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MAINE PUBLIC UTILITIES COMMISSION

SECOND REPORT REGARDING COMMISSION REVIEW OF THE EFFECT OF RELIEF OF THE PROVIDER OF LAST RESORT SERVICE OBLIGATION PURSUANT TO THE PROVISIONS OF PUBLIC LAW 2015, CHAPTER 462

**Presented to the
Joint Standing Committee on
Energy, Utilities, and Technology**

January 15, 2020

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List of Acronyms and References

| | |
|---------|--|
| CASD: | Consumer Assistance and Safety Division |
| CLEC: | Competitive Local Exchange Carrier |
| FCC: | Federal Communications Commission |
| ILEC: | Incumbent Local Exchange Carrier |
| Mbps: | Megabit per Second (One Million Bits per Second) |
| MPUC: | Maine Public Utilities Commission |
| M.R.S.: | Maine Revised Statutes |
| OPA: | Office of the Public Advocate |
| POLR: | Provider of Last Resort |
| RBOC: | Regional Bell Operating Company |

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| "2016 Act" | P.L. 2015, ch. 462, "An Act to Increase Competition and Ensure a Robust Telecommunications Market" |
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| "Commission" | Maine Public Utilities Commission |
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| Consolidated Communications | "Consolidated" Consolidated Communications of Northern New England Company, LLC d/b/a Consolidated Communications-NNE (Formerly FairPoint Communications) |
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| "Price Cap ILECs." | Consolidated Communications of Northern New England Company, LLC d/b/a Consolidated Communications-NNE, Community Service Telephone Co., and Northland Telephone Company. |
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| "Reform Act" | P.L. 2011, ch. 623, "An Act to Reform Telecommunications Regulation" |
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I. INTRODUCTION

In 2012 the Maine Legislature, enacted P.L. 2011, ch. 623, "An Act to Reform Telecommunications Regulation" ("Reform Act"). Among the Reform Act's provisions were the creation of the term "provider of last resort" telephone service, commonly known as "POLR Service." POLR Service is essentially the most basic form of telephone service; POLR Service allows subscribers to make local calls at a flat rate and provides access to 911, directory assistance, operator services, and long distance.¹ All of Maine's incumbent local exchange carriers—or "ILECs"—are required by Maine law to offer POLR Service to their customers. While the Reform Act created the term POLR, the ILECs have been providing basic telephone service in Maine since the 1880s.²

In early 2016, the 127th Maine State Legislature, in its Second Regular Session, enacted P.L. 2015, ch. 462, "An Act to Increase Competition and Ensure a Robust Telecommunications Market" (the "2016 Act"). Among its provisions, the 2016 Act provided for the removal of the obligation to provide POLR Service for certain ILECs, primarily those that serve the most populous areas of the State. The 2016 Act refers to these carriers as "Price Cap ILECs."³ As an initial matter, the 2016 Act immediately removed the Price Cap ILECs' POLR Service obligation in the seven most populous municipalities in Maine: Portland, Lewiston, Bangor, South Portland, Auburn, Biddeford, and Sanford. The 2016 Act then set forth a procedure whereby the Maine Public Utilities Commission ("MPUC" or "the Commission") could relieve Price Cap ILECs of their POLR Service obligation in the next fifteen most populous municipalities, in sequential five-municipality increments. For these twenty-two municipalities, the relevant Price Cap ILEC is Consolidated Communications of Northern New England Company, LLC d/b/a Consolidated Communications-NNE, known colloquially across Maine as "Consolidated." The Commission notes that the 2016 Act predicates such relief from the Commission on

¹ The full definition of POLR Service is in statute at 35-A M.R.S. § 7201(7).

² The Reform Act also deregulated nearly all other retail telecommunications services in Maine.

³ A "Price Cap ILEC" is defined in the Reform Act as "an incumbent local exchange carrier that agreed to accept Connect America Fund Phase II support pursuant to the Federal Communications Commission's Report and Order released on December 18, 2014, in the Matter of Connect America Fund, WC Docket No. 10-90, FCC 14-190, for locations within the State on or before January 1, 2016 and does not receive funding from a state universal fund under [Title 35-A] section 7104." P.L. 2015, ch. 462, § 1 (*codified at* 35-A M.R.S. § 7102(6-A)). There is only one carrier in Maine that currently meets this definition: Northern New England Telephone Company LLC d/b/a Consolidated Communications-NNE. When the Commission submitted its 2018 Report, there were two other "Price Cap ILECs": Community Service Telephone Co. and Northland Telephone Company; both carriers and Consolidated Communications-NNE were affiliated with one another and were all wholly owned subsidiaries of Consolidated Communications, Inc. On February 12, 2019, the Commission approved the merger of Community Service Telephone and Northland Telephone into another Consolidated Communications, Inc.-affiliated entity: Maine Telephone Company. As Maine Telephone Company is not a "Price Cap ILEC," the merger resulted in Community Service Telephone and Northland Telephone no longer being regulated as "Price Cap ILECs" under the Reform Act.

Consolidated meeting certain service quality benchmarks over a six-month period and meeting public notice requirements; that is, Consolidated, upon a showing of satisfactory service quality performance, may petition the Commission for relief for its POLR Service obligation in five municipalities.

The Commission and Consolidated have completed the POLR Service obligation relief process, and the Commission has granted relief to Consolidated in Cape Elizabeth, Gorham, Waterville, Kennebunk, Scarborough, Bath, Yarmouth, Old Orchard Beach, Westbrook, Freeport, Brewer, Kittery, Windham, Brunswick, and Augusta. Consolidated has not, to date, requested POLR Service obligation relief in any other Maine municipality.⁴

In addition to implementing the POLR Service obligation relief discussed above, the 2016 Act imposed a reporting requirement on the Commission. The 2016 Act requires the Commission to provide the Legislature with a list of municipalities in which the obligation to provide POLR Service has ceased. In addition, the Commission must provide the Legislature with two reports—one in 2018 and one in 2020—on the effect of the removal of POLR Service on former POLR Service customers, Consolidated's workforce, the maintenance and status of the copper line network, public safety, and the cost, features, and availability of telephone service, including service to the hearing impaired, and broadband service." The Commission in its report may also recommend related legislation. The Commission filed its 2018 report in January of that year, and this Report is intended to satisfy the 2020 reporting requirement required by the 2016 Act.

⁴ The 2016 Act allows Consolidated to request that the Commission relieve the Company of its POLR Service obligation in any municipality. 35-A M.R.S. § 7221(5). In order to be eligible, the municipality in question must have at least one wireline-facilities-based voice network service provider that offers service to at least 95% of the households in the municipality and have one or more mobile telecommunications services providers that offer, on a combined basis, mobile telecommunications services to at least 97% of the households in the municipality, in addition to meeting certain service quality requirements.

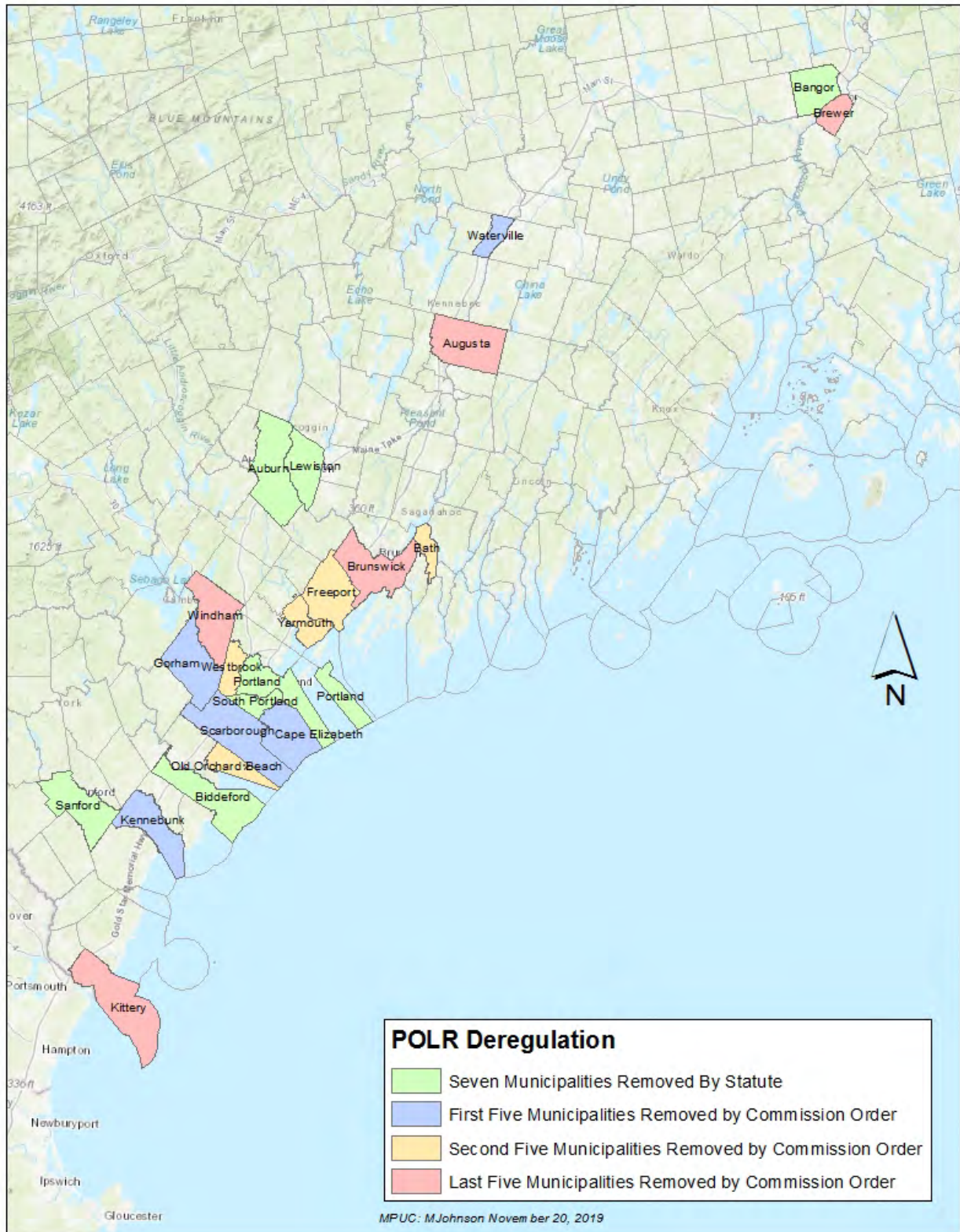
II. SPECIFIC AREAS OF DISCUSSION REQUIRED BY THE 2016 ACT

A. MUNICIPALITIES WHERE THE POLR SERVICE OBLIGATION HAS CEASED

The table below contains the list of communities where either the Legislature by statute, or the Commission based on statutory criteria, has removed Consolidated's POLR Service obligation. The table also indicates the date of the public meeting convened by the Commission in a given municipality to provide information to residents about the removal of the obligation, the date upon which the Legislature or the Commission removed the obligation, and the statutory authority for removal of the obligation or the Commission Docket in which the Commission, by Order, removed the obligation.

| Municipality | Public Meeting | POLR Removed | Removal Authority |
|---------------------|-----------------------|---------------------|--------------------------|
| Bangor | July 7, 2016 | August 29, 2016 | 35-A M.R.S. §7221 |
| Lewiston | July 13, 2016 | August 29, 2016 | 35-A M.R.S. §7221 |
| Sanford | July 14, 2016 | August 29, 2016 | 35-A M.R.S. §7221 |
| South Portland | July 21, 2016 | August 29, 2016 | 35-A M.R.S. §7221 |
| Biddeford | July 28, 2016 | August 29, 2016 | 35-A M.R.S. §7221 |
| Auburn | August 2, 2016 | August 29, 2016 | 35-A M.R.S. §7221 |
| Portland | August 3, 2016 | August 29, 2016 | 35-A M.R.S. §7221 |
| Cape Elizabeth | March 20, 2017 | April 27, 2017 | 2017-00016 |
| Gorham | March 22, 2017 | April 27, 2017 | 2017-00016 |
| Waterville | March 23, 2017 | April 27, 2017 | 2017-00016 |
| Kennebunk | March 28, 2017 | April 27, 2017 | 2017-00016 |
| Scarborough | March 30, 2017 | April 27, 2017 | 2017-00016 |
| Bath | September 26, 2017 | November 2, 2017 | 2017-00185 |
| Yarmouth | September 27, 2017 | November 2, 2017 | 2017-00185 |
| Old Orchard Beach | September 28, 2017 | November 2, 2017 | 2017-00185 |
| Westbrook | October 3, 2017 | November 2, 2017 | 2017-00185 |
| Freeport | October 5, 2017 | November 2, 2017 | 2017-00185 |
| Kittery | April 2, 2018 | May 3, 2018 | 2018-00027 |
| Brunswick | April 3, 2018 | May 3, 2018 | 2018-00027 |
| Windham | April 5, 2018 | May 3, 2018 | 2018-00027 |
| Brewer | April 9, 2018 | May 3, 2018 | 2018-00027 |
| Augusta | April 12, 2018 | May 3, 2018 | 2018-00027 |

The map below graphically depicts the locations of the deregulated municipalities.



As discussed briefly above and also in the Commission's 2018 Report, on August 29, 2016, the Legislature removed Consolidated's POLR service obligation in seven municipalities. The 2016 Act required the Commission to hold a public meeting in each affected municipality to allow residents to obtain information from Consolidated about the upcoming changes to telephone service in their municipality. Once the Commission scheduled the meetings, Consolidated sent notice of the meetings to customers impacted by the changes within their billing statements. The Commission also promoted the public meetings using its website.⁵

At the public meetings, Commission Staff provided an overview of the changes to local telephone service in the municipality and moderated a question and answer style discussion that involved Consolidated and the Maine Office of the Public Advocate ("OPA"). The discussion typically involved questions from social service agencies, interest groups such as the American Association of Retired Persons, local State Legislators, community leaders, and members of the public. The attendance at the meetings ranged from 10 to 30 members of the public.

Many consumers at the meetings were under the impression that deregulation meant that they would no longer be able to receive basic telephone service, or any telephone service at all. Consequently, the main objective of the meetings became to inform the public that, despite deregulation, Consolidated would continue to provide traditional, landline telephone service. Consolidated made clear that current (and future) customers would still be able to receive basic telephone service from the Company, including the ability to make and receive calls, dial 9-1-1, obtain Lifeline service,⁶ have access to operators and long distance, and so on. In addition, many Consolidated customers did not understand what POLR Service is, and, importantly, what it is not; a confusion that Consolidated did its best to remedy.⁷

⁵ <http://www.maine.gov/mpuc/telecom/polr>

⁶ Lifeline service is a discounted retail telephone service offering available to qualifying low-income consumers taking local service or a bundle or package containing local service from a participating service provider. 65-407 C.M.R. ch. 294, § 1(A).

⁷ POLR Service is not a straightforward concept. For example, a Consolidated customer (in a municipality that the Commission or the Legislature has not deregulated) who has the most basic telephone service is a POLR Service customer. If that same customer adds voicemail, however, that customer is no longer a POLR Service customer. Likewise, if a customer has basic voice Service and long distance calling with Consolidated, then they are not a POLR customer. However, if that same customer receives Caller-ID or call-forwarding in addition to their POLR Service they remain a POLR customer. The basis for this distinction lies in 35-A M.R.S. § 7224, which provides that service providers must offer what are known as "ancillary services" to their POLR Service customers. An ancillary service is "a service that allows a customer to manage the display of information identifying the originator of a voice call or to manage the delivery of a voice call, including but not limited to call waiting and call forwarding, and is related to the provisioning of voice grade access to the public switched telephone network so that the customer is unable to obtain a functionally equivalent service from any device or service offered by an entity other than the service provider." *Id.* Ancillary services include services such as Caller-ID, call forwarding, and

Although Consolidated would continue to provide basic telephone service, Consolidated and Commission Staff informed meeting attendees that the Legislature had made some regulatory changes to Maine law. For example, after a period of one year, Consolidated customers with complaints about service in the deregulated municipalities would no longer be able to file complaints with the Commission's Consumer Assistance and Safety Division; customers in these municipalities would need to contact Consolidated directly or file a complaint with the Attorney General's Office. The OPA emphasized, however, that consumers could continue reach out to them for assistance.

In addition, Consolidated informed attendees that the Company would no longer accept new POLR Service customers; new customers would instead be able to purchase a "POLR equivalent" basic service offering from Consolidated. In addition, Consolidated informed attendees that existing POLR Service customers in deregulated communities who maintained basic service from Consolidated would not see any changes to their rates or terms and conditions of service during the first year but could thereafter see changes in rates.⁸

Following the deregulation of the first seven municipalities in August 2016, Consolidated became eligible to seek Commission relief from its POLR Service obligations in the first five of the fifteen additional municipalities specified in the 2016 Act. For these municipalities to be eligible for POLR Service obligation relief, Consolidated was required to meet the service quality standards set forth in the 2016 Act over two consecutive reporting quarters.

On January 19, 2017, Consolidated filed its first request for relief. As a part of its request, Consolidated certified to the Commission that the Company had met the statutory service quality standards for the third and fourth quarters of 2016. The Commission then organized a series of public meetings in the five affected municipalities. As with the first seven municipalities, Consolidated notified customers in these communities of the upcoming meetings through their billing statements, and Commission Staff noticed and promoted the meetings on the Commission's website. A public meeting was held in each affected municipality between March 20 and March 30, 2017. The meeting format for these first "group of five" meetings mirrored the format of the first seven meetings. However, unlike the first seven meetings which saw strong attendance, these five meetings had fewer attendees, even after accounting for differences in population: zero attendees in Waterville, Kennebunk, and Cape Elizabeth, and fewer than ten attendees each in Gorham and Scarborough.

call waiting. Voicemail and long distance service are not considered ancillary services because a customer can obtain these services from a third-party. Accordingly, a customer who receives a non-ancillary service, such as voicemail or long distance service, from their service provider in conjunction with basic telephone service, is not, by definition, a POLR Service customer.

⁸ As discussed in Section G of this Report, Consolidated has raised its rates for basic service customers in deregulated communities.

On July 19, 2017, Consolidated filed its request for relief from its POLR Service obligations in the next set of five municipalities. Again, as a part of its request, Consolidated certified to the Commission that the Company had met the statutory service quality standards for the first and second quarters of 2017. The Commission then organized public meetings in the affected municipalities. Consolidated notified customers in these communities of the upcoming meetings through their billing statements, The Commission noticed and promoted the meetings on the Commission's website and continued the meeting format from prior meetings. A public meeting was held in each affected municipality between September 26 and October 4, 2017. As with the meetings in the previous five municipalities, attendance at the meetings was light, with zero attendees in Westbrook and Old Orchard Beach, and fewer than five attendees in Yarmouth, Bath, and Freeport.

On January 29, 2018, Consolidated filed its request for POLR Service obligation relief in the final set of five municipalities. Again, as part of its request, Consolidated certified to the Commission that the Company had met the statutory service quality standards for the previous two quarters (the third and fourth quarters of 2017). The Commission then organized public meetings in the affected municipalities. Consolidated notified customers in these communities of the upcoming meetings through their billing statements, the Commission noticed and promoted the meetings on the Commission's website and continued the meeting format from prior meetings. A public meeting was held in each affected municipality between April 2 and April 12, 2018. As with the meetings in the previous five municipalities, attendance at the meetings was light with zero attendees in Augusta and Windham and fewer than 5 attendees in Brewer, Brunswick and Kittery. The Commission issued an Order granting POLR Service relief on May 3, 2018.

B. EFFECT OF POLR SERVICE OBLIGATION REMOVAL ON POLR SERVICE CUSTOMERS

The definition of POLR Service, created by the 125th Maine Legislature⁹, helped to clarify in Maine the long-standing general concept of universal telephone service called the carrier of last resort. Guaranteed access to universal service has been the cornerstone of regulated telephone service since 1934. As the roots of competition grew with the divestiture of AT&T's telephone service monopoly in 1984, that company was divided into seven Regional Bell Operating Companies (RBOCs).¹⁰ Although federal law prohibited the RBOCs from engaging in long distance service, as that industry was opened to competition, they remained the monopoly in the last mile of telephone service. The RBOCs provided local telephone service to customers in their communities, and they were required to provide telephone service to all. The Telecommunications Act of 1996¹¹ opened the doors to increased competition in the local telephone service market by

⁹ Title 35-A M.R.S. §7201(7)

¹⁰ Consolidated is a direct successor to one of the original seven RBOCs, and the Federal Communications Commission classifies Consolidated as an RBOC.

¹¹ Pub. L. No. 104-104, 110 Stat. 56 (1996)

creating new competitors who could compete with the traditional telephone company. Some of these new competitors included competitive local exchange carriers—known as "CLECs"—cable providers, voice over Internet protocol service providers, mobile wireless providers, and even satellite providers.

With all this new competition, Consolidated and other traditional providers have seen their market share of voice customers steadily decline. According to the annual reports the Commission receives from ILECs like Consolidated, the ILECs collectively have seen a 64% drop in the total number of retail voice customers from 2008 to 2018.¹²

As described above, the general trend for Consolidated, and all Maine ILECs, is a steady decline in retail telephone service customers. The Legislature's interest as expressed in the 2016 Act, however, is the effect, if any, the removal of the POLR Service obligation has had on customers in the deregulated municipalities. To have adequate specific information to prepare this Report, the Commission requested preliminary information from Consolidated concerning the deregulated municipalities and POLR Service generally.¹³ The Commission's ability to measure the impact of the removal of POLR Service is, however, somewhat impeded by the fact that customers in the deregulated communities are no longer subject to any service quality metrics.¹⁴

The following table shows the changes in the number of customers subscribing to POLR Service in the 22 communities specified in the Act from 2017 to 2018.

¹² 528,633 Total Retail Voice Customers in 2008 compared to 191,282 Total Retail Voice Customers in 2018.

¹³ The Commission's request is attached to this report as Appendix A, and the Cover letter to Consolidated's response to the Commission's request is attached as Appendix B.

¹⁴ While not a direct measure of service quality in the deregulated communities, the Commission notes that Consolidated has not been able to consistently meet its service quality standards since the second quarter of 2018 in the communities where the Company is still subject to regulation.

| Exchange Name | 2017 Total POLR | 2018 Total POLR | Percent Change |
|-------------------------------------|-----------------|-----------------|----------------|
| Bangor | 85 | 75 | -11.8% |
| Lewiston | 55 | 34 | -38.2% |
| <i>Auburn</i> ¹⁵ | | | |
| Sanford | 134 | 0 | -100.0% |
| South Portland | 143 | 32 | -77.6% |
| Biddeford | 155 | 134 | -13.5% |
| Portland | 77 | 44 | -42.9% |
| <i>Cape Elizabeth</i> ¹⁵ | | | |
| Gorham | 109 | 2 | -98.2% |
| Waterville | 228 | 69 | -69.7% |
| Kennebunk | 90 | 20 | -77.8% |
| Scarborough | 197 | 49 | -75.1% |
| Bath | 234 | 116 | -50.4% |
| Yarmouth | 130 | 62 | -52.3% |
| Old Orchard Beach | 113 | 64 | -43.4% |
| Westbrook | 123 | 96 | -22.0% |
| Freeport | 107 | 10 | -90.7% |
| Brewer | 153 | 127 | -17.0% |
| Kittery | 142 | 124 | -12.7% |
| Windham | 160 | 9 | -94.4% |
| Brunswick | 421 | 362 | -14.0% |
| Augusta | 395 | 319 | -19.2% |
| Total | 3,251 | 1,748 | -46.2% |

In deregulated communities, the Commission does not have regulatory authority to address disputes between customers and Consolidated; such is the nature of deregulation. It is not uncommon, however, for the Commission's Consumer Assistance and Safety Division ("CASD") to receive complaint calls regarding utility services that the Commission does not regulate. In these cases, CASD explains the Commission's regulatory authority, or lack thereof, and directs consumers to the utility, company, or agency that is best able to address their complaints. CASD continues to exercise this approach if the Commission receives complaints about Consolidated service in deregulated municipalities. However, the Commission has not, to date, received any

¹⁵ In a November 4, 2019 response to Commission Staff, Consolidated states that it no longer tracks POLR customers by municipality. Commission Staff used Annual Report data previously supplied by the company, which encompasses municipal customer information. Auburn is captured by the Lewiston exchange while Cape Elizabeth is captured by Portland.

complaints from POLR Service customers about an inability to receive voice service from Consolidated.¹⁶

C. EFFECT OF POLR SERVICE OBLIGATION REMOVAL ON CONSOLIDATED'S WORKFORCE

The workforce and personnel information provided to the Commission by Consolidated is considered by the Company to be proprietary and confidential business information. Consequently, the Commission cannot share any specific information.

However, as stated in the Commission's 2018 Report, it is the Commission's general view that the location of Consolidated personnel is not as important as the number of personnel available company-wide in Maine to answer calls, provision service, and resolve maintenance issues. It is the Commission's understanding that many employees already serve regions of the State instead of a specific municipality. Therefore, the removal of the POLR Service obligation, in and of itself, is unlikely to specifically impact the workforce count.

D. EFFECT OF POLR SERVICE OBLIGATION REMOVAL ON THE MAINTENANCE AND STATUS OF CONSOLIDATED'S COPPER LINE NETWORK

Consolidated considers engineering and maintenance information regarding its copper line network to be proprietary and confidential business information. Consequently, the Commission cannot share any specific information provided by Consolidated. Generally speaking, however, the capital expenditures provided by Consolidated indicate an increase in spending of about 35% from 2015 to 2018 across both the price cap and non-price cap service areas. These expenditures include investments in the company's central offices and remote terminals, and broadband expansion efforts related to the FCC's Connect America Fund program. Combined, these improvements to Consolidated's telecommunications network are helping to maintain or improve voice and broadband service for customers in both regulated and unregulated service areas. It should be noted that Consolidated is the recipient of over \$80 million in federal funding to help support its CAF II broadband buildout program. In recent years, the CAF II program has contributed to numerous network improvements, but that program will end in 2020.

E. EFFECT OF POLR SERVICE OBLIGATION REMOVAL ON PUBLIC SAFETY

According to the Commission's Emergency Communications Services Bureau, there were no issues with 9-1-1 calls or emergency services as a result of changes to

¹⁶ In 2018, the Commission received a complaint from Consolidated customers in Brooksville, Maine regarding the quality of their landline voice service. In response to the complaint, Consolidated upgraded and replaced some of its facilities in the Brooksville area. The Commission has not removed Consolidated's POLR Service obligation in Brooksville.

POLR Service in the 22 deregulated communities from 2016 through November 2019. The Commission is unaware of any other potential effects on public safety as a direct result of the removal of the POLR Service obligation in a given municipality.

F. EFFECT OF POLR SERVICE OBLIGATION REMOVAL ON THE COST, FEATURES, AND AVAILABILITY OF TELEPHONE SERVICE

The 2016 Act established a POLR rate in statute and allowed Price Cap ILECs to increase the POLR rate by up to 5% annually. Consolidated's residential POLR rate was \$18.99 on August 1, 2016 and was increased to \$19.93 on October 1, 2019. The residential non-POLR rate was also \$18.99 on August 1, 2016 and was increased to \$21.49 on October 1, 2019. The POLR business rate has remained at \$36.53 since August 1, 2016.¹⁷

G. EFFECT OF POLR SERVICE OBLIGATION REMOVAL ON THE COST, FEATURES, AND AVAILABILITY OF SERVICE TO THE HEARING IMPAIRED

The removal of the POLR obligation has not changed the features or availability of voice services to the hearing impaired. However, since 2016, the cost of basic telephone service in deregulated municipalities serving the hearing impaired has increased compared to communities that retain the POLR Service obligation; non-POLR customers receiving POLR equivalent service in the 22 communities deregulated now pay 8% more than customers in POLR communities.¹⁸

H. EFFECT OF POLR SERVICE OBLIGATION REMOVAL ON BROADBAND SERVICE

While POLR Service and broadband service may, in some instances, share underlying facilities, they remain two separate and distinct services. If a customer can currently receive broadband service from Consolidated, the removal of any particular voice service offering, including POLR Service, should not impact the customer's ability to receive broadband service from Consolidated. Indeed, if a customer purchases a "bundled" package of broadband and voice service, that customer is not currently a POLR Service customer, regardless of municipality.

As noted above, the Company has numerous projects ongoing throughout its service territory to update Central Offices and Remote Terminals. Many of these projects are referred to as "overlays" and serve to update the electronics at these sites to more modern equipment that can improve broadband speeds and the efficiency and quality of both Internet voice service running through these sites. These equipment updates,

¹⁷ Consolidated Communications, Commission Initiated Report Regarding Provider of Last Resort Telephone Service, Docket No. 2019-00184, Response Cover Letter at 2.

¹⁸ As of October 1, 2019, the POLR rate is \$19.93 while POLR equivalent service in the 22 deregulated communities is \$21.49.

combined with increased fiber deployment, should improve the internet and voice experience for the end-user customer.

Consolidated is also participating in a federally-funded program that provides \$80 million over six years to provide customers in unserved or underserved area with broadband speeds of at least 10 Mbps down and 1 Mbps up. To the best of the Commission's knowledge, it does not appear that any of the municipalities that have had or will have their POLR Service obligation removed meet the criteria for funding under this federal project. As noted above, however, Consolidated continues to make ongoing updates to its facilities in communities across Maine, including deregulated communities.

III. COMMISSION RECOMMENDED LEGISLATION

The Commission does not propose any legislative changes at this time.

APPENDIX A



STATE OF MAINE PUBLIC UTILITIES COMMISSION

Philip L. Bartlett, II
CHAIRMAN

R. Bruce Williamson
Randall D. Davis
COMMISSIONERS

Harry Lanphear
ADMINISTRATIVE DIRECTOR

August 12, 2019

Sarah Davis
Senior Director, Government Affairs
FairPoint Communications
1 Davis Farm Rd.
Portland, ME 04103

Dear Ms. Davis:

Pursuant to 35-A M.R.S. § 112(5), the Maine Public Utilities Commission (Commission) is requesting data and information from Consolidated Communications of Northern New England Company, LLC d/b/a Consolidated Communications-NNE (Consolidated), Community Service Telephone Company (Community Service), and Northland Telephone Company of Maine (Northland and collectively with Consolidated and Community service, the Companies). The data and information requested by this letter is essential to the ability of the Commission to carry out its obligations pursuant to Maine law; specifically, the Commission's obligations under P.L. 2015, ch. 462 "An Act to Increase Competition and Ensure a Robust Information and Telecommunications Market" (the Act).¹

Section 7 of the Act requires the Commission to submit to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters reports related to the removal of the Provider of Last Resort (POLR) service obligation for the Companies.

The Commission's review of the effects of the Companies from their POLR service obligations consists of two reports. One was submitted to the Legislature in January of 2018 and the other is due in January of 2020. Pursuant to the Act, these reports must include the effect of the removal of POLR service on former POLR service customers, the Companies' workforces, the maintenance and status of the copper line network, public safety, and the cost, features and availability of telephone service, including service to the hearing impaired, and broadband service.

In order to prepare these reports for the Legislature, the Commission must document certain facts and develop a baseline of data which can be used as points of reference for the reports.

¹ Title 35-A M.R.S. § 112(5) requires a telephone utility to provide the Commission "upon request or order information relevant to the [C]ommission's implementation or enforcement of any provision of state or federal law or rule to which the telephone utility . . . is subject and over which the [C]ommission exercises authority or jurisdiction."

LOCATION: 101 Second Street, Hallowell, ME 04347
PHONE: (207) 287-3831 (VOICE)

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APPENDIX A

In 2017 Consolidated (then FairPoint Communications-NNE), Community Service, and Northland submitted information as the result of the Inquiry in Docket 2017-00070; the Commission is now requesting updated versions of essentially the same information.

Accordingly, the Commission is requesting that Consolidated, Community Service, and Northland provide the following information:

- The yearend workforce by location, position, and title, for 2016 through 2018.
- All engineering studies, capital improvement plans, or any other documents related to each copper line network and associated appurtenances, by year, for 2015, 2016, 2017, 2018, and 2019, plus any such studies, plans, and documents for Consolidated for 2020.
- All engineering studies, capital improvement plans, or any other documents related to each broadband network and associated appurtenances, by year, for 2015, 2016, 2017, 2018, and 2019, plus any such studies, plans, and documents for Consolidated for 2020.
- Documentation of all planned and actual capital expenditures for 2015, 2016, 2017, 2018, and 2019, plus any planned and actual capital expenditures for Consolidated for 2020.
- Documentation (including the cost) of budgeted and performed maintenance activities for the copper line network and associated appurtenances by year for 2015, and 2016, 2017, 2018, and 2019, plus documentation of those budgeted and performed maintenance activities for Consolidated for 2020.
- Documentation (including the cost) of budgeted and performed maintenance activities for the broadband network and associated appurtenances by year for 2015, 2016, 2017, 2018, and 2019, plus documentation of any budgeted and performed maintenance activities for Consolidated for 2020.
- Locational data for broadband locations planned and deployed using Connect America Fund (CAF) proceeds, and a breakdown of CAF proceeds expended by each Company.
- A breakdown of all other retail broadband expenditures (non-CAF related) from 2015, 2016, 2017, and 2018, plus a breakdown of these expenditures for Consolidated for 2019 (year to date), listed by municipality.
- All information relative to the cost of POLR equivalent voice service, features, and availability of telephone service, including service to the hearing impaired, and broadband service, on an annual basis since August 1, 2016 to 2019 (year to date).
- The number of monthly customer-reported network troubles (residential, business, and total) for 2015, 2016, 2017, and 2018 listed by municipality, plus that same data for Consolidated for 2019 (year to date).
- The number of monthly network-related service troubles not cleared within 48 hours (residential, business, and total) for 2015, 2016, 2017 and 2018 listed by municipality, plus that same data for Consolidated for 2019 (year to date).
- The number of POLR residential, non-POLR residential, POLR business, and non-POLR business customers listed by municipality for each month of 2015, 2016, 2017 and 2018, plus that same data for Consolidated for 2019 (year to date).

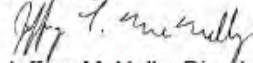
APPENDIX A

- The number of DSL, FAST Internet, and retail Ethernet customers (residential, business, and wholesale with advertised upload and download speeds) listed by municipality for each month of 2015, 2016, 2017, and 2018, plus that same data for Consolidated for 2019 (year to date).

The Commission also encourages the Companies to provide any additional relevant information to assist the Commission in the preparation of these reports. Please provide information in MS Excel format when applicable. Data should be submitted to the Commission's Case Management System using the confidential project file titled: CONFIDENTIAL - POLR REPORTS-POLR.

Thank you for your prompt attention to this request. If there are any questions, please do not hesitate to contact me.

Sincerely,



Jeffrey McNelly, Director
Telephone and Water Division

APPENDIX B



November 4, 2019

Harry Lanphear
Administrative Director
Maine Public Utilities Commission
18 State House Station
Augusta, ME 04333

Re: Docket 2017-00070

Dear Mr. Lanphear:

Pursuant to the letter dated August 12, 2019 from Jeff McNelly, Director of Telecom and Water, Consolidated is filing the following information responsive to that request.

In Mr. McNelly's letter the Commission seeks information to assist it in providing a report to the legislature on the impact of Price Cap POLR deregulation. The letter requests information about the Consolidated Price Cap ILECs. Since the previous report in January 2018 there has been a significant change. As you are aware, in an Order in Docket 2018-00314 dated February 28, 2019, two Consolidated Price Cap ILECs, Standish Telephone Company and Northland Telephone Company of Maine, LLC, were merged with Non-Price CAP ILECs to become a single Non-Price Cap Company: Consolidated Communications of Maine Company, LLC. As a result, Consolidated is only providing information regarding the Price Cap ILEC Consolidated Communications of Northern New England Company, LLC.

Confidential Attachment 1A is Consolidated's work force by location position and title as of January 1, 2018. Confidential Attachment 1B is Consolidated's workforce by location, position and title as of December 31, 2018. Following the acquisition of FairPoint by Consolidated in July 2017, Consolidated converted to a new human resource system on January 1, 2018. As a result, Consolidated does not maintain records in this format for prior periods. Consolidated does note however that in response to the previous request, Consolidated provided a headcount report as of September, 2017 in this project file. In order to be responsive to this request Consolidated has provided as close an approximation of the Consolidated Communications of Northern New England Company, LLC workforce for the state of Maine. Most employees perform work for more than one Consolidated entity and this sheet is intended to capture employees who do at least some work for Consolidated Communications of Northern New England Company, LLC.

Confidential Attachment 2 provides the actual capital expenditures for Maine for 2017 and 2018 as well as the year to date capital expenditures for 2019. FairPoint cannot produce a Capital Expenditure Budget for the remainder of 2019 or 2020 because Consolidated does not budget by state.

Confidential Attachment 3A provides a list of engineering projects, either completed or planned, to upgrade RT or CO infrastructure for NNETO as of December 22, 2017. The information provided indicates whether it was related to the CAF program. Please note these are all engineering projects for

APPENDIX B

Maine and include some Non-Price CAP entity projects. Confidential Attachment 3B provides a list of engineering projects, either completed or planned, to upgrade RT or CO infrastructure for NNETO as of December 21, 2018. The information provided indicates whether or not it is related to the CAF program. Please note these are all engineering projects for Maine and include some Non-Price CAP entity projects. In addition to this, Consolidated submits to the Commission a quarterly report of all CAF II and other network upgrades in the state of Maine.

Confidential Attachment 4 provides location specific data regarding CAF II deployments through December 31, 2018 that Consolidated submits to the FCC.

Consolidated's residential POLR rate was \$18.99 on August 1, 2016. That rate increased to \$19.93 on October 1, 2019. The residential non-POLR rate was \$18.99 on August 1, 2016 and increased to \$21.49 on October 1, 2019. The POLR business rate is \$36.53 and has been since August 1, 2016. A full listing of Consolidated's services can be found at <http://www.tariffs.net/consolidated/tier.asp?cid=1644>.

Confidential Attachment 5 provides a statement about CAF funding received through 2018 and capital spending through February 2, 2019.

Confidential Attachment 6A provides the number of customer reported network troubles by wire center for 2014-June 2016, as well as troubles not cleared in 24 hours for that time period. At this time, FairPoint Communications was being measured on a 24 hour metric and not a 48 hour metric. We are unable to reproduce reports with the 48 hour metric. Confidential Attachment 6B is the number of total customer troubles by wire center from June-December 2017, as well as the troubles not cleared in 48 hours for the same period. Confidential Attachment 6C reflects the number of customer related monthly troubles by wire center for 2018 through second quarter 2019. Confidential Attachment 6D is a report of troubles not cleared in 48 hours by wire center 2018 through second quarter 2019. Consolidated is working to try to produce the data from June 2016-June 2017 and expects to file by 11/8/2019. Please note that as Consolidated was relieved of the obligations to provide POLR service in each of the 22 municipalities it removed those municipalities from its reporting, so they do not appear on these reports as they were removed.

Consolidated does not maintain a monthly report of POLR customers by municipality or exchange. In its annual report, Consolidated provides the number of residential and business, POLR and non-POLR customers by exchange.

Thank you for your time and consideration on this matter. If there is anything further I can provide please feel free to reach out.

Sincerely,



Sarah A. Davis
Senior Director Government Affairs
Consolidated Communications
5 Davis Farm Rd.
Portland, ME 04103

APPENDIX C

STATE OF MAINE PUBLIC UTILITIES COMMISSION

MAINE PUBLIC UTILITIES
COMMISSION

RE: Report regarding Provider of
Last Resort Telephone Service

Docket No. 2019-00184

COMMENTS OF THE OFFICE
OF THE PUBLIC ADVOCATE

January 6, 2020

Introduction

The Office of the Public Advocate (OPA), pursuant to the Procedural Order issued December 11, 2019, submits these comments concerning the Commission's (draft) "Second Report Regarding Commission Review of the Effect of Relief of the Provider of Last Resort Service Obligation Pursuant to the Provisions of Public Law 2015, Chapter 462" (Report). As described in more detail below, the Commission must review the information Consolidated Communications (Consolidated) has labeled as proprietary and confidential to determine what specific portions deserve such designation; and provide public access to the remainder. The Commission should then provide more insight and information on the effect that the removal of the obligation to provide Provider of Last Resort (POLR) service, pursuant to P.L. 2015, c. 462, has had on Consolidated's workforce and copper line network.

The OPA also recommends that the Commission include a more complete record of the adequacy of Consolidated's customer service in order to provide the Legislature with a complete picture of the effect of removing the POLR obligation on Consolidated's network and the availability of telephone service. Finally, the OPA believes that additional information should be included with the Report concerning the effect of removing the POLR obligation on the number of POLR customers in certain municipalities and how those numbers are tracked.

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1. Consolidated's Information Must not be Given Blanket Protection as Confidential.

The Report states that the workforce, engineering, and maintenance information supplied by Consolidated cannot be shared because it “is considered by the Company to be proprietary and confidential business information.”¹ But the Commission’s authority to designate information as confidential is based on 35-A M.R.S. § 1311-A, under which it is the *Commission* that must determine whether any information should be treated as confidential.² The statute also clearly places on the party requesting confidential treatment of information the burden of showing that such protection is needed.³ Following these statutory directives, the Commission should require Consolidated to show which portions of the information it has supplied concerning the removal of the POLR obligation should be treated as confidential, and why such treatment would be appropriate. Then, all information which the Commission finds to not merit confidential treatment should be made available to both the Legislature and the public in order to provide as much data and context as possible concerning the removal of Consolidated’s POLR obligation.

2. The Report Should Provide Observations on Consolidated’s Workforce

The Commission describes in the Report its “general view” that the location of Consolidated’s personnel is not as important as the number of personnel available for assisting customers.⁴ But the Report contains no indication of whether the number of Consolidated personnel available to assist Maine customers has increased, decreased, or remained static since Consolidated began obtaining relief from its POLR obligation. At a minimum, the Commission should describe any significant changes in the number of Consolidated personnel serving Maine customers and whether the Commission believes that the current number of such personnel is adequate. The Commission should

¹ Report at 10.

² 35-A M.R.S. § 1311-A (1).

³ 35-A M.R.S. § 1311-A (1)(C).

⁴ Report at 10.

APPENDIX C

consider the public disclosure of the Company's headcount of its Maine technicians in Docket 2018-00319, as well as the reasons offered for the fluctuations in that headcount, when determining which portions of Consolidated's information deserve confidential treatment.⁵

3. The Report Should Better Describe the State of Consolidated's Copper Line Network.

One of the reporting requirements the Legislature placed upon the Commission is to address the effect of removing the POLR obligation on Consolidated's "maintenance and status of the copper line network."⁶ The Report does describe, in very broad terms, how: (1) there has been an increase in capital spending of roughly 35% from 2015-2018, "across both the price cap and non-price cap service areas" which has generally helped to "maintain or improve broadband service"; and (2) how federal funds Consolidated received under the Federal Communications Commission's Connect America Fund program have "contributed to numerous network improvements."⁷ The Report does not, however, state whether any of this spending has been specifically targeted at maintaining Consolidated's copper line network, what effect the removal of the POLR obligation has had on that network, or the current status of the network. The OPA therefore requests that the Commission add this required information to the Report. This should also include a break-down of how much of the capital expenditures Consolidated made during 2015-2018 were required by the stipulation concerning the acquisition of FairPoint Communications in Docket 2016-00373, made in the course of resolving the failure to meet service quality requirements or made with funds from the Connect America program.

The OPA submits that it would not be appropriate to treat as confidential information related to investments in the copper line network made with Connect

⁵ See *Maine Public Utilities Commission, Investigation Regarding 2018 SQI Results Pertaining to Consolidated Communications*, No. 2018-319, Direct Testimony of Sarah H. Davis (Me. P.U.C. Mar. 1, 2019), at 7-9 (publicly available, redacted version).

⁶ 35-A M.R.S. § 7225-A(7).

⁷ Report at 10.

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America funds. Both the Legislature and Consolidated's Maine customers have a vested interest in how these publicly provided funds have been spent.

4. The Report Should Describe Consolidated's Record on Service Quality

The OPA disagrees with the Report's statement that the Legislature's interest, as expressed in P.L. 2015, c. 462, limited to "the effect, if any, the removal of the POLR Service obligation has had on customers in the deregulated municipalities."⁸ That legislation required the Commission to report the effect of removing the POLR obligation on a number of issues that are not limited solely to the deregulated municipalities, including: (1) the price cap ILEC's work force; (2) the maintenance and status of the copper line network; (3) public safety; and (4) the cost, features, and availability of telephone service, including service to the hearing impaired, and broadband service.⁹

The Report does contain references to information about how the removal of the POLR obligation has affected these issues across Consolidated's service territory, but these should be expanded to provide the Legislature with more context for reviewing the effect of allowing for relief from the POLR obligation. In particular, the Report should describe Consolidated's difficulty in meeting the service quality standards put in place by P.L. 2015, c. 462 (*i.e.*, the same legislative scheme providing for relief from the POLR obligation) with reference to the Commission's investigation of this matter in Docket 2018-00319 and all other dockets related to Consolidated's performance.¹⁰ An example of such related dockets is 2018-00219, the Commission's investigation into a 10 person complaint regarding unreliable landline service, which touched on both the availability of telephone service and the state of the copper network.¹¹

⁸ *Id.* at 8.

⁹ See 35-A M.R.S. § 7225-A(7).

¹⁰ Report at 8, fn. 14.

¹¹ *Maine Public Utilities Commission, Abbie McMillen, et. al., 10-Person Complaint Regarding Unreliable Landline Service Pertaining to Consolidated Communications*, No. 2018-219, Order (Me. P.U.C. Aug. 2, 2019) at 3-4.

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5. Additional Information on POLR Customers

The Report raises two questions that are relevant to understanding the effect of allowing relief from the POLR obligation, and the OPA recommends that Consolidated be given the opportunity to provide answers before the Report is delivered to the Legislature.

First, the chart on page nine of the Report shows that in four of the de-regulated municipalities the number of POLR customers declined precipitously from 2017 to 2018. Sanford lost 100% of its POLR customers during this time, Gorham lost 98.2%, Windham lost 94.4%, and Freeport lost 90.7%. The reason(s) for such a steep decline, if they can be determined, should be provided to the Legislature and interested parties.

It is clear to the Commission, both from the complaint and other filings by the complainants, and the filings and acknowledgements by Consolidated, that the residents of Brooksville received sub-standard telephone service from Consolidated (and its predecessor FairPoint Communications). It is also clear that these service issues were long-standing, and that the residents of Brooksville had a difficult and frustrating time trying to get the issues resolved.

According to the complainants, outages in Brooksville were rampant, with outages lasting for a week or more at a time. *Complaint* at 1. The complainants were particularly concerned as Brooksville does not have reliable cell phone service, and many elderly residents rely exclusively on their landline telephones. *Id.* The Town of Brooksville itself corroborated the service issues, reporting intermittent issues with dropped calls and no dial tone.

In Consolidated's initial response, on August 17, 2018, to the service issues in Brooksville, the Company acknowledged the service issues and claimed to have fixed the issues by replacing a gasket on top of a cabinet in one location and replacing copper cable with fiber in another. *Aug. 17, 2018 Consolidated Response* at 1. A few days later, the complainants responded, disputing Consolidated's contention that the Company had fixed the problems. *Aug 21, 2018 Complainant Response*.

The complainants stated that the problems with outages and dropped calls continued, with some outages lasting "for days." *Id.* at 1.

(See also Consolidated Communications' Response to Ten Person Complaint, August 17, 2019.)

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Second, in footnote 15 on page nine, the Report states that Consolidated has indicated it no longer tracks POLR customers by municipality. The OPA's understanding is that Consolidated has never tracked POLR customers by municipality, but that it has done so by wire center. Consolidated should state whether or not this is the case and why it has not provided this more granular information concerning POLR customers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. A. Creamer", with a long horizontal flourish extending to the right.

Robert A. Creamer
Senior Counsel