STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

(Redacted- Confidential Pages Removed)

**October 25, 2007** - 9:22 a.m.
Concord, New Hampshire **Day IV**

NHPUC NOV05'07 PM 3:4

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

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

Jody O'Marra, Clerk

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Patrick McHugh, Esq. (Devine, Millimet..)
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**Reptg. Irene Schmitt:**
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**Reptg. PUC Staff:**
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**P R O C E E D I N G S**

CHAIRMAN GETZ: Okay. Good morning, everyone. We're back on the record in DT 07-011. Actually, first off, let's take appearances for today.

MR. COOLBROTH: Good morning, Mr. Chairman. For FairPoint Communications, Inc., Frederick Coolbroth, Melinda Gehris, and Kevin Baum, of the firm of Devine, Millimet & Branch. And, with us at counsel table are Walter Leach and Peter Nixon from the Company.

CHAIRMAN GETZ: Good morning.

CMSR. MORRISON: Good morning.

CMSR. BELOW: Good morning.

MR. DEL VECCHIO: Good morning, Mr. Chairman, Commissioner Morrison, Commissioner Below. Ready to rock and roll on behalf of Verizon are Victor Del Vecchio and Sarah Knowlton. And, with us is Sheila Gorman, among others.

CHAIRMAN GETZ: Good morning.

CMSR. MORRISON: Good morning.

CMSR. BELOW: Good morning.

MR. MANDL: Good morning, Commissioners. Alan Mandl, for New England Cable and Telecommunications Association and Comcast Phone of New Hampshire.

CHAIRMAN GETZ: Good morning.

CMSR. MORRISON: Good morning.

CMSR. BELOW: Good morning.

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

CHAIRMAN GETZ: Good morning.

CMSR. MORRISON: Good morning.

CMSR. BELOW: Good morning.

MR. LINDER: Good morning. Alan Linder from New Hampshire Legal Assistance, representing Verizon residential customer Irene Schmitt.

CHAIRMAN GETZ: Good morning.

CMSR. MORRISON: Good morning.

CMSR. BELOW: Good morning.

MR. LINDER: Good morning.

MS. HOLLENBERG: Good morning. Rorie Hollenberg, Meredith Hatfield, Kenneth Traum, Susan Baldwin, and David Brevitz here for the Office of Consumer Advocate.

CHAIRMAN GETZ: Good morning.

CMSR. MORRISON: Good morning.

CMSR. BELOW: Good morning.

MS. FABRIZIO: Good morning. Lynn Fabrizio, Kate Bailey, John Antonuk, Randy Vickroy, and David Goyette for Staff.

CHAIRMAN GETZ: Okay. Good morning.

CMSR. MORRISON: Good morning.

CMSR. BELOW: Good morning.

CHAIRMAN GETZ: Before -- We'll get to Mr. Brevitz in a second, I just want to suggest this. The procedural schedule has been kind of a moving target as we've gone along. We may have created some -- I may have misspoke or miscommunicated at some points about what the intentions are. I guess I would suggest that we -- folks speak over the break, if there's any preferences about how we proceed from here on out, and then we'll talk about it when we return after the morning recess.

I'd just say a couple of things. In general, expecting not to do the Electric panels until next week. There's, I think, a request for oral argument, both from Verizon and from PSNH, on Verizon's motion to exclude, and, you know, maybe we could get that done tomorrow. There's the two MOUs, one with NHTA and one with NHLA, that I'm assuming won't take up a lot of time. So, if there's a recommendation of the parties where best to fit those in, then I think we're flexible on how that occurs. My understanding for Monday was that we had scheduled the Brown/Harrington/Smee panel. And, I believe FairPoint is asking that Mr. Nixon go after that panel, is that correct?

MR. COOLBROTH: That's correct, Mr. Chairman.

CHAIRMAN GETZ: Okay. And, then, also I believe, Mr. Del Vecchio, you've asked that Mr. Nestor be able to go after the Electric panel. So, I guess, setting out those general parameters, I'm hopeful today that we get -- we hear from Mr. Brevitz, Mr. Antonuk, and Mr. Vickroy. And, my understanding is there's a possibility of hearing from Mr. Skrivan, and I guess see how far we go with him. And, then, I guess, with those procedural principles, if we can -- if the parties can speak at the morning break, and then let's revisit where we are after that, to see if we have a meeting of the minds on what happens next.

Okay. And, then, with that, is there anything else anyone would like to bring up?

MR. RUBIN: Yes, Mr. Chairman. Another I guess a combination procedural/evidentiary matter. The parties had a brief discussion this morning about the best procedure to get FairPoint's S-4 filing into the record.

And, I believe we have agreement of all counsel that the Commission could just take administrative notice of that document. It's on file with the Securities & Exchange Commission. And, I believe FairPoint indicated they could provide for the record the link on the -- on a website to the full text of that document, rather than reproducing the several hundred page document. So, I guess I would formally ask the Commission to take administrative notice of that document.

MR. COOLBROTH: And, Mr. Chairman, we have no objection to doing so and can provide the link. The SEC operates a Electronic Data Generation and Retrieval site, known as "EDGAR" is the acronym for that site. And, we can provide a link to that site where the registration statement on Form S-4 as it became effective is located.

CHAIRMAN GETZ: Okay.

MS. HOLLENBERG: Excuse me. Actually, I don't want to be heard on this issue, but just one issue before we proceed.

CHAIRMAN GETZ: Okay. All right. Is there any objection to taking administrative notice? Hearing no objection, we will take administrative notice of the S-4.

**(Administrative notice taken.)**

CHAIRMAN GETZ: Ms. Hollenberg.

MS. HOLLENBERG: Thank you. I just wanted to mention, before we proceed with Mr. Brevitz, and I've spoken with FairPoint about this this morning, when the Company redesignated the testimony, there were some differences that resulted between the redesignated version and the original version filed with the Commission. And, I just wanted to advise the Commission of what those differences were. Generally, there are some differences in line numbers and pages numbers, and there are also, the way that FairPoint filed the redesignated testimony, they filed the public exhibits with the public version and the highly confidential exhibits with the highly confidential version. And, so, if you only have one version of them, you might not have all of the exhibits. So, you will need to collate the three versions of exhibits in order to have a full packet of them.

CHAIRMAN GETZ: Well, you may not know the answer to this question, I guess, is what do we have electronically?

MS. HOLLENBERG: I do not know. That would be the Company. The Company made the filing.

MR. COOLBROTH: You have everything, Mr.

Chairman. And, in terms of, in each file, --

MS. GEHRIS: Do you want --

MR. COOLBROTH: Ms. Gehris can answer.

MS. GEHRIS: Mr. Chairman, what you have is the public version with the public exhibits, the highly confidential version with the highly confidential exhibits, and you should also have the confidential version of the confidential exhibits. And, if it's easier to have them in paper, we can certainly make that happen as well.

CHAIRMAN GETZ: Okay. Well, we'll just have to make sure, when we go through, that we have paper and electronic versions, to make sure we've got it all before us. Okay. Thank you.

MS. HOLLENBERG: And, just to give you the heads-up that the same problems, I believe, are going to occur with Ms. Baldwin's, or the same inconsistencies, not necessarily "problems", but will be present with Ms. Baldwin's testimony as well.

CHAIRMAN GETZ: Okay. Thank you. Anything else?

MR. DEL VECCHIO: Yes, Mr. Chairman, one other procedural matter. We were asked yesterday to provide a reply in New Hampshire to a question asked as a record request in Maine, I believe it was ODR-14 regarding customer migration, and we will also reply in New Hampshire. And, I would ask that we mark for identification as "Verizon Exhibit 10" the record request associated with that.

**(Verizon Exhibit 10 reserved.)**

CHAIRMAN GETZ: Let me -- Mr. Del Vecchio, was there one other thing about the -- did OCA ask on Exhibit 57 about a citation correction that there was -- do you recall, Ms. Hollenberg? There was a citation that you thought was an error that you had asked that the --

MS. HOLLENBERG: Oh, yes. I think that was to FairPoint --

CHAIRMAN GETZ: In Mr. -- I'm sorry, it was in Mr. King's testimony, I believe.

MS. HOLLENBERG: Yes. Yes, he was -- in one of his responses, and I can get that to FairPoint at the break, but I don't have my notes from yesterday. In one of his responses, he referred to "OCA R-1", and we did not receive a response to OCA R-1, we only received an objection. So, he must have meant another, another data response.

MR. COOLBROTH: Mr. Chairman, we are

checking on that, following up.

CHAIRMAN GETZ: Okay. All right. Thank you. Okay, that's all I have from my list.

MS. HOLLENBERG: Thank you.

CHAIRMAN GETZ: Anything else?

(No verbal response)

CHAIRMAN GETZ: Okay. Mr. Brevitz has been waiting patiently. And, I believe we start with you, Mr. Rubin.

MR. RUBIN: Yes. Thank you, Mr. Chairman. Good morning, Mr. Brevitz.

WITNESS BREVITZ: Good morning.

**DAVID BREVITZ, Previously sworn**

**CROSS-EXAMINATION (resumed)**

BY MR. RUBIN:

Q. Were you involved as an expert witness in the review of the transaction that created Windstream Communications?

A. Yes, I was.

Q. Who were the parties to that transaction?

A. There were two joint applicants, one was Alltel, on behalf of its Local Telecommunications Division, the second party was Valor Communications.

Q. Was the structure of that transaction similar to the proposed structure of this transaction?

A. I address that in my testimony. And, in -- there are some superficial similarities, in that it's a Reverse Morris Trust transaction. But, beyond that, there are more differences than there are similarities. Essentially, Alltel acquired Valor. Alltel shareholders owned 85 percent of the resulting new company, while Valor owned 15 percent. That's compared to the 60/40 split here. Valor management did not stay with the new entity. It basically left and was replaced in entirety by the Alltel Local Telecommunications Division management. In fact, Alltel went so far as to hire a chief operating officer from outside, rather than take Valor management people.

The leverage was different. The leverage for the new company was proposed at 3.5 times, here it's 4.1. And, what I consider to be a striking difference is the Valor telecommunications entity was already served by Alltel for its back office system. So, there was no integration or development required to the extent that's being contemplated with this transaction.

And, in sum, and I think this is what I said in general in my testimony, is, essentially, Alltel's intact Local Telecommunications Division was transferred with its management and operations intact to this new entity, and along the way they picked up Valor Communications, which was in some financial difficulties at the time anyway.

Q. Yesterday there was a document marked as "FairPoint Exhibit 38", it's a one-page document. Do you have a copy of that with you?

A. That was in the green folder I've got. Yes, I do have it.

Q. Yes. That's a one-page financial summary for Verizon New Hampshire. Are we looking at the same thing?

A. Yes.

Q. Would it be fair to call you an expert on the regulation of public utilities?

A. Yes, particularly on telecommunications utilities. I've been in this business since 1981.

Q. As a regulatory expert, can you render an opinion about Verizon New Hampshire's financial condition or its need for a rate change based on this one-page document?

A. No such opinion can be rendered based on this one page. I have seen this sort of accounting display many times. It's a starting place for a rate case. It's a starting place from the Company's books. When a company does file for rate relief, they tend to start with these kind of figures and make a variety of adjustments to them, in order to present an adjusted going-forward view of operations financially. Likewise, the intervenors that participate in that case also present adjustments to the financial picture. This one page is not the end of the story, as far as what the actual earnings of the company would be deemed to be from a regulatory standpoint.

In fact, I have participated in many rate cases, one of the most recent ones in New England was in Vermont in 2004 and 2005. The picture there was similarly gloomy to this presentation, and the Board issued there a final order finding 24 million in excess revenues and ordering rate reductions. Two of the issues there were with regard to corporate allocations, and there was also an issue with regard to how the -- how Verizon was implementing the FCC's separations freeze. And, both of those were taken into consideration in terms of the Board finding a $24 million revenue excess. And, similarly, over in Maine, the hearing examiner there just has recently rendered an opinion that the Verizon Maine operations are overearning to the tune of $32 million. But, in both cases, there would have been an earnings statement presentation like this that would have, obviously, is far different from what a regulatory commission finds.

MR. RUBIN: All right. Thank you. That's all we have for the witness, Mr. Chairman.

CHAIRMAN GETZ: Thank you. Ms. Fabrizio.

MS. FABRIZIO: Thank you, Mr. Chairman. Good morning, Mr. Brevitz.

WITNESS BREVITZ: Good morning.

BY MS. FABRIZIO:

Q. Do you have before you an exhibit labeled "Staff 43"?

A. I do.

Q. And, would you please read the title of the article and the date.

A. The title is "Cable versus Telco: The Battle Heats Up". The date is "October 10, 2007". The author is Richard Siderman from Standard & Poor's.

Q. Great. Thank you. Are you familiar with this article?

A. I am.

Q. And, in fact, this was an article referenced in Staff Exhibit 27 that was discussed earlier this week. Is that your understanding as well?

A. Yes. Staff Exhibit 27, the last line indicates that "For related industry commentary, please see the

article published earlier today."
Q. Thank you.
A. And, I believe this to be the same.
Q. So, you said you have read the article. You're familiar with it?
A. Yes.
Q. And, what are the major themes of this article?
A. On Page 1, the third paragraph states "Standard & Poor's Ratings Services believes that the key determinants of credit quality in both telecom and cable are a company's ability to differentiate its products and services and its financial policy." So, the opinion really is based on two factors going forward. And, the article goes from there to explore those two factors, in terms of a company's ability to differentiate its products and its financial policy.
Q. Okay. Thank you. Could you please turn to Page 2.
A. Okay.
Q. In the section entitled "Fighting Back with Video Services". In the third paragraph of that section, could you please read the first sentence, starting -- beginning "The second,".
A. Yes. It says "The second, and potentially most potent, defense against cable operators is the telephone

companies' video product."

Q. Could you comment for us on that statement.

A. The article talks in some detail about Verizon's FiOS and AT&T's U-Verse offering. The analogous service here in this case going forward would be FairPoint's potential provisioning of a video product. And, my sense from the record in this case is that there is no concrete plan on FairPoint's part to offer video, other than perhaps through an affiliate arrangement with an affiliate -- I mean, a marketing arrangement with a satellite provider.

Q. Thank you. Now, turn to Page 3, the section entitled "Financial Policy Must Reflect Maturing Market".

A. Okay.

Q. Please read the first short paragraph under that heading.

A. It says that "Financial policy will play an increasingly important role in determining credit ratings. Currently, the ratings on Alltel, Intelsat and Cablevision are on CreditWatch Negative because of pending leveraged buyouts."

Q. Do you agree with that statement?

A. Yes.

Q. Turning to Page 4, and under the section entitled "Some

Likely Casualties". Could you please read the first sentence of that first paragraph, beginning with "For most pure wireline players".

A. Okay. "For most pure wireline players, including CenturyTel, Citizens Communications, Embarq, Qwest Communications International, and Windstream, the prospect of flat or declining revenues is not just a future possibility but a current reality.

Q. And, the last sentence of that same paragraph please.

A. The last sentence indicates "The pressure to satisfy equity investors lessens the ability of those companies to reduce debt to offset challenging business prospects."

Q. Do you agree with these statements?

A. I do. That's a concern that goes through my testimony and my recommendation on behalf of OCA.

Q. So, you believe that FairPoint faces these same concerns?

A. Yes.

Q. Thank you. That's all with regard to that article. Now, I'd like to refer you to --

MS. FABRIZIO: I stand corrected. That concludes my questions for Mr. Brevitz.

CHAIRMAN GETZ: Mr. Coolbroth.

MR. COOLBROTH: Thank you, Mr. Chairman. Good morning, Mr. Brevitz.

WITNESS BREVITZ: Good morning.

BY MR. COOLBROTH:

Q. Just returning briefly to FairPoint Exhibit 38, and, in response to Mr. Rubin's questions, you indicated that you were an expert in utility regulation?

A. Yes.

Q. Are you familiar with the New Hampshire statute on temporary rates, RSA 378:27?

MS. HOLLENBERG: Mr. Chairman, I'm going to object to that question.

CHAIRMAN GETZ: On what grounds?

MS. HOLLENBERG: Well, because he's asking about a legal statute, and this witness is not an attorney.

CHAIRMAN GETZ: I don't hear him calling for a legal opinion. I think he's testified of his regulatory expertise. I think it's fair to inquire to the extent of that expertise as it applies to New Hampshire law. If we get into the area of him asking for a legal opinion or legal interpretation, then, of course, we would not require that of the witness. Mr. Coolbroth.

BY MR. COOLBROTH:

Q. Mr. Brevitz, do you know whether, in granting temporary rates, the New Hampshire Public Utilities Commission looks at the reports of the utility filed with the Commission?

A. I assume that -- I don't know that for a fact. I assume that this report is, in fact, filed with the Commission. And, the Commission, among the other reports it receives from other utilities, will take notice of the reports when they're filed.

Q. So, you don't know whether the Commission would consider this report in determining whether or not to grant temporary rates for Verizon?

A. I do not.

Q. Now, your testimony, your prefiled testimony, and in your responses to Mr. Rubin this morning, you discussed the Embarq and Windstream transactions, is that right?

A. I definitely discuss those transactions in my testimony.

Q. And, in fact, with the Embarq transaction, you advised the Office of the Attorney General in Nevada?

A. I had two projects in which I worked on the Sprint/Nextel spin-off. One was for the Bureau of Consumer Protection within the Office of the Attorney General in Nevada. The second was for the -- as a

member of the advisory staff, on who I still currently serve, to the Kansas Corporation Commission.
Q. And, in both of those jurisdictions, was a stipulation reached with respect to approval of that transaction?
A. Yes.
Q. And, the transaction was, in fact, approved and has closed, is that true?
A. Yes.
Q. Are you familiar with the common stock booked equity balance of Embarq at December 31, 2006?
A. I may have been at some point in time.
Q. Can I direct your attention to FairPoint Exhibit 34? And, do you see the second page of that exhibit?
A. I do.
Q. And, in the left-hand column of numbers, as of December 31, is that 2006, that left-hand column?
A. Yes. This appears to be a two-year comparison of the Embarq Corporation consolidated balance sheets, comparing end of year 2006 to end of the year 2005.
Q. And, I'd like to just have you look at the next to the last line shown in that column. Could you explain to the Commission what that entry is and what the number is?
A. It's captioned as "Total Stockholders Equity", if I'm

looking at the same line that you intend me to?
Q. That's correct.
A. Okay. And, the balance in 2005 is 4,852,000,000. The balance at the end of the period 2006, after the transaction has been consummated, is a negative 468 million.
Q. Thank you. And, we've had discussions about the Alltel/Valor transaction. And, just to keep names straight, which I think are a little difficult in that case, a company that was spinning off the wireline business was Alltel, is that right?
A. Correct. Alltel was the parent company.
Q. And, the third party company involved in the transaction was Valor Communications?
A. Yes. Alltel, the corporate parent, was spinning off its Local Telecommunications Division with a subsequent merger with Valor Communications Group.
Q. And, the merged company of the spin-off and Valor was next called "Windstream"?
A. Yes.
Q. So, that's where the three names come from?
A. Yes.
Q. And, I'm sorry to go out of order here, but just do you know what Embarq's credit rating was at December 31,

'06?

A. I believe it was investment grade. There was a -- one factor that influenced how that transaction was consummated was the FCC approval process. And, there was a discussion at the FCC level, which culminated in a concurring opinion from one of the commissioners to approve the transaction, based on an understanding that he had that the Company would be spun off with adequate financial resources. So, there was work done at the FCC level to make sure that the Local Telecommunications Division of Sprint/Nextel was spun off with adequate financial resources. And, the way that eventuated, as a matter of fact, is that Embarq was spun off, able to achieve an investment grade rating.

Q. So, a company meeting those FCC requirements, and being investment grade, could carry a common stock equity balance of negative 468 million, is that correct?

A. Well, I'll agree that the result at the time of spin-off was a negative equity balance. But, also, as a result of the financial strength, through the FCC essentially requiring a commitment, was that the trend of that equity balance has turned positive. Embarq has recently gone to a positive equity balance. And, that is something that's entirely different from what is projected here in this case. The trend for equity is increasing shareholder deficit.

Q. So, the Commission should look not as closely at the indicators at the time of close, but the prospects over time, is that your testimony?

A. Yes. I think the negative equity matters, but what I think is more important is what happens with that over time.

Q. And, I wanted now to turn to the Alltel and Valor transaction. Now, your testimony is that this transaction is very different from the FairPoint transaction, is that correct?

A. My testimony is that there are some similarities, but there are a lot of differences.

Q. Well, one difference was the price, isn't that true?

A. In what sense? I mean --

Q. That the price --

A. -- it would be a sheer coincidence if the price were the same.

Q. That the price per access line in the Valor transaction was twice as much as the price per access line in this one?

A. I don't recall, but it could be.

Q. Well, we've asked the Commission to take administrative notice of the Form S-4. And, on Page C-1-11 of that, and the Commission will be able to find, subject to check, that the access line multiple for the Alltel transaction -- Alltel/Valor transaction was 3,863 per access line. Does that sound about correct to you?

MS. HOLLENBERG: Excuse me, could you show him that page please.

(Atty. Coolbroth handing document to the witness.)

MS. HOLLENBERG: Thank you.

**BY THE WITNESS:**

A. Yes. That's correct. It's at Page C-1-11 of the S-4.

BY MR. COOLBROTH:

Q. And, that same table shows the price of this transaction per access line of $1,802?

A. Yes, that's correct.

Q. And, the price, as a measure of EBITDA, in that one was 7.6 times, is that right?

A. That's correct.

Q. And, the price as a measure of EBITDA here is 5 8 times?

A. That's what the page says.

Q. Do you have reason to believe that that's incorrect?

A. I don't have reason to believe that's incorrect. I have reason to believe that there are reasons that explain the differences.
Q. Now, your testimony reviews at some length the risk factors that are contained in the FairPoint S-4, is that true?
A. That's correct.
Q. And, in the Embarq and Valor transactions, were there similar securities filings?
A. Yes.
Q. And, would those similar securities filings have included statements of risk factors?
A. Yes. I believe that's an obligation to address those sorts of things.
Q. I'd like to ask you to direct your attention to Exhibit 35, FairPoint Exhibit 35.
A. Okay.
Q. And, this is an excerpt from the Embarq information statement, is that right?
A. It is selected pages from the Embarq Corporation information statement dated "March 14th, 2006".
Q. And, directing your attention to Page 13, to the page numbered at the bottom "13" in that exhibit.
A. Okay.

Q. And, the first risk factor on this page is, and correct me if I read this wrong, "We may experience increased costs or decreased operational efficiences as a result of our need to replace corporate functions previously provided by Sprint-Nextel. Did I read that right?
A. That's correct.
Q. And, directing your attention to Page 15, we have a statement in the middle "Following the spin-off, we will have substantial indebtedness which could restrict our ability to pay dividends and have a negative impact on our financing options and liquidity position." Did I read that right?
A. That's correct.
Q. And, on Page 16, in the middle of the page, is there a risk factor "We face widespread competition that may reduce our market share and harm our financial performance"?
A. That's --
Q. Did I read that right?
A. That's correct.
Q. And, on Page 18, just above the last paragraph, "Due to competitive, technological and regulatory changes, we cannot assure you that our core business will grow, and it could decline, which could have an adverse effect on

our business and future prospects." Did I read that right?

A. Yes, you did.

Q. And, on Page 19, about two-thirds of the way down. "A significant portion of our workforce is unionized. And, if we are unable to reach new agreements before our current labor contracts expire, our unionized workers could engage in strikes and other labor actions that could materially disrupt our ability of providing service to our customers." Did I read that right?

A. Yes, that's what it says. But this is a -- it's a spin-off of an intact local telecommunications division from Sprint-Nextel. It's not a merger of a company that is, for the most part, not unionized with the Company. It is, in fact, unionized.

Q. So, is it your testimony that they put those things in risk factors while they didn't think themselves that those were material risks?

A. No, I think there probably is some risk there. But the risk would be different, comparing Embarq to the proposed transaction here.

Q. And, directing your attention to Exhibit 36, FairPoint Exhibit 36.

A. Okay.

Q. I'm looking at -- And, this is a similar securities filing in the Alltel/Valor transaction, is that right?
A. It appears to be, yes.
Q. And, if I look at Page 23 in that document, about the middle of the page, is there a risk factor "Windstream may not realize the anticipated synergies, cost savings, and growth opportunities from the merger." Did I read that right?
A. Yes.
Q. And, lower on the page, "The integration of Spinco and Valor following the merger may present significant challenges to Windstream management, which could cause management to fail to respond effectively to increasing forms of competition facing Windstream's business and accelerate Windstream's rate of access line loss." Is that a risk factor that they put in?
A. Yes.
Q. And, on Page 26, just before the middle of the page, "Failure to complete the merger could adversely impact the market price of Valor common stock, as well as Valor's business and operating results". Did I read that right?
A. Yes. And, that would have been a reference to Valor Communications Group, which, at the time, was a high

debt/high dividend RLEC operating in New Mexico, Texas, and Oklahoma.

Q. And, that would have been a reference to the consequences if the transaction failed to close?

A. Correct. Valor would have been in the same or worse financial trouble than it was already in prior to this transaction.

Q. Now, in the Valor case, there was no -- and, you were involved in Kentucky, is that right?

A. Yes. I testified on behalf of the Office of Rate Intervention for the Kentucky Attorney General's Office.

Q. So, there was no stipulation in that case, is that right?

A. Correct.

Q. And, in fact, did the Communication Workers Of America and the International Brotherhood of Electrical Workers also participate in that docket?

A. Yes. I recall them as a party. There was an organization of cities that was a party, and there may have been some others.

Q. And, your testimony in that case, it seems very similar to the testimony in this case, isn't that true?

A. Yes. I'm testifying for the same type of client, on a transaction that, in my view, had similarly negative consequences.

Q. Well, your analysis wouldn't be based on which kind of client you were representing, isn't that true?

A. That's true.

Q. And, in your testimony, did you discuss what you believe to be an "excessive debt burden" for the resulting company?

A. Yes, I did. And, the difference in the transaction there was that one of my key findings was that the debt was incurred for an improper purpose. The debt was proposed to be placed on Windstream by Alltel, in order to de-lever Alltel for future acquisition by another party, which has, in fact, happened.

Q. And, did you also testify that the resulting company was unlikely to be able to achieve the synergies they were projecting?

A. I did.

Q. And, did you go through examples of board materials relating to discussions that led up to the transaction?

A. I did.

Q. And, did you discuss the consequences of a high debt level?

A. Yes.

Q. And, did you discuss interest rate risk for a company that's not investment grade?
A. Yes.
Q. And, did you call the resulting company a quote "high debt/high dividend company"?
A. Yes.
Q. And, did you talk about Valor's 8 percent dividend yield?
A. Yes.
Q. And, did you question the Company's estimate of free cash flow available for dividends?
A. Yes. There was a piece of evidence in that case that doesn't exist in this case. That was proprietary, that was an important factor to be considered by the Commission there.
Q. And, in fact, didn't you accuse the companies there of not being transparent with the Commission, just like you're accusing these companies here?
A. What page?
Q. Pages 39 and 40 of your testimony.
A. Yes. There were two issues there with regard to transparency. And, I would say that "transparency", in a regulatory proceeding, is always a subject that should be evaluated and considered. The different

issues regarding transparency in the case in Kentucky, if the Commission's interested, and my whole testimony is there, is that I noted that the Company's own documents show that the proposed capital structure would have significant detrimental impact on the financial viability of the new holding company. And, further, that the joint applicants made a claim of $200 million in annual free cash flow, which was demonstrably false based on the company's own documents. So, those were the two things in Kentucky that I pointed out as problematic from a transparency standpoint. Those two things, I think, are entirely different from what I pointed out here with regard to transparency.

Q. And, was your conclusion that the Kentucky Public Service Commission should reject the transaction?

A. Yes.

Q. And, did you also --

A. As being ill-conceived from the standpoint of Kentucky ratepayers, and not -- with the large amount of debt not incurred for proper purpose, which was an applicable consideration in Kentucky.

Q. And, did you also recommend that if, notwithstanding your first recommendation that they deny, that if

instead they approve, that you would want them to impose 14 conditions, is that right?
A. Yes.
Q. And, are several of those conditions almost verbatim to the conditions you're proposing in this case?
A. Yes, some of them are. They're the kind of conditions that would go along with any entity that was of a high dividend/high debt nature, as Windstream was proposed to be, and as FairPoint is proposed to be under this transaction.
Q. And, did the Kentucky Public Service Commission accept your recommendations?
A. I don't believe so. The Kentucky Commission just approved the transaction.
Q. I'd like to go back to Exhibit 38. And, again, and whether you agree with it or not, but in terms of what this shows, and its Verizon's financial report, before directory service imputation, it shows a company with a net telephone earnings loss of $18 million?
A. It does show that. And, if that were really the case, you'd wonder why FairPoint is spending 2.7 billion to acquire operations like this. I just don't believe that that's really the underlying economics for the enterprise.

Q. And, even after the directory imputation, this shows Verizon losing about $4.3 million?

A. That's what the number says.

Q. I'm going to ask you to assume that there really aren't any savings or synergies available, and so that there would be no real upside, if there are no savings or synergies available?

A. Okay.

Q. And, by the way, if the problem with Verizon is cost allocations, and if many of those go away, do you think there is actually a potential for savings?

A. It depends on what -- what costs FairPoint replaces those allocated costs with. And, that's the whole issue in this case.

Q. But those allocations do go away?

A. The allocations go away, but the functions do not go away. The functions, at least in some or most respects, must be replaced.

Q. And, are you a systems engineer that can evaluate the replacement systems that FairPoint has proposed?

A. I did not undertake such an analysis, no.

Q. And, just in looking at this business from FairPoint's perspective, if you're expecting higher costs for the transition from Verizon to FairPoint's systems, that would have a negative impact on these numbers, would it not?

A. On an unadjusted basis, yes. This is not a regulatory review all the way through -- a regulatory view all the way through a regulatory review.

Q. And, your testimony, in conjunction with Ms. Baldwin's testimony, seemed to suggest that Verizon -- your opinion is they should be spending more on maintenance costs for the network, is that true?

A. I think my point more accurately would be that there have been recurrent service quality issues and problems in New England, and that implies that the necessary resources are not being deployed.

Q. And, if they expend those resources, would that have a negative effect on that bottom line number?

A. That would tend to, yes.

Q. And, if there are revenue losses due to competition, would that have a negative effect on that bottom line number?

A. Yes, it would.

Q. And, if there are higher labor costs, would that have a negative impact on that bottom line number?

A. All other things equal.

Q. And, I think your testimony identified as a risk, and

this is probably going to be a favorite for Mr. Price and Mr. Mandl, but the risk that CLEC customers would go bankrupt. Did you identify that as a risk?
A. I don't remember saying it that way. I do remember addressing the projections regarding unbundled network elements within the FairPoint model.
Q. Would you turn to Page 104 of your testimony.
A. Okay.
Q. I'd like you to go down to Line 16.
A. Okay.
Q. And, in this general passage, are you discussing the risk of CLECs potentially going bankrupt?
A. Yes. Thank you for refreshing my recollection.
Q. And, if there are bad debts associated with those, with those situations, would that negatively affect this bottom line?
A. That would tend to.
Q. And, is it your recommendation, as one of your conditions to the approval of this transaction, that there be no regulated rate increases until sometime after 2012, is the true?
A. It is indeed.
Q. You think this looks like a pretty tough business no matter who operates it under that scenario?

A. It depends on how it's managed.

Q. Well, isn't that the key?

A. Yes.

Q. So, and wouldn't that be the basis upon which investment bankers, like Lehman Brothers, would make their decision?

A. No.

Q. They wouldn't look at management's prospects for operating this business as their basis for making a recommendation or, in fact, committing to lend money into this transaction?

A. Not as a sole basis, no.

Q. Well, what other bases would Lehman Brothers use to commit major amounts of funds to this transaction?

A. I believe that entities such as that would use the -- would consider the long-term prospects of a customer relationship. I think FairPoint has been a good customer, in that FairPoint does a lot of transactions, does -- generates a lot of fees. So, there is that aspect that would come into it.

Q. But, if that relationship looked like they weren't going to get paid back, they wouldn't go with that, would they?

A. Well, earlier this week Merrill Lynch declared its first loss in six years, $8 billion, based on declines in subprime mortgages and related assets. And, I'm sure at the time Merrill Lynch thought that was a good deal.

Q. So, your opinion to this Commission is that Lehman Brothers, one of the major investment bankers, Morgan Stanley, another major investment banker, and Deutsche Bank have made the wrong call on this transaction, that's your opinion?

A. No, that's not my opinion. My opinion is that the bankers have no doubt made the right call from a Wall Street perspective. There's a -- From a business standpoint for them, it, obviously, makes sense. But the call for this Commission is whether this transaction makes sense from a Main Street perspective. And, my testimony is that it does not.

Q. Well, haven't they made the call that this transaction will succeed financially, and they have put their money on it, isn't that true, sir?

A. I don't believe that that's true, no.

Q. In terms for the prospects for this business generally, and for FairPoint's operation of it, Mr. Balhoff doesn't agree with you, isn't that true?

A. That's true.

Q. And, Mr. King doesn't agree with you?
A. That's true.
MR. COOLBROTH: No further questions, Mr. Chairman.
BY CMSR. BELOW:
Q. Is it safe to say that you believe that it's more likely than not that FairPoint will not achieve its projected financial results?
A. Yes, that is fair to say.
Q. Okay.
A. As explained in my testimony, I'm not going to try to summarize it.
Q. Right, your testimony overall goes --
A. Right.
Q. -- to that point, would you say?
A. Right. Yes. Very much so.
CMSR. BELOW: Okay. Thank you.
CHAIRMAN GETZ: Redirect?
MS. HOLLENBERG: Thank you.

**REDIRECT EXAMINATION**

BY MS. HOLLENBERG:
Q. I guess I'll go back from where you just finished with FairPoint. I'll try and do it that way.
A. Okay.

Q. You were just talking about the difference between the perspectives of Wall Street versus Main Street, in that analogy, in terms of the perspectives of a financial analyst and their considerations of the financial projections in this case?

A. Yes, I did.

Q. Is it your -- Do you have an opinion on whether or not the bankers that are financing this proposed transaction are looking out for customers' best interests?

A. I don't think that's part of the calculation that the bankers make. They're looking after a different -- different series of interests, and it's really a financial interest. Whereas, this Commission, in my opinion, needs to look after a bigger picture, which includes the interests of the ratepayers, and having a financially stable and secure public utility serving them. That's, I think, one of the differences between a Wall Street and a Main Street perspective, is that this is just not -- this is not just another commercial transaction. This is a transaction that involves a public utility that serves the public with a necessary service. It has an entirely different profile, in that the assets it deploys are long life and must be maintained at a high level of quality to provide a service deemed necessary by the public.

Q. Thank you. Do you think Wall Street knows that rates can be raised, so that customers, you know, so that in case the companies get into financial problems?

A. I'd like to answer that by saying that, in my experience serving public utility commissions, particularly the Kansas Commission, I routinely receive documents -- copies of documents that the Commissioners would get, and they were various Wall Street analyses. And, often, in those analyses, you would see a statement indicating that essentially Wall Street believes that, in cases of trouble, the commissions will step in, in most cases, to increase rates and assure the financial viability of the enterprise, because it's a necessary service.

Q. You were asked on cross-examination by FairPoint's counsel about the various risks associated with this transaction. And, you discussed some, in reference to the exhibit, I believe it was 38, FairPoint 38, I believe FairPoint's counsel asked you a few questions about whether or not, if Verizon faced those same risks, if their earnings would also decline. And, what I'm asking -- what I'd like to ask you is, do you agree that Verizon Corporation has more resource -- financial resources available to it than FairPoint's parent company?

A. Yes, that's, I think, clearly indicated.

Q. And, is it reasonable to say that Verizon Corporation resources are behind the Verizon New England operations?

A. Well, I think, as testified to by Mr. Smith yesterday, and it's also in my testimony, the priorities for Verizon Communications are in a different area than Northern New England. The resources are there, but they're being directed elsewhere.

Q. You were asked a good number of questions about the Valor/Alltel transaction and the Embarq transaction. Do you recall that?

A. Yes.

Q. And, I think your testimony was that there were significant differences in those transactions to this proposed transaction?

A. Yes.

Q. Is it unusual in your -- well, strike that. You worked for generally similar types of clients in those two transactions, as well as this transaction, do you agree with that? Both government/public interest-affiliated

clients, would you agree with that?
A. Yes.
Q. And, they were all -- all three of them were telecommunications cases?
A. That's correct.
Q. Okay. And, your focus, as a financial expert, is on financial issues, is that correct?
A. That's right.
Q. Okay. And, would you agree that there is a relatively finite group of concerns within that area of expertise?

MR. COOLBROTH: Mr. Chairman, I'm going to object. This really is leading. I going to ask -- this is redirect examination, not cross. And, I would ask that the counsel not lead the witness.

CHAIRMAN GETZ: Well, --

MS. HOLLENBERG: Okay. I'll rephrase my questions. Thanks.

CHAIRMAN GETZ: Let's not -- I don't want to establish a precedent that we're going to grant all types of objections that questions are leading, given that we are -- do not follow the technical rules of evidence and are not required to by statute, and we allow a certain amount of breadth in the questioning that the attorneys make to the witnesses. But, if you would like to rephrase, please do so.

MS. HOLLENBERG: Thank you.

BY MS. HOLLENBERG:

Q. How would you describe the concerns that you would have in those cases and in this case?

A. Well, the general concern was the -- in each of the cases was the imposition of a large amount of debt. For the Windstream transaction and this one, the result was a very high relative level of debt for both companies, such that neither company is investment grade. The circumstance was a bit different from Embarq, in that there was the intervention through the FCC approval process, whereby the FCC Commissioners made sure that so much debt was not placed on Embarq that it could not be -- could not achieve an investment grade rating. And, if you look at the results of the two companies that have been approved, Embarq, in fact, has been able to utilize that benefit and has elected, as a management decision, to go ahead and pay down a substantial amount of debt.

Windstream, I think, hasn't been able to generate enough cash flow to do that amongst all the other things that it needs to do. Its debt level is substantially the same currently as it was when it was spun. There's, in those two cases, too, there was, I think, a concern about whether the level of debt was proper, given that it was a corporate family splitting up, and that there was a lack of an arm's length decision-making process there arguably.

Q. In either of the Valor or Embarq transactions, did the spun-off company need to recreate from scratch the back office system?

A. Not at all. Those were both intact local telecommunications operating divisions that were spun off in their entirety with existing systems and existing management and existing personnel.

Q. And, in either of those -- I'm sorry, you just answered my next question. When Sprint-Nextel spun off its local operations to Embarq, did Sprint-Nextel retain any local operations?

A. No.

Q. Is it unusual in any way that, in these three cases that we've talked about, this case here today, as well as the Alltel/Valor case and the Embarq case, is it at all unusual that those three companies would have mentioned the same or similar risks in their S-4?

A. I don't believe so, in that both were undergoing organizational change, and both companies operate in the local telecommunications industry. So, it is to be expected that there would be some similarity in the risk factors. The underlying discussion of those risk factors would tend probably to be more company-specific.

Q. Does it -- Is it your opinion that having same or similar risks identified in the S-4 means that the risks identified by FairPoint are less real?

A. Not at all.

Q. In your experience, you were asked on cross-examination by FairPoint about a New Hampshire statute that relates to temporary rates. And, I believe the question was "would the Commission consider FairPoint 38 in granting a request for temporary rates?" And, what I'd like to ask you is, in your experience, are temporary rates generally reconcilable?

A. Reconcilable to what?

Q. Do you have any experience in rate cases?

A. Yes.

Q. Okay. Are generally temporary rates that are set at the beginning ordinarily reconciled at the end, if the rate is higher or lower?

A. Yes. The term that I'm familiar with that I think is identical is "interim" rates. It's not unusual for a utility to come in and ask for "interim" rates in connection with a rate case filing. In my experience, those -- what I have seen, those requests are very rarely granted.

Q. And, any type of reconciliation of rates would occur after a full review by the Commission of the company's financial circumstances, beyond looking at a earnings statement. Do you agree with that?

A. That is correct. To the extent a request for interim rate increase is granted, the concept is that the rates are "interim" pending the resolution of the filed rate case. Once the filed rate case is adjudicated, then there typically is a true-up on the rates.

Q. You were asked some questions about the difference in the purchase price per access line in this transaction?

A. Yes.

Q. And, the Windstream transaction, do you recall that?

A. Yes.

Q. Did the purchase price in Windstream include a fully functioning back office?

A. Yes.

Q. Customer service?

A. Yes.

Q. Network operations?

A. Yes.
Q. Does that have substantial value?
A. Yes.
Q. Is FairPoint purchasing these systems from Verizon?
A. FairPoint is not. It's currently the object of a systems design development and integration process.
Q. And, who are they purchasing these from?
A. My understanding is that that work has been assigned to CapGemini under contract.
Q. And, how much is FairPoint paying CapGemini for these systems? Roughly?
A. The number I've heard is 200 million.
Q. What does that represent on an access -- a per access line basis, could you calculate that?
A. You'd have to divide through by a million and a half.
Q. Would you accept subject to check that it's about 130 per line?
A. Yes.

MS. HOLLENBERG: One moment please.

BY MS. HOLLENBERG:
Q. I guess I'll just ask one last question. Are there any other differences that you didn't have a chance to describe in the circumstances with the Valor and Embarq cases that you think are -- would be helpful for the

Commission to know?

A. There probably are. I can't think of them offhand. I think a useful resource will be the exhibit, Exhibit 37, which is the entirety of my public testimony there in Kentucky.

MS. HOLLENBERG: Thank you. I don't have any other questions. Thank you.

CHAIRMAN GETZ: Thank you. Anything further for this witness?

(No verbal response)

CHAIRMAN GETZ: Hearing nothing, then you're excused. Thank you, Mr. Brevitz.

WITNESS BREVITZ: Thank you.

CHAIRMAN GETZ: Turn to Mr. Antonuk at this point.

MS. FABRIZIO: Mr. Chairman, could we take a five-minute break please, or even shorter, actually?

CHAIRMAN GETZ: Sure. We can take a brief recess.

MS. FABRIZIO: Thank you.

(Recess taken at 10:29 a.m. and the hearing reconvened at 10:43 a.m.)

CHAIRMAN GETZ: Okay. We're back on the

record in DT 07-011. And, turning to the direct examination of Mr. Antonuk. Ms. Fabrizio.

(Whereupon **John Antonuk** was duly sworn and cautioned by the Court Reporter.)

MS. FABRIZIO: Thank you.

**JOHN ANTONUK, SWORN**

**DIRECT EXAMINATION**

BY MS. FABRIZIO:

Q. Mr. Antonuk, could you please state your full name for the record.

A. John Antonuk.

Q. And, by whom are you employed?

A. With the Liberty Consulting Group.

Q. What is your business address?

A. Sixty-five Main Street, Quentin, Pennsylvania.

Q. And, are you the same John Antonuk who filed direct testimony on August 1st and supplemental testimony on September 10th in this proceeding?

A. Yes.

Q. On behalf of Staff?

A. Correct.

MS. FABRIZIO: Okay. And, I would note that those testimonies are marked as "Exhibit 1" for the direct testimony, "Exhibit 4" for the supplemental. And, I would note also for the record that Staff Exhibits 34 through 38, that were submitted today and are before you on the Bench, are document sources that were referenced in Mr. Antonuk's direct testimony.

BY MS. FABRIZIO:

Q. Mr. Antonuk, do you have any changes to your testimony today?

A. I do not.

Q. And, do you adopt your testimony today as accurate and true?

A. I do.

MS. FABRIZIO: The witness is available for cross, Mr. Chairman.

CHAIRMAN GETZ: Okay. Thank you. Mr. Mandl.

MR. MANDL: Good morning, Mr. Antonuk.

WITNESS ANTONUK: Hello.

**CROSS-EXAMINATION**

BY MR. MANDL:

Q. I'd like to refer you to Page 13 of your direct testimony please.

A. I have it.

Q. If we could refer to lines 21 through 23. You recommend that the Commission should review and approve

FairPoint's Test Plan and testing that FairPoint has performed on its new system processes and personnel, and to review and approve the test results before FairPoint is allowed to cutover the many Verizon TSA services. Is that correct?
A. That's correct.
Q. When you refer to "personnel", are you referring to FairPoint's having a full complement of trained staff capable of operating the company as of cutover?
A. Capable, in this case, of operating the systems that we're talking about, yes.
Q. All right. If we could turn to Page 14 of your direct testimony. And, if we could take a look at lines 15 through 18.
A. I'm with you.
Q. You indicate that, to the extent to which FairPoint has successfully staffed its operations and trained its employees should be a factor in the Commission's approval of cutover from the Verizon provided TSA services to FairPoint systems, correct?
A. Yes.
Q. Could you explain a little bit further how the Commission would go about rendering an approval of cutover from the Verizon TSA services to FairPoint's

own systems and processes?

A. We did not have a specific recommendation in mind when we filed the testimony. What has happened since that filing is that, because the question of readiness for turnover was arising in all three states, staffs from the three states began to explore the idea of using a common independent party to do what I would describe as "real-time monitoring" of the development of the systems and the development of the staffs necessary to operate the systems. So, what the readiness issue has, in a way, morphed into is the creation of a process by which a single party for all three state staffs would review and comment at key juncture points on the various elements that it will take for FairPoint to become ready for a successful turnover. "Successful" meaning no -- transparency or no service disruptions for both retail and whole customers.

Q. And, would that readiness assurance process include a review and assessment of FairPoint's operational readiness, as opposed to the readiness of its systems?

A. Not that three-state process, it would not. We have proposed that operational readiness be addressed through a continuing provision of reports by FairPoint that would be designed to show that the staff that

Verizon is preparing to turn over will be as experienced and capable as the staff that has been serving directly in New Hampshire. And, then, there are some support people who are outside the systems area, some networks, some engineering and operations people. We're also concerned about seeing continuing reports about progress in staffing those organizations. And, that part really is what I think you're referring to now, is the operational versus the support personnel.

Q. In terms of the reporting on operational readiness, were those reports -- to whom would those reports be made available?

A. Maybe we're a little selfish, but we're, obviously, interested in seeing them. To the extent you're suggesting that other people may have a similar interest, it certainly was not our intention that we be the only audience for those.

Q. So, you'd agree that wholesale customers would have an interest in FairPoint's being operationally ready prior to cutover?

A. I think the interest of retail and wholesale customers are common there. The only caveat I would add is, having done a fair amount of work in resolving disputes between incumbents and CLECs, I think there, at some level, are potentially some competitive information issues, which I would expect to be minor, but I just don't want to rule them out entirely at this point.

Q. If such reports were submitted by FairPoint, who would evaluate those reports? And, would you expect any Commission action on those reports, positive or negative, regarding FairPoint's readiness to cutover?

A. When we filed this testimony, we, I think, explicitly said we were anticipating discussions, which we hoped would reach at least partial, if not total, agreement on the issues. So, what we had anticipated when we filed this was that we would create a mechanism whereby those reports would be filed. And, if, prior to the Commission's final decisions, they showed some problem that was material, and it's hard to define at this point what those problems would be, because we're talking about staffs of hundreds of people, that there would be an opportunity to address that before the Commission gave its final approval. To the extent we didn't reach common agreement on these, I guess we sort of figured the issue would be moot, because we would be recommending that the transaction not go forward at all.

Q. Now, if we could turn to Page 16 of your direct testimony.

A. I have it.

Q. On Line 6, you refer to a requirement that FairPoint agreed to involve wholesale customers in system readiness training. Is that still your position?

A. Line 5 of Page 16?

Q. I'm sorry, Line 6.

A. Oh, yes. Yes. It is. The -- I think somebody said "the devil is in the details" awhile ago, that the question is, obviously, "how does one design that, so that the transaction finalization and the transition processes aren't delayed, unless there's a clear need to delay them to prevent adverse consequences for customers?"

Q. And, would you agree that the system readiness testing would involve activities other than some CLECs being able to interface with FairPoint's WISOR system?

A. I do, as a general matter. But I have to say that Mr. King has been following the details of that. And, to the extent you want to make your question much more specific, I think he can help you a heck of a lot more than I can.

Q. Okay. Thank you. Now, in the same vein, if I had questions concerning the work involved in FairPoint's changing point codes from Verizon to its own for SS7 systems, would that be more appropriate for Mr. King?

A. It would be essential, because I don't know much at all about those two subjects.

Q. Okay. Thank you.

A. But, if he doesn't, I'll be disappointed.

Q. With regard to your testimony on Page 16, and you discuss some commitments that you recommend be required of FairPoint over a period of five years, including maintaining a range of services and refraining from seeking regulatory changes that would affect the provision of wholesale services. Have you had an opportunity to review what I guess has been referred to as the "CLEC Settlement" that was filed in this case on October 18th?

A. I have not. I think, again, Mr. King has.

Q. All right. We'll defer that to Mr. King. Could we then turn to Page 26 of your direct testimony.

A. I'm there.

Q. You express some concerns about FairPoint's overall staffing plans, starting on Line 12, on Page 26. And, you recommend, as we look down at Lines 22 and 23, that FairPoint should demonstrate the existence and adequacy of what appears to be a newly assembled team prior to securing the Commission's approval of the acquisition. Is that your position today?

A. It is. And, what I want to do is distinguish now that we're really talking about the top level of the management team at this point. Your earlier questions, I was addressing more the middle level, the back office support level. So, this particular portion of the testimony is focusing much more specifically on the senior leadership, which is fine, as far as it goes. But, when we prepared the testimony, it hadn't -- the positions had not all been filled.

Q. All right. But you'd agree that, in addition to the top level of management, that FairPoint would have a large number of employees that would need to be hired and trained?

A. Indeed.

Q. Okay. If we could turn to Pages 37 and 38 of your direct testimony. You express some concerns about affiliate cost documentation to be provided by FairPoint. I'd like to ask you a question regarding the reports that FairPoint intends to file. Mr. Skrivan, in his testimony, has stated that, because of its regulatory status, FairPoint does not believe it would be necessary for it to file certain ARMIS reports that Verizon files today. And, I believe he listed those as 4302, 4303 and 4304. Do you believe it would be useful for the Commission to continue to receive the information contained in those reports on a post closing basis from FairPoint?

A. I don't remember what's in those reports. But I can tell you this. We've done probably 20 to 25 affiliate transactions, audits, involving telecom and energy utilities for probably more than a dozen different commissions. We believe in detailed cost allocation manuals, detailed service agreements, and clear and complete specificity with how charges are assigned between jurisdictions, which here is inter and intrastate, and between utility and nonutility operations. So, I suspect, if I looked at those reports, my conclusion would be that they would -- they would include the kinds of information that we would want. Whether I think the reports in those formats need to be filed, you know, I'm much less concerned about that, and much more about whether the kind of data we would be looking for is filed. And, that's another area where we had anticipated taking discussions with the stakeholders to a very specific level before making the final recommendation to the Commission. In other words, saying "this is exactly the kind of information we would want to see." And, certainly, the ARMIS reports you're talking about, it would be proper as a part of that process to look at what they include, and to make sure that, if that information is important and is not covered somewhere else, that it is included in the list of things that should be on the "must file" list that we would recommend.

Q. Thank you. And, I'd like to turn you now to your supplemental testimony. You indicate, I'm referring to your discussion that begins on Page 1 and carries over to the top of Page 2, that, in your testimony you have not taken a final position on concerns raised by various stakeholders in this proceeding, such as CLECs, electric utilities, and municipalities, is that correct?

A. That's correct.

Q. In terms of those sets of concerns, you know, specifically concerns raised by CLEC parties, would Mr. King be a more appropriate witness to discuss those issues with?

A. To the extent they're operational and technical, I think so. My focus was really more, as far as CLEC concerns, were on the question of what's the right period of stability to provide, so that CLECs could do what I would construe is a reasonable business planning process for continuation of their business.

Q. All right. Let's see, and I think I may have asked you this, whether you had had an opportunity to review the CLEC Settlement filed in this case?

A. You did, and I put Mr. King on the spot for answering those questions.

Q. Okay. That's good. Now, on Page 2, if I could refer you to Page 19 through 21 -- excuse me, lines 19 through 21, on Page 2. You indicate that various commitments should be made enforceable through conditions, is that correct?

A. That's correct.

Q. And, so, I take it that you would favor merger conditions, rather than reliance upon a verbal commitment by FairPoint, because merger conditions are enforceable?

A. For sure and for certain.

Q. Thank you. Now, if we could turn to Page 19 of your supplemental testimony.

A. I have it.

Q. Would you agree that among the parties who have identified interests in this proceeding are cable operators?

A. I would agree with that.

Q. And, that a smooth transition from Verizon to FairPoint is important to the cable industry, do you agree with that?

A. I do agree with that.

Q. With regard to the smoothness of transition from Verizon to FairPoint, would you consider the condition of parity as between FairPoint's own operations and the operations of cable operators to be an important factor?

A. In a closed-end kind of way, I do. I understand the concept of "parity" generally to be wrapped into the sort of performance metrics and PAPs that exist. So, I wouldn't be inclined to think that this case should get into redefining what "parity" is. But I certainly would agree with you, and you might fuss around the edges if there are some minor changes or exceptions, but I would certainly agree with you that continuing with what has been defined as "parity" in New Hampshire for wholesale competitors versus the incumbent's own operations is important.

Q. All right. Now, I believe in your testimony, your direct testimony, you indicate that you hold a law degree, is that correct?

A. I do. I'm not holding my license anymore, but I guess you always hold a degree.

Q. Okay. That's all I asked. And, is it your understanding that FairPoint, were this transaction to be approved, would have an obligation to provide nondiscriminatory access to poles, conduits, and rights-of-way?

A. Yes. Although, I guess I know that less from being a lawyer than having arbitrated a bunch of interconnection disputes between CLECs and ILECs, so --

Q. All right. And that, in order to demonstrate that nondiscriminatory access is being furnished by FairPoint, would you agree that FairPoint would need to document the intervals for the performance of work, in the case of cable attachers or CLECs, and similar work for its own operations?

A. Well, again, my concern is that -- my experience is those are the very kinds of disputes that are resolved in SGAT proceedings and interconnection agreement disputes in mediations and arbitrations. I would certainly favor a continuation of whatever standards and requirements exist now. I would not want to see this case become a forum for either the expansion or the contraction. If you're going to represent to me that those things aren't defined and never been defined and it's a brand new issue, that may be different. But, you know, generally speaking, those things are documented somewhere in an agreement or an SGAT. And, they have pretty much established the ground rules already, I would think.

Q. Yes. In the context of pole attachments, if you take subject to check that Verizon does maintain records of the intervals that it takes for the performance of make-ready work, for example, do you believe that's something that FairPoint should do post closing, if the transaction is approved?

A. I'm going to have to answer that two ways. If that's already been subject to negotiation and resolution in an agreement, then what I believe in is what that agreement says. Now, and I don't want to diminish your point, because, at a more general level, I have to very much agree with you that the incumbent should be providing access to facilities to competitors on parity with what it does for itself. Otherwise, it gains a competitive advantage through having monopoly access to valuable space.

Q. All right. And, you've heard, probably more than you'd like to hear, about what we've called the "five day transition period"?

A. Actually, I wasn't particularly listening to that part.

Q. I'm shocked.

A. So, I haven't heard -- I guess it's passed through, but I don't think much of it stuck. But go ahead.

Q. Okay. Well, will you agree that parity in handling the orders that must be processed on a manual basis during that time period would be important?

A. I do. I do. You know, it's a short period. I think there's -- I would expect the last thing FairPoint's going to be worrying about is gaining a competitive advantage, when it's trying to make sure that the whole world doesn't collapse on it. But, you know, in general, yes, I agree with you. There should be a reasonable level of effort taken to make sure that you all don't get disserved on a proportionately greater basis than everybody is going to be disserved during that period.

Q. Regarding the Performance Assurance Program that FairPoint will assume from Verizon, would questions on that be more appropriate for Mr. King?

A. Well, if you want to talk about specific metrics, yes. If you want to talk about it at a general level --

Q. Well, this would be a general question. In the testimony given by Mr. Lippold on the CLEC Settlement, he indicated that a one-month waiver of PAP obligations would apply to the three CLECs that entered into the so-called "CLEC Settlement", whereas a two-month waiver of PAP obligations would apply to everyone else who had not signed that settlement agreement. Would that be consistent with your position that FairPoint should provide equal treatment to all competitive service providers?

A. Well, that's a very hard one. My concern is that, in a settlement, there's give-and-take. And, I don't know what, not knowing the settlement, I don't know what the CLECs gave to get that. They may have given something that, as a non-signer, someone else has retained. So, I guess I can't really answer that without looking at the agreements and making an overall judgment about sort of what each side got. And, I'm not trying to duck it. I just think -- I think you really have to look at the details before you can risk an answer to that question.

Q. Well, on a high level, would you agree that the PAP itself was set up to provide a level of service quality to all interconnecting carriers?

A. I do. And, I'll answer what's probably the next question, which is I think you need to administer the PAP on an evenhanded basis with respect to all CLECs, because I think favoring one CLEC over other CLECs is just as bad as favoring yourself as an incumbent over the CLEC community.

But I don't mean that to overtake the answer I just gave you about how complex it is to have to figure out who got and who gave what in a settlement.

Q. But the PAP today applies to all competitive local exchange carriers on an equal basis?

A. Well, if the New Hampshire one is typical, then it does. I just can't say for certain, because I haven't looked at it in detail. But that would be what I would expect, based on my experience everywhere else with PAPs.

MR. MANDL: Okay. Thank you very much.

CHAIRMAN GETZ: Ms. Hollenberg. Ms. Hatfield.

MS. HATFIELD: Good morning, Mr. Antonuk.

WITNESS ANTONUK: Hello.

BY MS. HATFIELD:

Q. I wanted to ask you a question about your direct testimony, not a specific reference, although, if you look at Page 10, you'll see what I'm referring to you. And, I think your direct testimony focuses quite heavily on the risks of this transaction. And, I'm wondering, can you describe with more detail what caused you to take that particular focus in your testimony?

A. Yes. We don't say that FairPoint's projections will not prove true, although I want to narrow that. I do want to say that we have a lot of concerns about the projections that I think they were called "Mr. Balance Sheet" and "Mr. Income Statement" were making. But, if those are part of the projections, we dismiss those, because we don't think they have a useful foundation. But, as to the projections that form sort of the core of FairPoint's case, it's not our position that those risks -- that they're wrong, that they won't happen. It's our position that they're, in certain -- four very specific cases are significant risks that they won't happen. What we very much tried to focus on is, how do we make sure that, if those risks occur, customers are adequately protected? So, that's basically our view of risk. And, our view of risk is central to almost everything we tried to craft on a financial protection basis here.

Q. And, did you just say there are "four main areas of risk" that you identified?

A. There are four that relate to the financial side of the transaction. They're not necessarily in order, although I think these are the four most important together. On the investment side, there are two risks. One is cost for a significant broadband expansion, and the cost uncertainty as to what it will take to get that level of broadband availability. Two, that the capital expenditures that we need, think are necessary, basically to put the network in a state of reasonable quality, to make sure that, when Verizon makes the handoff, what they're handing FairPoint is a up-to-snuff, consistent with good utility practice network.

The third risk is a two-sided risk of the Transition Services Agreement. One is that it will end too soon, in which case we believe the outcome is likely to be similar to what was experienced in Hawaiian Telecom. And, the other side of that transition service risk is that it will extend for much longer. Between the two risks, I'd rather see it end later than end sooner, just because I think the "ending sooner" case is potentially catastrophic. The "ending later" case, it really has the potential to legally put FairPoint's cash flow in significant jeopardy.

And, then, the final risk is this whole concept that I think almost everybody has been talking about, which is whether FairPoint will be able to provide common service and support costs at a level that's superior to Verizon's. And, that's what generally has been called the "synergies" issue.

Q. And, several of those risks that you discuss, specifically with reference to the build-out of their broadband plan and also their CapEx needs, is one of your concerns related to those risks that FairPoint hasn't conducted sufficient due diligence to understand what the needs are?

A. That is correct. That was a concern expressed in the direct testimony. And, we believe they have continued to perform work to find out what's going on. As Mr. King can explain to you in more detail, for example, the broadband estimates have changed, well, they have gone up as FairPoint has learned more information. How much diligence and whether that diligence is ultimately going to prove sufficient before this Commission reaches a decision, I can't say much more than that, something we've continued to talk about with FairPoint through informal discovery sessions and other kinds of sessions that I don't think I should talk a whole lot more about.

Q. In your supplemental testimony, I think you focus mostly on describing the conditions that Staff would need to see in order to support the transaction, is that fair?

A. Yes.

Q. And, in supplement to -- or, excuse me, in the exhibit to your supplemental testimony, which is Exhibit A, which is part of that testimony.

MS. HATFIELD: But I do have extra copies, if the Commissioners would like one?

CHAIRMAN GETZ: Exhibit A to the supplemental testimony? We have it.

BY MS. HATFIELD:

Q. I'm wondering if you can talk a little bit about how your conditions that you propose would address the risks that you identified in your direct testimony?

A. I guess, trying to put it succinctly, as succinctly as

I can, I better be careful, the best way to think of this is a series of ceilings, with each higher ceiling representing primarily a higher level of leverage. The basic thrust of our conditions is to set ceilings that are lower than what are set in the debt agreements. And, I'm going to focus particularly on what's been called the "leverage" or the "debt to EBITDA ratio". The agreements with the lenders allow 5.75 in the first year and 5.5 thereafter. And, we certainly understand why the first year is a little bit higher, because there will be a lot of one-time costs experienced in that first year. Our problem with that is that those ratios are relatively high, if you look at agreements from peer-type companies, and particularly if you look at the actual ratios that some of those other companies are experiencing. And, in saying that, I rely on primarily the work that Mr. Vickroy has done, which is at a much greater level of detail than I have. Which is my way of saying "if he's wrong, I'm wrong" and "if he's right, I'm right."

We are looking to see, on a modeling basis, a ratio that's -- we believe that's still high compared to those peer companies, but puts them in the neighborhood of those peer companies, and that is 4.75

in the first year, 4.5 in the years thereafter. And, the key thing is 4.75, 4.5, measured how? The way we want to measure that is under the assumptions that the TSA, Transition Services Agreement, extends somewhat longer than what FairPoint has assumed, and that the synergies don't occur. There's a whole lot of discussion in my testimony about why I think there are problems with assuming that they will happen.

So, what we're -- we've gotten ourselves comfortable with the operation of FairPoint's model. It's been tough, but understandably tough. These models are always different, they're always unique. So, what we're looking for is to see what it will take to generate a ratio of 4.75 to 4.5, under the assumption of a longer TSA and no synergies. So, that's basically what that -- what that ratio that's set forth in Point 1 on Page 1 of Exhibit A is all about.

There's one other limit that we need to talk about, too. This one is a little higher. This is what we would impose as a dividend limit, which is 5.0. The bank agreements, the letters of commitment, allow that to go to 5.75 and 5.5. We want to see that ratio lower on dividend payments. The reason we set that somewhat higher is this: It is -- One place in which we're in agreement with FairPoint is that, you know, this is a dividend-driven company. And, what we don't want to see here is a set of conditions that put them in a situation where, if things don't go well, they cut dividends, the stock price crashes, and they're unable to raise capital. If that's what we have to do to get FairPoint here, I'll be blunt, we don't -- the Staff don't want them here.

That's not -- You don't want to create a situation where you bring a company into this state under circumstances where it simply can't thrive as the kind of company that it is. It's not a traditional utility company that's got a lot of equity, that's got an ever-increasing asset base. It's a different kind of animal. And, we don't mind that kind of animal. We just want to make sure that we put some protections in that won't, on the one hand, kill the animal, and, on the other hand, will still make sure that, if things don't go well, after Verizon has left the state with $2.7 billion, that customers and the Commission, wholesale and retail, and the other stakeholders, are left to deal with the consequences.

Q. So, in terms of the possibility of a dividend restriction, did you hear Mr. Leach testify that we could -- I think he said that "we could consider the 142 million in dividends as part of a cushion" that FairPoint believes that they have. And, I want to ask you, I think what you're saying is, we really can't consider that whole amount a cushion, because we don't want to put FairPoint in a position where they can't pay dividends at all?

A. That's exactly right. If the argument is, we can eliminate dividends, if the argument is even that we can cut dividends to the bone by 50 percent for an extended period of time, that's in the category of what I just said, we don't want them here, if that's what it takes.

Is there some level versus what they're paying now at which dividends can be used to absorb, you know, the shocks that I think the new company is inevitably going to experience? Yes. What that level is, I think is something that a lot of people still need to spend some time hammering out.

Q. And, I think you mentioned your feeling that the projected synergies are unlikely to occur, or maybe we should call them "cost savings" that FairPoint projects. Can you expand on that a little bit?

A. Yes. I actually -- I actually do think "synergies" is the right word, and I'll tell you why. I think there's been a lot of confusion about what these costs are. These costs are the costs it takes to support 2,500 or so people who work directly in the field to provide service in the three Northern New England states. They are not waste, they are not misallocations. Is there some waste? Yes, there's waste in every company. Is there some misallocation? Well, we've done enough affiliates' audits to say "there's a good chance there is." But it's just really wrong to say "these costs are not now producing value to customers in New England." And, it's just wrong to say that "Verizon is careless, inefficient, or sloppy about the costs that they incur to serve New England." The costs are not going to go away. The costs are the same kinds of costs FairPoint is going to need to provide. They're going to have to provide them through some other means.

Here's what's going away: Verizon's not going to incur them anymore. Here's what's going to happen: FairPoint is going to incur them. So, it's just way oversimplistic to say "all these costs of Verizon will go away". The real question is "what's replacing them?" Those are built into FairPoint's assumptions about its costs. We think those assumptions are counterintuitive. You can't accept on faith that a company that, I think was pointed out, is about maybe one or less percent the size of Verizon is going to come in and save that kind of money. We haven't looked at Verizon for a while. We did a management audit of Verizon. We did an affiliates audit. We looked at these organizations in the early to mid 1990s. We found some things that we thought could be improved. But you know what else we found? We found that they, like any other company their size we've looked at, run a fairly efficient ship, do a fairly good job at supporting people. And, I certainly haven't heard Verizon -- anybody from Verizon stand up and say "we waste money in New Hampshire." I haven't heard them stand up and say "we don't pursue revenue opportunities in New Hampshire." And, I don't think they will. And, if they did, I don't think I'd believe them. But I'm certainly not going to believe anyone else coming in and saying "we simply are going to count on the existence on knocking $70 million of real costs out of this business that we aren't going to have to -- we're not going to have to replace, because, ultimately, however it's termed, what FairPoint is saying, they can be more efficient than Verizon. There's no away to get around that when you're done with this.

Q. Well, speaking of Verizon, there are several places in Exhibit A to your supplemental testimony where your conditions include a role for Verizon. And, one example is Concern Number 3 about the cost of broadband plan. Can you talk about how you think Verizon can play a role in the solutions you propose?

A. Yes. We actually -- We actually put in here two, it's fair to say, are open-ended commitments, which would be that Verizon pays CapEx for broadband, to the extent it exceeds a threshold of 21.6 million. We also say, and that's actually in Point 3, it's the last bullet in Point 3 on Page 1. The other place we talked about those open-ended commitments are on Page 3 of Exhibit A. The first bullet at the top of the page, 50 percent of capital costs to replace all the equipment, and then it goes on. Completion of major capital projects, which is Point 8, and Point 11, other remediation projects. And, that's -- that's what we proposed that, when we filed the testimony at the time, when, as I had indicated earlier, we were concerned particularly about the due diligence issue.

More work is being done, we think FairPoint is getting more comfortable. I think at this point, if you sort of look at Verizon's objective, which is to end its relationship with New Hampshire in this aspect of its business, and we're not against that happening, I think we've sort of -- sort of come to grips with the fact that somehow I think we can't leave those kind of obligations open-ended. Because they're an endless source of debate, and they really ask you to put FairPoint in the position of maybe having an incentive to inflate those costs, because these costs clearly inure to -- not just to the benefit of customers, but also potentially to shareowners.

So, I think where we are on that one, there needs to be a way to turn those into what we think is a more fixed and predictable commitment. Otherwise, I think we're asking Verizon to do something that's -- that's probably not fair to ask them to do. Now, what that level is, is I think another one of those issues that some time needs to be spent on yet.

Q. Mr. Mandl asked you some questions about the work that's happening between the three states' staffs about assessing readiness for cutover. And, I wanted to ask you, is what you're seeking to address some of the things that we discussed with Mr. Smith and Mr. Haga, about the fact that, without that involvement, the cutover could happen prematurely?

A. Yes, that's a good point. I think that three-state effort is particularly valuable in avoiding, well, reducing the potential for what I said is the more catastrophic problem with the TSA, cutting over too early.

Q. I'm wondering if you have an opinion on limiting future acquisitions by FairPoint, because of the potential disruption it will cause to them fully implementing what they're proposing here in New Hampshire?

CHAIRMAN GETZ: Actually, excuse me, Ms. Hatfield, before we get into another line of questioning, I think -- I was concerned that we're going to need to switch court reporters shortly. Do you have 10, 20?

MS. HATFIELD: Probably 10 more minutes.

CHAIRMAN GETZ: Okay. Then, we'll switch reporters after you complete your cross. Thank you.

BY MS. HATFIELD:

Q. So, my question was about limiting future acquisitions?

A. We, at the time of the filing of the testimony, were approaching that issue indirectly, but, at the time, we thought effectively. In other words, if we had the right kind of ratios and limits built in, if those limits were followed, they would, I believe, effectively preclude acquisitions of a size that would have the ability to increase the Company's risk in a way that we found troublesome.

So, we certainly have never been ignoring the question. Where we sit now, I think the more interesting question is, is there merit in actually attacking that issue more directly and saying "acquisitions should be limited in ways that are necessary to make sure that they don't come at the expense of a reduction in service quality or worsening of the ratios." And, I guess I would say, at this point, we don't have a problem with establishing that kind of a limit. If we do it, I think, to be fair to FairPoint, we need to tie those limits very directly to what concerns us, as opposed to what I would consider kind of a blunt instrument approach that would say "no acquisitions". So, if we could design a mechanism that was targeted and fully consistent with the protections we're looking for, we would -- we would be for that.

Q. And, on Page 2 of your supplemental testimony, on lines 19 through 21, you state "each of the conditions need to be made enforceable, and a consequence for not achieving or meeting a commitment should be established before approval." And, can you just talk about how you would go about ensuring that the conditions proposed are enforceable and that there is a consequence for not meeting them?

A. Well, yes, I can do that by way of a couple of examples just to show you, because I think the mechanisms would have to vary by condition. And, you said "ten minutes", so --

CapEx, if we asked for CapEx to not drop below projected levels? Well, what do you do if it does drop? Do you say "well, they just have to make it up later"? I'm not sure that's much of an incentive. Broadband has to reach a certain level. I think it's entirely fair for this Commission to look at broadband availability as part of the public interest here. But, once we do that, I think we all recognize that what this Commission does and doesn't do, it can and can't do, with respect to broadband, is different from what it can and can't do with respect to basic local exchange service. So, if we don't create a mechanism now that will deal with the failure to meet the commitment, then it seems to me we've created a huge mess, which is, if they don't meet it, what are we going to do? Spend months arguing jurisdictional issues about whether the Commission can or can't do anything about it? So, those are a couple of examples.

Service quality measures, one of the ways to deal with that are the establishment of specific penalties for not meeting retail service metrics, which some states have done, and particularly have done in the context of a similar type arrangement like this, which is where a control of the business is passing from one entity into the other. So, those are three examples of the kind of mechanisms.

Verizon, it's a little harder. I mean, I think, when Verizon is gone, they're gone. And, I think that's fair. And, I think, with respect to Verizon, it's pretty much the case that trying to sort of keep them on the hook for these things is troubling to me, because they're not vis-a-vis this Commission or vis-a-vis the businesses and residents or customers what they used to be. So, with respect to Verizon, I think whatever they need to do, they need to do it now.

Q. And, I believe Staff Exhibit 26 was the Vermont Department of Public Service Staff brief in the Vermont proceeding. And, some of those conditions raised issues related to Vermont ensuring that things are taken care of there before money leaves the state. I think that's kind of a rough way to say it. And, I wanted to ask your reaction to that. And, also, if you could talk a little about the idea of "ring fencing", and if you think that's something that's worth pursuing in this case?

A. In a way, what Vermont is doing is ring fencing. But my problem with -- I don't want to say "Vermont", there are a lot of people besides the Department of Public Service in Vermont. What the Department is doing is ring fencing of a sort. But it's ring fencing that doesn't just keep the Vermont utility separate from the parent, it also unfortunately, very unfortunately, keeps it separate from what's left of Verizon Northern New England, which is Maine and New Hampshire. Apart from what I think the lenders are likely to do if this happens, let me tell you what I don't like about it.

The way the brief is structured, what is being requested is the ability to say that, until every dollar of commitment made in Vermont is spent, no money can go either up to the parent to pay the debt, which will support what's happening here, too, moreover, if the common organization is left in Maine and New

Hampshire, I don't -- there is also going to have to be a transfer of dollars over from Vermont to that group, to that entity, in order to pay their share of the common costs, which are very substantial.

So, not only am I worried about the debt being unable to be paid until Vermont gets everything it asks for, I'm worried about whether or not what I see coming out of Vermont is even an agreement that their share of the common expenses are going to get paid. And, to be really blunt, here's what it comes down to: Specific commitments are going to be necessary for Vermont and Maine and New Hampshire. And, to the extent that those commitments all cannot be met before the debt gets paid and the common expenses get paid, it seems to me all three states need to share in that cut a little bit. The last thing I want to see is, in order to pay the common expenses and the debtors, Vermont gets 100 percent of its broadband and its network improvement and all that, and Maine and New Hampshire are left only with enough money to get 90 percent of theirs. Or, having to go through some -- drag FairPoint in here and say "why aren't you doing what you promised here?"

It's not good. The risk is not

acceptable. Moreover, it seems to me, and maybe Randy Vickroy can comment on this more, I can't understand how the banks will go for it either. Because there's at least two separate entities who can stop dividends from flowing up to the parent to pay the debt.

Q. So, how else would you propose each state or even the states working together could come up with a solution that makes each state feel protected that those commitments are actually going to happen, but without running into those risks?

A. We could all do what the Department wants, and then we could all sit here and horde our share, or we can go all-for-one and one-for-all. And, I don't see how there's any realistic solution except the latter. And, that's counting both what I see as what I think is the way the business has been structured and run, the way it really needs to be run, before you start carving it up into pieces that don't make much sense to me anymore. I also think, in my opinion, that's what it's going to take to keep the banks from telling FairPoint that there's been a material adverse change in the circumstances under which the banks issued their letters. And, that -- And, that then means that FairPoint has got to go back to the table and get those loans at all, if they can, and I don't know what extra rate or what extra interest costs it's going to be, if the banks will even agree to it.

Q. I think this is my last question. And, that is that you talked about the ratios in your proposed Solution Number 1. And, my question is, in order to meet the ratios that you've discussed that you set out there, does the purchase price in this transaction need to be reduced or do you think those ratios can be met without that type of change?

A. The debt needs to be brought down somehow. The options are more equity, consistent with the limits under which the Reverse Morris Trust arrangement will work. If we kill the Reverse Morris Trust aspect of this, we kill the deal, it seems to me. So, we have to, if we want FairPoint here, we have to live with that. And, the other way is to reduce the debt. And, I think Mr. Del Vecchio's client is the source for that, if that's the route we take. I don't know how else you would do that. More equity from FairPoint shareowners or less debt the courtesy of Verizon.

MS. HATFIELD: Thank you very much. That concludes my questions.

CHAIRMAN GETZ: Okay. Let's see.

FairPoint has about how much cross-examination?

MR. McHUGH: Not sure yet, Mr. Chairman.

CHAIRMAN GETZ: Well, I think it's a good time to break regardless, to change court reporters. And, I think it will be in the nature of ten minutes, which means that we're going to reverse course or modify course once again. I had -- Earlier today, we said we would deal with procedural issues when we came back from the morning break. I suggest that we now do that when we come back from the lunch recess. So, let's take ten minutes to change reporters, and then we will hear from FairPoint.

(Recess taken at 11:42 a.m.)

(Hearing reconvened at 11:50 a.m.)

CHAIRMAN GETZ: We're back on the record in DT 07-011 with the examination of Mr. Antonuk.

Mr. Coolbroth or Mr. McHugh?

MR. COOLBROTH: No questions, Mr. Chairman.

**EXAMINATION**

BY COMMISSIONER BELOW:

Q. Good morning, Mr. Antonuk. When you were responding to a question from Ms. Hatfield concerning Page 2 of your supplemental testimony for conditions to be made enforceable as a consequence for not achieving and meeting a commitment, you gave three examples and talked about it as a mechanism. But I sort of heard the description of the problem in two cases, sort of metrics for broadband deployment and the CAPEX, but not a suggestion on the mechanism that would be enforceable with consequence. The third one was Verizon. And your simple point was that any commitments they make maybe should be completed before they depart regulatory oversight of the Commission. So could you describe what kind of mechanism you actually have in mind that could result in an enforceable consequence?

A. Yes. First of all, if I say "Senator" in response to your question, it will be a recollection of the last time you questioned me.

Service-quality standards at the retail level. Let's suppose there's a standard that says you have to have a certain number of orders completed within seven days. You could have a measure that says, if there's a failure to meet at least 90 percent, or some percent -- these numbers are not etched in stone, they're just hypothetical -- that FairPoint has to pay a certain amount of money. You could say at the individual customer level, for example, if a service appointment is missed more than on two consecutive occasions, that customer will receive a bill credit. That would be one example at that level.

On CAPEX, you could say that -- let's say that if there's a minimum level of expenditure required for every dollar below that, $2 have to be put into a fund to support infrastructure development in the state. So there really are a lot of ways to do it. And I guess at this point I'd like to let you let me off the hook by saying a lot of those are still under active consideration.

Q. Okay. Thank you.

**EXAMINATION**

BY CHAIRMAN GETZ:

Q. Good morning, Mr. Antonuk. I have one follow-up with a question from Mr. Mandl, and it goes to the notion of the proposal for an independent third party who would, as I understand it, give some clearance for FairPoint to make the irrevocable notice of readiness. Is that correct?

A. The consultant -- although, I guess I keep talking about this consultant in the third person, but in the first person it's us -- would be in a position to review realtime what's going on and express views back to the three staffs of the states about what was happening, but also expressing those views to FairPoint. To the extent FairPoint agreed, if the consultant recommended changes, then that would all be reported to the staff. And presumably things would go ahead unless the staffs decided there was some crossroads that they hit that just required them, you know, to get back to their Commission and raise a fuss about it. So it's not so much that the consultant becomes the one who says it's okay, go ahead. The consultant looks at what's happening, expresses reservations, concerns, makes recommendations. FairPoint does or doesn't go along with them. And then all of that is reported to the state staff so that they have an exposure to basically all of the things the consultant has said to FairPoint, all the recommendations made, and what FairPoint's response to them is.

Q. But I think part of the direction I thought Mr. Mandl was going in asking, and the direction that concerned me, and it goes to this issue: It seems like it's not fully developed in your proposal, in terms of who would get the information; what form it would take; what the commissions would do with it, in terms of having hearings, sign-offs; the structural issues around a mechanism like this. I take it, unless I missed something, that that's not fully developed; is that correct?

A. That's correct. Although, I think I can report that among the three states' staff participating, I think as late as this morning, it appears that we're together with them. FairPoint, I don't believe -- subject to check -- I don't think FairPoint has seen that agreement yet. So I believe we're at a point where, assuming, you know, there's not still some closure with FairPoint and the three state staffs, that at least some of and maybe most of what you are seeking will be imminently available.

CHAIRMAN GETZ: All right. Redirect, Ms. Fabrizio?

MS. FABRIZIO: Staff has no redirect.

CHAIRMAN GETZ: Mr. Mandl?

MR. MANDL: Yes. I'd just like to raise a point in light of the responses to your most recent questions. At one of the earlier conferences we had, my clients had expressed concern about the availability of any three states' staff agreement for review by other parties. We obviously are not privy to those discussions, don't know the status of that agreement, but it sounds as if it's fairly far along. And our concern is that there may be matters in that agreement that overlap with issues in this proceeding -- you know, namely, the cutover readiness process -- and your point, a need to see details on how this whole matter would be addressed by regulators. We had made the request that if agreement were reached, that it be something that was made public, made available to the parties, so that -- because it does have an effect on the issue in this case. I think it's apparent from our cross-examination that we don't regard system testing as the sole criteria for cutover readiness, that there are operational readiness matters that need to be addressed and that --

CHAIRMAN GETZ: Well, let me say this -- I think I know where you're going and I understand your point. And I would just suggest that you talk to the parties during the lunch recess or at the end of the day to see if there's agreement or not agreement on how to deal with the -- deal with what may be some proposal from the three states. And we can hear later the positions of all the parties. And if there's a joint proposal or argument about what to do, we'll deal with that later.

MR. MANDL: I believe we did get

testimony from Mr. Haga that he expected that any such agreement would be filed, and we would support that.

CHAIRMAN GETZ: Okay. All right. Thank you.

WITNESS ANTONUK: And for the good of the cause, Mr. King is scheduled to testify next week. We're certainly happy to have whatever discussions that the parties want with us, and then Mr. King can get beat up if he needs to next week, 'cause he knows this in much better detail than I do.

CHAIRMAN GETZ: All right. Is there anything else for this witness?

(No verbal response)

Hearing nothing, then you're excused. Thank you, Mr. Antonuk.

Ms. Fabrizio, is Mr. Vickroy available?

MS. FABRIZIO: Yes, Mr. Chairman.

Can the witness be sworn in, please?

**RANDALL E. VICKROY, SWORN**

**DIRECT EXAMINATION**

BY MS. FABRIZIO:

Q. Good afternoon, Mr. Vickroy. Could you please state your full name for the record.

A. Yes. Randall E. Vickroy.

Q. By whom are you employed?

A. Liberty Consulting Group.

Q. And what is your business address?

A. 65 Main Street, Quentin, Pennsylvania.

Q. Now, are you the same Randall E. Vickroy who filed the direct testimony on behalf of staff on August 1st in this proceeding?

A. Yes, I am.

MS. FABRIZIO: I would note that Mr. Vickroy's testimony is marked as Exhibit 2, Staff Exhibit 2. And as I'd like to also note, Staff Exhibits 39 through 41 has been submitted this morning. These are source documents referenced directly in Mr. Vickroy's testimony.

BY MS. FABRIZIO:

Q. Mr. Vickroy, do you have any changes to your testimony today?

A. Yes, I'd like to note some changes, in particular, some differences between the FairPoint forecasted financial information, which was included in my prefiled testimony. Similar information was presented by Mr. Walter Leach of the company, of FairPoint, in his rebuttal testimony. And there were some differences in those two. Since the filing of my prefiled testimony, we have had several discussions with the company and exchanges of information with regard to the financial model, and particularly with regard to the calculation of the financial covenant ratios, which were kind of the points of difference between our two testimonies. And we've come to a revised understanding on how some of these calculations are made. Mr. Leach's testimony provides an explanation of what those differences are. And basically, those are in his rebuttal testimony. I'm in agreement with his calculation of the dividend payout ratios, the other credit ratios on Pages 17, 18 and 68 of Mr. Leach's testimony. And, in fact, we have consistently used this set of Mr. Leach's testimony, of his numbers, in our cross-examination of him on Tuesday and in other examples that we have made. So we'd also like to note that by adopting the same methods in calculating ratios as Mr. Leach, we're not changing our opinions of FairPoint's financial projections or our conclusions regarding their base case or their MAC case. But we would just like to point out that we are in agreement with their calculations and would go with those in our examples.

Q. Okay. So if I understand correctly, you're letting the Commission know that, although the numbers may have changed slightly in the course of discussions and in this proceeding this week, that your conclusions and opinion have not changed; and therefore, you're not actually changing the text of your testimony; is that correct?

A. That's correct.

MS. FABRIZIO: Thank you. The witness is available for cross.

CHAIRMAN GETZ: And Ms. Hollenberg? Ms. Hatfield?

MS. HATFIELD: The OCA does not have any cross-examination.

CHAIRMAN GETZ: And Mr. McHugh? Mr. Coolbroth?

MR. COOLBROTH: No questions, Mr. Chairman.

CHAIRMAN GETZ: Well, that's the lightest load anyone's had in this proceeding.

WITNESS VICKROY: So disappointed.

CHAIRMAN GETZ: I assume there's no redirect, so the witness is excused.

Thank you, Mr. Vickroy.

WITNESS VICKROY: Thank you. I enjoyed it thoroughly.

CHAIRMAN GETZ: Is Mr. Skrivan available?

MR. McHUGH: He is, Mr. Chairman.

**MICHAEL T. SKRIVAN, PREVIOUSLY SWORN**

MR. McHUGH: Mr. Chairman, I believe Mr. Skrivan has already been qualified as a witness and sworn in and is therefore available for cross-examination.

Mr. Skrivan, I just want to remind you that you're still under oath, sir.

WITNESS SKRIVAN: Yes. Thank you.

CHAIRMAN GETZ: And Mr. Price? Is he back there?

MR. PRICE: Yes. Thank you, Mr. Chairman.

**CROSS-EXAMINATION**

BY MR. PRICE:

Q. Good afternoon, Mr. Skrivan.

A. Good afternoon.

Q. Could I ask you to turn to Page 8 of your rebuttal testimony.

A. Yes, I'm there.

Q. In Lines 15 to 16 you say that, quote, ...parties are asking FairPoint to agree to conditions that have not been found to be in the public interest by the FCC or

by the New Hampshire PUC; is that correct?
A. Yes.
Q. Can you tell me if -- are you saying that certain parties are asking for conditions that have affirmatively been found not to be in the public interest by the FCC and this Commission?
A. That may be the case. But what I'm really trying to say is that what FairPoint is trying to do -- I think we've used the term, "We want to step into the shoes of Verizon." And what we really mean by that is that there are many, many complex issues in the telecom industry. Many of them have been litigated extensively, arbitration proceedings, access charges, interconnection rules, et cetera. And in many cases, these have resulted in a certain regulatory environment which has been based on research by all the parties and filings and based on decisions by various state commissions, as well as the FCC, maybe courts in some circumstances. And so our position is that we want to essentially rely on all of those as a starting point and not have to go back and try and argue about a number of issues which have either been found against other parties or really haven't even been litigated one way or the other in the past, and just let us start

with where Verizon is, which is based on, in many cases, an extensive public record, and then we can move forward from there.

Now, as you know, we've also offered up certain conditions or certain processes that we think, you know, will give certain assurances to parties, in terms of, for example, extending interconnection agreements with the CLECs and agreeing not to raise rates for a year. And so we've added to that a little bit. But basically, we're just trying to start with the current environment. Give us a chance to get started, and then we can, if necessary, take these other issues up one at a time in a more thoughtful and detailed manner.

Q. But until the Commission's ruled on this transaction, you can't say that they've said that these conditions are not in the public interest; isn't that right?

A. I think that's fair.

Q. Okay. You're familiar with Section 271 of the Communications Act?

A. Yes, I am.

Q. Would you characterize that as a market-opening provision that required Bell operating companies, or BOCs, to open their markets for local competition in return for their ability to provide in-region, long-distance services?

A. I think that's a fair characterization, yes.

Q. And am I correct that it's FairPoint's position that if the transaction is consummated, if this transaction is consummated, that FairPoint will not be the successor or assign of a BOC, and that Section 271 would not apply to FairPoint? Is that correct?

A. Yes, that is our position.

Q. Could I ask you to turn to Page 19 of your rebuttal testimony.

A. Okay.

Q. In Lines 10 through 17 you cite examples of transactions where non-BOC telephone companies purchased certain exchanges from BOCs and were not subsequently treated as BOCs as a result of those purchases; is that correct?

A. Yes.

Q. Do any of the transactions you cite here involve the purchase of a BOC's entire ILEC business in three or more contiguous states?

A. No, they don't.

Q. Do any of them involve the purchase of a BOC's ILEC business in one state? Entire ILEC business in one

state?
A. No.
Q. The transactions you cite involve the purchase of particular BOC exchanges; correct?
A. Yes.
Q. To your knowledge, was Qwest a BOC before it purchased U.S. West?
A. I suppose that's a legal issue. But I think the answer is probably yes.
Q. Before Qwest purchased U.S. West, Qwest was a BOC?
A. I'm sorry. I misunderstood. Thank you for reiterating that. No, Qwest was not a BOC.
Q. And now is Qwest a BOC after it purchased U.S. West?
A. Qwest operations that came from U.S. West are, to my knowledge, considered to be a BOC.
Q. Can you please turn to Page 18 of your testimony?
A. Yes.
Q. In Lines 16 and 17 you say that the issue of whether FairPoint should be treated as a BOC has been fully briefed before the FCC; correct?
A. Yes.
Q. Does that mean that the FCC is guaranteed to rule on that issue in this proceeding, in the proceeding that it's conducting concerning this transaction?

A. I don't know the answer to that.

Q. So it's possible, you acknowledge, that the FCC will not rule on the issue?

A. It's possible. I really don't know the process.

Q. All right. Thank you. Now, Verizon has gone through the process of receiving Section 271 approval to provide in-region, long-distance services in New Hampshire; correct?

A. Yes, it has.

Q. And as part of that process, the evaluation was conducted to determine whether Verizon provides services to CLECs that meet the 271 checklist; correct?

A. To my knowledge, yes.

Q. And did the New Hampshire PUC participate in that process when Verizon was going through its application for 271 authority?

A. I don't have a great deal of knowledge regarding the 271 process in particular. But it's my understanding that the state commissions participate in that process.

Q. Thank you. Please turn to Page 18 of your rebuttal testimony.

A. Okay.

Q. In Lines 4 through 6 you state that, quote, FairPoint will agree to provide anything that Verizon currently

provides under the 14-point competitive checklist set forth in Section 271(c)(2)(B) of the act, end of quote. You go on to say in Line 10 that, quote, FairPoint is not seeking to pick and choose which Verizon obligations it assumes. Am I quoting you correctly?
A. Yes.
Q. What is your understanding of the Section 271 checklist elements that Verizon is currently providing and that FairPoint will continue to provide as a result of the commitment you make here?
A. My understanding of those items are that they include circuit switching, and they include SS7 and the associated databases that are required for call completion.
Q. The competitive checklist, however, because it's a 14-point checklist, includes other things, too, doesn't it?
A. Yes.
Q. Okay. And some of those things are network elements that ILECs -- or excuse me -- that BOCs were required to provide under Section 251 of the act but subsequently were, quote, de-listed, unquote, by the FCC. Are you familiar with the FCC's triennial review remand order?

A. Yes, I am.

Q. And am I correct that in that order, the FCC said that there is a separate obligation to provide de-listed elements that have been de-listed under Section 251 under the 271 competitive checklist? Correct?

A. I don't know. I'd have to look at the section to see exactly the context of that.

Q. But as a general matter, are you aware that the FCC has said that 271 has independently required the unbundling of network elements?

A. Yes.

Q. In the joint stipulation that FairPoint has entered into with three CLEC intervenors in this proceeding, FairPoint, in Section 2 of the joint stipulation -- let me be more specific -- Section 2.a, commits to providing -- let me just get the exact language here. I'm going to read from Section 2a. "FairPoint will cause telco to provide as, quote, settlement items, unquote, all Section 271(c)(2)(B) competitive checklist network elements and services, to the extent that the FCC rules or has ruled that BOCs in general are required to provide such elements and services, now or in the future." And it goes on.

My understanding is that CLECs that are

not parties to this joint stipulation, according to Mr. Lippold's testimony, will be able to receive these 271 settlement items from FairPoint; is that correct?
A. Yes, that's correct.
Q. Let me draw your attention to Section 2c of the joint stipulation. Under Section 2c, the CLECs that are parties to this document may have this requirement that FairPoint provide 271 settlement items, that they may go to state commissions to enforce that requirement; is that correct?
A. Yes, that's correct.
Q. Under Section 2c.
A. Yes, under 2c.
Q. But am I also correct that CLECs not a party to the joint stipulation will not have the benefit of being able to go to state commissions to enforce this, according to Mr. Lippold's testimony?
A. Yes, that is correct.
Q. So, if at the end of this proceeding FairPoint is not regulated as a BOC, it's not considered a BOC, and so there's no requirement under 271 that FairPoint provide 271 elements, how will CLECs that are not a party to this stipulation enforce the obligation that FairPoint is committing to, to provide 271 elements to all CLECs?

A. Our position on this is that we are agreeing to provide those Section 271 elements. And we're also suggesting that, to the extent FairPoint, you know, would -- this wouldn't happen -- but the possibility that FairPoint would back up and say, no, we're not going to do that, we're suggesting that the Commission, the State Commission would have the authority to say to FairPoint, yes, you will provide those. So that's basically something that we would propose as part of this arrangement.

With respect to the pricing of those services, which is really what this section goes to, the pricing is done under Section 201(b) and 202(a) of the Telecom Act. And FairPoint is subject to those sections of the Telecom Act. So, to the extent FairPoint agrees to provide those services, and a CLEC has a complaint or concern about the pricing of those services, then, under 201 and 202 of the Telecom Act it would be able to take those pricing concerns to the FCC.

Q. So let me try to summarize what you just said so I understand it. A CLEC that is not a party to the joint stipulation would be able to go to the Commission -- to a state commission, and enforce the obligation that

certain settlement items be provided, certain 271-like settlement items be provided, but that if a question arose concerning the pricing for those systems, that that CLEC would need to go to the FCC to make a ruling on whether they were just unreasonable under the Communications Act.
A. Yes, that's my understanding.
Q. Why are the CLECs that are party of the joint stipulation given the ability to go to a state commission to make that ruling and CLECs that are not a party to it are not given that ability?
A. Well, I think the simple answer is this was an agreement with give and take to it, and that was part of the give and take that was involved in the stipulation and the negotiation with the CLECs.
Q. Can I ask that you to turn to Page 18 of your rebuttal testimony.
A. Okay.
Q. In Lines 19 through 21 you say, quote, The only reason to classify FairPoint as a BOC would be to trigger the Section 271 requirements, unquote; is that correct?
A. Yes.
Q. Are you familiar with 272 of the Communications Act?
A. Yes, I am.

Q. Are you aware of the non-discrimination requirements and separate affiliate requirements in Section 272(e) that have not and do not sunset?

A. Can you say that again?

Q. Are you aware of the non-discrimination requirements and separate affiliate requirements in Section 272(e) that have not and do not sunset?

A. I'd have to look at the language. It's my understanding that there's non-discrimination provisions in that section, but not separate affiliate requirements in that section.

Q. Well, I think -- okay. We can check that. But you at least acknowledge that there are requirements in Section 272(e), and you acknowledge that Verizon is currently subject to these requirements by virtue of it being a BOC.

A. Yes.

Q. Will FairPoint agree to be subject to these Section 272(e) requirements?

A. No. We don't think it's necessary to be subject to those because there are provisions that apply to independent telephone companies and apply to all local exchange carriers which essentially cover the same ground.

Q. And what are those?

A. Well, we'd have to go through them one at a time. But if you want to go through those, I can respond and tell you what the FCC rule is that applies to each one of those provisions.

MR. PRICE: Can I make a data request for that, Mr. Chairman?

CHAIRMAN GETZ: Prepared to answer in the form of a record response?

MR. McHUGH: I would like the exact form of what the response is before we -- I'm not sure what he's asking us to do.

CHAIRMAN GETZ: I do have a question of how extensive --

MR. McHUGH: Yeah, that's --

CHAIRMAN GETZ: -- this request is.

MR. PRICE: My question was, will FairPoint agree to being subject to Section 272(e) of the Communications Act? And the response was -- the witness' response was that it's not necessary because there are other legal provisions that would apply to FairPoint that impose the same obligations. And I want to know -- I think the data request would be: What are those legal provisions that supply those obligations?

MR. McHUGH: I think that's fine.

CHAIRMAN GETZ: And we are up to exhibit?

MS. O'MARRA: Fifty.

CHAIRMAN GETZ: Fifty.

BY MR. PRICE:

Q. Thank you. In the joint stipulation, FairPoint agrees to -- or the parties to the joint stipulation agree that the PAP will be suspended for a period of one month following the cutover; correct?

A. Yes, that's correct.

Q. But is it FairPoint's position that, for other parties that are not parties to the joint stipulation, that the PAP should be suspended for two months after the cutover?

A. Yes, that's correct.

Q. Can you explain why FairPoint would need to have the PAP suspended for only one month for these three CLECs and for two months for everyone else?

A. I think I would answer similar to the prior question on the stipulation, is that the terms in here were the result of the parties' give and take, and this was just one of the terms that was negotiated.

Q. Thank you. My last question is has to do with

Section 4c of the joint stipulation. Can you just -- Mr. Lippold may have answered this already, but can you refresh my memory? Does Section 4c -- is that an obligation that all CLECs may enforce, or is that one of the ones that only the parties to the joint stipulation can enforce?

A. My understanding of the way this applies is that FairPoint has essentially agreed to provide this provision to all CLECs for one year, and that by including it in this agreement, in conjunction with a and b above it, for the CLECs who have signed this -- and for anybody else who wants to, it's open to them -- that this would be extended to the three years covered in a and b.

MR. McHUGH: I'm sorry, Mr. Chairman.

Mr. Price, did you want him to address Section 4c or 4b?

MR. PRICE: It was 4c. Did I say 4b?

MR. McHUGH: I'm not sure. But I think Mr. Skrivan was at least addressing 4b, and that's why I was --

MR. PRICE: Right. It's 4c. 4c is the provision --

MR. McHUGH: Volume discounts.

MR. PRICE: Right, where FairPoint agrees to pro rate agreements that include volume discounts in the three states.

A. Pardon me while I read through it again.

(Witness reviews document.)

A. Okay. You know, I think I stand by what I said. C refers to volume pricing in b above; and b is essentially the three-year term. And so I understand c to be read consistent with a and b and, therefore, would apply for a longer period for the carriers that have signed this stipulation.

Q. So, for carriers with agreements that -- with wholesale agreements -- carriers that have wholesale agreements with Verizon right now that include services in the three northern New England states, as well as services in other states, FairPoint will come in and assume the agreements for the three northern New England states; but for CLECs not a party to this joint stipulation, it will not commit to pro rating those?

A. Well, we have said all along that we'll commit to pro rating those for the first year. And I think the question here is how long that term applies, how long that proration applies.

Q. So when you say pro rating them for the first year, you

mean you're referring then to FairPoint's commitment to extend the agreements for one year and that -- so therefore, you're saying that the proration only occurs -- only is good for a year and then you renegotiate the agreement?
A. I think that's a fair summary, yes.
Q. Okay. Thank you. No further questions.
CHAIRMAN GETZ: Mr. Mandl.

**CROSS-EXAMINATION**

BY MR. MANDL:
Q. Good afternoon, Mr. Skrivan.
A. Good afternoon.
Q. Am I correct that you have previously testified in the proposed transaction proceedings in Vermont and Maine?
A. Yes, that's correct.
Q. With regard to your background, have you been involved in any revenue requirements proceedings for the companies by whom you were employed?
A. Well, broadly speaking, yes. I'm not sure what you mean by "revenue requirement proceeding." But I've been involved in revenue requirements and various types of activities within the company, yes. And that would include NECA studies, for example.
Q. Would it include any rate-setting proceedings?

A. I'm trying to think back. I've been involved in setting rates through interconnection agreement proceedings and I've probably been involved in some others. I can't think, off the top of my head, what those might be.

Q. All right. In your position with FairPoint, will your responsibilities include retail revenue requirements proceedings?

A. We haven't determined who exactly will be responsible for that. Right now, I'm sort of wearing two hats. One hat is working with the systems development on the accounting side specifically having to do with regulatory accounting and reporting, and then the other hat is participating in these proceedings.

Q. Understood. Under the organizational structure that FairPoint proposes to adopt, would personnel who handle retail rate-setting proceedings report to you?

A. You'll have to talk to Mr. Nixon about the organization for the regulatory group.

Q. All right. Fair enough. In preparing for these proceedings in the three states, did you familiarize yourself in any way with the rate-setting practices of those states?

A. Yes.

Q. All right. And from that process, would you agree that Verizon's retail rates are regulated by the New Hampshire Commission, the Maine Commission and the Vermont Public Service Board?

A. Yes.

Q. And you'd agree that each state is generally free to establish a specific method of rate regulation?

A. I don't know the answer to that.

Q. Okay. Your understanding, though, is that in a couple of the states -- Verizon has alternative regulation -- an alternative form of rate regulation, as opposed to what we would refer to as cost-of-service-based regulation?

A. Yes, I'm familiar with that.

Q. All right. And after closing, am I correct that FairPoint's retail rates as an ILEC would also be subject to rate regulation by the three state commissions?

A. Yes.

Q. Okay. Did you familiarize yourself with the alternative rate regulation plan in Vermont?

A. To some extent, yes.

Q. Okay. And is it your understanding that the current plan in Vermont extends through December 31st, 2010?

A. Yes, that's my understanding.

Q. Is it also your understanding that that plan could terminate earlier if Verizon, or post-closing FairPoint, fail to comply with broadband build-out commitments that are included in that plan?

A. I'm not specifically familiar with those provisions. That sounds right, but I can't speak authoritatively on that.

Q. All right. Would you agree that in the Vermont Public Service Board proceeding, Docket 7270, FairPoint originally proposed a one-year extension of interconnection agreements, similar to your proposal in New Hampshire in your rebuttal testimony?

A. Yes, that's correct.

Q. And would you also agree that on brief, FairPoint agreed to a three-year extension of existing interconnection agreements, as well as a three-year extension of expired agreements from the date of merger closing?

A. Yes, that's correct.

Q. Okay. With regard to the -- well, let me withdraw that question.

Let me -- you have the CLEC settlement that you discussed with Mr. Price?

A. Yes, I do.
Q. I'd like to refer you to, as soon as I find it, Section 4 of the term sheet, and specifically on Page 6, Section 4f.
A. Okay.
Q. Under Section 4f, it's provided that FairPoint shall adopt the Vermont SGAT in effect as of the merger closing and that the SGAT will remain -- the Vermont SGAT, that is -- will remain in place with rates capped at current levels for three years following the merger closing date. A couple questions on that.
First is, are the parties to this settlement asking the New Hampshire Commission to approve a provision relating to the Vermont SGAT?
A. I don't know the answer to that.
Q. Was it the intention of FairPoint that Part 4f apply to all CLECs or just the three that signed this settlement agreement?
A. I can't necessarily speak to the intent. But the practical outcome is that it would apply to all of the CLECs, because if the SGAT remains in place and it applies to all CLECs, then effectively it would benefit any CLEC in the state of Vermont.
Q. All right. Would you agree that the Vermont SGAT is

not covered by the alternative regulation plan in Vermont?

A. I understand that there's a question whether or not it's covered by that. So I think that was one of the reasons that we went ahead and included this provision, just to clarify whether or not those rates would be capped for the three-year period.

Q. Is it your understanding that the SGAT in Vermont is not considered a tariff?

A. I guess that's a technical definition. And again, I understand that it's like a tariff. But I don't think it's exactly a tariff. And that may give rise to the unsureness as to whether or not the AFOR in Vermont would apply to the SGAT.

Q. With regard to the commitment made by FairPoint in Vermont regarding extensions of interconnection agreements, including those in effect on a month-to-month basis, am I correct that FairPoint also agreed to keep existing wholesale rates and terms in place during that three-year period?

A. Yes.

Q. In regard to the CLEC settlement, we were told by Mr. Lippold that Sections 4a and 4b dealing with the extension of interconnection agreements would apply only to the three CLECs that signed the settlement agreement. Is that your understanding as well?

A. Yes, that's my understanding.

Q. Would you agree that the New Hampshire Commission could adopt a merger condition that would apply those same provisions to all interconnecting carriers?

MR. McHUGH: Mr. Chairman, I object to Mr. Skrivan and the questions, to the extent as to what the Commission's authority is or is not. That's certainly up to the Commission to decide, but not for Mr. Skrivan.

MR. MANDL: I'll withdraw the question.

MR. McHUGH: Thank you.

BY MR. MANDL:

Q. Just a point of clarification again in Section 4 of the CLEC settlement. Section 4e does deal with wholesale tariff rates in New Hampshire and refers to Tariff 84 and Tariff 86. Do you see that?

A. Yes, I do.

Q. Okay. And that provision applies to all wholesale parties, not merely the three who signed the settlement agreement?

A. Yes, it does.

Q. Is Section 4f regarding the Vermont SGAT in some ways analogous to Section 4e? Is it basically a Vermont

equivalent of what you provide under 4e for New Hampshire?
A. I think that that's a reasonable -- it is so, yes.
Q. Thank you. I'd like to refer you to Section 8 of the CLEC settlement terms.
A. Okay.
Q. Section 8a provides for some mutual obligations to file briefs in Vermont Docket 7270 in which the settling parties -- that is, FairPoint and the three CLECs -- would indicate their support for approval of the merger, subject to the CLEC settlement conditions. Do you see that?
A. Yes.
Q. Wouldn't that provision conflict with the position that FairPoint has taken in the Vermont proceedings, that it will accept interconnection agreement extensions for three years for all wholesale carriers?
A. I don't understand the question.
Q. Well, in this -- according to Mr. Lippold, Sections 4a and 4b of the CLEC settlement terms which involve interconnection agreement extensions apply only to the three CLECs that signed this CLEC settlement agreement; whereas, in Vermont, FairPoint has already on brief committed to extending interconnection agreements for

all wholesale interconnecting parties for three years from the date of closing.

A. Okay.

Q. So what I'm asking is whether Section 8a conflicts with the commitment that FairPoint has already made on brief in Vermont Docket 7270.

MR. McHUGH: Mr. Chairman, again, I object to this question. First of all, the Vermont brief that's on file on behalf of FairPoint is quite extensive. If Mr. Mandl wants to point to some specific provisions and show the witness and ask if there's somehow inconsistency, which I don't think there is, between the brief and this Section 8, that's one thing. But to try and say uniformly that something done in Vermont in a very extensive brief somehow conflicts without -- first of all, he hasn't even established the witness saw the Vermont brief. That's the first matter. But getting beyond that, I mean, if there's a specific request as to some document might be conflicting, that perhaps is a different story and we can get that. But we're not there yet.

MR. MANDL: If I can respond to that. NECTA/Comcast had marked for identification Exhibit 83P, which is an excerpt from the Vermont brief which I used in discussions with Mr. Lippold. It does contain FairPoint's commitment to extend interconnection agreement terms by three years for existing agreements and then agreements that remain in effect on a month-to-month basis. And this witness, Mr. Skrivan, indicated it was -- that was his understanding of the position taken by the company in Vermont. What I have asked him here is, in light of FairPoint's interpretation of this CLEC settlement agreement, whereby it seeks to --

CHAIRMAN GETZ: I'm sorry. Say that again. In light of --

MR. MANDL: In light of FairPoint's explanation of the three CLECs' settlement agreement, what it is saying to this Commission is that, for CLECs that did not sign this agreement, you get a one-year extension. They've already said in Vermont we get a three-year extension. Now they're going to, through Section 8a, indicate support for these settlement conditions in Vermont. To me, that seems to be a conflict when it comes to -- or conflicting positions when it comes to who gets three-year interconnection agreement extensions. And that's the question I put to the witness.

MR. McHUGH: Mr. Chairman, if I may. First of all, if there's some sort of conflict with a Vermont brief that we have small excerpts of, which is 101 pages at least -- it's more than that, frankly, but at least as provided here -- first of all, that's not relevant to these proceedings. Second of all, I can't believe, seriously, we're trying to get a legal conclusion out of Mr. Skrivan, who is not a lawyer, as to what -- this phrase may or may not conflict in a brief that is well in excess of a hundred pages. And I don't think it should be the subject of these proceedings.

MR. MANDL: Well, I find it interesting that another party to this proceeding introduced the entire brief of the Vermont Department of Public Service. We would be quite happy to introduce FairPoint's entire brief in this proceeding if that's what FairPoint desires.

CHAIRMAN GETZ: Well, let me step back to this recurring argument between asking for legal conclusions from witnesses who are not lawyers. I take it you're not asking for a legal conclusion --

MR. MANDL: No.

CHAIRMAN GETZ: -- whether there's conflict. But if generally you ask the question, is he aware that this Section 8a is in any way inconsistent with other positions that -- subject to his expertise and his experience in this case -- that are inconsistent, then I'll allow that question.

MR. MANDL: That's essentially what I was attempting to ask. Thank you.

WITNESS SKRIVAN: I'm not aware of any inconsistency.

MR. MANDL: All right.

MR. McHUGH: Thank you, Mr. Chairman.

CHAIRMAN GETZ: Sometimes it takes awhile to get there.

MR. MANDL: Interesting answer.

MR. McHUGH: I ask that that be stricken from the record, please. There was no need for that commentary.

MR. MANDL: Pardon me.

BY MR. MANDL:

Q. Now, is it your understanding that in this proceeding the Commission Staff has recommended a three-year rate freeze for FairPoint's retail rates?

A. I don't recall that specifically. That sounds right, subject to check.

Q. Okay. Also subject to check, is it your understanding that the Office of Consumer Advocate has recommended a rate freeze through 2012?

A. Yes.

Q. In your testimony, you indicate that you've participated in interconnection agreement negotiations and arbitrations; is that correct?

A. Yes, it is.

Q. And would you agree that those are costly and time-consuming proceedings for both the ILEC and the wholesale customer?

A. Yes.

Q. And that those types of proceedings take up substantial Commission resources or the resources of an arbitrator?

A. Yes.

Q. Is it your understanding that interconnection agreements arise from federal law -- that is, you know, Sections 251 and 252 of the Telecommunications Act?

A. Yes.

Q. Would you agree that competition can be adversely affected by factors other than market concentration?

A. Can you say that again?

Q. Would you agree that competition can be adversely affected by factors other than market concentration?

A. Yes.

Q. One final area. I believe in both the CLEC settlement and in your rebuttal testimony, starting at Page 13, you discuss FairPoint's reservation of rights to seek rate recognition for the capitalized portion of the

Capgemini costs in a future rate proceeding; is that correct?

A. Yes.

Q. Assuming approval of your position, would FairPoint agree to defer seeking rate recognition of those costs from wholesale customers in advance of seeking rate recognition from retail customers?

A. No, we would not.

Q. And could you explain why not?

A. I guess we don't see the two as connected. They're separate proceedings. And in the event either a retail proceeding came up or a wholesale proceeding came up, FairPoint would argue -- would present arguments based on its estimate of the cost to provide various services.

In a retail proceeding, if it was under rate-of-return regulation, then there would be some sort of test period, and we would develop a revenue requirement and we would argue for the assumptions that went into that.

If it was a wholesale proceeding in terms of an interconnection agreement, then, rather than a rate-of-return proceeding, it would be based on TELRIC standard and be forward-looking in nature. And we would expect to put together our forward-looking costs, including costs associated with OSS. And we would expect to put our costs together and propose that those costs be used in the proceeding.

Q. If the retail rates and the wholesale rates were stabilized at the Verizon levels for the same period of time, wouldn't it be possible to implement the rate recognition of these capitalized Capgemini costs at the same time for both wholesale and retail?

A. I think you're asking me that if... I think what you're asking me is, if we waited to have a TELRIC proceeding until we had a retail proceeding, then in the TELRIC proceeding we could argue the forward-looking cost, and in the rate-of-return proceeding we could argue the actual cost, I guess that's what would happen. I just don't see how those are connected in any way.

Q. With regard to the capitalized Capgemini costs, is it your expectation that some portion of those costs would be allocated to unregulated operations that benefit from the underlying systems that Capgemini is working to assemble?

A. Yes.

Q. Would it also be your expectation that those same capitalized costs would be allocated between Maine, New

Hampshire and Vermont?

A. Yes.

Q. And if the underlying systems were used by the rural systems of FairPoint within the New England states, or used by the FairPoint systems outside of New England, would you expect that a portion of those costs would be allocated to those systems and jurisdictions?

A. Yes.

MR. MANDL: Thank you. I have no further questions.

CHAIRMAN GETZ: Okay. This is a good time to take the lunch recess. Let me confirm before we do. Ms. Hollenberg, will there be questions for Mr. Skrivan?

MS. HOLLENBERG: Yes.

CHAIRMAN GETZ: And from Staff as well?

MS. FABRIZIO: Yeah.

CHAIRMAN GETZ: Okay. Then let's break until 2:15.

(Lunch recess taken at 12:55 p.m.)

(Hearing reconvened at 2:20 p.m.)

CHAIRMAN GETZ: Good afternoon. We're back on the record in Docket DT 07-011. I guess, why don't we complete the examination of Mr. Skrivan, and then we'll deal with all of the remaining procedural issues after we are finished with his examination. So we will turn to Ms. Hollenberg.

MS. HOLLENBERG: Thank you.

**CROSS-EXAMINATION**

BY MS. HOLLENBERG:

Q. Good afternoon.

A. Hello.

Q. I just want to say at the outset that I hadn't intended to ask you very many questions. But Mr. Leach deferred some to you, so you can blame him.

A. Yes, I'm aware of that.

Q. You responded to some data requests in this docket; did you not?

A. Yes, I did.

Q. And are your responses up to date?

A. To my knowledge, they're up to date, yes.

Q. Thank you. You should have a packet -- actually, if you don't have a packet before you of exhibits, they were passed out on Monday and so they may not be before you. So let me get you another copy.

MS. HOLLENBERG: If I could approach the witness, please? Thank you.

BY MS. HOLLENBERG:

Q. And I'm actually going to see if I can find the Leach exhibits as well, because I may refer to some of these.
A. Okay.
Q. Did you join FairPoint sometime after April 2007?
A. Yes, I did.
Q. And when did you join FairPoint?
A. June 4th of 2007.
Q. And have you ever worked in New Hampshire before?
A. No.
Q. How about Vermont or Maine?
A. I've worked in Vermont.
Q. Thank you. If you could look at the first of the OCA exhibits, which is -- let me just get my copy out -- labeled OCA Exhibit Skrivan P10. And would you agree that this is your response on behalf of FairPoint to OCA R-105?
A. Yes.
Q. Would you agree that the TSA costs are a transaction cost?
A. Yes.
Q. And that FairPoint will not seek to recover these costs from ratepayers?
A. Yes.
Q. Would you also agree that most of the Capgemini costs

are not being considered by FairPoint as transaction costs?
A. Yes, I would agree.
Q. And that, in fact, most of these costs are being capitalized?
A. Yes, I would agree.
Q. If FairPoint were not purchasing the northern New England properties from Verizon, do you agree that the ratepayers of New Hampshire would not have to pay any of these capitalized costs associated with Capgemini's work?
A. Yes, I would agree they would not have to pay the costs associated with Capgemini. But they would be required to pay similar costs for -- I can't say similar costs. They would be required to pay costs for similar services that are being provided by Verizon today. I can't say whether the costs would be the same or not.
Q. Thank you. If I could ask you to turn to the next of the exhibits for the OCA, labeled OCA Exhibit Skrivan P11. Would you agree that this is your response on behalf of FairPoint to OCA R-106?
A. Yes.
Q. Thank you. And just directing you to -- this is inquiring about whether or not FairPoint is going to

impute the directory revenues associated with the Commission's order in the Verizon Yellow Pages document. Are you familiar with that?

A. Yes.

Q. And your answer is, basically, FairPoint does not believe the Verizon directory business has anything to do with FairPoint or this transition [sic].

A. Yes.

Q. Okay. Thank you. If I could ask you to look at your rebuttal testimony at Page 5, please.

A. Okay. I'm there.

Q. Thank you. At Lines 10 to 11, you see that it says, "FairPoint has already agreed" -- "already committed to adopting Verizon's rights and obligations under state regulation in New Hampshire"?

A. Yes.

Q. Yet, in a future rate case, FairPoint will not impute any of the approximately $23 million associated with the Verizon Yellow Pages order; is that correct?

A. Yes, that's our position.

Q. So FairPoint is not committed to adopting that obligation of Verizon's.

MR. McHUGH: I object, in the sense that we're not here for a Verizon rate case. And I don't know what the Verizon position would be in a Verizon rate case at some point in the future.

MS. HOLLENBERG: I'm merely just asking the witness whether or not this is an obligation of Verizon's which currently exists that they are not -- that FairPoint is not adopting. And it is contrary to what his testimony says.

CHAIRMAN GETZ: Then I guess that raises the issue that I believe has been spoken to a couple of times, is what is the nature of the underlying obligation by Verizon. And I guess to the extent that you're asking the witness to accept your premise that there is an obligation, which I -- is that what you're objecting to, Mr. McHugh?

MR. McHUGH: Well, that's part of it, if it's going to be phrased in terms of that hypothetical. But I don't know what Verizon's obligations would be in a future, unspecified Verizon rate case. There's no point in time, in terms of reference, a whole litany of things that might come up in a Verizon rate case at some unspecified point in the future. That is not part of the basis of the question.

MS. HOLLENBERG: Okay. Verizon is currently obligated to impute $23 million in revenues, and they are doing that. And that has been something that's shown on the record. And I guess I would like to know if this witness -- the day after the closure of this case, if FairPoint is not accepting that obligation of Verizon.

CHAIRMAN GETZ: Do you have an answer to that, Mr. Skrivan?

WITNESS SKRIVAN: Yeah. I don't know whether it's an obligation of Verizon. I understand there's an order. I don't know what position Verizon would take in a rate case. I strongly suspect they would oppose that. And we are reserving the right to oppose that imputation.

BY MS. HOLLENBERG:

Q. All right. And what is the basis for your opinion that Verizon would oppose an order that's been affirmed by the New Hampshire Supreme Court?

A. I don't know on what basis they would. I just suspect they would.

Q. Thank you. If you could look at the next exhibit for the OCA, OCA Exhibit Skrivan P12, which is, if you would agree, your response on behalf of FairPoint to OCA R-109?

A. Yes, I have it.

Q. Thank you.

CHAIRMAN GETZ: Can you hold on one second, Ms. Hollenberg? I thought we had those exhibits, but I'm not sure.

MS. HOLLENBERG: I have plenty of extra copies if you need them.

CHAIRMAN GETZ: Yeah. Could we get that, 'cause I'm not seeing it.

MS. HOLLENBERG: Actually, I stand corrected. I don't think it was passed in, 'cause he was sworn in and we didn't proceed.

MR. McHUGH: Do you have an extra copy?

MS. HOLLENBERG: Absolutely. Anyone else?

MR. McHUGH: Do you have a copy of --

MS. HOLLENBERG: Yes.

MR. McHUGH: Oh, this is it.

MS. HOLLENBERG: Anyone else?

The exhibits are stapled together. There are only four of them, public exhibits. Although, I will say I do have at least one confidential question which was deferred from Mr. Leach the other day.

BY MS. HOLLENBERG:

Q. And if I could have you next look at the next OCA exhibit, which is your response on behalf of FairPoint

to OCA R-112. Do you agree with that?
A. Yes, I have it.
Q. And you stated in your rebuttal on Page 12, and it's Lines 7 through 8 -- actually, one moment, please. So you talked about that FairPoint -- basically, the position that you're taking is FairPoint should not be subject to more stringent requirements than apply to Verizon currently. Do you agree with that?
A. Yes.
Q. Okay. And that you make an additional point at Page 3 of your rebuttal, a similar point, although additional, Lines 11 through 14, that basically FairPoint -- I'll just read. "...FairPoint does not believe that as a result of approval of the transaction it should relinquish any legal rights available to Verizon's New Hampshire ILEC today or to take on additional regulatory obligations that have not previously been imposed on Verizon's New Hampshire ILEC operations." Did I read this correctly?
A. Yes.
Q. Thank you. You agree that you made this statement at Page 8, Lines 8 to 9 --
A. Yes.
Q. -- that FairPoint believes it's premature and

potentially harmful to add regulatory conditions applicable to Verizon New Hampshire's operations at closing. Did I read that correctly?

A. Yes.

Q. Thank you. Is it your testimony that FairPoint would reject approval by the PUC if such approval included conditions which imposed additional regulatory obligations?

MR. McHUGH: Well, I object to the form of that, Mr. Chairman. This witness is not authorized to say whether or not FairPoint would reject the transaction depending upon this Commission's approval. That is something that is for senior management and the board of directors to decide, not for Mr. Skrivan to decide.

MS. HOLLENBERG: And my response would be that this witness has testified a couple of times in their testimony about how this Commission should approve this transaction. And it's my --

CHAIRMAN GETZ: Let's phrase it this way: Is the witness aware whether FairPoint would -- how FairPoint would react to additional conditions imposed?

WITNESS SKRIVAN: Yes. Generally, FairPoint would take those conditions and consider those at the executive level and make a decision accordingly.

BY MS. HOLLENBERG:
Q. And who do you report to?
A. I report to Pat Hogan.
Q. Okay. And would he participate in that decision-making process?
A. I don't know. He's the comptroller. He might.
Q. Do you know who would participate in that decision-making process?
A. I know some of the people who would participate in that. Peter Nixon would be one of those.
Q. Okay. Thank you. If I could have you look at Page 5 of your testimony, please, your rebuttal testimony.
A. Yes.
Q. And at Lines 13 to 14 --
A. Yes.
Q. -- you state here, "Therefore, it is not necessary for the Commission to adopt conditions on its approval." Did I read that correctly.
A. Yes.
Q. Is it your testimony that the Commission should trust FairPoint's offers of undertakings in this proposed transaction?
A. Well, that's a tough question. I think they should. I certainly understand the Commission has to satisfy

itself of a number of conditions or a number of -- I should say it this way: The Commission should satisfy itself that FairPoint has the financial strength, the managerial capability and the technical capability to take on the job. And to the extent that the Commission believes there ought to be conditions associated with that, then, you know, then they should pursue that. In my opinion, generally speaking, FairPoint has demonstrated that. And I would also say, for many of the conditions which have been proposed by some of the parties, it would be -- seem reasonable to me that the Commission could wait and see how things are going. And if FairPoint is hitting on all cylinders, then everything's fine. And if FairPoint were to drop the ball on an issue, then we could get together and figure out what we need to do about that.

Q. Would you agree with the statement that the Commission does not have authority to enforce voluntary undertakings?

A. I don't know.

Q. Do you agree that it's possible that regulators in New Hamphire, Maine and Vermont would impose different conditions upon approval?

A. Yes, that's possible.

Q. And it's possible that those conditions could conflict?

A. I hadn't really thought about that. I suppose it's possible that there could be conflicting conditions, as well as conditions which just might simply be different. Yes.

Q. And it's possible that conflicting conditions could relate to the financial terms of the proposed transaction?

A. Yes.

Q. I'd like to just give you an example and ask you what would happen if this scenario occurred. Suppose the New Hampshire Commission conditioned its approval upon a certain level of state-specific capital expenditures and that Maine and Vermont did also. If the total of these three state-specific conditions exceeded what FairPoint was able to spend on total capital expenditures, such that FairPoint could not comply with all three conditions in total, what would happen?

A. Well, I'm certain we'd have to -- I'm assuming from the question that this is something we could determine ahead of time before closing and would be in the forum of us taking a look at this and saying this is just more than FairPoint could do, based on the orders. And if it was more than FairPoint -- than what FairPoint could do, and it determined in its own mind that it was more than it could do, then it wouldn't take that on.

Q. So, are you suggesting that there's a possible further regulatory process that might occur if that happened?

A. I don't know what type of process would happen there.

Q. But also, it could involve FairPoint not going through with the proposed transaction if it couldn't meet all conditions?

A. I think that's something that FairPoint would have to consider, yes.

Q. In your New Hampshire rebuttal at Page 20, Lines 10 to 11 -- do you see that?

A. Yes.

Q. It appears that you're objecting to the adoption of state-specific conditions imposed by other state commissions. Is that correct?

A. Yes.

Q. So, is it your position that the Commission could adopt non-state-specific conditions imposed by other state commissions?

A. I'm not sure. I'm not really sure what that would be. I think my testimony was intended to convey that the evidence in each state might produce the need for a particular condition to be placed on FairPoint, or the

Commission's determination that they felt that should happen, and that the conditions are going to be different in each of the states, and that it doesn't make sense to me to apply evidence from another state which has a very different or can have very a different regulatory environment, depending on the issue, and simply apply it because it was a finding in a different state.

Q. So, by saying "state-specific," you really mean all conditions imposed by the other states.

A. That's what I intended to mean, yes.

Q. Okay. Thank you. I'd like to propose another scenario for you to consider. What if both Maine and Vermont adopted conditions that precluded FairPoint from increasing rates in those states, and New Hampshire did not? If FairPoint later decides it needs more money, and it's precluded from going to Vermont or Maine for the more money, do you agree the likelihood and pressure of a rate increase in New Hampshire increases, all things being equal?

A. I would say yes, that all other things being equal, if there's only one state where we had the opportunity to file for a rate case, that would be where we would look.

I'd like to point out that revenue shortfalls or cost overruns in a different state would not be part of any such process that, in the event -- and there's nothing planned at this point -- but in the event FairPoint were to come in to New Hampshire with a rate case or other type of rate relief request, that it would be based on its operations in New Hampshire. It would not be based on loss of revenues or expenses in other states.

Q. But it's likely that there would be a New Hampshire rate case if there couldn't be a -- or more likely if there couldn't be one in Maine and Vermont.

A. I don't know that that's the case. I think that each state would stand on its own and that we would evaluate New Hampshire based on the market conditions and the regulatory environment and the competitive environment in terms of any decisions that were made.

Q. I guess I'm a little confused, because I thought that you answered affirmatively to my first question, which was, if FairPoint later decides it needs more money and is precluded from going to those two states, that the likelihood of pressure for a rate increase in New Hampshire increases. And what I thought I heard you say was "yes" to that question.

A. Let me just describe how -- it's maybe not a big difference. But if we needed more revenue, and there's only one place we could go, we would go to New Hampshire. But I really think that, regardless of what's going on in the other states, the decision in New Hampshire would be based on New Hampshire conditions, pretty much on a stand-alone basis.

Q. Thank you. I understand your answer. Thank you.

Would you agree, though, that that's an example of a state-specific condition that New Hampshire should adopt to prevent this kind of circumstance?

A. Are you speaking of a --

Q. In that example that I gave you. I mean, you testified that state-specific conditions -- and basically what you meant were all conditions adopted in other states were not appropriate for adoption in New Hampshire. And what I'm asking you is, after considering that last example, whether or not there may be circumstances where it would be appropriate for the New Hampshire Commission to adopt conditions imposed by either or both of the states, Maine and Vermont.

A. Well, I think in that condition which we're speaking specifically about, if the other states were to impose three-year rate caps or something like that, should New Hampshire do it as well to essentially preempt FairPoint from deciding this was the only place it could raise rates -- and the situation in each state is really different. In Vermont, there's already a three-year AFOR condition where we're not able to raise rates until the end of 2010, in the event we're approved for the merger. And there's a lot of other things that go along with that AFOR case. It's not simply a proceeding that decided that we would have rates that stayed the same until that date at the end of 2010. So there's issues about whether there's mutuality on staying out. There's issues that relate to lots of other things, such as service quality and investment. And so I think that each state is so different, that it's hard to pick one condition that was imposed in another state and say, well, let's bring it in here.

Q. Would you -- would FairPoint agree to generally treat the states equally overall?

A. That's such a general question. I certainly want to say we have the same respect for New Hampshire as we have for the other states.

Q. But?

A. And that each -- I don't say "but," I say "and" -- and each situation is different, and we have to deal with each situation as it stands.

Q. And I don't know if you recall your Vermont testimony, your live testimony, 'cause it happened quite a while ago, relatively speaking at this particular time. But I think you mentioned there that, if the proposed deal is rejected in New Hampshire and Maine, that you'd be willing to come back to the Vermont PUC -- or the Vermont Board and discuss what that means regarding going forward. Do you recall that?

A. Yes, I do.

Q. And is it your position that FairPoint would agree to do something similar to that in New Hampshire as well?

A. Sure.

Q. And do you also recall when you testified in Vermont, that you testified that there will be some temporary disruptions in service quality during the cutover period?

A. I don't remember that I used those exact words. I remember the -- I remember that discussion, yes.

Q. Do you agree with that?

A. That there will be what?

Q. Temporary disruptions in service quality.

A. Well, I mean, there will be approximately a five-day period where we won't be able to take orders on an automated basis. So I think that sort of answers the question in terms of whether there will be a disruption.

Q. So the answer is "yes"?

A. Yes.

Q. And just to go back to the discussion about whether or not -- I mean, generally, FairPoint is opposed to conditions on approval. And you mentioned something about if things aren't going well after approval, we can -- and I'm paraphrasing because I don't remember your precise words -- but we could get together and talk about how to do things differently. Is that the general flavor of what you said earlier?

A. Yes.

Q. And I guess, recognizing that you're not an attorney, and I'm not asking for a legal opinion, but how do you see that occurring? The approval will have already occurred, and there really will not be anything, any venue -- or do you see a venue for the Commission to consider imposing conditions after approval?

A. I would say that it would depend on the issue. And if, for example, there were ongoing service-quality issues that weren't getting fixed, then we could have discussions. The Commission can open a docket to review and figure out what needs to happen. And they could, in that process, impose conditions.

Q. Do you know who would have the burden of proof in such a process? And if you don't, that's fine. I just --

A. No, I don't.

Q. Thank you. You talked a little bit with Mr. Mandl about some commitments that are being made in the Vermont case. And his concern was the wholesale customers, and rightly so. I am concerned about the retail customers. And I was wondering if you know anything about the specific commitments related to retail rates in the two different states of Vermont and Maine.

A. Yes, I do. In Vermont, by adopting the AFOR, we're agreeing to not increase retail rates for a three-year period. In Maine, we are also adopting the AFOR that applies to Verizon. And the situation is a little different there because, in Maine, the AFOR has essentially been in process between Verizon and the Maine Commission, with the Maine Commission proposing rate reductions and a temporary -- I don't know if that's the correct legal term. But a temporary order of some sort was put into place under which Verizon agreed to invest more money in broadband. And the Commission essentially agreed to put off any further decision in the AFOR proceeding until after the conclusion of the merger, whether or not it goes -- whether it goes through or not. And so what we have proposed to do in Maine is to cap retail rates for one year.

Q. And I guess you just confirmed that you are aware there's an AFOR in Maine, obviously.

A. Yes.

Q. And it is your understanding that the Vermont Commission agreed with the proposal for DSL build-out in lieu of the decrease in rates?

A. Do you mean the Maine Commission?

Q. The Maine Commission. I'm sorry.

A. That's my understanding, yes.

Q. Is it possible that there have been further developments since you last knew about that understanding or --

A. I don't know.

Q. I thought I had a different understanding, but I could be wrong. That's the only reason I ask.

Mr. Leach testified the other day, and

he indicated that FairPoint has not specified the details of how it will allocate costs between regulated and unregulated operations in New England.

A. Yes.

Q. Do you agree with that?

A. I agree that we haven't specified in detail how those cost allocations are going to work, yes.

Q. Thank you. And you also agree, as testified by Mr. Leach, that FairPoint has not specified the details of how it will allocate cost between FairPoint affiliates, including northern New England?

A. Yes.

Q. You testified at Page 20 of your rebuttal -- if you could turn there, please?

A. Okay.

Q. Lines 14 to 18.

A. Yes, I see that.

Q. And you're talking here about the fact that as a midsize ILEC, FairPoint will not have to file as many ARMIS reports as Verizon New England. Do you agree with that?

A. Yes.

Q. And that FairPoint will not specifically have to file ARMIS reports 43-02, 43-03 and 43-04?

A. Yes.
Q. And that FairPoint will only be required to file the summary of report, which is 43-01, and the service-quality reports, which are 43-05 and 43-08?
A. Yes, that's correct.
Q. What does FairPoint intend to submit to the PUC regarding cost assignment?
A. Can you be more specific? Are you talking about a cost-allocation manual or the cost assignment of the actual costs as they occur?
Q. I guess both.
A. Okay. On the cost-allocation manual, we're not proposing to submit a cost-allocation manual. But we're proposing to develop and have a cost-allocation manual that would be available for review or certainly -- we heard earlier about audits. I wouldn't look forward to that, but I understand those things can happen. And if I might, can I talk a little bit about the cost-allocation manual and what would be in it?
Q. Sure.
A. Okay. The FCC has a number of rules, some of which have been developed in conjunction with state boards, that address accounting issues and cost-allocation manual. And the FCC has a uniform system of accounts

which is in Part 32. And Part 32 has a section dealing with affiliate transactions. And the affiliate transactions, I'd like to summarize it as essentially resulting in a requirement that the ILEC enter into arm's-length transactions with their affiliates. And essentially what the rules do in Part 32 is they say, if the ILEC has a tariff, then you use that tariff. Pure and simple. You don't get to use anything else. So if an ILEC, for example, is selling switched access to a long-distance affiliate, the long-distance affiliate pays the switched-access tariff for the services it uses. If there's not a tariff, then the next hierarchy of cost allocation between affiliates is to use any interconnection agreements or statement of SGAT that might be available. And that would occur if the affiliate was, you know, operating as a competitive local exchange carrier. In the event that that doesn't exist, if the ILEC is providing something at a prevailing rate that is in the market, then that is used.

Sort of going down the hierarchy here. And then at the next level, if none of those things exist, and the ILEC is providing a service that doesn't meet any of those other needs, then it's to provide the service to its affiliate at the higher of cost or market. And what that does is, that prevents the ILEC from selling services to an affiliate at below market cost -- in essence, allowing the ILEC to subsidize the operations of the affiliate. And in terms of that same transaction that would go from the affiliate back to the ILEC, instead of it being the higher of cost or market, it's the lower of cost or market.

And I hate to go into this depth. There's just one exception to that which might come up later, based on my review of the questions that was asked of Mr. Leach; and that is, if there's an organization within the ILEC family -- and I'll just call it a centralized service organization -- that's providing services to all of the affiliates, and it exists solely to serve the family of affiliates and it's not selling services to third parties, then the rules allow for that service to be provided simply at fully distributed cost and you don't have to do a market test on that. So that's sort of an overview of what's in the affiliate transactions.

Well, you might think I'm done talking about cost, but I'm not quite done yet. There's a --

CHAIRMAN GETZ: You gave your clearance

for this, Ms. Hollenberg. But I'm trying to understand the relationship to the underlying question about PUC reporting in light of the lesser obligation to file all of the normal ARMIS reports that Verizon currently files.

WITNESS SKRIVAN: Well, she then asked a question about -- I forget exactly what it was. But it led me --

MS. HOLLENBERG: Pretty much that.

WITNESS SKRIVAN: -- to cost allocations. Oh, the question was what would we file regarding cost allocations with the state commission. And so that sort of leads me to two different areas. One area is there's a cost-allocation manual that the company is going to adopt and use to allocate cost between affiliates and between regulated and de-regulated operations.

And while I didn't want to go into too much detail, I wanted to make sure that the Commission understands there's very precise rules that we're required to operate under that apply to all ILECs, including FairPoint, and we will operate under those.

The other part is, there is a requirement in the state rules that we file separated results of operations with the state commission. And by separated, I mean separated between state and interstate operations -- or in this case, what Verizon has been filing, which we will also file in the same format, is a financial statement showing total New Hampshire operations, or what I call unseparated, which means it has the state and interstate operations, and then next to that it has the portion of those which are assigned to state operations.

BY MS. HOLLENBERG:

Q. Thank you. So if you could -- I don't know if you can find the packet of the Leach exhibits before you, but there was a Leach OCA Exhibit Leach 45P.

A. Yes.

Q. And that is Mr. Leach's response to OCA R-31. Are you -- did you just discuss the -- if you look at the bottom, it says, "FairPoint will comply with all FCC rules and New Hampshire guidelines when making such assignments." Is that what you just discussed?

A. No, actually, it's not.

Q. What did you mean by that? What did you mean by "all FCC rules"?

A. Okay. Certainly, we will comply with the Part 32 affiliate transaction rules. There's also Part 64 rules which apply to allocations within an ILEC, between its regulated and de-regulated operations.

In this case -- again, this gets sort of complex. So if I might have a little leeway to explain some of the background, that will help me explain the answer to what we're doing with broadband. And that is, again in the FCC rules, there's a section called Part 36, which again was developed in conjunction with the states. And Part 36 allocates cost between the state and the interstate jurisdiction under the general theory that a company shouldn't get 75 percent of its cost in the state jurisdiction and 50 percent of its cost in the interstate jurisdiction, that it ought to add up to 100 percent and not 125 percent. Similarly, they shouldn't be able to get 75 percent of their cost in the state jurisdiction and only 10 percent in the interstate jurisdiction, meaning they're only covering 85 percent of their cost. So that's really the purpose of the jurisdictional separations, is to establish for the state commission and the FCC what portion of the company's costs are subject to their authority and control.

In the case of broadband services, the broadband services which are specifically DSL-type services, or pretty much any broadband services, are considered interstate services. And so when we have a plant which is being used to solely support broadband services, then the separations process categorizes that in such a way that it's allocated to the interstate jurisdiction, and then its up to the FCC exactly how to recover those costs.

And what the FCC has done with broadband about two years ago, they issued an order which de-regulated that. But they kept the rules in place which said that you continue to allocate it to the interstate jurisdiction. And because of the way price caps work for Verizon and other price-cap carriers, the process of de-regulating it doesn't allow the price-cap carriers to move it into other rate elements for recovery. It basically is in what's called a price-cap basket that isn't allowed to be moved to other rate elements. So Verizon or other price-cap carriers can't de-regulate that and then move the cost over to special access or switched access to recover from inter-exchange carriers.

So, you know, back to this, in terms of the investment that we're going to make in the broadband plant, the infrastructure investment, the answer sort of depends on what's put into service and how is it being used. For example, in separations, a loop, if it's used for interstate private line, then it's assigned to interstate. That same loop could be used next year for a joint message service and fall into what's called the common-line category. So it depends on how the loop's actually being used. The same would be here with the broadband plant. If we put the broadband plant infrastructure in place, which is there just to provide broadband service, then the jurisdictional separations takes and assigns that to the interstate jurisdiction. And we don't have any plans to change that. That's just how separations works.

If, on the other hand, let's say that something we had to do -- let's say there's a community who can't get broadband service because they're out beyond 20,000 feet, and so we have to go reinforce the cable plant -- and that benefits voice as well as broadband -- then a portion of that investment would be assigned to a common-line category, and appropriately so, because it would be there to support voice as well as broadband. And then the jurisdictional rules would assign some of that to interstate, and some of that would stay in the state jurisdiction.

Q. But all revenues will be assigned to -- will not be

attributed to the intrastate regulated operations; is that correct, from DSL?
A. From DSL, all revenues will be attributed to interstate.
Q. And I'm a little bit worried about asking you this question. But what New Hampshire guidelines were you referring to?
A. I apologize. I probably should have said New Hampshire guidelines, if any.
Q. Okay.
A. And really, after thinking through it, since the broadband is being assigned to the interstate jurisdiction, and it's not subject to -- it won't be in the state jurisdiction, then there really aren't -- I should not have included that.
Q. Well, not all broadband, I think, based on your answer a moment ago, is going to be assigned to interstate. I think you said if it benefits voice, it will be assigned intrastate.
A. Well, if it benefits -- if it's there for the voice network, then it's not broadband. For example, let's say we put a new fiber cable out to this community I referenced earlier which was too far out to get DSL service, and then we put a digital loop carrier, an

MSAM or something out there to provide the service, part of that fiber optic cable would be dedicated to broadband service and would be allocated to the interstate jurisdiction. Part of that fiber optic cable would be there to reinforce the voice and would be appropriately considered part of the common-line revenue requirement, and part of that goes to the state jurisdiction.

Q. Okay. Could you look at the attachment to -- or actually, it's OCA Exhibit Leach 46, which is a highly confidential exhibit. So we'll both be mindful of not saying the numbers.

A. Yes, I have it.

Q. Otherwise, your attorney will get upset.

Just firstly, do you recognize this document?

A. No.

Q. Okay. Mr. Leach testified the other day that it was a detailed -- details from FairPoint's financial model. And what I'd like you to do is look about halfway down the page. There's a bolded heading on the left-hand side that says "ISP COGS." Then the next line says "DSL line-sharing." And the line after that says "COGS per DSL." Are you familiar with the initials COGS?

A. Yes.

Q. Okay. Good. And you agree that that means cost of goods sold per DSL?

A. Yes.

Q. Okay. And if you look to the right under each of the columns for 2008 to 2015, there's a number which we're not going to say. And Mr. Leach testified that that was a monthly per-line number. And I asked if there was actually a commitment that the DSL subsidiary actually pay this amount. And I think my recollection is that Mr. Leach said, in light of the fact that there's a common parent, there's really no transaction that occurs. Do you agree with that?

A. I have to say yes and no. And let me explain why I agree and don't agree. From the standpoint of regulated accounting, that transaction occurs and will happen. The telephone company is providing a wholesale service to an affiliate, and it will bill that. And on the regulated books that we submit to regulators, that will show up as a revenue on the ILEC. For purposes of financial reporting, that's considered a -- I'm not sure of the term. But it's an inter-company transaction, which for financial reporting purposes you eliminate that for reporting, because you don't want to bill your affiliate for services and report that as revenue in the financial reporting world. They're not interested in what you're transferring between affiliates. They're interested in what revenue you're bringing into the entity. Regulators have a different view on the ILEC. They're wanting to know what regulated revenue is coming in. And to the extent an affiliate is paying revenue into the ILEC, it has to be recorded.

Q. Would you agree with the characterization of "paper transaction"?

A. I guess I would. I'm not really sure how the treasurer operations are going to work, if we're going to have a separate bank account for an ILEC compared to its affiliate. But the cash is all going to be in the organization, regardless of where the cash shows up. But from the standpoint of regulatory oversight, it's not a paper transaction, it's a real transaction.

Q. And Mr. Leach deferred the question to you of how FairPoint determined that figure.

A. The one that's in the model?

Q. Yes.

A. I don't know.

Q. Do you know who would know the answer to that question?

A. No.

MS. HOLLENBERG: I would like to make a record request, then, for the company to identify who and how that figure was determined, please.

MR. McHUGH: Certainly. I mean, I think it was the subject of a lot of testimony by Mr. Smith last night on how we came up with -- we're happy, I guess, to take an oral DR and confirm it.

CHAIRMAN GETZ: Well, let me see where we're going with this. Is there some -- are you looking for some other witness to answer the question? You're looking for just the background for the number? What are you looking for?

MS. HOLLENBERG: I would like the background for the number. My understanding from Mr. Leach was that Mr. Skrivan would be able to tell me, despite the fact that he hadn't been involved in creating the financial model. But now, Mr. Skrivan has testified that he did not, does not know the basis for this number. So I'd like this information. If there's a witness I can ask about that, I would happy to ask the witness.

MR. McHUGH: We'll take the oral data request and see what we can do. I don't recall Mr. Leach's testimony, sitting here today, about exactly how he deferred the question, but --

CHAIRMAN GETZ: Well, let's at this point reserve Exhibit 51 for the record response.

MR. McHUGH: Sure.

MS. HOLLENBERG: Thank you.

BY MS. HOLLENBERG:

Q. Will any of the investment in broadband support basic service?

A. That's hard to answer, because it depends on what you mean by "investment in broadband support." If you mean it broadly, will all of the investment that we're putting in to make sure customers can get broadband service, and you would include in that reinforcements for copper and extending fiber out to communities, then a portion of that will -- I'm sorry -- I lost track of the exact question. I don't want to answer the wrong question.

Q. Will it be -- will it support basic service?

A. Yes, it will support basic service.

Q. So, basically the amount that FairPoint has said it's going to spend on broadband includes investment in basic service.

A. I don't know exactly what numbers have been provided or how that would split out between broadband and more basic investments which would benefit -- I just don't know that. I haven't looked at that.

Q. And would any of the investment in broadband, as you've just responded, be a part of the common telecommunications network?

A. On the premises that I made -- did you use the phrase "common telephone network"?

Q. Common telecommunications network.

A. Okay. And I don't want to quibble. That's not really a term that I've seen in the separations manual or anything. And so let me just change it a little bit so that I can answer it affirmatively, which is, yes, based on the assumptions that I've given to you as to what type of investments might be included, some of it would be assigned to what's called the common-line category in separations.

Q. Okay. Thank you. And it doesn't surprise me that I don't know the separations terminology, because I don't know very much about telephone. You know much more than I do.

Could you tell me who at FairPoint is responsible for assigning and allocating broadband costs?

A. Is this FairPoint as it exists today or going forward?

Q. I'm sorry. If the transaction is approved.
A. I don't know who that will be. But I expect there to be an individual or department that's responsible to handle cost-related issues, including separations categorization.
Q. Do you know if you'll be a part of that department?
A. I don't know that.
Q. Do you know if Pat Hogan will be a part of that department?
A. I don't expect Pat Hogan will be part of that department.
Q. Do you know if there is any portion of the investment in broadband that FairPoint would be willing to commit to not seeking recovery for?
A. I'll just say yes, the portion that's assigned to interstate jurisdiction, which would be anything which is used solely for broadband service, we would not expect to seek recovery for that through a state proceeding.
Q. Do you have a sense of how much of the broadband investment would correspond to that portion of investment for interstate broadband services?
A. No, I don't.
Q. Does FairPoint expect revenues associated with its

broadband investment to cover costs?

A. I would say we do. I think as Mr. Leach said, in the long run we do expect that to happen. I do know that incrementally, it could be hard to prove that the incremental cost that FairPoint has agreed to put out there would be covered by the incremental revenues, considering that the further out in rural areas you go, the more it costs to reach fewer subscribers.

Q. Would you agree, then, if FairPoint does cover -- if the costs of this new investment are covered by the revenues associated with DSL or broadband, that it will -- that FairPoint will not need to come in for a rate case for intrastate services?

MR. McHUGH: Again, Mr. Chairman, I object about what this witness is authorized to do and commit FairPoint without consultation with the president and the board of directors for a rate case.

CHAIRMAN GETZ: Well, see if he can answer that question, probably with the same words that you're using at this point. I think we've gone over this a number of times with respect to what he knows and what he's capable of responding to. But we'll allow the question.

MS. HOLLENBERG: Thank you.

CHAIRMAN GETZ: Can you answer the question, Mr. Skrivan?

WITNESS SKRIVAN: Yes. I can't answer necessarily for sure what the executives would do. I can tell you what my recommendation or approach would be, if that's fair.

BY MS. HOLLENBERG:

Q. Would be that it's not -- that it would not -- it would obviate the need for a rate case for intrastate services?

A. No, I don't see it that way. I see that DSL service is a competitive service which is priced based on the DSL market. And the voice and retail services are based on a set of regulatory rules and obligations that are completely separate from the DSL service, apart from the connection that exists where the telephone company provides under -- on a wholesale basis services to its DSL affiliate.

Q. So is your testimony that, if revenues do not cover costs, FairPoint will not come in for a rate case?

A. If DSL revenues do not cover DSL costs, based on my understanding of jurisdictional separations and rate proceedings, those have nothing to do with each other. So I guess I didn't really answer. The answer is, no, we wouldn't come in.

Q. Okay. Thank you. Do you agree that the cost of broadband deployment will be capitalized?

A. Generally, I think most of it will be capitalized.

Q. And that these costs will be included in the rate base in future rate cases?

A. I think we're circling back to the same question in another form that I've answered; and that is, it depends on the nature of the investment. And it depends on how that investment is actually being used.

Q. Okay. So the investment that is assigned to the intrastate operations will be included in rate base and future rate cases?

A. Yes.

Q. Thank you. Mr. Leach testified that FairPoint -- on cross-examination, I believe it was with Comcast's attorney and Mr. Mandl -- that FairPoint has not ruled out seeking an AFOR or alternative form of regulation in the next year -- next five years. And I was wondering if -- and he deferred to you the question of will FairPoint agree to undergo a full rate case before switching to an alternative form of regulation.

A. The answer is no. And basically, FairPoint will do whatever the law says. It's just not clear to me whether the law requires that we do that. If the law doesn't require that we submit to a full rate case, then we're not going to agree in advance to do that.

Q. Do you know when Verizon last had a rate case?

A. Only in very general terms. I've been -- I don't know because I haven't seen it. I was just told in general terms that in the early '90s was the last rate case.

Q. And is it your understanding that that case involved retail rates?

A. Yes.

MS. HOLLENBERG: If I could just have one moment? I do have a confidential question, and I believe it's only one. But I want to just check. One moment, please.

CHAIRMAN GETZ: Ms. Fabrizio, will you have confidential questions?

MS. FABRIZIO: No. No, I will not.

MS. HOLLENBERG: I just have a couple more questions.

BY MS. HOLLENBERG:

Q. Has the FCC approved the proposed transaction?

A. Not the last I heard, no.

Q. Okay. And if the -- if there are AFORs in Vermont and Maine, but not New Hampshire, how are the Capgemini

costs going to be allocated between the three states?
A. To my way of thinking, the regulatory status of a company has nothing to do with cost allocation. The costs of Capgemini are there to develop our back-office systems, including accounting, billing, trouble, plant, purchasing, human resources. I'm probably missing a few. But it's those type of things which will be done on a centralized basis for each of the state's regulated operations as well as the de-regulated affiliates. So we would expect the cost of those to be allocated among all of the users of that service on a reasonable and consistent basis, based on some rational way to allocate those costs, depending what the costs are.
Q. How do you recover those costs in Vermont and Maine if their rates are frozen for a certain period of time into the future, more than New Hampshire's?
A. I guess the short answer is, you don't recover those, or you cover those through the existing stream of revenue that's in the existing rates.
Q. Thank you. Mr. Haga was asked the other day by Commissioner Below whether -- I guess, can FairPoint include new systems being developed in a rate base in each state. And he deferred to you on that question.

A. And it goes back to what I was just talking about. The systems that are being developed as I described, the accounting systems and such, per very strict accounting rules, a portion of that is expensed and a portion of that is capitalized. The portion of it which is expensed is written off immediately against our operations. And we've said we won't ever attempt to recover that expense portion through any type of rate proceeding. The portion that's capitalized results in us having an asset, which is a functioning software system of some sort which will reside in the centralized service organization. And so we will take the cost of operating and some depreciation associated with that and some allowable authorized rate of return on that to develop a cost which is allocated to the various companies using that system. Does that answer your question? I'm sorry.

Q. Sure. And actually, if it doesn't answer Commissioner Below's question, I'm sure he'll follow up with you when he has a chance. But your answer was yes. So I'm wondering how you track the various costs and whether the system's supporting regulatory or non-regulatory activities.

A. Right. The systems that we're building are pretty much on an integrated basis that are going to support of all our operations. For example, the billing system is being set up so that a person, a customer rep can enter a service order for local service, long-distance, DSL. All that's going to use the same system, and it's going to then go into the billing system. And we're going to do accounting for the revenues all on integrated systems. And so in the development of these systems, there really isn't any way to say this system or this portion of this system is just going to be used for a regulated or de-regulated service. We're not developing a billing system for long-distance and a separate one for local. It's all together. And so what that results in then is, we would have a billing system -- let's say our billing system, just to pick a number, cost $20 million a year, and we need to allocate that. We're going to allocate that on some reasonable basis that is reasonable with the way -- with what the billing system is doing to our regulated and de-regulated operations. And then if we were to pick up billing for class -- for our classic FairPoint, our existing operations, that same $20 million would get allocated to a wider variety of companies -- meaning that it's the same $20 million. You know, we don't just allocate or recover more money in the centralized organization because we're allocating to more companies. And that was part of the reason I went through this sort of detailed description of the cost-allocation rules, is to indicate this is a type of asset which would sit in the centralized service organization and would be recovered from the ILECs at fully distributed costs and no more.

Q. But as you said earlier, it may not be recovered until you're able to raise rates in Vermont and Maine; right?

A. Okay. That's a good point. When I say recovered, I mean that the ILEC is going to pay the centralized service organization its share of, in my example, the $20 million. But whether the ILEC can pass that immediately through, of course, is going to be subject to, you know, the regulatory processes, which means you don't just pass through those costs.

And I also want to point out, I just don't want anybody to forget that while we're putting these costs in, there's other costs coming out. And generally speaking, you know, we've said that there's going to be a reduction in the overall cost associated with operating these companies. And most of that cost, if not all of it, is in the centralized organization.

So we don't expect the cost of these systems to simply go in on top of all the costs that have been going in, 'cause you have to remember the existing Verizon allocations are going to come out of the process.

Q. And you would agree, related to the cost that FairPoint claims it will be saving, that there is some dispute about that in this case; would you not?

A. Yes.

Q. In fact, Mr. Antonuk and Mr. Brevitz testified today about whether or not those cost-savings estimates are actually real. Were you here for that?

A. I was here for part of that, yes.

Q. Thank you. Is FairPoint developing systems to ensure that the new entity is ready to comply with all regulations and orders of all three states at the time of close?

A. Is it developing systems? It's developing processes to make sure that it's in compliance with every known FCC and state regulation and reporting requirement.

Q. And will you be providing information to the individual commissions about the processes that you've developed before close?

A. We're happy to do that. You know, basically what you're getting today you're going to keep getting. And where there are -- for example, on the FCC side, there's compliance issues, like CPNI, like CALEA, like telemarketing practices. And we understand those. FairPoint, even before I joined, was an ILEC. And it's been operating in accordance with those. And, you know, we intend to fully implement those through the new systems and make sure that everybody continues to be in compliance with those. And to the extent we have state reporting requirements, you should see the same type of reports that you've been getting from Verizon in each of the states.

Q. And in terms of compliance with regulatory orders, what we've been getting we'll be getting, except for the Verizon Yellow Pages.

A. I would say except where there's a dispute, you'll be getting what you've been getting, yes.

And if I may point out, on the Yellow Pages, that doesn't mean the rates change on close. The rates which are in effect will stay in effect until something happens.

Q. One more public question, and then I'm ready to go to the confidential question. A number of times -- and I could be hearing wrong -- but a number of times it seemed as though you were unsure as to what your responsibilities are going to be after this transaction is approved. Would you agree with that?

A. Yes.

Q. Okay.

A. Would you like me to expand on that a little bit just to give you a little bit of comfort?

Q. No, thank you.

A. Okay.

Q. Your counsel can ask you that question if he thinks it's appropriate.

A. All right.

Q. I'm ready to go to the confidential question.

CHAIRMAN GETZ: Well, I think the time is ripe to change reporters. I would suggest when we come back that we -- Ms. Fabrizio, how much cross do you have, approximately?

MS. FABRIZIO: I'd guess about 20 minutes.

CHAIRMAN GETZ: Okay. Then we would go to your cross and then move to the confidential question. But let's take 15 minutes right now.

(Recess taken at 3:30 p.m.)

(Hearing reconvened at 3:48 p.m.)

CHAIRMAN GETZ: Please be seated.

Okay. We're back on the record with the examination of Mr. Skrivan and turning to Ms. Fabrizio.

MS. FABRIZIO: Thank you, Mr. Chairman.

**CROSS EXAMINATION**

BY MS. FABRIZIO:

Q. Good afternoon, Mr. Skrivan.

A. Hello.

Q. Now, Mr. Skrivan, your current position with FairPoint is senior director of regulatory affairs; is that correct?

A. That's correct.

Q. And you've stated in your testimony that you were hired specifically to assist FairPoint with regulatory requirements associated with the acquisition of Verizon's land-line operations in Vermont, New Hampshire and Maine; is that correct?

A. Yes.

Q. And if this transaction is approved, FairPoint will be substantially continuing Verizon's land-line operations in those states; is that correct?

A. Yes.

Q. In the course of your work for FairPoint in this transaction, have you reviewed the statutes and regulations pertaining to land-line operations in each

of those states?
A. Not extensively, no.
Q. But generally?
A. Generally, yes.
Q. You have before you Staff Exhibit 12, which was distributed on Monday.
A. Yes.
Q. Would you identify that document for the record please?
A. Yes. It's Title 34, Public Utilities, Chapter 378, Rates and Charges, Schedules, et cetera, Generally, Section 378:1.
Q. Thank you. Could you please read the first phrase beginning at "Every public utility" and ending at the semicolon?
A. "Every public utility shall file with the public utilities commission, and shall print and keep open to public inspection, schedules showing the rates, fares, charges and prices for any service rendered or to be rendered in accordance with the rules adopted by the commission pursuant to RSA 541-A."
Q. Thank you. And will FairPoint comply with that statute when it comes to New Hampshire?
A. Yes.
Q. Thanks. On page 12 of your rebuttal testimony, at line

-- about line 2 -- you argue that 271 services are under the FCC's jurisdiction and that FairPoint should not be required to tariff Verizon's 271 wholesale obligations because Verizon is not required to do so; is that correct?

A. Yes.

Q. And on page 18, again, of your rebuttal, line 15, you state that you do not believe FairPoint should be considered a BOC; is that correct?

A. Yes.

Q. And if FairPoint is not a BOC, what binds FairPoint to provide the 271 checklist obligations that Verizon is currently obligated to provide in New Hampshire?

A. What we propose is that we'll provide those and that the New Hampshire commission would have the authority to ensure that we do, in fact, provide those services.

Q. Under what authority would the Commission have?

A. As a condition of the approval of the merger. That's our proposal.

Q. Thanks. Now, if FairPoint is not a BOC, what gives the FCC jurisdiction to ensure that FairPoint complies with 271 checklist obligations that FairPoint is agreeing to assume here?

A. Well, I'm not saying the FCC has the right to ensure that we comply with them. That's why we propose that the state commission would have the authority as a condition of the approval of the merger.

Q. Great. Thank you. Now, let's turn to page 10 (sic) of your rebuttal. And I think you might have read this sentence for Ms. Hollenberg, but could you please read, once again, the sentence beginning on line 10?

A. What page was this?

Q. I'm sorry. Page 5.

A. "FairPoint is already committed to adopting Verizon's rights and obligations under state regulation in New Hampshire.

Q. Thank you. And if -- but FairPoint here is not committed to adopting those obligations under state regulation outside of the merger condition; is that right? It's the merger condition that ---

A. Yes.

Q. --- you see as governing.

A. Yes. For that particular one, that's the way we've envisioned it would work.

Q. Mm-hmm. And are there any other Verizon obligations that FairPoint is adopting over which state regulation actually has no enforcement authority outside of the merger condition?

A. I'm not sure I can give you a complete inventory. I know that we're proposing to cap retail and wholesale rates for a year.

Q. Okay. Thanks. Could you turn to page 18 of your rebuttal? Could you please read the first question at the top of the page, beginning at line 1?

A. "Several witnesses claim that FairPoint will not comply with Verizon's obligations under Section 271 of the federal Communications Act. Is FairPoint refusing to perform any significant 271-type wholesale obligations?"

Q. And why did you use the word "significant" in this question?

A. I don't know. I think, at the time, I wasn't sure exactly how extensive that was and, since then, we've -- you know, we've narrowed that down pretty closely. So I think I know exactly what the 271 obligations are today.

Q. Okay. And in your mind, does this include all 271 obligations or...?

A. Let me see what I said here.

What we're agreeing is to provide anything that Verizon currently provides under the 14-point competitive checklist in 271 (c)(2)(B).

Q. Okay. Thank you. On the same page, beginning at line 21, you say that FairPoint has agreed to provide the substantive checklist obligations required under Section 271.
A. Yes.
Q. And the use of the word "substantive" here, is there a particular meaning?
A. If there's -- not really. I mean, if there's 271 obligations which are not substantive, then -- and I guess, you know, I maybe didn't know. I was just trying to be careful not to be overreaching in my statement.
Q. Great. Thanks. Okay. Let's see. Still on page 18, starting at line 10, you've stated that FairPoint is not seeking to pick and choose which Verizon obligations it assumes, so there is no need to impose conditions on FairPoint requiring that it comply with Section 271.
A. Yes.
Q. And you've stated that the company's vision is to abide by a merger condition actually memorializing that commitment; is that correct?
A. Yes.
Q. On page 19, let's see, on lines 3 to 5 at the top, you

confirm, again, that FairPoint agrees to provide anything required under the checklist to the -- and to the extent the requirements evolve over time for the BOCs, that FairPoint's obligations will likewise evolve; is that correct?
A. Yes, it is.
Q. Will that affect the merger condition -- compliance with the merger condition?
A. You mean the wording? I'm not sure what you're asking.
Q. Well, you've suggested that your obligations will evolve as -- as requirements evolve under Section 271 for BOCs.
A. I would expect that to be part of it.
Q. Part of the condition?
A. Yes.
Q. Okay. And, let's see, you end the paragraph on lines 6 to 7 with the statement that "FairPoint understands that the Commission may rely on its statements and agreements." What does that mean, exactly?
A. Well, I think that what I meant by that was that there didn't need to be a condition, but I think, as a practical matter, we recognize that the Commission is going to want to adopt a condition with respect to this item.

Q. Great. Thank you. Okay. And if you'll turn to the CLEC settlement stipulation, do you have that before you?

A. Yes, I do.

Q. In paragraph 4E of the settlement -- I think you discussed this with Mr. Mandl earlier today -- you agree to extend tariff 84 rates and terms for three years; is that correct?

A. Yes.

Q. And are you aware that CLECs in New Hampshire are allowed to purchase services directly from tariff 84 without negotiating an interconnection agreement?

A. Yes.

Q. So FairPoint will not require CLECs in New Hampshire to negotiate such agreements in order to purchase wholesale services from the tariff; is that correct?

A. Yes. That would be my understanding.

Q. Okay. I know you're looking forward to going back to a discussion of ARMIS reports. On page 20 of your rebuttal -- and you covered this as well with Ms. Hollenberg -- you point out that the FCC does not require mid-size companies like FairPoint to file certain ARMIS reports.

A. Yes.

Q. And those reports are 43-02, 03 and 04. Do you know what information that carriers such as Verizon provide in those reports?

A. I've looked at those. There's actually a number of tables in 43-02 and 3 and 4. It's actually more than just three reports. It's reports with a number of tables that generally address cost-allocation issues, as well as separations and Part 69 allocations.

Q. Okay. And 43-02, you would agree that it's a report based on the uniform system of accounts, which is required in New Hampshire, that shows also the basic balance-sheet income statement cash-flow information on a total company basis?

A. Yes.

Q. Okay. And 03 shows the separated cost between regulated and non-regulated services?

A. Yes.

Q. And 04 shows separated costs between interstate and intrastate?

A. That's my recollection, yes.

Q. And are you aware, by chance, that the commission staff here in New Hampshire relies fairly heavily on those ARMIS reports to verify that costs are allocated properly?

A. No, I'm not generally aware of that. I can understand that they would like to look at those and see what's in them.

Q. And they do. Do you agree that states have authority to require separations reports for purposes of accounting and utility assessment?

A. There is -- I know there is a requirement that today Verizon -- or maybe it's generally to large ILECs, let's say, in the state of New Hampshire -- have to provide separated results. And there is a monthly report, outside of the ARMIS reports, which does provide that. And we do intend to keep providing that.

Q. Okay. And are you aware, then, that -- you've reviewed some of the Commission rules. Are you aware that the Commission has ruled PUC 414-01 requires all ILECs to maintain accounts and records in conformity with the uniform system of accounts for telecom companies?

A. Yes.

Q. And are you familiar with the Commission rule PUC 415-01B6, which requires a jurisdictional separations report from ILECs with revenues from regulated operations of 100 million or less?

A. I'm not specifically -- 100 million or less?

Q. Yes. In New Hampshire.

A. Okay. I'm not specifically familiar with that. As I mentioned earlier, I know that Verizon is providing today monthly reports on -- that do show that separations detail for their monthly financial statements.
Q. Separate from the ARMIS reports ---
A. Yes.
Q. --- that FairPoint will be ---
A. I believe it's the ILEC 22 or 23 report. It's one of those two.
Q. Okay. Referring back to the Rule 415-01, will FairPoint's revenue from regulated New Hampshire operations be less than $100 million in New Hampshire?
A. I wouldn't think so. I'm not sure.
Q. I think you're right.
A. I'm not sure.
Q. There appears to be a gap between what the FCC requires on these reports -- that it releases the mid-size companies, such as FairPoint ---
A. I see.
Q. --- and the New Hampshire rule.
A. Okay.
Q. And it seems that, perhaps, the New Hampshire rules did not contemplate the mid-size ILECs, such as FairPoint,

at the time they were written.
A. I understand.
Q. Hold one minute, please.
I apologize for that. I think I'm fortunate that I, myself, am not immersed in the work of ARMIS reports.
My understanding is that the reports that Verizon provides, that you've been referring to, do not actually show how separations are derived.
A. Yeah. That's my understanding, too.
Q. Okay.
A. They show the results. They don't show all the steps that get you there.
Q. Okay. And that's -- that's why Staff turns to the ARMIS reports that it receives from Verizon.
A. Okay. I just want to -- with respect to ARMIS, I know a couple years ago the FCC took a look at ARMIS and some other obligations of mid-size carriers. You know, looked at the burden and said, you know, "It seems to us that these reports are a lot of burden and we're not seeing that there's a lot of demand for them."
Now, I hear you saying that that's not the case in New Hampshire. And so, you know, while we've been relieved of that, based on my understanding

of the FCC rules, I think I can say if you have specific requirements let us know what those are and, you know, we'll get back to you and work with you on those.

Q. Okay. Great. Because if FairPoint does not file the USOA baseline information and separation reports via the ARMIS reports, Staff still needs to see from FairPoint a demonstration that costs and expenses have been properly separated out and allocated to New Hampshire intrastate operations.

So until this apparent gap in the rules is resolved, are you saying that FairPoint would agree to report the data that Verizon currently provides through the ARMIS reports ---

A I don't know that I can make that commitment. I do know that we're open to that and, you know, we'll talk about that. And if you could -- I guess, if you can tell us specifically what you want, then we'll talk about that and we'll respond.

MS. FABRIZIO: Terrific. Thank you. That actually concludes my questions.

WITNESS SKRIVAN: Okay.

MS. FABRIZIO: Thank you.

CHAIRMAN GETZ: This may be a good time

to hear the confidential question that Ms. Hollenberg would like to pursue. So this is a confidential as opposed to a highly confidential?

MS. HOLLENBERG: Yes.

CHAIRMAN GETZ: Okay. So I'd ask that the folks who aren't subject to a confidentiality agreement or do not have a statutory place in this proceeding, if they could please leave the room. Thank you.

(PUBLIC HEARING RESUMES AT PAGE 201)

(PUBLIC HEARING RESUMES FROM PAGE 194)

CHAIRMAN GETZ: Okay. We'll turn now to Commissioner Below.

**EXAMINATION BY CMSR. BELOW**

BY CMSR. BELOW:

Q. Well, I think my general questions have sort of been addressed, but just to clarify a few points.

Is it your general expectation that the assets of Verizon that are being transferred through the merger that are related to unregulated activities will all be located within the Newco subsidiary of Spinco which gets merged into FairPoint Communications?

A. I'm not sure I understand exactly where all that -- about Spinco and Newco. Maybe I can say what I do know and see if the answer's there.

Q. Okay.

A. I do know that the deregulated operations that we're getting from Verizon, which are coming in to FairPoint, we expect to put in a separate affiliate from the ILEC which would hold those assets and be a deregulated operation.

Now, that's not a -- that's not universal. For example, there's some minor deregulated services that the telephone company provides, such as inside wiring, that would go in the ILEC and be part of the ILEC. And there's cost-allocation rules to make sure that that's all handled properly. But the large deregulated businesses, we expect to be in a separate -- a separate company.

Q. Right. And then, those assets that are used for regulated services or sometimes a mixture of regulated and unregulated end up probably generally in the telco ILEC subsidiary.

A. Yes, I agree with that.

Q. And what you're saying is that you expect, at this point, that the capitalized costs of acquiring, developing and implementing the systems that replace the Verizon systems that you're not acquiring will probably be in a service-company affiliate that will be separate from either the Telco or the Newco, but come from the current expenditures of FairPoint Communications and probably go into a central service affiliate; is that correct?

A. Yes, that is correct.

Q. Okay. And at this point, is there any effort to track or account for cost of development or acquiring those systems that might be specifically for parts of the system that might only be for either unregulated or regulated services as opposed to the probably majority of them that are potentially for both?

A. I'll say no, but let me say this: In the future, let's say there's a particular system that would only be used, for whatever reason -- and I don't know what that would be. But if there was a system that was only used for deregulated services and we're allocating the cost of that system, then we would allocate it to deregulated services.

If later, that same system were to provide services to regulated as well as non-regulated services, then there would be a cost allocation to the services that were actually, you know, benefiting from the use of that system.

Q. So at this point, you haven't tried to evaluate the several-hundred functions that these systems are going to support as to whether any of them are just for either regulated or unregulated activities?

A. No, we haven't done that.

Q. Okay. But you might, after the fact, if that could be distinguished.

A. Well, yes. And, you know, as I -- to the extent any system was to be used just for regulated or non-regulated, then I would expect our allocation procedures to put it that direction, even though we're not trying to capture that as we're building the systems.

Q. Do you expect to have adequate information from Capgemini that might allow you to do that or are you getting sort of just one billed number?

A. Well, I guess the way I envision it, we've not getting just one billed number. I know we are getting a breakdown by, I don't know, maybe ten or 12 different categories of the systems. And what I envision, then, is once we have the categories of the systems, we'll see how they're being used and allocate them based on their actual usage.

CMSR. BELOW: Okay. Thank you.

CHAIRMAN GETZ: Redirect?

MR. McHUGH: Just the one.

**REDIRECT EXAMINATION**

BY MR. McHUGH:

Q. Could you address, Mr. Skrivan, what it is you may or may not be doing post-closing for FairPoint?

A. Yes. And to do that, I'm just going to have to back up a little bit. I mentioned that I joined the company June 4th. I was with another mid-size carrier that got bought up by a larger mid-size carrier. So, you know, I found myself sort of mobile. And there were a lot of opportunities, but the FairPoint opportunity was just so intriguing because it's -- you know, it's a mid-size company trying to be a larger mid-size company and take on a lot of really interesting, in my mind -- and you've heard me talk about what some of my interests are -- some very interesting -- some very interesting regulatory opportunities.

And so, you know, we're early in this process and we're still sort of on the critical path. So I basically came in to FairPoint and said, you know, "What do we need to do?" Well, the critical path says we need to develop our regulatory accounting and reporting system, along with our financial accounting reporting system, and we need to be working on our approvals. And so that's what I've been tasked to do. And, you know, we're working on where that goes next, but I have sold my house in North Carolina and moved to Portland, Maine, and taken up residence in Portland and report to our South Portland office every day -- every day that I'm not in New Hampshire or Vermont or Atlanta or Charlotte.

MR. McHUGH: Nothing further, Mr. Chairman.

CHAIRMAN GETZ: Is there anything further for this witness?

Hearing nothing, then you're excused. Thank you, Mr. Skrivan.

WITNESS SKRIVAN: Thank you.

CHAIRMAN GETZ: So at this point, I take it we are going to hear suggestions on what we do over the next -- what we do tomorrow and next week. And, well, Mr. McHugh -- or is there a recommendation from the parties?

MR. McHUGH: We're happy to let Staff make the recommendations. I think we're in agreement, at least Staff and FairPoint.

MS. FABRIZIO: Sure. Staff would recommend that we close for today and tomorrow we handle the NHLA MOU and NHTA panel and the Electric testimony oral arguments.

CHAIRMAN GETZ: And I assume that means that all of the affected individuals are available for tomorrow, including -- Mr. Linder, you're available tomorrow for this?

MR. LINDER: I am available, Mr. Chairman. It's not clear to me what the order of those three presentations would be.

CHAIRMAN GETZ: Is there any preference among the parties?

MR. McHUGH: No. The only thing I would add, I don't think any of them are going to take too long, but I did, I think, generally represent to Mr. Reed, who will be here for NHTA, and Attorney Phillips, counsel to NHTA, that we probably could get them on first so they could be on their way for the day.

CHAIRMAN GETZ: To do that, then, go to Mr. -- well, actually, I'm not sure who it will be -- Mr. Nixon and then possibly hearing from Mr. Linder on the NHLA and then taking up the oral arguments, which primarily will be Mr. Del Vecchio or Ms. Knowlton and then, I guess, Mr. Eaton.

MR. DEL VECCHIO: Yes.

CHAIRMAN GETZ: That would constitute the proceedings. Okay. So that sounds like it should work. And then, that means Monday morning we would be starting with the Brown, Harrington, Smee panel, then Mr. Sicker, then Mr. Nixon?

MR. McHUGH: I believe so, yes, Mr. Chairman.

CHAIRMAN GETZ: All right. Very well, then. Is there anything else that we should address today?

All right, then. Hearing nothing else, we'll recess for the day and we'll resume tomorrow morning at 10:00.

(Hearing adjourned at 4:25 p.m.)