

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

May 25, 2010 - 9:20 a.m.
Concord, New Hampshire

DAY 2
A.M. SESSION ONLY
PUBLIC

**RE: DT 10-025
FAIRPOINT COMMUNICATIONS, INC.
REORGANIZATION**

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Clifton C. Below
Commissioner Amy L. Ignatius
Jody Carmody, Clerk

APPEARANCES:

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P R O C E E D I N G S

CHAIRMAN GETZ: Okay. Good morning, everyone. We'll open the hearing in Docket DT 10-025. And the first order of business today is the panel of Ms. Weatherwax and Ms. McLean.

Is there anything we need to address before hearing from the panel?

MR. McHUGH: No, Mr. Chairman. It's not for the specific panel, but my understanding is very late last night a pleading got filed with the bankruptcy court. We're trying to get a PDF of that filing this morning. And as soon as I have it, we'll have people have copies made. I really don't know what it is. My understanding is it was a very short --

CHAIRMAN GETZ: By somebody. Other than FairPoint?

MR. McHUGH: No, it was a Paul Hastings FairPoint filing. I just don't know what got filed last night. A couple parties had asked me this morning. It was filed, you know, close to midnight. So, as soon as we have it we'll provide copies. I think under the

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1 regulatory settlement we've agreed to make these
2 filings with the Commission within one or two
3 business days. But in any event, I'll produce it
4 this morning as soon as we have it.

5 CHAIRMAN GETZ: Okay. Thank
6 you.

7 MR. McHUGH: You're welcome.

8 CHAIRMAN GETZ: Please
9 proceed.

10 MR. McHUGH: FairPoint calls
11 Ms. Weatherwax and Ms. McLean. Thank you.

12 (WHEREUPON, the witnesses were duly
13 sworn and cautioned by the Court
14 Reporter.)

15 **VICKY WEATHERWAX, SWORN**

16 **KATHLEEN McLEAN, SWORN**

17 **DIRECT EXAMINATION**

18 **BY MR. McHUGH:**

19 Q. Good morning, Ladies. Ms. Weatherwax, let
20 me start with a few questions for you. Can
21 you state for the record your full name and
22 your title with FairPoint Communications.

23 A. (Ms. Weatherwax) Vicky Weatherwax,
24 Vice-President of Internal Business

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[WITNESS PANEL: WEATHERWAX|McLEAN]

1 Solutions.

2 Q. And Ms. Weatherwax, how long have you been
3 with FairPoint?

4 A. (Ms. Weatherwax) Since April of 2007.

5 Q. And are you the same Ms. Weatherwax who
6 prefiled testimony in this docket, dated
7 February 24, 2010, which we have premarked
8 as FairPoint Exhibit 12P for public, and C
9 for confidential?

10 A. (Ms. Weatherwax) Yes.

11 Q. Has that testimony -- I'm sorry. Is that
12 testimony true and accurate in all material
13 respects?

14 A. (Ms. Weatherwax) Yes.

15 Q. Do you adopt that testimony under oath here
16 today in these proceedings?

17 A. (Ms. Weatherwax) Yes.

18 Q. Ms. McLean, could you state for the record
19 your full name and your title with
20 FairPoint, please.

21 A. (Ms. McLean) My name is Kathleen McLean.
22 M-C-L-E-A-N. I am an Executive
23 Vice-President and Chief Information Officer
24 at FairPoint.

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1 Q. And how long have you been the Executive
2 Vice-President and CIO for FairPoint?

3 A. (Ms. McLean) I joined FairPoint on
4 March 15th of this year.

5 Q. And are you co-sponsoring Ms. Weatherwax's
6 prefiled testimony that I've just identified
7 for the record?

8 A. (Ms. McLean) I am.

9 Q. And have you previously reviewed the
10 testimony of Ms. Weatherwax?

11 A. (Ms. McLean) Yes, I have.

12 Q. And is it true and correct to the best of
13 your knowledge in all material respects?

14 A. (Ms. McLean) Yes, it is.

15 Q. And you adopt that testimony as your sworn
16 testimony in these proceedings today?

17 A. (Ms. McLean) I do.

18 Q. And as you're new to the company, could you
19 just explain to the Commission, Ms. McLean,
20 very briefly your background and history.

21 A. (Ms. McLean) Sure. Before joining FairPoint
22 I was a senior vice-president at Verizon in
23 their Partners Solutions Organization, where
24 I had responsibility for 9,000 global

[WITNESS PANEL: WEATHERWAX|McLEAN]

1 employees, responsible for enterprise and
2 wholesale ordering, provisioning and
3 maintenance. I joined Bell Atlantic in 1998
4 into their IT organization, where I had
5 responsibility for advanced technology and
6 the construction of the wholesale systems.
7 I was a witness here in New Hampshire and in
8 14 other jurisdictions in Verizon's 271
9 proceedings on matters related to OSS.

10 Q. And Ms. McLean, could you just state briefly
11 for the Commission the purpose of your and
12 Ms. Weatherwax's testimony here today in
13 these proceedings.

14 A. (Ms. McLean) I'm sorry?

15 Q. Could you -- I'm sorry. Microphone's not
16 on. Oh, they are.

17 Could you just please state for the
18 Commission very briefly the purpose of your
19 testimony here today and Ms. Weatherwax's
20 testimony today.

21 A. (Ms. McLean) We're here to discuss matters
22 related to the customer delivery improvement
23 program and other general IT matters.

24 MR. McHUGH: Thank you, Mr.

[WITNESS PANEL: WEATHERWAX|McLEAN]

1 Chairman. The witnesses are available for
2 cross-examination.

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

5 MR. ROTH: I have no
6 questions.

7 CHAIRMAN GETZ: Ms. Hatfield?

8 MS. HATFIELD: Thank you, Mr.
9 Chairman.

10 **CROSS-EXAMINATION**

11 **BY MS. HATFIELD:**

12 Q. Good morning.

13 A. (Witness Panel) Good morning.

14 Q. Ms. Weatherwax, I believe in your testimony
15 you discussed a number of IT staff that
16 FairPoint has or is planning to have. Do
17 you recall that?

18 A. (Ms. Weatherwax) I do.

19 Q. And I thought I heard Mr. Newitt testify
20 yesterday that the plan was to have 100 IT
21 staff. Did I hear him correctly?

22 A. (Ms. Weatherwax) You did.

23 Q. So does FairPoint have 100 now, or is that a
24 plan that you're working towards?

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1 A. (Ms. Weatherwax) I'm going to refer that to
2 Kathleen. It's her staff.

3 A. (By Ms. McLean) Mr. Newitt referred to the
4 in-house IT budget. So there are
5 approximately 100 -- actually, it's 123
6 FairPoint IT employees. And there are
7 approximately 200 Capgemini consultants who
8 are part of the IT team. So Mr. Newitt was
9 referring to the employees, not to the total
10 force.

11 Q. And I think he also testified to the fact
12 that over time the expectation is the number
13 of Capgemini people working for FairPoint
14 will decline. Is that correct?

15 A. (By Ms. McLean) That's correct.

16 Q. And as that happens, will the number of
17 FairPoint IT staff increase?

18 A. (By Ms. McLean) That's not the plan. So we
19 are still -- we had a surge, obviously, in
20 the number of IT people as we did systems
21 conversions. And as we reduce the amount of
22 change we're making to the systems, we'll
23 reduce the force in the consulting staff.
24 But the expectation is not that that would

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1 be substituted with employees.

2 Q. Thank you. Ms. Weatherwax, also in your
3 testimony, including on Page 12, you
4 discussed the CDIP program road map. Do you
5 recall that?

6 A. (Ms. Weatherwax) Yes, I'm there.

7 Q. And I'm wondering if you have any updates or
8 if there are any changes to the progress in
9 that area since you filed your testimony.

10 A. (Ms. Weatherwax) Yes. We're now at
11 78-percent complete. We've completed 6 of
12 the sub-- of the 15 projects, and we're
13 still tracking for final completion in
14 September for all 15.

15 MS. HATFIELD: Thank you very
16 much. Nothing further.

17 CHAIRMAN GETZ: Mr. Linder?

18 MR. LINDER: I have no
19 questions. Thank you.

20 CHAIRMAN GETZ: And Mr.
21 Kennan?

22 MR. KENNAN: Thank you, Mr.
23 Chairman.

24

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CROSS-EXAMINATION

1
2 **BY MR. KENNAN:**

3 Q. Good morning, Ms. Weatherwax and Ms. McLean.

4 A. (Ms. Weatherwax) Good morning.

5 Q. Page 4 of your testimony, please? On
6 Line 9, you referred to the fact that during
7 the last six months of 2009, FairPoint made
8 3,101 distinct deployment changes, fixes and
9 enhancements to FairPoint systems?

10 A. (Ms. Weatherwax) Yes.

11 Q. So that's an average of something over 500
12 per month?

13 A. (Ms. Weatherwax) That's correct.

14 Q. And when we were in Vermont last week, or
15 two weeks ago, I asked you, and you
16 responded, as I recall, that in March the
17 equivalent number was 405 deployments.
18 March of 2010?

19 A. (Ms. Weatherwax) That's correct.

20 Q. And 350 in April?

21 A. (Ms. Weatherwax) That's correct.

22 Q. Plus 25 to 30 every Monday?

23 A. (Ms. Weatherwax) Yes, for the variance.

24 MR. KENNAN: Sorry. I should

[WITNESS PANEL: WEATHERWAX|McLEAN]

1 use the microphone. I apologize.

2 BY MR. KENNAN:

3 Q. And that number would be approximately equal
4 in January and February.

5 A. (Ms. Weatherwax) Yes.

6 Q. In each of January and February.

7 A. (Ms. Weatherwax) Yes.

8 Q. And Ms. -- so we're averaging about 500
9 deployments a month between July of 2009
10 through April of 2010.

11 A. (Ms. Weatherwax) Yes.

12 Q. And Ms. McLean, in Vermont, you tried to
13 draw a contrast between FairPoint and
14 Verizon, that in your last month of Verizon
15 you made 358 deployments in the CAB system.
16 Do you recall that?

17 A. (By Ms. McLean) Yes. I was trying to draw a
18 comparison of just the amount of change in
19 information technology systems for companies
20 like FairPoint and Verizon.

21 Q. Well, FairPoint has what? About 2 million
22 access lines?

23 A. (By Ms. McLean) Approximately, to the best of
24 my knowledge, yes.

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1 Q. And Verizon has 2 million access lines in
2 Massachusetts alone maybe?

3 A. I don't know by state. But access lines is
4 not the only driver of change to OSS. The
5 OSS support the business practices of the
6 organization, as well as the operation of
7 the organization. And as I pointed out,
8 simply counting the number of things that
9 change doesn't tell you anything. You have
10 to understand what functionality is being
11 implemented and what the purpose of that
12 functionality is. So, simply a number of
13 changes is neither a good thing nor a bad
14 thing.

15 Q. But the numbers are what they are.

16 A. (By Ms. McLean) The numbers are what they
17 are.

18 Q. And as you were just stating in response to
19 questions by Ms. Hatfield, the IT group, or
20 the IT department, has approximately 300
21 people working with it now?

22 A. (By Ms. McLean) Correct.

23 Q. And 100 are FairPoint employees and 200 are
24 Capgemini contractors?

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1 A. (By Ms. McLean) Correct.

2 Q. I'd like to ask about the CDIP program, if I
3 may. I gather that this grew out of a
4 report that the consultants from Accenture
5 provided to FairPoint; is that correct?

6 A. (Ms. Weatherwax) That's correct.

7 Q. And the purpose of the CDIP initiatives are
8 to improve the systems, so as to enhance the
9 delivery of customer service?

10 A. (Ms. Weatherwax) Not just to improve the
11 systems, but to improve the business. We've
12 identified areas where we put people in
13 place, processes in place, and, yes, some
14 system improvements.

15 Q. And the CDIP programs have approximately 15
16 initiatives?

17 A. (Ms. Weatherwax) That's correct.

18 Q. And the 300 people in the IT department are
19 working on the CDIP initiatives?

20 A. (Ms. Weatherwax) Not exclusively. CDIP is
21 one of many initiatives that we're doing to
22 improve our customer and business.

23 Q. The CDIP programs are not done yet?

24 A. (Ms. Weatherwax) They are not completed.

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1 Q. On Page 31 of your testimony you list
2 projects on the IT road map for 2010?

3 A. (Ms. Weatherwax) That's correct.

4 Q. And these, what you've listed in your
5 testimony, are five or six projects that are
6 over and above the CDIP initiatives?

7 A. (Ms. Weatherwax) Yes.

8 Q. And that's -- I thought I just understood
9 you to say the same IT department that is
10 working on the CDIP initiatives are also
11 working on these additional projects under
12 the IT road map?

13 A. (Ms. Weatherwax) That's correct.

14 Q. And as you've noted on Page 33, one of these
15 projects is to customize the Siebel system
16 for the sales team, the enterprise services
17 group and the government and educational
18 group?

19 A. (Ms. Weatherwax) That's correct.

20 Q. And on Page 33, Line 7, you refer to these
21 as "enhancements"?

22 A. (Ms. Weatherwax) Yes.

23 Q. Also on Page 33, the second bullet point, IT
24 is planning improved business intelligence

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1 reporting?

2 A. (Ms. Weatherwax) That's correct.

3 Q. And although the IT department can do this
4 today, it's a manual process?

5 A. (Ms. Weatherwax) No. We're going to enhance
6 the business intelligence reporting. We are
7 doing much of our reporting automatedly.

8 Q. On Line 12 and 13 of your prefiled
9 testimony, you say, "Today IT is able to
10 generate many of these reports, but this
11 manual process is time-intensive." Are you
12 saying that's not correct?

13 A. (Ms. Weatherwax) Some of the reports that
14 we're creating are manually processed. Some
15 of the reports that we're creating are not.

16 Q. And those that are manual --

17 A. (Ms. Weatherwax) Additionally, these are
18 enhancements, and they're under development
19 right now. They are not being deployed at
20 this point. On Page 31, it talks about
21 these are on the road map. They're being
22 planned. They're not all of them being
23 implemented at this point.

24 Q. With respect to the business intelligence

[WITNESS PANEL: WEATHERWAX|McLEAN]

1 reporting, I gather that you're trying to
2 automate it to save time?

3 A. (Ms. Weatherwax) Yes.

4 Q. Now, this situation that you cite, that
5 manual reporting is time-intensive -- or
6 excuse me -- manual processes are
7 time-intensive, that condition is not unique
8 to FairPoint, is it?

9 A. (Ms. Weatherwax) Not in my experience, no.

10 Q. It's true of the CLECs as well as FairPoint.

11 A. (Ms. Weatherwax) I can't answer that
12 question.

13 MR. KENNAN: That's all I
14 have. Thank you, Mr. Chairman.

15 CHAIRMAN GETZ: Thank you.
16 Mr. Shoer.

17 MR. SHOER: Thank you, Mr.
18 Chairman.

19 **CROSS-EXAMINATION**

20 **BY MR. SHOER:**

21 Q. Good morning.

22 A. (Witness Panel) Good morning.

23 Q. My name is Alan Shoer. I represent BayRing
24 Communications in this proceeding. I think

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1 I do recognize Ms. McLean from some of those
2 271 proceedings. I don't remember which
3 state, though.

4 On Page 15 of the -- of
5 Ms. Weatherwax's testimony there's a Line 4
6 that says that the IBS group is developing
7 metrics to measure the results of the CDIP
8 program projects. Am I correct that that --
9 that those metrics are separate and distinct
10 from the metrics that are used for the
11 reporting of service-quality metrics in the
12 C2C and PAP reports?

13 A. (Ms. Weatherwax) Yes.

14 Q. And could you explain a little bit about,
15 well, what those metrics or how those
16 metrics are being prepared?

17 A. (Ms. Weatherwax) I think I misspoke when I
18 said metrics. What we were putting in place
19 and what we have put in place is a way to
20 evaluate as the projects get completed, the
21 percentage of projects completed, and going
22 back and evaluating if in fact what we were
23 implementing did give us the improvement
24 that we were looking for, if it did enhance

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1 the business. So we do have reports and
2 methods that we're using inside the CDIP
3 program to ensure that we are improving
4 customer delivery and the business.

5 Q. So are you looking to test if the result of
6 the CDIP project leads to -- when you say
7 improvements in the business, are you
8 talking about improvements in the delivery
9 of services to wholesale customers?

10 A. (Ms. Weatherwax) All customers, sir.

11 Q. All customers?

12 A. (Ms. Weatherwax) That's correct.

13 Q. Okay. So that if customers are -- if
14 wholesale customers, for example, are
15 getting their orders processed in a timely
16 manner, that would be an indicator that --
17 is that the type of metrics you're talking
18 about for measuring the success of your
19 program?

20 A. (Ms. Weatherwax) If that was the goal of the
21 project or the subproject that we were
22 implementing.

23 A. (By Ms. McLean) So, actually, joining
24 FairPoint between Ms. Weatherwax filing this

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1 testimony and today -- and this was an area
2 in reviewing her testimony that I discussed
3 with Ms. Weatherwax. And what we're trying
4 to do here is for individual initiatives,
5 such as an initiative that is specifically
6 designed to improve call-handling time, to
7 be able to measure call-handling time before
8 the initiative goes in, implement the
9 initiative, let it soak for a period of
10 time, and come back and see if we have
11 improvement in that internal submeasure of a
12 process.

13 Additionally, we've just begun,
14 starting about last week, to be able to
15 associate a combination of multiple
16 initiatives within a release to improvements
17 in filed metrics that we already have, such
18 as the SQI, the C2C and the PAP measures, as
19 well as the bi-weekly reports that we're
20 temporarily providing. So we want to be
21 able to see it on both levels. We want to
22 see it atomically as it relates to very
23 specific initiatives, but also in aggregate,
24 to ensure it's pulling through to the

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1 measures that reflect the aggregate
2 performance we provide to you.

3 Q. All right. Now, on Line 8 of that Page 15,
4 it says your expectations will be that
5 improvements measured from the CDIP program
6 will result in service-quality index
7 improvements as well. How is that supposed
8 to work? How will that work?

9 A. (Ms. Weatherwax) We'll be monitoring the
10 reports as they come out and ensuring that
11 there is, in fact, improvement. As you can
12 see from the results for the last few
13 months, there has been improvement.

14 Q. Okay. And now in the CDIP project, there's
15 a list of the 15 projects that you described
16 briefly. And I understand from each of
17 those projects there was sort of a
18 description of what the nature of the
19 problem was. Is that accurate?

20 A. (Ms. Weatherwax) Yes.

21 Q. And who was involved in the decisions, in
22 terms of what the nature of the problem --

23 A. (Ms. Weatherwax) We evaluated the -- when we
24 did the evaluation, Accenture went out, and

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1 we spoke to all of the business units. And
2 so the problems were identified while
3 working with each business unit. We went
4 out and rode along with techs, we sat with
5 techs in the centers. We met many, many,
6 many times with multiple business leads to
7 identify the problems, and then we
8 aggregated them together into the
9 subprojects. We had over 200
10 recommendations. We broke them down to 150,
11 and ended up with 15 subprojects for
12 Priority A.

13 Q. Fifteen subprojects?

14 A. (Ms. Weatherwax) I'm sorry. Fifteen major
15 projects, with 123 in Priority A.

16 Q. And again, the nature of the problem that
17 needed to be corrected was established by
18 who?

19 A. (Ms. Weatherwax) It was established with the
20 business and the Accenture team and my team.

21 Q. When you say with the business --

22 A. (Ms. Weatherwax) With the business units.
23 The teams doing the work.

24 Q. Okay. And what business units are you

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1 talking about?

2 A. (Ms. Weatherwax) The call centers, the NOC,
3 the service techs, engineers, provisioners.

4 MR. SHOER: So, I have some
5 questions in regards to some of the descriptions,
6 some of the descriptions of the projects and the
7 service goals and such that are in a document
8 that's been marked "Confidential." It's the
9 Exhibit 3. Will there be an opportunity to
10 direct those questions to the panel?

11 CHAIRMAN GETZ: Yes. Let's go
12 through all of the non-confidential information.
13 And like we did yesterday, we'll go through
14 redirect, and then we'll have a separate section
15 for any confidential questions.

16 MR. SHOER: Well, that's all I
17 have at this point.

18 CHAIRMAN GETZ: Thank you.

19 Ms. Foley?

20 **CROSS-EXAMINATION**

21 **BY MS. FOLEY:**

22 Q. Good morning, Ms. McLean and Ms. Weatherwax.

23 A. (Witness Panel) Good morning.

24 Q. Are there any recommendations of Accenture

[WITNESS PANEL: WEATHERWAX|McLEAN]

1 that are not included in your 15 projects?

2 A. (Ms. Weatherwax) Yes.

3 Q. I'm sorry. I didn't hear that.

4 A. (Ms. Weatherwax) Yes.

5 Q. Have you decided not to implement all of the
6 recommendations of Accenture?

7 A. (Ms. Weatherwax) No, we have not decided not
8 to implement all of the recommendations.

9 Q. And how many recommendations -- I'm sorry.
10 Did you finish?

11 A. (By Ms. McLean) Just to expand on that,
12 there were approximately 200 recommendations
13 that Accenture identified, of which 150 were
14 prioritized as Priority A, of the highest
15 priority. Duplicates were eliminated. That
16 resulted in the 123 that are grouped into
17 the 15 major projects that we discussed.
18 The remainder were classified as Priority B
19 and C. And the Priority B and C initiatives
20 are in the ongoing change-management process
21 for evaluation against other business needs
22 for prioritization and to be worked by the
23 IT teams. So actually, some -- and I don't
24 have the count -- of the Bs and Cs have been

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1 implemented. Some have been re-prioritized
2 relative to other business needs.

3 Q. So some of the -- how many of the B and C
4 projects are there?

5 A. (By Ms. McLean) I don't know. But some have
6 been implemented.

7 Q. Some have been implemented --

8 A. (By Ms. McLean) Yes.

9 Q. -- and some have not.

10 A. (By Ms. McLean) Correct.

11 Q. And you're still evaluating whether or not
12 to implement the remaining B and C projects.

13 A. (Ms. Weatherwax) That's correct.

14 A. (By Ms. McLean) As an ongoing part of the
15 change-management process. So they are now
16 in the mix of all other business priority
17 needs that come to IT to be evaluated and
18 prioritized to be worked.

19 Q. Is there any time frame associated with that
20 evaluation?

21 A. (By Ms. McLean) It's an ongoing, rolling
22 practice now. So every month we have that
23 discussion with business and re-prioritize
24 changes into the systems. And we schedule

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1 those with a target implementation date and
2 we implement them, and then we do it again.

3 Q. Every month you said?

4 A. (By Ms. McLean) Every month.

5 A. (Ms. Weatherwax) Correct.

6 Q. Were you here when Mr. Allen testified
7 yesterday?

8 A. (By Ms. McLean) Yes.

9 Q. I had asked him a number of questions
10 regarding the metrics remediation project,
11 which I understand is a CDIP project. Is
12 that correct?

13 A. (By Ms. McLean) Yes.

14 Q. Which has now been completed?

15 A. (By Ms. McLean) Yes.

16 Q. He indicated in response to one of my
17 questions that, although the metrics
18 remediation project has been completed,
19 FairPoint is still not able to report all of
20 the metrics required in the PAP and C2C. Do
21 you recall that?

22 A. (By Ms. McLean) Yes.

23 Q. And he referred me to the two of you to ask
24 further questions regarding that subject.

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1 A. (By Ms. McLean) Yes, he did.

2 Q. Could you please identify for me what
3 metrics FairPoint is not able to report,
4 despite the completion of the projects.

5 A. (By Ms. McLean) Sure. FairPoint identified
6 111 metrics in the carrier-to-carrier, some
7 of which are PAP measures, but the majority
8 of which are not penalty-bearing measures;
9 that, given the differences in systems and
10 processes, they are not able to report -- or
11 the biggest group, 56 of the 111, are
12 actually de-listed UNEs relating to line
13 sharing and line splitting. And I did look
14 back at the pre-cutover, and actually some
15 of the Verizon reporting. And these
16 products were products that were never
17 widely implemented. They're very complex to
18 actually operationalize. And even in the
19 Verizon reports, there are only one to three
20 observations in those measures in different
21 months. So they are not highly used
22 products, and now they're de-listed UNEs.

23 Q. Okay. So 56 of the 111 you say are
24 de-listed UNEs?

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1 A. (By Ms. McLean) Yes.

2 Q. And the remainder pertain to, I think you
3 said, the differences in the systems between
4 Verizon and --

5 A. (By Ms. McLean) Systems and processes.

6 Q. Systems and processes.

7 A. Right. So another 11 relate to a large or
8 batch hotcut process, which no one uses
9 anymore. It was an artifact of, really, the
10 initial cutover by CLECs on UNE-P-type
11 customers or hotcuts to their own switches.
12 So we haven't had the need to have that
13 process or the measures. They'd be null if
14 we did the work to develop them.

15 Q. So you just do not measure them because --

16 A. (By Ms. McLean) Well, we don't have the
17 process.

18 Q. You did not build the process, you mean,
19 when you --

20 A. (By Ms. McLean) We have had no requests for
21 large, batch hotcut processes, and we don't
22 anticipate that we would.

23 So that process was developed by
24 Verizon with carriers that were basically

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1 putting up their switches at the time of 271
2 and doing mass migrations of blocks of
3 customers within an exchange off of the
4 Verizon switches onto the CLEC switches.
5 And we've had no requests here at FairPoint
6 to do a similarly large, multi-thousand-
7 line-type conversion. And that's what that
8 process was designed around.

9 In addition, there are seven
10 measures that have to do with faxed ASRs. And
11 our carriers provide our ASRs now electronically.

12 Ten relate to CORBA, which is
13 a technology used for preordering. And it's an
14 interface that's being, and a technology that's
15 being replaced by other technologies. So
16 FairPoint did not implement CORBA. And I think
17 that was a smart decision. So there's 10 related
18 to that.

19 There are 19 that relate to a
20 retail compare for preorder response time between
21 EBI and what Verizon called Web GUI, when we have
22 Wisor here. And that actually is a process that
23 requires a retail compare. And we don't have a
24 retail compare, so we don't have the data to

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[WITNESS PANEL: WEATHERWAX|McLEAN]

1 report on those.

2 And then seven relate to
3 electronic bonding or maintenance interfaces that
4 were subsumed in FairPoint into the virtual front
5 office and Wisor. So it's not a stand-alone
6 application as it was at Verizon.

7 Q. And how many of these are penalty metrics?

8 A. (By Ms. McLean) Excuse me?

9 Q. How many of these 111 do have penalties
10 associated with them?

11 A. (By Ms. McLean) I don't know.

12 Q. So how are you reporting them on the PAP
13 forms?

14 A. (By Ms. McLean) They're not reported.

15 Q. So how are penalties assessed?

16 A. (By Ms. McLean) I think it's a hypothetical
17 question that I'd have to research to see if
18 any of these are, in fact, penalty-bearing.

19 Q. If any are penalty-bearing?

20 A. (By Ms. McLean) Yes. I did not do that
21 research to determine if they were
22 penalty-bearing.

23 MS. FOLEY: Okay. Thank you.

24 I have no further questions.

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1 CHAIRMAN GETZ: Ms. Bragdon?

2 **CROSS-EXAMINATION**

3 **BY MS. BRAGDON:**

4 Q. I guess I'll start by following up where Ms.
5 Foley ended.

6 So, for the 19 where there's no retail
7 compare for preorder, can you explain that a
8 little bit more, 'cause it seems a little
9 odd to me.

10 A. (By Ms. McLean) It's their response time.
11 The intent is to measure from when a CLEC
12 initiates a request, a dip into our
13 databases for information to be returned to
14 them, how long does that take versus how
15 long does it take for a retail rep to do the
16 same function. And there's obviously
17 different pieces of infrastructure in that
18 process for the wholesale customers. So the
19 measure in the current C2C is a retail
20 component plus some time. And FairPoint
21 does not have a mechanism to measure the
22 retail response time. So their proposal is
23 just to have an absolute value there rather
24 than a retail plus.

[WITNESS PANEL: WEATHERWAX|McLEAN]

1 Q. And the proposal being --

2 CHAIRMAN GETZ: Ms. Bragdon,
3 if you could get closer to the microphone, it
4 would be helpful to the court reporter.

5 BY MS. BRAGDON:

6 Q. And the proposal being in what?

7 A. I believe there's an open docket to simplify
8 the C2C and PAP. And I believe it will be
9 made in that forum.

10 Q. So in the meantime, you're just not
11 reporting.

12 A. (By Ms. McLean) We can't report it because
13 it's a retail compare, and we don't have the
14 retail comparison data.

15 Q. Do you know how long FairPoint has been
16 aware of the 111 metrics?

17 A. (By Ms. McLean) I'm sorry. I can't hear
18 you.

19 Q. Do you know how long FairPoint has been
20 aware of --

21 A. (By Ms. McLean) I do not know.

22 Q. Ms. McLean, do you know -- Ms. Weatherwax,
23 do you know?

24 A. (Ms. Weatherwax) I do not.

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1 Q. All right. Let's switch back to where I
2 thought I was going.

3 I just want to confirm my understanding
4 of your exhibits, Ms. Weatherwax. So if I
5 start with Exhibit No. 3, that is the
6 so-called Accenture report. Even though
7 it's labeled "FairPoint" everywhere, all the
8 slides have "FairPoint" on it, this is the
9 Accenture report?

10 A. (Ms. Weatherwax) That was the outcome of the
11 Accenture initiative, yes.

12 Q. Okay. When you say it's the outcome --

13 A. (Ms. Weatherwax) This is the report that
14 they produced -- helped produce for us.

15 Q. So they produced this document. This isn't
16 your compilation of some other document they
17 produced?

18 A. (Ms. Weatherwax) No.

19 Q. And Exhibit 5 is the February 1st CDIP
20 update; is that correct?

21 A. (Ms. Weatherwax) Yes.

22 Q. And that gives an update for each of the 15
23 projects and each of the subprojects under
24 them; correct?

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1 A. (Ms. Weatherwax) Yes.

2 Q. And have there been subsequent updates?

3 A. (Ms. Weatherwax) Yes.

4 Q. Can you tell me when?

5 A. (Ms. Weatherwax) March, April and May.

6 MS. BRAGDON: Okay. Can I
7 make a request that those be provided to the
8 parties, those further updates? I don't know
9 what the process is here. Oral data request or a
10 record request?

11 CHAIRMAN GETZ: Are those
12 readily available, Mr. McHugh? Any problem with
13 making those available?

14 MR. McHUGH: No.

15 CHAIRMAN GETZ: Let's reserve
16 Exhibit FP 26 for those reports.

17 MR. McHUGH: Be 26C, Mr.
18 Chairman.

19 **(FP 26C reserved.)**

20 CHAIRMAN GETZ: Okay.

21 BY MS. BRAGDON:

22 Q. And then I have Exhibit No. 2, which is the
23 IT road map; correct?

24 A. (Ms. Weatherwax) Yes.

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1 Q. And the IT road map is broader than the CDIP
2 report or Accenture report, and the IT road
3 map includes all of the IT projects that are
4 in motion, shall we say?

5 A. (Ms. Weatherwax) Yes.

6 Q. Okay. And it includes some of the -- if I
7 looked through here -- and I won't because I
8 don't want to get into the confidential
9 section. But if I looked at some of the
10 specifics in the IT road map, I would find
11 pieces of the Accenture reports as well --

12 A. (Ms. Weatherwax) Yes.

13 Q. Correct?

14 A. (Ms. Weatherwax) Yes. The work on the IT
15 road map includes the CDIP implementation as
16 well.

17 Q. So who is in charge of corralling all of
18 this and keeping track of it?

19 A. (Ms. Weatherwax) Okay. We just implemented
20 our change-management process and
21 release-management process, and that has now
22 fallen under internal business solutions.
23 At the time that this was put together, this
24 was Mr. Haga. But right now responsibility

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1 falls to me.

2 Q. Okay. So you are in charge. And you work
3 for Ms. McLean?

4 A. (Ms. Weatherwax) I do.

5 Q. Okay. So now you are in charge of
6 coordinating all of the IT projects,
7 including the CDIP initiatives?

8 A. (Ms. Weatherwax) Helping set the release
9 schedule and make sure that things are
10 scheduled. All of the projects are not run
11 by the IBS or the program-management group.
12 Some of the projects are run by individual
13 businesses, and IT has internal projects
14 that they run themselves.

15 Q. Okay. And when that happens, when an
16 internal -- let's just pick, for instance,
17 my favorite, wholesale. If Mr. Murtha had
18 an initiative relating to wholesale issues
19 that involved IT issues --

20 A. (Ms. Weatherwax) That would come to the
21 internal business solutions.

22 Q. That would come to internal business
23 solutions. And who is in charge, or who is
24 ultimately responsible for ensuring that

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1 whatever you decided needed to be done is,
2 in fact, done and is done correctly? Who
3 bears the ultimate responsibility?

4 A. (By Ms. McLean) Me.

5 Q. Okay. So let me ask. Were you here
6 yesterday when I crossed Mr. Murtha?

7 A. (By Ms. McLean) Yes, I was.

8 Q. Okay. And have you had a chance -- have you
9 seen CRC Exhibit 11, the Liberty list of
10 CLEC issues?

11 A. (By Ms. McLean) Yes, I have.

12 Q. You're familiar with wholesale issues, given
13 your --

14 A. (By Ms. McLean) Yes, I am.

15 Q. -- past history with Verizon.

16 So can you explain -- what I'm trying
17 to understand is the interaction between you
18 reaching down into organizations and
19 business organizations reaching up to you,
20 and where does that -- where does that
21 happen. Where is any line drawn? Because I
22 imagine there would be a situation where you
23 as an IT person might recognize an issue or
24 see it differently than the businessperson.

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1 I'm just trying to understand.

2 A. (By Ms. McLean) So the change-management
3 process actually was one of the CDIP
4 initiatives that Accenture recognized, and I
5 think FairPoint recognized as a result of
6 this, that we needed to have a formalized
7 change-management process, because there
8 wasn't a place to go to say what are all the
9 things the business is requesting of IT to
10 implement. So part of implementing this
11 change-management process is relatively new.
12 The road map was the first round-up of all
13 the things that people are asking for. It
14 comes in both directions. It comes bottom
15 up from individuals -- Ms. Weatherwax cited
16 a lot of people in the business -- down to
17 technician and rep levels that recognize
18 things that could be done better, aren't
19 working as expected. So anyone in the
20 organization can put in a request for a
21 change. Similarly, IT initiates changes to
22 improve processing within the applications,
23 between the applications, and the messaging
24 between them.

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1 So it is a very complex puzzle of
2 figuring out the size and the priority of
3 things and fitting them into a release or a
4 package of software that gets released every
5 month. So it is an interactive process
6 between IT and the business owners.

7 In addition to just change management,
8 there are defects that are reported. And
9 defects -- there's a process by which the
10 businesses can send defects directly to IT.
11 And IT will look at it and determine if it
12 is a defect, if they believe it to be a
13 defect, fix it; or if they believe it to be
14 a change to the systems or the processes, to
15 push it back up into the change-management
16 process. And there's as much a science in
17 that process as well.

18 Q. And so -- well, let's just pick one system.
19 M6. Are you, from an IT perspective, going
20 looking for troubles? Are you waiting for
21 them to come to you?

22 A. (By Ms. McLean) I don't have to go looking
23 for trouble. Trouble seems to find me.
24 But, no, obviously we do. And obviously, as

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1 a new person coming in, it's one of the
2 things that I'm looking at is, you know, how
3 does the process work end-to-end. And we
4 have -- and that also is one of the CDIP
5 initiatives, is to get -- come up out of the
6 silos of ordering, provisioning and
7 maintenance and billing and say, how does
8 the process flow end-to-end, where is the
9 right place in the process to fix something
10 so that it is the most efficient for us to
11 implement, and then to effect improvement in
12 the business on a go-forward basis. So it
13 is absolutely a dialog of all of the people
14 who are touching the systems and the
15 processes to have that conversation about
16 how to optimize it.

17 Q. Because there seems to be a little bit of a
18 chicken and an egg situation, a little bit
19 of circles going on. So am I to understand
20 that you're going to be the person at the
21 top of that circle?

22 A. (By Ms. McLean) Head chicken?

23 Q. In terms of --

24 A. (By Ms. McLean) It is the nature of system

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1 development, particularly when the OSS are
2 so integral to the operation to a company
3 like FairPoint. So there is a chicken and
4 an egg to it. And change can come in from a
5 variety of different places. And the good
6 news is, as a result of putting in place the
7 end-to-end architecture team and a
8 structured IT governance and
9 change-management process, we have better
10 control and visibility to that.

11 Q. And based on your experience or past
12 experience with Verizon, would you agree
13 with me that, at the present time, the level
14 of operations on the wholesale side are not
15 at a business as usual or a Verizon
16 standard, for lack of a better standard?

17 A. (By Ms. McLean) Well, I think you've heard
18 me avoid trying to use the "business as
19 usual" because I don't know what usual
20 business is in this market anymore in this
21 industry. So what we're trying to do is put
22 in place a process that allows us to direct
23 our effort to the things that are going to
24 give us the best value.

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1 I do know that a number of the
2 processes that Verizon put in place
3 specifically in the wholesale area are not
4 highly efficient. So the fact that
5 FairPoint didn't adopt them was -- I wasn't
6 here when they made those decisions -- but
7 it was probably for good reason, that they
8 envisioned a model that was more efficient.
9 As we migrate to that, it's disruptive. I
10 understand that. And I appreciate the
11 partnership with the CLECs and FairPoint in
12 the WUF, the wholesale user forum, and the
13 change-management forum to have that
14 conversation about, given where we are
15 today, what's the best way for us to partner
16 to make the interdependency for ordering and
17 provisioning between the groups work more
18 smoothly.

19 So I am absolutely working with Mr.
20 Murtha and the team to look at what the CLEC
21 issues are and to say what's the right way
22 for us in FairPoint to implement them, which
23 may or may not be a redo of the way it was
24 implemented in Verizon.

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1 Q. But you would agree with me that in the
2 short term, efficient and working beats --
3 inefficient and working beats efficient and
4 not working, in terms of a particular --

5 A. (By Ms. McLean) I think that if you step
6 back and look at the measures, you see that
7 the mainline processes are working. Orders
8 are being submitted. Services are being
9 provisioned. There are areas in
10 particular -- there was a lot of discussion
11 about directory listings is not a pretty
12 process. It's neither efficient nor how we
13 want it to work. Directory listings is one
14 of those areas where FairPoint is a
15 pass-through between the carriers and Super
16 Media, who actually publishes the book. The
17 issues around directory listings aren't new
18 issues. And actually, as any of the players
19 change their processes or their systems, it
20 causes disruption. And Super Media has
21 changed their systems as well. So we have
22 to look across all of the participants in a
23 process to figure out what's the most
24 efficient way for us to work together to

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1 accomplish the aim.

2 Q. Sure. But you would agree that directory
3 listings and phone books are sort of a basic
4 function of a telephone company.

5 A. (By Ms. McLean) Directory listings and what?

6 Q. And production of a telephone -- well,
7 directory listings. We'll just leave it at
8 that.

9 A. (By Ms. McLean) That it --

10 Q. A basic function of a telephone company.

11 A. (By Ms. McLean) It's a classic basic
12 function of a phone company. But I find it
13 interesting. When was -- the last time I
14 used the White Pages was, I believe, when I
15 was testifying in Delaware and someone asked
16 me to look at a White Page listing. So
17 depending --

18 Q. Do you ever use 411?

19 A. (By Ms. McLean) Me personally? Yeah, I use
20 411. And 411 is not affected by a lot of
21 the issues around captioned listings, that
22 are really the difficult part of directory
23 listings. So 411 requires a telephone
24 number, a name and an address. And that's a

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1 different interface and a different process
2 than the publishing of the books.

3 Q. Right. But it requires a correct name and a
4 correct --

5 A. (By Ms. McLean) I'm really sorry. I
6 can't --

7 Q. It requires a --

8 CHAIRMAN GETZ: Excuse me,
9 excuse me. We're not going to get this on the
10 transcript if you're both going to talk at the
11 same time. So if we can have a pause between
12 questions and answers.

13 MS. McLEAN: Sure.

14 A. (By Ms. McLean) I couldn't hear your last
15 question.

16 CHAIRMAN GETZ: I'm not sure
17 where we left off, but...

18 BY MS. BRAGDON:

19 Q. But it requires a correct name and a correct
20 telephone number.

21 A. (By Ms. McLean) Yes, it does.

22 Q. Okay. Just give me one moment.

23 Do you have any plans to come or to
24 send any of your people to observe CLECs'

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1 side of the interface in order to assist you
2 in working the FairPoint side of the
3 interface?

4 A. (By Ms. McLean) I know that Mr. Murtha
5 recently went and sat with several CLECs,
6 with their reps, to observe the experience
7 from their side. I had asked Rich to let me
8 know when those meetings were, and if my
9 schedule had allowed, I would have gone
10 along with that. I certainly am open to do
11 that, as well as to participate in the
12 upcoming forum that Mr. Murtha is organizing
13 with the CLECs. Happy to do it.

14 Q. Because I assume you probably -- you might
15 find that helpful to sort of see what is
16 happening on a CLEC side of an interface.

17 A. (By Ms. McLean) I have seen it before. I'm
18 very familiar with it. But I am happy to
19 see the current state for current customers
20 and their experience.

21 MS. BRAGDON: Okay. Very
22 good. Thank you.

23 CHAIRMAN GETZ: Ms. Cole?

24 MS. COLE: SegTEL has no

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1 questions.

2 CHAIRMAN GETZ: Ms. Geiger?

3 MS. GEIGER: Yes. Thank you,
4 Mr. Chairman.

5 **CROSS-EXAMINATION**

6 BY MS. GEIGER:

7 Q. Good morning, Ms. Weatherwax and Ms. McLean.
8 I'm Susan Geiger, and I represent Comcast
9 Phone of New Hampshire, LLC.

10 I'd like to go back to the issue of
11 unreported metrics that you discussed
12 earlier. Ms. McLean may have discussed that
13 issue relating to --

14 (Court Reporter interjects.)

15 BY MS. BRAGDON:

16 Q. The question that I have is for customers,
17 wholesale customers -- well, first, let's go
18 back to the issue of metrics.

19 Now, the metrics that you're talking
20 about are metrics that your predecessor was
21 ordered by this Commission to report to it
22 concerning service quality provided to
23 wholesale customers; correct?

24 A. (By Ms. McLean) I believe that it was a

[WITNESS PANEL: WEATHERWAX|McLEAN]

1 combination of a voluntary reporting regime
2 and an order.

3 Q. Okay. Fair enough. But I think you said
4 that there were seven metrics that are not
5 being currently reported for E-bonded
6 customers; is that correct?

7 A. (By Ms. McLean) Correct.

8 Q. Do you know what those metrics are?

9 A. (By Ms. McLean) Sure. PO202,6060. That's
10 the electronic bonding interface
11 maintenance. I don't think Comcast uses
12 EBI.

13 Q. Well, would it surprise you to learn that
14 Comcast is an E-bonded customer?

15 A. (By Ms. McLean) Well, I mean, for trouble
16 tickets using the EBI protocol? To the best
17 of my knowledge, only MCI, Sprint and AT&T
18 actually use EBI, that protocol.

19 MS. GEIGER: Well, if it's
20 easier than going down through the list of the
21 metrics today, if we could get a record request
22 on that, I'd appreciate it.

23 MS. McLEAN: Mr. McHugh?

24 Record request? You okay with that?

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1 MR. McHUGH: FairPoint 27.

2 MS. GEIGER: Thank you.

3 CHAIRMAN GETZ: Is there
4 anything confidential about that?

5 MR. McHUGH: On the metrics?
6 No.

7 CHAIRMAN GETZ: Okay. We will
8 reserve 27.

9 **(FP 27 reserved.)**

10 BY MS. GEIGER:

11 Q. Ms. McLean, I understand your testimony is
12 that these metrics are no longer reported to
13 the Commission. But does FairPoint still
14 account for those metrics? In other words,
15 internally do you maintain any information
16 about those metrics?

17 A. (By Ms. McLean) No. That's why we don't
18 report it.

19 Q. So those --

20 A. (By Ms. McLean) Particularly as it relates
21 to repair, the maintenance interface, we
22 don't have that interface. And that
23 interface, that technology was always a
24 heavy way and difficult to implement

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1 technology. And it's been replaced in the
2 industry largely by XML interfaces. And so
3 I wouldn't recommend that anyone develop an
4 EBI-based interface to that.

5 Q. Were there any PAP penalties associated with
6 those seven metrics that you no longer
7 report to this Commission?

8 A. (By Ms. McLean) I did not do that research
9 before I came in today. I will indicate
10 that in the data request, which of these
11 measures, if any, are penalty-bearing.

12 Q. Thank you very much. I have one other area.
13 At the bottom of Page 29 of Ms.
14 Weatherwax's prefiled testimony, starting on
15 Page [sic] 19 there's a statement -- and
16 I'll let you find it if you want to take a
17 minute to do so. Do you have it?

18 A. (Ms. Weatherwax) I'm on Page 29, yes.

19 Q. Thank you. On Line 19, there's a statement
20 indicating that the company has automated
21 port-out cancellation processing. Do you
22 see that?

23 A. (Ms. Weatherwax) Yes.

24 Q. Okay. Apparently this has fixed the data

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1 synchronization issue; is that correct?

2 A. (Ms. Weatherwax) Let me read this, please.

3 (Witness reviews document.)

4 A. (Ms. Weatherwax) Yes.

5 Q. Could you please help me understand whether
6 the fix that you've discussed in your
7 prefiled testimony regarding porting was
8 intended to eliminate the situation whereby
9 CLECs would have to manually interact with
10 FairPoint to accomplish number porting.

11 A. (Ms. Weatherwax) I can't answer that
12 question. I'm sorry.

13 Q. Thank you.

14 MS. GEIGER: I have no further
15 questions.

16 CHAIRMAN GETZ: Mr. Judd.

17 MR. JUDD: Okay. Thank you,
18 Mr. Chairman.

19 **CROSS-EXAMINATION**

20 BY MR. JUDD:

21 Q. Ms. McLean, in your short tenure with the
22 company, do you feel that you're getting the
23 support from executive management and the
24 financial resources you need to address the

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1 problems of FairPoint's back office?

2 A. (By Ms. McLean) Yes, I do.

3 Q. Returning to the CDIP, would you please
4 briefly explain the impact that project will
5 have on retail customer billing.

6 A. (By Ms. McLean) On Retail customer billing?

7 Q. Yes.

8 A. (By Ms. McLean) Okay. There are specific
9 initiatives. First of all, there are
10 specific initiatives within the CDIP related
11 to retail customer billing. As Ms.
12 Weatherwax discussed, there are also many
13 other initiatives in IT to address various
14 functional areas. And Mr. Nolting, who
15 testified yesterday, is our business owner
16 for billing. And he also has a series of
17 initiatives underway to improve billing.

18 So in the CDIP initiatives, there are
19 subprojects that are specifically related to
20 known defects in billing that have been
21 fixed. There are also initiatives related
22 to improvements in the end-to-end process
23 which ensure that orders that are
24 provisioned actually make it to billing to

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1 be billed.

2 Q. And that program also has, if I could use
3 the term, "parallel PAP" for wholesale
4 billing; is that correct?

5 A. (By Ms. McLean) Yes, it does. And just to
6 be clear, the billing system for the
7 wholesale services, resold services, are
8 billed out of our Kenan billing system. So
9 improvements made for retail generally have
10 a carryover effect for resale. And then
11 HiCap services, DS1s and above, are billed
12 out of our carrier access billing system,
13 whether they're purchased by enterprise
14 customers or wholesale customers. So when
15 you hear "improvements in CABS," which is
16 outsourced to a company called CDG, they may
17 equally benefit enterprise customers and
18 wholesale customers.

19 Q. Thank you. You were here yesterday when
20 Mr. Nolting testified; is that correct?

21 A. (By Ms. McLean) Yes, I was.

22 Q. Great. He kicked over to you part of the
23 issue about pay phones. And I understand
24 that your department is now responsible for

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1 bill production; is that correct?

2 A. (By Ms. McLean) That's correct.

3 Q. Do you have in place a protocol to ensure
4 that this Commission is notified 60 days
5 before any pay phone is removed?

6 A. (By Ms. McLean) I don't have pay phone
7 operations. I was in the back of the room,
8 and I'm not quite sure what Mr. Nolting
9 kicked over to me. But the actual pay phone
10 business is managed under Mr. Allen's
11 organization. So the part that I would have
12 would be billing for coin services.

13 Q. Fair enough. Concerning billing for coin
14 services, as I understand it, the reason
15 FairPoint has chosen to reject in bankruptcy
16 certain contracts is the lack of the ability
17 to determine dial-around revenues; is that
18 correct?

19 A. (By Ms. McLean) I'm sorry. Could you repeat
20 that question?

21 Q. Sure. We understand -- I understand that
22 FairPoint lacks the ability to determine
23 non-coin -- that is, dial-around revenues --
24 at pay phones; is that correct?

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1 A. I'm not familiar with that specific issue.

2 Q. So your aspect of billing production does
3 not address how the data is collected?

4 A. In my 60 days here, I have not -- that issue
5 has not -- of all the troubles people have
6 brought me, that one in particular has not
7 come to the top of the list to be
8 investigated.

9 Q. Fair enough. Thank you.

10 MR. JUDD: I have nothing
11 further.

12 CHAIRMAN GETZ: Commissioner
13 Below?

14 CMSR. BELOW: No questions.

15 CHAIRMAN GETZ: Commissioner
16 Ignatius?

17 CMSR. IGNATIUS: Thank you.

18 **CROSS-EXAMINATION**

19 **BY CMSR. IGNATIUS:**

20 Q. Good morning.

21 A. (Witness Panel) Good morning.

22 Q. You've addressed this with some other
23 questioners a bit, but I want to follow a
24 little more on an understanding of where

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1 things stand on the many different projects
2 that you're working on, on IT. And I will
3 spare everyone going through them one by
4 one.

5 But in the road map itself -- and
6 that's a confidential document, so I'm not
7 asking for particular data. But within the
8 road map -- and that's FairPoint 12C -- some
9 projects are broken out by what quarter
10 they'll be completed. Some have stages and
11 then a go-live date at the end of them. The
12 road map itself has a date of December 15th,
13 2009. So it's had quite a bit of time since
14 it was produced for work to be done.

15 Can you give -- first of all, in a very
16 broad sense, are you about on target? I
17 don't mean line-by-line, but about on target
18 with the road map as it's envisioned, or
19 ahead of the game, or to any serious degree
20 behind the projections that were laid out in
21 the road map? And I'll leave that to either
22 of you that's best to answer.

23 A. (By Ms. McLean) So I'll answer it in two
24 ways: First, as it specifically relates to

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1 the CDIP project, those are very discrete
2 items. They haven't changed. We're
3 tracking -- some of those have completed
4 early. The vast majority have completed on
5 time. A few have been delayed because of
6 scope issues, but they're still inside of
7 the end date of completing all of the CDIP
8 initiatives by September.

9 Additionally, there are many other
10 things in the road map that were envisioned
11 in December, as well as new things that the
12 businesses have brought to IT since then,
13 and that is the change-management process I
14 talked about.

15 Currently there is, as we've heard, a
16 lot of productivity, a lot of change being
17 produced by this process. So businesses are
18 identifying changes they want to see. Some
19 of those relate now to not just fix it, but
20 also how can we generate revenue, how can we
21 support marketing programs, how do we
22 support in the systems the roll-out of the
23 vantage point network and the products and
24 services on the network. So I think it's a

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1 healthy indication of the stability of the
2 business on the systems that we're able to
3 contemplate things beyond fix it,
4 notwithstanding I appreciate that the CLECs
5 have brought issues to Mr. Murtha, and we're
6 continuing to work towards those issues as
7 well. But as Mr. Murtha testified, 160
8 initiatives were identified by the CLECs.
9 We're correlating the new list of 109. I
10 think there are definitely some repeats in
11 there. And I know yesterday you asked,
12 "Well, if they're repeating, are they not
13 fixed?" And for us to determine that, we
14 would like to go back to the CLECs and ask
15 for specific examples, so we can see if
16 those examples occurred before the fix was
17 implemented or after, because there's a
18 timing involved in there. And in some cases
19 when you put in a fix, as Mr. Nolting was
20 talking about in billing in particular, when
21 the fix goes in and then when the bill gets
22 corrected can be lagged by up to two months,
23 depending on when the fix went in the bill
24 cycle and how it was created.

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1 So the first thing I did when I came in
2 was to sit with a number of the business
3 owners that Ms. Weatherwax referred to and
4 to get their take for how the systems are
5 operating to support their business. I then
6 went and looked at the measures that are
7 being reported to the Commissions in both
8 the SQI for retail customers and in the C2C
9 and PAPS, to see if on the core functions of
10 the business, when customers contact us do
11 we timely answer the phone; when customers
12 access to implement service, do we make a
13 commitment to implement that service, and
14 how frequently do we keep that commitment;
15 if we miss the commitment, what's the delay
16 dates for us to get the service installed.
17 So on the ordering side, you see in both the
18 SQI and the C2C improvement and excellent
19 levels of service on those quarter metrics.

20 On the repair side, do we answer the
21 phone to take repair calls, and do we timely
22 repair the service? You also see excellent
23 performance on those measures, even with the
24 storm and the impact on the repair side that

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1 the storm had. You saw very quick recovery
2 in the operation teams from that event,
3 which is an indication of a stable
4 operation. So I think on the vast majority
5 of the core functions we are operating in a
6 stable environment.

7 I know there are issues still
8 outstanding related to billing, and we're
9 continuing to hammer on those. As Mr.
10 Nolting discussed, really best in class
11 billers in the telecom space experience
12 about 1.7 defect rate. But the average is
13 between two and four percent, and we're in
14 that average. Recognizing that anyone who
15 has an issue that's in that percentage has a
16 pain point, we are working very aggressively
17 to address not only the systemic issues that
18 we know about with respect to the
19 implementation of complex contracts, but
20 individual customer anomalies and their
21 bills.

22 So I would say that when you take all
23 of that on balance, I believe that we are on
24 track, and I think we're starting to get a

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1 little bit proactive.

2 Q. You described that the CDIP project was on
3 track; some completed, and you're looking
4 good for having it completed by September.
5 Are there any other large projects where you
6 are similarly comfortable that you're on
7 track as you should be? Or if it's an
8 easier question, are there any large
9 projects where you see serious delay in
10 getting to the completion date?

11 A. (By Ms. McLean) Well, I would say the other
12 program that the company has underway that's
13 a very large scale impact because it affects
14 all processes is the deployment of new
15 products and services on the vantage point
16 network. And the team is working very
17 aggressively to be able to launch a carrier
18 Ethernet service product, which is of great
19 importance to our wholesale customers and
20 also to our large enterprise customers.
21 That's a huge undertaking for the company.
22 It affects product management, product
23 specification, pricing, how you order it,
24 how you provision it, how you will maintain

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1 it, how you will bill it. And we have a lot
2 of energy focused on that. So that is one
3 that requires the same amount of diligence
4 and program management that we have applied
5 in the CDIP program. And it's very
6 aggressive, and we're working very hard to
7 make sure we hit our committed milestones on
8 that. But it's a big program, and it will
9 go -- the initial implementations go out
10 through the end of the year.

11 Q. Are there any other significant projects
12 that you see difficulty in meeting the
13 projections in the road map?

14 A. (By Ms. McLean) No.

15 Q. And the target dates remain where they were
16 in the road map itself in the testimony
17 filed in February that included the road map
18 as in Exhibit 2, that testimony?

19 A. (Ms. Weatherwax) The overall target dates do
20 remain, yes. There are some of the
21 subprojects that, as Kathleen said, that
22 have moved out. But the overall target date
23 is still September for the whole project,
24 for the whole program.

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1 Q. For the CDIP project.

2 A. (Ms. Weatherwax) Yes.

3 Q. But the road map is more than that; correct
4 Or not?

5 A. (Ms. Weatherwax) This road map goes through
6 June.

7 A. (By Ms. McLean) It has initiatives in it
8 more than the CDIP initiatives.

9 A. (Ms. Weatherwax) Right.

10 A. (By Ms. McLean) We don't have the same rigor
11 around those individual initiatives. I
12 haven't done the tick and tie. But after
13 each release, we go back for validation with
14 the business of what we committed to them,
15 and we have user acceptance testing: Do
16 they accept it? In each release there are a
17 few initiatives that fall out because we
18 haven't programmed the specification, but
19 will come out in the next release. But by
20 and large, we are over 95 percent in
21 implementing the initiatives that the
22 businesses asked for.

23 Q. Ms. McLean, based on your experience in
24 various parts within Verizon, and now with

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1 FairPoint, and the interplay between the IT
2 systems and the sale and service of the
3 products themselves, do you have any
4 suggestions on how to accelerate resolution
5 of these chronic problems that are leading
6 to a lot of frustration? They may not be
7 the biggest problems that you're facing, but
8 they are chronic and they're -- on the
9 customer's side create a lot of frustration
10 that leads to Commissions getting
11 complaints, businesses being frustrated,
12 individuals being frustrated.

13 A. (Ms. McLean) I think when you're in
14 firefighting mode, the reaction of the
15 people is -- you have no choice. You fix
16 the individual incidents. Since I've joined
17 FairPoint, I have seen in the business
18 owners and in the business process owners
19 not only fixing the individual things, but
20 an intent to find the root cause so that it
21 can be fixed systemically; and then, not
22 only to suppose that the systemic fix we
23 surmised would fix it, now we're getting to
24 the sophistication to say let's validate it.

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1 And that's really an evolution, that we're
2 now at that point. You heard Ms. Weatherwax
3 talk about in her change-management process
4 she now has a stage seven, which is that
5 after-implementation validation. We're just
6 beginning that process now. But I do
7 believe that the business owners in working
8 with IT now are looking for systemic fixes,
9 not just individual customer fixes. And I
10 really -- I am very interested to get the
11 information and put it in time sequence of
12 when the issue occurred, because we may in
13 fact have fixed the issue at a date that's
14 after the date of the issue. So I really
15 need to see the time correlation of the
16 specific issues so we can validate that we
17 have, in fact, fixed them.

18 Q. Well, and I think that validation, I take
19 it, would also involve the opposite: The
20 belief that because it's passed through --
21 across one desk and someone has taken
22 actions that they thought were appropriate
23 that it is fixed, when in fact it might
24 simply have just been sent on to the next

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1 desk.

2 A. (By Ms. McLean) Yes.

3 Q. Thank you.

4 CHAIRMAN GETZ: Mr. McHugh,
5 any redirect?

6 MR. MCHUGH: No, Mr. Chairman.

7 CHAIRMAN GETZ: Okay.

8 Let's -- we have Mr. Shoer who would like to
9 pursue some confidential questions.

10 MR. SHOER: Actually, Mr.
11 Chairman, they may not be -- the questions
12 about -- they concern some of the narrative in
13 the exhibits that's been marked "confidential."
14 So it may not be confidential. I just --

15 MR. MCHUGH: What exhibit is
16 it, Alan?

17 MR. SHOER: No. 3, VW-3. It's
18 the narrative. My questions are about some of
19 the narrative in the document.

20 MR. MCHUGH: We can try and
21 ask them and see if their responses are
22 confidential, Mr. Chairman.

23 MR. SHOER: If I may, let me
24 just ask your indulgence for just a few minutes.

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1 I'll ask a few questions, and Mr. McHugh can let
2 me know.

3 CHAIRMAN GETZ: Let's just try
4 it and see where we go. And if we have to --

5 MR. SHOER: Thank you.

6 CHAIRMAN GETZ: -- move into a
7 confidential session, we'll do it.

8 MR. SHOER: Thank you.

9 **REXCROSS-EXAMINATION**

10 **BY MR. SHOER:**

11 Q. I was asking some questions earlier with
12 regard to the metrics that you're going to
13 use to measure the results of the CDIP
14 program. Do you recall that?

15 A. (Ms. Weatherwax) Yes.

16 Q. Now, if you'd turn to your Exhibit VW-3.
17 This is the Accenture report. I'd like you
18 to turn to the... it's the part of the
19 document that's the -- it's FairPoint
20 Communications' label. It says Customer
21 Delivery Improvement Project Assessment
22 Project Summary as of November 25th, 2009.
23 It's that section there in the document. Do
24 you have that in front of you?

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1 A. (Ms. Weatherwax) Yes.

2 CMSR. IGNATIUS: I'm sorry. I
3 don't. Can you describe a little better?

4 Beginning of the document? End of the document?

5 MR. SHOER: Yeah. It's not --
6 there's no pages on mine. It's about a quarter
7 of the way into the exhibit. Make sure I'm...
8 after the CDIP road map spreadsheet.

9 BY MR. SHOER:

10 Q. Okay. If I were to turn to -- going to the
11 page -- sorry. Page... starting with
12 Page 19 and continuing to Page 30 -- looks
13 like going up to Page 35, am I correct that
14 that section of the document describes in a
15 little bit more detail each of the 15 CDIP
16 projects?

17 A. (Ms. Weatherwax) That's correct.

18 Q. Okay. So if I were to look, say, at the --
19 at some of the performance indicators --
20 well, let's take, for example, the
21 performance indicator for -- on Page 20.
22 Project description: End-to-end
23 architecture team. You with me?

24 A. (Ms. Weatherwax) Yes.

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1 Q. So it says performance indicator: Overall
2 solution delivery quality and timeliness.
3 Would that be a measurement that would tell
4 if you're succeeding in what you set out to
5 do in the CDIP program?

6 A. (Ms. Weatherwax) Yes.

7 Q. Okay. On Page 21 there's a -- it says this
8 is the project description, end-to-end
9 flow-through reporting. The performance
10 indicators: Improved flow-through
11 percentage, improved number of installation
12 commitments met, reduce service delivery
13 intervals. Again, those are performance
14 indicators. And would those be considered
15 measurements that would determine if your
16 CDIP program has been successful for this
17 project to meet those performance
18 indicators?

19 A. (Ms. Weatherwax) Yes.

20 Q. Okay.

21 A. (By Ms. McLean) Specifically, so to be
22 clear, they're key performance indicators.
23 So what they're saying is, as you make
24 improvements in this area, you will see

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1 improvements in these areas, in these
2 performance indicators.

3 Q. Okay.

4 A. (By Ms. McLean) So there's not a prescribed
5 level or rate here. They're just saying as
6 you make changes in this area, these are the
7 metrics that would be impacted.

8 Q. Okay. So back on Page 15 of
9 Ms. Weatherwax's testimony, there was that
10 question about the IBS group developing
11 metrics to measure the results of the CDIP
12 projects. I'm just wondering if these
13 performance measures are in any way related
14 to those metrics that would measure the
15 results.

16 A. (By Ms. McLean) Yes, they are. And, in
17 fact, these, the ones you just cited, those
18 are in the bi-weekly reports. They're in --
19 some of them are in the SQI and some of them
20 are in the C2C.

21 Q. Okay. So if I'm looking at Page 23, called
22 project description: Cross-system data
23 synchronization, again, performance
24 indicators: Improved flow-through

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1 percentage and improved billing accuracy --
2 again, that's a measurement of the
3 performance and if you succeeded in the goal
4 of this particular project?

5 A. (Ms. Weatherwax) That's correct.

6 Q. Okay. And I noticed that through most of
7 these there was -- yeah, there's a lot of
8 similar descriptions. If you flip through,
9 you'll see, you know, improving flow-through
10 percentages and billing accuracy. On
11 Page 24, project description:
12 Suspend/resume collections. Performance
13 indicator: improving billing accuracy. Same
14 on Page 25 project description. Performance
15 indicator: Improving billing accuracy. So
16 I see that as a recurring measurement,
17 improving billing accuracy, or improving the
18 accuracy of that particular project.

19 MR. McHUGH: Do you have a
20 question, Alan?

21 MR. SHOER: Yeah, I do.

22 MR. McHUGH: Okay.

23 BY MR. SHOER:

24 Q. If you could turn to Page 22 on the metrics

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1 remediation. I was concerned about this,
2 because when I looked at this metric I was
3 looking for a performance indicator again
4 that would show, you know, improved
5 accuracy. But I see as a performance
6 indicator it says penalties/cost avoidance,
7 20- to 30-percent reduction of current
8 penalties. Do you see that?

9 A. (Ms. Weatherwax) Yes.

10 Q. So am I correct that the indicator here is,
11 if the company is reducing the amount of
12 penalties that it pays, that's a measurement
13 of this particular success of this project?

14 A. (By Ms. McLean) So you have to read below
15 it, where it says the benefit is more
16 accurate insight into operational
17 performance.

18 Q. Okay. Now let's look at the description and
19 scope of this project. It says description
20 and scope. The metrics that are driving
21 fines need to be continued --

22 A. (By Ms. McLean) Okay. So I'm a little bit
23 confused when the exhibit is confidential
24 and you're going to read it into the record

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1 in a non-confidential session.

2 Q. I'm not reading it. I'm just identifying
3 the description and scope.

4 A. (By Ms. McLean) Well, that's what these
5 pages do.

6 Q. Right. Well, I don't think that's
7 confidential.

8 CHAIRMAN GETZ: Well, Mr.
9 McHugh, do you have an argument to make here?
10 Not that it's hard to see where some of this
11 particular inquiry is confidential --

12 MR. McHUGH: Why don't we take
13 a break so I can discuss this with the members of
14 the company, Mr. Chairman, and then we can
15 resume. I don't know the answer, off the top of
16 my head. Some of it sounds like it is. Some of
17 it's not necessarily confidential. But he is
18 sitting here reading it when we don't need to do
19 that. If he's got questions, he can ask them.
20 What is the intent of the penalties cost
21 avoidance, for example. It's certainly not a
22 confidential question. But sitting here reading
23 it, I've got some issues with that.

24 MR. SHOER: I'm not reading

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1 anything more than this one line. That's all I'm
2 reading.

3 CHAIRMAN GETZ: Seems to me
4 that the question, I think where you're headed
5 is, and I think you've already asked it, is the
6 performance indicator the appropriate performance
7 indicator for the project description. Is that
8 the substance of your question?

9 MR. SHOER: That's part of it,
10 yes.

11 CHAIRMAN GETZ: And what would
12 be the other part?

13 MR. SHOER: My other part is
14 that, am I correct that, if FairPoint is paying
15 penalties or fines, that's not a problem, per se,
16 of the metrics; that's a problem of the
17 underlying service quality and the operations?
18 Would you agree with that statement?

19 A. (By Ms. McLean) It's a combination of both.
20 The metrics are incredibly complex, and they
21 were designed around Verizon's systems and
22 processes at the time. So Verizon itself
23 undertook a metrics validation program to
24 make sure that all the business rules that

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1 needed to be followed to accurately capture
2 the performance that we had -- and FairPoint
3 did exactly the same thing -- are we
4 capturing the right data points in order to
5 accurately report our performance and also
6 to correctly categorize and bucket the
7 various orders and tickets running through
8 the system? So if you're not doing that
9 correctly, you could be affecting your
10 penalties. You could be paying penalties on
11 things that you should not be paying
12 penalties on. Similarly, as has been
13 brought up, you could not be paying a
14 penalty when you should be paying a penalty.
15 So part of this specifically was a
16 validation of, given that we have changed
17 our systems, are we interpreting the
18 business rules that were defined around a
19 different set of systems correctly for our
20 processes and systems? As a result of doing
21 that process and validating that you're
22 measuring the right things, you now have
23 very good insight into how you are operating
24 on a more timely basis, so you can take

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1 corrections -- the operational teams can
2 make corrections in the course of a month to
3 improve the service levels. So this program
4 had both of those initiatives. And many of
5 the CDIP programs have resulted in ongoing
6 process improvements, one of which is a
7 weekly review -- and it was a practice in
8 Verizon that FairPoint has adopted -- of the
9 metrics team with the business owners to
10 review the performance and make sure that
11 the metrics are, A, reflecting the
12 performance we believe that we're
13 delivering, the service we believe we're
14 delivering; and, B, that we can take
15 corrective actions if we're below standards
16 on those measures.

17 Q. Thank you. So if your metrics are reporting
18 accurately and you're providing poor service
19 quality -- I'm talking about the operation
20 providing poor service quality -- and their
21 measurements -- their metrics are accurate,
22 that would -- if you --

23 A. (By Ms. McLean) You pay a lot of fines,
24 which FairPoint did.

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1 Q. Right. And that would not be a problem of
2 the metrics is my question. That would be a
3 problem of the operations; correct?

4 A. (By Ms. McLean) I answered that it could be
5 some of each. If in fact the metrics are
6 accurate and you are providing poor
7 performance, you will pay penalties. That's
8 how the plans are constructed. You can
9 actually be providing very good service and
10 still pay penalties, based on the way the
11 metrics are constructed in some cases. And
12 if you're measuring them incorrectly, you
13 could be, using the terms of the industry,
14 "dinging" yourself for a miss that is not
15 actually a miss, because you're not
16 capturing the right event in the system in
17 order to calculate the metric. So it's some
18 of all of those things.

19 Q. Thank you.

20 CHAIRMAN GETZ: Any redirect
21 on that, Mr. McHugh?

22 MR. MCHUGH: No, Mr. Chairman.

23 CHAIRMAN GETZ: Anything
24 further for these witnesses?

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1 (No response)

2 Hearing nothing, then you're
3 excused. Thank you.

4 Okay. It's a good time for
5 the morning recess. And I believe we'll be
6 taking up with Mr. Nixon and Mr. Scrivan. So
7 let's recess until 11:00.

8 (Recess taken at 10:38 a.m.)

9 (Proceedings resumed at 11:06 a.m.)

10 CHAIRMAN GETZ: Back on the
11 record in DT 10-025. And we have the next panel
12 from FairPoint?

13 MR. McHUGH: I do, Mr.
14 Chairman. Just one minor administrative matter.

15 When I had described earlier
16 that there was a filing made late last night with
17 the bankruptcy court, the one filing which seemed
18 to generate some interest has been described as a
19 second supplement to the plan supplement, which
20 in fact is essentially a one-page pleading with
21 an attachment providing notice of two leases that
22 have been rejected in the bankruptcy process that
23 aren't even in the state. So I think that really
24 is a non-issue. There was another pleading filed

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1 in which -- in the bankruptcy process. I believe
2 the number is 96 leases have been assumed. I
3 don't have any plans to include them in the
4 record.

5 CHAIRMAN GETZ: All right.
6 Thank you.

7 MR. McHUGH: Having said that,
8 FairPoint calls Peter Nixon and Michael Scrivan
9 to the stand.

10 (WHEREUPON, the witnesses were duly
11 sworn and cautioned by the Court
12 Reporter.)

13 **PETER G. NIXON, SWORN**

14 **MICHAEL T. SCRIVAN, SWORN**

15 **DIRECT EXAMINATION**

16 **BY MR. McHUGH:**

17 Q. Mr. Scrivan, if I could please start with
18 you. Could you please state for the record
19 your full name and your position with
20 FairPoint, please.

21 A. (Mr. Scrivan) Yes. I'm Michael T. Scrivan,
22 and I'm Vice-President of Regulatory for
23 FairPoint.

24 Q. Who do you report to at FairPoint, Mr.

[WITNESS PANEL: NIXON|SCRIVAN]

1 Scrivan?

2 A. (Mr. Scrivan) I report to Peter Nixon.

3 Q. Mr. Scrivan, have you agreed to adopt a
4 certain portion of the prefiled testimony of
5 Mr. Alfred Giammarino, dated February 24,
6 2010, which we've identified previously as
7 FairPoint Exhibit 7?

8 A. (Mr. Scrivan) Yes.

9 Q. Could you tell the Commission what portions
10 of Mr. Giammarino's testimony you've agreed
11 to adopt and sponsor?

12 A. (Mr. Scrivan) Yes. I've agreed to adopt and
13 sponsor Pages 52 through 58 of his
14 testimony.

15 Q. Are there any corrections to that testimony,
16 Mr. Scrivan?

17 A. Yes, there are.

18 Q. Could you please -- go ahead, please.

19 A. (Mr. Scrivan) On Page 58 there's an answer
20 there that goes from Lines 1 through 14.
21 And the last sentence in that answer states
22 that FairPoint "does believe such an outcome
23 would be beneficial," et cetera. And it
24 should be corrected to say "FairPoint does

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1 not believe such an outcome would be
2 beneficial."

3 Q. Any other corrections, Mr. Scrivan?

4 A. (Mr. Scrivan) No.

5 Q. Subject to the testimony being corrected, is
6 the testimony that you've agreed to adopt
7 and sponsor true and correct in all material
8 respects?

9 A. (Mr. Scrivan) Yes.

10 Q. Do you adopt that prefiled testimony as your
11 own here today under oath?

12 A. (Mr. Scrivan) Yes.

13 Q. Before I introduce Mr. Nixon, Mr. Scrivan,
14 could you just summarize very briefly your
15 experience and training in connection with
16 the work that you do.

17 A. (Mr. Scrivan) Yes. I have over 30 years of
18 experience in the telecommunications
19 industry. My career started with Ernst &
20 Young in a telecommunications consulting
21 practice which was focused primarily on
22 providing regulatory services to rural
23 telephone companies. I've also worked for
24 other consulting groups, and I've worked for

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1 two midsize carriers prior to working for
2 FairPoint. One of those carriers was in
3 Illinois, called Illinois Consolidated
4 Telephone Company. And I went to work for
5 them at the time of divestiture and
6 implementation of access charges, with the
7 general duties to deal with those issues.
8 And then I was with a company called Madison
9 River Communications, which was also a
10 midsize carrier. And my duties there were
11 similar as to what my duties are at
12 FairPoint.

13 Q. Thank you. Mr. Nixon, could you please
14 state for the record your full name and your
15 title with FairPoint Communication?

16 A. (Mr. Nixon) Peter Garrett Nixon, President.

17 Q. And how long have you been with FairPoint,
18 Mr. Nixon?

19 A. (Mr. Nixon) Since 1997.

20 Q. Mr. Nixon, can you please -- you have not
21 sponsored any testimony in this docket; is
22 that correct?

23 A. (Mr. Nixon) That's correct.

24 Q. So can you please state for the Commission

[WITNESS PANEL: NIXON|SCRIVAN]

1 why it is that you're here today, the
2 purpose of your attendance.

3 A. (Mr. Nixon) Yes. I'm the person and the
4 officer at FairPoint who signed the
5 regulatory settlement. And as such, I've
6 been asked by the Non-Advocate Staff to
7 address questions that may arise as they
8 relate to the regulatory settlement.

9 Q. Mr. Nixon -- I'm sorry.

10 MR. MCHUGH: Mr. Chairman, the
11 witnesses are available for cross-examination.

12 CHAIRMAN GETZ: Okay. Thank
13 you. Mr. Roth?

14 MR. ROTH: Thank you, Mr.
15 Chairman.

16 **CROSS-EXAMINATION**

17 **BY MR. ROTH:**

18 Q. Mr. Nixon, you were here yesterday; right?

19 A. (Mr. Nixon) I was.

20 Q. You probably heard me ask Ms. Hood what
21 became of Mr. Giammarino?

22 A. (Mr. Nixon) I did.

23 Q. Would you perhaps care to elaborate on that
24 question? What became of Mr. Giammarino?

[WITNESS PANEL: NIXON|SCRIVAN]

1 A. (Mr. Nixon) Thank you. I believe the
2 question was his departure and why he left.
3 And the response yesterday was "for personal
4 reasons," which is true and correct. I had
5 the opportunity to visit with Mr. Giammarino
6 after he made that decision and inquired as
7 to was there any indication as to his
8 continued support for or questions about the
9 plan, the business plan that had been
10 developed, had he been under any pressure to
11 say or do anything that might be to the
12 contrary of it. And he indicated that that
13 was not the case, that this was strictly a
14 business -- a personal -- I'm sorry -- a
15 personal decision on his part. And it had
16 nothing to do with any other matters or any
17 concerns he might have with regard to the
18 business plan or the operations of the
19 company.

20 Q. Thank you. Now, since the Staff Advocates
21 and the company reached the regulatory
22 settlement, we've seen restated financials,
23 some new changes to the credit agreement, a
24 partial confirmation order, and some months

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1 of the company's actual performance, and
2 perhaps a better understanding by you and
3 your people of the company's performance.
4 Is there anything in any of those matters or
5 with those documents that have -- that you
6 think would make it less likely or not
7 possible for FairPoint to comply with the
8 terms of the regulatory settlement and to
9 comply with the terms of the 2008 agreement
10 and to comply with other regulatory
11 requirements that the Public Utilities
12 Commission may have and impose upon
13 FairPoint?

14 A. (Mr. Nixon) No, there are no other -- excuse
15 me. Nothing has occurred since the time
16 that we entered into this regulatory
17 settlement that would now make me question
18 whether we can or are able to fulfill the
19 requirements under the regulatory settlement
20 or the plan.

21 Q. In particular, there were a couple of
22 paragraphs dealing with capital
23 expenditures. Is there anything in the
24 company's financial situation, either as a

[WITNESS PANEL: NIXON|SCRIVAN]

1 result of the new credit agreement or the
2 actual performance, that are going to impair
3 or have an impact on the company's ability
4 to perform those capital expenditures?

5 A. (Mr. Nixon) I believe, as we heard the
6 witnesses in the last two days indicate,
7 that there's nothing that we're aware of
8 that would negatively impact the company's
9 ability to perform, and that the funds and
10 the expectations are as we've indicated. I
11 believe that Ms. Hood did indicate, though,
12 that with the -- calling for the secured
13 debt that has for technical reasons been
14 removed, that indeed it would give the
15 company an additional cushion so it would
16 further improve the company's ability to
17 achieve those.

18 MR. ROTH: All right. That's
19 all I have. Thank you.

20 CHAIRMAN GETZ: Thank you.

21 Ms. Hatfield?

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

24

CROSS-EXAMINATION

1
2 **BY MS. HATFIELD:**

3 Q. Good afternoon -- good morning, gentlemen.

4 I believe this question is more
5 appropriate for Mr. Scrivan. I believe that
6 FairPoint has marked the memorandum of
7 understanding with New Hampshire Legal
8 Assistance that was executed in 2007 in
9 Docket 07-011; is that correct?

10 A. (Mr. Scrivan) That's my understanding. Yes.

11 Q. And so you are seeking to have that be an
12 exhibit at this proceeding as well.

13 A. (Mr. Scrivan) Yes.

14 Q. And why does the company wish to do that?

15 MR. MCHUGH: Well, I'm sorry.
16 I have to address that question, Mr. Chairman,
17 because it was asked of me to mark the MOU with
18 NHLA and Ms. Schmidt as an exhibit. So we did it
19 purely as an administrative convenience. It's
20 FairPoint Exhibit 3.

21 CHAIRMAN GETZ: Does that
22 answer your question, Ms. Hatfield, or are you
23 seeking more on that?

24 MS. HATFIELD: That is very

[WITNESS PANEL: NIXON|SCRIVAN]

1 helpful. I was asking the question, Mr.
2 Chairman, because I don't believe there's any
3 reference to that exhibit in the company's
4 pleadings or testimony. So I really wanted to
5 just ask a few clarifying questions about the
6 purpose of including that in the record in this
7 case, as well as being in the record with the
8 prior case. So I would like to proceed with a
9 few specific questions about it, if I may. Thank
10 you.

11 BY MS. HATFIELD:

12 Q. Do you have a copy of FairPoint Exhibit 3
13 with you, Mr. Scrivan?

14 A. (Mr. Scrivan) I'm sorry. I do not.

15 MR. MCHUGH: I think I have
16 extras.

17 MS. HATFIELD: I think Mr.
18 Linder might have one as well.

19 A. (Mr. Scrivan) I do have it. I'm sorry. I
20 do have it.

21 BY MS. HATFIELD:

22 Q. Thank you. If you look at the first page,
23 Item No. 1 is Lifeline and Link-Up support;
24 correct?

[WITNESS PANEL: NIXON|SCRIVAN]

1 A. (Mr. Scrivan) Yes.

2 Q. And that section describes the agreement
3 that FairPoint and New Hampshire Legal
4 Assistance entered into in the last docket;
5 correct?

6 A. (Mr. Scrivan) Yes.

7 Q. Are you aware of how progress has been since
8 the time that the agreement was made?

9 A. (Mr. Scrivan) Yes. FairPoint has, in fact,
10 met with NHLA on this matter.

11 Q. And is it true that FairPoint is also now
12 providing reports to Staff, Legal Assistance
13 and the OCA indicating enrollment in those
14 programs?

15 A. (Mr. Scrivan) Yes, that's true.

16 Q. The second issue on the next page deals with
17 soft disconnects. Do you see that?

18 A. (Mr. Scrivan) Yes.

19 Q. And is there any update or status on that
20 issue?

21 A. (Mr. Scrivan) Yes. We have implemented the
22 soft disconnect process.

23 Q. There has been some discussion previously on
24 pay phones. Were you here for that

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1 discussion?

2 A. (Mr. Scrivan) Yes, I was.

3 Q. Looking at Section 4 that begins on Page 2
4 of Exhibit 3 dealing with pay phones, is
5 there any update or status on those
6 commitments?

7 A. (Mr. Scrivan) Yes, we have met regarding the
8 public-interest pay phones. And I
9 understand there have been a couple
10 implemented. And we have followed through
11 with providing the necessary information
12 under this section.

13 Q. So in your view, Mr. Scrivan, is the purpose
14 of including this exhibit really to just
15 reinforce the commitment that the company
16 had made with respect to New Hampshire Legal
17 Assistance?

18 MR. McHUGH: Wait. I object,
19 because the witness can't answer that. I was
20 asked if I would put it in for convenience.
21 That's the purpose of putting it in. I mean,
22 period. There's no -- nothing nefarious, and
23 there's nothing of the other type of intent. It
24 was simply a request made of me. I agreed to do

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1 it for convenience. There's no other reason. So
2 the purpose of putting it in is just for that.

3 CHAIRMAN GETZ: Ms. Hatfield,
4 is the point of the question, does FairPoint
5 still intend to abide by the agreement? Is
6 that --

7 MS. HATFIELD: That is another
8 way the question can be phrased. Thank you, Mr.
9 Chairman. And I apologize for what Mr. McHugh
10 seems to be taking as a problematic question. It
11 really wasn't intended that way. So I can
12 withdraw the question, or the witness can answer
13 the question that you have. Thank you.

14 CHAIRMAN GETZ: Does FairPoint
15 intend to abide by the obligations that are set
16 forth in the memorandum?

17 MR. SCRIVAN: Yes.

18 MS. HATFIELD: Thank you. I
19 have nothing further.

20 CHAIRMAN GETZ: Mr. Linder?

21 MR. LINDER: Yes.

22 **CROSS-EXAMINATION**

23 **BY MR. LINDER:**

24 Q. Good morning, Mr. Nixon and Mr. Scrivan. I

[WITNESS PANEL: NIXON|SCRIVAN]

1 would like follow-up on a couple questions
2 regarding the pay phone aspect of the
3 memorandum of understanding that Ms.
4 Hatfield referred to.

5 And following up on Ms. Hatfield's last
6 question and the Commissioner's question, in
7 fact, in the bankruptcy proceeding the
8 company did make a filing expressly assuming
9 the memorandum of understanding, Exhibit 3,
10 rather than rejecting it; is that not
11 correct?

12 A. (Mr. Scrivan) I don't know the answer to
13 whether that happened in that process or
14 not. I mean, I can say that, as I said
15 earlier, we intend to honor it. But I just
16 don't know specifically as a matter of fact
17 whether it was assumed in that process.

18 CHAIRMAN GETZ: I'm assuming
19 that that's something we can verifying pretty
20 easily?

21 MR. LINDER: Yes. This is the
22 document. I don't think we need to mark it. I
23 was just getting on the record that the company
24 did assume it. If counsel would stipulate?

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1 MR. MCHUGH: It was assumed
2 via pleading filed -- or via pleading dated
3 April 21, 2010, signed by James Grogan and Paul
4 Hastings. So stipulated.

5 CHAIRMAN GETZ: Thank you.

6 MR. LINDER: Thank you.

7 BY MR. LINDER:

8 Q. Actually, just following up on that, we just
9 wanted to state for the record that our
10 client and Legal Assistance do appreciate
11 the fact that the company has assumed the
12 memorandum of understanding rather than
13 rejecting it.

14 You would agree with me, Mr. Nixon,
15 that the memorandum of understanding does
16 contain components that would and does
17 benefit the company's low-income customers
18 with respect to the Lifeline and soft
19 dialtone and pay phones?

20 A. (Mr. Nixon) I do.

21 Q. Good. Okay. There was reference in the
22 plan supplement schedule of contracts and
23 leases assumed and rejected that contained
24 references to rejection of some of the pay

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1 phone contracts that we would characterize,
2 I think, as commission-based contracts.
3 Would you agree with that?

4 A. (Mr. Nixon) Yes.

5 (Fire alarm sounding.)

6 CHAIRMAN GETZ: Recess.

7 (Lunch recess was taken at 11:23)

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C E R T I F I C A T E

1
2 I, Susan J. Robidas, a Licensed
3 Shorthand Court Reporter and Notary Public
4 of the State of New Hampshire, do hereby
5 certify that the foregoing is a true and
6 accurate transcript of my stenographic
7 notes of these proceedings taken at the
8 place and on the date hereinbefore set
9 forth, to the best of my skill and ability
10 under the conditions present at the time.

11 I further certify that I am neither
12 attorney or counsel for, nor related to or
13 employed by any of the parties to the
14 action; and further, that I am not a
15 relative or employee of any attorney or
16 counsel employed in this case, nor am I
17 financially interested in this action.

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