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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

May 7, 2014 - 10:10 a.m.
Concord, New Hampshire

NHPUC MAY22'14 AM 8:44

RE: DT 14-102
WILLIAM G. WHALEN:
Complaint against FairPoint Communications,
Inc. - Rate Increase Dispute.

PRESENT: Chairman Amy L. Ignatius, Presiding
Commissioner Robert R. Scott
Commissioner Martin P. Honigberg

Sandy Deno, Clerk

APPEARANCES: William G. Whalen, *pro se*

Reptg. FairPoint Communications, Inc.:
Sean M. Galvin, Esq.

Reptg. New Hampshire Legal Assistance:
Daniel Feltes, Esq.

Reptg. PUC Staff:
David K. Wiesner, Esq.
Kate Bailey, Dir./Telecom Division
Amanda Noonan, Dir./Consumer Affairs Div.
Michael Ladam, Asst. Dir./Telecom Division

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

BS

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P R O C E E D I N G

1
2 CHAIRMAN IGNATIUS: We are here today in
3 Docket DT 14-102. This was a docket opened upon a
4 complaint filed on March 24th, 2014 by William G. Whalen
5 against FairPoint Communications, regarding rate increases
6 on the two landline phone services to his residence. We
7 issued an order of notice on April 15th, 2014 calling for
8 a hearing this morning. And, we set forth a series of
9 questions that we wanted answered to help sort out the
10 issues in this case. And, we also called for
11 interventions.

12 What I'd like to do is start first just
13 taking appearances of those who are present. And, then, I
14 understand we have one request for intervention and an
15 objection that's been filed. So, we'll take arguments on
16 that. And, then, Commissioners make a determination on
17 the intervention request. And, then, we'll begin with the
18 substantive matters, the issues in dispute from
19 Mr. Whalen's complaint.

20 So, let's first just begin with what we
21 call "appearances", which is just identifying yourself.
22 And, we'll just go around the room. So, Mr. Whalen.

23 MR. WHALEN: Hi. Good morning. My name
24 is William Whalen. And, I'm the complainant.

1 CHAIRMAN IGNATIUS: Thank you.

2 MR. GALVIN: Hi. My name is Sean
3 Galvin. I'm Assistant General Counsel for FairPoint
4 Communications' regulatory and sales matters.

5 CHAIRMAN IGNATIUS: Good morning.

6 MR. GALVIN: Good morning.

7 MR. TAYLOR: Good morning, madam Chair
8 and Commissioners. My name is Ryan Taylor. And, I'm the
9 Director of Regulatory Affairs for FairPoint
10 Communications in New Hampshire.

11 CHAIRMAN IGNATIUS: Good morning.

12 MR. FELTES: Good morning, madam Chair,
13 Commissioners. My name is Dan Feltes. I'm with New
14 Hampshire Legal Assistance.

15 MR. WIESNER: Good morning, madam Chair,
16 Commissioners. I'm David Wiesner, Staff attorney with the
17 Commission. With me today are Director of the
18 Telecommunications Division, Kate Bailey; Director of the
19 Consumer Affairs Division, Amanda Noonan; and Assistant
20 Director of the Telecommunications Division, Michael
21 Ladam.

22 CHAIRMAN IGNATIUS: Good. Thank you,
23 everyone. So, we have a request from New Hampshire Legal
24 Assistance to intervene, and just today, or perhaps late

1 yesterday, FairPoint filed an objection to the Motion to
2 Intervene. Why don't we ask, first, Mr. Feltes, to
3 articulate, we got your motion, but if there's anything
4 else you want to state, especially in light of -- I assume
5 you've seen the objection, --

6 MR. FELTES: I have.

7 CHAIRMAN IGNATIUS: -- if there's
8 anything you want to respond to. And, then, we'll give
9 FairPoint an opportunity to also argue if there's anything
10 else you want to stress.

11 MR. FELTES: Thank you, madam Chair. As
12 folks are aware, and certainly the Commission, New
13 Hampshire Legal Assistance is a statewide nonprofit law
14 firm, representing low and middle income persons and
15 families, including seniors. We have a specific Senior
16 Law Project. Throughout the last several years, including
17 myself personally, New Hampshire Legal Assistance has been
18 involved in telephone rate cases, including petitions for
19 alternative regulation. We've represented persons in
20 those matters, including low income clients, including
21 senior citizens, many of whom rely upon solely basic phone
22 service or other basic phone service packages, including
23 senior citizens who are not traditionally likely to
24 participate in sort of bundles.

1 Our organization's expressed mission is
2 to help advocate for low income persons on a variety of
3 basic necessities. And, we consider phone service a basic
4 necessity. It's needed for work, medical appointments,
5 and other really basic items and services that low income
6 and middle income persons rely upon and need phone service
7 for.

8 Throughout these dockets and our
9 advocacy, we focused on the concept of universal service
10 and affordability, we focused on consumer protections for
11 low income households and senior citizens, including
12 protections of disconnections. And, we've done so, like I
13 said, over the last many, many years, including me
14 personally.

15 There's a suggestion in the objection to
16 the Petition to Intervene that we're just *de facto* serving
17 as the Consumer Advocate. That's incorrect. We -- the
18 Consumer Advocate's charge is serving residential
19 ratepayers. We serve a subset of residential ratepayers,
20 low to middle income persons. Our interest is distinctly
21 different. We do do consumer work, obviously, but it's
22 for a subset, low to middle income persons, including
23 senior citizens.

24 And, just to give you a specific example

1 of the difference between us and the Consumer Advocate,
2 you could go back to Docket DT 07-027, which was a
3 Petition for Alternative Regulation filed by Kearsarge
4 Telephone Company and Merrimack County Telephone Company,
5 in which New Hampshire Legal Assistance intervened. At
6 the end of the case, the Office of Consumer Advocate filed
7 an agreement with the telephone companies, along with
8 Staff. New Hampshire Legal Assistance abstained, and
9 litigated the particular agreement, and at least in the
10 initial order was successful in defeating that Settlement
11 Agreement. So, the notion or suggestion that -- excuse
12 me -- that we're just the same as the Consumer Advocate is
13 incorrect.

14 Getting to some of the more specific
15 points, you know, the notion or the suggestion that
16 there's no facts here that could suggest that our
17 interests are at stake. Well, I would say the facts are
18 apparent from the actual order of notice, which, on Page
19 2, last paragraph says "The filing raises, inter alia,
20 issues related to the statutory definition of telephone
21 "basic service"," and then also the rate -- it goes on to
22 talk about the rate caps. New Hampshire Legal
23 Assistance -- those rate caps include rate caps for low
24 income, Lifeline telephone customers. And, those rate

1 caps were of special importance to us in the legislative
2 process to try to get those rate caps into place. And,
3 so, the interpretation of the Commission, I would submit,
4 about those provisions and those rate caps directly affect
5 our mission, because it directly affects the applicability
6 of those rate caps to many, many people, and it directly
7 affects the -- including low income people, it directly
8 affects a pocketbook issue just for our clients, but also
9 for the Company. So, I can understand why the Company may
10 not be necessarily excited that we're here today.

11 The other particular thing that was
12 noted in Mr. Galvin's conclusion is he said "NHLA's
13 participation will only serve to interfere with the
14 orderly and prompt conduct of this proceeding and will
15 contribute nothing of relevance to the record." I'm a
16 little bit more confident with my lawyering skills than
17 saying that there "will be nothing of relevance" that I'll
18 provide today.

19 But I will note, just to be clear, what
20 I will do today, in terms of if you're concerned with the
21 orderly and prompt conduct. I simply have a few questions
22 for Mr. Taylor to clarify their interpretation and their
23 application of the rate caps. I will give a closing
24 statement. And, I will submit a roughly four-page filing

1 with our interpretation. So, brief questions of
2 Mr. Taylor, brief closing, and, of course, our filing.

3 And, so, with that, I would respectfully
4 request that New Hampshire Legal Assistance's Petition to
5 Intervene be granted. This Commission time and time again
6 has granted organizational standing in matters such as
7 these. Thank you so much.

8 CHAIRMAN IGNATIUS: Thank you. Why
9 don't we hear from FairPoint, Mr. Galvin, and then there
10 may be some questions from the Commissioners.

11 MR. FELTES: Okay.

12 MR. GALVIN: Thank you, madam Chair and
13 distinguished members of the Commission. I think some of
14 the statements put forth by New Hampshire Legal Assistance
15 we may take exception to, to the extent that this matter
16 is about basic service. I think FairPoint's premise is
17 that that is still a point of question, and that's part of
18 the reason why we're here is whether multiservice
19 qualifies as basic service. Much of the argument was
20 predicated on the fact that there was, I guess, a
21 presumption that this was -- that this was basic service,
22 and that therefore that was part of the qualifying factor.

23 New Hampshire Legal Assistance mentioned
24 on several occasions these concerns about low income

1 senior status. Part of our concerns were there was
2 nothing in the record that Mr. Whalen fell into that
3 particular group or class of citizens to which New
4 Hampshire Legal Assistance's mission is to aid and assist.
5 Also, we think, you know, part of this discussion from New
6 Hampshire Legal Assistance is to make this docket about
7 "basic service" definition as a whole, statutory
8 interpretation perhaps, as well as even, as was mentioned,
9 a briefing about New Hampshire Legal Assistance's opinion
10 on the definition of "basic service". FairPoint's point
11 on that particular issue is that this docket is solely
12 focused on Mr. Whalen's situation, the facts that are
13 presented in this case in a narrow focus on the multiline
14 service issue.

15 With that said, I think FairPoint, you
16 know, our objection speaks for itself, and are just some
17 clarifications there on the premise of New Hampshire Legal
18 Assistance's position, that there's no evidence in the
19 record about some of the statements that were made to
20 our -- to our estimation.

21 We ask that the Commission rule on our
22 objection in FairPoint's favor. In the alternative, we
23 would ask that, if the Commission does grant intervenor
24 status to New Hampshire Legal Assistance, that at a

1 minimum there are some limitations to that intervenor
2 status, perhaps related to data requests that would maybe
3 assist in some of the concerns we have about an orderly
4 administration of this process, as well as for
5 Mr. Whalen's time. We have a consumer complaint. I don't
6 think that we want a protracted hearing with New Hampshire
7 Legal Assistance related to basic service, in the interest
8 of our consumer's time and effort as well. So, to the
9 extent that it's ruled against FairPoint, we ask for those
10 limiting factors. Thank you.

11 CHAIRMAN IGNATIUS: Thank you. Any
12 questions from Commissioners to -- or, actually, we'll
13 also see if any of the other parties have any response
14 they want to make. Mr. Whalen, anything you want to say
15 in response to what you've heard from Legal Assistance or
16 FairPoint on the question of Legal Assistance being
17 involved in the case?

18 MR. WHALEN: Yes, madam Chairman. I
19 guess, from the point of my view of my age, I am 77.
20 After 62, I guess that qualifies us for -- as seniors. I
21 don't know how that affects this hearing, and whether or
22 not the Legal Assistance could get involved because of my
23 age, that's something that certainly you have to decide,
24 okay? I didn't go out of my way asking for it. But I

1 appreciate them taking action and being involved and
2 trying to protect the consumer. Okay? And, I can
3 appreciate also FairPoint's view in terms of not wanting
4 them involved. So, that's all I have to say about that.

5 CHAIRMAN IGNATIUS: All right. Thank
6 you. Does Staff have a position on this?

7 MR. WIESNER: Staff does not object to
8 the intervention by NHLA as a party in this proceeding.
9 We believe that the issues in this case may have broader
10 implications than just a mere billing dispute involving
11 one customer, and may very well affect other customers,
12 which are typically among the constituencies represented
13 by NHLA.

14 CHAIRMAN IGNATIUS: Thank you.
15 Mr. Feltes, many times when Legal Assistance seeks
16 intervention it does so in the name of a particular
17 person. And, in this case, it doesn't appear to have been
18 submitted that way. Why is that?

19 MR. FELTES: Well, sometimes you can get
20 a client right away and sometimes you can't, to be
21 perfectly blunt. And, we don't have a specific client
22 that we're representing. But, as an organization, we
23 represent clients all the time. Sometimes they rise over
24 the course of a larger notice of an intervention, you

1 know, larger time frame to intervene, that sort of thing.
2 So, at this point, we decided -- we made a decision to
3 intervene or petition for intervention on behalf of the
4 low income clients that we serve and the mission that we
5 serve as an organization, absent a specific person being
6 represented.

7 CHAIRMAN IGNATIUS: You mentioned both
8 in your pleading and this morning a number of different
9 issues that Legal Assistance has been concerned about in
10 provision of telephone service, which go beyond just
11 definitions of "basic service". Is it your intention in
12 this case to go beyond issues that are raised by
13 Mr. Whalen's complaint, into other things regarding basic
14 service?

15 MR. FELTES: It's our intention to make
16 an argument about the applicability of the price caps as
17 to certain customers. I suspect we have a different view
18 over the applicability of the -- the universe of customers
19 that the price caps apply to than FairPoint. And, there
20 are a couple different points of view that I think that,
21 number one, is we think that, if there's more than one
22 customer line going into a home, that doesn't *de facto*
23 defeat the price caps for those customer lines. You know,
24 low income folks often double up in households, there's

1 different arrangements --

2 CHAIRMAN IGNATIUS: And we'll get to all
3 that.

4 MR. FELTES: Okay.

5 CHAIRMAN IGNATIUS: And, just, for
6 example, Lifeline is something you mentioned.

7 MR. FELTES: Correct.

8 CHAIRMAN IGNATIUS: Do you have any
9 expectation that you need to talk about Lifeline in the
10 context of Mr. Whalen's complaint?

11 MR. FELTES: I do not. Although,
12 obviously, the threshold question of "What is a basic
13 service customer, in terms of the rate cap only?"
14 implicates the Lifeline rate cap, because that's part of
15 the same paragraph. So, to the extent that we're going to
16 make arguments over the scope and the applicability of who
17 is a basic phone service customer, that does implicate
18 Lifeline customers, because that's in the same paragraph
19 on the rate caps.

20 CHAIRMAN IGNATIUS: All right. We're
21 going to take a brief break to discuss it among ourselves
22 and be right back. So, don't anyone go anywhere.

23 (Recess taken at 10:27 a.m. and the
24 hearing resumed at 10:32 a.m.)

1 CHAIRMAN IGNATIUS: We've had a chance
2 to discuss the arguments made in the pleadings that were
3 filed by Mr. Feltes and Mr. Galvin. We will grant the
4 request to intervene under the discretionary term of the
5 intervention statute under the Administrative Procedures
6 Act and allow Legal Assistance to participate, but with
7 clear understanding of the limits of that grant. It is --
8 this is a case that's been laid out in the order of
9 notice, it's subject to certain limitations in that that's
10 specific to the circumstances that Mr. Whalen has raised
11 and that FairPoint has raised in response to Mr. Whalen's
12 complaint. It's not a generic analysis of everything
13 about basic service or everything about telephone service.
14 It really is specific to these particular circumstances.

15 And, I believe, Mr. Feltes, you said
16 that that was your intention in how you would question
17 Mr. Whalen and proceed today. But, if that's not clear,
18 that we really are limited to these particular
19 circumstances and the legal issues that arise from that.

20 MR. FELTES: Thank you, madam Chair.

21 CHAIRMAN IGNATIUS: So, do we -- has
22 there been discussion about a plan of how to present the
23 issues today? I mean, our expectation is we are going to
24 hear from Mr. Whalen his situation, be subject to some

[WITNESS: Whalen]

1 cross-examination, possibly hear from Mr. Taylor, on
2 behalf of the Company, and also be subject to
3 cross-examination. But I don't know. I don't know if
4 there's been discussion about the order of proceedings
5 this morning.

6 MR. WIESNER: That's correct, madam
7 Chair. I think Mr. Whalen is comfortable taking the stand
8 and making an opening statement, and then taking questions
9 from other parties in the case.

10 CHAIRMAN IGNATIUS: All right.

11 MR. WIESNER: To be followed by
12 Mr. Taylor, on behalf of FairPoint.

13 CHAIRMAN IGNATIUS: Okay. Good. And,
14 is Staff planning on testifying?

15 MR. WIESNER: No.

16 CHAIRMAN IGNATIUS: All right. All
17 right, then why don't we begin with Mr. Whalen. If you
18 can take the stand, and the court reporter will have you
19 sworn.

20 (Whereupon **William G. Whalen** was duly
21 sworn by the Court Reporter.)

22 CHAIRMAN IGNATIUS: Then, Mr. Whalen, if
23 you want to just describe, you know, your formal name,
24 address, and then describe what your complaint is about.

{DT 14-102} {05-07-14}

[WITNESS: Whalen]

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WILLIAM G. WHALEN, SWORN

DIRECT EXAMINATION STATEMENT

WITNESS WHALEN: Sure. William G. Whalen, 252 Brook Road, Sanbornton, New Hampshire. Basically, what the complaint is about is, I guess over the past year, I'm been looking at the bills, paying a little attention to them, and noticed a substantial increase in both of the lines that we have coming into the house. One is a measured service and the other is unlimited local. One has gone up something like 30 percent increase in the monthly cost, and the other has gone up 70 percent in the monthly increase in the cost, okay? That prompted me to call Public Utilities, I also called FairPoint. Got into the whole definition of what a "basic line" is, which the Legislature had, I think, mulled that over a little bit, okay, in what they did. I was told by FairPoint, I guess Ellen Scarponi, is someone I was put in touch with by Jeanie Forrester. I was told that she had people look into it, and I didn't have basic service. And, basically, as I recall, okay, it had something to do with the fact that I was using AT&T Long Distance, okay? Over a period of time, that seemed to have gone away, and seems to be multiple lines now is the cause of me not being defined as "basic service", okay?

{DT 14-102} {05-07-14}

[WITNESS: Whalen]

1 We have two lines in the house. One
2 we've always had in my name and my wife's name. The other
3 line, my mom lived with us for several years, it was her
4 phone line. She had measured service then. When she
5 passed away, we decided to keep the line alive, rather
6 than have it taken out. We converted it over -- Verizon
7 was the vendor then. We decided to convert it over to
8 unlimited local, which was very cheap at the time, very
9 inexpensive, and served the purpose of dealing with
10 everybody in the community. I serve on the planning
11 board, the zoning board. I've run for selectman
12 unsuccessfully once. A lot of local, and the exchanges
13 that were included were fine for the service, unlimited
14 local, okay? So, it was converted over to unlimited
15 local.

16 Down the road a little bit -- and, also,
17 at the same time, we had asked Verizon, as I recall, they
18 asked us what we would be using the line for, and we said
19 "primarily personal use". Okay. We wanted it because
20 it's local, we do a lot of local calling, okay? But we
21 said "we might use it for business once or twice or
22 occasionally", okay. They said "fine". Okay. And, this
23 is to the best of my recollection, because it was many
24 years ago, all right.

{DT 14-102} {05-07-14}

[WITNESS: Whalen]

1 Verizon is gone. Down the road, we did
2 use it for business occasionally. FairPoint became the
3 vendor, in, I guess, 2008. In 2008, unfortunately, we had
4 a big recession, and our youngest daughter, Christine,
5 passed away. At that point, my wife, who had the website
6 and was using the number occasionally, decided to
7 terminate the business, all right? Website is still up,
8 it's still available. She will not take it down, okay,
9 but we haven't conducted any business using that phone
10 line since 2008. All right.

11 Two lines coming into the house. We get
12 separate bills. One is for Tobey and Bill Whalen, the
13 other is for Tobey Whalen; two separate bills, two
14 separate mailings. They're paid for with private checks,
15 personal checks, not with business checks. And, I can say
16 one thing for FairPoint, we've never had major problems.
17 The service with FairPoint has been excellent, okay,
18 except that the cost is getting out of hand, all right?
19 And, I don't know what to do except come to you and say
20 "Is there something you can do about it?" Can you further
21 define what "basic service" is? Because I'm being told
22 "You have two lines coming into the house, one can only be
23 basic service, the other can't." Well, basic service is
24 basic service. And, if you have two lines in two

{DT 14-102} {05-07-14}

[WITNESS: Whalen]

1 different people's names or two different billings, they
2 should still be basic service, okay? We don't have any of
3 the bells and whistles on either one of them, Caller ID or
4 anything else that we might have. Okay? And, we use AT&T
5 for long distance service, and we've always used AT&T for
6 long distance service, okay? That seemed to be an issue
7 initially we were told. But, as I said before, that went
8 away. That's not a case for not being basic service
9 anymore.

10 So, it's kind of confusing, okay? I
11 looked at a response that I guess FairPoint sent into you
12 guys. And, it said, well, you know, "you can find the
13 rates by doing this." So, I went to my computer and I
14 followed those instructions. I went to like in a dead
15 end. I didn't know what I was doing, I didn't know where
16 the hell I was, okay? I think rates should be, what does
17 Obama say? "Transparent". Okay. Someone who's signing
18 up for telephone service should be able to look at
19 something very easily, very simply, okay, see what the
20 definition of "basic service" is, see what the rates are,
21 okay? And, as a consumer and as a telecommunications
22 person, I managed telecommunications for a large
23 corporation in New York before I moved to New Hampshire,
24 okay? This is not an easy thing to do, when you're

{DT 14-102} {05-07-14}

[WITNESS: Whalen]

1 looking at rates for FairPoint, okay? It's probably not
2 FairPoint's fault. Their rates were -- this whole system
3 was probably designed by Verizon, okay, and they've
4 inherited it, but it's a problem. And, it's not easy for
5 a consumer to find out what's going on. Certainly, I
6 don't see where you can look at their website and find
7 out, or in the telephone book, and find out what "basic
8 service" is. You know, if you tell a person, "Oh, you
9 want basic service?" I'll say "Well, how much does it
10 cost? What do I get for it?" I can't find that anyplace,
11 okay? And, I think that has to be clarified. So, it's
12 the clarification and it's the costs are the reasons that
13 I'm here today, okay? No other reason. FairPoint is a
14 great company, providing great service, but, all right?

15 CHAIRMAN IGNATIUS: Can I ask one
16 clarifying question before we turn it over to others. Did
17 you say that the two lines are in different names?

18 WITNESS WHALEN: One line is in William
19 and Tobey Whalen. And, I've given copies of the bills to
20 distribute, okay? And, the other line is in Tobey Whalen
21 only.

22 CHAIRMAN IGNATIUS: And, that's T-o-b-y?

23 WITNESS WHALEN: T-o-b-e-y.

24 CHAIRMAN IGNATIUS: T-o-b-e-y.

{DT 14-102} {05-07-14}

[WITNESS: Whalen]

1 WITNESS WHALEN: Okay. Two separate
2 bills, two separate mailings, and they're paid for
3 separately, two separate checks, personal checks.

4 CHAIRMAN IGNATIUS: And, is Tobey Whalen
5 your wife?

6 WITNESS WHALEN: Yes, she is.

7 CHAIRMAN IGNATIUS: All right. Thank
8 you. Then, why don't we then turn to Mr. Galvin, if you
9 have any questions?

10 MR. GALVIN: Thank you, madam Chairman.
11 Thank you, Mr. Whalen, for your testimony. And, I just
12 have a few brief questions related to --

13 WITNESS WHALEN: I'm sorry, I'm getting
14 a little old. So, if you could just speak up a little
15 bit.

16 MR. GALVIN: I just have a few brief
17 questions --

18 WITNESS WHALEN: Sure.

19 MR. GALVIN: -- related to the use of
20 the phone line, which you had stated each phone line was
21 used for residential purposes.

22 **CROSS-EXAMINATION**

23 BY MR. GALVIN:

24 Q. Can you just explain for the record if any income is

[WITNESS: Whalen]

1 derived from the topiary business?

2 A. Since 2008, no.

3 Q. Okay.

4 A. 2008 is when you took over, and 2008 is when our
5 daughter passed away. And, we really haven't got any
6 income since then.

7 Q. And, I'm sorry to hear that.

8 A. Thank you.

9 Q. The next question that I have is just, and dates may
10 be, you know, I know dates are difficult to remember.
11 In 2009, are you aware that an annual filing was made
12 with the Secretary of State filing the trade name for
13 the topiary business?

14 A. I'm sorry?

15 Q. Are you aware that, in 2009, there was a filing with
16 the Secretary of State setting forth the trade name and
17 to keep active status with the topiary business?

18 A. Yeah. The trade name is every five years renewable,
19 \$50, whatever it is. A lot of people do it, okay, it's
20 to protect the trade name. Even if you're not
21 functionally in business right now, you might want to
22 go back into business later on. So, this way you still
23 have the name. You pay the fee, it's still your name.
24 If you want to go back into business later on, you can

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1 do that.

2 Q. And, just to clarify, did you answer if any income is
3 derived from this particular business?

4 A. I answered, yes. Since 2008, no, we haven't.

5 Q. Okay.

6 A. The website is there, it's up and available. My wife
7 refuses to take it down. She don't want to approach
8 it. She's still very upset emotionally. We have
9 derived no income. We have made donations, which have
10 nothing to do with the phone line, to various
11 organizations, like the Red Dress Gala and the Concord
12 Hospital and the Concord Garden Club and so forth,
13 donations to them, where we've got no income.

14 Q. And, just a last question here. Could you just
15 describe for the record what types of phone calls you
16 receive through this voice line, as opposed to the
17 other voice line that you have?

18 A. Neighbors, town hall, calling people in town, calling
19 about town meetings and so forth, okay, both numbers
20 are used. When we make local calls, we certainly, you
21 know, within the area we use the 3221. Not that many.
22 If you look at the traffic on those lines, and you want
23 to go back and look at the traffic on those lines,
24 you'll see very little usage whatsoever. What you will

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1 find is a lot of incoming calls from people who we have
2 to tell them "please take us off your list." Okay?
3 That happens like twice a night, which is unfortunate,
4 and wish you could do something about that, but I
5 can't.

6 Q. And, I guess, is there a reason why you don't terminate
7 that line or disconnect that line, if it's used for the
8 same purposes?

9 A. It's -- I didn't think that Verizon had a problem with
10 it, and I didn't think that you had a problem with it,
11 you know, the income you're getting from it. It's a
12 convenience for us. The reason was, the first line has
13 been ours ever since we moved to New Hampshire. It's
14 on record with all businesses and banks and everybody
15 that we do business with, okay? But, yet, your long
16 distance rates were very high, very extreme. We kept
17 the local, because this way we didn't have to worry
18 about calling local exchanges around the house, it was
19 all covered by unlimited local, okay? Then, also,
20 because your long distance rates were very high, we
21 went to AT&T, where we have a 150 minute program, which
22 costs us something like \$16 or \$16.50 a month, all
23 right? Very reasonable, all right? We're not big
24 phone users, okay? We don't put a lot of traffic on

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1 the lines, okay, incoming or outgoing.

2 Q. Okay. And, so, just for clarification, you had
3 indicated, and I apologize, I said "last question",
4 which was something I shouldn't have done a few
5 questions ago. I just -- I want to clarify that this
6 really today seems to be an issue of price. And, you
7 had indicated that the second line was inexpensive.
8 However, by terminating one of these lines, you would
9 significantly save, and you said "there's no business
10 purpose." I'm just trying to clarify why you wouldn't
11 terminate that service line, if it's an issue of price?

12 A. I don't -- I didn't and I don't have a problem with
13 paying for a second line.

14 Q. Okay.

15 A. One is unlimited local, the other is measured, okay?

16 Q. Okay.

17 A. And, fortunately, I can afford it, all right? What I
18 do object to, though, is the outrageous increases,
19 okay? It's not only my -- I'm probably a sucker for
20 the public, okay? I pick up a lot of causes, okay?
21 One had to do with elderly drivers two years ago, when
22 we had the law changed where you had to be road tested
23 when you became 75, all right? That was -- that was
24 changed and no longer exists, okay? Whenever I see

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1 something that seems inappropriate, expensive for most
2 people, okay, especially in this economy, I have to say
3 something about it. And, hopefully, that doesn't get
4 me in trouble.

5 MR. GALVIN: Thank you, Mr. Whalen.
6 Just one question for the Commission. We had this annual
7 statement from the Secretary of State, as well as the
8 website materials that were filed in a supplemental
9 docket [document?]. Is there a need to authenticate those
10 or will the Commission take notice of these as part of the
11 docket and the record -- in the record, excuse me?

12 CHAIRMAN IGNATIUS: I think, if you
13 want it to be an exhibit, you should introduce it, since
14 we haven't seen it. And, then, I think you'll have to
15 demonstrate, maybe in a closing, why it's relevant and
16 what the import of that is, in light of Mr. Whalen's
17 description of why he has it.

18 MR. GALVIN: The closing of the
19 cross-examination?

20 CHAIRMAN IGNATIUS: No, at the
21 conclusion of this.

22 MR. GALVIN: Or the case? Okay.

23 CHAIRMAN IGNATIUS: But, if you have it
24 right now, I mean, I think, if you wanted to introduce it,

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1 you're going to want to ask Mr. Whalen to identify it.

2 MR. GALVIN: Okay. May I approach,
3 Commissioners?

4 CHAIRMAN IGNATIUS: Yes, of course.

5 MR. GALVIN: I only have a limited
6 amount of copies, sorry. So, I apologize.

7 CHAIRMAN IGNATIUS: All right. We'll
8 make additional copies.

9 MR. GALVIN: Okay.

10 (Atty. Galvin distributing documents.)

11 MR. GALVIN: May I continue?

12 CHAIRMAN IGNATIUS: Yes. I guess
13 it's -- I don't know how complex it is. We don't have
14 copies yet. If it's something that, if you're going to be
15 pointing to particular lines and things, you have to wait
16 a moment.

17 MR. GALVIN: Okay.

18 CHAIRMAN IGNATIUS: If it's more just
19 generic, you know, is it what he filed and is that his
20 signature, that's --

21 MR. GALVIN: Yes, I think it is.

22 CHAIRMAN IGNATIUS: -- I think you can
23 go ahead.

24 MR. GALVIN: I think it should be

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1 generic. But, you know, if the Commission would prefer to
2 wait or you want to stop me in the middle of it, that's
3 obviously, --

4 CHAIRMAN IGNATIUS: All right. Why
5 don't you get started.

6 MR. GALVIN: Okay.

7 BY MR. GALVIN:

8 Q. Mr. Whalen, do you recognize perhaps Page 2 of this
9 document that I provided to you, which is the
10 "Application for Renewal of Trade Name"?

11 A. Yes. Renewable application, right.

12 Q. Okay. Do you recognize the signature on that document?

13 A. Yes, I do. It's my wife's.

14 Q. And, does it accurately depict your wife's signature to
15 your recollection?

16 A. Excuse me?

17 Q. Does it accurately depict your wife's signature?

18 There's no changes to it? You agree that that is your
19 wife's signature?

20 A. Yeah. It looks like my wife's signature, yes.

21 Q. Okay. And, can you just read into the record I guess
22 the name of this application?

23 A. The name of the company or her name?

24 Q. The State of New Hampshire application, the name of

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1 this document?

2 A. Right. It says "State of New Hampshire Department of
3 State Application for Renewable of Trade Name".

4 Q. Okay.

5 A. This is something you have to fill out every five
6 years, if you want to maintain the name.

7 Q. Okay.

8 A. Whether you're going to be actively in business or not.

9 Q. Okay. Then, in the top right-hand corner, can you just
10 state the date that this was filed?

11 A. Right. 11/13/2009.

12 Q. Okay.

13 A. The fee paid was \$50.

14 MR. GALVIN: Okay. Thank you,
15 Mr. Whalen. I ask the Commission, based on this
16 authentication, that this be marked as "Exhibit 4"?

17 CHAIRMAN IGNATIUS: Is that what we're
18 up to, 4?

19 MS. DENO: I have no idea.

20 CHAIRMAN IGNATIUS: Well, we haven't
21 marked anything while you were gone. Okay. So, that
22 would be one, unless there's something --

23 MR. GALVIN: I think we marked, as part
24 of our Statement of Position", there was Exhibit 1 and 2,

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1 and then our supplemental filing had Exhibit 3, which was
2 the website. You know, if we need to call it "Exhibit A",
3 instead of "1", you know, that would work as well,
4 "FairPoint A".

5 CHAIRMAN IGNATIUS: All right. Why
6 don't we -- why don't we just begin with things that are
7 actually coming into the file today. So, the New
8 Hampshire Corporations Division filing, it will be
9 "Exhibit 1".

10 MR. GALVIN: Okay. Thank you.

11 CHAIRMAN IGNATIUS: For identification.

12 MR. GALVIN: Thank you.

13 (The document, as described, was
14 herewith marked as **Exhibit 1** for
15 identification.)

16 WITNESS WHALEN: Oh, if I could mention
17 one other thing. I guess the question "why we did this
18 again?" Okay? As I said before, if you don't renew, you
19 lose the name. And, my wife wanted to maintain the
20 website, didn't want to have to redevelop it once again if
21 she ever wanted to go back into business. So, therefore,
22 she did a renewal to maintain the name, otherwise you lose
23 it.

24 MR. GALVIN: Next, we'll just real

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1 quickly refer to the website filing that was in our
2 supplemental filing. May I approach the witness?

3 CHAIRMAN IGNATIUS: Yes, of course.

4 MR. GALVIN: Thank you.

5 (Atty. Galvin handing document to
6 Witness Whalen.)

7 BY MR. GALVIN:

8 Q. Mr. Whalen, do you recognize the image that's contained
9 in this document?

10 A. Yeah. It looks like -- looks like it was taken from
11 our website.

12 Q. Okay. And, does that accurately depict your
13 recollection of the website?

14 A. Seems to look familiar. I didn't know that you were
15 able to take copies of someone's website.

16 Q. Uh-huh.

17 A. I thought it was protected by a copyright, but I guess
18 not. Yes, it looks familiar. It's not my website,
19 it's my wife's website. But it looks familiar.

20 Q. Okay. And, so, your wife independently operates the
21 business?

22 A. Yes.

23 Q. Okay. So, I guess, from your -- the best of your
24 recollection, this accurately depicts the website that

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1 your wife runs for the purposes of, well, --

2 A. Ran. Actually, ran.

3 Q. -- ran as part of her business?

4 A. Yeah, it looks familiar. Unless I have a computer here
5 and I can go online now and look at it, I would have to
6 accept what you're presenting here --

7 Q. Okay.

8 A. -- as an accurate copying of it, but I don't know.
9 There are multiple other pages, too. You know, you can
10 click on and go all over the place, looking at this.
11 So, this is a representation of it, but not the whole
12 website.

13 MR. GALVIN: Okay. Thank you,
14 Mr. Whalen. Commission, I ask that this be marked as
15 "Exhibit 2" and be marked for identification purposes.

16 CHAIRMAN IGNATIUS: And, this is a
17 two-page -- I'm sorry, three pages of the Topiary at Owl's
18 Rest Farm website?

19 MR. GALVIN: That's correct.

20 WITNESS WHALEN: Yes.

21 CHAIRMAN IGNATIUS: We'll mark that for
22 identification as "Exhibit 2".

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

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1 CMSR. HONIGBERG: It's a confidential
2 version.

3 CHAIRMAN IGNATIUS: Oh. Good point.
4 Thank you, Commissioner Honigberg. We have a confidential
5 version. I don't know if there's a redacted version as
6 well in the file?

7 MR. GALVIN: Yes. There is a redacted
8 version.

9 CHAIRMAN IGNATIUS: And, so, the one
10 that you're seeking to mark is redacted or confidential?

11 MR. GALVIN: We would prefer to mark the
12 confidential version. We can -- I could reintroduce that
13 as a separate exhibit, if that's an issue with Mr. Whalen.
14 But, for the purposes of this hearing, we use the redacted
15 version that we filed. Because the presumption is, if
16 this is moved into part of the record, that, you know, we
17 don't -- the same issue, we don't -- if the number is to
18 be treated as confidential, it's located on the website,
19 it's in the White Pages. But, if the decision with the
20 understanding of the parties that it be treated as
21 confidential, we don't object to that.

22 CHAIRMAN IGNATIUS: Is that the only
23 thing that's confidential between the two different
24 versions?

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1 MR. GALVIN: Yes.

2 CHAIRMAN IGNATIUS: All right. Just as
3 a practice note for the next time you're doing a case
4 here, we have requirements about how to redact things, to
5 show that the confidential information is grayed out so
6 that you can see it, but know that that's the thing that's
7 confidential. All I have is just the entire document is
8 marked "confidential".

9 MR. GALVIN: Okay.

10 CHAIRMAN IGNATIUS: Just, for the
11 future, take a look at our rules on confidentiality
12 please.

13 MR. GALVIN: Thank you.

14 MR. FELTES: Madam Chair, if I may
15 interject?

16 CHAIRMAN IGNATIUS: Yes.

17 MR. FELTES: I don't have a copy of
18 these documents that were just handed out. If it was
19 possible that I could get a copy, that would be terrific.

20 (Multiple parties speaking at the same
21 time.)

22 MR. GALVIN: We would just have to make
23 a copy.

24 MR. FELTES: Okay. Not a big deal.

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1 Thank you.

2 CHAIRMAN IGNATIUS: I think we should --
3 I assume that your purpose in this is because of the phone
4 number, and not all of the information about Topiary. So,
5 why don't we mark the confidential version as "Exhibit 2",
6 and with the reminder to people that the phone number is
7 the confidential item.

8 (The document, as described, was
9 herewith marked as **Exhibit 2** for
10 identification.)

11 CHAIRMAN IGNATIUS: Please proceed.

12 MR. GALVIN: I have nothing further for
13 the witness. Thank you.

14 CHAIRMAN IGNATIUS: All right.
15 Mr. Feltes, questions?

16 MR. FELTES: Thank you, madam Chair.
17 Just a couple.

18 BY MR. FELTES:

19 Q. Mr. Whalen, you had testified that your wife's business
20 is no longer operating, is that right?

21 A. That's true. Yes.

22 Q. And, just to clarify, just to make it abundantly clear,
23 why did you make, after your wife's business is no
24 longer operating, why did you make the customer choice

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1 to retain both of these two lines?

2 A. Why did I make a choice to retain both lines?

3 Q. Yes.

4 A. I'm eccentric. We got used to having two lines in the
5 house. We have a phone -- phones all over the house
6 that are two-line capable, okay, they're plugged in,
7 okay. You can answer two -- either line, either place.
8 It's a convenience. It's a number that some people,
9 personal calls will call 3221. They will look in the
10 FairPoint Telephone Book, and, when you look under
11 "Whalen", you'll find "3221" listed first and "4346"
12 listed second. So, most people will wind up calling
13 3221, which is the unlimited local line, okay? Just
14 the way they look in the book, it just makes it easier
15 leaving both lines active, okay? I have spoken to my
16 wife about eliminating one line, and she wasn't too
17 excited about it. So, we keep -- we also have
18 cellphones, too. So, we're a little eccentric there.

19 MR. FELTES: Thank you. No further
20 questions.

21 CHAIRMAN IGNATIUS: Thank you.

22 Mr. Wiesner, questions?

23 MR. WIESNER: Yes.

24 BY MR. WIESNER:

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[WITNESS: Whalen]

1 Q. Mr. Whalen, you brought copies of your FairPoint bills
2 this morning.

3 A. Yes, I did. At the request of the Public Utilities.

4 Q. Yes. Can I bring those to you and show you those and
5 distribute them around?

6 A. Sure. Sure.

7 Q. Thank you. These are bills that you received at home
8 from FairPoint for the two accounts that you described
9 earlier in your testimony?

10 A. That's correct.

11 (Atty. Wiesner distributing documents.)

12 CHAIRMAN IGNATIUS: Before we go, I
13 think there's been a little bit of uncertainty, and
14 Mr. Galvin made mention to it, of whether or not the phone
15 numbers themselves need to be confidential. Because, if
16 they are, we're going to have -- at the end have the
17 requirement that the court reporter redact the entire
18 transcript.

19 I guess, Mr. Whalen, do you have any --
20 this is really your privacy. So, do you have any concern
21 with your two phone numbers being publicly available? Is
22 there a reason, not that we're going to be publishing it,
23 but is there a reason, should we be redacting, you know,
24 blacking out, every time your phone number appears?

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1 WITNESS WHALEN: In this session?

2 CHAIRMAN IGNATIUS: Yes.

3 WITNESS WHALEN: No, I don't see an
4 reason. I'm in the phone book, both the numbers are in
5 the phone book. So, it's -- you can go on the Internet
6 and find anybody's numbers.

7 CHAIRMAN IGNATIUS: Okay.

8 WITNESS WHALEN: So, I don't see that as
9 a problem.

10 CHAIRMAN IGNATIUS: I'm not asking about
11 the money charges --

12 WITNESS WHALEN: Oh, you can ask about
13 that.

14 CHAIRMAN IGNATIUS: Okay. So, that --
15 all right. Well, that's good to know. Then, maybe we
16 don't have as much of a concern about what's confidential
17 and what's not thus far, if it's only the question of the
18 phone numbers themselves. I think we'll consider those
19 publicly available. And, the Exhibit 2, that had been
20 described as "confidential", is actually no longer a
21 confidential exhibit.

22 MR. GALVIN: Thank you.

23 CHAIRMAN IGNATIUS: Please go ahead
24 then, Mr. Wiesner.

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1 MR. WIESNER: So, I guess I would
2 propose that copies of those bills be marked as "Exhibit
3 3" for identification.

4 CHAIRMAN IGNATIUS: Well, have you -- I
5 guess, have you established -- just can you give me a
6 little bit more before we go there, I haven't even looked
7 at the file yet, what they are, which numbers they apply
8 to?

9 MR. WIESNER: Oh, I'm sorry.

10 BY MR. WIESNER:

11 Q. These are bills, Mr. Whalen, are they, if you could
12 confirm for us, that these are bills for the two
13 accounts that are noted, one which is in the name of
14 Tobey Whalen, and the other is in the name of both
15 Tobey Whalen, your wife, as you testified earlier, and
16 yourself? And, these are bills, one from
17 September 15th, 2013, in each case, and a more recent
18 bill from March 15, 2014, in each case. Is that
19 correct?

20 A. Yes. That's correct.

21 Q. And, these are complete copies of the bills as you and
22 your wife received them at your home?

23 A. Yes.

24 CHAIRMAN IGNATIUS: Mr. Wiesner, there's

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1 four documents? I have three.

2 MR. WIESNER: Apologize for that, madam
3 Chair. There should be a bill in the name of the Tobey
4 Whalen for September 15th, 2013, a bill in the name of
5 Tobey Whalen from March 15, 2014, a bill in the name of
6 Tobey Whalen and William Whalen for September 15, 2013,
7 and a bill in the name of Tobey and William Whalen from
8 March 15, 2014.

9 CHAIRMAN IGNATIUS: I have all but the
10 first one that you stated, --

11 MR. WIESNER: Oh, I apologize for that.

12 CHAIRMAN IGNATIUS: The September '13
13 bill for Mr. Whalen.

14 (Atty. Wiesner handing document to
15 Chairman Ignatius.)

16 CHAIRMAN IGNATIUS: Thank you. All
17 right. So, you're asking that the packet of these four
18 documents be submitted as an exhibit numbered "3" for
19 identification?

20 MR. WIESNER: Yes. I propose that they
21 be marked for identification as "Exhibit 3", and not
22 confidential.

23 CHAIRMAN IGNATIUS: All right. Is there
24 any objection to that?

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1 MR. GALVIN: No, there isn't. Thanks.

2 CHAIRMAN IGNATIUS: All right. Then,
3 we'll mark that as "Exhibit 3" for identification. Thank
4 you.

5 (The document, as described, was
6 herewith marked as **Exhibit 3** for
7 identification.)

8 BY MR. WIESNER:

9 Q. And, Mr. Whalen, you brought these bills in order to
10 demonstrate the rate increase that occurred between
11 2013 and 2014, with respect to these two accounts?

12 A. That's correct.

13 Q. Which you believe is greater than 10 percent?

14 A. Well, the one bill, based on my calculation, the
15 measured mile one, which is 4346, is a 30 percent
16 increase. The unlimited local, which is 3221, is a
17 70 percent increase.

18 Q. And, it was your understanding that both of these
19 accounts qualified as basic service under the state's
20 statutory definition?

21 A. I believe they were both basic services, because there
22 were no bells and whistles, no special thing about
23 them, just basic service.

24 Q. And, just to clarify, when you refer to "bells and

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1 whistles", did you confirm that neither of these
2 accounts has any other features or services, such as
3 Caller ID, Call Waiting, Call Forwarding, Voice Mail?

4 A. No. None of them.

5 Q. Neither of the accounts have any of those additional
6 features?

7 A. Right.

8 Q. Thank you. And, both accounts, as you testified
9 earlier, include presubscriptions to long distance
10 service with AT&T, is that correct?

11 A. That's correct.

12 Q. And, during the period at issue here, 2013-2014, you
13 have always had presubscription to AT&T?

14 A. We have had AT&T for, I don't know, if I had to guess,
15 I'd say ten years or longer. Quite a while.

16 Q. Thank you. Okay. If we could just take a closer look
17 at your bills for a moment, just to clarify. I want to
18 look first at the bill that's in your wife's name.
19 This is the bill dated September 15, 2013, issued to
20 Tobey Whalen. And, if you could look at the second
21 page of the bill. You see a "subtotal", in the
22 left-hand corner, top corner of the bill, it refers to
23 "Service: Residential Voice", listing the telephone
24 number and the subtotal amount. And, that amount, as I

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1 see it, is "\$16.43", is that correct?

2 A. Yes. That's correct.

3 Q. And, above that are itemized charges. And, I note that
4 there are no other charges listed, except for
5 "Unlimited Local Calling"?

6 A. No. No other --

7 Q. No other features or services, is that correct?

8 A. That's correct.

9 Q. Thank you. And, if we look at the bill issued on March
10 15th, 2014, also to Tobey Whalen, this is -- this
11 covers the same account?

12 A. Yes. Yes, it is.

13 Q. Okay. And, in the same location on Page 2 of this
14 bill, the subtotal for that telephone number is
15 "\$18.68", is that correct?

16 A. That's correct.

17 Q. And, again, in the itemized charges that appear above
18 that, there is no charge for any additional service or
19 feature?

20 A. No, there's not.

21 Q. Thank you. Now, if I can just direct your attention as
22 well to the bill dated September 15, 2013 that was
23 issued to you and your wife jointly. Again, on Page 2
24 of that bill, the subtotal for the respective telephone

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1 number is "\$8.10", is that correct?

2 A. Yes. That's correct.

3 Q. And, again, in the itemized charges that appear above
4 that, there is no line item charge for any additional
5 feature or service?

6 A. That's correct.

7 Q. And, then, moving on to the bill dated March 15, 2014,
8 also issued to Tobey and William Whalen for this, what
9 I understand to be the same account. Again, on Page 2,
10 in the same location, the subtotal for that telephone
11 number is listed as "10.35", is that correct?

12 A. That's correct.

13 Q. And, again, in the itemized charges that appear above
14 that, there is no charge, no line item and no charge
15 for any separate service or feature?

16 A. That's correct.

17 MR. WIESNER: Thank you. No further
18 questions. Thank you, Mr. Whalen.

19 WITNESS WHALEN: Thank you.

20 CHAIRMAN IGNATIUS: Thank you.

21 Commissioner Scott, do you have questions?

22 CMSR. SCOTT: Yes. Thank you.

23 BY CMSR. SCOTT:

24 Q. Mr. Whalen, I'm looking at Exhibit 2, which is that

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1 copy of the Internet site.

2 A. Yes.

3 Q. And, I just want to confirm. So, if I heard you
4 before, you were pretty clear, I think, there's no
5 income being generated for that business?

6 A. I'm sorry. I can't see who's asking the questions?

7 Q. I'm sorry. I'm up at the Bench here. I'm sorry.

8 A. Oh, I'm sorry. Pardon me.

9 Q. That's a good reminder for me, too. I assume people
10 knew who was talking.

11 A. And, they tell me I can't hear, and they say "what."
12 Okay. So, I'm looking at the three pages of the
13 Internet site. Right.

14 Q. So, if I understood properly, so, you were saying
15 earlier, there's no income generated from that business
16 anymore, since 2008, you were saying?

17 A. No. Not in terms of the -- people can come to our
18 home, but we're still not -- we have a -- one of the
19 rooms in our house is like a showroom. So, there's
20 still arrangement stands and so forth. So, local
21 people might come in, want to make a purchase, but that
22 hasn't happened in ages, okay? The economy is so bad,
23 no one is just spending money on some floral designs.
24 Right.

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[WITNESS: Whalen]

1 Q. So, and that would probably explain why, one thing I do
2 note that there's a couple dates on here for 2013 on
3 the website.

4 A. Yes. My wife goes in and updates. She's -- our dog
5 passed away, cat passed away. We used to run tea -- we
6 used to have a tearoom in there, okay. Closed that
7 down, we closed the business, okay? We had a room and
8 meals thing that we were using, and that's -- we
9 haven't paid any room and meals or anything in ages,
10 okay? It's the same thing. We just, basically, 2008
11 just closed everything down.

12 Q. Okay. Thank you. So, on that line of questioning, is
13 it your understanding that, to the extent that line
14 could get calls for a business that it has any bearing
15 on this issue?

16 A. Any line can get any calls for business. I mean, you
17 know, someone can call you. I look at people like
18 medical people, people who sell cars, people who sell
19 insurance, real estate people. I don't know how many
20 people, in addition to their normal business line, put
21 their home line on the business card. It happens all
22 the time. You know, you'll dial a number and you'll
23 get somebody's children crying in the background, okay,
24 and it's a business call, I'm making a business call,

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[WITNESS: Whalen]

1 but it's somebody that sells insurance or sells real
2 estate, okay? So, I can't control what comes in, okay?
3 All I can say is, if anybody calls, like I say to
4 people who call looking to solicit me for my opinion or
5 who I'm going to vote for, you know, "We don't accept
6 calls like that, okay? We're not in business any
7 longer." That's it.

8 CMSR. SCOTT: Okay. Thank you.

9 CHAIRMAN IGNATIUS: Commissioner
10 Honigberg, any questions?

11 CMSR. HONIGBERG: I have no questions.
12 Thank you.

13 BY CHAIRMAN IGNATIUS:

14 Q. I wanted to ask you, Mr. Whalen, about you said you
15 tried to follow the introductions that FairPoint had
16 given on how to locate rates.

17 A. Right.

18 Q. I assume that's the description in their filing in this
19 case that gave a series of steps to take on the
20 website. I'm looking at the second page of the
21 Statement of Position from the Company. And, there
22 were four different steps to what to click on and keep
23 following the path on the website. Did you go through
24 those instructions or did you do your own --

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[WITNESS: Whalen]

1 A. Yes. I went through those, 1, 2, I got into 3, I
2 started working my way through 3 and I was lost. Just
3 even back in 2, there's so many different companies you
4 can choose from, okay? If I didn't have this telling
5 me "go to Company A", rather than B, C or D, because
6 there's like four or five companies listed in there, I
7 would be a goner right there. But, if you get beyond
8 that, and you put the right company name in or
9 whichever one it is, okay, you then got further, and I
10 really couldn't get to the rates. But I'm sure they're
11 there someplace, but I couldn't get to them. And, as a
12 consumer, that would concern me, and, certainly, as the
13 Public Utilities, I know that would concern you also.

14 Q. And, so, that final page that's -- these aren't
15 numbered, but it looks like also a page from a website
16 of the rates, "1.5.1 Exchange Services", and I can ask
17 the Company more about this, but did you ever get into
18 a page that looked like that?

19 A. I never got to that page. I gave up when I couldn't --
20 I didn't really need a page, I wanted to look on a
21 website, as a consumer, and find out what the rates
22 were and what basic service was.

23 Q. Uh-huh.

24 A. And, I know we don't send these out in bills, where

[WITNESS: Whalen]

1 people can say "oh, yes, that's, you know, that's what
2 it costs -- that's what it costs me." So, I never got
3 to third page. Sorry.

4 Q. Had you ever been told by the Company, and I guess we
5 have a transition in companies, that -- so, either by
6 Verizon or by FairPoint, that, if you were going to
7 maintain both a residential line and a line that was
8 partially used for business, that would make you
9 ineligible to have both of them at the basic service
10 charge?

11 A. No. The first -- the first I heard of it, when I
12 started reading about the Legislature, you know,
13 passing a bill, and then the Senate amending the bill
14 through another bill, that was a power bill, but they
15 took the option of amending telecommunications, you
16 know, which really confused me. I had written to Peter
17 Burling, and I said "How the hell can you do that?"
18 You know, how can you -- and, well, they do it in
19 government all the time, in Washington. So, I guess we
20 can do it here, too. But it certainly was misleading.
21 You know, it was for clarification. It was an
22 amendment. But it was part of a bill where anyone
23 looking at the names of the bill would not know that
24 there was anything in there about telecommunications,

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[WITNESS: Whalen]

1 okay?

2 I think, later on, after I objected to
3 it to Peter and the Senate, I think they changed the
4 name of the bill, I think. I'm not sure. Okay? They
5 re-renamed it, as per the Secretary of the House, or
6 whatever it was, okay? But, once again, totally
7 misleading and not transparent to the consumer. I
8 don't know if anybody would have done anything with
9 that information or not. You read things like that,
10 you don't know what the impact is going to be, okay?
11 Someone just mentioned recently, you know, that on
12 basic lines they can do a 10 percent increase once a
13 year or once every two years. I didn't know that until
14 someone told me that also, okay?

15 So, really what we're saying is that, if
16 both of those lines would have increased by 10 percent,
17 I'd have no option of being here, okay? That would be
18 what the law was, that would be what they were allowed
19 to do by Public Utilities, and that would not be an
20 issue. But 30 percent and 70 percent, though, is not
21 what I thought they were allowed, okay, under any
22 circumstances.

23 Q. And, you can't recall a time where you were informed
24 that, if you had both lines coming to your house, that

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[WITNESS: Whalen]

1 would make you ineligible for being considered basic
2 service?

3 A. I was never -- I was never told that. And, didn't --
4 the only discovery was, when I saw my bills go up, and
5 I started reading the paper, and I started looking at
6 the House bill and the Senate bill and started doing
7 some investigation, I started asking questions of
8 FairPoint first, okay? And, as I said earlier, the
9 first answer I got was I wasn't on basic, because I was
10 using AT&T for long distance. And, then, that went
11 away, and I filed a complaint because of the increases,
12 okay? Then, it comes about where now I'm told, because
13 I have two lines in the house, even though I guess the
14 law says "one line per person per, you know, blah,
15 blah, blah", okay. Fine. One for my wife and, you
16 know, I have one for me, all right, or one for her and
17 one for her and I. So, I couldn't see the difference
18 in why we still were in basic, okay, having no bells
19 and whistles on the phone lines at all.

20 CHAIRMAN IGNATIUS: Okay. Thank you.

21 All right. Commissioner Honigberg, questions?

22 CMSR. HONIGBERG: I'm sorry. I thought
23 I was done.

24 BY CMSR. HONIGBERG:

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[WITNESS: Whalen]

1 Q. But I want to make sure I see the 70 percent increase
2 and the 30 percent increase. The bills that you
3 brought with you today are from September of last year
4 and March of this year. In order to get to the
5 70 percent increase, you actually needed to go back to
6 last year's bill at this time, didn't you? According
7 to your original complaint, that was the \$6.06 in
8 May 2013, which increased to 10.35 a year later, is
9 that right?

10 A. It might have been. I'm not sure.

11 Q. I'm looking at your original complaint.

12 A. Okay.

13 Q. So, that one line went \$6.06 to \$10.35, that's the 70
14 percent increase. Does that sound right to you?

15 A. That sounds right to me, yeah.

16 Q. And, then, the other one went \$14.39 to \$18.68, that's
17 the 30 percent increase, is that right?

18 A. Right. Yes.

19 Q. So, we need to go back to last year, roughly at this
20 time?

21 A. Even further, yes. But I don't have those bills.

22 CMSR. HONIGBERG: Okay. That's fine.

23 Thank you.

24 BY CHAIRMAN IGNATIUS:

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[WITNESS: Whalen]

1 Q. Well, just to keep on that. So that the unlimited
2 local line, which is the 3221 number, originally was at
3 \$6.06 for the unlimited local portion of the bill?

4 A. I got to grab the bills and look. Let's see. I don't
5 remember the numbers, but I remember it was 30 percent
6 and 70 percent.

7 Q. All right. Well, let's -- just there's sort of
8 three -- it sounds like three changes that we go from,
9 in your original complaint, that the -- no, I'm sorry.
10 I think we've crossed over which rate is which. \$6.06
11 is part of the measured service rate. And, the
12 measured service rate is the 4346 line?

13 A. The 4346 looks like to me like it went from 8.10 to
14 10.35. And, the 3221 went from 16.43 to 18.68.

15 Q. And, I think what Commissioner Honigberg was asking
16 was, back when you first filed your complaint, you
17 referenced the May 2013 rate for measured service as
18 being \$6.06, that then went to 10.35. And, then, the
19 bill you brought in for March 2014 shows that that's
20 now at -- I'm sorry, that is what it's now at is the
21 10.35.

22 CMSR. HONIGBERG: Do you have your
23 original complaint in front of you?

24 WITNESS WHALEN: No, I don't.

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[WITNESS: Whalen]

1 CMSR. HONIGBERG: Could I show him the
2 original complaint?

3 CHAIRMAN IGNATIUS: Sure.

4 CMSR. HONIGBERG: Mr. Whalen.

5 (Cmsr. Honigberg showing document to
6 Witness Whalen.)

7 WITNESS WHALEN: Oh. Thank you.

8 BY CMSR. HONIGBERG:

9 Q. Mr. Whalen, the document I've just given you, do you
10 recognize it?

11 A. Yes.

12 Q. What is it?

13 A. My complaint to Debra Howland in terms of the 30
14 percent and 70 percent increase.

15 Q. Do you see the numbers that are there near the top of
16 that document with respect to the changes from a year
17 ago, May '13 to March of 2014?

18 A. Right.

19 Q. Would you explain briefly -- I think that Commissioner
20 Ignatius was just asking you questions about those.
21 Would you take a look at that and make sure that that's
22 consistent with the case you want to make here today.

23 CMSR. HONIGBERG: While he's doing that,
24 Mr. Galvin, can I ask you a quick question? Do you intend

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1 to oppose or contest the numbers that are in his original
2 complaint?

3 MR. GALVIN: No. I was just thinking
4 about jumping in, but I didn't want to do it at an
5 inappropriate time. We don't object to any of the
6 analysis that he provided. Our research indicated that
7 those increases were, in fact, accurate.

8 CMSR. HONIGBERG: Okay. Thank you.
9 Mr. Whalen, I think we're good then.

10 WITNESS WHALEN: Okay.

11 CMSR. HONIGBERG: Thank you, Mr. Galvin.

12 WITNESS WHALEN: Thank you. I've got so
13 many papers in front of me, it was confusing.

14 CMSR. HONIGBERG: I'm familiar with the
15 thought.

16 WITNESS WHALEN: It's almost like the
17 rates.

18 CHAIRMAN IGNATIUS: We're good at
19 papers.

20 WITNESS WHALEN: And, you can have that
21 back. Thank you.

22 (Witness Whalen handing document to
23 Cmsr. Honigberg.)

24 CHAIRMAN IGNATIUS: All right. Then,

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[WITNESS: Whalen]

1 that's it for questions from us. Is there anything else
2 that you, Mr. Whalen, you wanted to mention that came up
3 in our questioning that you just might have wanted a
4 chance to respond to?

5 WITNESS WHALEN: Let's see.

6 CHAIRMAN IGNATIUS: Yes. At the end of
7 the -- after everybody is done testifying, you'll have a
8 chance for a closing statement, sort of wrap up your
9 point.

10 WITNESS WHALEN: Sure. I'll wait till
11 then.

12 CHAIRMAN IGNATIUS: Okay. That's fine.

13 WITNESS WHALEN: Thank you.

14 CHAIRMAN IGNATIUS: Then, why don't you
15 take your seat back again. Thank you very much. And,
16 Mr. Taylor, if you want to get settled.

17 MR. GALVIN: I need one clarification
18 for the Commission. You had mentioned the exhibit, in our
19 Statement of Position, was from the Catalog. I just want
20 to clarify, those were our basic rates filed in 2012 with
21 the Commission. It's very similar to what's in our
22 Catalog in a similar format. But I did want to make sure
23 that I clarified for you that that's not an exact copy
24 from our Catalog from 2012. It's a variation of that to

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[WITNESS: Taylor]

1 be filed with the Commission to show what our basic rates
2 were in 2012. We have a copy of the current Catalog, if
3 that's desired to see as well.

4 CHAIRMAN IGNATIUS: All right. So, why
5 don't, when Mr. Taylor is testifying, maybe make clear,
6 when we're walking through the steps to take to find the
7 statements, "would you get to this sheet or would you get
8 to something different?" But we can have him explain
9 that. Thank you.

10 MR. GALVIN: Okay. Thank you.

11 (Whereupon **Ryan P. Taylor** was duly sworn
12 by the Court Reporter.)

13 CHAIRMAN IGNATIUS: Okay. Mr. Galvin,
14 please proceed.

15 MR. GALVIN: Thank you.

16 **RYAN P. TAYLOR, SWORN**

17 **DIRECT EXAMINATION**

18 BY MR. GALVIN:

19 Q. Mr. Taylor, could you please state your full name for
20 the record, as well as your title at FairPoint, and
21 where your place of occupation is.

22 A. Sure. Good morning. Ryan Patrick Taylor is the full
23 name, for FairPoint Communications in the State of New
24 Hampshire. I'm the Director of Regulatory Affairs.

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[WITNESS: Taylor]

1 And, currently, workplace is in Manchester, New
2 Hampshire.

3 Q. Would you just give a very brief description of your
4 job responsibilities at FairPoint.

5 A. Sure. It's in the Regulatory team or External Affairs
6 team. In short, at high level, I manage
7 compliance-related matters in the eyes of the Public
8 Utilities Commission.

9 Q. Thank you. Are you familiar with Mr. Whalen's
10 complaint, fully familiar with Mr. Whalen's complaint
11 and the matter here today?

12 A. Yes, I am.

13 Q. And, how did Mr. Whalen's complaint come to your
14 attention?

15 A. Initially, a colleague of mine on the External Affairs
16 team had received some inquiries from Mr. Whalen, he
17 had mentioned in his testimony "Ellen Scarponi". And,
18 Ellen had brought me into the loop that there were some
19 consumer inquiries coming in, but she was really
20 managing those issues. It wasn't until a little time
21 after that that the Consumer Affairs Director for the
22 Commission had sent over a complaint to our Escalations
23 team, and our Escalations team, in turn, brought me
24 into the review process.

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[WITNESS: Taylor]

1 Q. Okay. And, did you conduct internal research and
2 investigation into the complaint?

3 A. I did.

4 Q. And, did you help oversee others in formulating your
5 response today?

6 A. I did.

7 Q. Are you familiar with Mr. Whalen's specific account
8 history based on that investigation?

9 A. I am.

10 Q. Would you just state for the record how long
11 Mr. Whalen's services have been in place?

12 A. Our records indicate that the one line was installed in
13 1986, and a second line was installed in 1998. Both
14 with predecessor companies.

15 Q. And, at that time, when Mr. Whalen had added his
16 services, it was under Verizon prior to regulatory
17 reform, is that accurate?

18 A. I can't be positive if it was Verizon or a different
19 company, but it wasn't FairPoint.

20 Q. Okay. So, you don't have any knowledge as to whether
21 or not questions related to multiline service would
22 have been asked in 1998 and in 1986, respectively?

23 A. I cannot speak to that.

24 Q. Okay. Can you describe, in general terms, the services

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[WITNESS: Taylor]

1 that the household receives?

2 A. Right. I would support Mr. Whalen's testimony, in the
3 sense that there are two lines going into this one
4 location. And, both of them are really a local
5 exchange service line, with, to your point, Mr. Whalen,
6 "no bells and whistles", meaning, a clarification, no
7 additional features added to it. Although, I would add
8 that each of the lines has a long distance service
9 attached to it.

10 Q. And, can you describe for the record the series of rate
11 increases that impacted Mr. Whalen's accounts, what
12 dates and amounts?

13 A. I can. There are two, and I would term them as
14 "substantive" rate increases applied. The first was
15 May of 2013. Both Mr. Whalen's lines had received a
16 \$2.00 rate increase at that time. Moving forward, in
17 March of 2014, each of those same lines received an
18 additional rate increase of \$2.25. And, just to
19 clarify one thing, because the math probably doesn't
20 add up, that there was one line, and I don't know which
21 one off the top of my head, but there was an additional
22 rate increase to bring that line rate into compliance
23 with what the Commission actually had ordered in the
24 year 2010, a TRS order, which I think was

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[WITNESS: Taylor]

1 October/November 2010 time frame. In any event, TRS,
2 or Telecommunications Relay Services, had -- there was
3 a four cent raise, rate raise or fee raise that was
4 implemented. And, for whatever reason, one of the
5 Whalen's lines was not properly identified and tracked
6 with that raise. So, as part of the rate increases, to
7 bring this to a close, to be clear, as part of the rate
8 increases that the Whalens have realized in the last
9 year or so, there was also that four cent piece of it.

10 Q. And, when that increase occurred, was it applied only
11 on a prospective basis?

12 A. That's correct.

13 Q. When a typical customer, or Mr. Whalen, I should say,
14 receives notice of a rate increase, can you just
15 describe what type of notice that would be and what
16 notice he might have received?

17 A. Sure. As part of both of these rate increases, the
18 substantive ones, the advance notification came in the
19 form of a bill message, which is typically something
20 that's inserted inside of the monthly invoice that's
21 generated.

22 Q. And, what's the standard notification timeline for an
23 increase?

24 A. Per our service agreement, the standard notification

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[WITNESS: Taylor]

1 time is at least 30 days.

2 Q. And, what is the current monthly recurring charge for
3 Mr. Whalen's services as of today? For each line,
4 excuse me.

5 A. Each line, subject to double-checking, one line is
6 \$10.35 and the second line I believe is \$18.68 or
7 thereabouts.

8 Q. And, as far as these rate increases go, were rate
9 sheets filed with the Commission for these particular
10 rate adjustments or rate increases?

11 A. No.

12 Q. And, why not?

13 A. It's under FairPoint's understanding that the statute,
14 and I say "the statute" I'm going to speak in general
15 to SB 48 or Senate Bill 48, really, as part of that
16 deregulation effort, there was a requirement in the
17 statute for an ELEC, or excepted local exchange
18 carriers, to provide notice to the Public Utilities
19 Commission shortly after the deregulation, which was a
20 60-day time period, as well as any subsequent changes
21 to basic service rates. And, FairPoint has interpreted
22 Mr. Whalen's services as "nonbasic", therefore did not
23 make a rate sheet filing.

24 Q. Okay. How does FairPoint view the Whalen's services as

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[WITNESS: Taylor]

1 it relates to basic services, and basic service and
2 multiple lines?

3 A. Under the scenario of multiple lines into this
4 location, FairPoint treats that as nonbasic.

5 Q. And, can you describe why FairPoint views multiple
6 lines as "nonbasic"?

7 A. In the statute, and I say "the statute", again as part
8 of a general umbrella of Senate Bill 48, but, more
9 specifically, under the definition of "basic service",
10 in 374:22-p, I believe it is, there's criteria in there
11 that defines "basic service". One of the definitions
12 that's in there is actually Subsection I, or Part I,
13 which is "safe and reliable single-party, single line
14 voice service". Right? So, we look at, in this
15 situation, the Whalens having two lines as not being
16 single line service, because they have more than one
17 singular line.

18 Q. Okay. And, is there any other particular parts of the
19 statute that would apply to that analysis?

20 A. There is.

21 WITNESS TAYLOR: And, I should ask, just
22 as an admin. question, if I can. I didn't ask if I could
23 bring up materials here. I'm just referencing the
24 statute, if that's --

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[WITNESS: Taylor]

1 CHAIRMAN IGNATIUS: That's fine.

2 WITNESS TAYLOR: Okay.

3 **BY THE WITNESS:**

4 A. The other portion of the statute which, from
5 FairPoint's perspective, is relevant to this situation
6 is Section (c). Where it reads "any combination of
7 basic service along with any other service or a feature
8 offered by the telecommunications service provider is
9 nonbasic service and shall not be regulated by the
10 Commission." What I would specifically call -- and,
11 just for clarification, I'm not an attorney, nor have I
12 gone to law school. But, for purposes of what I wanted
13 to bring your eyes to, "any combination of basic
14 service". So, in this particular scenario, FairPoint
15 looks at line one of the Whalens, either one, pick one,
16 as basic service, along with another service offered by
17 the telecommunications provider as nonbasic. And, in
18 this case, FairPoint looks at "another service" as a
19 second basic line. So, now, you're combining a single
20 line basic with a single line basic, and, per the
21 statute, from FairPoint's interpretation, this would be
22 treated as nonbasic.

23 BY MR. GALVIN:

24 Q. Thank you. And, how does FairPoint, when it on-boards

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[WITNESS: Taylor]

1 a customer today, address multiline? How is it
2 determined, I guess?

3 A. From the time of order entry or call into our Call
4 Center, this is the way that it was described to me.
5 Through the course of the conversation, if there's a
6 customer that's inquiring about service, there's
7 conversation with the service representative. Then,
8 it's understood, through the course of that
9 conversation, what the consumer is particularly looking
10 for. And, that's generally, you know, the
11 give-and-take of how order entry is taken, just from a
12 consumer's request.

13 Q. And, why does the Company look at locations, as well as
14 -- or, households, as well as names on the particular
15 account?

16 A. So, from the perspective of multiline service, or more
17 than one single line into a location or an account or a
18 person, our system is set up with criteria so that it
19 queries for this information. It queries for location,
20 physical location, in this case, 252 Brook Road, in
21 Sanbornton. It queries for account information, and
22 sometimes account information, there's a relationship
23 between parent/child account or otherwise. In this
24 particular case, you've got Tobey Whalen on one

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[WITNESS: Taylor]

1 account, and you've Tobey Whalen and Bill Whalen on
2 another account. So, there's a relationship there.
3 And, we covered the location. But it's programmed this
4 way systematically to search for these things just in a
5 typical query, all in the understanding of determining
6 or classifying basic or nonbasic service.

7 Q. Thanks. And, if we go into the supplemental filing
8 that was made by FairPoint, could you just briefly
9 describe for the record the purposes of that
10 supplemental filing.

11 A. Sure. You bet. And, if I may take one minute. I had
12 made that filing, madam Chair, and I apologize for not
13 filing under confidentiality rules. Our intent of
14 specifically getting that in Friday afternoon was not
15 to surprise anybody with that filing. We weren't
16 looking at that as a "aha" moment or a "gotcha" moment,
17 but we wanted to put that on the record before the
18 weekend, because we felt it was material to the case.

19 And, material to the case, to your
20 question, FairPoint sees that for two perspectives.
21 Number one, and this is a slightly different
22 interpretation of how we have looked at basic service
23 to this point. But, with the situation of one location
24 or one consumer or an account having one basic business

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[WITNESS: Taylor]

1 line, combined with one basic residential line,
2 FairPoint treats that situation, in aggregate, as a
3 "basic service" situation. To be clear, not a
4 "nonbasic service" situation.

5 The other point that was material, and
6 it wasn't necessarily specified by reason/for reason in
7 the filing, is that our business rate offering or our
8 business service offering is at -- rated at a much
9 different price point than what a residential service
10 offering is. And, our catalogs will show that.

11 CMSR. SCOTT: Can I interrupt you?

12 WITNESS TAYLOR: Sure.

13 CMSR. SCOTT: State that one more time.
14 So, if you have a basic service residential line in and a
15 basic service business line in, did you say you're
16 treating them both as "basic service"?

17 WITNESS WHALEN: That's correct.

18 CMSR. SCOTT: Thank you.

19 BY MR. GALVIN:

20 Q. So, just to build on that point, and maybe it's been
21 clarified. But the classification of changing a line,
22 I guess, or the instance where we would have one basic
23 service line, qualifying basic service line for
24 residential purposes and one qualifying basic service

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[WITNESS: Taylor]

1 line for business purposes, would that be deemed "basic
2 service" in each of those instances?

3 A. That's correct.

4 Q. All right. Thank you. So, what would happen if we
5 turn that situation in Mr. -- back to the Whalen's
6 situation and the statements made here today that both
7 of those lines are used for residential purposes, what
8 would happen in that instance and how would we
9 interpret that or how would FairPoint interpret that?

10 A. I'm sorry. Can you repeat the question?

11 Q. How would FairPoint interpret two separate lines to the
12 home?

13 A. In contrast to that scenario, FairPoint interprets two
14 residential lines, to the extent that -- well, two
15 residential lines regardless of the status as "nonbasic
16 services", because it's multiple lines into that
17 location.

18 Q. And, why would you -- what's the reasoning for treating
19 a business line and a residential line differently from
20 two residential purpose lines?

21 A. Our view on that is residential class line serves a
22 different and distinct independent purpose from what a
23 business basic class line would serve. So, therefore,
24 they are treated differently than what would be

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1 perceived or is -- is treated for two residential lines
2 into an account or a location or, you know, a
3 residence.

4 Q. So, is it a fair characterization of your testimony
5 that, if the Whalens had identified or purchased an
6 account for business purposes for one of these accounts
7 and one for residential purposes, it would be "basic"?
8 Or, if the Whalens disconnected one of their
9 residential lines and only kept one line for voice
10 service to the home, that that would also be "basic
11 service"?

12 A. I'll answer your question in two parts. In the first
13 scenario, that's correct. To the extent that that line
14 was classified as "business basic", FairPoint would
15 treat that situation, both with a business basic and a
16 residential basic as "basic". To your second question,
17 if I understood it correctly, if Mr. Whalen or the
18 Whalens had disconnected or do disconnect one of the
19 two existing lines at their location today, the
20 remaining line would be single line service and could
21 be subject to basic service. And, from FairPoint's
22 perspective, would be basic service.

23 Q. And, what would happen to the Whalen's rate on that one
24 remaining line, due to the hypothetical that you

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1 provided?

2 A. If one line were to be disconnected and the single
3 remaining line were to be basic, the rate that it was
4 currently at would be reset to a basic service rate.
5 Our systems are designed and programmed to identify
6 fluid changes like that, either from basic to nonbasic
7 or nonbasic back to basic.

8 Q. And, that would be reset back to our then current rates
9 for other similarly situated basic service customers,
10 is that correct?

11 A. Not necessarily back to the same customers. But, based
12 on what rate group the service catalogs dictate that
13 Mr. Whalen's singular remaining line would be under,
14 that would be the rate that it would be set to.

15 Q. So, just to clarify, other others in that rate group,
16 he would be similarly situated to those customers?

17 A. That's correct.

18 Q. So, I guess, as sort of going back to just the rate
19 increase point, can you just state for the record the
20 last time that a rate increase was done prior to the
21 2012 rate increases?

22 A. And, --

23 Q. And, I should clarify, sorry, whether it's a
24 predecessor entity or not.

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1 A. Sure. The last time that we show in our research, and
2 FairPoint shows in its research, that residential lines
3 were increased or any increase in the State of New
4 Hampshire dates back to the year 1990 --

5 MR. FELTES: I would object to this
6 question, madam Chair. I don't think it's relevant when
7 the last rate increase was under the prior regime of
8 regulation. The relevance is the applicability of the
9 rate caps under the current regime and how that's
10 interpreted and applied by FairPoint.

11 CHAIRMAN IGNATIUS: Mr. Galvin, a
12 response?

13 MR. GALVIN: I think it's relevant here,
14 because I think a big part of the regulatory reform was
15 predicated on affordable services. I think Mr. Whalen has
16 made statements about the affordability. I think it's
17 part of the reason why we're here. I think regulatory
18 reform discussed a lot about the highly competitive
19 marketplace that telephone companies are in today, the
20 losses that telephone companies are incurring. And, I
21 think that it is relevant and germane, to the extent that
22 it helps indicate the marketplace and part of the reasons
23 for these interpretations of changes that Mr. Whalen is
24 asking about.

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1 CHAIRMAN IGNATIUS: I'm going to sustain
2 the objection. I think the references to Senate Bill 48
3 and what's been required on a going forward basis is
4 relevant. The years leading up to it I don't think is
5 relevant to today's discussion.

6 MR. GALVIN: Thank you. I have no
7 further questions for the witness.

8 CHAIRMAN IGNATIUS: Thank you. Let's
9 turn to, Mr. Whalen, do you have any questions for
10 Mr. Taylor?

11 MR. WHALEN: Yes. Can you hear me?

12 CHAIRMAN IGNATIUS: Yes.

13 **CROSS-EXAMINATION**

14 BY MR. WHALEN:

15 Q. I find your explanation about can't have two basic
16 residentials, but you can have a basic business and a
17 basic residential, okay? I guess, for the future,
18 okay, if my wife wants to go back into business and
19 restart a business, okay, what would that mean to,
20 let's say, the unlimited local line, okay, in terms of
21 costs? We know what it is now, it's 18 something,
22 whatever. What's the difference in costs, okay? And,
23 is involved in the cost being published in the Yellow
24 Pages, all that kind of stuff? Just for future

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1 information I would like to know that, okay?

2 A. And, I'm sorry. I'm not sure I'm following your
3 question. Are you asking what the business basic rate
4 would be potentially in the future?

5 Q. Yes. I'm saying, the two lines now, if she, down the
6 road, decides to reactivate the business, okay, and I
7 same to you and said "Listen, in all fairness, maybe I
8 should make that a business line", maybe I still
9 shouldn't, because I'm using it primarily for personal
10 business, okay? What would the difference be in costs?

11 A. Sure.

12 Q. What are we talking about, you know? If you have that
13 information. I'm just curious.

14 A. I do. Yes, if you give me one second please.

15 Q. Okay.

16 A. I believe I do. Okay. And, first off, I apologize
17 that you had difficulty tracking the information from
18 the website. I had provided that response myself, and
19 I thought it was really clear. So, my apologies if it
20 wasn't clear.

21 Q. That's okay.

22 A. To answer your question directly, if you were to take
23 that line right today, and look to move it to a
24 business basic rate, the rate per our service catalog,

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1 for basic month-to-month, would be \$40.29.

2 Q. \$40.29. Okay. And, at the same time, the other line
3 would go back to residential basic, which would be a
4 reduction in that one, supposedly?

5 A. That's correct.

6 Q. Okay. \$40 and change, okay. Just interesting to know.

7 A. And, if -- and, I'm sorry to jump in. If you're
8 interested to know what the reset rate from the
9 existing second line would go to, it would --

10 Q. No. That's all right. It would go down in any event.
11 That's fine.

12 A. Okay.

13 Q. Wasn't there also -- you mentioned the increases in the
14 cost of the lines. Isn't FairPoint now having a
15 problem with pole tax, and aren't they passing along
16 some sort of increase in fees because of pole tax being
17 charged by towns, local towns?

18 A. As of a couple of years ago, we -- there's been a
19 municipal property tax applied to our infrastructure.
20 And, we do, to answer your question, we do recover a
21 certain percentage of what that tax is that we pay on
22 an annual basis.

23 Q. Okay. That's because of a change in legislation last
24 year, I guess?

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1 A. As far as I understand.

2 Q. Yeah. You were exempted at one time, and now you're
3 not exempt. So, --

4 A. I believe it was a couple years ago.

5 Q. Okay. So, that's another increase that we're talking
6 about. I'm not sure what the amount is, but it was an
7 increase though.

8 A. The increase was 99 cents, in terms of recovery.

9 MR. WHALEN: Ninety-nine (99) cents, per
10 line, okay. Thank you. That's all I have, madam Chair.

11 CHAIRMAN IGNATIUS: Thank you.

12 Mr. Feltes.

13 MR. FELTES: Thank you, madam Chair.

14 BY MR. FELTES:

15 Q. Mr. Taylor, I just want to recount the rate increases
16 just briefly, to clarify, that have been imposed under
17 the current regime. And, I think you indicated, if I'm
18 correct, in May of 2013, a \$2.00 increase across the
19 board for what FairPoint considers basic service for
20 nonbasic customers, is that right?

21 CHAIRMAN IGNATIUS: I'm sorry. Can
22 you -- I didn't --

23 MR. FELTES: Yes, that was pretty long.
24 I'll cut it down a little bit.

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1 WITNESS TAYLOR: Thank you.

2 BY MR. FELTES:

3 Q. Mr. Taylor, there were rate increases in May of 2013 of
4 \$2.00 for basic service, correct?

5 A. No.

6 Q. There were rate increases in May of 2013 for basic
7 service for customers that have something beyond basic
8 service, correct?

9 A. No. I don't think I'm understanding the question.

10 Q. Okay. Well, in your own words, can you characterize
11 the rate increase of \$2.00 in May of 2013 and then the
12 rate increase of 2.25 again this year?

13 A. Sure. May of 2013, a \$2.00 rate increase was
14 implemented for nonbasic services under certain
15 situations. I don't have exactly, you know, what
16 nonbasic services were -- the rate increases were
17 implemented to. Fast forward in time to March of 2014,
18 a \$2.25 rate increase was applied to, again, nonbasic
19 services.

20 Q. But you don't dispute that Mr. Whalen has "basic
21 service", but just basic service twice. You're not
22 disputing that, correct?

23 A. I'm not disputing that. What I've said, and I believe
24 the testimony will show, --

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1 Q. Sure.

2 A. -- is that there's nonbasic service at that location.

3 Q. I understand your position about nonbasic. But let's
4 just -- there were rate increases on both of their
5 services, correct?

6 A. That's correct.

7 Q. Okay. Let's go to your Statement of Position
8 Addressing Commission Questions.

9 A. Sure.

10 MR. FELTES: And, if folks don't have a
11 copy, I can hand one out. Does everybody have a copy?

12 CHAIRMAN IGNATIUS: We do.

13 MR. FELTES: Mr. Taylor, do you have a
14 copy?

15 WITNESS TAYLOR: Yes, I do.

16 BY MR. FELTES:

17 Q. Let me draw your attention to your answer to the first
18 question. And, specifically, I'm pointing -- drawing
19 your attention to the first clause of the second
20 sentence. And, I quote, "In the event that one of the
21 two lines at the Whalen's residence was to be
22 disconnected, then the other line therefore could be,
23 and from FairPoint's perspective would be, considered
24 basic." Did I read that correctly?

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1 A. You did.

2 Q. And, earlier you testified that you have a computer
3 system that identifies locations, and you testified
4 that, if there's more than one line at a location,
5 those folks would not be entitled to the basic service
6 rate cap, is that right?

7 A. I believe I expanded it beyond location. Location,
8 account, customer name, all of those pieces are queried
9 and looked at when consideration for classification.

10 Q. Okay. Is there a default setting in the system when
11 the rate increases went into effect? And, how were
12 they triggered?

13 A. I'm sorry. Can you repeat that question?

14 Q. In other words, if there's more than one line at a
15 household, how did the computer system apply the rate
16 increases of \$2.00 and 2.25? Did it automatically
17 apply the rate increases, if there's more than one line
18 in a household, to all of those lines?

19 A. I'm unsure of the answer to that. I'd be happy to take
20 it as an oral data request.

21 Q. Okay. Thank you. Mr. Taylor, if you can take a look
22 at the statute, you referenced it earlier, and we'll
23 just take a quick look at it. I know you're not an
24 attorney, but we'll just take a quick look. If you can

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1 take a look at the rate cap/price cap provision, and
2 that's 374:22-p, VIII(b). I'll read that briefly, and
3 then I'll ask a couple questions. "Rates for basic
4 service of incumbent local exchange carriers which
5 qualify as excepted local exchange carriers" --

6 CMSR. HONIGBERG: Slow down.

7 MR. FELTES: Oh. Sorry. I'm very
8 sorry.

9 MR. PATNAUDE: Thank you.

10 MR. FELTES: "May not increase" -- do
11 you want me to repeat that?

12 MR. PATNAUDE: Yes. Start again.

13 MR. FELTES: I'm sorry.

14 BY MR. FELTES:

15 Q. "Rates for basic service of incumbent local exchange
16 carriers, which qualify as excepted local exchange
17 carriers may not increase by more than 5 percent for
18 Lifeline Telephone Assistance customers and by more
19 than 10 percent for all other basic service customers
20 in each of the eight years after the effective date of
21 this paragraph." Did I read that portion of the
22 statute correctly, Mr. Taylor?

23 A. As far as I can see, yes.

24 Q. Do you see any analysis that's based on location or

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1 household in the statute?

2 A. No, I don't.

3 Q. And, in fact, the statute talks about "customers", does
4 it not?

5 MR. GALVIN: Objection.

6 CHAIRMAN IGNATIUS: On?

7 MR. GALVIN: Could counsel point
8 Mr. Taylor to the section he's referring to about the term
9 "customers".

10 CHAIRMAN IGNATIUS: All right.

11 Mr. Feltes.

12 BY MR. FELTES:

13 Q. After the phrase "Lifeline Telephone Assistance", there
14 is a word that says "customers". Did I read that
15 correctly?

16 A. Yes.

17 Q. And, then, "after 10 percent for all other", there is a
18 phrase that says "basic service customers". Did I read
19 that correctly?

20 A. Yes.

21 Q. So, you would agree with me that this is a
22 customer-specific analysis, not a household or a
23 location-specific analysis, would you?

24 MR. GALVIN: Objection.

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1 CHAIRMAN IGNATIUS: On what basis?

2 MR. GALVIN: I feel as though the
3 questioning is asking for an analysis of statutory
4 interpretation and goes outside the scope of Mr. Taylor's
5 direct testimony and his background and experience on
6 this.

7 CHAIRMAN IGNATIUS: Mr. Feltes?

8 MR. FELTES: Well, madam Chair, Mr.
9 Taylor referenced the statute earlier and talked about the
10 applicability of the statute. And, we're going right to
11 the heart of the universe of people who get the advantage
12 of the rate caps that the Legislature expressly put into
13 place.

14 CHAIRMAN IGNATIUS: I'm going to -- to
15 the extent the question is asking him to interpret that
16 section, I'm going to sustain the objection. To the
17 extent you're asking him "in that section, do you see the
18 words "location", "household"?", those other specific
19 terms, then, I think that's fair.

20 MR. FELTES: Thank you, madam Chair.

21 BY MR. FELTES:

22 Q. In that specific statutory provision that we've been
23 discussing, do you see the terms "locations" or
24 "households"?

[WITNESS: Taylor]

1 MR. GALVIN: I have to object again.
2 This question has been asked and answered previously by
3 the witness.

4 CHAIRMAN IGNATIUS: I'm not sure it's
5 been answered. So, for my sake, please go ahead and
6 answer it.

7 **BY THE WITNESS:**

8 A. Yes. No, I don't see those words.

9 BY MR. FELTES:

10 Q. And, bringing it to Mr. Whalen's case, if Mr. Whalen
11 had one of these services in his name, and his wife had
12 a service solely in her name, in other words, two
13 different customers, would you take the position that
14 they're still nonbasic and the rate increases apply to
15 both of them?

16 A. To the extent that our system would recognize a
17 relationship between Tobey Whalen and Bill Whalen, and
18 there's a common thread here of 252 Brook Road,
19 Sanbornton, it's likely that that would be a nonbasic
20 situation.

21 Q. Even if they're completely separate customers?

22 A. I'm not sure of the exact answer to that, in terms of
23 how our system would approach it. It could be.

24 Q. Okay. Now, let's assume for a second that they're, you

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1 know, separate roommates. Is there any analysis that
2 FairPoint does about the customer relationship that
3 characterizes, say, roommates?

4 A. To the extent that I can answer that, some of that
5 information is taken through order intake and
6 establishing what the customer is inquiring about.
7 And, if there's a relationship at all with, you know,
8 anybody in that particular scenario, if you're talking
9 about additional rooms or additional people inside one
10 location, it's hoped that that information would be
11 transferred through the order entry call. But that's
12 call-specific. And, I don't have a direct answer in
13 terms of how the system would --

14 Q. Okay.

15 A. -- you know, would appreciate that.

16 Q. I appreciate that, Mr. Taylor. And, I understand that
17 you'll follow up with the default settings of the
18 system, in terms of how they apply the rate caps when
19 there's more than one line at a location, correct?

20 A. Yes.

21 Q. Okay. Mr. Whalen testified that at some point the AT&T
22 service was an issue, but he perceived that issue to
23 have gone away. Do you remember that testimony?

24 A. I do.

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1 Q. And, you know that Mr. Whalen has AT&T Long Distance
2 service on both of these lines, isn't that correct?

3 A. To the extent that he testified that, I would accept
4 his testimony. But I can't factually state that.

5 Q. Okay. Now, going back to your statement again,
6 Statement of Position, your response to Question 1, and
7 again you said "In the event that one of the two lines
8 at the Whalen's residence was to be disconnected, then
9 the other line therefore could be, and from FairPoint's
10 perspective would be, considered basic." Did I read
11 that correctly again?

12 A. Yes.

13 Q. But that's not necessarily true, though, if you
14 disconnected one line, and he kept another line with
15 AT&T, you would consider him nonbasic, would you not?

16 A. No.

17 Q. You -- okay. So, does FairPoint have a position that,
18 if a customer only has basic service through FairPoint,
19 but contracts with another service, including long
20 distance, from a different company, that they're still
21 entitled to the rate caps for basic service?

22 MR. GALVIN: Objection.

23 CHAIRMAN IGNATIUS: On what basis?

24 MR. GALVIN: I think, you know, there's

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1 relevance questions here. These questions are what our
2 concerns were raised in our earlier objection, that these
3 questions seem to be going into hypotheticals of basic
4 versus nonbasic service interpretations. That the focus
5 of this complaint, from our viewpoint, is Mr. Whalen's
6 situation, is multiline use of the service. This seems to
7 go into compound questioning of hypotheticals. There's
8 relevance questions, there's clarity questions. There's
9 also questions about Mr. Taylor's ability to comment on
10 system functions. They're highly complex. We have teams
11 of people who do this. And, I'm slightly concerned that
12 we're going into an area that's very difficult for him to
13 opine on or to provide a response on, or should he in this
14 particular docket.

15 CHAIRMAN IGNATIUS: All right. Let's
16 truncate this a bit. Mr. Whalen has testified that he was
17 told that AT&T subscription was an issue, and now is not
18 sure. I think asking the witness to clarify whether it is
19 or is not is fair. To get into anything, sort of a
20 broader hypothetical, beyond Mr. Whalen's situation may be
21 going too far. But, I think, as to the specifics of
22 whether or not presubscribing to AT&T is an issue is a
23 fair question, and I'm going to allow the question.

24 MR. FELTES: Thank you, madam Chair.

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1 BY MR. FELTES:

2 Q. And, with respect to Mr. Whalen's specific situation,
3 again, he testified he thinks that the AT&T issue is no
4 longer an issue. But let's -- is he right? Is he
5 right it's no longer an issue?

6 A. Yes, he is.

7 Q. Okay. So, if Mr. Whalen did disconnect one of those
8 phone lines, all right, and he only had one phone line
9 with basic service, but still had AT&T Long Distance,
10 he would be entitled to the rate cap for basic service?

11 A. If all things being equal, nothing else changed with
12 that singular line, that's correct.

13 Q. Okay. Did FairPoint institute a policy change on that,
14 in terms of AT&T or any long distance service
15 disqualifying somebody from basic service rate caps?

16 MR. GALVIN: Could I just object and ask
17 that the question be repeated?

18 CHAIRMAN IGNATIUS: Yes. And, I want to
19 know the relevance of that question?

20 MR. FELTES: Well, the relevance is,
21 since 2012 the statute went into place. And, Mr. Whalen
22 had said at one point AT&T was an issue. And, the
23 question is, if it was an issue at one point for
24 Mr. Whalen, it could have been an issue at one point for

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1 many other customers. And, the Legislature was very clear
2 about these rate caps for basic service being in place
3 effective in 2012. So, I'm trying to figure out if there
4 was a policy change at some point that FairPoint
5 initiated.

6 CMSR. HONIGBERG: I think you need to
7 find out whether he was right before, because maybe he
8 wasn't right that it was an issue before. Because there
9 may have been no change at all. So, why don't you try and
10 find that out first.

11 MR. FELTES: Okay.

12 CMSR. HONIGBERG: And, maybe that
13 question will become relevant.

14 MR. FELTES: All right. Thank you,
15 Commissioner.

16 BY MR. FELTES:

17 Q. Mr. Taylor, at some point after -- after the Senate
18 Bill 48 went into effect in 2012, was it an issue for
19 FairPoint, if a person had long distance from another
20 carrier, in terms of the basic service rate cap?

21 A. I can't answer if it was an issue or not. Can you
22 clarify what that means?

23 Q. Sure. At some point after 2012, customers who had only
24 basic service through FairPoint, but had long distance

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1 from another company, were they not entitled to the
2 basic service rate cap?

3 A. We treat it -- and I think just to clarify here,
4 there's been an internal policy change with respect to
5 how we treat a singular basic service line, with no
6 bells and whistles, so to speak here, as it relates to
7 long distance services, or at least non-FairPoint
8 related long distance services. Just by way of
9 background with that, FairPoint in good faith took
10 feedback through the course of the 400 telephone rules
11 or the telephone administrative rules for the
12 Commission. There had been various points throughout
13 that, really, rulemaking proceeding that it was noted
14 that the Staff, and more recently the Commission, took
15 issue with that with FairPoint. On that, we made a
16 policy change respective --

17 (Cellphone ringing in the hearing room.)

18 MR. WHALEN: Sorry.

19 WITNESS TAYLOR: I can wait, if he needs
20 to come back, or however you want to proceed, madam Chair.

21 CHAIRMAN IGNATIUS: All right. Why
22 don't we wait. Let's go off the record for a second and
23 we can take a stretch.

24 (Off the record.)

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[WITNESS: Taylor]

1 CHAIRMAN IGNATIUS: We are back on the
2 record. And, Mr. Taylor, you were talking about changes
3 in the Company policy after the 400 rules were enacted,
4 correct?

5 WITNESS TAYLOR: That's correct. Thank
6 you, madam Chair. Actually, the change that we undertook
7 was before the new set of 400 rules was implemented March
8 11th. And, again, just to repeat, maybe it's already on
9 the record, maybe not, but we had taken some feedback from
10 the Staff on various points. And, we take those points
11 serious, and, therefore, had made a criteria change in
12 which we look at, a pure basic single line, as it attaches
13 to certain LD services, non-FairPoint related LD services.
14 Previously, we treated those as nonbasic. And, as of
15 February-ish, we treat them as basic.

16 CHAIRMAN IGNATIUS: February 2014?

17 WITNESS TAYLOR: Fourteen, yes.

18 CHAIRMAN IGNATIUS: Anything further?

19 MR. FELTES: Thank you, madam Chair.

20 BY MR. FELTES:

21 Q. The customers that received the rate increases prior to
22 February 2014, did FairPoint credit back those
23 customers?

24 MR. GALVIN: Objection. Could you just

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[WITNESS: Taylor]

1 clarify which rate increases for the witness?

2 BY MR. FELTES:

3 Q. The rate increase would be the May 2013 rate increase
4 of \$2.00. Did FairPoint credit back the customers that
5 fell into that bucket, of having basic service only
6 with FairPoint but long distance with some other
7 company? Did you credit back those customers the \$2.00
8 rate increase on a monthly basis?

9 A. No, we did not. We made this change, internal policy
10 change on good faith, again, from feedback from Staff.
11 And, we did not go backwards, in terms of crediting.

12 MR. FELTES: Thank you. No further
13 questions.

14 CHAIRMAN IGNATIUS: Thank you.
15 Mr. Wiesner, questions?

16 MR. WIESNER: Thank you, madam Chair.

17 BY MR. WIESNER:

18 Q. Mr. Taylor, I'd like to direct your attention to your
19 Statement of Position, or I should say the "FairPoint
20 Statement of Position", which was filed in this case,
21 on Page 1. Do you have that in front of you?

22 A. I do.

23 Q. And, on Page 1, there's a footnote at the bottom, which
24 references "certain details about the Whalen account,

[WITNESS: Taylor]

1 outside the scope of the question" that was indicated
2 in the notice -- order of notice, "which may be
3 relevant to the Commission's consideration of the
4 complaint and the overall inquiry, and which may be
5 adduced at the hearing in this matter." Do you see
6 that footnote?

7 A. I do.

8 Q. And, other than the supplemental filing, which referred
9 to a potential business use of the line, are there any
10 other details about the Whalen's accounts that are --
11 that you wish to speak to this morning?

12 A. No.

13 Q. Okay. Thank you. And, in your statement as well,
14 you -- and we've discussed this somewhat before, you've
15 outlined the process by which a customer can obtain
16 information about FairPoint's basic service offerings
17 through its New Hampshire catalog, is that correct?

18 A. Yes.

19 MR. WIESNER: I have here and I'd like
20 to show you pages which we have obtained by following
21 those Web links to the New Hampshire catalog. And, these
22 are specifically the pages that you reference in the
23 Statement of Position. So, if I could bring that forward
24 for you and distribute it as well?

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[WITNESS: Taylor]

1 CHAIRMAN IGNATIUS: That's fine.

2 (Atty. Wiesner distributing documents.)

3 MR. GALVIN: Could I make a brief
4 objection, and just ask that the Statement of Position, if
5 we're marking all documents filed in the docket as
6 exhibits, that it actually be moved or marked, as well as
7 the other attendant documents, so that it's on the record
8 as an exhibit and moved into evidence?

9 CHAIRMAN IGNATIUS: That's fine. It's
10 in the record anyway. But we can make it an exhibit, if
11 that's -- it's been referenced quite a lot. So, why don't
12 we mark that as "Exhibit 4"?

13 MS. DENO: Yes.

14 CHAIRMAN IGNATIUS: Thank you. For
15 identification.

16 (The document, as described, was
17 herewith marked as **Exhibit 4** for
18 identification.)

19 MR. GALVIN: I don't have any request to
20 authenticate it. I'm happy to stipulate it. That's fine.

21 CHAIRMAN IGNATIUS: Yes. That's -- we
22 don't need that. Thank you.

23 BY MR. WIESNER:

24 Q. Mr. Taylor, is the package of documents that I've just

[WITNESS: Taylor]

1 handed you, is this the total of the Web pages -- I
2 should say, the pages of the FairPoint New Hampshire
3 catalog, which reference basic service offerings as
4 described in your Statement of Position?

5 A. I believe that to be the case. These look like the
6 exact pages, as well as the service agreement at the
7 end. Yes, I would say so.

8 CHAIRMAN IGNATIUS: I got lost there.
9 Mr. Wiesner, did you say you obtained these by following
10 the steps in the instructions in the Company's Statement?
11 Or, did you get these from a different avenue?

12 MR. WIESNER: The Statement is very
13 specific as to how to get to the New Hampshire catalog,
14 and which specific sections are relevant to basic service
15 offerings. And, we followed that and copied only those
16 pages.

17 CHAIRMAN IGNATIUS: So, by following
18 those four steps, you produced these pages?

19 MR. WIESNER: It took a bit of time,
20 but, yes, we were able to do that.

21 CHAIRMAN IGNATIUS: Okay. Thank you.

22 MR. WIESNER: And, I would propose that
23 we mark these documents as well for identification as
24 "Exhibit" -- we're up to Exhibit 5, I believe.

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[WITNESS: Taylor]

1 CHAIRMAN IGNATIUS: And, just so I
2 understand again, these are what are currently in effect,
3 they have different effective dates at the bottom, because
4 some things may have gone into effect and not been changed
5 since then. So, they are the things that are in effect as
6 of today, in the steps that you followed, correct?

7 MR. WIESNER: We printed these pages
8 from the New Hampshire catalog through following links on
9 FairPoint's website within the past few days.

10 BY MR. WIESNER:

11 Q. And, Mr. Taylor, can you confirm that these, I know you
12 haven't had much of a chance to look at them, but can
13 you confirm that these are the current terms and
14 conditions of basic service offerings and the
15 respective rates in effect at this time?

16 A. They appear to be. I have no reason to believe
17 otherwise.

18 Q. Thank you.

19 CHAIRMAN IGNATIUS: Is there any
20 objection to marking this as "Exhibit 5" for
21 identification?

22 MR. GALVIN: No. I would just clarify
23 for the record that the service agreement is often posted
24 online for the purposes of providing consumers with an

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[WITNESS: Taylor]

1 avenue to actually review the service agreement. But
2 service agreements are mailed to the consumers at
3 different points in time. And, there may be different
4 versions. I don't expect any material differences. But I
5 do just want to clarify for the record the service
6 agreement Mr. Whalen received may have slight
7 modifications to the terms and conditions that have been
8 posted, not the catalogs.

9 CHAIRMAN IGNATIUS: All right. And, the
10 service agreement is the two-page small text, sort of
11 brochure-looking --

12 MR. GALVIN: That's correct.

13 CHAIRMAN IGNATIUS: Thank you. All
14 right. We'll mark this then as "Exhibit 5" for
15 identification.

16 (The document, as described, was
17 herewith marked as **Exhibit 5** for
18 identification.)

19 CHAIRMAN IGNATIUS: Please go ahead.

20 BY MR. WIESNER:

21 Q. Mr. Taylor, does FairPoint provide a basic service
22 option for business customers, as well as residential
23 customers?

24 A. It does.

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[WITNESS: Taylor]

1 Q. And, the rates are generally higher for business,
2 rather than residential customers?

3 A. That's correct. And, that would be true for both
4 nonbasic and basic.

5 Q. And, those rates are outlined in the catalog pages that
6 you have in front of you, which are marked for
7 identification as "Exhibit 5"?

8 A. That's correct.

9 Q. Is it FairPoint's position that these business basic
10 service options meet the statutory definition of "basic
11 service" as set forth in RSA 374:22-p?

12 A. I'm sorry. Could you repeat the question.

13 Q. The references in the catalog pages to "basic service
14 for business customers" is also intended to meet the
15 statutory definition of "basic service" that you
16 mentioned earlier, added to the New Hampshire statutes
17 by Senate Bill 48 in 2012?

18 A. I would say that's correct. Yes.

19 Q. Thank you. I want to ask you a few questions about
20 FairPoint's Centrex service, which I understand is a
21 service provided to certain business customers. Is
22 that correct?

23 A. I would say so. I don't have extensive background with
24 Centrex, but I would say so, yes.

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[WITNESS: Taylor]

1 Q. Do you know, Mr. Taylor, if the FairPoint Centrex
2 service involves the use of a single line to a customer
3 location or multiple lines?

4 A. Technically, I can't provide you a factual statement to
5 that. My belief is that a trunk line provides Centrex
6 services or would provide Centrex services.

7 Q. Does a trunk line have more than one voice line
8 associated with it?

9 MR. GALVIN: Objection. Similar to the
10 other relevancy issues, this goes outside the scope of
11 Mr. Whalen's complaint. There's also questions and
12 concerns about Mr. Taylor's role at FairPoint and his
13 ability to analyze the complexities of Centrex service and
14 the nuances that are being asked.

15 CHAIRMAN IGNATIUS: Mr. Wiesner, a
16 response?

17 MR. WIESNER: Well, with respect to
18 Mr. Taylor's background and position at the Company, if
19 he's not able to answer these questions, I think we would
20 offer it as a record request to be answered later.

21 With respect to relevancy, what we are
22 trying to establish is that there is perhaps a different
23 meaning for "single line service" than has been advocated
24 by the Company here. And, in doing so, we're trying to

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[WITNESS: Taylor]

1 identify another service that might be seen as a multiline
2 service, as opposed to a single line service, and maybe
3 what was truly intended to be excluded from basic service
4 eligibility by the Legislature.

5 CHAIRMAN IGNATIUS: I think it's a fair
6 question, to the extent that the witness is able to answer
7 it.

8 MR. WIESNER: Thank you, madam Chair.

9 **BY THE WITNESS:**

10 A. I would appreciate being able to take that one back. I
11 would offer my intent or understanding of that is that
12 a trunk line would deliver the capability for Centrex
13 services into a location, and that trunk line would be
14 different than single line service. And, that's the
15 way that I believe, subject to check, that the Company
16 treats it.

17 MR. WIESNER: And, can we consider that
18 a record request?

19 WITNESS TAYLOR: Sure.

20 MR. WIESNER: Thank you.

21 CHAIRMAN IGNATIUS: I'm sorry. Did you
22 say that you would consider a trunk line different from
23 single line service or similar to single line service?

24 WITNESS TAYLOR: I stated that I believe

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[WITNESS: Taylor]

1 it would be different. But I would need to double check
2 that, madam Chair.

3 CHAIRMAN IGNATIUS: And, just for my
4 sake, Mr. Wiesner or Mr. Taylor, either, is Centrex
5 considered a basic service? Is there a business basic
6 offering that includes Centrex service?

7 WITNESS TAYLOR: I don't believe that
8 there is.

9 CHAIRMAN IGNATIUS: Thank you.

10 BY MR. WIESNER:

11 Q. And, you testified, again, Mr. Taylor, you testified,
12 in response to Attorney Feltes's question, that, if an
13 account were reclassified to basic service, based on
14 FairPoint's change in position with respect to
15 presubscription to long distance with an unaffiliated
16 third party carrier, that there would be no retroactive
17 bill adjustments. Is that also the case, if there were
18 another change that resulted in a service now being
19 considered basic service, rather than nonbasic service?
20 For example, if an error were -- if an error were
21 identified in connection with the process that you
22 described earlier, matching relationships and customer
23 locations to exclude multiline services?

24 A. I think I'll answer that in two ways, if I can. One, I

[WITNESS: Taylor]

1 think, if there's an identification of an error and
2 that's discovered within FairPoint on the Customer
3 Service team, we would certainly correct it for our
4 customers. If you're asking me, you know, on a
5 looking -- prospective-looking forward basis, if we
6 were to consider changing how we classify basic versus
7 nonbasic, I can't answer that. That's a future event,
8 or it could be a future event.

9 Q. Earlier Mr. Whalen asked you about the pole tax rate
10 increase, which I believe was 99 cents per account, is
11 that correct?

12 A. That's correct. In some instances, it could be,
13 subject to double checking, it could be a lower rate
14 element or rating than 99 cents.

15 Q. Can you clarify when that rate increase went into
16 effect?

17 A. I don't have an exact date, 2011-ish, 2012 I think is
18 the directional time frame.

19 MR. WIESNER: Can we make a record
20 request for the specific date?

21 CHAIRMAN IGNATIUS: Can you explain to
22 me the relevance of that?

23 MR. WIESNER: It's relevant to
24 determining whether or not rate increases would have

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[WITNESS: Taylor]

1 violated the 10 percent annual cap that was effective
2 after SB 48.

3 CHAIRMAN IGNATIUS: All right.

4 MR. GALVIN: I would just like to put an
5 objection on the record for that as well based on
6 relevance, and also that I think it's outside the scope of
7 direct, as well as this complaint. And, that it gets into
8 hypothetical questions about complex legal issues about
9 whether a pass-through pole tax surcharge would be
10 included in the 10 percent cap under the statutory cap for
11 rate increases for basic service customers. If that's
12 what I understand the question to be, I think that's
13 outside the scope and it's not relevant.

14 CHAIRMAN IGNATIUS: So, are you
15 suggesting that the calculations of the rate cap that
16 Mr. Whalen says has been violated? That sentence isn't
17 going to work the way it started out, but he says that the
18 rate cap has been violated, that he believes he's entitled
19 to a rate cap. And, so, the date at which and the amount
20 of the pole tax being imposed, you don't think it's
21 relevant to those calculations?

22 MR. GALVIN: My understanding of the
23 rate increases that were put forth in the complaint by
24 Mr. Whalen were solely based on the base rate. I don't

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[WITNESS: Taylor]

1 think that there was any dispute related to the
2 surcharges. And, my understanding is that it was just the
3 base rate of the service that was adjusted by the \$2.00
4 increase. There was no complaint, to my understanding,
5 about pass-through surcharges.

6 And, if there's a question about
7 clarification on that, I think it's perfectly appropriate.
8 The question is -- I believe the line of questioning and
9 the data request is going into the area of "how would
10 FairPoint apply an analysis to a pass-through surcharge
11 with respect to the 10 percent cap under the statute?"
12 That, to me, is a -- that's asking for a legal opinion or
13 a legal conclusion on that matter. I'm not sure if
14 FairPoint should be required to produce that. And, if the
15 Commission decides that it is, we certainly will, but
16 there's a question of relevance in this particular matter,
17 as well as it being far outside the scope of the direct,
18 as well as Mr. Whalen's complaint.

19 CHAIRMAN IGNATIUS: Mr. Wiesner, do you
20 want to respond?

21 MR. WIESNER: We continue to believe it
22 is relevant to the determination of the rate increases,
23 which were applied to Mr. Whalen's bill, and the timing of
24 those increases.

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[WITNESS: Taylor]

1 CHAIRMAN IGNATIUS: Well, Mr. Galvin is
2 correct that the complaint is based off of the portion of
3 the bill that's not taxes and fees added on, it's on the
4 monthly recurring charge, is how he did his calculations.
5 And, so, he didn't -- because he didn't include that in
6 how he reached his percentage increases, I think I will
7 sustain the objection, and we won't make a record request
8 on that issue.

9 MR. WIESNER: Thank you.

10 BY MR. WIESNER:

11 Q. With respect to those FairPoint customers who will
12 return to basic service, as you testified earlier,
13 Mr. Taylor, in February 2014, how was that -- how would
14 the system return those customers to basic service at
15 that time?

16 A. There was a logic change, right, set forth through our
17 systems that identified, and I may have explained this
18 already on the record, but the systems are programmed
19 to be fluid, to understand if a consumer is basic or
20 otherwise. So, in this particular case, when that
21 internal change was made, policy change was made, it's
22 my understanding that the system was programmed as such
23 and treated those consumers formally as nonbasic, going
24 forward as basic.

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[WITNESS: Taylor]

1 Q. Thank you.

2 A. You're welcome.

3 Q. Mr. Taylor, can you estimate how many FairPoint
4 customers have more than one line serving a household
5 or other location, at least one of which would be basic
6 service on a stand-alone basis, similar to Mr. Whalen's
7 situation?

8 MR. GALVIN: Objection. I think that
9 there's been no foundation provided that would indicate
10 that Mr. Taylor has that information. I think it would
11 call for speculation on his part. It's a complex system
12 question. FairPoint would have to run queries and
13 implement ITCRs to probably answer that question
14 accurately. And, I think that it's just -- and, I guess
15 the objection is that it's speculative.

16 CHAIRMAN IGNATIUS: Well, I'll allow the
17 question. Mr. Taylor can -- he's a very good witness. He
18 can answer it if he knows. And, if he has a sense of the
19 magnitude, even if he doesn't have the appropriate -- I
20 mean, the exact number, I think that's fair.

21 **BY THE WITNESS:**

22 A. So, to directly answer the question, we, FairPoint,
23 took a preliminary look at that situation in
24 preparation for this hearing. And, the preliminary

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[WITNESS: Taylor]

1 analysis came back that there would be 400, or
2 approximately, situations where lines, right, the
3 multiline issue would be in play.

4 MR. GALVIN: I just apologize for the
5 record. I was not aware that we had run that query.

6 CHAIRMAN IGNATIUS: That's fine. Thank
7 you.

8 MR. WIESNER: Thank you. I have no
9 further questions.

10 CHAIRMAN IGNATIUS: Thank you.

11 Commissioner Scott, do you have questions?

12 CMSR. SCOTT: Thank you. For the
13 record, I'm other here. And, again, good afternoon, at
14 this point.

15 BY CMSR. SCOTT:

16 Q. You talked earlier about your system, obviously, based
17 on the inputs, when you sign people up, I assume, for
18 billing, take into account familial relationships in
19 deciding the basic service issue, is that correct?

20 A. That's to the best of my understanding, yes, sir.

21 Q. Okay. So, maybe you could help me. So, how would
22 Mr. Whalen know that, for instance, that you would
23 consider it wouldn't be basic service to have a line
24 with his wife's name and then another line with his

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[WITNESS: Taylor]

1 wife and his name. But perhaps could be okay, this is
2 an assumption on my part, it would be -- it would be
3 basic service to have one line at his residence for he
4 and his wife, and another line for his niece, for
5 instance, of a different name perhaps. How would he
6 know that? How would he go -- where would he find
7 that? I don't see that in the catalog.

8 A. Sure. To the extent that he was able to get onto our
9 catalog and website and track to the specific pages
10 that I had identified in our Position of Statement,
11 there's some information in our catalogs. Just to be
12 clear, I don't know that it necessarily gets to the
13 point of walking through, and we're really into the
14 minutia here of, you know, one-off scenarios as it
15 relates to multilines. So, I don't think it's that
16 clear. But there is a section in basic service that
17 explains the definition of "basic service". And,
18 subject to checking, I believe it's really the
19 cut-and-paste from the statute, not much more or less.

20 MR. GALVIN: And, I just -- I'm sorry to
21 interrupt, but I just need to put an objection on the
22 record. That I'm not sure Mr. Taylor testified to the
23 fact that, if there was a niece in the house and, you
24 know, that, okay, that was a hypothetical question, that

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[WITNESS: Taylor]

1 we hadn't made that determination, through Mr. Taylor's
2 testimony, that if he had a niece living in the house,
3 they would be two nonbasic lines.

4 CMSR. SCOTT: And, that's fair. That
5 was my statement, not yours.

6 MR. GALVIN: Okay.

7 BY CMSR. SCOTT:

8 Q. So, I'm looking at the "basic service", and you kind of
9 alluded to it, it looks like a cut-and-paste. But,
10 again, I don't see any reference to any kind of
11 relationships between parties in a single residence, is
12 that correct?

13 A. The reference I think I would point your eyes to,
14 Commissioner Scott, is really in the first sentence, in
15 sub -- I guess Subpoint number 1, "safe and reliable
16 single-party, single line voice service". To your
17 specific question, there's no reference to nuances or
18 "nieces" or "families" or "landlords", or anything to
19 that effect. No, sir.

20 CMSR. SCOTT: Thank you. That's all I
21 have.

22 CHAIRMAN IGNATIUS: Thank you.

23 Commissioner Honigberg.

24 BY CMSR. HONIGBERG:

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[WITNESS: Taylor]

1 Q. As I understand your testimony earlier, one of the
2 sections that's significant to the Company as it
3 decides whether something is basic service is that part
4 of the statute in I, Subparagraph (c), which talks
5 about the "combination of basic service along with any
6 other service". Do you recall that testimony?

7 A. Yes, I do.

8 Q. I'm having trouble with the logic that says two single,
9 individual personal lines, that that second service
10 disqualifies both from being basic service, but a
11 business line, which would seem to me to be another
12 service or feature offered by the Company, wouldn't
13 have the exact same effect. I understand why you might
14 want to do that, from a business standpoint. But I
15 guess I'm not getting the logic of the distinction.
16 Can you help me there?

17 A. I can, to the extent I can try. And, again, clarifying
18 I'm not an attorney. But, from a perspective that
19 FairPoint took or viewed the situation, a business
20 line, right, "basic", let's call it, and a residential
21 line, "basic", let's call it, are serving for two
22 distinct purposes. They're independent of each other,
23 they're not reliant on each other. They're not, let's
24 say, a mother and a teenager in a house that have some

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[WITNESS: Taylor]

1 sort of relationship. They're distinct and separate
2 from each other. The best example I can use or maybe I
3 could have used in, you know, prior to 2008, per the
4 testimony was, you know, Topiary at Owl Rest Farm is
5 something totally distinct from the business side of
6 that -- or, the residential side of that location.
7 Therefore, you won't necessarily see that, or I don't
8 see that, I should say, in the statute. But that's a
9 business interpretation that we've taken from the
10 statute.

11 Q. Okay. Thank you. If you -- and maybe you're not
12 prepared to answer hypotheticals like this, but I'll
13 offer it up anyway. If you've got an inlaw apartment,
14 a true inlaw apartment, with an inlaw living in it, the
15 same name as one of the people living there, are we in
16 the two-line situation that would take them both out of
17 basic service? Is it relevant that there's a separate
18 unit in there, even though it has the same address?

19 MR. GALVIN: And, just briefly, I want
20 to put an objection on the record. I don't want to
21 disrupt the flow. But this line of questioning we would
22 make the same objection about relevance. This question is
23 about whether it's speculative, and he's asked for
24 conclusions of interpretation of the statute, in my

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[WITNESS: Taylor]

1 opinion.

2 CHAIRMAN IGNATIUS: Well, Mr. Galvin,
3 we're here to assess the analysis that FairPoint has made
4 in its interpretation from Mr. Whalen.

5 MR. GALVIN: Uh-huh.

6 CHAIRMAN IGNATIUS: And, we're trying to
7 keep focused on Mr. Whalen's situation. But, in order to
8 interpret and make sense of the Company's position
9 regarding Mr. Whalen, --

10 MR. GALVIN: Uh-huh.

11 CHAIRMAN IGNATIUS: -- it's a fair
12 question to ask what the Company's approach is to these
13 situations. So, I'm going to overrule rule the objection.
14 I think we need to understand, did the Company make this
15 up in this one case for Mr. Whalen or does it have a
16 policy that it applies in all cases that are similar to
17 this, where you have multiple lines into a household or
18 into a location.

19 MR. GALVIN: Thank you.

20 CHAIRMAN IGNATIUS: Thank you.

21 WITNESS TAYLOR: I'd be happy to take
22 that back as an oral data request, if I may, Commissioner
23 Honigberg?

24 CMSR. HONIGBERG: If that's the best we

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[WITNESS: Taylor]

1 can do, I guess that's the best we can do.

2 CHAIRMAN IGNATIUS: Well, before you
3 move on, let me -- I'll jump in, rather than coming back
4 to this.

5 BY CHAIRMAN IGNATIUS:

6 Q. Is it fair then that there is no written policy at
7 FairPoint regarding these situations?

8 A. I'm sorry. Can you ask the question again, madam
9 Chair?

10 Q. Does FairPoint have a written policy guiding these
11 situations?

12 A. There is an internal document that our Service team
13 looks at, in conversations with consumers or potential
14 consumers that call up, and that will reference, you
15 know, or help reference the service representative
16 through that call, to the extent that it gets into
17 basic or nonbasic scenarios.

18 Q. And, does that document set out a policy on how you
19 determine the classification of lines when you have
20 more than one to a location?

21 A. I'm not sure if it gets into those nuances or specifics
22 that we were into hypotheticals with. But that's
23 something I could certainly take back and understand
24 and appreciate what the policy is on that.

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[WITNESS: Taylor]

1 Q. All right. I mean, what I'm asking you is, I
2 understand the -- I get the sense this guidance
3 material helps your customer representatives ask the
4 right questions. But is there a written policy that
5 tells you what to do with the answers? Once you hear
6 there's a relationship or there is not, they're
7 roommates, they're -- one's business, one's personal,
8 one's residential. Whatever the responses you get, is
9 there a policy that then says, "if you have a certain
10 situation, this is the result"; "if you have a
11 different situation, this is the result"?

12 A. Yes. I'm unsure of that, madam Chair. I would have to
13 check that.

14 CHAIRMAN IGNATIUS: All right. Well,
15 then, I guess we'd want to -- I'd make a request then
16 that, if there is a written policy that sets forth how
17 these are determined, when you have multiple lines into
18 one location, that you produce a copy of that.

19 WITNESS TAYLOR: Sure.

20 CMSR. HONIGBERG: I think, in addition,
21 we'd want the guidance that the customer service
22 representatives use, even if it is not that type of
23 document. If it is the guidance document that helps them
24 ask the right questions, not necessarily provide all the

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[WITNESS: Taylor]

1 answers.

2 WITNESS TAYLOR: Sure.

3 CMSR. HONIGBERG: So, if that's two
4 separate things, I think we would want them both then.

5 CHAIRMAN IGNATIUS: That's fine.

6 MR. GALVIN: And, I don't want to
7 testify for the witness, but to answer the Commissioner's
8 question. It was more of an objection to the form of the
9 question than the content. If you had a customer who had
10 an inlaw -- well, an inlaw apartment or an elderly parent
11 or something like that living in the home, today, that my
12 understanding is, it's not only a policy issue, but a
13 system build issue, the way the scripts and code were told
14 to inform the rep of what to do with this situation. It's
15 my understanding that that customer would be deemed
16 "nonbasic" because of the multiple lines. If that helps
17 answer the question that you had?

18 CMSR. HONIGBERG: It does. Thank you.
19 I think everything else I was going to ask was asked. So,
20 I appreciate that. No further questions. Thank you.

21 CHAIRMAN IGNATIUS: My questions may
22 also have been answered at this point, but I'll just think
23 for a moment.

24 BY CHAIRMAN IGNATIUS:

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[WITNESS: Taylor]

1 Q. I did want to ask about the ability of customers to
2 understand the service that they receive. On your
3 billing forms, and we had some of those submitted in
4 Exhibit 3, the word "basic" doesn't show up on those
5 bills, does it?

6 A. I'm sorry. I don't have the invoices in front of me.
7 I would testify, subject to checking, that that's
8 correct. The term "basic" would not be visible on
9 there.

10 (Cmsr. Honigberg handing document to
11 Witness Taylor.)

12 BY CHAIRMAN IGNATIUS:

13 Q. It looks like it references "Residential Voice" for one
14 as "Unlimited Local Calling" for one of the lines, and
15 on the other again uses "Residential Voice", and refers
16 to "Measured Residence Service", correct?

17 A. Yes. That's correct.

18 Q. So, is there anything else that's sent to customers or
19 included in any of the bills that says "you are
20 considered a basic service customer"?

21 A. To the best of my knowledge, no. There's nothing that
22 is a single to that effect that's communicated to the
23 customer.

24 Q. So, a customer doesn't know, just based on their bill

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1 alone, whether they're protected by the rate cap or
2 not?

3 A. That's correct.

4 Q. And, are customers informed of the multiple line -- the
5 way in which the multiple line situation might change
6 the classification of their service, if it's already
7 gone through and they have been treated as "basic"
8 accounts for a number of years? Let's be specific to
9 Mr. Whalen. Was Mr. Whalen notified that, because of
10 the two lines, he was no longer considered taking basic
11 service on either of those lines?

12 A. To answer your direct question, no. And, when the bill
13 messages came out in advance to notify customers of
14 pending rate increases, the plans were identified in
15 the bill message what specific service that you had,
16 and that this would be treated, and I'm not exactly
17 sure if the word "nonbasic" was on the bill message,
18 but there was language to the effect signaling to
19 customers why the rate increase was coming to them and
20 for what services.

21 Q. I don't believe that's been introduced yet. Is that
22 a -- it may not be specific to Mr. Whalen's actual bill
23 message, but is there -- can you produce what would
24 have been sent at the time that those increases went

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1 into effect?

2 A. Specific to Mr. Whalen's situation?

3 Q. Yes.

4 A. Yes.

5 Q. All right. And, is that a bill insert or something
6 printed as part of the bill?

7 A. That's something that's printed and included, to the
8 best of my knowledge, as part of the invoice that goes
9 out.

10 Q. So, if we're looking, for example at these, there's all
11 sorts of text. It would be one of the additional
12 pieces of information added to the bill? Or, was it a
13 separate piece of paper inserted in with the bill?

14 A. My understanding is that it was a separate piece of
15 paper inserted with the bill, as opposed to being
16 embedded on a typical invoice. And, in that way, it
17 could signal to consumers that something different was
18 coming in their invoice.

19 CHAIRMAN IGNATIUS: All right. I have
20 no other questions. Thank you. I do want to ask,
21 Mr. Galvin, is there any redirect you have based on
22 questions that were raised by the Commissioners? It's
23 not -- not to go back and re-plow the same ground, but if
24 there's anything, based on our questioning, you're

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1 entitled to redirect.

2 MR. GALVIN: Okay. Thank you. Just a
3 few questions.

4 **REDIRECT EXAMINATION**

5 BY MR. GALVIN:

6 Q. There was briefly just questions related to "basic
7 service" being indicated in the bill. Can you just
8 explain why Mr. Whalen's bill does not have the
9 description of "basic service", the bills that are
10 entered into evidence today?

11 A. Well, FairPoint has treated Mr. Whalen's services as
12 nonbasic. So, to the extent that he or the Whalens
13 were looking for something that identified as "basic",
14 they certainly wouldn't see that, because we treat them
15 as nonbasic.

16 Q. And, there was a discussion earlier about this long
17 distance provision of service taking a customer out of
18 the definition of "basic", if it's a non-FairPoint
19 carrier or affiliated carrier. There was a discussion
20 around "accounts being adjusted". And, I wanted to
21 clarify for the record, when you said "accounts were
22 not adjusted", did you mean that they were not
23 retroactively credited, but they were adjusted to the
24 new rate, those customers that are identified as having

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1 a non-FairPoint carrier?

2 A. That's correct. When that change went through, their
3 rates prospectively was changed to a basic rate, to the
4 extent that they qualified. And, retro, you know,
5 retroactively or respectively going backwards, there
6 was no credit.

7 Q. Okay. And, there was a lot of discussion around --
8 some questions around, if there were other parties in
9 that household that may be using a separate basic
10 service line, if it was an inlaw or something to that
11 effect. Can you provide any history as to the logic as
12 to why, when you had a line, we look at that as taking
13 the service out of basic, if there's history about
14 premiums paid when you add an additional line or a teen
15 adds an additional line, because they want their own
16 phone? Is there a history there that you can provide
17 as to the logic?

18 A. No, there's not. I can not.

19 Q. Okay. Do you have an understanding of -- do you have
20 some understanding of Lifeline service?

21 A. Yes, general overview.

22 Q. In the Lifeline spectrum, --

23 CHAIRMAN IGNATIUS: Before you go, I
24 guess I'm surprised at the question, because I had asked

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1 Mr. Feltes to stay away from things beyond Mr. Whalen's
2 particular circumstances. And, so, I don't think there
3 was any questioning regarding Lifeline.

4 MR. GALVIN: Yes, I agree there was no
5 question regarding Lifeline. I was trying to draw a
6 parallel to similar situations where multiple lines are
7 viewed differently than single lines under very similar
8 circumstances and scenarios we're talking about, to give
9 the Commission and members here an analogy of where this
10 logic is used.

11 CHAIRMAN IGNATIUS: Didn't you object to
12 that very same question when the Staff raised it regarding
13 Centrex?

14 MR. GALVIN: Well, I think it's a little
15 bit of a -- this isn't a service offering. To me, it's an
16 analogy of the questions that were asked around, if
17 somebody has an additional line in the house for an inlaw,
18 those objections were overruled and that line of
19 questioning was allowed. I think an analogy in that
20 instance would provide some backdrop to programs that have
21 dealt with that issue. So, I believe this question would
22 help clarify what the Commission allowed questions to be
23 asked on, which were hypotheticals about these different
24 scenarios.

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1 CHAIRMAN IGNATIUS: All right. I'll
2 allow limited questioning on that. And, we'll tell you,
3 I'd like to hear one of the answers "is there any written
4 policy about how those things are interpreted?" Which we
5 did explore with the other situations.

6 MR. GALVIN: Okay.

7 CHAIRMAN IGNATIUS: So, go ahead.

8 BY MR. GALVIN:

9 Q. There's only one question in this instance. It would
10 be, in the Lifeline context, if a -- in the Lifeline
11 context, if a customer was to add -- use more than one
12 Lifeline benefit in a household, do you know what would
13 happen in that instance to that customer?

14 MR. FELTES: Madam Chair, I would object
15 on this basis. We're not talking about the Lifeline
16 rules, we're talking about 374:22-p, VIII(b), which is the
17 rate cap. Which doesn't reference the Lifeline rules, it
18 talks about "customers". So, I just don't see how the
19 Lifeline rules are relevant to the interpretation of a
20 state law that was created by our Legislature in terms of
21 these rate caps.

22 CHAIRMAN IGNATIUS: Mr. Galvin, do you
23 have any response to that?

24 MR. GALVIN: Well, I think, you know,

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1 this is sort of a tough issue that you just raised. You
2 know, this is a -- you know, we're objecting to certain
3 lines of questioning that go outside the scope of
4 Mr. Whalen's complaint. But, then, there are questions
5 being asked outside this realm. We put objections on the
6 record. But we're asking to, you know, if those areas
7 were allowed to be explored, we think, as I think you
8 ruled prior to this objection, that we could ask limited
9 questions. This would be my final question on Lifeline.
10 And, I think it's reasonable, based on those
11 circumstances. Understanding that we objected to some of
12 this line of questioning, we think enough has been put in
13 the record on this, on these issues and hypotheticals.

14 CHAIRMAN IGNATIUS: I'll allow the
15 question, as well as the one that I had asked you to ask
16 him. And, if you have forgotten it, I'll ask it. But go
17 ahead.

18 MR. GALVIN: Okay. I didn't catch that,
19 and I appreciate that. And, I'll try my best to do that.

20 BY MR. GALVIN:

21 Q. So, if a customer was to receive Lifeline service
22 today, and they added an additional line with the
23 Lifeline benefit, do you know, under that program, what
24 would happen to that consumer's Lifeline benefit?

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1 A. I don't believe, in that scenario, that a customer, in
2 general, can have a second Lifeline benefit applied to
3 a second line in the household. I believe it's a
4 one -- I know it's a one-per-household policy driven by
5 the FCC, Federal Communications Commission.

6 Q. Is it your understanding that that rate would revert
7 back to the standard rate without the benefit?

8 A. It's my understanding that the benefit wouldn't be
9 applied, or, if it was, and it was realized later, that
10 that benefit would be stripped.

11 MR. GALVIN: Thank you. And, madam
12 Chair, I'll try my best on this one. But was the
13 question, do we have a written policy that sets out
14 guidance for customer service reps that are on-boarding
15 new customers that would guide them through some of these
16 questions around, you know, elderly parent, daughter or
17 child?

18 CHAIRMAN IGNATIUS: No, that's not the
19 question.

20 MR. GALVIN: Okay. I apologize.

21 CHAIRMAN IGNATIUS: Let me just do it
22 directly.

23 BY CHAIRMAN IGNATIUS:

24 Q. Is there a written policy that tells you, in this case

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1 of Lifeline, that if there is more than one line into
2 the house, only one can receive a Lifeline benefit?

3 A. Yes. There's a written policy. That policy is really
4 mandated by the FCC, and generally providers, all
5 right, that offer the Lifeline benefit. I believe it's
6 eligible to the telecommunications carriers that need
7 to communicate to their consumer base about this FCC
8 policy of "one per household". So, to directly answer
9 your question, FairPoint takes materials from the FCC,
10 really customizes it for FairPoint consumers, and sends
11 this information out to them regularly.

12 Q. And, is there a written policy about any other
13 situations where more than one line to a location
14 changes the classification or the eligibility for a
15 certain rate?

16 A. Are you talking about Lifeline or outside of Lifeline?

17 Q. The other -- you said there is one for Lifeline?

18 A. Yes.

19 Q. Is there for any other, any other scenario, is there
20 anything where you have a written policy that says
21 "more than one line to a location will make you
22 ineligible for certain services"?

23 A. I would need to check that, madam Chair.

24 CHAIRMAN IGNATIUS: So, let's make a

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1 record request for the Lifeline policy, for any other
2 written policy, or a statement that there are no other
3 written policies about multiple lines making you
4 ineligible for a certain service or rate classification,
5 all right?

6 WITNESS TAYLOR: As far as -- correct.
7 Yes.

8 CHAIRMAN IGNATIUS: Thank you. All
9 right, then, Mr. Taylor, you're excused. Thank you very
10 much for your testimony.

11 WITNESS TAYLOR: I just have one
12 question, madam Chair, if I may? There were a series of
13 data requests or oral data requests.

14 CHAIRMAN IGNATIUS: We'll go through
15 those.

16 WITNESS TAYLOR: Okay. Thank you.

17 CHAIRMAN IGNATIUS: So, other than
18 identifying the record requests that we discussed this
19 morning and other evidentiary matters, I take it there's
20 no other testimony, correct?

21 (No verbal response)

22 CHAIRMAN IGNATIUS: Seeing nothing, then
23 let's go through the record requests that I made notes of.
24 And, if anyone has anything in addition or has a different

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1 recollection, please make a note of it and we'll go
2 through that.

3 What I have written down, just in the
4 order that it came, was whether -- this is a question that
5 Mr. Feltes raised, "does the system automatically have" --
6 "does it have default settings that would automatically
7 change the designation of a service, if there's more than
8 one line to a location?" And, Mr. Taylor said he wasn't
9 aware how the system worked on that issue and would take
10 that as a record request.

11 The second was, "in Centrex business
12 service, is there more than one line to the customer?",
13 and some discussion of a trunk line versus an actual voice
14 line, I think is the issue. And, maybe we can clarify the
15 question, Mr. Wiesner.

16 MR. WIESNER: I was just going to say, I
17 think the question was is -- help me? Is Centrex service
18 a multiline service? And, if so, is it served by a single
19 trunk line or multiple access lines?

20 MR. GALVIN: Madam Chair, I thought this
21 issue was objected to and was sustained, that that oral
22 data request was denied, based on the fact that it was
23 outside the scope of this matter and not relevant. I know
24 that there was more than one made, perhaps data request

1 that I'm confusing it with, but there was a sustained
2 objection and a denial of a data request. And, I thought
3 it pertained to Centrex.

4 CHAIRMAN IGNATIUS: I'm drawing a blank,
5 to be perfectly honest. I know that the issue of whether
6 or not the rate calculations -- rate cap calculations
7 should include the municipal charge, what we're calling
8 the "pole tax", was sustained, that objection was
9 sustained.

10 MR. GALVIN: Okay.

11 CHAIRMAN IGNATIUS: I'm not remembering
12 the Centrex one being sustained.

13 MR. GALVIN: And, that sounds familiar.
14 I thought it dovetailed into Centrex, but that may be
15 correct.

16 But one other matter on Mr. Feltes. I
17 thought that the intervenor status was limited, based on
18 the objections made, to not include data requests. Was I
19 wrong about that? And, that it would be limited to filing
20 a statement and participating in this hearing?

21 CHAIRMAN IGNATIUS: I don't -- I didn't
22 make that distinction.

23 MR. GALVIN: Okay.

24 CHAIRMAN IGNATIUS: And, I think we

1 agreed that we would go forward with the hearing today.
2 And, if a record request comes up through the course of
3 the hearing, that that's, if it's relevant, then it's fair
4 game.

5 MR. GALVIN: Okay. Thank you.

6 CHAIRMAN IGNATIUS: The next I have is a
7 copy of the guidance that FairPoint customer reps use when
8 bringing on new customers. That may have been asked for
9 at two different times. So, that guidance material.

10 After that was a question on any written
11 policy on how one classifies services, if you have more
12 than one line to a location.

13 The next was a copy of the bill insert
14 that would have been included in Mr. Whalen's bill when
15 the rate increases were put into effect for his two lines.

16 Then, a question -- a request for the
17 written policy that governs the Lifeline determination
18 that, if there's more than one line into the location,
19 only one can qualify for the Lifeline benefit.

20 MR. GALVIN: And, I'd like to clarify
21 for the record.

22 CHAIRMAN IGNATIUS: Yes.

23 MR. GALVIN: That in that instance,
24 there's, and I'm by no means an expert, but I think

1 there's the nuance there that, if somebody -- if there are
2 more than one person in the household claiming the
3 benefit, they're required to fill out an independent
4 economic form, it's sort of an independent economic
5 evaluation, where a series of questions are asked to
6 determine that you could have, in fact, two benefits in a
7 limited circumstance. But, based on the question asked,
8 without that qualification, it would change. And, I
9 believe those -- that's triggered by regulation as well,
10 and there's standard Lifeline forms that are issued under
11 those circumstances.

12 CHAIRMAN IGNATIUS: Right. So,
13 presumably, the response will include that request, that
14 the information that's required for the independent
15 financial analysis and what those forms look like.

16 And, then, the final question may be
17 subsumed in others, I'm not sure, but is any copy of any
18 policy on any other factors, when there's more than one
19 line into a location and what the impact that is on the
20 eligibility of the customer or customers to receive that
21 service or how it may affect their eligibility for a
22 service or a rate.

23 Did anyone have anything else that was
24 identified as a record request?

1 MR. WHALEN: No.

2 CHAIRMAN IGNATIUS: All right.

3 MR. WHALEN: Madam Chairman, though, I
4 have one question.

5 CHAIRMAN IGNATIUS: Well, before, let me
6 finish on this, though, if we may. The period of time to
7 respond to these, is a week from today adequate time?

8 MR. GALVIN: Yes. I mean, ideally, we'd
9 have more time. I think a week is fair. But, you know,
10 FairPoint, as you know, has different -- multiple
11 different locations. Mr. McHugh is out-of-state I believe
12 right now. And, you know, we need specialists in
13 regulatory, potentially IT, specialists in billing. So,
14 there's a lot of schedules we're competing with.

15 CHAIRMAN IGNATIUS: How about two weeks?

16 MR. GALVIN: I think -- yes, I think
17 that's great. Thank you. Right. Yes. If we can do it
18 earlier, we certainly will.

19 CHAIRMAN IGNATIUS: Okay. Is there any
20 objection -- I'm sorry. Any objection to striking the
21 identification on the Exhibits 1 through 5 and they become
22 full exhibits to the file?

23 (No verbal response)

24 CHAIRMAN IGNATIUS: All right. Seeing

1 none, we'll do that. All right.

2 I think the last thing that I'm
3 expecting are closing statements from all of the
4 participants. And, so that you know and can be prepared,
5 I think the order that we'll do it will be -- well, let's
6 start with Mr. Feltes, then the Staff, and then FairPoint,
7 and Mr. Whalen as an order.

8 MR. FELTES: Thank you, madam Chair. I
9 have written comments, which I'll hand out, and I'll do
10 brief oral comments.

11 CHAIRMAN IGNATIUS: All right. And, to
12 the extent that you may have written or plan to go further
13 afield than you were allowed to today, obviously, the
14 written comments, we'll only take the, you know,
15 consideration of the issues that are within the scope of
16 what we've talked about, and ask you to restrain in the
17 oral comments to the limits that we've set this afternoon.

18 MR. FELTES: Certainly. Absolutely.

19 CHAIRMAN IGNATIUS: Thank you.

20 (Atty. Feltes distributing documents.)

21 CHAIRMAN IGNATIUS: I'm sure they're
22 good, but we don't need five.

23 MR. FELTES: Oh. Okay. Thanks. Thank
24 you, madam Chair. I believe there are two fundamental

1 statutory construction issues at play in Mr. Whalen's
2 case. The one issue, which did not get a ton of
3 attention, but should be discussed and is briefed in that
4 short brief, is the issue of long distance. Now,
5 Mr. Whalen was told at one point that he was not entitled
6 to the basic service price cap established expressly by
7 the Legislature because of having AT&T Long Distance
8 service. So -- and, we know that that type of policy was
9 in place, even for Mr. Whalen, from May 2013 until the
10 policy change of February 2014. So, nine months
11 Mr. Whalen's account of \$2.00 increase, plus taxes and
12 surcharges, was affected, potentially, by that policy.
13 And, he was told at one point that it was the policy.
14 And, so, his account, notwithstanding the multiple line
15 issue, is affected potentially by that, because that was
16 the policy at the time. Now, FairPoint has taken the
17 position it won't credit customers' accounts for that nine
18 month period for the \$2.00 and taxes and surcharges that
19 were executed on folks during that time frame who had
20 basic service solely through FairPoint and then had
21 another service from another company, most situations I
22 assume is long distance, like Mr. Whalen's type of case.

23 I would ask this Commission, and I think
24 it's within this Commission's purview, to issue a ruling

1 that for that period of time that the construction of the
2 statute, if you read the statute, including (c), Part (c),
3 which Mr. Taylor pointed to, talks about "services from
4 the telecommunications provider", singular, all right?
5 So, we're talking about the ELEC-ILEC. We're talking
6 about FairPoint. We're not talking about services from
7 multiple providers. As we lay out in the brief in
8 statutory construction, Legislature, if they wanted to,
9 they could have said that. You know, they could have said
10 "if you got more than one service from multiple
11 providers". But it's focused on the provider, it's
12 focused on FairPoint. So, for that nine month period,
13 Mr. Whalen was directly affected with a \$2.00 increase
14 based on that policy. And, I respectfully request that
15 the Commission issue a ruling that additional services,
16 notwithstanding the policy change for that nine month
17 period, should not have rendered a customer outside of the
18 scope of the price cap, and that customer should be
19 credited back the \$2.00 and taxes and surcharges for that
20 nine month period.

21 I will note it's probably not all \$2.00
22 and change, because there's the price caps that they could
23 have gone up to, you know, 10 percent. And, if you look
24 at measured service, it's \$6.06 per month, 10 percent is

1 about 60 cents. So, that's \$1.40 short of what they did.
2 And, then, obviously, if you're a Lifeline customer on
3 measured service, the 5 percent price cap would be about
4 30 cents, which is \$1.70 short of what they actually did.

5 So, a number of folks were affected.

6 And, we think that FairPoint should credit back,
7 notwithstanding the fact that they did undertake a good
8 faith policy change eventually in February 2014.

9 Second issue is a multiple lines issue.

10 Let me just first address the Lifeline. Lifeline,
11 Attorney Galvin is correct, has a general rule of "one per
12 household", but it is more nuanced than that. It looks at
13 family units, and there's some complicated FCC regulations
14 with respect to the applicability of the Lifeline discount
15 per household. It's not simply -- it's not simply "more
16 than one line disqualifies you". It's more nuanced than
17 that. Notwithstanding that, that's not relevant anyways,
18 from my perspective. The Legislature could have
19 cross-cited those provisions from the FCC, but it did not.
20 The Legislature instituted a rate cap provision in
21 374:22-p, VIII(b), that talks about the "customers". It's
22 talking about the "customers". It doesn't talk about the
23 "households", it doesn't talk about the "locations". So,
24 "more than one line to a household" is not the proper

1 analysis. It's not the proper applicability. You have to
2 look at the customers specifically to determine whether or
3 not those customers fall within the coverage of the price
4 caps that the Legislature clearly and expressly
5 established.

6 Obviously, this has a distinct impact on
7 situations where, in our situation, I mentioned it briefly
8 at the beginning, low income folks are kind of doubling up
9 in the same house. Sometimes there's rooming houses where
10 tenants -- there's multiple tenants in the house, they
11 have multiple lines going in. Sometimes there's duplexes,
12 inlaw apartments, Commissioner Honigberg talked about
13 that. There's all kinds of arrangements within a
14 structure that implicate this, and, certainly, from our
15 perspective, implicate our clients and their ability to
16 have access to these price caps that the Legislature
17 clearly put in place, clearly put in place and clearly
18 wanted on a customer-by-customer basis. Thank you very
19 much for your time.

20 CHAIRMAN IGNATIUS: Thank you.

21 Mr. Wiesner.

22 MR. WIESNER: Thank you, madam Chair.

23 Staff believes the issues raised by Mr. Whalen's complaint
24 go beyond a mere billing dispute, and have broader

1 implications for all FairPoint customers. At issue in
2 this case is FairPoint's interpretation of the statutory
3 obligation for incumbent carriers to provide safe and
4 reliable basic service to any telephone customer who wants
5 such service, even if multiple customers occupy the same
6 household or location.

7 The Staff believes that FairPoint may
8 have adopted an overly restrictive interpretation of the
9 single-party, single line voice service component of the
10 "basic service" definition under the statutes, as well as
11 an overly restrictive or potentially overly broadband, if
12 you will, interpretation of the combinations language that
13 we heard about today as well.

14 This restrictive interpretation has the
15 effect of precluding customers, like the Whalens, and
16 perhaps many others, from attaining the affordable service
17 option that the Legislature intended with basic service.

18 I'll also take this opportunity to speak
19 to the Lifeline Program, which Attorney Feltes I think has
20 done a good job of distinguishing it from the basic
21 service interpretation that we're talking about today.
22 One other difference I would highlight is that, under the
23 Lifeline Program, you can't have two Lifeline discounts
24 per customer or per household. But the fact that you

1 applied for two doesn't mean you lose both. It means you
2 lose one. And, that is a feature of the Lifeline Program
3 and the FCC regulations that implement it.

4 In closing, this case presents an
5 opportunity for the Commission to clarify the correct
6 interpretation of the statutory basic service obligation
7 in order to implement the Legislature's intent. Thank
8 you.

9 CHAIRMAN IGNATIUS: Thank you.
10 Mr. Galvin.

11 MR. GALVIN: Thank you, madam Chair and
12 members of the Commission. I think, as far as the
13 Lifeline issue goes, just to clarify that, you know, my
14 intent was to make sure that we were clear about that.
15 There certainly are complexities independent of the
16 economic evaluation issue. I did not want to represent
17 that it was --

18 (Court reporter interruption.)

19 MR. GALVIN: -- that it was without
20 complexity. That there are certainly some nuances there.

21 To the Consumer Affairs Division's
22 statements, I would add that, if a Lifeline customer, they
23 don't lose both benefits, as was stated, but they can't
24 have a wireless benefit and a household benefit, to my

1 understanding. There's actually a national database that
2 would track that, through the name, as I understand it,
3 address, and there's certain matching mechanisms that are
4 similar. And, as I understand it, from what I've been
5 told, is that you could not have a wireless and a wireline
6 Lifeline benefit.

7 To New Hampshire Legal Assistance's
8 comments, just addressing those quickly. Again, you know,
9 we've objected that some of this stuff is outside the
10 scope of Mr. Whalen's complaint. We think ruling on the
11 long distance issue is not germane here. We don't think
12 it was briefed. It may have come up throughout this
13 proceeding, but it certainly wasn't within the scope of
14 his complaint. It was specific, as well as the statement
15 position from the Commission, was related solely to the
16 multiline service issue.

17 In addition to that, Mr. Feltes
18 discussed the "customer" definition or the use of the term
19 "customer" in the affordable telephone service statute.
20 Again, I think that a determination on that is a policy
21 question to some degree and a legal interpretation that is
22 being asked that is outside the scope of the docket.
23 Whether "customer" reverts back to the definition of
24 "basic service" and single line, single-party, to me is

1 certainly a question that could be, you know, briefed and
2 decided by the Supreme Court in New Hampshire. So that to
3 ask that particular question in this docket is not a small
4 question to ask. I also think it's outside the scope of
5 the complaint. I would ask that the Commission takes that
6 into account in ruling in this matter.

7 In line with that, FairPoint's view on
8 this particular case, to iterate it, that it's a very
9 narrow issue pertaining to Mr. Whalen. FairPoint
10 appreciates Mr. Whalen's testimony, I want to state that
11 for the record. We also appreciate Mr. Whalen as a
12 customer. I think this issue is not an issue of a dispute
13 with a customer in the normal sense of the term. This
14 really is the Company's interpretation of a statute.
15 There's complexities here, we all understand, and there's
16 disagreements in this room, there's questions in this
17 room. There's multiple permutations that were discussed
18 through some hypotheticals today that elicit some of those
19 nuances. But I want to state that Mr. Whalen's particular
20 issue is, obviously, he's complaining about his increase
21 in rates, but the matter is bigger than Mr. Whalen, from
22 the perspective of a definition interpretation from a
23 statute.

24 And, with that said, I would just add

1 that FairPoint believes that the Legislature was clear
2 that there's a highly competitive market here. That if --
3 I think that that helps with the argument that this should
4 be liberally interpreted to some extent. I think
5 FairPoint has a difficult job of implementing complex
6 systems and implementing statutory language that in some
7 ways is plain, and to others there's a lot of vagaries
8 there. Mr. Whalen, I think on the record, had indicated
9 that he has cellphone service, he has a business line, he
10 has an individual line. I think the argument that
11 Mr. Whalen is a class of consumer that's to be protected
12 through affordable phone service is not necessarily the
13 case in this particular docket. I think that Mr. Whalen
14 has been given certain scenarios that he could implement
15 to reduce his costs, if there is a cost issue. FairPoint
16 certainly would, if there's no need for a business line,
17 would provide Mr. Whalen with one line that would allow
18 him to pay basic rates.

19 Another alternative is that Mr. Whalen
20 has a business line and a residential line, which I
21 understand is not ideal, and I don't mean to be
22 provocative, because it increases his rates, which is not
23 what he wants. That's why we're here. But there are
24 alternatives. And, I think, in a competitive market, that

1 just further elicits that issue. And, judging by the
2 questions asked on direct examination, what happens and,
3 you know, "why do you keep this additional line if you can
4 reduce your cost?" It was something to the effect of "I
5 don't mind paying for it." I think that is a significant
6 issue here, even though there's a bigger concern at play.
7 If we're looking at the narrowly focused docket, which I
8 think we should, that that particular argument is somewhat
9 tenuous in this particular situation.

10 I think, just to add that FairPoint has,
11 which was elicited through testimony, that there's been
12 concessions on the LD PIC issue, if there is an
13 alternative carrier that is not FairPoint-based, we have
14 implemented that change. FairPoint has stated today that,
15 if a customer has a business and residential service line,
16 we treat those as two unique, independent, almost legal
17 entities. And that, for those purposes, you could have
18 two separate lines. I think some of those issues are
19 evidence that FairPoint's taken a statute that certainly
20 isn't clear and it has applied some reasonable rules upon
21 urging, whether it's from Staff or the Consumer Affairs
22 Division. FairPoint is not opposed to having
23 conversations like that. FairPoint was prepared, prior to
24 this hearing, to have conversations about stipulations

1 related to that. We certainly were prepared to do that.

2 So, I think part of this as well is
3 FairPoint has a complex business issue that its trying to
4 implement, many permutations. Some of the hypotheticals
5 that were raised, I think that you could get into
6 situations where you have -- there should be an
7 understanding that a business would have a very difficult
8 time implementing a lot of different scenarios. Because,
9 if we get into inlaws, then we get into brothers, sisters,
10 friends, temporary stay, long-term stay, when an inlaw
11 leaves or a friend leaves, who they argue is independent,
12 FairPoint needs systems to track and revert that. I
13 certainly think that those complexities need to be
14 understood. That FairPoint, if the position is that we're
15 doing this to sort of -- for certain purposes, I think it
16 should be understood that there's also significant
17 complexities to simple changes within our systems, and
18 that should just be taken into consideration when
19 decisions are made on this particular issue.

20 We ask that the Commission, I guess,
21 just to again focus on the narrow issue of Mr. Whalen's
22 complaint. And, to the extent we get into the
23 definitional issues on "basic service" that we focus on
24 the multiline issue in Mr. Whalen's situation.

1 And, with that said, again, I thank
2 Mr. Whalen, as well as the Commission and other members
3 here today for the opportunity to present the case. And,
4 that's all I have.

5 CHAIRMAN IGNATIUS: Thank you.

6 MR. GALVIN: Thanks.

7 CHAIRMAN IGNATIUS: Mr. Whalen, you have
8 a chance to sort of summarize your position and make your
9 argument.

10 MR. WHALEN: A lot's been said here
11 today. I appreciate the testimony of everyone. I would
12 make only two comments, I guess. In looking at the bill,
13 and the mode of notifying people of whether or not they
14 were going to be basic service, I'm hearing that it might
15 have been an insert into the bill. You know, these types
16 of things come all the time. Like this is a separate
17 letter that came on Internet from FairPoint, okay? I
18 think what probably would have helped a lot is, number
19 one, on the bill itself it says, to the right-hand corner,
20 "For your information: For your information sections
21 contain important messages about your service from
22 FairPoint." Okay? I think the proper thing to have done
23 was to include it in here, on the bill. Okay?

24 The second thing, which I really feel

1 sorry for a lot of people, is my difficulty in finding the
2 rates, okay? Let's say I found these rates, I have a
3 printed copy right now, okay? Looking at my bill, how do
4 I know if I'm Category A, B, C, D or E? How do I know
5 what the criteria is being in those categories? Is it a
6 thousand lines within my town? 5,000 lines? 2,000 lines?
7 If I move five miles away, will I go into a different
8 category? There's a total -- not FairPoint's problem, I'm
9 sure they inherited this from Verizon, okay? But I'm sure
10 there's a lot of questions people would like to ask, but
11 they don't want to seem foolish, all right. So, I'll ask
12 them, you know, "How do I fall into a Category D? Or,
13 this Category D? The number of lines? The number of
14 people?" I don't -- I don't know.

15 So, all I'm saying is it leaves a lot of
16 questions. If you can find this on the website and get to
17 it, and look at it, and then look at your bill and say
18 "okay, it's costing me \$18.68." You know? "Oh, I must be
19 in Category D. Well, what is that?" Okay? Am I really
20 being charged the right price? Okay. I don't know. I
21 just think it's something that you guys might want to look
22 at, okay? And, perhaps do something about it.

23 CHAIRMAN IGNATIUS: Thank you.

24 MR. WHALEN: Thank you all.

1 CHAIRMAN IGNATIUS: Thank you. All
2 right. Then, we appreciate everyone's time and attention
3 in going through this this morning. We'll look forward to
4 the submission of the record requests two weeks from
5 today. Obviously, those should be circulated to the
6 parties, as well as filed with the Commission. And, with
7 that, we'll take all of it under advisement.

8 MR. GALVIN: Thank you.

9 CHAIRMAN IGNATIUS: And, we're
10 adjourned.

11 **(Whereupon the hearing was adjourned at**
12 **1:17 p.m.)**

13 (Following the conclusion of the
14 hearing, **Exhibits 6** through **11** were
15 reserved for record requests noted in
16 the hearing to be filed by FairPoint.)