

1 BEFORE THE NEW YORK STATE JOINT LEGISLATURE
2 LEGISLATIVE COMMISSION ON RURAL RESOURCES

3 PUBLIC HEARING:

4 TO IDENTIFY CURRENT BROADBAND NEEDS IN RURAL
5 NEW YORK STATE, TO HEAR FROM RELEVANT STAKEHOLDERS
6 FROM ACROSS THE STATE, AND TO LAY THE FOUNDATION FOR
7 LEGISLATIVE INITIATIVES

8 Van Buren Hearing Room A
9 Legislative Office Building, 2nd Floor
10 Albany, New York

11 Date: September 17, 2019
12 Time: 11:00 a.m.

13 PRESIDING:

14 Senator Rachel May
15 Senate Co-Chair

16 Assembly Member Angelo Santabarbara
17 Assembly Co-Chair

18 Assembly Member Fred W. Thiele, Jr.
19 Co-Sponsor

20 SENATORS PRESENT:

21 Senator Pamela Helming

22 Senator Daphne Jordan

23 Senator Betty Little

24 Senator Jen Metzger

25 Senator Thomas F. O'Mara

Senator Patty Ritchie

1 SENATORS PRESENT (continued):

2 Senator James L. Seward

3 Senator James N. Tedisco

4
5 ASSEMBLY MEMBERS PRESENT:

6 Assembly Member Jake Ashby

7 Assembly Member David Buckwald

8 Assembly Member Billy Jones

9 Assembly Member Brian Miller

10 Assembly Member John Salka

11 Assembly Member Robert Smullen

12 Assembly Member Dan Stec

13 Assembly Member Chris Tague

14 Assembly Member Carrie Woerner

15

16

17

18

19

20

21

22

23

24

25

	PAGE	QUESTIONS
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

SPEAKERS:

Jeffrey Nordhaus
Executive Vice President,
Innovation & Broadband
Empire State Development

Thomas Congdon
Executive Deputy
Department of Public Service

Kate Powers
Director of Legislative Affairs
New York Attorney General's Office

William Farber
Supervisor, Town of Morehouse
(Hamilton County)
Also, Chair of the Hamilton County
Board of Supervisors

Carolyn Price
Supervisor, Town of Windsor
(Broome County)
Also, President of the
Upstate Towns Association

James Monty
Supervisor
Town of Lewis (Essex County)

Jennifer Gregory
Executive Director
Southern Tier Regional Planning Board

Lynn Gislason
Resident
Port Byron, town of Montezuma
(Cayuga County)

Rebecca Miller
Deputy Legislative &
Political Director
CWA, District 1

Christopher Ryan
President, CWA Local 123
Also, Onondaga County Legislature

1	SPEAKERS (Continued):	PAGE	QUESTIONS
2	Gretchen Hanchett	220	224
3	Executive Director		
4	Greater Allegany Chamber of Commerce		
5	David Wolff	227	236
6	Chair		
7	Adirondack Action Broadband Committee		
8	Tim Johnson	241	251
9	CEO		
10	Otsego Electric Cooperative		
11	Bryan Dillon	241	251
12	General Manager		
13	Steuben Rural Electric Cooperative		
14	Keith Pitman	241	251
15	CEO		
16	Oneida-Madison Electric Cooperative		
17	Dr. Todd Schmit	262	267
18	Associate Professor		
19	Charles H. Dyson School of		
20	Applied Economics and Management -		
21	Cornell College of Ag and		
22	Life Sciences and SC Johnson		
23	College of Business		
24	David Berman	269	281
25	Co-Chair		
	Connect Columbia		
	Annabel Felton	269	281
	Chair		
	Duanesburg Broadband Committee		
	Robert Puckett	293	297
	President		
	NYS Telecommunications Assoc.		
	Thomas Ciaccio	306	324
	Superintendent		
	Fonda-Fultonville Central		
	School District		

	SPEAKERS (Continued):	PAGE	QUESTIONS
1			
2	David Little, Esq.	306	324
3	Executive Director		
4	Rural Schools Association of NY		
5	Caroline Bobick	306	324
6	Fry (no last name given)		
7	Government Affairs		
8	NYS School Boards Association		
9	Robert Lowery, Jr.	306	324
10	Deputy Director for Advocacy		
11	NYS Council of School Superintendents		
12	Freda Eisenberg	332	336
13	Commissioner		
14	Sullivan County, Division of		
15	Planning and Community Development		
16	Renee St. Jacques	336	339
17	Assistant Director of Public Policy		
18	New York Farm Bureau		
19	Taier Perlman, Esq.	343	351
20	Rural Law Initiative		
21	Albany Law School		

16 ---oOo---

17
18
19
20
21
22
23
24
25

1 SENATOR MAY: Welcome, everybody, to the
2 public hearing on rural broadband.

3 I'm Senator Rachel May from the 53rd Senate
4 District, which includes Syracuse, but also a lot
5 of rural Onondaga County and all of rural
6 Madison County. And I chair the Legislative
7 Commission on Rural Resources, together with
8 Assemblyman Santabarbara.

9 And I'm very pleased to host the first
10 statewide hearing on rural broadband issues,
11 together with Assemblyman Santabarbara and
12 Assemblyman Thiele.

13 I first want to thank my colleagues in both
14 chambers, and the many people that we will be
15 hearing from today.

16 We have members and stakeholders from all
17 across the state who are concerned about this issue.

18 And we can see here today, here on the dais,
19 and on the witness list, just how broad the interest
20 is in this -- in this issue.

21 And I want to welcome my colleagues,
22 Senator Metzger, Senator Jordan, Senator Ritchie,
23 Senator Seward, Senator Tedisco, Senator Helming,
24 and Senator Little is here too.

25 And I'll let Senator (sic) Santabarbara

1 introduce his colleagues.

2 So our witnesses' list spans the public and
3 private sector.

4 We'll hear from agency leaders, citizen
5 action committees, school superintendents, rural
6 electric cooperatives.

7 The range of speakers mirrors the range of
8 those invested personally and politically in the one
9 thing we all seem to find it hard to live without,
10 which is connectivity.

11 This is an issue that affects every person
12 living in rural New York. Access to the Internet is
13 vital to the success of our communities.

14 Without reliable high-speed Internet, kids
15 can't do their homework, people can't work from home
16 or successfully run their small businesses, and our
17 rural schools, libraries, and communities are at a
18 competitive disadvantage.

19 Bad Internet access can lead to lower home
20 prices and less economic development.

21 And access to the Internet is also vital to
22 our democracy; it is how we get information.

23 And, in the coming years, it's going to be
24 how the government runs the census. And without
25 access to the Internet, it's going to be harder for

1 people to be counted in the census.

2 So, for all of these reasons, we really need
3 to get a handle on this problem.

4 I look forward to today's discussions.

5 I hope we'll see thoughtful discussion of how
6 we build on the progress that's already been made.
7 And the State has done a great deal so far.

8 And, it will learn what the Legislature needs
9 to do to ensure that all New Yorkers are fully,
10 adequately, and equitably served.

11 So about five years ago New York made a
12 commitment to invest in rural broadband, and there
13 is no question that more people are being served now
14 than they were in 2015.

15 This hearing is a stock -- a chance to take
16 stock of those developments, to see where the
17 successes have happened, but also to find out what
18 we still need to do to ensure border-to-border
19 broadband access in the state of New York.

20 I hear from constituents all the time about
21 their problems. Either they have no access, or
22 they're paying for -- for service that in no way
23 measures up to what they are actually receiving.

24 And so I want to make sure that we are
25 serving those people, and the constituents of my

1 colleagues up here, and people all over the state.

2 I want to do just a moment of housekeeping
3 before we begin.

4 We've agreed that members can have opening
5 remarks -- make opening marks of two minutes or
6 less.

7 We're going to be strict about that because
8 we want to make sure there's time for the witnesses
9 to speak and for us to follow up with questions.

10 I also want to encourage my colleagues to
11 focus on policy issues.

12 If you have very specific concerns about a
13 constituent or a neighborhood that we can address in
14 a more effective way outside of this hearing,
15 I encourage you to bring that information to my
16 staff, and we'll be happy to pass it along to the --
17 to the right -- through the right channels.

18 A final reminder to everybody here:

19 Thanks to the Internet, this hearing is being
20 live streamed, and can be viewed from the New York
21 State -- nysenate.gov website, yet another way that
22 our democracy depends on Internet service.

23 And we want to make sure that everyone in
24 New York can see this, so that is one of our goals
25 here.

1 With that, I will pass it along to my
2 colleague Assemblyman Santabarbara.

3 ASSEMBLYMAN SANTABARBARA: Thank you,
4 Senator May, and thank you for your partnership on
5 this commission.

6 I'm Assemblyman Angelo Santabarbara, and I'm
7 pleased to co-chair this on the Assembly side, with
8 Senator May.

9 I represent the 111th Assembly District,
10 which includes areas of Albany, Montgomery, and
11 Schenectady counties. A lot of the rurals areas
12 we'll be talking about are in my district.

13 Some of my constituents are here, actually,
14 to testify.

15 I want to thank -- the room is full, so
16 I want to thank everybody for attending, for making
17 the time to be here.

18 Thank you to my Senate colleagues, my
19 Assembly colleagues, for being here.

20 And, I think it's going to be a very
21 productive hearing.

22 It's very crucial that we put this together
23 because, as you heard, it's affecting many of the
24 rural communities in New York State, and, again,
25 many of the communities that I represent.

1 Lack of access to high-speed broadband has
2 had a very significant impact. And we've heard over
3 years, especially on the rural economies, economic
4 competition, we heard about schools, businesses,
5 households, they've all rely -- have come to rely,
6 in this day and age, on Internet service, and the
7 quality of that service.

8 Minimum broadband speeds, people struggle
9 even to achieve that.

10 And it's a barrier for students in rural
11 areas. It limits their research. It limits their
12 college and career choices, and the list goes on.

13 There's also reports out there to show that,
14 by increasing broadband in these areas, we can also
15 increase employment in these areas. That's a fact
16 at this point.

17 So we have to do a better job of making sure
18 we're penetrating in these rural areas.

19 That being said, I -- as I said, I deal with
20 this, as Senator May pointed out in her district as
21 well.

22 I deal with this on a daily basis with calls,
23 constituents that contact my office.

24 I know people here -- are here from --
25 representing the town of Duanesburg, that will be --

1 in Schenectady County, that will be testifying.

2 I've heard from them how lack of access is a
3 real problem, it's a real issue.

4 So we'll hear more about that from people
5 testifying today.

6 Just in rural areas across the state,
7 broadband limitations, the main thing is education,
8 but also, again, economic opportunities, including
9 farming, which is a significant factor for our
10 state, a significant economy in our state.

11 So we got to think about the farming
12 industry, and how they also have come to rely on
13 broadband services.

14 The New New York Broadband Program that was
15 launched in 2015, we made a big investment in this,
16 \$500 million. And we're looking to provide access
17 to everyone in the state.

18 The program has a mission: to get to those
19 unserved and underserved communities.

20 We've been through three rounds of funding at
21 this point, and with the State's also taking
22 advantage of federal funding from the FCC's Connect
23 America Fund.

24 Some stats that are -- hopefully, we'll talk
25 about today:

1 The Broadband Office estimates that, through
2 the round three of the New New York Broadband
3 Program, 99.9 percent of New Yorkers should have
4 broadband access.

5 And the FCC data shows that New York State
6 has 100 percent coverage.

7 So, despite what we're hearing, the fact is,
8 and we're going to hear today, individuals --
9 individ -- not every individual and not every
10 location has broadband.

11 That's what we're here to talk about today,
12 and how we can address this situation, how that
13 discrepancy can be addressed.

14 And it comes down to -- it comes down to how
15 they determine who has access and who doesn't.

16 A 2019 congressional research service report
17 identifies that this is over -- this overstatement
18 is a significant issue, and I hope to address that
19 during this hearing.

20 They -- base -- basically, a census block is
21 considered served if there is broadband service, or
22 the strong potential for broadband service, at one
23 or more locations.

24 So you see the problem.

25 This is especially problematic in rural areas

1 which have large census blocks, and may be
2 considered served even if a single neighbor -- a
3 single neighborhood in that census block has
4 broadband service.

5 So that's a real significant issue.

6 So that being said, I hope to talk more about
7 this, and how we -- how the FCC's making some
8 changes, to use shapefiles, and calling on carriers
9 to look at that data closer. And also provide us an
10 online portal that would give us a chance to dispute
11 these -- these areas of coverage.

12 So some progress has been made, but there's
13 still more to do.

14 High-speed Internet shouldn't be a luxury
15 limited to highly populated areas.

16 Broadband, as you heard, has become an
17 essential part of everyday life, and we have to do
18 more to ensure businesses, families, and schools in
19 our rural communities have equal access to broadband
20 and all the opportunities that it provides.

21 So I'm looking forward to today's hearing, to
22 hear more about the impacts, and, more importantly,
23 what steps can be taken to prioritize and expedite
24 broadband deployment into rural areas of
25 New York State.

1 So I'm going to end my comments here so we
2 can proceed with today's hearing.

3 And I'm very pleased to see this commission
4 taking the lead here to focus on this very important
5 issue in the rural communities of New York State.

6 Thank you.

7 ASSEMBLY MEMBER THIELE: Good morning,
8 everybody.

9 My name is Fred Thiele. I'm the State
10 Assemblyman from the 1st Assembly District,
11 which is in -- on Long Island, and is part of
12 Suffolk County. It's the eastern-most district.

13 Montauk is -- you'll see those bumper
14 stickers: Montauk, the end.

15 Well, that's where my district ends or
16 begins, depending on how you look at it.

17 But in addition to representing eastern
18 Suffolk County and eastern Long Island in the
19 State Assembly, I am also the Chair of the Assembly
20 Committee on Local Governments.

21 This is my -- I'm completing my first year as
22 the Chair of Local Governments.

23 And it is our pleasure, on behalf of the
24 Local Governments Committee, to co-sponsor this
25 hearing today with the Commission on Rural

1 Resources.

2 I want to thank our Co-Chairs for taking the
3 initiative with regard to this extremely important
4 issue as we look forward to the 2020 session.

5 It's important to assess what the efforts,
6 the Governor's program, which began in 2016, which
7 Assemblyman Santabarbara alluded to, and the efforts
8 that have been made so far.

9 It's important to assess how well that
10 program has worked, but, more importantly, where can
11 we do better in the future to ensure that every
12 citizen in New York State has broadband?

13 As I said, this is my first year, so I will
14 be listening intently, and want to hear from our
15 witnesses, and whether it be local government or the
16 business sector, community groups; whoever wishes to
17 testify today.

18 I just wanted to also present a little bit of
19 housekeeping.

20 I look forward to hearing each of you
21 testify.

22 But, first, try to limit your comments to no
23 more than 10 minutes.

24 I know we have a clock here somewhere for
25 10 minutes. Your written testimony will be included

1 as part of the public record.

2 So you should feel free to summarize your
3 testimony, rather than reading it to us word for
4 word.

5 Please also be sure to state your name for
6 the record prior to speaking.

7 Those of you who did not have the opportunity
8 to testify and would like to submit written
9 testimony, should submit your testimony via e-mail
10 or mail as soon as you can, but, please, no later
11 than two weeks from today. It will be added to the
12 written hearing record.

13 And, again, thank you in advance for
14 participating today.

15 And I turn it back to our chairs.

16 SENATOR MAY: All right.

17 Thank you.

18 So as Chairs, we took the privilege --

19 ASSEMBLY MEMBER THIELE: Oh, if -- if I -- if
20 I may, Chairman May, I also wanted to introduce the
21 members of the State Assembly who are participating
22 with us today.

23 And, having been -- being from Long Island,
24 this is one of the few days where I feel outnumbered
25 by upstate instead of being outnumbered by the city

1 of New York.

2 So, welcome to all of you.

3 But our members here today are: Assembly
4 Member Woerner, Assembly Member Smullen, Assembly
5 Member Tague, Assembly Member Ashby, Assembly
6 Member Buckwald, Assembly Member Brian Miller,
7 Assembly Member Salka, Assembly Member Dan Stec, and
8 Assembly Member Jones.

9 Those are the -- I think the members that are
10 here thus far today.

11 So I did want to introduce our colleagues.

12 Thank you.

13 SENATOR MAY: So let me introduce
14 Senator Jen Metzger.

15 And I am -- I'm going to try not to have the
16 timer actually make that obnoxious noise, but, we
17 are going to keep to it two minutes, if we can,
18 from -- from here on in.

19 Thanks.

20 SENATOR METZGER: Thanks.

21 So, first of all, I just want to thank
22 Senator May, Assembly Member Santabarbara, Assembly
23 Member Thiele, for organizing this very important
24 hearing.

25 I represent the 42nd District, which covers

1 portions of the Catskills, the Mid-Hudson Region,
2 including all of Sullivan County, and parts of
3 Ulster, Orange, and Delaware counties.

4 I also chair the Agriculture Committee, and
5 I'm a member of the Rural Resources Commission.

6 I want to just start out by saying that I am
7 very pleased that the State has -- even -- I'm a
8 first-term Senator. Before I came here, prioritized
9 this issue, and has done a lot, to date, to extend
10 broadband service in the state.

11 But it -- I -- on the other side of that,
12 since I've been in office, it is probably the single
13 greatest complaint I get from my constituents in
14 Sullivan County and parts of Ulster.

15 It is -- in my mind, broadband is about as
16 much a basic need as electricity is in today's
17 world.

18 It is absolutely essential for closing the
19 gap -- the rural-urban gap in access to educational
20 resources, to opportunities, to skilled jobs.

21 It's so important to farming, it's so
22 important to closing the income inequality gap in
23 our state, and ensuring the long-term viability of
24 our rural communities.

25 I brought -- I just want to -- a map of

1 Sullivan County. This was provided by
2 Sullivan County Planning.

3 It's a 2014 map, but they've said this is the
4 most accurate map of cell service.

5 And the yellow areas, there are -- there's no
6 service at all.

7 So there's work to be done there.

8 It only tells part of the story, though,
9 because most of my complaints -- most of the
10 complaints I receive are about poor service, and
11 speeds -- broadband speeds that just make it
12 impossible for kids to do their homework, for people
13 to really use it.

14 And this one comment kinds of sums it up from
15 one of my constituents.

16 David says: Slow Internet speed, no customer
17 service, and a "take it or leave it" attitude.

18 So -- so there are real -- there are real
19 issues that -- that we have to address.

20 And I -- I will wrap it up by saying, I've
21 introduced legislation that aims to close that gap.

22 I appreciate, and look forward to, learning
23 from all of you about your experiences elsewhere in
24 the state.

25 Thank you.

1 SENATOR MAY: Thank you.

2 Shall we go one at a time?

3 ASSEMBLY MEMBER THIELE: We have other --
4 other members of the Assembly who would like to make
5 an opening statement?

6 ASSEMBLY MEMBER WOERNER: Hi, I'm
7 Assemblywoman Carrie Woerner. I represent the
8 113th Assembly District.

9 And many of the themes that I'm hoping that
10 we can touch on in today's testimony have been
11 introduced by our Chairs, who I'd like to thank for
12 calling this very important hearing today.

13 But my concerns really sort of get summed up
14 by the dichotomy between the statistics, which show
15 that there is broad-spectrum coverage across all of
16 New York, and the anecdotal evidence that we hear
17 from individuals, that either say they don't have
18 access or their access is not at a -- not at a level
19 that is of sufficient quality to be effective.

20 And it gets summed up in an -- in a little
21 anecdote.

22 I happened to be in Salem, New York, this
23 summer, at a farm, that I had been to earlier in the
24 spring. And I had access in the spring to some data
25 on my laptop which I could access. But in the

1 summer, I didn't have access.

2 And I said, I thought you guys had broadband
3 here. How come I can't -- how come I can't get on?

4 And they're, like, Well, it's wireless, and
5 the corn is too high, so the signal can't come
6 through.

7 [Laughter.]

8 ASSEMBLY MEMBER WOERNER: And I think that
9 is -- you know, in a rural community, that kind of
10 sums it up, that, because we're not delivering fiber
11 to the home, we're dependent on wireless. And
12 wireless can get gummed up with a lot of geographic
13 issues that are relevant in rural communities that
14 aren't relevant in urban and suburban communities.

15 So I'm interested to hear what we're thinking
16 about in terms of understanding latency issues,
17 issues of reliability that have -- that are plaguing
18 those who -- who might have access to broadband
19 through wireless, but, it is not a -- it is not an
20 effective service to meet their needs.

21 So thank you all very much for coming, and
22 I'm looking forward to hearing all have you to say.

23 SENATOR MAY: Thank you.

24 ASSEMBLY MEMBER THIELE: Assembly --

25 SENATOR MAY: Senator --

1 ASSEMBLY MEMBER THIELE: -- oh, I'm sorry.

2 SENATOR MAY: I thought we'd go one --

3 ASSEMBLY MEMBER THIELE: Well -- right.

4 SENATOR MAY: -- (parties cross-talking).

5 I wanted to alternate.

6 So, Senator Jordan.

7 SENATOR JORDAN: Thank you, Senator May.

8 Thank you to all the Chairmen of this hearing
9 today, it's well needed.

10 High-speed broadband is a necessity -- a
11 necessary in today's world, for education; everyday
12 information for families or individuals; businesses,
13 not only for the benefits of the business, but for
14 customers, as well as towns and their people, for
15 economic development.

16 I'll also add that it's very important so
17 that early voting works properly.

18 Those without high -- high-speed broadband,
19 and in a good number of instances, no broadband, are
20 at a severe disadvantage in so many avenues of life.

21 Broadband is still not for all.

22 I hear the complaints of the people in the
23 43rd Senate District.

24 Broadband is not working for them.

25 In looking at Microsoft's report of February

1 from this year, two of the four counties I represent
2 are sorely lacking.

3 Columbia County is entirely within the
4 43rd Senate District that I represent, and is
5 ranked number-three worst, where 49,000, or,
6 80.7 percent, of the people don't use Internet at
7 broadband speeds.

8 Washington County, where I represent the
9 towns of Cambridge and Easton, is ranked number-five
10 worst, where 49,000, or, 79 percent, of the people
11 don't use Internet at broadband speeds.

12 Saratoga County is ranked Number 40, where
13 123,000, or, 54.4 percent, of the people don't use
14 Internet at broadband speeds.

15 Rensselaer County is ranked 45, where 81,000,
16 or, 50.4 percent, of the people don't use Internet
17 at broadband speeds.

18 We have to ask, why?

19 Why aren't people using Internet at broadband
20 speeds?

21 The minimum figure that the FCC categorizes
22 as high-speed is download speeds of 25 megabits per
23 second.

24 Round three of the New York -- the
25 New New York Broadband Program set a goal of

1 achieving statewide access to Internet downloads
2 speeds of at least 100 megabits per second, and only
3 25 megabits per second in the most rural and remote
4 areas, disadvantaged by plan, as it were.

5 Obviously, that has not been achieved.

6 Why?

7 I hope today we'll learn why, so we can fix
8 it and truly have broadband for all.

9 SENATOR MAY: Thank you.

10 And I'll just call everyone's attention,
11 there's a clock over here. So, if you can keep your
12 comments below two minutes, I would really
13 appreciate it, because there are a lot of us, and we
14 need to get to the witnesses.

15 ASSEMBLY MEMBER THIELE: Assembly Member
16 Smullen.

17 ASSEMBLY MEMBER SMULLEN: Thank you,
18 Chairman.

19 I'm Robert Smullen. I represent the
20 118th Assembly District, which is Fulton,
21 Hamilton, upper Herkimer, parts of Oneida and
22 St. Lawrence counties.

23 It's one of the largest Assembly districts in
24 the western Adirondacks and the Mohawk Valley.

25 And, I'm new to the Assembly, but I'm not new

1 to communications in remote places.

2 This five-year commitment that we've had has
3 left pockets of isolation, including in my district.

4 This is the number-one technology issue that
5 I hear from our citizens and from our local
6 governments.

7 Towns like Stratford and Ohio and
8 Lake Pleasant are being left behind in this
9 move into the twenty-first century.

10 Put simply: Our businesses need it to
11 compete. Our children need it to grow and learn.

12 This is like the post office was in the
13 1800s. It's like rural electrification was in the
14 1900s. It's become a modern technological
15 necessity.

16 Like I said, I'm new to the conversation
17 here, but I think the time for polite conversation
18 is coming past due, and that it's time to accelerate
19 our actions here in New York State for our citizens
20 to be properly connected to the twenty-first
21 century.

22 Thank you very much.

23 SENATOR MAY: Thank you.

24 Senator Ritchie.

25 SENATOR RITCHIE: Just want to start off by

1 saying thank you, also, to the Chairs.

2 I represent three rural counties: Oswego,
3 Jefferson, and St. Lawrence.

4 And though we've made, I think, great
5 improvements, there's still a real need.

6 And one of the things that I hear on a daily
7 basis is the concerns with the last mile.

8 There's nothing that makes my constituents
9 angrier than when the person who lives at the end of
10 the road has high-speed Internet service, and
11 they're less than a mile away and they can't get
12 hooked up.

13 So I thank you for the opportunity.

14 I hope that we have a conversation about how
15 we can invest in the last mile, and make sure that
16 all our constituents have access to good service.

17 Thank you.

18 ASSEMBLY MEMBER THIELE: Thank you.

19 SENATOR MAY: Thank you.

20 ASSEMBLY MEMBER THIELE: Assembly Member
21 Tate.

22 ASSEMBLY MEMBER TATE: Thank you.

23 I also want to thank the three Chairs;
24 Chairman Santabarbara, Chairman Thiele,
25 Chairman May.

1 Thank you very much for bringing us together
2 today on this very important issue.

3 I probably represent the most rural area in
4 the state of New York.

5 I have seven -- all or parts of 7 counties,
6 26 school districts. And I've heard the stories of
7 kids driving to the nearest library at 8:00, 9:00 at
8 night to get coverage to be able to do their
9 homework.

10 And what's really sad, that we're the
11 Empire State, and that, in 2019, okay, big
12 communities, like Catskill and Saugerties don't have
13 cell phone coverage or broadband.

14 You can stand right across the street from
15 the Green County county office building and not have
16 cell phone service. And I think it's sad.

17 And I think that this broadband is very vital
18 to upstate's economy.

19 I think we look at it more as an investment.

20 If you invest in the broadband, it will bring
21 people here.

22 Today most people have home-based businesses.
23 And if they can't run their home-based business out
24 of their home, they're not going to move there.

25 So I think we need to concentrate on a real

1 tough plan.

2 I think that, economically, this will be the
3 best thing that ever happened for Upstate New York.

4 I thank you very much for giving me the time
5 this morning, and I look forward to listening to the
6 conversation.

7 Thank you.

8 SENATOR MAY: Thank you.

9 Senator Seward.

10 SENATOR SEWARD: (Microphone off.)

11 Yep, thank you.

12 I want -- also want to thank our Chairs for
13 organizing today's hearing.

14 Obviously --

15 SENATOR MAY: Is your microphone on?

16 SENATOR SEWARD: -- obviously, there is a
17 great deal...

18 Well, we'll try this.

19 (Pulls over a different microphone.)

20 Can we restart the clock?

21 [Laughter.]

22 SENATOR SEWARD: I want to also start out by
23 thanking our Co-Chairs for organizing today's
24 hearing.

25 Obviously, there's a great deal of interest

1 in this very important topic.

2 You know, I'm very honored to represent the
3 51st Senate District. It's a swath of all or
4 parts of nine counties right in the center of the
5 state, mostly rural. It's a great place to live,
6 work, raise a family.

7 The area has a lot to offer, but, and it's a
8 big "but," there are still far too many rural areas
9 that lack high-speed broadband services, and that
10 holds the entire region back.

11 In these areas, whether you're discussing
12 education, economic development, community
13 development and growth, the conversation inevitably
14 turns to the lack of high-speed broadband
15 availability.

16 It hurts our businesses.

17 It hurts individuals and families who are
18 looking to perhaps move to our rural areas, but
19 don't, because of the lack of broadband.

20 It hurts those who are trying to sell their
21 home, but can't, because they don't have broadband
22 at their location.

23 And, of course, as has been pointed out,
24 there are countless number of students who just
25 can't do their homework at home because of the lack

1 of broadband services.

2 Now, over the years I've advocated for State
3 funding to address this problem.

4 We've had federal dollars that have come into
5 the state as well.

6 And the investments that have been made are
7 paying off, no question. There are more people with
8 broadband services today.

9 And I want to congratulate the Broadband
10 office for the job that they are doing.

11 And, also, the Public Service Commission,
12 where their agreement with Spectrum, that's helped
13 to some extent as well.

14 However, there is so much more that needs to
15 be done, much more work that needs to be done, to
16 reach the goal of high-speed broadband for all.

17 There are wide swaths of Upstate New York
18 that may have some service, satellite, wireless, but
19 from what I hear from my constituents, these
20 services are not reliable and they lack quality of
21 service.

22 There are serious issues there.

23 We in the rural areas should not have to
24 settle for second-rate service.

25 My constituents contact me every day.

1 They feel excluded and forgotten, because
2 they do not have high-speed broadband.

3 We need to change that.

4 And I'm hoping that today's hearing will
5 start that process, develop a strategy for going
6 forward, so that we can have, truly, universal
7 high-speed broadband for all New Yorkers.

8 SENATOR MAY: Thank you.

9 ASSEMBLY MEMBER THIELE: Assembly
10 Member Ashby.

11 ASSEMBLY MEMBER ASHBY: Thank you to the
12 Chairs for holding this meeting, and thank you for
13 everybody coming together today to have this
14 conversation.

15 You know, I look forward to hearing the
16 testimony.

17 And I share much of my district with
18 Senator Jordan, who read off a lot of statistics,
19 and I'm grateful -- grateful that she did that.

20 But one of -- one of the concerns that
21 I have, and I'm hopeful to hear about today too, is,
22 not only in the rural areas that are -- are farther
23 out, but the rural areas that border on the suburban
24 areas that -- that are in my district, and even in
25 the suburban areas themselves, there are numerous

1 pockets of areas that are not covered. And there's
2 a large disparity between the households there in
3 terms of their ability to communicate within that
4 community, whether it's through education, small
5 business; a variety of issues.

6 And I look forward to hearing about those as
7 well today.

8 Thank you.

9 SENATOR MAY: Thank you.

10 Senator Tedisco.

11 SENATOR TEDISCO: Thank you very much,
12 Chairman.

13 What we're talking about today, is you can
14 see is something very valuable for our state: it's
15 communication, and the ability to communicate.

16 The promise of statewide broadband has not
17 been fulfilled, and it should be fulfilled.

18 Imagine representing or living in the
19 49th Senatorial District, a corner of it, where
20 you not only don't have broadband, but another
21 component where you can communicate, and that is
22 cell phone usage.

23 In my district, several areas, several
24 constituents, can't get an emergency vehicle or
25 report an emergency, and I say this in tongue in

1 cheek, unless they know smoke signals or homing
2 pigeons.

3 And that's not a reliable source to protect
4 your constituents.

5 This is about commerce, this is about
6 education; this is about the nexus between those
7 two.

8 And in my district it's about public safety.

9 If you don't have cell phone, and you don't
10 have broadband, and I know, because, when I go into
11 it, I can get neither one of those, and many of my
12 constituents can't, it's dangerous, not only to the
13 economy of your community, not only to the
14 educational aspects, but to the public safety.

15 Now, ESDC, it's not only about providing one
16 Internet provider.

17 ESDC provides grants.

18 I think some of those ESDC grants should be
19 provided for grants for several of these Internet
20 providers, so there's competition, because, right
21 now, there are some providers, they're terrible
22 providers, and they're singular in many of our
23 areas.

24 And we get reports every single day: Cell
25 phone usage goes down. Broadband, the ones that

1 have it, goes down.

2 We're in the Adirondacks in many areas:
3 Fulton, Hamilton County, Herkimer County,
4 Saratoga County, Schenectady County.

5 We need statewide rural broadband, and we
6 need cell phone access also, because it's not only
7 an economic issue, it's a public-safety issue.

8 Thank you.

9 SENATOR MAY: Thank you.

10 ASSEMBLY MEMBER THIELE: Assembly
11 Member Miller.

12 ASSEMBLY MEMBER MILLER: Thank you for
13 putting this hearing together.

14 You know, broadband is, you know, one of the
15 most important aspects of my district.

16 I go from the Mohawk Valley, all the way to
17 Orange County.

18 So I pass through or next to most of my
19 colleagues here, and there's pockets throughout that
20 region.

21 You know, I'm looking at the map up there.
22 You know, the district's 204 linear-miles long.

23 I pass through seven counties, probably one
24 of the most rural parts of New York State, other
25 than the Adirondacks. But cell phone coverage is

1 spotty, broadband is non-existent in parts.

2 And as some of my colleagues have talked
3 about, the broadband coverage, not far from the
4 suburban areas, is really one of the bigger issues
5 we have.

6 You know, for many years I worked as a sales
7 engineer from home.

8 If I were to live in, you know, outside Delhi
9 in Delaware County, I couldn't have lived there to
10 pursue my -- my profession.

11 You know, this is truly an economic driver.

12 And I'm glad we're putting this all together,
13 and I'm looking forward to hearing some testimony.

14 Thank you.

15 SENATOR MAY: Thank you.

16 And -- oh, Senator Helming.

17 SENATOR HELMING: Good morning, everyone.

18 I'd like to thank our hosts for holding this
19 important public hearing today.

20 And to thank everyone who is here to listen
21 to the hearing on rural broadband and its impacts,
22 or lack thereof, on local communities throughout the
23 state.

24 As the ranking member on the Legislative
25 Commission on Rural Resources, and the ranker on the

1 Committee on Commerce, Economic Development, and
2 Small Business, and as a senator for the
3 54th Senate District, which is comprised of many
4 rural communities, I hear every single day countless
5 complaints about our state's broadband resources.

6 These complaints and concerns come from
7 people who are unserved or underserved.

8 In addition to the testimony that we'll hear
9 today, I have submitted written testimony to the
10 host of this meeting on behalf of many, many, many
11 residents, business owners, libraries, schools,
12 economic development groups, and local elected
13 officials from my district.

14 Each of their testimonies demonstrates how,
15 without quality access to broadband, our small farms
16 struggle, our businesses struggle, access to online
17 education is limited. That digital divide that
18 we're working so hard to combat continues to grow.

19 Access to health care is limited.

20 And in this day and age when telemedicine is
21 becoming an important component of health care,
22 especially in the field of mental health, it's
23 absolutely critical that we provide Internet
24 services.

25 And, also, my colleague Senator Tedisco

1 mentioned the importance of having access to
2 cellular services and broadband services to deal
3 with public-safety and emergency-management issues.

4 I saw that firsthand a year ago in August,
5 when we had significant flooding in southern
6 Seneca County. And our emergency-management command
7 post struggled because of the lack of broadband
8 services.

9 I want to thank you again to our hosts, and
10 say, I look forward to hearing today's testimony, so
11 we may work together to expand high-speed Internet
12 at a reasonable cost to our rural communities.

13 Thank you.

14 SENATOR MAY: Thank you.

15 And I guess our last person is
16 Senator Little -- no? Nothing?

17 Okay, that's -- that's it, then.

18 So thanks to everybody for your comments.

19 I want to invite Jeffrey Nordhaus and
20 Thomas Congdon to -- as our first witnesses.

21 We'll start with Mr. Nordhaus, please.

22 JEFFREY NORDHAUS: Good morning.

23 Good morning, Chairs May, Santabarbara, and
24 Thiel, members of the Legislature.

25 Pleased to be here today to update you on

1 progress that has been made on the New New York
2 Broadband Program, and, more broadly, the
3 unprecedented steps that the State has taken to
4 ensure that all New Yorkers have access to
5 high-speed, affordable broadband regardless of where
6 they work or live.

7 My name is Jeff Nordhaus. I serve as
8 executive vice president for innovation and
9 broadband at Empire State Development.

10 I oversee the New New York Broadband Program
11 and the Broadband Office which administers it.

12 The \$500 million New New York Broadband
13 Program was created, with legislative support, in
14 2015, and provides grant funding to broadband
15 providers to deploy service in unserved and
16 underserved areas of the state.

17 The program's goal is to ensure that all
18 New Yorkers have access to high-speed Internet.
19 Much of the focus of the program is in Upstate
20 New York.

21 When the program was launched in 2015,
22 approximately 30 percent of New Yorkers lacked
23 access to high-speed broadband.

24 The gap was most acute upstate where
25 65 percent of New Yorkers lacked access.

1 However, Governor Cuomo recognized that, in
2 today's economy, as has been noted today, high-speed
3 broadband is not a luxury, it is a necessity.

4 It's an integral part of life for students,
5 families, and small businesses.

6 From economic development, to education, to
7 health care, access to broadband is a vital tool.

8 For these reasons, the Governor launched the
9 New New York Broadband Program to close this digital
10 divide.

11 The New New York Broadband Program,
12 coupled with commitments secured from
13 Charter Communications, has allowed New York State
14 to address 2.4 million unserved and underserved
15 locations in less than five years.

16 We're extremely proud of this accomplishment,
17 and I look forward to sharing the details of that
18 with you here today.

19 The New York Broadband Program is, by far,
20 the largest and most successful state program of its
21 type in the nation.

22 The program supports projects, providing
23 speeds of 100 megabits per second, with 25
24 acceptable in the most rural areas of the state
25 where fiber connections were found to be

1 prohibitive expensive.

2 In total, the program has catalyzed more than
3 a billion dollars in public and private investment
4 across New York.

5 The economics of broadband often require
6 State investment to incentivize rural providers.

7 For a company to build a mile of fiber,
8 economically, for example, it needs enough potential
9 customers, enough density, along that mile to recoup
10 its investment profitably.

11 Rural areas generally lack that density,
12 which is why the government needs to step in and
13 help providers get service to New Yorkers who need
14 and deserve it.

15 To accomplish that, the program supports
16 public-private partnerships by offering State
17 funding to incentivize providers to build out to
18 unserved and underserved locations lacking access to
19 broadband.

20 The BPO selected (indiscernible) providers
21 using an innovative and groundbreaking
22 reverse-auction process, that ensured the highest
23 broadband speed would be available for the lowest
24 state cost for each unserved and underserved
25 location.

1 In addition, we conducted these auctions
2 regionally, which ensured that funding would be
3 distributed across the entire state rather than just
4 to the areas with lower costs.

5 As was discussed earlier, the program has
6 taken place across three phases.

7 In 2016, Phase 1 resulted in 75.8 million in
8 new broadband investment, including 54 million of
9 State investment to 25 projects, addressing more
10 than 36,000 locations.

11 In 2017, Phase 2 resulted in \$256 million in
12 new broadband investment, including 202 million of
13 State investment to 51 projects, addressing more
14 than 85,000 locations.

15 In 2018, Phase 3 resulted in \$389 million in
16 new broadband investment, including 230 million of
17 State investment to support 50 projects, and address
18 134,000 locations.

19 The public can find State and private-funding
20 numbers, an interactive map, build-out status, and a
21 municipal search tool on the BPO's website,
22 nysbroadband.ny.gov.

23 The BPO and our broadband partners also
24 engage with communities and constituents across the
25 state, including providing updates on status of

1 ongoing projects across New York.

2 During the program's implementation, another
3 development took place that is important to
4 highlight.

5 The FCC withdrew funding from its
6 Connect America fund that was earmarked for a number
7 of states across the nation, including New York.

8 The withdrawal was a direct result of
9 Verizon's decision to decline its CAF allocation
10 which supported the provision of broadband to
11 consumers in rural areas.

12 Governor Cuomo and the BPO knew that the
13 declined funding had the potential to enhance the
14 program and make a difference in the lives of
15 thousands of New Yorkers.

16 So rather than allow the funding to be
17 diverted to states outside of New York, we undertook
18 a yearlong effort, in coordination with the New York
19 congressional delegation, that resulted in the State
20 securing up to \$170 million of incremental
21 additional funding, on top of the \$500 million, from
22 the FCC for Phase 3 of the Broadband Program.

23 This funding greatly expanded the BPO's
24 ability to attract broadband providers into Phase 3,
25 including, notably, Verizon Communications.

1 Verizon will expand FIOS service to over
2 18,000 unserved locations across five upstate
3 regions in an agreement the company reached with the
4 PSC -- which Tom will speak about further -- at the
5 same time, will result in a total of 50,000 new FIOS
6 connections upstate -- mostly in Upstate New York.
7 And those are still currently under construction.

8 In total, the New New York Broadband Program
9 will cover approximately 256,000 locations across
10 the state, representing a total of 721.9 million in
11 private, State, and federal investments, excluding
12 the value of the homes that are being upgraded by
13 Charter.

14 When all state-secured upgrades and build-out
15 commitments, pursuant to the broadband initiative,
16 are included, as mentioned earlier, more than
17 2.4 million homes are being addressed.

18 The vast majority of BPO projects are fiber
19 to the home networks, which are capable of download
20 speeds of 100 megabits, and, in fact, are generally
21 gigabit-capable.

22 These build-outs, which are occurring
23 statewide, from the North Country, to the
24 Mid-Hudson, to the Southern Tier, are deploying
25 21,000 miles of fiber, enough to nearly

1 circumnavigate the globe.

2 This is a game-changer for Upstate New York,
3 for businesses looking to grow or settle, for
4 New York tourism, or for residents in hamlets across
5 our state who are looking to stay connected.

6 After full implementation of the commitments
7 announced in connection with the program,
8 approximately 99.9 percent of all New York
9 households will have access to high-speed broadband,
10 with 99 percent at download speeds of 100, and the
11 remainder at speeds of 25 megabits.

12 In terms of network construction, where we
13 stand today, 98 percent of houses have access to
14 these speeds, and the remainder of projects still in
15 the process of construction.

16 The BPO used grant funding to provide
17 enhanced satellite service for the last 1 percent of
18 the state where the cost of building fiber
19 infrastructure was found to be prohibitively high or
20 where no other bids were received at all.

21 The program utilized this low-cost solution,
22 which meant key speed and cost requirements, in
23 order to ensure that no New Yorkers were left
24 behind.

25 The program stipulates 25 megabits as the

1 minimum tier for qualifying service. And the new
2 Hughes' satellite launched during our program meets
3 that requirement.

4 Previous generations of satellite provided
5 speeds of 15 megabits, or even less.

6 In addition, our -- the satellite service we
7 have supported has no hard data caps, so usage is
8 never cut off during the month.

9 Approximately 79,000 locations will receive
10 satellite from Hughes Network Solutions.

11 The BPO program also requires affordability.

12 All providers have to offer 25 megabits for
13 no more than \$60 per month.

14 Installation fees cannot exceed \$49 on a
15 one-time basis, and additional fees and connection
16 charges cannot be applied.

17 State investment has also reduced the cost of
18 satellite dishes which are often priced at over
19 \$400, and service can be over \$100 a month.

20 In areas served by satellite, we still expect
21 that more homes will convert to fiber as providers
22 continue to build out to new locations over time,
23 even in those satellite areas.

24 From a network-construction standpoint,
25 Phase 1 and Phase 2 projects are generally complete,

1 and all remaining projects are currently in active
2 construction.

3 The Broadband office has hired a technical
4 validation firm to review all completed projects.

5 BPO funding is disbursed on a reimbursement
6 basis, which means providers will only receive
7 reimbursement when projects are complete and
8 validated.

9 As part of our effort, the BPO works closely
10 with the PSC.

11 As you know, as a condition to the merger
12 with Time Warner Cable, the PSC required
13 Charter Communications to offer faster broadband
14 speeds to all passed homes and businesses in its
15 footprint, and to provide service to an additional
16 145,000 unpassed locations.

17 Charter's recent settlement agreement with
18 the PSC also allocated \$12 million as a reserve fund
19 for any unexpected gaps left in coverage.

20 My colleague Tom Congdon will address the
21 Charter agreement further.

22 In conclusion:

23 I cannot emphasize enough how transformative
24 the New York Broadband Program has been for
25 New York, especially for Upstate New York.

1 We're proud of the program's efficient
2 implementation. It's been held up as a model by
3 other states, and even recently by the federal
4 government.

5 I want to thank the Governor and the
6 Legislature for their foresight in identifying
7 broadband as a key priority for New York, and for
8 their support during the program's implementation.

9 We should be proud of the work we've done and
10 the accomplishments we've made in providing this
11 critical service to so many New Yorkers.

12 Thank you very much, and I'm happy to answer
13 your questions.

14 SENATOR MAY: Thank you.

15 That was exactly 10 minutes. That was
16 impressive.

17 [Laughter.]

18 SENATOR MAY: I think we'll -- we'll direct
19 questions to you before we go on to Mr. Congdon.

20 It that --

21 JEFFREY NORDHAUS: Might -- if you want to
22 hear about Charter and how they fit together?

23 It's up to you, though, obviously.

24 SENATOR MAY: Okay. Why don't we go ahead,
25 then. And when we (indiscernible), then we can

1 direct questions to either one.

2 THOMAS CONGDON: Thank you.

3 Good morning, Chairs May, Santabarbara, and
4 Thiele, and other distinguished members.

5 My name is Tom Congdon. I'm the executive
6 deputy at the Department of Public Service.

7 Availability and access to broadband is
8 crucial to driving economic growth and opportunity.

9 And we welcome this committee's focus on
10 rural New York communities that may be unserved or
11 underserved by this essential service.

12 While states do not directly regulate
13 broadband, New York's Public Service Commission and
14 the staff at the department of public service are
15 helping expand access to broadband services.

16 Under state law requiring cable and telephone
17 mergers to produce a public net benefit, along with
18 other regulatory initiatives, the commission has
19 required substantial private investment in broadband
20 infrastructure throughout New York.

21 Commission-ordered network expansions by
22 Charter Spectrum, Altice, FairPoint, and Verizon are
23 well underway. And the department's oversight of
24 these projects will continue until they are
25 complete, which is helping achieve Governor Cuomo's

1 vision for universally-available broadband.

2 The department works closely with ESD's
3 Broadband Office to maximize coordination of the
4 projects we oversee with the projects underway with
5 BPO funding.

6 Today I'll briefly summarize the department's
7 activities that are contributing to a nation-leading
8 and unprecedented build-out throughout the state,
9 starting with Charter.

10 Charter is the largest cable provider in the
11 state.

12 It provides digital cable television,
13 broadband Internet, and VOIP telephone service to
14 more than 2 million subscribers in New York State in
15 more than 1,150 communities.

16 They have a potential customer base of
17 5 million households in its franchise areas.

18 On January 8, 2016, the commission approved
19 Charter's acquisition of Time Warner Cable, subject
20 to several regulatory conditions to advance the
21 public interest.

22 The most notable conditions for today's
23 discussion are a requirement to increase broadband
24 speeds to 300 megabits per second by the end of
25 2019, and a requirement to build out its network to

1 pass an additional 145,000 unserved or underserved
2 homes and businesses in the state's less-densely
3 populated areas.

4 In early 2017, the commission determined that
5 Charter would miss its first milestone to pass
6 36,250 premises by May 18, 2017, and we commenced
7 enforcement proceedings.

8 A settlement was approved by the commission
9 in September 2017, that established a new
10 enforceable build-out schedule, with interim
11 milestones, and required Charter to pay a million
12 dollars for missing the first milestone, and up to
13 \$3 million for each of the remaining four milestones
14 going forward.

15 But in early 2018, Charter and department
16 staff disagreed on the eligibility of certain
17 addresses claimed by Charter, including
18 New York City addresses and addresses awarded by the
19 BPO, which led to the commission issuing several
20 additional enforcement orders, culminating in a
21 July 2018 order, revoking the commission's approval
22 of the merger.

23 After months of intense negotiations, on
24 April 19, 2019, Charter and staff reached a new
25 settlement, which the commission approved in July.

1 This summer settlement includes the following
2 compliance obligations:

3 Charter is required to complete the build-out
4 of 145,000 passings entirely in Upstate New York,
5 and remove all New York City addresses it had
6 previously claimed for compliance purposes.

7 Charter is restricted to only a small number
8 of addresses that overlap with BPO-awarded areas.

9 Charter is required to pay \$12 million for
10 further broadband build-out or build-out by other
11 companies, in addition to the 145,000.

12 Charter must comply with a new build-out
13 schedule that includes enforceable milestones every
14 four months, with a final project completion by
15 September 21, 2021.

16 The penalty for missing any milestone is
17 \$2,800 per passing. And any funds collected through
18 this mechanism will also be used for additional
19 broadband build-out.

20 The department estimates Charter will invest
21 between 600 million and 700 million dollars to
22 complete the build-out, pursuant to the 2019
23 settlement, which is more than double the public
24 benefit value estimated by the commission in its
25 2016 merger approval.

1 As of the time of the settlement, Charter had
2 passed approximately 65,000 of the required 145,000
3 addresses across the state. And they are required
4 to pass more than 76,000 homes and businesses by the
5 end of this month.

6 Under the settlement, Charter must maintain
7 the communications plan and web portal established
8 in an earlier settlement agreement, which provides
9 local governments and individual consumers with
10 information to determine whether or not they are
11 included in Charter's build-out plans.

12 Consumers can see if their address is
13 included in the Charter's expansion plan by going to
14 www.bldlkup.com (build-up (sic) look up).

15 Altice and FairPoint are the next two
16 companies I'll talk about.

17 In June 2016, the commission's -- I'm sorry,
18 the Public Service Commission approved Altice's
19 acquisition of Cablevision, and, in June 2017,
20 Consolidated Communications acquisition of
21 FairPoint. And both orders required system
22 build-out and service improvements.

23 Cablevision had nearly 2 million customers
24 and served Long Island, New York City, and the
25 Lower Hudson Valley.

1 FairPoint and its subsidiaries had nearly
2 23,000 customers, and served Chautauqua, Columbia,
3 Dutchess, and Rensselaer counties.

4 The commission required Altice to provide
5 cable facilities, without extension fees, to all
6 unserved or underserved residential and
7 non-residential premises in the town of Mylan,
8 Dutchess County, and to make good-faith bids into
9 the BPO program, to provide broadband service to the
10 Barrier Island communities of Oak Beach and
11 Gilgo Beach.

12 For the remainder of Cablevision's New York
13 service areas, the commission requires Altice to
14 establish a fund to absorb customer-line extension
15 fees that otherwise would be assessed for the
16 construction of cable facilities.

17 Altice has completed its broadband expansion
18 in the town of Mylan, which was approximately
19 730 locations, and to both Barrier Island
20 communities.

21 With regard to line extensions, Altice has
22 extended its network to approximately
23 45,166 households and small businesses, at an
24 estimated total cost of about \$27 million since the
25 close of their transaction.

1 For Consolidated, in addition to requiring
2 them to fulfill prior commitments with the BPO, the
3 commission required a minimum investment of
4 \$4 million in network reliability and
5 service-quality improvements, including expansion of
6 its DSL Internet access service, to a minimum of
7 300 additional locations, with an emphasis on the
8 Taconic service territory.

9 This approval provided enhanced service for
10 customers in Chautauqua, Columbia, Dutchess, and
11 Rensselaer.

12 And Consolidated completed the BPO
13 commitments in March of this year, to bring
14 broadband service to approximately 10,300 locations
15 in the upstate, Mid-Hudson, and western parts of the
16 state.

17 With respect to Verizon, in a July 12, 2018,
18 order, the commission approved a joint proposal,
19 which is sort of like a settlement, that was reached
20 between Verizon, the Department of Public Service,
21 the Communications Workers of America, and the
22 Public Utility Law Project of New York.

23 This agreement addressed service-quality
24 problems experienced by the company and its
25 customers.

1 The settlement requires Verizon to make
2 fiber-based broadband service available to certain
3 additional households in the areas covered by any
4 BPO grants it receives, beyond those households
5 required under the term of the BPO grants.

6 This commitment will result in approximately
7 20,500 additional houses being served by its
8 fiber-based broadband network.

9 The settlement also required Verizon to make
10 fiber-based services available to 10,000 -- 12,000
11 homes and businesses, approximately 4,000 of which
12 would be in the mid-state and upstate regions,
13 within one year of the agreement.

14 Verizon has made fiber-based services
15 available to about 11,569 residents and business
16 customers as of July 2019, with 3,600 of those
17 located in the upstate region.

18 I'm going to briefly turn to wireless, and a
19 couple other areas of the commission's activities.

20 The commission has also taken actions to
21 facilitate private investment in next-generation
22 wireless infrastructure that will further expand
23 broadband coverage.

24 Wireless carriers are on the cusp of
25 deploying their next generation of wireless networks

1 known as 5G, which will provide high-speed broadband
2 over wireless networks.

3 Wireless carriers design, build, own,
4 monitor, and maintain small-cell and
5 distributed-antenna system networks in New York.

6 These networks are constructed and used by
7 FCC-licensed wireless carriers to serve the public
8 in many areas of the state, and the deployment of
9 the infrastructure is typically co-located on
10 pre-existing infrastructure, like, utility poles,
11 lamp posts, and buildings.

12 One of the barriers to 5G deployment is
13 regulatory and cost uncertainty regarding how the
14 carriers access this pre-existing infrastructure.

15 In March, the commission acted to eliminate
16 one of those barriers by making it easier and less
17 costly for telecom companies to attach wireless
18 devices to existing utility poles.

19 As a result, wireless companies will be able
20 to improve broadband capabilities and roll out the
21 new generation of cellular mobile communications
22 that will provide greater data-service functions,
23 higher system capacities, and better device
24 connectivity.

25 Gaining access to utility poles is essential

1 to 5G deployment, as well as to improving coverage
2 and capacity for existing 4G networks.

3 And the commission's action in March provides
4 certainty of a clear regulatory framework, which the
5 industry believes will result in substantial private
6 investment.

7 SENATOR MAY: Three minutes.

8 THOMAS CONGDON: Lastly, I'll just wrap up
9 with the role we play with respect to franchise
10 agreements.

11 We do set minimum standards for cable
12 franchises to go to certain densities.

13 The franchise agreements themselves then can
14 go beyond the minimum standards, and the commission
15 reviews and approves those.

16 Many of the BPO grantees are also providing
17 cable television, which come before us for franchise
18 approvals. And we've added approximately 25 of
19 those due to the BPO programs.

20 In closing:

21 Look, broadband is crucial to driving growth,
22 improving our education system, connecting
23 New Yorkers to the twenty-first-century economy, and
24 it remains an essential component for creating and
25 sustaining economic opportunity in rural areas

1 throughout the state.

2 Thank you.

3 We'd be happy to answer any questions.

4 SENATOR MAY: Great. Thank you.

5 Thank you both for your testimony.

6 It's a little complicated because I think
7 many of us have questions for each of you. So we'll
8 (parties cross-talking) --

9 JEFFREY NORDHAUS: We'll both stay.

10 SENATOR MAY: But I'm going to start talking
11 to Mr. Nordhaus, and this is a general question
12 that I think a lot of us may have at this table.

13 So, I agree with you, the State has been
14 doing a lot.

15 But if our rhetorics is, that we are having
16 all this success, and what we're actually hearing
17 from our constituents is that they are deeply
18 frustrated, or completely uncovered by service, how
19 do you account for the disparity between the hard
20 work that you're doing and the experience that
21 customers are actually having?

22 JEFFREY NORDHAUS: Sure.

23 Well, I think one thing we can all say, and,
24 you know, by all the opening comments, is that
25 broadband is essential.

1 And I think when we launched the program, the
2 Lieutenant Governor came, and I remember her saying
3 "broadband is like oxygen."

4 You just, you know, kind of assume it's
5 there. And when it's not there, it's a very big
6 deal.

7 And I think that's the way we all feel at
8 this point about broadband.

9 And so I think, to the extent there are
10 people who don't have broadband, you know, they --
11 they contact our office, and they contact you. And
12 we want to work with them to address that.

13 We are still in the process of rolling out
14 the projects.

15 So if you look at, you know, the 1 percent
16 that has satellite, and, certainly, people would
17 probably rather have fiber, we do often hear from
18 those constituents.

19 And then we have an additional 2 percent of
20 the state which is still in the process of either
21 being addressed by Charter or being addressed by the
22 BPO.

23 So that's, you know, a couple hundred
24 thousand folks who don't have, you know, broadband
25 "oxygen," as it were, and we would expect to hear

1 from them.

2 We are very focused on making sure that all
3 New Yorkers have access to broadband, and continue
4 to diligently pursue that.

5 SENATOR MAY: Thanks.

6 So let me follow up there about the
7 satellite.

8 So Hughes got one of the larger grants in the
9 Phase 3 process, and it was aimed at the majority of
10 locations that you were planning to cover in
11 Phase 3.

12 But that's going to be satellited service.

13 It's -- I did the math. It's like
14 four hundred dollars per location, as opposed to
15 four to ten thousand dollars per location for a lot
16 of the other grants that you were giving out.

17 So how are you going to monitor, actually,
18 the quality of the service?

19 Because we hear a lot about -- about
20 HughesNet being inadequate --

21 JEFFREY NORDHAUS: Right.

22 SENATOR MAY: -- providing inadequate
23 service.

24 JEFFREY NORDHAUS: Well, we also hear a lot
25 of that. And we are very focused on, you know, that

1 consideration, and working closely with folks to
2 make sure they're satisfied with the service.

3 As you point out, it was large by number.

4 But, by dollar volume, it was a relatively
5 small grant, and it allowed us to cover the last
6 1 percent, where, as I mentioned before, we
7 generally didn't get bids or we got uneconomic bids.

8 So our choice was, basically, to
9 (indiscernible) satellite, or they would be left
10 behind.

11 And so we thought that, for, you know, the
12 400, let's say, of the total cost, the State portion
13 being 200 or less in some cases, we had two
14 different structures, that that was a very economic
15 way to make sure that those folks, you know, do have
16 some access to the online experience.

17 The other thing about satellite is, it's
18 only, again, on a reimbursement basis. So to the
19 extent that customers sign up and take the service,
20 we would then reimburse on a one-for-one basis.

21 We have found that, because of the structure
22 of census blocks -- this was referenced in one of
23 the opening comments as well about mapping --
24 because of the structure of census blocks, we have
25 actually service in many areas that were awarded to

1 satellite, with fiber that's adjacent. And we found
2 dozens, if not hundreds, of cases where the fiber is
3 actually going to serve across the street.

4 So that's a very exciting kind of upside
5 of -- of the -- of the satellite award.

6 One other thing I just want to say on the
7 mapping is that, in our program, we require a full
8 census block to be served.

9 So we have been speaking publicly about the
10 problems with the federal maps for, I think,
11 three to four years.

12 And we agree, we are not satisfied with those
13 maps. So we've taken steps to make our own state
14 map more accurate.

15 And one of the things that we did in our
16 program is, it's an essential core condition that,
17 if there's a census block with a number of homes,
18 they all need be served; not, one served, all
19 served.

20 SENATOR MAY: Oh, great. That was -- that
21 was one of my next questions.

22 I wanted to ask about the
23 technical-validation firm you mentioned.

24 JEFFREY NORDHAUS: Sure.

25 SENATOR MAY: Can you say a little bit more

1 about how they're going to report their findings?

2 For one thing, will we know what their
3 findings are when they come -- when they make their
4 report?

5 JEFFREY NORDHAUS: Sure, sure.

6 So --

7 SENATOR MAY: And can you just say more about
8 that?

9 JEFFREY NORDHAUS: -- right.

10 So it was a great question.

11 So we've retained a group called Tilson,
12 which worked with us for the past four years.
13 They're a leading communications firm. They helped
14 structure our auction. And they have many, many
15 engineers on staff.

16 And so we're actually doing a two-step
17 process to validate all our projects.

18 First, "we," meaning the BPO staff, we work
19 with Tilson to do a desktop audit, where all the
20 providers have to submit maps and shapefiles,
21 showing, you know, these are the homes, these are
22 the routes, and then showing where all the fiber was
23 laid along the street, and then the huts and all the
24 equipment.

25 So we first validate that on a desktop basis,

1 obviously, for cost reasons, because, if we found
2 they missed 12 houses, then the provider -- and we
3 have found cases where 12 houses were missed -- you
4 got to go back and build out.

5 So we save the physical trip, based on that
6 map, to preserve, you know, costs, obviously.

7 Then once the desktop audit checks out, they
8 actually go and drive the route.

9 So we sent them out and they validate.

10 We also do some speed tests.

11 So we are, you know, working with them to
12 prepare those reports.

13 And we'll be happy to, you know, kind of
14 follow up with you on any appropriate further
15 inquiries you'd have on that.

16 SENATOR MAY: Yeah, so we hear a lot about
17 people who, supposedly, have service, but it gets
18 interrupted 100 times a day, or something like that.

19 Will they be able to measure that? Or --

20 JEFFREY NORDHAUS: Yes, I did see from
21 Madison County, I think maybe that e-mail as well.

22 I believe that, you know -- and I'm sure, you
23 know, you've heard that more than once, perhaps.

24 In -- in -- we are quite sure that that is
25 not in an BPO-awarded area. We have not heard, you

1 know, complaints about, you know -- we are
2 (indiscernible) our providers in those areas, and
3 others, as I mentioned earlier, are providing fiber
4 optics, which is, you know, basically, the gold
5 standard in terms of fiber.

6 It's scalable. You know, it's fiber, so,
7 speed of light, and it can be scaled through
8 multiplexing. You can continue, over time, to add
9 more equipment to make more and more data go through
10 that.

11 So we expect that to be a really superior
12 service for all.

13 And if we ever hear any complaints about
14 broadband projects, they have to be fixed.

15 And we've, you know -- you know, we haven't
16 had many. But if we have any, we immediately make
17 them fix.

18 Now, there also are complaints, as, you know,
19 was referenced, service quality and others, outside
20 of BPO grants.

21 So in the case of an individual may have
22 dropped service, may complain about a provider, a
23 lot of those are in non-BPO areas, which need to be
24 addressed through, you know, those channels.

25 SENATOR MAY: Okay. And I guess my -- really

1 my last question is to both of you.

2 From what you said, and from I hear all the
3 time, broadband is coming more to be understood as a
4 utility than just a -- some kind of privilege or
5 service.

6 What -- how would it change your -- what you
7 do if the Legislature were to pass legislation,
8 declaring broadband to be a utility, and to be --
9 and need to be regulated the way phone service or
10 television service is regulated?

11 THOMAS CONGDON: So I think that the FCC at
12 the federal level actually went down that road when
13 it was dealing with net neutrality during the Obama
14 Administration. And then, you know, recently, under
15 the new FCC, that was reversed.

16 So it's a determination sort of made at the
17 federal level. It's an interstate information
18 product that has been deemed to -- you know, federal
19 jurisdiction.

20 SENATOR MAY: Can you bring your microphone a
21 little closer.

22 THOMAS CONGDON: Sorry.

23 Is it better?

24 SENATOR MAY: Yes.

25 THOMAS CONGDON: Sorry.

1 And so any state law that would seek to
2 regulate broadband, I think would have to be
3 carefully reviewed, to make sure it doesn't get
4 tripped up with any of the federal preemption
5 issues.

6 SENATOR MAY: But would you -- how would
7 it change what you do if we were (parties
8 cross-talking) --

9 THOMAS CONGDON: Well, I mean, I think it
10 really depends on what you put out in terms of the
11 requirements. And, you know, like any state law,
12 you know, as an agency, we're ready to implement
13 whatever it is the Legislature throws at us.

14 And so, you know, we'd be happy to review any
15 of those kinds of proposals.

16 SENATOR MAY: I believe Senator Hoylman has a
17 bill that is similar to what's been done in
18 California.

19 So that would be, I think, what we would
20 likely to be looking at.

21 Thank you.

22 JEFFREY NORDHAUS: Thank you.

23 ASSEMBLYMAN SANTABARBARA: Thank you to both
24 of you for your testimony. Thank you for being here
25 today.

1 I just want to circle back to the estimates.

2 I know there were a lot of estimates in both
3 of the testimony you provided. They're high
4 numbers.

5 And I think, as Senator May talked about the
6 maps, and the -- how those relate to what's actually
7 out there, all of us, I think you're going to hear,
8 that have constituents, locations, that just don't
9 have service, or, we just went through this with the
10 Upstate Cellular Task Force coverage areas, where
11 the maps show coverage.

12 You go out there, and it's either not what
13 has been stated, the quality of the coverage, or the
14 coverage is non-existent.

15 And we see the same thing kind of happening
16 here.

17 As I mentioned in my opening statement, FCC
18 data shows New York State is 100 percent covered at
19 this point. But we all know that that's not true
20 because of what we hear in each of our districts.

21 So that being said, last month the FCC issued
22 a new order. They required broadband providers to
23 produce new maps, showing data, using shapefiles
24 rather than on a census block. And it's going to
25 provide better detail, to identify these underserved

1 areas.

2 So my question -- my first question is, and
3 maybe you can explain what the State is doing in
4 anticipation of these maps:

5 Is the State -- how are you coming up with
6 the estimates; how are we coming up with these
7 numbers, and who is served and who is not?

8 JEFFREY NORDHAUS: Right.

9 Well, first of all, good to see you, and
10 thank you for the question.

11 The mapping has been, I don't know, a thorn
12 in our side, but it's been a challenge for us for
13 many years, we've complained about the federal maps.

14 So we, basically, decided that they were not
15 good enough for the New York State purposes; that we
16 had to get down to a level of granularity that
17 exceeded what they were doing.

18 And, in particular, we were dissatisfied
19 with, one served, all served. And that just
20 doesn't, kind of, work.

21 So what we did with our program is, took
22 many, many steps within the constraints of, you
23 know, what information was available to us.

24 One thing we did, as mentioned a moment ago,
25 was, for our program, we require full census blocks

1 be served, with -- I can't think of any exception to
2 that.

3 So, if you -- so when we talk about a census
4 block that was awarded to a provider in a BPO
5 program, if it's got 50 homes in that census block,
6 all those 50 homes are going to be served.

7 So we have, obviously, a high degree of, sort
8 of, certainty around anything in the BPO build-out
9 area. So that part of the map is very well
10 understood by us.

11 Another thing that we were able to do as a
12 result of, really, Tom and the PSC's hard work, is
13 we were able to -- the Charter process, to execute a
14 non-disclosure agreement to get house-by-house data
15 on the Charter build-out area.

16 So we had, for their footprint, basically,
17 what we call the "green dots" and the "red dots."

18 The green dots were areas that were unserved,
19 that they were going to build to for the build-out,
20 and the red dots were the areas that they were not.

21 And we have created, in our Phase 3, and due
22 to the scope and scale of Charter in the state,
23 that, obviously, covers a huge amount of area.

24 So we took the areas that were unserved by
25 Charter and we've auctioned those off in our -- in

1 our program as well.

2 So if you take sort of the good visibility --
3 excellent, I would say, visibility on all BPO areas,
4 and then you take, sort of, the Charter mapping that
5 we've done --

6 Which the federal government doesn't have the
7 benefit of that, because providers aren't actually
8 required to turn over maps to the federal
9 government.

10 -- but if you take all those and you build up
11 the steps we've taken, you have a much better
12 picture -- we have a much better picture of the
13 state than would be available through the federal
14 maps.

15 The other thing that we did, though, just in
16 case that wasn't, sort of, enough, and we were
17 worried about unserved areas, is we put into our
18 auction any area that is a census block, which is,
19 one served, all served.

20 So even if the census block was served, we
21 said, if you can come to us and show us that a
22 federal map is inaccurate, and you want to bid for a
23 part of that, meaning the unserved part of an
24 otherwise served block, that was an acceptable part
25 of our program.

1 And we did have a couple of cases like that,
2 not a lot.

3 So I think through -- and by the way, the
4 last point I'll say is, the folks that did the map
5 for the FCC are actually the same folks who did our
6 mapping. So we have really good insight into, you
7 know, the technique.

8 So mapping is a huge issue, you're absolutely
9 right to point it out.

10 And we've tried to take steps to really close
11 the gap between what's publicly available and what,
12 you know, we can actually see and know on the
13 ground.

14 ASSEMBLYMAN SANTABARBARA: And this is still
15 ongoing, the maps are not completely updated at this
16 point?

17 THOMAS CONGDON: Our maps are updated --

18 ASSEMBLYMAN SANTABARBARA: They all updated?

19 JEFFREY NORDHAUS: -- yes.

20 ASSEMBLYMAN SANTABARBARA: And they're
21 available?

22 JEFFREY NORDHAUS: Yes. We have a map on our
23 website. And also the Charter look-up tool that Tom
24 mentioned is also on our website.

25 ASSEMBLYMAN SANTABARBARA: So when it comes

1 to the rural communities that we're talking about,
2 you know, what's -- it's -- what's -- how -- how --
3 how are these projects being prioritized to get
4 service expedited in these rural areas, or the areas
5 that we're talking about today, that just don't have
6 service or don't have quality service?

7 JEFFREY NORDHAUS: Well, we're -- you know,
8 we're holding the utilities to an extremely tight
9 time frame. And, you know, failure is not
10 something, you know, that's an option.

11 Any failure will be -- you know, we have
12 contracts with them, and we're going to enforce
13 those contracts.

14 So all our Phase 1 and Phase 2 projects are
15 done.

16 The Phase 3 projects, which were pushed back
17 a couple months in order to get the alignment with
18 the FCC, and get the 170 million, those are well
19 underway, and will be wrapped up tomorrow -- I'm
20 sorry, next year.

21 And from the PSC's standpoint, Tom and the
22 PSC are closely monitoring -- he can speak to it,
23 too -- the Charter rollout.

24 So, you know, getting these projects out
25 there expeditiously is the top of what we try to do

1 every single day.

2 ASSEMBLYMAN SANTABARBARA: And I guess, yeah,
3 I'll transition to you, because it's kind of -- you
4 guys both had testimony.

5 With regards to the Charter merger that was
6 revoked, now there's been settlements.

7 You talked about new agreements, things that
8 they're responsible for doing.

9 So what steps -- you know, in the past, we've
10 seen that they haven't delivered on what they said
11 they were going to deliver. We're still seeing
12 rural areas that were just not served or skipped
13 over, or whatever the case may be.

14 What's being done now with the new
15 agreements, new settlements, to make sure they're in
16 compliance, and make sure they're doing what they
17 said they're going to be doing?

18 THOMAS CONGDON: Right.

19 So, first, one of the -- one of the benefits
20 of the settlement is that, it eliminates a lot of
21 ambiguity that the company had tried to suggest
22 existed. And that's why there was different
23 interpretation of what an "eligible passing" was,
24 and what wasn't.

25 And, you know, with due respect, when we've

1 talked about bringing broadband to the less-densely
2 populated areas of the state, the commission did not
3 mean New York City. But that was one of the biggest
4 disagreements on eligibility.

5 The settlement now completely eliminates that
6 kind of ambiguity, and so there's very clear
7 eligibility guidelines as to what is supposed to
8 happen in the build.

9 The other thing that is also very clear is
10 the enforcement milestones.

11 And any miss of even a single passing towards
12 the milestone is now subject to a \$2,800-per-passing
13 penalty that has to be paid automatically into
14 escrow.

15 So they're out that money at the time of the
16 milestone, and so that's a much bigger stick than
17 had existed prior, before the settlement.

18 We require monthly reports on status.

19 We know where they're actively building, so
20 we can send staff out into the field, and witness
21 and observe the build in construction.

22 The milestones, as I mentioned, that are
23 enforceable by the \$2800-per-missed penalty are
24 every four months. So that's a more frequent
25 milestone than existed prior.

1 And, the overall build-out schedule I think
2 is -- is achievable, and so we are expecting them to
3 stay on it.

4 The other thing I'll mention, and this
5 applies also to the BPO grantees, we're as impatient
6 as the customers without service.

7 And -- and so where the BPO grantees and
8 Charter need to -- need some assistance in -- in
9 coordinating project work with the utility-pole
10 owners, we've really engaged in that process.

11 It's a very intense logistical challenge to
12 get to the hundreds of thousands of utility poles,
13 and to hang equipment on those poles in a manner
14 that is safe and protective of the electric
15 reliability and the other systems that are utilizing
16 those poles.

17 So there is a PSC-approved process for how
18 utilities approve access to their poles.

19 The BPO grantees and Charter relies on that
20 process to be able to get timely approvals to safely
21 hang their network.

22 And we at the PSC are facilitating that
23 logistical -- that logistical work, to ensure that
24 there are no barriers when it comes to the
25 interrelationship between the providers and the

1 utility-pole owners.

2 ASSEMBLYMAN SANTABARBARA: So I guess --
3 I just want to (indiscernible) -- so with the
4 maps -- the updated map now, new information that we
5 have, the data, with the funding that we have, the
6 new agreements, are you confident that -- that
7 there -- all areas will at least have the ability to
8 be covered by broadband, or are there areas that
9 still are in question?

10 JEFFREY NORDHAUS: Well, we have -- yes,
11 we're confident.

12 All areas are covered with the following,
13 sort of, clarifications:

14 One is that, you know, we're talking about
15 coverage according to the terms of the program,
16 which is 100 everywhere, or 25 in the most rural
17 area, including the satellite for that 1 percent
18 which we spoke about.

19 And then the other piece of it is that, you
20 know, Charter has a build-out plan, which is fairly
21 large.

22 And one of the issues that we've had, is that
23 Charter has the ability to change where their
24 they're building.

25 So, you know, they told us, you know, we're

1 building this area, and we auctioned off, sort of,
2 the balance. And then there were changes made.

3 So when we are counting on them to do a
4 certain job, and they change the job, it sort of
5 creates a challenge.

6 So, the PSC, we've worked together on this,
7 sort of, complex issue for many months, if not
8 years. And, you know, Tom can talk more about it.

9 But there are now, sort of, very strict
10 limits on what the -- Charter can do in terms of the
11 changes.

12 But, to the extent there are changes in their
13 plan, we have to -- we have to keep -- we have to
14 see this through to the very end to make sure that
15 Charter completes the job, on time, according to the
16 plan. And if they leave any gaps, we have to make
17 sure they're addressed.

18 So with that caveat, yes, we're -- you know,
19 we're confident.

20 ASSEMBLYMAN SANTABARBARA: And is there a
21 timeline?

22 JEFFREY NORDHAUS: Yes, absolutely.

23 ASSEMBLYMAN SANTABARBARA: Okay, so what is
24 that timeline?

25 JEFFREY NORDHAUS: Well, for the BPO, like

1 I said, everything next year. And then, for
2 Charter, 2021.

3 ASSEMBLYMAN SANTABARBARA: Okay. Thank you.

4 SENATOR MAY: Thank you.

5 So we have questions from Senator Metzger,
6 Senator Seward. Oh, Senator Ritchie. And
7 Senator Helming.

8 Is that it?

9 Oh, and Senator Little.

10 Okay. So we'll start with Senator Metzger,
11 and I guess we'll go the same way, alternating.

12 SENATOR METZGER: Thank you, Senator May.

13 So, I've got questions for each of you.

14 First of all, I want to thank you for, you
15 know, all the work you have done to date.

16 And I want -- I had mentioned earlier that
17 I represent Delaware -- many Delaware communities.
18 That's an incredibly rural district, and it's going
19 to be entirely built out with fiber, which is pretty
20 amazing, working with a rural electricity
21 cooperative and local telephone companies.

22 But, in other parts of the district, and you
23 talked about, you know, sort of confirming --
24 confirming who is going to get -- verifying who is
25 going to have broadband, and, you know, where

1 they're falling short.

2 My concern is, I think it's very difficult to
3 monitor or confirm the quality of the service.

4 It's not whether you have it or not.

5 It's, are you getting poor service?

6 And I want to hear from you what you are
7 going to do.

8 We get a lot of complaints about HughesNet,
9 and the fact that they're not -- the customers are
10 not getting their promised speeds.

11 So how can you verify that -- that -- that
12 they're getting the quality of service that they
13 should be getting?

14 That's -- I'll start with that one question.

15 JEFFREY NORDHAUS: Sure.

16 Well, like I mentioned earlier, you know, we
17 have a contract with these providers, and they have
18 to perform on the contract.

19 So to the extent, you know, that they're not
20 performing, then they will be in violation of the
21 contract with the State, and we will take, you know,
22 appropriate actions under that.

23 In general I will say, I believe we enjoy
24 very good relations with all the partners who are
25 working with us.

1 If, you know, someone in the BPO office calls
2 and says, you know, We have a problem with this
3 location, or this town, where service doesn't seem
4 to be working -- we haven't had that situation --
5 but, whenever we call, they're extremely responsive.

6 We're also deploying state-of-the-art
7 networks.

8 And so I think, in general, with regard to
9 the fiber, one of the big benefits of fiber, in
10 addition to the speed, is, fiber is far more
11 cost-effective to run, it requires lower cost of
12 maintenance over time.

13 Copper is, you know, subject to -- it can
14 be -- you know, fray, it expands in, you know,
15 summer, and can, you know, winter, and, you know, it
16 can be cut. More -- you know, it's more fragile,
17 essentially.

18 Whereas, the fiber optics is going to be a
19 benefit going forward.

20 So I expect, across the board, to see upticks
21 in customer satisfaction in any areas being served
22 by fiber.

23 And, certainly, if there are complaints about
24 a BPO service, you know, let us know.

25 Outside of BPO service, that's another issue,

1 obviously, not under the Broadband Program.

2 But, the attorney general, I believe, is
3 going to be speaking. And they've done some
4 investigations, and can speak about service quality,
5 advertising, and those points.

6 On satellite, I think one of the confusion
7 points that has come up, is that there are multiple
8 generations of the satellite.

9 The prior two generations of the satellite
10 were significantly slower.

11 It's only the new Generation 5 that offers
12 25 megabits.

13 I personally -- before we awarded it,
14 I personally speed-tested it.

15 I went down to their headquarters, like,
16 two years ago, when they first launched it.

17 I speed-tested it over the summer.

18 So, I mean, I have been able to achieve those
19 speed levels.

20 I'm not saying that, you know, that person
21 was on the wrong generation, but, we do have a very
22 direct dialogue with Hughes.

23 If there's any customer that's not getting
24 what they were promised, call me, please.

25 SENATOR METZGER: Okay.

1 THOMAS CONGDON: May I just add, briefly,
2 that the department also has specialized equipment,
3 and we speed-test to validate the speed upgrades
4 that were committed to in the merger-approval order.

5 SENATOR METZGER: Okay, great.

6 And two more questions related to the --
7 actually, the Charter agreement.

8 So -- so Charter failed to meet its
9 responsibility to extend coverage to these 145,000
10 residents.

11 It's a long time, two years can be, for these
12 residents to -- if that's part of the agreement, you
13 know, before they're going to get service.

14 Is that set in stone, is there any way to
15 speed that up, given the fact that they were already
16 supposed to have that service?

17 THOMAS CONGDON: So I think there's just
18 physical limitations. We're trying to go as fast as
19 we possibly can.

20 There was litigation, and a dispute in that
21 litigation, that lasted for close to a year.

22 And so, with that resolved, I think we're now
23 on track.

24 And for us, it was critically important to
25 get the build where it was intended, to actually

1 hold the company accountable, so that they knew that
2 we were serious about achieving the build-out where
3 we intended it.

4 So the settlement, I think, achieves the
5 policy goals, and it establishes much more stringent
6 penalties for future non-compliance.

7 And as I said earlier, I think one of the
8 critical things is, that it removed any ambiguities
9 as to where the build-out needs to occur.

10 JEFFREY NORDHAUS: And, by the way, if
11 I could add one thing, I mean, that is the end date
12 for the last home.

13 So they're (indiscernible) -- I think every
14 six months, there is a (indiscernible) --

15 THOMAS CONGDON: Every four months.

16 JEFFREY NORDHAUS: -- every four months
17 there's a --

18 THOMAS CONGDON: Every four months.

19 So they're, you know, making progress towards
20 the milestones.

21 We'll see their very first milestone, under
22 the new settlement agreement, is this month.

23 It's supposed to hit 76,000 and change, and
24 so we'll look very closely at that for compliance
25 purposes.

1 SENATOR METZGER: Okay.

2 Now, I've had constituents say that they've
3 been quoted a price from Charter for \$9,000,
4 \$10,000, to get broadband service to their home.

5 I'm trying to imagine, if, you know, your --
6 our electricity provider, you know, wanted to charge
7 that much to get electricity to the home.

8 So what's going on with -- with those -- in
9 those instances?

10 THOMAS CONGDON: So that is -- you're
11 referencing what is called in the regulatory world,
12 the "line-extension fee."

13 And so, to the extent that there is someone
14 near the Charter network, but not within the
15 required network of a franchise, or, if they're not
16 in, you know, the build-out plan, pursuant to the
17 regulatory requirements of the commission's merger
18 approval, those customers, if they want Charter
19 service, or another provider service that's nearby,
20 will contact that company, and the company will give
21 them a quote as to how much it would cost to run the
22 network to their premises.

23 As a service, you know, under our
24 jurisdiction, it's cable and telephone; it's not
25 broadband. And so it is distinct from a regulatory

1 standpoint.

2 You compared it to electricity.

3 There's not a universal service requirement
4 by law or reg.

5 There are standards on density that they have
6 to meet, for sure.

7 There are regulatory requirements, pursuant
8 to our merger approval, and through franchise
9 agreements, that we will absolutely enforce.

10 But where there's a premises that exists
11 outside of that, they quote these kinds of
12 line-extension fees. And that represents, you know,
13 a customer that would be outside of their area.

14 JEFFREY NORDHAUS: Yeah, just to add a little
15 bit, I mean, the way the franchises work with a lot
16 of towns, because cable is not regulated, in the way
17 that Tom was explaining, they have a franchise which
18 says they're required to build out in the areas that
19 are of a certain density, like we talked about
20 earlier with the profitability.

21 So those tend to be, 30, 35 homes per mile.

22 There's different metrics.

23 And then when there's someone outside of
24 that, they often have to give them a quote.

25 So I say, okay, I'm not in the density, but

1 I want service. How much would it cost?

2 Those homes are not considered served by
3 Charter in our program.

4 We don't consider, if you could call Charter
5 and get quoted \$12,000, we don't say, oh, great,
6 you're served.

7 You're not served if you have to pay \$12,000.

8 So those would be considered outside of the
9 Charter footprint, from our standpoint. And we
10 would be under our own, sort of, self-imposed
11 obligation to make sure the BPO had a better option
12 than that.

13 And maybe that person didn't like their
14 current provider, or maybe the service is still
15 being constructed, whatever it is, we should look
16 into that. But that's not something that we would
17 consider a normal, sort of, acceptable solution for
18 coverage.

19 SENATOR METZGER: Okay.

20 Okay. Thank you.

21 ASSEMBLY MEMBER THIELE: Thank you.

22 So today we heard some percentages.

23 Today, how many New Yorkers do not have
24 broadband service, as you're defining it?

25 JEFFREY NORDHAUS: So we look at how many

1 New Yorkers have access to broadband; in other
2 words, if you want it, you could call up and get it.

3 And those are the statistics, as opposed to
4 who, physically, the number of customer
5 subscriptions.

6 So, today, 98 percent of the state is the
7 number --

8 ASSEMBLY MEMBER THIELE: I guess my --

9 JEFFREY NORDHAUS: -- that has access.

10 ASSEMBLY MEMBER THIELE: -- okay.

11 So, 2 percent, what does that 2 percent
12 translate into as far as numbers (parties
13 cross-talking) --

14 JEFFREY NORDHAUS: Well, we, roughly, think
15 of the state having 8.1 million households.

16 So, rough numbers, every point is around
17 80,000. So, around a hundred sixty, you know, plus
18 or minus.

19 We'd have to get the exact number for you,
20 but (parties cross-talking) --

21 ASSEMBLY MEMBER THIELE: And that's today?

22 JEFFREY NORDHAUS: Today.

23 ASSEMBLY MEMBER THIELE: Okay.

24 There's a lot of talk about quality of
25 service.

1 Is -- is there a measure, is there a
2 standard, that you use to measure quality?

3 You know, I can tell you, on Long Island, you
4 know, there -- there -- when it comes to -- as we
5 heard this morning, there are areas that are dead
6 zones for cell phone service or for Wi-Fi.

7 Out on the east end of Long Island, when the
8 population doubles and triples, your quality of
9 service of Wi-Fi and cell phone service is not very
10 good.

11 How do you define what is -- what is "good
12 quality"?

13 I mean --

14 JEFFREY NORDHAUS: Sure.

15 ASSEMBLY MEMBER THIELE: -- it's one thing to
16 say, you have access to broadband, or you have
17 access to service.

18 But, how do you measure quality?

19 Are we -- what is the standard that we're
20 using?

21 JEFFREY NORDHAUS: So, you know, first of
22 all, I think you know this, but, you know, a lot of
23 people do call our service office and say, you know,
24 hey, this is great that we have a big broadband
25 program, but my cell phone stills doesn't work.

1 And we explain, you know, cell phone coverage
2 is a different mandate.

3 In fact, we're working on that mandate now.

4 So, you know, we do want to make sure that
5 folks know that that's also a top priority of the
6 State, is better cell phone coverage.

7 But that would be outside of the BPO. And --

8 ASSEMBLY MEMBER MILLER: I understand.

9 JEFFREY NORDHAUS: -- I think (indiscernible)
10 (pointing to Thomas Congdon.)

11 THOMAS CONGDON: I'll speak to areas that are
12 the PSC's jurisdiction, like, landline, telephone,
13 and cable.

14 We do measure quality -- service quality
15 through a number of measures.

16 Complaint rates, both to the company and to
17 our office, is one measure.

18 Through our merger approvals, we do require,
19 in a number of instances, on the
20 cable-infrastructure improvements, to provide
21 broadband speeds. And we're out in the field, and
22 actually validating and testing those speeds, to
23 ensure the quality is what was envisioned with that
24 regulatory requirement.

25 As Jeff mentioned, with respect to cell phone

1 coverage, that is a very -- that's a very topical
2 subject that we're now investigating on this
3 cellular coverage task force.

4 JEFFREY NORDHAUS: And that, you know, the
5 universal, sort of, metric that people do use for
6 broadband is really speed. I mean, that is the key
7 metric that is used in the industry.

8 It's, you know, megabits per second, download
9 speed.

10 Also, upload speed is increasingly becoming
11 important for people who want to do a communication
12 from their home. Let's say you want to do a video
13 conference that requires a symmetrical service.

14 And, of course, you would look at outage
15 time.

16 But, in general, it's, speed, is the key
17 metric. And that's the one that our program is
18 based on and the FCC is based on.

19 ASSEMBLY MEMBER THIELE: Okay.

20 You talked about, you know, fiber kind of
21 being the gold standard. And we've talked about
22 satellite, and difficult.

23 What -- what percentage of New Yorkers get
24 their service through fiber, or satellite, or cable?

25 What are the --

1 JEFFREY NORDHAUS: Well, in general, you
2 know, we -- we don't have subscription information
3 into how people are actually paying for service
4 right now.

5 But in terms of the, sort of, metrics of our
6 program, we have 99 percent that can achieve
7 100 megabits or better, which could be through
8 fiber; it could be through cable, like Charter. And
9 then the last 1 percent is satellite. Of course
10 satellite is available in other areas too.

11 So, in general, we're, approximately,
12 99 percent at the 100 megabit, or better, which is,
13 generally, fiber or cable.

14 ASSEMBLY MEMBER THIELE: Yeah, I haven't
15 heard anybody say "100 percent" yet today.

16 I've heard 98, 99, 99-plus.

17 What would it -- nobody has said, we're going
18 to get to 100 percent.

19 What would it take to get to 100 percent?

20 I think, you know, the people we represent,
21 you know, at some point there's an expectation that
22 everybody should have this service.

23 How do we get to 100 percent, and what is it
24 that we should be doing to get there?

25 THOMAS CONGDON: Well, one -- I think one of

1 the challenges with the build-outs that are underway
2 is that our state is dynamic.

3 There's new development that pops up.
4 There's, you know, some premises that close, or --
5 or, you know, get out in the field, and what looked
6 like it was a home on a map, doesn't actually exist
7 when you get out in the field to serve it.

8 And so there's a dynamic aspect to this that
9 will always be there and we will have to react to.

10 As the build-outs get completed, and it
11 becomes clearer to all of us where there may be
12 pockets that are left, under the settlement with
13 Charter, there is a \$12 million fund that is meant
14 to be used as sort of a cleanup, to get at any
15 pockets that may exist when the build-outs are
16 complete.

17 And so that would be one resource that can be
18 tapped, and all of us will need to look and see how
19 that does.

20 And to the extent that there are other
21 pockets that can't be reached through that
22 mechanism, then we can consider other mechanisms.

23 ASSEMBLY MEMBER THIELE: What's your timeline
24 on that?

25 THOMAS CONGDON: The build-out under Charter

1 is scheduled to go through September of 2021.

2 And so that's the -- the current build
3 schedule, with the enforceable milestones along the
4 way.

5 ASSEMBLY MEMBER THIELE: Thank you.

6 SENATOR MAY: Thanks, Senator Seward needs to
7 leave at 1:00, so I'm going to let him go next.

8 SENATOR SEWARD: (Microphone off.)

9 Thank you, Senator May.

10 First of all, I want to thank both of you
11 gentlemen for being here today, and...

12 SENATOR MAY: I think your my microphone
13 still isn't on. Make sure there's a light.

14 SENATOR SEWARD: (Microphone on.)

15 Is this better?

16 SENATOR MAY: Yes.

17 SENATOR SEWARD: There we go.

18 First of all, I want to thank both of you,
19 Mr. Congdon and Mr. Nordhaus, for being here,
20 and also for your willingness to work with us to
21 reach our mutual goal in terms of providing a
22 broadband service to all New Yorkers.

23 But having said that, I wanted to go back to
24 something I thought I heard you say, Mr. Nordhaus,
25 in your testimony, that there is still fiber that's

1 being built into areas that are currently served by
2 satellite.

3 And isn't that an -- a recognition that, you
4 know, fiber is better service than the satellite?

5 And if so, I mean, shouldn't our goal be
6 fiber to every home in New York?

7 Shouldn't that be our goal, to address the,
8 you know, reliability and quality of service issues
9 that we're all hearing from these other forms of
10 providing service, such as satellite?

11 JEFFREY NORDHAUS: Right.

12 Well, thank you, Senator Seward, and good to
13 see you.

14 Yeah, I think that fiber is, pretty much,
15 widely viewed as the gold standard.

16 Certainly, objectively speaking, offers much
17 higher speeds than satellite is capable of. And,
18 also, lower latency, which is an issue with
19 satellite being 22,000 miles away.

20 So I think, from a technical standpoint,
21 fiber, and in that, I would also include cable,
22 because a lot of cable is actually built with fiber
23 in the backbone as well, is a, you know, tremendous
24 product for broadband.

25 The issue, frankly, is just cost. It really

1 just comes down to money.

2 I mean, if you could have, you know,
3 gold-plated service everywhere, you'd probably say,
4 I want fiber and cable to every single home.

5 And it's, literally, just a question of cost,
6 and trying to earn some kind of return on that.

7 But from a service standpoint, I think what
8 you said is -- is right on the mark.

9 SENATOR SEWARD: A couple more quick
10 questions.

11 The -- to the issue of the complaints that
12 we're hearing on the speed, reliability, quality of
13 service, from, you know, the satellite providers,
14 you mentioned that complaints within areas that
15 are -- that are part of the BPO projects should be
16 directed to you.

17 But outside those BPO areas, where should we
18 be sending our complaints and concerns that we hear
19 about the service?

20 Because -- and I think I speak for everyone
21 on this panel -- we hear complaints.

22 And I'm just trying to get it straight in my
23 head here, the difference between what we're hearing
24 from constituents and what we're hearing from you
25 today, in terms of how it has improved a great deal.

1 But where -- where do we send complaints in
2 terms of (parties cross-talking) --

3 THOMAS CONGDON: Well, I would say it depends
4 on the nature of the complaint.

5 And to the extent it relates to what you know
6 to be a requirement of Charter, we want to hear it.

7 To the extent it relates to video services
8 that we regulate, we want to hear it.

9 To the extent it relates to telephone
10 service, which is often provided over broadband
11 infrastructure, we want to hear it, and we can do
12 something about it.

13 So, you know, I think my answer is, depending
14 on the nature of the complaint, by all means, send
15 it to us.

16 We have a complaint hotline. We have a very
17 dedicated consumer-complaint staff that handles a
18 lot incoming every day. And they often get good
19 results for customers that are experiencing
20 hardships.

21 SENATOR SEWARD: Okay, thank you.

22 We will -- you'll be hearing from us.

23 [Laughter.]

24 SENATOR SEWARD: One final question for
25 Mr. Nordhaus.

1 We've gone through the three phases.

2 JEFFREY NORDHAUS: Yes.

3 SENATOR SEWARD: And 1 and 2 are completed,
4 and 3, over the next year, will be completed.

5 The \$500 million that was directed toward
6 this effort a few years ago, 2015, as I recall, has
7 been used up or fully committed.

8 In order to meet the needs of New Yorkers,
9 should we be looking at a Phase 4, or maybe a
10 Phase 5, which, admittedly, would require some
11 additional State dollars directed toward this
12 effort?

13 But, it just strikes me that our work is not
14 done, and may not be done, once Phase 3 is --
15 build-out is completed, and -- and the Charter and
16 other build-outs are completed. There's still going
17 to be some areas unserved or served in kind of a
18 second-class way.

19 And so do we need a Phase 4 and 5, if the
20 Governor and the Legislature could agree on
21 additional some monies to be directed toward this
22 effort?

23 JEFFREY NORDHAUS: Well, you know, there
24 still will be -- I mean, it depends, ultimately, on
25 the goal.

1 If the goal is to have, you know, what was
2 the goal of this program, 100 megabits, and 25 in
3 the most, basically, prohibitively expensive areas,
4 and maximize the use of the \$500 million through an
5 auction, I mean, that's, I think, we feel that we
6 were able to accomplish that.

7 And we did -- we took that money, through
8 getting the federal money and the auction, and just
9 stretched it, partnering with the PSC to have
10 Charter cover 150,000 homes.

11 Through all these different measures, we did
12 everything we could to make that funding stretch as,
13 you know, far as it possibly could.

14 We still have 1 percent that's through
15 wireless.

16 Some of your constituents, and, collectively,
17 have said that they want something better.

18 And so, to the extent, it's, you know, your
19 discretion and the Governor's direction to do that,
20 of course, we stand by to implement.

21 So it's, ultimately, a policy and funding
22 decision.

23 But -- but there is a number of homes that
24 are with the satellite, and, you know, that is
25 something that, obviously, you brought to our

1 attention.

2 So if that was the decision, we would be
3 happy to help.

4 SENATOR SEWARD: So if -- if the Legislature
5 and the Governor could agree on some additional
6 funds here, you could put them to good use?

7 JEFFREY NORDHAUS: I think so. I mean,
8 I think so.

9 I mean, I think that, you know, you always
10 want to think what's the right sort of policy, and
11 sort of the cost per home, that kind makes sense.

12 And we were seeing, in the last stages of our
13 auction, that the cost per home was getting very,
14 very high.

15 And, you know, we did a lot of analysis into
16 other state and federal programs as, how much
17 capital does it make sense to subsidize to bring
18 broadband service to a home?

19 And so, through our auction, you know, it
20 started in Round 1, as you might expect, now, 2,000,
21 or there were some cases that were below that. Then
22 we saw it tick-up.

23 And then in Round 3, we were seeing -- we --
24 we funded some projects at seven to eight thousand
25 per home.

1 But we were seeing some proposals come in
2 substantially north of that. We saw some over
3 10,000. We, I believe, even saw some over 20,000.

4 So there comes a point where you say, what's
5 the most effective use of capital?

6 I think in the remaining, kind of, 1 percent,
7 there's probably some in the portion of that that
8 you could still do quite cost-effectively. We'd
9 have to do analysis around that.

10 And then there might be some that you'd say,
11 you know, this person lives 20 miles off the grid,
12 and as much as we want them to have broadband, it
13 would cost, you know, pick a number, 500,000 to a
14 million.

15 Is there a point that you say, we want
16 everyone, but that home is just too uneconomic based
17 its location?

18 So I think that, in general, we could put
19 that money to use.

20 We also want to balance that against sort of
21 making sure, you know, it's still an economic use,
22 and that we are using alternative technologies to
23 cost-effectively get to some folks, whether
24 satellite or another wireless technology, including
25 wireless or other options are out there.

1 SENATOR SEWARD: Thank you.

2 SENATOR MAY: Thank you.

3 ASSEMBLY MEMBER THIELE: Assembly
4 Member Woerner.

5 ASSEMBLY MEMBER WOERNER: Thank you very
6 much.

7 Thank you both for your testimony. It was
8 very informative.

9 I -- I -- I want to make sure that I've got
10 the facts right here.

11 So, the -- when the broadband project office
12 finishes with it -- with Round 3, there will be
13 256 new locations, which is a -- which equates to
14 2.4 million homes, that will now have broadband
15 coverage at the 100-megabit -- -bits level.

16 Is that the -- do I have that right?

17 JEFFREY NORDHAUS: A little -- and I'd like
18 to, sort of, take that in a couple of pieces.

19 So, 256,000 is the amount that is done by the
20 Broadband Program.

21 ASSEMBLY MEMBER WOERNER: Okay?

22 JEFFREY NORDHAUS: So that's the number of
23 locations served by the Broadband Program.

24 ASSEMBLY MEMBER WOERNER: And how many homes
25 does that equate to?

1 JEFFREY NORDHAUS: That's, essentially,
2 homes. 256,000 locations, essentially, homes.

3 ASSEMBLY MEMBER WOERNER: Homes. Okay.

4 JEFFREY NORDHAUS: Right. So there will be,
5 obviously, multiple people in the homes. And,
6 often, businesses will be in addition to that.

7 So we'll be -- we don't count businesses, but
8 they're usually picked up along the way.

9 ASSEMBLY MEMBER WOERNER: Got it.

10 JEFFREY NORDHAUS: Because those aren't in
11 the census block.

12 And then, in addition, you have the 145,000
13 Charter locations on top of that.

14 ASSEMBLY MEMBER WOERNER: Right.

15 So somewhere in your testimony you said that
16 there was -- you used the number "2.4 million" --

17 JEFFREY NORDHAUS: Yeah.

18 ASSEMBLY MEMBER WOERNER: -- homes.

19 JEFFREY NORDHAUS: Yeah.

20 ASSEMBLY MEMBER WOERNER: And I -- and I --
21 and it appeared to be used interchangeably with the
22 "locations" number, which is why I don't...

23 So what is the "2.4 million" homes?

24 JEFFREY NORDHAUS: 2.4 million is the -- sort
25 of the grand total that I referenced, that includes

1 the 256 in our program, the 145,000 locations, and,
2 also, the speed upgrades of its existing network,
3 which was agreed as a merger condition.

4 So when we started it was 50 megabits. And
5 by 2018, 100. And now, this year, 300 megabits.

6 So we included that condition, which was
7 negotiated by the State --

8 ASSEMBLY MEMBER WOERNER: Got it.

9 JEFFREY NORDHAUS: -- in that number.

10 ASSEMBLY MEMBER WOERNER: So that includes --
11 but that includes the underserved?

12 JEFFREY NORDHAUS: That includes the
13 underserved, exactly --

14 ASSEMBLY MEMBER WOERNER: Got it.

15 JEFFREY NORDHAUS: -- yes.

16 ASSEMBLY MEMBER WOERNER: Okay.

17 So the 256 location -- 256,000 locations, at
18 one point in your testimony you said, "The vast
19 majority of these will be fiber to the home."

20 What does a "vast majority" equate to?

21 JEFFREY NORDHAUS: The -- well, what I was
22 referring to is, the vast majority of the grants,
23 meaning, the dollars, because the cost per home for
24 satellite.

25 So I -- you know, the vast majority of the

1 dollars expended through our program are to serve
2 fiber to the home (parties cross-talking) --

3 ASSEMBLY MEMBER WOERNER: Got it.

4 JEFFREY NORDHAUS: I'll have to get that
5 exact percentage for you.

6 ASSEMBLY MEMBER WOERNER: So what percentage
7 of the 256,000, then, are actually fiber to the
8 home?

9 JEFFREY NORDHAUS: Well, it would be around
10 180,000, because 79,000 are satellite. So...

11 ASSEMBLY MEMBER WOERNER: Okay.

12 So I'm going to try and say this in a way
13 that doesn't sound snarky.

14 JEFFREY NORDHAUS: Okay.

15 ASSEMBLY MEMBER WOERNER: But, I've traveled
16 all over some rural communities that I represent.
17 I've been in some in the Adirondacks that I don't
18 represent.

19 And I see telephone poles all throughout
20 that, and they all have -- they all have wires
21 running on them.

22 So I know that at some -- that -- that,
23 except for the ones that are choosing to be off the
24 grid, they all have access to electric utility and
25 landline phones.

1 And somebody -- and the density hasn't gotten
2 any greater in many of these areas than when they --
3 when those lines were originally run.

4 So somebody at some point thought, I'm going
5 to have to run these lines, even though, on paper,
6 I can't make it work from a profitability
7 standpoint.

8 So given that, I find myself asking: Why is
9 it that we can't figure out how to get fiber on
10 those telephone poles, to locations that are served
11 by electricity and landline phones, without having
12 to consider whether it is as profitable to do it in
13 those areas as it is to do -- to run those lines in,
14 say, Wilton, New York, where we got lots of people
15 living?

16 So I just am -- I'm really scratching my head
17 at this notion that -- because the issue, for many
18 people, is that satellite's not good enough.

19 The latency problem means that it doesn't
20 work for business.

21 The latency problem means that they can't
22 use -- we can't do telemedicine over a satellite
23 network.

24 And -- and that's -- you know, those are --
25 it's sort of a fundamental flaw in the strategy.

1 So, again, I'm just, like, why is it that we
2 have to make a profit consideration here?

3 Why is it that we can't just regulate this
4 the way they must have for electric and landline
5 phones, to say, you know, gosh, you want to work in
6 our state, you got to -- you got to serve these
7 communities? The poles are there, run the lines.

8 JEFFREY NORDHAUS: Well, I don't think it's
9 snarky.

10 I think it, actually, is a great point.

11 And it's something that we, through this
12 program, have sort of -- you have to fund -- ask
13 those kind of fundamental questions. Right?

14 When you see something that's an essential
15 utility, and absolutely necessary, like broadband,
16 which our office has been living and breathing for
17 four years, you know, we ask the same question.
18 Right?

19 And, you know, the -- I'll start, and I'll
20 turn it over to Tom, because I think the answer's
21 really, fundamentally, a regulatory one.

22 But if you go back to telephony, you know,
23 when I was growing up, we were growing up, and, you
24 know, there was something called the "universal
25 service fund." Right?

1 And it was not economic to put phone -- those
2 same phone lines you saw would not have been there
3 but for the universal service fund, which was,
4 people in the cities are paying into the fund, which
5 is disbursed to the rural areas to support the
6 deployment of fiber -- I'm sorry, to support the
7 deployment of phones in the rural areas.

8 And what happened is, broadband just grew up
9 in a different way, and it's come up under a
10 different regulatory regime.

11 And that's really the answer, is that, a lot
12 of it actually grew out of the cable business, which
13 was granted on a franchise base, just like cable TV.
14 Right? It was on a franchise basis from towns, and
15 grew out.

16 And I think what's happened is, over time,
17 it's become more of a utility, which is what you're
18 talking about.

19 ASSEMBLY MEMBER WOERNER: So then I go
20 back -- and I'll let you get in -- jump in, and,
21 Tom, in a second.

22 Then I go back to the question, and I can't
23 remember whether it was Senator May or
24 Senator Metzger asked you, which is: Wouldn't we be
25 better off regulating broadband as a utility, in

1 order to ensure that the coverage is, in fact,
2 universal?

3 THOMAS CONGDON: So it is a -- it's a core
4 policy question that is being asked all across the
5 country.

6 And the broadband issues, generally, it's
7 been viewed to date as something that has innovated
8 because it wasn't regulated.

9 And you've got people on both sides of that
10 policy question.

11 With respect to how the constituents in your
12 area got electricity service, I mean, those
13 investments were made by utility, with a regulated
14 rate of return, and the rates set by the commission.

15 We simply don't regulate the rates that are
16 charged, even for cable, but certainly not for
17 broadband.

18 And, so, if there was a regulated rate of
19 return, that would be a different calculation that a
20 company would make with respect to where it's
21 deploying its -- where its deploying its networks.

22 ASSEMBLY MEMBER WOERNER: Thank you.

23 SENATOR MAY: Great, thanks.

24 Senator Ritchie had a question.

25 SENATOR RITCHIE: Just along the lines,

1 I guess I -- we'll give you constituent issues so
2 I can make my point a little easier.

3 I think, you know, the progress being made
4 has been very helpful, and a lot of people are
5 really happy with the service.

6 But sometimes it's actually making the
7 situation a little worse for some of my other
8 constituents, when their neighbor has, now,
9 high-speed, and they can see their house, and it's
10 not been extended.

11 And I -- you know, an example of that is:

12 We have a constituent, and the census blocks
13 to the north and south of the property had been bid
14 on by the companies, and those constituents are very
15 happy.

16 However, this customer, or, this constituent,
17 is only a tenth of a mile away from both of those
18 blocks, and wasn't able to get service.

19 I understand, you know, if it's 20 miles
20 away, that person probably would want the service.
21 But I understand the cost for 20 miles away.

22 But when it's less than a tenth of a mile,
23 how can we possibly tell these people that
24 they're -- they shouldn't be entitled to, you know,
25 fiber; that they have to sign up for the satellite

1 service, that, along with all my other colleagues,
2 I hear quite a few complaints about?

3 So is there a plan to address that, if it's
4 somebody who is less than a mile, or a tenth of a
5 mile, away, who is kind of left in those pockets?

6 JEFFREY NORDHAUS: Right.

7 Well, thank you, Senator for the question,
8 and I understand that situation from what you've
9 described.

10 You know, at the end of the day, I would say
11 two things:

12 One is, you know, coming back to, first,
13 principles, in terms of the census blocks, like, we
14 did feel, based on the conversation we had very --
15 earlier in this meeting, that it was very important
16 to maintain the integrity of the census blocks.

17 That once you open the door to somebody just
18 serving, okay, there's these four on the edge,
19 I just want to serve them, but, I'm going to leave
20 the other ones out, you know, Assembly
21 Member Santabarbara had pointed out the problem of
22 having census blocks that are only partly served,
23 and what that can do to our maps.

24 So we -- we really wanted to, sort of, keep
25 that principle, that you have to serve everyone.

1 And so that was the first thing, and that's
2 why it was very important that we do that.

3 With respect to folks who are just over the
4 edge in another census block, we've had extremely
5 good luck, working with our carriers, to sort of say
6 to them, hey, it would be really helpful if you
7 would sort of go over there.

8 So if you wanted to -- you know, we do
9 receive those types of letters, and we do want to
10 support those folks on a case-by-case basis.

11 There's no obligation for them to serve, but
12 we say, look, you know, we spell it out, and we try
13 to assist in any way we can on any individual case.

14 So if you want to follow up with me, and
15 we'll see if that, you know, tenth of a mile, you
16 know, is possible.

17 But, in general, the principle of it is that,
18 you know, there might be a tenth of a mile, it might
19 be 10 miles. It's, you know -- and then if you go
20 into that block, there's also people who are
21 probably behind them.

22 So, got to stick with getting them to serve
23 everybody. And -- and -- and, over time, I think
24 that person will get served.

25 But we're happy to work with you, to try to

1 have it addressed in the meantime.

2 SENATOR RITCHIE: When -- we forward quite a
3 few constituents' names to the Broadband Office.

4 Can you just tell me what happens from that
5 point?

6 Does somebody reach out and specifically try
7 to address that issue, or, just, do they just go on
8 a list?

9 JEFFREY NORDHAUS: No, I mean, we have staff
10 who goes through e-mails, and we try to respond to
11 every single inquiry.

12 So if you want to reach out to me directly,
13 or to that e-mail, we will absolutely follow up.

14 SENATOR RITCHIE: Well, and it would just be
15 helpful, when we're sending names over, if whoever
16 is doing the follow-up on your end, if they could
17 just shoot us back an e-mail, just because it would
18 be good to know where they ended up; whether the
19 company was willing to go forward and connect
20 service, or, it's a constituent we need to continue
21 to follow for the next phase.

22 JEFFREY NORDHAUS: Okay.

23 Okay, we would be happy to.

24 SENATOR RITCHIE: And then my last question
25 is:

1 I've gotten a few complaints that there has
2 been a hold up on the fiber optics, the
3 right-of-way, because of the new easement/DOT
4 easement. And some are saying it's -- the delays
5 are as long as 30 days because of it.

6 So I'm just wondering if either one of you
7 have heard anything about delays with regards to the
8 new DOT --

9 THOMAS CONGDON: I --

10 SENATOR RITCHIE: -- easements?

11 THOMAS CONGDON: -- I'm not sure which
12 specific you're -- issue you're -- you're referring
13 to. But we have heard some DOT issues can come up
14 from time to time.

15 As we mentioned earlier, you know, we're
16 dealing with hundreds of thousands of utility poles,
17 and thousands of miles of projects, and so things
18 like that do come up.

19 And when it's another state agency, either
20 the BPO or the department reaches out to them, to
21 help figure out what the problem is, and what can be
22 done to help accelerate a solution.

23 SENATOR RITCHIE: Okay. Thank you.

24 ASSEMBLY MEMBER THIELE: Assembly
25 Member Smullen.

1 ASSEMBLY MEMBER SMULLEN: Thank you.

2 My question, Mr. Nordhaus, you mentioned a
3 couple of times the 1 percenters here.

4 In this case, 1 percent isn't necessarily a
5 good thing. It's either unserved or highly
6 underserved, is how I would describe many of the
7 people in my district.

8 Because, according to a presentation that was
9 given at the Adirondack Park Agency last year,
10 Round 3 awards in the program said that the
11 program's mission will be accomplished for
12 100 percent of the New Yorkers in the
13 Adirondack Park region.

14 The citizens I represent know what that
15 means.

16 It means that they have satellite that's
17 spotty at best, and doesn't work most of the time,
18 or, they're in these pockets of isolation where they
19 have, the lines run through the area; some people
20 have it, and some people don't.

21 And that's what "100 percent coverage" means
22 to those -- those citizens today.

23 Now, you've given us some reason for hope
24 here.

25 And I'm hoping to ask you:

1 What -- today you've talked a little bit
2 about 25-megabyte-per-second satellite coverage
3 that's coming, that's anticipatory.

4 But five years from now, what is "100 percent
5 coverage" going to mean for the Broadband Program
6 Office from a process standpoint?

7 That's what people want to know, is, what --
8 what we are doing, or, do we need to change public
9 policy and legislate a different scheme here?

10 So if you could please let us know, what is
11 five years from now going to look like for
12 100 percent coverage for the people in the
13 Adirondack region?

14 JEFFREY NORDHAUS: Right.

15 Well, thank you for your question, and
16 I understand what you've outlined.

17 First of all, I just wanted to sort of state
18 that, you know, the goals of our program were set
19 forth by the Legislature and Governor Cuomo when the
20 funding was approved in 2015, which is the
21 \$500 million program. And the goals were to achieve
22 100-megabit coverage, with 25 in the most,
23 basically, remote areas, where the cost to achieve a
24 100-megabit connection was prohibitively expensive.

25 So it was clear that, you know, when we

1 issued awards, and, obviously, Adirondack Park
2 received a substantial investment of capital, both
3 for fiber, and then, of course, you know, for
4 filling in the gaps, as you talked about, the
5 100 percent, meaning every location known to us was
6 covered, according to the principles of the program,
7 and not -- you know, I was not stating it was
8 100 percent at 100 megabits, it was 100 percent
9 coverage.

10 So I just wanted to clarify that.

11 And -- and, you know, we have gone through
12 that today.

13 I think everyone at this point is sort of on
14 the same page, in terms of, you know, the -- what
15 the program's goals were, and how it sort of set
16 about trying to achieve those possible.

17 The second thing is, just to clarify, that
18 satellite, the 25 megabit, that has been launched.
19 So that is now available for constituents today, and
20 they can access 25 megabits through that service.

21 You know, in terms of five years out, I think
22 we expect to see, you know, certainly, on the fiber
23 side, because of the scalability of fiber, that
24 those networks will continue to grow and
25 proliferate, and the speeds will be even faster.

1 But if you had any, sort of, specific other
2 questions, I'll be happy to answer them.

3 ASSEMBLY MEMBER SMULLEN: Are there any sort
4 of jump-the-curb technology things that we can look
5 forward to, to be able to -- you know, to let our
6 citizens know that -- that higher speeds are coming?

7 JEFFREY NORDHAUS: That's a great question,
8 and, actually, that's one we received many times
9 during the formation of this project, because, back
10 in 2015, when we did town hall meetings and went
11 around the state to gather information before the
12 program rules were established, we did a request for
13 information. And we tried to get constituent
14 feedback on, what were their concerns, and try to
15 identify issues up front before the program was
16 launched.

17 And one of the questions that -- this is a
18 little bit memory lane -- but, one of the questions
19 came up was, that -- essentially, you know, my
20 background is, you know, kind of investment -- how
21 do we know this is a good investment?

22 We want to make sure this \$500 million is
23 being invested well.

24 One of the things we don't want to find out
25 is that, 10 years from now, we've invested in a

1 technology that's no longer viable.

2 And the good thing is that, we feel very good
3 about that, because we know we've invested in fiber
4 optics, and there's nothing better.

5 As I say, all roads lead back to fiber, even
6 cellular. If you want to expand, we want to expand,
7 cellular networks.

8 Talk about, how do we do that in the
9 Adirondacks?

10 Well, we put up towers, and those towers have
11 to link into fiber.

12 So we've laid the infrastructure of the
13 future.

14 Fiber optics, basically, carries data at the
15 speed of light. It is not possible to be
16 leap-frogged. Nothing can go faster.

17 So I think we feel really great about, you
18 know, the infrastructure we've put in place. And we
19 want to continue to move to -- toward a fiber-based
20 infrastructure.

21 ASSEMBLY MEMBER SMULLEN: Thank you for your
22 testimony, and for your work.

23 JEFFREY NORDHAUS: Thank you very much.

24 SENATOR MAY: All right, thanks.

25 Senator Tedisco.

1 SENATOR TEDISCO: Just one question.

2 We get a lot of complaints, as you've heard.

3 One of my constituents in my Senate District,
4 I mean, there are several, and this is just an
5 example of it, none have gone this far, but, has had
6 a customer-service ticket out for four months.

7 Is that possible?

8 Why would that ever happen?

9 How could that ever happen?

10 Four months.

11 They'll be there. They never show up.

12 They'll be there. They never show up.

13 They'll be there. They never show up.

14 THOMAS CONGDON: This is a -- this is a
15 broadband outage, or a cable, or all three?

16 Cable? Telephone?

17 SENATOR TEDISCO: Broadband.

18 THOMAS CONGDON: Broadband.

19 You know, I -- I think that doesn't sound
20 like a very good business model for that provider.

21 If it's a provider --

22 SENATOR TEDISCO: You think?

23 THOMAS CONGDON: If it's a provider that is,
24 you know, receiving BPO funding --

25 SENATOR TEDISCO: It's Frontier.

1 THOMAS CONGDON: Frontier?

2 SENATOR TEDISCO: Yeah.

3 THOMAS CONGDON: -- then --

4 SENATOR TEDISCO: We get a lot of complaints
5 about Frontier.

6 THOMAS CONGDON: Yep.

7 So, you know, that's unacceptable.

8 SENATOR TEDISCO: It is.

9 THOMAS CONGDON: I think that everyone would
10 agree.

11 The question is: What can be done, if it's a
12 pure broadband play versus something that's a
13 regulated service?

14 But, we'd be happy to look into it further.

15 If you want to have that constituent reach
16 out to the PSC, we'd be happy to look into the
17 specifics of the complaint.

18 SENATOR TEDISCO: Because it -- because it
19 kind of seems they don't have the manpower or the
20 numbers, because many of these individuals are in
21 isolated areas. So it seems like they're waiting
22 for (indiscernible) -- let's wait for
23 5 to 10 complaints from those same closer
24 proximities, then we'll send some people out there.

25 But, that's unacceptable if we're going to

1 have statewide service.

2 THOMAS CONGDON: I think, we agree, it's
3 unacceptable.

4 And we'd be happy to look into the complaint
5 in more detail.

6 SENATOR TEDISCO: Okay.

7 SENATOR MAY: Oh, sorry.

8 Senator Helm -- or, we're done on this side?
9 Okay.

10 ASSEMBLYMAN SANTABARBARA: I just have a
11 follow-up question.

12 SENATOR MAY: Well, when we're done.
13 Yes, to Senator Helming.

14 SENATOR HELMING: (Microphone off.)
15 Thank you.

16 (Microphone on.)

17 Thank you.

18 Thank you, gentlemen, both, for your
19 testimony.

20 It's interesting, when I was driving to
21 today's hearing, I was flicking through radio
22 stations, and I landed on NPR because the subject
23 was broadband.

24 And what stuck in my head was that, at the
25 base of the Grand Canyon, you can get reliable

1 Internet service.

2 And I think to myself, well, how the heck do
3 we not have reliable service in the Finger Lakes?

4 We're not that rural. We're between Syracuse
5 and Rochester.

6 Why do we have so many people who are
7 unserved?

8 You shed some light today, and I appreciate
9 that.

10 But what I'm wondering about too, is, are --
11 is ESD, is it PSC, whoever it is, are they working
12 with -- are you working with town and community
13 leaders to establish where the priorities are, where
14 the precedent should be?

15 And one of the reasons why I bring up that
16 question is, I provided written testimony from a
17 number of the counties -- the six counties that
18 I represent today.

19 And, in Wayne County, I found it interesting,
20 including their testimony, is the fact that, of the
21 41,000-plus housing units in the county, almost
22 7,000 are unserved. That's 17 percent of their
23 population -- or, 17 percent of the county's housing
24 units.

25 And that's significantly higher than the

1 New York State Broadband office estimate of a total
2 of 772 unserved or underserved areas.

3 So I -- again, I'm wondering, are you working
4 with local leaders, whether it's at the county
5 level, the town level, to figure out where the
6 priorities are?

7 JEFFREY NORDHAUS: Thank you for your
8 question.

9 And that's interesting about the
10 Grand Canyon, and so a good anecdote to keep in
11 mind, I think.

12 With respect to the county data, we would
13 have to look at that.

14 I'm not sure -- I mean, there are, as we've
15 discussed, a lot of problems with, you know, the
16 maps that are out there on the federal level. They
17 do tend to overstate things and kind of, you know --
18 so we -- we -- we don't really, you know, spend much
19 time looking at the federal data, because ours is --
20 is -- you know, has a lot more granularity.

21 And, basically, our goal has been to get
22 broadband to all; 100 megabits wherever possible,
23 and then the remainder at 25.

24 So, we coordinate closely with all leaders,
25 including county leaders who reach out to us. We

1 are always available for those types of meetings or
2 calls.

3 And we would be happy to follow up with you.

4 But our overarching goal, and the principle
5 we follow, is we need to get broadband to everyone.

6 So we don't really, sort of, prioritize one
7 area over the other.

8 We say, everyone needs broadband because it's
9 an absolute necessity.

10 SENATOR HELMING: Working with your office,
11 I've been told that, within my district, almost
12 8,000 locations without prior access will be served.

13 I just want to clarify, there are a number of
14 questions about:

15 Does a location equal a household, or is it
16 something else? Is it a regional?

17 Can you clarify just really quickly for me?

18 JEFFREY NORDHAUS: I would have to look at
19 the "8,000" number, but I believe it would be
20 households, because what we do is, we cover -- we
21 look at the data contained in the census block. And
22 then you're actually required to build out to every
23 location inside that census block.

24 So, sometimes, the census block -- the census
25 data may say, given census block has 20 homes in

1 does that say to a constituent; what's their next
2 step, other than to call us back and say, well, how
3 do I get on the list?

4 JEFFREY NORDHAUS: Well, we can, you know,
5 help, you know, with staff, to walk them through the
6 website, and what the various terms mean.

7 But, I think you've read sort of two, sort
8 of, maybe footnotes that are on that BPO page.

9 And we have a column which states the status
10 of the BPO project.

11 And, if there's a star or a check, it would
12 say, okay, there's a project that's complete.

13 And what we're noting is, yes, it's complete,
14 they've told you it's complete, they're offering
15 service. But we're not satisfied until the
16 validation that I just -- is done.

17 So we want to make it clear that we're still
18 validating it, to make sure it's done.

19 If there is no star there, and people are
20 saying, well, why is it just blank? that would mean,
21 if there's no comment there, it's either in process
22 or it's complete. There's no other choice.

23 SENATOR HELMING: Okay, but why --

24 JEFFREY NORDHAUS: If it's blank, that means
25 there's no BPO project, which means it's either

1 already served, or, it could potentially be in a
2 Charter location.

3 SENATOR HELMING: -- so then there would be a
4 second step, to go to the map, to find out if it's
5 in a Charter location?

6 Why can't it just say right there, for ease,
7 for legislative staff or constituents, you know, put
8 in my address, you get a list of four different
9 service providers, and then you get what I just read
10 you.

11 JEFFREY NORDHAUS: I am extremely familiar
12 with what you're saying, and I completely understand
13 where you're coming from.

14 So that was also my goal for the website, as
15 a person who likes to use websites, and have them be
16 very easy and very simple. That would seem
17 extremely logical.

18 So the way we structured the website is, you
19 enter the address, and all existing providers are
20 there, and the BPO provider is there.

21 So everything that we have access to is
22 there.

23 In addition, we do have the Charter data,
24 which is the only piece that's missing. But,
25 unfortunately, that is subject to a non-disclosure

1 agreement. And we have tried very hard to, you
2 know, have that relaxed so we could include it on
3 the website, but Charter has refused to allow us to
4 do that. We've asked many, many times.

5 I welcome any support on that. But, I have
6 kind of tried, and can't get further on that.

7 But it would be a lot easier if it would be
8 integrated into our map so a constituent could just
9 go and find out.

10 So I agree.

11 That being said, we were able, through a lot
12 of hard work, to at least get a separate portal
13 which people can do, so they need to take a second
14 step of, they go there, and if there's nothing
15 there, there is another drop-down on the exact same
16 page, which they can go to and see if they're in the
17 Charter buildup.

18 But I do understand it's two steps, and
19 I understand why that could be a little frustrating.

20 SENATOR HELMING: Thank you.

21 Just, real quickly, is there -- Assembly --
22 Assemblywoman Woerner asked about, you know, the --
23 getting fiber on poles.

24 In New York State right now, is there fiber
25 that is up on poles, but is -- I'm not sure the

1 right terminology -- is it, "lit up"?

2 Do you we have some fiber that's installed;
3 it's running past people's homes, it's running by
4 business, but it's not yet, "lighted," or "lit up"?

5 JEFFREY NORDHAUS: Well, I know Tom can speak
6 more to it, but, you know, we have a lot of fiber in
7 the state.

8 We have lit fiber, as you said.

9 And we have dark fiber, which is fiber that,
10 you know, is generally not necessarily on the poles,
11 but it could be underground in ducts.

12 Some of it is lit up, some of is it dark
13 fiber.

14 In general, the state does have a lot of
15 fiber.

16 The challenge that we face with this program,
17 and, in general, that we talked about it today, is
18 the so-called "last mile," which is getting that
19 fiber down those streets and right in front of those
20 homes, especially when they're very -- very sparse.

21 But there is -- there is sort of main --
22 main-line fiber, as you point out, that's out there.

23 SENATOR HELMING: So that last mile, I hear
24 from constituents, like my colleagues do, about
25 getting that last mile done. But it is frustrating

1 when it's sitting right in front of your home and
2 you cannot connect to it.

3 JEFFREY NORDHAUS: I'm not familiar with that
4 exact case, but I can understand that that would be
5 frustrating. Yes.

6 SENATOR MAY: Okay, thank you.

7 I also want to welcome Senator O'Mara, and
8 I guess he has some questions.

9 And just to let people know, because
10 I appreciate your patience, you've been here a long
11 time, this is the last person, as far as I know, who
12 has questions.

13 The two of us have a few brief follow-ups
14 we'd like to do, and then we'll be done.

15 And for the audience, so you know, in future,
16 as -- as witnesses come up, we're going to limit to
17 five minutes, the question-and-answer portions for
18 each per -- each member up here, so that we'll try
19 to get you out of here before midnight.

20 Okay. Senator O'Mara.

21 SENATOR O'MARA: Okay, thank you, Senator.

22 And thank you, gentlemen, for being here
23 today.

24 Hopefully, I didn't miss this, and this
25 hasn't been covered already by the two of you, but,

1 I just wanted to get a sense of how you're making
2 the demarcation between what's going to be necessary
3 to be served by 100 megabytes per second versus down
4 to 25 megabytes per second.

5 JEFFREY NORDHAUS: So the -- we touched on it
6 a little bit, but to answer sort of specifically,
7 the way the allocation was run was through a
8 reverse-auction process, which we talked a little
9 bit about that as an innovative process for
10 allocating the State capital/State funding.

11 And what we did was, we looked at all the
12 unserved areas of the state, and then we ran actions
13 in each of the upstate regions separately.

14 And, basically, anything unserved was awarded
15 funding in order of, basically, the highest fee for
16 lowest cost. And we funded entire -- the entire
17 program, until we had, essentially, expended all the
18 capital. And then we expended the last, around
19 \$15 million, for a satellite service to fill in the
20 remaining gaps, essentially, to ensure that no one
21 was left behind at that point.

22 SENATOR O'MARA: Okay.

23 Did that, making those determinations, how
24 much did that, do you think, increased the cost of
25 serving some of the areas where it might have been

1 cheaper to do less than 100 megabytes per second,
2 but you went with the 100 megabytes per second?

3 JEFFREY NORDHAUS: Well, I think what we
4 heard today was that the -- you know, the benefits
5 of fiber are things that the communities really
6 appreciate.

7 And so I think that, you know, what I've
8 heard today is that, you know, people, if anything,
9 want more fiber, not less.

10 So, you know, certainly, you could do
11 satellite in the whole state and save money, but I'm
12 not sure that would meet the objective of trying to
13 make sure that the service is something that people
14 are really looking for.

15 SENATOR O'MARA: No, but what I'm suggesting
16 is, there's a cost-benefit analysis you can make for
17 the more remote areas, where it would have cost X to
18 require the fiber to be run for the hundred. Or,
19 you could run something sub from that at a lesser
20 expense, and cover more ground, hit more homes.

21 JEFFREY NORDHAUS: I see what you're saying.

22 SENATOR O'MARA: Yeah.

23 JEFFREY NORDHAUS: So, in that case, now
24 I understand better, we are -- our -- our program
25 was open to all technologies. So it wasn't, like,

1 100 or nothing. I mean, you had the ability to --
2 basically, we were technology neutral. So you could
3 do fiber, you could do cable, you could do fixed
4 wireless; we had multiple different technologies.

5 We actually do have all of those
6 technologies. We have fiber -- yeah, exactly, we
7 have fiber, we have cable, we have fixed wireless,
8 we have DSL, and we have satellite.

9 So we have, pretty much, every technology
10 that I'm aware of.

11 And we also, from a provider standpoint, we
12 have large providers, as large as Verizon; we have
13 family-owned telcos; and we have electric
14 cooperatives.

15 So, through provider -- you know, sort of,
16 flexibility on our providers, and flexibility on
17 technology, we had, sort of, opened to any type of
18 model.

19 And then, according to the auction, if a, you
20 know, less-expensive product was available, we would
21 certainly have considered that in the auction, that
22 would have been part of the process.

23 SENATOR O'MARA: Okay. I think you said
24 you've exhausted the \$500 million funding that was
25 appropriated to this point?

1 JEFFREY NORDHAUS: Well, it's been fully
2 deployed, it's been fully invested, yep.

3 SENATOR O'MARA: So that money is out the
4 door; it's been spent on existing working
5 connections right now?

6 JEFFREY NORDHAUS: Well, it's -- we -- we
7 reimburs -- it's been fully committed. And we -- as
8 discussed a little bit, we -- in -- we invest the
9 capital on a reimbursement basis.

10 So the providers have to go do the work, they
11 have to complete the work, and then we do a
12 validation. We send in a validation firm to make
13 sure it was done properly.

14 Once it's done all properly, then the
15 reimbursements can be completed.

16 And, so, it's been fully committed, but it
17 hasn't fully out the door, if that make sense. But
18 it's all spoken for.

19 SENATOR O'MARA: Yeah, no, I -- to what
20 percentage has it been committed, but not spent yet,
21 or not deployed yet?

22 JEFFREY NORDHAUS: Well, it's all been
23 committed, so, you know, the full amount of the
24 fund, less, you know, this sort of internal
25 operating expenses of what just takes to, you know,

1 keep the lights on, and so forth, that is all fully
2 committed.

3 And then the actual reimbursement level
4 varies. I mean, every week we're sending out -- you
5 know, we have a team, looks at the expenses, and,
6 sort of, you know, once they get validated, sends
7 those out.

8 So I don't have that exact data, but it's
9 (parties cross-talking) --

10 SENATOR O'MARA: Well, do you have a rough
11 idea of how much of that \$500 million is really yet
12 to be deployed?

13 JEFFREY NORDHAUS: I mean, as far as, if we
14 look at it, it's fully committed. And then it's
15 just a matter of timing on the expenses of the
16 reimbursement.

17 But nobody is waiting for these reimbursement
18 checks to do their work.

19 They complete the work, and then we reimburse
20 them when it's done. And it depends on the status
21 of the, you know, review of the, sort of,
22 reimbursements we get in.

23 Somebody says, I bought, you know, 12 reels
24 of fiber, and I bought 18 switches, and I bought,
25 you know, this, and we have to go through that and

1 validate it.

2 So it's just a timing issue.

3 SENATOR O'MARA: No, I get all of that, and
4 maybe I'm not asking the question the right way.

5 But, of the \$500 million, and the private
6 investments from the companies, what percentage of
7 that is actually out there functioning right now,
8 and how much do we have -- are we waiting on to be
9 actually functioning, for consumers?

10 JEFFREY NORDHAUS: I mean, it's all,
11 effectively, out there, I mean, the full
12 five hundred.

13 If we looked at the stat that I mentioned
14 earlier, you know, we've -- including the State
15 money, the private, we require a private match as
16 well, so it's either 50/50 or 80/20. So there's a
17 private match. And then there's federal funding as
18 well.

19 So, you know, in total, we have \$721 million
20 of capital working on these projects.

21 And then that is -- in addition, the Charter
22 projects are on top of that.

23 So all that money is, essentially, working
24 for us in the field, and none of it has been held
25 back at this point.

1 Did I answer that?

2 THOMAS CONGDON: I mean, I think one more
3 thing to add, because of the contractual obligations
4 of awarding the grants, there's a tremendous amount
5 of activity and build activity that's happening in
6 the field and already benefiting consumers.

7 Whether or not the reimbursement check has
8 been cut, the fact that it was committed has
9 resulted in the activity, the construction work,
10 and, in many cases, already lit fiber serving
11 customers.

12 SENATOR O'MARA: But you can't give me an
13 idea of -- of what amount of work is left to be done
14 that has been?

15 JEFFREY NORDHAUS: Yeah, I mean, in terms of
16 the work that's been done -- I mean, I can -- if you
17 want, I can give you the exact number of dollars
18 that have been -- if you want to contact me after
19 this, I'll give you the exact number.

20 But in terms of the work, the physical work,
21 which is what I think really matters here, the
22 Phase 1 and the Phase 2 projects are complete.

23 We're still going through the validations,
24 and so some of the payments don't get issued until
25 we validate.

1 And then, in terms of the Phase 3, those are
2 underway, and will be complete next year, because of
3 the need to align those with the federal --
4 170 million of federal money. Federal funding took
5 a little bit -- a little bit longer to secure, so
6 those were pushed back into next year.

7 But all the Phase 1 and Phase 2 are,
8 essentially, complete at this point.

9 SENATOR O'MARA: Okay.

10 Do we know if the Executive is going to be
11 looking for further allocations in next year's
12 budget?

13 JEFFREY NORDHAUS: I don't have any awareness
14 of the status of that at this time. You'd have to
15 ask others on that.

16 SENATOR O'MARA: Are you seeking further
17 allocations?

18 JEFFREY NORDHAUS: I'm just answering
19 questions, whatever, you know, the Committee.

20 I'm not here to do that.

21 SENATOR O'MARA: Thank you.

22 SENATOR MAY: Okay, thank you.

23 Just a few quick follow-up questions.

24 I asked earlier about that technical
25 validation firm.

1 JEFFREY NORDHAUS: Yeah.

2 SENATOR MAY: But I blanked on your answer,
3 whether you actually said that their report would be
4 made public.

5 JEFFREY NORDHAUS: I had said that, we are
6 working through all the reports with them. And if
7 there's additional follow-up, I'll talk you to
8 about, you know -- you know, I can certainly look to
9 provide you the results of that, or to make those
10 public in some way.

11 So we're happy to follow up with you on that.

12 SENATOR MAY: Okay, thanks.

13 And, I know Assemblywoman Woerner didn't not
14 want to be snarky.

15 I'm going to be a little bit snarky here,
16 because I know this is directed at you,
17 Mr. Congdon.

18 We -- we get a lot of complaints about
19 Internet service, but we also get complaints about
20 the PSC not being responsive to complaints.

21 And so I'm wondering if you have an internal
22 process to -- to judge your responsiveness. If you
23 have -- are taking steps to become more responsive.

24 If this is something that you have heard?

25 THOMAS CONGDON: Well, I think some of the

1 frustration comes from what we regulate and what we
2 don't.

3 So we can be very helpful if the complaint
4 pertains to a service that we actually regulate.

5 If it's a service where we have no
6 jurisdiction, then it's hard for us to satisfy that
7 consumer.

8 And so I get their frustration.

9 And, we need to be real clear on the phone
10 when we get those complaints, as to where we can be
11 helpful and where we can't be.

12 In some cases, even where we don't have
13 direct jurisdiction, if it's a provider, say,
14 providing sort of a triple play of broadband, phone,
15 and cable, there's a complaint about their Internet
16 service, but, because their Internet service also is
17 the same technology that provides something that's
18 within our jurisdiction, there, we can be somewhat
19 helpful in trying to get the problem addressed.

20 It's really case-specific.

21 And we -- that being said, we do, to answer
22 your question:

23 Track the volume of calls that we get;

24 How long it takes us to answer the
25 complaints;

1 How many complaints, once we've heard the
2 initial complaint, get escalated, meaning, one party
3 wasn't satisfied;

4 And then how quickly we can address the
5 escalated complaints, and the appeals process that
6 can follow.

7 And we take all that very seriously, and you
8 know, do a lot of training with our staff, to make
9 sure they understand where our jurisdiction is,
10 where it isn't; how to, you know, interface with the
11 public, and be as helpful as possible.

12 SENATOR MAY: Thank you.

13 Two other questions.

14 One is about this issue of the last mile.

15 So, thinking about how expensive it can be
16 to -- to build out on the last mile, we passed a
17 bill this past year about minimum-maintenance roads.

18 People build houses in very remote locations,
19 often a second home, a summer home, or something
20 like that. And then, after the fact, they want snow
21 plowing to that home, and it's very costly to
22 municipalities to provide that.

23 Do you ever take into account whether these
24 are primary residences, or second homes, or those
25 kinds of things, when you're thinking about, is it

1 worth it to build -- put taxpayer money into
2 building out Internet service to remote properties?

3 JEFFREY NORDHAUS: We -- ultimately -- we
4 think about it, we're aware of the issue, but,
5 ultimately, we don't, because, at the end of the
6 day, we believe that broadband is necessary to all
7 homes, even second homes. I mean, the people who go
8 there and they want to work on the weekend, and they
9 need access to broadband.

10 So, ultimately, we're looking to get it to
11 every location.

12 This is very important for, you know, the
13 economy, as you know, of these local areas. And
14 sometimes it's tourism. Sometimes it might be, you
15 know, weekend homes. I think we've talked about
16 that.

17 In addition, you know, you might want to run
18 a small business from there. You might be able to
19 (indiscernible) -- you know, sort of -- and, also,
20 just in terms of real estate.

21 You know, from a real estate standpoint, in
22 terms of getting people in to rent your home, we've
23 heard these anecdotes of people talk to us about,
24 like, hey, I tried to rent my home. And they --
25 I got all the way down to the last part of it, and

1 then they said, How's your broadband? And then we
2 said, Well, we don't have broadband. And, suddenly,
3 the deal wasn't happening.

4 So, from the standpoint of home ownership, of
5 economic inclusion, all the things we're talking
6 about, you know, they do apply to first and second
7 homes, and -- and, you know, obviously, those are
8 tax-paying homes as well.

9 In terms of, sort of, very long private
10 driveways, we do make some accommodations for that,
11 in the sense that, you know, if someone builds a
12 private road, or an extremely long driveway, that
13 might be like a 5-mile driveway, the carrier is not
14 required to wire the 5-mile driveway. They have to
15 do a sort of standard length driveway, which is, you
16 know, we have a certain -- it might be 350 or
17 400 feet, which is the definition of -- the federal
18 definition of a "standard driveway," which is
19 included in the §49.

20 If it's more, then custom charges can be
21 discussed.

22 So there's a little bit of an accommodation
23 for it.

24 But, in general, we do want to try to get
25 broadband to all the locations.

1 SENATOR MAY: Okay, thanks.

2 And then my last quick question was about the
3 website.

4 So I wanted to give that web address again.
5 It was bldlkup.com. Right?

6 JEFFREY NORDHAUS: You got it.

7 SENATOR MAY: Bldlkup, with no vowels, except
8 the last U, dot com.

9 And do you have a map on the -- on your
10 website that shows which regions of the state are in
11 your jurisdiction?

12 JEFFREY NORDHAUS: Just so you know, the
13 bld -- you know, that website is also embedded in
14 our website.

15 SENATOR MAY: Oh, okay.

16 JEFFREY NORDHAUS: So if you just want to
17 remember one, it's a little more intuitive,
18 nysbroadband.ny.gov.

19 So, we have a tab, a "Resources" tab,
20 drop-down menu. We have the map, we have the
21 address lookup, and we have the Charter lookup.

22 SENATOR MAY: Great. Thank you very much.

23 JEFFREY NORDHAUS: Thank you.

24 SENATOR MAY: I very much appreciate your
25 patience, and your good questions. Thanks. I mean,

1 your good answers to good questions.

2 THOMAS CONGDON: Thank you.

3 SENATOR MAY: And next on our list is
4 Kate Powers from the New York Attorney General's
5 Office.

6 And as I said, from now on, we're going to do
7 a 5-minute limit on question-and-answer periods for
8 members.

9 Welcome.

10 KATE POWERS: Is this on?

11 SENATOR MAY: Uh, no, it doesn't seem to be
12 on. Try it. Make sure the red light comes on.

13 KATE POWERS: The red light is on.

14 SENATOR MAY: Okay.

15 KATE POWERS: Good afternoon, Co-Chair May,
16 and Thiele, and Commission and Committee members.

17 My name is Kate Powers, and I'm the director
18 of legislative affairs at the New York State
19 Attorney General's Office.

20 Thank you for the opportunity to provide
21 testimony on this important issue.

22 In December 2018, the Office of the Attorney
23 General entered into settlement agreements with five
24 major providers of residential Internet service in
25 New York State: Verizon; Charter, formerly

1 Time Warner Cable; Frontier; Altice; and RCM Telecom
2 Services.

3 SENATOR MAY: I'm just going to ask you to
4 pull your microphone a little closer.

5 KATE POWERS: Our office's investigations,
6 and subsequent settlements, in these cases were
7 focused on misrepresentations by the Internet
8 service providers that violated consumer protection
9 laws.

10 Our investigation was not initially aimed at
11 the lack of Internet service options in rural areas,
12 though, through our investigations, we identified
13 two issues that had a particularly desperate impact
14 on rural areas: Lack of quality infrastructure, and
15 the failure of Internet service providers to supply
16 state-of-the-art customer premises equipment to
17 subscribers.

18 In the early days of dial-up, Internet
19 service was fairly universal. However, disparity in
20 Internet service level has increased with time, due,
21 in large part, to infrastructure disparities in
22 more-populated versus less-populated areas.

23 Digital subscriber line service, more
24 commonly my known as "DSL," offered faster service,
25 but is largely impacted by distance from subscriber

1 to a centralized network device. So the service
2 level in rural areas is typically worse than in
3 urban areas.

4 It is often not economically desirable for
5 DSL providers to repair this aging infrastructure.
6 Some DSL customers are already starting to
7 experience the effects of this aging infrastructure;
8 for example, outages for several weeks at a time.

9 Cable Internet offered a significant upgrade,
10 but was not available in all areas. Cable Internet
11 also evolved in a way where disparity increased over
12 time as cable Internet providers prioritized
13 high-density areas for upgrades.

14 Fiber offered and even more significant
15 upgrade, but is less available than cable.

16 As a condition of our settlement with
17 Frontier, a provider for many rural areas, Frontier
18 was required to invest \$25 million to improve
19 infrastructure and/or provide consumers with access
20 to Internet services.

21 While this investment was significant, and
22 resulted in improved Internet service for 97,000
23 New Yorkers, to date, it likely will not be enough
24 to solve the infrastructure issues in all of
25 Frontier's coverage areas.

1 Charter, which operates in a number of
2 upstate markets, also made investments that resulted
3 in improvements for subscribers in rural areas. All
4 of the service in urban areas remains superior due
5 to more robust network infrastructure in these
6 markets.

7 Our investigation also revealed that failure
8 on the part of providers to supply state-of-the-art
9 modems was another reason many subscribers had
10 suboptimal Internet service.

11 In the past, providers allowed, or even
12 encouraged, users to purchase their own modems.

13 However, they now tend to push them into a
14 monthly lease agreement for provider-supplied modem,
15 often sold with the promise of ensuring the most
16 up-to-date equipment.

17 The attorney general observed a pattern of
18 prioritizing prime markets for equipment-replacement
19 initiatives. This practice was a central focus of
20 the attorney general's investigations, and
21 particularly affected New Yorkers who typically --
22 rural New Yorkers who were typically the last to get
23 their modems replaced.

24 We also discovered that Time Warner Cable
25 provided many subscribers with legacy modems.

1 Legacy modems can only receive data on a single
2 data-over-cable service interface specification,
3 (DOCSIS) channel.

4 A DOCSIS channel has a maximum
5 throughput (sic) of 36 megabits per second.

6 Time Warner Cable believes such modems were
7 sufficient for many subscribers in rural areas who
8 were only on plans of 15 to 20 megabits per second.

9 And while such modems were, theoretically,
10 sufficient to support speeds of 15 to 20 megabits
11 per second, DOCSIS channels are shared by a cluster
12 of users, so a single user can only get the unused
13 bandwidth on a channel.

14 Our settlement with Charter required that all
15 subscribers be provided with modems that had been
16 shown to be capable of reliably delivering the
17 subscribed Internet speed through field testing
18 under normal network conditions.

19 Charter has now provided almost all
20 subscribers with multi-channel modems.

21 The problems associated with limited band
22 width on the channel have been greatly exacerbated
23 by the advent of streaming video.

24 Early Internet usage was bursting, meaning
25 that, for example, a user loads a website and photos

1 must be downloaded. The usage then drops until the
2 next page is loaded.

3 In contrast, the streaming video that is more
4 common today involves a continuous delivery of
5 Internet packets. Streaming a movie on Netflix can
6 require between 5 and 12 megabits bits per second,
7 depending on the quality of the video.

8 By 2015, Time Warner Cable estimated that
9 over half of all the Internet data transmitted to
10 its subscribers was video streaming. This presented
11 a particular challenge to subscribers in rural areas
12 where average Internet speed was 15 megabits per
13 second.

14 Since the conclusion of our investigation,
15 Charter has addressed this issue by phasing out
16 single-channel modems for almost all users.

17 The final issue I would like to discuss with
18 you today that impacts access to adequate Internet
19 services by rural New Yorkers, is net neutrality.

20 Net-neutrality rules provide (sic) Internet
21 service providers from blocking, throttling, and
22 posing paid prioritization, and otherwise
23 interfering with the provision of Internet service.

24 In 2018, New York led a coalition of
25 22 states and the District of Columbia in suing to

1 reverse the Trump Administration's repeal of
2 net-neutrality regulations, and the federal
3 government's effort to assert preemption over state
4 net-neutrality laws.

5 Collectively, the state coalition represents
6 over 165 million people, approximately 50 percent of
7 the U.S. population.

8 In February 2019, the Attorney General's
9 Office, together with counsel for private parties
10 and local governments, presented oral arguments in
11 the case in the U.S. Court of Appeals for the D.C.
12 Circuit, and a decision is pending.

13 A repeal of the federal net-neutrality rules
14 will be felt acutely by rural New Yorkers who
15 generally only have one choice of a fixed Internet
16 service provider.

17 The only fixed Internet service provider
18 operating in a rural area takes advantage of the
19 net-neutrality repeal to block, throttle, or require
20 businesses or customers to pay for fast lanes to
21 service. Rural subscribers will not have the option
22 to switch to a different provider who continues to
23 adhere to net-neutrality principles.

24 While some subscribers in urban areas may be
25 able to choose from two or three different

1 providers, the overwhelming majority of rural
2 subscribers do not have such options.

3 Even if some rural areas might have a choice
4 of mobile Internet service providers, mobile
5 Internet service is not an adequate substitute for
6 fixed service.

7 Thank you again for allowing me to take the
8 time to provide testimony on this important issue.

9 SENATOR MAY: Thank you. I appreciate your
10 testimony.

11 Are you willing to take some questions?

12 KATE POWERS: I can certainly take questions.
13 I'm not a technical expert, so I may have to take
14 some of them back.

15 SENATOR MAY: Okay.

16 Well, my question is fairly general, and it
17 is, again, about the net-neutrality issue.

18 As I mentioned before, there is a bill that
19 I assume we'll be taking up next year, about net
20 neutrality within the state.

21 And my question is: To what extent could we
22 affect this issue within the state, in the absence
23 of federal support for net neutrality?

24 And -- and I guess, also, just in the legal
25 arena, just with that, with net neutrality, does net

1 neutrality give you more latitude to help people
2 in -- especially in rural areas, get the service
3 that they need?

4 KATE POWERS: Regarding the first part of
5 your question, we have looked a fair amount at that.

6 We are, as I recollect, somewhat limited in
7 what we can do in the state, particularly, until the
8 decision of the D.C. Circuit is -- until that
9 litigation is resolved.

10 But if you have a specific bill, we would,
11 you know, appreciate the opportunity to take a look,
12 and give you specific feedback.

13 And the second part of your question
14 involved -- could you restate it?

15 SENATOR MAY: Well, it was just, you make a
16 good case for why net neutrality is a valuable
17 thing.

18 Does it give the attorney general more tools
19 to, or, how could it give the attorney general more
20 tools to, be standing up for people who need this
21 service?

22 KATE POWERS: Yeah, I'm not sure specifically
23 it gives us more tools. But I can certainly, you
24 know, other than us fighting in the litigation,
25 I could certainly, you know, take that one back and

1 see if there's something more, more specific we
2 can...

3 SENATOR MAY: Thank you.

4 Does anyone else have questions?

5 No?

6 Okay, well, thank you so much for your
7 testimony. Appreciate you being here.

8 KATE POWERS: Thank you.

9 SENATOR MAY: And next we have, I believe, a
10 panel.

11 We're going to bring a number of
12 supervisors up here to be here at the same time:
13 William Farber, James Monty, and Carolyn Price.

14 I'm just checking to see if I have that
15 right, Zack (ph.)? Was there...

16 Okay.

17 So, 10 minutes -- just tell me what you were
18 trying --

19 ZACK (ph.): 10 minutes, total.

20 SENATOR MAY: For all three?

21 ZACK (ph.): Correct.

22 SENATOR MAY: Okay.

23 So, we're going to try to keep this to
24 10 minutes for all three of you. I hope that you
25 can make that work.

1 I don't know, who wants to go first?

2 WILLIAM FARBER: We can go in the order that
3 they were listed on the program.

4 And we certainly -- I can shorten what I had
5 intended to say.

6 I think the panel has covered a lot of the
7 issues that I was going to raise.

8 Chairperson May, Senators, and Assembly
9 Members, I really appreciate the opportunity to
10 provide testimony on the state of broadband in
11 Hamilton County.

12 I'm William Farber. I'm chairman of the
13 Hamilton County Board of Supervisors.

14 I would say, at the local government level,
15 we tend to be where the rubber hits the road. The
16 people, I don't tend to get calls from them. They
17 tend to come in my office and say, Why is it this
18 way? Why aren't we seeing what we've heard we
19 should be seeing?

20 Hamilton County is the third-largest county
21 in the state, geographically. So, we are a huge
22 rural challenge when you look at the size of our
23 population. We're also 100 percent within the
24 Adirondack Park.

25 We -- it's been my privilege for several

1 decades to serve the people of Hamilton County. And
2 one of the most profound challenges in recent years
3 has really been trying to keep up on the technology
4 front.

5 I think it was -- I think it was nearly
6 two decades ago, that I was in a meeting with other
7 EMTs. I was an EMS provider for 30 years. And we
8 were talking about cellular service, and how that
9 would impact our ability to provide first response.
10 How much quicker we could get on a scene. How much
11 better the care would be that we could provide to
12 people.

13 And, as we started to delve into that, it was
14 shortly thereafter that we were confronted by one of
15 our school superintendents in Hamilton County, that
16 came in, and talked to the entire board, making the
17 plea for the fact that, if we didn't find a way to
18 keep up on the broadband front, our students, and
19 the next generation of folks that were raised in
20 Hamilton County, would have a decided disadvantage
21 from an education and technology standpoint.

22 That, in his opinion, we couldn't afford to
23 let that happen.

24 I think it's fair to say that, based on that,
25 several of us in the county embarked upon what was

1 about a two-decade mission to try to figure out how
2 to position the county so that we could keep pace on
3 the technology front.

4 That mission has included multiple trips to
5 Washington, multiple trips to Albany; talking,
6 really, to a variety of people, where the levels of
7 empathy have always been high for the plight of
8 rural New York and rural America.

9 However, I have to confess, we didn't really
10 start to make substantive progress until the REDC
11 structure was put in place, the Connect New York,
12 and the New New York Broadband Program.

13 Does that mean I think that we're at a
14 perfect place in time now? Absolutely not.

15 You covered a lot of the challenges of the
16 situation, so I'm skip through the portions of my
17 testimony where I was going to talk about status of
18 the county, because we're really not that different
19 from what you're seeing throughout.

20 I think the stats bear out the fact that we
21 are serving, through the New New York Broadband
22 Program, 256,000 households, customers, if you will.
23 But a full, nearly a third of that, is through
24 satellite service.

25 I think we cannot treat technology as if it

1 was a static finish line in New York.

2 I think we have to think about: What's next?
3 How do we do better?

4 We're the Empire State because we lead, not
5 because we set goals and say, we're satisfied with
6 this.

7 So, I think we've done an extraordinary job
8 building far more fiber than any other state, but
9 that doesn't mean that we should stop there.

10 That's really an opportunity to extend the
11 fiber to that final mile.

12 It's an opportunity to look at other
13 technologies.

14 You know, we jumped to a large -- for a large
15 portion of our population, to satellite.

16 There are opportunities for fixed wireless
17 that, yes, there were some Phase 3 awards, but
18 I think we could do more with that.

19 Several of us are involved with a cellular
20 task force, and some of those technologies, when you
21 look at towers and our ability to connect up to
22 fiber, connect up to power, and transmit those
23 signals.

24 There's some synergy there that we need to be
25 exploring as part of this, to figure how to build

1 out the system and the network.

2 SENATOR MAY: I want to make sure that your
3 colleagues get some time too. So (parties
4 cross-talking) --

5 WILLIAM FARBER: Yes.

6 So let me just wrap up with that point.

7 And then if there are questions, I'm happy to
8 take those.

9 SENATOR MAY: Thanks.

10 CAROLYN PRICE: Okay.

11 All right, first of all, thank you,
12 Senator May and Assemblyman Thiele, for chairing
13 this very important topic, and all the Senators and
14 Assembly people that took time out, I'm sure, of
15 your busy schedules to do this.

16 SENATOR MAY: Can you pull your microphone a
17 little closer?

18 KATE POWERS: I'm speaking today, first of
19 all, on behalf, as president of the Upstate New York
20 Towns Association. And this has been a very
21 important goal of ours for six years, that we've
22 been working on.

23 And I'm also speaking as supervisor of the
24 town of Windsor in Broome County, a town of
25 93 square miles.

1 I am also speaking for people who make huge
2 sacrifices every day because they have no Internet
3 access, such as, a person that has to drive
4 40 miles, round trip, to do banking because they
5 can't do it on the Internet.

6 My remarks will focus on recommendations to
7 identify and reach the unserved and underserved with
8 broadband in rural areas of New York State.

9 New York State broadband is delivered via
10 wire-line technologies and wireless technologies;
11 however, we don't know how much broadband coverage
12 we truly have, particularly in rural areas.

13 To continue to move forward and have access
14 for the unserved and underserved, we need to know,
15 what we have, where it is, and options to reach the
16 unserved and underserved.

17 Why don't we know what we have and where it
18 is?

19 The maps are faulty because the FCC allows
20 Internet providers to claim, on Form 477, an area
21 that is served if only one home on a census block
22 has Internet service.

23 My first recommendation is to work with the
24 FCC to get a better reporting requirement so there
25 are more accurate maps.

1 Mr. Nordhaus stated that New York State is
2 now requiring full census block, and this is
3 progress.

4 Fiber is the optimal broadband technology.

5 There is fiber in parts of rural communities.

6 Do we really know where the fiber is, and
7 where it doesn't exist?

8 Through utility-pole data surveys, we could
9 get answers.

10 These surveys entail getting the GPS location
11 of each pole, identifying the pole numbers, finding
12 out who owns the poles, and determining what is
13 actually on the poles.

14 SENATOR MAY: I'm going to just suggest that
15 you go through your recommendations just really
16 briefly so that we'll have a little time (parties
17 cross-talking) --

18 CAROLYN PRICE: Okay.

19 So what I can do is, rather than talk more
20 about the need, I'll just do the recommendations
21 from here on.

22 SENATOR MAY: Yes.

23 CAROLYN PRICE: So my second recommendation,
24 is to fund utility-pole data surveys.

25 Recommendation 3: Require companies applying

1 for State funding to describe how municipalities
2 were involved in the application process, and
3 require sign-off in the application by the chief
4 municipal officer.

5 And I believe Senator Helming was asking
6 questions about that.

7 And I do want to show this map.

8 This is Phase 2, and this is our town. And
9 the colored areas show where the funding was
10 awarded.

11 And in the box is the village of Windsor,
12 which sits in the town of Windsor. They have
13 complete cable in the village.

14 The mayor was shocked also. They don't --
15 they didn't need fiber. They have excellent cable.

16 So I believe almost \$2 million was spent
17 there.

18 But, down here, in the southwest corner of
19 our town, we believe -- not sure, we need a pole
20 survey -- we believe there's no fiber. These people
21 are trying to exist on satellite and hotspots on
22 their cell phone, which are spotty.

23 So this is why I'm saying, the municipalities
24 need to be involved in this.

25 My fourth recommendation, is to move the

1 Broadband Program Office from New York City, or,
2 establish a satellite office in an upstate town or
3 village, so that people doing this work are close to
4 the communities with the largest broadband needs.

5 And my fifth recommendation: Be involved
6 with emerging technology.

7 Have staff from the New York State Broadband
8 Program Office and New York State officials study
9 Google's Project Moon, and consider trying an
10 experiment with this technology in a high-need rural
11 area, and I'll briefly describe it.

12 You can see a video on the Internet.

13 Google had started a project back in 2012,
14 where they can take antennas and put them in very
15 large balloons, that they send into the stratus
16 sphere, about 12 miles up. They control them from
17 the ground, and have antennas on the ground, and
18 then they connect it to a local provider.

19 They're also extremely helpful if you have a
20 disaster because they can move in quickly and help
21 have Internet service.

22 SENATOR MAY: Great, thank you.

23 And we'll give you a little bit of extra
24 time, let's say, four minutes (indiscernible).

25 JAMES MONTY: Thank you so much, Chairman.

1 I think everyone for allowing me to speak
2 here today.

3 I think broadband is very important, and I'm
4 not going to go through a lot of what I wrote,
5 because I think each and every one of you must have
6 been in my mind at one time, because, the questions
7 that you have asked, are questions that we have.

8 Again, I'm Jim Monty. I'm the town
9 supervisor for the town of Lewis in Essex County.

10 I have shared this conversation with
11 Assemblyman Stec, Assemblyman Jones, Senator Little,
12 on several occasions.

13 And I will just go to the points that I would
14 like to make.

15 My first concern is the fact that the energy
16 companies in Essex County, historically, have
17 ignored their infrastructure.

18 So their infrastructure is -- is, you know,
19 old. And now they're asking these ISPs to come in
20 and replace their infrastructure at the tune of
21 5,000 to 15,000 dollars per pole.

22 Who's holding that accountable?

23 That's money that should be spent on lighting
24 up broadband, yet they need to replace the poles.

25 And these energy companies are getting those

1 poles provided for them, and yet they ask for an
2 increase in rates.

3 So, to me, that's a pretty good deal for the
4 energy companies.

5 So who's holding them accountable?

6 I think that's something we really need to
7 look at.

8 Recently, we hired a consultant within
9 Essex County to map out what we don't have.

10 So with -- that consultant is taking
11 everything that is provided already, before any of
12 the phases, Phase 1, Phase 2, and Phase 3.

13 Taking the information from Phase 1, and
14 implementing it on our map in GIS mapping; Phase 2,
15 the same thing, and the Phase 3, so we'll know what
16 we don't have.

17 And we will gladly share that information
18 with the broadband agency, because, when I took over
19 as supervisor, it wasn't as sophisticated as GIS.
20 But we had a group of people that formed a group
21 within our town of Elizabethtown in Lewis, who
22 actually mapped out our broadband. Just, visually,
23 mapped it out.

24 We provided it. I'm not sure what happened
25 to that data.

1 But I think that's something that we as
2 communities, can do.

3 And Essex County has done that.

4 Again, and I heard it mentioned here, is
5 accountability.

6 Who's actually holding the ISPs accountable?

7 You know, I heard Mr. Nordhaus talk about
8 his validation, but, are they validating the census
9 blocks that were bid, or are they actually
10 physically going out and seeing what is actually
11 being provided?

12 So that would be a question that I would like
13 the answered.

14 One of the last things I would like to make,
15 and I just heard it here, local input.

16 At no time, in my four years as a supervisor,
17 has anyone reached out to me and said, hey, Jim,
18 what do you have? What don't you have in your
19 community?

20 I would think that would be a great benefit,
21 moving forward, is if there's more local input.

22 Lastly, I just want to leave with you an
23 example, what this means to a small community.

24 The town of Lewis has 1352 residents. Very
25 small, beautiful community, in Essex County.

1 We have two local businesses who are trying
2 to get established, two small businesses.

3 They both could use hard-wired Internet to --
4 for their business. They have -- their two
5 locations are less than a half a mile from
6 hard-wire, and yet they're told they have to get
7 satellite.

8 Half a mile, for two viable businesses that
9 could employ 6 to 12 people in my town.

10 And I can't tell you, for a town of 1352,
11 what 12 employees would do for us.

12 And, again, thank you. I really appreciate
13 your concern on this.

14 Your sentiments, and your comments
15 previously, echo how we feel in Essex County.

16 And we are here to help any way possible.

17 SENATOR MAY: Thank you.

18 Thank you all for really good
19 recommendations. This is very helpful to have,
20 concrete proposals that we can take back to the PSC
21 and the Broadband Program Office.

22 Just one question that I have is:

23 We heard some numbers about what they
24 estimated are the numbers of people who are not
25 covered in this state.

1 But I think those of us sitting up here feel
2 like those numbers were pretty low, actually, from
3 what we hear in our own districts, that there are an
4 awful lot of people who are not covered.

5 And I'm just wondering if any of you has
6 actually done a census, as it were, of the -- how
7 many people don't have coverage in your
8 jurisdiction?

9 WILLIAM FARBER: We haven't specifically done
10 a census, but I share the observation that the
11 Committee has made.

12 I think there's a couple of reasons for that,
13 from our experience.

14 One is, has been the significant lag time in
15 the build-out.

16 As you know, we made announcements for
17 Phase 1, Phase 2, and Phase 3 at the point when we
18 were making the awards.

19 The patience that people demonstrate from
20 there, myself included, has been tested a couple of
21 times with now seeing Phase 3 pushed out into 2020.

22 That is consistent with a number of problems
23 that we've had with the build-out, dealing with the
24 CAF 2 funding that came through from Verizon, and
25 the tiering of that.

1 Some of the problems we've had working with
2 the Public Service Commission, to make sure the
3 make-ready stuff happened quickly enough to get
4 things done.

5 We have had the experience of the Broadband
6 Program Office being very helpful in some right-away
7 work, and helping to move those projects along. But
8 I think there was lag time there that stretched out
9 some projects.

10 And then, frankly, you've got those people
11 that were left with HughesNet as the only option,
12 that you've already talked significantly about, how
13 frustrated those people are, particularly when they
14 feel their proximate to the build-out where Frontier
15 or Slic or one of the other providers are going to
16 be, and they just aren't going to get access.

17 SENATOR MAY: Okay.

18 CAROLYN PRICE: I think I could answer it,
19 Senator May, by -- again, by my map.

20 I think I heard one person say, about
21 17 percent.

22 In this area of our town, it's probably about
23 a quarter of the population. So, it's probably
24 somewhere around that 17 percent you heard before.

25 SENATOR MAY: Thank you.

1 JAMES MONTY: One brief concern I have,
2 Chairman, if you would allow me, is the
3 non-disclosure act Charter has, for not announcing
4 what they're building out.

5 How can -- how can we know what they're not
6 doing?

7 I think -- I recently come across some
8 evidence that eight locations in my town alone were
9 included in their build-out, that they agreed to.

10 And I know for a fact, those 8 residents paid
11 \$25,000 to have fiber run to them.

12 SENATOR MAY: All right, thank you.

13 Questions, or any others?

14 ASSEMBLY MEMBER THIELE: I have a question
15 too.

16 SENATOR MAY: Okay.

17 ASSEMBLY MEMBER THIELE: First of all, it's
18 good to see town supervisors.

19 Mr. Farber, it's good see you again.

20 Having been --

21 CAROLYN PRICE: We've seen each other before.

22 SENATOR HELMING: -- a former town
23 supervisor, it was the hardest job I ever had.

24 And I always used to say when I was town
25 supervisor: When I went to the grocery store, the

1 list I came out with was always longer than the list
2 I went in with.

3 I just -- you've alluded to it indirectly a
4 little bit, but, you know, we've had this commitment
5 over the last three -- this three phases, and,
6 \$500 million, and 256,000 locations.

7 What's your conclusion?

8 I mean, has this worked well?

9 Are there things, going forward, that we in
10 the Legislature should be looking at to -- to, you
11 know, change mid-course, or, do some things
12 different going forward?

13 What -- what would -- what would you suggest,
14 as we come back here in January of 2020, what should
15 we be doing?

16 WILLIAM FARBER: I think it's great question.

17 I would probably answer it a little
18 differently than the earlier panel did, in that
19 I absolutely believe there should be a Phase 4.

20 I think we learned enough from the first
21 three phases, that we've got some additional room to
22 grow and get some other areas done.

23 I think we compensated well for the poor FCC
24 data that was, one served, all served, for a census
25 track.

1 And so we said to any provider, before they
2 could bid on a census track, you have to serve
3 100 percent of the residents, the potential
4 customers, in that census track.

5 That, in my area, because we have these huge
6 census blocks in rural areas, caused some issues,
7 where we could have gotten to some customers, that
8 we didn't.

9 I will grant you, those will be tough
10 decisions in how to get there.

11 But I frankly think part of this was, the
12 funding ran out before we got as far as we ideally
13 could have gotten.

14 So, my lesson learned would have been, you
15 made progress.

16 Are there some issues of accountability that
17 continue to bubble up that you need to be concerned
18 with? Absolutely.

19 But we need a means to make sure that we
20 build out further.

21 And I do think that the conversations around
22 this particular issue have been really interesting,
23 in that, it isn't a utility, and, yet, in rural
24 areas, we probably aren't going to have competition.

25 And so how do we deal with that so that we

1 actually force the providers to do what they should
2 be doing for our customers, for the turnaround on
3 service, and those things, when there isn't
4 competition to drive them, and there isn't the
5 regulation of a utility to drive them?

6 How do we get the outcomes that they
7 promised?

8 SENATOR MAY: Okay, and quickly.

9 Are we running the time, (indiscernible)?

10 CAROLYN PRICE: I think, also, we need to
11 stop and know where we are.

12 I don't know if you're aware:

13 Of course, the federal government provides a
14 lot of money also.

15 In 2018, they realized they didn't know where
16 they were, and they stopped their funding, and did
17 an assessment of where they were.

18 And I think we need to put the money there
19 first, and then, I agree, move on.

20 But, I'm concerned that we truly don't know
21 where we are right now.

22 SENATOR METZGER: Have a bill to require that
23 assessment.

24 ASSEMBLY MEMBER THIELE: Thank you.

25 SENATOR MAY: Okay.

1 WILLIAM FARBER: Thank you.

2 SENATOR MAY: Senator Metzger.

3 Oh, anybody on this side want to ask
4 questions?

5 No?

6 (Indiscernible) folks who want to talk?

7 No?

8 All right, I guess that's it.

9 Thank you very much.

10 WILLIAM FARBER: Thank you.

11 CAROLYN PRICE: Thank you.

12 JAMES MONTY: Thank you very much.

13 SENATOR MAY: And thanks for your specific
14 recommendations. That was really helpful.

15 We're going to take a little break, say, a
16 10-minute break. And then --

17 SENATOR SEWARD: Your timing's perfect.

18 SENATOR MAY: That's right.

19 -- and when we come back, we'll have our next
20 witness.

21 Thank you.

22 (A recess was taken.)

23 (The hearing resumes.)

24 SENATOR MAY: Thank you, everyone.

25 Our next witness is Jen Gregory from the

1 Southern Tier 8 Regional Board.

2 JENNIFER GREGORY: Thank you, Senator May.

3 And thank you to the Rural Commission, and
4 this Committee, for accepting these comments today.

5 A lot of what folks have talked about has
6 been discussed, so I'm going to brief what I brought
7 on paper here.

8 I just wanted to showcase a map, to show you
9 where I'm coming from here in the Southern Tier,
10 because our name is a little vague here.

11 But, we represent the counties of Broome,
12 Chenango, Cortland, Delaware, Otsego, Schoharie,
13 Tioga, and Tompkins, south of the thruway and north
14 of the PA border.

15 That area is home to just under 580,000
16 residents. The five small cities you may recognize
17 there, Binghamton, Cortland, Ithaca, Norwich, and
18 Oneonta.

19 Outside of those five small communities, the
20 population is just 84 people per square mile.

21 So we're pretty rural, and sometimes we are
22 not quite recognized for that.

23 I am coming from the regional board. We're
24 where one of ten in the state, your regional boards,
25 that help with long-term planning issues.

1 We also are the local partner for the
2 Appalachian Regional Commission, and that's your
3 federal funding partner; state, local, and federal.

4 And the Department of State is the office
5 that we work with from the state level.

6 This organization, Southern Tier 8, has been
7 working with this issue, trying to raise awareness
8 over the last 15 years for this.

9 And we were one of the key agencies to work
10 in development of the Southern Tier Network, the
11 municipal open access fiber -- dark-fiber ring.

12 I think we discussed some of the challenges.

13 Our terrain and our small population we have,
14 which is relevant to a lot of the folks around here.

15 And I think the New New York State Broadband
16 Program, what that's represented, maybe most of all,
17 is an experiment of disinvestment in rural
18 New York State.

19 I think that was a great effort to say, look,
20 we're offering incentives.

21 If you build your private-sector business,
22 your last mile in our community, we will help you
23 fund that.

24 And now we're left with communities that are
25 still unserved.

1 And Caroline Price was right to the point,
2 where we don't know where the -- that map area is.

3 On the state's Broadband Program Office
4 map --

5 And they do have a beautiful map. They've
6 made a lot of headway in the past year with that.

7 -- but the problem and concern that we have
8 is that, they're considering satellite as a service
9 that's -- that's doable for the communities.

10 And it's not. Clearly, we're still caught in
11 the digital divide.

12 If you -- if you're from the Southern Tier
13 and you call up HughesNet for satellite service,
14 they'll be happy to offer that at \$80 per month.

15 And I think this is a little bit higher
16 than what the goal was when we started the New
17 New York State Broadband Program.

18 But they'll also tell you the bandwidth for
19 instant gaming, so if you have children with Xbox or
20 PlayStation, this will not work for them.

21 So that's a disadvantage to our younger
22 generation that we would like to have here for our
23 families.

24 Second, that technology does not support VPN.

25 "VPN" is your virtual private network.

1 So if you come north, and you'd like to tie
2 into your service downstate, if you're vacationing,
3 that log in, that won't work.

4 Or, if you have two office locations that are
5 secure, that you'd like to serve, that technology
6 won't -- will not work.

7 So the satellite doesn't work for the status
8 quo, nor for any future growth.

9 And I think that's the big misnomer with
10 this: It's not good enough.

11 If you do have Time Warner, or Spectrum,
12 or -- all under Charter now, if you're fortunate
13 enough to have that fiber run, most residents are
14 paying \$200 a month for that service of triple play.

15 However -- and this puts us at a
16 disadvantage, too, when we want to encourage folks
17 to stay in New York State, because, in other areas
18 of the country, that's offered for \$70 a month.

19 Those are some things that we talked about
20 when the New New York Broadband Program rolled out.

21 And it's kind of been put in the background
22 at us: Did we achieve our goals?

23 The -- again, the claim of being served, this
24 was touched upon too, the telephone poles.

25 Some of the companies work together very

1 well.

2 We need that map, because we have an issue
3 with redundancy.

4 The same -- in the same areas that fiber is
5 being run, and in the most rural hard-to-get areas
6 where the return is not that good, there isn't fiber
7 run there at all, even with that investment.

8 I guess our other challenge too, is our
9 limited local resources.

10 We do not have the community capacity to be
11 checking up on the Broadband Office, and then
12 requesting this assistance.

13 The -- I'd like to bring up just the
14 Southern Tier Network model, to give you an idea
15 that that has worked.

16 In Elmira city schools, where Verizon was
17 projected to increase their service in 2013, at
18 \$230,000 a year, the Southern Tier Network brought
19 that to the school district for \$64,000 per year.

20 SENATOR MAY: So I'm going to cut you off
21 there, in the interest of time --

22 JENNIFER GREGORY: Sure.

23 SENATOR MAY: -- because we need to stick
24 with this.

25 But I will ask you, as my first question, to

1 say a little bit about this -- the -- how does the
2 Southern Tier Network work, and, is it a model for
3 the rest of the state?

4 JENNIFER GREGORY: Absolutely, I think it's a
5 model. And I'd like you to look at the other
6 resources you have.

7 Not only do you have the Broadband Program
8 Office, but we have probably one of the best GIS
9 clearing-house teams in the state.

10 They can map -- when you combine what the
11 Broadband Program Office has, and the clearing
12 house, they can map to the parcel.

13 And the county GIS administrators that are
14 there can help you achieve that broadband-pole model
15 there, to assess where you're at.

16 Maybe it's time to look at that municipal
17 model and say, okay, we know, in rural areas, that
18 we've had the best private-sector investment
19 possible.

20 Maybe we look at a public-infrastructure
21 model, statewide, and not put that burden on each
22 municipality to solve, but say, statewide, these are
23 the pieces, these are the blocks, that are in
24 satellite coverage that still need your help.

25 SENATOR MAY: Thank you.

1 ASSEMBLY MEMBER THIELE: Carrie.

2 ASSEMBLY MEMBER WOERNER: Thank you so much.

3 So, in this Southern Tier Network model, I'm
4 a little confused.

5 JENNIFER GREGORY: Sure.

6 ASSEMBLY MEMBER WOERNER: In the
7 Southern Tier, can municipalities band together to
8 seek grant funding from the federal government to
9 build out their own municipal utility network?

10 Is that what you're saying?

11 JENNIFER GREGORY: Absolutely.

12 And, unfortunately, what's happened is -- and
13 we attempted that back in 2009, under ARA stimulus
14 funding, to build a 200-mile loop that would go
15 across all of the eight counties to do so, and have
16 that dark-fiber ring, so you could run the long
17 stretches of fiber from community to community. And
18 then that would make it affordable for the smaller
19 Internet service providers to build within their
20 communities.

21 This also gets run to hospitals, schools, the
22 universities, 911 centers, as well.

23 The tough part is, is that some of this
24 build-out has happened in the state program has. So
25 all the anchors to achieve that return on investment

1 have kind of been cherry-picked.

2 So now we're left with very rural stretches
3 without those anchors to support and make that
4 business model work.

5 ASSEMBLY MEMBER WOERNER: So were you -- were
6 you granted special authority to be allowed to do
7 this, or, can any combination of municipalities work
8 together and apply for this funding and build out
9 their own regional networks?

10 JENNIFER GREGORY: We did -- we worked
11 through the two regional boards, Southern Tier 8 and
12 Southern Tier Central. And because of our board
13 structure, and representatives of each of the
14 legislative bodies, they were able to work through
15 our non-profit, and, essentially, create their own
16 non-profit, to apply for this funding.

17 We had a plan in place, where we had a solid
18 map, because -- and they started collecting this
19 data back in 2005, to say, where is this fiber not
20 run?

21 There was not a need for investment.

22 They fought that case, and applied for
23 federal funding to roll out this infrastructure.

24 This -- and Southern Tier Network was also
25 one of the recipients, from 2013, before the

1 New New York State Broadband Program rolled out.

2 So they received state and federal dollars?

3 And we piecemealed another application
4 through the New New York State Broadband Program,
5 that was awarded in the first round of funding.

6 ASSEMBLY MEMBER WOERNER: Okay.

7 I'm sure I can get your contact information.

8 JENNIFER GREGORY: Absolutely.

9 ASSEMBLY MEMBER WOERNER: I'd like to
10 understand more how that whole thing got set up, and
11 how we would make that be a statewide model.

12 JENNIFER GREGORY: So, at a non -- if you had
13 a non-profit office that would be dedicated to this,
14 because, right now, Broadband Program is through
15 Empire State Development. Maybe it's not.

16 I don't know if there's anything in the
17 legislation for that.

18 Or, your Association of Counties, that may be
19 a method to start that, because they would still
20 need to assess, and then they would have -- you
21 would have that input from a smaller municipal
22 level, to assess, these are indeed where the gaps
23 are, and, yes, we need this to go to the
24 Legislature.

25 The funding mechanism that may be also useful

1 is through, Department of State has the
2 shared-services program. And this seems like a
3 really good approach for the municipalities to share
4 this service.

5 You know, as we develop technologies with
6 automated cars, weatherization on DOT roads, this
7 fiber, this infrastructure, runs along our roadways,
8 those telephone poles.

9 Maybe through the Department of
10 Transportation, and Department of State through
11 their shared services, maybe there's a method there.

12 I'm not familiar how that's structured,
13 but...

14 ASSEMBLY MEMBER WOERNER: Okay. Thank you
15 very much.

16 JENNIFER GREGORY: Thank you.

17 SENATOR MAY: Does anyone else have
18 questions?

19 I did want to say, in talking to Jen, that
20 one thing that came out is that -- the
21 Appalachian -- what's the -- what's the funding
22 source?

23 It's not available to most of the state.
24 It's only in that Southern Tier region that --

25 JENNIFER GREGORY: That's correct.

1 The Appalachian Regional Commission runs
2 along the Southern Tier, from Lake Erie, over to
3 Schoharie County.

4 And we were dedicated through this, and
5 seeing what's happening in the other parts of the
6 county that gave us a head-start.

7 However, still at that local level, we didn't
8 have the capacity to implement as much as we wanted
9 to.

10 SENATOR MAY: Okay, thank you.

11 Anyone else have questions?

12 ASSEMBLY MEMBER THIELE: A question.

13 JENNIFER GREGORY: Sure.

14 ASSEMBLY MEMBER THIELE: So I had to Google
15 this while I was waiting to ask you a question.

16 But -- so Southern Tier 8, you're like under
17 the general municipal, you're a regional planning
18 agency?

19 JENNIFER GREGORY: Correct.

20 ASSEMBLY MEMBER THIELE: Right?

21 And then you use the intermunicipal agreement
22 provisions to kind of put all of the counties
23 together?

24 JENNIFER GREGORY: Absolutely.

25 And you have ten of those too, under the

1 New York State Association of Regional Councils that
2 cover most of the state.

3 ASSEMBLY MEMBER THIELE: Okay.

4 JENNIFER GREGORY: So we have a team too.

5 We have addressed state issues with DEC in
6 meeting their stormwater requirements.

7 So --

8 ASSEMBLY MEMBER THIELE: MS4?

9 JENNIFER GREGORY: Pardon?

10 ASSEMBLY MEMBER THIELE: MS4.

11 JENNIFER GREGORY: The MS4.

12 ASSEMBLY MEMBER THIELE: Yeah.

13 JENNIFER GREGORY: So we have that structure
14 in place, and we work with DEC.

15 And we could also be structured that way
16 through different funding programs, whether you run
17 it through the CFA --

18 ASSEMBLY MEMBER THIELE: You had a unique set
19 of circumstances. Right?

20 You had this intermunicipal agency that you
21 set up. And then you're part of this Appalachian,
22 you know, and you're in that zone too.

23 So all of those things kind of --

24 JENNIFER GREGORY: But those councils
25 (parties cross-talking) --

1 ASSEMBLY MEMBER THIELE: -- still sounds
2 cumbersome, though. There should be a simpler way
3 to do this. Right?

4 JENNIFER GREGORY: It should be simpler.

5 It should be simpler.

6 -- but you do have those 10 organizations
7 covering most of your rural areas, that could
8 provide assistance at a local level.

9 And then we report to our boards.

10 ASSEMBLY MEMBER THIELE: All right. Thank
11 you very much.

12 JENNIFER GREGORY: Thank you so much.

13 SENATOR MAY: Thank you.

14 Next we have Lynn...

15 LYNN GISLASON: Gislason.

16 SENATOR MAY: ...Gislason --

17 Thank you.

18 -- a resident of Port Byron, New York.

19 LYNN GISLASON: It's Icelandic. Nobody
20 pronounces it correctly.

21 Hi, my name is Lynn Gislason. I live in
22 Port Byron, which is in the town of Montezuma.

23 And I would like to thank Senator May for
24 this opportunity to come here and speak with all of
25 you.

1 I'd also like to thank Senator Helming and
2 her office for giving me a focus for my frustration
3 with this issue.

4 On May 17th I contacted Spectrum, spoke with
5 a very nice woman, who informed me that I was
6 eligible for broadband services.

7 She convinced me to get cable, Internet, and
8 home phone service through Spectrum. This was all
9 supposed to be installed on June 1st.

10 On June 1st, a technician came out and
11 suggested we run the line under the driveway.

12 As a result, we would have to wait till that
13 was completed.

14 That was completed on June 7th.

15 I then called to set up another installation.

16 And on the day of the install, I got a call
17 from Spectrum, and a technician named Dave told me
18 that I couldn't have cable, so the appointment was
19 canceled.

20 I made several calls before I knew I had
21 cable -- because I knew I had cable, because it had
22 been installed beneath my driveway and connected to
23 my house.

24 All in all, I have spoken with no less than
25 30 Spectrum employees who are telling me different

1 things. All of them read my call history in their
2 system, and they all seemed surprised and confused
3 with what they referred to as "in-fighting" going on
4 between departments at Spectrum.

5 I finally spoke with someone named
6 William Locky (ph.) at the local Auburn office.

7 He explained that the Town of Montezuma
8 didn't have a signed video franchise agreement.

9 I contacted the town supervisor,
10 John Malenick, who stated that he had not been
11 presented with one; however, he was open to signing
12 it.

13 I called Mr. Locky back, and asked if
14 I could speak directly with their legal department,
15 to get this signed.

16 I was later told that the area VP of Spectrum
17 was applying for a waiver to install my cable, due
18 to all of the problems, and that should only have
19 taken a couple of days.

20 That was June 12th.

21 It's now September.

22 My calls then began going to Mr. Locky's
23 voicemail more often than not.

24 Based on the assurances from Spectrum that
25 I would have service, I canceled my DirecTV and

1 Verizon home telephone service.

2 I was put in touch with John Bubb (ph.) from
3 Spectrum, who attempted to help me.

4 He explained, there was confusion between the
5 Spectrum sales team and the Spectrum technology
6 team, and I was the unfortunate victim.

7 I live just over the border between the town
8 of Aurelius, in the town of Montezuma.

9 The company that Spectrum subcontracted with
10 to run the lines unknowingly ran the line into the
11 town of Montezuma.

12 Therefore, when I would call Spectrum, their
13 service team -- their sales team would tell me that
14 I was serviceable. But when it went out to the
15 technical team, they realized that the Town of
16 Montezuma doesn't have the signed video franchise
17 agreement, and, ultimately, canceled multiple
18 install appointments before all of this was
19 discovered.

20 In an attempt to get this moving along,
21 I tried to connect all of the parties to get this
22 accomplished.

23 Spectrum has now presented the Town of
24 Montezuma with a right-of-way agreement. This
25 agreement would allow them to continue to lay

1 additional cable, turn my service on, as well as
2 19 to 20 other households who are also in my
3 predicament.

4 The Town of Montezuma could then work out the
5 details of the video franchise agreement.

6 I attended the town meeting on August 20th,
7 and was informed that the attorney, Kevin Cox, is
8 not authorizing the town supervisor to sign off on
9 the right-of-way agreement due to some pipes that
10 were damaged by Spectrum subcontractors, as well as
11 wanting to work out the financial video franchise
12 agreement money that they would get.

13 It is now the rural community that is
14 standing in the way of this moving forward over the
15 issue of reimbursement from Spectrum for some
16 damaged pipes.

17 I'm being used as a pawn in this situation
18 while I am trying to get this accomplished.

19 In the meantime, I have no cable, no
20 Internet, and now no landline service, since
21 June 1st.

22 If the town supervisor would sign the
23 right-of-way agreement, and someone at Spectrum
24 could flip a switch, this problem for me and several
25 others in my situation would be solved immediately,

1 and Spectrum could continue to work on laying more
2 cable.

3 I was on the phone with Mr. Bubb again
4 September 6th, because I'm still trying to get my
5 Verizon service back now, and they need to port my
6 phone number back.

7 The problem is, Spectrum never turned on my
8 account, so they can't release my phone number. So
9 now my phone number is even being held hostage.

10 And I call Iceland a lot, and I'm racking up
11 a huge amount of long distance bills.

12 It has not only been inconvenient and
13 frustrating to be dealing with all this unnecessary
14 nonsense, but it has caused me to be out of pocket a
15 lot of money.

16 I continue to not have any television
17 provider because have I to sign up for a one-year
18 contract. And I'm hoping to get this issue
19 resolved.

20 My two daughters attend the Port Byron School
21 District.

22 Our school superintendent,
23 Neil O'Brien (ph.), has ensured that our school has
24 cutting-edge technology available to students.

25 Every single student in our school district

1 is given a Chromebook from the school to complete
2 cool schoolwork.

3 My daughters are in the top of their classes
4 in the ninth and tenth grade. Both of them are
5 taking online college courses this semester. And it
6 is not made any easier with the lack of broadband
7 service in our town.

8 I have spent countless hours trying to be
9 helpful and solve this issue. And the Town of
10 Montezuma won't help me, and Spectrum can't help me.

11 And I'm hoping someone can.

12 Thank you.

13 SENATOR MAY: Wow.

14 Thank you for recounting that harrowing tale.

15 We are not able to help with a very local
16 issue like this, but it seems like your issue,
17 there -- it will resonate with a lot of people in
18 this state who are having similar problems of
19 crossing jurisdictions, or -- or just simple
20 frustration with trying to reach people who can
21 help.

22 So I very much appreciate you bringing this
23 to our attention.

24 Is there anybody who wants to ask a question?

25 SENATOR HELMING: I would like to make a

1 comment.

2 Lynn, I want to thank you so much for coming
3 out and sharing your frustration with your service
4 provider -- sort of service provider.

5 You want them to be your provider, but you're
6 not getting anywhere with it.

7 And I think this highlights just another area
8 where we have these gaps, and people fall through
9 the cracks, for one reason or another.

10 It seems like, in our rural communities, if
11 it's not, you know, poor satellite service, it's
12 that you're at the end of the road, or, there's
13 service running by you, but you can't connect to it.

14 There's one issue after another.

15 And I think this hearing will help address
16 some of those issues.

17 But also, as I said to you, I appreciate you
18 reaching out to Senator May, to testify here.

19 And now that my office is aware of it, as
20 I said, we can help you with this as well.

21 And I know you're going to your local town
22 board this evening.

23 JENNIFER GREGORY: They love me.

24 SENATOR HELMING: I wish you the best of
25 luck.

1 Keep me in the loop, let me know how it goes.

2 JENNIFER GREGORY: I will.

3 SENATOR HELMING: Thank you.

4 ASSEMBLYMAN SANTABARBARA: Uh, yeah, I want
5 to thank you for coming and sharing your story as
6 well.

7 Now, your Assembly member, do you know who?

8 JENNIFER GREGORY: I don't, actually.

9 ASSEMBLYMAN SANTABARBARA: Okay.

10 I was going to reach out to them as well, if
11 you knew.

12 JENNIFER GREGORY: Okay. I would appreciate
13 that.

14 SENATOR HELMING: I -- we're all set.

15 ASSEMBLYMAN SANTABARBARA: Okay.

16 JENNIFER GREGORY: Oh.

17 I didn't know if there was someone else I was
18 missing.

19 SENATOR METZGER: Right.

20 And I just want to mention, you know, it's
21 really -- they've been a disservice provider in so
22 many ways in my district. It's -- I mean, we have,
23 regularly, get complaints about Spectrum and their
24 service.

25 And that's a huge issue that we're -- not

1 just about broadband access. It's about the service
2 you're getting from the company. And it is -- you
3 know, it's they control that market.

4 So, that's something we need to address.

5 JENNIFER GREGORY: You mentioned HughesNet
6 before. And we used to have HughesNet.

7 And I wanted to make a T-shirt that was of my
8 kids yelling, "We're out of Internet now."

9 So...

10 SENATOR METZGER: Right, exactly, yeah.

11 SENATOR MAY: All right. Thank you very
12 much.

13 ASSEMBLY MEMBER THIELE: Thank you.

14 JENNIFER GREGORY: Thank you.

15 SENATOR MAY: Next we have Rebecca Miller and
16 Chris Ryan from CWA.

17 REBECCA MILLER: Good afternoon.

18 SENATOR MAY: Hello.

19 Thanks for your patience.

20 REBECCA MILLER: Thank you to you all.

21 Are you ready?

22 SENATOR MAY: Yes.

23 REBECCA MILLER: I want to start by
24 thanking the Chairs, Senator May, Assembly
25 Member Santabarbara, Assembly Member Thiele, and, of

1 course, the entire Committee, and the Commission on
2 Rural Resources, for this important hearing, and for
3 inviting us to testify.

4 My name is Rebecca Miller. I am the
5 deputy legislative and political director for
6 New York State, for CWA District 1.

7 District 1 represents more than 145,000
8 workers, belonging to nearly 200 CWA local unions in
9 New York, New Jersey, and New England.

10 Our members work in telecom, health care,
11 higher ed, manufacturing, broadcasting, cable
12 television, commercial printing, newspapers, and
13 state, local, and county government.

14 Nationally, CWA represents over 500,000
15 workers in these industries.

16 I'm pleased to be joined by Chris Ryan, who
17 is the president of CWA Local 1123, which is based
18 in Syracuse, and represents nearly 700 workers,
19 mostly at Verizon.

20 Chris has been an outside plant technician at
21 Verizon for the past 22 years. He also represents
22 the town of Geddes and the city of Syracuse, and in
23 the Onondaga County Legislature, where he served for
24 the last 10 years.

25 Without question, broadband is an essential

1 infrastructure of the twenty-first century.

2 Given the opening statements provided by you
3 all, it doesn't seem like I need to convince you of
4 that.

5 In terms -- it's essential in terms of
6 economic development, education, health care, public
7 safety, and all of the things listed today.

8 Additionally, it doesn't seem that I need to
9 convince you that there are many communities,
10 particularly rural communities, who have been left
11 behind.

12 This is due to more than three decades of
13 deregulation which have left policymakers with few
14 tools to require universal deployment of affordable
15 high-speed networks to all communities.

16 The promise of the Telecom Act of 1996, and
17 the subsequent deregulatory measures taken by the
18 New York Public Service Commission, was that
19 deregulation would open the telecommunications
20 market to robust competition, which would, in turn,
21 guarantee customers the most advanced services at
22 the most affordable prices.

23 For millions of New Yorkers that promise has
24 gone unrealized.

25 Without competition or regulatory oversight,

1 cable monopolies can charge high prices, deliver
2 poor service, and have fewer incentives to invest in
3 new services and technology.

4 Furthermore, they can displace good union
5 jobs with lower wages, and often contracts labor
6 employment, as we've heard in the last case.

7 CWA is absolutely committed to affordable
8 broadband access for every New Yorker, and good jobs
9 in the industry.

10 But most of our efforts to encourage Verizon
11 to build out its fiber network beyond current
12 service area in New York have fallen short, besides
13 the company's agreement last year to build
14 18,000 units as part of Phase 3 of the
15 New York State Broadband Program.

16 This is due to deregulation and the
17 deregulated environment in New York State.

18 The reliance on competition alone has
19 resulted in a lack of good data, a lack of good
20 policy-lovers, to ensure universal high-quality
21 service that meets the needs of all New Yorkers.

22 Too many communities are being left behind,
23 particularly in rural areas where costs are higher
24 and in upstate cities where median incomes can be
25 lower.

1 Broadband policy must recognize that
2 competition alone results in market failures and a
3 race to the bottom for workers.

4 The achievements of the New York State
5 Broadband Program should be applauded.

6 When the program launched, 30 percent of
7 New Yorkers lacked access to broadband. This lack
8 of broadband coverage was most acute in the upstate
9 RADCs.

10 Over the course of three phases, the
11 Broadband Program provided a total of 487 million to
12 subsidize broadband deployment to approximately
13 255,000 units.

14 Frontier won a total of 46.7 million to build
15 out to 19,000 units, while Verizon, during Phase 3,
16 won \$85.3 million to deploy broadband to
17 18,000 units.

18 In addition, Verizon voluntarily agreed to
19 wire an additional 21,500 homes in areas contiguous
20 to the subsidized areas, as well as 7,000 additional
21 homes on Long Island, and 4,000 in the mid- and
22 upstate regions.

23 As a result of the state Broadband Program,
24 the State now claims that there is universal access;
25 however, we know that far too many New Yorkers lack

1 access, or experience inadequate speeds, or are
2 forced to pay too much due to lack of competition.

3 As we've heard today, it's clear that, from
4 the discrepancies between the State's assessment of
5 universal access and the complaints legislators are
6 hearing from their constituents about lack of access
7 or poor access, that we need better data.

8 We already heard about census blocks, so
9 I won't tell you about those.

10 But, the point is, at the very least, that we
11 need more granular and more accurate data to
12 identify which areas do and do not have access to
13 true broadband and true broadband speed.

14 It's worth noting that 25 megs up and 3 megs
15 down are, actually, relatively low speeds, compared
16 to what other folks experience throughout the world.

17 So, according to one recent study, residents
18 of Taiwan enjoy average Internet speeds of 85 megs
19 up.

20 Residents of Sweden get slightly over 55.

21 And in most competitive markets of
22 Verizon FIOS, you can see a standard package of 100
23 megs up, 100 down.

24 And if you're willing to pay for it, you can
25 go as high as 940 down and 880 up.

1 CWA is committed to affordable broadband
2 access.

3 In addition, we are weary of unproven
4 solutions.

5 We understand the desire for localities that
6 have not seen broadband deployment by private cable
7 and telecom companies to look to municipal fiber to
8 fill the gap.

9 However, with some exceptions, most
10 publicly-owned municipal broadband projects have not
11 been successful.

12 Burlington, Vermont, and Provo, Utah, are two
13 well-known examples of failed municipal broadband.

14 There has been some success in cities where
15 municipal utility has experienced delivering
16 electricity to customers' homes, and sometimes in
17 smaller communities.

18 Even the extremely well Google Fiber, which
19 is really well capitalized, has dropped its plans to
20 build fiber networks beyond a handful of cities.

21 The widely-cited example of Chattanooga,
22 Tennessee, has unique characteristics. It is
23 operated by a municipal electric utility that was
24 created during the Great Depression, and their
25 municipal network received a significant amount of

1 federal funding, thanks to 2009 federal stimulus
2 package.

3 There are some workable models for municipal
4 broadband, but municipalities should also carefully
5 examine the feasibility of launching those programs.

6 Municipalities might look towards
7 public-private partnerships which are less
8 financially risky than owning a network outright.

9 Partnership between Verizon and the City of
10 Boston allowed Verizon to build their network
11 through the One Fiber Initiative, that expanded
12 residential broadband and provided the city with
13 smart transportation technology.

14 CWA continues to support a regulatory regime
15 that holds incumbents accountable to build
16 universal, quality fiber Internet and telecom
17 network. But in the current regulatory environment,
18 such tools do not exist and large gaps persist.

19 If and when communities embark on
20 municipally-owned fiber projects, we believe they
21 should include:

22 Creating a public-private partnership;
23 Competitive bidding process, to select one or
24 more public entities to build and operate the
25 network, in exchange for access to the public

1 infrastructure;

2 Guaranteed government contracts, and possibly
3 some public funding.

4 However, we want to emphasize that wherever
5 public funds are being invested to build out
6 broadband, strong labor standards must be
7 implemented.

8 At a minimum, we believe that muni fiber
9 projects must be covered by a project labor
10 agreement and other strong health and safety
11 training standards.

12 At the same time as communities and consumers
13 are seeking high-speed wired connections, wireless
14 companies are deploying hundreds of thousands of
15 small cells on utility and light poles to increase
16 the capacity and pave the way for next-generation
17 5G.

18 It should be noted that 5G is still in
19 development, and a wireless connection is no
20 substitution for fixed broadband, and, therefore, it
21 may not be a good solution for rural broadband.

22 However law and policymakers decide to move
23 forward, we encourage you to implement strong labor
24 standards to protect workers and ensure quality
25 service.

1 It must be grounded in policies that support
2 the growth of good jobs, fair labor standards, and
3 respect for workers rights in the telecom industry.

4 To achieve these goals, state legislatures
5 should require that any recipients of public funds
6 or other public-support mechanisms designed to
7 foster broadband infrastructure investment, and any
8 recipients affiliated enterprises, contractors, or
9 subcontractors, abide by the following four labor
10 protections, and then I'm done, I swear:

11 1. Pay prevailing wage and benefits;

12 2. File certified payroll records, which
13 will be made available to the public;

14 3. Comply with all federal, state, and local
15 laws and regulations, including, but not limited to,
16 those involving labor, employment, environmental,
17 and workplace health and safety;

18 And, 4. Respect existing collective
19 bargaining agreements and related telecom work
20 jurisdiction.

21 We're super thankful to be here, and grateful
22 for this opportunity.

23 And we're committed to being an engaged
24 stakeholder throughout the process.

25 Thank you very much.

1 SENATOR MAY: Thank you so much.

2 And I appreciate having someone from my
3 district here, so, Chris, thanks for being here.

4 CHRISTOPHER RYAN: Thank you, Senator.

5 SENATOR MAY: Using my questioning time,
6 I want to ask you to talk about, how -- how good a
7 job are we doing with the labor practices in -- in
8 building out broadband in our district?

9 CHRISTOPHER RYAN: Well, let me just say,
10 specifically, I think we're -- as far as the labor
11 practices go, labor standards specific to our area
12 and our union local, I think we're doing well.

13 I think signif -- more specifically, where
14 we're doing the broadband in our area has been --
15 has been good.

16 And I understand that the -- the -- the --
17 I guess the -- the number of people that are getting
18 on the network is good. Right?

19 So we're going down to areas that are more
20 rural. We're going down to southern parts of
21 Cayuga County, Onondaga County, north up to
22 Oswego County.

23 But, you know, as far as that goes with
24 Verizon, but I can't speak to other companies that
25 are doing it.

1 I know that there are, kind of, contractors
2 from out of state that are doing other places for
3 other companies.

4 But -- as far as the labor practices go.

5 But I will say, though, and specific to our
6 area, we do have a significant -- we have one of the
7 five call centers, fiber solution centers, a little
8 plug for the town of DeWitt and Senator May there.

9 So we employ over 350 people.

10 And I think that that speaks to the heart of,
11 you know, Assemblyman Santabarbara's opening
12 statement about jobs. Right?

13 We have, right now, about 40, or -- close to
14 40 or 50 new temporary employees that have been put
15 on for this area, and they're linemen.

16 You know, I'll say my -- my father started in
17 with New York Telephone when he -- in 1968.

18 He was in the Navy, he was a seabee. He came
19 out and said, okay, your job's at the phone company.

20 And then when I started there, I didn't
21 really want to make a -- plan on make a career out
22 of it.

23 But I -- I'm -- also, I've been a lineman for
24 over 20 years, and not doing a lot of it now, as my
25 current role as president of the union local.

1 But we have a new group of -- and I'm old,
2 right, so we'll call them "kids," and they want jobs
3 too.

4 So, I'm really, really, really, really
5 looking forward to employing this next generation of
6 people that want to come up and do this type of
7 work, because it's not easy work.

8 But -- the point, but it's not just the
9 linemen. Right?

10 The linemen build it.

11 To the -- Senator Helming's point, firing up
12 and lighting up the cable splicers, to the inside
13 people who install and maintain it, to the
14 350 members -- 300 members that we have who do the
15 customer service and technical support, it's a
16 really good job opportunity, and I think it's worth
17 noting.

18 I think that that's -- and, again, I can't
19 stress enough that we -- you know, we're happy that
20 Verizon is building, and I think it's significant.

21 And I just hope that we do more.

22 And, lastly, I'll stop right now, but,
23 they -- you know, (indiscernible) have -- that's the
24 good news.

25 The bad news is, we have a long way to go,

1 and I don't need to convince anybody up there that
2 there are pockets without.

3 And, you know, we go all the way from
4 Madison County, to the Monroe County border, north
5 to Oswego, and down to Penn Yan, Watkins Glen. And
6 there are people that can -- I mean, we can talk
7 about who gets what service, 98 percentages.

8 But, if you want to talk to the people that
9 are very, very frustrated because they're living off
10 of DSL, or less, then that's not a good option.

11 SENATOR MAY: Let me just follow up.

12 So I understood, from your testimony,
13 basically, you want better regulation of -- of
14 Internet providers, but not necessarily municipal
15 broadband programs.

16 But, that was where I was going with this.

17 I -- we just heard a harrowing story from
18 somebody who lives on the border between two
19 municipalities. And there are all -- and we often
20 hear, like someone just said to me, you know, we
21 have poles on our property with fiber on them, but
22 can't get it connected to our house.

23 So I'm wondering, from the labor standpoint,
24 do you run into this a lot?

25 And -- I'm just wondering, you know, is

1 there -- is there a role for the -- for the
2 lineworkers, for example, to have input into where
3 we could -- how we could do this better, and more
4 efficiently provide to homes.

5 Does that make sense?

6 Either one.

7 REBECCA MILLER: I mean, is the question, is
8 there opportunity for people who are directly
9 participating in the (indiscernible) to -- to
10 impact?

11 Absolutely.

12 I think we're -- we're absolutely member-led
13 and member-driven. And the experience of our
14 members is critical to all the work we do, and any
15 policy proposal that we would ever support.

16 CHRISTOPHER RYAN: I'll speak for the
17 lineworkers.

18 The lineworkers of Verizon and CWA Local 1123
19 would gladly wire up everywhere, anywhere, and
20 however they could do it, not just because a
21 shameless plug for our union local. That's not what
22 I'm saying. What I'm saying is, it provides an
23 option. Right?

24 We just heard this horror story from
25 Fort Byron, where we got somebody across the street

1 didn't have it.

2 That happens everywhere, that happens every
3 jurisdiction.

4 It happens in the city of Syracuse, where, in
5 the town of DeWitt, they have it. But, across the
6 street, literally, they can't, and it's there.
7 Like, literally, that is across the street. And
8 I -- you can have an option for the TV. You can
9 actually have high-speed Internet, but I don't have
10 the same opportunity, and they won't.

11 So I think that, you know, competition, if
12 competition flourishes, then I think that drives
13 down the price.

14 I think that consumers have a significant
15 advantage, in that they can have high-speed
16 Internet. And they can also have, not high-speed
17 Internet, but -- but world-class Internet.

18 So we're -- we're --

19 SENATOR MAY: Thank you.

20 CHRISTOPHER RYAN: -- you know, and I'm --

21 SENATOR MAY: I've gone over my time, so
22 I have to call myself on that, and see if anybody
23 else has a question?

24 Let's start with... oh, go ahead.

25 Assemblyman Salka.

1 ASSEMBLY MEMBER SALKA: Thank you.

2 Thank you, Senator May.

3 In my 19 years of public service on the
4 school board, as town supervisor, and now the
5 privilege of being a state Assemblyman, I found that
6 some of the best places to get information on your
7 community are at the local coffee shop or barber
8 shop or convenient store.

9 And in my town, I have an opportunity to talk
10 to some of the workers for Frontier. And one of the
11 biggest complaints that they have is that, as
12 they're getting older and retiring, they're just not
13 getting replaced, or, the job-training programs that
14 should be available to the new -- to the new linemen
15 and to the new workers is -- is slow in coming.

16 Is that a problem that you see across the --
17 across the industry?

18 Because now we have wait times of, two,
19 three, four weeks to have a repairman come out to
20 your home and to work on a very vital service,
21 obviously.

22 So is this something -- from your standpoint,
23 you are on the front lines with the workers, is this
24 some something you find in -- across the industry,
25 that they're just simply not replacing?

1 And, of course, their complaint is, the money
2 is going to management.

3 I can't say that for sure, but I know that
4 these guys, men and women, are burning the candles
5 at both ends a lot of times, in all kinds of
6 weather. God bless them for what they do.

7 But, do you notice that being something
8 that's kind of chronic to the industry?

9 CHRISTOPHER RYAN: Yes, I'm going to say
10 that.

11 And to a town board I was -- before I was on
12 the county legislature, I was six years on the town
13 board too.

14 ASSEMBLY MEMBER SALKA: Thank you.

15 CHRISTOPHER RYAN: So I'm with you. Right?

16 So that's the heart of democracy -- right? --
17 in the coffee shop too.

18 But, yes, we do see that.

19 I mean, we have -- previous to this new round
20 of line -- line -- linemen that were put on, and
21 there has been a couple installation repair
22 technicians put on, we never -- we hadn't hired
23 anybody since, I think, 1998.

24 So, I mean, there is a significant gap. And
25 there's -- you know, with the aging workforce, and,

1 you know, I've been there for 22 years, and I'm 46,
2 but, I mean, I'm not slowing down yet, but there's a
3 lot of other people who are.

4 And I'm hopeful that we can replace them.

5 But I don't -- you know, it is, there was a
6 point in time where there was also, I think,
7 deregulation has a little bit of a play in that too,
8 where we used to have service-quality standards,
9 that -- that companies were fined for lack of those
10 service-quality standards.

11 And then when those went away, I think the
12 willingness to spend money to repair went away, and
13 that's industry-wide.

14 But I think, going forward, I think we have
15 an opportunity.

16 I would like to -- I -- I -- I think, going
17 back to how to connect to the New New York
18 broadband, if we're adding more customers, and more
19 customers are signing up, and more rate-payers, then
20 I think we have an opportunity to hire more people,
21 which, again -- again, is, in the sense, the return
22 on -- on the -- on the investment.

23 If we're incentivizing companies to add the
24 infrastructure and provide a service, and consumers
25 are willing to purchase that service, then -- you

1 know, then -- then we're hiring more people to do
2 it.

3 And, you know, we pay, because we're union,
4 and we negotiated a very -- well, I think the best
5 contract, we -- it's a -- it's a significant
6 compensation.

7 REBECCA MILLER: I do just want to add,
8 I think that's a really important point here, on
9 the -- on the -- how the dereg -- deregulation has
10 impacted the service-quality standards.

11 I mean, in 2004, I believe Verizon, I'll have
12 to double check, was fined \$70 million for not
13 keeping up with the requirements of the time.

14 And then, in 2005, the penalties and fees
15 were taken away, due to Comp 3 of the PSC
16 proceedings.

17 So, I think, you know, those -- those
18 service-quality standards that were in existence a
19 few decades ago, are no longer here.

20 So, yeah, it's taking a long time to get
21 those repairs done.

22 ASSEMBLY MEMBER SALKA: And we're going to
23 make all these high-level decisions, and all this
24 money tossed around. And when the rubber hits the
25 road, and you got to have the guys that are actually

1 doing the physical work, if you don't have them,
2 nothing can be implemented.

3 REBECCA MILLER: Yeah. And --

4 ASSEMBLY MEMBER SALKA: So thank you.

5 REBECCA MILLER: -- if they're not required
6 to do it, it might be more difficult.

7 ASSEMBLY MEMBER SALKA: Thank you.

8 OFF-CAMERA SPEAKER: That's a good point.

9 SENATOR MAY: All right, thanks.

10 Senator Metzger.

11 SENATOR METZGER: First of all, thank you so
12 much for your testimony.

13 And I appreciate that you brought up the 5G
14 issue because, for rural areas, that's not going to
15 be a solution, and that fixed broadband investment
16 is so important.

17 I also appreciate that you brought up the
18 importance of labor protections.

19 And I think Phase 4 of that, we'll be
20 considering, needs to make provisions for that.

21 I'm curious to see what you see is standing
22 in the way of reinstating the service-quality
23 standards?

24 REBECCA MILLER: I mean, that is the
25 jurisdiction of, not me, and not CWA.

1 I think, you know, increasing those --
2 increasing the ways that we can put pressure on the
3 different companies to provide these services to
4 consumers is something that we certainly would be in
5 favor of.

6 But that is certainly more of a legislative
7 on the state level.

8 And then, of course, as we've discussed
9 before, there are preemption issues.

10 But I think --

11 SENATOR METZGER: I guess my question is
12 really sort of the interplay of the federal and
13 state, and whether, you know, there's an obstacle at
14 the federal level to that?

15 REBECCA MILLER: The action that was taken,
16 that I just referred to, in the early 2000s, and
17 that was part of a process that I believe started
18 with the PSC in the early 1990s, was a state-level
19 action.

20 SENATOR METZGER: Because we can also see the
21 parallel in the utility, in the electricity
22 industry, deregulation has not given the promised
23 benefits.

24 So, you know, it's a very similar situation.

25 REBECCA MILLER: Exactly.

1 SENATOR MAY: I guess we have no more
2 questions.

3 Thank you very much for your testimony.

4 REBECCA MILLER: Thank you, all.

5 CHRISTOPHER RYAN: Thank you; thank you very
6 much.

7 SENATOR MAY: Good to see you both.

8 SENATOR MAY: And coming up,
9 Gretchen Hanchett.

10 GRETCHEN HANCHETT: I think my testimony
11 started out, "Good morning," but I will say:

12 Good afternoon, Senator May,
13 Assemblyman Santabarbara, Senators and Members of
14 the Assembly.

15 It's a pleasure to be here, and it's my first
16 opportunity to come before you in a hearing.

17 And almost, literally, everything that I have
18 in my testimony has been covered, with a few
19 exceptions.

20 So as a matter of time, I will try to
21 summarize, but I practiced it, reading it over and
22 over again. So, I'll do my best.

23 Allegany County, I'm not sure if you know
24 where Allegany County is, but it is a very rural
25 area. We have, approximately, a population of

1 48,000 in the whole county.

2 Tourism is growing, but our biggest part of
3 our tourism spending for Allegany County is second
4 homes; the camps, the houses on our two lakes there.

5 And we need to be able to have broadband in
6 order to grow.

7 Our manufacturers are continually leaving our
8 area, as they are in many areas in the state. So we
9 look for other ways to start growing.

10 Entrepreneurship, working at home, many
11 businesses now are paying their workers to work at
12 home. It's cost-effective for them, and it's
13 certainly a way to have people live in a beautiful,
14 quiet, serene area, and where they want to live, and
15 be able to be connected to the world.

16 Allegany County is a gorgeous rural county
17 nestled under our canopy of huge number beautiful
18 trees.

19 Sometimes that's a blessing; with Internet,
20 it is not.

21 We believe our location is ideal for access
22 to natural resources, clean water, and outdoor
23 recreation, but, at the same time, being close to
24 interstate, rail transportation, and easy access to
25 airports.

1 We also believe high-speed Internet service
2 is no longer a luxury, as we've heard over and over
3 again this morning. In the twenty-first century, it
4 is a necessity.

5 Unfortunately, in rural Western New York,
6 there remains significant areas where it is only a
7 dream, or perhaps a promise, but certainly not a
8 reality.

9 Internet service across our nation and state
10 predominantly provided by a very few large
11 companies, that, understandably, have responsibility
12 to the equity holders to maintain acceptable return
13 on investment; thus, we run into those problems of
14 expanding.

15 The consequences of the situation also means
16 that sparsely populated areas, much like
17 Allegany County, are not as high of a priority as
18 more densely populated areas.

19 Companies such as Spectrum, Verizon, AT&T,
20 Frontier Telephone, continue to invest in technology
21 needed to provide services mainly in areas that have
22 higher population density, which we talked in great
23 length about.

24 So let me see if I can scoot down a little
25 bit.

1 And we certainly are appreciative of
2 Governor Cuomo recognizing the need to bring
3 broadband to New York State.

4 This program has provided great funding to
5 support the deployment of high-speed Internet access
6 to underserved areas throughout New York, providing
7 substantial support to companies willing to make
8 that investment in those lower density areas,
9 including much of Allegany County.

10 And I did attach two maps.

11 This one right here shows Phase -- Round 2
12 and Round 3 for Armstrong, which was an awarding.
13 And they are the bright pink and the lighter pink.
14 And, unfortunately, I cut off the letters there.

15 The green is HughesNet.

16 What is -- it looks like we're pretty much
17 covered, but in reality, this is HughesNet, and this
18 is not broadband, and that's the majority of our
19 county.

20 To try to simplify a very complex situation,
21 using Armstrong's grant as an example, the
22 New York State Broadband Program Office provides
23 support for that company to build out to specific
24 areas. And, again, we will go into the census block
25 area.

1 That is an issue.

2 They may have two or three houses in a census
3 block. Armstrong cannot provide that fiber in that
4 area.

5 Our local SBCA raised millions of dollars and
6 built a beautiful facility, and is -- takes in
7 several different counties, the wire -- the fiber is
8 being put on a pole, but they cannot hook it up to
9 it. So...

10 SENATOR MAY: So I'm going to interrupt you
11 because your time is up, but I have time to ask you
12 for, what are your recommendations, what would you
13 like to see us do?

14 GRETCHEN HANCHETT: Well, let's see.

15 That time went fast.

16 Some of our opportunities that we have:

17 Better mapping was brought up over and over
18 again, so I don't need to go on to that.

19 Barrier to entry: Irrespectively of
20 technology type or solution, there is always over
21 arching obstacles associated with broadband
22 deployment. And that is access to the poles.

23 In the case of fiber deployment, as
24 previously stated, the permitting process,
25 make-ready, has been very difficult.

1 We talked about wireless Internet.

2 Their solutions, for example, pioneering a
3 joint program with wireless Internet services.

4 And our county started that program. They
5 received \$5.6 million several years ago. And in the
6 county, the program used emergency 911 towers that
7 the County has erected to serve public-safety needs.

8 This permits the County to use the same
9 infrastructure for two critical needs of the country
10 residents and businesses.

11 The use of 911 towers and private wireless
12 Internet providers has extended high-speed Internet
13 services to areas of the county that were previously
14 underserved.

15 So I think we need to really look into those
16 other solutions because there are places fiber will
17 never make it. The population is just not large
18 enough.

19 So I think there are currently multiple
20 programs available at the federal, state, and local
21 level.

22 Unfortunately, there doesn't seem to be a
23 great deal of coordination or cooperation in these
24 differenting (sic) levels of government.

25 And I think that needs to be addressed.

1 They should also encourage local innovation
2 and experimentation to address unique local needs.

3 And I know that it was brought up about
4 talking to the locals, going to local officials,
5 because they really do know what the needs are and
6 where we need the Internet.

7 Our rural area has many advantages and
8 present unique opportunities.

9 Our rural citizens are entitled to enjoy
10 these benefits while still receiving basic services.

11 As I said before, many of these subjects were
12 covered over and over again, and I was trying to
13 figure out how to cut all this out.

14 I'm glad you're all on the same page.

15 We appreciate you looking into it, and we
16 really need to look at several different
17 opportunities, because there's not just one answer
18 in rural areas.

19 So, thank you.

20 SENATOR MAY: Thank you very much for your
21 testimony.

22 Any other questions?

23 No?

24 All right. Thank you very much for your
25 testimony.

1 David Wolff.

2 DAVID WOLFF: Yes, ma'am.

3 SENATOR MAY: Great.

4 DAVID WOLFF: Good afternoon.

5 I would actually ask that I get the
6 8 minutes, because I want to talk to mapping, the
7 issue that has come up here.

8 And I would like to point out the next steps
9 I think that we need to take to be able to get to
10 what I believe we should do, which is a Phase 4.

11 My name is Dave Wolff. I was born and raised
12 in Saranac Lake, New York.

13 I've retired back to Saranac Lake after a
14 31-year career with IBM, IBM Consulting.

15 I'm on the board of ADK Action. The details
16 about it --

17 SENATOR MAY: I am going to interrupt you for
18 a sec because there's a little feedback or
19 something.

20 If you can speak a little more slowly,
21 I think we'll understand you better.

22 Thanks.

23 DAVID WOLFF: Okay.

24 Probably step back from this too.

25 I'm on the board of ADK Action. The details

1 about that organization are in the handout.

2 And I'm also the chair of their broadband
3 committee.

4 I would like to challenge you all, and
5 challenge the State of New York, I think the goal
6 for broadband in the state of New York should be
7 "100 at 100"; i.e., 100 percent of the homes should
8 have access to broadband speeds of at least
9 100 megabits, or better.

10 I believe it's a public-policy issue.

11 It's not an issue about cost.

12 My grandfather's generation, if you will, did
13 this with federal and state funding, to provide
14 connection to electrical power.

15 My father's generation did it with phones.

16 I think it's time that we do in the state of
17 New York, we connect every household with either
18 fiber or coaxial cable.

19 Before I start and talk about the mapping
20 issue, I need to at least talk about the definitions
21 that we've thrown around, "unserved" and
22 "underserved."

23 The State of New York's definition of
24 "unserved," is anybody that has access to broadband
25 speeds less than 25 meg.

1 If you're between 25 and 100, you are
2 "underserved."

3 And you heard from Jeff Nordhaus earlier,
4 that when the New New York State Broadband Program
5 is completed, and the Spectrum 145,000-address
6 network expansion is done, roughly, this time in
7 2021, there will be only 1 percent of New York State
8 households that won't have access to 100 megabits.

9 The rest of my testimony, I want to talk to
10 you today is: Okay, how do we identify that
11 1 percent?

12 If we are going to achieve the goal that I'm
13 proposing, which is "100 at 100," we need to figure
14 out who they are, where they are.

15 And that information is required before you
16 can then turn around and say, what's it going cost
17 to, in fact, bring fiber or coaxial cable to those
18 folk?

19 And, by the way, you would like to know,
20 I think, you yourselves, as well as of the local
21 officials, to identify who those people are and
22 where they are, so when the next constituent calls
23 you and asks, you know, "When is my poor broadband
24 service going to get fixed?" you would have an
25 answer.

1 There are two categories of unserved and
2 underserved.

3 And if you go to the handout, that,
4 hopefully, you just got, on page 2 of the detailed
5 charts, is a chart that shows the first category.

6 This is what we've been talking a lot about,
7 which is, everybody that's been awarded a
8 Spectrum -- excuse me, a HughesNet, my mistake,
9 award.

10 What I'm showing you is a map of the state of
11 New York.

12 Every census block awarded to HughesNet is
13 highlighted in yellow. A fairly extensive portion
14 of the state of New York is being given that
15 service.

16 The good news is, everybody in those census
17 blocks was unserved, by definition, before they got
18 the HughesNet award.

19 HughesNet service, though, the bad news is,
20 as we've been talking about, it's 25 megabits with a
21 soft cap, which by definition means everybody is
22 underserved.

23 That's the first category.

24 We know where they are, that's the good news.

25 The second -- if you go to page 3, the second

1 category of unserved or underserved is, I'll call
2 it, "the elephant in the room."

3 And what I'm going to show you on these, the
4 chart on page 3 and the chart on page 4 --

5 SENATOR MAY: Let me ask you to lift that up
6 a little higher so people -- other people can see
7 it.

8 DAVID WOLFF: Sorry.

9 (Parties cross-talking)

10 SENATOR MAY: Yeah, there you go.

11 Perfect, thanks.

12 DAVID WOLFF: -- the elephant in the room on
13 this one is, the -- this category are all the
14 households that are outside, beyond the boundary, of
15 the Spectrum networks in Spectrum rural franchises.

16 Spectrum's expanding their network by
17 145,000 households.

18 That -- you know, there's no way that is the
19 total number of households in their franchises that
20 don't have access to high-speed, 100 megabits.

21 So the question is: How do we identify the
22 folks that are not being addressed?

23 And what we've done is, there's a GIS
24 application, that Jim Monty referred to earlier,
25 that we have developed, being used in the

1 North Country, that, this chart, and the next chart,
2 will explain what's going on, which is to be used to
3 help us identify the unserved and underserved
4 households that are beyond the boundary of Spectrum,
5 inside their rural franchises.

6 Starting on the left-hand side, it's -- what
7 you're doing this is, this is a county level,
8 showing Franklin County.

9 The center, as we layer a layer on top, that
10 puts all the census blocks. They're State land.

11 By definition, you can't live in State land.
12 So no census block that's green in the center is
13 going to unserved or underserved.

14 On the right-hand side you see where we now
15 layered in any provider that received monies from
16 the State of New York under the New New York
17 Broadband Program, per Jeff Nordhaus earlier.

18 Everybody in those census blocks must be
19 addressed.

20 So what's left is, the blocks that are --
21 the -- the -- if you will, areas, in this case,
22 Franklin County, that have no color, that's where we
23 want to focus our attention.

24 Going to the next page, this is just a
25 further example of how to use the map.

1 Starting on the left-hand side of
2 Franklin County, what we do is now drive down to a
3 local town.

4 I'm going to pick the town of Harrietstown,
5 which is my town. It is a town that has a Spectrum
6 franchise.

7 Driving down to my local neighborhood,
8 50 homes around Lake Kiwassa.

9 And on the right-hand side, what you see is,
10 with the GIS capabilities, we have identified all
11 911 addresses in my neighborhood.

12 That is the universe of, if you will, the
13 addresses that we have to make sure have acceptable
14 Internet.

15 And what I'm going to do is, now use this
16 information, this map, going to the next page, to
17 show you how you might now identify the unserved,
18 underserved, outside the boundaries of -- (hits
19 microphone) -- excuse me, our local Spectrum
20 network.

21 Since I know the neighborhood, I know where
22 Spectrum's network ends.

23 They bring service to the north part of the
24 lake and to the east part of the lake.

25 The two bronze ellipses are circling

1 addresses that have no Spectrum Internet. They're
2 outside the boundaries of the Internet -- excuse me,
3 of the service from Spectrum.

4 I've gone on the Spectrum URL that was talked
5 about earlier. I have verified, two days ago, that
6 every address in those ellipses is still unserved.
7 It is not going to be addressed by their network
8 build-out.

9 So when they're done in September of 2021,
10 everybody inside those two bronze ellipses will be
11 unserved. Okay?

12 The other way we're using this application
13 is, the last chart, which I'll -- and I took a
14 screenshot from the application, and I backed it up,
15 if you will, so I have my local address,
16 neighborhood, around the Lake Kiwassa, and I've
17 now included parts of the neighboring village of
18 Saranac Lake.

19 Again, you see the two bronze ellipses down
20 in my neighborhood.

21 I happen to know, again, with local
22 knowledge, the closest wire-line competitor to
23 Spectrum's network is where you see the red X.

24 That's two miles -- over two miles from the
25 nearest ellipse.

1 There's no way that that competitor,
2 competitively, could provide service to those bronze
3 ellipses better than Spectrum could.

4 My point here is, Spectrum is the only game
5 in town.

6 And I'd point out that, basically, Spectrum
7 has a de facto monopoly on the unserved and
8 underserved in its rural franchises.

9 SENATOR MAY: Okay, I need to ask to you wrap
10 up.

11 DAVID WOLFF: So, with the goal of "100 by
12 100," we need to identify the unserved and the
13 underserved.

14 And what I'm recommending we do is, this GIS
15 application I talked about, is -- I would recommend
16 providing that application, taking it statewide.

17 The rough cost estimate to do that is in the
18 order of a quarter of a million dollars. And we
19 could do that for every town -- rural town in the
20 state of New York.

21 The second piece I recommend is that you all
22 request of the PSC to require Spectrum to publicly
23 make available, where does their network end, by
24 street, by town, in aggregate, across the state?

25 I'm not asking for their customer subscriber

1 information.

2 I just want to know where the network ends,
3 so now local officials, people like myself, can sit
4 down and figure out who's beyond that border, and
5 identify the households that will continue to fall
6 through the cracks, as it were.

7 SENATOR MAY: Okay.

8 DAVID WOLFF: And so the only way --

9 SENATOR MAY: I --

10 DAVID WOLFF: -- we can achieve, if you --
11 the goal I'm talking about is "100 by 100," is to
12 get this information. Then you can turn around and
13 figure out, what's going to cost?

14 And, hopefully, then, at that point, come
15 back to you all and say, we're going to have to
16 raise the money somehow.

17 But if New York does achieve "100 by 100," it
18 will now be addressing one of the key limitations to
19 economic development in rural parts of
20 New York State.

21 Thank you.

22 SENATOR MAY: Okay, thank you.

23 So I'm going to come back to a question that
24 I asked our first witnesses.

25 Just -- I mean, if you have somebody who

1 decides they want to live off the grid; they build a
2 cabin way, way, way out of -- you know, off the
3 grid, literally, and then they decide, oh, well,
4 I want to have a home office here, and I need to get
5 on the grid, I think it's legitimate to ask: Is
6 that -- should that -- should the taxpayers be
7 footing the bill to connect people who are very far
8 away from the grid?

9 I imagine in the Adirondacks there are quite
10 a few circumstances --

11 DAVID WOLFF: I think it's a fundamental
12 question about policy.

13 Is it a public good, like electrical power,
14 like phone access, or, is it an issue of cost
15 benefit?

16 I believe it's a public good.

17 I believe the future economic welfare of the
18 state of New York would require everybody in the
19 state to have "100 at 100."

20 SENATOR MAY: Okay, thank you.

21 Other questions?

22 ASSEMBLYMAN SANTABARBARA: Assemblyman Jones.

23 ASSEMBLY MEMBER JONES: Thank you.

24 Thanks, Dave, coming down, and thank you for
25 all your work that you've done on this.

1 We've had many conversations about this, and
2 you have -- you've gone leaps and bounds to get this
3 information for us.

4 So what you're saying is, essentially, even
5 if --

6 And -- and I -- and I kind of shudder to look
7 at this map that you provided. And we have a lot of
8 coverage in the Adirondacks and the North Country
9 provided by satellite service.

10 -- even if that coverage was grade A, let's
11 say, for example, we're still saying we can't --
12 under your method, many parts of New York State, we
13 cannot identify what the unserved areas are?

14 DAVID WOLFF: (Parties cross-talking) --

15 ASSEMBLY MEMBER JONES: We can, but we
16 haven't.

17 Even if that coverage is good, even if the
18 Time Warner coverage is -- is -- is -- is everywhere
19 they say it is, we're still at a shortfall in -- in
20 providing some -- some areas?

21 DAVID WOLFF: The -- the New York State --
22 New New York State Broadband Program, and it kind of
23 split the state with Spectrum. And as part of the
24 merger agreement, Spectrum then said they would go
25 out to 145,000.

1 So the New New York State Broadband Program,
2 we know exactly where they are. And they are
3 requiring all providers to touch everybody in a
4 census block.

5 That leaves us back over here with Spectrum,
6 and saying, after the 145,000 network build-out from
7 Spectrum, there will be an unknown number of
8 households outside the limits of their -- the --
9 their end points of their network that still will
10 not have access to -- to broadband.

11 And we need to identify those.

12 ASSEMBLY MEMBER JONES: And what Mr. Monty
13 said before was, we don't know what we don't know.

14 DAVID WOLFF: That's it, we don't know
15 (parties cross-talking) --

16 ASSEMBLY MEMBER JONES: He said it a little
17 more eloquently than I did, but (parties
18 cross-talking) --

19 DAVID WOLFF: -- we don't know -- we don't
20 know (parties cross-talking) --

21 ASSEMBLY MEMBER JONES: -- how do we know
22 where we are with that until they say they're done?

23 DAVID WOLFF: And that's why I'm suggesting
24 that we go to the local level with the data,
25 literally, at the 911 address level, with local

1 people that know what's going on in their town, to
2 identify, by address, who's at risk.

3 OFF-CAMERA SPEAKER: Absolutely.

4 ASSEMBLY MEMBER JONES: Sure. I agree,
5 totally.

6 Thank you again.

7 I will -- I do want to make the point for the
8 North Country in my district.

9 In particular, I live in a geographically
10 diverse area.

11 A lot of the Adirondacks there, a lot of
12 valleys, a lot of flat farmland, that also always
13 is -- is -- is being underserved or unserved right
14 now.

15 But, when we get down to it, the solution
16 that -- that -- that you had said is hard wire
17 everyplace in -- in -- in New York State.

18 Is there any other technologies out there,
19 besides satellite, which we've all agreed here,
20 I think, on the panel, is not serving our
21 constituents as well as it should be?

22 Is there any other technologies out there
23 that we can use?

24 And I say this because, maybe we won't get to
25 that goal of hard-wiring everyone.

1 What are the other -- other technologies?

2 DAVID WOLFF: The -- the -- what of interest
3 to me is the low-level satellite solutions, which
4 I think there are four companies that have been
5 approved to try and pursue that technology, in which
6 case, you're bringing the satellites down much
7 closer to the earth.

8 The problem is, you need a lot more
9 satellites.

10 And then you have issues about how you trade
11 off calls and stuff as the satellite moves around.

12 But as the satellite gets closer, your
13 bandwidth speeds can go up and your latency period
14 goes down.

15 But that is, how many years in the future?

16 ASSEMBLY MEMBER JONES: Yeah.

17 DAVID WOLFF: Don't know.

18 ASSEMBLY MEMBER JONES: Okay. Thank you.

19 SENATOR MAY: Thank you.

20 DAVID WOLFF: Thank you very much.

21 SENATOR MAY: So next we have three CEOs of
22 electric cooperatives.

23 I will say, after them, there are still
24 11 people to -- 11 witnesses on our list.

25 So, we're really going try to keep it to the

1 5 minutes, to the extent that we possibly can.

2 TIM JOHNSON: 5 minutes each?

3 SENATOR MAY: That would be...

4 TIM JOHNSON: Nice try.

5 SENATOR MAY: You think we can do 10 minutes
6 for all three of you?

7 TIM JOHNSON: We hope so.

8 We've been redacting and crossing out --

9 SENATOR MAY: Okay, good.

10 TIM JOHNSON: -- since you started saying
11 this.

12 SENATOR MAY: Let's set it at 10 minutes,
13 then. Thanks.

14 TIM JOHNSON: Okay?

15 SENATOR MAY: Yep.

16 TIM JOHNSON: So I am -- is this working
17 okay?

18 SENATOR MAY: Yes.

19 TIM JOHNSON: I'm Tim Johnson. I am the CEO
20 of Otsego Electric Cooperative in the Cooperstown,
21 New York, area.

22 Bryan Dillon and Keith Pitman are with me.

23 We are New York State Rural Electric
24 Cooperative Association members.

25 There's only four co-ops that are represented

1 by the association.

2 The other one is not here. He is in -- they
3 are in Senator Metzger's district, and they are --
4 have participated in the New York Broadband Program
5 in the form of a partnership with local telcos.

6 Otsego Electric did not have that option. We
7 did not have local telcos that were stepping in
8 the gap to provide this service.

9 So we -- although we were an electric
10 cooperative providing service to about 4500 metered
11 locations, we felt that we needed to step forward,
12 and we applied for, and received, \$10 million of
13 New York State funding, and 4 million additional
14 from federal CAF funds, to build out a fiber
15 network.

16 With that, we also get the benefit of
17 increasing our smart-grid capabilities to position
18 us for the future.

19 So we feel it's a twofold benefit, and the
20 other benefit is underestimated, in my opinion,
21 greatly.

22 We plan to make gigabit service -- we are
23 already making gigabit service available at very
24 fair prices, with no data caps, of course.

25 This is a fiber-to-the-home project.

1 We've built over 600 miles of fiber to this
2 point, and -- with only 525 miles that we're
3 grant-eligible.

4 So our cooperative has undertaken quite a bit
5 of capital investment, in the form of debt, to make
6 this available to 100 percent of our members. That
7 would involve more than 5,000 locations.

8 We've also taken on, as part of the bid
9 process, about another 1,000 locations that are in
10 the New York State electric and gas service
11 territory.

12 So let me jump ahead to what we see as some
13 of the public-policy issues.

14 Mapping has been mentioned by many.

15 Funding, obviously, is the other one.

16 The driver for all of this is money.

17 Make-ready costs:

18 We know, and have a very firm grasp, on what
19 the construction costs are.

20 But make-ready is a blank check that we sign
21 up for when we apply for permission to attach to
22 investor-owned utilities outside of our network.

23 Within our network, absolutely no problem.

24 Outside of our network, this is a very big
25 issue, even just the application fees and the

1 initial stages to find out how much your eventual
2 make-ready might be.

3 And, quite honestly, make-ready costs,
4 including pole replacements, may double the cost per
5 mile to build out.

6 So that cannot be underestimated.

7 The mapping issue that was discussed this
8 morning, that we see pockets, or islands, of
9 properties that are unserved.

10 And although we may qualify for financing out
11 to a census-block boundary, the last household might
12 be a mile away.

13 So the next guy who's like a half mile into
14 the unawarded area, is a mile and a half.

15 So we're talking tens and tens of thousands
16 of dollars to get to that last-mile customer.

17 We would love to get to them, but we can't do
18 that purely on debt financing. There isn't a rate
19 of return available for that.

20 So public funding is critical for that.

21 I haven't heard anybody mention crowd
22 sourcing as an easily accessible process to identify
23 parcels that need to be flagged.

24 And, also, we need an easily accessible
25 challenge process. And maybe this is at the federal

1 level, at the FCC, but, something that needs to be
2 addressed as well.

3 We feel that the rural-development
4 opportunities funds may provided some opportunities.

5 I doubt that it will be very much for
6 New York State. At the federal level that could be
7 \$20 billion.

8 I don't know how much might come to New York.

9 It's possible, but I'm not sure that it will
10 be very much money.

11 We think that gigabit-fiber-to-the-home
12 project should be given preference over less robust
13 technologies, such as fixed wireless and/or DSL
14 and/or cable.

15 SENATOR MAY: I'm just going to interrupt.

16 Are you going to take the whole 10 minutes?

17 Or do you --

18 TIM JOHNSON: How much have I taken already?

19 SENATOR MAY: 5 minutes already.

20 TIM JOHNSON: Oh, okay. Thanks.

21 Let me skip to one other major topic, which
22 has just arisen, and that is local jurisdictional
23 taxation.

24 We have been notified that our fiber assets
25 are going to be assessed locally by a municipality,

1 and that will cut into our ability to expand in the
2 future by, we estimate, at least 25 percent, based
3 on the experience that we've seen locally.

4 So we need clarification.

5 And, I'll defer to my partners.

6 SENATOR MAY: Okay.

7 BRYAN DILLON: All right.

8 As Tim mentioned, my name is Bryan Dillon.
9 I'm the general manager for Steuben Rural Electric
10 located in Bath, New York.

11 I'll skip ahead to some topics that haven't
12 been covered.

13 We at Steuben Rural Electric have been
14 working closely with telecommunication companies to
15 make our infrastructure available.

16 We're doing this with as few barriers to
17 entry as possible, and as safely as possible.

18 Between all phases of the New York State
19 Broadband Program, approximately 3,000 of our
20 underserved or unserved members will now have access
21 to high-speed Internet.

22 Again, satellite was awarded for a large
23 portion, but we've covered that in great detail
24 today, so I won't go into that.

25 Another concern that we have is, many of you

1 are aware, is a condition of Charter's settlement
2 agreement.

3 They were required to expand their footprint
4 in rural territories.

5 As such, we've received numerous
6 pole-attachment applications which seem to overlap
7 geographic regions covered by the New York State
8 Broadband Program funding.

9 This appears to be counterproductive to the
10 goal of expanding broadband in rural communities.

11 They have since withdrawn a lot of their
12 applications, and have not submitted any further
13 applications to date.

14 Regardless of future plans, we feel that it
15 would be sensible to require that Charter build out
16 to locations that are unserved or covered by
17 satellite service.

18 At the very least, we feel that consideration
19 should be given for these overlapping coverage
20 areas, and should not count towards Charter's
21 obligation to serve rural communities.

22 We're aware that this concern is being
23 addressed, to some extent, but we hope that it
24 continues to be monitored, to pursue the most
25 efficient expansion of broadband coverage.

1 SENATOR MAY: Thank you.

2 KEITH PITMAN: Good afternoon. I'm
3 Keith Pitman from Oneida-Madison Rural Electric
4 Cooperative in Bouckville, New York.

5 With my two minutes here, I'd just like to
6 share a little bit about our area.

7 Our experience resembles much of what we've
8 heard about today.

9 We have certain areas that are multiple
10 served with broadband, multiple providers,
11 exceptional situation.

12 We have folks just starting to see things
13 happen, thanks to the rural broadband programs, and
14 so forth.

15 Then we have some areas where people are
16 hopeless and desperate, which I think are the folks
17 you hear from regularly. They'll be, like, We're
18 never going to see anything happen here.

19 So one of the challenges I would recommend is
20 that folks take a look at things like the
21 cooperative-owned business model.

22 75 years ago, people didn't have power in our
23 area -- same situation -- and, eventually, money was
24 made available.

25 It takes money, as Mr. Johnson said.

1 You're not going to get past the 25, or get
2 fiber to the home, without money.

3 But the challenge would be: How does that
4 money get spent? Who does it allocated to? And how
5 can it best work at the local level?

6 And would I argue that it's not the same
7 everywhere.

8 People know in their neighborhoods where they
9 need things.

10 And so things can be done at the local level,
11 at the municipal level, at the electric cooperative
12 level.

13 So I would encourage that there be paths for
14 folks to take local control.

15 Electric cooperatives have subscribed to that
16 theory for 75 years. Went from desperate folks, to,
17 today, in New York, the electric cooperative
18 memberships are some of the best-served and happiest
19 consumers of electricity in this state.

20 So I would just mention that that's kind of a
21 forgotten business model.

22 But if you look around the countryside, I'm
23 actively involved with the National Electric
24 Cooperative Association, as well as the Northeast
25 Electric Cooperative Association.

1 There's plenty of success stories and efforts
2 being made to approach.

3 Rather than sending money to large
4 profit-seeking out-of-town agencies, to direct more
5 of the money and resources to local non-profit
6 mentality, such as what's going on at Otsego Co-Op,
7 which I think is a shining example of a great use of
8 money over there for the local benefit.

9 Thank you.

10 SENATOR MAY: All right, thank you. You guys
11 did a good job.

12 ASSEMBLYMAN SANTABARBARA: (Microphone off.)

13 Just a -- thank you for -- thank you for
14 your -- is this working?

15 (Microphone on.)

16 Thank you for your testimony.

17 There's a couple -- couple of things I want
18 to comment on.

19 The overlapping areas, I agree with you, that
20 is an issue that we do need to look into.

21 And I think that's something this Commission
22 should look into, is -- is -- is Charter receiving
23 credit for areas that are already covered? And
24 should -- should they focus their efforts also
25 where -- I think that's a very good point.

1 I made note of that, and I -- we will add
2 that to our list of -- long list of things that we
3 need to follow up on.

4 And as far as challenging, you know, the
5 maps, and the process for that, I know the FCC, as
6 I said in my opening statement, and I think in some
7 of the other comments, that they did issue an order
8 to fine-tune these maps, not use the census blocks,
9 use the shapefiles.

10 But in addition to that, they also are
11 creating, I don't know if it's available yet, or
12 will be available at some point, the -- an online
13 portal that's available to State, us here, but also
14 local entities, to be able to challenge those areas.

15 And, hopefully, that will give us some better
16 information as to the properties and the communities
17 in the areas that we're talking about, because,
18 yeah, there's areas that are missed.

19 And then, you know, the other issue you
20 mentioned is affordability.

21 You know, how much is it going to cost if we
22 do need to get to these remote areas, or a property
23 that's -- that's maybe a few miles out? You know,
24 can we get it there?

25 And then, if it's not affordable, then, you

1 know, what's -- how -- you know, that sort of
2 defeats the purpose of even -- even getting service
3 out there if nobody can afford it.

4 So I just wanted to make mention of those --
5 of those items.

6 I appreciate your testimony, and thank you
7 for being here.

8 TIM JOHNSON: Thank you.

9 SENATOR MAY: Yeah, thank you.

10 Senator O'Mara?

11 SENATOR O'MARA: Uh, yes.

12 Thank you all for being here.

13 I applaud you for the efforts that do you in
14 your rural communities in providing low-cost
15 electricity.

16 So I do appreciate that.

17 I have one question, to Mr. Dillon, since
18 you're from the district I represent, so I'll target
19 you.

20 [Laughter.]

21 SENATOR O'MARA: In your written remarks, at
22 the bottom of the first page, you said that, "Time
23 constraints set forth impose a significant
24 challenge."

25 What can -- can you expound on that a little

1 bit, on -- on what's -- what kind of time
2 constraints you have that you're dealing with?

3 BRYAN DILLON: Yeah. The -- the Broadband
4 Program Office set forth time con -- time
5 constraints for the funding, that has been quite
6 challenging because, in our particular instance,
7 systemwide, we have about 23,000 poles. We had to
8 go out and inspect and -- about half of those; so
9 about half of our infrastructure, in a very short
10 time frame.

11 But, you know, we -- we're a very small
12 organization. We have 30 employees company-wide.
13 We scaled up and we're -- we're able to meet the
14 deadlines that were set forth, but it has been quite
15 a challenge.

16 So -- but it's -- it's very important.

17 SENATOR O'MARA: Now, for any Internet
18 companies that are utilizing your poles --

19 And this could be answered by any of the
20 three of you.

21 -- are you actually setting those -- those
22 yourselves, or are you allowing the other company to
23 just access your poles?

24 BRYAN DILLON: In our case, we're actually
25 contracting that out ourselves, to control the

1 process, and make sure it moves at a fast pace,
2 because we've -- we've heard a clear message from
3 our membership that the expansion needs to happen in
4 a timely manner.

5 So, we're scaling up to address that.

6 TIM JOHNSON: In Otsego, since we're building
7 our own project, we did our own pole-setting,
8 internally.

9 SENATOR O'MARA: Okay.

10 TIM JOHNSON: We've contracted out for one
11 set.

12 In Phase 3 we've seen a significant ramp up
13 in make-ready costs, because of particular
14 engineering standards on delta-type systems, which
15 is unfortunate.

16 We're replacing 140 -- out of 147 poles,
17 we're replacing 47, for instance. So that's a
18 pretty high rate of pole replacement.

19 In some cases we need 2 feet to attach to a
20 pole sometimes. And we're being asked to replace a
21 35-foot with a 50-foot or 55-foot pole, which makes
22 very little public-policy sense.

23 Privately, it makes a lot of sense.

24 SENATOR O'MARA: Uh-huh.

25 Thank you.

1 ASSEMBLYMAN SANTABARBARA: Assemblywoman
2 Woerner.

3 ASSEMBLY MEMBER WOERNER: Thank you.
4 Thank you very much.

5 I'm very intrigued about the rural electric
6 cooperative model, and how it could be expanded
7 to -- to address broadband.

8 So is it your recommendation, that one of the
9 things we might do is create a section of law that
10 establishes rural broadband cooperatives modeled on
11 the rural electric cooperatives' model?

12 There's only four rural electric cooperatives
13 in New York State, and you're all, pretty much,
14 centered in one part of the state.

15 The rest of us didn't get on the bandwagon.

16 So are -- is that your -- is that -- am I --
17 is that the your recommendation?

18 TIM JOHNSON: I -- I mean, and this is
19 something that I have not contemplated at all, but
20 my reaction is, that we're non-profit, tax-exempt
21 organizations; however, we do pay local property
22 taxes.

23 But we feel that, as a member-owned,
24 democratically-controlled organization, that we're
25 ideally suited to conducting electric distribution

1 facilities and/or broadband, and many other types of
2 services.

3 KEITH PITMAN: I would add to that, yes.

4 I think that business model is well proven in
5 the realm of electric utility.

6 And as folks here have mentioned today,
7 broadband is becoming more like a utility --
8 right? -- isn't it a necessity?

9 So, not saying rural electrification, rural
10 broadband, is the only answer, but it certainly
11 provides a yardstick or a standard of competition, a
12 standard of -- another way of doing something that
13 sometimes proves educational in the broader field.

14 So I think it's something that makes a lot of
15 sense to at least contemplate how that would --
16 another way of getting the result that may be
17 desired.

18 ASSEMBLY MEMBER WOERNER: Uh-huh.

19 And so with -- following that thought
20 process, if we were to recommend a Round 4, or --
21 and/or -- or Phase 4 or Phase 5 investment, would it
22 make sense to condition that, the rural electric
23 cooperatives, and if there were rural broadband
24 cooperatives, that they be given some sort of
25 priority in the build-out, because they're doing

1 fiber to the -- because you're doing fiber to the
2 home?

3 TIM JOHNSON: We wouldn't be opposed to that.

4 [Laughter.]

5 ASSEMBLY MEMBER WOERNER: I didn't think so.

6 But that's sort of where we're headed --
7 right? -- is to say, these are -- these are
8 locally-controlled entities that are in tune with
9 the needs of a -- of local communities.

10 You're prepared to make the investment to --
11 to deliver fiber to the home, because you don't have
12 the same profit-and-loss issues that the larger
13 companies are.

14 So, therefore, if our goal is to get to --
15 whose -- with "100 by 100," that -- that giving
16 preference to locally-controlled not-for-profit
17 entities is a better use of the money to -- to
18 achieve that goal?

19 KEITH PITMAN: I would say that, the minute
20 you take profit out of the equation, you freed up
21 more money for achieving your goal.

22 OFF-CAMERA SPEAKER: Right.

23 ASSEMBLY MEMBER WOERNER: Great. Thank you
24 very much.

25 SENATOR MAY: Senator Seward.

1 SENATOR SEWARD: Yeah.

2 Thank you.

3 First off, I just want to say thank you to
4 our electric co-ops represented who are here today,
5 as well as the Delaware County who was not able to
6 be here today.

7 Back in the '30s, I guess it was, the
8 electric co-ops were instrumental in bringing
9 electricity to rural areas.

10 And here we are, in this day and age,
11 you're -- you're very, very helpful in delivering
12 high-speed broadband in our rural areas.

13 And for that I want to thank you.

14 I did -- since Tim Johnson is from my
15 district, I want to ask him a question, and perhaps
16 all of you could also answer as well.

17 But, you had mentioned, and, of course, we're
18 very familiar, you and I have talked many times,
19 about, you know, your build-out in Otsego County.

20 And you even went beyond what the broadband
21 dollars provided --

22 TIM JOHNSON: Over 100 miles, yeah.

23 Uh-huh.

24 SENATOR SEWARD: Right.

25 -- utilizing, as you say, borrowing funds.

1 TIM JOHNSON: Borrowed capital.

2 SENATOR SEWARD: Right.

3 Now, my question is -- and we've talked a
4 little bit about whether or not we should be coming
5 in with, you know, maybe a Phase 4 or 5, in terms of
6 additional broadband money.

7 But my question is: The remaining unserved
8 households that you're familiar with, that you just
9 couldn't get to, are they, shall I say,
10 lower-hanging fruit, I mean, it wouldn't be that
11 expensive if there was funding available?

12 Or are we down to those prohibitively
13 expensive households that --

14 TIM JOHNSON: There are still prohibitively
15 expensive households out there, where somebody has
16 maybe had the second thought, thinking, oh, gosh,
17 now I'm out here. It really would be nice to be
18 connected.

19 And they initially wanted to be off the grid.

20 We've provided electric service to people of
21 that nature as well.

22 They share the expense. We ask for a private
23 contribution.

24 And that may be a solution. It's worked well
25 for cooperatives across the nation. It hasn't been

1 entirely publicly-financed. Sometimes privately.

2 But, yeah, there's some low-hanging fruit out
3 there. There's quite a bit.

4 I have an example of a map, where -- I mean,
5 you know, we're all the way around it, but we're a
6 mile and a half from this one farm. They want
7 service. They have used satellite available to
8 them.

9 We would probably be able to get to them.

10 It involves about 15 electric poles outside
11 of our system, so, you know, just the application
12 fees alone to get on those poles is, you know -- you
13 know, \$5,000 or so.

14 I forget the number.

15 6,000, maybe.

16 So that can be prohibitive just by itself.

17 So, yeah, any amount of money in Phase 4
18 would get us much closer. I think we'd be able to
19 close a lot of the gaps.

20 There may still be gaps, especially in the
21 Adirondacks. There's some real low sparsity out
22 there.

23 And where it's sparse, the business model
24 starts to really fall apart.

25 SENATOR SEWARD: Thank you.

1 KEITH PITMAN: I would add to that a little
2 bit, too, that the cooperatives are well positioned
3 to deal with those local issues because, as we heard
4 earlier, about a place where there was a chance to
5 grow jobs, and so forth.

6 Well, with local control, local ownerships,
7 as Mr. Johnson described, there may be those
8 in-between cases where it can be partially funded by
9 the consumer and the cooperative or the local entity
10 provider.

11 So I think there's good opportunity there to
12 maximize the use of money once again.

13 OFF-CAMERA SPEAKER: There is.

14 SENATOR SEWARD: Thank you.

15 SENATOR MAY: All right. Thank you very
16 much.

17 I appreciate it.

18 TIM JOHNSON: Thank you.

19 BRYAN DILLON: Thank you.

20 KEITH PITMAN: Thanks for having us.

21 SENATOR MAY: We have David Berman from
22 Connect Columbia.

23 OFF-CAMERA SPEAKER: Nope, Cornell.

24 OFF-CAMERA SPEAKER: Cornell.

25 SENATOR MAY: Oh -- or, I'm sorry.

1 Dr. Schmit, from Cornell.

2 DR. TODD SCHMIT: Good afternoon.

3 Before I begin my testimony, I want to thank
4 the scheduler for putting me back -- putting me
5 right after the rural electric co-ops.

6 That will become evident in about
7 two minutes.

8 Good afternoon.

9 My name is Todd Schmit. I am an associate
10 professor and agricultural economist in the
11 Charles H. Dyson School of Applied Economics and
12 Management, a unit in Cornell's College of Ag and
13 Life Sciences and the SC Johnson College of
14 Business.

15 Thanks for holding this public hearing about
16 the status of rural broadband in New York, and to
17 identify methods to encourage its expansion.

18 My team at Cornell conducts applied research
19 and extension programming in the area of
20 agribusiness development, with a particular focus on
21 implications for rural economies.

22 As part of our portfolio, we examine
23 cooperatively-structured businesses and
24 opportunities for new cooperative development.

25 It is in this area that I come to you today

1 to speak about research I'm involved in regarding
2 the financial feasibility and potential for rural
3 broadband cooperatives owned and governed by local
4 rural residents.

5 As you know, traditional Internet providers
6 are less likely to offer high-speed Internet to
7 lesser populated rural areas, as the returns on
8 investment are insufficient.

9 Rural residents faced a similar situation in
10 the 1930s regarding electricity and telephone
11 services, and many utility cooperatives were formed
12 across the country.

13 Access was deemed a necessity for economic
14 development, and as a means to recover from the
15 economic downturn of the Great Depression.

16 Many of those original cooperatives are still
17 in existence today.

18 With respect to real broadband, a number of
19 federal programs have provided grants, loans, loan
20 guarantees, to expand broadband access to the rural
21 areas, and state and local governments continue to
22 patronize and support its expansion.

23 In particular to New York, as was mentioned
24 earlier, the New New York Broadband Program provides
25 financial assistance. Applicants must agree on

1 cost-share provisions and offer a "minimum speed,
2 maximum price" option to improve access to all
3 residents.

4 My team investigated the financial
5 feasibility to expand high-speed fiber to unserved
6 and underserved areas in five rural townships in
7 Franklin County.

8 We considered the start-up of a new
9 cooperative and for an existing cooperative utility
10 to expand into broadband services.

11 The areas characterized by low population and
12 housing densities, full-year residences, and many
13 seasonal and recreational residences, some rustic
14 and designed for seasonal use, while others are
15 single-family homes that could be used year-round.

16 We considered two -- a two-tiered
17 monthly-service pricing structure for members: one
18 price for high-speed users, and another price for
19 lower-speed users.

20 Initial market prices were based on existing
21 prices near the study area, and consistent with the
22 New New York Broadband Program for a "minimum speed,
23 maximum price" offering.

24 The New York Broadband Program funds up to
25 80 percent of project costs through a grant, with

1 the remaining 20 percent sourced from other funders.

2 Funding from commercial lending sources is
3 often necessary to capitalize businesses fully, and
4 where lenders often require business owners, in this
5 case, the member-owner users, to invest.

6 In our analysis, capital construction costs
7 were covered 80 percent by the grant, 10 percent by
8 a term loan, and 10 percent by member investment
9 distributed equally among all household members.

10 Under the new cooperative scenario and using
11 prevailing market prices in the study area,
12 operating expenses for the cooperative exceeded
13 total sales in each year, resulting in a negative
14 cumulative cash flow of nearly \$6 1/2 million over
15 the 10 years.

16 Even under the cooperative expansion
17 scenario, where some expenses on existing fixed
18 assets -- poles, equipment, workers -- were reduced,
19 the cumulative cash flow was still negative.

20 Importantly, the high degree of financial
21 infeasibility at market prices was not due to
22 burdensome capital-loan servicing requirements.

23 Okay?

24 90 percent of the capital costs were covered
25 by a grant and member investment.

1 In other words, financial infeasibility had
2 less to do with the up-front capital-investment cost
3 for these systems than the annual operation and
4 maintenance costs required to sustain them long
5 term.

6 SENATOR MAY: So, Dr. Schmit, your time is
7 up, but I'm going to use my time to ask you: What
8 are your conclusions, and what are the policy
9 implications (parties cross-talking) --

10 DR. TODD SCHMIT: Okay.

11 Sorry. I thought I had 10 minutes.

12 Uhm, so let me jump to my conclusions.

13 SENATOR MAY: Okay, thank you.

14 DR. TODD SCHMIT: Numerous concerns exist
15 about the long-term impact to the study area.
16 They've been mentioned today.

17 Tourism is an important driver.

18 People visiting the area, seasonal-use
19 property owners, expect long-term broadband.

20 Without it, you can expect lower stays;
21 ultimately, lower property values.

22 When a minimum return on investment is
23 replaced with meeting member needs, the advantage of
24 a cooperative venture is clear.

25 You just heard from the colleagues before me.

1 However, the willingness and ability of
2 members to pay relatively larger user prices remains
3 an open question and deserves community input.

4 Our other pricing scenarios indicated, for an
5 existing cooperative venture, the price premium
6 above market prices is actually quite low, and
7 consistent with broadband expansion coming from
8 rural telecoms and some rural electricians in the
9 United States.

10 However, we need to consider fully the other
11 public benefits that you mentioned, in terms of
12 education, public safety, and business expansion.

13 The case was made for electricity and
14 telephone services in the 1930s, and similar
15 arguments hold for this technology today.

16 We can compute what those numbers are, we can
17 compute what the premiums are, we can talk about
18 what parameters would be necessary, under potential
19 public-private partnerships.

20 Thank you.

21 SENATOR MAY: Thank you.

22 Question?

23 ASSEMBLYMAN SANTABARBARA: Just -- the
24 sustainability costs just to maintain the lines, you
25 briefly mentioned it.

1 How does that compare over time?

2 Does that just compare to the capital costs?

3 DR. TODD SCHMIT: Yeah, we had an up-front
4 capital cost for this system. It served about
5 1,000 users in those -- in those rural towns.
6 That was about \$8.3 million, I believe, operation.

7 Maintenance and repair costs are about 300.

8 The other top three were -- in this case,
9 there are no electric utility co-ops there.

10 The next three after maintenance and repair
11 were pole rental, at about a quarter of a million a
12 year; property insurance; and property taxes.

13 ASSEMBLYMAN SANTABARBARA: Thank you.

14 SENATOR MAY: Thank you.

15 DR. TODD SCHMIT: Thanks.

16 SENATOR MAY: So next we have David Berman.

17 And I'm going to ask Annabel Felton to come
18 up at the same time, just because some of the
19 questions may be similar questions. But you'll each
20 get five minutes to -- for your testimony.

21 And we'll start with you, Mr. Berman.

22 DAVID BERMAN: Okay.

23 I'm going to zip through this. Being an old
24 TV guy, we're going to do the highlights of every
25 page.

1 Thank you for having me.

2 I represent Connect Columbia. It's a
3 citizens' action group comprised of both elected
4 officials and citizens.

5 We have labored long and hard over the last
6 few years, and with the outstanding help of our
7 Assembly member, Didi Barrett, succeeded in getting
8 some \$30 million from the Broadband Program Office.

9 I am one of the few insomniacs who has read
10 the -- the PSC merger agreement multiple times.

11 We were thrilled to see that legacy Charter
12 would be upgraded in Columbia County over the
13 objections of the Time Warner-Charter management.

14 Because I am a suspicious sort, I had every
15 town in Columbia County that had a franchise
16 agreement exercise their right in their franchise
17 agreement to request and obtain an as-built map.

18 You will note, nowadays, Spectrum will not
19 provide a detailed as-built map.

20 So I actually know where they were in each of
21 those towns.

22 So, first of all, if you take what the
23 Broadband Program Office did, and said --

24 Forget their statistics, I don't know where
25 they came from.

1 -- I would say that, in the town of Ghent
2 where I am from, and in most of Columbia County,
3 that you would have, probably, 75 percent of the
4 population having access to broadband, but somewhere
5 between 50 and 60 percent of the geography, because
6 what we've all failed to address here is geography.

7 Secondly, when it comes to people saying,
8 "I'm legacy Charter," you call Charter and they will
9 tell you, no, you're not. But for \$20,000, we will
10 do that.

11 I then take a picture of the as-built map and
12 say, Your line's across the street. Let's knock it
13 off.

14 I have saved innumerable amounts of money for
15 people.

16 I wouldn't say they are out to defraud the
17 consumer.

18 I would say they are blazing incompetent most
19 of the time.

20 I'm not -- I'm the snarky one, you see.

21 [Laughter.]

22 DAVID BERMAN: Moving on to the others, and
23 just a final thought on Charter:

24 One of the provisions in that merger
25 agreement was an improvement in customer service.

1 Now, it was also benchmarked by "comparable
2 to other cable companies."

3 And, boy, everybody knows, nobody likes their
4 cable company.

5 Looking at the other small operators that
6 took money in Columbia County: Consolidated,
7 formerly FairPoint; GTel; and Mid-Hudson Cable, all
8 got substantial money.

9 One of the issues we had was an overlap,
10 because much of legacy Charter were considered
11 franchise areas.

12 This is all in the document if you want to
13 read it.

14 So, for instance, I went from a 6/1 DSL line
15 to a choice between Spectrum and Consolidated's
16 fiber to the home.

17 I go to the street behind me, which was a BPO
18 award to Consolidated, where the census block goes
19 down the middle of the road, and, therefore, people
20 on that side of the road don't have service. People
21 on this side of the road, some of them do because,
22 while people are supposed to provide service for
23 everyone in the census block, they do not.

24 So, that brings me to where I'm at with my
25 wonderful Assembly member, Didi Barrett, who has --

1 with our prodding and poking, and her excellent
2 work, we have requested that we get beyond this war
3 between BPO and the PSC, and have Mr. DiNapoli do
4 what he does so well, which is an audit, so that we
5 actually know, where they have installed, where they
6 were supposed to install, where they got paid to
7 install, where they should be fined for not
8 installing.

9 And then use that as the real map of where we
10 should be, where we aren't.

11 Lastly on that issue:

12 Get rid of census blocks;

13 Don't use 911, because I can tell you there's
14 probably 10 percent in my town who are not on the
15 911 map;

16 And go to the ultimate gold standard which is
17 the tax rolls.

18 Because now you have something that you can
19 physically address and walk up to.

20 And before I just get to my last point,
21 people, look up; look up at every pole.

22 On the top is electricity.

23 Next step down is probably old-style copper
24 telephone.

25 If you see thick black cable, that's fiber,

1 it's there.

2 Make people pay attention to it.

3 SENATOR MAY: All right.

4 DR. TODD SCHMIT: And on that note of --
5 of -- with Spectrum's non-disclosure agreement with
6 Public Service Commission, forcing an audit would
7 give you public disclosure. Getting the results of
8 an audit that would be made public would be just an
9 amazingly wonderful thing.

10 Let's get past 100 service. We're way behind
11 the times, we need gigabit service.

12 I will be there quickly.

13 And you should learn one last acronym, which
14 is IOT (the Internet of things).

15 Everything needs to be connected.

16 There are huge programs in third-world
17 countries where large farms and small farms
18 installing, in effect, dumb terminals that measure
19 every measurement that you need to farm.

20 We need to be able to do that here.

21 We are a farm-to-table operation, especially
22 in Columbia County. And we're -- since you can't
23 hire anybody now, because restaurants are closing
24 because you can't hire a waiter, or get -- I can't
25 get my car fixed because car mechanics have left,

1 you know, you need to automate, and that's the way
2 to do it.

3 And --

4 SENATOR MAY: I need to ask you to wrap up.

5 DR. TODD SCHMIT: -- other than that, I will
6 be quiet.

7 [Laughter.]

8 SENATOR MAY: Okay, thank you.

9 And we're going to start again with
10 five minutes, I think, for Felton, and then I --
11 I -- I think some of the questions may be similar to
12 both of you.

13 ANNABEL FELTON: Thank you preparing me with
14 Mr. Berman who speaks so eloquently.

15 I came today because of a simple question
16 that my then-14-year-old daughter asked me 5 years
17 ago.

18 Good afternoon, my name is Annabel Felton.
19 I'm chair of the Duanesburg Broadband Committee.

20 I live with my family in western
21 Schenectady County. We have a short commute to
22 Albany where both my husband and I work.

23 When we built our house in the rural suburbs
24 and moved there in 1996, we were aware that there
25 were no cable lines.

1 We bought a satellite television dish and
2 went on with our lives.

3 Little did we know that cable and high-speed
4 Internet would never come down our road.

5 The question my daughter asked: Mom, why
6 can't we get Internet at home like normal people?

7 By 2014, we all needed Internet to do our
8 jobs, to do our homework, to work from home.

9 So I told my family, I will get us wired
10 broadband. How hard can it be?

11 I've learned it's very hard.

12 I've learned a lot, and I'll skip all the
13 list of things I've learned.

14 But among the things that I learned is that
15 something that doesn't exist, that could have helped
16 this problem, is mutual-benefit districts for
17 broadband.

18 They don't exist. I have spoken to the staff
19 for Mr. Santabarbara on that issue before.

20 Create a county law, providing for
21 mutual-benefit districts. It would at least allow
22 local communities to pull themselves up by their
23 bootstraps.

24 My town is very supportive and sympathetic.

25 They formed -- the town board formed the

1 Duanesburg Broadband Committee and asked me to chair
2 it.

3 And so I sit here before you.

4 Our goal, it was formed for the purpose of
5 advocating for high-speed broadband to everyone, all
6 residents in our town. We expect 100 percent
7 service with fiber.

8 In order to serve all the locations anywhere,
9 we need to know who was served and who was not
10 served.

11 We are a Time Warner, now a Charter,
12 franchise town.

13 Despite the franchise agreement with our
14 town, Charter has steadfastly refused to provide
15 service availability maps.

16 The maps posted by the New York Broadband
17 Program Office are still based on 477 data, that
18 first tab. It is notoriously inaccurate.

19 Unfortunately, the public believes the
20 information on the Broadband Program Office maps is
21 correct because it's provided by our government.

22 People have purchased homes because the maps
23 told them service was available, when it was not.

24 A bad map is worse than no map.

25 Fix the maps or take them down.

1 My committee used boots-on-the-ground
2 information and surveys of town residents to
3 determine who was and who was not served.

4 We then created our own Google map, precisely
5 showing the location of unserved homes.

6 Duanesburg has about 2,000 residences. And
7 in May of 2018, when we created our maps, one-third
8 of the homes were not served.

9 This is commuting distance to Albany.

10 Of those unserved, more than half, 313, had
11 no BPO award because they are incorrectly reported
12 as served by Charter.

13 It's beyond time to fix New York State
14 broadband availability map. Remove any information
15 from it based on the FCC Form 477 submission.

16 Now that we have accurate service maps,
17 the -- my town, Town of Duanesburg, is pursuing
18 broadband line extension on a road-by-road basis.

19 We're using franchise fees and \$100,000
20 provided to us by Schenectady County to provide
21 trenching on roads to bring the cost down so Charter
22 will serve us.

23 Even after settlement with the Public Service
24 Commission, Charter continues to hide its build-out
25 plans, and the Public Service Commission allows this

1 information to be redacted.

2 If Charter's required expansion will not
3 serve all 256 homes remaining unserved in my town,
4 we need to know that now, not after September 2021.

5 Charter's claim that their expansion
6 information is trade secret is disingenuous at best,
7 and fraudulent at worse.

8 Other providers have told me they can get the
9 information directly from the BPO.

10 The only possible reason for Charter's
11 non-disclosure is to allow them to cheat.

12 They want to count homes previously served as
13 newly served under the 145,000 required in the
14 settlement.

15 This is not a victimless ploy.

16 For every location left unserved, Charter may
17 ultimately receive 80 to 90 percent grant funding
18 from the BPO.

19 For the public, Charter's build-out plan can
20 only be ascertained by tedious searching on the
21 Spectrum address lookup.

22 The plan (motioning air-quotes) is an
23 ever-changing hodge-podge of addresses, sometimes
24 dropped in the center of an unserved road --

25 My address is one of them.

1 -- with no coherent strategy for serving to
2 contiguous areas or for future build-out.

3 Charter, as it has always done, continues to
4 cherry-pick the more profitable, or annoying
5 customers like me, in our town, leaving behind
6 isolated noncontiguous pockets of unserved homes.

7 Presumably, in the future, they will seek
8 grant funding to serve these difficult-to-reach
9 areas while simultaneously preventing any other
10 Internet service provider from building into the
11 franchise area.

12 SENATOR MAY: I need you to wrap up.

13 ANNABEL FELTON: To wrap up:

14 There are two more recommendations that
15 I have, and they involve the Department of Public
16 Service.

17 The Department of Public Service should
18 require network build-out within franchise areas by
19 incrementally lowering the density requirement for
20 rural build-out by seven homes per mile each year.

21 This would eliminate unserved locations in
22 franchise areas within five years.

23 Franchise holders cannot be permitted to
24 leave isolated pockets of unserved homes. If
25 franchise owners don't like it, they can leave.

1 The DPS, number two, should require
2 pole-attachment contracts by franchise area, not by
3 pole.

4 This will reduce the incentive to cherry-pick
5 profitable homes within franchise areas by reducing
6 the extra cost of serving homes on lowered-density
7 roads.

8 I just want to say that, last month my
9 husband and I drove our daughter to her new
10 apartment at college.

11 I asked her if she was -- if she was sure
12 there was good Internet connection at her new
13 apartment.

14 She looked at me like I had -- I was nuts,
15 three heads.

16 She said: Mom, of course there is. Internet
17 is included in the rent. It's a utility.

18 Ladies and gentlemen, I still don't have
19 broadband Internet at my home.

20 Fix the maps, and keep the grant funding
21 coming.

22 Thank you.

23 SENATOR MAY: Thank you.

24 And I just want to say, I think you mean the
25 Public Service Commission, not the Department of

1 Public Service.

2 SENATOR METZGER: No, it's the same.

3 ANNABEL FELTON: I mean both.

4 SENATOR MAY: Is it the same?

5 SENATOR METZGER: I mean, it's not the same,
6 but it's (parties cross-talking) --

7 ANNABEL FELTON: I mean both.

8 SENATOR METZGER: (Indiscernible.)

9 SENATOR MAY: But in any case, yeah, thank
10 you.

11 We can hear the emotion in your voice, and,
12 obviously --

13 ANNABEL FELTON: To some degree (parties
14 cross-talking) --

15 SENATOR MAY: -- there's good reason for
16 this.

17 Does anyone have questions?

18 I thought I had -- well, I want to know more
19 about the mutual-benefit districts.

20 Is that something you write about in your
21 testimony?

22 ANNABEL FELTON: I don't -- actually,
23 I didn't, no.

24 But a mutual-benefit district would allow --
25 would allow a town or municipal -- well, depending

1 whether it's part of town law or county law, would
2 allow that municipality to create a benefit
3 district, just as they would a lighting district.

4 But since it is not provided for in the law,
5 it is not -- it is left to the State; that is, it
6 would have to be provided for specifically as a --
7 under county or town law.

8 SENATOR MAY: Okay, thank you.

9 Questions?

10 SENATOR METZGER: Well, first, I have a
11 question, how you obtained the legacy maps? How?
12 When?

13 DAVID BERMAN: (Microphone off.)

14 Oh, before the -- before the merger --

15 SENATOR METZGER: Oh, so you've had them a
16 while?

17 DAVID BERMAN: (Microphone off.)

18 -- through our franchise agreement --

19 SENATOR METZGER: Okay.

20 DAVID BERMAN: (Microphone off.)

21 -- we requested them from the old Charter
22 management.

23 SENATOR METZGER: Right.

24 DAVID BERMAN: (Microphone off.)

25 The minute that we got moved into the Time

1 Warner management here in Albany, we --

2 SENATOR METZGER: Lost access?

3 DAVID BERMAN: -- (motions with hands.)

4 SENATOR METZGER: Yeah.

5 DAVID BERMAN: (Microphone off.)

6 There's any number of people who would like
7 to draw and quarter the (inaudible) management
8 (inaudible).

9 SENATOR METZGER: And I have a question about
10 the surveys you did.

11 So this is what I kept thinking with our
12 first panelists this morning, from the Public
13 Service Comm -- well, yeah, Public Service
14 Commission and the Governor's Office, surveys of
15 people, that's -- of residents, and they're not just
16 whether or not they have service, but what their
17 service -- their level of service is.

18 And I -- did you -- did you also ask about
19 that in terms of speeds, and -- and -- or did you
20 just focus on service/no service?

21 ANNABEL FELTON: We focused on whether or not
22 an -- a broadband line was provided to individuals.

23 And we had very -- a very smart person on our
24 committee who knows GIS mapping.

25 So we have a Google map, that's open to

1 anyone who wants to look, and on it is a flag for
2 every home that's unserved.

3 I have provided that information to both the
4 department -- the BPO.

5 Willing to provide it again.

6 We're keeping it up to date as the build-out
7 progresses.

8 DAVID BERMAN: (Microphone off.)

9 Similarly, in Columbia County, we did speed
10 tests of everyone around the county (inaudible).

11 SENATOR METZGER: Thank you.

12 ASSEMBLYMAN SANTABARBARA: Yes, Annabel,
13 thank you for attending the hearing.

14 I know Annabel is actually my constituent,
15 and we've talked about this issue for a long time.

16 ANNABEL FELTON: Indeed.

17 ASSEMBLYMAN SANTABARBARA: And, hopefully, we
18 can make some progress here with this Commission,
19 moving forward.

20 One of the things that just seems to be
21 recurring is, the maps, everybody's talking about
22 the maps, how inaccurate they are.

23 And that is true, what is -- what we have
24 seen, and we saw this with the cell coverage, too,
25 is that, you know, they're showing service, and you

1 go out there, and there's no service.

2 And whatever that could be attributed to, we
3 need to find out.

4 I think, in this case, they're -- at least
5 the FCC is looking to update their maps with the
6 shapefiles and more accuracy.

7 But what you're doing locally, certainly, is
8 very helpful in those -- in some -- in the rural
9 community that I represent.

10 You mentioned, one-third, you said about
11 one-third is not covered.

12 Does that include the school district?

13 Does that include, you know, buildings like
14 that, or just residents?

15 ANNABEL FELTON: Well, fortunately, our
16 school has been served for some time, so -- and it's
17 in the village of Delanson.

18 So -- and the village of Delanson has service
19 from, originally Time Warner, and now Charter.

20 So the one-third were residential homes.

21 ASSEMBLYMAN SANTABARBARA: And you have dealt
22 with the Public Service Commission.

23 You said, is it seven homes per mile, or
24 density --

25 ANNABEL FELTON: So --

1 ASSEMBLYMAN SANTABARBARA: -- you asked them
2 to change --

3 ANNABEL FELTON: -- the --

4 ASSEMBLYMAN SANTABARBARA: -- some of the
5 requirements?

6 Can you go over those again?

7 ANNABEL FELTON: -- so -- so the -- are
8 you -- the Town of Duaneburg has a franchise
9 agreement --

10 ASSEMBLYMAN SANTABARBARA: Okay?

11 ANNABEL FELTON: -- with Charter/Spectrum,
12 and the density required for them to serve without a
13 contribution in aid of construction is 20 homes per
14 mile.

15 ASSEMBLYMAN SANTABARBARA: Okay.

16 DAVID BERMAN: (Microphone off.)

17 But the PSC minimum is 35.

18 ASSEMBLYMAN SANTABARBARA: 35.

19 DAVID BERMAN: (Inaudible.)

20 ASSEMBLYMAN SANTABARBARA: Okay.

21 ANNABEL FELTON: So we're at an advantage.

22 But that leaves many, 257 now -- after
23 Phase 3, 257 homes are still unserved.

24 ASSEMBLYMAN SANTABARBARA: And -- you know,
25 we -- everybody's talked about Charter, of course,

1 today.

2 And I did make note of what you said with the
3 comptroller's office, and looking for accountability
4 here, and what the new agreements are.

5 And I think I asked this question earlier
6 when testimony was given, as to, you know, we have a
7 new agreement, we have settlements, now they're back
8 out there.

9 Are they doing what they're supposed to do;
10 who's holding them accountable?

11 That's a question we're going to be asking,
12 that's a question we're going to be looking for:

13 What's the accountability here?

14 Is this going to happen all over again?

15 And we also talked about the density, where
16 the overlapping coverage, where, you know, are they
17 getting credit for homes that are already served,
18 and then someone is out there not getting the
19 service that they promised?

20 So I think those are all very good questions
21 that we're certainly going to add to our list.

22 But this will be a focus of this Commission,
23 going forward, so, hopefully, we'll get some
24 answers, and we'll hold the company accountable.

25 DAVID BERMAN: (Microphone off.)

1 There's a term Jeff Nordhaus used, which you
2 should pay close attention to.

3 He said they did a "desktop audit," which
4 means, they sat at their desk and looked at a map,
5 and clicked off the poles that were claimed to have
6 been done.

7 It is not an eyes-on audit.

8 And that's a --

9 ASSEMBLYMAN SANTABARBARA: That's a big
10 difference.

11 DAVID BERMAN: (Microphone off.)

12 -- it's a big difference.

13 ASSEMBLYMAN SANTABARBARA: Yep.

14 And I -- again, I -- and I go back to
15 cellular coverage. You know, you got coverage on
16 this road. You travel on the road, the phone
17 doesn't work.

18 So it's the same thing with this, where the
19 map --

20 DAVID BERMAN: (Microphone off.)

21 And this will lead to cellular coverage
22 because, without fiber (inaudible).

23 ANNABEL FELTON: That's right.

24 ASSEMBLYMAN SANTABARBARA: So I want to thank
25 you both for being here.

1 I know Assemblywoman Woerner has some
2 questions for you. I'm going to give it over to
3 her.

4 ASSEMBLY MEMBER WOERNER: Yeah, thank you.

5 I'm not familiar with whole-attachment
6 contracts.

7 Can you give me -- but I'm -- I -- I think
8 I understand, conceptually, what you're saying,
9 which is that -- is that this particular contracting
10 model allows them to -- to only select certain
11 houses that they want to go to.

12 But can you give me -- I mean, can you just
13 give me some more information on what that means?

14 ANNABEL FELTON: Maybe you're more equipped
15 to (indiscernible) pole charges.

16 DAVID BERMAN: (Microphone off.)

17 Right now, depending on who owns the pole,
18 whether it's the electric company or the phone
19 company, you have to go to each of them and get
20 permission, and pay rent to hang your wire on that
21 pole.

22 And what I think my colleague here is
23 proposing, is that we do something --

24 Sorry.

25 -- that we do something --

1 No?

2 There we go, maybe.

3 (Microphone on.)

4 There I am, echoing nicely.

5 -- that we could -- that you can do it in a
6 broad swath, so that the entire town, or the entire
7 area, was approved at once.

8 Right now, if you request from a utility the
9 right to hang on the pole, they're obligated, within
10 a certain time period, to give you an answer.

11 They ignore that.

12 So while you may go to NYSEG or, whomever,
13 and say, "I wish to rent space on the pole to hang
14 my broadband wire," they are obligated, under law,
15 or under regulatory procedure, to answer you within
16 30 days.

17 It is easy to go, 180 days, 270 days, without
18 an answer.

19 It's one of the biggest problems of the whole
20 expansion problem, of just getting the permission.

21 So now you have to back your construction
22 crews, your fiber-optic orders, et al., to meet
23 those delays.

24 ASSEMBLY MEMBER WOERNER: So, in essence, if
25 you've got a neighborhood -- let's say your

1 neighborhood, for example, you might have 10 utility
2 poles in a neighborhood.

3 And you have to have a separate contract for
4 each pole?

5 ANNABEL FELTON: I believe they do.

6 And my suggestion is that, in a franchise
7 area, there would be one pole fee for all poles.

8 Because I believe it's a monthly fee that's
9 ongoing; it's a continuing cost.

10 ASSEMBLY MEMBER WOERNER: Right.

11 Yeah, that's crazy.

12 DAVID BERMAN: Thank you.

13 ASSEMBLY MEMBER WOERNER: That's really --
14 wow.

15 No wonder it's so difficult to get this -- to
16 get fiber run, if you've got to ask -- if you've got
17 to ask permission, by pole?

18 ANNABEL FELTON: And pay rent by pole.

19 ASSEMBLY MEMBER WOERNER: And pay -- well,
20 I mean, I'm assuming the rent would end up being
21 rent times ten.

22 But just the process of having to ask
23 permission for each one, get a separate contract for
24 each one, and then they could say, well, I don't
25 really want you to use this middle pole.

1 So, now you're stuck.

2 ANNABEL FELTON: Well, the real issue is
3 that, in rural areas where there's more distance,
4 there are more poles for the density.

5 If you say that this will be the pole charges
6 for all poles in this franchise, there's no
7 incentive for them -- it doesn't cost them more to
8 do the lower density.

9 ASSEMBLY MEMBER WOERNER: Got it.

10 Okay, yeah, I can see where this is a great
11 recommendation.

12 Thank you very much.

13 SENATOR MAY: Thank you.

14 ANNABEL FELTON: Thank you.

15 SENATOR MAY: Thank you all very much.

16 ASSEMBLYMAN SANTABARBARA: Thank you.

17 SENATOR MAY: So next we have Robert Puckett
18 from the New York State Telecommunications
19 Association.

20 And just as a heads-up, after that we have
21 four school-related representatives, and we're going
22 to bring them all up at the same time.

23 ROBERT PUCKETT: Thank you, Chair May.

24 I will, obviously, not read my testimony, and
25 I don't even think I'll go over my notes that I made

1 instead.

2 I just thought, I'm with the Telecom
3 Association. Been around for 98 years. We've got
4 about 40-plus carriers as members, all the way from
5 Verizon, large carriers, to smaller carriers, such
6 as TDS, that -- that serves the town of Augusta in
7 your district.

8 I thought what I would do is, Assembly
9 Member Woerner was earlier asking about, why don't
10 we just order companies to deploy broadband? The
11 phone lines are there, the electric lines.

12 And I think what you've heard today from some
13 of the folks is, back in the '20s, '30s, '40s,
14 about when we were organized as an association,
15 there were federal fundings to deploy electricity in
16 the rural areas, as well as telephone.

17 And also, back then, the telephone industry,
18 as the old telephone company, was a monopoly, and,
19 therefore, the pricing structures of things were
20 developed, and approved by the states and the
21 regulators, to extract subsidies from some
22 ratepayers to help pay for things where the rates
23 charged don't nearly cover the cost of those
24 services.

25 You remember when long distance was 30 cents

1 a minute.

2 Business subscribers used to pay more than
3 residential subscribers.

4 Urban subscribers pay more than the cost of
5 providing service in urban areas.

6 And those were all internal subsidies that
7 flowed from urban America to rural America to help
8 build these networks.

9 Now, with competition, what happens?

10 You can't build in a subsidy, the long
11 distance rates, when they're -- when you're
12 competing with other providers who don't have any
13 obligations to provide service. They can go and
14 provide service wherever they want.

15 Same thing for urban rates.

16 The first competition was in urban areas.

17 So the telephone companies are competing now
18 with wireless and cellular, cable TV. They can't
19 necessarily build in subsidies to help cover the
20 cost of deployment in the rural areas where it's,
21 basically, uneconomic.

22 So that's why we think that, if more needs to
23 be done, and I think from what I've heard today, a
24 lot of folks would agree with that, we still support
25 the public-private partnership model that has been

1 used in New York.

2 And I've got to say, as it was said by an --
3 earlier folks, New York really leads the nation.
4 Nobody has come close to what this state has
5 committed in resources to try to solve the rural
6 broadband dilemma.

7 So those are my comments.

8 Just a couple other thoughts.

9 CWA mentioned the elimination of
10 service-quality measures.

11 Nobody told my members that, because, just
12 last year, Verizon reached a settlement with the
13 PSC, after a multi-year service-quality proceeding.

14 And this year, just several months ago,
15 although Frontier is not a member of my
16 organization, I believe they reached a settlement
17 agreement with the PSC, again, on service-quality
18 issues in meeting the PSC's service standards.

19 A lot of talk about maps.

20 I'll just note that that's also occurring on
21 the federal level. The FCC is -- has issued some
22 orders on that. Congress has held hearings on that.

23 Even a gentleman mentioned earlier,
24 Jim Stegman, who did a lot of work for New York in
25 the New York grant program, has put forth a proposal

1 with some national associations on how to make the
2 maps better.

3 So with that, if you have any questions, I'd
4 certainly like to hear them, and -- if now, or,
5 contact us anytime.

6 SENATOR MAY: Okay.

7 Well, let me start, because I do have --

8 Thank you for your testimony and for keeping
9 it short.

10 -- we have been hearing about these
11 proprietary maps that were -- and in particular,
12 Charter/Spectrum will not release.

13 ROBERT PUCKETT: Right.

14 SENATOR MAY: What is the conceivable
15 justification for that, and what can be done about
16 that?

17 ROBERT PUCKETT: I certainly can't speak for
18 Charter because they're not a member of my
19 organization, but, it's competitive sensitivities.

20 If they -- again, if they let the world know
21 where they're going to build, does somebody else
22 come before them to try to beat them to the
23 market? -- is my own personal thought.

24 I have no basis -- I don't know what
25 Charter's thinking is, but that's -- that's what

1 I would offer.

2 SENATOR MAY: And the -- we've heard a lot
3 about the problems of a lack of competition, and
4 then also the problem of monopolies that aren't
5 doing what they should. So they've got a region,
6 but they're not building, taking the next step in
7 covering, sort of, stranded properties that are near
8 them, or something like that.

9 But tell me what your -- your association, do
10 you talk about these kinds of issues, and what sorts
11 of position do you take?

12 ROBERT PUCKETT: Well, yes, we do talk about
13 it.

14 You've got a competitive world now.

15 And a company, as a whole, has to -- a
16 for-profit private company has to make a profit.

17 It used to be guaranteed. It's not the case
18 anymore.

19 So making those investments have to have a
20 return on investment.

21 And so you have a service area of some
22 geographic area. You have to decide where to
23 deploy, and where can you deploy, with your money,
24 investor money, shareholder money, versus, if
25 there's grants available, then, certainly, that

1 makes that decision much easier, to make sure that
2 it's economically feasible.

3 I'm not sure if that answers your question.

4 But, certainly, we support the grant program.

5 Again, if additional actions are needed, we
6 think another round, as mentioned earlier, Round 4
7 or 5, would be the appropriate way to go.

8 SENATOR MAY: Well, we also heard a lot about
9 the need for regulation.

10 And, really, since, effectively, this is a
11 utility, in a sense that people can't (parties
12 cross-talking) --

13 ROBERT PUCKETT: And we've always advocated,
14 there is a difference in regulation between the
15 industries. Whether it's the old telephone company,
16 cable company, wireless, there is -- there are
17 different levels of regulation.

18 We've always thought that there should be a
19 need to review all of that and just see where things
20 stand.

21 And in some ways, the horrific story I heard
22 from the poor lady from Port Byron, you know, I was
23 pulling my hair out, listening to that.

24 The reason she's going through that problem
25 is because there's a regulation that requires

1 Spectrum to have a franchise in every municipality
2 they want to serve.

3 We've always advocated that there should be a
4 statewide franchise, just like they gave the cable
5 TV companies a statewide franchise to provide
6 telephone service; they could go anywhere they want,
7 whenever they wanted.

8 We've always argued that the telephone
9 company should be able to provide video services on
10 a statewide-franchise basis, where they want to go,
11 without having to go to every village, every town.

12 I mean, unfortunately, in her situation,
13 Spectrum was willing to provide her service, only to
14 find out they didn't have a franchise agreement with
15 this particular Town that she happened to live in,
16 and they were, unfortunately, following the rules
17 that they couldn't go in there unless they had a
18 franchise.

19 SENATOR MAY: Is that -- we also hear
20 about -- about poles and wires that are fiber, that
21 goes right past somebody's house, but they can't
22 connect it into their house.

23 Is that also -- would you --

24 ROBERT PUCKETT: That does occur.

25 Well, there's different -- I don't want to

1 get too much in the weeds, but, there's backbone,
2 fiber, then there's local fiber.

3 And I do know, in several situations in the
4 grant program, fiber runs down the street. And this
5 is one census block, and other side of the street is
6 outside of that census block.

7 I know a lot of my members are going ahead
8 anyway, and going to provide, or have provided,
9 drops to those homes so that they could provide them
10 fiber-optic service, even though they're right over
11 the line from the -- from the grant program.

12 SENATOR MAY: Okay.

13 And --

14 ROBERT PUCKETT: Now, are there situations
15 where maybe that's not happening, I suspect there
16 would be.

17 SENATOR MAY: -- oh, I'm out of time.

18 But I do want to ask if you -- or, include
19 satellite service in your association? And --

20 ROBERT PUCKETT: No, they're not members
21 either.

22 SENATOR MAY: Okay.

23 ROBERT PUCKETT: We're, basically, the
24 landline telephone companies --

25 SENATOR MAY: Okay.

1 ROBERT PUCKETT: Both the incumbents that
2 have been around for 100 years, except for Frontier,
3 and the new competitive local-exchange carriers, not
4 cable companies, but telecom carriers, such as
5 CenturyLink, companies like that.

6 SENATOR MAY: Okay. Thank you.

7 Anyone else?

8 ASSEMBLYMAN SANTABARBARA: Assemblywoman
9 Woerner.

10 ASSEMBLY MEMBER WOERNER: Thank you.

11 So you started your testimony by attempting
12 to create a -- to compare the '20s and -- the
13 1930s to today.

14 And you said, back then, when we were
15 electrifying rural communities, there was a
16 monopoly.

17 There were public dollars to subsidize, and
18 then there was the universal service fund that,
19 basically, taxed the urban communities to the
20 benefit of the rural communities.

21 And I would just suggest to you that, we --
22 for all intents and purposes, most of the rural
23 communities are dealing with a monopoly.

24 There's a monopoly. There's one provider,
25 and that's it.

1 And we have tons of public dollars that have
2 just been spent, \$497 million, has just been spent,
3 to provide broadband service to the rural
4 communities.

5 We have this mechanism for the universal
6 service fund. Whether we're using it or not, that's
7 a different question.

8 But it would seem to me that the conditions
9 exist today that are very similar to the conditions
10 in the '30s.

11 So I go back to: What do we need to do to
12 fully create those circumstances?

13 Because, clearly, we're not -- what we're
14 doing, while it's getting us some -- it's moving the
15 needle slightly, it's not moving the needle far
16 enough for our communities, because, as the fellow
17 before you said, we're shooting at 100-megabit
18 target. But, really, the rest of the world is on
19 1-gig target.

20 And for us to have economic development
21 upstate, which is, I think, what we're all trying to
22 do, we need to be able to support 1 gig, and beyond
23 that as the technology becomes available.

24 So, I'm going back to: Tell me why you think
25 we shouldn't try to recreate the conditions of the

1 1930s --

2 Because we're almost there now.

3 -- to ensure that we get the achievement
4 of -- of -- of true broadband, fiber to every home?

5 I mean, it seems like a laudable goal, and it
6 seems like we're close in the -- in terms of the
7 practical conditions, to being able to do what we
8 did in the '30s with electrification.

9 ROBERT PUCKETT: Maybe I wasn't clear when
10 I talked about universal -- I was talking in the
11 subsidies, I was talking about the telephone
12 industry side of it.

13 The electric, there was federal funding for
14 that as well, but also for the telecom side.

15 And I don't disagree with some of your
16 thoughts.

17 I think, New York, yes, they've spent
18 four hundred -- five hundred million, four hundred
19 seventy-five of grant money.

20 I think it's moved the needle a lot.

21 Is there -- stuff still have to occur?

22 Certainly, I would agree with that as well.

23 ASSEMBLY MEMBER WOERNER: You know, the bulk
24 of the dollars went to a relatively small percentage
25 of fiber to the home, and the rest of it is

1 satellite.

2 I mean, that's the real -- that's the
3 reality.

4 And -- and that's what has become clear out
5 of all this testimony, is that -- is that only a
6 relatively small number of people actually got fiber
7 to their house.

8 Most of it is satellite, which is, I think
9 everybody agrees, not really broadband.

10 And -- and this is -- you know, this --
11 therein lies our problem, is that the -- we've got
12 to do some -- we've got to -- we've got to stop
13 being satisfied with satellite, and -- and really
14 step up to the plate and say, this is about getting
15 wire to each house, because that's the platform on
16 which we're going to get 5G, and on which we're
17 going to be able to grow the technologies to achieve
18 some service levels that actually make us
19 competitive, upstate, with the rest of the world.

20 ROBERT PUCKETT: Right.

21 Yeah, my members, out of the 175,000 landline
22 of the grant money, the units, the locations
23 covered, about 112,000 were -- were awarded to my
24 membership.

25 If you include the -- the

1 Time Warner-Spectrum merger build-out requirements,
2 you're up to 320,000 additional locations -- homes,
3 businesses -- across the state.

4 So I think that certainly is -- is trying to
5 attack the issue.

6 And, again, if the Legislature and Governor
7 feels that additional steps are necessary, we
8 certainly would support it.

9 And we believe, again, that the
10 private-public partnership is the best way to go
11 about it.

12 SENATOR MAY: Great.

13 Anybody else?

14 Did you have a question?

15 SENATOR METZGER: (Shakes head.)

16 SENATOR MAY: No.

17 ROBERT PUCKETT: Thank you.

18 SENATOR MAY: Thank you very much.

19 So I mentioned our schools.

20 I guess there are five on my list. I hope
21 everyone is still here.

22 Five people, we'll try to get five chairs at
23 the table.

24 You'll have to share -- share microphones.

25 This isn't to take time away from you, but

1 just because, once again, I think there may be
2 common questions for you. And, also, we do -- we
3 would like to move this along.

4 So let's start with Mr. Ciaccio.

5 THOMAS CIACCIO: Very good. You did a good
6 job with that.

7 I just want to first thank everybody for
8 allowing me the chance to come here and speak on
9 behalf of our school district and school districts
10 like ours.

11 This is a very significant issue in our
12 school district, and I want to kind of put it in a
13 context that maybe you can understand what students
14 go through on a daily basis.

15 So, first, my name is Tom Ciaccio, and I'm
16 the superintendent of the Fonda-Fultonville Central
17 School District. And we are a small rural school
18 district about 40 miles west of here.

19 We have about 1,350 students, and about
20 40 percent of our entire district does not have
21 access to broadband Internet.

22 And I live 6 miles away from the school, and
23 I'm one of those people, and I have two children in
24 the school district.

25 Just like any school district across the

1 state, we do everything we can to set our students
2 on a path to success.

3 And we think what's important to that mission
4 is technology, and the development of those
5 technological skills in our students.

6 So I want to paint a picture of, kind of,
7 what our students look like compared to other
8 students.

9 So my first student is Gianna, and she's a
10 student that is in an urban school district.

11 She's in a school district that has a
12 one-to-one initiative, where she's given a
13 Chromebook to take to her classes and take home each
14 and every day.

15 Her school district, and everybody in their
16 school district, has 100 percent access to broadband
17 Internet.

18 She goes home at the end of the school day.
19 She takes this Chromebook out of her backpack. She
20 opens it up, she gets online, she starts doing
21 everything that her teacher has downloaded (sic).

22 She downloads videos. She downloads pages of
23 documents. She works on homework. She sets up
24 chats with the people in her group that are her
25 classmates, to work on research reports, and things

1 like that.

2 Everything at Gianna's disposal is one click
3 away.

4 Let's take Joseph, who comes from a rural
5 school district, where 50 percent of the students in
6 that school have access to broadband, but Joseph is
7 not in that -- in that group. His family does not
8 have exposure to that.

9 He has the same Chromebook that's given to
10 him by the school district.

11 He goes through the day, just like Gianna
12 does, and getting exposed to all the skills
13 necessary.

14 When he goes home, he takes the Chromebook
15 and he sets it on the coffee table, and that's where
16 it has to stay, because he can't open it, he can't
17 get to the things that he needs to get to.

18 So then he goes to his room and he gets out
19 his phone, because that's only access he has, from a
20 cellular perspective and his provider, to get on
21 that Google Classroom, to be able to access the
22 pages of articles he has to read, on a 4-inch
23 screen. Trying to download those videos to help
24 with his research, but, spotty cellular service in
25 our rural communities just not going to happen.

1 So, for him, the information is not a click
2 away. It's miles away.

3 And I bring those two examples because
4 I think, looking at it through the eyes of a child,
5 allows you to see that, if you compare those two
6 students, the absence of broadband stunts a child's
7 ability to excel; stunts their ability to achieve
8 and to get to a -- to a -- an area where these
9 technological skills are second nature to them.

10 And it puts that child at a distinctive
11 disadvantage.

12 So if Gianna's a freshman and Joseph is a
13 freshman, just think of:

14 Every day that Gianna goes home, she's able
15 to hone those skills every day.

16 Every day Joseph goes home, he's trying to
17 figure out how he can get onto these things, to be
18 able to access what he needs to do.

19 And over a 4-year period of time, that gap
20 grows.

21 So my students come out and try to compete,
22 and do well in college, and have these skills that
23 maybe take a while for them to acquire on that type
24 of a basis. Or, they go out and compete at a job,
25 where we find, when we talk to employers, they don't

1 care if you come and you're somebody who understands
2 their business, or even the role within the job that
3 they're looking for.

4 Are you resourceful?

5 Can you go on the Internet?

6 Can you access information at the drop of a
7 hat and be very quick to do that?

8 And Joseph is going to be behind the mark
9 when it comes to that.

10 So for us, I'm going to echo what other
11 people have said.

12 I appreciate everything that you are trying
13 to do.

14 We truly believe, like you, that broadband
15 Internet should be a basic utility; something that
16 everyone has access to if they so choose, and it
17 shouldn't come down to where you live.

18 Information in 2019 should be a click away,
19 it shouldn't be miles away.

20 So that's kind of a consolidation of what
21 I had to say in a short period of time.

22 So, thank you.

23 SENATOR MAY: Thank you. (Indiscernible)
24 very well.

25 Who was next?

1 David Little.

2 DAVID LITTLE, ESQ.: Hi, I'm Dave Little.

3 I run the Rural Schools Association and the
4 Rural Schools Program at Cornell.

5 That's more pictures than my other -- mother
6 has ever taken of me in my entire lifetime, I think.

7 We've heard hours of testimony about, the
8 what, the where, the how, today.

9 So let me give you just a few minutes about
10 the "why."

11 This is just a circumstance that's elemental
12 to education.

13 If you go back to when I graduated from
14 high school, there was 17 million acres in
15 agricultural production in New York State.

16 Today there's seven.

17 Okay?

18 When I graduated from high school, rural
19 New York had the economic capacity to be able to
20 bail out New York City from what we commonly call
21 "bankruptcy" right now.

22 And it's time to return the favor.

23 The president of SUNY Cobleskill says that
24 our policies are what are standing in the way of our
25 progress.

1 And I think that's true, both on two major
2 fronts, one of which we're talking about today,
3 which is information access, and the other is the
4 way that we fund our schools.

5 In the past 10 years, we've had 10 straight
6 years of declining sales tax revenue from rural
7 New York. We've had a million people leave rural
8 New York.

9 I rarely go to a school district -- half of
10 the school districts in New York State are my
11 members -- and I rarely go to one that hasn't seen a
12 third of their students decline from where they
13 started with.

14 So -- and we hear all the time, from a policy
15 perspective, why you need to do things differently.

16 You need to consolidate.

17 You need to -- digital learning is the key in
18 the rest of America.

19 And we built, in essence, the Great Wall of
20 China around that in New York State, from a policy
21 perspective.

22 We don't fund our schools in a way that
23 allows them to take advantage of digital learning.

24 And, from a labor standpoint, we don't allow
25 digital learning in the ways that others have.

1 We have this concept of digital learning,
2 I think in New York State, that's about a generation
3 behind.

4 I mean, if you really want to know about the
5 capacity of digital learning, ask the Pentagon what
6 it thinks of the game "Call of Duty."

7 It educated an entire demographic of exactly
8 who they wanted to know the information on things
9 like, military tactics, loyalty, chain of command,
10 battlefield operations, logistics, weapons;
11 everything that they would want to know their
12 demographic to know.

13 They get it ready-made now through digital
14 learning.

15 We can think about things like, a surgical
16 resident, or an airline pilot, much more
17 individualized.

18 It allows us to try and overcome things like,
19 English-language learners, the poverty gap, the
20 language gap that students in poverty come to
21 schools with, can be overcome with that.

22 And as everybody has said, if the only place
23 that you can get that is in school, then digital
24 learning can overcome time and distance in the way
25 that the school bus overcame it a generation ago, to

1 try and create these merged school districts, to
2 bring people together to do sequential learning and
3 the things that we would want to do.

4 We could do so much more if we had this in
5 place.

6 You know, people have talked about, it was
7 almost a throw-away a line -- a throw-away line,
8 5 hours ago, was that, and kids can't do their
9 homework.

10 Do you understand the implications of that?

11 It's the demise of New York State, is the
12 implication of that.

13 If you throw away the entire demographic of
14 rural New York, which is quickly happening before
15 our very eyes, at this very moment, I keep saying,
16 we're in crisis.

17 And if it were happening to any other
18 demographic within the state, it would be in every
19 major newspaper in America.

20 And the other thing that I would just briefly
21 touch on, is the fact -- and I'm astounded that
22 I haven't heard it today -- Sprint is trying to
23 merge with T-Mobile.

24 And they've gotten federal approval to do
25 that, based on verifiable and enforceable contracts

1 that they have offered to create broadband in rural
2 America. That's the whole point of their merger, is
3 to create broadband in rural America.

4 And we've been here for almost 7 hours, and
5 nobody's touched on it.

6 And one of the reasons that nobody has
7 touched on it is because the State of New York is
8 suing over this. The attorney general is trying to
9 block it in New York State.

10 We need a legislative commission to oversee
11 this. We need the public-private partnerships that
12 people have talked about on this issue.

13 I'm not a technological expert, but I do know
14 that if we don't fix this quickly, and I go out to
15 more school districts, for years I did the honors
16 banquet for Chautauqua, where they honor the
17 valedictorian and salutatorian of every high school.

18 And every time they would come up, Where you
19 going to school?

20 Jamestown Community College. Jamestown
21 Community College. Jamestown Community College.

22 And, yet, rural students are dropping out of
23 our community colleges and 4-year programs at a
24 75 percent rate.

25 Okay?

1 We graduate everybody according to the state
2 standards, and they don't have the breadth of
3 curriculum, they don't have the opportunities that
4 were talked about here, to be able to be competitive
5 once they reach the next level.

6 And we're not doing them any favors; and, in
7 turn, rural New York can't do us any favors in the
8 way that we did a generation ago.

9 SENATOR MAY: Thank you.

10 Next on my list is Carolyn Bobick and
11 Julie Marlette.

12 CAROLINE BOBICK: I'll let Fry take over for
13 Julie.

14 SENATOR MAY: Oh, okay.

15 FRY (no last name given): Thank you, and
16 Happy Constitution Day.

17 SENATOR MAY: Thank you.

18 FRY (no last name given): I just want to
19 highlight a couple of points, so I don't repeat what
20 you've heard already, or what you I'm sure will
21 hear.

22 You heard about the homework gap, the
23 schoolwork gap, especially in terms of one-on-one
24 technology programs, like Chromebooks.

25 That's all true, that's all important.

1 The couple additional items that I want to
2 talk about:

3 This isn't just a teacher and student
4 dynamic.

5 The vast majority of districts, and
6 increasing number of districts, communicate online
7 with parents of those students, making sure, in
8 providing those parents of students with the tools
9 to support their children, their students, as they
10 complete their assignments; making sure the parents
11 are informed of the student's progress.

12 That's an advantage that technology offers,
13 but if those parents are in communities and school
14 districts where there's either no Internet access or
15 insufficient speed in Internet access, that
16 additional tool that those parents have is severely
17 compromised.

18 We've heard over the past number of years the
19 State's desire to pursue and implement
20 computer-based adaptive testing.

21 Obviously, that becomes problematic, if not
22 unrealistic, for a number of districts statewide,
23 particularly in rural areas as we've talked about.

24 Even if there's access, if that bandwidth is
25 not strong enough, if that access is too slow, in a

1 number of school districts, and doesn't meet the
2 recommendations or needs of whatever particular
3 program the school district is using for that
4 testing, that becomes unrealistic and unworkable as
5 the State, as a whole, tries to move towards that
6 computer-based adaptive testing model.

7 The last piece I want to mention, I know it
8 was discussed a little bit earlier today, but, we at
9 the School Boards Association are fully supportive
10 and fully engaged on the issue of net neutrality.

11 It must be restored.

12 Not only does it offer affordable and more
13 affordable access for communities throughout the
14 state, but it offers greater program -- program and
15 content diversity for -- for school districts and
16 students.

17 So it's important that, you know, whether
18 we're looking at a public investment or a private
19 investment or a combination thereof, we need
20 investments that expand access.

21 It's critical for not just the next
22 generation of students, but as we heard, you know,
23 it's critical for the current generation of students
24 that are being educated in our schools right now.

25 SENATOR MAY: Thank you.

1 Robert Lowery.

2 ROBERT LOWERY, JR.: Yep.

3 I'm Bob Lowry from the New York State Council
4 of School Superintendents, and thank you for holding
5 this hearing and inviting us to testify.

6 In my written testimony I try to provide a
7 portrait of rural school districts.

8 They tend to be smaller in enrollment, but
9 larger in geographic area.

10 For example, the average North Country school
11 district is 177 square miles.

12 For perspective, New York City is 322 square
13 miles.

14 So, try merging two of these districts, you
15 may be transporting kids over an area the size of
16 New York City.

17 This makes it hard for these districts to
18 consolidate, or even just to do shared physical
19 classrooms.

20 Also, they tend to be poorer, about half the
21 property wealth and income per pupil of the state
22 average.

23 And as a result, as I've said, they tend to
24 be -- they were capped by circumstances before they
25 were capped by law.

1 The average (indiscernible) rural school
2 district can raise only \$67,000, with a 1 percent
3 tax increase.

4 So both physical and fiscal limits restrict
5 the ability of rural school districts to offer the
6 opportunities that we would want for our own
7 children.

8 Recently, the board of regents announced a
9 plan to review diploma requirements. In some
10 reports that's been oversimplified to, Should we
11 have regents exams anymore?

12 Actually, it's going to be a much broader
13 effort than that.

14 Part of what we will say in those
15 deliberations is not -- what matters most for
16 students is not how they do on a single test on a
17 single day, or even five of them, but do they have
18 opportunities to take classes that prepare them for
19 success in whatever they pursue after high school?

20 A year ago, Education Trust New York did a
21 report on what they termed "gatekeeper classes,"
22 things like algebra in eighth grade, calculus,
23 physics, chemistry, advanced foreign languages, AP,
24 and international baccalaureate.

25 Large cities tend to not have calculus,

1 physics, chemistry, but high-need rural districts
2 are least likely to offer their students even a
3 single AP or IB class.

4 Technology, online learning, those provide a
5 tool that schools can use to offer students
6 opportunities that will prepare them for success.

7 Also, as Brian touched on, our members think
8 adaptive testing is the key to improving the
9 assessments that we have to give every year to kids
10 in grades 3 through 8, in English-language arts and
11 math.

12 With adaptive tests, the questions adjust in
13 difficulty as students progress through the test.
14 That makes it possible to have shorter tests, to get
15 better information back faster to families.

16 There are districts that use adaptive tests
17 for their own diagnostic purposes, and
18 (indiscernible) aren't a problem because families
19 and educators see the value.

20 But, frankly, in our conversations with
21 superintendents, they don't talk about problems with
22 connectivity for their schools.

23 You know, the largest share of the
24 \$1.4 billion in Smart Schools Bond Act money that's
25 been allocated so far has gone for school

1 connectivity projects.

2 They talk about what Tom talked about:
3 Connectivity in the home, and large numbers of
4 families that aren't connected, and the disadvantage
5 that that creates.

6 Some of the solutions, you've heard already.

7 Superintendents, who we've spoken with,
8 they've expressed frustration with the quality and
9 accuracy of the maps of service. They say they're
10 aware of examples where cable has been strung
11 through rural neighborhoods, but the final step of
12 connecting homes has not happened yet.

13 And so they suggest, you know, we need
14 intervention by a state authority to make sure that
15 that happens.

16 Also, you know, some other things that could
17 be done:

18 In Washington right now, the federal
19 communications commission is considering a proposal
20 to consolidate funding for education, a so-called
21 "E-rate program," with health-related Internet
22 projects.

23 That would have schools and hospitals
24 competing against each other.

25 It's something that we've written to oppose,

1 and we would urge you and colleagues in both parties
2 to weigh in with Washington.

3 We've also suggested in our written
4 testimony, making the installation of Wi-Fi on
5 school buses reimbursable, because, again, you have
6 students traveling long distances. They may not
7 have the Internet at home.

8 That's a simple step that could be taken to
9 help those students.

10 So, again, thank you for inviting our
11 testimony, and be happy to try and answer any
12 questions.

13 SENATOR MAY: All right, thank you.

14 And thank you all for keeping within the time
15 limit. I really appreciate it. It's been a long
16 day.

17 I do want to say, I love the example that you
18 gave of the two students.

19 And I have to say, as someone who lives in
20 Syracuse, where a quarter of the students don't have
21 Internet access because it's cost-prohibitive.

22 There are lot of issues that we have to deal
23 with here.

24 But, yeah, we've got to make sure all our
25 kids have got that.

1 I don't think I have any specific questions
2 for you.

3 ASSEMBLYMAN SANTABARBARA: First of all,
4 I want to thank you all for coming up together.

5 Actually, it was great to hear, you know, one
6 after another, voices surrounding the issue of
7 education, and how this affects students of all
8 ages, and it also affects our schools in the ability
9 to teach twenty-first-century technology, which is,
10 really, just basic technology now.

11 So I want to thank you for sharing your
12 comments, I want to thank you for being here.

13 A couple of notes.

14 The Sprint and T-Mobile, I don't know who
15 mentioned the merger, so, that, I took note of that.

16 I think that's something we should look into,
17 and should be having -- looking for some oversight
18 on that, because, certainly, you know, cell --
19 cellular coverage ties into this whole discussion.

20 So we're going to take a look at that.

21 The Wi-Fi on the buses that was just talked
22 about, that's an excellent point, because,
23 especially in rural communities, we have to think
24 about the bus rides. Sometimes they're very long
25 bus rides. And, you know, using that time

1 effectively, kids being able to access Wi-Fi on a
2 bus, would be very advantageous to them. It would
3 help them do schoolwork, help them use the time
4 wisely.

5 Yes, you have a comment on...?

6 DAVID LITTLE, ESQ.: Just to refer you to
7 Watkins Glen, Watkins Glen put Wi-Fi onto all of
8 their buses. And instead of sending them back to
9 the bus garage every night, they send them out to
10 the most remote corners of their school district to
11 create hotspots for the kids in those areas.

12 ASSEMBLYMAN SANTABARBARA: And just -- yeah,
13 and that's an excellent point. I think that that's
14 something that we will look into as a commission
15 here. I think that's a good point.

16 And the net neutrality, that's certainly
17 something we've been talking about here at the
18 Capitol, and I think it's very important.

19 I want to thank Superintendent Ciaccio, who
20 is from my district.

21 Fonda-Fultonville I've visited many times, in
22 Montgomery County. And we shared -- we've shared
23 the concern over this issue.

24 And it's great to have a local voice from my
25 district up here.

1 How does -- I guess one question:

2 You said, you know, you don't live far from
3 the school, you don't have service.

4 How does that compare to all the students;
5 what percentage would you say --

6 THOMAS CIACCIO: I would say --

7 ASSEMBLYMAN SANTABARBARA: -- when they leave
8 the school, they have, virtually, no access?

9 THOMAS CIACCIO: -- in terms of broadband,
10 I would -- what -- it depends on when you survey
11 students.

12 We surveyed them couple of years ago.

13 Probably 40 percent of our students do not
14 have access to broadband.

15 Now, they do use cellular and their carrier.

16 But something that one of my colleagues here
17 touched upon was, you know, in a small rural school
18 district, you do everything you can to offer your
19 students opportunities.

20 College-based-type courses that come with
21 expectations, that are extremely important for those
22 students to do outside of school, typically revolve
23 around digital access, and being able to get onto
24 their computers, not their cell phones.

25 And from a school district standpoint, we

1 would love to provide hotspots, and do those types
2 of things. But from a budgetary standpoint, when
3 40 percent do not have that, it would be -- it's
4 almost impossible for us.

5 ASSEMBLYMAN SANTABARBARA: And we talked a
6 few years back, I think there was even an
7 announcement at the school, the federal government
8 was looking at funding some of the broadband
9 service.

10 THOMAS CIACCIO: And Senator Gillibrand came,
11 and (indiscernible), and you had a press conference
12 at our school. And that was two years ago.

13 So two years ago, where I live, the closest
14 house that had broadband Internet was a half a mile
15 away, two years ago.

16 So, fast-forward, after that press
17 conference, and all these things that we're going to
18 try to hold Spectrum to at that time, and other
19 service providers, that access to my house is still
20 half mile away at the same place that it is.

21 But, going back to the maps and making sure
22 that things are accurate, I'm -- I think I'm
23 included in the 98 percent that was spoken about
24 this morning, that about 98 percent of New York is
25 covered in broadband services.

1 And that is -- you know, I would say, if
2 they're including me in that category, it's because
3 I did the same thing that someone else did, and
4 called Spectrum at the time, 4 years ago, and said,
5 I'd like to have Roadrunner, and all those things at
6 my house.

7 Sure, no problem. We have it, we can offer
8 it to you.

9 At the end conversation, they wanted to
10 charge me \$40,000, because they wanted me to pay for
11 the line to run up.

12 So I'm counted in that 98 percent because
13 it's "offerred" to me.

14 SENATOR METZGER: Right.

15 THOMAS CIACCIO: But from a realistic
16 standpoint, those things need to be fleshed out to
17 what is real and what is fictional.

18 ASSEMBLYMAN SANTABARBARA: What's affordable,
19 right.

20 And through the rounds of the New New York
21 Broadband Program, have you seen a change?

22 I know some funding was awarded in the area,
23 Montgomery County.

24 Have you seen a change in the school
25 district, or in the local community, since the

1 funding was awarded?

2 THOMAS CIACCIO: From the -- I would say,
3 from the broadband perspective, we have not seen a
4 change.

5 But, from the Smart-Schools perspective, and
6 that money that's come our way, it has absolutely
7 allowed us to create an infrastructure in our school
8 that supports what we need to do at the school, from
9 a broadband sense, and those types of things,
10 bandwidth, and those things.

11 So the Smart Schools absolutely has helped
12 us, but, it's reaching those kids.

13 As Bob said, we're 140 square miles, which is
14 a pretty large, when you're talking only, you know,
15 1,300 students.

16 We definitely need to see more of these
17 people held accountable. And the price for doing
18 business in New York is to provide broadband all
19 across our rural communities.

20 ASSEMBLYMAN SANTABARBARA: Thank you.

21 Thank you for testimony today.

22 SENATOR METZGER: Sure, just a couple of
23 comments -- just a couple comments.

24 Thank you so much for your testimony. This
25 is so important a topic.

1 You know, I -- a school in my district, in,
2 actually, one of the less-rural communities, had
3 a -- just had a capital project that included a
4 distance-learning classroom.

5 And, you know, when I went in and saw this,
6 this classroom, I thought, this is going -- this
7 would be so great for my more-rural communities,
8 cash-strapped school districts, that can't offer
9 those AP classes, that can't offer those -- a whole
10 range of classes, languages and the rest.

11 But, of course, you can't have them unless
12 you have broadband.

13 And so this is -- this is really important.

14 I do -- I love the idea about requiring that
15 Wi-Fi be on the buses, be reimbursable.

16 You need cell, though, don't you?

17 ASSEMBLYMAN SANTABARBARA: Need something.

18 SENATOR METZGER: And, unfortunately, we're
19 actually on a cell service task force -- Rural Cell
20 Service Task Force.

21 And I know, at least in my area, a lot of the
22 main roads don't have cell service.

23 So that's -- that issue has to be addressed
24 for that (indiscernible).

25 SENATOR MAY: Okay, great.

1 Well, I guess that's it for us.

2 I do want to say, it was great to hear from
3 all of the school representatives.

4 And I kind of wish we had a library person up
5 here too, because they also are absolutely key to
6 this whole issue, I think.

7 OFF-CAMERA SPEAKER: Anchors.

8 OFF-CAMERA SPEAKER: Thank you.

9 OFF-CAMERA SPEAKER: Thank you.

10 SENATOR MAY: Thank you all.

11 Freda Eisenberg.

12 SENATOR METZGER: Thank you, Freda, for
13 waiting it out.

14 FREDA EISENBERG: Oh, thank you for --

15 SENATOR MAY: I want to thank everybody who's
16 still here (parties cross-talking).

17 FREDA EISENBERG: Thank you, Senator Metzger;
18 thank you, Senator May, for not only inviting me to
19 participate in this hearing, but also for the
20 devotion that you've shown to the subject matter.

21 I'm Freda Eisenberg. I'm commissioner of
22 planning and community development for
23 Sullivan County.

24 And at this point in the day, there's really
25 very little I have to add for you, so I'm going to

1 try to make this short.

2 There are a few things I would like to
3 underscore.

4 One, the maps cannot be emphasized enough.

5 Sullivan County is, basically, shown as fully
6 covered, and we know we're not fully covered.

7 And that's hampered our ability to
8 participate in the broadband -- the New New York
9 Broadband Program. It's precluded us from, you
10 know, certain eligibilities.

11 So, accurate maps are important.

12 A few years ago, before the New York
13 Broadband Program, Sullivan County GIS did our own
14 maps. And we tried to identify areas that met the
15 20-unit-per-mile threshold, that we showed were not
16 covered.

17 And we had, you know, a number of these, and
18 we went to Time Warner at that time. And they said,
19 Well, we have to verify this.

20 And they had two separate companies verifying
21 it.

22 And at the end of the day, when we all came
23 together, there was still discrepancies as to what
24 and wasn't covered.

25 So, I relay this anecdote to emphasize the

1 importance of on-the-ground verification of, you
2 know, what does and what doesn't have service.

3 Other factors to be addressed in any
4 assessment are, again, the non-disclosure agreement.

5 That's not only, you know, hampered our
6 ability to respond to constituents when they call
7 with questions about their service, but it's
8 hampered our ability to be an effective advocate for
9 service.

10 If we don't know what is not going to be
11 covered in any kind of agreement, we can't go and
12 fight and -- or -- or develop ways to -- to provide
13 that service.

14 Capacity: Capacity was mentioned.

15 It was mentioned that, you know, there's been
16 an attrition in basic, you know, workers going out
17 and doing the cables.

18 But we've also found that there's been a
19 reduction in -- we've lost our government-service
20 relations people at, you know, Time Warner, and --
21 and there's been turnover at Frontier.

22 And so our ability to get information, again,
23 so important to be able to advocate and plan, has
24 also been hampered.

25 Sullivan County does plan to launch a pilot

1 program using county (indiscernible) 911
2 communications towers and Wi-Fi.

3 I took note earlier today, one of the
4 speakers cautioned against this approach, but, we
5 have been waiting out the solution for years.

6 And our recent construction of new 911
7 towers, plus the completion of a new jail, has
8 created an opportunity for us to test a pilot
9 approach, where we will use Wi-Fi and extend signals
10 for about 4 miles around the area of Monticello.

11 Monticello, actually, is a fairly well-served
12 area of our -- our county, but it's also an area
13 where an issue that hasn't been mentioned frequently
14 today, it is, you know, relevant, which is the cost
15 of service.

16 You know, we have very high rates of poverty,
17 you know, in that area, and so the cost of service
18 is a barrier.

19 And our pilot will allow us to test a
20 lower-cost approach.

21 If that's successful, we will want to roll it
22 out to other areas of the county, particularly areas
23 that are not well served, such as the upper Delaware
24 River Corridor, which is, you know, an important
25 tourism corridor. It's a national park in our area

1 where businesses and residents, you know, lack
2 sufficient service.

3 So to conclude, again, to be short:

4 I'd like to ask that, in any future iteration
5 of the Broadband Program, that there be funding for
6 municipal efforts, as well as the public-private
7 partnerships.

8 SENATOR METZGER: I just want to thank you
9 again, Freda, for coming out and being, you know,
10 the representative of our region and the issues we
11 face.

12 So, really appreciate it.

13 FREDa EISENBERG: Sure.

14 Thank you.

15 SENATOR MAY: Yeah, I appreciate it too.

16 Thank you very much for being here, Freda.

17 Renee?

18 RENEE ST. JACQUES: I'm here.

19 SENATOR MAY: Second-to-last.

20 Thank you for staying.

21 RENEE ST. JACQUES: Yep. No, of course, of
22 course.

23 I'll keep it -- I'll keep it quick.

24 So, I'm Renee St. Jacques. I'm assistant
25 director of public policy at New York Farm Bureau,

1 some of you know.

2 We've heard a lot of the stories and issues
3 today, and lot of it's the same for the farmers
4 across New York.

5 They are small businesses, or large
6 businesses, and they still need that capability for
7 broadband. And it's important -- it's an important
8 tool, as you know, communication with current and
9 prospective customers, advertising their products,
10 things like that.

11 And then you think about grant applications,
12 or things for -- like that, provide by the
13 government.

14 Most of those applications are also being
15 made available online, so how are farmers supposed
16 to be filling those out?

17 We get calls about broadband access, and they
18 say, Well, can you send me some information?

19 And I can't do it by e-mail. They have to
20 send -- I have to mail it, snail mail.

21 So it's definitely an issue across New York
22 for a lot of farmers.

23 And I just wanted to share some statistics
24 that our -- on the -- on the testimony that -- from
25 the National Agricultural Statistics Service, they

1 announced their statistics, their census, in -- for
2 2017. And 81 percent of New York farms,
3 technically, have access.

4 But as we've been discussing, access is --
5 does that -- that doesn't mean that they actually
6 have reliable broadband.

7 But only 25 percent of those farms said that
8 they actually conduct agricultural marketing
9 activities over the Internet.

10 That's a big problem.

11 And whether that means that it's only
12 available during certain seasons; whether the corn
13 is too high, or, maybe the leaves -- you know,
14 during the winter it's available, and then the
15 leaves go on the trees and it's not available
16 anymore.

17 It's definitely a problem across the state.

18 And I guess, moving forward, there was a lot
19 of options, a lot of ideas, for what we could do.

20 I think just trying to keep farmers in the
21 conversation, going forward, is very important, and
22 we -- because we see it as a big issue, and we would
23 definitely like to see more access across the state.

24 So thank you for the opportunity to speak
25 today.

1 SENATOR MAY: Great, thank you.

2 I have a couple of questions.

3 One has to do with estimating the economic
4 impact of lack of service, or, you know, the
5 building out service.

6 What would be really helpful?

7 I don't know if that's possible to do, but it
8 would be --

9 RENEE ST. JACQUES: We do have the NASS
10 statistics. But, other than that, there really
11 isn't -- other than hearing from a lot of our
12 farmers individually on difficulty with access.

13 I mean, if they're at the end of the street,
14 a lot of the times, end of that road, they're not
15 getting enough service. Or, if they are, that
16 broadband service is unreliable, and they can't even
17 go on their Facebook page to post to their
18 customers, saying, This is what we have available
19 today, or, on their website.

20 Things like that is really important.

21 So that would be a good thing, moving
22 forward, to have some kind of statistics on what the
23 economics of that situation really are.

24 SENATOR MAY: Yeah.

25 And then, last week, I read an article about

1 hi-tech in agriculture as a way of dealing with
2 climate change and other uncertainties.

3 There were a lot of tools for farmers to
4 figure out, you know, where to apply water, or where
5 and -- where and when to plant their seeds, or
6 whatever it is. And that it's all cloud-based.

7 And so my question was: How do farmers get
8 access to that if they don't have --

9 RENEE ST. JACQUES: We can make all these
10 tools, but...

11 SENATOR MAY: -- yeah.

12 So I was wondering if you have heard that
13 from New York farmers, because this was all about
14 the Midwest, basically (parties cross-talking) --

15 RENEE ST. JACQUES: Definitely.

16 We've definitely heard it, about the --
17 having those tools available, but they cannot use
18 them where they live and where they operate their
19 farms.

20 That's also comes in the question of cellular
21 service, because some of these -- these things you
22 can use, these tools that you can use, out in the
23 field are -- you know, they can't -- they can't use
24 them and benefit from them.

25 So that also comes into an issue.

1 And, definitely, I think -- I've been trying
2 to write down every time a farmer calls me and gives
3 me a different example of what their problem or
4 issue is when it comes to broadband access, but also
5 the cellular capability as well.

6 And just keeping that list going.

7 But it's difficult to put that into numbers,
8 for sure, I think.

9 SENATOR MAY: Well, I think we would love it
10 if you would share the list with us as you're
11 putting it together, because that kind of
12 information is really helpful.

13 RENEE ST. JACQUES: Definitely can do that.

14 SENATOR METZGER: And the potential is just
15 so great for managing pests, for reducing the cost
16 of inputs. It's huge.

17 And, also, just access to information too,
18 about, you know, seed varieties, research, and all
19 the rest.

20 There's a lot --

21 RENEE ST. JACQUES: Most definitely.

22 SENATOR METZGER: -- you can miss out on.

23 RENEE ST. JACQUES: Agreed.

24 ASSEMBLYMAN SANTABARBARA: And just to --
25 I want to thank you for your testimony today.

1 And I think that's -- that's something
2 I highlighted, that the unique -- the uniqueness of
3 some of the needs. Like, you know, who would think
4 some of the equipment or some of -- some of the
5 tools are now connected, as the Senator said, to the
6 cloud. And they can't really function without
7 having this connectivity.

8 I think that's an important point because,
9 when we think of farming, people don't tend to think
10 of that kind of technology being applied.

11 But technology has really changed the way
12 farms operate.

13 Also, there's a trend that you're probably
14 aware of, that have we're losing farmland.

15 So I think some of it does come down to
16 people that -- farmers that live out in these
17 communities, it comes down to quality of life a
18 little bit too, because, if you're running a farm,
19 you have big property.

20 So when it comes to quality of life, you
21 know, you're not connected to the Internet, you
22 don't have basic technology.

23 A lot of it is just quality of life, in
24 general, in the rural communities where a lot of
25 these farms operate.

1 So we have to keep that in mind as well, as
2 impact, as we go forward and try and make sure that
3 our farms continue -- continue to thrive.

4 RENEE ST. JACQUES: Agreed.

5 And we would love to be part of that
6 conversation, and just to keep sharing these
7 different unique aspects of farming that, as we go
8 forward, make sure those are not lost as we're
9 trying to find a way to get broadband to everyone in
10 New York.

11 SENATOR METZGER: So I'd be interested to
12 talk with you, perhaps, about a survey that we could
13 do of farmers, of broadband access.

14 RENEE ST. JACQUES: I think that would be a
15 great idea.

16 SENATOR METZGER: That would be really
17 interesting.

18 RENEE ST. JACQUES: Definitely.

19 SENATOR MAY: Thank you so much.

20 RENEE ST. JACQUES: All right. Thank you.

21 SENATOR MAY: And last, but not least,
22 Taier Perlman.

23 Thank you for being here, and for holding out
24 till the last minute.

25 ASSEMBLY MEMBER THIELE: The patience of Jobe

1 right here.

2 TAIER PERLMAN, ESQ.: Yeah, yeah, the stamina
3 that you guys have all displayed has been amazing.

4 Well done.

5 Okay, so, given that I'm last, but not least,
6 I'm going to keep my remarks short.

7 I crossed out a lot of portions of what I was
8 going to say because it was already said.

9 I'm kind of taking a new direction here,
10 because what I'm going to be speaking about is the
11 impact that the shortage of rural broadband has on
12 the legal profession, and the administration of
13 justice in New York State, and how that affects
14 rural residents.

15 My name is Taier Perlman, and I run the
16 Rural Law Initiative out of the Government Law
17 Center at Albany Law School.

18 The Government Law Center's mission is to
19 provide research and analysis to state and local
20 governments and policymakers, so that they can
21 better serve their communities.

22 And, specifically, the Rural Law Initiative
23 work has included research on some of the important
24 challenges that rural communities are facing.

25 I'm also the co-chair of the New York State

1 Bar Association's Rural Justice Task Force.

2 What we're charged with doing is identifying
3 viable solutions to support rural law practice and
4 greater access to justice for all of New York's
5 rural communities, including making recommendations
6 for changes in law and policy.

7 This task force is comprised of rural
8 lawyers, members of the judiciary, legal-service
9 organization leaders, and invested stakeholders from
10 around the entire state. There's 33 members in
11 total.

12 And we all unequivocally agree that the rural
13 broadband and telecom gaps in rural communities is
14 one of the primary challenges of rural practice.

15 And it's not just for our profession,
16 obviously, but it's also for all the rural residents
17 we serve.

18 Without lawyers and a well-functioning
19 judicial system, the rule of law is not a reality.

20 People in rural communities depend on lawyers
21 and the courts to help them start businesses, make
22 contracts, hire employees, resolve disputes, and
23 pass their property on to their children.

24 Also, lawyers are instrumental in rural
25 economic-development efforts, and getting deals

1 done, and negotiating contracts and partnerships.

2 Our research is showing us that there's a
3 palpable failure in our legal system's ability to
4 deliver justice for all New Yorkers, and part of
5 that reason, is the failure that rural communities
6 don't have technological capacity to support the
7 efficient administration of justice.

8 Rural law practices, town and village courts,
9 and the rural residents they serve, are being left
10 behind due to the broadband and telecom gaps.

11 And this shouldn't be happening.

12 This lack of access to technology means that
13 our legal system, which is increasingly built upon
14 assumptions of access to technology, just isn't
15 working.

16 Lawyers can't file their documents
17 electronically, which many courts now require.

18 Lawyers and clients can't communicate by
19 video conference.

20 And lawyers have to spend more time driving
21 across long distances, as well as their clients,
22 when they have to meet with them.

23 Legal research can only be done online, and
24 that's incredibly difficult for rural lawyers, and
25 for people who can't afford lawyers.

1 So, basically, learning about the law is
2 effectively impossible or incredibly difficult in
3 rural communities.

4 If lawyers can't take advantage of new
5 technology to streamline their practices, they fall
6 behind in the competitive market for legal services,
7 which means their clients do as well.

8 And if our local courts can't take advantage
9 of new technology, everyone who depends on it
10 suffers from the inefficiencies that result from
11 that.

12 All of these problems get worse over time, as
13 the lack of technology makes it harder to recruit
14 new attorneys to take over the law practices of
15 attorneys nearing retirement, which, by the way, is
16 three-quarters of the current rural practitioners in
17 upstate rural New York communities. They're on the
18 verge of retirement in the next 20 to 30 years.

19 The failure to keep up can then become a
20 downward spiral.

21 Between August and October of 2018, the
22 Government Law Center conducted a survey of rural
23 practitioners across New York State.

24 This was the first-of-its-kind effort to
25 quantify and qualify the growing shortage of legal

1 practitioners that was being anecdotally reported
2 from the field.

3 This research has been memorialized in a
4 report entitled "Rural Law Practice in New York
5 State," which is now publicly-available online.

6 And many lawyers reported that rural
7 broadband and telecommunication failures were one of
8 the primary challenges to rural practice.

9 I'm now going to read a few quotes that came
10 out from our survey. These are direct qualitative
11 responses that came back to us.

12 Not going to read all of them. I cut a bunch
13 of them out.

14 When asked about the challenges of rural
15 practice, one respondent said, "Researching cases
16 with horribly slow Internet service, and trying to
17 conduct business without effective cell phone
18 service, is one of the greatest challenges to
19 practice."

20 This is another one:

21 "We need better communications, like digital
22 services, Internet access, et cetera, for all
23 purposes.

24 "Enhanced technology and better access to
25 affordable technology for the school districts in

1 rural settings is also needed."

2 Another one:

3 "Fewer services for clients. More driving
4 travel. Difficulty for some clients to get to
5 appointments. Courts should permit video
6 appearances for attorneys or parties when the
7 appearances for a status review are simply for
8 scheduling purposes.

9 "This would allow parties to make appearances
10 without unnecessary travel or missing work or
11 needing to find child care.

12 "It would also allow attorneys to meet the
13 clients' needs without excessive travel costs or
14 billable time."

15 Another one:

16 "Many clients have no phone service or
17 limited minutes, and few have computers or Internet
18 service. It can be very difficult to communicate
19 quickly."

20 There are many other such quotes that came
21 out of this rural practitioner survey, but I'll stop
22 there.

23 SENATOR MAY: Okay.

24 TAIER PERLMAN, ESQ.: And this goes back to
25 the earlier point, but one of the most significant

1 findings from our survey of rural practitioners, is
2 that 74.3 percent of them are at retirement age or
3 soon approaching it.

4 Rural communities are dealing with a rapidly
5 (indiscernible) with no viable successors.

6 Most new attorneys gravitate to urban and
7 suburban areas, leaving the time-tested and true
8 small-town lawyer out.

9 The rural broadband and telecommunications
10 gaps prevalent in Upstate New York only exacerbates
11 this problem.

12 Why would a newly-minted attorney open up a
13 modern-day law practice, or take over one, in a
14 place that doesn't have reliable and effective
15 broadband and telecom services?

16 It just wouldn't make sense for them.

17 And how about the rural practitioners that
18 are out there today?

19 It's not just a question of practicality.

20 The rule of law depends on judges, lawyers,
21 and everyone else being able to learn and understand
22 the law.

23 Knowledge of the law, like everything else
24 these days, is something we get online.

25 Without access to broadband and

1 telecommunication services, the quality of lawyering
2 will go down, which means the quality of justice
3 will go down.

4 The rule of law in 2019 is online, and
5 communities that aren't online don't get to be a
6 part of that.

7 The fair and equal administration of justice
8 demands that rural broadband and telecom services be
9 effectively available for all New Yorkers.

10 And I'm very grateful that you all agree with
11 that, and are making the effort to push this issue
12 forward.

13 So thank you very much for your time.

14 SENATOR MAY: Thank you.

15 That was a whole different perspective that's
16 really important to hear.

17 And I will just say, it also extends to rural
18 health care, and number of other areas that we
19 didn't hear about today.

20 But it's great that you brought this up
21 because, especially in professional work, it's
22 really hard to do it now if you don't have this
23 basic connectivity.

24 SENATOR METZGER: And, also, there's the
25 direct connection to your professional work, but

1 there's also just attracting professionals to rural
2 areas.

3 And it even, you know, extends to nursing and
4 other occupations that we have shortages of, if, you
5 know, we need to have these services to attract
6 them, for their quality of life. You know.

7 So...

8 TAIER PERLMAN, ESQ.: Yeah, this cuts across
9 all professions, all industries.

10 But without the -- without the broadband and
11 telecom services, you're not going to incentivize
12 new professionals to come out to these places.

13 So, it's definitely great that you understand
14 that.

15 SENATOR MAY: Well, thank you, and thank you
16 for bringing the specifics.

17 SENATOR METZGER: Yeah, it's helpful.

18 ASSEMBLYMAN SANTABARBARA: Thank you.

19 SENATOR MAY: All right, I guess we're
20 wrapping up.

21 So I just want to belatedly thank my staff
22 who put all this together.

23 Eric Vandervort, who worked with everybody on
24 the -- on this list, and did an amazing job.

25 Zach Zelif and Hal McCabe (ph.) have been

1 running things here in -- in the office, and --
2 I mean, in the room.

3 And, Kristin Williams, wherever she is,
4 working behind the scenes.

5 And the tech staff here, you've been
6 wonderful.

7 The sergeants-at-arms who were here, thank
8 you.

9 And everybody who stayed, or even was here
10 for part of the day, it was really a great hearing,
11 and I'm grateful to all of you and to my colleagues
12 up here.

13 Thank you so much.

14 SENATOR METZGER: Yes, I second that, thank
15 you.

16 ASSEMBLYMAN SANTABARBARA: (Inaudible.)

17 SENATOR MAY: What do I have to do?

18 ASSEMBLYMAN SANTABARBARA: "Meeting's
19 closed."

20 SENATOR MAY: Oh.

21 Meeting is closed -- the hearing is closed.

22
23 (Whereupon, the Legislative Commission on
24 Rural Resources concluded, and adjourned.)

25 ---oOo---