STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Joint Petition of Verizon New England Inc., and	)	
FairPoint Communications, Inc.	)	Docket No. DT 07-011
Transfer of New Hampshire Assets of	)	
Verizon New England, Inc. et al.	)	

DIRECT TESTIMONY OF
MICHAEL D. PELCOVITS

ON BEHALF OF

NEW ENGLAND CABLE & TELECOMMUNICATIONS ASSOCIATION, INC.
AND COMCAST PHONE OF NEW HAMPSHIRE, LLC

August 1, 2007

I. INTRODUCTION AND SUMMARY

Q. Please state your name, occupation, and business address.

A. My name is Michael D. Pelcovits. I am a principal with the economic consulting firm of Microeconomic Consulting and Research Associates (MiCRA). My business address is 1155 Connecticut Avenue, N.W. Suite 900, Washington, D.C. 20036.

Q. Would you please summarize your experience and educational qualifications?

A. I received my Ph.D. in Economics from the Massachusetts Institute of Technology in 1976. Since serving on the economics faculty of the University of Maryland and as a Senior Economist at the Civil Aeronautics Board, I have spent my entire career specializing in the economics of regulation and competition in the telecommunications industry.

From 1979 to 1981, I was a Senior Economist at the Federal Communications Commission, Office of Plans and Policy. From 1981 to 1988, I was a founding member and principal of the consulting firm Cornell, Pelcovits and Brenner. In 1988 I joined MCI Communications Corporation and remained with the Company following its merger with WorldCom, until 2002. I held positions of increased responsibility at MCI, and was appointed Vice President and Chief Economist of the corporation. In this position I was responsible for the economic analyses of policy and regulatory matters provided and presented by the Corporation before federal, state, foreign, and international government agencies, legislative bodies and courts.

Q. What are your professional responsibilities at MiCRA?

A. I joined MiCRA in October 2002, immediately after leaving MCI, and am one of six principals of the firm. MiCRA is an economic consulting firm based in Washington, DC. The firm was founded in 1991 by a group of economists who served in senior positions at the Antitrust Division of the U.S. Department of Justice. MiCRA provides economic analysis, expert testimony, and economic research to clients in a wide range of antitrust, regulatory, and other legal and public policy settings. Since joining MiCRA, I have testified before several state regulatory commissions on telecommunications policy and ratemaking issues. These testimonies have focused on the importance of establishing the proper foundation to facilitate competition in telecommunications markets. I have also filed several declarations before the Federal Communications Commission on a wide range of common carrier, wireless, and international telecommunications policy issues. I have also consulted and provided testimony on telecommunications, intellectual property and competition matters before several other Courts and administrative bodies, including: Federal District Court; U.S. Copyright Royalty Judges; and London Court of International Arbitration.

Q. What is the purpose of your testimony?

A. My testimony explains the concerns of the New England Cable and Telecommunications Association Inc. ("NECTA") and Comcast Phone of New Hampshire, LLC ("Comcast") regarding the potentially harmful impacts of the proposed merger transaction between Verizon and FairPoint upon competition in New Hampshire. In order to safeguard existing and future competition against the negative impacts and risks of harm from the proposed transaction, I recommend that multiple competitive conditions, as set forth in my testimony and listed in Attachment MDP-1, be required by the Commission for approval of the proposed transaction. While NECTA and Comcast are not opposed to the transaction, without such conditions, the transaction would not meet the "public good" standard and would harm competition in New Hampshire.

Q. Please summarize your testimony.

A. My testimony discusses whether the transaction, as proposed, would be in the "public good". My testimony describes the competitive landscape in New Hampshire and the importance of existing interconnection arrangements with Verizon to competitive service providers and their customers. Next, my testimony addresses the potential negative impacts of the proposed transaction upon existing and future competition in New Hampshire. These negative impacts fall under three main categories: (1) the erosion of interconnection rights that exist today; (2) the risk of material harm arising out of the proposed changeover from existing Verizon operations support systems (OSS) to new systems; and (3) the potential that FairPoint will be unable to provide adequate wholesale services at least on par with Verizon's existing level of wholesale service. Because NECTA members depend upon pole and conduit attachments now made available by Verizon, I also have offered recommendations designed to maintain continuity between Verizon's existing pole and conduit license rates, terms and practices and the future operations of FairPoint.

II. <u>STATUTORY STANDARD APPLIED TO MERGER APPROVAL IN NEW HAMPSHIRE</u>

Q. Have you reviewed the Joint Petition and applicable statutory criteria that the Commission has been asked to apply in acting on the Joint Petition?

A. Yes, at pages 8-9 of their Joint Petition, Verizon and FairPoint maintain that the Commission is required to determine that the proposed transaction meets a "public good" standard. They further maintain that this "public good" standard can be satisfied by a demonstration that the proposed transaction would result in "no net harm." The proposed transaction requires a series of approvals and authorizations from the Commission in order to carry out the various portions of the proposed transaction described in the Joint Petition at pages 3-4. The Joint Petitioners refer to specific New Hampshire statutes that contain the above standards and cite prior Commission decisions where these standards have been applied. I have familiarized myself generally with prior Commission decisions that applied these statutory criteria and standards in specific merger situations.

Q. How has the Commission reviewed previous merger transactions?

A. In reviewing whether a proposed transaction would be for the public good, the Commission has examined both the benefits claimed to result from a proposed transaction and the adverse effects arising or potentially arising out of a proposed transaction. The Commission has placed conditions upon its approval of merger transactions in order both to secure benefits claimed by the applicants and avoid or mitigate negative impacts that might arise due to the proposed transactions. Such conditions include (1) no recovery of merger transaction costs; (2) no recovery of any acquisition premium; (3) no adverse impact on customer rates, and in some cases, rate freeze commitments; (4) no adverse impact on quality of service - for example, the Bell Atlantic-NYNEX merger was conditioned upon adoption of NARUC retail quality of service standards in order to avoid potential harms due to the changeover of systems and the reorganization of personnel; (5) commitments to maintain adequate service and staffing levels; (6) reporting requirements; and (7) commitments to quality network construction and maintenance. In the Bell Atlantic-NYNEX merger case, DR 96-220, the Commission also considered arguments from parties, including Staff and competitors, that the proposed transaction would diminish competition. The precise conditions imposed have depended upon the circumstances of each proposed transaction, including the specific negative impacts that it might cause and the conditions required to eliminate or mitigate those impacts.

Q. Is the proposed transaction comparable to those that the Commission has previously considered?

A. No. The proposed transaction is quite different from past merger transactions reviewed by the Commission, as it is not a simple transfer of control. FairPoint, a company that operates small rural telephone systems in 18 states, and which serves about 300,000 access line equivalents,[1] has proposed to acquire and operate the local exchange operations of the incumbent LEC Verizon in Maine, New Hampshire and Vermont. FairPoint has virtually no experience as a provider of wholesale telecommunications services, and specifically, has not agreed to assume *all* of Verizon's existing obligations. One example is FairPoint's reservation of rights to retain the ability to seek a suspension or modification of existing Verizon interconnection obligations under Sections 251(b) and 251(c) of the Telecommunications Act. This is not a right Verizon has today. In addition, FairPoint is proposing to replace or modify existing Verizon systems that were developed over many years to provide both retail and wholesale telecommunications services in New Hampshire. For these and other reasons discussed later in my testimony, the proposed merger is a high risk proposition from the standpoint of consumers and competition. In fact, there is a striking

[1] Prefiled Direct Testimony of Peter G. Nixon at 5, lines 9-10

parallel between the proposed transaction and the disastrous situation that occurred in Hawaii following a similar Verizon asset transfer and the acquiring company's cutover to new operating systems. This parallel, also discussed at length below, creates substantial concerns about the impact of the proposed transaction on the public good in general and, in particular, on existing and emerging competition in New Hampshire. Finally, there is reason to doubt FairPoint's technical and managerial ability to offer wholesale services at least as good as Verizon's and its readiness to continue Verizon's existing ILEC service obligations to wholesale competitors.

III. COMPETITIVE LANDSCAPE IN NEW HAMPSHIRE

A. UNDERLYING DIFFICULTIES OF BRINGING COMPETITION TO LOCAL TELEPHONE MARKETS

Q. What is the current state of competition in New Hampshire?

A. New Hampshire, to date, has experienced a degree of competition in some markets. According to the latest FCC statistics, competitive local exchange carriers ("CLECs") provided approximately 24% of all end-user switched access lines (residential and business) in New Hampshire as of June 30, 2006.[2] The share of residential lines provided by CLECs is much smaller. According to the FCC statistics, as of June 30, 2006 CLECs provided 12.4% of residential lines, which

[2] Attachment MDP-2 (FCC Local Telephone Competition Report: Status as of June 30, 2006 [January 2007], Table 8) and (FCC Local Competition Report: Status as of December 31, 2005 [July 2006]).

is a decline from 15.2% as of December 31, 2005 and 14.9% as of June 30, 2005.[3] This recent decline in residential competition is worrisome and should prompt the Commission to foster a pro-competitive environment in New Hampshire.

Q. Why has it been difficult to bring competition to local telephone markets?

A. Competition has been slow to develop in the local residential (and small business) telephone market across the United States, not just in New Hampshire. The main reason for this is that it has been prohibitively expensive for any entrant, such as the CLECs spawned by the Telecommunications Act of 1996, to construct outside telephone wire or fiber optic cable that can come close to matching the ubiquity of the ILECs' plant. Until recently, competitors in this market have relied on one of three ways to avoid having to fully replicate and pay for the cost of building local wireline plant. First, competitors obtained access to the ILECs' local facilities at wholesale rates or at UNE rates and used these facilities (along with some self-provided capabilities) to provide local telephone service. Second, some competitors have offered voice service directly to customers over the public Internet – which is referred to as over-the-top Voice over Internet Protocol ("VoIP"). Customers of over-the-top VOIP providers must obtain a broadband Internet connection from another provider, e.g., the ILEC or the cable company. Third, some customers have "cut the cord" and rely exclusively on wireless telephone service for their local phone service.

[3] Attachment MDP-3, at Tables 7 and 12. (The total number of switched access lines for New Hampshire was taken from Table 7. The split between business and residential lines for the ILECs and the CLECs was obtained from Table 12.)

Q. Has competition from these three sources been sufficient to obviate any reason for concern over the existing and future state of competition in the local market?

A. No. Of greatest significance is the fact that all of the competitors in the voice services market must still rely on the incumbent for some vital services in order to serve their customers effectively. I will discuss this issue in greater detail in Sections V and VI of my testimony. It is still vital to facilitate and foster wireline competition in the New Hampshire voice services market. To begin with, the largest source of competition until recently was from the UNE-P (platform) carriers. At their peak, UNE-P providers and other CLECs served 15% of residential lines nationwide.[4] However, not only have the two major UNE-P providers (MCI and AT&T) ceased to exist as independent CLECs, but that mode of competition essentially was eliminated by the FCC in the UNE Remand proceeding in December, 2004.[5] Competition from over-the-top VoIP providers is a limited or imperfect substitute for the ILEC for many customers, who are either not connected to the Internet by broadband facilities or are unwilling to rely on a public Internet connection for voice service. Wireless telephone service has also been an imperfect substitute for most customers, who are unable or unwilling to cut the cord.

[4] Attachment MDP-4 (FCC Local Telephone Competition Report: Status as of December 31, 2005 [July 2006], Table 2 [Hereafter: FCC Local Telephone Competition Report])

[5] Federal Communications Commission, *Order on Remand,* WCC Docket No. 04-314, December 15, 2004

Q. Are there prospects for increased competition in New Hampshire?

A. Yes. Comcast represents a source of voice services competition on a wider scale than New Hampshire has experienced to date. Comcast has already deployed its Comcast Digital Voice ("CDV") service throughout New Hampshire with the exception of areas served by rural ILECs – where interconnection with rural incumbents has been withheld. By the end of the second quarter of 2007 it had attracted three million customers nationwide. CDV is now marketed to 35 million homes, representing 73% of Comcast's footprint nationwide. Other cable operators in New Hampshire, such as MetroCast, have also taken steps to enter the market to compete with Verizon.

Q. What services does Comcast now offer in New Hampshire?

A. Comcast serves 100 communities in the State, providing service to more than 290,000 New Hampshire cable customers via 7,000 miles of cable plant. Comcast's upgraded broadband network is capable of providing a rich array of services to its customers, including those in the newly acquired systems in the communities formerly service by Adelphia. Comcast offers its cable customers a wide array of video programming and high-speed Internet at download speeds up to 8 Mbps (which can be doubled for large downloads with Comcast's PowerBoost™ Service). Comcast introduced its CDV service in New Hampshire in 2005. Comcast's ability to grow and expand its voice service in New Hampshire is wholly dependent upon retaining efficient and cost-based access to a limited but critical group of wholesale services from FairPoint should the merger be approved.

Q. What is the potential benefit to consumers from the spread of competition from cable telephony?

A. Last year I conducted a study of these benefits and concluded that the overall benefits over the next five years in the residential and small business market from cable voice service competition were on the order of $100 billion.[6] As shown in the table below, these benefits are derived from a number of sources, including the direct savings to cable voice service customers and the anticipated competitive response by the ILECs.

Total Savings from Cable-Telco Competition (in millions)

Category	Savings
Cable, Residential Market	$11,221
Cable, Small Business Market	$526
OTP VoIP	$6,755
ILEC Competitive Response, Residential Market	$69,593
ILEC Competitive Response, Small Business Market	$13,440
Total	$101,534

Consumers in all markets will benefit from facilities-based voice services competition by the cable companies. In particular, as cable companies are able to justify upgrades and system expansions, they hold the promise of offering digital television, high-speed Internet access, as well as competitive voice service to a wider range of consumers.

[6] Attachment MDP-5 (MiCRA, "Consumer Benefits from Cable-Telco Competition, 2006")

B. The ILECs' Response to Competition

Q. How have the ILECs responded to competitive entry in the past?

A. Not well. The pre-divestiture Bell System, the post-divestiture RBOCs and independent ILECs engaged in many acts to hinder competitive entry. The simple reason for this is that competition will reduce the incumbent's profits. Even if the incumbent's profits are constrained by regulation, they will still have a powerful incentive to prevent or hinder entry in order to preserve long-term profits and also raise profits by various means that sidestep regulatory controls. For example, by maintaining control over a customer's local telephone service, an ILEC is more likely to be able to sell other bundled services, such as long distance, calling features, Internet access and video service.

Q. Aren't the ILECs the same as any other dominant firm that wants to hold on to its customers as long as possible?

A. No. The ILECs are different than dominant firms in many other markets, because they continue to provide essential services to their competitors, even after the competitors have successfully entered the market. For example, so long as the ILECs continue to serve the vast majority of local telephone customers, entrants will need to interconnect with the ILEC in order to provide their customers with universal connectivity, not only to ILEC end users, but other competitor's end-users by way of tandem transit service. ILECs continue to be the only ubiquitous provider of tandem transit service in New Hampshire. The entrants also will depend on the ILEC to cooperate in switching customers from their old ILEC service to their new competitive service. I will explain this and other issues of dependence in much greater detail below.

The key point to keep in mind is that the ILECs will have both the incentive and the ability to raise their rivals' cost. By doing so, they can retain their dominance and forestall the need to respond as fully to competitive pricing. Moreover, the regulator's job of preventing these cost raising strategies is not easy. It will often be difficult to sort out a benign failure by the ILEC to cooperate with the competitor from a purposeful effort to raise a competitor's costs. Indeed, the ILEC can impose costs, harm competitors, and help its own competitive position simply by exerting a little less effort and manifesting a little less competence in serving the competitor's needs than it does in meeting its own retail customers' needs. FairPoint would have the same incentives and abilities to impede competition.

Q. What general concern should the Commission have about the impact of transfer of Verizon's ILEC business to FairPoint on competition?

A. In determining whether the merger is in the "public good", the Commission must focus on whether and how a major change in the ownership of the largest ILEC in the State in the manner proposed in the Joint Petition could potentially undermine existing competition and prevent or disrupt the transition to a more competitive marketplace.

IV. SPECIFIC COMPETITIVE HARMS

A. POSSIBLE DISRUPTION TO COMPETITIVE MARKET CAUSED BY THE FAIRPOINT ACQUISITION

Q. Please explain what you mean about the possible disruption of competitive markets that could be caused by the FairPoint acquisition.

A. FairPoint has taken the position that it should not have the same interconnection-related obligations that Verizon now has in New Hampshire. FairPoint has failed to provide adequate safeguards that its systems intended to replace those of Verizon are likely to operate in as efficient and reliable a manner as those of Verizon on cutover. Further, FairPoint has not demonstrated that it has the ability to serve wholesale customers as well or better than Verizon has done.

Q. How would the proposed transaction harm the public good and harm competition in New Hampshire absent pro-competitive conditions?

A. The proposed transaction would erode existing interconnection obligations upon which Verizon's competitors have relied and on which their ability to compete continues to depend. The ability of Comcast and other facilities-based providers to continue to offer and grow competitive services in New Hampshire depends, in part, upon their ability to retain and obtain reasonable interconnection rates, terms and conditions from the ILEC - currently Verizon - pursuant to Section 251(c) of the Telecommunications Act of 1996. As discussed in more detail below, FairPoint has backpedaled on its originally stated intention not to seek suspensions or modifications of interconnection obligations under 251(c) of the Act. Without a condition prohibiting any such waivers, suspensions or modifications pursuant to 251(f)(1) and (2), this backpedaling shows there is a serious risk that FairPoint may seek to avoid the interconnection obligations Verizon currently meets and would continue to meet but for approval of the proposed transaction. FairPoint also indicates a willingness to extend existing interconnection agreements for a period of only 12 months. These assertions by FairPoint demonstrate that current competitors face significant uncertainty about the costs and terms of interconnection in the future. Moreover, such uncertainty about the availability and terms of interconnection could discourage new entry. The mere threat of Section 251(f)(2) litigation could deter competitors, and also could impair the negotiation of interconnection agreements. As discussed later in my testimony, I recommend that any merger approval be conditioned upon FairPoint's agreement not to seek a waiver, suspension or modification of existing Verizon interconnection obligations pursuant to Section 251(f) of the Communications Act, as well as an extension of existing interconnection agreements for a period of three years.

Q. How else could the proposed transaction harm the competitive market?

A. The proposed transaction creates a risk that competitors might be forced to bear costs that would not have been incurred in the absence of this transaction. Solely as a result of the proposed transaction, FairPoint will incur substantial costs, including the costs associated with the transaction itself, payments made to Verizon during the term of the Transition Services Agreement between the parties, and the costs of developing, procuring, testing and debugging new and changed systems that FairPoint intends to rely upon to provide retail and wholesale services. The latter costs include the costs associated with FairPoint's contractual agreement with Capgemini.

Q. How should the Commission deal with the costs incurred by FairPoint?

A. Any approval of the proposed transaction should be conditioned upon FairPoint's agreement not to pass through or charge the costs of developing and implementing new systems to retail and wholesale ratepayers or to attaching entities. Initially, FairPoint stated that: (1) it will not pass on costs related to this transaction to CLEC wholesale customers and pole and conduit licensees;[7] (2) it will not seek to recover costs associated with its modifications to Verizon operations and the establishment and implementation of its own systems, including costs incurred under the Capgemini agreement, from wholesale

[7] Attachment MDP-6 (FairPoint Response to NECTA/CPNH:III-60)

customers or pole and conduit licensees;[8] and (3) it does not intend to recover any costs associated with the Transition Services Agreement with Verizon from CLECs or pole and conduit licensees.[9] More recently, however, FairPoint has contradicted its earlier representations. FairPoint witness Skrivan states in his prefiled rebuttal testimony in Vermont that certain Capgemini costs would be considered transaction costs and would not be included in future rate proceedings. But, he asserts that other Capgemini costs represent costs of acquiring, developing and implementing systems which will serve in the place of existing Verizon systems "which will be part of the capitalized costs of the systems, under GAAP, would be considered used and useful in future rate proceedings and Fair Point reserves its right to include these types of costs in any future rate proceeding."[10] This creates a risk that FairPoint's rate base will include investment costs in excess of the rate base valued by and acquired from Verizon. For this reason, I have recommended that the Commission impose a merger approval condition that precludes FairPoint from imposing such costs on retail and wholesale ratepayers or attaching entities. The Commission should impose this condition in order to ensure that all ratepayers are not disadvantaged economically by this transaction and that they will pay no more than they would have paid if no transaction had occurred.

[8] Attachment MDP-7 (FairPoint Response to NECTA/CPNH:III-62)
[9] Attachment MDP-8 (FairPoint Response to NECTA/CPNH:III-78)
[10] Attachment MDP-9 (Prefiled Rebuttal Testimony of Michael T. Skrivan, VT Docket 7270 at 21).

Q. Will the proposed transaction cause competitors to incur costs they would not otherwise incur?

A. Yes, there are several categorized costs. Competitors will incur internal costs in order to adapt their own systems to new systems to be implemented by FairPoint. The nature and extent of these costs cannot be specified at this time due to the lack of detailed information made available by FairPoint. These costs may involve hardware, software, provisioning, training and additional resources for testing FairPoint's new systems. While these costs may vary from one competitor to another, it is evident that as a result of FairPoint's wholesale replacement of all OSS systems, competitors will incur significantly greater expenses than if Verizon were updating an existing system or software release. This transaction therefore causes competitors to bear additional costs they would not have to bear if this transaction did not occur.

In addition, competitors will experience additional costs and losses depending upon the degree of cutover problems that are experienced. The Hawaiian Telcom experience discussed below indicates that competitors suffered costs and economic losses as a result of an unsuccessful cutover in similar circumstances. Competitors and their customers should not have to bear such costs. However, FairPoint has stated it will not compensate competitors that suffer economic losses should FairPoint's new systems fail after cutover.[11] Should the cutover

[11] Attachment MDP-10 (FairPoint Response to CLEC FDR III-4).

prove to be unsuccessful and cause harm to FairPoint's competitors, these firms should have the right to seek compensation from FairPoint for their losses.

Q. In what other respects does the proposed transaction threaten to cause harm to competition?

A. The implementation of an entire suite of totally new or changed systems as FairPoint has proposed is a daunting task that poses many risks for consumers and New Hampshire. FairPoint's consultant, Capgemini, has stated it is not aware of any full system startup by an ILEC other than Hawaiian Telcom. Nor has Capgemini previously been engaged to provide a full system startup for an ILEC.[12] As the Hawaiian Telcom experience (discussed in detail below) has shown, these risks are not theoretical. Any changeover from the systems now operated by Verizon (an experienced wholesale services provider) to entirely new systems about which FairPoint (an entity with very little wholesale market experience, who has yet to provide adequate details) represents a serious threat to existing and expected competition. FairPoint's proposal to implement a flash cutover of all systems in all three states simultaneously compounds this risk. Even the change of a single system by an experienced wholesale provider like Verizon, much less an entire suite of systems, can create havoc. For example, in October 2004, Verizon performed a scheduled system release – known about in advance – and replaced its former Pennsylvania LSI (order and pre-order GUI)

[12] Attachment MDP-11 (FairPoint Response to NECTA/CPNH FDR III-16).

with a new one. Almost immediately thereafter, CLECs experienced complete loss of functionality, which caused a tremendous back log in orders and other problems. A CLEC letter to the PA PUC regarding this situation is attached[13]. As the preceding example suggests, the complexity of the full system replacement being undertaken by FairPoint and Capgemini, without any independent oversight, and during a short time frame, should cause the Commission great concern. The information on FairPoint's new systems provided to date, even following technical sessions in early June, remains incomplete and demonstrates the need for conditions to prevent harm to retail and wholesale customers and safeguard the public good from potentially severe and long-lasting service-affecting problems due to failed system conversions.

B. <u>EVIDENCE FROM HAWAII</u>

Q. Can you please provide more information about the Verizon asset transfer in Hawaii?

A. The problems that resulted from the full scale system conversions after Verizon's sale of its systems in Hawaii to the Carlyle Group in 2005 clearly demonstrates the serious risks that accompany such a conversion. There are numerous parallels. In that transaction, the Carlyle Group, a less experienced and less well-resourced entity than Verizon, hired management personnel with telecommunications experience just as FairPoint is doing in Maine, New

[13] Attachment MDP-12 (CLEC letter to New York State Public Service Commission and the Pennsylvania Public Utility Commission, October 29, 2004).

Hampshire and Vermont. As in Hawaii, the parties in this case have entered into a Transition Services Agreement and just like the Carlyle Group, FairPoint has retained an outside consulting firm to assist it in developing entirely new systems to replace Verizon's systems. As in Hawaii, FairPoint is also proposing a flash cutover to these new systems. As in Hawaii, once FairPoint notifies Verizon of its readiness to cutover, Verizon will proceed to transfer data to FairPoint[14] without any independent obligation or effort on Verizon's part to determine that FairPoint's new systems will function properly.[15] Finally, and again as in Hawaii, no provision has been made for independent third party verification of the readiness of these new systems for cutover.

Q. Were cutover plans or conditions in place in Hawaii?

A. Yes. The Hawaii Commission did take certain steps to prevent anticipated problems. A detailed cutover plan was put in place in Hawaii, with testing protocols to ensure that the new systems would perform properly to serve both retail and wholesale customers. Conditions were imposed by the Hawaii Commission to ensure that the risks of system changes would be minimized. The Hawaii Commission approved Verizon's asset sale to the Carlyle Group in Docket No. 04-0140 on March 16, 2005. The cutover to new systems occurred on April 1, 2006. Multiple problems became apparent immediately. Hawaiian Telcom (the buyer) reported that on the cutover date:

[14] Attachment MDP-13 (Verizon Response to OCA G V FDR 1-15).
[15] Attachment MDP-14 (Verizon Response to OCA G V FDR 1-14)("Verizon would not be in a position to make an assessment of FairPoint's readiness for cutover.").

> "...critical systems related to back-office functions, such as customer care, order management, billing, supply chain, and other systems interfacing with our financial systems, lacked significant functionality. This led to deficiencies in billings and collections, revenue assurance, and order entry flow-through."[16]

Problems reportedly continued into 2006, with significant incremental expenses being incurred by Hawaiian Telcom and continuing deficiencies in many areas. As Hawaiian Telcom further reported:

> "The lack of full system functionality following the Transition Period substantially impacted both customer satisfaction...and collection efforts in 2006....We continue to work to improve our system functionality."[17]

In its SEC filing Hawaiian Telcom identified several risks associated with this undertaking, among which were the company's limited experience operating as a stand-alone provider of telecommunications services, the significant capital expenditures and transition expenses incurred in the process of the takeover, and the potential unavailability of funds if revolving credit loan conditions were not met. In particular, Hawaiian Telcom noted:

[16] Attachment MDP-15 (Hawaiian Telcom Communications Inc. Form 10-K [2006] at 18)
[17] Attachment MDP-15 at 19.

> "Our lack of critical back-office systems and IT infrastructure has negatively impacted our ability to operate as a standalone provider of telecommunications services, which has had an adverse effect on our business and results of operations."[18]

> Recognizing the tasks still in front of it, Hawaiian Telcom stated that "…there is no assurance ... when we will achieve full functionality."[19]

Q. What happened after these multiple system problems occurred?

A. Hawaii customers were faced with significant delays, service and billing problems and outages, and competitors have had to spend significant time and resources dealing with these system deficiencies. On July 31, 2006, a CLEC, Time Warner Telecom of Hawaii, L.P., filed a request for an investigation and independent audit of whether the back office systems and processes of Hawaiian Telcom complied with the terms of a stipulation approved by the Commission in Docket No. 04-0140. It was alleged that Hawaiian Telcom forced a cutover to new systems and processes prior to the new systems being fully functional. The Hawaii Commission is now conducting an investigation into Hawaiian Telcom's retail and wholesale service quality performance and standards, and the possibility

[18] Attachment MDP-15 at 19.
[19] Attachment MDP-15 at 25.

of penalties and fines for non-compliance, among other issues[20], including those raised by Time Warner Telecom.

C. PARALLELS BETWEEN THE FAIRPOINT ACQUISITION IN NEW ENGLAND AND THE CARLYLE ACQUISITION IN HAWAII

Q. Do you see any parallels here?

A. In many respects, based on their Joint Application, it appears that Verizon and FairPoint have adopted the same approach before the New Hampshire Commission as was taken by Verizon and the Carlyle Group before the Commission in Hawaii to convince regulators that retail and wholesale consumers will not be adversely affected by the sale of Verizon's properties.

The parallels between the situation presented in this case and Hawaii are alarming, as discussed above. At this late date, FairPoint has still provided few details on its plans for replacing Verizon's systems and practices. However, as in Hawaii, it is clear that implementing a full suite of new systems will be exceedingly complex. The parallels should alert the Commission to the need for independent verification and testing of system changes prior to implementation and cutover, and the need to ensure continuity in use of existing Verizon systems until such time as the new FairPoint systems have proved to the satisfaction of an independent third party and the Commission that they will operate as least as effectively as the systems they are replacing. Tight controls and conditions over

[20] Public Utilities Commission of the State of Hawaii, Order No. 22928, dated October 6, 2006,

the transition from Verizon to FairPoint systems, such as those recommended in my testimony, are needed in order to protect the public good and safeguard against the type of serious problems that occurred in Hawaii.

Q. Has FairPoint acknowledged the risks of system conversion that you have identified?

A. Yes. For example, in a Form S-4/A filing made on May 25, 2007 at 26, FairPoint acknowledged that: (1) it will be required to identify, acquire or develop, implement, maintain and manage systems and processes which provide the functionality of over 600 different systems currently in use by Verizon; (2) the inability or failure of the parties (including Capgemini) to implement successfully their plans and procedures or the insufficiency of those plans or procedures could adversely impact FairPoint, extend the TSA and result in more TSA payments to Verizon; and (3) "[T]he failure of any the combined company's systems could result in its inability to adequately bill and provide service to its customers or meet its financial and regulatory reporting obligations."

Q. **Have you reviewed the Verizon Cutover Plan and the FairPoint Cutover Plan Task Lists made available in late June 2007, and how do they affect your opinion regarding the risks associated with FairPoint's proposed cutover?**

A. Yes. The Verizon Cutover Plan deals with the handing off of Verizon data to FairPoint. It provides no backstop in the event that such data cannot be properly handled by FairPoint's new systems after cutover or if FairPoint's new systems do not work. The handoff of data by Verizon to FairPoint raises concerns. **[BEGIN PROPRIETARY]** -- --- --- **[END PROPRIETARY]** [Verizon Cutover Plan at page 4 of 278].[21]

Q. What about FairPoint's Task List?

A. FairPoint's Cutover Preparation Tasks also raise concerns. First, the FairPoint document is only a list of cutover tasks; it is not a full-blown cutover plan. But, the document does provide some evidence of the complexity of the cutover process and therefore the high degree of risk that things can go wrong on cutover. With regard to the Cutover Preparation Tasks themselves, FairPoint has provided no detail of the work effort associated with specific tasks, so there is no way to evaluate the reasonableness of the duration allowed to perform specific tasks. Nonetheless, the system preparation "delivery charters" provided by FairPoint still show that **[BEGIN PROPRIETARY]** --- --- -- **[END PROPRIETARY]**.[22]

---

[21] Attachment MDP-16 (Proprietary) (Verizon Supplemental Response to NECTA/CPNH FDR III-1).
[22] Attachment MDP-17 (Proprietary) (FairPoint Supplemental Response to NECTA/CPNH FDR III-1).

Q. Will the problems that occurred in Hawaii necessarily occur in New Hampshire?

A. No. However, as noted above, there are many disturbing parallels between the Hawaii situation and the New Hampshire situation. Capgemini and FairPoint are still developing their plans even though we are seven months into the Commission proceeding. Given the lessons provided by Hawaii, the Commission can not merely accept general assurances that FairPoint and its consultant will "get it right." The public has far too much at stake. The Commission must require independent third party testing and verification of the systems to be implemented by FairPoint as part of any merger approval order, as I discuss later in my testimony. FairPoint's assurances that adequate testing will be conducted and system readiness will precede cutover are not an adequate substitute for independent third party testing. Major problems arose in Hawaii despite a comprehensive Stipulation between affected parties and written conditions imposed by the Public Utilities Commission. Neither FairPoint's assurances nor the type of Stipulation about system conversion and testing used in Hawaii is an adequate substitute for independent third-party verification.

V. EFFICIENT AND COST-BASED INTERCONNECTION IS VITAL FOR COMPETITION AND COULD BE THREATENED BY THE FAIRPOINT ACQUISITION

A. IMPORTANCE OF INTERCONNECTION TO COMPETITION

Q. What is interconnection, and why is it so important to a competitor?

A. Interconnection is the ability to exchange traffic between a competitor's customers and the customers of the ILECs as well as other providers of wireline and wireless telecommunications service. Unless a carrier obtains interconnection from other carriers, a local carrier's customer will only be able to communicate with another customer of the same local carrier. All carriers need interconnection to provide universal connectivity. When competition first emerges, however, interconnection is much more valuable to the competitor than it is to the ILEC. The reason is that an ILEC with a very large share of the market could conceivably offer telephone service which does not connect to the competitor's customers. On the other hand, the competitors would be out of business if they could not obtain interconnection with the ILEC. This creates a situation of uneven bargaining power, which an ILEC could exploit to hinder or even destroy its competitors.

This concern was recognized in the Telecommunications Act of 1996, which imposed interconnection requirements on <u>all</u> telecommunications carriers, but established specific interconnection duties only for the ILECs.[23] Specifically, the incumbent local exchange carriers must adhere to the Section 251(c) (2) requirement to provide:

> "for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network—
>
> (A) for the transmission and routing of telephone exchange service and exchange access;
>
> (B) at any technically feasible point within the carrier's network;
>
> (C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and
>
> (D) on rates, terms, and conditions that are just, reasonable and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252."

In 1996 the FCC adopted rules for States to apply in implementing these mandates of Section 251 in their arbitration of interconnection disputes, as well as their review of arbitrated arrangements, or an ILEC's statement of general available terms.[24]

Implementation of these rules, however, is not a one-time event. Rather,

---

[23] Communications Act of 1934 (the Act), as amended by the Telecommunications Act of 1996, Pub. L. No. 104, 110 Stat. 56 (1996 Act), Section 251.

[24] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket Nos. 96-98, 95-185, First Report and Order, 11 FCC Rcd 15499, 15616-775 (1996) (*Local Competition Order*), *aff'd in part and vacated in part sub nom. Competitive Telecommunications Ass'n v. FCC*, 117 F.3d 1068 (8th Cir. 1997) and *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), *aff'd in part and remanded, AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999) (*Iowa Utils. Bd.*), *on remand, Iowa Utils. Bd. v. FCC*, 219 F.3d 744 (8th Cir. 2000), *reversed in part sub nom. Verizon Communications Inc. v. FCC*, 535 U.S. 467 (2002) (*Verizon*), Order on Reconsideration, 11 FCC Rcd 13042 (1996), Second Order on Reconsideration, 11 FCC Rcd 19738 (1996), Third Order on Reconsideration and Further Notice of Proposed Rulemaking, 12 FCC Rcd 12460 (1997), further recons pending.

regulation of the terms and conditions of interconnection is an ongoing process. Negotiated agreements expire, tariffs can be refiled, and the facilities joining two networks are constantly being modified. Thus, even though the Telecommunications Act and the FCC rules have been in place for over ten years, and a deregulatory approach is appropriate whenever market conditions permit, the current state of local competition in New Hampshire's residential telecommunications markets attests to the need for ongoing active regulation of these vital prerequisites to local competition.

Q. What concerns does the proposed transaction raise regarding interconnection arrangements?

A. Verizon is a regional Bell Operating Company and therefore is obligated to interconnect with competitors under Sections 251 and 252 of the Telecommunications Act even though many of the areas it serves in New Hampshire are rural areas. In his prefiled direct testimony, Peter Nixon (COO of FairPoint) stated that "FairPoint will not take the position that this company is a rural telephone company entitled to exemption from Section 251(c) obligations.[25] However, in an apparent reversal of its earlier statements, FairPoint now states that it wants the right to petition pursuant to 251(f)(2) for suspensions or modifications of Section 251(b) and Section 251(c) obligations – a right that

[25] Prefiled Direct Testimony of Peter G. Nixon, at 27.

Verizon does not have[26] – thereby exposing competitors to the risk of being precluded from serving in a territory which is currently open to competition without restrictions. FairPoint has also previously stated that it would not seek classification under Section 251(f)(1) as a rural carrier entitled to exemptions from Section 251 and 252 obligations currently imposed on Verizon. Competitors cannot now rely on such an assertion. Only a condition of merger approval prohibiting FairPoint from seeking any exemptions, suspensions or modifications pursuant to 251(f) now or at any time in the future will protect competitors from such an inequitable result. It is important to remember that as long as Verizon is the incumbent, the rural exemptions and suspensions of 251(f) are inapplicable. Even the possibility that FairPoint could petition the Commission for a suspension or modification of its obligations as an ILEC leaves competitors worse off than they would be if no transaction were to occur.

Q. What negative impacts on competition and interconnection would occur if FairPoint could claim rural telephone company status or if it had the ability to file for suspension or modification of section 251(c) obligations now imposed on Verizon from which Verizon is prohibited to seek relief?

A. If FairPoint were permitted under the law to seek to seek exemption, suspension or modification of Verizon's current Section 251(c) interconnection obligations it would immediately shrink the current rights of competitors in New Hampshire.

[26] Attachment MDP-18 (FairPoint Response to CLEC FDR III-1).

Additionally, the Commission might be forced to conduct costly and time-consuming proceedings in which CLECs would need to fight to maintain *existing* interconnection rights. The costs and uncertainty of such potential litigation alone might lead to a contraction of competitive presence in New Hampshire, without regard to the ultimate resolution of the litigation by the Commission. Smaller CLECs might not have the resources to contest suspension or modification requests by FairPoint and would then be disadvantaged if their existing interconnection arrangements eroded as a result of any suspension or modification of existing interconnection requirements. FairPoint's ability to evade Section 251 obligations would also create a barrier to arms-length interconnection agreement negotiations and potentially destabilize the competitive environment in New Hampshire. It would give FairPoint the ability to simply threaten a 251(f)(2) petition as a negotiation bargaining chip, something Verizon cannot do today. Any of these developments would leave competitors disadvantaged as a direct result of the proposed transaction.

Q. What other areas regarding interconnection policy should concern the Commission?

A. In the following sections of my testimony, I explain four major categories of interconnection policy that the Commission must ensure are not compromised by the proposed merger: (1) Interconnection rates must remain at or below current levels; (2) Tandem transit service, which enables competitors to connect with all other voice service providers in the State, including wireless providers, must continue to be provided at or below current rates; (3) FairPoint must devote the appropriate resources to interconnection negotiation and permit a 3 year extension of existing interconnection agreements; and (4) Interconnection facilities must be made available and provisioned within reasonable time limits.

Q. Why is this issue important for consumers in New Hampshire?

A. Interconnection costs are unavoidable for competitors. Therefore, any increase in these costs, either as a result of excessive pricing or inefficient provisioning, will increase competitors' entire cost base for serving the New Hampshire market. It is a well-accepted principle of economics that higher costs are passed on to consumers in competitive markets.

B. <u>INTERCONNECTION RATES MUST REMAIN AT OR BELOW CURRENT LEVELS.</u>

Q. What governs the current interconnection rates between Comcast and Verizon in New Hampshire?

A. In September 2006, Comcast Phone of New Hampshire, d/b/a Comcast Digital Phone and Verizon New England Inc., d/b/a Verizon New Hampshire agreed to adopt the terms of the arbitrated Interconnection Agreement between ACC National Telecom (a subsidiary of the former TCG) and Verizon that was approved by the New Hampshire Public Service Commission. This agreement establishes rates for interconnection facilities, transport and termination, and for transit service.

Q. What is transport and termination and what rates are applied to this service?

A. Transport and termination refer to the reciprocal compensation rates for traffic exchanged between two local carriers. These are the rates required under Section 251(b)(2) of the Communications Act. The rate that applies to traffic terminated by either party to the agreement is $0.0007 per minute of use, pursuant to the FCC's April 2001 ISP Remand Order, which is discussed in further detail below.[27]

Q. What standard dictates the basis for setting reciprocal compensation rates?

A. Transport and termination rates typically are established by the state commission on the basis of the forward-looking costs of the ILEC.[28] Alternatively, the ILEC has the option to adopt the rate cap for ISP-bound traffic, which was established in 2001 by the FCC. This is referred to as the "mirroring" rule, which was adopted by the FCC to prevent the ILECs from picking and choosing among intercarrier compensation regimes, because of the Commission's concern about the "superior bargaining power of the incumbent LECs."[29] The rate for ISP-bound

[27] *ISP Remand Order, Intercarrier Compensation for ISP-Bound Traffic,* CC Docket No. 99.68, Order on Remand and Report and Order, 16 FCC Rcd 9151, 9161-62, remanded, *WorldCom* v. *FCC*, 288 F. 3d 429 (D.C. Circuit 2002), *cert. denied,* 538 U.S. 1012 (2003).

[28] State commissions also may set rates on the basis of a bill-and-keep arrangement or default proxies. See, 47 C.F.R. § 51.705

[29] *ISP Remand Order*

traffic is capped at $0.0007 per minute of use, but RBOCs must offer to exchange all local traffic at the mirroring rate if they wish to exchange ISP-bound traffic at that rate.

Q. Are all ILECs bound to establish reciprocal compensation arrangements for the exchange of traffic with CLECs?

A. Not necessarily. Section 251(f)(2) of the Telecommunications Act enables a "local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide" to petition a state commission for suspension or modification of the interconnection requirements particular to ILECs, including those requirements that apply to all local exchange carriers. Because of its size, Verizon does not have the ability to petition a state commission for this type of waiver of its interconnection obligations.

Q. What effect could the proposed Verizon-FairPoint transaction have on rates under the agreement between Verizon and Comcast?

A. The merger could expose competitors to an uncertain future for several reasons. First, competitors face the risk that when the interconnection agreements expire they will not be renewed at current terms. Further, competitors may face higher interconnection costs, depending on whether FairPoint attempts to justify higher "cost-based" rates. Second, as discussed above, while FairPoint first indicated that it will not take the position that the acquired Verizon operations are entitled to exemption from 251(c) status as rural providers, it has more recently indicated that it seeks to reserve the right to seek suspensions or modifications of 251(c) pursuant to 251(f)(2) – which could degrade – or nullify – current interconnection arrangements, such as the obligation to provide interconnection at forward-looking cost-based rates, or it could preclude interconnection, porting and competition altogether. As I have indicated, it is for these reasons the Commission should preclude FairPoint from seeking any exemptions, modifications or suspension pursuant to 251(f) now or at any time in the future.

Q. Please explain the situation that faces Comcast with respect to expiration of the current interconnection agreement.

A. The current adopted interconnection agreement with Verizon was assumed by Comcast in 2003 and remains in effect on a month-to-month basis. Any renegotiation of the agreement would take place against the backdrop of the Section 251 provisions. Although it is conceivable that Verizon could attempt to increase rates, there is a track record and a rate precedent that provides some reassurance that Comcast will not face a rate increase from Verizon. By contrast, Comcast has almost no track record of dealing with FairPoint and is concerned that it will not offer the same terms as Verizon and that it will not negotiate in the same manner as Verizon, which concern is exacerbated by FairPoint's recent assertion of rights under 251(f)(2).

Q. Those conditions will effectively deal with reciprocal compensation rates for local traffic, but do reciprocal compensation rates apply to all traffic exchanged by a competitor and Verizon/FairPoint within the State of New Hampshire?

A. No. Calling from one local calling area to another is not covered under the reciprocal compensation rules. Termination of traffic that originates in one local calling area and terminates in another local calling area is subject to intrastate terminating switched access rates. Verizon provides intrastate access service under NHPUC No. 85.

Q. How will intrastate access rates be affected by the merger?

A. FairPoint states that it "does not expect its intrastate access rates in the to-be-acquired areas to be any higher than the Verizon rates at the time of the close."[30] FairPoint is unwilling to commit not to raise these rates in the future, stating that it "does not currently anticipate any rate changes as a result of the present transaction. However, FairPoint cannot address at this time intrastate rates 'going forward.'"[31] The absence of any commitment and the wide open nature of what might affect rates in the future expose competitors to the risk of bearing additional costs as a result of the merger.

[30] Attachment MDP-19 (FairPoint Response to NECTA/CPNH: IV-82).
[31] Id.

Q. What remedy do you propose to mitigate this risk from the merger?

A. As a condition of the merger, FairPoint should be required to commit not to increase intrastate access rates for at least three years from the closing date, or through December 31, 2010, whichever is later.

C. TANDEM TRANSIT SERVICE MUST CONTINUE TO BE PROVIDED AT CURRENT RATES.

Q. What is tandem transit service and why is it so important to competitors?

A. Tandem transit service is provided by Verizon to CLECs to enable interconnection with other voice service providers, including smaller ILECs, wireless carriers and other competitors. Typically, the competitor will interconnect with a Verizon tandem office, and then Verizon will route the traffic over its own network to other carriers. Tandem transit service enables a competitor to offer universal connectivity to its own customers, which means that its customers can make and receive local calls from any other telephone subscriber. Today, tandem transit service in New Hampshire applies to most calls between competitive wireline providers that originate and terminate in the same local calling area and to calls between competitive wireline and wireless providers that originate and terminate in the same Major Trading Area (MTA). Tandem transit service is needed except under the limited circumstances where competitors exchange enough local traffic to make direct interconnection with each other cost effective.

Q. Are the competitors dependent on Verizon for tandem transit service?

A. Yes. Verizon already interconnects with all other local providers in New Hampshire, and by virtue of its incumbent position, it is the only entity that is able to provide tandem transit service capable of enabling indirect interconnection and universal connectivity between and among all competitive carriers in the state. There are no competitive transit providers that can provide this service ubiquitously. The reasons for this are two-fold. First, there are very few competitive transit providers in existence (Comcast is not aware of any that operate in New Hampshire) and competitive transit providers cannot compel any other carrier to use their service. In particular, they have been unable to compel RBOC affiliates such as Verizon Wireless to interconnect with their transit networks.[32] The second reason is the large scale and scope economies that characterize telecommunications networks – at least until they provide a large volume of traffic among various points on the network. Interconnection trunking facilities cannot be built efficiently between each and every one of the local service providers in the state. A certain amount of traffic aggregation is necessary, and this can only occur if there are a small number of physical locations where each carrier can hand-off traffic to many other carriers. For now, due to its historic monopoly position, Verizon is certainly the only game in town and the

[32] See *In the Matter of Petition of Neutral Tandem, Inc. for Interconnection with Verizon Wireless, Inc. Pursuant to Sections 201(a) and 332(c)(1)(B))of the Communications Act of 1934, as Amended*, WC Docket No. 06-159.

only provider that can efficiently connect all the local providers in New Hampshire.

Q. How are tandem transit rates set?

A. Comcast receives tandem transit service under its interconnection agreement, the same agreement that governs the rates for call transport and termination. Tandem transit service is available at a rate of 0.002250 per minute (daytime)[33]

Q. How will the merger affect the pricing and availability of transit services?

A. It is hard to say. FairPoint declares that it will assume the obligations of Verizon under interconnection agreements and wholesale tariffs in New Hampshire. Nevertheless, in direct response to a discovery request asking whether FairPoint was committed to:

> "(a) providing transit service and transit rates under interconnection agreements entered into pursuant to Sections 251 and 252 of the federal Telecommunications Act; (b) agreeing not to seek to move transit service and transit rates out of an interconnection agreement and into a commercial agreement; and (c) agreeing not to raise the current Verizon rates through the end of the transition period following the close of the proposed transaction."

---

[33] Usage Evening - Per access minute 0.003374; Night - Per access minute 0.000684. Verizon New Hampshire Tariff 84, Part M, Section 3.1.3.

FairPoint responded that it "has not developed its position on how transiting services will be provided in the future..."[34] More recently, FairPoint refused to commit to a continuation of tandem transit services at TELRIC prices as a merger condition[35], which gives rise to further uncertainty. FairPoint has provided no assurance that it will maintain existing Verizon tandem transit rates after the close of the merger, or continue to include tandem transit as part of its interconnection agreements. As a result, the proposed transaction constitutes a serious threat to Comcast's ability, and that of all competitive and wireless voice providers, to compete against FairPoint and offer service to their customers at attractive rates that reflect the underlying costs of service.

D. CONCERNS REGARDING INTERCONNECTION NEGOTIATIONS AND RESOURCES

Q. Has FairPoint addressed Comcast concerns with respect to its "contract management team" that it will have sufficient resources to manage its new wholesale customers and the hundreds interconnection agreements it will assume as a result of this transaction?

A. No. First, it is my understanding that the "contract management team" is part of the wholesale services organization headed by Mr. Brian Lippold. However, based upon the recent Vermont rebuttal testimony, Mr. Lippold describes his duties as also including oversight of FairPoint's retail business team. Comcast

[34] Attachment MDP-20 (FairPoint Response to NECTA/CPNH: III-59)
[35] Attachment MDP-21 (FairPoint Response to One FDR III-2).

and NECTA are concerned that the FairPoint organization to serve wholesale customers also appears to be responsible for developing revenues from medium and large size retail business customers. This organizational structure appears to create a conflict of interest that will impact wholesale customers engaged in interconnection negotiations, or even ordering facilities required to serve or potentially acquire customers currently being served by FairPoint. This issue needs to be resolved or clarified before any arm's-length negotiation between wholesale customers and a FairPoint wholesale organization can occur. Second, beyond the fact that Mr. Lippold's organization will include a "contract management team" for assisting with interconnection agreement negotiation, the level of staffing on that team has not yet been disclosed.

Q. Does Comcast have any experience with interconnection negotiations with FairPoint?

A. Yes. Comcast is currently involved in an interconnection negotiation with FairPoint in Washington State.

Q. Please describe that experience.

A. Comcast is concerned that this recent experience it has had in attempting to negotiate an interconnection agreement with FairPoint is a potential indication of FairPoint's inability or unwillingness to negotiate with competitors. FairPoint recently acquired the territory of a rural telephone company called YCOM

Networks ("YCOM"), which operated in the State of Washington. YCOM had deployed video service in its footprint, and this service is now provided by FairPoint as well. FairPoint's provision of video service in the former YCOM footprint renders it ineligible for the rural exemption from interconnection requirements under Section 251(f)(1) of the Act.[36] Comcast sent FairPoint a formal request for negotiations on April 10, 2007 (by overnight mail and email). Despite several attempts to contact FairPoint[37], Comcast did not receive a formal reply until it received a letter from FairPoint counsel dated June 13, 2007, over two months after Comcast's request and only after the lack of responsiveness was raised by Comcast in the Vermont proceedings concerning this acquisition. Comcast had requested a negotiation start date of April 16, 2007, which was more than generous considering that Comcast's request for negotiations was sent on April 10, 2007. At the outset FairPoint's counsel took unreasonable positions with respect to the negotiation start date and whether the Section 252 negotiation timeline applied, and FairPoint's lack of responsiveness and refusal to begin negotiations on the requested start date caused a significant delay of almost two months in the start of negotiations. More recent discussions between Comcast

---

[36] Section of 251(f)(1)(C) of the Act provides a limitation on the exemption that rural telephone companies are not obligated to comply with Subsection (c) of Section 251, unless, pursuant to a bona fide request for interconnection, the Commission rules out technical infeasibility or economic burden. The rule holds that: "The exemption provided by this paragraph shall not apply with respect to a request under subsection (c) from a cable operator providing video programming, and seeking to provide any telecommunications service, in the area in which the rural telephone company provides video programming. The limitation contained in this subparagraph shall not apply to a rural telephone company that is providing video programming on February 8, 1996." Communications Act (as Amended).

[37] Comcast had also phoned and emailed the FairPoint negotiation contact on May 3, 2007, and placed a second phone call and sent a follow-up email on May 8, 2007 (Comcast's correspondence to FairPoint is attached as Attachment MDP-22).

and FairPoint have been more amiable. However, with only 135 days to negotiate before the statutory arbitration window begins, any significant delay could result in unnecessary use of the Washington Commission's resources for arbitration. This lack of responsiveness would be extremely atypical when dealing with an RBOC, and does not instill confidence that FairPoint is willing or able to negotiate efficiently with a single competitor, let alone multiple competitors.

Q. Has FairPoint addressed Comcast's concerns about interconnection terms and conditions?

A. No. While FairPoint has recently stated publicly that it is willing to extend existing interconnection agreements and expired month to month "evergreen" agreements for one year after closing, this position is not reasonable or acceptable for the following reasons.[38] First, a single year extension from the date of closing represents a lapse in the continuity of interconnection terms and conditions that wholesale customers have experienced under Verizon and constitutes a negative impact of the proposed transaction. Second, as of the date of closing, FairPoint will be only months away from cutover based on its own schedule. Given the tremendous uncertainty regarding the cutover processes and potential business disruptions, a one-year extension would force interconnection negotiations to commence during a period when the parties likely will be occupied with cutover-related issues as well as additional network related changes that both parties must

[38] Attachment MDP-23 (FairPoint Response to One FDR III-22(c)).

accommodate. Embarking on interconnection negotiations during this sensitive time frame is ill-advised. Third, arbitration may result in a costly and time-consuming process that might be avoided by affording a longer extension of existing interconnection agreements and an opportunity for both parties to work under FairPoint's new systems and develop a base of experience. Fourth, FairPoint has not disclosed the level of resources it will commit to interconnection negotiation and arbitration, which is of concern, given the volume of interconnection agreements that FairPoint will be acquiring.

Q. What steps should the Commission take to ensure interconnection stability and mitigate the effects of the merger on competitors and their customers?

A. To mitigate the concerns listed above, the Commission should impose a condition upon FairPoint permitting CLECs to extend existing interconnection agreements for a period of time ending three years after the date of the closing. Moreover, this condition is consistent with a condition required by the FCC in its approval of the AT&T-BellSouth merger.[39] Such a condition would provide a level of stability for all parties, in light of FairPoint's and CLECs' need to dedicate resources to deal with the definition, testing and implementation of new or modified systems during the transition period, pre-cutover and post-cutover. Such a condition also would

[39] *In the Matter of Review of AT&T Inc. and BellSouth Corporation Application For Transfer of Control, Memorandum of Opinion and Order,* WC Docket No. 06-74, *Adopted* December 29, 2006, Appendix F, p.150

help ensure that FairPoint adheres to the interconnection rates, terms and conditions that now apply to Verizon for the period of the extension.

E. PHYSICAL INTERCONNECTION FACILITIES MUST BE MADE AVAILABLE ON REASONABLE TERMS AND CONDITIONS.

Q. What physical facilities are used to interconnect the CLECs and Verizon local networks?

A. Typically, CLECs connect to Verizon's facilities in one of three ways. (1) a CLEC orders trunks from Verizon that terminate at the CLEC's terminal or switch; (2) a CLEC collocates equipment at a Verizon wire center; or (3) the CLEC and Verizon connect their fiber optic cables with each other at a meet point. The third option is termed a "mid-span fiber meet." Also, a competitive voice services provider, such as Comcast, will sometimes choose to lease facilities from a third-party carrier.

Q. Which of these methods of interconnection is the best and most efficient?

A. This depends on many factors, including the volume to be exchanged, the extent and location of the interconnecting networks, and the availability of third-party facilities (e.g., collocation) to handle the traffic exchange. In any event, the interconnecting parties must be willing to engage in good faith efforts to use the most efficient arrangements and to avoid imposing unnecessary costs on the other carrier.

Q. Will FairPoint face any unusual challenges in the event that competitors expand service rapidly in New Hampshire?

A. Yes. Regardless of where the physical interconnection takes place, FairPoint must make available sufficient trunk port capacity on its end office and tandem switches. Trunk port capacity determines the amount of traffic that can be exchanged (at the network busy hour) between FairPoint and the interconnecting CLEC. In light of Comcast's and possibly other competitors' plans to continue to market service heavily to New Hampshire residential customers, it is absolutely essential for FairPoint to be able to meet the competitors' trunking needs in sufficient capacities and delivered on a timely basis. Therefore, in order to facilitate efficient network planning, the Commission should require a condition that FairPoint provide CLECs with notification when trunk capacity at any of its switches reaches 70%. This notification will give competitors the opportunity to make adjustments to their own network in the event FairPoint is unable to accommodate required trunk capacity. At the very least, such information should be filed with the Commission as a public record, posted on a website available to CLECs or provided to a wholesale customer upon request.

Q. What is Verizon's policy in regard to trunk orders from the CLECs?

A. Verizon's tariffs contain intervals governing the ordering and delivery process for interconnection trunks. Verizon provides a firm order commitment ("FOC") within five days of receiving the order, and then promises delivery within twenty days of the FOC. These commitments, however, only extend to orders of nine or fewer DS1s. Orders in excess of this amount are designated as a "project" and are "subject to negotiation." Delivery is then based upon negotiation, not a defined interval.

Q. Is Verizon's policy adequate on a going-forward basis?

A. Not necessarily. If Comcast's marketing efforts are as successful in New Hampshire as they have been elsewhere, it is likely to need more than nine DS1 trunks of interconnection capacity at a time because it is my understanding that Comcast requires one DS1 trunk of interconnection capacity per 120 new customers that it signs up. In a period of rapid growth, Comcast could sign up more than 1080 customers (120 customer times 9 DS1s) in a very short period of time and would need to keep coming back to Verizon for more and more capacity in short order.

Q. How will the FairPoint acquisition affect trunk ordering?

A. Competitors face a great deal of uncertainty on this point. In discovery, FairPoint has stated that it has not developed wholesale provisioning processes. For example, in response to the question asking for FairPoint's proposed systems to be used for placing trunk orders, FairPoint responded that it "has not yet selected systems for use by the CLECs after Cutover to interface with FairPoint concerning number portion, trunk order ...."[40]

Q. Do you have any recommendation regarding the ordering of trunks and associated intervals?

A. Yes. Comcast would recommend that FairPoint increase the threshold definition of "projects" from 10 DS1s to 28 DS1s. Verizon's "project" definition has not changed in many years and FairPoint could provide some certainty to competitors by expanding the definition of "projects" to this higher threshold.

Q. Has FairPoint indicated whether it will provide mid-span meet point arrangements in New Hampshire?

A. Comcast's current interconnection agreement provides for mid-span meets in New Hampshire. Mid-span meets are an integral part of the Comcast network architecture. FairPoint's position on mid-span meets in general is of concern however, given that they are under no obligation to include mid-span meets in any successor agreement. FairPoint failed to commit to providing mid-span meets when asked to do so in recent Vermont discovery.[41] FairPoint should be required to continue to provide mid-span meet architecture throughout the Verizon footprint, including New Hampshire.

[40] Attachment MDP-24 (FairPoint Response to NECTA/CPNH: III-64).
[41] Attachment MDP-25 (FairPoint Response to NECTA/CPNH: III-66).

Q. What should be done to address the competitors' concerns about FairPoint's ability to provide adequate and cost-efficient interconnection facilities?

A. I believe that conditions need to be attached to the merger that require FairPoint to adopt several commitments in regard to interconnection provisioning and planning. These proposed conditions are detailed in Attachment MDP-1 to my testimony.

VI. <u>CUSTOMERS MUST BE ABLE TO SWITCH PROVIDERS WITHOUT UNDUE DISRUPTION, DELAY OR COST</u>

Q. Please explain the procedures used by Comcast and CLECs for transferring an existing ILEC customer to their own local service.

A. Consumers will contact a competitor and request either new telephone service or to have their existing local telephone service switched from their existing provider. I will focus on the case where a customer places a phone call to switch service from the ILEC to a competitor.

In the case where the customer desires to keep the same telephone number, installation cannot occur until the number portability process has been completed. To accomplish this, Comcast must submit a local service request ("LSR") to Verizon with a request for number portability, which will be accompanied with a desired due date (a minimum of three days from the date of the order submission).

Verizon will respond with a firm order commitment ("FOC") to accomplish the port within 24 hours of receipt of a valid LSR.

In addition to securing the number port, Comcast will also have to submit a Carrier Identification request to Verizon for a change in the directory listing. Comcast would also need to update its customers' migrated or native numbers in the 911 ALI database currently maintained by Verizon in New Hampshire. Verizon currently maintains the E911 database in NH, and FairPoint has not yet indicated whether it, Verizon, or some other vendor will do so post close. To date, it has indicated that it expects to make a final decision on E911 services by the end of July 2007.[42]

Q. Why is the quality of the ordering and provisioning process so important to competition in the residential telephone market?

A. The vast majority of local telephone customers have always subscribed to the ILEC. They are likely to regard any disruption in their phone service during the transfer to a competitor as completely unacceptable. This might lead the customer to switch back to the ILEC and at a minimum would damage the competitor's reputation and thereby limit its future success. Moreover, even if the competitor can shield the customer from any disruption by devoting significantly more resources to the switching process, competition will be impaired because of the higher cost incurred by the competitors.

[42] Attachment MDP-26 (FairPoint Response to NHTA FDR 1-1).

Q. What can disrupt or raise the costs to a competitor for the migration of a customer from the ILEC to the competitor?

A. The processes can be disrupted by any failure in the ILEC's back-office operational support systems ("OSS"), or in the interface between the ILEC's system and the competitor's software systems. Any one system relies on very complex software, which must be programmed, tested, debugged, and tested again. Any exchange of information (i.e., interface) between two carriers' systems requires even more complex programming, careful attention to user-friendly interfaces, and significant testing and trouble-shooting. Additionally, ongoing operations monitoring and timely response and resolution of the data exchange network and interface is required to ensure order information is timely and accurately exchanged between the carriers.

Q. What information has FairPoint provided in regard to its post-transition ordering processes and systems for competitor interfaces?

A. As discussed previously, FairPoint plans to implement entirely new back-office systems to replace Verizon's systems in their entirety. FairPoint has stated that it expects to provide the parties with a complete list of systems and related specifications on or about August 31, 2007.[43] Furthermore, FairPoint commits only to provide competitors notice of system changes six months prior to

[43] Attachment MDP-27 (FairPoint Response to NECTA/CPNH FDR III-2, III-3).

cutover[44] and "work with CLECs in regard to planning, testing procedures and subsequent implementation."[45] These same types of general assurances are similar to, and in fact appear to be less than, what was offered to CLECs in Hawaii by the acquiring company under the Hawaii Stipulation, referred to later in my testimony, and proved to fall far short of what was needed to effect a smooth transition.

Q. What is the possible effect of the merger on the ordering and provisioning systems used by Verizon/FairPoint in New Hampshire?

A. Problems are inevitable. FairPoint will be replacing many of Verizon's 600 currently operational systems with brand-new systems, many yet to be identified. Although FairPoint has outlined a plan to create and implement these systems, experience proves that it will take time and resources for everything to work as well as under Verizon's existing systems and there is no assurance of such results, as FairPoint acknowledges in its SEC filings. As evident from the delays, high costs, and disruptions experienced following the sale of Verizon's local exchange property in Hawaii, the creation and development of new systems involves significant risks of unanticipated problems. Moreover, even under the best of conditions, the competitors will be forced to adapt their own operations and systems and incur additional systems implementation and testing costs to interface with the new FairPoint systems. Additionally, FairPoint's complete lack of

---

[44] Attachment MDP-28 (FairPoint Response to One FDR III-4).
[45] Id.

wholesale experience in supporting competitive service providers heightens the need for concern regarding FairPoint's failure to provide details.

Q. Does FairPoint have the option of maintaining Verizon's systems past the end of the anticipated Transition Period?

A. Based on my understanding of the Transition Services Agreement ("TSA"), it appears that Verizon is obligated to perform any Transition Services that FairPoint has been unable to provide for on its own or by contracting with a third party during the transition period.[46] However, both Verizon and FairPoint have stated that once FairPoint gives its notice of readiness to cutover, there is no turning back to Verizon's systems.[47] Verizon will move ahead with the transfer of data to FairPoint once FairPoint gives its "notice of readiness" whether or not Verizon believes FairPoint's systems function at least as well as Verizon's. If it were determined that FairPoint was not ready prior to cutover, it could continue to rely upon and pay for transition services provided by Verizon under the TSA. FairPoint, however, has a powerful incentive not to extend its reliance upon TSA services provided by Verizon as after Month Nine (9) the fees for the critical Schedule A services increase by $500,000 "more than the amount paid with respect to the prior month," until termination of the Schedule A Services.[48] This works out to a monthly increase of approximately 3.4% in these costs. These arrangements could be deleterious to wholesale and retail customers if they

[46] Transition Services Agreement, ¶14.2
[47] Attachment MDP-29 (Verizon Response to OCA G V FDR 1-15).
[48] Transition Services Agreement, ¶2.1(b)

induce FairPoint to rely on sub-standard replacement systems rather than Verizon's established systems, or force FairPoint to move from Verizon's systems prematurely, as has been alleged in the case of Hawaiian Telcom.

Therefore, in order to mitigate the risks of totally new systems and a possibly premature cutover, I recommend that the Commission impose a condition that would require Verizon to remain as a backstop for retail and wholesale system performance prior to cutover for as long as it takes FairPoint to demonstrate to the satisfaction of an independent third party and the Commission that its new systems perform at parity with Verizon's existing systems. A longer transition period may be required for specific systems in order for such demonstration to be made. The TSA would permit this condition. I discuss the "third party" solution at length later in my testimony.

Q. Are other system cutover conditions necessary?

A. Yes. It is critical that the transition from the Verizon systems to the newly created FairPoint systems occur in a manner that minimizes disruptions to competitors and avoids the major adverse service-affecting experiences in Hawaii that continue to this date. To that end, as a condition for any merger approval, FairPoint should be required to submit a complete and comprehensive Wholesale Customer Cutover Project Plan, including a project plan for training, including but not limited to: coordination with CLECs as to system specifications, changes, training, and testing, and independent third party testing in test and live environments. The Commission should approve the Project Plan after input from the parties.

Q. What factors will affect the difficulty of establishing new interfaces between FairPoint and competitors?

A. It is vital that FairPoint provide competitors with well-functioning, standard Electronic Data Interface (EDI) – preferably using one of the industry standard interfaces. Verizon uses these standard interfaces to provide requesting carriers an application-to-application interface based on EDI protocol for pre-ordering and ordering functions. This critical component of OSS offering allows competing carriers the ability to place orders for service with Verizon by interfacing directly with Verizon's ordering system. When Verizon receives a competing carrier's local service order over an EDI interface, it is supposed to respond over the same interface with an acknowledgement of receipt of the order and either an order confirmation notice (stating when the requested service will be provisioned) or an order rejection notice. These electronic notices are important to the competing carrier because they provide information about, and the status of, a given order. Based on recent discovery responses in New Hampshire, FairPoint is planning on using a system with an EDI interface. However, a complete list of systems will not be available until on or about August 31, 2007 along with system specifications.[49] The lack of currently available information on the chosen

[49] Attachment MDP-30 (FairPoint Response to NECTA/CPNH FDR III-2).

systems supports the need for comprehensive testing and third party auditing to ensure that all of the implemented systems function adequately together.

Q. You stated earlier that competitors will have to make adjustments to their own systems and operations to accommodate FairPoint's new systems. What does this entail?

A. Competitors may have to make changes to their own systems to interface properly with any changes made by FairPoint. FairPoint should be required to implement interfaces based on the same industry specifications that Verizon uses or the most up-to-date versions in use today. Any changes to the interface and/or specifications will impose costs on competitors to adjust their own systems or operations. Even under ideal conditions where the competitor does not have to change its software, it is very likely that the competitor's personnel will have to be trained to interact with the new FairPoint systems. It would not be reasonable to require the competitors to bear these costs, as they are directly related to this merger. Rather, as a condition of the merger, the Commission should require FairPoint to provide sufficient training, at no cost to competitors, to enable competitors' personnel to interact with FairPoint's new wholesale systems. FairPoint's training process should be at parity with the training resources provided by Verizon to competitors.

Q. What needs to be done to prevent any disruption in the porting of numbers between local carriers in New Hampshire?

A. Number portability is at the very core of voice competition. Failure to seamlessly port a telephone number reflects poorly on the competitor, regardless of whether the breakdown is due to the ILEC or the competitive provider. Porting requires a well- functioning interaction between FairPoint and competitors. In order to ensure that the porting of numbers is not degraded as a result of the proposed transaction, I recommend the following conditions:

(1) Systems must be integrated and FairPoint must commit to electronic bonding based on published industry specifications.

(2) FairPoint must commit to comply with all industry standard porting intervals, as recommended by the Local Number Portability Working Group and Local Numbering Plan Administrator, and adopted by the North American Numbering Council.

(3) FairPoint must provide a FOC within 24 hours of a valid LSR being submitted.

(4) FairPoint must comply with the current industry standard three-day interval offered by Verizon for "Simple Port Requests" and as adopted by the current Industry LNP Guidelines, and with any future reduction of that interval.

(5) FairPoint must support number porting on weekends, as Verizon has implemented currently to enable competitors to perform installations when it is convenient for the customer.

Q. Is there anything else that is critical to the porting process?

A. Yes, FairPoint will need to implement on a timely basis and apply the "conditional trigger" within the serving switch to the customer's line *prior* to the due date on the LSR order. The conditional trigger correctly directs the call to the porting customer during the pendency of the port. The trigger must remain on the line until the porting process is complete and the line is subsequently disconnected from the serving switch. Without a trigger, carriers would be required to coordinate every single port with precise timing. Additionally, it is recommended that FairPoint implement operational procedures that ensure the customer's existing dial tone is not disconnected until it has successfully verified that the new CLEC provider has successfully activated the pending ported number. Following the activation verification, FairPoint must provide an E911 unlock order on a timely basis to the host Automatic Location Identification (ALI) provider, so that the CLEC can update the record with their new company code information within the database. Lastly, FairPoint must purge the directory listing and directory assistance database of their company information to allow the new CLEC carrier to update the records with their company designation.

Q. What other processes are essential to facilitate efficient switching of customers from Verizon to Comcast?

A. Comcast and NECTA members rely heavily today upon Verizon for certain basic end-user service-affecting processes, including access to statewide E911 systems as well as directory listing requests. Verizon manages the E911 Database and the tandem routing in New Hampshire and it is unclear whether FairPoint will assume these responsibilities. With respect to providing E911 tandem service, it is important that FairPoint validate operational monitoring and ensure sufficient capacity and routing diversity to interconnect and route Emergency 911 calls to the appropriate destination selective router.

In addition, today Verizon processes Comcast and other competitors' customers' directory listings for local phonebook publications as well as directory assistance. To enable those processes to continue seamlessly, FairPoint must implement electronic bonding for directory listings or rely on a third party directory listing provider, such as the one Verizon uses today. Verizon currently has a 24 hour electronic acknowledgement and confirmation process for Directory Listing Service Requests (DSRs) that Comcast would expect FairPoint to continue to provide. Customers expect that their listings will be correct and updated in a timely manner after migration to a new provider. The inability of a competitor to meet these expectations due to a failure on the part of Verizon or FairPoint harms the competitive provider and the consumer. Manual processes would cause delay and the potential for error.

Q. **Are there any other items that competitors would require to ensure that customers can switch providers without undue disruption, delay or cost?**

A. Yes. Verizon today provides helpful materials to CLECs that FairPoint should be required to continue. There are currently published notifications and specification documents that are distributed to the CLECs and interconnected carriers well in advance of intended implementation. The notifications and details are often discussed during the regular CLEC User Forums (CUF) to ensure awareness of pending changes. The CUF currently meets every other month, during which CLECs are notified of systems changes: the changes are discussed, new issues from CLECs are addressed and tracked, and feedback is given. Given the enormity of FairPoint's undertaking in New Hampshire, it is important that these meetings continue. In addition, Verizon Partner Solutions provides online access to documentation and information often generically referred to by the industry as a "CLEC handbook." This documentation addresses change processes, specifications, timelines and intervals for various activities. FairPoint has indicated that they have not yet decided whether they will adopt this CLEC handbook practice.[50] The Verizon Partner Solutions documentation provides certainty of processes and business rules and is important for CLECs. FairPoint must create a similar resource for CLECs.

Finally, Verizon has dedicated account managers that work with Comcast specifically to address not only day-to-day activities, but special orders and projects between the two companies within the various LATAs or areas where the companies interconnect. FairPoint should also be required to designate an appropriate account level organizational structure including identification of procedures to be followed for escalations, regularly review (monthly at a minimum) performance Service Level Agreement metrics for services and trunk groups purchased, and work to resolve any ongoing issues between the carriers that are brought forth. Currently, Comcast meets on at least a bi-weekly basis with

[50] Attachment MDP-31 (FairPoint Response to NECTA/CPNH: III-73).

its Verizon account managers, and a dedicated FairPoint account representative(s) should be required to continue to meet regularly, either bi-weekly or weekly as negotiated during the transition and for the first 12 months post-cutover. FairPoint has indicated a willingness to follow this type of approach, but has not committed to adhering to the same policies and practices that Verizon employs today (for example, which customers will have dedicated account managers, what escalation procedures will be adopted). More specifics from FairPoint are required and these general commitments must conditions of any merger approval.

VII. THIRD PARTY TESTING SHOULD BE A CONDITION OF THE MERGER.

Q. How would you characterize the risk associated with the cutover processes planned by FairPoint?

A. I believe there are very high risks associated with the cutover planned from Verizon systems to the new FairPoint systems. As I have outlined above, competitors must rely today on Verizon's OSS systems in order to serve their customers. Consistent functioning of automated OSS systems prior to, during and after cutover should be a critical element of this Commission's review of the proposed merger. Any failures impact the ability of competitors to do business in New Hampshire.

There are a number of reasons why this is such a high risk proposition. First, the replacement of so many key operational systems at one time is a very ambitious undertaking. FairPoint has acknowledged these risks in its SEC filings. To the best of my knowledge, an undertaking of this size has never been attempted before. The only experience somewhat similar to this one in scale and size is in Hawaii following the sale of Verizon's assets to the Carlyle Group in 2005. Moreover, FairPoint's consultant Capgemini has never completed full system suite start-up and data migration for a large ILEC and is itself unaware of any previous ILEC full system start-up other than Hawaii Telcom.[51] I have already recounted the enormous disruption caused by the failure to establish an effective transition in Hawaii.

Second, the transfer and integration of all of Verizon's data into the new systems being created at FairPoint is itself a complex and delicate process.

Third, the aggressive timeframe for accomplishing all of these tasks creates enormous pressure on all of the parties involved, including the Commission, FairPoint, Capgemini, Verizon, and the competitive providers.

Q. Are there ways that this risk could be mitigated?

A. As I have suggested in my testimony filed in Vermont, as well as suggested by others' testimony, FairPoint could reduce the risk of disruption or failure of major systems by introducing system changes on a staged basis. The cutover could be staged on a system-by-system basis or on a state-by-state basis in the three states affected by this sale. This has the potential for limiting the risk to customers and

[51] Attachment MDP-11 (FairPoint Response to NECTA/CPNH FDR III-16).

would also facilitate using the lessons learned from the first conversion on the remaining conversions.[52]

Another way to mitigate risk would be for FairPoint to retain the ability to go back to the Verizon systems in the event of a large-scale failure experienced in the conversion to the new systems. If this is not possible, as Verizon states, and if the new systems fail to work properly, then all ordering, provisioning and maintenance functions would be disrupted and would have to be handled using manual processes. Moreover, there are clear and serious limitations on the size, scope, scale and length of time that manual processes can be substituted for a fully functioning automated OSS.

Q. Has FairPoint indicated a willingness to adopt any of these proposals to mitigate the risks associated with conversion?

A. No. FairPoint indicates that it "discussed alternatives to the single, flash cutover of all three states,"[53] however, it did not retain or produce any documents relating to those very important discussions, and apparently has rejected any alternative to undertaking a single flash cutover for all three states. I find it somewhat surprising that for such a critical decision, there are no relevant documents or analyses to support the final determination that a flash cut was the only

[52] See, Direct Testimony of W. Curtis Mills, Jr. on Behalf of the Department of Public Service, Joint Petition of Verizon New England Inc. et al and FairPoint Communications Inc. for approval of asset transfer, Docket No. 7270, State of Vermont Public Service Board.

[53] Attachment MDP-32 (FairPoint Response to NECTA/CPNH FDR III-9).

alternative. FairPoint also states that "it will not be possible, after cutover, to use or revert to the Verizon systems."[54] FairPoint indicates that it will develop "potential" work-around to be utilized in the event of a loss in functionality post-cutover[55] but has not indicated when those work-arounds will be communicated to competitors or what level of resources will be devoted to those processes. It is essential for competitors to have concrete assurances that in the event of a failure of any major component of the wholesale systems that their business and their ability to serve customers, will not be negatively impacted.

Q. What should be done to reduce the chance of things going wrong in the cutover?

A. There is no contractual obligation in the TSA for FairPoint's wholesale systems to work as well as Verizon's. Rather, FairPoint indicates its own "objective" is to provide systems that work as well or better than Verizon's.[56] FairPoint also states that the the TSA does not require FairPoint to support in any level of detail its representation that it is ready for cutover.[57]

In the Hawaii situation, the two most important principles advocated by wholesale customers were (1) that the new replacement systems function as well or better than Verizon's systems, and (2) that cutover not occur until the new systems were

[54] Attachment MDP-33 (FairPoint Response to NECTA/CPNH FDR III-10).
[55] Id.
[56] Attachment MDP-34 (FairPoint Response to NECTA/CPNH FDR III-15).
[57] Attachment MDP-35 (FairPoint Response to NECTA/CPNH FDR III-22).

fully ready. The parties even entered into a Stipulation[58] that reflected these principles and that included provisions for testing. Despite the Stipulation, the new systems launched in Hawaii did not function as planned.

FairPoint readily acknowledges that the primary "mitigation technique" is effective testing before the cutover.[59] For this reason, FairPoint states it is planning an extensive testing and acceptance program.[60] FairPoint plans to conduct testing at the level of individual applications and group applications and include end-to-end and load testing.[61] But, FairPoint is still in the process of developing its testing strategy, plans and readiness criteria.[62] Many months into the Commission's review process, the details of FairPoint's testing strategy have yet to be developed.[63]

Q. Do you have concerns about FairPoint's statements regarding testing?

A. Yes. I have several concerns. FairPoint has acknowledged that testing is critical. But FairPoint has not even finished developing its testing strategy, plans and readiness criteria, much less performed any testing.[64] Therefore, it is impossible for the Commission and parties to review this important part of FairPoint's petition as part of the process of approving the acquisition given the expedited

[58] Attachment MDP-36 (Stipulation of Parties in Hawaii Docket No. 04-0140 filed January 5, 2005, with Exhibits A-C).

[59] Attachment MDP-37 (Prefiled Joint Rebuttal Testimony of Michael Haga and Arthur Kurtze on Behalf of FairPoint Communications, Inc., Docket No. 7270, State of Vermont Public Service Board, June 27, 2007, at 31).

[60] Attachment MDP-38 (FairPoint Response to NECTA/CPNH FDR III-18).

[61] Attachment MDP-37 at 31.

[62] Attachment MDP-35 (FairPoint Response to NECTA/CPNH FDR III-22).

[63] Attachment MDP-39 (FairPoint Response to NECTA/CPNH FDR III-20).

[64] Attachment MDP-30 (FairPoint Response to NECTA/CPNH FDR III-2).

schedule. Moreover, a review of the FairPoint Task List indicates that it is a high level document that contains no descriptive text regarding the steps associated with each task. It is not possible to determine what will be done by FairPoint, whether the time allowed for completion of individual tasks is reasonable and whether the four-month time between the projected date of close and the projected cutover date is adequate for testing, debugging and verification of readiness for cutover.

Although Fairpoint has stated it has committed to review its extensive testing and acceptance program with the Commission[65], and that it is willing to share the results of acceptance testing with the Commission Staff,[66] FairPoint did not respond affirmatively to an interrogatory asking whether it would share the results of acceptance testing for the wholesale OSS systems with other interested parties.[67] FairPoint also has refused to commit to allowing CLECs to verify and validate the functionality of the system prior to cutover.[68]

Q. Has FairPoint explained how the burdens of cutover and implementation would be coordinated in three states?

A. No. FairPoint has not explained how three state Commissions would handle the enormous burden of coordinating and overseeing a three-state cutover planning

[65] Attachment MDP-38 (FairPoint Response to NECTA/CPNH FDR III-18).
[66] Attachment MDP-40 (FairPoint Response to CLEC FDR III-1(g))

[67] Attachment MDP-41 (FairPoint Response to NECTA/CPNH FDR III-21).
[68] Attachment MDP-42 (FairPoint Response to ONE FDR III-9).

and implementation process. No uniform process for review of test results or the consequences of individual reviews by three states has been provided or explained. It is therefore necessary and appropriate for an independent third party to handle the certification of readiness of FairPoint's new systems for cutover. This safeguard would reduce burdens on the Commissions and their staffs. It also would provide the public as well as wholesale competitors with assurance that a neutral expert had reviewed the readiness of FairPoint's systems prior to a three-state flash cutover. The Commission should learn from Hawaii that, notwithstanding assurances provided through conditions and stipulations and promises by the new company that any problems detected during testing would be addressed before cutover, massive system failures occurred anyway. There was no independent third party to verify the readiness of that new company's systems prior to cutover. Collaborative participation by wholesale providers and a TSA with Verizon did not prevent a disastrous cutover.

Q. Are any contingency plans in place?

A. No. FairPoint has not yet developed any contingency plans in the likely event that its systems do not function properly.[69] The absence of reviewable contingency plans exposes consumers as well as competitors to more economic and service-affecting risks. FairPoint should be required to file for Commission approval contingency plans with the Commission, that account for the size and

[69] Attachment MDP-33 (FairPoint Response to NECTA/CPNH FDR III-10).

scope of competitors' needs in the event of critical system failures or the disruption of automated processes. Further, FairPoint has stated it will not compensate CLECs for lost revenue associated with the cutover in the event of wholesale service-affecting failures.[70] Absent a condition that shifts this risk to FairPoint, the proposed transaction creates significant risks of economic harm to wholesale CLEC customers and those CLECs' retail customers.

Q. Has third-party testing been used before in the industry?

A. Yes. Third-party testing was used extensively and effectively by state commissions in the course of reviewing RBOC applications for long distance authority under Section 271 of the Communications Act. Third-party testing was essential to the approval process in many cases. The FCC noted in its New York assessment of 271 that among the benefits of the third-party testing was the identification of "numerous shortcomings in Bell Atlantic's OSS performance that were subsequently corrected and re-tested."[71] The FCC further stated that "without nondiscriminatory access to the BOC's (Bell Operating Company's) OSS, a competing carrier 'will be severely disadvantaged, if not precluded altogether, from fairly competing' in the local exchange market."[72]

---

[70] Attachment MDP-43 (FairPoint Response to CLEC FDR III-4).

[71] Id., ¶10

[72] Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-404, (December 22, 1999) (Bell Atlantic New York 271 Order), appeal pending sub nom. AT&T Corp. v. FCC (D.C. Cir. filed Dec. 27, 1999) (No. 99-1538), ¶83.

Q. How was third-party testing conducted in the Section 271 case in New York?

A. The New York Commission retained KPMG to conduct a test of the readiness of Bell Atlantic's OSS, interfaces, documentation and processes. KPMG assumed the role of a "pseudo-competing carrier" operations department. As explained in the FCC Order: "By building and submitting transactions using Bell Atlantic's electronic interfaces with test accounts in central offices spread across New York, KPMG was able to live the experience of a competing carrier."[73] To fully test these systems, orders were submitted with known error conditions, canceled, and supplemented. KPMG also "stressed" the system with volume tests designed to identify bottlenecks for wholesale customers.

Q. Has third-party testing been relied upon in New Hampshire?

A. Yes. Independent third-party testing and verification of new systems was relied upon in New Hampshire as part of the Section 271 approval process.[74] The New Hampshire Commission and the FCC took steps to make sure that the wholesale OSS systems implemented by Verizon for use in New Hampshire had been fully tested by an independent third party and were fully functional. The testing yielded positive results. The public good will not be served if the new systems implemented by FairPoint do not operate as efficiently and effectively than those

---

[73] Id., ¶96.
[74] Attachment MDP-38 (FairPoint Response to NECTA/CPNH FDR III-18).

that were previously tested and put into operation by Verizon under the 271 process.

Q. Why is third-party testing so critical for this proposed transaction?

A. In light of FairPoint's own emphasis on testing as the "primary mitigation technique," it is critical that a neutral third party participate in testing or audit the tests conducted by FairPoint. This would help ensure not only that the systems function as planned, but also that competitors do not bear a disproportionate burden in the testing process. This has several benefits, especially by providing an unbiased source of information on the capabilities of the OSS systems. In situations where conflict might arise between FairPoint and the competitors, it will be extremely valuable to the Commission to obtain unbiased information on reasons for failures or deficiencies in the ability of the carriers' systems to interface properly. The presence of an independent third-party tester will reduce the enormous burden that would otherwise be put on the Commission by providing an unbiased expert resource in order to resolve the inevitable disputes among parties over issues that are highly complex and unprecedented in terms of the scope and the expected time pressure to obtain a resolution.

For these reasons, I have recommended as a merger approval condition the requirement that an independent third party be retained at FairPoint's sole expense to test and audit the readiness of FairPoint's systems for cutover.

Q. Are there other specific mechanisms that you would recommend the Commission adopt to reduce conflicts between FairPoint and the CLECs on OSS issues?

A. Yes. I would recommend that the Commission Staff assist in coordinating testing of the new wholesale related OSS systems being installed by FairPoint, and that testing process and results be approved by the Commission. Testing of wholesale systems should involve FairPoint, Verizon, competitors, a third-party tester, and Commission staff members. The OSS systems must be able to demonstrate the ability to operate at adequate flow levels and handle the typical range of problems encountered in a commercial setting. It is telling that in the Hawaii situation discussed earlier in my testimony, the parties adopted a very comprehensive Stipulation[75] that involved coordinated and collaborative testing (without a neutral third-party audit) and, despite the best plans and best efforts of all parties, the integration was not entirely successful and some of the critical wholesale support systems failed at cutover. Such a high level of risk can be readily mitigated by the use of independent third-party verification of the readiness of FairPoint's new systems for a three-state flash cutover.

[75] Attachment MDP-36 (Stipulation of Parties in Hawaii Docket No. 04-0140 filed January 5, 2005, with Exhibits A-C).

Q. How disruptive would a failure of the cutover process be to the operations of competitors such as Comcast?

A. Failure of FairPoint's wholesale systems during the cutover process would be disastrous to competitors and would also impact end-users of all competitors. In general, Comcast could experience disruptions to many facets of its customer service operations, including: 1) backlogs at its call centers; 2) delayed or lost orders for service; 3) delayed or lost repair orders; 4) problems with intercarrier billing; 5) inability to acquire customers through number portability; 6) delays in augmenting trunking capacity to support growth; 7) potential problems with traffic routing; 8) trouble analysis and fault isolation.

Q. Can you please explain some of these issues in a little more detail?

A. Yes. For example, if FairPoint, upon cutover, experiences difficulties with the gateway interface and integration of its proposed WISOR system, competitors such as Comcast will be unable to see automated flow-through of its local service requests (LSRs) used to initiate number porting as discussed above. A large percent of Comcast customers port their phone numbers when they leave the ILEC. If the port request does not flow through end-to-end, the port does not occur and the customer installation is cancelled. A large volume of cancelled orders affects call center hold times, customer appointment scheduling, and, most critically, the end-user customer experience. A prolonged failure of these systems would impact Comcast's ability to grow and attract customers and meet their demands for service.

As I understand it, the same system will process access service requests (ASRs), which Comcast uses to order trunking for initial deployment and growth. Should those processes fail, there may be delays in the capacity available to serve competitors like Comcast. Orders may fall out and be lost or delayed by manual work-arounds. For example, in Hawaii, the ASR process is still manual and has been outsourced by Hawaiian Telcom.[76]

Other basic issues could be that Comcast customers' telephone numbers and ALI information do not properly update in the E911 ALI Database, which is currently managed by Verizon and supported by automated flow through processes, as is Directory Listing. All of these would impact customers severely and have a tremendous impact on Comcast's day-to-day operations.

Q. Are there issues related to cutover that are of concern but may not necessarily be directly related to the new systems?

A. Yes. As discussed by Mr. Smith in the recently filed Vermont testimony, there are activities that will not "flash cut," primarily network related activities which require a physical re-pointing of network elements "from" Verizon "to"

[76] Attachment MDP-44 (Statement of Position of Time Warner Telecom. LP dba Oceanic Communications, Hawaii PUC Docket 2006- 0400, June 21, 2007 at 18).

FairPoint.[77] As I understand it, because FairPoint is acquiring the Verizon STPs (signal transferring points), there will be significant impacts to the SS7 Network, which affects LIDB, CNAM, 800 and various other databases. The switches in the SS7 network will need to be updated to ensure that the "traffic control" function played by these switches does not break down and degrade calls on the Comcast network.

In addition, all STPs, SS7 databases, end offices, and access tandems have unique identifiers called point codes. As I understand it, these will all need to be updated by FairPoint and also by the competitors in their respective networks. This will require resources by Comcast and other competitors that are not without cost, and if not done correctly and timely by FairPoint, it will impact traffic routing and signaling. As noted in the testimony recently filed in Vermont by Mr. Harrington, this requires a "fair amount of administrative work, coordination and pre-planning" both within the FairPoint network and with all competitors that use the current point codes.[78]

There would also be serious billing and routing issues if the company codes associated to each and every switch are not appropriately updated to the new FairPoint codes. While this is not an unusual occurrence in the industry when a merger or acquisition occurs, it is not without risk should the codes not be timely and appropriately updated by FairPoint.

[77] Smith Testimony at 9-10.
[78] Attachment MDP-45 (Joint Rebuttal Testimony VT Docket 7270 of Harrington/Brown/Smee, at 20).

Q. Even under the best of circumstances, will Comcast experience disruptions to its own operations during the cutover process?

A. Yes. According to information provided by FairPoint during the recent technical sessions, and then confirmed in response to information requests, there will be a "dark period" that occurs "when Verizon cuts off its systems and begins to extract the data to be migrated to the time when that data is verified and loaded into the FairPoint systems and those systems are ready to run."[79] During the dark period, all of the automated, integrated systems will be completely unavailable. This will affect all systems, including the wholesale systems which interface with Comcast, and is expected at present to last five days[80], but FairPoint has stated that it will not truly know the duration of the dark period until later in the process.[81] All orders taken during the "dark period" will have to be manually processed and will require manual intervention to update systems once they are running again. During this dark period, FairPoint has stated it will only process orders of an emergency nature.[82] It is unclear what types of orders will be processed.

In my opinion, Comcast and other competitors would be ill-advised to submit orders to FairPoint for number portability, trunk orders and changes to directory

[79] Attachment MDP-46 (FairPoint Response to NECTA/CPNH FDR III-24).
[80] Id.
[81] Attachment MDP-46 (FairPoint Response to NECTA/CPNH FDR III-24)
[82] Attachment MDP-47 (FairPoint Response to CLEC FDR III-6).

listings during or close in time to the dark period. It would seem unlikely that FairPoint would designate these orders as a "priority," which is the criterion it is using to assign manual "work-arounds" to fulfill orders during the dark period, despite the fact that number porting requests are the very basis upon which Comcast can install a new customer.[83] Moreover, there would be an increased risk during this period that unfilled orders would be lost. As explained by FairPoint, pending orders that are within Verizon's systems at the time of the cutover will be "converted in their current state." How this is to be accomplished has yet to be determined.

As a consequence, the competitors will be forced to enter a dark period of their own, and suspend order-taking or delay significantly the delivery intervals promised to new customers. This will inevitably lead to a lower productivity of competitors' customer marketing and order fulfillment organizations, and most importantly, decreases in customer installations, which will increase the overall cost of doing business in the State of New Hampshire.

Competitors are likely also to face delays in the handling of repairs during and around the dark period. For example, if Comcast experiences trouble in interconnection trunks, such as blocked or misrouted calls, it may be unable to get these problems resolved in a reasonable period of time because FairPoint will not

[83] Id.

have access to its automated systems[84]. This will harm the reputation of the CLEC, because its customers will be unaware of the source of the problem (i.e., FairPoint).

Q. FairPoint claims that this transition period does not cause degradation in service to the competitors.[85] Do you agree?

A. No. Even if FairPoint fulfills its promise to treat its retail and wholesale customers the same, this will not eliminate the problem for the competitors. To begin with, competitors will still incur costs related to any service degradation. Second, even if FairPoint treats all service orders equally – including those from its own retail customers – this will still disadvantage competitors' competitive position. The reason is that customers are much more likely to regard temporary disruptions or delays in competitors' service as an indication that the competitor will not be able to provide high-quality service over the long-run. In contrast to the ILEC, competitors have little or no track record with most customers as residential telephone providers, so the only experience the customer may have is the bad experience created by FairPoint's failure to execute the transition properly. Therefore, the safe bet for the customer becomes staying with the incumbent, especially during times of service disruption, confusion, and delay in

[84] Id.
[85] Attachment MDP-48 (FairPoint Response to NECTA/CPNH FDR III-26).

converting service to a new provider, which is inimical to competition. Finally, in the event that there is a substantial failure of the wholesale systems that would impact competitors' day-to-day ability to install customers, FairPoint has stated that it will not reimburse competitors for any losses as a result of this transition.[86]

VIII. POLE ATTACHMENTS

Q. What are Verizon's current practices in New Hampshire with regard to licensing the use of poles for attachment by cable operators and CLECs?

A. I understand that, to date, Verizon offers standard pole attachment and conduit attachment license agreements to cable operators and competitors in accordance with its obligations to provide non-discriminatory access to poles, conduits and rights-of way under the federal pole attachment statute, 47 U.S.C. §224. I understand that New Hampshire has recently enacted a statute that transfers jurisdiction over pole and conduit attachment rates, terms and conditions from the FCC to the Commission. The Commission has been directed to adopt regulations pursuant to this new law. For a period of at least two years after the effective date of this enabling legislation, these regulations must be consistent with the FCC's pole attachment regulations.

[86] Attachment MDP-49 (FairPoint Response to One Communications, FDR III-29).

Q. Should FairPoint be required to adopt Verizon's existing pole and conduit attachment rates, terms and conditions?

A. My understanding is that FairPoint has committed to adopting Verizon's existing pole and conduit attachment rates, terms and conditions at the time of closing for those areas in New Hampshire now served by Verizon and that it intends to have existing license agreements assigned to it by Verizon. Thus, at the outset, Verizon's existing pole and conduit license agreements and their rates, terms and conditions should be adopted by FairPoint.

Q. Would it be desirable for FairPoint to maintain unit cost charges for make-ready work that Verizon has applied?

A. As a matter of continuity, it would be desirable for unit costs charges for make-ready work to remain in place. Similarly, it would be desirable for FairPoint to continue to maintain the use of the administrative forms and procedures that Verizon has used, again as a matter of continuity. Ideally, FairPoint would commit to continue these arrangements through the cutover and for some period of time thereafter. This would afford FairPoint and the attaching parties an opportunity to develop working relationships and discuss ways to improve upon existing practices on a cooperative basis. It also would enable FairPoint to focus its resources on improving the pressing pole setting, pole removal and emergency response issues in Verizon's maintenance areas. These issues have been under investigation in Docket No. 05-172. Moreover, given the recent passage of SB

123, it would make sense for FairPoint to adhere to Verizon's existing practices pending, at the very least, the Commission's adoption of interim and final pole and conduit attachment rules.

Q. How should FairPoint handle the management of pole and conduit licensing functions?

A. FairPoint should be directed to create a license administration group to take the place of the Verizon License Administration Group, which handles pole and conduit license agreements and individual requests for attachments pursuant to the terms of those agreements. The formation and staffing of this group with experienced personnel and sufficient numbers is needed in order to assure that requests for attachments are processed in a timely manner and that continuity is maintained regarding the provision of non-discriminatory access to poles, conduits and rights of way in New Hampshire.[87] The Commission should condition any merger approval upon FairPoint's formation of a license administration group. The license agreements, including the rates, terms and administrative procedures, should be made available to cable operators and competitors on a website in the same manner that Verizon has been providing in order to avoid adverse impacts arising out of the proposed merger.

[87] FairPoint has indicated that the License Administration Group is still in the planning process, and that it has not determined how large the Group will be, although it will be large enough to serve the three-state area. Attachment MDP-50 (FairPoint Response to NECTA/CPNH FDR V-2). FairPoint has not agreed not to reduce the number of employees involved in wholesale service and pole and conduit attachment licensing. Attachment MDP-51 (FairPoint Response to NECTA/CPNH FDR III-40).

IX. CONCLUSION

Q. Do you believe that the joint application should be approved as filed?

A. In my opinion, the Commission must impose conditions designed to ensure that competition in New Hampshire's telecommunications markets can continue to develop following the proposed transaction. Without such conditions, the proposed transaction, as filed, would not promote the public good in New Hampshire. If this transaction were allowed to go forward as filed and without competitive conditions, the transaction would harm competition in New Hampshire. Therefore, approval by the Commission must include the critical competitive conditions outlined in my testimony and also set forth in Exhibit MDP-1.

Q. Dr. Pelcovits, do you have anything further to add to your testimony?

A. Yes. The lack of information provided by FairPoint regarding its wholesale services plans and commitments, cutover procedures and safeguards, and pole and conduit commitments makes it difficult, if not impossible, for the parties or the Commission to comprehensively evaluate the range of issues created by the Joint Petition. For example, only in late June did FairPoint provide in a supplemental response the FairPoint Cutover Task List.[88] The Task List is lengthy and appears

[88] FairPoint Supplemental Response to data request CWA/IBEW. 1-5e (confidential)

to indicate that **[BEGIN PROPRIETARY]** --- -- **[END PROPRIETARY]**

It is not apparent from the Task List whether the needs of wholesale customers to adapt their own internal systems to work properly with any new FairPoint systems have been taken into account. The Commission therefore should afford the parties an opportunity to evaluate supplemental responses to data requests and any new information being offered by FairPoint and Verizon through supplemental discovery and testimony, where necessary. I therefore reserve the right to supplement my testimony based upon the type of extensive information above and any new information that FairPoint or Verizon may file after the submission of my testimony, if the Commission so permits.

Q. Does this conclude your testimony?

A. Yes.