

STATE OF VERMONT
DEPARTMENT OF PUBLIC SERVICE

IN RE: THE 2014 VERMONT
TELECOMMUNICATIONS PLAN

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PUBLIC HEARING

held before the Vermont Department of Public
Service at Hampton Inn, 1378 Putney Rd.,
Brattleboro, Vermont.

Lisa Hindes-Moody, Court Reporter

PRESENT:

Vermont Department of Public Service:

James Porter, Esq., Director of Telecom
Clay Purvis

O'BRIEN REPORTING SERVICES, INC.
223 KILLINGTON AVENUE
RUTLAND, VERMONT 05701
TEL: (802) 747-0199

1 MR. PURVIS: All right. I think
2 we'll get started. Hello, welcome and thank
3 you for coming tonight. This is the second
4 hearing put on by the Department of Public
5 Service in regard to our public comments draft
6 of our Telecom Plan. Tonight we'll just have
7 you come and speak. Anyone who wants to
8 speak, just come up to the front here in this
9 chair and sit down.

10 We won't be giving a presentation per se
11 today, but we welcome your comments, and if
12 you'd like to say something, please let us
13 know.

14 Charlie, would you like to start?

15 MR. LARKIN: May as well.

16 MR. PURVIS: All right. Thank
17 you, Charlie. I should also introduce
18 ourselves. My name is Clay Purvis. This is
19 Jim Porter. We both work for the Department
20 of Public Service in the Telecom Division.

21 MS. PETERS: What's your name
22 again?

23 MR. PURVIS: It's Clay Purvis,
24 P-U-R-V-I-S.

25 MR. LARKIN: Ready?

1 MR. PURVIS: We are ready.

2 MR. LARKIN: My name is Charles
3 Larkin. I'm a former Department of Public
4 Service Telecom Engineer, 30-plus years, and
5 my theme is public efficacy role of the
6 department as stressed in the 10-year plan.
7 There's a pole attachments complaint
8 resolution and rule making of 2011 --

9 MR. PURVIS: Charlie, let me
10 interrupt. I apologize. Steve, why don't you
11 turn off the air for me.

12 MR. WICKER: All right.

13 MR. PURVIS: All right. Thank
14 you.

15 MR. LARKIN: Okay.

16 Mr. PURVIS: Sorry, continue.

17 MR. LARKIN: No, it's a good
18 reason to stop. There was a 2011 statute
19 requiring the Department of Public Service
20 Board to do some pole attachments complaint
21 resolution and rule making. They never did
22 it. The question would arise in my mind, a
23 public advocate would say, there are problems
24 with -- compared to some potential
25 comparatives getting on incumbent networks,

1 and they're having grave difficulties.
2 They've even stated in some of their reports
3 to their grantees/grantors, whoever gives them
4 the money, that they were having trouble
5 getting their services up and running because
6 of delays.

7 I just wonder: One, why the DPS doesn't
8 request a rule-making case be instituted over
9 their Public Service Board on this issue of
10 what happened to the complaint resolution rule
11 making. The subject of these complaints and
12 potential action by the department to help
13 resolve them, other than talking about their
14 good offers; their good works, their good
15 efforts, just means that the subject is really
16 not in the plan.

17 The fiber construction, well, I have some
18 pictures, that I don't know what we're going
19 to do, but the idea is to show you that at the
20 bottom of poles fiber is being taken off of
21 the pole open to the world, going into the
22 ground open to the world.

23 I remember back in the -- my days at the
24 department we requested this kind of work be
25 corrected, because we feared just some angry

1 consumer who didn't like that particular
2 company, or any company not knowing who this
3 was, or some real saboteur with a pair of
4 clips that would go down there and there goes
5 some service. If it's only to one customer,
6 that's some service that was part of the open
7 SONET ring, well, at least they got the
8 protection of the reverse direction from the
9 ring. But this is North Burlington on Shore
10 Road just recently, get a better idea of how
11 it is broken with -- apparently, looks like it
12 is a high-voltage line in there. This is the
13 same place, three different views of it.

14 (Indicating on photo.)

15 I would suggest that these are not really
16 in compliance with the National Electric
17 Safety Code. I think the Board has a ruling
18 on that issue for construction by companies,
19 and I would think that you could do something
20 about that in two ways as a public advocate:
21 You could on some kind of form or forms ask
22 the public to inform you by picture or E-mail
23 location of such types of construction.
24 Though that sounds pretty silly, what's the
25 public know? There are always a few people in

1 the public who know a lot and who would
2 delight in telling you what they know.

3 So, you could find these areas, check them
4 out yourself, or you could have a very
5 infrequent, very random inspection of certain
6 areas finding such construction improprieties,
7 take photographs; locate them; send a letter
8 to the offending company requesting compliance
9 with the code; give them a timeline; if they
10 don't do it, tell them what you're going to do
11 which would probably be requesting a hearing
12 with the board, I imagine.

13 Those would be two ways in which you could
14 have a better public efficacy role. Again,
15 this is an area that is not really mentioned
16 in the plan. I thank you for your time.

17 Oh, I'm sorry, this particular
18 construction, it makes me wonder is -- two
19 large old railroad ties, whatever they are --
20 part of the code for construction. I kind of
21 doubt it. And is having either four or five
22 separate fibers on the same two poles with the
23 company not being -- you don't see it here but
24 they have several cases where they have two
25 poles side by side and part of the multiple

1 fibers are on one pole and part are on the
2 others, if that's part of the code, and if it
3 is, that's wonderful, but I don't think it is.
4 And I would recommend that be part of what you
5 would try to determine by way of random
6 inspections and requesting help from the
7 knowledgeable public. (Indicating on photo.)

8 MR. PORTER: Do you have the
9 address for the first pictures that you
10 showed?

11 MR. PURVIS: Yeah, these aren't
12 labeled.

13 MR. LARKIN: These were up on
14 the --

15 MR. PORTER: No, I'm sorry. I
16 mean those. (Indicating.)

17 MR. LARKIN: Yeah, those were up
18 on Pearl Street if I remember correctly.

19 MR. WICKER: No, Shore Road on
20 that one.

21 MR. LARKIN: That one is Shore
22 Road, the one that -- the first one. Turn it
23 over.

24 MR. PURVIS: This one?

25 MR. WICKER: There is a pole

1 number on one of them.

2 MR. LARKIN: There is a pole
3 number on the one I'm thinking of.

4 MR. WICKER: There we go.

5 MR. PURVIS: Yep, this one right
6 here. All right.

7 MR. LARKIN: Yeah, pole number 20
8 for Verizon and 03213, I assume that's the
9 power company, and CPHASE, I don't know what
10 that is, probably one of them fiber companies.

11 MR. PORTER: Did you get the
12 street?

13 MR. PURVIS: You said Shore Road?

14 MR. LARKIN: Yes. All right.

15 MR. PURVIS: Thank you.

16 MR. PORTER: Thank you.

17 MR. LARKIN: Thank you for your
18 time.

19 MR. PURVIS: Are you giving us
20 those or are you keeping those?

21 MR. WICKER: You can give them
22 away.

23 MR. PURVIS: Thank you. We would
24 like to hear from anyone else.

25 MS. KENNEY: My name is Beverly

1 Kenny, and I am owner of the Brattleboro North
2 KOA Campground, 123 U.S. Route 5 in East
3 Dummerston. And my concern is for the tourism
4 industry in Vermont which is a very healthy
5 part of our annual budget, I'm sure.
6 Specifically, cell phone coverage for people
7 who visit the state.

8 It's very frustrating for people to come,
9 say, to my campground and they have good
10 Verizon, AT&T plans and they cannot get any
11 coverage at my campground. And it is a shame
12 because I'm three miles from the Brattleboro
13 border along the U.S. route, and they can't
14 pick up coverage.

15 So, I think for that reason in particular,
16 you know, we need better coverage across the
17 state. U.S. Cellular works well, that's what
18 I have as a cell phone service, but nothing
19 else really, really suffices, and it is very
20 frustrating for people who travel whether they
21 be full time RVers or just a family on
22 vacation. They need to stay in contact with
23 their family, and sometimes they can't do
24 that. So, thank you.

25 MR. PURVIS: Thank you very much.

1 Ma'am, would you like to speak?

2 MS. BECKER: My name is Gretchen
3 Becker. I live in Halifax, and it is one of
4 the towns that is in red on your list, and I
5 think somebody in the article I read said that
6 you are planning on doing this, but I wanted
7 to reiterate that it is important. In my town
8 a lot of the people still have dial-up and
9 that's the only option they have. And I'd
10 like you to put your efforts toward getting
11 everybody with basic internet service before
12 you get Burlington this 100 megabits per
13 second, you know, because it is very
14 frustrating when we hear people with these
15 fabulous things and most of our citizens have
16 dial-up. Okay. That's all.

17 MR. PORTER: I wanted to tell you
18 both afterwards, we are happy to answer any
19 questions you may have, tell you a little bit
20 about Cellular. Actually, if you can give us
21 your address, we can tell you -- or we can't.
22 We have someone that works with us who can
23 tell you what solution is in place for your
24 address that might be coming.

25 MS. BECKER: Actually, I

1 personally have DSL, but I'm on the Broadband
2 Committee for my town, and I think it's
3 important to get everybody else up to speed.

4 MR. PORTER: Oh, no, absolutely,
5 absolutely, but I'd happily talk to you about
6 some of the projects that they -- may be
7 coming down.

8 MS. BECKER: Okay. Okay.

9 MR. PURVIS: Thank you. And would
10 you like to speak?

11 MS. PETERS: I'm a member of the
12 press but thank you.

13 MR. PURVIS: Okay.

14 MR. LARKIN: You can still speak.

15 MR. PURVIS: Anyone else?

16 MR. PORTER: You can still speak.

17 You can say --

18 MS. PETERS: Actually, I can make
19 -- I will come to think of it.

20 MR. WICKER: The press needs
21 broadband.

22 MS. PETERS: Yes. Hi, my name is
23 Olga Peters. I'm a reporter for The Commons.
24 We're a weekly newspaper serving Windham
25 County. And just to kind of let you know what

1 the status of broadband and cell service means
2 for us now is, we still have a print edition
3 of the paper because so many of our readers
4 can't get good enough service to download or
5 read newspapers on-line. So, that's one thing
6 we have done.

7 For cell service there's a number of
8 breaking news that we'd like to cover, but
9 because I can't call stories back to the
10 office, that will delay things going on the
11 meager website we do have.

12 So, that's just some of the ways that
13 we're being impacted now if that helps.

14 MR. PORTER: And I'd be happy to
15 talk to actually both of you, you seem to have
16 the same issue, afterwards.

17 MR. PURVIS: Would anyone else
18 like to speak?

19 MR. WICKER: Well, I will take a
20 minute if we are going to conclude in 20
21 minutes. I got a couple more pictures for
22 you. I'll be right there.

23 MR. PURVIS: Take your time.

24 MR. WICKER: I'm Stephen Wicker,
25 for the record, from Montpelier. I would like

1 to elaborate further on the issue of the
2 infrastructure inventory descriptions; maps,
3 etcetera, in that I've made prior testimony
4 about the need for the public or any
5 businessperson or residence in need of
6 services: Voice; data; broadband, whatever,
7 to know what's available nearby from which
8 vendors.

9 The 202, the planning authority, I realize
10 the language, the proprietary language that's
11 in the modifications to 2222 for the action
12 plan -- the action plan for broadband needs to
13 be part of your ten-year telecommunications
14 plan. If they -- I don't think you're going
15 to finish your telecom plan by December. It
16 gives Kiersten time to put her plan together
17 but in effect, it creates ambiguity, confusion
18 and finger pointing of who's supposed to do
19 what, but whatever would be in an action plan
20 for broadband is what, in my opinion, needs to
21 be in the Department of Public Service 10-year
22 telecommunications plan.

23 Secondly, the proprietary cover for
24 voluntarily submitted information on where
25 your fiber is; where your DSLAMs are,

1 etcetera, under 2222 does not apply under
2 202(d). 202(d) specifically says that the
3 department may require information to be
4 submitted under the supervision of the Public
5 Service Board. That is clean, it's elegant,
6 it is authoritative, and it is appropriate
7 venue. The Public Service Board is well
8 equipped to untangle what needs to be
9 protected under proprietary cover for trade
10 secrets and what does not.

11 So you have the authority and the
12 obligation to do a complete inventory of where
13 the fiber is and where the equipment is. You
14 don't need to rely on -- and you are not bound
15 by the more restrictive optional submission by
16 vendors under the modifications to 2222, 3
17 V.S.A. 2222. So, I thought I would call that
18 realization. May be a little late, but I'm
19 not the only one.

20 Here's a -- I would like to submit this
21 photo of -- when the argument is made that we
22 can't -- it's difficult to afford to built out
23 to the rural areas of Vermont, it should be a
24 little obvious why that becomes difficult
25 because --

1 MR. PURVIS: Stephen, why don't
2 you label your photographs before you give
3 them to us.

4 MR. WICKER: Label them for what?

5 MR. LARKIN: Where they are.

6 MR. PURVIS: Just where they are.

7 MR. WICKER: I can tell you where
8 they are. It will be in the transcript.

9 MR. PURVIS: Okay.

10 MR. WICKER: The first photograph
11 submitted by this -- I'm not prepared with
12 circles and arrows and a paragraph on the back
13 of each one tonight to quote Arlo Guthrie.
14 Secondly --

15 MR. LARKIN: You didn't tell where
16 it was, Steve.

17 MR. WICKER: This is the road
18 between Burlington and Winooski.

19 MR. PURVIS: The road between
20 Burlington and Winooski.

21 MR. WICKER: Yeah. The name of
22 the road escapes me, but it runs right between
23 the UVM campus and the old Trinity College
24 campus.

25 MR. LARKIN: Is that Pearl?

1 MR. WICKER: I don't know the name
2 of it. The main road from downtown Burlington
3 to Winooski, and this is right where the state
4 health lab is. And if you look, you can see
5 four or five distinct strands of
6 telecommunications carriers there. And if you
7 go and count them up close, which you can do
8 with zooming tools on these photos, there is
9 about five different strands of fiber, five
10 sheaths of fibers on Comcast's or on the
11 Coaxial carriers, the television franchise
12 carrier's strand, and then there's probably a
13 Level 3 ring; there is probably a SoverNet
14 ring; there is a FairPoint ring. I mean,
15 you've got maybe a dozen different fiber
16 sheaths on that same route and each of those
17 fibers probably -- each of those sheaths
18 probably has 72 or more fibers in it.

19 So, this is why -- this is the waste and
20 overbuild which is directly connected to
21 whether open access needs to be required and
22 whether we need to push for reducing the
23 overbuilds or eliminating the overbuilds and
24 get the fiber out to the rural areas if you
25 are going to meet the 2020 for goal of

1 symmetric 100-megabit plus.

2 FirstLight, I believe subject to check,
3 that it is the new version of what Telejet
4 was, and Telejet, I believe, provides their
5 services over the prior hyperion ring which
6 became part of Level 3's network, but they're
7 offering 100-gigabit connectivity fiber with
8 colocation and redundant, diverse-routed
9 internet connections up to 10 gigabit.

10 This is in Vermont. This is in
11 Burlington. This is the infrastructure that
12 we have available. Now, this, I want back but
13 you can find it.

14 MR. PURVIS: Okay.

15 MR. WICKER: My point is, this is
16 what needs to be in the plan, exploration of
17 these services and these vendors and whatever
18 geographic reach is. Of course all of them
19 will say, we don't want to tell you where our
20 geographic reach is, because if you point us
21 to a customer, we'll build to them, okay?

22 And one of the most difficult challenges
23 of what Charlie likes to call ONA-2 which will
24 be not unbundling FairPoint, Verizon's network
25 but unbundling the rest of it for open access

1 will be, how do you -- if, say, a competitive
2 local exchange carrier says they want to --
3 some fiber from FairPoint or Comcast from this
4 location to that location. The location
5 identifies the customer. How do you prevent
6 the incumbent from then taking that
7 information and going and offering them a
8 sweeter deal?

9 Leave that to the board, but my point is,
10 that's one of the downsides to competitors
11 identifying where their next customers are.
12 That's sufficient for tonight. I just
13 prepared on one topic, a very narrow one.

14 MR. PURVIS: All right. Thank you
15 very much, Steve. Would anyone else like to
16 speak again?

17 (No response.)

18 MR. PURVIS: I think it's safe to
19 say we can conclude our hearing for tonight.
20 Thank you very much for coming out. We're
21 going to take your comments under
22 consideration when we develop the final plan.

23 We'll be having three more hearings, two
24 this week: Tomorrow is Barre at Alumni Hall;
25 Thursday is at the Hampton Inn in Rutland and

1 then the following Thursday, I believe,
2 September 4th, is at the Catamount Arts Center
3 in St. Johnsbury. This Thursday during the
4 day there is also a hearing at the
5 legislature. Do you know what room that is
6 in?

7 MR. PORTER: 11.

8 MR. PURVIS: Room 11 in
9 Montpelier. All right. Thank you.

10 (HEARING WAS CONCLUDED AT 7:24
11 P.M.)

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C E R T I F I C A T E

I, Lisa M. Hindes-Moody, Court
Reporter and Notary Public, do hereby certify
that the foregoing pages, numbered 1 through
20, inclusive, are a true and accurate
transcription of my stenographic notes of the
Hearing taken before me on August 26, 2014.

Commission Expires: 2/10/15

STATE OF VERMONT
DEPARTMENT OF PUBLIC SERVICE

IN RE: THE 2014 VERMONT TELECOMMUNICATIONS
PLAN

August 25, 2014
7 p.m.

1068 Williston Road
Burlington, Vermont

Public Hearing held before the Vermont
Department of Public Service, at the Holiday Inn, Oak
Room, 1068 Williston Road, Burlington, Vermont, on August
25, 2014, beginning at 7 p.m.

P R E S E N T

Vt. Department of Public Service:

James Porter, Esq., Director of Telecom
Clay Purvis
Kiersten Bourgeois

CAPITOL COURT REPORTERS, INC.

P.O. BOX 329

BURLINGTON, VERMONT 05402-0329

(802) 863-6067

(802) 879-4736 (Fax)

EMAIL: info@capitolcourtreporters.com

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1 MR. PORTER: Why don't we go ahead and
2 get started. First off, thank you all for
3 coming tonight. My name is Jim Porter. I'm
4 with the Department of Public Service. With
5 me is Clay Purvis, who is also with the
6 Department; and Kiersten Bourgeois who is
7 with Connect Vermont and ACCD.

8 This is our first public hearing, the
9 2014 public comments draft of the
10 Telecommunications Plan. We have three more
11 hearings this week. One in, let's see,
12 Rutland, one in Brattleboro, and one in
13 Barre. And then we have one in St.
14 Johnsbury next week, and then we have a
15 legislative hearing on Thursday morning.

16 And I think most of you know there is a
17 draft published on our Web site. We have
18 also got hard copies here if anybody would
19 like one. And we are just here to listen to
20 your comments about the draft plan.

21 We have got a court reporter with us
22 tonight. And so we will have a transcript
23 of everything that you say. And typically
24 we would do a sign-up list, but based on the
25 crowd, I would just say come on up when and

1 if you're ready to say something.

2 MS. NULTY: Just I wanted to clarify the
3 process. On the web site -- my name is
4 Leslie Nulty, N-U-L-T-Y. I'm here in a
5 personal capacity, but I worked for six
6 years as the project coordinator for EC
7 Fiber in Windsor and Orange counties. I
8 graduated from there in January.

9 On your Web site it says that comments
10 should be sent via E-mail. I brought copies
11 here. I don't know what you would prefer.

12 MR. PURVIS: We will take comments in
13 any way you would like to give them.

14 MR. PORTER: Right.

15 MS. NULTY: Okay. Well I'll give you a
16 couple of -- so I have some detailed
17 comments --

18 MR. PURVIS: Thank you.

19 MS. NULTY: -- which I hope you will be
20 able to look at. I didn't want to take a
21 lot of time. I didn't know how many people
22 would be here. So I thought I would just go
23 through some of the highlights, and then go
24 to my conclusion which has some alternative
25 suggestions.

1 I found -- I think you've probably
2 already heard, because I've seen it in the
3 press, that the hundred megabits symmetrical
4 vision is something everybody thinks is
5 great, but it's not much more than a wish at
6 the moment. That's how it appears. But
7 when we look at the nearer-term proposals
8 and standards and fundamentals in this plan,
9 there is a lot within it that I found to be
10 extremely disturbing from a public policy
11 perspective and from the assessment of
12 Vermont's current needs, let alone its
13 future needs.

14 With that introduction, I would like to
15 hit on just a couple of selected highlights
16 which do not in any way fully represent my
17 full comments. I did also want to add that
18 another very disturbing thing about this
19 draft is many, many statements of so-called
20 fact that are in fact completely false and
21 erroneous. And I really feel that that
22 needs to be cleaned up before any final
23 version is issued.

24 So to my specific observations. I would
25 have hoped that the plan would have

1 reiterated and strengthened Vermont's
2 previous and current telecom policies.
3 These include support and advocacy for open
4 access telecom networks, for net neutrality,
5 for public access cable channels, and
6 municipal or other grassroots enterprises to
7 fill the gaps left by the private for-profit
8 sector. These have all been embodied in
9 various pieces of legislation, in drafts of
10 grant RFPs and so on. But instead this plan
11 questions and undermines these bedrock
12 policies, and it raises vague and non-
13 defined concerns.

14 And I offer by way of summary just one
15 example. There are more in my detailed
16 comments. The document alleges that open
17 access is not adequately defined. I'll give
18 you a page reference, yet open access is a
19 condition adhered to under multi-million
20 dollar grant awards made to Vermont
21 companies by the federal government and by
22 the VTA. FairPoint and Sovernet today
23 operate open access telecom transport
24 networks. So there is nothing mysterious
25 about the notion of open access.

1 In my judgment the plan could have
2 provided a specific road map to meeting
3 Vermont's telecom needs by using already
4 authorized bond authority to create a bond
5 funded revolving loan fund to help finance
6 telecom development in less well-served high
7 cost areas. But rather this plan is
8 completely silent as to how to meet the
9 financing challenge, except for in my
10 judgment, ill-advised advocacy of continued
11 grant funding.

12 The plan could have recognized the
13 pressing need for robust band width and
14 reliability as identified in the 2012
15 survey. Such capacity is needed today by
16 Vermont's rural health care system, by small
17 schools seeking access to greater
18 educational resources, by Vermont's creative
19 economy and burgeoning telecom sectors.

20 Instead this plan sets standards for the
21 definition of quote, broadband, that are so
22 low as to be dysfunctional today for any
23 serious business, educational or other
24 economic development applications vital to
25 the health of Vermont's economy.

1 I would be happy to give you some
2 personal examples, just happened today as
3 someone who is living with poor DSL that
4 cannot be improved, and in Chittenden
5 County, not in a remote area.

6 This plan could have supported increased
7 competition in Vermont's telecom sector by
8 advocating retracting current
9 anti-competitive legislation and regulation
10 and by encouraging diversity in telecom
11 enterprise structures. Instead, this plan
12 is silent on the need for legislative
13 reforms and highly selective in its choice
14 of regulatory reform options.

15 Again, one example. There is no mention
16 of the difficulties the Department itself
17 has had in enforcing current pole attachment
18 regulations, which delay deployment by and
19 increase the cost of infrastructure for new
20 competitors seeking to enter the market.

21 These are just a few of many detailed
22 concerns that I have in my full comments.
23 And I would be happy to explore some of
24 those with you given that we have a rather
25 small crowd tonight. I offer some

1 alternative ways of looking to the future.
2 Let's think about what technologies are
3 really needed to reach 100 megabits per
4 second symmetrical service by 2024 as you
5 state in your vision. And if I may say
6 parenthetically, there is a lot of emphasis
7 in this paper about speed. For modern
8 telecom, speed is not a sufficient criteria.
9 You also have to look at jitter, latency and
10 reliability. And when you look at all of
11 these including the speed, there is only one
12 technological solution that addresses all
13 those needs, and that is fiber to the user.

14 The state needs to make a commitment to
15 fiber to the user rather than relying on
16 technologies that cannot deliver the
17 connectivity that this plan says it wants to
18 achieve. The fact of the matter is, neither
19 4G LTE, nor DSL nor even cable modem today
20 can deliver one hundred megabits
21 symmetrical. And it's the upload band width
22 and latency and jitter that are what the
23 Vermont economy needs. That's what a
24 vibrant health care -- rural health care
25 system needs. That's what an educational

1 system, rural educational system needs.
2 That's what members of the creative economy
3 who need to reach a wider market, that's
4 what they need. And the other technologies
5 cannot deliver that.

6 So what's the cost of deploying fiber to
7 the user in Vermont's rural areas?
8 Incumbent for-profit dividend-paying
9 companies have publicly stated in testimony
10 to the legislature that it costs 65 thousand
11 dollars per mile and up. EC Fiber has
12 actually deployed fiber to the user at
13 \$30,000 per mile, including customer
14 connections for an average of six customers
15 per mile. EC Fiber has deployed in one of
16 the most rural, sparsely-populated areas of
17 Vermont at \$30,000 a mile successfully. In
18 those areas where EC Fiber was able to use
19 the VTA-built Orange County fiber connector
20 the cost was reduced by about 25 percent to
21 around 23,000 a mile.

22 Those savings could have been even
23 greater actually if the VTA had chosen a
24 more optimal route. But in the event it was
25 still a boon to EC Fiber's goals.

1 The Vermont Telecom Authority's
2 deployment of the Orange County fiber
3 connector which made available fiberoptic
4 capacity owned by the state but leased to
5 others for connection to final customers is
6 a proven model of a public-private
7 partnership that can be replicated in other
8 areas. A credible telecom plan should
9 examine this model and the opportunities for
10 using it to achieve the fiber deployment
11 anticipated in your vision.

12 Very little mention is made of this as a
13 potential model. It's hidden from view.
14 Other than the LCFC all the State of
15 Vermont's financial supports to telecom
16 deployment has been in the form of grants
17 which you advocate in this draft. This --
18 by putting all your eggs in the grant basket
19 you forego the potential leverage to be
20 gained from a revolving loan fund that could
21 finance a great deal more infrastructure
22 than grants alone. To our mind that's a
23 poor use of scarce public money. We would
24 recommend that the Vermont connectivity fund
25 be structured as a revolving loan fund

1 rather than as a pool for grants as you've
2 recommended.

3 Those are my summary comments. More
4 detail within.

5 MR. PORTER: Thank you.

6 MR. PURVIS: Is that all you want to say
7 or do you want to --

8 MS. NULTY: Well I can go through the
9 whole thing if you really want to hear it
10 all.

11 MR. PURVIS: It's up to you.

12 MS. NULTY: If you give me permission,
13 I'll be happy to talk about that.

14 MR. PURVIS: Absolutely. Go ahead.

15 MS. NULTY: Thank you. I'm most
16 grateful. The first thing that I looked at
17 in -- the first thing I wanted to say is
18 that Vermont is the most rural state in the
19 U.S. as measured by the proportion of
20 population that lives outside of metro
21 areas. That's something that's not going to
22 change. That is just a fact of life. And
23 it is a fact of life that all forms of
24 telecom deployment are costly to deploy in
25 low-density areas. And Vermont has the

1 fewest high-density areas of any state in
2 New England or the U.S. as a whole. That's
3 a fact of life that's not going to change.

4 So when incumbent companies come in and
5 complain about the high cost of doing
6 business in Vermont, you have to recognize
7 that there is not a lot you can do about
8 that. And that they have a certain pool of
9 capital, these multi-state enterprises, and
10 there's been we should say different
11 behavior between Vermont-based companies and
12 those that are multi-state companies.
13 Multi-state company has a pool of capital
14 that it can deploy anywhere in the U.S. And
15 it's -- in going through its priority list
16 Vermont is going to rank relatively low.

17 In my judgment, if we spend our time
18 trying to bribe or subsidize those kinds of
19 companies we will simply be chasing our
20 tail. We should be looking to homegrown
21 solutions. And that's just going to be a
22 fact of life.

23 The next thing that I address is the
24 specifics of getting an accurate picture of
25 the status quo. This draft plan advocates a

1 standard for the division of connectivity as
2 four megabits down, one megabit up now, and
3 10 down, one up in 2017.

4 As I said earlier, it's the upload band
5 width that is critical for Vermont's
6 economic development for it to become
7 anything other than a complete backwater.
8 And to the extent that a plan hangs its hat
9 on this kind of standard, Vermont in my
10 judgment, is simply going to fall further
11 and further behind our near neighbors, the
12 rest of the country, and the world. And in
13 fact, if you look at the results of your
14 2012 survey, because I didn't have the 2014
15 available to me at the time, the same
16 percentage of respondents that replied that
17 upload -- that download was most important
18 to them, comparable percentage of
19 respondents said that upload was most
20 important. You must pay attention to this.
21 And you must pay attention to the other
22 characteristics of connectivity; latency and
23 jitter and reliability.

24 The plan also proceeds from the notion
25 that from a consumer's point of view the

1 Vermont telecom market is competitive. That
2 is not the case. Outside town centers most
3 Vermonters have access only to poor quality
4 and expensive satellite service, and perhaps
5 one other provider. The state has put a lot
6 of reliance on the success of VTel's WOW
7 deployment, wireless open world.

8 Unfortunately that technology, 4G LTE, is
9 being rejected across the country as
10 inadequate to today's broadband needs. You
11 yourself cited the experience in Long Island
12 after Hurricane Sandy when Verizon tried to
13 worm out; Verizon's landline -- existing
14 landline network was destroyed. It wanted
15 to bring in 4G LTE. Everybody rose up
16 screaming, and they had to back down and
17 deploy fiber, because consumers know that
18 that is the solution. That's the solution
19 for today, not for 10 years from now.

20 And you know, there is going to come a
21 point when if the state persists in relying
22 on what consumers know is an inadequate
23 infrastructure, they will make their voices
24 heard. And I would think that would be
25 something that the administration would

1 really want to avoid. You proceed -- the
2 plan proceeds from a statement that 20
3 megabits broadband service is quote,
4 available at most locations in 2013, that
5 that goal was achieved. I don't know what
6 your factual basis is for that. I can tell
7 you from my own experience in Chittenden
8 County that is absolutely not so, let alone
9 the rest of the state.

10 The plan states that Burlington Telecom
11 is the only municipal telecom provider in
12 the state. That is not true. EC Fiber is a
13 municipal entity. And because of a
14 different governance structure it's avoided
15 a lot of the problems that we know have
16 plagued BT. The fact of the matter is there
17 are hundreds of successful municipal fiber-
18 to-the-user deployments all over the United
19 States. And those cities and towns where
20 they are being deployed are booming as a
21 result. And yet this plan shies away from
22 that as a possible model.

23 The plan states that DSL is quote, the
24 best available broadband option in rural
25 areas of Vermont. V-Tel has fiber in a

1 rural area. Waitsfield-Champlain Telecom
2 has fiber in rural areas. EC Fiber has
3 fiber in rural areas. Low density, high
4 megabit per second, low latency, low jitter,
5 state-of-the-art networks, and they are
6 ignored by this document.

7 One significant item that I would like
8 to draw your attention to has to do with the
9 pole attachment issue. EC Fiber has brought
10 to the Department's attention problems with
11 enforcement of pole attachment rules. The
12 fact that utility pole owners do not
13 complete make-ready according to the
14 requirements of the rule. They delay.
15 Sometimes they take the money and don't even
16 do the work. And the Department is not
17 enforcing this rule. And that is a huge
18 barrier to competition and effective
19 deployment of fiber in this state. It's not
20 even mentioned in this document.

21 So the plan also goes on in discussing
22 cable modem service to state that coax cable
23 facilities provide the fastest broadband
24 Internet in the state. Quote unquote. Also
25 erroneous. The fastest broadband in the

1 state is provided by those who are using
2 fiber to the user. Those are the critical
3 areas that I identified.

4 My earlier testimony tried to point you
5 into what I believe will be more productive,
6 fruitful and successful options for the
7 future of telecom in Vermont. But as it
8 stands right now, I don't think -- this plan
9 not only will it not fulfill the promise
10 that you hold out, I feel it will actually
11 create significant barriers to fulfilling
12 that promise.

13 That's it.

14 MR. PORTER: Thank you.

15 MS. NULTY: Sorry.

16 MR. PORTER: We are glad to have your
17 opinion.

18 MS. NULTY: Thank you.

19 MR. PORTER: Anybody else?

20 MR. LARKIN: My name is Charles Larkin.
21 I represent myself. I'm a former Telecom
22 Engineer for the Department of Public
23 Service. And I almost wonder why we don't
24 just close up all the hearings and go home
25 after Ms. Nulty's testimony. I think she

1 covered the waterfront.

2 But in regard to the quality of service,
3 you know 30 V.S.A. 202(C) parens B, little
4 B, parens 4, shall provide for high quality,
5 reliable telecommunications services for
6 Vermont businesses and residences. Looking
7 at quality of service I saw a news article
8 that said when Sharon went out for five days
9 or more, it was five days before the
10 Department even knew about it. That would
11 be a lack of some kind of reporting system
12 on the part of the company.

13 E-911 failure. The report in the paper
14 was that was some kind of systems failure,
15 by the systems -- E-911 system manager up in
16 Colorado. And thus makes me -- leads me to
17 believe that these two issues, these two
18 incidents, demonstrate the lack of anything
19 in the plan that talks about specific
20 reliabilities. Do you have a plan for
21 reporting of all outages? Do you have a
22 plan that tells, thus the E-911 that we now
23 have, with an out-of-state manager is
24 somehow involved, is that truly reliable?
25 More reliable than a Vermont system?

1 Vermont-based system with a Vermont-based
2 manager and server. And have you some kind
3 of report where you've evaluated these
4 alternatives to E-911 service? Do you have
5 some kind of plan to get some kind of SONET
6 self-healing rings around the state?
7 Backbone either by one company, by VTA,
8 expanding off of its arm's work, by some
9 kind of a joining together of different
10 pieces of equipment by different vendors,
11 FairPoint or Comcast, any of them can get
12 together perhaps and help create such a
13 series of rings which would give --
14 particularly if they are redundant, not just
15 within the same fiber or redundant different
16 fibers, different routes. You don't want to
17 have it on the same pole lines even. Never
18 mind the same fiber, the same pole lines,
19 even the same street. You want to have it
20 on different routes. You need all these
21 things.

22 There is an issue of confidentiality.
23 You are required to do survey -- I'm sorry
24 -- assessments of current state
25 infrastructure information, assessments of

1 the state's current telecom systems, and
2 evaluations of alternatives upgraded to the
3 best possible level, assessments of our own
4 system as compared to other states. How are
5 you going to do all that unless you get all
6 of the information you would need on the
7 existing fiber by all of the owners of this
8 fiber? Starting from BT up, VTrans,
9 anybody, state fiber, private fiber. Until
10 you know that, you won't be able to do your
11 surveys, your assessments. And if you don't
12 know that, the public won't know that. And
13 if they don't know that, how can a potential
14 competitor who would like to use existing
15 plant make a plan if they don't have any
16 idea how much fiber is out there, by way of
17 pairs, what pairs are lit, what pairs are
18 dark, what pairs are being held for a
19 reasonable need of the owner, if you don't
20 know that.

21 And somebody like the Board is not
22 setting rates, then these potential users
23 cannot even begin to figure how to get on.
24 They might figure out some small segment,
25 but not the whole system. So I believe that

1 I've said enough. I -- as I say, I feel
2 embarrassed for the riches that Ms. Nulty
3 gave us of points. I hope that you would
4 give them serious consideration and modify
5 your draft. Thank you.

6 Thank you. I assume no questions.

7 MR. PORTER: Anybody else?

8 MS. SIRVIS: You looked at me, so I feel
9 like I have to come.

10 MR. PORTER: You don't have to.

11 MS. SIRVIS: I'm Barbara Sirvis, S-I-R-V
12 -I-S. I'm here on my own. I just have a
13 couple of comments. I apologize for the
14 fact that I have not read it, but I had to
15 go to California for a funeral over the
16 weekend and that had to take precedence over
17 being prepared for tonight.

18 I'm a little -- no, I'm a lot concerned
19 by what I've heard so far. But rather than
20 addressing the substance, I have a couple of
21 things that I would hope to see, and I came
22 tonight to listen because I thought there
23 might be some sort of overview of what's in
24 there. As a consumer, and that's really my
25 role, I'm not a geek so to speak. I am a

1 retired college president and dealt with
2 issues around technology access for students
3 at a small, poor college. So -- and I also
4 spend the winters now that I'm retired in
5 the California desert where I have access to
6 fiber. And I have seen the difference, and
7 I live with it every winter, and I get very
8 excited about it.

9 So this is being recorded; isn't it? I
10 would simply say that I am less than charmed
11 with the current provider of service in this
12 state. They have been difficult to work
13 with. They have messed up my bills for
14 years. And the quality of the Internet
15 access that I get is not terrific. But it's
16 basically -- even though I live in South
17 Burlington, there are not a lot of options
18 in terms of looking at something other than
19 the two service providers that seem to be
20 available to me and that will allow me to
21 leave for the winter and not charge me a
22 hundred dollars a month to keep my service.
23 So there are some things around my situation
24 that may be different than they are for
25 others, and I want to acknowledge that.

1 But I certainly think that we -- you,
2 it's not we, I would love to help, but I
3 can't. It's out of my purview.

4 The comments about fiber are critical.
5 For my money, one of the most important
6 things that we need to do first is to make
7 sure that we have cell service everywhere.
8 It is simply not safe. And I've driven up
9 and down this state for the 16, 17 years
10 I've lived here, and I worry about that.
11 And I worry about young people who are out
12 only doing, you know, gathering socially,
13 but who are driving cars at a young age, and
14 they need to know that they can call for
15 help if the car breaks down, because they
16 probably don't know how to fix it any better
17 than I do. But I have great concern about
18 that. This is a pretty safe state that we
19 live in, but even so, if you're in those
20 rural areas and there is not even a
21 farmhouse for five or 10 miles, that's
22 pretty scary at 10:00 at night in January.

23 So my priorities are fiber, as much as
24 we can pull, and also to make sure that
25 there is cell service, if not for anything

1 other than the E-911 function, but hopefully
2 for everybody to have that. The reality is
3 that people far younger than I am don't even
4 own a landline, and they are not going to.
5 And so we need to make that opportunity
6 available to them.

7 I'm afraid we don't, at least right
8 here, have the providers that would be the
9 best to be able to do that. But there may
10 be some way that you can incentivise
11 somebody else other than the one that's
12 received an incentive and encourage them,
13 could you ask Verizon to come back? That
14 I'm not sure what the answer is. And I
15 would yield to my colleagues in terms of
16 their expertise. But simply add my voice to
17 the plea for E-911 service and cell service
18 and fiber as much as you can pull.

19 MR. PORTER: Can I ask you a question?

20 MS. SIRVIS: Sure.

21 MR. PORTER: You were talking earlier
22 about your -- you have a seasonal rate, I'm
23 guessing, with one company.

24 MS. SIRVIS: Yes.

25 MR. PORTER: The other company doesn't

1 offer that.

2 MS. SIRVIS: Right.

3 MR. PORTER: If they did, would that tip
4 the -- would that be the deciding factor?
5 Because I presume they offer a better speed
6 to you.

7 MS. SIRVIS: Well what I'm sort of
8 debating right now, I mean Vermont is home.
9 This is where I vote. This is where I pay
10 taxes. This is whatever. But I have
11 another option for the winter now that I'm
12 retired. And for mental health I need to do
13 that.

14 The seasonal option I really have
15 considered simply getting rid of my landline
16 because it is so difficult. I went 36
17 months with the bill being wrong every
18 month, the first time that I went to
19 seasonal. They finally got it right this
20 year. I have been retired for seven years.

21 And with the other provider in terms of
22 seasonal, I've talked to them about that
23 even in terms of my cable service. They
24 want astronomical amounts of money, and what
25 they have taught me is that the last thing I

1 do on about December 12 is take out all of
2 my cable equipment, and I drop it off, and I
3 discontinue my cable service. And when I
4 come back, as long as you discontinue for
5 120 days, you become a new customer. And so
6 I start again with the --

7 MR. PORTER: The whole process.

8 MS. SIRVIS: \$79.99 whatever it is for
9 the world package. That offer goes for six
10 months, and I only end up having three
11 months worth of full bills. So --

12 MS. NULTY: Good for you.

13 MS. SIRVIS: Well interestingly enough
14 they taught me that.

15 MR. PORTER: Yeah.

16 MS. SIRVIS: One of their staff said
17 here's the best thing for you to do. If
18 they had a package -- I mean I currently pay
19 the bad provider I think about \$20 a month
20 when I'm gone for the winter just to keep my
21 phone number, because I don't want to notify
22 everybody that it changes. I just want to
23 come back.

24 MR. PORTER: Right.

25 MS. SIRVIS: That's what I would have to

1 do with the other provider. If the other
2 provider offered me -- let me tell you what
3 happened in California.

4 My mom has a condo there which I now
5 live in it for the winter. And I have
6 service files with all of those things. I
7 leave the equipment in my house. I shut off
8 the Internet, I shut off the cable, I shut
9 off the phone, but the equipment stays.

10 MR. PORTER: Can I ask who your provider
11 is out there?

12 MS. SIRVIS: Verizon. They charge me 14
13 dollars a month. I'm happy to pay that 14
14 dollars a month because I call them up the
15 day before I'm going to get there and say;
16 I'll be there tomorrow, can you turn it on?
17 And I walk in the door and everything is
18 turned on. So it makes very good sense.

19 And if the other provider -- we can call
20 it Comcast by name because I'm not saying
21 anything bad about them. If they provided
22 an option like that, I would pay 14 dollars
23 a month and just leave the equipment in my
24 house. And I would probably switch my
25 Internet and my landline. The only reason I

1 keep it with the other provider is cost. It
2 is cheaper to have -- I don't really use my
3 landline except for 800 or incoming calls.
4 So I've got whatever the basic service is.
5 And when I leave for the winter, they charge
6 me five dollars a month to leave the
7 Internet there. So it goes from 50 some
8 dollars a month to 25. If I got rid of my
9 landline and moved my Internet service to
10 Comcast, the cost of Internet would be
11 higher than it is if I keep it with the
12 other provider. Did that make sense?

13 MR. PORTER: Yes.

14 MS. SIRVIS: Okay.

15 MR. PORTER: We understand it. I'm not
16 sure it makes sense.

17 MS. SIRVIS: Did I explain it so that --

18 MR. PORTER: Yeah. We're familiar with
19 it, yeah.

20 MS. SIRVIS: It's really -- it is how
21 can I maximize the use of my dollars and do
22 that wisely. I'm not crazy about the
23 service that I get. But it's way too
24 expensive for me to leave cable unattended
25 for four or five months than it is the other

1 way.

2 So if they came up with a more creative
3 approach to seasonal, I would probably
4 switch everything to them.

5 MR. PORTER: Okay.

6 MS. SIRVIS: So like I said, I have not
7 the technological expertise, but I can tell
8 you what it's like for a consumer. And I
9 live in Chittenden County. I lived in
10 Bennington County for nine years before I
11 retired here. And cell service was an
12 interesting adventure. And I didn't have
13 the multiple choices that I have here, in
14 terms of landline and cell and all the rest
15 of it. And it may be better now. But I'm
16 not terribly optimistic. I still go down
17 there, and there are big blocks where I have
18 no cell service.

19 So hopefully that gives you the
20 perspective of the consumer.

21 MR. PORTER: Thank you. That's a good
22 perspective. I hope you get a copy --

23 MS. SIRVIS: I have one. Thank you.
24 Thanks.

25 MR. PORTER: Okay.

1 MS. NULTY: My husband asked me to share
2 with you a little consumer story from today
3 which dovetails with some of my other
4 comments. One of the things I talked about
5 was the importance of upload, quality band
6 width, particularly from Vermont's creative
7 economy, the designers, physicians, artists
8 who have to reach out to a wider market than
9 is available in Vermont.

10 My husband's been trying to learn the
11 accordion. He had a couple of local
12 teachers. They all left town. He found an
13 accordion teacher in Austin, Texas who
14 provides accordion lessons over the
15 Internet. We live in Jericho. We have bad
16 DSL. We can't get anything better than 768
17 upload. My husband's been trying to do his
18 accordion lessons via Skype with his teacher
19 in Texas. It absolutely doesn't work.

20 Fortunately our son lives in Burlington,
21 has Burlington Telecom. He will make an
22 arrangement to come to my son's house when
23 he has to do the accordion lesson. There
24 are a lot of musicians in Vermont who could
25 make good money if they had sufficient

1 connectivity to offer lessons or to audition
2 for gigs over the Internet. Except for
3 these few places where there is fiberoptic
4 service, they can't do it. That's part of
5 Vermont's future.

6 And I don't see -- I would like to see a
7 telecom plan that includes those people and
8 their needs. That's what Vermont's talking
9 about when it's talking about its future
10 economic development. We are talking about
11 software developers. We are talking about
12 designers. We are talking about award-
13 winning -- international, award-winning
14 architect firms. These firms need robust
15 connectivity, not the kind of standards that
16 the draft plan is advocating. We need to be
17 more ambitious. Thank you.

18 MR. PORTER: Thanks.

19 MR. WHITAKER: I get -- I'll throw a few
20 words in there since there is time
21 available. For the record I'm Steven
22 Whitaker from Montpelier.

23 On the process issue again, I feel like
24 I'm -- I might be repeating some of what I
25 told you in your March hearing. That to a

1 degree the Department is responsible for the
2 lack of attendance here and not doing the
3 plan for 10 years, missing three full
4 iterations, and letting the public
5 engagement of the whole Telecommunications
6 Planning process atrophy.

7 Now I've made a very specific proposal
8 to your Commissioner of how to use the
9 access media organizations and a series of
10 roving workshops to educate the public, let
11 the AMOs market the event, bring people
12 together, videotape it, to use an outdated
13 term, videotape, and educate the public on
14 what the infrastructure in their area can do
15 and cannot do, and what the options are.

16 I notice the survey that was delivered
17 today is a survey of residences. The
18 surveys of business --

19 MR. PURVIS: It's also business.

20 MR. WHITTAKER: There's another one?
21 Okay. I'll take a look. Thanks.

22 With regard to this draft, not so much
23 the process, I think I've belabored that
24 point. The assessment of the current state
25 telecommunications infrastructure would

1 really need to describe exactly where, what
2 services are available. Not in general,
3 broad franchise areas, but we need to know
4 where our fiber is. We need to know where
5 our coax is. We need to know where the
6 fiber is 20 years old. I mean where the
7 copper, FairPoint, and where it's been
8 replaced.

9 Assessment of the state systems. Now
10 that's totally missing. There is a whole
11 bunch of things that are totally missing, if
12 you have a technical read of the statute.
13 You must be aware of that. No? The state
14 recently built an ethernet ring around, I
15 believe, Burlington, Rutland, Montpelier at
16 least, 10 gigabit per second. That's got to
17 be riding on fiber. It's hopefully
18 protected, redundant ring architecture.

19 The question is, who else is it riding
20 on? Is it riding on Level 3, is it riding
21 on Burlington Telecom? Is it -- how
22 reliable is it? What could have been done
23 to make it more reliable? I mean are we now
24 putting the entire state government
25 operations in one basket of one potential

1 failed equipment?

2 I mean these are the questions that need
3 to be explored in your assessment of the
4 state's telecom infrastructure. The
5 microwave network is totally missing from
6 the draft, the state colleges' network.
7 There is a whole bunch of pieces that were
8 done in earlier drafts and were presented
9 that -- my point is, that in order to
10 reengage the public and educate the public
11 on how to participate in this process and
12 give you meaningful feedback, you really
13 need to do the homework meticulously of
14 what's laid out in the statute.

15 Even to the point of these hearings.
16 Hearings are to be held on the final draft.
17 You've only issued the public comment draft.
18 So are we going to have a whole another set
19 of hearings and court reporter costs? Good
20 for you. When you finally get a final
21 draft? And how are you going to get it
22 adopted by September one?

23 There is no way to not be critical of
24 what's happened here. I'll have more to say
25 on specifics, you know, in subsequent

1 hearings, specific areas of it. But I
2 thought it important to put on the record
3 that the process, and as long as you want --
4 the Department puts forth the poker face and
5 doesn't acknowledge its failure, it doesn't
6 -- it lacks the credibility to reengage with
7 the public. I mean that's a fundamental
8 rule of public relations. And I feel like
9 the Department's advocacy role has really
10 been damaged over the last decade or so.

11 That's all I have for tonight.

12 MR. PORTER: Thank you. Anyone else?

13 (No response.)

14 MR. PORTER: Well thank you all very
15 much. Some really, really good comments and
16 some good stuff to think about tonight.

17 MS. NULTY: Thanks for the opportunity.

18 MR. PORTER: We appreciate your coming.

19 (Whereupon, the proceeding was
20 adjourned at 7:46 p.m.)

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22

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24

25

C E R T I F I C A T E

1
2
3 I, Kim U. Sears, do hereby certify that I
4 recorded by stenographic means the public hearing re:
5 2014 Vermont Telecommunications Plan, at the Holiday Inn,
6 Oak Room, 1068 Williston Road, Burlington, Vermont, on
7 August 25, 2014, beginning at 7 p.m.

8 I further certify that the foregoing
9 testimony was taken by me stenographically and thereafter
10 reduced to typewriting and the foregoing 36 pages are a
11 transcript of the stenograph notes taken by me of the
12 evidence and the proceedings to the best of my ability.

13 I further certify that I am not related to
14 any of the parties thereto or their counsel, and I am in
15 no way interested in the outcome of said cause.

16 Dated at Williston, Vermont, this 27th day
17 of August, 2014.

18 _____
19 Kim U. Sears, RPR
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