STATE OF VERMONT
PUBLIC SERVICE BOARD

PUBLIC HEARING HELD FOR THE PURPOSE
OF GAINING PUBLIC INPUT ON THE
ESTABLISHMENT OF THE 2014
TELECOMMUNICATIONS PLAN

February 21, 2014
6:09 p.m.
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8 Stratton Road
Rutland, Vermont

Public Hearing held via the
Vermont Interactive Television network,
at the Stafford Technical Center, 8 Stratton
Road, Rutland, Vermont, on February 21,
2014, beginning at 6:09 p.m.

PRESENT
DIVISION MEMBERS: James Porter
Clay Purvis
Autumn Barnett
Cory Chase
Commissioner Recchia

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MR. PORTER: Good evening. Thank you for being here tonight. This is the first public hearing held by the Department of Public Service for our 2014 Telecommunications Plan. My name is Jim Porter. I'm in the Telecom Division for the Department of Public Service. With me tonight are Cory Chase and Clay Purvis. Also with Telecom Division, I've got Autumn Barnett, our Director of Consumer Affairs and Public Information. And I believe in Randolph, we have our Commissioner Christopher Recchia. There he is. I see him.

COMMISSIONER RECCHIA: Yes, that's correct. Thanks, Jim.

MR. PORTER: For those of you who turned out, we appreciate it. As I said earlier, this is the first public hearing that the Department will be holding as we work on our 2014 Telecommunications Plan.

Tonight, we're here to listen to any comments that anyone has. And then we have, for some months now, been consulting with other parties such as the Department of
Information and Innovation and the Commerce Department. We've done one survey among Vermont residents and will be doing another. And, after this hearing, we will take the comments that we receive and we will produce a draft plan. And we hope to do that fairly quickly.

We will then publish the draft plan and there will be another public hearing so that you can come and comment on the actual plan. Tonight, we should have a court reporter with us. I believe she may be in Rutland.

THE COURT REPORTER: Correct.

MR. PORTER: So your comments will be transcribed. And we also, I believe, have people who can submit comments via the internet tonight and we will read those comments, as well. And you can also submit comments to the Department of Public Service via e-mail or in writing.

But we appreciate your being here tonight. And let's see if we've got some people who can give us some comments. Do we have anyone in St. Albans who would like to speak?
MS. MALONE: Yes.

MR. PORTER: If you can come to the microphone, I think the camera will go to you.

MS. MALONE: Am I okay to start?

MR. PORTER: Sure. We can't see you. There. Okay. Sure.

MS. MALONE: Hi, my name is Elizabeth Malone. I'm the Executive Director for Northwest Access TV here in St. Albans and I also serve on the Vermont Access Network Board of Directors.

I just wanted to start by reading a quote, "PEG access can serve the public by being more than just a place to play tapes. When PEG access includes facilities and training for members of the community to learn video production, it contributes to media literacy in the community."

That probably sounds familiar. It's the 2004 Vermont Telecommunications Plan. So, I just wanted to read that because the media landscape has certainly shifted in the last seven years. And the production of video has really become ubiquitous as we all carry...
around video cameras on our Smartphones. But just creating video is not communicating. And it takes experience and practice to create video that truly communicates beyond just the funny cat video you might make. Our access centers are, in many cases, in our rural state, the only place to access the training necessary to effectively communicate in this multimedia platform. As the quote I just read indicates with its mention of playing tapes, PEG Access in the rural Vermont media landscape is in need of an updated recognition. We are doing a lot of things that we weren't doing seven years ago and certainly not 14 years ago. And I encourage you to include PEG Access in the 2014 Telecommunication Plan and fully recognize what Access TV has become in this state. And, also, I encourage you not to pick a Friday before school vacation for the next hearing. It's a little tough to get people to come out. But thank you.

MR. PORTER: Thank you for your comments. And to let you know, this wouldn't have been our preference either. This was
the first available night we could get all of
the VIT sites. And so we'll certainly try to
have it on a Monday or Wednesday after we get
a draft plan out.

MS. MALONE: Great. Thank you.

MR. PORTER: Have we got anyone else at
any other locations who would like to speak?
Great. We've got one in Montpelier. If you
can come to one of those microphones.

MR. LARKIN: My name is Charles Larkin
and I'm a former telecommunications engineer
for the Department of Public Service. Prior
to that, I was Chief of the Consumer Affairs
Division of Public Service, the first one.
And I've been retired since the last day of
December 2004. And I know the world has
changed in telecommunications in the
regulations and in technologies since. It
changed over the last four years I was there
with the turn of the century.

But I keep hearing about how we want to
have communications -- telecommunications to
the hither lands. We used to joke when we
would say fiber to the cow. We came to give
fiber to most of the state, seems like. And
that's where I'm interested. It seems to me
that an awful lot of poles are out there,
conduits with lines through them, and they're
all using free, my property.

I have a detour as does every other
citizen in this state. We own the right of
ways. And we condescend to allow the
telephone and power companies when I was
first starting the business in '69 to come in
and put their poles and stuff there. But
that was fine. But along came that new
animal, cable television, whatever that is.
And the pole line could be falling down and
if it's the Public Service Board or
Department or any other body who looks at
conforming to construction standards would
find some of those pole lines in terrible
shape and worthy of a rebuild. And neither
the telephone nor power would rebuild it.
Wait until some silly cable guy came along
and let him buy a whole new pole for him.

And thus how we got the Pole Traffic
Rule. That was the whole purpose of them.
And that was to allow the new player on the
block to get on the facilities, equitable
rates and reasonable conditions to get on.

Well, today, there are no longer any
telephone companies or power or cable
companies or internet companies.

You've seen the ads. We all bundle.

And that's what they're doing to keep --
their diversifying their lines, which is what
every company has to do at some point in life
when they get to lose their monopoly, too
much competition or too much trouble from
their prices of buying things, they have to
diversify. They put all of those services on
almost every player out there.

And most of them are going to fiber.

So, there comes to me that fiber is the new
pole line problem. That's a thing that's
hung up on our the poles that we allow to be
there. So we can condition people who get on
poles on our property to have to do things
like allow the cable guy to get on at a
decent rate.

I'd like to consider this ten-year rule,
ten-year plan but also suggest that we're not
going to tell who can do what and not going
to discuss what's information and what
telecommunications is. We don't care.

Most of us, I understand vaguely is, up there at the -- with the crazy circle within 429 or 229 or whatever the highway is. All those nuts up there doing that. But can look at that and say, okay. If you want to play on our fiber, that is if you want your fiber to play on these poles on our land, then you've got to give us something. And I think what they -- to give us the same open access that we gave cable on that telephone power lines, the same open access that the Public Service Board gave to the new form of people called CLECs, Competitive Local Exchange Carriers, not being allowed to play in the game. All of the sudden, they were given the right and certain elements that were -- had to be open to them, open network architecture.

And I think we should have the same thing here. We should have a new consideration of what is our land, who's using it and how we can get the players using it to play in a nondiscriminatory manners, which I think is the whole ten-year plan.
How do we get the facilities out there, most of the people equitable rates, and to be the most current facilities and to grow to the next best stage when they come up? I think that's our approach.

But, I probably lost half of what I had to think about. But I will suggest that these are areas in which we can put a ten-year plan together. It can stop the constraining affects on the other players. One of the issues might arise is, if you connect other people and there's a cable company's facilities, say, how are they going to protect our facilities from these crazies?

And I think if you look back at the history of the Public Service Department Public Service Board, that issue was raised completely with great strength by NETI, I guess it was, in those days, with regard to how are you going to let these CLECs get onto our switches? How are we going to do this? They found a way. And I don't remember any history at all of CLECs destroying the Arlek property or the person at the Board penalized or do something to these people, what they've
done to them. It just became a nonissue.
And I feel that it would be nonissue here if
someone were to raise... Anyway, if you have
any questions, I'm open.
MR. PORTER: No, I appreciate that.
And, actually, if you've got a minute after
the hearing, I'd like to ask you some
follow-up questions.
Any more?
MR. WHITAKER: My name is Stephen
Whitaker from Montpelier. Charlie and I have
known each other for 20 years or so. And I
didn't work in the Department of Public
Service. I work on the Department of Public
Service.
I tried to resist and Charlie tried to
dissuade me from raising the comments that
this was the first available night since
2007, which is when the last subsequent
ten-year plan from the 2004 plan was due to
be drafted, reviewed, hearings, surveys, et
cetera.
We've -- I'm suggesting that we need to
do an honest assessment or that the
Department should do and/or the legislature
should do an honest assessment of the missed
opportunities that occurred in the gap of the
three missing Telecom Plans. And just to
clarify my math, '04 was the last complete
plan. The '11 addendum is nothing -- nothing
close to what statute requires of a plan.

So, an '07 and '10 and '13 plan are
missing. Meanwhile, tens of millions of
grants and tens of millions of overbuilt
fiber in the cherry picking corridors have
been built. And as I understand it, open
access requirements were not part of the
Sovernet and the VTel grants. They are part
of the Vermont Fiber Connect, the VEC fiber
and VTA spans.

But the definition of what open access
means is really missing. Now, we see an
industry trying to co-op to confuse people
between, you know, net neutrality and open
access to carriage. And it occurs to me that
the plan needs to flush out the detail of
what open access means in -- and in time, to
participate in the charter and the Comcast
CPG renewals. Because if -- if Burlington
Telecom or whoever their new partner is or
VTel wants to reach across fiber that Comcast has pulled, there should be provision for that.

We need to unbundle the fiber.

Statewide, we need to quit overbuilding it on existing corridors. There's so much dark fiber in Vermont and if you look at the statutory goals, 202c, referring to, you know, forward looking ability to grow, wireless -- we're going to -- wireless is the temporary bandaid for most of the applications that we see coming down the line.

It's -- we need fiber, we need symmetric connections, meaning the same speed up and down and we need it out to the corners of the state. We need wall to wall fiber. And the only way we're ever going to accomplish that economically is by incenting [sic] the carriers to use the existing fiber that's already built, quit overbuilding and then create incentives to build out to -- or requirements to dig into the CPG to build out to these dairy farms.

MR. LARKIN: We used to have that, the
conditions for the certificate of public
good. And we specified exactly where they
had to build to. Then, how they would expand
on that, based upon the financial facts of
their returns to the Public Service Board
annual reports.

MR. WHITAKER: I'd like to raise another
issue in that -- I'll do this as delicate as
possible. And I appreciate Commissioner
Recchia attending. I made a point of
encouraging him to do so.

The fact that I have perused the maps,
in order to be prepared for this hearing,
which I knew would come, I didn't know when
but I knew it would come, I requested maps of
the Department of Public Service. And I got
the answer that, as for as I know, we don't
have any of those maps.

That turns out to be quite far from the
truth. What I've learned since then is that
many of these maps and even the location of
the providers of the so-called broadband are
all protected under nondisclosure agreements.

How can we effectively run a democracy
of citizen participation in a planning
process where the Department has signed away our rights to see where our fiber is? I mean, there's a basic inherent contradiction there.

So, two things I'm suggesting right off the bat is that we find a way to solve that problem of making known where our fiber is. I mean, I can run around and photograph it all and build my own data base, but that shouldn't be necessary. If the Department is to be doing an advocacy role in soliciting meaningful feedback from the community about what needs to be built where and how many partners can come to the table to see that it gets built, you can't do that without knowing where the fiber is. It's as simple as that.

Another data set that needs to be built, the Department should do, is all of the schools and libraries and even hospitals, hospitals where they -- the finances are public record, we need to build a data base and who's paying what over what term of contract for these new internet connections. Okay? I know, for example, and my favorite example is VTel's offering a product in their
territory that is 1/20 of the price for 20
times the band width that Sovernet proposed
to the Town of Plainfield on a five-year
contact. Okay?

That is absolutely absurd. These are
grant funded networks that the public has
paid for and somebody was asleep at the
switch when those conditions -- terms and
conditions were allowed to go forward. The
incentive for market competition, it may be
that --

I also want to echo the woman from St.
Albans about the need for PEG Access and I
would even expand upon that. The public
education and government capacity, typically
three to five percent of revenues or two or
three channels out of 100, is some questimate
numbers, those principles need to be applied
and strengthened, not only in each franchise
area, but statewide.

I mean, we need to interconnect these
cable systems and we need those
interconnections to include that band width
for public education and government. Okay?
It's somewhat -- not to offend, but it's
absurd the amount of fiber and technology and
text expertise we have in Vermont that we're still
running over this T1 technology with 15
second lag times.
I mean, it is absolutely absurd where we
could be doing symmetric, full, virtual
presence to you use Cisco's trade name. And
we should be doing it all over the state. I
mean, we're a small enough state with a
bright enough population and real forward
thinking legislature. We need to actually
use that opportunity as a laboratory and a
accomplish some of this stuff.
And these are part of the gaps that have
happened from not having those two plans
done. Okay? And I'm not pointing fingers
at -- you know, I know that our Director of
Telecom only came on in the last few years
and he's not to play catch up for years of
issues before that, but it took really
rattling some pages to get this process
started, you know?
And I have high hopes for it. Feel free
to jump in.
MR. LARKIN: We've mentioned peg and peg
having a percentage, this was over the video system, cable television, movies, you know, short-term quicky, psycho sitcom companies, whatever. With internet, we are moving toward where everyone's over the internet. What we used to call telephone, what we used to call cable -- and internet itself is carrying -- internet, obviously, is an oxymoron. And since they're all carrying video, all three of them are now carrying video, then the peg money should be addressed in a requirement to pay peg money, should be addressed to all players carrying video. It's television is television. Now, how do you carry it? That's why I say they're all one industry. And if one industry is going to carry telephone poles and pretty pictures of the TV, I'm too old to know, but I'm told some young people, some of them don't even know what a TV is. I mean, they sit and do everything over the -- not even an iPad or something but just over the phone. I like to have pictures to look at with my old eyes. I can see even without these (indicating).
But I think that that's the point that we've got to get the -- not only the revenue up, but if new technology, like if they start using different colored lasers and use the same fiber and just run 15 different lasers down there, all that capacity, PEG people should get the same percentage of that, whatever it happens to be. That's enough rambling. Thank you for your time.

MR. WHITAKER: That's a very good point.

I'm glad you jumped in there.

Many customers are pulling their video, their Netflix subscriptions over their DSL lines. So why FairPoint isn't paid into the peg pot and I'm not an expert on pre-exemption, I won't pretend to be.

The fact that our peg panels are unable to get a crowd full of people here has to do with the funding, the staffing, the quality of the product. I mean, I'm frankly embarrassed for the quality of the peg product. You know, it's -- we're not shooting high def -- or we're shooting high def we're not able to broadcast high def.

Three's no obligation for the PEG channels to
interconnect or share live feed for such an event such as this or state to state or, et cetera.

There's many things that are possible through taking the long haul costs out of interconnecting the PEG channels. Okay? Especially, if we're incenting or requiring the CATV operators to bridge their systems. The long haul cost enables all of these possibilities for the PEG channels to create a statewide channel where whoever's got the best programming or spill over into the third or fourth channel. But there's no reason it shouldn't be equally as well microphone and video and color corrected and high res and anything else that's available on the system.

Charlie and I don't -- got together today to try to draft out a map and we didn't anticipate -- we were hoping to listen and build upon a structure of stuff that -- but we didn't have enough prepared testimony to really give you sufficient -- I think we gave you a taste.

MR. PORTER: I think it's helpful. As we said, we'll have a draft plan that you'll
get and can comment on next round.

Have we got anyone else in any other locations?

MR. CHASE: We may have one more question coming in via the internet. They might want to say something.

MS. MALONE: Can I just -- I know this only requires one hearing and dubious advising that VIT constitutes a hearing because it doesn't have enough -- this is not compelling enough to bring people out whereas a roving set of hearings where the Commissioner or his designee and maybe even a mixed set of folks -- I know the Public Service Board and the legislature have had hearings around the state on topics as important as this. And this deserves better than a poorly advertised --

MR. WHITAKER: I went to the Public Service Department site today to look for the details of the hearing and I went to the Telecommunications Section, no mention. You know, I went to the Telecom Section looking for the docket on Voice over IP. No mention. Finally, I go back to the home page and I
scroll all the way down at the bottom and I see a mention of this hearing. That's a marketing issue. That's where I think if we admit -- and the press didn't cover it -- if we admit that we're ten years behind on doing our plan and this is really more important now than ever, then we might ought to get some more enthusiasm around giving you some feedback about what is and isn't working, from the art community, broadcast from the Chandler or from -- right? It deserves better than what we've been able to accomplish so far.

MR. PORTER: Well, thank you and I thank those of you who turned out tonight. On behalf of the next hearing, bring your friends. And I guess with that we'll --

MR. RECCHIA: This is Chris, how you doing? I just want to add -- I want to thank, in particularly, Charlie and Stephen for coming out and say that I think, yeah, we will develop a plan. We took their comments and I think that we'll be trying to look for ways to make this more exciting for everybody going forward. So I do appreciate their
comments and, you know, this is just the
first of several opportunities to interact on
this and we'll make it right. So thank you.

MR. PORTER: Thank you. All right.

That's it. Good night, all. Have a good
weekend.

(Whereupon, the public hearing

6:39 p.m.)
CERTIFICATE

I, Amanda J. Wenrich, do hereby certify that I recorded by stenographic means the workshop re: PUBLIC HEARING HELD FOR THE PURPOSE OF GAINING PUBLIC INPUT ON THE ESTABLISHMENT OF THE 2014 TELECOMMUNICATIONS PLAN, held via Vermont Interactive Television network, at the Stafford Technical Center, 8 Stratton Road, Rutland, Vermont, on February 21, 2014, beginning at 6:00 p.m.

I further certify that the foregoing testimony was taken by me stenographically and thereafter reduced to typewriting, and the foregoing 24 pages are a transcript of the stenograph notes taken by me of the evidence and the proceedings, to the best of my ability.

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

Dated at Rutland, Vermont, this 3rd day of March, 2013.

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Amanda J. Wenrich
Registered Professional Reporter & Notary Public