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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

May 28, 2013 - 11:04 a.m.
Concord, New Hampshire

RE: **DRM 12-036**
RULEMAKING:
Puc 400 - Telephone Service.

PRESENT: Chairman Amy L. Ignatius, Presiding
Commissioner Robert R. Scott
Commissioner Michael D. Harrington

Sandy Deno, Clerk

APPEARANCES: (No appearances taken)

NHPUC JUN05'13 AM 8:08

Court Reporter: Steven E. Patnaude, LCR No. 52

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1
2 CHAIRMAN IGNATIUS: I'd like to open the
3 hearing in DRM 12-036, which is a public comment session
4 in the rulemaking that the Commission undertook addressing
5 telephone rules. Our rules were due to expire soon. And,
6 with the passage of new legislation, we are trying to
7 accomplish two things at once, both do the necessary
8 repromulgation, because of the time limit set by the
9 rules, but also bring them up to speed with current
10 legislation. And, I apologize for the delay this morning.
11 I hope it's been fruitful for people to have a chance to
12 read the orders that the Commission just issued this
13 morning.

14 Because this is a rulemaking hearing,
15 rather than an evidentiary hearing, we don't need to take
16 appearances. I see a note pad with names, which looks
17 like it must be a sign-up sheet of people who wish to
18 identify that they're here and whether they intend to
19 speak or not. And, so, unless I hear otherwise, I would
20 just go through the names there. But there may be -- the
21 parties may have worked out any other sort of procedural
22 issues or plan of action. So, I guess I'll turn it to
23 anyone, is there anything other than just working through
24 the list? Mr. Shulock.

1 MR. SHULOCK: I don't know who's -- I
2 don't know the order on the list, but we do have one party
3 that has to leave at 12:00. And, so, I would suggest that
4 Attorney Geiger go first, and we just work our way through
5 the room.

6 CHAIRMAN IGNATIUS: All right. That
7 would be fine. Ms. Geiger, do you want to go first? Are
8 you prepared to begin?

9 MS. GEIGER: Sure. And, just to clarify
10 for the record, I'm not the party that needs to leave at
11 noon, but I appreciate the opportunity to go first.

12 And, to assist the Commissioners, to go
13 through my comments, which are fairly lengthy, I prepared
14 sort of a summary. And, so, I'll make copies available
15 for others as well. I'll leave them up here if folks
16 would like to follow along.

17 CHAIRMAN IGNATIUS: And, this is the
18 "Outline of NECTA's Public Comments"?

19 MS. GEIGER: Yes.

20 CHAIRMAN IGNATIUS: Thank you.

21 MS. GEIGER: I've found in the past that
22 sometimes it's easier for the Commissioners to have
23 something in writing, so that they can understand,
24 especially, you don't want to hear me recite Supreme Court

1 cases and page numbers and all of that. So, that's
2 primarily the reason that we did that for you.

3 CHAIRMAN IGNATIUS: Thank you.

4 MS. GEIGER: Good morning. I'm
5 appearing today on behalf of the New England Cable &
6 Telecommunications, Inc., NECTA. And, unless I
7 specifically state otherwise, NECTA's comments are also
8 shared by other providers, more specifically, FairPoint
9 and Verizon, who are also business competitors of many of
10 NECTA's members. These competitors are aligned in their
11 position that the draft rules are legally and technically
12 flawed and in their belief that the rules must be
13 rewritten. To the extent that FairPoint and Verizon have
14 additional comments, they'll offer them separately by
15 their representatives. And, the comments that I'm going
16 to provide today are not exhaustive, and NECTA
17 respectfully reserves its rights to supplement the oral
18 comments with written comments that will be filed on or
19 before the deadline.

20 And, at the outset, we'd like to
21 recognize Staff for the time and effort they spent
22 drafting these rules. However, as I will discuss, the
23 rules are problematic for several reasons. My comments
24 will be structured as follows: First, I will explain why

1 the rules do not adhere to the Legislature's intent in
2 enacting Senate Bill 48. Second, I will explain why some
3 of the rules are unlawful as written. Third, I will
4 provide some examples of why the rules misapply the new
5 statutes. And, lastly, I'll make a recommendation for
6 next steps in this docket.

7 So, turning to the first issue, the
8 draft rules do not comport with the Legislature's intent
9 in enacting Senate Bill 48. The draft rules are intended
10 to replace the former 400 rules in their entirety in order
11 to implement that senate bill. The intent of Senate Bill
12 48 is simple and straightforward. It was intended to
13 modify the traditional monopoly era regulation of local
14 exchange carriers and confirm that VoIP and IP-enabled
15 service providers are not subject to regulation as
16 telecommunications service providers in New Hampshire.

17 Now, the draft rules do not comport with
18 that intent. The intent of this statute is memorialized
19 and articulated in the report submitted by the House
20 Science, Technology & Energy Committee, and was published
21 in the House Calendar as follows: "This bill modernizes
22 the regulation of telecommunications service in four
23 important ways: (1) It offers local exchange carriers
24 relief from monopoly era retail regulation, freeing them

1 to compete more effectively. (2) It confirms that Voice
2 over Internet Protocol services and IP-enabled services
3 are not subject to regulation as telecommunications
4 services in New Hampshire. (3) It preserves incumbent
5 local exchange carrier obligations to serve as carriers of
6 last resort and ensures that all residents have an
7 affordable Basic Service for phone service. (4) It
8 preserves incumbent local exchange carrier obligations to
9 provide wholesale services to competitors further
10 encouraging competition among providers".

11 And, despite the Legislature's clear
12 intent to the contrary, the proposed rules would subject
13 local exchange carriers, both ELECs and ILECs, to
14 traditional monopoly era retail regulations. Moreover,
15 they specifically and substantially subject providers of
16 VoIP and IP enable service to regulation at virtually the
17 same level of regulation accorded to ELECs and ILECs.
18 And, for these reasons, the rules on their face conflict
19 with the Legislature's intent in enacting Senate Bill 48.

20 Now, the draft rules are also unlawful.
21 They impermissibly and unlawfully create new definitions
22 that do not appear in the statute. And, it's settle law
23 -- settled law that rules cannot add to, detract from, or
24 in any way modify statutory law. And, the case appears in

1 the handout that I've cited for that proposition, *Appeal*
2 *of Campaign for Ratepayers' Rights*. An agency must comply
3 with the spirit and letter of a governing statute. And,
4 administrative rules that contradict a governing statute
5 exceed the agency's authority and therefore are void.

6 At least two specific definitions
7 created in the draft rules effectively expand the
8 Commission's regulatory authority and create new classes
9 of service or providers which do not exist in the statute;
10 thus they are impermissible. The first is "Voice Service
11 Provider", and that's found in the draft rules at 402.24.
12 This definition impermissibly creates a new class of
13 provider which treats ELECs, ILECs and VoIP providers at
14 the same level of regulation, which is clearly contrary to
15 the Legislature's intent. The other definition,
16 "Essential Telephone Service", which is found at 402.09,
17 impermissibly expands the definition of basic service as
18 set forth in the statute. This creates regulatory
19 oversight over such service where it doesn't exist. Thus,
20 any rules related to "Essential Telephone Service" are
21 invalid.

22 Senate Bill 48 provides that the
23 Commission has no authority over end user services other
24 than as specified in 365:1-a. And, PUC jurisdiction is

1 not triggered or enabled by RSA 365:8, VII, or RSA 374:4,
2 the Commission's duty to keep informed, since these
3 statutes are expressly excepted by Senate Bill 48 from
4 application to end users.

5 Furthermore, this rule is not authorized
6 or enabled by the reference to basic service in RSA
7 365:1-a, because that reference is the same to basic
8 service referenced in 374:22-p. Therefore, there's no
9 independent grant of authority by Senate Bill 48 to create
10 a new class of basic service, and it's unreasonable to
11 interpret the statute as permitting a definition of
12 "Essential Telephone Service".

13 The rules also impermissibly define
14 ELEC, VoIP and IP-enabled service differently than the
15 statutory definitions of those terms. Administrative
16 rules that contradict a governing statute exceed the
17 agency's authority and therefore are void. Where the
18 Legislature has defined a term in the statute, the
19 agency's rules should adopt those definitions verbatim.
20 Definitions that otherwise expand or change the statutory
21 definition should be stricken and replaced with statutory
22 terms.

23 And, I'll give some examples. In draft
24 Rule 402.10, there is a definition of "ELEC". This

1 definition is totally different than the definition in
2 362:7, I(c). The rule definition conflicts with the
3 statutory definition and impermissibly and somewhat
4 inexplicably includes public utility language from 362:2.
5 The statutory definition of "ELEC" does not cross
6 reference 362:2, nor does it include the additional
7 language that's found in the rule.

8 Another definition, "Voice over Internet
9 Protocol service" is found at 402.22. This definition is
10 inconsistent with RSA 362:7, I(d) because it omits
11 reference to "any successor protocol", thereby unduly
12 limiting the scope of the term.

13 Similarly, "IP-enabled service", found
14 at 402.14, is inconsistent with 362:7, I(e) because it
15 omits reference to "any successor protocol" and "any
16 successor format". Those are terms that appear in the
17 statute, and this also improperly limits the scope of the
18 statutory term.

19 In addition to the definitions noted
20 above, there are other terms that actually do appear in
21 the statute and in the rules, but are not defined in the
22 rules. Those terms are "Cramming", "Slamming", "End
23 User", and "Nonbasic services".

24 The draft rules also misapply the

1 statute. The rules unlawfully treat VoIP providers the
2 same as ELECs. The Staff, in its presentation to the
3 industry at the tech session, indicated that it drafted
4 the rules based on the assumption that the term "ELEC"
5 includes the VoIP providers and IP-enabled providers.
6 And, at the technical session in this docket, Staff cited
7 362:7, I(c)(3), which defines an ELEC as "any provider of
8 telecommunications services that is not an incumbent local
9 exchange carrier". Staff's position, and apparently now
10 the position that the Commission has taken this morning in
11 the order that we received just a few minutes ago
12 indicates that VoIP providers are providers of
13 telecommunications services, and therefore ELECs. NECTA
14 strongly disagrees.

15 Both the wording and intent of 362:7
16 indicate the Legislature did not intend VoIP providers to
17 be ELECs. The Legislature created separate definitions of
18 ELECs and VoIP providers with separate regulatory
19 obligations. Combining them into a single class of
20 service provider, VSP, is unlawful. The reason for this
21 is found in statutory construction principles. The
22 provisions of any statute, including 362:7, must be
23 considered as a whole. A reading of the entire statutory
24 scheme supports the conclusion that VoIP service providers

1 are not ELECs. 362:7 contains an entirely different
2 definition for ELEC on the one hand, and VoIP and
3 IP-enabled service providers on the other, and applies
4 distinct and different regulatory treatment and
5 obligations to each. Moreover, the statutory definition
6 of VoIP does not reference "telecommunications service".

7 The Legislature clearly intended VoIP
8 service and VoIP providers to be treated separately and
9 distinctly from other services and entities. This intent
10 is further illustrated by the fact that the Legislature
11 enacted one statute listing the regulatory areas that do
12 and do not apply to VoIP service providers, and enacted a
13 separate and distinct series of statutory amendments
14 governing the regulation of ELECs. If one compares 362:7,
15 III, with, for example, RSA 365:1-a, 366:1-a, 369:1-a,
16 370:1-a, 374:1-a, and 378:1-a, this point will be
17 underscored.

18 Principles of statutory construction
19 support the position that, because VoIP providers are
20 defined and are mentioned separately from ELECs in the
21 statute, they are not ELECs and should not be regulated as
22 ELECs. When interpreting a statute, all of the words in
23 the statute must be given effect. This is because the
24 Court presumes that the Legislature did not enact

1 superfluous or redundant words. Yet, the rules as
2 proposed and currently drafted give no meaning and effect
3 to RSA 362:7, II and III, and effectively render them
4 redundant. This is impermissible.

5 In addition to conflicting with the
6 express provisions of the statute, treating VoIP providers
7 as ELECs also conflicts with the Legislature's intent that
8 "VoIP services are not to be regulated as
9 telecommunications services in New Hampshire." An agency
10 must comply with the spirit and letter of the governing
11 statute. And, administrative rules that conflict -- or,
12 contradict a governing statute exceed the agency's
13 regulatory authority and therefore are void.

14 Under RSA 362:7, II, it is clear that
15 "no department, agency, commission or political
16 subdivision of the state, shall enact, adopt or enforce,
17 either directly or indirectly, any law, rule, regulation,
18 ordinance, standard, order or other provision having the
19 force or effect of law that regulates or has the effect of
20 regulating the market entry, market exit, transfer of
21 control, rates, terms or conditions of any VoIP service or
22 IP-enabled service or any provider of VoIP service or
23 IP-enabled service," unless otherwise excepted under
24 Section III.

1 However, most of the rules as proposed
2 violate this prohibition. Most of the rules have the
3 effect of regulating, directly or indirectly, the market
4 entry, market exit, transfer of control, rates, terms or
5 conditions of VoIP service providers and IP-enabled
6 service providers. And, these rules do not fall within
7 the limited exceptions expressly provided in 362:7, III.
8 As a result, the rules violate not only the Legislature's
9 intent, they violate the express provisions of the
10 statute.

11 The following are a few examples, but
12 not an exhaustive list, that clearly violate the statute:
13 411.01 Registration. This applies to all voice service
14 providers as that term is defined in the rules. And,
15 because the rules include within that definition VoIP
16 providers, this is prohibited as a market entry
17 requirement. Other rules: 411.05 Wholesale Tariff
18 Requirements. These are made to apply to VSPs, including
19 VoIP providers. And, this is prohibited as a condition of
20 service. 411.06 Website Requirements. These are applied
21 to VSPs, including VoIP providers, but this is prohibited
22 as a condition of service requirement. 412.06
23 Directories, is a prohibitive term of service; 413.02
24 Restoration of Service, is a prohibited condition of

1 service; 412.04(e) Change in Ownership, applies to VSPs,
2 including VoIP providers, and is prohibited as a condition
3 of transfer of control.

4 Another category of rules are overly
5 broad. And, some examples are network operations, 911 and
6 TRS, Cramming and Slamming. With respect to network
7 operations, none of the statutes that have been cited in
8 support of the rules, rules 413.01, 413.03, 413.06, and
9 414.05 grants the Commission with the necessary authority
10 to dictate network operations procedures as proposed. In
11 particular, the reference to 362:7, III, Sections 251 and
12 252 of the Federal Telecom Act, does not mean that the PUC
13 has authority to regulate network operations or health.
14 Although, Sections 251 and 252 of the Federal
15 Communication Act delegate certain limited powers over
16 interconnection to state commissions, those powers are not
17 plenary, and certainly do not constitute an open-ended
18 federal source of authority for state commissions to
19 regulate carriers' networks.

20 With respect to E911 and TRS, the
21 Commission has no statutory or delegated authority related
22 to E911 aside from approving any required tariff filings
23 of the E911 surcharge, which is remitted directly to the
24 Department of Safety. E911 savings clause, as set forth

1 in Senate Bill 48, is intended to preserve the Department
2 of Safety's jurisdiction over VoIP and IP-enabled service
3 -- excuse me, E911, and does not grant jurisdiction to the
4 Commission. Similarly, the only authority the Commission
5 has related to TRS is administering the Telephone Relay
6 Service Trust Fund, which is remitted directly to Citizens
7 Bank on behalf of the Governor's Commission on Disability.

8 Cramming, under 412.05, the prohibition
9 against cramming in the statute, 378:46, does not apply to
10 voice providers. It only applies to third party,
11 non-utility billing aggregators and service providers.
12 Any unauthorized charge or billing practice by a voice
13 provider for its own service is simply an incorrect bill,
14 and is therefore outside the scope and beyond the intent
15 of the statute. The cramming statute does not provide the
16 PUC with authority to establish rules regarding voice
17 providers' end user billing practices. The Commission's
18 only authority in this area are the prohibitions of
19 378:47, I, requiring local exchange carriers to permit a
20 customer to put a block on its account and prohibiting
21 local exchange carriers from terminating a customer's
22 local exchange service for failure to pay disputed charges
23 from a billing aggregator or a service provider.

24 The slamming rule, 412.04, speaks to the

1 transfer of control of an intact corporate entity or
2 change in ownership. However, this is not the same as a
3 change in the customer's subscribed telecommunications
4 carrier and therefore does not implicate the slamming
5 statute, 374:28-a. No notification of the Commission --
6 no notification to the Commission or customer is required
7 for such a transaction.

8 Another category of rules that NECTA has
9 concerns with, and these are NECTA's concerns, is that
10 some rules may be overly narrow. The proposed rules
11 related to registration, Puc 411, appear to narrow the
12 current types of New Hampshire providers that are eligible
13 for state authority, but unnecessarily limiting such state
14 authority to providers of voice service; another
15 definition without origin in the statute. And, these
16 rules could be construed to be overly narrow by excluding
17 other types of telecommunications services recognized
18 under federal law.

19 In addition, NECTA notes that Senate
20 Bill 48 does not disturb wholesale obligations. The
21 underlying wholesale and interconnection obligations in
22 Section 251 and 252 of the Telecom Act, which are
23 explicitly reserved by 362:8, III, are -- remain intact.
24 But some of the old interconnection rules that are

1 unaffected by Senate Bill 48 have been omitted from these
2 draft rules. And, NECTA intends to investigate that issue
3 further and will address it in greater detail in its
4 written comments.

5 Lastly, in terms of rules that are
6 problematic, the proposed forms that have been circulated
7 with these draft rules must be revised. To the extent
8 that the -- that the forms apply to "all Voice Service
9 Providers" and require the same information from all
10 entities, including VoIP providers, they are impermissible
11 for all the reasons that I've discussed before. The forms
12 must be revised to insure that they do not have the effect
13 of regulating, directly or indirectly, market entry,
14 market exits, transfer of control, rates, terms or
15 conditions of any VoIP service, VoIP service provider or
16 IP-enabled service or provider.

17 And, lastly, the area that we wish to
18 cover is what should be done in terms of next steps to
19 address -- to address some of the deficiencies that I've
20 just discussed. We believe that the draft rules should
21 either be withdrawn or that the Commission should either
22 extend the current schedule that it has set out for this
23 rulemaking or seek an extension of the rulemaking
24 deadlines under 541-A, so that the stakeholders, Staff and

1 the Commission can have sufficient time to collaborate on
2 a set of rules that properly implement the intent and the
3 express provisions of Senate Bill 48. These rules
4 implement significant regulatory changes that affect an
5 entire industry. They must address the specific and
6 nuanced differences among providers and the manner in
7 which they are to be regulated under Senate Bill 48.
8 Unlike other PUC rulemakings, there was no robust process
9 that included meaningful stakeholder input or
10 collaboration with Staff on the specific wording or the
11 structure of the draft rules prior to the commencement of
12 the formal 541-A rulemaking process. For example, the New
13 Hampshire Telephone Association filed with the Commission
14 proposed revisions to the 400 rules on July 6th, 2012.
15 The Commission did not respond to that filing or provide
16 NHTA or others an opportunity to address those specific
17 draft rules. Approximately nine months elapsed between
18 the time of NHTA's filing and the posting of the
19 Commission's proposed rules on April 11th, 2013.
20 Interested parties were provided notice of the initial
21 rules proposal approximately six weeks ago, and have had
22 very little time to review and discuss those rules with
23 Staff. At a recent technical session with Staff, it
24 became clear that many industry and other stakeholders

1 have strong disagreements with Staff over the
2 interpretation of Senate Bill 48 that is reflected in the
3 wording and the structure of the draft rules. But, at the
4 same time, it also became clear that further discussions
5 among Staff and stakeholders may resolve some of the areas
6 of disagreement, and that such avenues of potential
7 settlement should be explored.

8 But, unfortunately, the procedural
9 schedule for commenting on the draft rules and for
10 submitting a final proposal to JLCAR do not afford the
11 parties and Staff sufficient time to work collaboratively
12 on the revisions to the draft rules. And, in view of the
13 foregoing, we believe that the draft rules should be
14 withdrawn. Or, in the alternative, we believe that good
15 cause exists for the Commission to either modify its
16 procedural schedule and, if necessary, request a waiver
17 under 541-A:40, IV from the statutory deadlines associated
18 with the current rulemaking schedule, again, so that
19 stakeholders and Staff can work collaboratively to revise
20 the draft rules. And, as it applies to N.H. VoI -- New
21 Hampshire VoIP and ELEC providers, the Commission's
22 authority under Senate Bill 48 is extremely limited.
23 However, we are hopeful that, if given sufficient time,
24 the parties and Staff can work together to develop an

1 appropriate set of rules to properly implement Senate Bill
2 48.

3 Lastly, on behalf of NECTA, I would note
4 that there is an open Supreme Court appeal dealing with
5 the issue of federal preemption of the Commission's
6 authority over VoIP, and that that controversy implicates
7 the proposed rules. And, for this reason, as well as the
8 others that I've outlined this morning, we believe that
9 good cause exists for providing the parties and Staff with
10 more time to work on the rules.

11 We very much appreciate the opportunity
12 for providing you with these comments this morning. Thank
13 you.

14 CHAIRMAN IGNATIUS: Thank you very much.
15 And, under the schedule that is now in place, this applies
16 to everyone, June 11 is now the date for written comments.
17 That was extended from June the 4th by a secretarial
18 letter in May a few weeks ago. So, if there's anything
19 further that NECTA wishes to place in the record, June
20 11th would be the date. Unless there is some
21 understanding of an extended schedule, and I'll be
22 interested if Staff or anyone else has a view on the
23 ability to obtain an extension to the schedule. I don't
24 know what the Joint Legislative Rules Committee standards

1 are for extending a schedule when you're in the midst of a
2 rulemaking, but that -- it may be an option that's
3 available to us, I just don't know. So, if anyone does
4 know that, be thinking about that please.

5 The next person on the list --

6 CMSR. HARRINGTON: Can I ask a question?

7 CHAIRMAN IGNATIUS: All right.

8 Commissioner Harrington.

9 CMSR. HARRINGTON: Yes. Just on Page 1
10 of your handout, I wanted to make sure I was reading this
11 correctly on the bottom of the page, Section I.A, where it
12 talks about the intent of SB -- it says "SB 48, the intent
13 of which has been expressed by the Legislature as
14 follows:" This, in fact, what follows there, is not in
15 the legislation at all. It sounds like it was written
16 from the blog on the House Calendar?

17 MS. GEIGER: It was taken from the House
18 Calendar. It's part of the legislative history.

19 CMSR. HARRINGTON: But it is not part of
20 the law. In fact, it was never voted on or enacted by the
21 Legislature, is that correct?

22 MS. GEIGER: That's true. It's not in
23 the statute. As I've indicated, I hope, I've attributed
24 to the intent as set forth in the House Calendar.

1 CMSR. HARRINGTON: Well, the problem
2 comes up, of course, we know lots of times what appears in
3 those legislative blogs may be what the people hope the
4 legislation actually states, it doesn't necessarily
5 mean --

6 MS. GEIGER: No, this is the House --
7 this is the House Calendar.

8 CMSR. HARRINGTON: Yes, this is the --

9 MS. GEIGER: This is the published
10 calendar. It's not a blog.

11 CMSR. HARRINGTON: No, that's what they
12 call the excerpt that appears on the House Calendar
13 describing the legislation. It's written by someone in
14 the governing committee. It's never voted on by anybody.
15 And, it's someone's attempt to describing what they think
16 the Legislature is going to do. But it's not part of the
17 legislation, it's not, in fact, voted on by the House of
18 Representatives.

19 MS. GEIGER: Understood.

20 CMSR. HARRINGTON: Okay. I just wanted
21 to make that clear. Thank you.

22 CHAIRMAN IGNATIUS: Commissioner Scott.

23 CMSR. SCOTT: Thank you. I just wanted
24 to clarify, your very last statement, I just want to make

1 sure I understood your intent. You mentioned the "Supreme
2 Court appeal". Did you -- was your expectation that we
3 just take notice of that or was there some action
4 regarding that?

5 MS. GEIGER: I just wanted to add that
6 as another reason why it would be appropriate to give the
7 parties in this docket or the stakeholders here more time
8 to work on the rules. Because it seems to me that, if we
9 can all reach agreement on a set of rules and the proper
10 regulatory treatment for VoIP service providers, that may
11 moot out the Supreme Court appeal. I guess I should have
12 been more explicit in my comment. But that's the hope and
13 desire, is that, to the extent that the stakeholders and
14 Staff and the Commissioners can reach agreement on a set
15 of rules that provides the appropriate level of regulatory
16 treat to VoIP providers under Senate Bill 48, there may no
17 longer be a need to proceed with that Supreme Court
18 appeal.

19 CMSR. SCOTT: Thank you.

20 CHAIRMAN IGNATIUS: Thank you. Mr.
21 McHugh, you were next on the list, and you're next in the
22 seat. So, why don't you proceed.

23 MR. McHUGH: Thank you very much.

24 Patrick McHugh, here on behalf of FairPoint

1 Communications. And, madam Chair, I am the party with the
2 time crunch problem. So, I'll need to leave between noon
3 and 12:15. But my comments here will generally be brief
4 today. I concur in the comments made by Attorney Geiger
5 on behalf of NECTA, except for those limited ones that she
6 reserved for NECTA alone. So, in that regard, you can
7 consider it a joint submission.

8 I would ask that the Commission, and
9 perhaps the parties can discuss it more, either amongst
10 themselves or as they go around the room, but I would
11 actually ask, on behalf of FairPoint, that the June 11th
12 deadline be waived or lifted or whatever the right phrase
13 is, but basically stricken, and that parties not file
14 comments. I don't think the filing of comments on June 11
15 will be helpful, if there's going to be a process whereby
16 we can try and narrow all or at least most of the
17 differences, and come up with either a complete set or a
18 nearly complete set of rules.

19 I didn't get a chance, I really don't
20 have a comment on the order issued today in DT 12-308. I
21 tried to go through it fairly quickly. But the one thing
22 that struck me is, on Page 20 of that order, the
23 Commission has a sentence, at the very first full
24 paragraph on Page 20. And, the first part of it I don't

1 have any comment on, it talks about "SB 48 not altering
2 your conclusion", as "you" in the Commission, "regarding
3 preemption." But then the following statement is on
4 there, it says "SB 48 has reduced even further the state's
5 regulation of ELECs and of VoIP and IP-enabled telephone
6 utility services, and has minimized regulation of
7 telephone utilities to the extent they provide such
8 services." The rules that have been proposed by the
9 Staff, in my opinion, do not comply with even that, the
10 Commission's view of what Senate Bill 48 did.

11 You look, for example, and I'll just
12 give one example, and then allow others. But, you know,
13 the rules require ILECs to file these annual -- the new
14 rules, the proposed rules, require ILECs to file these
15 expansive annual reports. We spend, at FairPoint,
16 hundreds of hours on what we think is just a waste of
17 time. And, Senate Bill 48 pretty clearly says "ELECs have
18 to be treated equally except in a limited number of
19 areas." And, yet, the fact that, you know, FairPoint is
20 still an ILEC, agree to provide basic service. You know,
21 now I still have to, you know, waste a bunch of people's
22 time on an annual report that other carriers, you know,
23 don't have to provide, and I don't find very informative.
24 So, that's just one example. Another example is, the

1 proposed rules purport to lift the definition of "basic
2 service" out of the statute into the rules. And, yet, one
3 of the biggest exceptions that's in the rules states that,
4 basically, "any service combined with basic service is, by
5 definition, nonbasic service." That's not addressed in
6 the rules.

7 But, I think, at least if anything, we
8 can waive the deadline. I think Attorney Malone has more
9 analysis on this area. I mean, he and I were talking, and
10 I'm putting him on the spot, because I have to get up and
11 leave at 12:15, and I don't know where we'll be. But I
12 think he can provide more analysis on the sort of
13 JLCAR-type rules, the time frames, things like that, and
14 there is an idea. And, I think, if we waived, or whatever
15 you want to call it, but basically get rid of the June 11
16 deadline, it might allow some more time to work on
17 something that would narrow the differences and minimize
18 the issues. You know, the hope is always there that we
19 can make it all go away, but I realize that might not be
20 possible, but I think we ought to try.

21 So, that's my limited presentation.
22 Thank you very much for your time. And, know that I, when
23 I get up and leave between 12:00 and 12:15, it is not for
24 a lack of interest on the outcome of the proceedings.

1 Thank you.

2 CHAIRMAN IGNATIUS: No, I understand
3 that. Thank you. There are a number of people who appear
4 then on the list --

5 CMSR. HARRINGTON: I was going to ask
6 him a question.

7 CHAIRMAN IGNATIUS: All right.
8 Commissioner Harrington.

9 CMSR. HARRINGTON: Just a couple of
10 quick things on that. You said you'd "like to see the
11 deadline for filing comments waived." Is that something
12 that's commonly done? I'm just not familiar. Do you know
13 if it's a fairly easy process to go through?

14 MR. McHUGH: I think the questions
15 related to the process, I'm going to defer to Attorney
16 Malone, because he really did go through it in more
17 detail.

18 CMSR. HARRINGTON: Then, maybe the
19 second question, maybe you could be -- you may have more
20 information on, is that how long are we looking for?
21 What's the time frame on something like this?

22 MR. McHUGH: Well, we sort of -- when he
23 went through his analysis, he got towards the end of
24 September. And, we don't necessarily have to say it's the

1 end of September. But it's clearly not any time like
2 soon.

3 CMSR. HARRINGTON: So, the end of
4 September would be the -- you would want to replace the
5 June 6 date with let's just say the end of September for
6 the sake of --

7 MR. McHUGH: No, I think we would have
8 to do it -- I think there is a deadline coming up at the
9 end of September. So, you would push the final written
10 comments out, you know, theoretically, to me, I don't know
11 how long it will take, but let's say July/August, I mean,
12 there's vacation schedules in there. But we could submit,
13 hopefully, here's what we agreed upon in the rules, which,
14 subject to the Commission's concerns, you know, we think
15 that's --

16 CMSR. HARRINGTON: I just trying to get
17 a feel for the time frame.

18 MR. McHUGH: So, I'm thinking --

19 CMSR. HARRINGTON: Is it a month? Two
20 months?

21 MR. McHUGH: I'm thinking July,
22 August, --

23 CMSR. HARRINGTON: Okay.

24 MR. McHUGH: -- in my mind, later in

1 July or sometime in August.

2 CMSR. HARRINGTON: And, if the other
3 groups, so I won't have to ask the same questions, if you
4 feel as though you need more, you know, it seems like
5 multiple heads are shaking here on this. So, if you are
6 looking for additional time, giving us some idea of what
7 you recommend would be helpful.

8 MR. McHUGH: Thanks.

9 CHAIRMAN IGNATIUS: Thank you. There
10 are a number of names listed, but they have marked off
11 that they're not intending to speak. The next "yes", in
12 terms of speaking, is Mr. Malone. So, that works out
13 well.

14 MR. MALONE: Thank you, madam Chairman.
15 I'm going to start off, I want to thank NECTA for having
16 given us an opportunity to preview their oral comments in
17 advance of today's hearing, so that we could prepare our
18 response. It will come as no surprise to them or the
19 Commission that -- oh, I'm representing the small ILECs of
20 the New Hampshire Telephone Association, exclusive of
21 FairPoint.

22 And, it should come as no surprise to
23 NECTA or the Commission that the small ILECs disagree with
24 NECTA, that VoIP and IP-enabled service providers are not

1 subject to regulation as telephone service providers in
2 New Hampshire.

3 In its final order in DT 09-044, the
4 Commission determined that fixed VoIP, as provided by the
5 NECTA members, is a telephone utility service under Title
6 34, subject to what limited Commission oversight is
7 accorded to non-ILEC telephone companies. This decision
8 has been appealed to the Supreme Court. And, it was back
9 before the Commission, who decided this morning that
10 nothing about SB 48 alters that holding.

11 So, this proceeding should not be an
12 opportunity to revisit that issue, but instead to codify
13 the Commission's determination as it currently stands.
14 Suffice it to say that the small ILECs believe the
15 proposed rules conform to the Commission's VoIP order and
16 SB 48 in all relevant respects as they apply to VoIP.

17 Other than this significant issue, the
18 small ILECs are in general agreement with NECTA in their
19 other comments. In particular, we believe that there are
20 no grounds for the creation of an "essential telephone
21 service" or Commission jurisdiction over this end user
22 service over and above whatever is granted the Commission
23 for jurisdiction over basic service. And, we also want to
24 emphasize that we believe that the rules should emphasize

1 that there is a distinction between basic service and
2 nonbasic service.

3 We further agree that there's no basis
4 for Commission jurisdiction over network operations or
5 intercarrier relationships, other than the approval of
6 interconnection agreements, and that local exchange
7 carriers are not subject to the Commission's cramming
8 prohibitions or -- nor do transfers of control implicate
9 the slamming rules.

10 Finally, we also agree that we don't
11 have sufficient time. And, I'm going to address that.
12 Right now, our schedule has us filing comments on June
13 11th, in anticipation of the Commission filing the final
14 proposed rules on July 3rd, and that is because it's
15 perceived by the Commission that the deadline for adoption
16 of the new rules is September 29th, 2013. And, we've
17 reviewed the Chapter 541-A, the Administrative Procedure
18 Act in New Hampshire, and we have some questions as to
19 whether that deadline is valid. It's the -- the deadline,
20 you know, there is a 150-day deadline following the
21 publication of proposed rules in the New Hampshire
22 Register. But that deadline is not for final adoption of
23 the rules, but instead is for the filing of the final
24 proposal of those rules to JLCAR. So, rather than the

1 final adoption had to be 150 days, actually what we're
2 talking about is just the final proposal. And, at the
3 JLCAR process can be many months following that. And,
4 I'll refer the Commission to RSA 541-A:12, and I'll read
5 what it says. It says, in part, "After the text of the
6 final proposed rule has been established, the agency shall
7 file the final proposal no earlier than 21 days and no
8 later than 150 days after the date of publication of the
9 notice in the Rulemaking Register." It goes on to say
10 that "The agency shall file the final proposal with the
11 Director of Legislative Services."

12 So, assuming that the Commission is
13 requesting comments from JLCAR on the proposed rule, which
14 I assume that they will when they file this proposal, the
15 process can be upwards of 200 days or more before the
16 proposal is approved and final adoption is complete.

17 So, what I'm saying, the bottom line is,
18 that rather than us having maybe just a month or so to
19 discuss this very broad and complex set of rules, it looks
20 like that we have at least until early September, you
21 know, allowing for some time for the Commission to put the
22 final proposal together, we have until late August or
23 early September to discuss this with Staff, discuss this
24 among industry participants. See if we can narrow the

1 differences that we have among us all, and come back to
2 the Commission with what we believe is a narrower proposal
3 that they can put together for submission to JLCAR.

4 So, I would submit that we don't even
5 have to go through a waiver process. That we could extend
6 the June 11th date to sometime in July or early August,
7 that would give us much more time before filing our final
8 comments.

9 And, that's all I have to say. Thank
10 you.

11 CHAIRMAN IGNATIUS: Thank you.
12 Mr. Kennan, I think you're the next who had marked off
13 wishing to speak.

14 MR. KENNAN: Yes. Thank you very much,
15 madam Chairman. And, good morning. I'm Gregory Kennan,
16 from the law firm of Fagelbaum & Heller, and I'm here
17 today representing the CLEC Association of Northern New
18 England, Inc., CANNE, or "CANNE". And, with me are
19 representatives from two of CANNE's members, Mr. Winslow,
20 from BayRing, and Ms. Mullholand, from segTEL. We very
21 much appreciate the opportunity to speak today. I'll be
22 very brief.

23 Appreciate the amount of effort that the
24 Commission and the Staff put into drafting the new rules.

1 We think that the Commission got it pretty much correct,
2 in terms of balancing the regulatory -- the letter and
3 spirit of the new law, and ensuring that a floor
4 protection for consumers and competitive providers remains
5 in place.

6 CANNE's interest in this proceeding lies
7 primarily in its understanding that the new law was not
8 intended to reduce or affect regulation of wholesale
9 services. And, in large measure, the proposal recognizes
10 this. We believe that some fine-tuning is necessary, and
11 look forward to working with the Commission and the other
12 parties on that issue.

13 We do think it is important that the
14 rules recognize that the smooth functioning of the
15 telecommunications system in New Hampshire requires a
16 certain level of Commission authority and oversight. This
17 is to ensure that any end user in this state can make or
18 receive calls ubiquitously and seamlessly. This goal also
19 requires that the Commission have the authority and
20 ability to ensure that networks interconnect seamlessly,
21 and that communications networks and facilities are built,
22 maintained and operated to a floor of standards regarding
23 interoperability and safety.

24 We do believe that, if, in deed, we have

1 more time, and I'm just responding to Mr. Malone's
2 analysis, I'm assuming he's right on this, and, if so, we
3 think it would be better to take the time to try to work
4 things out among the parties, rather than to rush into
5 comments that might tend to lock people into positions.
6 We look forward to working with the Commission and other
7 parties toward that goal. Thank you.

8 CHAIRMAN IGNATIUS: Thank you.

9 Mr. Feltes.

10 MR. FELTES: Good morning, madam Chair,
11 members of the Commission. My name is Dan Feltes. With
12 me at counsel table is Attorney Alan Linder. We're here
13 on behalf of The Way Home, which is a low-income,
14 non-profit servicing organization in the greater
15 Manchester area. We have an outline of our four comments
16 for today. And Alan will be circulating those that
17 outline. And, Alan will be circulating that outline to
18 follow along. Our written comments will be submitted in
19 the next day or two.

20 Our first comment is that the draft
21 rules should clarify that the use of VoIP service or
22 IP-enabled service by an ILEC does not eliminate the
23 requirement to provide basic service by an ILEC. And, the
24 plain language of RSA 374:22-p, VIII(a) supports this

1 notion. It says "Incumbent local exchange carriers,
2 whether qualified as an excepted local exchange carrier or
3 otherwise, may not discontinue residential basic service,
4 regardless of the technology used." So, in other words,
5 if an ILEC provides the service over IP-enabled service or
6 over VoIP, or migrates to that system, that does not
7 eliminate the requirement for the ILEC to provide basic
8 service. We would respectfully suggest that the rules are
9 clarified to make that clear.

10 Our second point is that the draft rules
11 should clarify that consumers can complain to the
12 Commission regarding the provision of basic service. And,
13 on this point, there's two critical issues. Who can
14 complain? And, what they can complain about? And, I will
15 point the Commission to the plain language of the last
16 sentence of RSA 365:1-a, 365:1-a. The plain language of
17 that sentence says "Such end users may, however, make
18 complaints to the Commission regarding the provision of
19 basic service by excepted local exchange carriers." Basic
20 service is provided by itself, basic service is provided
21 along with other services, and the Legislature made no
22 distinction or qualification or limitation about how the
23 complaints could be made about basic service. In other
24 words, basic service, you can make a complaint to the

1 Commission, the Commission has the authority to accept the
2 complaint and process it with respect to basic service, if
3 that consumer also has, for example, call forwarding or
4 some other technology. Had the Legislature wanted to
5 limit this ability of the Commission's jurisdiction to
6 accept complaints for basic service, it could have
7 included the words "stand-alone" before "basic service" in
8 this sentence; it didn't. And, nor can we here today add
9 those words to qualify it. It could have qualified it and
10 said "the provision of basic service, but not within
11 nonbasic service", which is the definition that the -- I
12 think some folks will point to. If it were the case that
13 the definition of "nonbasic service" somehow eradicated
14 the ability to complain about basic service, simply
15 because you had call forwarding or something else, that
16 would render this entire sentence basically superfluous,
17 because most people, virtually every person has basic
18 service and then some other type of service. The
19 Legislature did not do that, based on its plain language
20 of this sentence.

21 Now, if you took that to the extreme,
22 you know, even a senior citizen on a fixed income, who has
23 only basic service, decides to take a promotion for cable
24 TV or call forwarding or some other service, just by doing

1 that, that would automatically negate the ability of that
2 person to complain about the basic service. That is an
3 unreasonable result of the construction of the statutory
4 scheme. And, it's basic canon of statutory construction
5 is, if it leads to an unreasonable result, that's strong
6 evidence against that construction.

7 So, in short, anyone who has basic
8 service can complain about basic service. That's the
9 "who". Regardless of whether or not they might have call
10 forwarding or cable or something else. If they have only
11 cable, you know, and internet, of course, they can't
12 complain about basic service.

13 Now, the scope of the rules, in terms of
14 what they can complain about, is another issue which would
15 require clarification in our view in the rules. If you
16 look at the plain language of this last sentence, with
17 respect to basic service, it says "Such end users may,
18 however, make complaints to the Commission regarding the
19 provision of basic service." And, the ordinary definition
20 of "regarding" is "with respect to" or "concerning", and
21 the ordinary definition of "provision" is "the act or
22 process of providing." So, that's a very broad term
23 regarding the provision. It means, in essence, "with
24 respect to or concerning the act or process of providing

1 basic service." We respectfully submit to you that that
2 doesn't just mean the technological availability of basic
3 service. That means the process of getting, keeping, and
4 maintaining basic service, which includes, in our view, a
5 number of the Puc 1200 definitions and a number of the Puc
6 1200 rules, including with respect to deposits, payment
7 arrangements, financial hardships. And, in our written
8 comments, we'll spell out the rules that we recommend are
9 preserved by this very broad phrase "regarding the
10 provision of".

11 Third, The Way Home supports the Staff's
12 construction of "essential telephone service". And,
13 here's why. If you look at 365:1-a, you'll note that we
14 talked about this last sentence quite a bit just now, and
15 that relates to basic service. There is also a reference
16 in 365:1-a to RSA 374:22-p. Now, 374:22-p has a
17 definition of "basic service", but it also has in it a
18 definition of what the Commission's required to do to
19 ensure affordable basic service. And, that's RSA
20 374:22-p, III, which states: "The Commission shall seek
21 to ensure that affordable basic telephone services are
22 available to consumers throughout all areas of the state
23 at reasonably comparable rates." That statutory provision
24 remains. It says "affordable basic telephone services".

1 I know Staff used "essential telephone service". But,
2 regardless of what the name of it is, the concept is
3 supported. Because this statutory cite to 374:22-p must
4 mean something, and it must mean something other than the
5 last sentence of 365:1-a, which is basic service. So,
6 what the basic principle of statutory construction is that
7 the Legislature is presumed not to use redundant words.
8 So, this cite to 374:22-p, in addition to the last
9 sentence about complaints about basic service, must mean
10 something, and The Way Home supports the Staff's
11 construction of what that means, in terms of essential
12 telephone services.

13 Now, in terms of what you can complain
14 about, in terms of essential telephone services, we
15 respectfully request, in the interest of parity, that
16 those rules will be the same as the rules that you can
17 complain about with respect to basic service. And, again,
18 we will outline, in detail, which one of those rules are.

19 Last point. The Commission continues to
20 have authority and responsibilities under federal law and
21 under its own orders with respect to public interest
22 payphones. Federal law requires, I'll just note this, is
23 that the public interest payphone rules are not included
24 in the draft rules. But, notwithstanding they're not

1 being included, the Commission still has jurisdiction, and
2 is required to have jurisdiction, based on general law and
3 based on preemption principles. This Commission has
4 issued orders in response to an FCC order in 2001
5 indicating that there is a need for and it's in the public
6 interest to have public interest payphones. And, to not
7 include in the rules the existing public interest payphone
8 rules, which are required, we think, under federal law,
9 and we'll spell that out in detail in our written
10 comments, will be creating confusion out there in the
11 public and among consumers about what can be done to
12 petition for a public interest payphone, and the
13 Commission's authority thereto.

14 So, we respectfully request that the
15 Commission include the existing rules of public interest
16 payphones. And, again, we'll lay that out in more detail
17 in our written comments. Thank you very much.

18 CHAIRMAN IGNATIUS: Thank you.
19 Commissioner Harrington.

20 CMSR. HARRINGTON: Yes. This, with
21 regard to your second point there, with the basic service
22 and what constitutes and what doesn't, I found that as one
23 of the more confusing part of the bill, to say the least.
24 And, you know, we tried last year to get the Legislature

1 to make their intent clear in that, and they chose not to
2 do so. So, if anybody has a position on that, I would be
3 interested in hearing it. Because, I think, the way it's
4 written right now, it's open to multiple interpretations.
5 So, if somebody has an idea of whether basic service only
6 means the things listed there, and, if you take one
7 additional thing, then you no longer have basic service,
8 and so you no longer have a right to complain to the
9 Commission. You know, that could be read either way. So,
10 I'd like, if people have positions on that, I would
11 appreciate hearing that. I don't mean necessarily right
12 this second, when you submit your written comments,
13 whenever that happens to be.

14 CHAIRMAN IGNATIUS: Thank you.

15 Ms. Chamberlin.

16 MS. CHAMBERLIN: Thank you. The
17 Consumer Advocate's Office supports the Staff's draft
18 proposal and its general thrust of the comments. SB 48,
19 it tailors, but it doesn't eliminate the Commission
20 authority over basic telecom service and consumer
21 protections for the residential customers. And, I agree
22 with The Way Home's interpretation of basic service, that
23 it is not people who only have basic service and nothing
24 else, because I think the numbers of those people are

1 extremely few. And, I don't see the legislation as
2 intending to remove all consumer protections in that
3 manner.

4 In terms of extending out the schedule,
5 I'd certainly be happy to talk with parties. From
6 listening to the comments, it doesn't appear that we'll
7 have agreement. But, at a minimum, we could tailor the
8 areas of disagreement, so that they're clear and that they
9 can then be decided on by the JLCAR. I don't know what
10 the statutory interpretation is. I would ask that we get
11 an express waiver from JLCAR, that they agree with
12 whichever interpretation we go forward with.

13 And I would be happy to -- we will be
14 submitting comments, you know, either in June or later on.

15 CHAIRMAN IGNATIUS: Thank you. Does the
16 Commission Staff have any comments, either anything as to
17 the rules or to the procedural discussion, whether the
18 deadlines can be extended?

19 MR. SHULOCK: Staff doesn't have any
20 comments regarding the rules themselves. With regard to
21 the procedure, we will look into whether there's more time
22 available for the parties to work together. But we don't
23 have a legal opinion for you on that just yet.

24 CHAIRMAN IGNATIUS: Do you know the date

1 that the current 400 rules expire?

2 MR. SHULOCK: They have already expired.
3 Well, they -- they would have expired, but for the fact
4 that the Commission published the notice and the initial
5 proposal in the Rulemaking Register on May 2nd.

6 CHAIRMAN IGNATIUS: And, under the --

7 MR. SHULOCK: Under the statute, they
8 continue in effect during the rulemaking process.

9 CHAIRMAN IGNATIUS: All right.

10 Obviously, I don't think we've ever looked at this before.
11 And, if research finds that it is permissible to extend
12 the deadlines or that the September date that Mr. Malone
13 was citing isn't a date for final adoption, and we
14 actually have a little bit more time to work on
15 development of rules and agreement on as many issues as
16 can be agreed upon, that's, obviously, a good thing, and
17 we would be supportive of that, as long as we don't -- as
18 long as we can fit it within the rulemaking process. And,
19 a call to the JLCAR staff is often very helpful, once
20 people sort out what it is that we really want to try to
21 accomplish.

22 I think we ought to keep the June 11th
23 date as the date for written comments, unless you hear
24 otherwise from us. And, it would be my hope that, if it

1 is possible to extend that deadline, either by an
2 extension of a few weeks, if possible, with the existing
3 end date, or extend out further than that, if the end date
4 is really -- if we've sort of artificially pulled it back
5 to be too soon and we have a little bit more time to work
6 with. And, you'll get a secretarial letter of some sort,
7 if it's anything other than June 11th.

8 I assume that there will be a plan for
9 parties to meet with one another to work on many of these
10 issues, to trade alternate language, new definitions of
11 things that people have noted are missing, and that you
12 don't need Commission oversight to do that. You don't
13 need us to schedule it formally, but leave it to the Staff
14 to kind of orchestrate meetings, technical sessions among
15 the parties, as many as are needed and are fruitful. Is
16 that a fair expectation, Mr. Shulock?

17 MR. SHULOCK: Yes, it is. In fact, at
18 the end of our last technical session, Staff offered to
19 stay at the end of this public comment hearing with any
20 party that wanted to work on specific issues. And, we
21 will be here.

22 CHAIRMAN IGNATIUS: Thank you.
23 Commissioner Harrington.

24 CMSR. HARRINGTON: Yes. I think this is

1 -- this rulemaking is a little unusual, in that we have a
2 situation where the rules came up at the same time we had
3 a major change in the laws that affect that. And, the SB
4 48 is a extremely complicated and somewhat confusing piece
5 of legislation. And, last year, we tried to work with the
6 House of Representatives on maybe making some changes or
7 clarifications to the law, not so much to change the
8 intent, but to make this process work better. And, we're
9 -- like I said, they didn't -- chose not to do that. So
10 now, we're stuck with what I think is a very somewhat
11 contradictory, somewhat confusion piece of legislation to
12 implement.

13 So, all we can do is to ask that we all
14 try to work together to get that law written, you know,
15 the rules as the law intended to be. And, that's going to
16 probably take some time. And, it doesn't really matter to
17 me whose comments come from where, but just that we get
18 that enacted properly. And, it may even result in having
19 to go back to the Legislature with some recommendations
20 for future changes, because we find that the words in the
21 law don't match. They're very -- they contradict each
22 other.

23 So, I just hope everyone can work
24 together on this and really come up with a good product.

1 Because it's very important and very complicated, and it's
2 probably going to take some time to get there.

3 CHAIRMAN IGNATIUS: All right. Thank
4 you. And, unless there's anything further?

5 (No verbal response)

6 CHAIRMAN IGNATIUS: We will take all of
7 this under advisement. We look forward to reports of what
8 you think the best process is, if there is an opportunity
9 to extend out the dates a bit, and any progress people can
10 make on the issues that can be resolved. And, maybe
11 there's a fundamental difference on some of the
12 interpretation, but some of the other issues that we've
13 heard are far more amenable to working out, and we look
14 forward to that. So, we are adjourned. Thank you.

15 **(Whereupon the hearing ended at 12:06**
16 **p.m.)**

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