

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Docket No. DT 07-011

**Joint Petition of Verizon New England, Inc., *et al*,
and FairPoint Communications, Inc.
Transfer of New Hampshire Assets, *et al*.**

DIRECT TESTIMONY

OF

JEREMY L. KATZ

**ON BEHALF OF
SEGTEL, INC.**

August 1, 2007

1 **Q. PLEASE STATE YOUR FULL NAME, TITLE AND BUSINESS**
2 **ADDRESS.**

3 A. My name is Jeremy Katz. I am Vice President and Chief Executive Officer of
4 segTEL, Inc. My business address is 325 Mount Support Road, Suite 1, Lebanon,
5 NH 03766.

6

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
8 **PROFESSIONAL EXPERIENCE.**

9 A. I have a bachelor's degree *cum laude* from Dartmouth College.

10 I have been continuously employed in the competitive telecommunications
11 industry since January of 1995.

12 I have testified before the Commission on issues related to competitive
13 telecommunications services including the rates, terms, and conditions under
14 which incumbent local exchange providers must provide services to competitors.

15

16 **Q. TELL US ABOUT SEGTEL.**

17 A. segTEL, Inc. is a facilities-based competitive local exchange carrier operating in
18 New Hampshire, Maine, Massachusetts and Vermont, and headquartered in
19 Lebanon, NH. segTEL has constructed fiber optic networks in and between many
20 markets in northern New England. segTEL offers voice and data services using
21 its own facilities and in conjunction with facilities leased under wholesale and
22 retail tariffs and interconnection arrangements currently provided by Verizon in
23 New Hampshire. As provided by the Telecommunications Act, segTEL uses

1 Verizon's wholesale organization and Operational Support Systems (OSS) to
2 order and maintain services it leases from Verizon.

3

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

5 A. The purpose of my testimony is to describe the likely impacts of FairPoint's
6 proposed acquisition of Verizon's local exchange properties in New Hampshire
7 on segTEL, to support the testimony and recommendations of Gary J. Ball , and
8 to recommend placing conditions on the proposed transaction related specifically
9 to segTEL's core operations.

10

11 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

12 A. segTEL adopts the testimony of Gary Ball and the conditions he recommends for
13 this transaction. In his pre-filed direct testimony, Mr. Ball points out that
14 "[c]ompetitors could very well end up with the worst of both worlds, [with
15 FairPoint] inheriting Verizon's hostile regulatory stance combined with
16 FairPoint's inexperience as a wholesale provider." I agree with Mr. Ball's
17 statement that FairPoint's current offer to simply adopt Verizon's regulatory
18 approach is insufficient for competitors and support his proposed conditions as a
19 means of reducing some of the operational and regulatory risks regarding the
20 transaction. Those conditions include:

- 21
- The New Hampshire Commission must retain ongoing jurisdiction over
22 FairPoint and Verizon while the TSA is in effect and during the cutover,
23 and must retain jurisdiction over FairPoint's system after the cutover to

- 1 ensure that FairPoint's wholesale services, systems, processes and
2 procedures are at least as good as Verizon's. The Conversion from the
3 TSA should only be allowed after the Commission's review and approval
4 which should be conditioned upon third party audits of any new proposed
5 system as well as the consideration of CLEC input.
- 6 • The Commission should order the establishment of a funding mechanism
7 to provide CLECs the ability to recover any costs they are required to
8 incur to conform their existing systems and processes to FairPoint's new
9 systems and to provide insurance to CLECs if any competitive damage is
10 encountered in connection with the transition to FairPoint systems.
 - 11 • FairPoint must be subject to the same regulatory requirements as Verizon,
12 including but not limited to all obligations under section 251 and 271 of
13 the Act.
 - 14 • The Commission should condition its approval on FairPoint's agreement
15 to offer unbundled network elements required under Sections 251 and 271
16 at the rates, terms and conditions in Verizon's NHPUC Tariff 84 and PUC
17 orders.
 - 18 • As the acquirer of dominant ILEC status in the 3 northern New England
19 states, FairPoint should be required to adopt competitive best practices and
20 make them uniform across their territory. Such practices would include
21 the review and adoption of Maine and New Hampshire determinations
22 regarding section 271 network availability, pole attachment practices, and
23 dark fiber practices as described by Gary Ball.

- 1 • FairPoint should agree to assume the key voluntary conditions contained
2 in the AT&T/Bell South merger, including, but not limited to, rate freezes
3 on UNEs, tandem transit service, and special access; agreement not to
4 count MCI's collocations as part of any impairment analysis; extensions of
5 existing interconnection agreements for 3 more years; and agreement not
6 to seek or give effect to forbearance from the unbundling of any loop or
7 transport facility.

8 In addition segTEL enumerates additional concerns that it has regarding this
9 transaction that it believes will have a direct impact on its operations.

10 First, segTEL addresses the issue of access to poles, conduits and rights of way.

11 Next, segTEL identifies issues regarding the availability of dark fiber. Finally,
12 segTEL enumerates its operational concerns.

13 In this testimony segTEL recommends that the Commission require FairPoint to:

- 14 ○ Provide its intentions and plan with regard to migrating in the inventory,
15 licensing, make ready and other issues related to CLEC access to the poles
16 conduits and rights of way that FairPoint will inherit from Verizon.
- 17 ○ Provide its transition plan as to personnel, systems and investment
18 regarding the administration of CLEC access to poles, conduits and rights
19 of way.
- 20 ○ Pay its appropriate share for proper preventative maintenance of its poles
21 to ensure the safety of telecommunications line crews.
- 22 ○ Be diligent in preventing unlicensed attachments.

- 1 ○ Develop an electronic inventory of its fiber facilities, including dark fiber,
2 which will be provided to the Commission on a regular basis.
- 3 ○ Make readily available information and notices that are currently available
4 to CLECs and maintain a comprehensive wholesale website.
- 5 ○ File a plan for Commission approval that enumerates FairPoint's
6 resources, priorities and procedures for cutover from Verizon's systems to
7 the new wholesale systems including contact people and escalation lists.
- 8 ○ File a contingency plan for Commission approval for the manual
9 processing of wholesale orders in the event of a wholesale systems failure.
- 10 ○ Adopt the Commission's CLEC to CLEC migration guidelines.
- 11 ○ Appoint and maintain a single point of contact for provisioning and for
12 billing.

13

14 **Q. PLEASE DESCRIBE EXAMPLES OF THE FACILITIES THAT SEGTEL**
15 **BUILDS.**

16 A. segTEL builds fiber-optic facilities that operate on three different protocols –
17 traditional time-division multiplexing (TDM), gigabit Ethernet, and passive
18 optical networking (PON). Most traditional services such as T1 and POTS
19 services work in a TDM environment, and many enterprise and carrier customers
20 still rely on these. However, segTEL believes that the industry is progressively
21 migrating to an IP-based environment and that PON solutions represent a
22 promising and innovative path towards the new standards.

1 Accordingly, segTEL is investing in PON technology. segTEL has already
2 deployed PON facilities in Hanover, Lebanon and West Lebanon, New
3 Hampshire, and currently has plans for additional PON facilities throughout our
4 service areas. We will continue to invest in such facilities for the foreseeable
5 future.

6 In conjunction with these facilities, segTEL has developed its own fiber to the
7 premise solutions. segTEL presently provides enterprise, small business,
8 residential, and carrier services over our fiber-optic facilities. In our opinion these
9 services represent the best that the new world of telecommunications has to offer,
10 presented to customers in historically underdeveloped and underserved markets.
11 These services represent a credible and desirable facilities-based alternative to
12 Verizon's offerings.

13

14 **Q. HOW ARE THESE FACILITIES DEPLOYED?**

15 A. These facilities are fiber based. In addition to fiber-optic cable, segTEL deploys
16 splice enclosures, strand and other attachment-related facilities, lateral C-wires to
17 buildings, and network interface devices (NIDs). segTEL places fiber-optic cable
18 on poles and conduit owned by incumbent providers such as Verizon and the
19 incumbent electric utility. At times segTEL accesses rights of way and places
20 poles for deploying its facilities in the same way that New England Telephone did
21 when it first deployed its physical plant decades ago.

22 Most of the time, however, we use poles, conduit and other structures that are
23 already in place. In order to connect to these structures, segTEL must apply for

1 and receive licenses from facilities owners wherever it plans to place its
2 equipment. Access to poles and conduits is critical for deploying our network.
3 Further in my testimony, I describe below a typical process for attaching to utility
4 poles owned by Verizon.

5

6 **Q. ON WHAT AUTHORITY DOES SEGTEL PLACE ITS FACILITIES?**

7 A. First and foremost segTEL is a common carrier and a telecommunications utility
8 approved by the Commission. This gives segTEL specific rights and obligations
9 under state and federal law when it comes to serving the public good. One of
10 these is the right to access public rights of way to deploy telecommunications
11 facilities. This right is so essential to the public good that under state law (see NH
12 RSA 371:1) a public utility may petition the commission for permission to take
13 such lands or rights as may be needed to meet the reasonable requirements of
14 service to the public.
15 Additionally, segTEL is granted the right under 47 USC 224 (f)(1) to access the
16 poles, ducts, conduits and rights of way of any utility as follows: “A utility shall
17 provide a cable television system or any telecommunications carrier with
18 nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or
19 controlled by it.” This right under Federal Law was recently incorporated into
20 New Hampshire Law under RSA 374:34a. Underscoring the importance of
21 access to poles and conduit, Section 253 of the Telecommunications Act has
22 effectively preempted every state and local law that restricts competitive access to
23 these facilities, providing that no state or local statute, regulation, or legal

1 requirement may prohibit or have the effect of prohibiting the ability of any entity
2 to provide any interstate or intrastate telecommunications service. While there is
3 a savings clause, precedents have interpreted the preemptive effect of Section 253
4 very broadly.

5

6 **Q. WHY IS THIS IMPORTANT?**

7 A. Congress, in passing the Telecommunications Act of 1996, envisioned a time
8 when Americans would have access to multiple *facilities-based* options for
9 telecommunications services and other innovative services that would be invented
10 in the future. The Federal Communications Commission, as the agency charged
11 with implementation of the Act, has on many occasions reiterated the importance
12 of true facilities based competition. Section 224 of the Telecommunications Act
13 (47 USC 224) ensures that carriers have access to the poles, ducts, conduits and
14 rights of way necessary to establish a facilities-based option.

15

16 **Q. IN SEGTEL'S OPINION, HOW DOES SECTION 224 OF THE**
17 **TELECOMMUNICATIONS ACT RELATE TO SECTION 251?**

18 A. Sections 224 and 251 are integral to one another. Section 251's cost-based
19 unbundling imperatives were created to facilitate the entrance of multiple
20 innovative competitors into the local telecommunications markets in regions
21 where market entry otherwise would not be economically feasible. Section 224
22 provides CLECs with the option of constructing their own facilities instead of
23 relying strictly on unbundling. This provides CLECs with stepping stones to

1 build a customer base and market share before making the capital investments that
2 are necessary for developing a network. Absent the non-discriminatory
3 availability of Section 251 unbundled network elements it is nearly impossible for
4 competitors to obtain the market traction necessary to build next-generation
5 telecommunications facilities.

6 However, if any holder of facilities does not promptly and strictly comply with
7 the obligations of Section 224, a CLEC's competitive deployment efforts will be
8 delayed, stunted, or otherwise defeated. Any impediment to timely and unfettered
9 access to poles, ducts, conduits and rights of way diminishes or even blocks
10 attempts by CLECs to migrate off ILEC facilities and on to their own facilities.

11

12 **Q. DOES VERIZON PRESENTLY PROVIDE SEGTEL ACCESS TO ITS**
13 **POLES, CONDUITS AND RIGHTS OF WAY?**

14 A. Yes. Although segTEL believes that substantial improvements to the current
15 system should be implemented, Verizon has been providing segTEL access to
16 poles, conduits, and rights of way in Northern New England for years.

17

18 **Q. PLEASE DESCRIBE THE VERIZON PROCESS OF PROVIDING**
19 **ACCESS TO THESE FACILITIES.**

20 A. First, segTEL or any competing provider must maintain a general attachment
21 agreement with any facilities owner. In the event that there are multiple facilities
22 owners (*i.e.*, joint ownership of poles) a three-party agreement must be obtained.
23 These agreements take time to process, due to the need for original signatures
24 from multiple parties, proof of insurance, etc.

1 Although there are variations for pole and conduit applications, the generic next
2 step is that an application to access facilities would be made to Verizon. This
3 would be mailed to their Boston offices. The application for poles must be
4 accompanied with a pre-paid survey check, and an application for conduit would
5 receive a request for prepayment of survey with Verizon's reasonable estimation
6 of survey cost. Poles applications may be for single poles or several poles.
7 Upon the receipt of the funds and the completed application Verizon will schedule
8 a survey of the facilities to determine if attachment can be accommodated without
9 any modifications required. In the event that pole attachments can be made
10 without modification a license will be issued. In the event of available conduit
11 segTEL will be given the choice of renting the conduit along with a footage
12 measurement of the conduit available. Both of these occur via US Mail.
13 However, on an application it is the general practice that if even if one small part
14 of the poles or conduit requested in the application requires modifications to the
15 existing facilities, the entire application will be delayed and placed into a make-
16 ready situation. In this case Verizon will provide a description of the make-ready
17 work that they believe will be necessary, and if the work is to be done by Verizon
18 an amount that must be remitted in order to continue the process. Not continuing
19 the process cancels the pending application. When segTEL decides to move
20 forward, prepayment is made by check, via US Mail, along with a signed "make
21 ready authorization" letter. Upon completion of all make-ready work a license is
22 issued via US Mail to segTEL.

1 Receipt of a license does not mean the applicant may now use the pole or conduit.
2 segTEL has, at the point of license receipt, simply received permission from
3 Verizon to attach. Commonly other parties, including but not limited to
4 potentially illegal or unlicensed attachers and improperly placed attachers, have
5 issues that must be rectified prior to segTEL's actual deployment of facilities.

6

7 **Q. IS ANY OF THIS PROCESS ELECTRONIC?**

8 A. No. Although segTEL internally utilizes spreadsheet tracking of applications and
9 we believe Verizon does something similar, we believe that this process can be
10 characterized as being primarily manual, paper-driven, and dependent upon
11 human interaction at each and every step.

12

13 **Q. PLEASE CONTRAST THIS WITH THE ORDERING OF UNES AND**
14 **SPECIAL ACCESS CIRCUITS.**

15 A. Verizon's UNE and circuit ordering processes are substantially automated.
16 Manual intervention is the rare exception and not the rule.

17

18 **Q. WHY IS THIS RELEVANT TO THE INSTANT PROCEEDING?**

19 A. segTEL believes that a tremendous amount of effort is being focused on the
20 present state of the Verizon OSS and the replacement systems that FairPoint is
21 developing with Capgemini. This attention is proper and warranted, but segTEL
22 believes that equal attention must be given to the issues of pole, conduit, and
23 rights of way management.

1

2 **Q. PLEASE ENUMERATE THE MOST IMPORTANT ISSUES.**3 A. segTEL believes that the following issues are presented that must be resolved to
4 the satisfaction of the Commission if this transaction is to be approved:

- 5 1. The FairPoint Transition Services Agreement (TSA) appears to only
6 govern those *electronic or automated systems* that already exist at
7 Verizon. Since there is no automated “system” for the management of
8 competitive access to poles, conduits, and rights of way segTEL
9 speculates that FairPoint may be immediately responsible for handling
10 these issues on the day of the closing. Regardless of when FairPoint must
11 directly accommodate these issues, and whether that will be with or
12 without Verizon’s assistance, segTEL does not believe that FairPoint has
13 provided any evidence that it is prepared for this responsibility.
- 14 2. Although electronic OSS have substantial possibilities of failures and bugs
15 as evidenced by the prior Verizon sale of assets in Hawaii, paper-driven
16 systems are infinitely more difficult to transfer. Put simply, large
17 companies invest in electronic systems because they are scalable, efficient,
18 and hopefully accurate. If Verizon, with all of its assets and market
19 power, has been unable to develop and automate its paper-driven systems
20 for pole attachments segTEL is pessimistic that FairPoint will be able to
21 do so.
- 22 3. Access to poles, conduit, and rights of way for all three states in this
23 transaction is administered by the Verizon New England office in Boston,

1 Massachusetts. According to Verizon and FairPoint, none of these
2 Boston-based personnel who are charged with the administration of these
3 relationships will be moving to FairPoint after the transaction. segTEL's
4 experience has been that these departments generally have very few
5 personnel who are very intimately familiar with issues relating to licensing
6 and competitive access. FairPoint has provided no information
7 demonstrating its ability or intention to replicate this expertise.

8

9 **Q. ARE THERE ANY OTHER ISSUES OF MAJOR CONCERN RELATING**
10 **TO COMPETITIVE FACILITIES ACCESS?**

11 **A. Yes:**

12 First, in segTEL's experience Verizon has lukewarm relations with electric
13 companies that are the joint pole owners in the bulk of the state. This has been
14 extensively investigated in the PUC's pole investigation docket DM 05-172. A
15 great deal of contention has centered around the electric companies' allegations
16 that Verizon does not place much value on preventative maintenance of poles
17 such as tree-trimming. As a result, much of the tree trimming work that is
18 presently done centers around removing threats to the primary electrical
19 conductors on the poles, rather than removing *all* threats to pole attachments. As
20 a result, there are many cases in segTEL service territories where tree branches
21 are interfering with communications attachments. These branches make
22 segTEL's work on its lines unnecessarily unsafe, expensive, and time consuming.
23 segTEL supports any efforts to ensure that if this transaction is approved that

1 FairPoint will pay its appropriate share for proper preventative maintenance of its
2 poles.

3 Second, there are cases where third parties have improperly attached to utility
4 poles in the segTEL service area. One of the most egregious cases is municipal
5 attachments. segTEL believes that there are hundreds of poles in the state that
6 have unlicensed fiber-optic attachments put in place by municipalities. In our
7 experience, municipal attachments are rarely if ever in an appropriate place, often
8 do not follow NESC and Telcordia guidelines, and frequently interfere with the
9 competitive attachment process. Verizon, and FairPoint as its successor, has an
10 obligation to enforce policies that are both safe and non-discriminatory and it
11 must crack down on improper municipal attachments. segTEL supports any
12 efforts to ensure that if this transaction is approved that FairPoint will be effective
13 and diligent in preventing improper and unsafe attachments.

14

15 **Q. ARE ANY OTHER MAJOR IMPORTANT SOURCES OF**
16 **INFORMATION OR MEANS OF INTERFACING WITH VERIZON**
17 **THAT ARE ALSO NOT YET AUTOMATED?**

18 A. Yes. segTEL believes that Verizon's system for tracking its fiber optic assets is
19 also operated on a substantially manual basis. As a result, queries entered to
20 investigate the presence of dark fiber facilities are responded to via a personnel-
21 intensive and protracted process. Instead of a simple automated facilities check,
22 these items must be researched by a person who investigates the specific route
23 and design records to determine potential fiber availability.

24

1 **Q. TO THE BEST OF YOUR KNOWLEDGE, WHERE ARE DARK FIBER**
2 **REQUESTS ADMINISTERED?**

3 A. Dark fiber inquiries appear to be serviced from Verizon New England's Boston
4 offices. The product manager/subject matter expert for this product appears to be
5 based in the greater Washington D.C. area.

6

7 **Q. HAS FAIRPOINT PRESENTED A PLAN TO MIGRATE THESE**
8 **SERVICES YET?**

9 A. segTEL is unaware of any plan to migrate this expertise or information from its
10 present location. To the best of my knowledge neither the product manager nor
11 the dark fiber inquiry department have any personnel who will be transferred to
12 FairPoint at the time of the closing. Absent a plan to either migrate or replicate
13 this information and expertise it is very likely that segTEL will experience a
14 substantial degradation of responsiveness and accuracy in these requests.

15

16 **Q. ARE THE RISKS IN THE CASE OF DARK FIBER SIMILAR TO THE**
17 **RISKS WITH POLES, CONDUIT, AND RIGHTS OF WAY?**

18 A. Yes. This is another example of the substantial risk inherent to a change of
19 ownership of this kind *even if* the automated systems manage to cut over without
20 a single error.

21

22 **Q. WHAT CONDITIONS DOES SEGTEL RECOMMEND TO MITIGATE**
23 **THESE RISKS?**

24 A. The transfer of assets in a transaction as complex as the FairPoint acquisition
25 likely has substantial disclosures of the assets that are being transferred, their

1 location, disposition, and condition. segTEL believes that this might be the first
2 time in decades that many of the records of Verizon New England will be
3 accessed and verified. I would recommend that the verified list of dark fiber
4 assets be recorded in a computerized fashion for easier access by CLECs in the
5 future when they attempt to query and order these services from FairPoint.
6 segTEL additionally recommends that certified electronic inventories of fiber
7 optic facilities be provided to the Commission and updated on a regular basis.
8 The benefits of this would be two-fold. First, the Commission would better
9 understand the architecture of the major ILEC infrastructure and be better able to
10 make recommendations concerning network survivability and quality of service.
11 Second, CLEC disputes and dark-fiber fast-track arbitration times would be
12 minimized by the Commission staff and hearing examiners, as unbiased third
13 parties, who would have immediate access to these important records.

14

15 **Q. DOES SEGTEL HAVE ANY OPERATIONAL CONCERNS?**

16 A. Yes. We agree with the concerns described in Gary Ball's testimony. segTEL is
17 particularly concerned about access to information, and the placing and
18 processing of orders and trouble tickets during the transition.

19

20 **Q. WHAT INFORMATION AND DATA SHOULD FAIRPOINT BE**
21 **REQUIRED TO PROVIDE?**

1 A. Since 1996, this Commission and the FCC have required that Verizon provide
2 access to CLECs of critical information. FairPoint should be required to provide
3 the identical level of access to its data and systems.

4 At a minimum, FairPoint must make readily available, before, during and after
5 cutover from Verizon systems to FairPoint systems data, information and notices
6 that are currently required to be made, or which Verizon voluntarily makes, to
7 CLECs. This requirement should include, but not be limited to, a wholesale
8 website that includes tutorials, escalation lists, frequently asked questions, and
9 order processing procedures, in addition to access to retail customer service
10 records, loop make-up information for the purposes of determining whether a
11 copper loop is DSL-capable, phone book and directory listings, CLEC manuals
12 for ordering, provisioning and maintaining services, and industry notifications.
13 This wholesale website should include updated information on systems
14 availability during and after the transition to FairPoint's systems for as long as
15 necessary for normal day-to-day operations to proceed without manual
16 intervention.

17

18 **Q. WHAT PLANS SHOULD FAIRPOINT PUT IN PLACE TO HELP**
19 **ENSURE THAT CLEC ORDERS AND TROUBLE TICKETS CAN BE**
20 **PLACED AND PROCESSED DURING THE TRANSITION?**

21 A. FairPoint should file a plan that enumerates FairPoint's resources, priorities and
22 procedures for cutover from Verizon's systems to the new wholesale systems.
23 This plan should provide contact people for key processes that impact CLECs,

1 including office numbers, cell phone numbers, fax numbers, and email addresses,
2 as well as detailed escalation lists for trouble resolution.

3 In addition, FairPoint should file a contingency plan for the manual processing of
4 wholesale orders in the event of a wholesale systems failure, that includes office
5 numbers, cell phone numbers, fax numbers and email addresses for responsible
6 personnel, and detailed escalation lists. These plans should be approved by the
7 Commission, and all contact information made readily available to CLECs on
8 FairPoint's wholesale web pages.

9

10 **Q. WHAT IS SEGTEL'S POSITION ON CLEC TO CLEC MIGRATION**
11 **GUIDELINES?**

12 **A.** Although Verizon was not required to follow this Commission's CLEC to CLEC
13 migration guidelines, as it had in place its own requirements, to the extent that
14 Tariff 84 calls for less strict guidelines, FairPoint should adopt the time frames,
15 terms and conditions outlined in the CLEC to CLEC migration guidelines
16 approved by this Commission in Docket No. DT 02-132.

17

18 **Q. WHAT OTHER CONCERNS DOES SEGTEL HAVE?**

19 **A.** segTEL believes that its status as a customer of FairPoint is sufficient to warrant
20 a dedicated account manager (a single point of contact with appropriate authority)
21 for segTEL's wholesale provisioning, and a dedicated account manager (a single
22 point of contact with appropriate authority) for resolving billing issues.

23

1 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

2 **A. Yes.**

3