

STATE OF VERMONT

HOUSE COMMERCE AND SENATE FINANCE JOINT MEETING
RE: TEN-YEAR TELECOMMUNICATIONS PLAN
AUGUST 28, 2014

I N D E X

<u>Public Speakers</u>	<u>Page</u>
Charles Larkin	31
John Roy	37
John Block	40
Irv Tome (phonetic)	53
Pam McKenzie	61
Leslie Nulty	64

1 (Recording begins.)

2 REPRESENTATIVE BOTZOW: This is the
3 House Commerce Committee. I would like to welcome you to
4 our hearing today. This is a hearing that by law is --
5 it's both our hearing and frankly the Department of Public
6 Service's hearing that was written into the bill as they
7 were required to call a public hearing as part of the
8 adoption of the ten-year telecom plan. So that's why
9 we're here.

10 I'm going to work with Steve -- not
11 Steve. I'm going to work with Tim and whatever in a
12 somewhat improvisational fashion on how we work our way
13 through the day, but the key elements is Maria will give
14 us a sense of where we are with the legal pieces and what
15 I think also going forward from a legal point of view to
16 understand this is not a bill we're working on. This is a
17 plan that we have charged the Department to do. So
18 straighten out those pieces for us and give us a sense of
19 our options here.

20 We will hear briefly from the Department
21 from both Chris and from Jim who will make sure that we
22 have, you know, a thorough overview of the plan itself,
23 the work they have done, their process, and we'll ask them
24 also to talk a little bit about, you know, their plans
25 going forward because there are still other public

1 hearings scheduled after this one. This is not the last
2 opportunity for public -- or comment, and then we will
3 take and we'll divide the time up. We'll see who's here
4 and to make sure that people have plenty of time to --
5 right now we have seven people on our list and we'll try
6 to divide the time up, give everybody a good chunk of time
7 to comment on the plan because that's why we're here.
8 Tim, anything you want to add?

9 REPRESENTATIVE ASHE: Just if anybody is
10 interested in speaking who hasn't signed up on the list
11 anybody at this point as people -- as we get through the
12 seven we'll obviously make time available for anyone who
13 filters in over the next two hours.

14 UNKNOWN SPEAKER: So with two hours
15 total to use I'm imagining you're going to take about 15?

16 MR. RECCHIA: Probably about right.

17 UNKNOWN SPEAKER: Or whatever. You will
18 understand I think that we will have probably an hour
19 forty five, an hour and a half. I think you can divide by
20 seven or whatever there will be and do the math.

21 Understand how much time each presenter has available. I
22 don't want you to feel rushed. We want to get the full
23 benefit of your thoughts. So, Maria.

24 MS. ROYLE: Hello. That's loud. Maria
25 Royle, Legislative Council, and I have a document that

1 some of you have access to on your iPads and there are
2 also hard copies, and they're basically Sections 8 and 9
3 of Act 190 which you passed last year, and the reason why
4 I did that is because there are two sections of law both
5 entitled 30 Section 202c which concerns the State's
6 general policy on telecom planning and Section 202d which
7 are the requirements in developing the telecom plan, and
8 so I thought I would just very quickly go through the
9 State's policy and note in particular the new provision
10 that was added last year, and then also go through the
11 legal requirements for adoption of the plan, and so you'll
12 notice that there are -- most of the changes that you see
13 here are directly from the Act as passed and there are
14 some minor capitalization changes, but really only I'll
15 highlight the substantive changes for you.

16 So just in general, and I'm planning to
17 take only about five minutes for all of this so please let
18 me know if you want more information or less, so under
19 Section 202c basically specifics that in order to promote
20 access to information and telecommunications in accordance
21 with regulatory policies and advances in telecom the State
22 policy is to direct benefits of improved telecom
23 technology to all Vermonters and in doing so to strengthen
24 the State's role in telecom planning, support universal
25 availability of appropriate infrastructure and affordable

1 services, support availability of cell service along
2 travel corridors in the state as well as in the state's
3 communities, and I'm just reading down actually on page 1
4 looking at subdivision 4 and summarizing for you,
5 providing for high quality reliable telecom services for
6 Vermont businesses and residents, provide the benefits of
7 future advances in telecom technology, support competitive
8 choice for consumers, promote open access among providers,
9 on a non-discriminatory basis, support application of
10 telecom technology to maintain and improve governmental
11 and public services, public safety, and economic
12 development, support broadband deployment by using best
13 commercially available technology and also not negatively
14 affecting our ability to take advantage of future
15 improvements in technology, and then -- well no, not
16 finally, but subdivision 9 to encourage the use of
17 existing facilities such as existing utility poles and
18 corridors rather than new construction of facilities, and
19 then what was added last year, you can see underlined
20 subdivision 10 to support measures designed to ensure that
21 the -- by the end of the year 2024 every E911 business and
22 residential location in Vermont has infrastructure capable
23 of delivering internet access with service that has a
24 minimum download speed of 100 megabits per second and is
25 symmetrical. That is 100 in both directions, download and

1 upload.

2 So that is the overall statement of
3 Vermont's telecom policy, and then Section 9 is the
4 amended version of Section 202d which pertains
5 specifically to the plan that's the Department of Public
6 Service, that it's the responsible planning agency. The
7 goal is to ensure that consumers have stable and
8 predictable rates, advanced telecom network, that services
9 all areas in the state.

10 In preparing the plan the Department
11 shall be assisted by the Department of Innovation and
12 Information, and then you will also see the Division for
13 Connectivity which is the new division which you created
14 which actually does not go into effect until next summer.
15 So it doesn't exist currently, and also receive the
16 assistance of ACCD in terms of the plan's preparation.

17 The plan is for a ten-year period. It
18 used to be a seven-year period. Shall serve as the basis
19 for state telecom policy, and that prior to preparing the
20 plan the Department is required to prepare -- and I'm on
21 page 3 subdivision 1 at the very bottom -- an overview
22 looking ten years ahead of future requirements for telecom
23 services considering services needed for economic
24 development, telecom advances, and other trends.

25 Subdivision 2, a survey of residents and

1 businesses to determine what telecom services are needed
2 now and in the succeeding 10 years. Current assessment of
3 telecom infrastructure, an assessment conducted in
4 cooperation with DII of the current telecom system and
5 evaluation of alternative proposals for upgrading the
6 system, and assessment of the state of telecom networks
7 and services in Vermont relative to other states,
8 including price comparisons, and then in subsection C in
9 developing the plan the Department shall take into account
10 the policies and goals of Section 202c which we just went
11 through in establishing the plans.

12 Public hearings shall be held and the
13 Department shall consult with members of the public,
14 representatives of telecom utilities, other providers, and
15 other interested state agencies, particularly ACCD and
16 DII, whose views shall be considered in plan preparation.

17 The Department has the authority to
18 survey companies to determine whether there are any
19 desirable needs for plant improvement or greater access
20 and coordination between providers, and then finally the
21 reason why we're here. Subsection E on page 5, before
22 adopting a plan the Department shall conduct public
23 hearings on a final draft and shall consider the testimony
24 presented at such hearings in preparing the final plan.
25 At least one hearing shall be held jointly with committees

1 of the General Assembly designated by the General Assembly
2 for this purpose. The plan shall be adopted by September
3 1, 2014, and then subsection F just has to do with
4 modifications of the plan on three year -- based on
5 three-year intervals.

6 Subsection G just specifics that it's
7 true the plan -- that minimum technical service
8 characteristics are set and revised every three years, and
9 I believe right now they are set at 4.1. So the next
10 major revision will be in three years, 2017. So I hope
11 that's a comprehensive overview.

12 UNKNOWN SPEAKER: I would have -- I
13 forgot I would like to just give everybody here a chance
14 just to introduce themselves. There probably are a number
15 of people here who don't know all of us. So why don't we
16 just go around the table and introduce ourselves to the
17 public.

18 SENATOR BRAY: Chris Bray in the Senate.

19 REPRESENTATIVE BOUCHARD: And I'm
20 Representative Bob Bouchard from the Town of Colchester.

21 SENATOR MacDONALD: Senator Mark
22 MacDonald from the unserved County of Orange.

23 REPRESENTATIVE DICKINSON:
24 Representative Lynn Dickinson. I represent St. Albans
25 Town.

1 SENATOR MULLIN: Kevin Mullin

2 (Inaudible.)

3 REPRESENTATIVE KITZMILLER: Warren
4 Kitzmiller representing Montpelier.

5 REPRESENTATIVE MARCOTTE: Michael
6 Marcotte, State Representative Coventry (inaudible.)

7 REPRESENTATIVE BOTZOW: Representative
8 Bill Botzow. I represent Pownal, Woodford, and Chair
9 House Commerce and Economic Development.

10 SENATOR ASHE: Tim Ashe, Senator,
11 Chittenden County.

12 REPRESENTATIVE YOUNG: Sam Young,
13 Representative from Glover.

14 REPRESENTATIVE CARR: Steve Carr,
15 Representative from Brandon.

16 MS. BOURGEOIS: I'm Kiersten Bourgeois
17 from the Agency of Commerce.

18 MR. PURVIS: I'm Clay Purvis with the
19 Department of Public Service.

20 COMMISSIONER RECCHIA: Chris Recchia,
21 Commissioner of Public Service.

22 MR. PORTER: Jim Porter, Department of
23 Public Service.

24 MR. CHASE: Corey Chase, Department of
25 Public Service.

1 UNKNOWN SPEAKER: Does anybody have any
2 questions for Maria in terms of anything from the legal
3 point of view? I think we're okay, but I just want to say
4 our actions going forward are to listen today. There will
5 be opportunity for community members to comment so that
6 those comments are also gathered and are part of the
7 feedback we'll use unless the Department, when they come
8 up, what their intentions are going forward in terms of
9 next steps with the plan. Thank you. So, Chris, I think
10 you probably want to go first.

11 MR. RECCHIA: Yes. Thank you very much,
12 Mr. Chairman. Thanks, Chairman Botzow. Thanks Senator
13 Ashe and to both committees. We really appreciate the
14 support and effort here. I think it cannot be overstated
15 how important we believe telecommunication infrastructure
16 is to the state. Being a rural state the ability to have
17 our businesses and homes participate fully in
18 communicating through internet and broadband as well as
19 improving wireless service and giving consumers the types
20 of services they are looking for is really critically
21 important.

22 The plan that is before you is a first
23 step in a long time toward that direction. We haven't
24 done a full plan in a while. The new law gives us an
25 opportunity to reboot that and we appreciate that

1 opportunity and we're doing that.

2 What you have here is the start -- the
3 ten-year look back of where we've come and where we think
4 things are going. One of the most important pieces of
5 that is the acknowledgment that things change rapidly in
6 this process. I think we're proud of what we were able to
7 achieve before the end of 2013, but that is just a step
8 and we have a long way to go to get to the goals of the
9 plan and the goals that you have outlined in statute.

10 So, you know, even though we have been
11 somewhat successful we still have to -- we have to
12 continue on trying to get everybody up to 4.1 which we
13 think we can do in the near future. Depending on how --
14 there are a couple of very large moving pieces here that
15 are unknown. The Federal Communications Commission, FCC,
16 is working on how to allocate funds and where their
17 priorities are and that will inform how we proceed.

18 We also have projects that are underway
19 of new technology that if successful give us some more
20 tools in the toolbox to meet the ultimate goal of a
21 hundred symmetrical that Maria had outlined. We are
22 trying very hard to do that. This plan by necessity
23 because of those two big moving pieces I think is -- does
24 not have all the detail about a path forward, and I just
25 want to admit that right upfront. We don't know how to

1 pay for or how to structure getting to the hundred
2 symmetrical by 2024 yet.

3 That said, I think that, as Maria pointed
4 out, this plan needs to be updated every three years. We
5 think that the decisions from the FCC and the evaluation
6 of the VTel WOW project will occur in the next 18 months
7 to two years. So we think we'll be well positioned to
8 update the plan and have a better sense of where things
9 are going at that point. So I would like to -- and to
10 have a better sense of where things are going at that
11 point.

12 So I would like to at this point, you
13 know, introduce Jim Porter to go through kind of what we
14 have seen -- actually I want to say one more thing before
15 we do that. Although I think the opportunities are great,
16 I want to say the challenges are also great, particularly
17 for land line services and the ability to provide to the
18 most rural of our residents these type of services as well
19 as ongoing telecom -- telephone services is a big
20 challenge.

21 The -- as you can see in the plan and our
22 discussion of the history things have changed dramatically
23 in terms of people's reliance on land lines. We continue
24 to see that decline. There is an economic impact to that
25 that we all need to address and acknowledge and figure out

1 how to move forward and keep those residents that rely on
2 only those services, be able to ensure that they can
3 economically continue those services into the future.

4 So that I would say is one of the biggest
5 challenges we have, and the next biggest is probably how
6 to pay for the ability to get to the goal that we have of
7 a hundred megabytes per second up and down. So now with
8 that I will introduce Jim who is going to walk you through
9 kind of the pieces of the plan, more detail in the plan,
10 and also our process for how we have conducted the
11 hearings thus far and where we hope to get to. We have a
12 couple of additional hearings scheduled.

13 The other thing I would just like to
14 acknowledge is we are receiving public comment. I would
15 like to keep the public comment period open through the
16 end of September and finalize the plan at that point.
17 Obviously that would mean we're not making the September 1
18 date for -- that is in the statute, but we're close. So
19 our apologies for being a little behind on that, but we're
20 trying to squeeze everything in and make it the best plan
21 it can be. So with that I'll transfer it over to Jim who
22 is our Senior Policy and Telecommunications Director.

23 MR. PORTER: Thank you very much and
24 thank you for having us here today.

25 UNKNOWN SPEAKER: Senator Bray.

1 SENATOR BRAY: Commissioner Recchia, so
2 if the public comments are open until September, you have
3 to evaluate the criteria, do you know when you will
4 publish a revised plan? What the schedule will be?

5 MR. RECCHIA: I think we can finish it up
6 within a month after that at the outside. So, you know,
7 we are receiving comments now. We're starting to evaluate
8 and incorporate them as we go, but I do want to give
9 people a thorough opportunity to be able to provide
10 comments, and I think at the end of that process we'll be
11 in good shape to evaluate any remaining comments that have
12 come in and get a revised plan back out.

13 SENATOR BRAY: So approximately
14 (inaudible).

15 MR. RECCHIA: I would say if you are
16 amenable to that, that would be my preference, yes.

17 MR. PORTER: Thank you very much and to
18 follow up on what Chris just said, thus far we have had
19 public hearings in Barre, Burlington. We have one in
20 Rutland tonight. We've been to Brattleboro. We'll be in
21 St. Johnsbury next week, and then last night we had a
22 request to have one in Orange County and actually during
23 the day to accommodate a group of dairy farmers. We are
24 going to do that and that's part of the reason that we
25 would like to extend the comment period through the end of

1 September. We may go to other hearings and have someone
2 say would you please come have a hearing in wherever and
3 we would like to accommodate that if we can.

4 Very briefly in talking about the plan I
5 have to say that a lot of people at the Department, two of
6 them are sitting at the table, Corey and Clay, have put an
7 enormous amount of work into this. As the Legislature
8 knows we've been commissioning studies for about the last
9 three or four years that are really leading to enough
10 information where we could put this plan together I think
11 in a way that it needed to be and I'll just hit the
12 highlights. You all please stop me, ask questions, and if
13 you want me to go to a different topic --

14 UNKNOWN SPEAKER: Quick question to
15 start so people understand. What has the attendance been
16 at the hearings to date in terms of just general numbers?

17 MR. PORTER: It's been low. We have had
18 three people at some hearings. Last night in Barre I
19 think we had maybe 15 people.

20 UNKNOWN SPEAKER: (Inaudible) second
21 question. The survey is definitely part of what you have
22 heard. Can you tell us how many people -- do you know how
23 many people the survey covered? I didn't see it in the
24 quick look at it.

25 MR. PORTER: Do you know, Clay?

1 MR. PURVIS: I guess we should say first
2 included in the plan for 2012 what we've -- I'm sorry. We
3 had commissioned a new survey for 2014. The new survey I
4 believe --

5 UNKNOWN SPEAKER: 500.

6 MR. PURVIS: 500.

7 UNKNOWN SPEAKER: That's all I wanted to
8 know, 500, but it's all residential. It doesn't include
9 business?

10 MR. PURVIS: We did both business and
11 residential. There are two separate surveys.

12 UNKNOWN SPEAKER: Just so everybody
13 understands what -- the comment being made.

14 MR. PORTER: And I should also say we've
15 got hard copies here today of the comments draft plan and
16 the business and residential new survey. It's also on our
17 web site. It's on the Legislative Council web site. So
18 it's -- the plans, the surveys are there, but the --
19 electronically. We have them in hard copy today.

20 And so very briefly I'll just kind of hit kind
21 of the four major areas, and this is a telecommunications
22 plan and I'm going to begin with the -- actually the one
23 thing that's actually a telecommunications service, and as
24 you have heard before with regulation telecommunications
25 service is actually what we have the strongest ability to

1 regulate, and, as we know, and I'm generally in the sense
2 that's talking about the incumbent local exchange
3 carriers. There's FairPoint who is the largest and then
4 there are the independent companies; Waitsfield, Shoreham,
5 TDS Northfield, Topsham, Franklin, and we have generally
6 referred to those as the independent phone companies, but
7 those are the ones who have an obligation to provide
8 telephone service to everyone in their service area, and
9 generally speaking, because we'll talk about this again,
10 for 30 years there's been something called the Universal
11 Service Fund, and we all pay it on our phone bills all
12 across America and what that has heretofore done therefore
13 is to provide the more rural areas parity with the more
14 populated areas. The independent phone companies that has
15 been helpful to them. Most of our independent phone
16 companies have a hundred percent broadband build out at
17 very good speeds and we'll see that continue.

18 As you have heard me say, in 1996 we had the
19 Telecom Act which was sort of the advent of competition in
20 the telecommunications market, and certainly in Vermont
21 and Northern New England we have seen both the very good
22 and the downside to competition. FairPoint is the largest
23 provider in the State as in Northern New England and they
24 have been decimated by competition largely by cable
25 providers who provide telephone service and by wireless

1 providers. So what we're seeing is these companies that
2 have an obligation to serve the very rural, high cost
3 areas, but they have lost their market share where it was
4 profitable and they are struggling.

5 I think you saw a survey that we did. The
6 phone companies generally I think in 2011 had lost -- were
7 losing 39 million dollars a year and that continues. Line
8 losses, you know, people who just no longer have a wired
9 telephone service that's declining. It continues to
10 decline in Vermont I think at a rate of about seven
11 percent a year. So it's a very challenging business case,
12 and as a regulator or as the State it's very important to
13 realize that before we talk about broadband and all of the
14 really neat things, if you will, that have come about
15 largely because of competition we still have a large
16 number of people in Vermont who can only receive telephone
17 service from one of these providers, and that is also the
18 one area where we're able to regulate rates and we
19 regulate a very basic telephone package. We have a
20 maximum that they can charge for that, and we have some
21 companies as many as 20 percent of their customers have
22 just that basic package.

23 So as we talk today the other thing that
24 always has to be a factor I think in looking at a
25 telecommunications plan is cost. Vermonters are very cost

1 sensitive and so that's one factor that we consider. So
2 that's going to be an issue going forward. This past year
3 the Legislature actually activated the Vermont Universal
4 Service Fund to make it available to these companies in
5 part for support for offering high cost service, and we'll
6 talk about that a little bit more later.

7 On to cellular now -- do I have any
8 questions about just the regular telephone piece?

9 UNKNOWN SPEAKER: The main thing I want is
10 to let people understand what -- and I think what we
11 really want is to hear from the public, that's why we're
12 here, and then to have time for Legislative comments --

13 MR. PORTER: Okay.

14 UNKNOWN SPEAKER: -- to inform you.

15 MR. PORTER: And so I begin with that just
16 by saying that before we move on too much to the future we
17 have to keep in mind that for some period of time these
18 companies remain very important.

19 The other thing we can't forget, and I'm
20 going to move into cellular, is that today you really
21 can't make a cellular call without going to one of the
22 phone companies' central offices at the end. So they are
23 still very integral with that, and let's move into
24 cellular and we all know that cellular coverage in the
25 state could be better. It's one of the most daunting

1 things we deal with. In my experience it's getting
2 better. The best thing that I have seen that's happened
3 is several years ago the Legislature amended the
4 permitting process for cell facilities, and we're in the
5 process of updating how many permitted facilities we have
6 had, but it's around -- it's going to be in excess of 300.
7 So I think -- and every one of those that has been
8 permitted is -- either represents an increase in the level
9 of service that's been provided or an expansion of
10 service. That's not to say -- you know, I would like to
11 have the entire state covered tomorrow, but we are making
12 progress with that, and I think from the cellular
13 companies' perspective the best thing we have done to help
14 them do that is create a permitting process that is fair.

15 That said, I get calls. Putney is an area I
16 hear from frequently. You will hear me talk about Putney
17 and Orange County, but you know I literally get one phone
18 call from someone in Putney and they say what are you
19 going to do about cell phone service and hang up the
20 phone, and the next call will be from someone saying
21 you've got to stop this cell tower they are trying to
22 build in town. So it's a balancing and I think the
23 statute's good. There were some -- there were refinements
24 made to it this year where the towns really had more say
25 in the process, but I think that has been a success and I

1 think it will continue to be, although it's still
2 something that requires work.

3 The other piece, and let's talk about this,
4 which is cable and we regulate the cable companies or
5 aspects of cable companies. We're not allowed to regulate
6 their rates, but we regulate the rate at which they have
7 to build out cable. I think you have heard me talk in one
8 of the action items in this plan is it may be that we have
9 a line extension policy that's -- that the Board -- Public
10 Service Board maintains rules for, and what it says is
11 that when there's a certain density rate of houses within
12 a mile then the cable company has to go build out their
13 cable plant to those houses at no cost to the customer,
14 and it may be time -- we actually right now are in the
15 process of renewing the Certificate of Public Good for
16 Charter Cable and for Comcast Cable, and I think one of
17 the things we're seeing out of those is that it may be
18 time to look at the cable line extension policies and see
19 if they can be refined to maybe increase that build out,
20 although, you know, the other thing as I move into
21 broadband and when you talk about cable, the cable
22 companies run one wire, provide cable television service
23 and they provide telephone service and they provide
24 broadband.

25 As you know I have some regulatory

1 authority over the cable service. In 2007 Comcast I
2 believe was the first company to start offering telephone
3 service. They said it was not a telecommunications
4 service under Vermont law. I believe it is and we've been
5 litigating with them since 2007. We've been to the
6 Vermont Supreme Court once. We'll go again and I expect
7 we'll end up in Federal Court. So when you talk about --
8 not to be terribly negative, but when you talk about
9 problems when you have a service that we believe is very
10 clearly one thing I guess we're now going into year eight
11 of litigation. So we always have to balance, you know,
12 that process too as we talk about going forward.

13 One thing we've seen with cable
14 subscribers though is that they are declining. They are
15 declining in Vermont and they are declining around the
16 country. Vermont has a good bit of satellite penetration,
17 but many people, and particularly younger people I think,
18 they get their video content over the internet through
19 Netflix or through an Apple box and Hulu, and one of the
20 interesting things that we've seen from that is that in
21 Vermont the Federal Cable Act allows for a franchiseing
22 authority to give -- they are entitled to five percent of
23 the gross revenues of the cable company. In Vermont
24 that's the Public Service Board and they give that money
25 to the public access stations, and as we've been going

1 through the Charter Cable renewal process we've seen how
2 important public access is to the people that have it, and
3 yet we're seeing as the cable subscriptions decline so are
4 the revenues that are made available to these -- to these
5 groups who provide this service, and more and more people
6 are watching public access via the internet. And so a
7 question we're going to have is are we going to be able to
8 take some of the revenues from the new way that video
9 content is transmitted and be able to give that to the
10 public access people. It is more and more my job we work
11 very closely with the federal delegation because as you
12 have all heard me say many times before really at the
13 state level we get to regulate what the Feds allow us to
14 regulate. This year in Congress they are talking about
15 actually looking at the '96 Telecom Act and seeing whether
16 it needs to be revamped, and we're already working with
17 the federal delegation on this. So it's very much a
18 federal and a state process from my perspective.

19 And then I move to broadband, and I think
20 as you also heard me say many times before I think during
21 the ARRA funding, I guess it started in about 2009,
22 Vermont got more federal money per capita than any state
23 in the country. That has allowed us some enormous
24 projects and some projects that have been of great value.
25 One project in particular -- let me go back and say one

1 other thing.

2 Also as the FCC, you know, has started
3 redistributing funds from voice to broadband one of the
4 things that was funded was a mapping initiative. In
5 Vermont we're very lucky because we're able to take every
6 E911 address and use it, and every six months with every
7 provider of broadband we do surveys with them as to what
8 they are providing at every address and what speed they
9 are providing.

10 The federal money is about to run out for
11 that process. The Commissioner has told me that we can
12 continue doing it with our budget in the future, and I
13 think it's very important because we have -- literally
14 know address by address what's available and what's
15 coming, and when we talk about that as we talk about the
16 goals, the broadband goals that we have, and I think we
17 have an initial goal of 4.1 speed for everybody. About 77
18 percent of the state can get 4.1 today, but there are two
19 sort of wild cards and the Commissioner went into those.
20 One is the VTel WOW project, Wide Open World, which is a
21 wireless broadband project. If I'm correct, they are
22 supposed to cover I believe 44,000 addresses in Vermont.

23 As we all know that project is behind,
24 and this summer I think they turned on their first site,
25 but I really think before I can come to my boss or come to

1 the Legislature and say here's what I think we need to
2 spend money, I think we've got to see whether and how that
3 project is going to be completed and look and see what
4 service it's brought to people, and if it's the service
5 that it's supposed to be, then those are -- those will be
6 addresses that have been covered.

7 So when we look at trying to pay for
8 this, these speed increases, which is really where we are
9 now I think trying to keep speeds where they need to be,
10 and if you are an AT&T customer, a Verizon customer, a
11 Comcast customer, those companies I assure you are going
12 to make sure that you have whatever speed you need. It's
13 not going to be cheap, but I think they will keep up with
14 that. So what we're looking at really or I think what the
15 plan is looking at is Orange County and other areas like
16 that which are the first places I think we need to go.

17 The other -- the FCC, you often hear me
18 talk about this, and it's 2011 which was the FCC
19 transformation order but finally we're seeing it somewhat
20 put in place, and we're on the precipice of having the
21 Connect America phase two become to Vermont and what that
22 will do is allow actually FairPoint because they are a
23 price cap carrier, it will allow them somewhere between 45
24 and 50 million dollars for broadband build out to areas
25 that don't have it or have sufficient speeds, and the

1 speed they will have to build out to is 4.1, although it
2 seems to me that the FCC is getting strong indications
3 that it's going to be a 10.1 speed.

4 If the FCC does that, then I'm going to
5 be coming back to you and saying I think we just need to
6 bypass 4.1 funding maybe and just go to 10.1 because I
7 think it makes sense to stay in line with the -- with what
8 the Feds are doing with that.

9 So I think we need to move -- and I
10 think Chris alluded to this too, I think the most
11 important thing we're going to see as far as getting to
12 the hundred megabit symmetrical goal is how -- how much
13 we're actually going to have to kick in and fund to get --
14 to get everyone up to a minimum of 4.1 or 10.1 speed and
15 quite frankly we just don't know. We -- we're doing
16 everything in our power to see that the VTel project --

17 UNKNOWN SPEAKER: Jim, if there's a
18 question why wouldn't (inaudible.)

19 MR. PORTER: I think that's a good
20 question. Let's take the case of a DSL provider which is
21 the phone company. The FCC is going to offer them money.
22 We know what the addresses are and the one kind of problem
23 with the CAF funding is that they started out and they
24 said we have this much money and so we're working with a
25 fixed budget, and many people say it's not going to be

1 enough money. So in the essence of a FairPoint they will
2 say you have available to you \$800 per address and you
3 have to build out 4.1 or 10.1. There's a price
4 differential, you know, in what it costs, and so it will
5 be more expensive incrementally for that company to build
6 out to 10.1, and so if the FCC is funding something at
7 4.1, I actually think it's going to be 10.1, and I think
8 that the first awards from the connectivity fund at a
9 minimum are probably going to need 10.1. I don't think
10 we're going to know until December what the actual FCC
11 rule is, but that actually kind of brings me another way
12 to answer this.

13 UNKNOWN SPEAKER: Actually can I just
14 add one in there?

15 MR. PORTER: Yes. Yes.

16 UNKNOWN SPEAKER: I just want to make
17 sure we get as concise a policy because of our
18 (inaudible.)

19 MR. RECCHIA: So, Senator Mullin, I
20 think if the FCC says 4.1 is adequate, we can cover more
21 addresses with the same amount of money, and if they say
22 10.1 is necessary, we're going to be able to cover fewer
23 of those addresses for the 10.1. So going to 10.1, if not
24 required to do that, will mean the money doesn't get
25 spread as far. It means we don't reach quite as many

1 addresses. I think that's probably --

2 UNKNOWN SPEAKER: (Inaudible.)

3 MR. RECCHIA: Okay.

4 MR. PORTER: And sort of in response to
5 that as you know I've been trying for several years to
6 activate a fund that we could use for providers to come in
7 and build out at higher speeds and this year it happened.
8 The connectivity fund got established, which I think is
9 great. I'm not sure -- and the way I anticipate that is
10 hopefully we're going to have money available and
11 providers, whether they be a local fiber provider or
12 whether they be a wireless company, will be able to come
13 in and make a bid for the really initially underserved
14 areas, and I think to Senator Mullin's point one -- you
15 know you develop many criteria that we'll be looking at to
16 award that money. If someone comes in and can offer a
17 fiber service that's marginally more expensive, I think
18 that's where you send the money, and so I think we've put
19 that in place to build that out.

20 I think it's going to be interesting
21 sort of to see the first round of what we get, who is
22 interested in taking the money, and at some point talking
23 about this connectivity fund once we know what's going to
24 happen with the first round of the CAF II money, once we
25 know how the VTel project shapes out, then I think we'll

1 be able to make a better assessment to come back to the
2 Legislature and say okay we've established the
3 connectivity fund and here is what I think we need to do
4 and here's how much money it's going to take, and I think
5 that's it's very important and it's not exactly the most
6 exciting thing to say, but if we had approached this plan
7 and said we are only going to build from this day forward
8 to 100 megabits symmetrical, you are essentially talking
9 fiber to the home, and if you look at the two fiber
10 projects that we have in the state, one is of course
11 Burlington Telecom and then the VTel traditional phone
12 service territory also got a grant for about 75 million
13 dollars and they have provided fiber to the home for
14 roughly 18,000 customers.

15 UNKNOWN SPEAKER: I think we're
16 digressing. We asked you basically to make sure people
17 understood what's in the plan. I think all these points
18 are largely in the plan. Is there a key -- if there's
19 another key point, what is the structure of the plan so we
20 understand what's before us today, do that because I think
21 now we're getting into --

22 MR. PORTER: Okay. I think the key
23 piece of this plan would be to first go to the addresses
24 that do not have 4.1 or 10.1 and get everybody in the
25 state a 4.1 or 10.1 speed, and I think that needs to be

1 the first priority. Many people have DSL that's
2 insufficient and I think it's extremely important to get
3 at least that minimum level of service out into the rural
4 areas.

5 Once we've reached that then I think we
6 ought to look at our funding in areas for the increased
7 speed, and largely I think what -- you know I certainly
8 don't want to turn away federal dollars before we have to
9 come to the Legislature and say I think we need state
10 dollars.

11 UNKNOWN SPEAKER: Okay. I'm sure
12 there's tons of questions, but that's not why we're here
13 today. I think we're really here to hear from our
14 witnesses I would say for ten minutes max in your comments
15 because I think we want to leave -- also for conversation
16 once we've heard everybody, comments that the legislators
17 may have.

18 So first up is Charles Larkin. Charles,
19 welcome and when you get here I think you know the drill
20 to introduce yourself and your affiliation for the record.

21 MR. LARKIN: Thank you. Good morning.
22 My name is Charles Larkin. Morning, Senator Ashe, and I'm
23 a former telecommunications engineer for the Department of
24 Public Service, a little over 30 years, and I wrote a
25 letter to the Commissioner of the Department by e-mail

1 suggesting that he withdraw the plan and inform you people
2 what he was doing and why.

3 The reasons why I suggest this were that
4 the public review draft plan is missing many statutory
5 components such as an assessment of the current state of
6 telecommunications infrastructure, an assessment conducted
7 in cooperation with the Department of Innovation and
8 Information of the current telecommunications system, and
9 evaluation of alternative proposals for upgrading the
10 system to provide the best available and affordable
11 technology for the use by government, and an assessment of
12 the state of telecommunications networks and services in
13 Vermont relative to other states, including price
14 comparisons for key services and comparisons of the state
15 of technology deployment.

16 Secondly, the current hearings are being
17 conducted on a public comment draft not on the final draft
18 which was done in the 2004.

19 Third, the plan encourages the
20 construction of more copper and ADSL development.
21 (Inaudible) symmetrical bandwidth required to meet the
22 2024 goal as defined in statute. Such infrastructure will
23 soon be obsolete, if not already so. This is directly
24 contrary with the goal of 30 V.S.A. 202.

25 Fourth, they required the survey of the

1 residents and businesses was only made available to the
2 public on August 25th. The draft plan was made public on
3 August the 11th. I wonder whether the survey received by
4 the Department was received in time for them to
5 incorporate its findings into the plan. If not, then this
6 is another absence from the proposed plan.

7 Fifth, the plan evades the statutory
8 goal of open access with specious argument. The plan
9 should have analyzed both sides of its position making and
10 presenting actions aimed at this important statutory goal.

11 Fifth, the plan evades -- I'm sorry.
12 Six, the plan promotes further building and even public
13 funding of insufficient bandwidth. It should have set
14 forth specific actions aimed at the statutory goal of a
15 hundred megabits symmetrical.

16 Seven, the plan does not have any actions
17 to encourage the use of existing facilities in the
18 employment of broadband infrastructure. Overbuilds of
19 fiber are a waste of the public dollars and pole
20 attachment space in the public right-of-way. The public
21 failed to deliver -- the Department failed to deliver a
22 2007 plan three years after the 2004. It failed to
23 deliver one in 2010 or 2013. Actually it's worse than
24 that. Each year after 2007 there should have been a plan
25 and each year they failed. So it wasn't three failings

1 but it was ten failings.

2 As the 2014 public comment draft is
3 sadly deficient, I suggest with a letter to the
4 Legislature withdrawing the plan would not be really a
5 violation of the statutory deadline to adopt it by
6 September 1 as the so-called plan does not begin to
7 qualify as a plan, and its adoption and issues answered by
8 the Department would be an empty act.

9 I suggest that your letter,
10 Commissioner, inform the Legislature and acknowledge the
11 prime missing plans, acknowledge the deficiencies of the
12 2014 draft, and its attempt to immediately begin work on a
13 real and complete plan with the added benefit of the
14 supposedly forthcoming -- supposedly forthcoming, I hope
15 in December, of the action plan for broadband now due in
16 December from the Agency of Administration as it realized
17 the benefit of fervent oversight and input for the
18 convenience of the Legislature in January.

19 That basically is where I stand. I
20 think the plan simply doesn't do anybody any good. To
21 build 4.1 is a waste of money. To build 10.1 is a waste
22 of money. You want to build toward 100. I could be
23 fairly wrong, but I understood that the biggest bulk of
24 the money in building the fiber network was building the
25 network and that the equipment utilized to drive the

1 signal down through that system would not be that
2 expensive. I'm not saying it's cheap, but not that
3 expensive a piece of the total operation. We've got to
4 have -- again they could tell us that. The plan should be
5 able to describe that. How much does it cost to build it
6 without driving any light down it and how much does it
7 cost to put light down on it at different levels. If I am
8 wrong, I'm wrong, but I think it's possible that maybe the
9 light is the cheapest piece of this thing, and so they
10 don't put in the hard light right away. They can
11 certainly put down something, and if they put in the
12 Connect America money, 45 to 50 million dollars, for new
13 DSL and copper, obsolete equipment, to be given as
14 corporate welfare to FairPoint who didn't keep up with
15 their job, which is why they went bankrupt the first time
16 and apparently aren't doing that well right now, yet they
17 are going to be given all this money to build plant
18 they'll own. Deficient plant. That money should go into
19 a revolving loan fund, and I would request the Legislature
20 and other parties to work with the FCC and work with their
21 Congressional delegation to try to get this accomplished.

22 If the State had that 45 to 50 million
23 dollars and lent it out to those who are qualified to
24 build the fiber plant, such as ECFiber has been doing with
25 their own investors' money, that if they start going into

1 the black, and hopefully they would, they can return that
2 money to the fund enabling the fund to loan it to other
3 parties to build. More fiber. This would be fiber, not
4 DSL copper, and it would be more than 45, 50 million
5 because it would be revolving and get to more and more
6 parties who could build it. This is how I think we should
7 be going.

8 Cost is a problem. If we stop these
9 overbuilds, four, five, different fiber plants on the same
10 set of poles going down Farrell Street in Burlington, we
11 don't need all of that fiber. 72 fiber in a sheath. We
12 got more dark fiber, unused fiber than you can shake a
13 stick at. It's time we had some kind of prevention of
14 overbuilding of fiber today so that those who are thinking
15 about building, if they had the opportunity to rent space
16 on this fiber, could put their money into building out to
17 where it's underbuilt right now. I think I have said
18 enough.

19 UNKNOWN SPEAKER: Thank you very much
20 for your comments. Appreciate it.

21 UNKNOWN SPEAKER: Inaudible.

22 UNKNOWN SPEAKER: If anybody is leaving,
23 you know, just so when we get to the end I want to leave
24 time for legislators and they may want to ask a question.
25 Even though somebody spoke, if we just have a lot of

1 people here, we move that along. Okay. John Roy. John,
2 welcome.

3 MR. ROY: My name is John Roy. I live
4 in Vershire in the heart of Orange County. Full
5 disclosure I am the Town of Vershire's representative to
6 the ECFiber Governing Board. I am also the Treasurer of
7 ECFiber. Also for the hundreds and hundreds of volunteer
8 hours that I have put in, I have access in my home to
9 750/750 internet. Not 100/100. Not 10.1. And so I don't
10 have any personal interest in this moving forward. Also I
11 am speaking as an individual rather than on behalf of
12 ECFiber. I have colleagues here who will regale you with
13 all sorts of ECFiber details, but I have two -- two
14 comments. First my background.

15 I graduated in engineering in 1961. I
16 wrote my first computer program in 1962, and in the
17 intervening 50 plus years I've been involved in
18 information technology one way or another, mostly as a
19 manager. So I've seen the IT industry.

20 A couple -- a few interesting facts. I
21 am sure this is known to many of you. The August 24th
22 issue this month of PC Magazine lists 24 cities that have
23 available gigabit service. Web site last year talked
24 about places you could move to get gigabyte service. The
25 recent Wall Street Journal in July noted that Comcast is

1 running fiber to the home in some areas to be able to
2 compete with Google and AT&T, and they are also working on
3 a project called Giga Sphere whatever that means. They
4 didn't know, but I think the point is that right now
5 gigabit internet is being talked about, it's being
6 developed, it's being used, and the plan developed by the
7 Department right at the beginning says this technology is
8 moving very quickly.

9 The other thing from my background is
10 that software developers or app developers as they are
11 called will always use the full capacity of the existing
12 hardware, and so as gigabit technology becomes more and
13 more available that's the kind of application that will be
14 out there on the internet and that's what a lot of people
15 will need to use.

16 So just based on those facts I think a
17 couple conclusions are perhaps evident. One is that if we
18 try to get 100/100 in all of Vermont by ten years from now
19 we'll be way behind the rest of the country, and,
20 secondly, which comes from that spending money now on
21 technology that's incapable of delivering gigabit plus, I
22 think is a waste of money.

23 So that's -- those are my observations
24 on that for the consideration of the Department and the
25 Legislators, and then the other thing I just wanted to

1 talk about because it's not mentioned much in the plan and
2 where it is it's not necessarily favorable, and that is
3 municipal telecom of which there are a couple around, and
4 the advantages that it offers, and the first is cheaper
5 cost of capital because ECFiber as a municipality is able
6 to issue notes which are exempt from federal and state
7 income tax which allows us to offer a lower rate mitigated
8 by the risk involved. So it's still a relatively handsome
9 rate but cheaper than could be achieved elsewhere, and,
10 secondly, the way the legislation is no general obligation
11 money can go into starting up a municipal telecom which
12 means that there is no equity, and that's bad and hard
13 when you're getting started, but once you're rolling it
14 means that as opposed to a commercial organization which
15 is looking for a return on equity to its shareholders of
16 10 percent or 15 or 20, municipals don't have that
17 requirement. So this makes the cost of capital a lot
18 less, and then, secondly, with lean organizations and lean
19 control, local control -- I'm sorry. I don't know what
20 lean control is. Lean organizations and local control,
21 sort of not lean and mean but lean and keen, it's possible
22 to accomplish buildouts with a lot less money -- with a
23 lot less money.

24 The plan mentioned \$65,000 a mile for
25 fiber. ECFiber has a lot of plant in place and it's less.

1 It's about \$30,000 a mile. So that's just a few comments
2 for consideration on municipal telecom and those are my
3 two points.

4 UNKNOWN SPEAKER: Thank you very much.
5 All right. Okay. Steve -- No. I have John Block next.
6 John, welcome.

7 MR. BLOCK: I'm John Block and I live at
8 7 Liberty Street, Montpelier, Vermont. I have listened
9 with great interest so far in the proceedings. First
10 thing is I want to say to the Chairman -- or rather Jim
11 that what you asked for is it in the plan and Jim said
12 yes. It is not in the plan. I'm a slow reader, but I
13 read through the whole thing. It's more like a bedtime
14 reading material for consumers. Everything is fine.
15 Everything is not fine.

16 As some of you know the speed of change
17 in the telecom industry ten years from now we will be the
18 laughing stock of the United States regarding
19 telecommunications and its deployment. Right now in
20 Calais, Vermont, ten miles from here, people are buying
21 DSL that's so damn slow they go and do their laundry and
22 come back if they are downloading a film or a complicated
23 document. DSL is not the answer. It was great as a stop
24 gap. We're way down the road.

25 I know that you were very concerned

1 about service so that full flowering of economic
2 development can take place, and you also I believe are
3 very committed to the rural residents of this state. We
4 have wicked topography problems. The only system that
5 works is fiber to the home so you can get hundred up,
6 hundred down, and just turn the laser up, two hundred up,
7 two hundred down and so forth. There is not the optimum
8 level, but we're so far behind even the first step that I
9 ask you to seriously hold the Department accountable for
10 producing a reasonable plan.

11 I will tell you right now if I were
12 managing the office and somebody brought quote unquote the
13 plan to me, I would consider where the layoffs should
14 start. It is laughable and I don't mean in a haha way.
15 The plan says nothing about how we might increase revenue
16 for the 24 access stations that you have in this state.
17 Other people are envious of the fact that we have the
18 state blanketed with access stations. With the demise of
19 newspapers the way they get the information that happens
20 here is to turn to their access station, Channel 17 here,
21 but it doesn't matter. You can assign anything and people
22 have come up to me on the street or in social gatherings
23 they said I didn't understand what was going on in the
24 State House for years. We cover committees. We cover
25 hearings like this. So people are getting their civic

1 education and information from the access stations. CAX
2 isn't running it because it's not profitable, but we're
3 not talking about profit frankly.

4 This state has a long and honored
5 history of citizens taking care of problems starting with
6 the REA and roads, passable roads. So citizens have a
7 wonderful history here and it's known, I don't know how
8 many of you all know it, but it's known out there that an
9 -- once upon a time right after World War II they
10 disbursed REA, Rural Electrification Administration, lines
11 to the deepest darkest corners.

12 Now if we can string steel wire
13 everywhere and it goes on poles and do it in a relatively
14 short time, roughly from 1945 to 1955, with the exception
15 of Victory Bog which was 1970 or something like that, I
16 see no reason for this plan to have a less than favorable
17 comment on municipalities getting in the game. Full
18 disclosure. I'm Chairman of the Board for the local
19 access station called ORCA, but it's only one. We are
20 full PEG. We have educational, public, and general, and
21 believe me, if we could beat Comcast some sense into them,
22 they would give us a bigger pipe and more channels. We're
23 bursting at the seams like I got a gallon bucket, but I've
24 got better demand for five gallons but I can only carry
25 one gallon.

1 So that aside I also serve on the
2 Governing Board of ECFiber. I'm the City of Montpelier's
3 rep. There are people screaming for fiber in this town.
4 The business community has come to us because I'm the most
5 notable guy on the block. When they call up and try to
6 talk to our newest game in the telephone company they are
7 laughed at. Even though 75 feet from my office in City
8 Center the hub for FairPoint's fiber sits there not used
9 by the City of Montpelier.

10 This is -- people are saying when in the
11 hell are people in the state government going to come to
12 our rescue. Yet as you ask Comcast and they look at you
13 like you're from mars. They have a 12.2 net net return.
14 I know a lot of businesses that would like to have 12.2
15 percent of their gross as a net net. We're not talking
16 about a poor company. We're talking about an our guy
17 (phonetic) in this country and we're just yesterday's
18 trash. I don't take it seriously.

19 Now I would urge you to ask the
20 Department to withdraw this document and then put a lot of
21 commentary, and the benefit of that commentary be
22 incorporated in what a number of people here have said and
23 let's get real. I'm not an aspirational person. People
24 are yelling for fiber in this town are not aspirational
25 people. They are real facts on the ground and I'm sad

1 these small businesses are breaking their backs. We need
2 to be there for them and we need the Department that
3 really responds to the citizens' needs not the telecom
4 companies. They can go pound sand.

5 Two other points. These have been
6 addressed by other people. We have a boat load of dark
7 fiber that's not lit. We need to take command of that
8 because they are like in the public right-of-way. The
9 public owns those and we need to put them to use.

10 Two, the electrical utilities got a hunk
11 of cash from the Feds so they could electronically read
12 meters, but it doesn't take a bundle of 25 fibers to read
13 a stupid electric meter or to send information to it. We
14 need to say to these utilities you need to demonstrate by
15 your acts not your utterances to make that fiber usable
16 and just cut out the game, but we don't have it out for
17 me.

18 This state is not poor. It's very rich
19 in its representatives and senators and the population in
20 general. Certainly we rank higher than a biotech firm in
21 Newport where the State paid for a fiber trunk from
22 Hardwick to Newport. You should get more information on
23 that fact. That's existing. And yet Hardwick, which is
24 one of the most exciting towns in the state for emergent
25 technologies and aspirations and building, has no fiber.

1 They are hanging by their thumbs. I don't live in
2 Hardwick. I'm not from the Selectboard in Hardwick. I'm
3 telling you a fact. It is -- and I think Orleans County
4 is very likely served, but I'll let the representative
5 from there comment.

6 The poorest array of people live in
7 inconvenient places. That's why they are called rural.
8 They are not all clustered in an apartment building. So
9 we need to adjust our thinking at the board level to how
10 that work benefits those citizens that are out there.
11 They are great citizens. Thank you very much and any
12 questions now or later I would be happy to answer.

13 UNKNOWN SPEAKER: I think we're going to
14 make sure everybody gets a chance --

15 (CD 1 ends and CD 2 begins.)

16 UNKNOWN SPEAKER: -- withdrawn. The
17 proposed draft plan should be withdrawn and reworked
18 completely. Alternatively I believe the Legislature has
19 authority under 202d to, by joint resolution, require that
20 the pace be accelerated. So theoretically this could be
21 adopted because you really don't have much to say about
22 it, and then in January a joint resolution could
23 potentially direct the process begin again to fix its
24 deficiencies.

25 I think the deficiencies are too great

1 to -- I think it would be an insult to the public and the
2 Legislature's intelligence for the Department to adopt the
3 plan as it is. Many of the deficiencies of the draft were
4 laid out in Mr. Larkin's letter. I would point to a few
5 examples. In a description of state telecom
6 infrastructure the 10 gigabit network that was recently
7 turned up by the DII is not described in there. It may or
8 may not be an architecture for redundancy and self-healing
9 architecture. It's been funded with Universal Service
10 Funds which were not reviewed by an independent expert
11 review and life cycle cost benefit study as required under
12 statute. That's one example.

13 The state libraries have another
14 network, 45 libraries all connected by fiber, and I
15 applaud that effort by the way. That's the best thing yet
16 to come from the federal grant is SoverNet's connected 43
17 libraries at one gigabit speeds. 10 gigabit speeds. I
18 believe one gigabit of that is available to -- for the
19 internet, but that allows full symmetric video
20 conferencing without the defects that of lag and delay. I
21 believe other expert engineers and fiber builders will
22 refer to jitter and latency. I'm not qualified to speak
23 about jitter and latency.

24 I would offer an example of the
25 overbuilds that were referred to by a couple of your

1 witnesses. I'll show you this and then let you pass it
2 around. I didn't make copies for the whole committee, but
3 that's one example on I believe the street that runs
4 between UVM and Trinity College campus, but Comcast has
5 about seven sheaths of fiber there, each probably 72 or
6 more, and then there's three or four more fiber vendors on
7 the same pole all in one -- that one corridor.

8 Now open access is stated and has been
9 for some years in the goals of the telecom plan. They are
10 dismissed by the Department's draft. We don't know what
11 it is. We don't know how to do it. It's deeper than
12 that. I think they don't want to do it. There is
13 authority. I've consulted an attorney and there is
14 authority under the pole attachment public right-of-way
15 for the state to exert jurisdiction and require the
16 sharing of Comcast's dark fiber. There's no argument to
17 be made that the unlit fiber that Comcast has in place is
18 being used for information services and therefore
19 unregulated. It is plain old infrastructure in the public
20 right-of-way and we need to know how much of it is where,
21 how many strands are lit, et cetera.

22 The Department claimed that it had -- it
23 didn't have the authority to share the maps and it didn't
24 know where the fiber was. You did pass in the recent Act
25 190 I believe it was proprietary protections for

1 voluntarily supplied data from the telcos, from the cable
2 companies, under the section that requires the broadband
3 plan, action plan to be developed by this December.
4 Should hold it over until this December, but 202d includes
5 provisions -- already includes provisions for the
6 Department to require submission of data from the carriers
7 under supervision of the Public Service Board. So the
8 Public Service Board is the proper venue to decide what
9 needs to be public to inform this process and what needs
10 to be legitimately deemed as proprietary. Okay.

11 So you've got two conflicting statutes.
12 One says that the -- 22/22 says that the companies may
13 voluntarily supply their infrastructure information. 202d
14 says the Department may require submission of that
15 information and the Public Service Board will determine
16 what needs to be secret. The state microwave network is
17 not detailed; its capabilities, its options. The Agency
18 of Transportation's fiber running down the interstate from
19 Sharon to Hartland is not detailed in the plan. On and on
20 and on.

21 I mean I've been doing this role of
22 accountability of government information technology in
23 telecommunications for over 20 years, and early on in the
24 process I put together the maps of these networks and the
25 Legislature viewed those and realized that we were

1 uninformed, and Act 188 of 1992 was very similar
2 circumstances. If you're not familiar with that history,
3 I do have a few copies of it and she can make some more.
4 I mean your staff would. In that context the dominant
5 telecommunications company at the time was NYNEX. They
6 proposed an incentive regulation plan. Incentive
7 regulation plans are required to be measured against the
8 Ten-Year Telecommunications Plan. The Ten-Year
9 Telecommunications Plan was not done.

10 Similar circumstances we're in today.
11 The Legislature passed a bill Act 188 of '92 and directed
12 that the Public Service Board would suspend proceedings on
13 that incentive regulation plan while the Legislature
14 convened a joint committee to review the telecom plan and
15 determine if it was truly up to the standards of statute
16 and whether it met the needs of Vermonters. That's
17 exactly what needs to happen today. I mean the precedent
18 is there. The language is already drafted for the most
19 part. Here's a few copies of it. I believe I've already
20 given it to some of you, but --

21 UNKNOWN SPEAKER: You know you can
22 always submit these things electronically.

23 UNKNOWN SPEAKER: (Inaudible.)

24 UNKNOWN SPEAKER: They will be on the
25 web site. They will be part of the record. Anybody who

1 has anything they are bringing on paper they will be in
2 there just as we've been doing all winter.

3 UNKNOWN SPEAKER: I think I would like
4 to stay general right now in the sense that I believe that
5 the Department of Public Service, whose charge is to be
6 the public advocate, has lost its compass and it's been
7 years in the making, ten years without a plan, and this
8 plan only came forth because I demanded copies from the
9 Department under Freedom of Information request of the
10 plans and the drafts, and they basically said we don't
11 have any and that got the ball rolling.

12 This is similar to what happened 20
13 years ago and the stakes are even higher now because of
14 the enormous amounts of money being plowed into Vermont.
15 The VTel grant did not include open access provisions.
16 The proprietary language to protect the infrastructure
17 information so that we can't plan for different scenarios
18 or give you informed input on where infrastructure should
19 be built, the Department should have been arguing against
20 those being put into law. They already have the law that
21 allows them to get what they need, but we can't plan a
22 network or network alternatives if we can't know what was
23 paid for. A quarter of a billion dollars of public money
24 has been invested in Vermont's networks and we're -- all
25 secret. I mean this is absurd.

1 I mentioned that incentive regulation
2 because that was the context in which the joint committee
3 was convened. The following year the Legislature passed a
4 bill to create the Joint Information Technology Oversight
5 Committee, and again that is warranted or possibly because
6 you have DII running haywire with internal service funds
7 and billing all the agencies. They are actually competing
8 with the private sector by collecting money for a full
9 time equivalent network engineer to manage the libraries
10 network. I mean there are plenty of companies in Vermont,
11 and we need to grow more, that manage these networks. We
12 don't need to have government competing with the private
13 sector doing those functions. Most of those libraries are
14 not state libraries.

15 Under incentive regulation there is a
16 provision where the State has to hire a public advocate,
17 an independent public advocate. In that era it was Dick
18 Saudek, former Commissioner of the Public Service
19 Department, former Chair of the Public Service Board. He
20 was hired to represent the public interest because the
21 Department was compromised. It had already signed on to
22 the contract. I have three handouts that I've given to
23 Agatha. They all have them. Okay. The third one -- the
24 first one is Mike --

25 UNKNOWN SPEAKER: What I want you to do

1 is focus -- you're at your ten minutes. I would like you
2 to focus on the two or three, whatever, points very
3 crisply, what you want to get on the record, and you -- we
4 want to make sure you get heard.

5 UNKNOWN SPEAKER: Okay. I wasn't aware
6 of how much time I was running. The e-mail to Chris
7 Recchia suggesting a process whereby the public engagement
8 into this process could be reinvigorated was not responded
9 to. Was ignored outright. The ten years without an
10 opportunity to speak to the plan has resulted in two or
11 three people coming to each of these hearings. I've been
12 to each hearing so far and literally only two or three
13 people speak.

14 There's a detailed process of what
15 should have -- could have, should have happened. It's
16 fairly elaborated on in the e-mail to Charlie which
17 follows, and the third one is from Seven Days, this week's
18 issue of Seven Days, and it appears that the Department
19 and the Governor have already signed off on the Comcast
20 deal which will incorporate -- subsume Charter
21 Communications into Comcast in Vermont. No investigation.
22 So if that is a parallel to incentive regulation, then
23 it's time to hire an independent public advocate to pick
24 up the slack for the Department until they get their
25 bearings again.

1 These are things that I know you can't
2 do today. It's between bienniums. These are arguments
3 for why the joint committee should be reconvened and these
4 issues should be explored in more detail. Thank you very
5 much.

6 UNKNOWN SPEAKER: Thank you very much.
7 Irv Tome (phonetic). Irv, welcome.

8 MR. TOME (phonetic): Thank you. For
9 the record I'm Irv Tome (phonetic) from Norwich, Vermont.
10 I'm a retired software developer and other things. I
11 represent the Town of Norwich on the Governing Board of
12 ECFiber and I have been Chairman of that Board since
13 November of 2012.

14 I apologize that I have not prepared
15 written testimony. I will do so. I am grateful that the
16 comment period has been extended and I will prepare some
17 written testimony. My energies have been consumed this
18 summer by a misadventure running a primary in which I was
19 unsuccessful. That means I have more time going forward
20 to put into this issue which is very close to my heart.

21 I have two set -- two types of comment.
22 I wanted to make a couple of factual corrections first.
23 There's a paragraph in the plan that summarizes the state
24 of ECFiber, which is one of the two municipally owned
25 fiber optic networks in the state at present, and this

1 paragraph says that ECFiber has extensive networks in
2 rural villages such as Barnet and Bethel. Even at the
3 time this was prepared that wasn't true. That was --
4 understated our presence considerably. We are now in
5 about 10 towns. As of last Friday we have 810 customers
6 connected. We have raised over 5 million dollars, almost
7 all of that by borrowing money in unsecured notes from
8 individuals. We have more than 380 people who we call
9 investors, but they are not equity investors, they are
10 lenders, and I want to put these facts out there because
11 we are -- we reached positivity earlier this year, and by
12 the end of this year we will be completely cash flow
13 positive meeting all of our obligations, and we've done
14 that in about three years and that's a benchmark to keep
15 in mind when it's asserted that fiber optic is hopelessly
16 complex and expensive. The figure of \$65,000 per mile,
17 our average cost to build a mile and connect six customers
18 is \$30,000. If we were able to borrow money in larger
19 increments and build plant more comprehensively, we could
20 probably bring that down some more.

21 We think that the VTA in building the
22 OCFC, which doesn't include connections to customers but
23 provides for them, we think that cost was probably in the
24 neighborhood of \$20,000 per month and the cost to connect
25 each customer is about \$1,000. I'll come back to that,

1 VTA's project, because I think it's an excellent example
2 of what the state should be doing more of.

3 With all due respect, Mr. Commissioner,
4 I think this plan greatly understates the importance of
5 broadband for the -- for Vermont's economic sustainability
6 going forward. Only in our largest metropolitan areas
7 where there is an overbuild of fiber and of broadband
8 capacity are people really able to compete in the global
9 economy today, and in the rural areas where young people
10 can afford to settle largely high speed connectivity is
11 unavailable, and if we don't change that, then rural life
12 in Vermont is going to become a more and more impossible
13 proposition except for those who are already wealthy and
14 that's not my concept of rural Vermont. It's as far from
15 Vermont's egalitarian traditions as I can imagine and I
16 think it would be a disaster for the state.

17 Okay. State and FCC standards. Whether
18 you talk about 4.1 or 10.1 are -- it's been -- the problem
19 with them is that they are asymmetrical. That one -- when
20 you talk about 4 megabits or 10 megabits down or 50
21 megabits down and only 1 up, upload speed is essential to
22 serious work. The focus on a high download speed is a
23 focus on entertainment delivery, and entertainment
24 delivery is economically significant to content providers
25 and large corporations who have built their business on

1 delivering entertainment. It is not economically
2 significant to the economy of this state. It does not
3 permit our citizens to contribute to their own personal
4 family and community and state economy. We've got to take
5 the serious symmetry requirement which is built into the
6 100/100 goal that's set by Act 190 for ten years from now,
7 but as my colleague John Roy has pointed out, ten years
8 from now 100/100 will be laughable. What we've got to
9 focus on symmetry from the beginning.

10 DSL now is a short term fix. With all
11 due respect to the hard working people at FairPoint DSL
12 cannot -- is not designed to deliver symmetry and it is
13 not capable of delivering speeds, the speeds that are
14 becoming necessary for serious economic activity. Nor do
15 we -- does the plan even recognize the fact that the
16 bandwidth the DSL delivers depends on the distance from
17 the remote box in your neighborhood. You can get
18 excellent speed now from a DSL subscription if you happen
19 to live close to one of those remote boxes. If you're a
20 couple miles away, you don't get such good speeds. Three
21 miles away it just about doesn't work at all. That's why
22 investment in DSL is money wasted if we look long term.

23 I want to focus instead on the fact that
24 the rural -- I want to go back to the Rural
25 Electrification Administration as an example which took a

1 goal of delivering service to everybody no matter how far
2 out in the deep backwoods they were. The plan does
3 discuss the difficulty, the economic difficulties, the
4 cross subsidy issue wherein our existing local exchange
5 carriers, whether price capped or competitive, they count
6 on the customer base in the high density areas where the
7 cost per customer is low to subsidize the higher average
8 cost of reaching people farther out. So they aim for an
9 overall average cost.

10 Now on municipally owned telecom has the same
11 economic tradeoff to make, but the balance points are more
12 because our cost of capital is lower, and as my colleague
13 Treasurer John Roy has pointed out, instead of having to
14 satisfy investors with 10 or 12 or maybe even 18 percent
15 return on their equity we need -- we have a much lower
16 operating point. As a start-up we're paying on the five
17 million dollars we've borrowed the average over all of our
18 debt is probably about six and a half percent, but it's
19 tax free. So we're able to get investment despite
20 moderate level of risk. As we grow risk goes down.

21 I'm not here to advocate for ECFiber.
22 I'm here to advocate for us as a model for what the state
23 can do statewide, and if we're able to be cash flow
24 positive after three years of start up, that could be done
25 elsewhere in the state. Municipalities could band

1 together, borrow money from a revolving fund, contract
2 with a local incumbent carrier, an independent local
3 exchange carrier, to build out fiber and reach every home.
4 That's a more creative use of money than simply awarding
5 grants.

6 I would like to point to the recent
7 project completed by the Vermont Telecom Authority, the
8 Orange County Fiber Connector, which was designed from the
9 beginning as an open access fiber trunk. There are fibers
10 which are being leased by cell carriers, there are fibers
11 being leased by -- for long term trans -- long distance
12 transport from one municipal center to another, and there
13 are fibers being leased by ECFiber to deliver customer
14 service fiber optic to the home to the end users of that
15 cable passes. This is not wasteful overbuild. This is
16 building cable where there was none. This is small amount
17 where we build -- we have a small amount of overbuild
18 sometimes. We put our hub in the middle of a town we have
19 to build through the inskirts to get to the outskirts that
20 we're trying to reach, but we're not there to compete with
21 either the phone companies or the video cable companies,
22 and I find astonishing the statement in this plan that
23 alerts everybody to the dangers of municipal --
24 municipally owned telecom.

25 Vermont policy makers, this is on page

1 seven of the Executive Summary, Vermont policy makers
2 should carefully consider the potential negative outcomes
3 of state and municipalities directly competing with
4 private firms in the provision of telecom services
5 especially in areas where consumers are adequately served.
6 Vermont should refrain from policies including financial
7 incentives that have a net effect of diminishing
8 competitive choice in the marketplace. Yes Vermont should
9 refrain from those policies. Vermont should refrain from
10 giving tens of millions of dollars to commercial entities
11 that don't want to provide service deep where they can't
12 afford to do it and are determined to suppress alleged
13 competition from the municipal groups that are trying to
14 get out there. This makes no sense. This doesn't pass
15 the laugh test. Is little ECFiber a threat to poor
16 Comcast? I don't think so and I don't think any other
17 municipal organization would be either.

18 I mean no disrespect to the hard working
19 people who prepared this plan, but I think that there's
20 been -- I think there's room for more imagination. I
21 don't think people have thought beyond the box we see
22 right now and I think that's what we need to do. We don't
23 need to be describing 100/100 as aspirational. We need to
24 be concentrating all the creative intelligence of
25 everybody in this room and many more on how we can get

1 there, and there are ways we can do it if we don't tie our
2 hands behind our backs, and if we don't feel that we have
3 to continually take care of those poor struggling cable
4 companies.

5 Okay. I think that's most of what I
6 wanted to say. I want to bring one more practical concern
7 and this needs, seems to me, legislative involvement and
8 that has to do with make-ready and this is a technical
9 point. I'll make it quickly. Utility poles is a public
10 good. There is a defined Public Service Board tariff
11 whereby the owner of the poles must rent space on the pole
12 to another telecom as we come along, but there are no
13 enforcement mechanisms on the time frame that is required
14 to make that space ready for the newcomer. The PSB says
15 it will take two months from the time we file our
16 application fee until we get a quote on the cost, and it
17 says it will take 120 days from the time you pay to the
18 time you will be ready to go.

19 We have had make-ready that has been
20 delayed as much as ten months beyond the stated four
21 months from payment, and there's no enforcement mechanism
22 except to file a docket with the PSB and that
23 automatically implies another six-month delay, and for any
24 entity that's borrowing money and having to pay interest
25 on it waiting that long to begin to get a return on that

1 borrowed money is a very serious problem, and my friend
2 Jim Porter has been promising me for two years now that
3 he's going to convene a conference again about make-ready,
4 but it hasn't happened and we really need to do it; and,
5 in addition, a new issue that's come up is over the past
6 18 months the amount of money that is being requested per
7 pole for make-ready from our largest electric utility has
8 quadrupled and there doesn't seem to be any cap on that.
9 Okay. Thank you very much for hearing me.

10 UNKNOWN SPEAKER: Thank you very much.
11 Pam McKenzie.

12 MS. MCKENZIE: Hi. My name is Pam
13 McKenzie and I Chair the Vermont Telecommunications
14 Authority, and I would like to thank Chairman Botzow and
15 Chairman Ashe and members of the House and Senate
16 Committees for joining us today and giving us the
17 opportunity to speak, as well as the hard working folks at
18 the Public Service Department.

19 I've served as the Chair of the Vermont
20 Telecommunications Authority since 2011. My fellow
21 volunteer board members appreciate the hard work and the
22 engagement of the Legislature. You after all did create
23 the baby that we started out as. We also appreciate the
24 hard work of the Public Service Department. You have for
25 all intents and purposes a very thankless job.

1 Over the past six months the Board and
2 our staff have spent a significant amount of time meeting
3 with the Legislature to discuss the future of the VTA. We
4 are in the process of working together with the
5 Administration and the Department to move that along, and
6 we have the good services of two members of the
7 Legislature, Senator Gray and Representative Young, who
8 are on our board as well. Kiersten Bourgeois is also on
9 our board, and our counsel, Holly Groschner, is here
10 today.

11 I -- one of my other grand adventures is
12 serving as the Chair of the South Burlington City Council,
13 and I have the wonderful opportunity on the first and
14 third Mondays of every month to have people come in and
15 tell me how ugly my baby is, and I don't plan on doing
16 that today. Okay.

17 UNKNOWN SPEAKER: Thank you.

18 MS. MCKENZIE: You're welcome. What I
19 have done is to take the experiences that we have had as a
20 board and take some of the comments that we have shared
21 with the Administration about the transition and about our
22 experiences with the Telecommunications Authority and
23 pulled those out and tried to go in a visionary and
24 aspirational manner because actually my good friend Irv
25 set me up rather well for that frankly.

1 One of the very first things that we
2 learned over the past three years, or that I have learned,
3 is ubiquitous broadband and cellular service are really
4 crucial for economic growth in the State of Vermont. We
5 will not grow without those two.

6 Broadband and cellular services are
7 equally important. You can't do one without the other.
8 We should be focused on collaboration and not regulation.
9 The vision of providing ubiquitous service requires
10 collaborative and reliable service provider relationships.
11 There's not a service provider in the state, other than
12 two that I will not name, that we have not been able to
13 partner with in open access fiber.

14 Entrepreneurial flexibility is required
15 to support our success. So the opportunity to embrace
16 this success can require a major mind shift. We all need
17 to replace risk adverse statements with risk positive
18 statements. So I know I'm getting out there, but hang
19 with me for a second. A risk adverse statement is the
20 timing isn't right. A risk positive statement is the
21 timing will never be perfect.

22 A risk adverse statement is the ideas
23 aren't good enough. The risk positive statement is the
24 ideas are good enough to get started. Risk adverse, we
25 don't know what we're doing. Risk positive, we won't know

1 what we're doing until we do it. Risk adverse, we don't
2 want to make mistakes. Risk positive, we have to make
3 mistakes in order to grow. And finally, risk adverse, we
4 will regret it if we fail, and, risk positive, we won't
5 regret it if we don't try. Thank you very much.

6 UNKNOWN SPEAKER: Leslie Nulty.

7 MS. NULTY: Thank you, Committee. My
8 name is Leslie Nulty. I'm a resident of Jericho, Vermont.
9 I have wonderful DSL of 768 up and 3 down and I've been
10 informed I can't get anything better. I've also been
11 project coordinator for ECFiber for six years from
12 inception when I was part of the committee that organized
13 ECFiber until January of this year when I graduated from
14 ECFiber because it is now self-sustaining and doesn't need
15 the kind of expertise and skills that I was able to bring
16 during the development stage, and I'm very, very proud of
17 its accomplishments, and I second and urge you to pay
18 careful attention to its history and accomplishments as a
19 potential model for Vermont going forward.

20 I have submitted -- Senator Lyons on my
21 behalf had submitted an earlier draft of comments to this
22 Committee. The same draft has been submitted to the
23 Department of Public Service via their link, but after
24 conversation I had with Jim Porter after the Burlington
25 hearing where I also testified I decided to add a little

1 section particularly for this committee flagging a few
2 areas that in my judgment could warrant legislative
3 action, and what I would like to do is make a brief
4 summary of the way I view the plan document and then point
5 to my concluding remarks where I'm trying to point both
6 the Department and the Legislature to better ways to
7 approach this challenge.

8 I hope you all leave this meeting today
9 with the understanding that Vermont's economic and social
10 future depend critically on adequate broadband
11 connectivity. It is especially important for a rural
12 place such as Vermont not merely with respect to business
13 development, but also with respect to the quality of
14 education that small schools can offer and with respect to
15 the development of the creative economy that so many
16 envision as the linchpin of Vermont's future, and also
17 with respect to improving rural health care systems which
18 increasingly need robust connectivity so that people don't
19 have to travel hours and miles to see specialists when
20 there are -- there's now technology that permits remote
21 diagnosis, remote exams, if you have adequate bandwidth.

22 When you're talking about these kinds of
23 applications you have to address the quality of upload
24 connectivity, and as Irv pointed out the emphasis in this
25 document on download speeds misses the point of what a

1 rural economy needs. It needs robust upload. That is the
2 only way that Vermont's artists, musicians, software
3 developers, web designers can get outside the confines of
4 the small Vermont economy and address a national and
5 international market. They need to be able to move their
6 rich files all over the globe. They can't do it with the
7 kinds of bandwidth that are being put forward in this
8 document. This document is obsolete today. That needs to
9 be addressed. It is crit -- if it's not addressed,
10 Vermont will become very rapidly a back water.

11 So what I suggest is that from a
12 planning point of view there has to be a commitment to
13 fiber to the user. That is simply the only method by
14 which the kind of robust upload capacity can be delivered
15 to Vermont businesses, to Vermont medical health care
16 institutions, to Vermont schools, and to all those 15
17 percent or so Vermont households that have a business in
18 the home and want to grow those businesses.

19 The second thing is that sufficient
20 attention has to be paid to the true costs of building
21 fiber. If you are thinking of building a robust
22 ubiquitous system that reaches every potential user, the
23 fact of the matter is that fiber is probably cheaper than
24 DSL. Because DSL is limited in its reach it cannot
25 compete with fiber on an ultimate cost per user basis if

1 you're thinking about ubiquity.

2 Secondly, we know today that 4G LTE is
3 comparable to DSL. You find this in any discussion in the
4 industry literature. This is not something we have to
5 wait three years to prove out. It is known today. Even
6 the Department's own document cites the example of Verizon
7 in Long Island when its copper infrastructure was
8 destroyed by Hurricane Sandy and it proposed replacing
9 that with 4G LTE the citizens went berzerk and said this
10 will not do, and Verizon was forced to put in its fiber to
11 the user FIOS service.

12 I don't think this government wants to
13 have the citizens of Vermont up in arms three years from
14 now because of an inadequate system. There's enough
15 pressure right now in the rural parts of Vermont by
16 frustrated citizens to get something better than what the
17 state has been able to offer them, and certainly this
18 vision of the Department is not being responsive to what
19 the citizens know they need. You know, guys, you're all
20 politicians. You've got to respond to your constituents.
21 Remember Abraham Lincoln. You can't fool all the people
22 all the time. So it's only a matter of time these
23 chickens will come home to roost.

24 In my concluding remarks I made some
25 very specific areas of potential legislative action which

1 I hope you will take under advisement. The first has to
2 do with updating the definition of broadband. I've
3 already spoken to that.

4 The second has to do with the standards
5 of -- for evaluating applications for the Vermont
6 Connectivity Fund funds. These are -- Irv was quoted by
7 VPR as thumb on the scale. There's a big fat thumb in
8 those -- in those legislated provisions and they need to
9 be eliminated so that there is in fact a level playing
10 field.

11 In particular, you've got to eliminate
12 the reference to economic feasibility. How can an
13 administrative department of the state determine what's
14 economically feasible? The party applying for funds will
15 have determined whether it's economically feasible. All
16 the government needs to do, the State of Vermont needs to
17 do, is to ensure that the goods are delivered. That once
18 funds have been expended the deployment is done in a
19 timely fashion and according to what has been awarded.

20 It needs to eliminate the prohibition on
21 the overbuild of wired infrastructure by prohibiting
22 overbuilds of wired infrastructure. The use of the
23 criteria for use of funds inadvertently or maybe
24 vertently, I don't know if that's a word, favors wireless.
25 The funds can be used to overbuild -- to have a wireless

1 overbuild of current infrastructure. So that's more 4G
2 LTE. If you want to have fiber built out as Irv explained
3 to you, the fiber is going to have to come from a hub that
4 is probably in a -- in the center of town and will have to
5 pass through an area that yes is currently served by other
6 wired infrastructure if it's going to get out to the rural
7 areas.

8 Next, as Irv said, there's got to be some
9 legislative action that provides a more effective way of
10 imposing penalties for utility pole owners that fail to
11 comply with the Department's rules for pole attachments.
12 If you're going to have -- if you're going to be committed
13 to a serious build out of fiber optic service, you're
14 going to have to address the process of attaching to
15 poles, and right now it -- you can't expect -- it's not
16 feasible for -- either to file a docket and wait another
17 six months as Irv explained or to put in an urgent call to
18 Jim and have Jim start making calls to non-compliant
19 utilities. There's got to be a method where a penalty is
20 automatically payable for failure to comply, and that
21 penalty can be assessed by the complaining aggrieved
22 party, and then if there's an objection, you can have some
23 kind of adjudicatory process, but I really think you need
24 to look at this if you're going to be serious about
25 building out an adequate network.

1 I recommend using revolving loan funds
2 rather than grants. Again another issue that the
3 Department doesn't seem to have contemplated because that
4 way you get a lot more bang for the buck, and as others
5 have stated I think the Legislature really needs to
6 restate and emphasize its support for municipal
7 initiatives because there are going to be circumstances
8 where you cannot rely on the for profit private sector to
9 take up the slack. They have too many requirements,
10 whether it's SEC regulations to keep the interests of
11 shareholders foremost or other kinds of issues that are
12 going to be a barrier.

13 My concern is right now that if this plan
14 is accepted and adopted as it stands it will in fact
15 create a barrier to Vermont getting the kind of network
16 development that it needs and it will be a recipe for
17 retrograde -- for a backwards movement on economic and
18 social development. I think this is something the
19 Legislature and the Administration need to look at very,
20 very seriously. It's a deep, deep concern. Thank you for
21 your kind attention.

22 UNKNOWN SPEAKER: Thank you very much.
23 Before we go to legislators that want to comment is there
24 anybody here today who would like to comment on the
25 record? Anybody in the audience?

1 I want to just now so I don't forget
2 would just like to thank everybody for their very
3 thoughtful comments. I know they worked on these issues
4 for a long time and for many, many years and today we
5 received the benefit of that work and your thoughts, and I
6 do know that everybody shares a very similar goal which is
7 the best possible telecom service for the Vermonters that
8 we serve. So I know there are two or three legislators --
9 who know -- who would like to go first?

10 UNKNOWN SPEAKER: I'll go first. I just
11 appreciate the testimony today to kind of, you know, give
12 me the sense of what's happening out there, but I do have
13 a question for the Chair. How does -- how do we go
14 forward as a committee? Do we have -- you know, how are
15 we going to go forward in the process?

16 UNKNOWN SPEAKER: I've asked that
17 question and, Maria can correct me or not, I did have a
18 few questions about it, is that the way the legislation is
19 written we are fulfilling the requirements to meet and
20 hear from the public on the plan. We ourselves are not
21 required to take any action for the plan to go forward.
22 It's not like a law. It's not like a rule and as you know
23 we are out of session. A full body could -- would want to
24 vote on anything that was different from the laws that
25 we've already passed. Basically we said we wanted a plan

1 by such and such.

2 We do have the ability, if we so wish, to
3 always -- to the extent that speakers and pro tems let us
4 meet as much as we would want, and we have the ability to
5 write a letter and to -- you know, considering any number
6 of points. We have the ability, even more important is
7 this, to -- right now is to offer our comments that will
8 be part of what the Board will gather. In a short
9 conversation with Jim is that what I understand is their
10 steps is to gather all of the comments, including ours,
11 and to create an addendum to what they put out so far and
12 in that addendum address what has been heard. That will
13 actually be in their hands.

14 I think each of us individually could
15 basically request these are key points that we want you to
16 address in that addendum. We could even say we would be
17 disappointed if they are not addressed in that addendum.
18 We will also be back in January. Committees will be
19 reconstituted and I think -- I don't think there's a
20 single person who believes that telecom will not be a
21 discussion item in the next session as well it should be,
22 and that the complexities of our all reaching that goal
23 should well emerge and hopefully, you know, good
24 legislation will emerge.

25 The Legislature will always have the

1 power, if it can get agreement with the Executive, to make
2 changes and to move things in a variety of ways. That is
3 the way it works. I hope that answers your question. Do
4 you have more comment? Do you have more comments?

5 UNKNOWN SPEAKER: Well I'm still
6 confused. Is this a plan or is it a draft of a plan?

7 MR. RECCHIA: We will be -- we will be
8 taking the comments into consideration in revising, in
9 part, an addendum; in part if there are provisions of this
10 and direction of it that we feel need to change as a
11 result of the comments, we'll be making those. So --

12 UNKNOWN SPEAKER: So this is a plan?

13 MR. RECCHIA: It's a draft. It's a
14 comment draft.

15 UNKNOWN SPEAKER: Let's be clear. This
16 is not the plan. This is the draft plan.

17 MR. RECCHIA: Okay.

18 UNKNOWN SPEAKER: Right?

19 MR. RECCHIA: It is.

20 UNKNOWN SPEAKER: Subject to people's
21 comments you might or might not make revisions to reflect
22 them and then you will propose to adopt the plan?

23 MR. RECCHIA: Exactly. I wish I had
24 said that, that way.

25 UNKNOWN SPEAKER: Okay. So there is

1 time to affect the actual plan.

2 MR. RECCHIA: Yes.

3 UNKNOWN SPEAKER: Thank you.

4 UNKNOWN SPEAKER: Mark MacDonald.

5 SENATOR MacDONALD: I am very pleased at
6 many of the public comments today. They seemed much more
7 incisive and informed and go to points that I think the
8 Natural Resources and -- and Finance Committee and the
9 House Committees have talked about the last couple years.

10 I represent a county that's about -- has
11 been a backwater in Vermont. It was maybe in the 1860's
12 it was at the top of its form. You know we have
13 leadership in Congress. We look forward. In the 50's and
14 60's it was a tough place to live and it was a tough place
15 to operate schools. In the 80's one thing happened that
16 was extraordinarily important. The state set as its goal
17 and its priority and mandated touch tone telephones and
18 suddenly Orange County was a place where any American, any
19 Vermonter could conduct business in the world. That was
20 the state of the art.

21 The next decade we had some change in
22 school funding and suddenly the schools in Orange County
23 could compete with the rest of the state and participate
24 in a level of education that was -- that worked, and
25 people moved into Orange County and bought homes and

1 started businesses and our schools improved and the place
2 thrived.

3 Today in the age of I guess -- what was
4 the expression -- risk adverse attitudes of what we're
5 talking about, what we can't do or won't do, we have
6 watched in my county people leave to go where they could
7 get access to the world's business structure, and I look
8 at this draft report with its emphasis on public private
9 partnerships, which is a terrific buzz word that makes
10 everyone feel good, but the private sector in the telecom
11 industry has several goals. One is to build as cheaply as
12 possible, to not build more than they have to when they
13 are considering how to get money to their stockholders.

14 The private sector hates competition
15 except in theory. They want to build out in an area and
16 then once they have built out to prevent others from
17 coming in and competing with them. The private sector
18 wants the freedom to charge all the market will bear.
19 Whether it's copper or anything else they want to charge
20 every penny they can get and don't want anyone telling
21 them what they can do.

22 The private sector also wants to
23 cherry-pick. They want to take the good areas to serve
24 and not be bothered with the ones that are more difficult,
25 and with the notion of public private partnerships they

1 want to get grants paid for by taxpayers to do all of the
2 above. They want someone to give them a grant to build a
3 tower to cherry-pick the customers that the customers they
4 can charge whatever they want to once they have them, and
5 they wish to be able to come in and lobby us against
6 anything that would give them competition, and I don't
7 think -- I look back at the history of this state and its
8 history of people and bipartisan fashion working together
9 to solve problems, and I look at the electric build out
10 where the private sector was free to build electric lines
11 around the state and make a profit, but when -- when those
12 companies no longer thought it was profitable, then
13 government and tax dollars were put in place to get those
14 -- get electricity out to everybody. The government
15 funded cooperatives with reduced interest rates to get
16 everybody on electricity.

17 Today under the Recovery Act of several
18 years ago companies were given tax dollars to send to the
19 easy places and to cherry-pick, and they were given those
20 tax dollars without any requirement -- without any --
21 given the tax dollars and the companies were allowed to
22 behave like monopolies and charge all the traffic would
23 bear.

24 So I'm -- I passed a little note around
25 to the committee members, and when we're talking about

1 adequate broadband I don't know where this standard that
2 we have fits in, in the world's broadband from between 1
3 and 10 and 10 being the best service, but it seems to me
4 we're spending money to get something that's rated 2 or 3
5 on a 1 to 10 consortium, and I sent around a note and I
6 asked what is adequate housing; a brick house, a stick
7 house, or a straw house. Somebody was talking about once
8 upon a time, but we were taught, you know, as young people
9 and growing up that you didn't build straw houses. You
10 didn't build stick houses because someone would huff and
11 puff and blow them down, and we have a plan here before us
12 that proposes to build stick and straw houses using public
13 private partnerships and they are going to get blown down.

14 In the Natural Resources Committee I have
15 -- and I will be brief, but I have repeatedly tried to use
16 the analogy of the biggest most powerful Navy in the
17 world, the British Navy, that ruled the seas because they
18 had developed coal to operate their ships and their
19 battleships, and along came Germany and Japan, the United
20 States who began to use oil to operate their Navys.
21 Faster ships. They could refuel more quickly. They had
22 greater range, et cetera, et cetera, but the British
23 government had fallen prey. Its Navy had fallen prey to a
24 culture of coal and it insisted upon making sure every
25 mine sweeper, buoy tender, every vessel was equipped with

1 coal because that was their goal. They catered to the
2 coal industry. They did the coal industry's bidding and
3 they watched their Navy get surpassed by people that --
4 others that had bigger visions, and I wonder how we are
5 willing to sit here in Vermont, a state that has a
6 tradition of working together to solve problems, and to
7 say yes, yes, yes, and yes to the telecom companies who
8 want cheap infrastructure, no competition, the opportunity
9 to cherry-pick, and want the public to pick up the tab,
10 and I would hope that a plan that is presented to the
11 state for us to follow would reflect the Vermont tradition
12 of how we do things and not what we see in Washington
13 where the special -- or in the British Navy where the
14 special interests by Congress and get what they want.

15 UNKNOWN SPEAKER: I heard you say
16 (inaudible) planning for the future and not in the past
17 investing in technology that's obsolete. I would just say
18 the (inaudible comments).

19 UNKNOWN SPEAKER: I have a quick
20 question for the Department. I believe it was the first
21 witness who spoke about the relative merits of doing a
22 rough process what it would take to achieve different
23 levels of deployment of technology, and I'm just wondering
24 how that factored into the document before us. What it
25 would take, for instance, to get fiber in the home? What

1 it would take for wireless? What would it take to do 4.1,
2 10.1, whatever the levels of technology? Is that
3 something that influenced this document?

4 MR. PORTER: It absolutely did. What
5 we've used as examples was Burlington Telecom where you
6 had approximately 50 million dollars invested, passed
7 22,000 homes at a cost of \$2,000 something per customer.
8 That's the most dense area in the state. Presumably the
9 least expensive area.

10 We then looked at the VTel territory where
11 they spent somewhere shy of 80 million dollars to bring
12 fiber to the home for 18,000 customers and they came out
13 to about I want to say \$4,000 something per customer. So
14 then we took the E911 addresses left in the state which
15 was what, 239,000 roughly, is that right, and we think
16 that the -- for the rest of the state that the VTel model
17 is probably more appropriate because we're further apart
18 and different terrain, and if you estimate the cost of
19 \$4,200, \$4,400 per person per address, we came up with
20 \$1,000,033,000, and so I do -- and I agree if we -- if we
21 were starting out today with nothing, then I think you
22 would -- I would certainly be saying we have to do a fiber
23 to the home project for everyone, and ultimately I think
24 that's where we want to be, although we have some
25 providers who provide very good speeds, not fiber to the

1 home but not DSL, and so, you know, I think the first
2 place that I would suggest that we invest the money is in
3 areas that don't have that, and to be very clear, I don't
4 think I have been clear about this, I think what we've
5 done with the connectivity fund is allowed for that, is
6 for the projects that did come into these areas that are
7 not served but that offer higher speeds, I think they are
8 going to be favored, and I really think that's what the --
9 you know I don't look at that fund quite frankly as a DSL
10 build out program.

11 UNKNOWN SPEAKER: And one additional
12 question gets to something Senator MacDonald was talking
13 about, and as you read through even just looking through
14 the table of contents, but once you get into the meat of
15 the document necessarily navigates back and forth between
16 sort of public role and private role, and wondering is
17 there a simple assessment in this document that speaks to
18 roughly what the Department's sense and expectation is
19 about how much the deployment in the future of this
20 technology will be done by public sources versus private
21 sources.

22 MR. PORTER: That's a great question and
23 to go back to two quick things Senator MacDonald said, he
24 talked about touch tone dialing, and I think many people
25 here have been doing this for a long time and I think we

1 still have the mindset that when we had a monopoly
2 telephone company we were able to do things like that and
3 we were able to mandate that they bring service here.

4 We do not have that authority over many of
5 these services, and so actually we have the wireless
6 representatives come up every so often and about twice a
7 year some of the bigger muckety-mucks come up. Corey and I
8 met with one of them a few weeks ago. We said, you know,
9 just for fun what if we talked the Legislature into a big
10 pot of money for you and we'll give it to you no strings
11 attached but we want you to go build cell towers because
12 it's ridiculous, and they said won't take it. Won't take
13 it if you hand it to us.

14 So with cellular I think that's an issue.
15 With broadband providers I think if we can provide the
16 money they will take it, and so depending upon what we're
17 talking about I think -- which is mostly wired broadband,
18 I think we will have takers to go build into these areas.

19 UNKNOWN SPEAKER: I just have a
20 practical question, or at least I hope it's practical, is
21 that there is a document here albeit addenda, et cetera.
22 I really want to know -- you to speak to how the plan will
23 be used, what effect it will have. I want to know if
24 there's any consideration of it being time lined of any
25 being resourced, responsibilities being assigned. In

1 other words, implementation. This seems to be at a level
2 that doesn't get down to -- if this even -- if this -- if
3 we wanted to call this lightning or whatever rain or
4 whatever the heck it is, how will it actually reach the
5 ground? How will it be used?

6 You have been operating for a long time
7 without a plan. Now you're going to have a plan. What
8 will be different once the plan is in place in terms of
9 goals. People can have different ideas of how to get to
10 those goals, but how -- what effect will it have?

11 MR. PORTER: It's certainly very helpful
12 to have the goals in place. Depending upon the technology
13 I think that we know that we talked about cable and we
14 need to look at what cable can do further.

15 Beyond that the way I view this and part
16 of the reason that there's a little less detail is, you
17 know, we're in the process of trying to move from the VTA
18 to the Division of Connectivity, and so that study, if you
19 will, is still in process being done by the Secretary of
20 Administration.

21 One thing we have thought about since you
22 have set up a fund is, you know, we have a Clean Energy
23 Development Fund at the Department and we have a person
24 whose job, and please correct me, but basically she goes
25 out and she helps people who want to do energy projects

1 and says this is how you do this, this is what you should
2 do, and here's where the money is available.

3 Certainly my recommendation to the
4 Administration or certainly to Chris is going to be that
5 we do that same type thing with telecom and that we
6 actually go out and talk with many of the people you have
7 heard today who we do have informal talks with about
8 permitting and whatnot, but someone who can go out and say
9 here's an area that needs to be served how can we help you
10 do it, and so you know I think that's one thing.

11 I think education is something that we'll
12 be looking at, but some of those actual pieces as to what
13 the Administration is going to recommend we do, you know,
14 I don't know what that piece of it is yet. I can just
15 tell you what my ideas are and that I think that the plan
16 and the legislation that we have had allows for that
17 implementation.

18 MR. RECCHIA: May I add for a second,
19 you know, I've been managing budgets and people and goals
20 and plans for a long time in different capacities, and the
21 way that is done is you do develop a plan which has to
22 have vision, and I very much appreciate the comments that
23 we've gotten here today which of course were not positive,
24 but they were helpful. So it is -- it is helpful to know
25 what the vision needs to be and where you need to go to.

1 In the immediate future the way you need
2 to roll that out and decide how to implement it or how to
3 get the lightning hit to ground, if you will, is you need
4 to have a good sense of the resources that you have
5 available and how you are going to then maximize a
6 leverage of those resources to accomplish your goals can
7 be determined at that point. I mean we can come up and we
8 have come up with ideas of how to do better faster, but
9 without knowing the order of magnitude of the resources
10 that are going to be dedicated to these efforts it makes
11 it hard to have the order of magnitude of vision that what
12 you have heard here today would like to be achieved, and
13 then to understand what exact programs would be best to
14 leverage those resources that you have.

15 There are also, as I mentioned at the very
16 beginning, a couple of very big moving pieces here that we
17 need to have resolved by the FCC in order to be able to
18 understand what the rules of the road are and then figure
19 out that path. So I do want to acknowledge I guess Irv
20 said this is a start. Well -- or maybe it was Pam with
21 the appropriate risk assessment.

22 This is a start and we have to get started
23 and there are going to be things that are answered along
24 the way that help us reevaluate and readjust. What we
25 heard today I think in a lot of respects I am taking very

1 much to heart and we will go back and look at the plan and
2 the vision that it provides and whether it is trying to
3 balance between what would be ideal, what do we really
4 need, and what's realistic to achieve and how we -- how we
5 present those to guide our work and give the citizens of
6 Vermont an understanding that we do believe we must remain
7 competitive in this -- in this arena, not only in this
8 state and equity throughout the state, but competitive
9 nationally and globally in order for Vermont to be where
10 it needs to be, but I don't have a billion dollars today,
11 and I also count on the fact that this technology and the
12 -- and the advances have changed very quickly. I am
13 counting on technological changes also to get us to a goal
14 that otherwise might seem out of reach now.

15 UNKNOWN SPEAKER: Wrap up. I think my
16 one comment is that the plan at its best will clearly
17 articulate priorities so that you know with the resources
18 that are and can be available through a variety of sources
19 of where and how you can best meet those priorities for
20 all of the reasons that we just said here from economic
21 health, education, you know, the public good in a sense.
22 I'm not sure if in reading the plan we could really see
23 where the priority -- where the priorities are amongst the
24 landscape that you have laid out. So thank you.

25 MR. RECCHIA: Thank you.

1 UNKNOWN SPEAKER: Is there any other
2 comments? Chris.

3 UNKNOWN SPEAKER: Yeah I just wanted --
4 you know, I appreciate the challenges presented in the
5 plan, an order of magnitude between very modest funding
6 and robust funding. I don't know if we can frame this
7 plan so it considers or offers funding, a vision of how it
8 might roll out at two varying levels of funding.

9 My concern about Vermont's plan, you
10 know, (inaudible) something like that is that
11 appropriations (inaudible) fund raising and that members
12 of the committees end up going to Appropriations, have
13 discussions and a very modest plan it might get funded but
14 might not, but a much more compelling and vision that
15 moved us a lot further a lot faster might be what -- might
16 help us mobilize a lot more money than seems reasonable
17 sitting here today. So I don't know.

18 UNKNOWN SPEAKER: I hear you.

19 UNKNOWN SPEAKER: It's a bit of chicken
20 and egg thing, but I think if we are so frugal that we
21 come up with a too modest plan we might not be able to
22 mobilize -- engage, mobilize the money we need to make the
23 sort of gains that everybody in the room is hoping we will
24 be able to make.

25 UNKNOWN SPEAKER: Thank you. Thank you

1 everybody for staying a little longer. Thank you
2 everybody. I note that both committees made a quorum
3 today. Thank you, Agatha, for organizing this so well and
4 I know that you have a way to send public comments, and I
5 think also anything that will come hopefully would be sent
6 to Agatha for our committee pages, and with that if nobody
7 has any further comment I would like to thank you for your
8 time today.

9 (End of recording.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25