STATE OF VERMONT
PUBLIC SERVICE BOARD

Case No. 8881

Joint Petition of Consolidated Communications Holding, Inc., Consolidated Communications, Inc., Falcon Merger Sub, Inc., FairPoint Communications, Inc., Telephone Operating Company of Vermont LLC, d/b/a FairPoint Communications, FairPoint Vermont, Inc., d/b/a FairPoint Communications, UI Long Distance, Inc., and Enhanced Communications of Northern New England, Inc., for approval of a transfer of control by merger, pursuant to 30 V.S.A. §§ 107, 108, 109, 231(a), and 311	

Order entered: 06/26/2017

PRESENT: James Volz, Board Chairman
Margaret Cheney, Board Member
Sarah Hofmann, Board Member

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TABLE OF CONTENTS

I. Introduction 3
II. Procedural History 4
III. Capsule Summary of the Transaction..5
IV. Memorandum of Understanding..6
V. Positions of the Parties..9
VI. Public Comments..11
VII. Legal Standard 12
IV. Findings 14
V. Discussion and Conclusion..31
VI. Order..33

I. Introduction

In this Order, the Vermont Public Service Board ("Board") approves a transaction in which the state's largest landline telecommunications provider, FairPoint,[1] will be acquired by Consolidated Communications.[2] Consolidated will thereby acquire control of FairPoint's operations in all 17 states in which FairPoint presently operates, including Vermont. The combined company, which will be about twice the size of FairPoint, will operate in 24 states upon the receipt of all required federal and state approvals.[3]

We find that the proposed transaction will promote the public good of the State of Vermont and we approve it pursuant to 30 V.S.A §§ 107, 108, 109, 231(a), and 311. The combined company will be more financially stable than FairPoint on a stand-alone basis, with stronger credit ratings, more flexible access to capital, and greater revenue and cash flow diversity. This financial base should enable Consolidated to better serve Vermont customers. In addition, Consolidated has made a commitment to invest in the Vermont telecommunications network in each of the next three years an average of 14% of its total Vermont revenues, plus $1 million each year to address areas with ongoing service quality concerns. Consolidated is also expected to introduce new video streaming products and automated home security services. Finally, Consolidated is committed to providing superior service quality through its established system for identifying and remediating areas of a network that experience consistent out-of-service problems, which we expect will improve service for many Vermont customers.

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[1] In this Order, "FairPoint" refers to, collectively, FairPoint Communications, Inc. ("FRP"), Telephone Operating Company of Vermont LLC, d/b/a FairPoint Communications ("TOCV"), FairPoint Vermont, Inc., d/b/a FairPoint Communications ("FPV"), UI Long Distance, Inc. ("UILD"), and Enhanced Communications of Northern New England, Inc. ("ECNNE").

[2] "Consolidated" refers to, collectively, Consolidated Communications Holdings, Inc. ("Consolidated Holdings"), Consolidated Communications, Inc. ("Consolidated Communications"), and Falcon Merger Sub, Inc. ("Falcon").

[3] To date, all federal approvals and 9 of the 11 required state approvals have been made. With our approval today and an approval from Illinois expected next week, the merger transaction may move forward.

Our conclusion is also informed by commitments that FairPoint and Consolidated (collectively, the "Joint Petitioners") made through a memorandum of understanding ("MOU") with the Vermont Department of Public Service ("Department") to address certain operational and financial concerns that arose in the consideration of the proposed transaction. These include the investment in network upgrades mentioned above, continued investment in providing broadband to 28,000 Vermonters under the federal Connect America Fund, and maintaining the wholesale services that FairPoint now provides, thereby facilitating competition. The MOU commitments thus allay potential concerns with the transaction and provide a critical basis for our assessment that the transaction is in the public good. In addition, the MOU's specific reporting obligations will serve as a means for monitoring the implementation of the transaction. Based on our findings in this investigation, we grant the Petition and approve the proposed transfer of control by merger.

II. PROCEDURAL HISTORY

The Joint Petitioners filed their Petition for approval of the merger transaction on December 29, 2016.

On January 10, 2017, FairPoint filed direct testimony of Michael C. Reed. On the same date, Consolidated filed direct testimony of Gabe Waggoner, direct testimony and exhibits of Michael Schultz, and redacted direct testimony and exhibits of Steven Childers, with a confidential version filed under seal and accompanied by a motion for protective treatment of the confidential testimony and exhibits. On the same date, FairPoint and Consolidated jointly filed a motion for protective agreement covering the exchange of documents among parties to the proceeding.[4]

The Board convened a prehearing conference in this proceeding on January 19, 2017.

On January 20, 2017, Attorney Dumont filed separate motions for admission *pro hac vice* on behalf of Scott J. Rubin, Esq., and William C. Black, Esq., and a motion to intervene on

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[4] The joint motion for protective agreement was approved in the Board's Order issued on January 20, 2017. Subsequent motions for protective treatment of certain exhibits and testimony filed by FairPoint and Consolidated were addressed in Board Orders issued in this docket on February 9 and May 4, 2017.

behalf of the International Brotherhood of Electrical Workers Locals 2320, 2326, and 2327, and Communications Workers of America Local 1400 (collectively, "Labor Intervenors").

Public hearings were held in Montpelier, St. Johnsbury, and Bennington on February 15, February 21, and March 2, 2017, respectively.

On March 17, 2017, the Board granted the Labor Intervenors' joint motion to intervene.

Technical hearings were held on May 8 and 9, 2017, at the Board's Susan M. Hudson Hearing Room.

On May 26, 2017, initial briefs were filed by the Department, FairPoint, and Consolidated. FairPoint and Consolidated also filed proposed findings of facts. The Labor Intervenors filed a cover letter in lieu of a brief, in which they state that they will neither support nor object to any agreement reached between the Joint Petitioners and the Department, provided that any such agreement memorializes Consolidated's commitments to reinvest 14% of Vermont revenues for each of the next three years and to retain FairPoint's wholesale carrier group employees.

On June 1, 2017, Consolidated and FairPoint jointly filed an MOU between the Joint Petitioners and the Department (the "MOU Parties"). Consolidated and FairPoint included proposed findings of fact with their filing.

III. Capsule Summary of the Transaction

Pursuant to the Agreement and Plan of Merger ("Merger Agreement") entered into by Consolidated Holdings, Falcon, and FairPoint on December 3, 2016, Consolidated Holdings will acquire 100% of the common stock of FairPoint in exchange for shares of the common stock of Consolidated. Consolidated will thereby acquire control of FairPoint's operations in all 17 states in which FairPoint presently operates, including Vermont. At closing, Falcon, a subsidiary of Consolidated, will be merged with and into FairPoint, and FairPoint, as the surviving entity, will become a wholly owned subsidiary of Consolidated. The transaction will require a pledge of assets by FairPoint and its operating subsidiaries, including TOCV, FPV, UILD, and ECNNE, to secure the transaction financing.

IV. Memorandum of Understanding

The MOU Parties jointly recommend that the Board approve and adopt the MOU "in its entirety, without modification, as the full and final resolution of the matters at issue among the Parties in this proceeding."

MOU Provisions

Capital Investment

Consolidated commits to a minimum level of capital investment in Vermont for network improvements to average at least 14% of total Vermont revenue for three years after merger and an additional $1 million on an average annual basis for three years to target areas with ongoing service quality concerns.

Protection of Vulnerable/Low-Income Vermonters

Consolidated commits to maintaining the level of Universal Service Fund ("USF") spending and Eligible Telecommunications Carrier ("ETC")[5] designation in Vermont for three years after merger.

Collaboration with the Department's Consumer Affairs & Public Information ("CAPI") Division

Consolidated will provide CAPI access to a "high-level regulatory affairs and customer service contact" and will make "high-level regulatory affairs and/or service quality employees" available for quarterly in-person meetings with CAPI staff for three years to monitor progress. Consolidated further commits to maintaining the prioritization of service repairs for medically vulnerable customers established in Docket 8390.[6]

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[5] A designated ETC is eligible to participate in the Lifeline program, which reimburses ETCs for providing a monthly reduction on basic, local telephone service to eligible consumers, and to receive funds from the federal Universal Service Fund.

[6] The August 10, 2015, side letter in Docket 8390 provides that priority when responding to customer complaints will be given to: 1) services that affect public safety; 2) customers with medical issues; and 3) customers with pending repair requests more than 7 days old.

Network Operations

Consolidated commits to using its established procedures to resolve aging trouble tickets for network operations and to providing a staffing plan within three months for "functional network expertise" to operate the Signaling System 7/Signaling Transfer Point ("SS7/STP") telephony signaling interface between Consolidated as a wholesale service provider and local exchange carriers. In addition, for the first two years following the merger, Consolidated commits to providing notice to the Board and the Department at least three months prior to any "transition of the Vermont SS7/STP service to a third party."

System Conversions

For two years after the merger, but "in no event after June 30, 2019," Consolidated will provide the Board and the Department with its "work approach and quality control metrics" plan to ensure a successful OSS/BSS[7] conversion from FairPoint's software applications to Consolidated's applications. Consolidated will complete thorough stress and volume testing in advance of any conversion of OSS/BSS software applications, will employ "its proven 'Integration Management Office' process and integration discipline" to achieve system conversions, and will investigate the feasibility of completing any OSS or BSS cutover for an individual state within Northern New England ("NNE") before completing the cutover for the entire NNE territory.

Wholesale-Related Obligations

Consolidated commits to following the terms, conditions, and prices in existing interconnection agreements ("ICAs"). Consolidated further commits to comply with all Regional Bell Operating Company ("RBOC") requirements and obligations and adopt the Wholesale Performance Plan approved by the Board for FairPoint in Docket No. 7506 on March 25, 2015.

[7] Operations Support Systems ("OSS") and Business Support Systems ("BSS")

Application of Service Quality Metrics Applicable to FairPoint

Consolidated agrees to follow the current service quality metrics established for all local exchange carriers in Vermont, including FairPoint, in Docket No. 5903 and applicable Board rules, as well as related agreements from Docket 8390, which includes Connect America Fund Phase II ("CAF II") buildout of broadband to 28,000 customers, thereby serving a significant number of customers who now lack adequate broadband service.

Corporate Structure

Consolidated will maintain its Vermont-related assets and liabilities in a separate subsidiary.

Vermont-Specific Synergies

Consolidated will identify and inform the Department of transaction-related Vermont-specific "synergies impacts," including financial savings from the consolidation of business operations as well as workforce changes. For example, Consolidated will provide the Department's Director of Telecommunications with "verbal notice before it announces any layoffs in Vermont."

Other

The MOU concludes with a number of general provisions establishing that the MOU will be governed by Vermont law, that it will have no precedential impact on future proceedings involving the Department and FairPoint/Consolidated, and that the MOU is a final, integrated, and comprehensive resolution of all issues raised by FairPoint, Consolidated, and the Department in this proceeding.

The MOU concludes that the MOU Parties will cooperate in further "proceedings necessary to support the MOU to the extent deemed necessary," and states that, in the event the Board does not approve the MOU in all material respects, any MOU Party may terminate the MOU and all obligations thereunder upon five days' written notice to the other MOU Parties.

V. POSITIONS OF THE PARTIES

FairPoint

FairPoint maintains that the merger transaction will produce operational and financial efficiencies in the provision of telecommunications services in Vermont and will strengthen the competitive marketplace in Vermont. FairPoint further states that refinancing its existing debt results in a significant reduction in the interest rate for the debt, an extension of the debt maturity, and substantial savings that will free additional capital for uses other than debt repayment as well as a decrease in net leverage for the combined company. In addition, FairPoint adds, the transaction will bring to Vermont a company that is financially stronger and better able to invest strategically in network upgrades and service enhancements, thereby strengthening the competitive marketplace in Vermont. According to FairPoint, the merger will leave in place all of FairPoint's existing operating authority, its existing billing systems, contracts, and agreements, its existing wholesale arrangements, and its existing regulatory obligations, including its ETC designation and federal Universal Service Fund commitments.

Consolidated

Consolidated asserts that it has the managerial and technical knowledge and experience to serve Vermont, is financially sound, is committed to acting as a fair partner in its business transactions in Vermont, and has a proven track record of successfully integrating acquired companies. Consolidated states that the merger will be seamless from the point of view of FairPoint's current customers, that it will have no adverse effect on services provided to FairPoint's retail or wholesale customers, and that Consolidated will assume all rights and obligations that FairPoint has in Vermont. Consolidated expects the transaction to create a more financially strong company, bring new services and products to the state, and lead to capital network improvements. Consolidated further expects that the transaction will strengthen the financial and operational capacity and scale of Vermont's largest incumbent local exchange carrier ("ILEC"), thereby enhancing competition. Consolidated also maintains that it has service quality protocols in place that will improve service quality in Vermont by targeting and remedying service quality issues, including particular service areas with poor quality of service, in a manner more that is more targeted and robust than FairPoint's current methods.

Department

Based on its review of the transaction, the analysis of its experts, and the MOU, the Department supports the transaction and concludes that the merger is likely to result in a company with improved financial strength and a more competent management team that will be capable of delivering better service quality and complying with baseline regulatory obligations than FairPoint on a stand-alone basis. The Department recommends approval of the transaction subject to certain conditions, which Consolidated has generally agreed to through the MOU settlement.

The Department states that its only area of concern with respect to technical competence is Consolidated's lack of experience with two core network operation functions, including management of the SS7/STP network and compliance with various RBOC obligations. Accordingly, the Department tailored its recommended conditions to ensure reliable operation of the SS7 network and wholesale operations and to mitigate potential risks to customers associated with the transfer of ownership of FairPoint's existing systems. The Department asserts that its recommended conditions are aimed at ensuring that service for retail, commercial, and wholesale customers remains adequate; that service quality is maintained for Vermont residential customers, particularly in those in areas without alternatives to traditional landline phone service; that Consolidated makes available local management-level employees with knowledge of the Vermont network to confer with Department staff; and that Consolidated works collaboratively with the Department through advance notice of certain operational system integrations and staffing changes, as well as through participation in regular meetings with the CAPI Division.

Labor Intervenors

The Labor Intervenors state that they will neither support nor oppose the MOU settlement, provided that it is consistent with Consolidated's testimony during the Board's technical hearings that it will commit to making capital expenditures in Vermont equal to at least 14% of Vermont in-state revenues for each of the next three years, and that Consolidated will retain FairPoint's wholesale carrier group in Maine. The Labor Intervenors state that they understand that Consolidated's commitment does not necessarily mean that all jobs in the wholesale carrier group will be maintained indefinitely, but that the wholesale carrier function will remain in Northern New England.

The Labor Intervenors state that a settlement consistent with the above-noted representations by Consolidated would be sufficient for the Labor Intervenors to discontinue their advocacy before the Board and, instead, to work directly with Consolidated to address Labor's concerns regarding the merger transaction. The Labor Intervenors further state that if the Board approves an MOU that incorporates the commitments described above, they waive their right to seek reconsideration or appeal of the Board's final order, but expressly reserve the right to respond in the event that any other party or person seeks such reconsideration or appeal.

VI. Public Comments

Public comments were received from one individual at the public hearing held in Montpelier on February 15, 2017. The same individual submitted written comments in response to the MOU on June 2, 2017, and on June 5, 2017. The public comments provided raised a number of concerns related to FairPoint's maintenance, expansion, and operation of its systems, including the Enhanced 911 ("E911") emergency system. Specifically, the comments raised concerns about service quality, the reliability of the SS7 network under FairPoint, fiber deployment to rural areas, open access to fiber by competitor telecommunications providers, pole attachment rates, and dual poles.

Discussion

The public comments raise general concerns about the maintenance and operation of FairPoint's systems. The Board agrees that FairPoint has had operation and maintenance problems in the past that have affected service quality in Vermont. However, the evidence in the record does not call into question the reasonableness of the transaction itself. As discussed below, Consolidated's commitment to invest 14% of total Vermont revenues and its goal of enhancing servicing quality should help to address some of these issues.

The comments also addressed the "ongoing deficiencies" of the Enhanced 911 contract undertaken by the Enhanced 911 Board. These concerns fall outside this Board's jurisdiction and are properly addressed to the E911 Board. Similarly, to the extent that the comments raise the Department's failure to-date to produce a revised 10-year Telecommunications Plan under 30 V.S.A. 202d, we do not have the jurisdictional authority to enforce the Department's compliance with the cited statutory mandate. Finally, some of the comments raise issues that overlap to a degree with those raised in two open dockets currently before the Board.[8] The specific concerns raised in the public comments are more aptly addressed, as appropriate, in those dockets.

VII. Legal Standard

The acquisition, transfer, and merger transactions proposed by the Joint Petitioners require approval from this Board pursuant to 30 V.S.A. §§ 107, 108, 109(a), 311, and 231(a).

1. Review of the Acquisition, Transfer, and Merger Transactions

Section 107 requires advance approval for the acquisition of "a controlling interest in any company subject to the jurisdiction of the public service board." The general standard for approval is that the acquisition of control "will promote the public good."

Section 109(a) requires prior approval of a substantial sale or lease of a utility's corporate property "constituting ten percent or more of the company's property located within this state and actually used in or required for public service operations." The governing legal standard for such mergers and acquisitions requires that the transaction "will promote the general good of the State."

Section 311 requires that a consolidation or merger requires approval of the Board and a finding that the proposed consolidation or merger "will not result in obstructing or preventing

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[8] *See* pending Dockets No. 8842, *Petition for Investigation pursuant to 30 V.S.A. § 202d concerning Vermont 911 Emergency Calling System Reliability and Planning*, Order Opening Investigation and Setting Briefing Schedule (11/4/16), and No. 8850, *Petition of the Department of Public Service for an investigation into the 1/5/16 FairPoint network incidence that disrupted delivery of calls into the Vermont 911 system*, Order Opening Investigation (11/4/16).

competition in the purchase or sale of any product, service, or commodity, in the sale, purchase, or manufacture of which such corporations are engaged."

2. Review of the Pledge of Vermont Assets

Section 108 requires the consent of the Board prior to the pledge of any stocks, bonds, notes, or other evidence of indebtedness. To grant consent, the Board must find that the proposed pledge or issuance will be "consistent with the general good of the State."

3. Amendment of Certificate of Public Good

A person desiring to "own or operate a business over which the [Board] has jurisdiction" must obtain a CPG pursuant to Section 231(a). In determining whether to issue a CPG to Consolidated, the Board must find that it will promote the general good of the State of Vermont. The Board's finding has generally been guided by its assessment of the following criteria: (1) technical expertise, (2) adequate service, (3) facility maintenance, (4) balance between customer and shareholder interests, (5) financial stability, (6) company's ability to obtain financing, (7) business reputation, and (8) customer relations.

These criteria are guidelines only. Section 203 permits the Board to exercise its jurisdiction "so far as may be necessary to enable [it] to perform [its] duties and exercise the powers conferred upon [it] by law." In issuing a CPG, the Board may tailor conditions appropriate to the planned activities of the petitioner.[9]

4. Applicable Review Standards

Based on the above, we consider the following factors in determining whether the transaction proposed in this proceeding promotes the public good of the State. Consolidated carries the burden of proof on the following questions:

1. Whether the new company is competent to own and operate FairPoint's assets and services. This determination requires an assessment of the company's (1) managerial

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[9] *See Petition of Verizon New England d/b/a Verizon Vermont*, Docket No. 7270, Order of 12/21/07 (*citing Petition of New England Power Company*, Docket No. 6039, Order of 6/29/98, at 15-17; Docket No. 7038, Order of 3/25/05 at 9).

competence, (2) technical competence, (3) business reputation, and (4) necessary regulatory approvals;

2. Whether the new company is financially sound;

3. Whether the new company will act as a fair partner in business transactions with the citizens of Vermont. This assessment considers the: (1) fairness and reasonableness of terms and conditions of service, (2) adequacy of service quality, (3) adequacy of customer service choice, (4) adequacy of emergency services, and (5) adequacy of investment in the network and company operations;

4. Whether the new company will provide benefits for the State, including whether the transaction will:

a. provide a better, stronger, more capable, or more accessible network,

b. produce efficiencies in operation, and

c. provide economic or other benefits to the state;

5. Whether the transition from the old company to the new company will be adequately managed; and

6. Whether the transaction will impair or obstruct competition in the marketplace.

Our findings below are considered within the framework set forth above.

IV. Findings

A. The Proposed Transaction

1. Corporate Entities

a. FairPoint

1. Fair Point is a publicly held Delaware corporation located at 521 East Morehead Street, Suite 500 in Charlotte, North Carolina. Joint Petitioners Exh. 1 at 5.

2. FairPoint has four operating entities in Vermont: TOCV, FPV, UILD, and ECNNE. Michael C. Reed, FairPoint ("Reed") Reed pf. at 7; Joint Petitioners Exh. 1 at 6-7.

3. TOCV is an incumbent local exchange carrier ("ILEC") in the State of Vermont operating pursuant to a CPG issued by the Board in Docket No. 7270 on February 15, 2008, and amended in Docket No. 7599 on December 23, 2010. Reed pf. at 8; Joint Petitioners Exh. 1 at 6.

4. TOCV is authorized to provide intrastate telecommunications services in the State of Vermont, and provides local exchange, Internet, and ancillary services to approximately 136,163 access lines as of December 31, 2015, in approximately 100 exchanges across the state. TOCV is a designated eligible telecommunications carrier ("ETC") under 47 U.S.C. §214(e)(2) in its Vermont exchanges. Reed pf. at 8; Joint Petitioners Exh. 1 at 6.

5. FPV is an ILEC in Vermont operating pursuant to a CPG issued by the Board on June 14, 1994, in Docket No. 5717, as amended by Board Order in Docket No. 7229 on November 17, 2006.[10] FPV provides local exchange, Internet, and ancillary services in the exchanges of Alburg, Cabot, Groton, Isle La Motte, Marshfield, Montgomery, Peacham, and West Newbury, and serves approximately 4,376 access lines as of December 31, 2015. FPV is a designated ETC in the aforesaid exchanges. Reed pf. at 8-9; Joint Petitioners Exh. 1 at 6-7.

6. UILD is a Maine corporation authorized to provide intrastate telecommunications services and Internet services in Vermont pursuant to a CPG issued by the Board in Docket No. 6919 on February 3, 2004. Reed pf. at 9; Joint Petitioners Exh. 1 at 7.

7. ECNNE is authorized to provide intrastate telecommunications services and Internet services in Vermont pursuant to a CPG issued by the Board in Docket No. 7270 on February 15, 2008, and amended in Docket No. 7599 on December 23, 2010. ECNNE also provides interstate communications services under authority granted by the Federal Communications Commission ("FCC"). Reed pf. at 9; Joint Petitioners Exh. 1 at 7.

8. TOCV and FPV operate under a successor Incentive Regulation Plan ("IRP") approved by the Board in Docket No. 8337 on March 18, 2016. The successor IRP expires by its terms on December 31, 2019. TOCV and FPV report retail service quality metrics established by the Board in Docket No. 5903. In addition, TOCV currently operates in compliance with a

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[10] *Joint Petition of WFT Acquisition Co., Champlain Valley Telecom, Inc., STE/NE Acquisition Corp., and Vermont National Telephone Company, Inc.*, Docket No. 5717, Order of 6/14/94; *Petition of STE/NE Acquisition Corporation to amend its Certificate of Public Good to reflect a name change*, Docket No. 7229, Order of 11/17/06.

memorandum of understanding ("MOU") approved by the Board on December 18, 2015, in Docket No. 8390 that modifies certain Docket 5903 commitments. Reed pf. at 9.

9. FairPoint has accepted approximately $8.8 million in annual Connect America Fund Phase II ("CAF II") funding to provide broadband service to 28,339 locations in TOCV's and FPV's combined service areas in Vermont by 2021. Reed pf. at 10.

10. TOCV and FPV were both recently designated as Vermont-eligible telecommunications carriers ("VETCs") by the Board in an Order issued on December 16, 2016, in Docket No. 8542. Reed pf. at 10.

b. Consolidated

11. Consolidated Holdings is a publicly held Delaware corporation with headquarters located at 121 South 17th Street in Mattoon, Illinois. Joint Petitioners Exh. 1 at 4.

12. Consolidated, an Illinois corporation, is a wholly owned subsidiary of Consolidated Holdings. Michael Shultz, Consolidated ("Shultz") pf. at 1, 18; Joint Petitioners Exh. 1 at 5.

13. Falcon is a wholly owned subsidiary of Consolidated created solely to effectuate the proposed merger with FairPoint. Under the Merger Agreement, Falcon will cease to exist upon its merger with and into FairPoint, leaving FairPoint as a wholly owned subsidiary of Consolidated. Shultz pf. at 9, 18; Joint Petitioners Exh. 1 at 2, 5.

14. The three Consolidated entities are registered with the Vermont Secretary of State. Shultz pf. at 18; exh. CCI-MJS-4.

15. Consolidated operates in 11 states, including California, Illinois, Iowa, Kansas, Minnesota, Missouri, North Dakota, Pennsylvania, South Dakota, Texas, and Wisconsin. Consolidated does not currently operate in Vermont. Shultz pf. at 5.

16. Consolidated has provided communications services for more than 120 years. The company operates multiple types of networks, a traditional time division multiplexing ("TDM")-based network, with multiple central offices serving local wire centers for last-mile connections to end users. All offices are interconnected by fiber and served by IP-based core networks. Consolidated operates an Internet protocol ("IP")-based network over the same TDM infrastructure, with multiple network operation centers and built-in redundancies to solidify the network. Shultz pf. at 14-15; Gabe Waggoner, Consolidated ("Waggoner") pf. at 2.

17. Consolidated's current customer base includes consumer, commercial, and carrier accounts. Consolidated provides a variety of voice, data, and video products and services in its markets. Waggoner pf. at 3.

2. Transaction Details

18. Consolidated Holdings, Falcon, and FairPoint entered into a Merger Agreement on December 3, 2016. Steven Childers, Consolidated ("Childers") pf. at 4; Joint-Petitioners Exh. 1 at 2.

19. The proposed merger, if approved, will result in an indirect change in control of TOCV, FPV, UILD, and ECNNE. Shultz pf. at 9-10; Childers pf. at 5.

20. The proposed transaction is structured as a reverse triangular merger. It involves Consolidated's acquisition of 100% of the common stock of FairPoint in exchange for shares of common stock of Consolidated. Consolidated will thereby acquire control of FairPoint's operations in all 17 states in which FairPoint currently operates, including Vermont. At closing, Falcon, a subsidiary of Consolidated, will be merged with and into FairPoint, and FairPoint, the surviving entity, will become a wholly owned subsidiary of Consolidated. Shultz pf. at 9.

21. The transaction is structured as an exchange of stock. Specifically, FairPoint shareholders will receive 0.730 shares of Consolidated Holdings stock for each share of FairPoint stock. Childers pf. at 6; Shultz pf. at 10.

22. As a result of the merger transaction, FairPoint will have one seat on the Consolidated Communications board. Shultz pf. at 10.

23. Under the Merger Agreement, Consolidated will assume all existing FairPoint regulatory obligations and will be bound by the outcomes of Board proceedings in Docket Nos. 8701 and 8850.[11] Reed pf. at 10-11.

24. After the merger closing, FairPoint, as a direct subsidiary of Consolidated, will continue to do business in Vermont under the Consolidated Communications name.

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[11] Docket No. 8701 has been resolved. *See* Order of 6/2/17 in Docket 8701. As a result, the service quality metric requirements established in Docket No. 5903 will continue to apply to FairPoint and, following the merger, to Consolidated, without modification. Docket 8850 is a pending investigation of a network incident involving equipment owned and operated by TOCV that led to a disruption of call traffic to the Vermont E911 system on January 5, 2016.

Accordingly, the transaction requires amendments to the existing CPGs of TOCV, FPV, UILD, and ECNNE to reflect the changes in company names. Shultz pf. at 10.

25. TOCV, FPN, UILD, and ECNNE will continue to operate pursuant to their existing operating authority, and, as indirect subsidiaries of Consolidated, will continue to provide services to current retail and wholesale customers in Vermont. Shultz pf. at 10.

B. Financial Soundness of Consolidated and the Merger Transaction

1. Financing

26. The merger is valued at $1.5 billion and structured as an all-stock transaction. Thus, there will be no borrowing to acquire the FairPoint stock. However, Consolidated Holdings will incur new debt to refinance the existing debts of FairPoint. Cash is not a component of the consideration other than Consolidated's customer settlement of fractional shares. Childers pf. at 6; Joel F. Jeanson, Department ("Jeanson") pf. at 8-9.

27. Consolidated has secured financing for this transaction at a significantly lower interest rate than FairPoint's existing debt facility. Thus, the cost of debt for the combined company is significantly better than FairPoint's on a stand-alone basis. Shultz pf. at 9; Childers pf. at 11; Jeanson pf. at 7.

28. Consolidated will finance repayment of FairPoint's outstanding debt with a fungible tack-on to its existing term agreements, which carry a substantially lower interest rate than FairPoint's current debt obligations. Jeanson pf. at 6, 7.

29. Consolidated will pledge FairPoint's assets as security for its debt obligations, a common industry practice that allows Consolidated to achieve the lower interest rate on its debt obligations. The asset pledge will be a tack-on to Consolidated's existing term loan. Jeanson pf. at 7; Childers pf. at 6, 7.

30. Consolidated will not be able to default or declare bankruptcy on the Fairpoint portion of the business separate from the company as whole. Jeanson pf. at 7.

31. Due to a recent refinancing, Consolidated has no debt maturities until 2022 and its average cost of debt is approximately 5%. Shultz pf. at 9.

2. Capital Availability

32. The merger strengthens two key financial ratios where FairPoint and Consolidated are individually weak: (1) net leverage ratio and (2) interest coverage ratio. The transaction will strengthen Consolidated by lowering its net leverage ratio on a joint entity basis, and will strengthen FairPoint by improving its interest coverage ratio on a joint entity basis. Jeanson pf. at 6.

33. Consolidated's access to a revolving loan facility of up to $110 million provides assurance that additional capital will be available to the company if necessary. Childers pf. at 7; Childers reb. pf. at 6; tr. 5/8/17 at 129 (Childers).

34. Consolidated is rated by two of the three credit agencies: Moody's ratings are Ba3 for debt and B3 for bonds; Standard & Poor's ratings are BB- for debt and B- for bonds. These ratings are higher than FairPoint's ratings. Childers pf. at 4; Childers reb. pf. at 2; Shultz pf. at 12.

35. At closing of the transaction, Consolidated's net debt leverage is expected to be 3.8x, with a target of 3.5x. Childers pf. at 9.

36. The Department's stress testing indicates that Consolidated should be capable of increasing its proposed level of capital investment without compromising its ability to satisfy its debt service obligations, even assuming that Consolidated fails to meets its projected revenues. Jeanson pf. at 14.

3. Shareholders' Equity

37. Consolidated's existing shareholders will retain 71% equity in the merged entity, with FairPoint shareholders owning the remaining 29%. Jeanson pf. at 6.

38. Although the merger and issuance of new shares will increase Consolidated's dividend burden, the savings achieved through reduced interest payments will marginally exceed the increase in dividend payouts. Jeanson pf. at 8; tr. 5/8/2017 at 128, 129 (Childers).

4. Cash Flow Sensitivity

39. In Consolidated's model, on a pro forma basis, revenues are expected to decline modestly from year-end 2016 through 2022. The revenue loss rate will be higher in the first year or two after close. Childers pf. at 9–10.

40. With its focus on consumer broadband and growing commercial and carrier channels by 3.5% to 4% per year, Consolidated expects to see legacy Consolidated revenues stabilize in 2019. Consolidated has modeled declines of less than one half of one percent in the out years of the model. Childers pf. at 10.

41. Stress tests performed by the Department indicate that Consolidated should have sufficient revenues and cash flow to satisfy its debt obligations, to maintain shareholder dividend payments, and to reinvest in the network at a rate of approximately 15% of total revenues through 2024 (the end of the modelling period). Childers pf. at 10, 11; Childers reb. pf. at 3-4.

C. Consolidated's Technical Competence

1. Management Competence

42. Consolidated's leadership team averages 25 years of industry experience, with a wide variety of experience working with Consolidated as well as with larger local exchange carriers such as Bell of Pennsylvania[12] and Frontier Communications Corporation, and with CLECs such as Integra Telecom. Shultz pf. at 7; Waggoner reb. pf. at 2.

43. Consolidated has specified a senior management team who will be primarily responsible for managing the merger transition and overseeing FairPoint's continued operations after the closing. Shultz pf. at 7.

44. Consolidated will retain management-level FairPoint personnel in New Hampshire and Maine with specific Vermont network knowledge, as well as a senior state government-relations employee and FairPoint's current Chief Technology Officer located in Vermont. Tr. 5/8/17 (Shultz) at 58-59.

2. Technical Knowledge, Experience, and Ability to Provide Intended Services

45. Consolidated started more than 120 years ago in Mattoon, Illinois, as the Mattoon Telephone Company, owned and operated by the Lumpkin family. Through a series of acquisitions in the 1920s and 1930s, it became Illinois Consolidated Telephone Company ("ICTC"). In 1984, Consolidated Communications, Inc. ("CCI") was formed and, with ICTC, it

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[12] Now Verizon Pennsylvania, LLC.

expanded its line of businesses to business systems, directory and long-distance services, operator services, and telemarketing. In 1997, the Lumpkin family sold the company to McLeod USA; in 2002, the Lumpkin family and two private equity firms purchased it back. From 2004 to 2016, Consolidated has completed an initial public offering and grown with multiple acquisitions. Shultz pf. at 3.

46. Consolidated has acquired and operated 18 communications businesses through five transactions since 2004, including the acquisitions of TXU Communications in Texas, North Pittsburgh Systems, Inc. in western Pennsylvania, SureWest Communications in California, Enventis, Inc. in Minnesota, and Champaign Telephone Company in Illinois. Shultz pf. at 4-6.

47. Consolidated's current network spans an 11-state footprint with both ILEC and CLEC networks serving consumer, commercial, and carrier accounts. Consumer and commercial voice products offered by Consolidated include both legacy "plain old telephone service," or POTS, as well as Voice over Internet Protocol ("VoIP") technologies. Waggoner pf. at 2, 3.

48. Consolidated Communications Enterprise Services, Inc. ("CCES"), a CLEC in all 11 states in which Consolidated currently operates, provides non-regulated services such as VoIP- and UNE-based voice services, broadband, cloud computing, data centers, fiber services, Internet, IPTV and CATV-based video, long distance, directory, home automation, and security services. Shultz pf. at 6.

49. Consolidated offers its residential services to customers on either a stand-alone basis or as part of a bundled package, including a "triple play" bundle that includes data, video, and voice services. As of September 30, 2016, Consolidated's operating subsidiaries served approximately 462,000 voice connections, 470,000 data connections, and 109,000 video connections. Waggoner pf. at 3.

50. Consolidated has operational experience and expertise in urban, suburban, and rural areas. Like FairPoint, Consolidated is a provider of last resort in its ILEC operating areas and is subject to service quality requirements. Consolidated also has experience in managing local access transport area, or LATA, requirements, as well as interconnection, pole attachments, 911 management, and primary tandem responsibility. Consolidated is a CLEC in both AT&T and

Verizon operating areas and understands wholesale carrier issues from a customer perspective. Waggoner reb. pf. at 2.

51. In 2015, Consolidated invested $134 million in capital projects and extended its fiber network by more than 1,300 route miles while adding broadband capacity for its residential and commercial customers. Waggoner pf. at 2.

52. Fiber redundancy and network equipment redundancy is deployed throughout Consolidated's networks, where feasible, to ensure uninterrupted service to end customers. In all the markets it currently serves, Consolidated has launched initiatives to support fiber backhaul services to cell sites. As of December 31, 2015, Consolidated had 1,224 cell sites under contract with 1,065 connected and 159 scheduled for completion by year-end 2016. Waggoner pf. at 2-3.

3. Business Reputation

53. Based on responses to a survey sent to utility regulators in states in which Consolidated currently provides service, the Department concludes that Consolidated has a positive record with respect to the regulatory agencies. Ardeth Smith, Department ("Smith") pf. at 19-21.

54. Consolidated reports that in each of its operating states, it has a good working relationship with state and federal regulators and has received few customer complaints in the past three years. Shultz pf. at 6; exh. CCI-MJS-1.

4. Other Regulatory Approvals

55. The merger transaction requires the following federal approvals: (1) Federal Trade Commission ("FTC") review under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and (2) Federal Communications Commission ("FCC") approval under Section 214 of the Communications Act of 1934 and Sections 63.03 and 63.04 of the FCC's rules governing procedures for the domestic transfer of control/asset applications and license transfers. Shultz pf. at 10.

56. The FTC issued an early termination of its Hart-Scott-Rodino review on January 11, 2017, thereby requiring no further review or action. Shultz reb. pf. at 1; tr. 5/8/17 at 97 (Shultz).

57. The FCC approved the transaction on May 8, 2017. Tr. 5/8/17 at 169 (Shultz).

58. The merger requires approval from the following states: Colorado, Georgia, Illinois, Kansas, Maine, New Hampshire, New York, Ohio, Pennsylvania, Vermont, and Virginia. The states of Alabama, Florida, Massachusetts, Missouri, Oklahoma, and Washington do not require formal approval of the merger transaction. Shultz pf. at 10.

59. At the date of this Order, approvals have been granted by all states requiring approval except Illinois, which is expected to issue a determination by June 30, 2017. Tr. 5/8/17 at 97-99 (Shultz).[13]

D. Consolidated as a Fair Partner in Business Transactions

To assess Consolidated's competency as a fair partner in business transactions, we consider the following factors, as applicable: (1) just and reasonable terms and conditions, (2) adequate retail service quality, (3) adequate customer service, (4) availability of emergency services, (5) adequate rate of investment, and (6) compatibility with other systems.

1. Fair and Reasonable Terms and Conditions of Service

60. FairPoint's existing subsidiaries will remain intact and will continue to be subject to FairPoint's current Incentive Regulation Plan ("IRP"), Wholesale Performance Plan, and ETC designations. Tr. 5/8/17 at 108–09 (Schultz); Waggoner pf. at 5, 9; Shultz pf. at 10-11, 13; Shultz reb. pf. at 8-9.

61. Consolidated has not proposed any changes to FairPoint's pricing catalogs or current Statement of Generally Available Terms ("SGAT"). Tr. 5/8/17 at 108–09 (Schultz).

62. There is no appreciable difference between the price points of FairPoint's and Consolidated's current service offerings throughout the service territories that each company serves. However, it appears that Consolidated generally has lower prices for voice services and higher prices for advanced broadband speeds compared to FairPoint. W. Curtis Mills, Department ("Mills") pf. at 10–11.

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[13] We take administrative notice of the fact that approvals for the transaction were granted by New Hampshire and Maine on May 31, 2017, and by New York on June 15, 2017.

63. There will be no change to commercial or residential services at the closing of the merger transaction because a systems cutover is not required at that time. Shultz pf. at 19.

64. FairPoint currently provides Lifeline credits to subsidize the cost of basic phone or broadband service to more than 8,000 vulnerable households through its service territory in Vermont. Carol Flint, Department ("Flint") pf. at 6.

65. For a period of three years after completion of the merger, Consolidated will not take steps to reduce the level of Universal Service Fund ("USF") spending in Vermont. For the same time period, Consolidated agrees that it will not relinquish ETC designations for TOCV and FPV. Shultz reb. pf. at 8.

66. For wholesale carrier customers, there will be no change to the terms and conditions of existing contracts for services purchased from FairPoint. Shultz pf. at 17.

67. Consolidated currently uses the same Synchronous Virtual Front Office and Carrier Access Billing System, or CABS, used by FairPoint for interconnection and wholesale service ordering. Shultz reb. pf. at 9.

68. Consolidated will use FairPoint's existing change management process for the wholesale system. Shultz reb. pf. at 9.

69. Consolidated will follow the terms, conditions, and prices contained in FairPoint's existing interconnection agreements ("ICAs") for services provided in Vermont, including terms and conditions pertaining to modifications of the ICAs. Shultz reb. pf. at 8-9.

70. Consolidated will comply with any and all requirements and obligations of an RBOC, as established under the federal Telecommunications Act and any other applicable federal and state laws or regulations, until such requirements are removed by state or federal lawmakers or regulators. Shultz pf. at 19; Shultz reb. pf. at 8.

2. Adequacy of Service Quality

71. According to regulatory service quality reports reviewed from a number of jurisdictions where Consolidated currently operates, it has a satisfactory service quality performance record. Mills pf. at 14–19; Flint pf. 8–11.

72. In several states, Consolidated has repeatedly failed to meet baseline requirements for service quality metrics that measure the percentage of troubles cleared within a defined time

period. In each of those states, the metric levels are more stringent than the requirements under Vermont's current Docket 5903 standards. Tr. 5/9/17 at 95-97 (Mills).

73. Consolidated has a more robust escalation process to handle and resolve trouble tickets than the process currently being used by FairPoint. Consolidated's process includes the involvement of executive-level staff such as the company's Chief Technology Officer to ensure that aging trouble tickets are not improperly managed. Scott A. Wierson, Department ("Wierson") pf. at 12, 23.

74. Consolidated will use this escalation process for aging trouble tickets within three months of assuming responsibility for FairPoint's network operations. Waggoner reb. pf. at 3.

75. Consolidated uses "data mining" software and other network tools to empirically analyze service quality performance and to identify recurring troubles and problems within its network. Tr. 5/8/17 at 67–69 (Waggoner).

76. Consolidated expects to develop a plan to remediate service in areas where it identifies consistent out-of-service or trouble issues. It will use its internal processes to "data mine" such trouble locations. Accordingly, Consolidated will evaluate the entire network, at both the distribution and feeder cable level, as well as at the "shelf level" within its central offices, and monitor trouble activity to determine the outlier issues. By looking across network elements for trouble patterns, Consolidated can ascertain through empirical data where trouble trends exist. Tr. 05/08/17 at 67-68 (Shultz) and at 68 (Waggoner).

77. When Consolidated targets specific issues through data mining, it looks for trouble tickets that are associated with particular geographical areas, particular network equipment, and seasonal variations. With this method of trouble identification, Consolidated can appropriately balance capital investment in the areas that need it most. Tr. 05/08/17 at 68 (Waggoner).

78. Consolidated has achieved higher efficiencies in its current service territories in terms of jobs completed by technicians per day than FairPoint has achieved in its territories. Tr. 5/8/17 at 189 (Waggoner).

3. Adequacy of Customer Services

79. Following the merger close, residential and business customers will have multiple options to access customer service through on-line tools and support, a toll-free number, and walk-in communications centers. Shultz pf. at 17.

80. Consolidated anticipates that it will offer its residential customer portal, which provides an end user with a 24-hour web-based portal for self-service and care. The portal allows customers to view a wide variety of service performance metrics in near real time, including bandwidth usage, Wi-Fi signal strength in the home, and the ability to order new services. In the future, consumers will have the ability to change services on-line and manage how their bandwidth is utilized in their home. Shultz pf. at 14.

81. Consolidated plans to introduce additional services not currently offered by FairPoint, including over-the-top ("OTT") video, home security services, and various data services. Schultz pf. at 14.

82. Consolidated plans to improve availability and speeds of broadband by introducing fiber-to-the-home where economically feasible, shortening existing copper loop lengths, and pair-bonding existing, unused copper loops to increase bandwidth to individual residences. Tr. 5/8/17 at 78–81 (Schultz and Waggoner).

4. Adequacy of Emergency Services

83. Consolidated represents that it will retain all personnel necessary for the continued operation of FairPoint's existing E911 contract and obligations. Waggoner pf. at 8.

84. Consolidated maintains detailed emergency operations and disaster recovery plans that address critical systems, consistent with other carriers' disaster recovery planning documents. Smith pf. at 9.

85. Consolidated will retain FairPoint personnel responsible for ensuring the satisfactory operation of FairPoint's existing E911 service contract. Shultz pf. at 17.

86. Consolidated has a long history of managing the E911 system that serves four counties in its Illinois network. Shultz pf. at 17.

87. Consolidated has chosen to transfer the management of the E911 system in its existing Illinois service territories to INdigital. Shultz pf. at 17.

5. Adequacy of Rate of Investment

88. During its review of FairPoint's physical network system, Consolidated did not find material deficiencies that indicate a substantive material risk to the merger transaction. Consolidated acknowledges that ongoing network maintenance and improvement are needed to improve service reliability and enhance broadband capabilities. Waggoner reb. pf. at 5.

89. Post-closing, Consolidated will focus on best practices for capital investment decisions that will include network maintenance and enhancement consistent with normal network evolution. Waggoner reb. pf. at 5.

90. Consolidated will maintain a minimum level of capital investment in Vermont for network improvements at an average annual basis of at least 14% of total Vermont revenue for a period of three years after completion of the merger. Tr. 5/9/17 at 190-191 (Shultz).

91. Total Vermont revenue will include Vermont-specific total interstate and intrastate revenue earned by all FairPoint/Consolidated subsidiaries operating in Vermont, both regulated and unregulated, including TOCV, FPV, UILD, and ECNNE. Total Vermont revenue will not include revenues generated as a result of inter-affiliate transactions among any FairPoint/Consolidated subsidiaries operating in Vermont or any revenue they receive through the FCC's CAF II program. Any funds received through the CAF II program that are expended to complete CAF II projects will not be used to satisfy the minimum capital investment commitments. Tr. 5/8/17 at 14, 73-74, 132 (Shultz); tr. 5/9/17 at 190-191 (Shultz).

6. Compatibility with Other Systems

92. FairPoint's Vermont entities will continue to operate the Vermont network under Consolidated ownership. Other than changes in their names, TOCV, FPV, UILD, and ECCNE will continue to operate pursuant to existing operating authority and will continue to provide services to current retail and wholesale customers in Vermont as indirect subsidiaries of Consolidated. Shultz pf. at 10-11.

93. The merger transaction will be seamless from a wholesale and retail customer perspective. Reed pf. at 4.

94. Consolidated will operate the SS7/STP network as it is currently operated by FairPoint and will provide notice to the Board and the Department at least 3 months prior to any transition of SS7/STP service to a third party. Waggoner reb. pf. at 3.

E. Benefits of the Transaction for Customers

1. Employment and Investment in Vermont

95. Consolidated has committed to a minimum level of capital investment in the Vermont network that will average 14% on an annual basis of total Vermont interstate and intrastate revenues from its unregulated as well as regulated entities for three years following the merger closing. Tr. 5/9/17 at 190-191 (Shultz).

96. Consolidated will continue to increase broadband availability through the continuation of CAF II deployments and investments in next-generation access equipment to increase bandwidth capacity for customers. Waggoner pf. at 7.

97. Consolidated has not determined what positions will be eliminated for merger synergies beyond the management level. Tr. 5/8/17 at 46, 54 (Waggoner).

98. The layoffs FairPoint made in late 2016 did not factor into Consolidated's $55 million synergy estimate. Consolidated will consider the current collective bargaining agreements, seniority implications, and the rebalancing of the workforce. Tr. 5/8/17 at 51-52 (Childers) and 52-53 (Waggoner).

99. Consolidated has committed to retaining FairPoint's wholesale carrier group employees and employees with expertise in managing the SS7 network. Waggoner pf. at 8; tr. 5/8/17 at 96-97 (Shultz).

100. Consolidated will consider all opportunities for appropriate personnel reductions and related efficiency gains from across the combined post-merger company on the principle of retaining the best talent available. Shultz reb. pf. at 10.

2. Expansion of Broadband and Related Services

101. Consolidated intends to launch three new broadband-based service categories in Vermont as soon as practicable after the merger closing, including home automation and security services and a suite of OTT video products for home consumers, and a portfolio of cloud-based

products, including a disaster recovery solution, cloud computing, Wi-Fi service, and a hosted firewall service, for commercial customers. Waggoner reb. pf. at 6-7.

3. Improved Service Quality

102. Consolidated will introduce its existing automated outage notification system that systematically informs customers that they are part of an outage and issues service tickets for them. Tr. 5/8/17 at 173 (Waggoner).

103. Consolidated will introduce a technology it currently utilizes to allow technicians to optimize Wi-Fi signaling within customer homes, leading to less repeat trouble and freeing technicians to support other services. Tr. 5/8/17 at 173-174 (Waggoner).

104. Consolidated has identified and will pursue opportunities for improvement and increased operational efficiency as soon as practicable after the merger close, with input from FairPoint's customer-facing employees. Waggoner reb. pf. at 6.

F. Transition Management

1. General Findings

105. Consolidated employs a detailed process for system integration that applies to both retail and wholesale customers. Tr. 5/8/17 at 89-90 (Shultz).

106. Based on past acquisitions, Consolidated typically takes 12-18 months to review information technology ("IT") systems and processes before integrating systems. Shultz reb. pf. at 6.

107. Consolidated will employ its Integration Management Office to provide oversight and accountability when integrating existing applications or enhancing existing systems to develop new service capabilities. Shultz reb. pf. at 6-7.

108. Wholesale customers will be governed by the change management process FairPoint has in place today, which requires notification, communication, and education on system impacts. Tr. 5/8/17 at 89-90 (Shultz).

109. Any changes to the BSS/OSS systems that affect wholesale customers will be processed through FairPoint's current change management process. Shultz reb. pf. at 6.

110. Consolidated performs stress and volume testing prior to implementing a system integration or cutover. Tr. 5/9/17 at 193-194 (Shultz).

111. In the event that something goes wrong during a system cutover, Consolidated is able to revert to the old system. Tr. 5/8/17 at 114 (Shultz).

2. Phased Cutover of Systems

112. Consolidated will integrate FairPoint's enterprise resource planning ("ERP") system to move financial reporting to a single platform and all of Consolidated's employees to a single database. The integration of the ERP system will not affect customers directly. Tr. 5/8/17 at 154-155 (Waggoner).

113. Additional system integration plans will be developed after discussions with vendors, suppliers, and support teams. Shultz reb. pf. at 5-6.

114. Consolidated will leave FairPoint's existing customer-facing systems in place at closing for a period of at least two years. As a result, no system cutovers are required to implement the transaction immediately upon closing. Shultz pf. at 13.

115. Consolidated will integrate FairPoint's back office ERP system as a priority transition step to standardize internal controls, business processes, financing, reporting, and Sarbanes-Oxley compliance controls as quickly as possible. Shultz reb. pf. at 4; tr. 5/8/17 at 155-156 (Childers).

116. Consolidated plans to convert FairPoint's ERP applications by December 31, 2017. Smith pf. at 13.

G. Effect of Transaction on Competition

1. RBOC Obligations

117. Consolidated is familiar with RBOC obligations and will continue to meet FairPoint's RBOC commitments following the close of the merger transaction. Consolidated has a number of the same requirements in its current operating areas, including interconnection obligations, pole attachments, and local access and transport area ("LATA") tandem switches. Shultz pf. at 19.

118. FairPoint's Statement of Generally Available Terms ("SGAT") will remain in effect post-merger. Reed pf. at 4; tr. 5/8/17 at 108-109 (Shultz).

119. Consolidated will follow the terms, conditions, and prices contained in FairPoint's existing ICAs with CLECs in Vermont. Shultz reb. pf. at 8.

120. FairPoint's existing pole agreements and network arrangements with rural ILECs will be unchanged by the merger. Reed pf. at 4.

2. Wholesale Services and Operation Support Systems

121. After the merger, FairPoint's existing wholesale carrier group will continue to be based in Portland, Maine. The wholesale carrier group will continue to implement FairPoint's Wholesale Performance Plan. Shultz pf. at 19; Tr. 5/8/17 at 96 (Shultz).

122. There will be no change to the contracts or terms and conditions of services that FairPoint's wholesale customers currently receive. Shultz pf. at 19.

V. DISCUSSION AND CONCLUSION

Based on our review of the filings and materials in this docket, we find that the proposed transaction will promote the general good of the State of Vermont and its ratepayers. The testimony, evidence, and agreements made among the parties in the MOU show that Consolidated has the management and financial competence to assume ownership and operation of FairPoint's network assets and services and that it will be a fair business partner in the Vermont telecommunications marketplace.

The testimony provided by the Department, Consolidated, and FairPoint highlighted a number of important benefits to be gained through Consolidated's acquisition of FairPoint's assets and operations, including technological advances in customer care and service and more sophisticated technologies for trouble-shooting network system problems and failures. In addition, Consolidated's experience with the acquisition and integration of telecommunications companies in recent years persuades us that Consolidated is familiar with the types of issues and problems that can arise in the melding of disparate systems and functionalities through a merger transaction.

Of significant importance in our conclusion that the transaction will promote the public good are the capital investment commitments that Consolidated has agreed to in testimony and in the MOU. A deteriorating and outdated network throughout FairPoint's service territories has long been an issue that FairPoint has been ill-equipped to handle. Consolidated now agrees to reinvest at an average level of at least 14% of total intrastate and interstate revenues generated by the company in Vermont for three years following the completion of the merger, as well as an additional $1 million on an average annual basis for three years in capital investments to target areas with ongoing service quality concerns. In support of those commitments, Consolidated will prepare a three-year plan for capital investment in the Vermont network within six months after closing, as well as an annual report filed with the Board and the Department detailing its compliance with the capital investment requirements under the MOU. That report will contain, at a minimum, a description of how Consolidated has calculated the minimum reinvestment requirement for each year, a list of total capital expenditures for each year, and a summary of the investments completed by Consolidated to satisfy the MOU requirements.

Our conclusion relies, as well, on Consolidated's stated commitment to improve service quality through a more robust and methodical approach in identifying and remedying service quality issues. In addition, Consolidated will be acquiring FairPoint's existing network systems and has committed to upgrading those systems through dedicated capital investments, as discussed above. Consolidated will also retain critical FairPoint employees in the areas of SS7 platform management and wholesale operations to address concerns regarding Consolidated's assumption of FairPoint's wholesale operations and regulatory obligations in Vermont. Finally, Consolidated's refinancing of FairPoint's existing debt obligations at a much lower interest rate should benefit Vermont by lowering financial debt payments as well as making investment capital more readily accessible.

To help ensure a smooth transition in Consolidated's assumption of responsibility for FairPoint's network and operations, we adopt the conditions set forth in the MOU, which are supported by the evidence in this proceeding. However, we modify two provisions by requiring that Consolidated notify the Board and the Department in advance of any transfer of the SS7 system to a third party and any conversion of OSS/BSS applications from FairPoint's system to

Consolidated's system, not just in the first two years following closing. We note that the Department will retain primary responsibility for monitoring Consolidated's implementation of and compliance with the MOU commitments, and we expect that the Department will bring to the Board's attention any issues or concerns that may arise during the implementation of the merger.

For the reasons discussed in this Order, we find that Consolidated's acquisition of and merger with FairPoint, subject to the conditions set forth in this Order, will promote the general good of the State.

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Vermont Public Service Board ("Board") that:

1. Pursuant to 30 V.S.A. §§ 107, 108, 109, 231(a), and 311, the petition of Consolidated Communications Holding, Inc., Consolidated Communications, Inc., Falcon Merger Sub, Inc., FairPoint Communications, Inc., Telephone Operating Company of Vermont LLC, d/b/a FairPoint Communications ("TOCV"), FairPoint Vermont, Inc., d/b/a FairPoint Communications ("FPV"), UI Long Distance, Inc. ("UILD"), and Enhanced Communications of Northern New England, Inc. ("ECNNE") (collectively, the"Joint Petitioners"), for approval of a transfer of control by merger is granted, with conditions.

2. The pledge of assets of the Vermont operating entities is consistent with the general good of the State of Vermont under 30 V.S.A. § 108.

3. The merger will not obstruct or prevent competition in the provision of communications services in the State of Vermont under 30 V.S.A. § 311.

4. The existing CPGs of TOCV, FPV, UILD, and ECNNE shall be amended to reflect that they will be doing business as Consolidated Communications as a result of the merger.

5. The Memorandum of Understanding ("MOU") between the Joint Petitioners and the Vermont Department of Public Service ("Department") that was filed with the Board on June 1, 2017, is accepted and incorporated herein as Attachment 1 to this Order.

6. Consolidated shall maintain its Vermont-related assets and liabilities in a separate subsidiary.

7. Consolidated shall maintain a minimum level of capital investment in Vermont for network improvements at an average level of at least 14% of total Vermont revenue, including intrastate and interstate revenues from regulated and unregulated entities, for a period of three years after completion of the merger. Consolidated shall invest an additional $1 million, on an average annual basis, for a period of three years after completion of the merger, in capital investments specifically to target areas with ongoing service quality concerns, as identified in collaboration with the Department.

8. Consolidated shall annually file with the Board and the Department a report as specified in the MOU that describes in detail its compliance with the capital investment requirements set forth in this Order.

9. Within six months after closing, Consolidated shall prepare and file with the Board and the Department a three-year plan for capital investment in the Vermont network. As specified in the MOU, Consolidated shall confer with the Department on any changes in its capital investment plan.

10. For a period of three years after completion of the merger, Consolidated shall not take steps to reduce the level of Universal Service Fund ("USF") resources in Vermont and shall not relinquish Eligible Telecommunications Carrier ("ETC") designations for TOCV and FPV.

11. Consolidated shall provide the Department's Consumer Affairs & Public Information ("CAPI") Division with ready access to a high-level regulatory affairs and customer service contact with knowledge and responsibility for regulatory affairs in Vermont within one month of a final order being issued in this Docket.

12. Consolidated shall make high-level regulatory affairs and/or service quality employees available for in-person meetings with staff from the Department's CAPI Division on at least a quarterly basis for a period of three years after completion of the merger.

13. Consolidated shall have high-level and/or senior level management employees with direct responsibility for Vermont operations located in Maine and New Hampshire. Consolidated shall also have senior regulatory staff, with decision-making authority, located within Vermont.

14. Consolidated shall assume all existing FairPoint regulatory obligations, including service quality metrics identified in Dockets 5903 and 8701, as well as related agreements from Docket 8390 and applicable Board Rules.

15. Within three months of assuming responsibility for the network operations of FairPoint, Consolidated shall implement its established procedures for escalating and resolving aging trouble tickets.

16. Consolidated shall provide a staffing plan that includes SS7/STP functional network expertise within three months after approval of the merger and shall file it with the Board and Department under seal.

17. Consolidated shall provide notice to the Board and the Department at least three months prior to any transition of the Vermont SS7/STP service to a third party.

18. For any initial cutover, Consolidated shall complete thorough stress and volume testing in advance of converting any of its existing source applications to the target OSS/BSS applications. This requirement shall apply for a period of two years after the completion of the merger, and in no event after June 30, 2019.

19. In implementing system conversions, Consolidated shall employ its "Integration Management Office" process and integration discipline developed through its prior acquisitions. Consolidated shall investigate the feasibility of completing any OSS or BSS cutover for an individual state within FairPoint's existing Northern New England ("NNE") service territory before completing any initial cutover for the entire NNE territory. Prior to conducting any OSS or BSS systems cutover, Consolidated shall provide a report to the Board and the Department that details how Consolidated intends to proceed with the cutover of such systems to mitigate risk to consumers, including an assessment of whether such cutover could effectively be completed on a state-by-state basis. This requirement shall apply for a period of two years after the completion of the merger, and in no event after June 30, 2019. After that date, Consolidated shall provide notice to the Board and the Department prior to cutover.

20. Consolidated shall: 1) follow the terms, conditions, and prices contained in FairPoint's existing Interconnection Agreements ("ICAs") for services provided in Vermont; 2) implement future changes or modifications to ICAs only through negotiation with the parties

to such ICAs at the expiration of the term of each existing ICA; and 3) ensure that the manner in which changes or modifications are made will be based on the terms and conditions of the existing ICAs.

21. Upon assuming control of FairPoint, Consolidated shall comply with any and all requirements and obligations of a Regional Bell Operating Company ("RBOC"), as established under the federal Telecommunications Act and any other applicable federal and state laws or regulations, until such requirements are removed by federal or state lawmakers or regulators.

22. Consolidated shall adopt the Wholesale Performance Plan approved by the Board in Docket No. 7506 in an order issued on March 25, 2015, which contains restrictions on how and when the plan may be modified.

23. Consolidated shall appropriately staff its wholesale carrier division consistent with the volume of the wholesale business, utilizing the existing FairPoint knowledge-base for a period of two years after completion of the merger to ensure reliable wholesale service.

24. Consolidated shall continue to use the Synchronous Virtual Front Office ("VFO") and the Carrier Access Billing System ("CABS") for the provision of interconnection and wholesale services in Vermont for a period of at least two years after closing the merger.

25. Consolidated shall use FairPoint's existing change management process for the wholesale system for services provided in Vermont, and shall continue to do so for a period of at least two years after closing the merger.

26. Consolidated shall prepare information identifying Vermont-specific "synergy impacts" within six months of completion of the merger and shall share that information with the Department at a meeting to be scheduled at the request of the Department.

27. Consolidated shall provide the Director of the Department's Telecommunications and Connectivity Division with verbal notice before it announces any layoffs in Vermont.

28. Consolidated shall adhere to FairPoint's existing pole agreements and network arrangements with rural ILECs, and these agreements shall be unchanged by the merger.

Dated at Montpelier, Vermont this _____26th day of June, 2017__________.

James Volz	)	PUBLIC SERVICE
	)	
	)	
	)	BOARD
Margaret Cheney	)	
	)	
	)	OF VERMONT
	)	
Sarah Hofmann	)	

OFFICE OF THE CLERK

Filed: June 26, 2017

Attest: ______________________
Deputy Clerk of the Board

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) or any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.

PSB Case No. 8881 - SERVICE LIST

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