

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

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May 25, 2017 - 9:40 A.M.  
Concord, New Hampshire

**RE: DT 16-872 JOINT PETITION  
FOR FINDINGS IN FURTHERANCE  
OF THE ACQUISITION OF  
FAIRPOINT COMMUNICATIONS,  
INC. AND ITS NEW HAMPSHIRE  
OPERATING SUBSIDIARIES BY  
CONSOLIDATED COMMUNICATIONS  
HOLDINGS, INC.  
HEARING ON THE MERITS  
SETTLEMENT HEARING**

**PRESENT:** Chairman Martin P. Honigberg, Presiding  
Commissioner Robert R. Scott  
Commissioner Kathryn M. Bailey  
Sandy Deno, Clerk

**APPEARANCES:**

**Reptg. Consolidated Communications  
Holdings, Inc.:**  
Susan S. Geiger, Esq. (Orr & Reno)

**Reptg. FairPoint Communications, Inc.:**  
Paul J. Phillips, Esq. (Primmer, Piper)

**Reptg. Labor Intervenors:**  
Scott J. Rubin, Esq.

**Reptg. Commission Staff:**  
David K. Wiesner, Esq.  
Michael Ladam, RI&S Division  
Lisa M. Cleveland, RI&S Division

**COURT REPORTER: SUSAN J. ROBIDAS, N.H. LCR NO. 44**

## I N D E X

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3 MICHAEL C. REED  
4 JON ANTONUK  
5 MICHAEL LADAM

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1 P R O C E E D I N G S

2 CHAIRMAN HONIGBERG: Good morning,  
3 everyone. We're here in Docket DT 16-872 to  
4 continue, but take in a different direction  
5 the hearing we started a few weeks ago. We  
6 have before us a couple of filings by Mr.  
7 Wiesner, a stipulation and a Settlement  
8 Agreement.

9 Mr. Wiesner, why don't you tell us  
10 what else we need to know before we proceed.

11 MR. WIESNER: Yes. As you noted, Mr.  
12 Chairman, yesterday we filed a stipulated  
13 Settlement Agreement, and we filed a  
14 stipulation concerning hearing procedures. And  
15 the stipulation regarding hearing procedures is  
16 really intended to reflect the parties'  
17 agreement that all direct and rebuttal  
18 testimony can be admitted into evidence in this  
19 case. And the Settlement Agreement is going to  
20 be the focus of today's hearing, and we have a  
21 panel to speak to that, including witnesses  
22 representing Consolidated, FairPoint and Staff  
23 sitting as a panel.

24 I'm not aware that there are many

1 preliminary issues to be addressed, although  
2 there was an additional Motion for Protective  
3 Treatment filed at the time that rebuttal  
4 testimony was filed by Consolidated. And my  
5 understanding is that it's not necessary for  
6 the Commission to act on that motion at this  
7 hearing and that that can be addressed in the  
8 final order.

9 CHAIRMAN HONIGBERG: But you do need  
10 us to accept the late-filed Settlement  
11 Agreement; correct?

12 MR. WIESNER: Yes, that's correct.  
13 It was not filed within the five days as the  
14 rule requires. But under 203.20(f), we believe  
15 there is good cause for the Commission to  
16 accept it and consider it today.

17 CHAIRMAN HONIGBERG: We agree, and we  
18 will accept it and consider it today.

19 MR. WIESNER: Thank you.

20 CHAIRMAN HONIGBERG: So are we ready  
21 then to hear from the Panel?

22 MR. WIESNER: I believe so. And I  
23 would propose, and I think the parties are in  
24 agreement, that how we would proceed is to have

1 all introductory matters completed with all  
2 four of the witnesses on the panel before  
3 having them summarize the settlement terms and  
4 conditions and the reasons for their support of  
5 those terms and conditions.

6 CHAIRMAN HONIGBERG: Fair enough.  
7 And none of these witnesses have yet been sworn  
8 in; correct?

9 MR. WIESNER: That's correct.

10 CHAIRMAN HONIGBERG: Okay. Why don't  
11 we do that.

12 (WHEREUPON, JOHN SHULTZ, MICHAEL C.  
13 REED, JON ANTONUK, MICHAEL LADAM were  
14 duly sworn and cautioned by the Court  
15 Reporter.)

16 CHAIRMAN HONIGBERG: Who's going to  
17 go first? Ms. Geiger.

18 MS. GEIGER: Thank you. Good  
19 morning, Mr. Chairman and Commissioners. I'll  
20 start with Consolidated's witness, Mr. Shultz,  
21 please.

22 DIRECT EXAMINATION

23 BY MS. GEIGER:

24 Q. Mr. Shultz, did you submit prefiled rebuttal

1 testimony on this docket on May 18th, 2017?

2 A. (Shultz) Yes.

3 Q. And is the document that's been premarked for  
4 identification as Exhibit 30 your  
5 confidential rebuttal?

6 A. (Shultz) Yes.

7 Q. And is the document that's been premarked for  
8 identification as Exhibit 31 the redacted  
9 version of Exhibit 30?

10 A. (Shultz) Yes.

11 Q. And do you adopt your prefiled rebuttal  
12 testimony today under oath?

13 A. (Shultz) Yes.

14 Q. M. Shultz, are you familiar with the prefiled  
15 rebuttal testimony of Gabe Waggoner that was  
16 filed May 18th, 2017, in this docket on  
17 behalf of Consolidated?

18 A. (Shultz) I am.

19 Q. Is the document that's been premarked for  
20 identification as Exhibit 34 a highly  
21 confidential version of Mr. Waggoner's  
22 prefiled rebuttal testimony?

23 A. (Shultz) Yes.

24 Q. Is the document that's been premarked for

1 identification as Exhibit 35 the redacted  
2 version of Exhibit 34?

3 A. (Shultz) Yes.

4 Q. Do you adopt Mr. Waggoner's rebuttal  
5 testimony as your own testimony under oath  
6 today?

7 A. (Shultz) Yes.

8 Q. Thank you.

9 (Pause in proceedings)

10 MS. GEIGER: No further questions for  
11 Mr. Shultz.

12 CHAIRMAN HONIGBERG: You may proceed.

13 MR. PHILLIPS: Thank you, Mr.  
14 Chairman.

15 DIRECT EXAMINATION

16 BY MR. PHILLIPS:

17 Q. Mr. Reed, can you state your name and spell  
18 it, please.

19 A. (Reed) Yeah. Michael Reed, R-E-E-D.

20 Q. And by whom are you employed, and what is  
21 your title?

22 A. (Reed) FairPoint Communications,  
23 Incorporated. And I am the State President  
24 for Maine and Vermont.

1 Q. Did you previously submit prefiled direct  
2 testimony in this docket on January 13th,  
3 2017?

4 A. (Reed) Yes.

5 Q. And did you also testify before this  
6 Commission the first day of technical  
7 hearings on April 27th, 2017?

8 A. (Reed) Yes.

9 Q. Mr. Reed, did you submit prefiled rebuttal  
10 testimony in this docket on May 18th, 2017?

11 A. (Reed) Yes.

12 Q. And did that rebuttal testimony include two  
13 exhibits labeled respectively as "Reed  
14 Rebuttal 1" and "Reed Rebuttal 2"?

15 A. (Reed) Yes.

16 Q. Has your prefiled rebuttal testimony with its  
17 two exhibits been premarked as Exhibit 29?

18 A. (Reed) Yes.

19 Q. Was the rebuttal testimony prepared by you or  
20 under your direct supervision?

21 A. (Reed) Yes, it was.

22 Q. Do you have any changes or corrections you  
23 wish to make to your prefiled rebuttal  
24 testimony?

1 A. (Reed) No, I do not.

2 Q. Do you adopt the prefiled rebuttal testimony  
3 as your sworn testimony in this proceeding?

4 A. (Reed) Yes, I do.

5 Q. Thank you, Mr. Reed. I have no further  
6 questions at this time.

7 DIRECT EXAMINATION

8 BY MR. WIESNER:

9 Q. And Mr. Antonuk, for the record, would you  
10 please state your name, title and  
11 affiliation.

12 A. (Antonuk) Jon Antonuk, and I'm President of  
13 the Liberty Consulting Group.

14 Q. And was Liberty engaged to provide consulting  
15 services to Staff in connection with this  
16 matter?

17 A. (Antonuk) Yes.

18 Q. And did you submit prefiled testimony,  
19 together with Dr. Charles King, that has been  
20 marked for identification as Exhibits 12 and  
21 13?

22 A. (Antonuk) I did.

23 Q. And was that testimony, including the  
24 contributions of Dr. King, prepared by you or

1 under your direction and supervision?

2 A. (Antonuk) It was.

3 Q. Are there any corrections required to be made  
4 to that testimony?

5 A. (Antonuk) No.

6 Q. If I were to ask you the same questions  
7 today, would you provide the same answers on  
8 behalf of yourself and Dr. King?

9 A. (Antonuk) Yes.

10 Q. Do you adopt that testimony, including  
11 Dr. King's portion of that testimony, as your  
12 testimony for purposes of this hearing?

13 A. (Antonuk) Yes.

14 Q. Now I want to direct your attention to the  
15 original and revised prefiled testimony of  
16 Randall Vickroy, also of Liberty Consulting,  
17 which has been marked for identification as  
18 Exhibits 14 and 15 in confidential and public  
19 redacted forms, and the revised testimony  
20 marked for identification as Exhibits 26, 27,  
21 and 28, and those are highly confidential,  
22 confidential and public redacted Versions of  
23 his revised testimony. Was Mr. Vickroy's  
24 testimony prepared at your direction and

1 subject to your supervision?

2 A. (Antonuk) It was.

3 Q. And are you able to adopt Mr. Vickroy's  
4 testimony as your own for purposes of this  
5 hearing?

6 A. (Antonuk) Yes.

7 Q. Are there any corrections to be made to Mr.  
8 Vickroy's testimony as revised?

9 A. (Antonuk) No.

10 Q. If I were to ask you the same questions  
11 today, would you provide the same answers as  
12 were provided by Mr. Vickroy?

13 A. (Antonuk) I would.

14 Q. Thank you.

15 And Mr. Ladam, would you please state  
16 your full name for the record.

17 A. (Ladam) Michael Ladam.

18 Q. And please describe your position with the  
19 Commission.

20 A. (Ladam) I'm Director of Regulatory Innovation  
21 and Strategy at the Commission. That group  
22 also has responsibility for  
23 telecommunications staff functions. Before  
24 assuming my current position, I was Assistant

1 Director of the Telecommunications Division  
2 for six years.

3 Q. And were you directly involved in the  
4 evaluation of the proposed merger  
5 transaction, as well as in the negotiations  
6 that led to this Settlement Agreement?

7 A. (Ladam) I was.

8 Q. Thank you.

9 MR. WIESNER: No further questions  
10 for Staff witnesses.

11 CHAIRMAN HONIGBERG: So who's going  
12 to pick up the questioning about the Agreement?  
13 Ms. Geiger?

14 MS. GEIGER: That would be me. Thank  
15 you.

16 DIRECT EXAMINATION (CONT'D)

17 BY MS. GEIGER:

18 Q. Mr. Shultz, are you familiar with the  
19 Stipulation and Settlement Agreement dated  
20 May 24th, 2017, that has been premarked for  
21 identification as Exhibit 36 in this docket?

22 A. (Shultz) Yes.

23 Q. Could you please summarize the settlement  
24 terms and conditions which are contained in

1 Section 2 of Exhibit 36?

2 A. (Shultz) Certainly. There are approximately  
3 five themes that -- through the Settlement  
4 Agreement. The first one is that we would --  
5 we agreed to maintain the key personnel in  
6 the wholesale group that provides wholesale  
7 services to the CLECs for a 24-month period.

8 The second condition was for the CLECs.  
9 We would continue to honor the existing ICA  
10 agreements, interconnection agreements, for a  
11 24-month period.

12 We also, on OSS, or operational support  
13 systems, we agreed to continue to use the  
14 FairPoint change-management process. So, for  
15 any back-office changes to the provisioning  
16 system, ordering system, billing system that  
17 pertain to wholesale services, that would not  
18 be -- we'd follow that change-management  
19 process.

20 In addition, you know, over the next  
21 24-month period as we're evaluating systems,  
22 we would look at -- we would give a 180-day  
23 notification of any system change, which is  
24 above and beyond the current

1 change-management process, which I believe is  
2 around 73 days' notification. So we're  
3 giving a six-month notice for any changes,  
4 just so they can be better prepared for any  
5 system changes that might occur.

6 The other component is capital  
7 expenditures. We agreed to maintain  
8 13 percent of New Hampshire intrastate  
9 revenues for CAPEX; so, 13 percent times that  
10 revenue stream for a three-year period.

11 We also agreed to \$1 million per year  
12 for three years, basically to address -- in  
13 additional cap expenditure to address areas  
14 that have historical service quality and  
15 maintenance issues; so, places that get  
16 repeat trouble tickets, your more remote  
17 areas, making sure that those are upgraded so  
18 we can get those services aligned.

19 Also, there's an expenditure  
20 reconciliation at the end of that period to  
21 make sure that we hit those targets, both for  
22 the 13-percent CAPEX, as well as the \$1  
23 million network infrastructure component, or  
24 rehabilitation component.

1           The fourth item is the Synergy Plan  
2           update. Within three months of close, we  
3           would sit down with Staff and Labor and go  
4           through the Synergy Plan.

5           And then the last bullet item is the  
6           executive presence. We would have an  
7           executive presence in New Hampshire. At  
8           least one executive from Consolidated will be  
9           here. That's the summary of rebuttal.

10    Q.    Thank you.

11                    MS. GEIGER: I have no further  
12           questions for Mr. Shultz.

13                    CHAIRMAN HONIGBERG: Mr. Phillips or  
14           Wiesner?

15                    MR. PHILLIPS: I have no questions at  
16           this time.

17                    MR. WIESNER: Thank you. And I'll  
18           ask Mr. Antonuk and Mr. Ladam if they would  
19           please describe the proposed settlement terms  
20           and conditions from Staff's perspective, with a  
21           particular focus on how they addressed the  
22           concerns that were expressed in Staff's direct  
23           testimony.

24    A.    (Antonuk) I think it's important to begin

1 with the notion that we approached the matter  
2 recognizing that we're dealing with an  
3 existentially challenged business. It's got  
4 short-term challenges. It has opportunities  
5 as well. But I think it's important to keep  
6 in mind those challenges and the risks that  
7 they bring.

8 Our principal concern was the continued  
9 or accelerated deterioration in certain key  
10 parts of the business created a risk of rash  
11 response that could have deleterious impacts  
12 on basic service and service to wholesale  
13 providers as well.

14 Our primary goal, therefore, was to  
15 ensure a short protected transitional period  
16 allowing, but at the same time limiting,  
17 staff reductions, appeared to us a sound way  
18 of doing that. Staffing focus, therefore,  
19 formed the basis of our principal  
20 recommendation and our testimony. We have  
21 since been learning that there are  
22 difficulties in ensuring effective  
23 administration of that approach, which would  
24 not be perfect in any event, even if

1 perfectly implemented.

2 The Company proposed a Maine-founded  
3 approach that takes a different route; it  
4 addresses capital versus operation and  
5 maintenance. It is not perfectly comparable,  
6 but it does have some appeal. In particular,  
7 it directly responds to root causes of  
8 network performance issues affecting basic  
9 service. And as Michael Ladam can explain,  
10 it addresses wholesale service as well. In  
11 particular, we believe it enhances visibility  
12 about problems and solutions affecting basic  
13 service. It does so through regular  
14 reporting and dialogue with your Staff.  
15 Those interactions offer more insights -- or  
16 will offer more insights than now routinely  
17 exists into causes and their effects as  
18 concern the quality of basic service and  
19 wholesale service. It also offers greater  
20 ease of administration and consistency with  
21 Maine. We therefore find it acceptable as a  
22 path that does two things: It provides  
23 benefits that our principal recommendation  
24 was intended to accomplish and allows us to

1 move forward in an environment that remains  
2 challenging for telecom service providers  
3 like FairPoint has been and like Consolidated  
4 will continue to be.

5 Q. I guess I have a follow-up question for Mr.  
6 Antonuk. One of the other -- the other  
7 primary concern that was expressed in Staff's  
8 testimony addressed the potential for  
9 scavenging of pledged assets by a creditor in  
10 the event of a severe financial downturn of  
11 FairPoint/Consolidated following the merger.

12 Is there a provision in the Settlement  
13 Agreement which addresses that concern?

14 A. (Antonuk) There is. The concern was that,  
15 given the circumstances of the business, the  
16 potential for scavenging becomes ever more  
17 likely as business continues to deteriorate,  
18 assuming that it does. At present, FairPoint  
19 does not pledge its assets to creditors. It  
20 certainly could, but it does not. That  
21 pledge would exist after the change. There  
22 is a provision in the credit agreement that  
23 we found confusing with respect to Commission  
24 authority. Not being clear on what

1 "Commission authority" is with respect to the  
2 removal and sale of assets in a distress  
3 situation, we felt that it was appropriate to  
4 take some measure to clarify the Commission's  
5 ability to prevent that, and there is a  
6 provision that does so to the satisfaction of  
7 legal minds. If you recall in the testimony,  
8 we were very careful not to express a legal  
9 opinion but rather more a business concern  
10 based on language that as business people we  
11 have trouble interpreting.

12 Q. Thank you for that, Mr. Antonuk.

13 Mr. Ladam, can you provide a very  
14 high-level summary of the wholesale  
15 protections included in the Settlement  
16 Agreement and how Staff has determined that  
17 they are reasonable and appropriate under the  
18 circumstances?

19 A. (Ladam) There were three broad areas of  
20 concern that the Plan addresses. First,  
21 operational continuity and stability for  
22 CLECs; second, availability of wholesale  
23 services and prices for CLEC customers, and  
24 third, ensuring the facilities provided to

1 CLECs are adequate. The Plan addresses all  
2 three of those areas. Let me just highlight  
3 a couple of examples of that.

4 Consolidated has committed to not seek  
5 to repeal or replace the Wholesale  
6 Performance Plan that FairPoint had  
7 negotiated with and agreed with the CLEC  
8 community, with the involvement of Staff, any  
9 earlier than March 31st, 2019. That helps  
10 provide operational continuity and stability.

11 Consolidated will use and support  
12 FairPoint's existing operational support  
13 system platforms and ensure that the  
14 performance of the OSS is consistent with  
15 that Wholesale Performance Plan.

16 And as was mentioned earlier,  
17 Consolidated has agreed to identify key  
18 employees in its Wholesale Services Group and  
19 will not seek to remove them from their  
20 positions except for cause over the next two  
21 years. All of that helps address concerns  
22 about operational continuity.

23 Regarding availability of services and  
24 prices, Consolidated has committed to honor

1 interconnection agreements. In New  
2 Hampshire, that is less of a concern because,  
3 for the most part, agreements with CLECs are  
4 actually filed under tariffs here, and that  
5 remains in place as well. So, we believe --  
6 ICA filings, interconnection agreement  
7 filings, are relatively rare in New  
8 Hampshire, so there's less of a concern in  
9 this state. And the Agreement addresses it  
10 even where it does exist.

11 Regarding ensuring that facilities  
12 provided to CLECs are adequate, there is the  
13 commitment to live by the Wholesale  
14 Performance Plan which I mentioned earlier,  
15 and there is also incremental investment of  
16 \$1 million per year over the next three years  
17 in troublesome areas.

18 Q. Thank you.

19 MR. WIESNER: I have no further  
20 questions.

21 CHAIRMAN HONIGBERG: Mr. Rubin, do  
22 you have any questions for the Panel?

23 MR. RUBIN: No, I do not. Thank you,  
24 Mr. Chairman.

1 CHAIRMAN HONIGBERG: Mr. Scott.

2 INTERROGATORIES BY COMMISSIONERS:

3 Q. Good morning. My usual caveat is whoever  
4 feels best to answer, please do so.

5 I was looking for a little bit more  
6 specificity. When I look at the Settlement  
7 Agreement on Page 5, Item 4, I suspect maybe  
8 it's purposely vague. But can you help with  
9 "key employees"? Is there a definition of  
10 that? You know, are we talking five people?  
11 A hundred people? What does that mean? It's  
12 pretty opaque to me reading that.

13 A. (Shultz) Yes. Our viewpoint on that is  
14 FairPoint has a wholesale group that manages  
15 three states -- actually, manages the whole  
16 country. But most of the product is handled  
17 out of Maine, New Hampshire and Vermont  
18 markets. We have a very small group in  
19 Consolidated. We don't have as much activity  
20 as FairPoint. And the goal here is to have  
21 the FairPoint group manage that process  
22 company-wide. So, key employees would be the  
23 management and the labor employees that are  
24 associated with that. It's not really a

1 defined term. Probably hard to put on the  
2 record a name associated with that. However,  
3 you know, we're looking to try to keep the  
4 group as intact as possible; however, we also  
5 understand that, you know, during the course  
6 of business there are conditions that come up  
7 where people want to leave for various  
8 reasons, or retire. So we try to take that  
9 into account here. But "key" was just  
10 referencing, you know, the current management  
11 of that, as well as the labor force that's  
12 associated with that. So that's a  
13 long-winded way of getting to your answer.

14 Q. I guess I get a little more specificity there  
15 I suppose.

16 Let me move on, then, to the network  
17 investment. I think I heard Mr. Ladam say,  
18 he called it "incremental investment" of a  
19 million dollars. Can you help me with that?

20 So I guess, is there a baseline that  
21 what FairPoint invests right now that this  
22 would be incremental from? Or maybe you can  
23 explain that a little more?

24 A. (Shultz) Yes. Looking for a sheet here. One

1 second.

2 We looked at the last three years of  
3 what the spend was in comparison to its  
4 revenue stream. So, one of the -- you know,  
5 when you look at that external revenue times  
6 that percentage, we get a CAPEX spend. The  
7 one thing we had to normalize for is  
8 FairPoint's process is to -- all IT spend is  
9 booked in New Hampshire. For whatever  
10 reason, that's what they've done. So we've  
11 extracted that just to normalize it to  
12 strictly New Hampshire, and it averages about  
13 11 percent, 12 to 11 percent over the last 3  
14 years. So we kind of just said, Well, let's  
15 take a flat 13 percent and use that as the  
16 leaping-off point for the next three years.

17 Q. Can you give me an idea in absolute numbers?  
18 I saw that -- somewhere I saw 11, but I  
19 certainly -- 13's in the percentages in the  
20 Settlement Agreement. I was curious. So  
21 that equates to a million. So that would  
22 imply that in raw numbers, do public math  
23 here, obviously something less than that was  
24 spent in absolute numbers per year for

1 FairPoint?

2 MS. GEIGER: Excuse me, Commissioner  
3 Scott. We actually have stipulated to the  
4 premarking for identification of the  
5 confidential exhibit that would give some  
6 numbers and round out the record a little bit  
7 concerning this issue. And if I can approach  
8 now, I can actually hand them to you.

9 CMSR. SCOTT: Sure.

10 MS. GEIGER: And we may need to be  
11 put on the confidential record if we start  
12 talking numbers, but --

13 CMSR. SCOTT: And I'd love to see  
14 that. But I'm not going to need you to  
15 articulate a number. I was just curious to get  
16 a feel for it. So I think directionally it  
17 would be help for me.

18 A. (Shultz) If you could repeat the question for  
19 me, that would be helpful.

20 BY CMSR. SCOTT:

21 Q. Really, all I wanted was assurance that, and  
22 you've kind of said it with the percentages,  
23 that a million is more than it has been  
24 historically in the past three years, it

1 sounds like, spent by FairPoint for the same  
2 things.

3 A. (Shultz) Well, when you say "a million," are  
4 you referring to the Part 2 of this? There's  
5 two components. There's the current  
6 maintenance -- or current CAPEX spend, which  
7 is what the 13 percent is addressing. The  
8 million-dollar component is above and beyond.  
9 That's the incremental \$1 million. And  
10 that's targeting service quality areas or  
11 maintenance areas that have been neglected or  
12 not on the radar screen, lower in the queue  
13 that could be completed in the next three  
14 years.

15 Q. That's very helpful 'cause I was  
16 misunderstanding what the "incremental" was  
17 about. So that's --

18 A. (Shultz) So it's 13 percent plus the  
19 additional \$1 million for that three-year  
20 period. And there is a true-up mechanism  
21 each year. So we're going to sit down with  
22 Staff --

23 (Court Reporter interrupts)

24 A. So at the beginning of the process -- now,

1           this will be for the 2018, '19 and '20 time  
2           frame -- we will sit down in the summer, by  
3           September, and sit down with Staff and say  
4           here are the projects we're going to do for  
5           that million-dollar spend, okay. And then  
6           we'll sit down again in April of the  
7           following year and say, okay, here's what we  
8           did. So there is a true-up mechanism  
9           associated with that. There's also a penalty  
10          associated if we don't hit the mark. And the  
11          difference rolls over plus the penalties.  
12          And that's for both mechanisms, both the  
13          13 percent and the million.

14   Q.    Thank you. That helped clarify my -- Mr.  
15          Ladam. Sorry.

16   A.    (Ladam) If I could add a little bit to that.

17   Q.    Sure.

18   A.    (Ladam) We're talking about incremental as  
19          we've said to both the longer-term strategic  
20          investment of building up the network and to  
21          the month-to-month repairs that  
22          FairPoint/Consolidated has historically made.  
23          This is intended to be a million dollars on  
24          top of that. If you look at Paragraph 3 in

1 the Agreement, it states, "The settling  
2 parties acknowledge and agree that the  
3 Commission shall monitor and enforce each  
4 commitment." This is an area where, in order  
5 to do that, Consolidated will need to sit  
6 down with Staff and share information that we  
7 normally would not see and establish -- and  
8 make clear to us that this truly is  
9 incremental spending. That provision in here  
10 is, I think, very important in establishing  
11 that it truly is incremental. And we're  
12 pleased with that.

13 Q. Thank you for that.

14 And Mr. Antonuk, I wanted to follow up.  
15 You used the word "existentially challenged  
16 business" I think; is that correct?

17 A. (Antonuk) I did.

18 Q. So, obviously, one of our goals is to make  
19 sure that CCI can maintain, you know, basic  
20 service as an ILEC. Can you elaborate a  
21 little more how this Settlement Agreement  
22 does that or ensures that?

23 A. (Antonuk) Yeah. Well, let me say first, I  
24 think from an existential point of view, the

1 financial strength that Mr. Vickroy talks  
2 about pretty extensively is reassuring on a  
3 comparable basis. I think at least in the  
4 near term, the existential challenges are  
5 less immediate. So I think we need to keep  
6 that as a basic frame of reference. I don't  
7 think this settlement or any can really deal  
8 with the kind of outside-the-market forces  
9 that create those challenges. I was kind of  
10 shaken, I think about a week or so ago, when,  
11 you know, the streak was -- I'm sorry -- the  
12 markets were all running agog with the story  
13 about whether Frontier is going to survive  
14 financially. And I think their revenues are  
15 something like 11 times the size of CCI. So  
16 I'm really not sure there is way to deal with  
17 those. And you'll see from our approach, we  
18 took a short-term approach just saying, look,  
19 to the extent that challenges increase in the  
20 near term, we just want to make sure these  
21 folks have a plan before they act to make  
22 drastic changes. I'm afraid that's all the  
23 assurance I can offer you from an existential  
24 point of view. You know, there's a lot

1           happening technologically. There's a lot  
2           happening in terms of what businesses are  
3           planning to do and want to do. A lot changes  
4           I think from, you know, quarter to quarter on  
5           what those plans consist of. Those plans  
6           extend from operators much smaller than CCI  
7           to some of the biggest corporations in the  
8           country. So where things are going in terms  
9           of basic service I think is very difficult to  
10          say. I think you can count me as a  
11          pessimist.

12        Q.    I'm not sure I feel better.

13        A.    (Antonuk) I don't feel very good about it  
14              myself, but I think it's a matter of saying  
15              what can we do about it.

16        Q.    I don't want to forget Mr. Reed. I think  
17              I've hit everybody else. I believe the  
18              answer, so I understand, a while ago we had a  
19              proceeding on broadband build-out and  
20              service-quality penalties. That's all long  
21              behind the company now? That build-out's all  
22              done now; correct?

23        A.    (Reed) Yes. Yes, it is, Commissioner. Yes.

24                                    CMSR. SCOTT: That's all.

1 CHAIRMAN HONIGBERG: Commissioner  
2 Bailey.

3 CMSR. BAILEY: Thank you.

4 BY COMMISSIONER BAILEY:

5 Q. Good morning. The first question I have goes  
6 to the statement that you made, that you  
7 commit to honor interconnection agreements  
8 for the next two years. And I'm trying to  
9 understand or figure out why you wouldn't  
10 have to honor those interconnection  
11 agreements. I mean, if FairPoint is staying  
12 in place, then under what scenario would you  
13 not have to honor those?

14 A. (Shultz) Let me clarify it. This is actually  
15 coming from Maine, where we have CLEC  
16 intervenors. And the issue wasn't  
17 necessarily honoring, it was we will not  
18 amend or seek to amend or renegotiate an  
19 agreement. So, for that two-year period  
20 we're keeping -- even though they're in  
21 evergreen status, we're keeping those  
22 agreements in place for a two-year period,  
23 regardless. So when I say "honor," we're  
24 agreeing not to seek to renegotiate the

1 agreements over that two-year period.

2 Q. Okay. So all of the interconnection  
3 agreements are in the evergreen status?

4 A. (Shultz) As far as I know, yes.

5 Q. Okay. Is FairPoint or the new -- and when I  
6 say "FairPoint," I mean the new  
7 "Consolidated/FairPoint" -- is that company  
8 willing to negotiate changes to  
9 interconnection agreements that CLECs ask for  
10 in this two-year period, or it also a  
11 stay-out on their part?

12 A. (Shultz) No. If they request to renegotiate  
13 an agreement or to negotiate a new agreement  
14 if it's a new CLEC, we will continue to do  
15 that.

16 Q. Okay. I think I understand this now, but I  
17 want to cover the agreement not to change the  
18 OSS. And in Mr. Antonuk's testimony, he  
19 pointed out in your 10K, I think,  
20 Consolidated says, "Operating synergies are  
21 created through use of consistent platforms."

22 So is it your plan to maintain the CLEC  
23 operating systems as they are and perhaps  
24 move FairPoint onto your ERP platform sooner

1           rather than later? Or tell me a little bit  
2           about what you expect, what you mean by your  
3           operating support systems.

4       A.    (Shultz) Sure. The ERP system, the  
5           enterprise platform for finance and HR  
6           benefits system, that will occur within the  
7           first six months. They're already discussing  
8           how to properly do that and make sure that  
9           we're all in one financial system. So that's  
10          the first transition that will occur. After  
11          that, over the next 18 to 24 months we will  
12          sit down and compare systems and applications  
13          that we have between the two companies. And  
14          on the wholesale side, you know, the ordering  
15          systems, FairPoint uses SynchronOSS, we use  
16          SynchronOSS; so we're compatible there. We  
17          use CABS -- or CDG for CABS, and so does  
18          FairPoint.

19                           (Court Reporter inquiry)

20       Q.    What's CABS?

21       A.    (Shultz) Carrier Access Billing System.

22                           So that's the wholesale billing system.  
23                           Where we differ is on the circuit inventory.  
24                           FairPoint uses MetaSolv, we use Netcracker.

1 We used to use MetaSolv. So we'll see what  
2 the benefits are there. But that's going to  
3 take some time to get to that point and  
4 identify. And, you know, we will eventually  
5 get to a singular system. It's just a  
6 question of we're not sure which direction  
7 it's going to go.

8 Q. Do you have an interface right now that CLECs  
9 use?

10 A. (Shultz) For ordering, yes. And the CLECs  
11 for FairPoint have a GUI interface, as well  
12 as a direct connection interface. So that's  
13 not going to go away, and that's more likely  
14 not going to get touched. It's going to  
15 be -- you know, that circuit application will  
16 be probably the main one that gets addressed  
17 in that.

18 Q. Okay.

19 A. (Shultz) And we'll sit down with the CLECs  
20 once we decide which one that is and if it  
21 impacts them at all. Theoretically, it  
22 should be behind the scenes for them. And if  
23 they're going through the GUI, it really  
24 shouldn't impact them at all if done

1 properly.

2 Q. And with respect to your ERP transitions,  
3 you've had successful mergers and  
4 consolidation of those systems that is  
5 relevant?

6 A. (Shultz) Yes we have.

7 Q. I think Mr. Antonuk wants to say something.

8 A. (Antonuk) No, I was just going to say we  
9 asked a lot of questions of the Company in  
10 discovery, and I think we were reasonably  
11 satisfied on the ERP side. So, you know, I  
12 think the way it was described is kind of  
13 what we understood. It's fairly typical in  
14 that kind of time frame for a change in ERPs.  
15 It is not uncommon. It sometimes takes  
16 longer. But it can go quickly, and it  
17 usually goes with relative efficiency in most  
18 cases.

19 Q. How do you test whether the billing is going  
20 to be accurate?

21 A. (Shultz) Well, when we sit down to do an  
22 integration, we'll sit down and volume and  
23 stress-test the system to make sure it's  
24 scalable to include the Company that we're

1           acquiring.

2   Q.   And you're kind of doubling your access  
3       lines.

4   A.   (Shultz) Right, which -- excuse me -- we've  
5       done in the past. So we've tripled one with  
6       Texas -- I mean with TXU Communications, and  
7       we doubled one with SureWest. So we  
8       understand the systems have to be very  
9       flexible and scalable. So we'll do a volume  
10      and stress test on that system before we even  
11      get into the actual conversion. And when  
12      we -- once that volume and stress test is  
13      done, then we get into the actual  
14      applications. And all the functional leads  
15      that touch the billing system will be  
16      involved and have a say in that. And, you  
17      know, we'll do parallel tests to make sure  
18      the billing before and billing after are the  
19      same. And there's usually a little change,  
20      and that's usually because of taxes and how  
21      they're applied. But aside from that, you  
22      know, we make sure that out to several  
23      standard deviations it's correct. And then  
24      we have a process where each of the

1 functional leads that touch the system will  
2 have a say in whether it goes or it doesn't  
3 go. And we have to have total buy-in in  
4 order to do that.

5 When we were doing the SureWest  
6 conversion, we actually delayed it six months  
7 because we didn't feel comfortable that it  
8 was ready yet. So we took that additional  
9 six months, made some corrections to it, and  
10 it went very smoothly. And so we have the  
11 ability to peel back and say let's stop, make  
12 sure we're doing it right so we don't have  
13 any fallout, customer fallout from any type  
14 of big conversions.

15 Q. Will any of the FairPoint employees be  
16 functional leads?

17 A. (Shultz) Yes.

18 Q. Okay. And Mr. Reed, are there still  
19 FairPoint employees that were involved in the  
20 last billing conversion and system  
21 conversion? Are there any left?

22 A. (Reed) Yeah. Yes, there are, Commissioner.

23 Q. Okay. Another question for you, Mr. Reed.  
24 You said that you are the president for Maine

1 and Vermont. And I notice we don't have a  
2 president in New Hampshire. Is that correct?

3 A. (Reed) No, you do. Mr. McHugh is the State  
4 President for New Hampshire.

5 Q. Oh, that's right.

6 A. (Reed) It's just in this proceeding I'm  
7 acting as the FairPoint representative across  
8 multiple states, not just Maine, New  
9 Hampshire and Vermont.

10 Q. Okay. Is he going to be the executive that  
11 stays on FairPoint's side as agreed to in the  
12 settlement? Do we know?

13 A. (Shultz) We're still talking to employees.  
14 So he and I haven't had a chance to talk  
15 about next steps.

16 Q. So is it possible that Mr. Reed could just  
17 take over all three states and that would be  
18 the executive, or we're going to have an  
19 executive in New Hampshire?

20 A. (Shultz) I will be moving to New Hampshire.  
21 I'm in the process of doing that now. So,  
22 from Consolidated's perspective, I'm  
23 responsible for all the regulatory. So I  
24 will be in Manchester.

1 Q. Okay. Help me with the details of the  
2 Agreement. Is the agreement that you'll have  
3 a FairPoint executive and a Consolidated  
4 executive, or one or the other?

5 A. (Shultz) Well, we view it as Consolidated  
6 going forward, so it would be a Consolidated  
7 executive, whether it was former FairPoint or  
8 existing Consolidated.

9 Q. Okay. So, by you moving to the state of New  
10 Hampshire, you would fulfill the obligation?

11 A. (Shultz) Yes. Yes.

12 Q. Okay. Do you have any operational  
13 experience?

14 A. (Shultz) I am responsible for billing, from  
15 that perspective.

16 Q. So who -- and as the executive in New  
17 Hampshire, would you be responsible  
18 ultimately for operations?

19 A. (Shultz) Not overall operations. But I will  
20 have access to operations, not direct  
21 reports. Our state presidents don't have  
22 direct operational reports today. But we  
23 will have access to those VPs and directors  
24 and management that --

1 Q. So who's ultimately responsible for  
2 operations?

3 A. (Shultz) Gabe White [sic] is --

4 Q. Is that a FairPoint person or a Consolidated?

5 A. (Shultz) He's a Consolidated person. And  
6 then he has people under him that will be in  
7 New Hampshire.

8 Q. Are the FairPoint employees who are currently  
9 responsible for operations staying?

10 A. (Shultz) They'll still be here.

11 Q. And is that part of the agreement, that  
12 you're not going to move key employees for  
13 two years?

14 A. (Shultz) Well, the wholesale is the  
15 agreement. I mean, there will be shifts  
16 elsewhere. But, you know, the folks that are  
17 running the network operations, field  
18 operations that report up through Gabe  
19 Waggoner. Today, FairPoint has, you know,  
20 John Lunny and Steve Rush, and those folks  
21 will be on for a period of time. So we'll  
22 have people from FairPoint reporting to Gabe  
23 that will be in New Hampshire, will be in  
24 Vermont and will be in Maine.

1 Q. Okay.

2 A. (Ladam) If I could share at a high level?  
3 Staff's interest in having Consolidated  
4 executives located here was to ensure that  
5 there was a channel of communications  
6 concerning the situation in New England back  
7 to corporate headquarters. We had a separate  
8 concern that existing FairPoint executives be  
9 retained at some level to ensure  
10 institutional memory. So we thought of those  
11 as two separate goals, and the commitment  
12 includes somewhat vague statements on both  
13 those fronts.

14 Q. But you're satisfied that there's enough  
15 assurance that people with New Hampshire  
16 experience are going to stick around for a  
17 little while to keep the business a going  
18 concern?

19 A. (Ladam) I'm satisfied that it's a good  
20 agreement. I'm appreciative that talking  
21 about staffing and commitments gets very  
22 tricky with the various parties involved.  
23 And this is an area where I believe we've  
24 reached a meeting of minds, even if it isn't

1 entirely within the commitment itself --

2 Q. What is that "meeting of minds"?

3 A. (Ladam) For example: We have not talked  
4 about the ERP function in the Settlement  
5 Agreement; however, we have previously  
6 shared, yes, we will be cutting over ERP  
7 because that's something we can do safely.  
8 OSS, Consolidated appreciates has greater  
9 risk of problems and keeping that in place  
10 for two years is in the agreement. That  
11 level of sharing information, sometimes some  
12 of which doesn't make it into the Settlement  
13 Agreement, is what I'm talking about.

14 Q. Okay. Do you have any understanding about  
15 their plans for operations?

16 A. (Ladam) I will share the observation that the  
17 capital build-out that is part of the  
18 Agreement will necessarily involve a  
19 substantial head count in the New England  
20 states. And beyond that, I don't think I  
21 could safely venture beyond that.

22 A. (Shultz) If I could add to that?

23 Q. Sure.

24 A. (Shultz) I mean, the concept behind the

1 13 percent, as well as the additional  
2 incremental \$1 million, you know, it takes  
3 field ops folks to maintain that network, new  
4 network growth to build the network,  
5 engineers to design it. So the folks that  
6 are doing that today will continue to do that  
7 because, you know, we're putting in I think  
8 an aggressive plan over the three years, at  
9 least, you know, with the additional  
10 3 million, plus the CAF requirements that we  
11 have. There's a lot of activity that's going  
12 to require head count, experienced head count  
13 that knows New Hampshire.

14 Q. Thank you. That's what I was looking for,  
15 "experienced head count that knows New  
16 Hampshire."

17 A. (Antonuk) Can I, being through experience  
18 much more focused on what the words in the  
19 Agreement says what plans are?

20 Q. Sure.

21 A. (Antonuk) Paragraph 18 says one in New  
22 Hampshire at the executive level. It says  
23 some FairPoint executives in Northern New  
24 England." "Some" is more than one. And it

1 says some Consolidated executives. That's  
2 more than one. So, more than one twice  
3 equals at least four in Northern New England.  
4 So I think the right way to look at  
5 executive, maintaining the executive presence  
6 is really more from what I call a Northern  
7 New England perspective than a New Hampshire,  
8 per se, perspective. Frankly, I think a  
9 minimum of four executives in Northern New  
10 England for that period of time is somewhat  
11 comforting. I've actually seen, you know,  
12 mergers in more stable industries where  
13 there's less residual leadership.

14 I think there's certainly a lot of merit  
15 in saying with significant capital  
16 expenditures it makes it less likely that  
17 you're going to see a loss of people on that  
18 side. I think the question where you have to  
19 rely on inertia rather than any kind of  
20 agreement, particularly on the operations and  
21 maintenance side, that's going to be customer  
22 service, you know, reps, and the people who  
23 do repair work, you know, because those are  
24 not covered by the commitments. But on the

1 capital side, certainly it's going to be  
2 pretty difficult to make these investments  
3 logically if they make cuts that are  
4 particularly drastic in those areas. It just  
5 wouldn't seem to make business sense even  
6 under tougher financial conditions than exist  
7 today.

8 Q. And theoretically, the competitive market  
9 will help with repair, and customer service  
10 should help ensure that that doesn't  
11 deteriorate.

12 A. (Antonuk) I think that's certainly the theory  
13 behind the statutory construct in New  
14 Hampshire.

15 Q. Okay. Thank you.

16 Can anybody point to me in the record an  
17 org chart that would show what we're talking  
18 about when we're talking about "executives"?  
19 How do I know -- I mean, I understand, Mr.  
20 Shultz, that you're an executive. But is Mr.  
21 Lunny an executive or...

22 (Witness reviewing documents.)

23 MS. GEIGER: I think I can help out.  
24 I believe as an attachment to Consolidated's

1 rebuttal testimony there's an org chart that  
2 goes two levels down below management, if I'm  
3 not mistaken. If you look at --

4 CMSR. BAILEY: Can you tell me who  
5 the name of the --

6 MR. WIESNER: It's a confidential  
7 exhibit; right?

8 MS. GEIGER: It is. It's a  
9 confidential exhibit. It's attached to Mr.  
10 Shultz's rebuttal testimony at the very end,  
11 MJS-4, the last few pages that are attached to  
12 the confidential version of his testimony.

13 CMSR. BAILEY: Do you happen to know  
14 the exhibit number?

15 CHAIRMAN HONIGBERG: Is that  
16 Exhibit 30?

17 MS. GEIGER: It's Exhibit 30.

18 CMSR. BAILEY: Can we talk through  
19 it? I can't put my hand on that exhibit right  
20 now, but I'll find it later. Or is it  
21 something that shows what I'm looking for, but  
22 we can't say it on the public record?

23 A. (Shultz) It has what you're looking for. I  
24 just hesitate to say some of the names.

1 Q. Say the positions. That's what I'm  
2 interested in.

3 A. (Shultz) Sure. So we have for the FairPoint  
4 people staying on, is that --

5 Q. I just want to know are all the people in  
6 this exhibit executives?

7 A. (Shultz) Yes.

8 Q. And is there anybody lower than those people  
9 in those positions, executives?

10 A. (Shultz) Just double-checking.

11 (Witness reviews document.)

12 A. (Shultz) I would say they're executives, yes.

13 Q. Those are the universe of executives in the  
14 new company post-close?

15 A. (Shultz) Yes. I don't think I'm missing  
16 anyone.

17 Q. Okay. Mr. Reed, does that include the  
18 FairPoint executives that are coming over  
19 or --

20 A. (Reed) I'm sorry. I'll have to review this.

21 Q. Okay.

22 A. (Reed) Well, Mike should --

23 A. (Shultz) If I may? There are FairPoint  
24 executives today that are on this chart in

1 various groups.

2 Q. Okay. All right.

3 A. (Shultz) I can give you titles if that helps  
4 or --

5 Q. Well, the exhibit says what the titles are.

6 A. (Shultz) Yes, yes.

7 Q. And Commissioner Scott found it for me, so I  
8 can see it. Thank you.

9 A. (Shultz) You're welcome.

10 Q. Okay. I'd like to talk about Paragraph 19.  
11 And that says -- and Mr. Antonuk, you may be  
12 able to help with this, but I'd like to start  
13 with Mr. Shultz, or maybe Mr. Reed.

14 No transfer may occur without the  
15 approval required under RSA 374:30,I. And  
16 RSA 374:30,I, excepts Commission approval for  
17 the transfer, lease or contract by an  
18 excepted local exchange carrier. So what  
19 does that provision do for us?

20 A. (Shultz) My understanding is that it --  
21 basically, any of the regulated assets would  
22 have to be -- any transfer of the regulated  
23 assets would have to be approved by the PUC.

24 Q. But not under 374:30, I, is it? Does anybody

1 on the panel know what that --

2 A. (Shultz) I'm not familiar with that  
3 particular statute.

4 (Panel members reviewing document.)

5 CHAIRMAN HONIGBERG: While the  
6 witnesses are looking at that, it strikes me as  
7 largely a legal question. So I'm wondering if  
8 it might be appropriate, instead of having  
9 these witnesses try to play lawyer for a few  
10 minutes, whether it would make more sense for  
11 the lawyers to share their views. Maybe not  
12 this second, but maybe when we're done talking  
13 facts with witnesses we could talk law with the  
14 lawyers. I see some nodding heads among the  
15 lawyers. That's always encouraging.

16 A. (Antonuk) Mine, too.

17 A. (Shultz) And the witnesses.

18 BY CMSR. BAILEY:

19 Q. So, then, in the second provision it says  
20 that it has to be approved by the Commission  
21 under 374:30,I, "if applicable," which I'd  
22 like to hear how it's applicable. And then  
23 the rest of that sentence says, "The findings  
24 of the Commission required to be made under

1 374:30,II, if the proposed buyer or  
2 transferee is going to be an ILEC, ELEC."  
3 Well, what happens if the creditor sells to  
4 somebody who doesn't want to be an ILEC,  
5 ELEC? Does that mean that the -- can the  
6 creditor sell the assets just to make money  
7 if the business is failing?

8 A. (Shultz) If we're in a situation where the  
9 lender is looking to exit and sell the  
10 property, it's going to sell all of it.  
11 That's where it's going to have most value.  
12 And whether it's to another holding company,  
13 an ILEC in another state or to another  
14 company that's in New Hampshire, they're  
15 going to have to seek some form of status in  
16 New Hampshire and determine whether it's an  
17 ILEC or ELEC. I don't -- they have to make a  
18 decision, to me, how they're going to set  
19 this up, and it's going to have get approval  
20 by the PUC. I don't see any other way that  
21 they can sell the asset without having  
22 Commission approval.

23 Q. Is that consistent with your understanding of  
24 the Credit Agreement, Mr. Antonuk?

1 A. (Antonuk) I think from a historical point of  
2 view it would have been safe to make the  
3 assumption that taking pieces of the network  
4 for sale would not make much sense. I guess  
5 I don't really have a lot of comfort making  
6 the assumption on a going-forward basis that  
7 that's always going to be true, which was the  
8 basis of our concern. I think we were never  
9 uncomfortable with the adequacy of protection  
10 for transferring the whole system. I think  
11 we were saying is if the business -- if  
12 certain areas of the market in New Hampshire  
13 becomes such that pieces of the network that  
14 serve that part of the state could be sold  
15 off, I assume they would be, you know.

16 Q. And they could be without our approval under  
17 this Agreement?

18 A. (Antonuk) Well, I don't know. But I will  
19 tell you that after reading the Credit  
20 Agreement, it wasn't clear that your approval  
21 was required, which was the basis for our  
22 recommendation. I think, as the Chair said,  
23 it's probably best left to the lawyers to  
24 decide whether the language here does or

1 doesn't prevent that. I don't have an  
2 opinion on that.

3 Q. But there's language --

4 A. (Antonuk) Too many years since I was a  
5 lawyer, so I don't answer legal questions  
6 anymore.

7 Q. There's language in the Credit Agreement  
8 that's vague enough that this would clarify  
9 that agreement with respect to the  
10 obligations of the utility you think?

11 A. (Antonuk) I think really the lawyers have to  
12 tell you whether they think this language  
13 clearly says that if somebody wants to remove  
14 a key part of the network and sell it, that  
15 you'll get a chance to say yea or nay. I  
16 don't really know. I can't answer that.

17 Q. Mr. Shultz, I think that your scenario where  
18 they sell the whole entire business probably  
19 would require some Commission involvement  
20 because you have an obligation now as an  
21 ELEC, and you can't abandon that obligation  
22 without Commission authority.

23 A. (Shultz) Correct.

24 Q. Do you understand that?

1 A. (Shultz) Yes.

2 Q. But I do have -- I would like some kind of  
3 legal interpretation to make sure that if the  
4 creditors try to sell part of your business,  
5 that we, that the Commission would have some  
6 input on that or some approval authority on  
7 that because it could affect basic service,  
8 the provision of basic service.

9 A. (Shultz) Couple things to add. When I read  
10 through the Credit Agreement, there's a  
11 section, a definition section in the  
12 Agreement that talks about "special purpose,"  
13 which are regulated assets that would require  
14 authority by the FCC or the PUC before they  
15 could do anything with those assets. So  
16 that's in the agreement. And then there's a  
17 Section 5 in the Collateral Agreement, 5.1 or  
18 5(B) that talks about how the disposal would  
19 occur. And again, it needs, from my --  
20 again, I'm not an attorney. But my reading  
21 of this, it required Commission approval. So  
22 I think there's language in there that covers  
23 that. Historically, through the previous,  
24 you know, FairPoint bankruptcy, or any other

1 bankruptcy that I'm aware of, there's never  
2 been a lender that sold pieces parts. It's  
3 always been selling the whole piece to  
4 another entity.

5 Q. But typically utility assets aren't pledged.

6 A. (Shultz) I don't know that for certain  
7 because Consolidated has always pledged its  
8 assets since I've been with the company, and  
9 that's 14 years.

10 Q. Okay.

11 (Discussion between Commissioners.)

12 CHAIRMAN HONIGBERG: We're going to  
13 suspend questioning of the witness for a minute  
14 and have a conversation with the lawyers about  
15 the issues that Commissioner Bailey raised. So  
16 who wants to start? Looks like Ms. Geiger,  
17 you're grabbing the microphone.

18 MS. GEIGER: Yes, I can try, Mr.  
19 Chairman. I appreciate the question.

20 I think the Company's position on  
21 this issue is laid out in Mr. Childers'  
22 testimony which has been premarked as an  
23 exhibit in this proceeding by agreement of  
24 the parties, and which, by the stipulation,

1 the procedural stipulation I've submitted his  
2 affidavit, and so the testimony is under  
3 oath. And if you look at the, I think either  
4 the confidential or redacted versions of Mr.  
5 Childers' rebuttal testimony, the Company's  
6 position on the issue of this Commission's  
7 authority to grant prior approval to any sale  
8 by a creditor is laid out. And so you begin,  
9 I think it starts at the bottom of Page 21.  
10 But I think if you look at the top of  
11 Page 22, there Mr. Childers lays out his  
12 interpretation and understanding of  
13 Section 5.1(B) of the Collateral Agreement.  
14 And the language that I am assuming is  
15 unclear to Mr. Antonuk is set out in Lines 11  
16 through 18 of that exhibit. And the bolded  
17 and underlined language by Mr. Childers,  
18 which is then explained in his testimony, I  
19 think can be read to mean that this  
20 Commission must give either prior approval,  
21 or you will get notice and an opportunity not  
22 to oppose any sale of the collateral by a  
23 lender. So it's the Company's position that  
24 this Commission would have to give approval

1 if a lender -- if the Company were in a  
2 default situation and a lender sought to  
3 transfer those assets to a third party.

4 CHAIRMAN HONIGBERG: You reference  
5 the possibility of notice and then an  
6 opportunity to object to. That would be in the  
7 context of a bankruptcy proceeding?

8 MS. GEIGER: I believe that's  
9 correct. And I don't know why those words were  
10 chosen. But that would be how I would  
11 understand them to operate.

12 Said another way, I think the  
13 Commission is aware that with a utility  
14 bankruptcy, this Commission would obviously  
15 get notice of that occurrence. It would have  
16 an opportunity to file an appearance -- or  
17 the State of New Hampshire could, on behalf  
18 of the Commission, file an appearance in the  
19 bankruptcy court. And then, before any of  
20 that bankruptcy estate and the assets of the  
21 Company are disposed of, the Commission would  
22 obviously have an opportunity to say  
23 something about that.

24 CMSR. BAILEY: Do the creditors have

1 the opportunity to sell assets if there isn't a  
2 bankruptcy pending?

3 MS. GEIGER: I don't know the answer  
4 to that question, so I can't offer a legal  
5 opinion sitting here today.

6 CMSR. BAILEY: Could we get one?

7 MS. GEIGER: Sure. I mean, I would  
8 have to consult with the Company first. I'm  
9 not a bankruptcy attorney, and no one in my law  
10 firm is a bankruptcy attorney. So I can't say  
11 that with certainty. I'd have to check with  
12 the Company.

13 CMSR. BAILEY: I guess what I really  
14 just want to understand is, is it possible for  
15 the creditors to sell the assets, a portion of  
16 the assets, not the whole entire business, and  
17 could they do it in a situation other than  
18 bankruptcy?

19 MS. GEIGER: I guess what I'm saying  
20 is I don't know the answer to that. But I read  
21 the words of this Collateral Agreement to mean  
22 that, even if a creditor could do that, could  
23 sell those assets outside of the bankruptcy  
24 setting, that this Commission would have to

1 give approval of that sale.

2 CMSR. BAILEY: Okay.

3 CHAIRMAN HONIGBERG: And what would  
4 our authority for that approval be if -- as I  
5 read 374:30, it seems to except that from being  
6 within our authority. Is the authority just  
7 the Agreement that we have in front of us and  
8 the documents that the associated with the  
9 transaction, that the Agreement allows it to go  
10 forward, that we're -- the parties are agreeing  
11 to come to the Commission in the event that  
12 this happens, even though you might not have a  
13 statute that says you can do it?

14 MS. GEIGER: I think that's certainly  
15 the case. The commitment's been made by  
16 Consolidated in that event. However, I'm just  
17 going to turn to Mr. Wiesner on this because I  
18 think it was Staff that suggested the inclusion  
19 of the reference to 374:30, I as authority for  
20 the proposition that a lender would be required  
21 to come before the Commission to seek approval.

22 MR. WIESNER: I think the question --  
23 and this gets somewhat complicated, and we were  
24 trying to cover it both ways -- who is the

1 seller in the situation and what is its  
2 regulatory status? So you could look at the  
3 secured party, the lender, and you can say,  
4 well, they're not an ELEC in New Hampshire, nor  
5 have they ever been recognized as a public  
6 utility in New Hampshire, but they're  
7 purporting to sell assets which are subject to  
8 New Hampshire jurisdiction, regulated as a  
9 public utility or an ELEC, which is a  
10 subcategory of public utilities.

11 But part of my analysis was who's  
12 doing the selling here? One way to look at  
13 it is to pledge -- it's a two-part sale. The  
14 pledge of assets by FairPoint, the ELEC, to  
15 the lender is part one of the transfer of  
16 ownership. And then the secured party's  
17 sale -- foreclosure, if you will, or taking  
18 its rights under the UCC Article 9 to sell  
19 those assets to a buyer is the second part of  
20 the sale. So, seen in that light, it would  
21 be effectively the ELEC's sale of assets,  
22 which would be under 374:30,II. But if you  
23 say the secured party was never recognized as  
24 an ELEC and is a secured party making the

1 sale, the secured party then is making a sale  
2 of assets which are used in the provision of  
3 public utility services in New Hampshire, and  
4 therefore it is a public utility subject to  
5 Subparagraph 1 -- or Paragraph 1 of  
6 RSA 374:30. So the intent in referring to  
7 either one is just to sort of cover it either  
8 way and address -- resolve the issue by  
9 agreement of the parties without deciding  
10 exactly how it should be considered in the  
11 unlikely event that it ever occurs.

12 What's more on my review right now,  
13 what seems to muddy the waters a little bit,  
14 is the phrase that says, "If the proposed  
15 buyer/transferee is operating or will operate  
16 as an ILEC, ELEC in New Hampshire," because  
17 under the first analysis that I outlined,  
18 where you look at the secured party sale as  
19 part two of a transfer which was initiated by  
20 FairPoint as an ELEC, it really is an ELEC  
21 sale of regulated assets, and it shouldn't  
22 matter who the buyer is; although, the  
23 finding would have to be that the buyer has  
24 the financial, managerial and technical

1           capability to perform the obligations of an  
2           ELEC, ILEC in New Hampshire, which it  
3           presumably would not be able to do if it was  
4           in some other state.

5                         CHAIRMAN HONIGBERG:   Mr. Wiesner,  
6           does the language that you were just alluding  
7           to at the end of that paragraph, does it only  
8           apply to the circumstances that are identified  
9           as "if applicable," the third to the last line?  
10          So, to the extent that there's an obligation  
11          being undertaken under one, which I think is  
12          the scenario you articulated, where the  
13          creditor comes in and takes and then seeks to  
14          resell, that's not the -- that doesn't -- isn't  
15          modified by the end of the paragraph, as I read  
16          the structure of the paragraph.   But I'm doing  
17          law on the fly.   Although I practiced law more  
18          recently than Mr. Antonuk, not here, not doing  
19          this.

20                        MR. WIESNER:   I think I would agree  
21          that the language beginning, "If the proposed  
22          buyer/transferee is operating or will operate"  
23          modifies the second part of Paragraph 19 that  
24          refers to 374:30,II.

1                   CHAIRMAN HONIGBERG: Does that give  
2 you some comfort or just raise more questions?

3                   MR. WIESNER: Well, I think what  
4 we're getting at here -- and the language  
5 probably could be better drafted. There's  
6 always a risk in pulling together things on  
7 short notice. I think what we're trying to say  
8 is any way you analyze this, an approval or  
9 finding is going to be required by the  
10 Commission because these are regulated assets  
11 of a telephone utility operating in New  
12 Hampshire. If you look at the secured party as  
13 effectively at the time it takes ownership or  
14 it exercises the right to sell to someone else  
15 as a public utility, even if never recognized  
16 or regulated as such for that instant in time,  
17 then it would be subject to Paragraph 1. If,  
18 on the other hand, if you analyze it and say  
19 it's really a two-step transfer of ownership,  
20 FairPoint to creditor, creditor to buyer, then  
21 FairPoint's side of it at the time when the  
22 secured party sale is proposed to be  
23 consummated is an ELEC, and 374:30,II would  
24 apply, and would apply regardless of who the

1           buyer is. On the other hand, the findings that  
2           need to be made are that the buyer has the  
3           technical capability to operate as an ELEC,  
4           ILEC in New Hampshire, and that would not be  
5           the case unless the "if" clause is satisfied.  
6           Does that help?

7                           CHAIRMAN HONIGBERG: Probably,  
8           although it leads me to think that there's some  
9           level of -- or there's still a lack of  
10          precision or clarity in terms of the agreement  
11          reflecting the parties' intent. I mean, you  
12          all reached an agreement. And how that was  
13          reduced to writing may have been done quickly,  
14          and this paragraph may not quite capture what  
15          the parties fully intend. I'm not sure of  
16          that. But the fact that we're still discussing  
17          it gives me some pause. I'm wondering if we  
18          can advance the ball anyway, however, and move  
19          beyond this paragraph for now, do what else we  
20          can, and maybe at the end, when we're done, the  
21          parties can -- we'll finish the hearing. We  
22          can leave the record open if we need to. And  
23          the parties can have a discussion about whether  
24          this language in fact does what they want it to

1 do or whether they want to revise it in some  
2 way. It may be fine. You all may conclude  
3 that it does exactly what you mean and you'll  
4 be able to explain that briefly or not, or just  
5 say this is it, this is what it says. Or you  
6 can file something else. I'm really just  
7 thinking out loud at this point as to how we  
8 proceed. I see some nodding heads to my left,  
9 your right, Mr. Wiesner.

10 MR. WIESNER: I think that would be  
11 helpful. There may be a better formulation of  
12 the language that would address and reflect the  
13 parties' meeting of the minds on this issue and  
14 while removing some of the ambiguity that we've  
15 just been discussing. And it's possible to do  
16 that and file an amendment in short order which  
17 would be admitted as a subsequent exhibit. Now  
18 I'm thinking out loud. But that would be one  
19 way in my mind to address that.

20 CHAIRMAN HONIGBERG: Ms. Geiger, Mr.  
21 Phillips, does an approach like that make  
22 sense?

23 MS. GEIGER: I think that makes sense  
24 to me. I've seen that done before. Whether we

1 submit a whole -- if we feel that we need to  
2 reword this provision, then we can substitute a  
3 page rather than executing a whole new  
4 agreement. I think we can substitute a page  
5 and initial it or something like that.

6 CHAIRMAN HONIGBERG: And I guess  
7 before we close, since we just suspended  
8 questioning these witnesses, either  
9 Commissioner Bailey or I can make sure that  
10 they understand the conversation that took  
11 place among the lawyers. And if that is  
12 consistent with their understanding of what the  
13 intentions are, that might help you all then  
14 sit down afterwards and decide whether the  
15 language does that. Does that make sense to  
16 everybody? All right. I see nodding heads  
17 among the lawyers. That's good.

18 Commissioner Bailey, you may  
19 continue.

20 CMSR. BAILEY: Thank you.

21 BY COMMISSIONER BAILEY:

22 Q. So is it the Panel's understanding that the  
23 Commission would have approval authority in  
24 the event that there was any sale of assets,

1           whether partial sale of the assets or a  
2           complete sale of the assets? Was that your  
3           understanding, Mr. Ladam?

4    A.   (Ladam) To the extent that those assets are  
5           used to provide basic local service or  
6           wholesale service, meaning regulated service  
7           in New Hampshire.

8    Q.   Okay.

9    A.   (Ladam) If, for example, it was an asset used  
10          only to provide broadband service, we would  
11          not think that that was required. But the  
12          intention was that this language be inclusive  
13          and capture every instance of where they  
14          might sell an asset used to provide regulated  
15          service. It was not intended to carve out  
16          exceptions.

17   Q.   Well, if they were allowed to sell the  
18          broadband assets, which we don't have any  
19          authority over, I understand, and that led to  
20          a business that was no longer a going concern  
21          and then they wouldn't be able to provide  
22          basic service, wouldn't that be a problem?

23   A.   (Ladam) The intention -- it could,  
24          conceivably. The intention here was to have

1 a firm agreement that, if the asset is used  
2 to directly provide a regulated service, they  
3 could not do that. For example: A Class-5  
4 switch, they could not sell that to another  
5 phone company in a different state.

6 Q. But they could sell their FiOS assets -- or  
7 the former Verizon FiOS assets.

8 A. (Ladam) For example, switches used to provide  
9 FiOS, yes. We were -- Staff was not worried  
10 about them taking fiber down from the poles.  
11 Or they could sell those -- to the extent  
12 that the FiOS assets are being used to  
13 provide a regulated service, they would not  
14 be able to. And I don't know the internal  
15 bookkeeping, whether some assets classified  
16 as FiOS might in fact be carrying traffic  
17 that is used by wholesale customers or to  
18 provide basic local service.

19 Q. The Ethernet new switches that they put in a  
20 few years ago, do those -- Mr. Reed, do  
21 those -- are those used in the provision of  
22 basic service?

23 A. (Reed) I'm not exactly sure which switches  
24 you're referring to. There are some

1 Ethernet-only capability, and they would  
2 provide VoIP service, but not the basic  
3 service.

4 A. (Shultz) A lot of the facilities are  
5 mixed-use and would qualify as a regulated  
6 asset, even though it might be predominantly  
7 used for broadband or something to that  
8 effect. So I think the language we're -- why  
9 we're comfortable with it is it covers, you  
10 know, 95 percent of the overall assets based  
11 on the mixed-use form of it. So I think  
12 we're covered.

13 Q. Okay. Does Consolidated have plans to add  
14 value to this business?

15 A. (Shultz) Yes.

16 Q. Can you tell me what those are?

17 A. (Shultz) Well, based on our previous  
18 acquisitions, we're looking to -- we feel we  
19 can add value by just rolling out some new  
20 products and services that FairPoint doesn't  
21 have today.

22 Q. Like?

23 A. (Shultz) For example: We have home  
24 automation. We have home security. We have

1           some business offerings on Ethernet, as well  
2           as MPLS, that will actually help grow  
3           commercial as well as grow residential. We  
4           do -- historically we have pushed out  
5           broadband in all of our territories. So when  
6           you look at our broadband speeds and our  
7           footprint, we're a little over 90 percent  
8           greater than -- or are at 20 meg or greater.  
9           So, you know, we're proud that we keep  
10          pushing that and growing that every year.  
11          So, for New Hampshire, we would see growth in  
12          broadband. We would also see growth in  
13          different products. Over-the-top is another  
14          product that we'll roll out. We're offering  
15          that in our other states. We do offer linear  
16          video, but the economics on that right now  
17          aren't necessarily the best, so we probably  
18          would hold that off for a while. But those  
19          are the types of services we'll add pretty  
20          quickly.

21        Q.    What kind of plant will you have to add to go  
22              to 20 meg broadband?

23        A.    Well, we can do that with pair bonding. But  
24              as we're pushing out CAF, it also "fattens

1 the pipe," so to speak, and allows more  
2 bandwidth for those that are closer.

3 Q. How do you "fatten" that pipe? Do you  
4 install more fiber or --

5 A. (Shultz) Well, it's fiber. It's, you know,  
6 removing some of the conditions on the  
7 copper, you're shortening the loop lengths.  
8 And as you shorten those loop lengths, more  
9 people will have greater speeds.

10 Q. Mr. Reed's rebuttal testimony suggested that  
11 Consolidated expanded its due diligence in  
12 the weeks and months following the  
13 announcement of the transaction. Could you  
14 tell me if you learned anything from that  
15 expanded due diligence?

16 A. (Shultz) Yes. We learned, first of all,  
17 we're able to talk to more people, which is  
18 always helpful. We understood a little more  
19 of the processes and some of the holes that  
20 aren't necessarily at a high level that you  
21 would see. So, the network maintenance  
22 issues are --

23 Q. Network maintenance as a whole?

24 A. (Shultz) Well, just, you know, looking at

1 service quality and talking with each of the  
2 state commissions, you know, there was  
3 concern about the historical maintenance of  
4 the network. So, you know, we looked at  
5 those. We looked at additional central  
6 offices. We looked at, you know, poles and  
7 cabinets out in the field. And, you know, we  
8 were satisfied that a lot of what we saw was  
9 similarly situated to what we have in our  
10 existing property. The seals all looked good  
11 and were maintained the way they should be  
12 maintained. But we also understand that you  
13 can't see everything on a copper wire, you  
14 know, hanging on a pole. So, you know, we  
15 understand that there's some -- which is the  
16 reason why we offer the additional  
17 incremental capital that we did was to  
18 address those things we didn't know.

19 But, you know, in talking with  
20 additional FairPoint people, you know, we  
21 identified that, yeah, there's some areas  
22 that have historical issues, and here are  
23 some things that we can do that will provide  
24 value pretty quickly in certain areas when it

1 comes to product roll-outs, where there's  
2 potentially areas from a commercial  
3 perspective where we can put in what we call  
4 "fiber area network nodes" that are to a  
5 building or a couple buildings, and then we  
6 can fan out from there and hit residential as  
7 well as commercial. So there's some market  
8 opportunities that would benefit folks in New  
9 Hampshire.

10 Q. Have you identified the areas or some of the  
11 areas that you think need maintenance  
12 improvements?

13 A. (Shultz) Specifically, I don't know those off  
14 the top of my head. But, you know, we will  
15 have a list of areas. And it's probably  
16 going to be more rural areas that we're  
17 talking about. So it's not going to be  
18 Manchester or Concord, but places probably  
19 further north and to the west that would have  
20 historical service issues, or service report  
21 issues.

22 Q. Mr. Ladam, are you comfortable that you'll be  
23 able to analyze what they need to do that's  
24 incremental compared to what they need to do

1           anyway?

2       A.     (Ladam) Yes.  As I said, Item 3 talks about  
3           the Commission having the authority to review  
4           that.  And there is a commitment to meet with  
5           us and provide us with information, some of  
6           which will be on a confidential basis.

7       Q.     Okay.

8       A.     (Shultz) We will actually have a report that  
9           will show areas by exchange, by a route, you  
10          know, X-number of poles where there's  
11          historical trouble.  And it's a pretty  
12          detailed report that we'll share with Staff,  
13          and that will be part of the project list  
14          that we talked about with incremental.

15      Q.     Okay.  Thank you.

16                           CMSR. BAILEY:  I think that's all I  
17          have.

18      BY CHAIRMAN HONIGBERG:

19      Q.     The only thing I want to do is follow up on  
20          Commissioner Scott's very first question, Mr.  
21          Shultz, having to do with the commitment in  
22          Paragraph 4, at the top of Page 5, related to  
23          key employees associated with the Wholesale  
24          Services Group.

1           How many employees total today are in  
2           FairPoint's Wholesale Services Group? Mr.  
3           Reed or Mr. Shultz, anybody know?

4           A.    (Shultz) I'd say about 20 directly.

5           Q.    All right. That helps give us the order of  
6           magnitude of what we're talking about. So  
7           we're talking about some number 20 or lower,  
8           not 200 or 500 that are being covered by this  
9           paragraph; correct?

10          A.    (Shultz) Correct.

11          A.    (Reed) Approximately.

12          Q.    And I guess for Mr. Antonuk and Mr. Ladam,  
13          your view of this is that it's the right  
14          thing to do at this time, even though in the  
15          larger scheme of things this may not, you  
16          know, ever be what it was or the kind of  
17          business that was flourishing a decade or two  
18          ago. But today, for what we're looking at,  
19          we should be approving this agreement;  
20          correct?

21          A.    (Antonuk) Yes.

22                   CHAIRMAN HONIGBERG: All right. I  
23           have nothing further.

24                   Do any of the lawyers have any

1 further questions for their witnesses?

2 MS. GEIGER: I do not. Thank you.

3 MR. PHILLIPS: I have nothing  
4 further.

5 MR. WIESNER: Nor do I.

6 CHAIRMAN HONIGBERG: All right. Then  
7 I think we're done with the witnesses. They  
8 can either stay where they are or return to  
9 their seats. It's entirely up to them.

10 (Witness Panel excused.)

11 CHAIRMAN HONIGBERG: I think all we  
12 need to do is hear from the parties to give  
13 their brief summations. You've already  
14 stipulated to the exhibits being full exhibits,  
15 so we don't need to do anything there.

16 Ms. Geiger.

17 MS. GEIGER: Excuse me, Mr. Chairman.  
18 One thing I would note is that, by agreement  
19 during settlement negotiations, we agreed to  
20 submit what we provided to you as Confidential  
21 Exhibit No. 38. I do have a redacted version  
22 of that, that I will give to the clerk as well.  
23 What I did not do, because we had not submitted  
24 it to the Commission, nor was it in discovery,

1 is to seek confidential treatment of that  
2 either by a written motion or otherwise. And  
3 so I need to do that orally now, just to ask if  
4 the Commission would confer confidential  
5 treatment to what's been marked, or premarked  
6 as Exhibit 38.

7 (Chairman reviews document.)

8 CHAIRMAN HONIGBERG: Does anyone have  
9 any objection to that?

10 MR. PHILLIPS: No objection.

11 MR. WIESNER: No objection.

12 CHAIRMAN HONIGBERG: Mr. Rubin?

13 MR. RUBIN: Sorry. No objection.

14 CHAIRMAN HONIGBERG: So we'll accept  
15 that and probably deal with it in the order.

16 MS. GEIGER: All right. Thank you.

17 CHAIRMAN HONIGBERG: Is there  
18 anything else before we let you sum up? The  
19 order we're going to go will be Mr. Rubin,  
20 Mr. Wiesner, Mr. Phillips and Ms. Geiger.

21 So, Mr. Rubin.

22 CLOSING STATEMENTS BY PARTIES

23 MR. RUBIN: Thank you. Mr. Chair and  
24 Commissioners. As you've seen in the papers

1           that were filed, the Labor Intervenors neither  
2           support nor oppose the proposed settlement.  
3           The basic reasons for that is, while we are  
4           pleased to see Consolidated make some  
5           commitment to the state of New Hampshire, it is  
6           not the complete level of commitment we were  
7           hoping for. Consolidated is committing to  
8           keeping financial resources in the state for  
9           certain purposes for a three-year period.  
10          While that helps the people who work in the  
11          field, that does not do anything for the people  
12          who work in call centers and other activities  
13          that are not directly related to, you know,  
14          capital investment and direct maintenance  
15          activities. So, essentially we found this to  
16          be a very positive development, but not  
17          sufficient to meet all of our concerns. But we  
18          believe that the commitments being made are  
19          sufficient to allow us to stop advocating for  
20          anything more before this Commission. There  
21          are obviously other avenues through which labor  
22          unions and management will try to work out the  
23          other issues that we have. So my clients  
24          certainly look forward to working with

1 Consolidated in hopefully addressing the other  
2 concerns that we have. Thank you.

3 CHAIRMAN HONIGBERG: Thank you,  
4 Mr. Rubin.

5 Mr. Weisner.

6 MR. WIESNER: Thank you, Mr.  
7 Chairman. As you heard from the Staff  
8 witnesses this morning, Staff believes that the  
9 settlement terms and conditions provide a  
10 reasonable alternative to address the concerns  
11 that Staff had expressed in its direct  
12 testimony regarding this transaction and  
13 provide important commitments and reflect  
14 important key obligations undertaken by  
15 Consolidated in coming to the state to succeed  
16 to -- or to merge with FairPoint and continue  
17 its operations in New Hampshire. And we  
18 believe they are just and reasonable and in the  
19 public interest and support the findings that  
20 are required to be made by the Commission under  
21 374:30,II.

22 CHAIRMAN HONIGBERG: Thank you, Mr.  
23 Wiesner.

24 Mr. Phillips.

1                   MR. PHILLIPS: Thank you, Mr.  
2                   Chairman. FairPoint supports this settlement.  
3                   In FairPoint's view, Consolidated brings a  
4                   tremendous amount of new strength, financial  
5                   strength, flexibility of services, enhancement  
6                   of services. Our view from the outset has been  
7                   that Consolidated is technically, managerially,  
8                   and financially capable of maintaining  
9                   FairPoint's ILEC, ELEC obligations going  
10                  forward. The settlement represents and  
11                  underscores Consolidated's commitment to the  
12                  state of New Hampshire and strengthens the  
13                  position that Consolidated brings to the state  
14                  in its petition. So we are happy to see this  
15                  commitment made. We urge the Commission to  
16                  make the requisite findings under the statute  
17                  and to adopt the stipulation in its entirety.  
18                  Thank you.

19                  CHAIRMAN HONIGBERG: Thank you, Mr.  
20                  Phillips.

21                  Ms. Geiger.

22                  MS. GEIGER: Thank you, Mr. Chairman.  
23                  Consolidated respectfully submits that the  
24                  weight of the evidence in this document,

1 coupled with Consolidated's commitment as  
2 reflected in the Stipulation and Settlement  
3 Agreement, enables the Commission to make the  
4 findings required under RSA 374:30,II, that  
5 Consolidated is technically, managerially and  
6 financially capable of maintaining the  
7 obligations of an incumbent local exchange  
8 carrier which are set forth in RSA 362:8 and  
9 RSA 374:22-p.

10 As the Commission's aware,  
11 Consolidated and FairPoint are entering into  
12 an agreement and a transaction that's very  
13 different from the one in 2007, whereby  
14 FairPoint acquired Verizon's assets and had  
15 to develop operating systems and then cut  
16 over to those systems to provide service to  
17 its customers. In the instant transaction,  
18 which is a stock transaction, Consolidated is  
19 purchasing FairPoint, a going concern, and  
20 therefore, there is no system cutover that  
21 needs to occur post-close initially.

22 FairPoint's operating companies are  
23 going to remain intact. They'll continue to  
24 meet their ILEC, ELEC obligations in New

1 Hampshire in a seamless fashion. FairPoint's  
2 current ILEC obligations are being met, and  
3 they will continue to be maintained by  
4 Consolidated. In addition, FairPoint's  
5 obligations under the Federal  
6 Telecommunications Act to provide services to  
7 CLECs, rural exchange carriers,  
8 inter-exchange carriers and wireless  
9 carriers, and to serve as an eligible  
10 telecommunications carrier, or an ETC, will  
11 continue to be met by Consolidated. While  
12 Consolidated may be new to New Hampshire,  
13 they are not new to telecommunications.  
14 Consolidated companies include ILECs and  
15 CLECs. Its seven regulated telecom companies  
16 provide traditional voice service, network  
17 access, private lines and wholesale digital  
18 subscriber line services. All of  
19 Consolidated's subsidiaries are designated as  
20 "ETCS" under federal law and serve as  
21 carriers of last resort or their equivalent  
22 under state law.

23 Like FairPoint, Consolidated's  
24 ILECs have interconnection requirements, as

1 well as pole attachment and primary tandem  
2 responsibilities. Consolidated also has  
3 extensive CLEC experience in operations. In  
4 short, Consolidated clearly possesses the  
5 technical, managerial and financial  
6 capabilities to assume FairPoint's ILEC  
7 obligations in New Hampshire.

8 As you heard from Mr. Shultz today,  
9 since 2004, Consolidated has successfully  
10 integrated five companies. And in 2004,  
11 Consolidated tripled the size of its then  
12 company. In 2012, Consolidated nearly  
13 doubled the size of that company when it  
14 acquired SureWest. Consolidated's  
15 substantial experience in successfully  
16 integrating acquired companies demonstrates  
17 that the Company is capable of operating  
18 FairPoint and maintaining all of its ILEC  
19 responsibilities under New Hampshire law.  
20 Consolidated's commitments in the Stipulation  
21 and Settlement Agreement underscore that and  
22 provide further assurance of those  
23 capabilities.

24 Consolidated would like to thank

1 Commission Staff for all of their efforts in  
2 this docket, which have resulted in what we  
3 believe to be a very just and reasonable  
4 settlement agreement which Consolidated  
5 supports and would respectfully ask the  
6 Commission to approve in its entirety without  
7 change.

8 Lastly, as we've mentioned in our  
9 filings, the closing date for this proposed  
10 transaction is June 30th of this year. So  
11 therefore, we would respectfully ask, in  
12 order to have a final, non-appealable order  
13 in place so that that transaction can close  
14 as scheduled, that the Commission issue an  
15 order in this docket by the end of May.  
16 Thank you very much.

17 CHAIRMAN HONIGBERG: Thank you, Ms.  
18 Geiger.

19 I think the only thing, then, is  
20 we'll leave the record open for the parties  
21 to discuss whether any modification of the  
22 language in the Agreement needs to be made.  
23 And I think we would ask that you file  
24 something to tell us how that discussion

1 resolves. And I know that there's urgency to  
2 the timing, so you'll act quickly on that.

3 If there is nothing else, then we  
4 will adjourn today and hear from you and  
5 issue an order as quickly as we can. Thank  
6 you all.

7 (Whereupon the hearing was adjourned at  
8 11:17 a.m.)

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