

VERIZON NEW ENGLAND INC.

d/b/a VERIZON NEW HAMPSHIRE

STATE OF NEW HAMPSHIRE

DOCKET NO. DT 07-011

REBUTTAL TESTIMONY

OF

JOHN F. NESTOR, III

**ON BEHALF OF VERIZON NEW ENGLAND INC. d/b/a VERIZON NEW HAMPSHIRE,
NYNEX LONG DISTANCE COMPANY, VERIZON SELECT SERVICES INC., BELL
ATLANTIC COMMUNICATIONS, INC.**

(PUBLIC VERSION)

SEPTEMBER 10, 2007

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I. WITNESS BACKGROUND AND OVERVIEW

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH VERIZON.

A. My name is John F. Nestor III. I am the Vice President for State Government Relations for New Hampshire. My business address is 900 Elm Street, Manchester, NH 03101.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.

A. I have a Bachelor of Arts in American Studies from Merrimack College, a Masters in Business Administration from Northeastern University, and a Juris Doctorate from Suffolk University Law School. I have been employed by Verizon and its predecessor companies for 20 years, as Director of Regulatory for Massachusetts, Director of Regulatory Planning & Support, and currently Vice President-NH for State Government Relations. Prior to joining Verizon, I was employed as an attorney in private practice and by the Massachusetts Department of Public Utilities (now the Department of Telecommunications & Cable) as a Telecommunications Specialist, the Director of the Telecommunications Division and as regulatory counsel to the Commission. In addition, I served as a legislative assistant in the United States House of Representatives where I had responsibility for matters before the Federal Communications Commission (FCC).

1 **Q. WHAT ARE YOUR RESPONSIBILITIES IN YOUR CURRENT POSITION?**

2 A. In my current position, I represent Verizon NH in connection with all state
3 government relations issues, including regulatory matters before the New Hampshire
4 Public Utilities Commission and matters before the Executive and Legislative
5 branches of state government. In addition, I am responsible for representing Verizon
6 NH's interests before cities and town, and have overall responsibility for media
7 relations in the state.

8 **Q. HAVE YOU EVER TESTIFIED BEFORE?**

9 A. Yes. I have previously testified before the Massachusetts Department of
10 Telecommunications and Energy, the Maine Public Utilities Commission, the
11 Vermont Public Service Board, and the New Hampshire Public Utilities Commission
12 on a variety of issues, including alternative regulation, service quality, directory
13 advertising revenues and telephone numbering issues. In addition, I have represented
14 Verizon's interests in Massachusetts, New Hampshire, Rhode Island and Vermont in
15 a number of technical conferences relating to interconnection issues under the
16 Telecommunications Act of 1996 (TAct), telephone numbering issues and service
17 quality.

18 **Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY.**

19 A. The purpose of my testimony is to respond to the service quality issues raised in the
20 testimony filed on August 1, 2007 by Susan Baldwin on behalf of the Office of
21 Consumer Advocate (OCA) and by Kenneth R. Peres, Ph.D. on behalf of the
22 Communications Workers of America and International Brotherhood of Electrical
23 Workers ("CWA/IBEW"). In addition, I also address the issue of imputation of

1 directory advertising revenues (Yellow Pages) raised by Ms. Baldwin and John
2 Antonuk on behalf of the Staff of the Public Utilities Commission (PUC Staff).
3 Finally, I briefly respond to the pole and tree trimming issues raised in the testimonies
4 of Robert Hybsch on behalf of Public Service of New Hampshire (PSNH), Thomas P.
5 Meissner, Jr. on behalf of Unitil Energy Systems, Inc. (Unitel), and Cheryl A. Warren
6 on behalf of Granite State Electric d/b/a/ National Grid. (National Grid).

7 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

8 A. Ms. Baldwin and Dr. Peres claim that Verizon NH has neglected to invest in its
9 network and, as a result, service quality has deteriorated to the point where FairPoint
10 Communications, Inc. (FairPoint) will be faced with major service deficiencies upon
11 completion of this merger. I demonstrate that their analyses of Verizon NH's service
12 quality is flawed, narrowly focused and based on incorrect or selective information
13 that ignores key facts. While there is always room for improvement, when all of the
14 appropriate indicia of service quality are considered and a complete analysis of
15 Verizon NH's service quality is undertaken, the overall service quality that Verizon
16 NH has provided and continues to provide to its customers is very good.

17 Ms. Baldwin's claim that New Hampshire ratepayers are entitled to a \$200M
18 credit to account for the spin-off of Verizon Information Services (now Idearc) is
19 equally off base and unsupported. Ratepayers have already received the full value of
20 those revenues, as non-regulated directory advertising revenues were included in
21 current Verizon NH rates as of the last rate case in 1990, in accordance with directory
22 agreements approved by the Commission. The spin-off of Verizon Directory
23 operations is not before the Commission. Ms. Baldwin's recommendation represents

1 nothing more than an attempt to circumvent the appropriate legal processes for both
2 Verizon NH and/or FairPoint in the future.¹

3 Similarly, Messrs. Hybsch and Meissner and Ms. Warren's attempts to
4 establish new processes for inter-company relationships, and requests that approval of
5 the merger be conditioned on Verizon NH's paying past disputed tree trimming
6 charges, also have no legal or factual basis and are mere pleas to interfere improperly
7 in commercial disputes. The parties are attempting to utilize the regulatory process to
8 seek remedies which this Commission has no authority to award. I am advised by
9 counsel that the Joint Ownership Agreements between Verizon NH and these electric
10 utilities are standard commercial arrangements whose interpretation and enforcement
11 are matters for the State Superior Court, not this Commission. The electric utilities'
12 effort to make those issues part of this case are nothing more than inappropriate
13 attempts to renegotiate the specific terms of a Joint Ownership Agreement in the
14 hearing room and to resolve commercial disputes without a full adjudication of all of
15 the facts, including Verizon's valid contractual defenses.

¹ While Mr. Antonuk notes that FairPoint should be subject to the same imputation obligation as Verizon NH, he offers as an alternative a similar one time payment for Verizon NH for the spin-off of Idearc. Antonuk Direct at 36. To that extent, Mr. Antonuk's recommendation also attempts to circumvent the appropriate legal processes.

1 **II. SERVICE QUALITY**

2 **Q. ARE MS. BALDWIN AND DR. PERES ACCURATE IN CLAIMING THAT**
3 **VERIZON NH HAS NOT BEEN INVESTING IN THE NETWORK?**

4 **A.** No. Verizon NH has invested and continues to invest in its network and operations in
5 New Hampshire. As the chart below illustrates, Verizon NH has invested on average
6 **Begin Proprietary***** *****End Proprietary** in its network and operations in
7 New Hampshire over the past four years and is continuing to invest. It is important to
8 note that investment is not always linear, however. Depending on construction,
9 maintenance and strategic initiatives, capital expenditures may increase or decrease in
10 a given year. Because of these factors, a decline in capital expenditures in any given
11 year is not indicative of disinvestment by Verizon NH in its network.

12 **Begin Proprietary***** **TABLE # 1**

13 *****End Proprietary**

1 This information clearly demonstrates that Verizon NH has invested and continues to
2 invest in its network and operations in New Hampshire.

3 Although claiming that Verizon NH has failed to invest in the state, Dr. Peres
4 makes no attempt to examine Verizon NH's capital expenditures. Rather, he simply
5 states that because Verizon NH has not met selective service quality metrics over a
6 limited period of time, it is logical to conclude that Verizon NH has not invested in its
7 network.² This lack of analysis, based on a limited number of service metrics, cannot
8 support an overall finding that Verizon NH has not been investing in its network or
9 operations and is directly contradicted by the capital investment history described
10 above.

11 Likewise, Ms. Baldwin claims that Verizon NH has not invested in its
12 network and operations. While she does examine Verizon NH's recent capital
13 expenditures, her analysis actually disproves her own claim. Ms. Baldwin, for
14 example, cites to the fact that non-FiOS capital expenditures as a percentage of ILEC
15 revenues and on a per access line basis have declined during the 2004-2006 period.³
16 She then inappropriately utilizes this information to conclude that Verizon NH has
17 shifted capital resources away from replacing outside plant (citing Verizon NH's
18 increased investment in fiber as part of its FiOS program), purportedly leading to a
19 deterioration of service quality. Ms. Baldwin is wrong.

20 What Ms. Baldwin fails to recognize is that the deployment of fiber to support
21 Verizon's FiOS offerings *includes* basic telephone service. That is, for quality of

² Peres Direct at 25.

³ Baldwin Direct at 68-69 and Table 6-HC2 (Proprietary).

1 service purposes, the capital expenditures in fiber improve service quality for basic
2 telephone services, while enabling high speed internet services. For example, fiber
3 optic cable is less susceptible to corrosion due to moisture, has a higher tensile
4 strength than copper cable, and, being lighter, puts less stress on poles. All of these
5 factors considerably reduce the contribution of weather conditions (high winds, rain,
6 etc.) to service troubles. Thus, a complete and appropriate analysis must include the
7 capital expenditures related to FiOS. When this is done, Ms. Baldwin's own data and
8 analysis demonstrates that Verizon NH's capital expenditures over the past three
9 years have actually remained steady or increased as a percentage of ILEC revenues
10 and on a per access line basis.

11 **Q. ARE MS. BALDWIN AND DR. PERES ACCURATE IN CLAIMING THAT**
12 **VERIZON NH'S SERVICE QUALITY IS NOT ADEQUATE TODAY?**

13 **A.** No. Ms. Baldwin and Dr. Peres each assume that the service quality metrics that have
14 been reported to the Commission for many years remain relevant in today's
15 telecommunications marketplace, despite the significant legal and structural changes
16 that have occurred in New Hampshire's telecommunications landscape over the past
17 decade. They ignore the fact that in today's competitive marketplace customers are
18 free to shop for telecommunications services among competing providers and
19 technologies and are more than capable of weighing the benefits of each provider's
20 offerings and service levels. Ms. Baldwin and Dr. Peres also do not acknowledge that
21 in this changed telecommunications landscape many of the established benchmarks
22 represent nothing more than service results achieved by Verizon NH at one time in
23 the past under very different circumstances.

1 More specifically, Ms. Baldwin and Dr. Peres both focus their testimony
2 primarily on a comparatively small number of SQI performance measurements,
3 concerning which Verizon NH's reported results, on occasion, have been below the
4 benchmark levels of the past. Ms. Baldwin and Dr. Peres both conclude based on
5 their cursory and selective analyses of only a few SQI measures that Verizon NH's
6 service quality performance has deteriorated in recent years.⁴ Based on these flawed
7 analyses they wrongly conclude that FairPoint will have to make significant
8 investments in order to provide "adequate" service.

9 **Q. IS DR. PERES ACCURATE IN CLAIMING THAT VERIZON NH'S**
10 **SERVICE QUALITY IS POOR AND REQUIRES SIGNIFICANT**
11 **INVESTMENT MERELY TO BE "MINIMALLY SATISFACTORY?"**

12 A. No. Service has always been a cornerstone of Verizon NH's commitment to its
13 customers, and while Verizon NH's service quality performance over the past three
14 years had some opportunities for improvement, *overall* the service quality Verizon
15 NH has delivered to its retail customers has been very good. Verizon NH provides
16 service daily to over **Begin Proprietary***** *****End Proprietary** retail
17 switched access lines, with a network that processes literally tens of millions of voice

⁴ Indeed, the selectivity and inconsistency of Ms. Baldwin's analysis are underscored by her responses to discovery. On the one hand, Ms. Baldwin urges the Commission to make findings that Verizon NH's service quality is inadequate. On the other hand, however, she asserts in discovery that the appropriate forum for consideration of service quality issues is the pending Quality of Service Investigation, Docket DT 04-019. As she explains: "The merits of Verizon's service quality problems and the quality of service standards applicable to Verizon NH are not subject to dispute in this docket." *See* OCA Replies to Verizon 1-6 through 1-11 found in Exhibit JFN-III. If the merits of Verizon NH's alleged service quality "problems" and quality of service standards are "not subject to dispute in this docket," one can only wonder why Ms. Baldwin's service quality testimony is at all relevant to this proceeding. In any event, Ms. Baldwin is requesting the Commission to make findings in this case without a fully developed record on service quality – matters that are best left for consideration in Docket 04-019, as Ms. Baldwin acknowledges.

1 and data calls, as well as the billing of these calls, in any given month. In 2006,
2 Verizon NH processed approximately **Begin Proprietary***** *****End**
3 **Proprietary** installation requests and responded to almost **Begin**
4 **Proprietary***** *****End Proprietary** repair calls. Residence and business
5 offices that serve New Hampshire customers handled almost **Begin Proprietary *****
6 *****End Proprietary** customer calls.⁵ All of these customer interactions
7 provided Verizon NH with an opportunity to either meet or to fail to meet the
8 customer's expectations.

9 A balanced review of *all* of the most recent service quality measurements for
10 the past two and a half years (30 months) reveals that overall Verizon NH has
11 delivered and continues to deliver good quality service to its retail customers.⁶
12 Specifically, in each year, Verizon NH has been measured in twenty-two separate
13 areas of retail service quality, for which ten have specific benchmark standards.
14 During that time, Verizon NH's service quality met or exceeded the relevant
15 benchmark standard for seven of the ten measures for the year, with limited
16 exceptions. Verizon NH met all of the installation measures from 2005 through June
17 2007, except for the year 2006 where the average Held Orders over 30 Days metric
18 exceeded its 6 per month standard by only **Begin Proprietary***** *****End**
19 **Proprietary**. Also, Verizon NH also met all of the Company Accessibility measures
20 for the 2005 through June 2007 time period as well as the Customer Trouble Report
21 rate. On the other hand, Verizon NH failed to make the two selective metrics

⁵ These offices also serve Massachusetts, Rhode Island, Vermont and Maine.

⁶ A copy of the June 2007 Service Quality Report is attached as Proprietary Exhibit JFN-I. It was also provided in discovery as Verizon NH's Third Supplemental Reply to OCA GII: 1-9.

1 selectively focused on by Ms. Baldwin and Dr. Peres, the Percentage Cleared Within
2 24 hours benchmark standard and the Percentage Met Repair Appointments
3 benchmark standard for this time period.

4 With respect to those service quality measures that are tracked and do not
5 have a benchmark standard, Average Delay Days increased **Begin Proprietary*****

6
7 *****End Proprietary** through June of 2007. Likewise, Average Completion Time for
8 Repair increased **Begin Proprietary*****

9 *****End Proprietary** through June in 2007.⁷

10 More importantly, the Consumer and General Business Provisioning measures, which
11 reflect what customers actually consider to be Verizon NH's service quality, were
12 averaging **Begin Proprietary***** *****End Proprietary** satisfaction or better for
13 Consumer and **Begin Proprietary***** *****End Proprietary** satisfaction for
14 Business over the last 30 months.

15 Finally, with respect to the number of central offices with customer trouble
16 reports greater than 2.5 per 100 lines, it is important to note that many of the
17 exchanges that have made the list for the past three years are more rural and have a
18 relatively small number of access lines. As such, a limited number of service troubles
19 can drive this metric over the service benchmark standard. Absent further analysis,
20 simply missing this benchmark standard for a particular exchange does not support a
21 finding of declining service quality across the network statewide. For example, for

⁷ In fact, if results for April are excluded due to the extraordinary flooding that occurred throughout the state that month, the average completion time drops to **Begin Proprietary ***** ***** End Proprietary** hours.

1 2007, the number of exchanges exceeding the 2.5 benchmark standard had been
2 declining January through March, but this measure was subsequently affected in April
3 by the major floods that resulted in taking the Raymond central office out of service
4 and requiring the redeployment of manpower and resources to address this natural
5 disaster.

6 **Q. IS MISSING AN EXISTING BENCHMARK STANDARD FOR A SERVICE**
7 **QUALITY MEASURE AN INDICATION OF POOR OR DECLINING**
8 **SERVICE?**

9 **A.** No. A “missed” performance metric is not, as Ms. Baldwin and Dr. Peres assert, an
10 indication of poor service quality, absent further analysis. The existing metrics
11 defined appropriate levels of service quality based on the technology and network in
12 place at the time they were established, without extensive customer input and in a
13 monopoly environment when regulators could better ensure sufficient revenues to a
14 utility to meet whatever service standard they deemed in the public interest.⁸

15 Today, both network technology and regulatory public policies are vastly
16 different, having replaced monopoly service with competition.⁹ With the significant
17 changes in technology and the increasingly competitive marketplace that have
18 occurred since the 1996 Telecommunications Act, it is critical that when assessing
19 Verizon NH’s overall service quality today that the Commission recognize that

⁸ The existing Commission service quality measures and standards are based on the NARUC service quality standards and “were established in 1987 and adopted by NARUC in 1992 at a time when competition in the provision of local telephone service was nonexistent.” *1996 NARUC Report of the Committee on Finance and Technology* at 28.

⁹ Ms. Baldwin’s claim that Verizon NH maintains a monopoly for basic exchange service in New Hampshire is addressed *infra*.

1 Verizon NH or any carrier must meet the needs of its customers or else those
2 customers will vote with their feet and take their business elsewhere. In addition,
3 unlike the past, competition limits the ability of a carrier to seek revenues and cost
4 recovery from regulators to meet service quality standards that do not reflect
5 customer expectations and the needs of the telecommunications marketplace.

6 **Q. WHAT OTHER EVIDENCE DO YOU HAVE THAT THE QUALITY OF**
7 **VERIZON NH'S NETWORK IS GOOD?**

8 A. Verizon has long conducted Customer Care Index (CCI) satisfaction surveys of those
9 customers who have had recent dealings with the Company. The CCI surveys are
10 conducted by an independent third party and are designed to determine the level of
11 satisfaction with Verizon NH's products, services and service delivery for customers
12 who have communicated with the company during the prior 30 days. In addition,
13 separate customer satisfaction surveys are conducted for large business customers
14 who have conducted business with the company during the previous 6-12 months.
15 The CCI focuses on customer satisfaction as part of Verizon NH's service quality
16 commitment, recognizing that there is a direct correlation between providing good
17 customer service and customer retention. Moreover, Verizon NH directly links its
18 employee incentive compensation to achievement of CCI survey targets associated
19 with its major service quality objectives, for the personnel responsible for service
20 delivery in New Hampshire. In fact, good service quality is incorporated into the
21 compensation framework for all Verizon management employees by virtue of the fact
22 that Verizon's compensation plan contains service objectives that apply to all
23 managers each year.

1 The chart below provides the percentage of Verizon NH customers that
2 judged their interaction with Verizon as “*satisfactory or better*” over the years 2003
3 to 2006 for each of the survey’s installation, repair and customer inquiry
4 measurements. These results track closely with Verizon NH’s performance under its
5 Service Quality Reports and demonstrate that a significant majority of Verizon NH’s
6 customers find that Verizon NH has provided good quality service that meets their
7 needs and expectations.

TABLE # 2

NEW HAMPSHIRE CCI	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Consumer Provisioning	96.2	93.5	96.2	96.3
Consumer Repair	78.0	82.4	84.5	79.7
Consumer Inquiry	95.0	94.6	93.2	94.6
Business Provisioning	93.3	93.5	94.8	96.6
Business Repair	86.0	90.2	90.0	88.5
Business Inquiry	93.1	93.5	92.0	92.7

8 **Q. PLEASE COMMENT ON MS. BALDWIN’S AND DR. PERES’ CLAIMS**
9 **THAT THE FCC’S ARMIS DATA SUPPORTS THEIR CONCLUSIONS.**

10 **A.** Similar to their analyses of the current Service Quality Reports, Ms. Baldwin’s and
11 Dr. Peres’ review of selective ARMIS data provides an incomplete view of the actual
12 overall level of service quality provided by Verizon NH to its customers. ARMIS
13 measures only a limited number of installation and maintenance measures and is
14 designed to provide a uniform reporting mechanism for all local exchange carriers.
15 These reports include no baseline standards and simply reflect a total number of
16 measured installation and maintenance events on an annual basis. Nor does ARMIS

1 provide any explanation where results were impacted by other factors such as unusual
2 or severe weather or a work stoppage. At most, the data provides some limited
3 information on the service measurements and identifies trends that may require
4 further investigation.

5 In addition, their analyses of ARMIS data are incomplete. For example,
6 neither mentions that ARMIS Total Trouble Reports per month are still within the
7 benchmark standard of 2 in the Service Quality Reports to the New Hampshire
8 Commission. Also, Ms. Baldwin's statement that complaints concerning residential
9 service increased "substantially" from 2002-2006 and that the number of residence
10 complaints per access line "quadrupled in four years" and "increased eightfold"¹⁰
11 illustrates how Ms. Baldwin presents incomplete data to support her analysis.

12 First, Ms. Baldwin provides no analysis of residential customer complaints,
13 therefore, it is not possible to determine the specific areas of service quality. For
14 example, in some years, depending on the economy, billing complaints may be more
15 prevalent than service delivery complaints. In addition, by any analysis, when one
16 compares **Begin Proprietary*** ***End Proprietary** (MSA and Non-MSA)
17 customer complaints in 2006 to the total access lines for the same time period of
18 approximately **Begin Proprietary*** ***End Proprietary**, the number of
19 complaints per access lines is only **Begin Proprietary End**
20 **Proprietary**. Said another way, no complaint was registered or Verizon NH resolved
21 a service problem for over **Begin Proprietary*** ***End Proprietary** of its
22 access lines in 2006. Clearly, when the number of complaints is viewed in this

¹⁰ Baldwin Direct at 71-72.

1 context, the ARMIS data offers no support for Ms. Baldwin's and Dr. Peres' claims
2 of deteriorating service quality.

3 **Q. PLEASE COMMENT ON MS. BALDWIN'S CLAIM THAT THERE IS**
4 **INSUFFICIENT COMPETITION IN NEW HAMPSHIRE TO HAVE AN**
5 **IMPACT ON SERVICE QUALITY.**

6 **A.** Ms. Baldwin's analysis of competition in New Hampshire and its impact on service
7 quality is illogical and illustrates the internal inconsistency of her recommendations.
8 In considering the impact of competition and technology on service quality and
9 customer choice, Ms. Baldwin urges the Commission to ignore inter-modal
10 competition from CLECs, cable, broadband, the Internet and wireless services. A
11 need for greater regulation of service quality exists, she argues, because a subgroup of
12 basic residential exchange customers allegedly do not have access to all of these
13 modes of competition to the same extent as basic residence exchange service.¹¹
14 According to Ms. Baldwin, the telecommunications marketplace for the residence¹²
15 local exchange market today is *less* competitive than it was in 1997.¹³

16 Clearly, Ms. Baldwin's claim of less local exchange competition today than in
17 1997 is belied by the facts. In effect, Ms. Baldwin asks the Commission to ignore
18 that (1) the Commission has determined in its Section 271 proceeding that the local
19 exchange market is irretrievably open to competition; (2) the Commission has

¹¹ Baldwin Direct at 76-96.

¹² Just since 2005 Verizon NH's access lines in service have declined from **Begin Proprietary*****

*****End Proprietary** See Proprietary Exhibit JFN-I. Ms. Baldwin offers no explanation how Verizon NH can be significantly losing access lines yet claim the market today is *less* competitive than in 1997 when Verizon NH was the only local exchange carrier.

¹³ OCA Reply to Verizon 1-12 provided in Exhibit JFN-II.

1 adopted pro-competitive policies to open the local exchange marketplace by
2 implementing the provisions of the Telecommunications Act of 1996; (3) CLECs and
3 cable providers today offer telecommunications services throughout the vast majority
4 of the state; (4) carriers and cable providers have deployed broadband services
5 throughout New Hampshire that include basic local telephone service; (5) these
6 broadband services have in turn made the Internet and VoIP services available to an
7 increasingly large number of customers; (6) more customers in New Hampshire now
8 have wireless services than wireline services; and (7) Verizon NH has lost a
9 significant number of access lines since 1997. Equally important, Ms. Baldwin asks
10 the Commission to ignore its own findings regarding increased competition in its
11 Biennial Report to the Governor and Executive Councilors, i.e., that “the
12 telecommunications industry has become more competitive over the last biennium”
13 and that “[d]uring the next biennium, the telecommunications market is expected to
14 become increasingly competitive” in New Hampshire¹⁴ Yet at the same time, Ms.
15 Baldwin refuses to acknowledge that any of these factors are relevant to the issue of
16 Verizon NH’s overall service quality today.¹⁵

17 Additionally, not only is Ms. Baldwin’s analysis of competition unsupported
18 by the facts, but it is inconsistent with her other recommendations. For example, on
19 the one hand, Ms. Baldwin claims that increased service quality penalties are needed
20 in the future because there is a lack of competition for basic residential service, yet at
21 the same time she recommends an expansion of broadband that would facilitate

¹⁴ See New Hampshire Public Utilities Commission Biennial Report July 1, 2003 - June 30, 2005, at 11-17, which is available on the Commission’s website <http://www.puc.state.nh.us/>.

¹⁵ OCA Reply to Verizon 1-7 through 1-11 provided in Exhibit JFN-III.

1 competition to residential customers from services like those provided by VoIP
2 providers.

3 **III. DIRECTORY REVENUE IMPUTATION**

4 **Q. PLEASE COMMENT ON MS. BALDWIN'S RECOMMENDATION THAT**
5 **VERIZON NH PAY \$200M TO RATEPAYERS FOR THE SPIN-OFF OF**
6 **IDEARC.**

7 **A.** Ms. Baldwin's recommendation that Verizon NH pay \$200M to ratepayers to
8 compensate them for the spin-off of Idearc, Inc. has no basis in law or fact. First,
9 ratepayers have already received the full value of any relationship of Verizon NH
10 with Idearc, as these non-regulated directory advertising revenues were included in
11 current Verizon NH rates as of the last rate case in 1990, in accordance with directory
12 agreements approved by the Commission. In short, Verizon's current rates that
13 FairPoint will adopt following the merger already reflect directory advertising
14 revenues. Second, the Commission in Order No. 24,345 in Docket DT 02-165 in
15 2004 made it clear that it would conduct a further proceeding to determine the
16 appropriate value of any future imputation of directory advertising revenues.
17 Moreover, since FairPoint will assume the regulatory obligations of Verizon NH
18 required by Commission orders, the issue of the appropriate value of imputation and
19 its impact will be addressed, if at all, in the future -- either in a separate proceeding to
20 determine any value of imputation or at the time of a future rate case. In fact, the

1 OCA now seeks to retreat from the very points that it made to the Commission and
2 New Hampshire Supreme Court.¹⁶

3 Of course it is important to note that neither of these future events may occur.
4 FairPoint has not indicated any plans to seek a rate case or to change any rates after
5 closing the deal. This means that for the near future, ratepayers will continue to
6 receive the value of directory advertising revenues that is already included in rates
7 and has been since 1990. Moreover, should the Commission choose to consider an
8 alternative form of regulation in the future or a lessening of regulation due to
9 additional competition, any issue of imputation would be irrelevant. Thus, Ms.
10 Baldwin's claim that ratepayers are entitled now to the value of any relationship with
11 Idearc in the future is not only incorrect as a matter of law, as counsel advises me, but
12 represents nothing more than an attempt to circumvent the appropriate legal processes
13 for both Verizon NH and/or FairPoint in the future.

14 **IV. POLE AND TREE TRIMMING ISSUES**

15 **Q. HAVE ANY INTERVENORS RECOMMENDED THAT VERIZON NH**
16 **REIMBURSE THEM FOR TREE TRIMMING EXPENSES AS A**

¹⁶ The OCA post-hearing brief to the Commission stated:

Should the Commission fail to impute Yellow Pages revenues to VNH, ratepayers would be deprived of this 10% in regulated revenues -- more than \$25 Million a year -- with a resultant upward impact on rates *in a rate case*. OCA Post-hearing Brief at 8 (emphasis added)

In addition, the OCA post-hearing brief to the Supreme Court stated:

Instead, for *ratemaking purposes*, the Telephone Company will report additional revenues, initially in an annual amount of \$23.3 million and, *following a subsequent proceeding*, at whatever level the Commission determines appropriate. OCA Brief to New Hampshire Supreme Court at 27 (emphasis added).

1 **CONDITION OF COMMISSION APPROVAL OF THE JOINT**
2 **APPLICANTS' PETITION?**

3 **A.** Yes. PSNH has requested, as a condition of Commission approval, “that PSNH be
4 reimbursed by Verizon for the sum of \$506,000 for a portion of the maintenance tree
5 trimming expense incurred by PSNH during 2005,¹⁷ an expense which PSNH agreed
6 it would not recover from its customers in the recently-approved rate case settlement
7 (DE 06-028).”¹⁸ Similarly, Unitil seeks reimbursement for disputed tree trimming
8 expenses incurred by Unitil and purportedly owed by Verizon under the Joint
9 Ownership Agreement between the companies.¹⁹ Unitil notes that as of July 11,
10 2007, the amount outstanding is \$340,748.23.²⁰

11 **Q. DO YOU AGREE WITH THESE INTERVENORS' RECOMMENDATIONS**
12 **REGARDING TRIMMING EXPENSES?**

13 **A.** No. Verizon NH fundamentally disagrees with the interpretation by PSNH and Unitil
14 of the Intercompany Operating Procedures (IOPs) dealing with maintenance tree
15 trimming. Simply put, the electric wires that carry electricity to power homes and
16 businesses are bare wire conductors and susceptible to power fluctuations and outages
17 if they come into contact with vegetation. Telephone cables consist of insulated
18 copper or fiber optic conductors that in turn are encased in a durable polyethylene

¹⁷ In response to a Verizon NH discovery request (VZ-PSNH 2), on August 28, 2007, PSNH filed an errata sheet to the August 1, 2007 Direct Testimony of Robert T. Hybsch. PSNH corrected Mr. Hybsch's testimony, which mistakenly claimed that the disputed \$506,000 related to calendar year 2005. The correction reflected that the \$506,000 claim was in relation to 2006.

¹⁸ Hybsch Direct at 6.

¹⁹ Direct Testimony of Thomas P. Meissner Jr., August 1, 2007, at 29.

²⁰ *Id.* at 28.

1 sheath. The cable is then lashed using steel wire to cable strand, typically 3/8 inch in
2 diameter with a tensile strength of 10,000 pounds. Contact by vegetation with this
3 outer insulating plastic sheath or the cable strand does not result in damage to the
4 cable or disruption of telephone service. The conditions sought by PSNH and Unitil
5 are being driven by electrical requirements and their needs for reliability, not by any
6 concerns for reliability relating to telephone service or facilities. That is precisely
7 why the language regarding trimming in the IOPs states that maintenance shall be
8 done on a joint basis when *both* companies have a need:

- 9 • 1A. Maintenance trimming shall be done on a joint basis when
10 both companies have a need.

11 (IOP #17 Unitil Distribution Companies and New England
12 Telephone and Telegraph Company, effective date
13 November 1, 1996.)

- 14 • 1a. Maintenance trimming shall be done on a joint basis when
15 both companies have a need.

16 (IOP #7 Public Service of New Hampshire and NYNEX/New
17 England, effective date October 1, 1994.)

18 In each instance, both parties to the IOP recognized, more than ten years ago, that
19 their maintenance trimming needs would be different.

20 **Q. DO SIMILAR TERMS EXIST IN THE AGREEMENTS OF ELECTRIC**
21 **UTILITIES AND OTHER TELEPHONE UTILITIES?**

22 **A.** A data reply by PSNH in Docket DM 05-172 (Utility Pole Investigation) indicates
23 that PSNH has a variety of trimming arrangements with its joint pole owners. For
24 instance, there is no language regarding trimming in joint agreements between PSNH
25 and Union Telephone Company and Bretton Woods Telephone Company, while TDS

1 Telecommunications and Dunbarton Telephone appear not to participate in joint
2 maintenance trimming.²¹

3 **Q. DOES VERIZON NH HAVE OTHER CONCERNS WITH THE**
4 **INTERVENORS' RECOMMENDATIONS REGARDING TREE TRIMMING?**

5 **A.** Yes, Verizon NH is concerned whether the amounts recommended by the intervenors
6 have been properly invoiced and whether those invoices are accurate. For instance,
7 PSNH now admits that Verizon NH never agreed to participate in maintenance tree
8 trimming in 2006 for which PSNH now is seeking \$506,000 in reimbursement:

9 PSNH is not claiming that PSNH obtained Verizon's consent to pay \$506,000
10 in 2006 maintenance trimming expense incurred by PSNH. See the preceding
11 responses to 2a.and 2b.above. PSNH is claiming that the maintenance
12 trimming done by PSNH in 2006, which Verizon refused to participate in,
13 benefited Verizon's jointly owned poles and its facilities, such that the
14 Commission should, in the interests of fairness and the public good, require
15 Verizon to reimburse PSNH for a portion of that expense as a condition of the
16 approval of the merger sought by Verizon.²²

17 This response clearly articulates that Verizon NH never agreed to the trimming in
18 question and therefore does not owe PSNH \$506,000.

19 In the case of Unitil, while Verizon NH is able to identify invoices from 2005
20 to 2007 that approximate the amount claimed by Unitil, Verizon NH notes that a
21 number of these are either under review or have been denied. In the past, as Verizon
22 NH has reviewed trimming invoices from Unitil, it has found a number of errors, such
23 as invoices for areas that were not in Verizon NH's serving area or Verizon NH was

²¹ Response by Robert T. Hybsch of PSNH to TECH-03 Technical Sessions dated 06/13/2006 TS-004, Docket DM 05-172 – Investigation into Utility Poles.

²² Response by Robert T. Hybsch of PSNH to Verizon NH's First Set of Data Requests to PSNH, See PSNH Reply Q-FPVZ-002 included as Exhibit JFN-IV.

1 not on the pole line; invoices for trimming where the trimming had not actually been
2 done; and invoices where telecommunications trimming was not required or not
3 agreed upon by Verizon NH. In three separate studies of Unitil billing for 2005,
4 Verizon NH found billing errors representing 48%, 54% and 97% of the total billed
5 amount.²³ Nevertheless, Unitil appears to carry forward these erroneous billings as
6 “unpaid.”²⁴

7 **Q. WHAT IS VERIZON’S RECOMMENDATION REGARDING TRIMMING**
8 **AND OTHER POLE ISSUES?**

9 **A.** Messrs. Hybsch and Meissner and Ms. Warren’s²⁵ attempt to establish new processes
10 for inter-company relationships, and their request that approval of the FairPoint
11 merger be conditioned on Verizon NH’s paying past disputed tree trimming charges,
12 has no legal or factual basis. Rather, they are attempting to utilize the regulatory
13 process to resolve commercial disputes and seek compensation that the Commission
14 has no authority to award. I am advised by counsel that the proper forum for parties
15 disputing the terms of applicable Joint Ownership Agreements between Verizon NH
16 and electric utilities is a court of competent jurisdiction, not the Commission. The
17 Commission should leave these issues to be negotiated and/or resolved by the parties

²³ Response by Troy McDonald of Verizon NH to Staff 3-44A Follow Up in DM 05-172. *See* Verizon NH’s Reply to Staff 3-44 A Follow Up included as Exhibit JFN-V.

²⁴ This is not to say, however, that Verizon NH declines to participate in any maintenance trimming. Between 2005 and 2007 to date, Verizon NH has paid \$566,933 in trimming invoices to PSNH. Similarly, it has paid \$55,932 in trimming invoices to Unitil over the same period. An additional \$21,966 in invoicing between July 2005 and January 2006 was approved but not yet processed. These bills are being processed now for payment.

²⁵ Ms. Warren generally concurs with the positions of PSNH regarding pole issues. In addition, she recommends as a condition of approval that FairPoint be required to accept Commission jurisdiction over any dispute relating to IOPs.

1 themselves and deny any request to make this transaction conditioned on the payment
2 of disputed tree trimming charges.

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

4 **A.** Yes