

1 STATE OF NEW HAMPSHIRE

2 PUBLIC UTILITIES COMMISSION

3 (Redacted - Confidential Pages Removed)

4 October 29, 2007 - 9:05 a.m.  
5 Concord, New Hampshire

Day VI

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

NHPUC NOV05'07 PM 3:47

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

Jody O'Marra, Clerk

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16 Kevin M. Baum, Esq. (Devine, Millimet...)  
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20 Sarah B. Knowlton, Esq. (McLane, Graf...)

21 Reptg. New England Cable & Telecomm. Assn.  
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23 Alan D. Mandl, Esq. (Smith & Duggan)

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**APPEARANCES: (C o n t i n u e d)**

**Reptg. Communication Workers of America,  
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IBEW System Council T-6:**  
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**Reptg. the Joint Municipalities of Exeter,  
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**Reptg. PUC Staff:**  
Lynn Fabrizio, Esq.

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I N D E X

<b>Witness</b>	<b>DIRECT</b>	<b>CROSS</b>	<b>REDIRECT</b>
Panel of Michael S. Brown Michael L. Harrington John F. Smee			
By Mr. McHugh	11		
By Mr. Ciandella		15	
By Mr. Mandl		20	
By Mr. Rubin		25	
By Ms. Hatfield		33, 96(c)	
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By Mr. Coolbroth			142 147(c)
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**P R O C E E D I N G S**

1  
2 CHAIRMAN GETZ: Okay. Good morning.  
3 Everyone. We'll reopen the hearings in docket DT 07-011.  
4 Can we begin by getting appearances on the record please.

5 MR. MCHUGH: Good morning, Mr. Chairman,  
6 Commissioner Below, Commissioner Morrison. Patrick  
7 McHugh, from Devine, Millimet, here on behalf of FairPoint  
8 Communications, Inc. With me is Attorney Fred Coolbroth  
9 and Attorney Kevin Baum, from Devine, Millimet. Sitting  
10 at the table with counsel is Peter Nixon, President of  
11 FairPoint, and Walter Leach of FairPoint as well.

12 CHAIRMAN GETZ: Good morning.

13 CMSR. MORRISON: Good morning.

14 CMSR. BELOW: Good morning.

15 MR. DEL VECCHIO: Good morning,  
16 Mr. Chairman, Commissioner Morrison, Commissioner Below.  
17 Victor Del Vecchio and Sarah Knowlton, representing  
18 Verizon. And, with us today is Sheila Gorman, Shawn  
19 Nestor, and Alan Cort.

20 CHAIRMAN GETZ: Good morning.

21 CMSR. MORRISON: Good morning.

22 CMSR. BELOW: Good morning.

23 MR. CIANDELLA: Good morning, Mr.  
24 Chairman. I'm Rob Ciandella, at Donahue, Tucker &

1 Ciandella. I'm here representing the seven intervening  
2 municipalities.

3 CHAIRMAN GETZ: Good morning.

4 CMSR. MORRISON: Good morning.

5 CMSR. BELOW: Good morning.

6 MR. MANDL: Good morning, Commissioners.

7 Alan Mandl, representing the New England Cable &  
8 Telecommunications Association and Comcast Phone of New  
9 Hampshire.

10 CHAIRMAN GETZ: Good morning.

11 CMSR. MORRISON: Good morning.

12 CMSR. BELOW: Good morning.

13 MR. PRICE: Good morning. Ted Price,  
14 representing One Communications.

15 CHAIRMAN GETZ: Good morning.

16 CMSR. MORRISON: Good morning.

17 CMSR. BELOW: Good morning.

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

23 CHAIRMAN GETZ: Good morning.

24 CMSR. MORRISON: Good morning.

10/29/07 DAY 6 VERIZON/FAIRPOINT-PUBLIC

1 CMSR. BELOW: Good morning.

2 MR. LINDER: Good morning. My name is  
3 Alan Linder, from New Hampshire Legal Assistance,  
4 representing Verizon residential customer Irene Schmitt.  
5 With me at the table is Attorney Dan Feltes from Legal  
6 Assistance.

7 CHAIRMAN GETZ: Good morning.

8 CMSR. MORRISON: Good morning.

9 CMSR. BELOW: Good morning.

10 MS. HATFIELD: Good morning,  
11 Commissioners. Meredith Hatfield, for the Office of  
12 Consumer Advocate, on behalf of residential ratepayers.  
13 And, with me is Rorie Hollenberg, Susan Baldwin, and Ken  
14 Traum.

15 CHAIRMAN GETZ: Good morning.

16 CMSR. MORRISON: Good morning.

17 CMSR. BELOW: Good morning.

18 MS. FABRIZIO: Good morning,  
19 Commissioners. Lynn Fabrizio, on behalf of Staff. And,  
20 with me today are Bob Falcone, Chuck King, John Antonuk,  
21 of Liberty Consulting, and Kate Bailey of the Telecom  
22 Division staff.

23 CMSR. MORRISON: Good morning.

24 CMSR. BELOW: Good morning.

1                   CHAIRMAN GETZ: Good morning. I want to  
2 start with addressing a couple of issues before we hear  
3 from the panel, and then I guess also hear if there are  
4 any other procedural issues that need to be addressed  
5 before we begin today. The first is ruling on Verizon's  
6 motion to exclude testimony regarding the -- and dismiss  
7 intervenors' requests that reimbursement for maintenance  
8 expenses be imposed as a condition upon approval of  
9 petition -- of the petition, with respect to expenses from  
10 the electric utilities that are intervenors in this case.

11                   I'll first note that we deny the Verizon  
12 motion to exclude, but we're going to defer consideration  
13 of the underlying legal question regarding jurisdiction,  
14 despite, I think, the assertion in one of the filings that  
15 this was not a complex issue, I think it requires  
16 additional consideration. Accordingly, we're going to  
17 continue with the testimony and cross-examination, so that  
18 we will have a record on which to base a decision, in the  
19 event we determine that this proceeding is indeed the  
20 appropriate forum for resolution of that dispute between  
21 Verizon and PSNH and Unitil. I will also note that,  
22 continuing in this vein, it's reasonable inasmuch as the  
23 related fundamental question surrounding what the public  
24 interest requires, in order that Verizon may be relieved

1 of its disputes and obligations, remains unresolved. So,  
2 we will move ahead with the testimony from Mr. Hybsch,  
3 Meissner, and I guess Ms. Warren as well, and then hear  
4 from Mr. Nestor and the related cross-examination. I  
5 guess it's expected to occur tomorrow, depending on how  
6 far we get today.

7 The second issue is with respect to the  
8 witnesses from the Town of Portsmouth and the Joint  
9 Municipalities. And, wanted to establish whether there's  
10 cross-examination for those witnesses? Whether those  
11 witnesses can be released and their testimony entered into  
12 the record as if they had testified in this proceeding?  
13 Is there any party here that wants to cross-examine either  
14 the City of Portsmouth's witnesses or Mr. Ciandella's  
15 witnesses?

16 (No verbal response)

17 CHAIRMAN GETZ: Mr. Ciandella, I mean, I  
18 guess it's up to you, whether you want to have your  
19 witnesses actually come and testify. What's your  
20 preference?

21 MR. CIANDELLA: If there's no  
22 questioning of my witnesses, I'll tell my witnesses  
23 they're relieved, and they'll be relieved.

24 MS. FABRIZIO: Mr. Chairman, Suzanne



1 Woodland, who represents the City of Portsmouth, actually  
2 canvassed all the parties by e-mail. I wonder if  
3 Mr. Ciandella should do the same, just in case there's  
4 somebody not here today who might be interested?

5 MR. CIANDELLA: I have no objection to  
6 that. I'll do that.

7 CHAIRMAN GETZ: Okay. If you do that,  
8 and report back. But, I guess, at this point it looks  
9 like then we will not be cross-examining the panel of  
10 Gregg and Parkinson or the panel of Griffin, Brown and  
11 Malasky, which were scheduled to be the last sets of  
12 witnesses. But, if we could just nail that down, then  
13 that would be helpful.

14 Is there anything else we need to  
15 address this morning, before we hear from the panel?

16 MR. RUBIN: Mr. Chairman, just very  
17 briefly. In our initial, I guess, submission of estimated  
18 cross-examination for various witnesses, I don't believe  
19 we had indicated that we had questions for this panel.  
20 And, going through our notes, we think some of the  
21 questions we had for Mr. Nixon are probably better asked  
22 of this panel. So, I will have some questions for them.  
23 And, hoping they don't refer them back to Mr. Nixon, but  
24 we'll see.

10/29/07 DAY 6 VERIZON/FAIRPOINT-PUBLIC

1 CHAIRMAN GETZ: Let's see. Yes, for the  
2 Brown/Harrington/Smee panel, I have -- well, initially,  
3 BayRing had indicated that they would have cross, which  
4 appears not to be the case. Mr. Ciandella, are you going  
5 to have cross for this panel?

6 MR. CIANDELLA: Yes, very brief.

7 CHAIRMAN GETZ: Okay. And, then,  
8 Mr. Rubin has indicated he has some brief cross? Well,  
9 you didn't characterize it.

10 MR. RUBIN: I would think no more than  
11 ten minutes.

12 CHAIRMAN GETZ: And, then, Consumer  
13 Advocate and Staff, is what I have on my records.

14 MR. MANDL: Mr. Chairman, I had I think  
15 one or two questions to Mr. Lippold that were referred to  
16 Mr. Smee. So, I imagine some very brief cross on license  
17 administration issues.

18 CHAIRMAN GETZ: Okay. All right. Then,  
19 we'll start with, when we get to it, with Mr. Ciandella,  
20 go to Mr. Mandl, then to Mr. Rubin, Ms. Hatfield, and  
21 Ms. Fabrizio. Anything else to address before we start?

22 (No verbal response)

23 CHAIRMAN GETZ: Mr. Patnaude, if you  
24 could --

1 (Whereupon **Michael S. Brown, Michael L.**  
2 **Harrington** and **John F. Sme** were duly  
3 sworn and cautioned by the Court  
4 Reporter.)

5 CHAIRMAN GETZ: Good morning, gentlemen.

6 WITNESS BROWN: Good morning.

7 WITNESS SMEE: Good morning.

8 WITNESS HARRINGTON: Good morning.

9 CHAIRMAN GETZ: Mr. McHugh.

10 MR. MCHUGH: Thank you, Mr. Chairman.

11 Good morning, gentlemen. If I could just ask you to  
12 please speak one at a time, so the stenographer is able to  
13 get everything down.

14 **MICHAEL S. BROWN, SWORN**

15 **MICHAEL L. HARRINGTON, SWORN**

16 **JOHN F. SMEE, SWORN**

17 **DIRECT EXAMINATION**

18 BY MR. MCHUGH:

19 Q. First start by asking, starting with Mr. Brown, if you  
20 would each state your full name, job title, and  
21 business address for the record please.

22 A. (Brown) Okay. My name is Michael Scott Brown. I am  
23 Vice President of Access Network Engineering. My  
24 business residence is 105 Second Street, Southeast,

1 Yelm, Y-e-l-m, Washington 98597.

2 Q. Mr. Smee.

3 A. (Smee) My name is John F. Smee. I am the Director of  
4 Operations for FairPoint Communications. And, my  
5 business address is 155 Gannett Road, South Portland in  
6 Maine.

7 Q. And, Mr. Harrington.

8 A. (Harrington) Michael L. Harrington, Vice President -  
9 Network. My business address is 30 East Main Street,  
10 Westfield, New York.

11 Q. And, if I could start with Mr. Harrington, are you the  
12 same Michael Harrington who prefiled direct testimony  
13 on behalf of FairPoint Communications, dated March 23  
14 of 2007, which we have premarked as "FairPoint Exhibit  
15 13P", for "public"?

16 A. (Harrington) Yes, I am.

17 Q. And, is there any changes or corrections to that  
18 testimony, Mr. Harrington?

19 A. (Harrington) Not to the direct testimony.

20 Q. Okay. Do you adopt that direct testimony as your own  
21 here today?

22 A. (Harrington) Yes, I do.

23 Q. Okay. If I could direct your attention then, still  
24 with Mr. Harrington, to the joint rebuttal testimony,

1 which we filed on behalf of the panel, on behalf of  
2 FairPoint Communications, on September 10, 2007. Are  
3 you the same Mr. Harrington who filed a portion of that  
4 testimony, sir?

5 A. (Harrington) Yes, I am.

6 Q. Are there any changes and corrections to that testimony  
7 as it relates to your information, Mr. Harrington?

8 A. (Harrington) Yes, I do have some corrections.

9 Q. Okay. Can you point them out please for the record?

10 A. (Harrington) First of all, on Page 9, Line 18, the word  
11 "Nortel", the vendor, Nortel, "the STP is a Nortel  
12 product", should be corrected to a "Tekelec product",  
13 spelled T-e-k-e-l-e-c. And, the same change would be  
14 on Line 20, same page, should read "one Tekelec STP".

15 Q. Are there any other changes or corrections,  
16 Mr. Harrington, to the joint rebuttal testimony?

17 A. (Harrington) Yes. There's one more, on Page 22, Line  
18 20. Where it states "SLPs", that should read "SCPs".

19 Q. Are there any other changes or corrections,  
20 Mr. Harrington?

21 A. (Harrington) No, there are not.

22 Q. And, do you adopt this joint rebuttal testimony, to the  
23 extent you prepared it, as your own here today?

24 A. (Harrington) Yes, I do.

1 Q. Mr. Brown, can you tell us, are you the same Michael  
2 Brown who filed the panel testimony on behalf of  
3 FairPoint, dated September 10 of 2007, which we  
4 premarked as "FairPoint Exhibit 14P", for the public  
5 version, and "14C", for the confidential version?

6 A. (Brown) Yes, I am.

7 Q. Are there any changes or corrections as to your  
8 testimony, Mr. Brown?

9 A. (Brown) No, there are not.

10 Q. Okay. Do you adopt this testimony as your own?

11 A. (Brown) I do.

12 Q. Okay. And, Mr. Smee, same questions. Are you the same  
13 Mr. Smee who filed the joint rebuttal testimony with  
14 the date of September 10, 2007?

15 A. (Smee) Yes, I am.

16 Q. Are there any changes or corrections to your testimony,  
17 Mr. Smee?

18 A. (Smee) No, there are not.

19 Q. And, do you adopt this testimony as your own here  
20 today?

21 A. (Smee) Yes.

22 MR. MCHUGH: The witnesses are available  
23 for cross-examination, Mr. Chairman.

24 CHAIRMAN GETZ: Thank you.

1 Mr. Ciandella.

2 MR. CIANDELLA: Thank you, Mr. Chairman,  
3 Commissioners. Good morning. I have a few questions for  
4 Mr. Smee and for Mr. Brown.

5 **CROSS-EXAMINATION**

6 BY MR. CIANDELLA:

7 Q. I'll start with Mr. Smee. In your rebuttal testimony,  
8 at Pages 16 and 17, you propose a definition of  
9 "governmental services", this is in connection with  
10 reservation of space on the poles for municipalities.  
11 You propose a definition of "governmental services"  
12 which would define the uses to which a municipality  
13 could put facilities attached to a pole in a reserved  
14 space. And, I want to understand your testimony a  
15 little bit more. You testified that a municipal  
16 communications services should be "limited to a non-fee  
17 purpose for inter-connecting government administrative  
18 facilities, emergency management systems, and public  
19 safety systems", correct?

20 A. (Smee) That is what it says, and that is correct, yes.

21 Q. All right. And, what I want to ask you is, to the  
22 extent an emergency management plan adopted by a  
23 municipality requires a municipality to have fiber  
24 connections, two-way communication, to its government

1 infrastructure, in a full sense, water supply, police,  
2 fire. I take it that that would be within your  
3 understanding of an appropriate emergency management  
4 use?

5 A. (Smee) Yes, that's true.

6 Q. And, to the extent an emergency management plan  
7 requires connections to schools, for evacuation  
8 purposes, to get real-time information on capacity of a  
9 gymnasium or something like that, that would be within  
10 your definition as well?

11 A. (Smee) For the purposes for which you described, yes.

12 Q. Okay. And, to the extent the emergency management plan  
13 requires connections to hospitals, to know availability  
14 of beds, emergency services, drugs, in the event of  
15 emergency, would that be within your definition as  
16 well?

17 A. (Smee) For those purposes, yes.

18 Q. And, to the extent, and, again, this is within an  
19 emergency management plan, to the extent the emergency  
20 management plan requires connection to shelter  
21 facilities, which could be private, a VFW hall, a  
22 private school, a church, again, if it's designated in  
23 the emergency management plan, would that be within  
24 your definition?



1 A. (Smee) For the purposes of the emergency management  
2 plan, yes.

3 Q. Thank you. I just want to ask you just a couple of  
4 very quick questions on the MOU with the Electrics,  
5 just so -- just to wrap up a couple points. As I  
6 understand the MOU, there will be a six-month  
7 evaluation period, with a view toward matching the  
8 electric response times within 24 months, is that  
9 broadly correct?

10 A. (Smee) Broadly correct, yes.

11 Q. And, there's going to be a Joint Pole Coordinator, and  
12 I take it that the Joint Pole Coordinator, both in the  
13 initial stages and in subsequent stages, will be  
14 interacting or soliciting the view of municipalities,  
15 among other stakeholders, in the license administration  
16 process?

17 A. (Smee) Yes, indeed. That is the intent.

18 Q. Thank you, Mr. Smee. Mr. Brown, you testified at Page  
19 39 of your rebuttal testimony that "the Staff  
20 recommendation of 95 percent broadband penetration  
21 should not be borne entirely by FairPoint and imposed  
22 on FairPoint as an obligation, but should be something  
23 that's shared with other providers." That's correct?

24 A. (Brown) Yes, sir.

1 Q. Would those other providers that you contemplate in  
2 your testimony include public/private joint ventures,  
3 where a municipality uses the authority that's been  
4 granted by the New Hampshire Legislature to bond for  
5 broadband infrastructure purposes?

6 A. (Brown) What our intention is is to work with the  
7 municipalities and joint ventures, whether or not we  
8 install the fiber or whether or not we use joint funds  
9 to install the fiber. That was my intent.

10 Q. So, I take it that, again, if a municipality acting  
11 lawfully, pursuant to New Hampshire law, bonding for  
12 broadband infrastructure purposes, that FairPoint would  
13 be open to -- that's among the other providers that  
14 would bear that burden of 95 percent penetration for  
15 broadband, correct?

16 A. (Brown) Correct.

17 Q. At Page 39 of your rebuttal testimony, you testified  
18 that "FairPoint will support the fiber-to-the-home  
19 deployment by Verizon" -- "the existing  
20 fiber-to-the-home deployment by Verizon." For those  
21 communities where Verizon has deployed, but the  
22 deployment has reached only a portion of the  
23 municipality, will FairPoint extend that fiber  
24 deployment to the balance or remaining portions of

1 those municipalities?

2 A. (Brown) We'll take a look at each one of the markets  
3 individually, and see whether or not it makes a  
4 financial sense for us to do that. But we do continue  
5 to -- intend to continue to support the network  
6 infrastructure that's now called "FiOS".

7 Q. What are the elements you'd be looking at in that  
8 evaluation that you just talked about?

9 A. (Brown) We would look at the density of the market. We  
10 would look at availability of being able to extend the  
11 fiber in there in a cost-effective method. If it  
12 requires all directional boring, which is a mechanism  
13 of burying via boring underground, then that's more  
14 costly. So, we would factor all those equations in.

15 Q. And, would those elements also be in play in a  
16 circumstance where density, in a municipality where  
17 Verizon has deployed on the poles, but not subsurface,  
18 so, in an area where there is pole deployment, same  
19 density, but there's underground utilities, say, on a  
20 block or in a subdivision, what would be the type of  
21 evaluation FairPoint would undertake to establish  
22 whether it should go underground to that subdivision?

23 A. (Brown) We'd take a look at the density. We would take  
24 a look at the number of customers. And, we'd look at

1 the revenue that we would receive from that offering,  
2 we would compare it against the CapEx, and make the  
3 decision based off of those factors.

4 Q. And, based on the deployment of what you had earlier in  
5 these proceedings talked about an "agnostic technology"  
6 that FairPoint would deploy through, if, having gone  
7 through that analysis, FairPoint decides that it will  
8 not be extending fiber to, use my subdivision as an  
9 example where there's underground facilities, what  
10 would be the -- would FairPoint offer a broadband  
11 product of any type to those areas in the municipality?

12 A. (Brown) Yes, we would continue to build our DSL  
13 technology into those locations using the existing  
14 copper facilities.

15 MR. CIANDELLA: Thank you very much.

16 Thank you.

17 CHAIRMAN GETZ: Thank you. Okay,  
18 Mr. Mandl.

19 MR. MANDL: Thank you. Good morning.

20 Just a couple of brief questions for Mr. Smee.

21 BY MR. MANDL:

22 Q. If I could refer you to Pages 19 around 20 of your  
23 rebuttal testimony.

24 A. (Smee) I'm there.

- 1 Q. Starting at line 19, on Page 19, you indicate that  
2 "FairPoint plans to develop a license administration  
3 group." Could you explain for us the functions of the  
4 license administration group that you're planning to  
5 develop?
- 6 A. (Smee) Sure. There is a -- The license administration  
7 group deals largely with pole attachment issues and  
8 other related infrastructure needs. The group exists  
9 today in Verizon, but outside the three-states area, so  
10 we'll be developing it in the Northern states. They  
11 will deal with the requests for attachment, it will  
12 deal with the ongoing contracts having to do with the  
13 attachments, all of the documents that are passed back  
14 and forth between the telco and the attaching  
15 companies. And, they will care for ensuring that  
16 timely work is done in order for the attachers to be  
17 able to make use of those utility pole services.
- 18 Q. Am I correct that FairPoint will be developing its own  
19 license administration group from the ground up,  
20 without any transfers of employees from Verizon's  
21 existing Licenses Administration Group?
- 22 A. (Smee) That is correct. As I said, the existing  
23 License Administration Group that cares for these --  
24 New Hampshire and the other two Northern states,

1 they're not within these three states. So, during post  
2 close and during the Transition Services Period, that  
3 existing License Administration Group will continue to  
4 operate and support New Hampshire. During the period  
5 between the close and cutover, we will be staffing and  
6 training a license administration group here, here in  
7 the Northern states.

8 Q. So, is it FairPoint's current plan to complete that  
9 staffing and training of its license administration  
10 group, prior to giving Verizon the irrevocable notice  
11 of readiness to cut over?

12 A. (Smee) I don't know that I can say that with certainty,  
13 that full completion of training will be done. But,  
14 certainly, staffing and readiness will be done, because  
15 of the time frame involved between the readiness to cut  
16 and the actual cutover. So, readiness to cut in regard  
17 to this particular function, which will be staffed by  
18 about six administrative assistants and a couple of  
19 specialists, "readiness to cut over" doesn't  
20 necessarily mean that they are ready at that moment,  
21 but that we have a path forward, that we can see the  
22 progress they have made in staffing, training, and  
23 capability, is such, at this moment in time, that  
24 within X amount of time following, but prior to

1 cutover, they will be capable of performing the  
2 functions. So, I can't guarantee that they will be  
3 fully trained and capable at time of readiness to cut  
4 over, but, certainly, you would expect them to be well  
5 on path in regard to that.

6 Q. To your knowledge, has the Company agreed to report to  
7 a third party consultant or to the Commission regarding  
8 the staffing and training of the license administration  
9 group prior to cutover?

10 A. (Smee) To my knowledge, no.

11 Q. Have you had an opportunity to become familiar with  
12 Verizon's aerial attachment agreements with attaching  
13 entities, such as CLECs and cable operators?

14 A. (Smee) Only in a very minimal way so far.

15 Q. And, just to clarify, the license administration group  
16 would also handle applications for conduit attachments?

17 A. (Smee) That is correct.

18 Q. You indicate at Page 20 that it's the Company's  
19 intention to develop forms related to the pole and  
20 conduit attachment process with minimal disruption to  
21 outside users. I'd like to ask you, does FairPoint  
22 intend to engage the cable industry in any type of  
23 dialogue regarding the continued use of forms that  
24 Verizon uses today and any changes in those forms that

- 1 FairPoint may wish to implement?
- 2 A. (Smee) Absolutely.
- 3 Q. Is there a timetable for doing that, between closing  
4 and cutover?
- 5 A. (Smee) There is not a timetable established at present,  
6 but it will occur.
- 7 Q. Would it be reasonable, in your view, to continue with  
8 Verizon's existing forms for some period of time after  
9 cutover, to allow for the type of dialogue you describe  
10 to occur?
- 11 A. (Smee) It would be reasonable to do so, if those forms  
12 are, first of all, if we are able to legally continue  
13 to use them. And, then, secondarily, if the forms are  
14 compatible with the new systems that will be turning  
15 after cutover.
- 16 Q. You're aware, are you not, that the license -- aerial  
17 license agreements of Verizon contain a number of  
18 Verizon forms as attachments to those license  
19 agreements?
- 20 A. (Smee) Uh-huh.
- 21 Q. And that, if you were to make changes in those forms,  
22 that would require amendments to the license  
23 agreements?
- 24 A. (Smee) I did not know that. I'm not an attorney. But



1 I will accede to your understanding.

2 Q. Is it your understanding that the New Hampshire  
3 Legislature has recently enacted pole attachment  
4 legislation that would confer jurisdiction over pole  
5 attachment rates and terms upon the Commission?

6 A. (Smee) I did not know that.

7 MR. MANDL: I'll stop there. Thank you.

8 CHAIRMAN GETZ: Thank you.

9 MR. MANDL: Thank you.

10 CHAIRMAN GETZ: Mr. Rubin.

11 MR. RUBIN: And, thank you, Mr.

12 Chairman. Good morning, gentlemen. I think my questions  
13 are all for Mr. Smee. And, if I could ask you to perhaps  
14 raise your microphone a little? I'm having some trouble  
15 hearing you.

16 WITNESS SMEE: Sure.

17 MR. RUBIN: Thank you.

18 BY MR. RUBIN:

19 Q. Well, first, am I correct, Mr. Smee, that, after  
20 closing, you will be responsible for the regional, I  
21 guess, call it a "customer service center", which  
22 includes repair calls?

23 A. (Smee) That is correct.

24 Q. Can you explain briefly how a repair call gets from the

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1 customer to the service technician in the field?

2 A. (Smee) Do you mean today?

3 Q. Well, yes, we can start with today, if you're familiar  
4 with it.

5 A. (Smee) And, you know, I should preface that by saying  
6 it's not going to be significantly different in the  
7 future, but the systems being used will be different in  
8 the future.

9 Q. Yes, I --

10 A. (Smee) But, process-wise, it will largely be the same.  
11 A telephone call will come in from a customer. A  
12 customer service attendant will answer that call in the  
13 repair service center. They will query the customer on  
14 the problem. Do a small amount of troubleshooting with  
15 the customer. And, if they're able to fix it or  
16 resolve it on that initial phone call, that will  
17 happen. A determination will be made through the  
18 troubleshooting that that customer service attendant  
19 performs, as to where the trouble should be routed to  
20 next, if that is not fixed on the initial call. And,  
21 if it is needed to go to an "Outside Plants Technician"  
22 and "Installation/Maintenance/Splice Service Tech", by  
23 title, a ticket would be dispatched through the  
24 dispatch center, and then onto the appropriate

3 technician in the field to handle that ticket. Systems  
4 along the way will care for that, it's true today, and  
5 will in the future.

6 Q. Well, yes. Right, that was my next question. When you  
7 say it will be, you know, routed to the dispatch  
8 center, and then eventually to a -- I'll just call them  
9 generally a "field technician", if that's all right?

10 A. (Smee) Sure. That's perfect.

11 Q. Is that all done through computer systems?

12 A. (Smee) Today it is, and it will be when we do our  
13 cutover.

14 Q. All right. And, how will that function occur during  
15 that -- I guess we've been calling it the "cutover  
16 period", that roughly five-day period when the computer  
17 systems aren't up and working yet?

18 A. (Smee) Right. And, it is going to require manual  
19 intervention, involving telephone calls and faxes, and  
20 extra people over and above our planned existing staff  
21 for a short period of time, to be able to move those  
22 trouble tickets back and forth smoothly and  
23 expeditiously.

24 Q. Okay. Do the field technicians today, do they have  
mobile computers that ties them into these systems?

A. (Smee) Some do, some don't. And, so, I guess that's

1 it. It's as simple as that.

2 Q. Okay. And, I -- it sounds like those mobile computers  
3 won't be functioning during that five-day cutover  
4 period either?

5 A. (Smee) Well, let's -- that is generally the case.  
6 There are sort of three different categories of  
7 situations for the field technicians, as we understand  
8 it. There are field technicians who have no mobile  
9 hand-held device at all. There are those who have a  
10 device that is a unique, specialized device. And,  
11 there are those who have laptop computers. The two  
12 devices that are being utilized are not wirelessly  
13 connected. There is no broadband wireless connectivity  
14 for those laptops. So, they will continue to operate  
15 as test tools or whatever other function that they can  
16 perform. But, in terms of any connectivity that would  
17 be required to the systems, when the system's not  
18 functioning, then the laptop or hand-held device would  
19 not be capable of using that system.

20 Q. Okay. Do you know approximately how many repair calls  
21 Verizon -- well, either Verizon receives today or how  
22 many you're anticipating receiving, after you become  
23 responsible, say, on a typical day in late May or early  
24 June?

1 A. (Smee) Take me a minute here to --

2 Q. Sure.

3 A. (Smee) You know, I'm doing the math, I'm not sure if  
4 it's right, in my head, because of the number you're  
5 asking me is not one that I have memorized. Let me  
6 speak about that. We know that Verizon gets, in the  
7 State of New Hampshire, two reports for every 100 lines  
8 that are in service per month. We know how many lines  
9 approximately, and I don't know that it's -- I have to  
10 question here if line count in service is a  
11 confidential number?

12 CHAIRMAN GETZ: Would this be better  
13 handled through a record request rather than --

14 MR. RUBIN: Well, no, I'm actually very  
15 interested in what Mr. Smee is taking us through, if it's  
16 all right with you, Mr. Chairman.

17 BY MR. RUBIN:

18 Q. And, I would note that total line counts by state were  
19 in FairPoint's S-4 filing with the Securities &  
20 Exchange Commission. I don't think you can break it  
21 down by residential and business and so on. But at  
22 least the total lines in each state is a public number.

23 A. (Smee) Okay. Well, there's approximately half a  
24 million lines in service here. I'll use that --

1 there's approximately half a million lines in service  
2 in the State of New Hampshire, and it is -- I use the  
3 term advisedly, because the number, depending on which  
4 lines you count, retail, wholesale, etcetera, and the  
5 changing dynamics of the business, customers coming and  
6 going. But, if you take two reports per hundred lines  
7 in service, and per month, on 500,000 lines, if my  
8 mental math is correct, that tells me 20,000 trouble  
9 reports per month for the State of New Hampshire,  
10 divided by -- I'm looking for verification from -- all  
11 right. Okay.

12 Q. I'm sorry, I'm trying to follow with you and do the  
13 same math in my head. Two percent of 500,000, --

14 A. (Smee) Let me do it.

15 Q. -- would be 10,000, I think?

16 A. (Smee) That's right. Thank you. Thank you for the  
17 correction. So, 10,000 divided by number of calendar  
18 days in the month or -- I'm sorry. I apologize --  
19 10,000 trouble reports per month, divided by either 30  
20 calendar days or 21 work days, depending on how you  
21 would choose to do the math, in terms of the reporting,  
22 will give you the number of reports per day.

23 Q. So, it sounds like, and that's just for the State of  
24 New Hampshire, it sounds like you're in the

1 neighborhood of perhaps three or four hundred repair  
2 calls or trouble calls per day?

3 A. (Smee) Yes.

4 Q. And, do you know how that number changes during, say, a  
5 serious rainstorm or a very wet weather event that  
6 might occur, again, late May/early June?

7 A. (Smee) Sure. It can double easily.

8 Q. Mr. Smee, are you familiar with -- this is something  
9 that Mr. Smith testified about last week, I'm not sure  
10 if you were here that day, that currently Verizon has a  
11 -- I'll call it a "call center", in general terms, to  
12 serve customers with disabilities and other special  
13 needs. Are you generally familiar with that?

14 A. (Smee) Yes, I am.

15 Q. And, that they also have a call center that supports  
16 customers who do not speak English?

17 A. (Smee) Yes.

18 Q. And, Mr. Smith indicated that those functions would be  
19 provided by Verizon during -- well, under the  
20 Transition Services Agreement, and then, after cutover,  
21 it was up to FairPoint to create those functions and  
22 staff them. Is that accurate?

23 A. (Smee) Uh-huh.

24 Q. And, I'm sorry, I'll let you finish drinking. I

1 apologize. Can you tell us what FairPoint's plans are  
2 to staff those functions after cutover?

3 A. (Smee) I can't speak with great specificity in regard  
4 to either of those two topics, because it includes not  
5 only the inbound repair center effort, but also the  
6 larger call center organizations, which would take  
7 customer calls for billing issues, payment issues, and  
8 orders. And, the work is being led by the folks in  
9 that organization, to determine, in -- particularly in  
10 terms of the multilingual issue.

11 Q. All right. I hate to do this, but do you know if  
12 that's something that Mr. Nixon would be more familiar  
13 with? Or, if there's another FairPoint witness who's  
14 coming up?

15 A. (Smee) I don't know that there is another FairPoint  
16 witness coming up. And, this may require perhaps an  
17 oral data request.

18 Q. All right. That's fine. Well, I think we'll just ask  
19 Mr. Nixon. And, if he wants to suggest a data request,  
20 that's fine.

21 A. (Smee) Yes.

22 MR. RUBIN: All right. Thank you.

23 That's all I have for this witness, Mr. Chairman.

24 CHAIRMAN GETZ: Thank you. Ms.



1 Hatfield.

2 MS. HATFIELD: Thank you, Mr. Chairman.  
3 Good morning, gentlemen.

4 WITNESS BROWN: Good morning.

5 WITNESS SMEE: Good morning.

6 WITNESS HARRINGTON: Good morning.

7 BY MS. HATFIELD:

8 Q. Mr. Harrington, your position is "Vice President for  
9 Network Engineering Services", is that correct?

10 A. (Harrington) That's correct.

11 Q. So, do you have responsibilities for all of the  
12 FairPoint classic companies?

13 A. (Harrington) My responsibility is in regard to network  
14 engineering initiatives, you know, primarily in the  
15 central office and such plant arena and long-range  
16 strategic planning in support of the network. Outside  
17 plant engineering is handled by the local operating  
18 groups, you know, throughout our footprint. Also have  
19 a number of Tier 2 subject matter experts that report  
20 directly to me that support the rest of the  
21 organization.

22 Q. So, your duties, after the closing, would include  
23 supervision of reports that will be focussed on the  
24 Northern New England system?

- 1 A. (Harrington) The organization that will be supporting  
2 the Northern states, primarily, like the network  
3 operations center, a lot of the tier two functions that  
4 my group has been supporting will be handled by  
5 Mr. Smee's -- under Mr. Smee's leadership. Network  
6 engineering will report to a different person in a  
7 different group that will be situated up here.
- 8 Q. So, it sounds like you won't have duties related to  
9 Northern New England after closing or at least after  
10 the systems are in place?
- 11 A. (Harrington) My duties will be corporate-wide in  
12 nature, primarily related to strategic network  
13 planning.
- 14 Q. And, Mr. Brown, your position, I believe, is Vice  
15 President of Access Network Engineering, and you're  
16 based in Washington state, is that correct?
- 17 A. (Brown) That is correct.
- 18 Q. And, will your duties include supporting the Northern  
19 New England states after the closing?
- 20 A. (Brown) They will.
- 21 Q. But you'll remain in Washington?
- 22 A. (Brown) At this time my intentions are to remain in  
23 Washington.
- 24 Q. And, will you have direct reports to you that are

1 located in Northern New England?

2 A. (Brown) I will for the broadband initiative and  
3 building that project. The day-to-day engineering  
4 operations will be located in the Northern states, and  
5 be under different supervision.

6 Q. And, Mr. Smee, you are Director of Operations based in  
7 Portland, Maine, correct?

8 A. (Smee) That is correct.

9 Q. And, who do you report to?

10 A. (Smee) I'm sorry?

11 Q. Who do you report to?

12 A. (Smee) I report to Peter Nixon.

13 Q. And, your duties will focus only on the Northern New  
14 England states, is that correct?

15 A. (Smee) That is correct.

16 Q. I'd like to ask you a few questions about the broadband  
17 plan. My intention is to stay completely public. But,  
18 if you do feel as though we're moving into confidential  
19 information, please let me know. I'm wondering if one  
20 of you, perhaps Mr. Brown, could define what FairPoint  
21 intends when it uses the terms "DSL" and "broadband"?

22 A. (Brown) Struggling with understanding the question  
23 perfectly. With "DSL", DSL is a technology that uses  
24 the copper infrastructure to provide broadband to the

---

1 customer. And, it has a data range that's associated  
2 with it, on the high end being 25 megabits per second,  
3 and, on the low end, pretty much goes down to 768  
4 kilobit.

5 Q. So, when we see the term "broadband", should we think  
6 of your definition of "DSL"?

7 A. (Brown) Not necessarily. Because the network that we  
8 are building supports multiple different technologies.  
9 It supports DSL. It also supports VDSL, too, which is  
10 a newer, higher bandwidth technology, a little bit  
11 shorter loop length distances. We also have the same  
12 type of network, the same equipment supports  
13 fiber-to-the-home in a couple of different flavors,  
14 being a GPON technology, which is a passive optical  
15 networking, and also a gigabit Ethernet or a Active  
16 Ethernet solution as well. So, when we talk about  
17 "broadband", we're looking at the entire network from  
18 beginning to end. That last mile link has multiple  
19 flavors of how you reach that customer.

20 Q. And, how you reach the customer and the speeds that  
21 they get, is that driven by their distance from either  
22 a central office or from a remote terminal?

23 A. (Brown) It is when you're dealing with a copper  
24 technology, yes. It is distance limited, yes. When

1 you're dealing with the fiber, it is distance limited  
2 as well, but your distances go farther.

3 Q. On Page 32, going over to Page 33, in your rebuttal  
4 testimony, you state that addressability means that a  
5 wire center has the capability for DSL, but "does not  
6 mean that every access line served by that wire center  
7 can be immediately connected to provide DSL service."  
8 And, there are a few places where you use the term  
9 "addressability", and then you use "availability", and  
10 then there's also a reference to something you call  
11 "qualified lines". And, I'm wondering, can you just  
12 explain to us if there are any differences between  
13 those three terms, and, if so, what they are?

14 A. (Brown) There are some differences between  
15 "addressability" and "qualified". The "qualified" is a  
16 term that Verizon has been using. And, basically, what  
17 it means is, that customer has already been  
18 pre-qualified for being capable of getting that  
19 service. And, their limitations are 18,000 feet. Any  
20 customer beyond 18,000 feet is considered  
21 "nonqualified". Our approach, when we did  
22 "addressability", means that the equipment is in place  
23 to be able to provide service to that customer. Now,  
24 FairPoint does not stop at 18,000 feet. We also look

1 at other technologies to be able to extend that reach  
2 out a little bit further. And, so, that's why we try  
3 and -- we give an addressable number, and a qualified  
4 number is something that Verizon uses that's been  
5 pre-tested. We do plan to use other technologies to be  
6 able to extend that reach out a little bit further than  
7 18,000 feet.

8 Q. So, is it fair to say that "addressable" and  
9 "available" are one in the same?

10 A. (Brown) In my definition of "available", it means that  
11 the customer is -- can pick up the line, call customer  
12 service, and get that service. And, so, whenever we do  
13 the final engineering on a project, we will actually  
14 provide the available customers that can get that  
15 service.

16 Q. On Page 28 of your joint rebuttal testimony, Mr. Brown,  
17 you discuss what the broadband plan includes. And, I  
18 would direct you to Lines 5 through 11. And, you state  
19 that "FairPoint proposes to increase the percentage of  
20 broadband qualified lines in the State of New Hampshire  
21 to approximately 71 percent within 24 months of the  
22 closing of the merger." So, under that proposal, that  
23 would mean that, by February 2010, 71 percent of lines  
24 in New Hampshire will be broadband available?

1 A. (Brown) That would be correct. And, if I could follow  
2 up on that somewhat. That would be on what we would  
3 call the low end of the spectrum. That is, using the  
4 18,000-foot as a cut-off point would be 71 percent. We  
5 do intend to use other technologies, including the  
6 Smartcoil technology, which is a loop extender type  
7 service, and also other services, like an Adreniline,  
8 which is a doubler technology, to be able to reach  
9 further out. So, 71 percent would be the absolute  
10 minimum number of customers that we would be able to  
11 call "available".

12 On the upper end of that spectrum would  
13 be closer to 82 percent. And, so, our intention is, we  
14 will fall somewhere in between there. As we get down  
15 to final engineering, we'll be able to determine that  
16 number. So, there is a low end and a high end.

17 Q. And, is FairPoint willing to make that proposal a  
18 condition of approval of this transaction?

19 A. (Brown) I hate to do this, but I'm going to have to  
20 defer that one to Mr. Nixon.

21 Q. And, do you know, Mr. Brown, is FairPoint proposing any  
22 consequences if it fails to meet that 71 percent  
23 benchmark that you're setting forth in your testimony?

24 A. (Brown) To my knowledge, we have not.

1 Q. And, do you know if FairPoint would be willing to do  
2 so?

3 A. (Brown) I would defer that one to Mr. Nixon.

4 Q. And, is there any chance or any likelihood that you  
5 wouldn't be able to meet that 71 percent rate within 24  
6 months, if you ran into some problems that at this  
7 point you aren't expecting?

8 A. (Brown) We've tried to take into consideration every  
9 possibility that we could run into. We have been able  
10 to do a lot more due diligence since the initial time  
11 that I was in here testifying. I'd say there is a very  
12 low probability that would take place. However, this  
13 is -- you're in an engineering world, you're in the  
14 real world, there's always things that can happen to a  
15 project that cause risk to it. But my confidence level  
16 being able to reach that in 24 months is extremely  
17 high.

18 Q. On Page 28, and you go onto Page 29, you discuss the  
19 different phases of the broadband planned build-out.  
20 And, I'm wondering, you also talk about reaching  
21 83 percent at a later point. And, I'm wondering if you  
22 can just clarify what percentages you're planning to  
23 reach under each phase, and also when -- how many  
24 months out you would reach that 83 percent?



1 A. (Brown) Okay. Phase I is there will be no additional  
2 customers added on, that's when we build what we call  
3 the "core network". And, our intention is to build --  
4 kind of build an overlay network on top of what is  
5 already there today. And, the reason is, we want to  
6 build a network that is a future-looking network, and  
7 so we're building this IP/MPLS network, and those are  
8 kind of technical. But basically what it means is,  
9 most of the data that goes across the Internet today is  
10 in IP packets. And, so, what we're doing is we're  
11 building a network that extends that Internet further  
12 out into the edge network. And, so, Phase I strictly  
13 builds the core network and gets that in place to be  
14 able to handle the traffic that we're going to put on  
15 the network. And, so, no customers will be added in,  
16 as far as new customers, in Phase I.

17 Phase II, we will begin to add equipment  
18 into the central office locations. And, there's a  
19 couple of different things that happen here. There's  
20 22 central offices that today do not have any broadband  
21 capacity at all. Those offices will be  
22 broadband-enabled in Phase II, and so there will be  
23 customers that will be added in, somewhere around --  
24 well, that gets into confidential numbers, so -- but

1 there is some that will be added in at that point in  
2 time. In addition to that, there will be transport  
3 facilities put in place to be able to provide service  
4 to the digital loop carriers that hang off of these  
5 central offices. And, that moves into Phase III.

6 Phase III is where we actually do the  
7 digital loop carriers, which are these small boxes that  
8 you see out in the field that push the electronics  
9 further into the network and closer to the customer.  
10 That is where the majority of the customers will be  
11 added onto the network.

12 Q. And, would it be at the end of Phase III that you would  
13 reach the 83 percent that you're planning?

14 A. (Brown) That would be correct.

15 Q. And, how many months from closing would that happen?

16 A. (Brown) Our target is 24 months.

17 Q. I thought earlier we had said that you were planning to  
18 reach 71 percent within 24 months, is that not correct?

19 A. (Brown) Well, once again, it's the book end approach.  
20 It will be 71 percent up to the 82 to 83 percent. It  
21 will be somewhere in between that number that will  
22 actually be qualified at that time. And, whenever we  
23 do the final engineering on each one of these work  
24 orders, we will look at every possibility to be able to

1 provide service to every customer out there. We do  
2 believe there will be a small percentage that will be  
3 longer loop lengths than we'll be able to provide in  
4 this initial phase.

5 Q. Mr. Brown, does FairPoint currently offer IPTV anywhere  
6 across the FairPoint classic system?

7 A. (Brown) Yes, we do.

8 Q. And, where is that?

9 A. (Brown) Yelm, Washington, and also in the cities of  
10 Carney, Missouri and also Platt City, Missouri.

11 Q. And, do you know how many -- roughly, how many access  
12 lines FairPoint serves in those cities?

13 A. (Brown) In Yelm, Washington, it's 13,000 access lines.  
14 And, in Carney/Platt City combined, it's around 3,600  
15 access lines.

16 Q. And, do all of those customers have access to the IPTV?

17 A. (Brown) No. There are some customers that do not  
18 qualify due to loop length considerations. It's a very  
19 small percentage in the Yelm area, but there are some.

20 Q. And, would you happen to know what the take rate is  
21 roughly of the people who do have access to it?

22 A. (Brown) I do not have those numbers.

23 Q. Last week, Mr. Leach testified that, ultimately, it is  
24 FairPoint's goal to reach all of its customers with

1 some form of broadband access, whether through DSL or  
2 some other technology. Is that your understanding that  
3 that's the company's long-term goal?

4 A. (Brown) Yes, it is.

5 Q. When would you develop a plan to try to reach all of  
6 your customers?

7 A. (Brown) I would probably say within the first 12 to 18  
8 months after running the Company, we would have access  
9 to all the records necessary to develop that plan.

10 Q. On Page 40 of your rebuttal, you state that your plan  
11 is to "mirror the current Verizon prices". Can you  
12 explain what you mean by "mirror" pricing?

13 A. (Brown) Well, my goal was, and I must confess I do not  
14 deal with pricing, I only deal with network builds.  
15 And, what my goal was was to make sure that the network  
16 was built to support the existing packages that are  
17 offered with Verizon today, and also have the ability  
18 to go further in additional network -- or, packages as  
19 well. But the initial push and the initial objective  
20 was to mirror those that are offered today.

21 Q. And, by "mirror", do you mean "offer the same pricing  
22 as Verizon"?

23 A. (Brown) By "mirror", I'm dealing with the engineering  
24 side of it. So, I'm only looking at the network

1 capacity and the capacity to offer the 1.5 and 768 and  
2 the 3 megabit service packages to the customers. On  
3 pricing, I do not deal with pricing.

4 Q. And, do you know who would be the best witness to talk  
5 about pricing?

6 A. (Brown) I'm going to have to defer to Mr. Nixon on that  
7 one.

8 Q. On Page 43, Lines 15 through 18, you state that  
9 existing Verizon personnel will need to be retrained in  
10 order to implement the FairPoint broadband plan. And,  
11 I believe you estimate that three weeks of training  
12 will be needed, is that correct?

13 A. (Brown) That is correct.

14 Q. And, when do you plan to have that training start?

15 A. (Brown) Well, actually, we'll begin some of the  
16 training before close on this particular project, and  
17 that's because we want to be very aggressive in our  
18 rolling out this particular project. And, so,  
19 therefore, I will need to do some of the training of  
20 some of the techs that we will hire beforehand. And,  
21 we will get them trained. And, then, our intention is  
22 for them to begin to start the installation. And,  
23 then, we will train the existing forces. There's a lot  
24 of training that's going to be taking place with them

1 during this time period. So, our intention is to train  
2 the existing forces post cutover.

3 Q. And, is the cost of that training built into the  
4 broadband plan?

5 A. (Brown) Yes, ma'am, it is.

6 Q. And, on Page 47, Line 7 through 10, you estimate that  
7 around three crews of two people will be required to be  
8 able to do the installation work. And, by my math,  
9 that is six people. And, I'm wondering, is that  
10 sufficient manpower to build out your broadband plan?

11 A. (Brown) We believe it is, yes.

12 Q. And, is that why it's estimated to take 24 months?

13 A. (Brown) That's correct.

14 Q. Do you think, if you put more people on that job, that  
15 you could do it more quickly?

16 A. (Brown) I really don't, because it's a matter of  
17 expanding the network. You have to build a core  
18 network, and then you have to get the rest of the  
19 equipment in place. And, so, you've got to be able to  
20 build it, you've got to be able to test it. And,  
21 there's also some fiber splicing that has to take place  
22 to be able to make sure that your fiber availability is  
23 there. This timeline that we've got is realistic. The  
24 manpower that we have is realistic. To try and

1 accelerate that by throwing manpower at it, I just  
2 don't think that it would be able to accomplish that.

3 Q. And, I want to refer you to a confidential document,  
4 and I don't plan to ask you any specific questions  
5 about any of the numbers, but it is Exhibit BHS-1. So,  
6 it's the exhibit to your rebuttal testimony. And, this  
7 is the latest update of the budget for the broadband  
8 plan. And, my question to you is, will you be  
9 continuing to update that as we get closer to close,  
10 and even post close?

11 A. (Brown) We will continue to refine the project as we  
12 go, because it's -- we've been coming from a high  
13 level, whenever we first testified here, I mentioned  
14 that we were at the 30,000-foot view, and we're  
15 continuing to drop that view on down. We have been  
16 through a request for proposal process. We have gotten  
17 the vendor information back in. And, so, we are  
18 continuing to refine the plan. And, as we get to each  
19 one of the individual work orders, we'll also update,  
20 for example, if we have said in our proposal that we  
21 will be able to provide service to 173 customers, and  
22 we've had some customers leave, we will provide updated  
23 numbers, say it's 169, or whatever the number actually  
24 is at that time, or, if it's increased, we will provide

1 those numbers. So, it will be through a constant  
2 working process to continue to refine those numbers.

3 Q. And, when you talk about refining them and continuing  
4 to provide them, is it your intention to provide those  
5 to the Staff of the Commission and to the interested  
6 parties in this docket?

7 A. (Brown) I will be providing reporting on the process of  
8 this project throughout the project. And, I will be  
9 providing those to Mr. Nixon. I will have to defer to  
10 him whether or not he provides them outside of that.

11 Q. On Page 38, Lines 16 through 21, you're discussing the  
12 fact that you're not planning to build fiber to the  
13 premises. And, you discuss -- I think what you're  
14 referring to are what's been called "Greenfield"  
15 developments earlier in these proceedings. And, I  
16 think you're saying that it's easier to build out fiber  
17 to "Greenfield" developments, which I think are newer  
18 residential and commercial developments, is that  
19 correct?

20 A. (Brown) That is correct.

21 Q. And, it's more difficult to try to bring fiber to a  
22 retrofit or a "Brownfield" development, is that your  
23 understanding?

24 A. (Brown) That is my understanding. But, by the same



1 token, we also want to make sure that the offerings or  
2 what the customer is requesting requires that a  
3 fiber-to-the-prem be built as well. Because, if it's  
4 existing Internet-only connection or something like  
5 that can be handled through the capacity of the  
6 existing copper structure, then it makes a lot of sense  
7 to continue to use that copper.

8 Q. You also state in that same section that FairPoint has  
9 no large scale plan to increase fiber-to-the-home in  
10 New Hampshire due to economics, especially in the rural  
11 areas. Can you just explain that for us?

12 A. (Brown) Well, our intention is to -- we have no plans  
13 at this time to do a wholesale fiber-to-the-prem. But,  
14 once again, I will go back to, in a "Greenfield"  
15 application, if there is a new business complex, if  
16 there is a new subdivision that's put in, and there's  
17 an MSAN unit that's very close to this -- an MSAN, a  
18 Multiple Service Access Node, my apologies, in that  
19 case, we will look into offering fiber-to-the-prem at  
20 that location. And, we've done that in every location  
21 that we've done this type of network design. We are  
22 doing fiber-to-the-home in all new subdivisions and all  
23 new business complexes.

24 Q. And, that's currently in the broadband plan as it

1 stands now?

2 A. (Brown) The broadband plan has the network and the  
3 equipment that is capable of supporting that. Each one  
4 of those offerings, let's say there's a new subdivision  
5 that comes into a certain location where there's a  
6 digital loop carrier there that has one of the MSAN or  
7 Multiple Service Access Nodes there. Then, we will  
8 look at that time the blade and the cabling that's  
9 necessary would be a work order off the existing CapEx  
10 budget that would do that. So, the network is there in  
11 our broadband plan, but the individual work orders  
12 building out to those customers would be individual at  
13 a later date.

14 Q. And, I have a follow-up question that was asked last  
15 week of Mr. Skrivan, and I'm not sure you're the right  
16 witness, but I'll try it with you. Mr. Skrivan was  
17 asked regarding how much of the broadband plan  
18 investment would support basic service, and therefore  
19 could be booked as intrastate assets. Can you help us  
20 with that question?

21 A. (Brown) I can't give exact numbers. I've been working  
22 with Mr. Skrivan to get that finalized. I will be able  
23 to say this, though, that the network that we're  
24 building is capable of supporting voice, data and video

1 services. So, whereas the initial push is strictly for  
2 broadband purposes, the network does have the  
3 capability of supporting all three services.

4 Q. If you and Mr. Skrivan are working on those details,  
5 I'd like to make a record request to provide the amount  
6 of the proposed broadband plan budget that will support  
7 basic service.

8 MR. McHUGH: I thought we had that as a  
9 record request, is what I understood the record request to  
10 be last week?

11 CHAIRMAN GETZ: Previously with Mr.  
12 Skrivan, you mean?

13 MR. McHUGH: Yes.

14 CHAIRMAN GETZ: Well, let's verify that.  
15 And, if it's an issue, we can raise it after the break.

16 MS. HATFIELD: Thank you.

17 BY MS. HATFIELD:

18 Q. Mr. Brown, do you think that there's any technical or  
19 engineering reason why Verizon could not build out the  
20 broadband plan that FairPoint has proposed?

21 A. (Brown) There is no technical reason, no. With the  
22 exception, I will say, that their systems integration  
23 that they have makes it a little bit more challenging  
24 to be able to do this.

1 Q. Does that make it more expensive?

2 A. (Brown) I would have to defer that to Verizon, because  
3 I really don't know. I do not know the cost of their  
4 systems.

5 Q. So, when you say "more challenging", you mean from a  
6 technical or engineering perspective?

7 A. (Brown) I would say from a operations perspective.  
8 From a engineering perspective, as far as what we are  
9 doing and everything, there is no technical reason they  
10 could not do that. I do not know their systems  
11 integration well enough to know whether or not it would  
12 be able to work with their existing systems.

13 Q. Thank you. On Page 15 of his prefiled direct  
14 testimony, Mr. Harrington refers to FairPoint's  
15 willingness to work with the Commission to address  
16 existing service quality problems, is that correct?

17 A. (Harrington) Could you point out where this was in my  
18 testimony again please?

19 Q. Sure. It was in your prefiled direct testimony, on  
20 Page 15, lines 8 through 14.

21 A. (Harrington) Okay, I've located it. And, what was your  
22 question?

23 MS. HATFIELD: Excuse me for just a  
24 moment.

1 BY MS. HATFIELD:

2 Q. In one of Mr. Nixon's responses to a data request, OCA  
3 2-26, which is OCA Exhibit 93P, Mr. Nixon states also  
4 that "FairPoint is willing to work with Staff and the  
5 parties to identify service quality issues and to  
6 establish metrics that FairPoint will achieve, as well  
7 as reporting procedures by which FairPoint's  
8 performance can be monitored." And, my question is,  
9 Mr. Harrington, would you be the person working with  
10 Mr. Nixon and with the parties in New Hampshire on that  
11 or would someone else be charged with that?

12 A. (Harrington) Mr. Smee has done a lot more investigation  
13 on this since that testimony, so I'd like to defer to  
14 him.

15 Q. Okay.

16 A. (Smee) I'm not quite sure how to answer the question,  
17 because there's a couple of paths I see. In terms of  
18 any discussions regarding the existing metrics in the  
19 State of New Hampshire, to which Verizon is currently  
20 held accountable, and which FairPoint has agreed to  
21 become accountable, there is -- we have no dispute with  
22 those metrics. We have said, clearly, that we will  
23 work to achieve the target levels in those existing  
24 metrics. So, in terms of -- in terms of working with

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1 the Commission for discussion of alternative forms of  
2 metrics, I don't know that we've actually gone down  
3 that path, in fact, I think we've actually stated we  
4 wouldn't even consider going down that path for several  
5 years.

6 Q. And, if you could direct your attention to OCA  
7 Exhibit 100P.

8 A. (Smee) I have it.

9 Q. And, this is a page from the Maine Public Utilities  
10 Commission website. And, it's for Verizon Maine. But  
11 it's an example of what the public can access for each  
12 company in Maine. And, my question is, would FairPoint  
13 be willing to work with the Staff and other parties in  
14 New Hampshire to develop a tool such as this for  
15 customers to be able to access in New Hampshire?

16 A. (Smee) Well, I think it's my understanding there is a  
17 prohibition against sharing -- an existing prohibition  
18 against public disclosure of metrics in the State of  
19 New Hampshire right now.

20 Q. But my question is, would FairPoint be willing to work  
21 with the parties and Staff to address that issue, so  
22 that the public could have more access to information  
23 on service quality?

24 A. (Smee) I would have to say, I don't see any immediate

1 reason why we wouldn't be willing to discuss that  
2 prohibition and the potential agreement we have.

3 Q. And, on Page 13 in the rebuttal testimony, on Lines 12  
4 to 13, you discuss the estimated cost of work required  
5 to address existing service quality problems. And, you  
6 actually provide a figure that's confidential, so I'm  
7 not going to read it. But, in Exhibit OCA 108C, which  
8 is your response to OCA Data Request R-53 you do  
9 provide an amount. Am I correct in understanding that  
10 those amounts are costs for remediation work related to  
11 service quality, and that those are not costs included  
12 in the broadband plan?

13 A. (Smee) That is correct.

14 Q. So, that would be what we referred to as "CapEx" in  
15 addition to the broadband plan?

16 A. (Smee) Yes.

17 Q. So, those amounts would be included in the Company's  
18 overall modeling and budgeting for the transaction?

19 A. (Smee) That is correct.

20 Q. And, what happens if you underestimated that amount,  
21 where would additional funds come from?

22 A. (Smee) If we've underestimated the amount for the  
23 remediation necessary to bring the report rates into  
24 line with the target metrics?

1 Q. Yes.

2 A. (Smee) We'd need to assess what our capital plan was at  
3 the time we determined that we were in shortfall to  
4 achieve the remediation efforts. And, we would  
5 determine, within the balance of the entire business,  
6 where the funding would come from to do that.

7 Q. If you could turn to OCA Exhibit 109P. This is your  
8 response to OCA Data Request R-54.

9 A. (Smee) Uh-huh. I have it.

10 Q. And, if you could turn to the second page of that  
11 exhibit, to letter (d), the paragraph at (d).

12 A. (Smee) Uh-huh.

13 Q. If you could just read paragraph (d) into the record  
14 for me.

15 A. (Smee) Certainly. "FairPoint agrees to be measured  
16 against the statewide and wire center metrics which  
17 exist today in New Hampshire. We only sought  
18 forbearance of the imposition of the financial  
19 penalties. The SQI metrics target levels remain the  
20 same, and we will be working to achieve full on-target  
21 performance with progress coming in phases over the 2  
22 years post cutover."

23 Q. Can you explain what you mean by "forbearance of the  
24 imposition of the financial penalties"?



1 A. (Smee) I need to read the question. I do believe this  
2 answer references, unfortunately, I believe this answer  
3 references a situation in the State of Maine, and the  
4 text was incorrectly inserted in here.

5 Q. So that, in New Hampshire --

6 A. (Smee) There are, at present, there are no financial  
7 penalties in the State of New Hampshire for service  
8 quality metrics.

9 Q. And, at the end of the paragraph that you just read,  
10 you talk about "working to achieve full on-target  
11 performance with progress coming in phases over the 2  
12 years post cutover." And, can you talk about the  
13 phasing approach and how you would plan to achieve  
14 those service quality standards within two years?

15 A. (Smee) Sure. For the most part, the service quality  
16 metrics here in the State of New Hampshire are being  
17 met by Verizon today. And, the two that are most  
18 problematic are, in a sense, are the "out of service  
19 over 24/cleared within 24 hours" and then individual  
20 wire center report rates running significantly above  
21 the target of two. Taking a joint approach to both of  
22 those issues, that primarily what we're going to do is,  
23 we'll be bringing additional folks on board, splice  
24 service technicians, building a proactive maintenance

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1 group, utilizing the new employees and existing  
2 employees, and that proactive maintenance group will  
3 care for routine maintenance work on the outside plant  
4 infrastructure, which will prevent troubles from  
5 occurring. They will also be charged with the project  
6 type goal of reducing the network -- or, the customer  
7 trouble report rate in the targeted wire centers where  
8 the numbers are significantly higher than they have  
9 been. That targeted project approach to those wire  
10 centers that are significantly higher will include  
11 identifying specific problem areas within the outside  
12 plant in those wire centers for remediation, which  
13 might mean a replacement of a remote terminal battery  
14 string. It might mean closing a closure that had not  
15 been properly closed and weather was impacting service  
16 there. It might mean replacement of some spans of old  
17 cable that are defective. And, all of that effort  
18 takes time. So, there are, in our first year, we  
19 anticipate going after about 16 of these wire centers.  
20 The smaller ones total about 36,000 lines or so in  
21 those 16 wire centers. And, we will be begin work and  
22 we will focus the effort on these 16 wire centers.

23 But, in terms of your question about the  
24 phased effort, it will take time to get the work done

1 in each of these 16 wire centers. We expect we can do  
2 those 16 in the first year. There's another dozen or  
3 so that we look to do in the second year. And, you  
4 know, over those two years post cutover, we expect that  
5 those wire centers that are running in what is  
6 described I believe as the "surveillance level"  
7 routinely, it will no longer be doing that. As a  
8 result, there will be fewer troubles for customers.  
9 They will have better service. And, the technician  
10 force that deals with the troubles that do come in will  
11 be more readily available to get them fixed in a timely  
12 fashion.

13 Q. So, under this phased approach, if cutover happens as  
14 scheduled on May 30th, 2008, that would mean that the  
15 earliest that the Company would be in compliance with  
16 all of the service quality standards would be May 30th  
17 of 2010, is that correct?

18 A. (Smee) That's two years later, correct.

19 Q. And, if you would look back again at OCA Exhibit 109P,  
20 if you could read your response to paragraph (e)  
21 please.

22 A. (Smee) "E" as in "Edward"?

23 Q. Yes.

24 A. (Smee) Thank you. "FairPoint will not challenge the

1 existing PUC-established quality of service standards  
2 before 6 months following the date by which FairPoint  
3 is required to meet the wire center level objectives."

4 Q. And, the date that you're proposing that FairPoint be  
5 required to meet the wire center level objectives,  
6 that's the date you just discussed of "May 30th, 2010"?

7 A. (Smee) That is correct.

8 Q. Okay. So, what you're committing to in subparagraph  
9 (e) is that you will not challenge those standards for  
10 at least six months after you're proposing when they  
11 would apply?

12 A. (Smee) That is correct. And, in response to the  
13 question "would you be willing to commit to" -- "pick a  
14 date when you would be willing to commit to not  
15 challenging those standards."

16 Q. And, the maximum allowed time that you're willing to  
17 commit is six months?

18 A. (Smee) Six months past that two year period.

19 Q. If you could turn to OCA Exhibit 92P. That's actually  
20 Mr. Nixon's response to OCA 2-25. I believe it was  
21 filed before you had joined the Company. So, I'd like  
22 to give you an opportunity to talk about this with us.  
23 If you could read the last paragraph of the reply  
24 please.

- 1 A. (Smee) "FairPoint is committed to meeting the service  
2 level obligations required by regulatory agencies and  
3 the contractual obligations required under contracts  
4 that will be assigned to them or negotiated by them.  
5 If the current quality of service by Verizon does not  
6 meet such service level obligations, it would not be  
7 deemed acceptable."
- 8 Q. And, I think you just talked with us about at least two  
9 of the standards that Verizon is not meeting, is that  
10 correct?
- 11 A. (Smee) I did, yes.
- 12 Q. The "out service over 24 hours" and the individual wire  
13 centers that have significant issues?
- 14 A. (Smee) That is correct.
- 15 Q. And, it sounds like it's FairPoint's plan to  
16 immediately begin addressing those issues?
- 17 A. (Smee) That is correct also.
- 18 Q. Mr. Smee, I wanted to turn to the issue of staffing  
19 with you briefly. And, if you look at Page 10 of the  
20 rebuttal testimony, in your answer beginning on Line  
21 13, you're discussing how you will address some of  
22 these service quality issues.
- 23 A. (Smee) Uh-huh.
- 24 Q. And, you state that you will ensure the retention of

1 adequate technician staff to handle the volume of  
2 trouble reports and installation requirements. And, my  
3 question is, how is FairPoint working with Verizon to  
4 ensure that adequate technician staff remain with the  
5 Company after close?

6 A. (Smee) Well, as it stands today, Verizon continues to  
7 operate the business, and operate the business in the  
8 normal course, I think is the term we've used a lot.  
9 They are maintaining the staff they have today. We do  
10 see routine regular reports in regard to the head count  
11 that exists here in New Hampshire and the other three  
12 [two?] northern states and by job function. And, we  
13 have seen that it is effectively maintaining that  
14 number. There is -- you know, month over month, when  
15 your talking about, in the State of New Hampshire, a  
16 thousand employees or more, there are some variations  
17 in that number, but it has not been a significant  
18 change. We are aware that there are potentials for  
19 retirements to take place. And, we are aware of the  
20 percentage of union members in particular who are  
21 pension-eligible. And, we are working to understand  
22 what we need to do to fill any holes that occur if  
23 there is a significant drop in employment or head count  
24 at Verizon as we get closer to close.

1 Q. And, in addition to the issue of head count, are you  
2 also working with Verizon in reviewing reports that  
3 they are providing that show you detail on the  
4 background and the experience and the skill level of  
5 people that are filling positions?

6 A. (Smee) Some of that information is coming to us. We  
7 certainly understand the experience level of the  
8 employees and the years of service that they have with  
9 Verizon. That is a specific number that we get each --  
10 as part of the information that we get routinely from  
11 Verizon. So, I suppose the answer is "yes".

12 Q. So, you're looking at both the skills and the  
13 experience, in terms of number of years of service of  
14 people that are filling positions, is that what you  
15 stated?

16 A. (Smee) Well, we do not have access to -- Verizon is --  
17 We don't have access to information on, when a new  
18 person is hired by Verizon today or yesterday, where  
19 that individual came from. And, therefore, we are not  
20 given access to it, and we don't believe it's necessary  
21 to understand where -- what the skill set is of a new  
22 employee. Is that --

23 Q. So, if a new employee is hired that replaces someone  
24 with extensive experience in a particular technical

1 job, you don't at this time, it sounds like, know the  
2 skill level of the new hire, and it sounds like you  
3 won't find out until after close, is that correct?

4 A. (Smee) That's generally true, yes. And, here is what I  
5 think I can say about the staff at Verizon, from what  
6 we see. Particularly, in terms of the technician  
7 workforce, I don't think there are any technicians in  
8 the State of New Hampshire who have fewer than six or  
9 seven years' worth of service with the Company right  
10 now. So, in terms of people being hired directly off  
11 the street, untrained, I don't think we're seeing that  
12 at all.

13 Q. And, your statement that they "have six or seven years  
14 experience", is that drawn from a Verizon report that  
15 they're providing to you?

16 A. (Smee) Yes, it is.

17 Q. And, would you happen to know, could you direct me to  
18 that report? Was it provided in discovery, do you  
19 know?

20 A. (Smee) I do not know that.

21 MS. HATFIELD: Mr. Chairman, I'd like to  
22 just reserve a record request, if it's needed, but I could  
23 also speak with the Company and speak with Mr. Smee,  
24 during a break, to see if we have received that



1 information. I don't want to ask for something that we  
2 have already received.

3 CHAIRMAN GETZ: Yes, let's handle that  
4 during a break then.

5 MS. HATFIELD: Thank you.

6 BY MS. HATFIELD:

7 Q. Mr. Smee, on Page 13, Lines 4 through 6, you state that  
8 "FairPoint is working to identify the garage locations  
9 serving the wire centers in need, where additional  
10 technicians would be best placed to effect this  
11 effort." And there, are you referring to those wire  
12 centers that you discussed previously that require  
13 service quality related investments immediately?

14 A. (Smee) Yes, it's a combination of two things. It's the  
15 garages that serve those wire centers and the garages  
16 that serve the wire centers where the "out of service  
17 over 24 hour" is most out of line.

18 Q. And, you state there that you're "working to identify  
19 those locations". Is that work still underway?

20 A. (Smee) It's essentially done right now. We know which  
21 garages. I do not have them memorized, so I can't tell  
22 you right now. I could provide them if you wanted.  
23 However, I would add that, between now and close, just  
24 as we've said with the wire centers that we're going to

1 target, you know, and we gave a specific list of wire  
2 centers that we're going to target first, we've stated  
3 that conditions in the network and conditions -- and  
4 the service quality levels in the network can change  
5 between now and close, which would alter where we would  
6 place our efforts. Which would then alter where we  
7 would look to hire those additional employees. So, if  
8 conditions worsened somewhere, we might move the wire  
9 center and/or garage higher up on the list. And, if  
10 conditions improved, because Verizon continues to do  
11 work to improve their network and put new plant in  
12 place, adding at a wire center that today looks like it  
13 is not achieving target, and jobs are completed by  
14 Verizon between now and close that make that wire  
15 center on target, then we don't need to add a person  
16 there. So, the answer is, the work is effectively done  
17 for now, but it's an ongoing view of what we will be --  
18 where we will be looking to add those people.

19 Q. And, as part of your job, do you also have to develop a  
20 budget for making the changes that are needed to  
21 address service quality issues?

22 A. (Smee) I have not been asked to create a budget at a  
23 real fine-line budget level yet.

24 Q. But, if you -- if, after close, you realize that the

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1 problems are worse than you had expected, how will you  
2 address any budgetary changes that are needed?

3 A. (Smee) If it turns out that the estimations that we've  
4 made in terms of cost for the remediation effort are  
5 inadequate for any particular wire center, we will  
6 discuss what is necessary, what it's impact is, we'll  
7 create a picture and a plan for what the cost is for  
8 that remediation effort. We will discuss what impact  
9 that has on other necessary functions of the business  
10 and other plans for the spending in the business, and  
11 we'll make a determination as to how we would  
12 reallocate funds to care for what we need to care for.

13 MS. HATFIELD: Mr. Chairman, I have  
14 several confidential questions with respect to due  
15 diligence and staffing. And, I think I can ask one of  
16 them publicly, so I'll go ahead and do that now. But I  
17 wanted to let you know I do have confidential questions.

18 CHAIRMAN GETZ: Well, let me ask this.  
19 And, is that then the end of this segment of your  
20 questions?

21 MS. HATFIELD: I just have one more  
22 public, and then I would need to go into confidential.

23 CHAIRMAN GETZ: Okay. And,  
24 Ms. Fabrizio, you have some cross-examination?

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1 MS. FABRIZIO: Probably about 45  
2 minutes.

3 CHAIRMAN GETZ: Okay. For scheduling  
4 purposes, it's 10:30 now, I was anticipating taking the  
5 morning recess at 11:00, coming back around 11:30, then  
6 going from 11:30 to 1:30. I have to be on a conference  
7 call at 1:30, so we'll take the lunch recess from 1:30 to  
8 2:30, and then come back for the afternoon session. So,  
9 maybe what we do then is, Ms. Hatfield, finish up with  
10 your public questions, go to Ms. Fabrizio, and then, when  
11 we return -- do you have any confidential questions?

12 MS. FABRIZIO: I have one or two that  
13 may require confidential treatment.

14 CHAIRMAN GETZ: Okay. We'll deal with  
15 it as a block then, after we come back from the morning  
16 recess. So, Ms. Hatfield.

17 MS. HATFIELD: Thank you.

18 BY MS. HATFIELD:

19 Q. Mr. Brown, if you could turn to OCA Exhibit 105P.

20 A. (Brown) I'm there.

21 Q. And, that is your response to OCA R-50, and it's  
22 discussing some of the due diligence that the Company  
23 undertook. And, if you look at your response on the  
24 second page, under paragraph (c), you discuss the

1 locations that FairPoint selected to do due diligence  
2 on the outside plant. Can you just discuss the  
3 locations that you did choose and why you chose them?

4 A. (Brown) I have to clarify, I myself was not involved in  
5 this. So, I obtained this information from other  
6 parties. But, basically, what we wanted to do was we  
7 wanted to look at a cross-section of the towns that we  
8 were dealing with. We wanted to deal with the larger  
9 towns, and we wanted to get all the way down to the  
10 smaller towns. And, so, we chose Concord, because of  
11 the size of it, and we went all the way down to  
12 Newmarket, because it was a smaller town. That way we  
13 were able to take a look at the larger cable  
14 cross-sections, we were able to look at the more  
15 distributed rural markets as well.

16 Q. So, Newmarket was the most rural town that you looked  
17 at?

18 A. (Brown) That is correct.

19 Q. Then, in the next paragraph under (c), you talk about  
20 additional towns where you state that you've performed  
21 a "visual inspection"?

22 A. (Brown) That's correct.

23 Q. Can you tell us the difference between a "visual  
24 inspection" of those eight towns, many of which seem to

1 be in the North Country, versus the review that you did  
2 of the other towns you listed previously?

3 A. (Brown) The inspections were pretty much the same. In  
4 these areas, they may have gone out a lot more of the  
5 rural routes, in addition to taking the major routes  
6 through town. The additional towns that I've looked  
7 at, it was, whenever I was driving through the area,  
8 and I did take a few side trips on some side roads as  
9 far as -- and I also stayed on the main routes. It's  
10 my nature, being in this industry for 28 years,  
11 whenever I ride down the road, I'm naturally looking at  
12 cables, I'm naturally looking at the condition of them.  
13 It is just part of my nature that I do all the time.  
14 So, whenever I ride through an area, I'm constantly  
15 looking at it. So, I made an effort to ride  
16 specifically through the North Country so I could look  
17 at some of these areas, just do a visual inspection.

18 Q. So, a "visual inspection" means just that, you just  
19 visually looked at the facilities from the outside?

20 A. (Brown) "Visual inspection" means I would find the  
21 central office in town, and then I would look at the  
22 routes leaving that central office and continuing out  
23 of town, inspecting it, looking at the closures,  
24 looking at the cable, looking at the poles. Pretty

1 much everything that's involved in the outside plant,  
2 so I just do a visual inspection of it.

3 Q. But my understanding is, on the four towns, Concord,  
4 Dover, Hanover, and Newmarket, those were actually  
5 inspections where folks went inside the central office,  
6 is that correct?

7 A. (Brown) No, they did not. They were strictly outside  
8 plant visual inspections.

9 Q. And, I think you testified that you were not involved  
10 in those inspections?

11 A. (Brown) That is correct.

12 Q. Were any of the other members of the panel involved?

13 A. (Brown) No, they were not.

14 Q. Do you know if there were any other FairPoint witness  
15 in this proceeding who was involved?

16 A. (Brown) There is not.

17 MS. HATFIELD: Thank you, Mr. Chairman.  
18 That concludes my public questions.

19 CHAIRMAN GETZ: Thank you.

20 Ms. Fabrizio.

21 MS. FABRIZIO: Thank you, Mr. Chairman.  
22 Good morning, gentlemen.

23 WITNESS BROWN: Good morning.

24 BY MS. FABRIZIO:

- 1 Q. The first few questions I have regard general due  
2 diligence, and I'm going to direct them to  
3 Mr. Harrington. Mr. Harrington, approximately how many  
4 central offices does Verizon have in New Hampshire?
- 5 A. (Harrington) Central offices, I seem to recall,  
6 including post -- well, I cannot refer to the central  
7 office buildings, but to switches, approximately 348  
8 switches and remotes.
- 9 Q. And, that's in New Hampshire?
- 10 A. (Harrington) No, that's across the three states. I'm  
11 sorry. There are 27 switches and 96 remotes in New  
12 Hampshire.
- 13 Q. Okay. Thanks. And, how many of those switches are  
14 actually remote switching locations served by a host  
15 switch? Are all of those?
- 16 MS. FABRIZIO: Hold on. Disconnecting  
17 my knowledge of terminology here.
- 18 BY MS. FABRIZIO:
- 19 Q. In total, how many New Hampshire central offices did  
20 FairPoint actually visit as part of its due diligence?
- 21 A. (Harrington) In the inside plant inspection, myself and  
22 my team visited four New Hampshire central office  
23 building sites.
- 24 Q. And, were any of those four in rural areas of the



1 state?

2 A. (Harrington) I would characterize the most rural as  
3 being Newmarket.

4 Q. And, were any of those four offices remote switching  
5 locations?

6 A. (Harrington) No, they weren't.

7 Q. And, who selected those offices that FairPoint visited  
8 as part of the due diligence effort?

9 A. (Harrington) FairPoint provided Verizon with a profile  
10 of the types of facilities and assets that we wanted to  
11 visually have an opportunity to review. Verizon  
12 provided a suggested list of sites. And, once we  
13 received that list, I requested that one specific site  
14 be added. Well, it wasn't a specific site, it was a  
15 site that contained specific equipment, and that was  
16 added at our request.

17 Q. Thank you. Now, the next questions may go to Mr. Brown  
18 as well. In your testimony, on Page 6, Lines 16 to 18,  
19 when you talk about the due diligence performed, you  
20 state that you visited four locations, that's Concord,  
21 Dover, Hanover, Newmarket, and that's beginning on line  
22 16, Page 6. Now, I'm going to refer to a confidential  
23 data response and attachments that FairPoint provided.  
24 I don't believe the answer requires a confidential

1 response, but let me know if you think it does. In the  
2 confidential documentation, and that on our list is  
3 actually Staff Exhibits 49C and 50C, it's FairPoint's  
4 supplemental response to Staff Data Request 2-8 and  
5 confidential Attachments CFPNH 2050 through 2057.  
6 Could you please explain the difference between the  
7 number stated in your testimony here and the number  
8 actually reported on those confidential documents, with  
9 regard to the number of central offices that were  
10 actually inspected as part of the due diligence effort  
11 that FairPoint conducted? And, I would just note that  
12 the confidential memo that I've cited refers to  
13 "outside plant inspections".

14 A. (Brown) Okay. I am still trying to locate that  
15 confidential memo.

16 Q. Sure.

17 MR. DEL VECCHIO: Excuse me, Lynn, what  
18 was that again?

19 MS. FABRIZIO: 49C and 50C.

20 (Atty. Fabrizio handing document to  
21 Witness Brown.)

22 **BY THE WITNESS:**

23 A. (Brown) This exhibit was not performed by myself. I  
24 will try to answer any questions related to it, but it

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1 was not replied to by myself.

2 BY MS. FABRIZIO:

3 Q. And, in the memorandum that you see, FairPoint lists  
4 the one office in New Hampshire.

5 A. (Brown) And, we're dealing with Exhibit 49C?

6 Q. That should be -- yes.

7 A. (Brown) Okay. I see it.

8 Q. Okay. Could you explain the difference in numbers that  
9 appears from this documentation versus what you've  
10 stated in your rebuttal testimony?

11 CHAIRMAN GETZ: I'm sorry, Ms. Fabrizio,  
12 could you move the microphone closer please.

13 MS. FABRIZIO: Sorry.

14 BY MS. FABRIZIO:

15 Q. There seems to be a discrepancy in the reporting of the  
16 number of offices.

17 A. (Brown) It appears that I -- whenever I did my  
18 testimony, I forgot about Portsmouth, New Hampshire, as  
19 being one of the towns that was inspected.

20 Q. And, the memorandum that you are looking at, which is  
21 confidential, seems to list only one central office in  
22 New Hampshire.

23 A. (Brown) That is true, but there were additional  
24 locations as well.

- 1 Q. So, this is not the most current report or --
- 2 A. (Brown) This report does appear to leave out those.
- 3 Q. Okay. And, was the central office that was listed in  
4 that memorandum actually visited on the inside?
- 5 A. (Brown) The outside plant teams that went out did not  
6 inspect the inside of any buildings. They did give  
7 reference here to inspection of the outside of the  
8 buildings, but they were unable to see the inside.
- 9 Q. Okay. Thanks. I think I'll take the exhibits from  
10 you. Okay. And, as part of its initial due diligence  
11 effort, did FairPoint inspect any of the fiber-fed  
12 remote terminal cabinets that it plans to upgrade in  
13 conjunction with its broadband expansion plans?
- 14 A. (Brown) We did not.
- 15 Q. Okay. And, then to move onto a discussion of broadband  
16 generally.
- 17 A. (Brown) Okay.
- 18 Q. And, as we've noted, through your discussions with Ms.  
19 Hatfield, FairPoint uses a number of different terms in  
20 its testimony. And, we'd just like to clarify and  
21 confirm some of the explanations. On Page 32 of your  
22 rebuttal, starting on Line 17, you discuss the term  
23 "DSL addressable". Could you explain again for us what  
24 FairPoint means by that term?

1 A. (Brown) What "DSL addressable" means is the line has  
2 the ability, has equipment on the other end that can be  
3 wired to be able to provide DSL services.

4 Q. Okay. And, on Page 31, you use the term "broadband  
5 addressable". And, could you explain that term again  
6 and how it differs from "DSL addressable"?

7 A. (Brown) In my mind, whenever, as a broadband engineer,  
8 I tend to look at all broadband services. I use the  
9 term "broadband" more often than I do "DSL", because  
10 DSL is a particular technology. Whereas, broadband  
11 encompasses several different technologies.

12 Q. Okay. Thank you. So, could I just confirm for my  
13 understanding, a line considered to be "DSL" or  
14 "broadband addressable" does not necessarily mean that  
15 that line is capable of supporting DSL services?

16 A. (Brown) That would be correct.

17 Q. On Page 30, Lines 3 and 4 of your rebuttal, you also  
18 use the term "broadband capability". Could you explain  
19 what you mean by that and how that differs from  
20 "broadband addressability"?

21 A. (Brown) Okay. That was Page 30, --

22 Q. Page 30, Lines 3 around 4.

23 A. (Brown) "Capability" would be that that central office  
24 or that exchange has the equipment capable of providing

1 broadband services.

2 Q. Okay. And, Page 28, Line 6, you refer to "broadband  
3 qualified". And, could you distinguish that -- tell us  
4 what you mean by that and distinguish from "broadband  
5 capable"?

6 A. (Brown) Okay. The "capable" means that the equipment  
7 exists to be able to provide that service. "Qualified"  
8 means that the line itself is qualified for broadband  
9 services. That means it has been pretested and proven  
10 to be capable of supporting broadband.

11 Q. Great. Thank you. And, let's see, what is the minimum  
12 data speed in the downstream direction that a line must  
13 be capable of delivering before FairPoint considers it  
14 "DSL capable"?

15 A. (Brown) What we looked at is 768 kilobit down speed,  
16 which was the minimum configuration or the minimum  
17 offering that Verizon has today.

18 Q. And, on Page 28, Lines 5 to 8 of your rebuttal, you  
19 state that "FairPoint will increase the percentage of  
20 broadband qualified lines in New Hampshire to  
21 approximately 71 percent within 24 months." Is that --

22 A. (Brown) That's correct. If I could clarify on that,  
23 that 71 percent would also be the bottom range, as we  
24 were discussing with Ms. Hatfield. There is a range

- 1 that we have because we do not cut off everything at  
2 18,000 feet, we continue to do engineering detail to be  
3 able to expand that offering. So, that would be the  
4 bottom end of the spectrum.
- 5 Q. Okay. Great. And, on Page 30, Line 5, you state that  
6 Phase II of FairPoint's deployment plan will add  
7 broadband capability to "an additional 12,289 access  
8 lines", is that correct?
- 9 A. (Brown) That's correct.
- 10 Q. Okay. And, on Page 31, you state, on Line 16, you  
11 state that Phase III of the plan will make 57,800  
12 additional lines "broadband addressable", is that  
13 correct?
- 14 A. (Brown) The 57,800 would be the total number of access  
15 lines. So, at the completion of Phase III, that would  
16 be the total.
- 17 Q. Okay. So, that's not in addition to the 12,289?
- 18 A. (Brown) No, it's not.
- 19 Q. It's including?
- 20 A. (Brown) It's including.
- 21 Q. All right. Okay. So, do the total lines, at the  
22 completion of Phases II and III, that's 57,800 you're  
23 saying?
- 24 A. (Brown) That's correct.

1 Q. Okay. And, does that total equate to the increase in  
2 New Hampshire broadband-qualified lines from the  
3 current 61 percent to the 71 percent within 24 months  
4 of close?

5 A. (Brown) Yes.

6 Q. Okay.

7 A. (Brown) Once again, that 57,800 would be on the low end  
8 of the spectrum. Our goal, we'd be able to do above  
9 that 57,800.

10 Q. Okay. Great. And, then, on Page 32, Lines 11 through  
11 14, of your rebuttal, you indicate that, following the  
12 implementation of FairPoint's broadband deployment plan  
13 the percent of DSL addressable access lines in New  
14 Hampshire "will be approximately 83 percent". What  
15 exactly does that number represent and how does it  
16 relate to the 57,800 lines?

17 A. (Brown) Okay. Once again, in this one, the 83 percent  
18 would be on the high end of the spectrum. So, it would  
19 be -- 71 percent would be on the low end, 83 would be  
20 on the high end. 83 makes the assumption that every  
21 line out of that RT or that central office would be  
22 able to receive broadband services. Whereas, the  
23 71 percent would be if -- nothing other than the ones  
24 that Verizon has tested today would qualify.



1 Q. Okay. I think I understand. I have two highly  
2 confidential questions on this subject that I will  
3 return to later. Okay. Now, turning to Mr. Smee. On  
4 Page 26 of your rebuttal, beginning on Page -- Line 19,  
5 and continuing to Line 1 on Page 27, you provide two of  
6 FairPoint's reasons for seeking a two year waiver from  
7 meeting the Commission's service performance standards.  
8 And, at Line 19, you state that "After cutover,  
9 FairPoint needs some period of time to ensure the  
10 systems are operating as contemplated and all cutover  
11 based issues (if any) are resolved. Any newly hired  
12 FairPoint employees must be trained, especially the new  
13 I&M technicians." Is that your statement, Mr. Smee?

14 A. (Smee) That is correct.

15 Q. Could you please explain what you mean by that  
16 statement? And, specifically, does FairPoint intend to  
17 cut over before it has fully tested its newly developed  
18 systems to ensure that they'll operate as contemplated  
19 and before you've completed training of the new hires?

20 A. (Smee) I'll answer your second question first. No, we  
21 don't intend to cut over before we are ready, before  
22 the training is complete, and all full testing is  
23 completed. And, the simple point here is that there  
24 are -- because this answer, and this is the second part

1 of an answer, of the total answer, is in reference to  
2 why, from the time we take over operating the business,  
3 until cutover, we might not be able to make as much  
4 progress in improving the service quality metrics as  
5 otherwise would be desirable. And, the first part of  
6 the answer describes the necessity of preparing for  
7 cutover, that provides the majority of the reason why  
8 we wouldn't be able to move forward rapidly in  
9 addressing the service quality issues.

10 The second part of the answer describes  
11 a small possibility that, at cutover, there, despite  
12 all human best efforts, whenever there's a project,  
13 there will be some things that will go wrong. We don't  
14 anticipate anything major. We don't anticipate  
15 anything catastrophic at all. Very minor issues will  
16 undoubtedly occur, and we'll need a week or two to work  
17 through those. That's all -- That's really all it's in  
18 reference to.

19 Q. You'll need a week or two to work through those minor  
20 glitches. Why are you asking for two years of --

21 A. (Smee) Well, as I described earlier, that the answer to  
22 that particular question that I -- that you just  
23 referenced is in a request for, in effect, "why doesn't  
24 FairPoint start immediately at close addressing the

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1 service quality issues?" And, the answer effectively  
2 is, we need to prepare, we need to focus our efforts on  
3 getting new folks on board, getting them trained,  
4 preparing for cutover, and doing the cutover. Now,  
5 once that has occurred, as I described earlier, the  
6 effort to fix the wire centers that are not achieving  
7 at the report rate level that is the target, will be a  
8 phased approach. It will take teams of people focussed  
9 on Wire Center A, Wire Center B, to identify the  
10 problem, to analyze the locations where troubles are  
11 coming from, to put teams to work doing maintenance  
12 level fixes, like fixing closures or cross box  
13 rehabilitations, to put engineering teams to work on  
14 writing engineering jobs for capital expenditures for  
15 plant replacements. And, all of that effort cannot  
16 happen simultaneously in all wire centers at once. It  
17 takes time to get there. And, I guess I would say it  
18 took time for it to become the way it is right now. It  
19 will take some time for it to come back to the way we  
20 would like it to be.

21 Q. Great. Thank you. Still on the same page, you further  
22 state that it will not be possible for FairPoint to  
23 begin the work necessary to bring the Verizon's network  
24 up to standard until the Verizon network is operating

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1 on the new FairPoint systems. Prior to this testimony,  
2 FairPoint has provided data responses suggesting that  
3 the service quality issues can be addressed by  
4 increasing the number of outside plant technicians.  
5 Could you explain why FairPoint now determines that it  
6 cannot begin the work necessary until the network is  
7 operating on the new systems?

8 A. (Smee) Sure. Well, there's two, I mean, what we've  
9 spoken of largely here today, and I think is in  
10 evidence in the service quality metric overall picture  
11 for the State of New Hampshire, we've spoken of two  
12 particular metrics that are problematic. One being the  
13 troubles -- out of service troubles not cleared within  
14 24 hours or percentage cleared within 24 hours, and the  
15 wire center level report rate. The wire center level  
16 report rate issue to be addressed requires all of the  
17 work I just described, in order to rehabilitate the  
18 network to the degree in those small wire centers that  
19 need to be rehabilitated, that's a time-consuming  
20 effort.

21 In terms of the out of service 24 hour  
22 commitment, that is largely a balance between workload  
23 and workforce. If you have sufficient workforce  
24 against the workload that is coming in, and an

1 adequately trained staff, you routinely are able to fix  
2 a higher number of troubles within 24 hours. You have  
3 employees available to attend to do the troubles that  
4 come on that basis. So, we are taking the approach  
5 that says "we know we need to bring more people in in  
6 order to attend to the out of service over 24".  
7 However, we also know we need to reduce the trouble  
8 reports, because we cannot operate the business in a  
9 long-term perspective by just allowing trouble report  
10 volumes to grow, creating poor service for the  
11 customers, and then consequently needing to hire more  
12 and more employees to deal with the number of troubles  
13 that come in and to attend to them. So, we have taken  
14 this dual approach that requires us to hire additional  
15 people to deal with both the 24 hour commitment problem  
16 and to deal with the network report rate problem.

17 Q. Thank you. Just one follow-up to that. Does FairPoint  
18 plan to start providing the Commission with reports of  
19 this work immediately after cutover on the performance?

20 A. (Smee) On the performance of?

21 Q. On their service quality performance measures?

22 A. (Smee) Do you mean the existing service quality metrics  
23 that are in existence today?

24 Q. Yes.

1 A. (Smee) And that are reported today by Verizon --

2 Q. Yes.

3 A. (Smee) -- on a routine monthly basis? It is our intent  
4 to continue doing that. During the TSA period, the  
5 transition period, post close and after cutover, using  
6 the Verizon systems, and then, upon cutover, using our  
7 systems to report the same thing.

8 Q. Okay. Great. Thanks. Okay. Let's see. FairPoint  
9 has previously committed that it will meet the  
10 Commission's service quality standards beginning six  
11 months after cutover is complete. Please explain what  
12 has changed that prompted FairPoint to change its  
13 commitment from six months after cutover to two years  
14 after cutover?

15 A. (Smee) I'm going to have to ask you to refer me to  
16 where that was said.

17 Q. Yes. Sure. And, I refer you to Staff Exhibit 45.  
18 It's actually a non-confidential response to OCA FDR  
19 II-17(a).

20 A. (Smee) Do we have that up here?

21 MS. FABRIZIO: Mr. Chairman, I can  
22 provide a copy on the screen.

23 BY MS. FABRIZIO:

24 Q. You see the response under (a). Could you read that

1 please.

2 A. (Smee) Response (a) says -- well, you're looking at the  
3 reply?

4 Q. Yes.

5 A. (Smee) "FairPoint will meet the PUC's service quality  
6 standards commencing six months after the cutover is  
7 complete. To do so will require an increase in  
8 technicians. FairPoint intends to hire those  
9 additional technicians." And, this was in June of this  
10 year. I guess, the answer I would give -- or, June of  
11 "2207". The answer I guess I would give you is, at  
12 that point in time, the level of detail that we had  
13 regarding the service quality metrics was not as great  
14 as it is today. And, our view into the wire centers  
15 that are not achieving at the target rate was much  
16 broader. We did not have, I believe at that point, a  
17 view into the Code 4 report rates, which are the  
18 outside plant report rates at this juncture. And, I  
19 think, simply put, deeper analysis of the situation has  
20 yielded the current view that it will take this time to  
21 achieve the targets.

22 Q. Thank you. Now, has Verizon provided all the  
23 information that FairPoint requires to perform a root  
24 cause analysis of the service quality problems that

1 exist in New Hampshire?

2 A. (Smee) Verizon has provided us -- provided us at  
3 FairPoint all of the information we have asked for in  
4 order to perform the root cause analysis at this time.  
5 There are, as I described our effort to finalize the  
6 root cause analysis, there is more information  
7 available in the Verizon systems. But the key to that,  
8 the use of that information, is actually having the  
9 Verizon employees and the staff required to do the  
10 analysis and do the troubleshooting and build the jobs  
11 to fix it. So, absolutely, Verizon has provided us  
12 everything we need. We really need, in order to do the  
13 final analysis to determine specifically what needs to  
14 be fixed in any particular wire center, we do need  
15 additional data. But, more importantly, we need the  
16 employee staff, the staff to actually do that analysis  
17 and make the determinations about what needs to be  
18 done.

19 Q. And, when do you expect your root cause analysis to be  
20 completed?

21 A. (Smee) Well, it would begin shortly after close, and  
22 with the development and identification of the  
23 proactive team, proactive manager, and the  
24 implementation of project meetings to begin the network



1 report rate reduction. So, when it would be done, I  
2 would expect it would be done sometime around -- fully  
3 done, at least in terms of the wire -- the final wire  
4 centers that we are going to target or the final list  
5 of wire centers that we would target, again, referring  
6 back to the fact that, between now and close, wire  
7 center issues may improve or deteriorate, the final  
8 list would be determined and the targeted approach and  
9 the project time line would be put in place, and then  
10 post cutover the work would effectively get underway.

11 Q. Let's see. On Page 11, Lines 9 to 11 of your rebuttal,  
12 you state that "While clearing troubles in a timely  
13 fashion is a measure of service quality, FairPoint  
14 plans to address the number of troubles overall." And,  
15 yet, you don't provide any details on how you plan to  
16 drive down the number of total overall troubles. Could  
17 you please explain how you plan to proactively drive  
18 down those total troubles experienced by customers?

19 A. (Smee) Sure. And, it's a little bit of what I've  
20 spoken about already. But, organizationally, as I just  
21 referenced, we're going to create a proactive  
22 workforce, larger than we understand exists in Verizon  
23 today. We expect it to be led by the manager who will  
24 report directly to the Vice President of Engineering

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1 and Operations. That proactive workforce would consist  
2 of around 66 splice service technicians in total across  
3 the three states, 23 or 24 of them here in New  
4 Hampshire. There will be central office technicians  
5 assigned to the work. And, there will be  
6 administrative assistants assigned to this team also.  
7 There will be an outside plant engineer assigned to the  
8 proactive team working for the manager. And, that will  
9 be the -- sort of the direct line responsibility for  
10 that manager and that team. They will be charged with  
11 creating, implementing, and maintaining a proactive  
12 maintenance routine schedule, to include things like  
13 remote terminal electronics, routine maintenance  
14 visits, having to do with batteries and filters and  
15 grounding, to running what are referred to as "A lit  
16 tests", mechanized loop tests on a routine basis on  
17 areas in the outside plant to identify upcoming and  
18 potential failure points, and to do routine inspections  
19 on the outside plant in particular geographies. So  
20 that, and then the technicians themselves will be  
21 charged with performing the functions that will fix the  
22 problems that have been identified through the routine  
23 maintenance activities and through the mechanized loop  
24 testing of the systems.

1 I should have very importantly included  
2 in the -- included in the routine maintenance effort  
3 will also be the ongoing effort to maintain the air  
4 pressure systems, which Verizon is maintaining well  
5 today, and that will be part of the effort also. The  
6 air pressure system is to keep the cables under  
7 pressure and keep moisture out. So, all of those  
8 efforts will both, by getting ahead of pending  
9 problems, and fixing them before they turn into real  
10 problems that customers can notice, that will reduce  
11 trouble reports for customers.

12 The other side of it, on the project  
13 side of it, whereby this proactive manager will pull  
14 together not only his or her direct report team, but  
15 also dotted line reports from the central office  
16 organization and from the repair organization, and from  
17 individual garages and wire centers, the supervisors  
18 and technicians out in the field to go after these  
19 individual wire centers that are running too high a  
20 report rate, that project then will focus heavily on  
21 those wire centers. Routine maintenance activities  
22 need to continue, but we also need to identify very  
23 quickly those particular locations within any wire  
24 center where the trouble is arising from, and then put

1 in place a remediation plan. Some of which may be  
2 capital, which would require outside plant replacement.  
3 Spans of cable being replaced, engineering jobs written  
4 in order to do that, and then the construction crews  
5 engaged to do that. Some of which would be more  
6 maintenance activity, which I think I referenced  
7 earlier, such as rehabilitating a cross box or getting  
8 up on a pole and fixing a closure that had been left  
9 open. So, all those things, to both routinely and  
10 proactively stay ahead of potential problems. And,  
11 simultaneously going, on a project basis, after areas  
12 where we know are already problems, where problems  
13 exist, those will reduce troubles from occurring.

14 I will make perhaps an inaccurate  
15 analogy. But routine preventive maintenance is  
16 something we all live with all the time. We change the  
17 oil in our automobiles to make sure they continue  
18 running. If we don't, the engine will cease up  
19 eventually. While the telephone plant is largely  
20 digital today inside and it's electronics and  
21 computers, it doesn't have a lot of moving parts that  
22 break and need a lot of maintenance. The outside plant  
23 is subject to weather, and it is -- is of different  
24 vintages, and that's not unique to New Hampshire,

1 that's true across virtually the entire country. Some  
2 cable is brand new, because there's a constant upgrade,  
3 some cable is ten years old, some twenty, some thirty,  
4 and some forty. The older the cable is, the more  
5 maintenance activity you require. There's some older  
6 cable here, and maintenance activity needs to be  
7 maintained on it in order to keep it healthy and  
8 operating well for the customers. That's what this is  
9 about.

10 Q. Thanks. And, has FairPoint been able to estimate the  
11 capital cost of improvements, the remedial improvements  
12 that you're talking about?

13 A. (Smee) Yes, to a degree. I mean, clearly, you know, it  
14 will require, as Michael referenced earlier, it's the  
15 30,000-foot, 15,000-foot, 10,000-foot view. We will  
16 need to get into the analysis with the staff, the  
17 Verizon staff, when they become FairPoint staff, and  
18 the data, in order to understand exactly what it will  
19 cost in each individual wire center. But we've made an  
20 estimate based on the size of the wire centers. All of  
21 the ones that we would be targeting, as I said earlier,  
22 are relatively small. We've made an estimate of that  
23 cost. And, I think it's in the --

24 Q. And, can you tell us approximately?

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1 A. (Smee) Yes, approximately 5 to \$6 million in the state  
2 of New Hampshire for the first year, and a similar  
3 number for the second year.

4 Q. And, that's in New Hampshire you said?

5 A. (Smee) Yes.

6 CHAIRMAN GETZ: Ms. Fabrizio, does this  
7 complete this particular line of questioning? This may be  
8 a good time to take the morning recess.

9 MS. FABRIZIO: No, but I'd be glad to  
10 take the recess.

11 CHAIRMAN GETZ: Okay.

12 MS. FABRIZIO: I still have about 15  
13 minutes for Mr. Smee.

14 CHAIRMAN GETZ: Okay. I guess what I  
15 would suggest then -- well, let me verify first,  
16 Ms. Hatfield and Ms. Fabrizio both, is it confidential or  
17 highly confidential, what --

18 MS. FABRIZIO: I have highly  
19 confidential, just two questions.

20 MS. HATFIELD: And, I believe my  
21 questions are all just confidential.

22 CHAIRMAN GETZ: Okay. Well, I guess, in  
23 an attempt to minimize hubbub, why don't we -- when we  
24 return at 11:30, let's start with the confidential and the

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1 highly confidential questions, and then we'll return onto  
2 the public record. So, we'll be back at 11:30.

3 (Recess taken at 11:09 a.m.)

4 (PUBLIC HEARING RESUMES AT PAGE 129)

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1 (PUBLIC HEARING RESUMES FROM PAGE 95)

2 CHAIRMAN GETZ: Okay. Then let's move  
3 back into the public record. And, actually, off the  
4 record.

5 (Discussion was held off the record.)

6 CHAIRMAN GETZ: Thank you.

7 MS. FABRIZIO: All set?

8 CHAIRMAN GETZ: Please proceed.

9 **CROSS EXAMINATION**

10 BY MS. FABRIZIO:

11 Q. Mr. Smee, if we could return to our earlier discussion,  
12 you were talking about the proactive work force that  
13 would be in place.

14 A. (Smee) Yes.

15 Q. Who will manage that particular work force?

16 A. (Smee) Who will manage it?

17 Q. Uh-huh.

18 A. (Smee) There will be a manager chosen to do that.

19 Q. Not yet ---

20 A. (Smee) Not yet chosen, right. We've had some  
21 discussions with our Verizon counterparts, but it is  
22 not appropriate for us to be hiring people into  
23 positions inside Verizon until we get there.

24 Q. Thanks. And in your work with Verizon on service



1 quality issues, have you been working primarily with  
2 Mr. Nestor? Is that your key contact at Verizon?

3 A. (Smee) No, there's a host of people at Verizon that  
4 we're dealing with. There's an entire structure of  
5 single points of contact between FairPoint and Verizon,  
6 along with subject-matter experts who are identified to  
7 participate with us and with our partners at Capgemini  
8 to pull together for us the information we need. So  
9 it's not Mr. Nestor.

10 Q. Okay. Great. Thank you. And what is your contingency  
11 plan if many of the experienced Verizon technicians and  
12 management personnel who are retirement-eligible choose  
13 to retire prior to the close of this transaction?

14 A. (Smee) We are developing a plan that will identify for  
15 us the steps necessary to take to fill in large  
16 quantities of employees in -- that are related to  
17 service issues, things such as a pandemic or,  
18 unfortunately, a labor issue where large numbers of  
19 people are no longer able to come to work. That  
20 particular plan will also be able to guide us in  
21 dealing with how to rapidly acquire additional  
22 employees if so necessary at the time of close or  
23 shortly thereafter.

24 We recognize that pension-eligible union

1 membership runs in the \*\*\*CONFIDENTIAL\*\*\* range for  
2 those who have thirty years of service and able to  
3 retire with no penalty. And that, again, is similar to  
4 the number you -- we spoke of earlier in regard to the  
5 folks who have already left in the OPT title. So it  
6 is -- while it's not an insignificant number, it is not  
7 catastrophic if \*\*\*CONFIDENTIAL\*\*\* even if all  
8 \*\*\*CONFIDENTIAL\*\*\* of the pension-eligible folks were  
9 to leave, which certainly could happen, but that would  
10 be an extreme case.

11 Q. Great. Thank you. Now, will FairPoint, from an  
12 operational point of view integrate FairPoint classic  
13 lines in New Hampshire, Maine and Vermont into the  
14 Spinco operations?

15 A. (Smee) We have no immediate plans to do so. And I  
16 think Mr. Nixon can speak to that in greater detail.

17 Q. Okay. So I should reserve these questions for  
18 Mr. Nixon?

19 A. (Smee) Perhaps.

20 Q. Okay.

21 A. (Smee) That one in particular.

22 MS. FABRIZIO: That concludes my  
23 questions more rapidly than anticipated.

24 CMSR. MORRISON: I'm going to leave my

1 questions open to whoever would feel best could answer  
2 them.

3 EXAMINATION BY CMSR. MORRISON

4 BY CMSR. MORRISON:

5 Q. What I'll start with is the simple things. What speeds  
6 of DSL does FairPoint offer today?

7 A. (Brown) I'm going to try and look at you and talk into  
8 the microphone at the same time, which is a little bit  
9 challenging.

10 Today, we offer speeds of up to 3  
11 megabits ---

12 Q. No, no, no, no. I want each increment. 768.

13 A. (Brown) We offer 768. We offer one point or 1 megabit,  
14 and we offer 3 megabit, as well.

15 Q. Okay. Thank you. Now, on each of those three levels,  
16 what's the -- what are the distances that are supported  
17 from the CO?

18 A. (Brown) With the 768 offering, we've gone out to  
19 22,000 feet and, in some cases, beyond, using doubler  
20 technology. We've also -- the 3 megabit -- the 1.5,  
21 we've pushed out to 18,000 feet. We've also pushed the  
22 1.5 out further in some locations, as well, in the  
23 Midwest, for example. We have used Smart Coil  
24 technology to be able to extend that out further.

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1 We've also done -- the 3 megabit offering is primarily  
2 around 10,000 to 12,000 feet.

3 Q. On each of those speeds, what are the upload speeds,  
4 because what you gave me was download.

5 A. (Brown) The download (sic) speeds are primarily going  
6 to be -- I think, with the 768 offering, I believe it's  
7 128 up. With the 1 megabit, I believe it's 768. And  
8 with the 3 megabit, it's also 768.

9 Q. Okay. Thank you. What is the price for each of those  
10 three on a monthly basis?

11 A. (Brown) It depends on the company and the territory.

12 Q. Okay.

13 A. (Brown) It's not uniform across FairPoint.

14 Q. Okay. So I'm going to assume you don't know the  
15 pricing for New Hampshire.

16 A. (Brown) No, I do not.

17 CMSR. MORRISON: Mr. Coolbroth, can I  
18 get a record request for that information?

19 MR. COOLBROTH: Yes, you may,  
20 Commissioner.

21 CMSR. MORRISON: Thank you.

22 BY CMSR. MORRISON:

23 Q. Earlier today, someone mentioned VDSL2. Is VDSL2  
24 deployed anywhere in any of your networks today?

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1 A. (By Mr. Brown) No, it's not, at this time. We actually  
2 have a trial that's about to take place, using VDSL2.  
3 VDSL2 has been ratified for a while, but the chip-set  
4 manufacturers have not been real aggressive at this  
5 point. On the CPE side, the customer primary  
6 equipment, the ---

7 Q. Yeah.

8 A. --- chip set on the -- for the equipment has been  
9 available for a little while, but you've got to have  
10 the CPE to match up to 'em.

11 Q. What are your best estimates on VDSL speeds and  
12 distances?

13 A. (Brown) We haven't really done any engineering studies  
14 on that yet.

15 Q. The manufacturer specs, what do they say?

16 A. (Brown) Manufacturer specs, it's up to 50 megabits out  
17 to about 3,000 feet. Then, it actually -- from that  
18 point on, the nice thing about VDSL2 is it resorts over  
19 to ADSL2+ standards and has the same slope  
20 characteristics as the ADSL2+.

21 Q. Okay. Thank you. I'm going to move on here to a  
22 different topic.

23 Earlier today, it was testified that  
24 several cities in FairPoint -- in the FairPoint

1 family -- have IPTV; is that correct?

2 A. (Brown) That's correct.

3 Q. What is the network speed for those -- for those  
4 networks with IPTV?

5 A. (Brown) Presently, the back bone and core network are  
6 operating at 1 gigabit speeds because of the number of  
7 customers that are involved.

8 Q. What about the -- down to the customer prem?

9 A. (Brown) Down to the customer prem, we're looking at 10  
10 megabits to the customer.

11 Q. Is that bi-directional?

12 A. (Brown) No, sir. That's ADSL, so it's using  
13 asynchronous.

14 Q. Now, you're giving me speeds for people who are using  
15 all three, the triple play.

16 A. (Brown) That's correct.

17 Q. Okay. Thank you. What's the maximum loop length for  
18 your IPTV offering?

19 A. (Brown) Presently, we're pushing that out to 10,000 to  
20 12,000 feet.

21 Q. Okay. Thank you. For those -- for your IPTV, do you  
22 require more than two pair?

23 A. (Brown) No, sir. We're doing a single pair.

24 Q. Single pair everywhere? Okay. Thank you.

1 Searching FairPoint's Web site, I could  
2 find absolutely no reference to IPTV. Do you know why  
3 that is?

4 A. (Brown) I don't know why that is. I know, for a fact,  
5 we are doing it in Yelm, Washington. And like I said,  
6 also ---

7 Q. But a search ---

8 A. --- in Missouri, as well.

9 Q. But a search shows absolutely nothing.

10 I'd like to make a record request for  
11 all the marketing literature for the IPTV product. I'd  
12 like it whether it's print or electronic. And I would  
13 like the information whether it was to approval boards  
14 or down to the customer. So materials -- they had to  
15 get approval for these franchises. I'd like the  
16 materials that were presented for those fran- -- to get  
17 the franchise, and as well as what they presented to  
18 customers.

19 CHAIRMAN GETZ: Please confirm that will  
20 be Exhibit 57?

21 MS. O'MARRA: 57.

22 CMSR. MORRISON: And beyond that, I'd  
23 like to know what the price is for that bundling. And the  
24 last thing I'd like, associated with that, is I'd like the

1 complete channel lineup offered.

2 BY CMSR. MORRISON:

3 Q. Next topic. Pertaining to COs, considering that you  
4 visited so few and there appears to be questions of  
5 maintenance and their state of repair, why haven't you  
6 visited more?

7 A. (Harrington) As it relates to central-office  
8 facilities, the equipment contained within them -- you  
9 know, first of all, we did -- we did see 100 percent of  
10 the network in the form of the data room.

11 Q. Mm-hmm.

12 A. (Harrington) So we had extensive access to information.  
13 The four buildings, the five central-office switches  
14 that we saw, we felt, were fully indicative of the  
15 balance. And also, given the access lines that those  
16 central offices supported, we felt that it was -- it  
17 was an excellent cross-section of what was present in  
18 the state of New Hampshire.

19 We saw each switch type. We saw -- I  
20 mean, it was five different switches, all three  
21 switches -- well, four switch types. We saw one of the  
22 two STPs that were in place and literally hundreds of  
23 multiplexer deployments. We had the opportunity to see  
24 just about every kind of network element -- and in vast



1 quantities, by the way, that was deployed.

2 Q. Thank you.

3 I want to move now to emergency  
4 services. Are you aware that, this past spring, a  
5 complete CO was destroyed in New Hampshire?

6 A. (Harrington) Yes, I am.

7 Q. With that in mind, what are your emergency response  
8 capabilities?

9 A. (Harrington) FairPoint is currently in the process of  
10 pulling together a business continuity plan that will  
11 formally document how we're going to, you know,  
12 approach this within this three-state area.

13 As it relates to our pre-existing  
14 operations, we do have plans where -- you know, for  
15 central-office equipment, for example, we would make  
16 arrangements with the vendor, the switching vendor,  
17 much like Verizon would -- to replace a central office  
18 if there was a catastrophic loss like the site in New  
19 Hampshire.

20 Q. So you have no established disaster-recovery team?

21 A. Not a formally focused, only for this type of process,  
22 but we have teams of people that are in each one of our  
23 operating companies that are charged to take the  
24 leadership in this role.

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1 (Discussion was held off the record.)

2 (Recess)

3 CHAIRMAN GETZ: Please be seated.

4 Okay. We're back on the record with the  
5 examination of the panel by Commissioner Morrison.

6 BY CMSR. MORRISON:

7 Q. Again, for anyone on the panel: So it's your position  
8 that, today, there is no real disaster-recovery plan  
9 for any of the circumstances or areas that FairPoint,  
10 today, services?

11 A. (Harrington) No.

12 Q. I'm sorry. Go ahead.

13 A. (Harrington) I must have characterized that improperly.  
14 We are working on a much more comprehensive, more  
15 focused business-continuity plan as part of this  
16 transaction. We do have in place, within our classic  
17 operations, you know, disaster-response plans  
18 appropriate for the size of our corporation.

19 Q. Okay. Will the new plan include a mobile disaster  
20 recovery of some sort that would be complete with  
21 switches and power cross-connects or would your plan  
22 say, "We're going to acquire all this stuff and then  
23 install it"?

24 A. (Harrington) That detailed level of planning has not

1           been completed yet. I would not be surprised that, at  
2           minimum, it would engage our vendors in some mode. But  
3           how much farther down that path we'd go, I don't know  
4           yet.

5 Q.    When do you envision that this plan would be available  
6           to be ready?

7 A.    (Harrington) It's my understanding that the preliminary  
8           plan is due to be completed in mid-December.

9                           CMSR. MORRISON: I'd like to make a  
10          record request for, whenever that is available, we would  
11          like a copy, please. Thank you.

12                           And that concludes my questions.

13                           CHAIRMAN GETZ: Commissioner Below.

14                           CMSR. BELOW: Thank you.

15                           **EXAMINATION BY CMSR. BELOW**

16 BY CMSR. BELOW:

17 Q.    On page 25 of your pre-filed joint rebuttal testimony,  
18          you talk about provisioning of wholesale services and  
19          state, at line 7, "We will utilize the existing Verizon  
20          wholesale provisioning team in New Hampshire." And  
21          then, at line 10, it says, "All members of this team  
22          are moving over to FairPoint." Would anyone care to  
23          qualify that statement?

24 A.    (Smee) I'll speak to that. There are a variety of

1 different wholesale-services or access-services  
2 organizations. So there are -- there's an outside-  
3 plant or splice service technician force that is solely  
4 dedicated to the access-services or wholesale  
5 organization here in this state of New Hampshire. That  
6 group is moving over to us.

7 There is an access-services, for want of  
8 a better term, back-office organization comprised of  
9 somewhere in the range of eighty central-office  
10 technicians that is at a location here in New Hampshire  
11 that does provisioning of services and maintenance of  
12 services for those customers.

13 And then, beyond that, there's the --  
14 there are the -- who are -- those 89 are dedicated  
15 specifically to the access-services and wholesale  
16 organization. So I think that comprises the full body  
17 of folks.

18 Q. Well, and wouldn't it also be true that some current  
19 members of that team, before close, might retire or  
20 transfer to other positions within Verizon, so it will  
21 be only those members who are still part of that team  
22 as of the closing date?

23 A. (Harrington) Certainly, that's true of any Verizon  
24 employee today, no matter what service they're

1 performing; correct.

2 CMSR. BELOW: Okay. Thank you. That's  
3 all.

4 CHAIRMAN GETZ: Redirect, Mr. Coolbroth?

5 MR. COOLBROTH: Thank you, Mr. Chairman.

6 **REDIRECT EXAMINATION**

7 BY MR. COOLBROTH:

8 Q. Now, Mr. Harrington, I believe you described the  
9 central-office due diligence that was performed by  
10 FairPoint in connection with this transaction?

11 A. (Harrington) Yes.

12 Q. Do you believe that that due diligence was adequate?

13 A. (Harrington) Oh, yes.

14 Q. Why do you believe that?

15 A. (Harrington) I've been involved in multiple  
16 acquisitions before, probably ten -- well, no, 13,  
17 myself, over the past number of years. And, you know,  
18 the process has been the same.

19 And in this case, we had multiple  
20 opportunities to visit the Verizon data room that was  
21 located in Texas where 100 percent of the network  
22 detail was provided to us. Also had the opportunity  
23 to -- well, throughout that investigation, to look at  
24 capacities equipped, wire-report capacities, you know,

1 sizes, you know, types of technology, software loads,  
2 the whole bit. And then, cap that off with a visit of  
3 ten central-office sites spread throughout the three  
4 states, four of them within New Hampshire.

5 And like I stated before, we had the  
6 opportunity to see some really critical host central-  
7 office facilities. Those are the most-important sites  
8 in any -- in any network. The five switches that we  
9 saw just alone represents close to 19 percent of all of  
10 the host switches in the state. The central offices  
11 themselves, as well as the remotes that they supported,  
12 comprised approximately 17 percent of the access lines.  
13 If we wanted to expand that to include the DLCs hanging  
14 off the remotes, obviously it's a far greater number.  
15 But we had direct visibility of all of that.

16 All the power systems looked to be in  
17 excellent shape. Most of the environmentals looked to  
18 be in excellent shape. There was one site we saw where  
19 it was a little on the warm site. But I actually  
20 saw -- well, I knew the reason for it. There was new  
21 equipment being installed and there was a lot of duct  
22 work being modified in the overhead. So that was being  
23 addressed.

24 As I had stated before, we had the

1 opportunity to see every type of technology that was  
2 deployed. And albeit some of this is Alcatel-Lucent  
3 SLC 96s or Lightspan -- some might claim that it's old  
4 equipment, but I would counter and say it's rock-solid  
5 equipment. I mean, it's really good equipment. It's  
6 been serving well. It's going to continue to serve  
7 well.

8 So, you know, I guess -- you know, at  
9 this point in time, given the profile of access  
10 tandems, post switches, stand-alones, STPs, transport  
11 equipment, DACs equipment and all of the data that we  
12 had the opportunity to visit in the data room, I would  
13 say that we have an extraordinarily good grasp of the  
14 inside-plant facilities.

15 Q. And Mr. Brown, do you feel the same about the outside-  
16 plant facilities?

17 A. (Brown) Yes, I do. I think we have a pretty firm  
18 understanding of what the network is like, what the  
19 outside-plant facilities are like. We have identified  
20 additional maintenance that we do believe is required  
21 to maintain the outside plant. But as far as the  
22 overall aspect of the ability to support services today  
23 and also tomorrow, we have a high level of confidence  
24 that we will be able to support those services.

1 Q. Mr. Brown, you were asked about whether you had  
2 inspected remote terminals, do you recall, in  
3 connection with the preparation of your broadband plan?  
4 Do you recall that question?

5 A. (Brown) I do recall that question.

6 Q. And I think you indicated you had not inspected?

7 A. (Brown) That's correct.

8 Q. Why is that and how does that affect your plan?

9 A. (Brown) The remote terminals are somewhat -- I hate to  
10 use the term "cookie-cutter," but they are somewhat  
11 cookie-cutter. There are certain-size cabinets that  
12 are out there and there are a certain number of network  
13 elements. And we had all that information provided to  
14 us. We were able to take into consideration.

15 The bottom line is, in the remote  
16 terminal, there's either room for our new equipment or  
17 there is not. And there's either power facilities or  
18 there is not. In each one of the locations where it  
19 was questionable, we did specify a new outside-plant  
20 cabinet to be collocated at that location to be able to  
21 provide for the new services that we plan to offer.

22 Q. Mr. Smee, you were asked to look at OCA Exhibit 80C.  
23 Do you recall that?

24 A. (Smee) I do.



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1 Q. And do you have that before you?

2 A. (Smee) I do.

3 Q. I ask you to turn to page 2 of that document. I ask  
4 you to look about a third of the way down the page. Do  
5 you see a table that says "Outside-Plant Technicians"?

6 A. (Smee) Correct.

7 Q. Do you see the number at January ---

8 MULTIPLE SPEAKERS: That's confidential.

9 MR. COOLBROTH: Oh, shoot.

10 CHAIRMAN GETZ: Is this the single area  
11 of inquiry you have related to confidential?

12 MR. COOLBROTH: It is.

13 CHAIRMAN GETZ: Do you have other  
14 redirect?

15 MR. COOLBROTH: No. That's my last  
16 question.

17 CHAIRMAN GETZ: Okay. Can we ask folks  
18 to leave the room for a few minutes so we can get this  
19 confidential question on the record? I'm expecting this  
20 will just take a minute.

21 MR. COOLBROTH: It will.

22 CHAIRMAN GETZ: Don't go far.

23 (PUBLIC HEARING RESUMES AT PAGE 150)

24

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1 (PUBLIC HEARING RESUMES FROM PAGE 146)

2 CHAIRMAN GETZ: All right. Then  
3 anything else for this panel?

4 Hearing nothing, then you're excused.  
5 Thank you, gentlemen.

6 MR. COOLBROTH: FairPoint calls  
7 Dr. Douglas Sicker.

8 Mr. Chairman, if Dr. Sicker appears to  
9 be in a bit of a hurry, he needs to -- he's going to have  
10 a class full of eager college students at 9:00 o'clock  
11 tomorrow morning at the University of Colorado and is  
12 anxious to complete.

13 CHAIRMAN GETZ: They'll all be in  
14 mourning, won't they?

15 (Laughter)

16 **DOUGLAS C. SICKER, Ph.D., Sworn.**

17 MR. COOLBROTH: Dr. Sicker is not here  
18 to talk about the game, Mr. Chairman.

19 **DIRECT EXAMINATION**

20 BY MR. COOLBROTH:

21 Q. Dr. Sicker, could you please state your full name for  
22 the record?

23 A. Douglas C. Sicker.

24 Q. And what is your employment?

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1 A. I am the director of the interdisciplinary  
2 telecommunications laboratory at the University of  
3 Colorado and assistant professor in computer science.

4 Q. And did you prepare or have prepared under your  
5 supervision a document which has been identified as  
6 FairPoint Exhibit 5, which is the rebuttal testimony of  
7 Douglas C. Sicker, Ph.D., dated September 10, 2007?

8 A. Yes, I did.

9 Q. And do you have any corrections or updates to that  
10 testimony?

11 A. No, I don't.

12 Q. Do you adopt it as your own, as though read into the  
13 record?

14 A. I do.

15 MR. COOLBROTH: The witness is available  
16 for cross examination.

17 CHAIRMAN GETZ: Okay. Thank you.

18 My notes indicate that it's the Consumer  
19 Advocate and Staff? Anybody else intending to cross  
20 Dr. Sicker?

21 Hearing nothing, then, Ms. Hatfield.

22 MS. HOLLENBERG: Actually, it's my turn.

23 CHAIRMAN GETZ: Ms. Hollenberg.

24 MS. HOLLENBERG: If I might approach the

1 witness, just to give him a copy of the exhibits, please.

2 **CROSS EXAMINATION**

3 BY MS. HOLLENBERG:

4 Q. Good afternoon, Dr. Sicker.

5 A. Good afternoon.

6 Q. I just handed you a packet of exhibits. And if you  
7 could, just take a moment to briefly review those  
8 exhibits and confirm for yourself that they are  
9 responses provided by you on behalf of FairPoint in  
10 this docket.

11 A. Yes, they are.

12 Q. And you would agree that OCA Exhibit 88P is your  
13 response on behalf of FairPoint to OCA R-97?

14 A. Yes.

15 Q. And OCA Exhibit Sicker 89P is your response on behalf  
16 of OCA R-98?

17 A. Yes.

18 Q. And OCA Exhibit Sicker 90P is your response on behalf  
19 of FairPoint to OCA R-100?

20 A. Yes.

21 Q. And lastly, OCA Exhibit Sicker 91P is your response on  
22 behalf of FairPoint to OCA R-103?

23 A. Yes.

24 Q. Thank you. Could you give me your definition of

1 broadband, please?

2 A. Well, it's a little difficult ---

3 CHAIRMAN GETZ: One second, please. I  
4 want to make sure. Do we have these? I don't see these  
5 in our...

6 MS. HOLLENBERG: Okay. Sorry about  
7 that.

8 CHAIRMAN GETZ: Okay. I think we're  
9 set. Thank you.

10 BY MS. HOLLENBERG:

11 Q. Thank you. And I believe I asked you what your  
12 definition of broadband was, please.

13 A. Yes. Broadband is a very relative term. And it's  
14 relative depending on when you would be defining it.

15 When I was at the FCC, we made an  
16 attempt -- which is kind of a long, long life that I  
17 thought would have gone away a long time ago -- that  
18 the 200 kilobits per second was a data rate. However,  
19 that's obviously no longer a sufficient data rate,  
20 given the demand.

21 So broadband really is going to be a  
22 function of what the network can provide. So the  
23 offer, as well as what the users are needing. So as  
24 people start moving -- you know, when it was just Web

1 surfing, you needed a certain data rate. But now, as  
2 we start adding more and more services, the data rate's  
3 starting to go up.

4 So to give a label, to give an absolute,  
5 is rather difficult. And that's also dependent so much  
6 on the network, the distance from the facility, as well  
7 as the customer's demands, so...

8 Q. Okay. Well, what would -- how would you define  
9 broadband as it's used in the FairPoint broadband plan?

10 A. I would define it as being -- offering higher data-rate  
11 services for bulky media-rich applications.

12 Q. And what is your definition of higher data-rate  
13 services?

14 A. I mean, higher data rate could be anything above voice  
15 service, which is a very low kilobit, you know.

16 Q. What is that? Could you be specific?

17 A. Sure. I mean, most data rates for voice can be  
18 anywhere in the -- below 100 kilobits per second.  
19 Whereas, when you start offering and wanting to surf  
20 the Web or do multiple things, such as phone service  
21 and Web or phone service, Web and television, you start  
22 getting this additive effect of requiring higher and  
23 higher data rates.

24 Q. So under the plan, it could be above 100 kilobits? Is

1 that what you said?

2 A. Oh, certainly. I mean, we're talking, you know, in the  
3 area of 1 megabit and above. And this, again, is  
4 dependent upon how far a customer might be from the  
5 central office and what they want.

6 If consumers are very far away, but they  
7 don't want high data rates, then it's sufficient, you  
8 know, to have seven -- you know, 700 kilobits, in that  
9 ballpark. However, there will be customers who will  
10 want very high data rates, such as businesses. And in  
11 that sense, you'll have to consider above 10 megabits  
12 per second.

13 Q. And in your assessment of the FairPoint broadband plan  
14 and whether or not that provides benefits, what is your  
15 understanding of the needs and wants of customers in  
16 New Hampshire?

17 A. I had only a limited look into customer demands. I  
18 read some documents that New Hampshire -- a development  
19 authority within New Hampshire wrote some years ago.  
20 And they were, at that time, seeing that they were  
21 satisfying their high -- their band-width demands. But  
22 I think that was too dated.

23 So as time goes on, you will be looking  
24 at, you know, these higher data rates, as I said,

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1 because of demand from users. I was not given much  
2 insight into what the actual consumer demands are, but  
3 I know that what was going on was that the FairPoint  
4 plan made available a much higher data-rate service  
5 across most of the territory.

6 Q. Much higher in comparison to what?

7 A. To the Verizon network. The percentage -- let's say  
8 the percentage of available broadband.

9 Q. Now, you've heard this morning -- I believe you've been  
10 here this morning -- some discussion about  
11 addressability and availability. And I'd like to get  
12 your sense of whether -- whether or not those two  
13 things are different, what they are, and how they're  
14 different.

15 A. Well, I've heard those terms defined differently by  
16 different companies and different segments of the  
17 industry.

18 I think what Michael Brown described is  
19 how FairPoint is using it at this point. Whether the  
20 electronics on either end are available, as well as the  
21 line is capable, is driving both of those definitions.

22 Q. And I guess -- correct me if I'm wrong, but I guess  
23 when I heard Mr. Brown testifying, it sounded to me  
24 that, in order for a customer to be able to order and



1 receive DSL or broadband, it sounded like the three --  
2 three things had to occur. There had to be  
3 availability, capability, and qualification or be  
4 qualified. Is that your understanding?

5 A. Again, we're getting into these descriptions which  
6 might be best to actually talk about the details of the  
7 system rather than trying to label it with a term,  
8 "availability" or whatever.

9 I mean, clearly, in a network, you have  
10 to have facilities either in the central office or in a  
11 remote switch to be able to handle a higher-rate  
12 service. The line going from that central office to  
13 the home has to be of a certain length. It has to have  
14 a certain characteristic -- characterized in a certain  
15 way to be able to support the signal. And then, even  
16 little things like home wiring and such come into the  
17 equation.

18 So the way to think about it is the  
19 central office or remote switch has to be able to  
20 support -- in other words, have the equipment, have the  
21 gear -- and then you have to have the line condition.  
22 There's another component to it, too, which is very  
23 important to consider in this situation, which is it's  
24 not just the central office to the user, it's also the

1 central office to the network. And you want to make  
2 sure that you have your core network built in such a  
3 way so that you will be able to provision the service  
4 in a meaningful way to the customer.

5 I mean, it's the analogy, as I said, you  
6 don't put racing tires on an old car. You know, you  
7 don't put very high-speed data rates to a central  
8 office that's not -- that doesn't have a back-bone  
9 connection that's of equal high rate.

10 Q. I guess, as a lay person, in terms of broadband, I'm  
11 trying to understand how many people, after FairPoint's  
12 broadband plan has been fully deployed as described  
13 this morning, will be able to call FairPoint up and  
14 say, "Can I have broadband turned on at my house?" Is  
15 it 71 percent, 80 percent, 83 percent? What is your  
16 understanding?

17 A. My understanding is that it's in the ballpark of  
18 80 percent. But again, this is kind of a bit of a  
19 moving target. I've seen multiple plans, broadband  
20 plans, over the last several months, as FairPoint's  
21 gotten more information about the network, the Verizon  
22 network, the existing network, and has made plans on  
23 what equipment they could deploy, how they could deploy  
24 it.

1 And there's obviously an engineering  
2 economic that has to go into play where you're looking  
3 at, "Well, what gear would I deploy where and when?  
4 What is the cost of that? How can I get the most bang  
5 for my buck," so to speak. And then, what technology  
6 to deploy.

7 But to answer your question, I'm under  
8 the impression that it's looking at 80 percent of the  
9 customers.

10 Q. What's the most-recent plan that you've seen from  
11 FairPoint?

12 A. I actually have it in front of me. I believe it's from  
13 the middle of September.

14 Q. Okay. And is that -- I guess, Mr. Chairman, that is a  
15 more-recent plan than the Office of Consumer Advocate  
16 has seen and I would like to make a record request,  
17 then, for the company to provide that.

18 MR. COOLBROTH: I don't know what the  
19 witness is looking at.

20 WITNESS SICKER: It's the plan that Pat  
21 had sent to me. I'm happy to share it.

22 MR. COOLBROTH: If it's not been  
23 provided before, we'll provide it. I'm still not clear  
24 what he's looking at.

1 We'll provide it.

2 CHAIRMAN GETZ: Okay. We'll reserve  
3 Exhibit 59.

4 MS. HOLLENBERG: Mr. Chairman, what I  
5 would like to do is to ask that we have access to a copy  
6 of that document over the lunch period of time, if that's  
7 possible, in case we do have some additional questions for  
8 any of the witnesses that have testified today.

9 CHAIRMAN GETZ: We'll make sure that  
10 copies are made available during the lunch recess.

11 MS. HOLLENBERG: Thank you.

12 BY MS. HOLLENBERG:

13 Q. Would you agree that you did not specifically look at  
14 FairPoint's broadband plan to determine the extent to  
15 which FairPoint's financial integrity could be affected  
16 by the plan?

17 A. I didn't look to the details of it, but I did have  
18 discussion with individuals. I asked, you know, "With  
19 this plan, is this a plan that you can undertake and  
20 still remain financially viable?" And I was told yes.

21 Q. Okay. And who were those discussions with?

22 A. It was with a number of individuals at FairPoint. It  
23 was technologist Michael Brown. It was consultants  
24 Balhoff and Rowe.

1 Q. And you do not personally know about the financial  
2 conditions of FairPoint, do you?

3 A. Not in detail, no.

4 Q. And you did not do any cost studies regarding the cost  
5 of upgrading the service in New Hampshire?

6 A. Again, not in detail.

7 Q. Nor in Maine or Vermont, do you agree with that?

8 A. That's right.

9 Q. And you haven't looked at the likely return on  
10 FairPoint's broadband investment; correct?

11 A. No.

12 Q. And you'd agree that you're not an expert on economics  
13 or investment?

14 A. Well, I can't claim to be an expert in economics, but I  
15 have been actually -- I've worked a great deal in the  
16 area over the years. I am a professor in  
17 interdisciplinary telecommunications, which is  
18 economics and technology. So I've taught classes on  
19 economic modeling, but I don't claim to be an expert in  
20 it. I don't have advanced degrees in economics.

21 Q. Okay. Or investment. Would you agree with that?

22 A. That's correct.

23 Q. Thank you. I won't hold it against you.

24 Would you agree that FairPoint has

1       touted its broadband deployment as one of the most-  
2       important benefits of the proposed transaction?

3       A.    I would say that they've touted the network upgrade,  
4       which is much more than just broadband and the narrow  
5       access perspective.  You know, really, the -- what's  
6       interesting about this network upgrade is that it's  
7       very radically different from general systems, in that  
8       you're looking at gigabit Ethernet, you're looking at  
9       MPLS, you're looking at technology on the edge that  
10      would support a broad plethora of access technologies.

11                 So it's not simply -- when we say  
12      "broadband," oftentimes people are just thinking about  
13      the access technology, the DSL at the end.  So I would  
14      say what they've been touting and what I've heard in  
15      our discussions is the big overall network picture:  
16      Thinking about the core, thinking about these services,  
17      thinking about how to make it flexible.

18      Q.    And that broadband or the ability to deploy broadband  
19      further, though, is an important aspect of that network  
20      upgrade?

21      A.    Oh, without question.

22      Q.    And would you agree that broadband deployment, as  
23      proposed, is a fundamental part of the Commission's  
24      public-interest determination in this case?

1 A. Let me just restate it. Do I believe that it's  
2 important to the Commission that this broadband plan is  
3 sufficient?

4 Q. Do you believe that it's an important aspect of their  
5 determination of whether or not this transaction is in  
6 the public interest?

7 A. I would say that I do, based on what I've seen in  
8 documents from New Hampshire, in that they're looking  
9 at how do we enhance broadband capability and how do we  
10 work with local players to make that enhancement. And  
11 also, just in the general measurement, which is another  
12 role that New Hampshire has, you know, understanding  
13 what broadband is, what's out there and how to improve  
14 it.

15 Q. Thank you. And you've heard, I believe, this morning  
16 -- and you probably have -- you know this already --  
17 but FairPoint has offered to make broadband available  
18 to somewhere in the vicinity of 71 to 83 percent of its  
19 Spinco customers within 24 months of close. Do you  
20 recall that?

21 A. Yes, I do.

22 Q. And in your testimony at page 25, lines 16 and 17, you  
23 state that FairPoint has explicitly stated how much  
24 will be invested and when.

1 A. I'm sorry. Which page again?

2 Q. Sure. Page 25.

3 A. Page 25.

4 Q. Starting at line 16.

5 A. Yes.

6 Q. So FairPoint has explicitly stated how much it will  
7 invest in the network and when the investment will  
8 occur. And then, you continue to describe -- to state  
9 that the FairPoint plan also describes the types of  
10 technology that will be deployed and how the technology  
11 supports migration toward higher-speed architecture  
12 such as fiber-to-the-home. Did I read that correctly?

13 A. Certainly, the first part. I'll read it.

14 "It also describes the types of  
15 technology that would deploy and how the technology  
16 supports migration toward higher-speed architectures  
17 such as fiber-to-the-home."

18 Q. Okay. If I could have you look at page 2 of your  
19 rebuttal testimony, please.

20 A. Yes.

21 Q. Lines 16 to 18, you state here that the goal of  
22 increasing broadband deployment is not well-served by  
23 ordering a specific deployment with specific data  
24 rates, specific technology, and specific timelines.



1 A. Yes.

2 Q. And I guess I'm wondering if, given that FairPoint has  
3 identified explicitly how it will invest, when it will  
4 invest, how much it's going to invest, is it your  
5 position that the PUC should not make FairPoint's  
6 proposed undertakings mandatory conditions of approval?

7 A. No. And -- no, I'm not stating that. Let me separate  
8 those two.

9 What FairPoint has promised in their  
10 broadband plan is they've talked about a number of  
11 different technologies, not one technology. For  
12 example, there was not an -- there was not a statement  
13 saying, "We're going to provide fiber-to-the-home to  
14 everybody."

15 Secondly, there's not a specific data  
16 rate that's dictated for all users. I think that would  
17 be a mistake. To say it has to be 1 megabit or it has  
18 to be 5 megabits could be problematic, because either  
19 you're going to underserve people or overserve people.  
20 What you want to do is be able to provide a service  
21 based on what the network can support and how you can  
22 upgrade it and pass the upgrade.

23 The third is the timeline. Now, that  
24 one is where I'd say there's closest coupling, which is

1 a certain percentage of broadband at a certain time  
2 period. But this is really a range, because what  
3 they've -- what they've said is, in their broadband  
4 deployment plan, is over so many months they're going  
5 to look at broadband availability to increase general  
6 broadband availability and upgrade the core network and  
7 upgrade the access network and everything else  
8 associated with it. That has more to do with what  
9 network changes are being done, what's going to be  
10 looked at. So I differentiate those in that way.

11 Q. I guess I'm wondering, if the PUC does not make some  
12 sort of objective requirements a part of their order,  
13 how it enforces any of these undertakings that the  
14 companies are agreeing to provide?

15 A. Well, again, I think differentiating it from specific  
16 data rates -- as I said, specific technology. In other  
17 words, that it has to be 10 megabits fiber to  
18 everybody, that would be, I think, a mistake. Because  
19 I think, again, you're going to underserve people and  
20 you're probably going to breach the viability of a lot  
21 of different companies.

22 What they have done with their broadband  
23 plan is said -- they've stated goals and goals of  
24 percentage of available broadband service. I think

1 that's reasonable. I don't -- I can't speak for the  
2 company to say that they should or should not be  
3 obligated.

4 With my days -- I used to be at the FCC,  
5 for those of you who don't know that. You know, we  
6 weren't specific to technology, we weren't specific to  
7 data rates, but we did have goals. And that -- we  
8 thought that those were important. Trying to encourage  
9 companies to invest, trying to work -- you know, have  
10 companies working with state government and federal  
11 government to get tax breaks or whatever other things  
12 would be removing right-of-way problems. Those are  
13 useful things that allow companies to make investment  
14 decisions to move ahead.

15 Q. Would you agree -- would you agree that -- the sense  
16 that I got, in reading your testimony -- after reading  
17 that statement, which it struck me as different from  
18 what you're describing -- that you were really opposed  
19 to any kind of standards set by the PUC for FairPoint  
20 to achieve their goals.

21 Would you agree that your testimony is  
22 primarily concerned with a suggestion that's been made,  
23 perhaps not directly in this docket, but in the public,  
24 that fiber is better than DSL and fiber should be

1 what's deployed?

2 A. Certainly -- and I described this when I was in Vermont  
3 -- rather, in Maine. What brought me into this all was  
4 Bob Rowe called me -- and he's called me many times  
5 over the years, even when he was a commissioner --  
6 chairman, rather -- and asked me a technical question,  
7 which I'm often asked technical questions by PUC  
8 members.

9 And he said, "Is DSL dead?" And I said,  
10 "Oh, of course not." I said, "It's an emerging  
11 technology. It's advancing. There's all sorts of  
12 things going on." He said, "Do you think that fiber is  
13 going to supplant it?" I said, "I think they're going  
14 to work in tandem. I think you're going to see fiber  
15 deployment."

16 So that's how I was brought into it.  
17 Certainly, my original interest was to express that DSL  
18 has not been a dead technology. Later, after I wrote  
19 an initial white paper for FairPoint describing why DSL  
20 is not dead, I was asked to look at their overview of  
21 their broadband plan to say does this make sense. And  
22 I did that.

23 What I wanted to do was, then, look at  
24 the bigger picture, not just DSL, but what are they

1 doing at their core of their network. How are they  
2 upgrading things. What are they putting -- what new  
3 technology are they putting in. Are they moving away  
4 from ATM, which, again, is something I embrace, moving  
5 to MPLS network.

6 So it moved from, as you said in your  
7 question about DSL versus fiber, into an assessment of  
8 how should networks evolve. And there's a lot of best  
9 practices that are being looked at. There's a lot of  
10 work in that area to say, you know, we really need to  
11 start thinking differently. We need to start following  
12 what's been learned in the data comp world, because  
13 that's what's taking over. That's how data's being  
14 moved now.

15 CHAIRMAN GETZ: "Data comp" meaning data  
16 compression?

17 WITNESS SICKER: I'm sorry. It used to  
18 be -- you know, you've probably heard the term that there  
19 was the telco network, the phone network, and then there  
20 was like the Internet. And in some ways, those were  
21 competing rival -- competing industries. There were  
22 people who made routers that routed IP packets, Internet  
23 traffic. And there were people who made switches like  
24 Lucent and NorTel and others.

1           And over time, what's happened is  
2           there's been this convergence of services -- voice, video  
3           and data -- onto data networks that are primarily  
4           Internet-based. And that change is what's driven a lot of  
5           the changes in the architecture as to whether you can do  
6           circuit switching or packet switching, whether you would  
7           use traditional circuit-switch gear or rather packet-  
8           switch gear and everything that's associated with that.

9           So this change has really been a part of  
10          thinking about voice services, cable services -- when I  
11          say "cable," I mean television services -- Internet  
12          services, all coming together over one pipe. And that  
13          convergence of those -- of those different services onto  
14          that pipe has driven this change from traditional telco  
15          architectures, a circuit-switch architecture, to a packet-  
16          switch architecture that we now see.

17       Q.    Could I have you look at your testimony at page 24,  
18            please? It looks like you're citing some goals  
19            enumerated by the New Hampshire Division of Economic  
20            Development. And I think you mentioned those before  
21            in -- a little while ago when you were testifying.  
22            What are the dates of those goals?

23       A.    These were quite a few years ago. These were 2002, I  
24            believe, 2003, that time period. It was the last

1 document that I could find talking about that at the  
2 time.

3 Q. Okay. And you would agree that goal number 2 states,  
4 "Work with providers of telecommunications services,  
5 educators and municipal, county, state and other  
6 government officials to assist efforts to enhance the  
7 deployment of telecommunications services."

8 A. Yes.

9 Q. Would you agree that this goal contemplates government  
10 efforts to deploy broadband where telecommunication  
11 providers do not?

12 A. Like muni Wi-Fi? Government paying for...

13 Q. Sure.

14 A. I believe that this goal could include that.

15 Q. Okay. And would you agree that wireless initiatives by  
16 providers other than FairPoint should not be opposed by  
17 FairPoint?

18 A. Yes.

19 Q. Okay. And would you agree that a wireless solution may  
20 be more appropriate in some areas of New Hampshire  
21 because of the geography and other specific needs?

22 A. I would say there could be wireless. There could be  
23 many different technologies that might be more  
24 appropriate or less appropriate depending on the

1 terrain and the deployment and what's there, what's  
2 available.

3 Q. Mr. Leach testified the other day that FairPoint  
4 expects to serve, with broadband, a hundred percent of  
5 the Spinco customers. What, in your opinion, is the  
6 likelihood of that happening?

7 A. You mean -- at what time? I mean, in five years, in  
8 ten years?

9 Q. In five years.

10 A. I think it's certainly possible. The thing is, though,  
11 you'd need to know the details of all of the loop  
12 reaches, understand what the outside-plant looks like.  
13 You'd have to understand where you could position other  
14 technology. And again, FairPoint doesn't have to just  
15 use wireline technology. They can use wireless, as  
16 well. And I encourage them to do it where it's  
17 applicable. They could use fiber.

18 Q. But you didn't do any assessment in terms of a plan or  
19 the loop-specific ---

20 A. I don't have detailed specifications -- the specifics  
21 of the Verizon network now. I don't know to the extent  
22 that FairPoint has the details; that you would need to  
23 really -- you know, because at some point, Michael's  
24 team, Michael Brown's team, will have to look at the



1 details of the network in great -- you know, great  
2 detail and understand what can be done, how it can be  
3 done, what services can be offered, and how to best  
4 reach these customers. But I certainly think that you  
5 can get all of the customers. But then the question  
6 is, at what cost.

7 Q. Mm-hmm.

8 A. And some of these customers out at, you know, the 99th  
9 percentile of difficulty, it's very, very hard. It's  
10 very expensive.

11 Q. What is the minimum reasonable data rate?

12 A. Again, as I alluded to at the beginning, I think that's  
13 really dependent upon so many things. Somebody who's  
14 very, very far out, you might not even be able to get  
15 broadband to them presently. Somebody who's close in  
16 and a large business, certainly, you'd want to be able  
17 to give several megabytes to tens of megabytes -- or  
18 megabits per second, rather, I'm sorry.

19 So I can't say that there is an absolute  
20 number, because it does ride a curve, depending upon  
21 the demand of the customer, as well as the  
22 characteristics of the network.

23 Q. Under the FairPoint plan, do you have an opinion about  
24 what the minimum reasonable data rate would be?

1 A. Well, again, I mean, I know that they're going to be  
2 deploying everything from things that are in the 700  
3 kilobit per second, all the way up to 20, maybe even  
4 higher, that you'd want the technology, 20 megabits per  
5 second. I think those are all reasonable. And again,  
6 I think this needs to be tailored to the demands of the  
7 customer. As I said before, you wouldn't want to say  
8 it has to be 5 megabits per second when the customers  
9 aren't going to be willing to pay for it.

10 Q. You testified in the comparable proceedings in Maine?

11 A. Yes.

12 Q. And do you recall testifying that the minimum  
13 reasonable data rate was above a megabit per second?

14 A. Yeah. And again, we -- in that proceeding, in that  
15 testifying, we talked about different data rates. And  
16 I do believe that you could say 1 megabit might be the  
17 new number that the FCC should have as a goal and --  
18 but it's a goal, again. And there's the realities of  
19 it, which is, you know, somebody who's nearby who can  
20 be provisioned by VDSL should be able to get 10  
21 megabits or 20 megabits per second or higher. But  
22 somebody who's very far out from a facility, you're  
23 going to have a very different situation there.

24 Q. Could you -- thank you. Could you look at page 12 of

1 your testimony, please?

2 CHAIRMAN GETZ: Well, I think I may have  
3 to interrupt at this point, Ms. Hollenberg. Do you ---

4 MS. HOLLENBERG: I have two questions  
5 about this table and I think they're going to be very  
6 quick.

7 CHAIRMAN GETZ: Okay. That's good.  
8 Because my conference call started two minutes ago, but go  
9 ahead.

10 BY MS. HOLLENBERG:

11 Q. Okay. Thank you.

12 Do you have that page before you?

13 A. Yes, I do.

14 Q. Okay. Thank you. Would you agree that FairPoint's  
15 buildup plan focuses on ADSL2+ technology?

16 A. Yes, it does.

17 Q. And could you tell me how many New Hampshire customers  
18 would be able to obtain service at the 44 megabyte per  
19 second speed?

20 A. Twenty-four megabits do you mean?

21 Q. I'm sorry. Is it 24?

22 A. Twenty-four megabits.

23 Q. Thank you.

24 A. I can't speak to that. So as you probably are well

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1 aware of, those are maximum data rates, so it goes from  
2 there and down. But there's also technology that could  
3 -- that's looking at bonding ADSL2+ which could give up  
4 to 40 megabits per second. But I can't speak to the  
5 details because I don't have information about those  
6 loop lanes and the loop conditions to be able to speak  
7 to that.

8 Q. So you don't know how many will be served at 24  
9 megabytes. I presume that you also don't know how many  
10 will be served at 6 megabytes per second?

11 A. No, I do not.

12 MS. HOLLENBERG: Okay. Thank you very  
13 much. No further questions.

14 CHAIRMAN GETZ: Okay. Then, we'll take  
15 the lunch recess and pick up with Dr. Sicker when we  
16 return at 2:30.

17 Thank you.

18 (Lunch recess taken at 1:35 p.m.)

19 (Hearing reconvened at 2:50 p.m.)

20 CHAIRMAN GETZ: Good afternoon. We're  
21 back on the record in DT 07-011. Before we resume with  
22 Dr. Sicker, Mr. Del Vecchio apparently has something.

23 MR. DEL VECCHIO: Mr. Chairman,  
24 anticipating your question. Two matters. One is a

1 procedural matter and the other is just a note. First, we  
2 noticed this morning that Staff had identified as certain  
3 of its exhibits discovery responses bearing Mr. Smith's  
4 name. And I've had discussions with Ms. Fabrizio about  
5 the fact that some of these -- and so far, we've  
6 identified Staff Exhibit 52, Staff Exhibit 53C and Staff  
7 Exhibit 56C that do not reflect the most updated versions  
8 of discovery responses, that there have been supplements.  
9 And we just wanted to make sure that, consistent with the  
10 approach the Commission has taken, that the supplements  
11 would also be included as part of those responses. And I  
12 think Ms. Fabrizio said that would be fine. But we'll  
13 discuss that offline with Staff and make sure that there  
14 are no other Mr. Smith discovery responses that fall in  
15 that category.

16 And the second, Mr. Chairman, Verizon  
17 would just like to note for the record, with respect to  
18 the Commission's decision this morning on the issue of the  
19 exclusion of testimony, that Verizon would note its  
20 objection for the record regarding the issue of the  
21 monetary damages covered by that testimony; and further,  
22 that the company reserves its right should the Commission  
23 conclude that it has the authority to award monetary  
24 damages, whether directly or by way of condition, to

1 request reconsideration and to undertake an appeal if  
2 necessary to a court of competent jurisdiction at the  
3 appropriate time. Thank you, sir.

4 CHAIRMAN GETZ: And to the extent that  
5 this part of our final decision in this case -- well,  
6 let's step back. We'll do the cross-examination  
7 testimony. And you can brief that issue, and then it will  
8 take the normal course after that.

9 MR. DEL VECCHIO: Exactly.

10 MR. COOLBROTH: Mr. Chairman, also,  
11 shortly before lunch a question arose about a document  
12 that Dr. Sicker had in his possession, an updated  
13 broadband plan. Over lunch we have retrieved that  
14 document, and actually, attachments that can go with that  
15 document that Dr. Sicker actually did not see but are  
16 consistent with our prior iterations of the broadband  
17 plan. We have prepared an Exhibit 59 that we have  
18 circulated. The first two pages of that are what Dr.  
19 Sicker had, and we have determined that those can be  
20 public. The budget itself we believe is confidential.  
21 And then there's a bunch of access line-count information  
22 that we believe is competitively sensitive and should be  
23 highly confidential.

24 So we have premarked 59P, FairPoint

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1 Exhibit 59C and FairPoint Exhibit 59HC, and Attorney Baum  
2 is in the process of distributing that to parties. I will  
3 say that at the time that that was developed, it was at  
4 the very deadline of preparation of the rebuttal  
5 testimony. And the Commission could look at the  
6 discussion commencing on Page 27 of the  
7 Brown/Harrington/Smee panel testimony, and the substance  
8 of what Dr. Sicker was looking at is in that testimony  
9 attributed to Witness Michael Brown. Thank you.

10 CHAIRMAN GETZ: I think there was also  
11 an issue on previous iterations of broadband plans. One  
12 was marked highly confidential and one was marked  
13 confidential. Is that the distinction?

14 MR. COOLBROTH: Well, we looked at --  
15 yeah, the original version in June was marked highly  
16 confidential. We believe that that was appropriate. The  
17 version in July was submitted at a time when we had the  
18 five levels of confidentiality. Having looked back, we  
19 believe that that actually should have been -- that plan  
20 should have been designated as highly confidential as  
21 well. It has central office access line information, you  
22 know, attached to it that we believe is competitively  
23 sensitive and that should have been handled as highly  
24 confidential. I don't know what else to say about that,

1 other than we believe it should continue to have that  
2 designation.

3 CHAIRMAN GETZ: Okay. I think there was  
4 one other issue raised by Ms. Hatfield about whether  
5 certain information already existed in data responses or  
6 required an additional record request. Do I take it you  
7 folks are still working on that?

8 (No verbal response)

9 CHAIRMAN GETZ: All right. We'll deal  
10 with that later then. Mr. Del Vecchio?

11 MR. DEL VECCHIO: I might be able to  
12 assist on that. Perhaps the parties can focus on Staff  
13 follow-up Data Request Group I 1-1 because that might  
14 represent monthly supplements which are being provided.

15 MS. HOLLENBERG: Mr. Chairman, if I  
16 might just speak to what Mr. Coolbroth just mentioned  
17 about the updated broadband plans. As he did indicate, we  
18 only just received this. And as a result, I do have one  
19 question of Dr. Sicker, which I've spoken with both Dr.  
20 Sicker and Attorney Coolbroth about, which I'd like to do  
21 before Staff commences its questions. But I also would  
22 like to just note for the record and respectfully request  
23 that we have the ability to, if necessary, recall the  
24 Brown/Harrington/Smee panel and Mr. Nixon after we have a



1 chance to review the broadband plan which we only got  
2 minutes before starting this afternoon. We're not going  
3 to have a meaningful opportunity to do that before the end  
4 of the day today.

5 MR. COOLBROTH: Well, the substance  
6 of --

7 CHAIRMAN GETZ: Well, I guess your  
8 position is that it's substantially the same, so there  
9 won't be that need. But I think it's helpful to let the  
10 parties confirm that for themselves. I'm not sure where  
11 that puts us in terms of -- well, I assume this really  
12 doesn't involve Dr. Sicker. It's more the  
13 Smee/Brown/Harrington or one --

14 MS. HOLLENBERG: That's correct.

15 CHAIRMAN GETZ: -- of the three, all of  
16 the three?

17 MS. HOLLENBERG: I'm not sure at this  
18 point in time. But I don't believe we will need to recall  
19 Dr. Sicker. I do believe, though, it may be necessary to  
20 call one or more of the witnesses testifying at least  
21 today.

22 MR. COOLBROTH: Well, Mr. Chairman, they  
23 had the information that's on the front part of that plan.  
24 There were no questions for these witnesses about any of

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1 the information that's in the back part of that plan,  
2 which they're now getting the third iteration of. I  
3 believe it would be kind of surprising to have to call  
4 back witnesses over material that we didn't get a data  
5 request on, that they haven't asked about with respect to  
6 the other iterations of the plan. I'm concerned about  
7 wrapping up these proceedings and not having to call  
8 witnesses back.

9 CHAIRMAN GETZ: I still think they need  
10 an opportunity to compare the two documents, the two  
11 exhibits, and then we'll see where we go from there.

12 Any other procedural issues before we  
13 return to Dr. Sicker? Mr. Mandl?

14 MR. MANDL: Yes. There was a procedural  
15 conference that Mr. Kreis presided over back around  
16 October 9th. And I think at that time there were  
17 discussions or concerns expressed by NECTA and Comcast  
18 Phone of New Hampshire about ongoing discussions between  
19 the three states' staffs and FairPoint concerning plans to  
20 develop a cutover readiness proposal.

21 I was given a document by Staff today,  
22 literally moments ago, which appears to document some type  
23 of arrangement involving the cutover readiness process,  
24 which we believe is highly relevant to this proceeding. I

1 am not sure at this point what would be the most efficient  
2 way to present this information to the Commission, whether  
3 it be through Mr. Nixon, through Mr. Antonuk, you know,  
4 whose firm is mentioned in the document. But I think it's  
5 a highly relevant document. It does need to come before  
6 the Commission, you know, in an efficient way, but in a  
7 way that also preserves our rights to ask a relevant  
8 witness questions about it.

9 CHAIRMAN GETZ: Has everyone seen this  
10 document?

11 MS. FABRIZIO: Mr. Chairman, that was  
12 e-mailed to the service list just -- well, during the  
13 lunch break. And I would also suggest that questions  
14 could be addressed to Mr. Falcone and Mr. King in their  
15 panel.

16 And just for clarification, an agreement  
17 was reached with the other two states, Maine and Vermont,  
18 just in -- very recently.

19 CHAIRMAN GETZ: Okay.

20 MR. DEL VECCHIO: I would just note for  
21 the record that this agreement does not necessarily  
22 reflect agreement with Verizon and that we are in the  
23 course of reviewing it as we speak.

24 CHAIRMAN GETZ: Mr. Coolbroth, do you

1 have --

2 MR. COOLBROTH: FairPoint is reviewing  
3 it as well, Mr. Chairman.

4 CHAIRMAN GETZ: Well, I'm not sure that  
5 we're going to get through Mr. Nixon today. I guess,  
6 obviously, this document should be put in the record and  
7 there should be some opportunity for the parties to review  
8 it and to follow up with either some combination of Mr.  
9 Nixon, Mr. Falcone, King or Antonuk. And I guess maybe  
10 the best way to do that is to see how far we get today and  
11 then try to deal with the facts of the agreement tomorrow  
12 morning.

13 MR. MANDL: Thank you.

14 CHAIRMAN GETZ: Thank you. Anyone else?  
15 Hearing nothing, then Ms. Fabrizio. I'm sorry. One  
16 question from Ms. Hollenberg, please.

17 MS. HOLLENBERG: Yes. Thank you.

18 **CROSS-EXAMINATION, RESUMED**

19 BY MS. HOLLENBERG:

20 Q. Dr. Sicker, good afternoon.

21 A. Good afternoon.

22 Q. Just one question. When you spoke earlier, I asked you  
23 what the most recent version of the FairPoint broadband  
24 plan was that you had reviewed, and you indicated it

1 was a document dated in around September of 2007. Do  
2 you recall that?

3 A. That's correct.

4 Q. Okay.

5 MS. HOLLENBERG: And if I might just  
6 approach the witness, please.

7 BY MS. HOLLENBERG:

8 Q. I'd like you to just look at this document that I have,  
9 and if you could confirm that that's the document that  
10 you're referring to. It's a two-page document titled  
11 "Broadband Plan."

12 (Witness reviews document.)

13 A. Yes, it is. That's the document.

14 Q. Thank you.

15 A. Thank you.

16 Q. And it's --

17 MS. HOLLENBERG: I'm sorry. Just for  
18 the record, it's titled "FairPoint Communications, Inc.'s  
19 Broadband Plan for the State of New Hampshire." And it is  
20 not dated, although I'll accept your representation that  
21 it was in around September 2007 and it is proprietary.  
22 Thank you.

23 MR. COOLBROTH: Actually, that version  
24 is public. That's the same as FairPoint Exhibit 59P.

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1 MS. HOLLENBERG: Excuse me?

2 MR. COOLBROTH: That document you just  
3 showed Dr. Sicker is the same document as FairPoint  
4 Exhibit 59P.

5 MS. HOLLENBERG: Okay.

6 BY MS. HOLLENBERG:

7 Q. And Dr. Sicker, just one other question. This is the  
8 entirety of the document? You didn't review any  
9 attachments to this document?

10 A. I did not.

11 MS. HOLLENBERG: Thank you. That's --  
12 no further questions. Thank you.

13 CHAIRMAN GETZ: Thank you. Ms.  
14 Fabrizio.

15 MS. FABRIZIO: Thank you.

16 **CROSS-EXAMINATION**

17 BY MS. FABRIZIO:

18 Q. Good afternoon, Dr. Sicker.

19 A. Good afternoon.

20 Q. On Page 2 of your rebuttal testimony, Lines 13, 14, you  
21 indicate that you believe DSL is a logical solution  
22 and, in fact, the technology of choice for expanding  
23 broadband service in New Hampshire. Can you please  
24 tell us why you believe this is the case?

1 A. Sure. First, by saying the logical choice or  
2 technology of choice, I'm referring to the fact that  
3 most broadband providers that are not cable -- in other  
4 words, those not using hybrid fiber coax -- are using  
5 DSL to deploy broadband services -- the highest  
6 percentage, in other words. So it is the technology  
7 that's being used for broadband. It is the most  
8 popular flavor of technology.

9 Next, since there is already an  
10 installed base of copper -- there's a copper plant that  
11 already exists throughout New Hampshire and all of the  
12 United States, for that matter, most of the world --  
13 it's a very prudent, logical approach to extend what  
14 you already have in trying to build out broadband  
15 capabilities over that plant. And so that's why I say  
16 it's a logical choice.

17 Q. All right. Thanks. Could you tell us what in your  
18 view are the positives and negatives of FairPoint's  
19 proposed implementation of DSL technology?

20 A. Just the DSL component.

21 Q. Hmm.

22 A. Well, certainly the positives, as I said, it will be  
23 probably the most time-efficient. You'll be able to  
24 get the most rapid deployment, as opposed to trying to

1 pull fiber or something from a new facility. That  
2 would be a positive. Again, there's a cost per bit.  
3 Maybe we could think of it that way as a metric, which  
4 is how much would it cost the company to be able to  
5 upgrade the plant now to provide that broadband  
6 service. So that's another logical area, another  
7 logical reason to think that.

8 You know, ultimately the downside would  
9 be, in the long run, you would be thinking about very  
10 high data rates. But DSL is still a migratory path.  
11 So, you know, if you had all the money in the world to  
12 invest and that wasn't an object, you could run fiber  
13 to every home and have these huge data rates. It  
14 happens that it wouldn't probably be the architecture  
15 that's being proposed now by or even being implemented  
16 by most companies now. For example, even GPON  
17 technology, the passive optical networks, you would  
18 probably run fiber from every house -- from the CEO to  
19 every house, individual fibers. Hugely expensive. But  
20 if you do that, it would be very future-proof, because  
21 then you would just be turning up electronics on either  
22 end. But the truth is, there's no demand and no  
23 justification for that. So... do you want me to expand  
24 on that?



1 Q. No. I think, if I understood correctly, the negative  
2 to expanding with DSL technology is just lesser  
3 speeds --

4 A. That's right, sir.

5 Q. -- potential.

6 Okay. And in your testimony you refer  
7 to broadband availability a number of times, as we've  
8 discussed earlier. If I understood you correctly, you  
9 would define "broadband" as any data speed greater than  
10 dial-up; is that correct?

11 A. You know, yes. But I guess I would caveat that. You  
12 know, no, I don't want to say greater than dial-up. I  
13 certainly think it needs to be at least 200 megabits  
14 per second -- rather -- I'm sorry -- 200 kilobits per  
15 second. And that's even a rather low threshold. You  
16 know, and as I suggested before, there's no absolute.  
17 It's very difficult to say it should be one megabit or  
18 five megabits. That's all depending on the network,  
19 the demand and the loop lengths. But I certainly think  
20 it's going to be, you know, in the area of maybe 700  
21 mega -- 700 kilobits per second, because that's  
22 certainly a common offering now. So, 700 and up is  
23 going to be where you would think of as being  
24 reasonable broadband. But likewise, you'd want to be

1 able to offer 1.5 or 2 or 3 if you can. So I'd hate to  
2 have a spiral-down sort of thing where everybody's  
3 trying to focus on the lower, you know, on an absolute  
4 lower and not being able to provision as you can.

5 Q. And did I understand you correctly when you were  
6 discussing these issues with Ms. Hollenberg, that it is  
7 your belief that the definition of broadband will  
8 continue to evolve?

9 A. Yes. I think we're going to see every couple of years  
10 people are going to say -- expect a higher data rate.  
11 So, certainly the 200 kilobits per second that the FCC  
12 proposed back almost 10 years ago now is very low. And  
13 as technology evolves and as the plant is built out,  
14 we'll see higher and higher data rates. That's also  
15 going to be driven by demand, by the customer. And  
16 it's one of those things that as you build a more  
17 capable network, people will start using it and use  
18 higher data rate services on top of that. But I do  
19 believe at this point that we have -- it's very common  
20 to think about one megabit per second. But I think in  
21 five years from now we'll be thinking 10 megabits per  
22 second and so on.

23 Q. Okay. So the minimum data speed you're talking about  
24 is about 200 kilobits. Are higher speeds possible?

1 A. I'm sorry. One more time?

2 Q. You seemed to decide that a minimum speed would be the  
3 200 kilobits. Is that correct?

4 A. Well, that's not even acceptable. I think, you know, a  
5 reasonable speed would be around, on the lower end, 700  
6 kilobits per second; and on the higher end, it could be  
7 20 megabits per second or more.

8 Q. Bear with me here as I try to absorb all these numbers.

9 A. Sure.

10 Q. When you say 700 and up is a reasonable speed, what  
11 does that mean? Reasonable for what?

12 A. For much of what people use a broadband pipe for  
13 nowadays, where you have combined possibly web surfing,  
14 Internet access and voice services over the same media.  
15 You can even do some very low data-write video, but not  
16 what we think of as IPTV, which is generally in the  
17 area of 2 megabits per second.

18 Q. And will FairPoint be able to provide higher speeds in  
19 New Hampshire, given the DSL technology they're  
20 currently using?

21 A. Yes, much higher than that. I think, you know, the way  
22 again of thinking about it is in long range -- in the  
23 longer reach, 700 kilobits is probably going to be  
24 about as good as they can get until they continue to

1 build out and get better technology, Smart Coil and  
2 other sorts of things out there. But for customers who  
3 are nearer to the CEO or nearer to remote terminals, it  
4 shouldn't be surprising to see 2 megabits or 6 megabits  
5 per second, or even higher.

6 Q. Thank you. Would you please turn to Page 12 of your  
7 rebuttal, Figure 4, the table, "Distances for Various  
8 DSL Technologies." This table shows the maximum loop  
9 length and data speeds for various DSL services;  
10 correct?

11 A. That's correct.

12 Q. The first on the list is ADSL G.lite which shows  
13 downstream data speed of 1.5 megabits on local loops up  
14 to 18,000 feet in length; correct?

15 A. That's correct.

16 Q. However, isn't it true that the data speed that can be  
17 achieved on a line will be affected by other  
18 characteristics on that line besides the length of the  
19 line?

20 A. That's definitely the case, and condition.

21 Q. Can you elaborate on those factors?

22 A. Sure. There are a number of factors that can  
23 influence: The gauge of the copper plant, both the  
24 thickness of the diameter of the wires; the maintenance

1 of that plant; what the bundles look like; how it's  
2 been terminated, how many connections. There are all  
3 these little things in terms of add-ons that were done  
4 to telephone networks over the years to improve voice  
5 quality. So these things have to be removed. And  
6 there's a whole lot of things along those lines that  
7 can influence and mean that the data rates at that  
8 range might be lower. And while that does say a  
9 maximum reach of 18 kilo feet, that's not an absolute.  
10 You can push beyond that. And people have. I know  
11 FairPoint does, and I know a lot of DSL providers do.  
12 And the question is how much do you degrade in the data  
13 rates up and down as you go beyond 1800 kilo feet --  
14 or, I'm sorry, 18 kilo feet.

15 And then the other thing is there's new  
16 technology that does -- you can think of it as  
17 minimizing the noise on the line that allows you to  
18 have longer reaches of DSL out into, you know, 22 kilo  
19 feet. So these numbers are put down as examples of  
20 estimated length, you know, reach, and estimated data  
21 rates. But they're not absolutes. You can go beyond  
22 them. And again, you can play with new technology to  
23 improve either the data rate or the reach. But there  
24 is a relationship between the two.

1 Q. Again, if I heard you correctly, the wire gauge can be  
2 a factor?

3 A. That's correct.

4 Q. Number of bridge taps, the length and location of those  
5 bridge taps?

6 A. Yeah.

7 Q. And you mention --

8 A. Coils.

9 Q. -- noise interference as well.

10 A. Yeah. Sometimes the plant will be adjacent --  
11 sometimes wiring will be adjacent to outside  
12 interference, called ingress -- noise going from the  
13 outside in -- and that could cause problems. And it  
14 could be anything mechanical. A lot of things out in  
15 the real world create noise that can be absorbed into  
16 the cable.

17 Q. Great. Thank you. Now, based on all of those possible  
18 variables that could potentially affect the data speeds  
19 a line is capable of supporting, isn't it true that  
20 until the actual physical make-up of a line is known,  
21 it's difficult for the DSL service provider to  
22 determine what data speeds that line will support,  
23 especially in cases where the length of the line is  
24 very long -- in other words, 18,000 feet or greater?

1 A. Just to clarify, I mean, there are tests you can do  
2 from -- there's tests you can do remotely from the  
3 central office to understand what that loop is capable  
4 of providing. So it's not as if you have to go out and  
5 physically analyze the whole length of the loop to be  
6 able to decide what type of data rates you can get on  
7 that -- metallic loop-testing and other sorts of things  
8 along these lines that allow you to understand, oh,  
9 this is probably what data rate I can get on it. Does  
10 that clarify?

11 Q. Yes. Thank you. Now, based on your work with  
12 FairPoint, what drove the changes that FairPoint has  
13 made to its broadband plan?

14 A. I don't think I can speak to that. I don't know. I  
15 haven't worked that closely with them. It's usually,  
16 you know, I'll talk to Mr. Brown about what they're  
17 doing. We talked a great deal about the proposed  
18 architecture, the MPLS network and things like that,  
19 personally because it's of great interest to me, but  
20 not what drove decisions to change percentages or which  
21 central office -- you know, that kind of broadband  
22 rollout plan, we didn't talk to the details of that.

23 MS. HOLLENBERG: Okay. Thank you. That  
24 concludes my questions for Dr. Sicker.

EXAMINATION

1  
2 BY COMMISSIONER BELOW:

3 Q. On Page 20 of your testimony, at the bottom you state  
4 that ATM has a 20-percent overhead, Ethernet has a 5-  
5 to 6-percent overhead due to encapsulation, but Gigabit  
6 Ethernet can reduce that overhead to 1 percent. What  
7 does that mean? What does "overhead" mean in this?

8 A. Sure. The way of looking or the way of thinking about  
9 this, when you send data from your computer up onto the  
10 network, all those devices along the way, your DSL  
11 modem and subsequently, wrap additional data around it,  
12 add more bits to that information that's going across.  
13 So the first thing that happens is it's getting chunked  
14 up into your computer. There's little packets that are  
15 being formed. And as it's being passed down through  
16 the computer to exit the computer, additional  
17 information is being added. More bits are being added  
18 that allow the network to ensure that it hasn't  
19 degraded, so that you can recover if there's an error,  
20 to know where it needs to go and so on. So it's  
21 addressing information, error-correcting information  
22 and so on. Different technologies, networking  
23 technologies -- whether it's ATM, Frame Relay, Gigabit  
24 Ethernet, regular Ethernet -- all have different ways



1 of approaching this. What Gigabit Ethernet allows you  
2 to do is minimize that overhead by allowing you to send  
3 larger chunks of data. So it's just more efficient in  
4 that sense; whereas, ATM, ATM cuts the data into very,  
5 very small segments, which at the end of the day are 53  
6 bytes. Not very large at all. And there's a high  
7 amount of overhead associated with that just because  
8 the cells are so small. So that's what it means. It  
9 just means that, depending on the network protocols  
10 you're using, you might add more or fewer bits of  
11 overhead.

12 Q. Okay. Is it your understanding that the IP/MPLS  
13 switching technology, is that going to be replacing the  
14 ATM, or is it Sono --

15 A. Sonet.

16 Q. -- Sonet in its entirety? Or is it going to, to some  
17 extent, run alongside of it?

18 A. So you can do -- you can approach this in many  
19 different ways. You could have IP/MPLS over a Sonet  
20 network. There's a lot of different ways that these  
21 things can be mixed. I think the best thing you could  
22 say is, MPLS in many ways has been dubbed as a --  
23 identified as a replacement for ATM. And MPLS is very  
24 similar in many ways to ATM, but it has a lower

1 overhead. What MPLS allows you to do is mark different  
2 bits of traffic for different handling across the  
3 network. So you can say, oh, I want these bits or  
4 these packets or frames to go down a certain path that  
5 has a certain reliability or quality of service. And  
6 it's very common to use that in the core of the network  
7 or to traffic-engineer the network; so that voice data  
8 gets better service, presumably, than web surfing,  
9 because web surfing, you can drop packets and it  
10 doesn't really matter. It doesn't matter if it's  
11 delayed much. But voice, we're very sensitive to those  
12 kind of delays.

13 Q. So what will happen to voice traffic, as you understand  
14 it, with the improvements to the backbone system? Will  
15 some of the voice traffic move off of the ATM and onto  
16 the IP switching?

17 A. I don't know the particulars of how FairPoint plans to  
18 roll that out. They could. Or they could still be  
19 using the ATM. Or they could do both, actually.

20 Q. Okay. Thanks. That's all.

21 CHAIRMAN GETZ: Redirect?

22 MR. COOLBROTH: Thank you, Mr. Chairman.

23 **REDIRECT EXAMINATION**

24 BY MR. COOLBROTH:

1 Q. Dr. Sicker, just returning to that last question. I'd  
2 like to clarify. The circuit-switched voice traffic  
3 does not travel over the ATM network, does it?

4 A. You can't -- well, it depends on where you're saying  
5 circuit-switched voice. There is circuit-switched  
6 voice on the edge that then could subsequently, in the  
7 core of the network, be carried over ATM, yes.

8 Q. I see. Okay. Just to try to clarify a bit the  
9 difference between the traditional ATM and Sonet  
10 architecture and FairPoint's proposed architecture --  
11 and to try to ask this is going to display my  
12 ignorance. But as I understand it, the ATM-over-Sonet  
13 architecture is basically a star-type architecture, so  
14 that any message you send out of your computer to  
15 another computer has to pass through a central ATM  
16 switch before reaching another computer? Is that  
17 correct?

18 A. I'm trying to think of what's the best way of  
19 differentiating these. It has much less to do, in many  
20 ways, about whether it's a star architecture or not and  
21 more about how the data is handled across the network  
22 and how easy it is to get that data off of that network  
23 and take advantage of the movement or an IP -- and when  
24 I say IP, I mean Internet protocol. That's the big

1 change. I mean, when you look at FairPoint's newer  
2 network design, this is very much embracing the next  
3 generation networks. This is moving away from ATM,  
4 moving away from Sonet. It's moving toward MPLS,  
5 moving toward Gigabit Ethernet. It's embracing, again,  
6 more of the data communication approach to networking,  
7 and it's looking more at flexibility in the design of  
8 the network and trying to take advantage of the  
9 dropping costs of data communications equipment.

10 Q. And in this discussion, we tend to focus on broadband  
11 availability to the people furthest out who don't have  
12 access to broadband now. And that's understandable to  
13 have that concern. What other benefits does  
14 FairPoint's proposed broadband plan offer, apart from  
15 reaching the people who are furthest out?

16 A. I mean, well, first of all, it's -- one of the first  
17 phases of the network is to upgrade the core. And when  
18 you upgrade the core, you benefit everybody because  
19 you're allowing for a more efficient network and  
20 removing bottlenecks. Then, as you look at some of the  
21 phasing, you know, move to the next phase where you're  
22 implementing, upgrading digital loop carrier and  
23 implementing these access nodes that can support a lot  
24 of different technology, you're likewise continuing

1 this kind of general upgrade across the networks. So  
2 it's kind of good for everybody. And you're right.  
3 You could say, well, you do the opposite. You could  
4 say, no, just focus on the most remote people furthest  
5 out. But if you do that, then you wouldn't be  
6 serving -- you could be investing money way out in the  
7 edge of the network to reach people who are far out and  
8 then forgetting your closer, nearby customers and the  
9 technology that can be upgraded for them along the way,  
10 which is actually the majority of your customer base.

11 MR. COOLBROTH: No further questions,  
12 Mr. Chairman.

13 CHAIRMAN GETZ: Okay. Then I think that  
14 concludes the examination, Dr. Sicker. Thank you. You're  
15 excused.

16 WITNESS SICKER: Now I run to the  
17 airport.

18 MR. COOLBROTH: We could ask him, "How  
19 about those Red Sox?"

20 WITNESS SICKER: Be nice.

21 MR. COOLBROTH: We call Peter Nixon.

22 CHAIRMAN GETZ: I'd just note that Mr.  
23 Nixon's already been sworn in this proceeding. We've all  
24 established that.

1 Mr. Coolbroth.

2 MR. COOLBROTH: Thank you.

3 **PETER G. NIXON, PRECIOUSLY SWORN**

4 **DIRECT EXAMINATION**

5 BY MR. COOLBROTH:

6 Q. Good afternoon, Mr. Nixon.

7 A. Good afternoon.

8 Q. I'd like to direct your attention to a document that's  
9 been marked as FairPoint Exhibit 6 in this proceeding,  
10 entitled "Direct Testimony of Peter G. Nixon," dated  
11 March 23, 2007. Do you have that before you?

12 A. I do.

13 Q. Is that your prefiled testimony that was filed in March  
14 of 2007?

15 A. It is.

16 Q. Do you have any updates or corrections to make to that  
17 testimony?

18 A. No, I do not. I'm sorry. To the direct? My position  
19 has changed since that direct testimony was filed. I'm  
20 now president of FairPoint. That would be a change on  
21 Page 1.

22 Q. And are there perhaps updates in your rebuttal  
23 testimony?

24 A. In my rebuttal, there would be.

1 Q. Subject to those updates, is this testimony true and  
2 accurate to the best of your knowledge, information and  
3 belief?

4 A. It is.

5 Q. And do you adopt it as your own, as though read into  
6 the record?

7 A. I do.

8 Q. I'd like to direct your attention to what has been  
9 marked as FairPoint Exhibit 7 in this proceeding,  
10 entitled "Rebuttal Testimony of Peter G. Nixon,"  
11 premarked as FairPoint Exhibit 7 and dated  
12 September 10, 2007. Do you have that before you?

13 A. I do.

14 Q. And do you have updates or corrections to that  
15 testimony?

16 A. I have two. On Page 4, Line 15, it would now read,  
17 "FairPoint will invest approximately \$16 million..."  
18 And then on Page 7, Line 12, it would now read,  
19 "...expansion plan provides for addressability to over  
20 57,000 additional access lines..." And both of those  
21 corrections were to conform with Mr. Brown's updated  
22 plan.

23 Q. And with those changes, is your testimony true and  
24 accurate to the best of your knowledge, information and

1 belief?

2 A. Again, there were two updates. One would be in the  
3 rebuttal I addressed, the discussion with regard to the  
4 New Hampshire Legal Assistance. And I believe we're  
5 going to incorporate or ask that we incorporate that  
6 memorandum of understanding as part of mine, as opposed  
7 to going through it line by line and making those  
8 changes.

9 And the second, in my rebuttal testimony  
10 I also addressed numerous issues with regard to CLECs.  
11 And I believe we were going to incorporate the  
12 settlement stipulation that was referred to the other  
13 day, as opposed to going through a line-by-line  
14 correction.

15 Q. And this was the settlement with the CLEC coalition?

16 A. That's correct.

17 Q. And actually, while on the subject of the memorandum of  
18 understanding with New Hampshire Legal Assistance, I  
19 just wanted to clarify one point. You were asked when  
20 you appeared previously about FairPoint's recommended  
21 rate-making treatment of the cost of the  
22 public-interest pay phones that FairPoint is going to  
23 fund. Have you had opportunity to talk to Mr. Skrivan  
24 some more about the appropriate rate-making treatment



1 of those phones?

2 A. I did. Last week, the question was with regard to the  
3 treatment for the public pay phones and whether or not  
4 that treatment would be, if you will, above the line or  
5 below the line. And at that time I indicated, based  
6 upon my knowledge, that I thought it would be above the  
7 lines as regulated service. Based upon some further  
8 work that Mr. Skrivan's done in the meantime, I  
9 understand that to be below the line as a non-reg  
10 service. We would therefore treat those expenses as a  
11 below-the-line expense.

12 Q. And just as another update, with respect to the CLEC  
13 settlement that you have referenced, do you have a  
14 comment on the discussion regarding -- I believe Mr.  
15 Skrivan had regarding the appropriate -- the method  
16 contemplated in that settlement for determining whether  
17 items needed to be provided under Section 271?

18 A. I do, and it's an important clarification. And that is  
19 that we're proposing that FairPoint, although we're not  
20 a BOC, would be -- would provide the competitive  
21 checklist items as set forth and prescribed by the FCC,  
22 whether it's a network element or service, those that  
23 are generally required be provided by the FCC, and from  
24 there went into some additional discussion and

1 clarification from Mr. Skrivan on how those would be  
2 insured from the starting point that I wanted to make  
3 sure that we addressed today. The starting point are  
4 those checklist items as determined set forth from time  
5 to time by the FCC.

6 MR. COOLBROTH: Witness is available for  
7 cross-examination.

8 CHAIRMAN GETZ: Okay. Thank you. My  
9 list indicates that there are questions from Mr. Price,  
10 Mr. Mandl, Mr. Ciandella, Mr. Rubin, Ms. Hollenberg or Ms.  
11 Hatfield, and Ms. Fabrizio. Does that cover everyone?

12 (No verbal response)

13 CHAIRMAN GETZ: Okay. Well, let's start  
14 with Mr. Ciandella.

15 **CROSS-EXAMINATION**

16 BY MR. CIANDELLA:

17 Q. Mr. Nixon, you can respond to me from here?

18 A. I can.

19 Q. I notice this morning I was one of two people to stand  
20 up. Since it's after lunch, I'm going to reserve my  
21 energy.

22 I have a few questions for you which  
23 flow from your rebuttal testimony at Page 43, Lines 6  
24 through 8. You testified in those lines that FairPoint

1 does not have a specific plan for dates by which it  
2 would initiate video service offerings. I'm going to  
3 ask you a couple questions to elaborate on that.

4 What I'd like to know, what are the  
5 things that FairPoint must do before it provides video  
6 services? And in your answer, what I'd ask you to do  
7 is answer in the context of those communities where  
8 Verizon has already deployed its fiber-to-premises  
9 product and the balance of communities. And also, as  
10 you go through and itemize the things that must be  
11 done, if you could assign a time frame or a projected  
12 time frame for each of those items.

13 A. Let me give it a shot. The items that we would be  
14 looking at for the initiation of video services would  
15 include such things as acquisition of franchises that  
16 would be necessary. And we would begin that process --  
17 we have not begun that process. We hope to begin that  
18 process shortly after regulatory approval so we can get  
19 a head start on that effort. And we would propose that  
20 we'd be doing those on a community-by-community basis.

21 Number two, we would need to develop a  
22 channel lineup. So we would be looking against the  
23 competitive products. And once you do that, you need  
24 to begin to and you have to acquire the content

1 necessary.

2 Third would be to design, locate,  
3 install, test and deploy the head-end equipment that  
4 would be necessary. And then in terms of, I think  
5 responsive to your question, would be assess the  
6 networks that are available and could be most readily  
7 available for the deployment of video. Certainly from  
8 our perspective, we like to look at those communities  
9 and those areas that have network availability for a  
10 rapid start. And so as we take a look at the broadband  
11 initiation and the issue that we have, we would  
12 probably in this case look to those communities that  
13 have an existing infrastructure, such as a fiber-based  
14 infrastructure where we could do a rapid start. Ours  
15 is how quickly can we get to market, how quickly can we  
16 begin serving the customers and begin to make an impact  
17 in the communities of the customers in the market, and  
18 certainly our revenue stream.

19 So again, we do not have a specific  
20 plan. We are in the final stages right now of bringing  
21 on board a video product manager. That person then  
22 would be the one who would be assigned this as their  
23 primary duty, to manage and to accelerate and to build  
24 and deploy the video product. I would expect that we

1 would be able to have first market launch sometime  
2 in -- assuming a January 31st close of 2008, we'd be  
3 looking in 2009 for a market launch.

4 Q. And I take it from your answer that you would  
5 anticipate that, because of the network characteristics  
6 in the communities where Verizon has deployed its fiber  
7 to premises, those would be communities that would  
8 likely be -- you would launch first, or sooner rather  
9 than later.

10 A. Certainly we'd have our engineers evaluate and make  
11 sure we had a thorough understanding of the network,  
12 the architecture, and our ability to do the inserts,  
13 you know, into that network. Based upon what we know  
14 today, that would be a logical place for us to begin  
15 the initiative.

16 Q. And just within those communities where Verizon has  
17 deployed its fiber-to-premises product, would -- and in  
18 anticipation of this video service offering -- would  
19 FairPoint complete the fiber deployment, to the extent  
20 there are portions of the municipality that weren't  
21 reached by the fiber by the Verizon deployment?

22 A. I think Michael Brown said this morning, and I would  
23 agree with his assessment, that that's not a  
24 precondition to offering the IPTV services. We have

1 markets today that we provide that service on a DSL or  
2 fiber basis. You know, our objective is how can we get  
3 the services desired by the customers to the customers  
4 in the most expeditious way and with the least cost.  
5 And if that means we can use an existing fiber network  
6 that we don't have to upgrade or change, we would  
7 certainly attempt to do that. It also means that where  
8 there are customers even within that same community  
9 that may be served by copper today, that we have the  
10 capacity, as Mr. Brown indicated, to use a DSL-based  
11 solution. So our objective -- you know, we tend to be  
12 pretty technology agnostic. It's what are the  
13 applications that the customers need? What technology  
14 can best deliver those applications, and how quickly  
15 can we get them to them?

16 Q. Just so -- and I think I do understand you. So what  
17 Mr. Brown said this morning in the context of extension  
18 of broadband services, in terms of the mix-and-match  
19 fiber and copper, applies as well to the video service  
20 offering.

21 A. It does.

22 Q. Okay. This is my final question. New Hampshire, as  
23 most states, has a level -- what they call a level  
24 playing field provision in its state law governing

1 cable franchising. And it says that municipalities  
2 cannot grant an additional franchise on terms or  
3 conditions more favorable or less burdensome than  
4 existing franchises. And Mr. Nixon, municipalities  
5 have an interest in getting competitive video providers  
6 in their communities, but at the same time, they have  
7 an interest in not finding themselves in the middle of  
8 a legal struggle between the incumbent cable provider  
9 and a competitive provider. So I guess I would ask  
10 you, in light of that statutory provision, how will  
11 FairPoint deploy its video services product, keeping in  
12 mind that statutory provision?

13 A. I understand that statutory provision's under some  
14 debate and consideration at the time. And ours is not  
15 to debate the legal aspects of that in this, in the  
16 hearings this week. We would comply with the rules,  
17 regulations and statutes as they were current at the  
18 time.

19 Q. Just a quick follow-up on that. As part of your -- you  
20 had mentioned that franchising is obviously going to be  
21 a part of what you do as a prerequisite to rolling out  
22 the video product. Will you be looking at the  
23 incumbent franchises to begin to at least get some  
24 sense of what the existing cable franchises are in a

1 particular community?

2 A. We will. We have experience within our own markets in  
3 cable franchising. We'd look at those within the  
4 existing communities, certainly, to understand what the  
5 current expectations are. That would be the most  
6 logical place to start. Again, that's -- we'll put  
7 that -- that will become one of the duties of the  
8 market -- of the product manager, getting in the market  
9 and begin to do that work.

10 MR. CIANDELLA: Thank you. I have  
11 nothing further.

12 CHAIRMAN GETZ: Thank you.

13 Mr. Price.

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

15 **CROSS-EXAMINATION**

16 BY MR. PRICE:

17 Q. Good afternoon, Mr. Nixon.

18 A. Good afternoon.

19 Q. I wanted to ask you about the joint stipulation that  
20 FairPoint has entered into with three CLECs in this  
21 proceeding that you mentioned has now been incorporated  
22 into your testimony.

23 Mr. Lippold and Mr. Skrivan have  
24 testified that certain provisions of the joint



1 stipulation apply to all CLECs in New Hampshire and  
2 others apply only to the three CLECs that are a party  
3 to the joint stipulation. Is that also your  
4 understanding?

5 A. That's correct.

6 Q. Now, one of the provisions that applies to all CLECs is  
7 Section 3 -- excuse me -- Section 2a, which I think you  
8 alluded to this earlier as FairPoint's obligation -- or  
9 taking upon itself the obligation to provide  
10 Section 271 elements as if it were a BOC, without  
11 conceding that it's a BOC; is that correct?

12 A. That would be correct.

13 Q. So my question has to do with enforcing this provision.  
14 My understanding from Mr. Skrivan's testimony is that  
15 CLECs that are not a party to the stipulation may go to  
16 the New Hampshire Public Utilities Commission to ask  
17 that FairPoint's commitment to provide these elements  
18 be enforced, but that in order to make a determination  
19 about what the pricing is that applies to those  
20 elements, CLECs that are not a party to the stipulation  
21 would need to go to the FCC. Is that also your  
22 understanding?

23 A. That's my understanding.

24 Q. Okay. Can you tell me what the rationale is for this

1 difference of treatment among similarly situated CLECs  
2 in New Hampshire?

3 A. To negotiate a settlement. And the terms of the  
4 negotiations were unique to the parties that entered  
5 into this agreement.

6 Q. Do you agree, though, that if you have one -- two  
7 different forums making determinations about pricing,  
8 that that could lead to conceivably one CLEC paying a  
9 certain amount for a Section 271 element and a  
10 different CLEC paying a different amount for the same  
11 element?

12 A. Again, I don't believe that would be the case, because  
13 both of those have the obligation to follow the FCC's  
14 just and reasonable pricing guidelines.

15 Q. So what's the point of having two different forums to  
16 begin with?

17 A. It depends who raises the questions first, I suppose.

18 Q. Do you consider it to be -- because the CLECs that  
19 signed on to the joint stipulation have the ability to  
20 go to the New Hampshire Commission, do you see that as  
21 an added benefit for them?

22 A. They thought so.

23 Q. Have you considered whether the FCC even has  
24 jurisdiction to make a determination like this for the

1 other CLECs?

2 A. I believe Mr. Skrivan indicated that in the section  
3 with regard to pricing, that it is our belief that they  
4 do under Section 201(b) and 202(a).

5 Q. Section 2a of the joint stipulation discusses the  
6 pricing standard that you mention. And it says that --  
7 let me read the quote here. FairPoint will provide, as  
8 you mentioned, Section 271 competitive checklist  
9 network elements at -- and I'm quoting now -- "at  
10 rates, terms and conditions that are just and  
11 reasonable and not unreasonably discriminatory, as if  
12 governed by Sections 201(b) and 202(a) of the  
13 Communication Act." So that seems to indicate that  
14 they're not actually governed by 201 and 202 of the  
15 Communications Act, but that you will act as if they  
16 are governed by that.

17 A. Yeah. Again, this is not an area of expertise for me.  
18 I think Mr. Skrivan addressed this the other day. And  
19 my understanding is his, that those would be governed  
20 by exactly as it says, 201 -- Sections 201(b) and  
21 202(a). That is my understanding.

22 Q. Okay. But doesn't this read that they actually are not  
23 governed by 201 and 202, but that you will act as if  
24 they are governed by 201 and 202?

1 A. Again, my understanding is that we would be required  
2 to -- that we are required to price it in that accord.

3 Q. Not just because you're committing to do that, but  
4 because there's some independent legal obligation that  
5 you have to do that?

6 A. That's my understanding.

7 Q. Okay. Other than the joint stipulation, has FairPoint  
8 entered into or committed to enter into any agreement,  
9 arrangement or understanding with any of the CLECs that  
10 are a party to the joint stipulation?

11 A. No.

12 Q. Let me direct you to some language in Section 8b of the  
13 joint stipulation. It says in the first sentence, or  
14 only sentence, "The parties agree that these terms are  
15 part of a partial settlement proposal..." Can you  
16 explain how this is a partial settlement and what the  
17 other elements of the settlement are?

18 (Witness reviews document.)

19 A. I'm not sure. Happy to take a whole data request. I'm  
20 not sure.

21 Q. Okay.

22 MR. PRICE: Yes. Could we ask for a  
23 record request on that?

24 CHAIRMAN GETZ: Can you give me the cite

1 again, please?

2 MR. PRICE: I'm sorry?

3 CHAIRMAN GETZ: The citation.

4 MR. PRICE: It's Section 8b of the term  
5 sheet that's attached to the joint stipulation.

6 CHAIRMAN GETZ: I just note for the  
7 record that this is FairPoint Exhibit 15 that we've been  
8 discussing. I think that's the citation. Okay. We'll  
9 reserve Exhibit 60 for the response.

10 MR. COOLBROTH: I'd remark, Mr.  
11 Chairman, it would be a first if we had a full settlement  
12 and two weeks of hearings. But we'll provide an answer.

13 BY MR. PRICE:

14 Q. Other than the joint stipulation, has FairPoint reached  
15 a settlement with any other CLEC intervenors in New  
16 Hampshire?

17 A. I believe we have. I'm not sure about the exhaustive  
18 list, but we do have settlement agreements with other  
19 CLECs. And I believe that they were intervenors in New  
20 Hampshire, but I'm not sure.

21 Q. And under those settlements, does FairPoint commit to  
22 providing any services or elements to those settling  
23 parties?

24 A. Again, I'm not really familiar with the details of

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1 those agreements. I think there have been certainly  
2 press releases on who they are. And so it's not -- I  
3 think we know who the companies are, but I'm not  
4 familiar with all the details.

5 Q. Well, DSCI, Paetec, Level 3 are companies that have  
6 withdrawn from --

7 A. Exactly.

8 Q. -- you have entered into settlement agreements?

9 A. I'm not -- settlement agreements? Subject to check,  
10 yeah.

11 Q. Okay. But are you aware of whether as a result of  
12 the -- as part of these settlement arrangements,  
13 FairPoint has committed to providing any specific  
14 services or network elements to those companies?

15 A. Not unique to what this is here.

16 Q. Can you tell me what FairPoint has agreed to in these  
17 agreements?

18 A. I cannot.

19 MR. COOLBROTH: I'm going to object to  
20 this line of questions as well, Mr. Chairman. Those are  
21 confidential settlement agreements. We've been through  
22 the fact that those were not being filed with the  
23 Commission. And we are under obligation to the parties to  
24 those agreements not to disclose their contents and

1 therefore object to the line of questioning as well.

2 CHAIRMAN GETZ: Well, we'll note that he  
3 said he doesn't know the answer. But that's a pending  
4 issue we need to resolve, is the status of those other  
5 agreements. So for the time being...

6 MR. PRICE: Well, I was asking the  
7 question merely to -- I understand that this is a pending  
8 issue. I was merely trying to elicit whether or not there  
9 are services that may be provided on a discriminatory  
10 basis to certain parties and not to other parties as a  
11 result of the transaction.

12 I have no further questions. Thank you.

13 CHAIRMAN GETZ: Thank you. Mr. Mandl.

14 **CROSS-EXAMINATION**

15 BY MR. MANDL:

16 Q. Good afternoon, Mr. Nixon.

17 A. Good afternoon.

18 Q. I'd like to first ask you a clarifying question based  
19 on something that came up during the panel of  
20 Mr. Brown, Mr. Harrington and Mr. Smee. There was some  
21 questioning on Page 25 of their panel rebuttal  
22 testimony. And I believe I had heard that, in answer  
23 from Mr. Smee, that FairPoint intended to have 89  
24 dedicated outside plant technicians for its wholesale

1 operations. Could you either confirm that or --

2 A. I cannot.

3 Q. -- indicate your understanding?

4 A. I cannot do either. Mr. Smee is much closer to that  
5 than I. And we'd be happy to verify that if you'd  
6 like. But I cannot confirm or address that question.

7 MR. MANDL: Could I ask that as a record  
8 request, just if we could for clarification?

9 MR. COOLBROTH: What is the page  
10 reference from the panel testimony?

11 MR. MANDL: The panel testimony was  
12 Page 25, and it talked about utilizing Verizon's wholesale  
13 provisioning team. And I believe I had heard a reference  
14 to 89 outside plant technicians. And I'm just trying to  
15 confirm whether that's 89 outside plant --

16 WITNESS NIXON: I don't think he --  
17 subject to check, I think the record will show he said  
18 central office technicians, perhaps, in the provisioning  
19 center. But again, we'll let the transcripts speak for  
20 themselves.

21 MR. MANDL: Yeah. I just want to make  
22 sure the record is clear whether it was --

23 CHAIRMAN GETZ: Well, let's step back,  
24 'cause I'm having trouble recalling. I don't recall it



1 exactly the way that you're characterizing it. But what's  
2 the question you want answered, that you'd like a record  
3 request on?

4 MR. MANDL: I guess on Page 25 of the  
5 panel rebuttal testimony it talks about sort of the number  
6 of personnel dedicated to wholesale operations. It refers  
7 to the Verizon wholesale provisioning team which may also  
8 have central office responsibilities. And then it refers  
9 to dedicated outside plant technician work force for  
10 wholesale orders. And I heard the figure 89 mentioned,  
11 and I'm just trying to get a clear record on the number of  
12 employees who will be dedicated to the wholesale  
13 customers, and are they outside plant technician work  
14 forces, or do they have other dedicated responsibilities  
15 to wholesale operations?

16 CHAIRMAN GETZ: All right. Let's  
17 reserve Exhibit 61 for the record response.

18 MR. MANDL: Thank you.

19 BY MR. MANDL:

20 Q. If you could turn to Page 14 of your direct testimony,  
21 Mr. Nixon.

22 A. I'm there.

23 Q. And looking at your testimony on Lines 1 through 3, at  
24 the time you filed your direct testimony, you had an

1 expectation that FairPoint would establish units  
2 designated to serve residential, business and wholesale  
3 customers; is that correct?

4 A. That's correct.

5 Q. And would you agree that FairPoint could separate its  
6 retail and wholesale units?

7 A. It could be done. However...

8 Q. Go ahead. I knew you were going to do something  
9 different than you said in Vermont.

10 A. I think it's important that our commitment and our  
11 obligation is to serve the customer constituents and  
12 run and operate an efficient business using the  
13 systems, the personnel and the resources that we have  
14 available. And when we originally looked at the  
15 crafting of the structure, we thought about doing it  
16 one way. And as we began, as we brought people on  
17 board and their expertise, and further the work and  
18 services that we'd have supporting those constituent  
19 groups, we were -- and I continue to be very  
20 comfortable with the structure that we have now, that  
21 was further articulated by Mr. Lippold. So again, I  
22 just wanted to add a follow-up to the question.

23 Q. All right. So we agree to disagree. There's more than  
24 one way to do it.

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1 A. I hope a year from now you'll agree to agree.

2 Q. Let's turn to Page 22 of your prefiled direct.

3 A. I'm there.

4 Q. All right. If you could refer to Lines 7 and 8. You  
5 testify that there is no need to attempt to convert  
6 systems prior to being completely ready; is that  
7 correct?

8 A. That's what it says. That's correct.

9 Q. Okay. That's still your position today?

10 A. Yes.

11 Q. Do you believe it would be reasonable for the  
12 Commission to take steps to assure itself that  
13 FairPoint is, in fact, completely ready before it gives  
14 Verizon the irrevocable notice of readiness for  
15 cutover?

16 A. I do. And FairPoint has actually advocated for the  
17 third-party monitor. We recognize this as a keen  
18 importance to the states, the Commissions, the  
19 customers, the shareholders, all the constituent  
20 groups. And we are absolutely dedicated and committed  
21 to making it a successful cutover, but recognizing that  
22 there is a need to have some additional level of  
23 examination and monitoring of the efforts. And so we  
24 have advocated for the third-party monitor that would

1 be selected, one third-party monitor representing all  
2 three states. And we think that's an appropriate  
3 process to follow. So I'd say we were the first to  
4 advocate for that.

5 Q. If you could turn to Page 33 of your direct testimony.

6 A. I am there.

7 Q. All right. Look at your answer at Lines 13 through 17.

8 (Witness reviews document.)

9 A. Okay.

10 Q. You indicate that FairPoint has no intention of trying  
11 to position the acquired exchanges as rural under the  
12 federal statutes that you reference in your testimony;  
13 correct?

14 A. I think this is a different -- this is for the  
15 safety-valve conversation? Is that what you're  
16 referencing?

17 Q. Yes.

18 A. That's correct.

19 Q. And would FairPoint agree to make that a merger  
20 condition?

21 A. We will look at all the conditions in the aggregate  
22 from all three states. And it is my hope and my  
23 expectation that the commissions will put forth those  
24 conditions they think are most important and have the

1 greatest weight and of the keenest interest to the  
2 states and to allow the company to operate in an  
3 efficient way. So I'm -- I will -- we don't believe  
4 it's necessary for this to be a condition, and we would  
5 hope that the commissions would -- you know, as you  
6 develop your order and you develop your positions,  
7 would identify those that have the keenest importance.

8 Q. Would you agree, Mr. Nixon, that prior to FairPoint  
9 filing its rebuttal testimony in this proceeding, that  
10 there were parties who filed testimony in Vermont,  
11 including the Vermont Department of Public Service, who  
12 had requested that there be a third-party monitor?

13 A. I think that those requests were for each state to have  
14 a third-party monitor.

15 Q. And was there not testimony from certain parties  
16 requesting actual third-party testing?

17 A. That could be.

18 Q. Now if we could turn to Page 25 and 26 of your rebuttal  
19 testimony.

20 A. I'm there.

21 Q. You discuss a number of KPIs, or key performance  
22 indices; is that correct?

23 A. I do.

24 Q. Has FairPoint developed the wholesale performance KPIs

1 at this point?

2 A. I think the KPIs that we'll be primarily using for the  
3 wholesale would be the PAP.

4 Q. If the PAP did not include number-porting intervals or  
5 trunk-ordering intervals, would you agree to include  
6 those as key performance indices?

7 A. I'd do that.

8 Q. Will the KPIs that FairPoint develops be provided to  
9 the Commission and to wholesale customers?

10 A. No, they will not. These are for -- these are for the  
11 company's internal management of the business. And  
12 those are things that we look at over and above which  
13 may be required by regulatory convention, the PAP  
14 obligations or that such. These are metrics or key  
15 performance indices that any business will establish to  
16 help them run and manage and operate their business to  
17 meet the goals and objectives. Therefore, they're  
18 internal measurements. They're internal performance  
19 indices and would not need to be provided to the  
20 external community.

21 Q. All right. I take it then, there would be no external  
22 consequences to FairPoint if it failed to meet its  
23 internal wholesale KPIs?

24 A. These are internal goals and objectives. That would be

1 correct.

2 Q. Okay.

3 A. Let me -- you know, that's -- I would add that I  
4 believe Mr. Lippold indicated that our -- that will be  
5 forum. And maybe I'm not using the right terminology.  
6 But a CLEC user forum. But there's a particular  
7 distinguishing way that has been called in the past.  
8 And we would look for the CLEC community to keep us  
9 apprised of the issues, their concerns, their areas of  
10 performance that they would like to see enhanced.

11 Mr. Lippold, under his directive, is to  
12 grow the business. I've got two choices: We can grow  
13 the business on our net by using retail and wholesale  
14 arrangements or watch competitors take the business off  
15 our network. Mr. Lippold is expected to grow the  
16 business on the network, wholesale and retail. To do  
17 that, we've got to be responsive to our customers,  
18 wholesale and retail alike. I would expect us, as you  
19 will be our -- as the CLEC community as our customer,  
20 to provide us guidance and input on how we can do that  
21 better.

22 Q. And what alternatives would a facilities-based carrier  
23 have for number-porting intervals other than FairPoint  
24 if this transaction is approved?

1 A. There are -- those number-porting obligations exist  
2 today from the various companies. And there are  
3 various ways to exert and seek recourse if they're not  
4 being done in the proper time.

5 Q. You'd agree, though, that a facilities-based carrier  
6 could not take its number-porting requirements to any  
7 other service provider. It would be required to deal  
8 with FairPoint in order to carry out number-porting?

9 A. I'm sure if FairPoint was not living up to the  
10 obligations on number-porting, that that said carrier  
11 would seek recourse with the appropriate jurisdictional  
12 body.

13 Q. I'd like to refer you to, I think an exhibit to -- I  
14 believe it's your rebuttal testimony, PGN-9.

15 A. I'm sorry. Is there a...

16 Q. I think it's an attachment to your rebuttal testimony.

17 A. Is that the organizational chart?

18 Q. I think that's part of it, yeah. Let's see. PGN-7 is  
19 the leadership team.

20 A. Okay.

21 MR. COOLBROTH: If you're referring to  
22 PGN-9, it is the very last page of your rebuttal testimony  
23 for submission, the very last page.

24 MR. MANDL: Yeah. It's entitled,



1 "Business Integration Operations, Design, Build and  
2 Launch."

3 I'd just like to confirm this. Is that  
4 a public document?

5 MR. COOLBROTH: Yes, it is.

6 A. I have it.

7 Q. Could you briefly explain what this exhibit is all  
8 about, what it's designed to show?

9 A. At a high level, this exhibit shows the milestones as  
10 appropriate for the three different releases that the  
11 company is -- has designed. First is the systems and  
12 the readiness at close. Second would be the systems  
13 and milestones to get there at a macro level at  
14 cutover. And third is the systems of readiness, what  
15 we call a Delta release, which is six months following  
16 cutover. So those would be the three major milestones.  
17 Mr. Haga referenced when he was here what they call  
18 builds. And a build, in my way of thinking, is the  
19 systems staging intervals where we will increase the  
20 complexity of the testing, the orders and the processes  
21 as we go from the initial system setup all the way  
22 through to prior to cutover readiness. So those would  
23 be -- that would be my high-level explanation. Mr.  
24 Haga is the one who lives with this day in and day out,

1 but that would be a high-level explanation.

2 Q. Thank you. I notice that this exhibit was updated as  
3 of June 11th, 2007. Is there a more recent version of  
4 this document?

5 A. I'll be happy to check. The dates haven't changed.  
6 The dates of the cutover, close and Delta release have  
7 not changed. But I'll be happy to check.

8 Q. Okay.

9 MR. MANDL: Fred, would you prefer that  
10 as something to check on or --

11 WITNESS NIXON: We can do that as either  
12 a supplemental update to a data request, whatever the  
13 appropriate protocol is.

14 MR. MANDL: If the exhibit has changed,  
15 I would be interested in seeing an update. If it's the  
16 same and it hasn't changed, then just --

17 CHAIRMAN GETZ: Let's just find out the  
18 answer to the question. If we need to make it an exhibit,  
19 then we will give it an exhibit number.

20 MR. MANDL: Thank you.

21 BY MR. MANDL:

22 Q. Mr. Nixon, there have been some premarked NECTA/Comcast  
23 Phone exhibits that were responses to three data  
24 requests that have been marked as Exhibits 55P through

1 57P. I just wanted to check to see if you had them and  
2 if you could just verify that they are your responses  
3 to those three data requests.

4 (Witness reviews document.)

5 A. I have 55, 56. And for some reason I'm not looking at  
6 57. If you've got that handy, I'd be happy to take a  
7 look.

8 (Mr. Mandl hands document to witness.)

9 A. Thank you. These are indeed all of my responses.

10 Q. Thank you.

11 MR. MANDL: That completes my cross for  
12 Mr. Nixon. Thank you.

13 CHAIRMAN GETZ: Thank you.

14 Mr. Rubin?

15 MR. RUBIN: Thank you, Mr. Chairman.

16 **CROSS-EXAMINATION**

17 BY MR. RUBIN:

18 Q. Good afternoon, Mr. Nixon.

19 A. Good afternoon.

20 Q. I'd like to start with a question that's been bounced  
21 around a little bit, I guess. We started with Mr.  
22 Smith and tried it with Mr. Smee, and now it's coming  
23 to you. And this concerns how FairPoint will be  
24 handling a function that -- actually, two functions

1 that Verizon performs today: Dealing with customers  
2 who have disabilities or other special needs and also  
3 with customers for whom English is not their primary  
4 language. Are you familiar with FairPoint's plans to  
5 develop the capability to serve these customers?

6 A. Generally.

7 Q. Could you give us your general understanding of what  
8 FairPoint will be doing?

9 A. These are services that are being provided to FairPoint  
10 under the TSA. FairPoint has -- we recognize that  
11 those -- these are services that we'll be taking over.  
12 There is a team that's identified that are working on  
13 it and will be presenting a plan and the outcome on how  
14 FairPoint will be taking up those duties over at  
15 cutover. I do not have that plan today. But there is  
16 a team of people who are working on it.

17 Q. And do you know if the plan will be for FairPoint to  
18 provide these functions using its own employees or  
19 whether it intends to contract with another provider  
20 for those services?

21 A. I do not know that at this time.

22 Q. How does FairPoint provide these services today for its  
23 existing operations?

24 A. I'm not sure that we have those services generally

1 available.

2 Q. So if you have a customer today who does not speak  
3 English, they're out of luck? Or do you know --

4 A. I'm not -- no, I'm not sure I have that -- I do not  
5 know what the procedure or the process is or whether we  
6 have a third-party provider today that we can bring on  
7 board. At one time, I know we had a third-party  
8 provider that we could conference in. But I'm not sure  
9 of the status of that.

10 Q. All right. I think it's fair to say from what you said  
11 earlier, that you are familiar with the realignment of  
12 Verizon's operations in New England that we discussed  
13 with Mr. Smith last week; is that right?

14 A. Generally that's correct.

15 Q. Does this realignment have any effect on FairPoint's  
16 announced plans to hire 675 new employees in northern  
17 New England?

18 A. No, it does not.

19 Q. Do you know approximately how many of those 675 new  
20 employees will be in positions covered by a collective  
21 bargaining agreement? Again, I'm just looking for an  
22 approximate number or percentage.

23 A. And I believe we've said that -- and this is just my  
24 estimate. I believe today that might be 30 percent.

10/29/07 DAY 6 VERIZON/FAIRPOINT-PUBLIC

1 Q. As far as you know, do all of the union or unionized  
2 positions in the three states have pension benefits?

3 A. That would be correct.

4 Q. And do -- again, as far as you know, do they also have  
5 other post-employment benefits, such as retiree  
6 healthcare?

7 A. To my knowledge.

8 Q. Is FairPoint proposing to eliminate the pension or  
9 other post-employment benefits for new employees who  
10 would be covered under the collective bargaining  
11 agreement?

12 A. We are not.

13 Q. Are you familiar with the employee attrition assumption  
14 that's built into FairPoint's financial model?

15 A. I am.

16 Q. And last week we discussed that with Mr. Leach, where  
17 he indicated that the assumption was a loss of 4 to  
18 4-1/2 percent of the work force each year starting in  
19 2009. Is that your understanding also?

20 A. That's my understanding.

21 Q. Approximately how many employees will FairPoint start  
22 with?

23 A. About 3500.

24 Q. All right. So you would expect to lose a net of about

1 140 to 150 employees per year? Is that the effect of  
2 that attrition assumption?

3 A. It would be whatever the multiplier is times the 4 to  
4 4-1/2 percent on a net basis, you said. That would be  
5 correct.

6 Q. And just so we're clear, we're using these terms, and I  
7 want to make sure we're using them in the same way.  
8 When I think about attrition, we're talking about --  
9 and we both just used the term -- a net effect of  
10 people who leave the company compared to those who come  
11 into the company. And the net difference between those  
12 is what we're referring to as attrition. Is that how  
13 you're using the term?

14 A. I think that's right. Certainly we have -- we will be  
15 maintaining the work force and numbers so that we can  
16 continue to provide -- so we will continue to provide  
17 the service to the customers to meet our obligations  
18 for -- whether it be the broadband plan, the service  
19 quality and central office remediation plan.

20 But to the question that was raised  
21 here, once you take the loss, there may be times -- and  
22 I expect will be times -- when we'll hire back in. But  
23 the net number's what I'm referring to.

24 Q. Okay. Over the last few years -- well, I guess I

1 should say, first, without considering the effects of  
2 this proposed transaction -- so let's say up through  
3 the end of 2006 -- over the last few years, has  
4 FairPoint increased or decreased the size of its work  
5 force?

6 A. We've increased through acquisitions.

7 Q. And again, without considering any impacts from this  
8 proposed transaction, has FairPoint's line count  
9 changed significantly in the last few years?

10 A. Our line count has increased through acquisitions. If  
11 you remove the acquisitions, our access line losses --  
12 we've had access line losses.

13 Q. So on a net basis, do you know your access line counts,  
14 say at year-end 2006, compared to what it was two or  
15 three years before that?

16 A. Again, I believe this information is public. But it's  
17 I think about a 3-percent loss per year.

18 Q. Okay. I'd like to turn for a moment to DSL deployment,  
19 but again, in very general terms. Will FairPoint be  
20 using its own employees for work related to DSL  
21 deployment? Or maybe another way to think about it is,  
22 will any of that work be done by outside contractors?

23 A. I do not anticipate that any craft work would be done  
24 by contractors.



1 Q. Okay. Now, when you say "craft work," what does that  
2 encompass, as you use the term?

3 A. Those functions and duties that normally would be  
4 covered under a collective bargaining agreement, as  
5 distinct from management functions.

6 Q. All right. Well, for example, if a customer calls up  
7 to order DSL service, will they be talking to a  
8 FairPoint employee when they do that?

9 A. That's correct.

10 Q. And if someone has to go out and do some physical work  
11 on the line, whether it's removing load coils or  
12 whatever in order to provide that customer with DSL,  
13 will that be a FairPoint employee doing that work?

14 A. To the best of my knowledge, that's correct. I believe  
15 that there are five job classes within the IBEW  
16 contract that have particular reference to contracting.  
17 And subject to check, I believe that's one.

18 Q. If a customer has problems with their DSL service, and  
19 again they call up to try to either troubleshoot the  
20 problem or have somebody come out to take a look at it,  
21 is that work that would be done by FairPoint employees?

22 A. That would be the repair center you're referring to?

23 Q. Well, I don't know. It's your business, so --

24 A. No. You just referred to some function. And the

1 function you just described would be a FairPoint  
2 person.

3 Q. Okay. 'Cause I know, for example, with some carriers,  
4 if it's a DSL problem, they call a completely different  
5 number than if it's a problem with their dial tone.

6 A. If it is a -- if the customer is having a problem with  
7 a network, then they report a network problem, and that  
8 would be a FairPoint person. If they have a problem  
9 with their Internet, that would go to an Internet help  
10 desk.

11 Q. Is that going to be a -- is it going to be FairPoint  
12 employees staffing that Internet help desk, or will  
13 that be a function that's outside of FairPoint?

14 A. Outside of FairPoint.

15 Q. At this point, do you know who will be providing that  
16 function for FairPoint?

17 A. We have not finalized the contract negotiations.

18 Q. Do you know if that function will be provided within  
19 the Continental United States?

20 A. It will.

21 Q. Mr. Nixon, I'd like to take a moment to focus on the  
22 timeline for the proposed transaction. If all goes  
23 according to your plans, you expect to close with  
24 Verizon at the end of January, 2008; is that right?

1 A. That's correct.

2 Q. And then about two months later you hope to send  
3 Verizon a notice of readiness for cutover to start the  
4 process of terminating the transition services  
5 agreement; is that right?

6 A. That would be correct.

7 Q. And then about two months after that, roughly the end  
8 of May, you hope to have cutover and move completely  
9 onto FairPoint's own systems; is that correct?

10 A. That's the current plan.

11 Q. Now, when in that time frame does training take place  
12 on those new FairPoint systems?

13 A. We have a training plan that we have just finished the  
14 first draft of that plan. We will begin training on  
15 those systems, and I believe that it is the first part  
16 of February and -- I believe it's the first part of  
17 February that we'll begin training on the systems.

18 Q. Do you have an approximate or approximation of the  
19 number of people that will have to be trained?

20 A. About 3500.

21 Q. That's what I thought. I'm just making sure. What  
22 you're talking about affects essentially every employee  
23 of FairPoint; is that right?

24 A. Every employee who will touch the new systems, get

1 reports from the new systems or interface with new  
2 systems will be need to be trained to become familiar  
3 with. That will take different levels of training,  
4 different levels of familiarity, different levels of  
5 length of course and curriculum.

6 Q. Okay. In order for some of that training to be done,  
7 will FairPoint need to hire any temporary employees or  
8 somehow provide for service to continue while your  
9 employees are being trained?

10 A. Yes, we will. FairPoint is contemplating several  
11 different aspects, one of which would be the  
12 possibility of doing exactly that, hiring temporary  
13 employees that could act as that -- who will be trained  
14 on the Verizon Legacy systems, to allow us then to  
15 rotate the permanent employees through the training  
16 curriculum and courses on the new systems.

17 Q. Okay. Can you again, without getting too technical,  
18 can you walk us through how that works? You bring  
19 somebody in as a temporary employee. Do they have to  
20 be trained on the existing systems before one of your  
21 existing employees can, you know, leave for a training  
22 course? How does that work?

23 A. Again, depending upon the training that's required and  
24 the position that's required, the temporary employees,

1 if that's the course we took, would need to have some  
2 training on the basics of the current Legacy systems so  
3 they could handle and process, for instance, calls  
4 coming in, whether done for billing inquiry or for  
5 basic service order entry. They would need to be  
6 trained to handle those functions to provide some  
7 relief to the group to go through the training.

8 Q. Do you know how long that training of the temporary  
9 employee would take?

10 A. It depends on what they're being trained for. Again,  
11 we have our -- the initial plan has been completed.  
12 We'll be submitting it later this week to the staff on  
13 how that is working and what the plan is. And I don't  
14 know -- I've got the particular details that will speak  
15 for itself.

16 Q. Okay. Now, in FairPoint's previous acquisitions, has  
17 it ever had a transition services agreement?

18 A. Not since I've been with the company.

19 Q. Which is how long?

20 A. Ninety-seven.

21 Q. Okay. Again, since 1997, has FairPoint had to create  
22 new systems in order to integrate a system or a network  
23 that it was acquiring?

24 A. Not since '97. But we did -- I think it was indicated

1 that we did when we purchased the exchange and lines in  
2 New England back in '94, I believe it was.

3 Q. Yeah, pretty early on in --

4 A. Right.

5 Q. Obviously, at some point you had to create something in  
6 order to get started.

7 A. I'm sorry. These were lines I believe that were  
8 purchased, I believe, from GTE. They did not come with  
9 the infrastructure. Certainly on a smaller scale than  
10 we're talking about here. So FairPoint did create,  
11 deploy and convert to a new set of systems that we had  
12 to build.

13 Q. All right. But that was, I think -- if I remember  
14 right, that was for, what, 20- or 30,000 lines?

15 A. I think that's right.

16 Q. Again, since you've been with FairPoint, have you ever  
17 had to undertake the kind of training effort that  
18 you're talking about now with having to train perhaps  
19 3,000 people or more in a fairly short time period?

20 A. No, we haven't, which is why we have gone through the  
21 process to bring on board senior leaders and key  
22 management personnel who have, why we've engaged a firm  
23 that has done this at this level with this type of  
24 complexity. So, to that exact point, I have not.

1 Classic FairPoint has not. The people we're bringing  
2 on board have. The company we're engaging to help us  
3 with this has. And again, that's one of the  
4 commitments we have is to bring that kind of expertise  
5 on right now, prior to close.

6 MR. RUBIN: Okay. Thank you. That's  
7 all I have for the witness, Mr. Chairman.

8 CHAIRMAN GETZ: Thank you.

9 Ms. Hatfield.

10 MS. HATFIELD: Thank you, Mr. Chairman.

11 **CROSS-EXAMINATION**

12 BY MS. HATFIELD:

13 Q. Good afternoon, Mr. Nixon.

14 A. Good afternoon.

15 Q. I'd like to start by referring you to Line -- excuse  
16 me -- Page 9 of your direct testimony.

17 A. I'm sorry. Page 9?

18 Q. Yes.

19 A. I am there.

20 Q. On Lines 9 and 10 you state, "FairPoint will have a  
21 lower debt-to-earnings ratio than Verizon would have,  
22 as explained by Mr. Smith." And I'm wondering, can you  
23 direct me to a reference in Mr. Smith's testimony that  
24 describes that?

1 A. Let me read the context of that, please.

2 Q. Sure.

3 (Witness reviews document.)

4 A. I cannot, right offhand, do that.

5 Q. Could you help me understand? Are you referring to the  
6 debt-EBITDA ratio, or are you referring to a different  
7 ratio?

8 A. That is probably a leverage ratio is what that was  
9 referring to, which would be a debt-to-EBITDA ratio.

10 Q. And do you know what the specific figures are that  
11 you're comparing, in terms of the two ratios of two  
12 companies?

13 A. I am not.

14 Q. Okay. Do you -- could you direct me to another witness  
15 who can answer that?

16 MS. HATFIELD: Or could I get a record  
17 request to just provide that answer?

18 WITNESS NIXON: I'd be happy to try to  
19 track that. I think I might be about the last FairPoint  
20 witness.

21 CHAIRMAN GETZ: Well, I'm expecting that  
22 we'll be continuing tomorrow with Mr. Nixon. I think  
23 that's a fair expectation at this point.

24 So if you could track that down --



WITNESS NIXON: If I can get that

2 tomorrow, I certainly will do that.

3 BY MS. HATFIELD:

4 Q. Thank you. Mr. Nixon, if you would turn to Page 29 of  
5 your direct testimony.

6 A. I am there.

7 Q. Okay. Starting on Line 5 through Line 10, you're  
8 discussing conditions imposed upon Verizon/MCI. And  
9 you're stating that they don't appear applicable to the  
10 FairPoint transaction. Do you see that?

11 A. I do.

12 Q. And I'm wondering, at the end of that section you state  
13 that -- in that last sentence that starts on Line 6,  
14 you state, "To the extent that some conditions remain  
15 in effect following the closing date of the FairPoint  
16 transaction, such as the special access and stand-alone  
17 ADSL conditions, FairPoint would expect to review with  
18 regulators whether such conditions are merited in the  
19 context of the present transaction." And with respect  
20 specifically to the stand-alone ADSL condition, does  
21 FairPoint propose to offer such a service in New  
22 Hampshire?

23 A. I believe, again, subject to check, the stand-alone DSL  
24 offering that Verizon has today has a sunset on it; so

1 it terminates at some point. FairPoint, however, as  
2 part of our commitment, would continue that for one  
3 year from closing if that period is beyond the current  
4 sunset, which I believe it is.

5 Q. So are you proposing to end that service after one  
6 year, or are you just saying at this time that's the  
7 maximum that you would commit to?

8 A. That's the maximum we'd commit to.

9 Q. Turning to Page 43 in your rebuttal testimony --

10 A. I'm sorry. Forty-three?

11 Q. Yes.

12 A. I'm there.

13 Q. On Page -- excuse me -- Line 9, you're answering a  
14 question from the OCA regarding whether you would make  
15 some broadband deployment information public. And  
16 we've had some discussion today about the confidential  
17 level of information included in that plan. But my  
18 question is, would you be willing to provide certain  
19 information that you didn't think was competitively  
20 sensitive to key state policymakers who are working to  
21 deploy broadband in the state, such as the Department  
22 of Resources and Economic Development and the  
23 Telecommunications Advisory Board, in order to ensure  
24 that FairPoint and the state are working together and

1 not working in ways that are redundant or in ways that  
2 conflict?

3 A. Let me, if I might -- two answers to that: First is, I  
4 believe in one of my responses to a data request I  
5 indicated that we're providing the information that's  
6 confidential every six months to the parties so they  
7 can monitor and track our performance. Your question,  
8 I believe, was with regard to non-confidential  
9 information. We believe it's extremely important for  
10 us to work with, in a collaborative way, the  
11 communities, the agencies and the departments to deploy  
12 broadband across the state. And we would not only look  
13 forward to doing that, but we've already started.

14 FairPoint -- we have now been working in  
15 the market since August, meeting with community  
16 leaders, meeting with economic development agencies,  
17 economic development leaders, sharing with them our  
18 plans for how -- not only our broadband initiative, but  
19 how can we work with them for the -- to develop an  
20 economic development initiative based upon a  
21 connectivity model, which is somewhat what Dr. Sicker  
22 was talking about, whereby our approach is more geared  
23 toward the application needs of the customers than what  
24 network do you need to meet those application needs.

1 So, long answer to a short question: I'd be happy to.

2 Q. And you talked about having been in the market since  
3 August. Is there -- I think there's a particular  
4 organization that you're working with. Could you  
5 just -- I forget the name of it. But you've been  
6 reaching out to community leaders in partnership with  
7 an organization. What is the name of it?

8 A. We've engaged a consultant, Frank Knott, with a  
9 community called ViTAL Economy, who I've worked with  
10 Mr. Knott for probably 10 or 15 years doing exactly  
11 this. And he currently has initiative in Southern  
12 Illinois that's similar. And so he has been working on  
13 our behalf, as has Stu Arnet and others.

14 Q. And would the outcome of that work be a plan, a  
15 statewide plan that's similar to something that I've  
16 just heard reference to before called Connect Kentucky?

17 A. I'm not sure how the similarities would be. It's been  
18 certainly referenced. The plan that we anticipate  
19 first is that we don't pretend to come in with the  
20 answer on economic development needs for the state.  
21 What we do is we want to meet with and to listen to the  
22 economic development leaders, the communities, the  
23 different constituents, on what are the needs, what are  
24 the applications. And then we would be -- what our

1 objective is, is to bring in the resources and tools  
2 that can help them accomplish those objectives and  
3 create an organization reporting to me that would help  
4 us accomplish that, including a trial -- a pilot,  
5 rather, in each of the three states that would seek to  
6 have collaborative approach to connectivity-enabled  
7 economic development across communities. And this does  
8 not anticipate that FairPoint would be the only  
9 broadband provider. This is anticipating that there  
10 would be those who are in the network would be part of  
11 the process. And at the end, our objective is if we  
12 worry about dividing up an ever-shrinking pie, then  
13 nobody is going to win at the end of the day. Our  
14 objective is how can you grow the size of the economy  
15 and have a greater participation in a growing economy.  
16 And we believe that there are ways to do that. There  
17 are ways to use a connectivity approach, enable an  
18 approach to supplement economic development. The  
19 example I give, there's a great book out called "Moving  
20 to a Small Town." It says it's 35 million people who  
21 live where they work and work where they live. Why  
22 would they all want to work and live here? So how do  
23 communities take advantage of those people? Primarily  
24 through broadband. So again, that would be our effort.

1 Q. And will FairPoint pursue that initiative if the  
2 transaction is not approved?

3 A. No, ma'am. Not here. We certainly are looking at  
4 doing that in our classic areas. Now, we would not be  
5 able to take that to the entire state.

6 Q. Would you be willing to make FairPoint's broadband plan  
7 implementation a condition for the approval of this  
8 transaction?

9 A. At first, I thought no. But I believe that the  
10 broadband plan is a cornerstone of what FairPoint is  
11 proposing. It's a cornerstone of what we believe will  
12 be of significant value enhancement to New Hampshire;  
13 and therefore, I would agree to make it a condition to  
14 the merger.

15 Q. And I believe it was with Mr. Brown this morning, or  
16 someone on the Brown/Harrington/Smee panel, that they  
17 were asked questions about implementation of the  
18 broadband plan and enforcement from the state's  
19 perspective. I'm wondering, since it is a cornerstone  
20 of your proposal, how would you propose that we ensure  
21 that you do meet the goals laid out in that plan?

22 A. Market forces are the primary driver for us to  
23 accomplish that plan. As I said, certainly as we've  
24 laid out the plan, once it's made a part of the merger

1 condition, the Commission, I believe, has the ability  
2 to enforce it. I do not believe that any other  
3 consequences are required beyond that.

4 Q. I'd like to ask you a few questions about service  
5 quality. So if you could turn to Page 23 in your  
6 direct testimony.

7 A. Yes, ma'am.

8 Q. And there you're discussing that FairPoint has a  
9 strategic imperative to provide a customer experience  
10 that meets or exceeds customer expectations. And it  
11 sounds like it's your opinion that maintaining high  
12 service-quality standards is important to maintaining  
13 and growing your business; is that correct?

14 A. Yes, ma'am.

15 Q. And are you familiar with one of Mr. Smee's responses  
16 to one of our data requests? It actually was made an  
17 exhibit this morning. It was OCA Exhibit 111P. And in  
18 that response, Mr. Smee lays out the timing of  
19 achieving your broadband plan. He lays out the time  
20 frame of 24 months. And I wanted to ask you, as  
21 president of FairPoint, do you -- does Mr. Smee have  
22 executive-level support for his statements regarding  
23 implementation of the broadband plan?

24 A. He does. He's been a key architect in the development

1 of that. He's done significant research and work into  
2 all the analysis done to date. And he's been really a  
3 key, fundamentally driven that, and he has my full  
4 support.

5 Q. And if you would turn to your rebuttal testimony on  
6 Page 39.

7 A. Yes, ma'am.

8 Q. Lines 5 through 7, you state, "FairPoint specifically  
9 agrees to be bound by the standards that currently  
10 apply to Verizon." And I believe you're referring to  
11 service-quality standards. And you state, "Additional  
12 metrics and penalties would be excessive and  
13 inappropriate." Do you agree with that?

14 A. I do.

15 Q. So, in New Hampshire, what are the consequences if  
16 FairPoint fails to achieve the service-quality  
17 standards that are in place today?

18 A. I believe the Commission could open up a docket and  
19 bring us in and ask us to explain what we're doing and  
20 not doing and set forth the consequences, if there were  
21 to be any.

22 Q. And do you know if FairPoint will face or if Verizon  
23 today would face financial penalties for failure to  
24 meet service-quality standards in Maine?



1 A. Yes, they do in Maine.

2 Q. And do you know, would FairPoint in the future, or  
3 Verizon today, face financial penalties for failure to  
4 meet service-quality standards in Vermont today?

5 A. They do.

6 Q. And I think we heard testimony from Mr. Smee that  
7 FairPoint has a plan in place and a budget to address  
8 outstanding service-quality issues in New Hampshire; is  
9 that correct?

10 A. Yes, ma'am.

11 Q. But if FairPoint faces penalties in Maine and they face  
12 penalties in Vermont, but they don't face them in New  
13 Hampshire, doesn't that give the company an incentive  
14 to really focus on those other two states first and to  
15 focus on meeting the New Hampshire standards last?

16 A. No, it doesn't. The implication -- and I know where  
17 you're going with the line of questioning. The  
18 implication is that the company is responsible only to  
19 penalties. That is the furthest thing from the truth.  
20 The company is extremely responsive to the market  
21 forces. We have talked about and heard about in many  
22 cases the alternatives customers have for their service  
23 provider. We have -- we must provide that kind of  
24 service quality to our customers if they're going to

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1 remain our customers. We have to earn that service.

2 It's going to take us, as Mr. Smee said,  
3 a couple years for us to turn a couple of areas around.  
4 By and large, the services from a statewide-level  
5 basis, the network trouble report rate is pretty good.  
6 There are surveillance-level areas, some wire center  
7 areas that need remediation. I think Mr. Smee was  
8 extremely correct. We can't come in here and promise  
9 we're going to fix something overnight and then take  
10 two years to do it. I'd much rather sit here and tell  
11 you it's going to take us two years. It's going to  
12 take us -- my commitment to the team is that for the  
13 first -- from close until cutover, we will focus on the  
14 cutover. I do not want to add additional demands on  
15 teams that would distract them from that cutover, which  
16 is why Mr. Smee said it's going to take us two years to  
17 get there and why we can't start until cutover. It's  
18 not that we don't want to. Doesn't mean we don't  
19 recognize the need to. It's just a matter of let's put  
20 the priorities where they have to be: A smooth and  
21 successful cutover. But the imperative for us is  
22 market force. It isn't the penalties that make us do  
23 what we have to do.

24 Q. And Mr. Nixon, do you think it's fair to say that if

1 FairPoint is stepping into Verizon's shoes, that today  
2 Verizon faces the same competitive pressures that  
3 FairPoint will face?

4 A. I'm not sure about the "stepping in Verizon's shoes."  
5 Certainly, there are market forces. The market -- the  
6 northern New England states will represent over  
7 85 percent of our business. It is, therefore,  
8 mission-critical that we serve and support and provide  
9 high-quality service to these customers. You know, our  
10 approach is that this is the area where we have to put  
11 our focus.

12 Q. And what I think I hear you saying is that you don't  
13 need any -- or that New Hampshire doesn't need  
14 enforcement mechanisms because the market will be  
15 enough of an incentive for you to meet those standards.

16 A. It is. I believe that as part of our plan, Mr. Smee  
17 indicated that we'd be meeting with the staff to review  
18 those wire centers that are in surveillance areas. So  
19 there will be continual dialog with the staff for the  
20 input to give you update on where we are. But in a  
21 day, the customers will be the ones that drive our  
22 behavior.

23 Q. And would you be willing to include OCA in those  
24 meetings with staff?

1 A. Yes, ma'am.

2 Q. And I wanted to direct you to another OCA exhibit,  
3 which is 99P, which was another exhibit from the  
4 Brown/Harrington/Smee panel. And I had two questions  
5 about that, too. Do you have that in front of you, Mr.  
6 Nixon?

7 A. 99P?

8 Q. Yes.

9 A. Bear with me a minute. That's a public?

10 Q. Yes, it is.

11 A. P. I'm sorry.

12 Q. That's okay.

13 A. Boy, I do not.

14 Q. Okay. I can put it up on the screen here for you.

15 A. Yes, ma'am.

16 Q. My first question is -- I'm not sure who this person  
17 is. Mr. Chris Baron is listed as director of corporate  
18 development. But does he have responsibility for  
19 service-quality issues?

20 A. No, he does not.

21 Q. So would you be willing to adopt this response as your  
22 own?

23 A. Let me read it first.

24 Q. Sure.

1 A. I have to be careful who I adopt.

2 (Witness reviews document.)

3 A. I'm not sure I would adopt that. I think there's been  
4 a lot of knowledge gained since April. I think  
5 Mr. Smee is probably the person closest to the  
6 service-quality issues, concerns and docket. And I'm  
7 not sure at this point that I can adopt that as my --  
8 I'm not sure I find fault with it. I'm just not sure  
9 that I can say I would adopt it entirely. I think Mr.  
10 Smee has probably been extremely articulate in the area  
11 of service quality. Just a quick review, I'm not sure  
12 I see something that's incorrect. I think there's been  
13 a lot of time has passed since.

14 Q. Okay. As you can see, I've marked on that Paragraph A  
15 in your response that last sentence. And that  
16 paragraph refers to the open service-quality docket  
17 with Verizon that this Commission has already taken  
18 administrative notice of in this proceeding. And I  
19 noted that sentence because it says, "Once this docket  
20 is complete, FairPoint will be in a better position to  
21 comment upon such issues." And my question to you is:  
22 Is it FairPoint's intention, if the transaction is  
23 approved, to engage in this docket with the parties to  
24 try to resolve those service-quality issues?

1 A. Yeah. I'm not completely familiar with that docket. I  
2 do know that Mr. Smee has done a lot of work to  
3 understand what the service-quality issues are, has  
4 provided to the parties our plan to address those.  
5 FairPoint -- we'd be happy to -- I'm just -- at this  
6 point, I'm just not sure what the response would be, in  
7 terms of would we be -- review with the parties the  
8 response and the outcome? I suppose.

9 MS. HATFIELD: So I'd like to ask the  
10 company if they could provide an updated response with the  
11 appropriate witness who's willing to address this issue.

12 WITNESS NIXON: And you want us to  
13 address the A in particular? Is that what that is?

14 MR. COOLBROTH: We'll take the whole  
15 response, Mr. Nixon.

16 WITNESS NIXON: Okay.

17 CHAIRMAN GETZ: I guess I'm trying to  
18 understand, 'cause I thought -- it seems some of the  
19 problem here is this answer was not entirely responsive.  
20 I thought Mr. Smee had really answered a lot of these  
21 questions. Is it necessary to -- has Mr. Smee not  
22 answered these questions, Ms. Hatfield? Do you think you  
23 need more?

24 MS. HATFIELD: Well, I guess if the

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1 company would just review this, because I think Mr. Nixon  
2 said it's not -- he wouldn't adopt it as it is today with  
3 the additional information they have. So perhaps Mr. Smee  
4 could review it and provide an updated response.

5 WITNESS NIXON: I think I said I  
6 wouldn't adopt it because a lot of time has passed and  
7 Mr. Smee has done a lot more research on the  
8 service-quality area. And I think his current responses  
9 are indicative of the company's position.

10 MS. HATFIELD: Okay. The alternative is  
11 that this goes in the record as it is. And that's fine  
12 with the OCA.

13 MR. COOLBROTH: Well, I mean, it goes  
14 into the record with a person who's not a witness and with  
15 Mr. Nixon not having adopted it.

16 MS. HATFIELD: And this is not the only  
17 incidence of that, Mr. Chairman. There's several exhibits  
18 I think have been marked by different parties with -- that  
19 are sponsored by --

20 CHAIRMAN GETZ: Yeah. I don't want to  
21 get off on the procedural issue. I'm just trying to nail  
22 down -- I thought Mr. Smee answered these questions either  
23 in his written testimony or on the record today. If  
24 that -- if what he said is not responsive, you know, I'd

1 like to get that clarification. But I would just ask  
2 this, Mr. Coolbroth and Ms. Hatfield: I want to make sure  
3 we have a meeting of the minds on what needs to get on the  
4 record here and if we could come back with a  
5 recommendation in the morning. If this needs to be  
6 updated, then that's fine. If it's really now just  
7 obsolete because of the timing, then let's get that on the  
8 record as well.

9 MS. HATFIELD: Thank you.

10 MR. COOLBROTH: I think the focus of the  
11 prior document was concern about whether FairPoint had met  
12 the quality-of-service standards that had been prescribed  
13 as a result of one of the mergers. I think it was the  
14 Nynex Bell Atlantic merger. And FairPoint's testimony is  
15 that it will meet those standards. And we provided a  
16 timeline and provided cost. So I think that has been  
17 answered.

18 CHAIRMAN GETZ: Okay. Well, then, as I  
19 asked, if you can see if you can get a meeting of the  
20 minds with the Consumer Advocate and make sure we get it  
21 clear on the record what the status is.

22 BY MS. HATFIELD:

23 Q. Mr. Nixon, if you would turn to your rebuttal testimony  
24 on Page 25.



1 A. Yes, ma'am.

2 Q. Following up on Mr. Mandl's question, he asked you  
3 about key performance indices. And I think you said  
4 those were internal performance measures or goals and  
5 objectives that were just internal to the company; is  
6 that correct?

7 A. That's correct.

8 Q. And so that they don't relate to the service-quality  
9 standards that you must meet in New Hampshire; is that  
10 correct?

11 A. Not necessarily. We would incorporate within the KPIs  
12 those requirements by each state. And where we're  
13 obligated to file that information, as we may be  
14 required to file the information, we would. But we  
15 will certainly include those within our KPIs.

16 Q. And on Page 29 of your rebuttal testimony --

17 A. Yes, ma'am.

18 Q. -- Line 11, you referred to a business continuity plan  
19 that FairPoint will develop. And I'm wondering, I  
20 think one of the earlier witnesses responded to  
21 questions by Commissioner Morrison about a plan, more  
22 of a disaster or emergency plan. And I'm wondering, is  
23 that what you mean by business continuity plan?

24 A. There's different aspects of the business continuity

1 plan, everything from a disaster recovery -- similar to  
2 the Raymond central office would be one. There would  
3 be a disaster business continuity plan in the event of  
4 a data center outage or event, if you will. There  
5 would be a business continuity plan for a -- in case  
6 insufficient labor were available to be available and  
7 do business. So whether it's staffing, whether it's an  
8 event, it would be all those different aspects for  
9 business continuity. Our plan will be available.  
10 We'll have that completed in December, well before  
11 close. And included in there would be, I think -- I  
12 don't want to assume where you're going -- a mutual aid  
13 agreement that we're working on right now, whereby the  
14 other neighboring companies would -- there would be an  
15 agreement beforehand -- in the case of some ice storm  
16 or something else that required assistance, would come  
17 to the aid. Sort of a mutual aid type of thing.

18 Q. And did I hear correctly, a witness testified earlier  
19 that that plan would be developed by December 1st of  
20 this year?

21 A. I don't think it was December 1st. In December.

22 Q. And is that something you'd be providing to the  
23 parties?

24 A. I will. I'm not sure about the confidential treatment.

1 But yes, we absolutely would provide that.

2 Q. If you could turn to Page 18 of your rebuttal.

3 A. Yes, ma'am.

4 Q. And if you look on the very first lines on that page,  
5 Lines 1 through 3, you state that Verizon must run the  
6 business in the normal course; is that correct?

7 A. That's correct.

8 Q. And then if you look at OCA Exhibit Nixon 21P --

9 A. I have it.

10 Q. -- which is your response to OCA R-132, we asked you to  
11 define "in the normal course."

12 A. Correct.

13 Q. And if you would just read your response to Paragraph A  
14 into the record, that would be helpful.

15 A. The response is, "To operate the business as if the  
16 merger agreement had not been signed; pricing,  
17 introduction and sales of products and services,  
18 performance metrics at historic levels and consistent  
19 with other states, and capital expenditures as if the  
20 merger had not been announced."

21 Q. And I asked this question earlier of one of the  
22 witnesses on the panel. But what is the recourse for  
23 FairPoint if after you close you find that Verizon  
24 hasn't been running the business in the normal course?

1 What type of action can you take?

2 A. I don't believe there's any contemplated in the merger  
3 agreement, which is -- and I -- again, it's an  
4 important follow-up. I believe it was Mr. Smee, but  
5 one of the witnesses this morning indicated we are in  
6 daily conversations with the counterparts at Verizon.  
7 So this is not just at a senior level with Steve Smith  
8 and myself. This would be, for instance, with John  
9 Smee and the operations, senior-level operations down  
10 to and including the head of the dispatch center at  
11 Verizon. We are working, you know, literally at the  
12 director and management level to understand the  
13 business, understand how they're running the business.  
14 We receive a monthly report from them by position, by  
15 department, by location, the employees, and what's  
16 changed in those employees counts. We don't have it as  
17 if we're sitting there running it. But we have a  
18 vested interest, of course, in knowing what it's going  
19 to look like when we get it.

20 The other thing I think is important to  
21 keep in mind, Verizon shareholders will own 60 percent  
22 of the equity of the business following close. They  
23 have a huge vested interest to make sure they pass to  
24 FairPoint a business that's being run in their normal

1 course.

2 Q. And looking at your answer that you just read,  
3 Paragraph A, it does not include explicitly staffing  
4 levels. In your mind, does the normal course include  
5 appropriate staffing levels?

6 A. It includes appropriate staffing levels to run the  
7 business in the normal course.

8 Q. And is FairPoint planning to conduct some type of audit  
9 after the closing to get a finer level of detail on the  
10 entire network, including its condition and the  
11 requirements, both financial and staffing-wise, to  
12 improve it the way FairPoint plans to?

13 A. I think Mr. Smee indicated that we'd be doing a  
14 root-cause analysis following the close and cutover.  
15 It will be targeted at those wire centers -- I believe  
16 he said 16 -- that were running at surveillance  
17 level -- which I believe is 2.5 on a network trouble  
18 report rate on a consistent basis. And so our  
19 objective is to do a targeted assessment based upon  
20 what the data is telling us where the troubles or where  
21 there's some issues that might be pervasive. So for  
22 us, it's going to be the right people following close  
23 and doing a target root-cause analysis. I'm sorry.  
24 Looking over here.

1 Q. On Page 33 in your rebuttal testimony --

2 A. Yes, ma'am.

3 Q. -- on Lines 15 to 20 where you're discussing the fact  
4 that Verizon has to transfer a skilled work force to  
5 FairPoint, you note that Verizon has placed the unions  
6 on notice that surplus jobs exist in New York,  
7 Massachusetts, Rhode Island and the Mid-Atlantic  
8 region. And you go on to say, yet no such notice has  
9 been issued in connection with the northern New England  
10 states. But does it concern FairPoint that northern  
11 New England employees may leave to take advantage of  
12 those surplus jobs in the other states?

13 A. I think this is important, and this is my  
14 understanding: When we say "surplus jobs," I think it  
15 has the reverse effect, where Verizon has indicated  
16 they have more employees than they need in the other  
17 states. Now, what they haven't done is made that same  
18 announcement in northern New England. What that's  
19 done, essentially, is provide that, but for the  
20 transaction -- I'm speculating here -- so, but for the  
21 transaction, one might assume that a surplus notice or  
22 notices may have been given by Verizon. I don't know  
23 that for a fact. They have not told me that for a  
24 fact. But I think you could make the case that, but

1 for the transaction, those notifications would have  
2 been given that there were more employees than they  
3 needed to run the business in the normal course. If  
4 that were the case, that would tell us then that there  
5 is a buffer that's been built into the head count to  
6 accommodate -- partially accommodate, maybe not  
7 entirely, but partially accommodate the concern, and  
8 legitimate concern about retirees, about providing a  
9 work force that would be available so we could  
10 transition through the training programs and be able to  
11 again look at those areas that would help us with some  
12 comfort that there is some contingency plan for that  
13 possibility.

14 Q. So, does the statement from your testimony, that  
15 Verizon has placed the unions on notice that surplus  
16 jobs exist, does that not mean there are openings in  
17 those other states?

18 A. I think the context of that was intended to be a  
19 surplus notification. And a surplus notification is  
20 indicative of that there's more employees than  
21 necessary than it is to run the business. And that's a  
22 very shorthand way. That's not a legal or collective  
23 bargaining definition of what that term means.

24 Q. You have several attachments to your rebuttal

1 testimony. One of them is PGN-7.

2 A. Yes, ma'am.

3 Q. And that includes an organizational chart of both the  
4 senior leadership team and then also many of their  
5 reports, does it not?

6 A. That would be correct.

7 Q. And it's dated August 20th, 2007?

8 A. Yes, ma'am.

9 Q. And I've noted within it there are still several boxes  
10 within the chart that just have a title but not a  
11 person's name; is that correct?

12 A. Yes, ma'am.

13 Q. And I'm wondering, have you filled some or all of those  
14 positions since August 20th?

15 A. We'll be providing this week an update to the org  
16 chart. And we have and continue to hire and to fill  
17 these in.

18 MS. HATFIELD: And Mr. Chairman, I'd  
19 like to make that a record request so it could be an  
20 exhibit.

21 CHAIRMAN GETZ: Okay. We will reserve  
22 Exhibit No. 62 for the org chart.

23 BY MS. HATFIELD:

24 Q. Mr. Nixon, I wanted to ask you a few questions about



1 rates. And on Page 40 of your rebuttal testimony --

2 A. Yes, ma'am.

3 Q. -- on Lines 8 and 9, you say FairPoint has no plans to  
4 increase basic local rates and agrees not to seek an  
5 increase in basic rates for one year. Is that still  
6 your position?

7 A. That's correct.

8 Q. And when you say "basic local rates," what does that  
9 include, in your mind?

10 A. At the time, it would include a business, residential  
11 regulated service. These would be -- I would expand  
12 this to say regulated services.

13 Q. And in Mr. Leach's rebuttal testimony, he says that  
14 FairPoint would consider a two- to three-year stay-out  
15 if it was in both directions -- meaning, the company  
16 would commit to stay out, but also the Commission would  
17 commit not to call the company in. Do you support  
18 that?

19 A. I do.

20 Q. So that somewhat modifies your commitment in your  
21 rebuttal testimony?

22 A. I'm not sure it modifies it as much as it indicates  
23 that the company is seeking the best environment that  
24 we can to do two things: One, provide the company some

1 indication and predictability, if you will, of the  
2 revenue stream over some several years, as well as give  
3 our customers that same type of comfort. And if we  
4 were to have a mutual arrangement, as Mr. Leach  
5 indicated, you know, I believe that would work.

6 Q. And if there was a two- or a three-year stay-out  
7 provision during which time FairPoint couldn't increase  
8 rates, that would be more consistent with the length of  
9 time that you need to stay out in Maine and Vermont  
10 under their AFOR plans; is that correct?

11 A. It would have -- in a mutual arrangement, it would have  
12 that summer calendar effect.

13 Q. Turning to the issue of video.

14 A. Can I just -- that would be an effective date, not a  
15 file date. As we were talking about as the various  
16 discussions we had this last discussion, it would be  
17 effective dates as opposed to file dates.

18 Q. So what you're saying is, if you had a three-year  
19 stay-out, you could file after two years, but that the  
20 permanent rate increase wouldn't go into effect until  
21 after three years?

22 A. In that scenario, that would be the case.

23 Q. And do you think the company would seek temporary rates  
24 at the time that they filed, or would they agree to a

1 complete stay-out for the full period on any rate  
2 increase?

3 A. I don't think we -- we did not visualize this at the  
4 time. So I'm not sure I'm prepared to indicate --

5 MR. COOLBROTH: I'm not sure the witness  
6 is familiar with our temporary rate statute, Mr. Chairman.

7 WITNESS NIXON: I understand there may  
8 be a true-up at the end. But again, I need to -- the  
9 point -- I'm not sure this is -- I have sufficient  
10 familiarity on the process that I want to be making that  
11 kind of commitment today.

12 BY MS. HATFIELD:

13 Q. Turning to video on Page 43 in your testimony, you've  
14 already discussed with Mr. Ciandella the fact that  
15 FairPoint doesn't have specific plans to initiate video  
16 service offerings in northern New England. And I have  
17 a question about -- my understanding is that, for the  
18 customers who currently have FiOS, that FairPoint will  
19 be supporting that fully. Is that correct?

20 A. We'll be supporting the voice and data services. We  
21 can't, of course, call it FiOS. That's a trademark  
22 name. But we'll be supporting the services they're  
23 currently getting, currently receiving.

24 Q. So do you know if any FiOS customers now are receiving

1 a video product?

2 A. Not that I'm aware of.

3 | Q. On Page 12 of your rebuttal testimony --

4 A. Yes, ma'am.

5 | Q. -- on Line 17, you state that FairPoint will establish  
6 a three-state advisory board; is that correct?

7 A. That's correct.

8 Q. And do you know how many members that advisory board  
9 would have?

10 A. This advisory -- I do not. But this advisory board  
11 would be reporting and working directly with me. I  
12 have not decided on the size or the make-up, except to  
13 say that we are very interested in making sure we have  
14 a cross-section of the communities, the businesses,  
15 and, you know, all the constituent groups that make up  
16 the states. So I'm not focused right now on the size  
17 of that, recognizing that something too large gets to  
18 be unwieldy. The desire would be that we would have  
19 one advisory board representing all three states. I  
20 believe there's some commonality between them and  
21 certainly some commonality in their needs from  
22 FairPoint. So we have not decided on the size or  
23 make-up of the board.

24 Q. Do you envision it having an equal number of members

1 from the three states?

2 A. Again, I've not gotten to that level of specificity.

3 I'd want -- I would make sure that there was a  
4 well-rounded representation from all three states.

5 Q. And do you know how the candidates would be chosen for  
6 the advisory board?

7 A. I do not at this time.

8 Q. And do you know what the board, the advisory board  
9 would be charged with doing?

10 A. Primarily, and although we have not worked out the  
11 charter to give them the actual workings, it would  
12 be -- the roles would really be twofold: It would be  
13 an opportunity for FairPoint to share with them what  
14 our strategic goals and objectives were, to familiarize  
15 them with the industry, with the company. And number  
16 two, and for me, most importantly, to listen to them on  
17 what they believe their constituents need for services,  
18 how they believe the company is being perceived within  
19 the communities, and the service and the quality of  
20 service, as well as the depth and breadth of services  
21 that we offer. So for me, it's an opportunity to  
22 listen to people who have a keen interest in their  
23 communities and are willing serve on that kind of a  
24 board.

1 Q. And who would the advisory board report to, or who  
2 would they be advisory to?

3 A. To me.

4 Q. And then, would it be your job to report their thoughts  
5 and advice up to the board of directors?

6 A. We do a couple things. First, we'd certainly report  
7 that to the senior team at FairPoint. We'd report that  
8 to our board. I would also expect that I would have  
9 with me various members of my senior team, that I'd  
10 want them to hear their feedback firsthand. So I'd  
11 expect my vice-president of marketing and product  
12 development to attend the meetings to hear their  
13 comments. I'd expect John Smee to be there to hear  
14 their thoughts and comments on quality of service. So  
15 I would expect that I'll give them access to  
16 senior-level people that they will need for direct  
17 feedback.

18 Q. In your rebuttal testimony, you state that, although  
19 most of your direct reports will be located in northern  
20 New England, that you will remain living in North  
21 Carolina; is that correct?

22 A. I will have an apartment in northern New England, but  
23 my legal residence will be in Charlotte.

24 Q. And under your new position as president of FairPoint,

1 are 100 percent of your duties focused on northern New  
2 England if the transaction is approved?

3 A. The Verizon properties in northern New England, not the  
4 FairPoint classic properties. It is just this  
5 transaction.

6 Q. And at some point after the transaction, if it's  
7 approved, would you also be working with senior  
8 management of FairPoint to look at other new  
9 acquisitions?

10 A. Perhaps down the road. My near-term plan is the  
11 transaction, the conversion, successful integration and  
12 operations within the three-state area. And that is my  
13 singular focus right now.

14 Q. And do you have any incentives in your compensation  
15 plan with FairPoint that relate to this transaction?

16 A. I do. I have one; and that is, upon close there is a  
17 bonus that I have -- I'm eligible for.

18 Q. And is that a similar situation for other senior  
19 executives?

20 A. It is.

21 Q. Earlier in these hearings we heard some testimony that  
22 in Vermont there is a proposal to create a separate  
23 state-level entity. I'm wondering, if you're required  
24 to do that in Vermont, will you do the same in New

1 Hampshire and Maine?

2 A. We do not believe that that is necessary and do not  
3 believe that's the best structure. So it is -- it  
4 would be our desire not -- it certainly is our plan and  
5 desire not to do that. There just are more reasons why  
6 it's bad than why it's good.

7 Q. Can you think, though, from the regulator's  
8 perspective, some of the reasons why it might be good?

9 A. Again, I think several witnesses have discussed that  
10 particular topic. And the company does not believe  
11 that that would be the structure that would be in the  
12 best interest of the states.

13 Q. Just one moment, please.

14 Thank you very much, Mr. Nixon. I have  
15 no further questions.

16 A. Thank you.

17 CHAIRMAN GETZ: Thank you.

18 A couple questions. I assume you have  
19 some fairly extensive cross, Ms. Fabrizio?

20 MS. FABRIZIO: I do. I guess 45 minutes  
21 to an hour.

22 CHAIRMAN GETZ: I think, also, Sue may  
23 be at her limits as well. And if she's not, we'll blame  
24 it on her nonetheless. I think we should close the



1 procedures today and pick up with Mr. Nixon in the  
2 morning. But I want to clarify at least two things here.  
3 I guess one is, I believe the Consumer Advocate was going  
4 to look at this updated broadband plan to see, I guess,  
5 how it compared to earlier versions and whether it was  
6 necessary to conduct additional cross. I don't know how  
7 long, Ms. Hatfield, if that's some answer that you can  
8 communicate this evening to Mr. Coolbroth or something  
9 we'd have to wait until the morning. But I guess what I'm  
10 getting at is, we need to know who would -- if there's  
11 additional cross, who that would be directed to. Is it on  
12 that panel, the Harrington/Brown/Smee? I mean, do you  
13 have -- do you know, Ms. Hatfield, who the questions would  
14 be directed to and who needs to be on standby?

15 MS. HATFIELD: I would think that they  
16 would be directed to Mr. Brown. But I would really leave  
17 it up to the company on who's the best witness to answer  
18 the questions. We've had just a quick chance to review  
19 it, and it seems like there are some differences. So we  
20 would like to have a chance to ask some questions.

21 CHAIRMAN GETZ: Okay. Is somebody from  
22 the panel available tomorrow to work that in?

23 MR. COOLBROTH: Mr. Brown is available,  
24 Mr. Chairman.

1 CHAIRMAN GETZ: All right. Then the  
2 other issue was how to deal with the third-party  
3 monitoring agreement, which apparently has been circulated  
4 to everyone, and I'm hopeful has been circulated to us as  
5 well, to try to provide opportunities tomorrow to some  
6 combination of Mr. Nixon and Mr. Falcone or Mr. King that  
7 I guess we'd go to after basically the conclusion of Mr.  
8 Nixon's testimony.

9 Are there any other issues that we need  
10 to address before we close the proceedings for today?

11 (No verbal response)

12 CHAIRMAN GETZ: Okay. Hearing nothing,  
13 then we will resume at 9:00 tomorrow morning. Thank you  
14 everyone.

15 (Hearing adjourned at 5:15 p.m.)  
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