily, and although we have not worked out the
11 charter to give them the actual workings, it would
12 be -- the roles would really be twofold: It would be
13 an opportunity for FairPoint to share with them what
14 our strategic goals and objectives were, to familiarize
15 them with the industry, with the company. And number
16 two, and for me, most importantly, to listen to them on
17 what they believe their constituents need for services,
18 how they believe the company is being perceived within
19 the communities, and the service and the quality of
20 service, as well as the depth and breadth of services
21 that we offer. So for me, it's an opportunity to
22 listen to people who have a keen interest in their
23 communities and are willing serve on that kind of a
24 board.

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1 Q. And who would the advisory board report to, or who
2 would they be advisory to?

3 A. To me.

4 Q. And then, would it be your job to report their thoughts
5 and advice up to the board of directors?

6 A. We do a couple things. First, we'd certainly report
7 that to the senior team at FairPoint. We'd report that
8 to our board. I would also expect that I would have
9 with me various members of my senior team, that I'd
10 want them to hear their feedback firsthand. So I'd
11 expect my vice-president of marketing and product
12 development to attend the meetings to hear their
13 comments. I'd expect John Smee to be there to hear
14 their thoughts and comments on quality of service. So
15 I would expect that I'll give them access to
16 senior-level people that they will need for direct
17 feedback.

18 Q. In your rebuttal testimony, you state that, although
19 most of your direct reports will be located in northern
20 New England, that you will remain living in North
21 Carolina; is that correct?

22 A. I will have an apartment in northern New England, but
23 my legal residence will be in Charlotte.

24 Q. And under your new position as president of FairPoint,

- 1 are 100 percent of your duties focused on northern New
2 England if the transaction is approved?
- 3 A. The Verizon properties in northern New England, not the
4 FairPoint classic properties. It is just this
5 transaction.
- 6 Q. And at some point after the transaction, if it's
7 approved, would you also be working with senior
8 management of FairPoint to look at other new
9 acquisitions?
- 10 A. Perhaps down the road. My near-term plan is the
11 transaction, the conversion, successful integration and
12 operations within the three-state area. And that is my
13 singular focus right now.
- 14 Q. And do you have any incentives in your compensation
15 plan with FairPoint that relate to this transaction?
- 16 A. I do. I have one; and that is, upon close there is a
17 bonus that I have -- I'm eligible for.
- 18 Q. And is that a similar situation for other senior
19 executives?
- 20 A. It is.
- 21 Q. Earlier in these hearings we heard some testimony that
22 in Vermont there is a proposal to create a separate
23 state-level entity. I'm wondering, if you're required
24 to do that in Vermont, will you do the same in New

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1 Hampshire and Maine?

2 A. We do not believe that that is necessary and do not
3 believe that's the best structure. So it is -- it
4 would be our desire not -- it certainly is our plan and
5 desire not to do that. There just are more reasons why
6 it's bad than why it's good.

7 Q. Can you think, though, from the regulator's
8 perspective, some of the reasons why it might be good?

9 A. Again, I think several witnesses have discussed that
10 particular topic. And the company does not believe
11 that that would be the structure that would be in the
12 best interest of the states.

13 Q. Just one moment, please.

14 Thank you very much, Mr. Nixon. I have
15 no further questions.

16 A. Thank you.

17 CHAIRMAN GETZ: Thank you.

18 A couple questions. I assume you have
19 some fairly extensive cross, Ms. Fabrizio?

20 MS. FABRIZIO: I do. I guess 45 minutes
21 to an hour.

22 CHAIRMAN GETZ: I think, also, Sue may
23 be at her limits as well. And if she's not, we'll blame
24 it on her nonetheless. I think we should close the

1 procedures today and pick up with Mr. Nixon in the
2 morning. But I want to clarify at least two things here.
3 I guess one is, I believe the Consumer Advocate was going
4 to look at this updated broadband plan to see, I guess,
5 how it compared to earlier versions and whether it was
6 necessary to conduct additional cross. I don't know how
7 long, Ms. Hatfield, if that's some answer that you can
8 communicate this evening to Mr. Coolbroth or something
9 we'd have to wait until the morning. But I guess what I'm
10 getting at is, we need to know who would -- if there's
11 additional cross, who that would be directed to. Is it on
12 that panel, the Harrington/Brown/Smee? I mean, do you
13 have -- do you know, Ms. Hatfield, who the questions would
14 be directed to and who needs to be on standby?

15 MS. HATFIELD: I would think that they
16 would be directed to Mr. Brown. But I would really leave
17 it up to the company on who's the best witness to answer
18 the questions. We've had just a quick chance to review
19 it, and it seems like there are some differences. So we
20 would like to have a chance to ask some questions.

21 CHAIRMAN GETZ: Okay. Is somebody from
22 the panel available tomorrow to work that in?

23 MR. COOLBROTH: Mr. Brown is available,
24 Mr. Chairman.

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1 CHAIRMAN GETZ: All right. Then the
2 other issue was how to deal with the third-party
3 monitoring agreement, which apparently has been circulated
4 to everyone, and I'm hopeful has been circulated to us as
5 well, to try to provide opportunities tomorrow to some
6 combination of Mr. Nixon and Mr. Falcone or Mr. King that
7 I guess we'd go to after basically the conclusion of Mr.
8 Nixon's testimony.

9 Are there any other issues that we need
10 to address before we close the proceedings for today?

11 (No verbal response)

12 CHAIRMAN GETZ: Okay. Hearing nothing,
13 then we will resume at 9:00 tomorrow morning. Thank you
14 everyone.

15 (Hearing adjourned at 5:15 p.m.)

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