



March 1, 2012

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Via Electronic & Hand Delivery

Debra A. Howland
Executive Director & Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429



Re: DT 07-011 Verizon New England Inc. et al.; Transfer of Assets to FairPoint Communications, Inc. – Proposal to Expand Broadband to the New Hampshire North Country

Dear Ms. Howland:

This proposal is sent on behalf of Northern New England Telephone Operations LLC d/b/a FairPoint Communications - NNE (“FairPoint”) in response to the recent order from the New Hampshire Public Utilities Commission (the “Commission”) dated February 6, 2012, referenced as Order No. 25,331 (the “Order”). Pursuant to the Order, FairPoint hereby submits the below proposal to permit FairPoint to construct and install broadband facilities to areas of the New Hampshire North Country, primarily in Coos County, that do not and likely will not be served with broadband pursuant to FairPoint’s 2008 merger requirements or any capital plan. As noted in FairPoint’s submission of January 31, 2012, in this Docket, FairPoint would fund the costs of this broadband expansion project with retail service quality penalties. Presently, FairPoint calculates the funds available under this approach to total \$2,823,751. This figure is derived by adding the penalties referenced in FairPoint’s January 31, 2012, submission (and the Staff Memorandum dated January 25, 2012 (the “Staff Memorandum”)) with the penalties of \$233,333 referenced in FairPoint’s filing dated February 22, 2012 (correspondence from Ryan P. Taylor).¹

In an attempt to provide as much public information as possible, this submission does not contain details concerning the current broadband build project. FairPoint considers such information to be proprietary and confidential information. To the extent the Commission would like FairPoint

¹ FairPoint notes that the Commission’s Staff currently is reviewing the February 22 filing and, therefore that filing is not yet finalized from the Commission’s perspective. The \$233,333 includes the effect of a storm waiver request as discussed in more detail in the February 22 filing.

to provide any confidential information during the hearing tentatively scheduled for March 15, 2012, the Commission's Staff (or the Commission) certainly can provide me with any such requests and FairPoint will endeavor to provide the information by the date of the hearing.

Prior to detailing the proposal, several issues arising from the Order warrant discussion. First, the Staff Memorandum was filed absent discussion with FairPoint representatives addressing the substantive requirements being sought therein. Thus, FairPoint did not have prior knowledge of the potential need to develop the specifications and to schedule the Information Technology work related to retail billing statement changes. Compliance with the Staff Memorandum and the Commission Order related to retail billing credits likely cannot be implemented, tested and finalized by April 1, 2012. Additionally, a rushed implementation to ensure compliance with the Order necessarily means that priorities must be shifted and at least one (if not more) IT systems modifications scheduled to be released over the coming months must be delayed. Rushing changes to billing statements for no reason other than to offset the municipal pole tax surcharge, a surcharge that has been in process since the late Fall of 2011, is neither fair nor reasonable. FairPoint recommends that any issuance of bill credits be as set forth below.

Additionally, both the Staff Memorandum and the Order place significance on pending legislation that may or may not be enacted. The Commission referenced Senate Bill 48, on page 4 of the Order, and noted that amendments to the legislation may be necessary. FairPoint submits that whether Senate Bill 48 is enacted is speculative at best and should not drive the decision to expand broadband to the North Country versus issuance of bill credits.

Notwithstanding any interested party's position concerning SB 48, FairPoint notes that sufficient time exists to verify that FairPoint issues any required bill credits prior to any potential effective date of that legislation.² To the extent bill credits are the preferred means of dispersing the funds at issue, FairPoint proposes to issue either a single bill credit in a specific month – such as May or June – or perhaps over a period of no more than two (2) months.

With respect to the use of the funds at issue for broadband expansion, FairPoint notes that the current broadband build effort to reach 95% of FairPoint's access lines (by March 31, 2013) is underway. However, detailed engineering work remains to be completed. FairPoint will not be in a position to detail by March 15, 2012, a near final build plan detailing where FairPoint will or will not extend broadband service. Engineering and constructing these facilities to remote areas is expensive and time consuming, and subject to constant change as conditions on the ground in specific physical locations are discovered.

Preliminarily, however, FairPoint notes that a significant amount of Coos County likely will not be served with broadband once FairPoint achieves the 95% build requirements. FairPoint proposes to work with the Staff during the course of 2012 to identify what areas will and will not be served through the 95% build project. Those areas not served can be identified later this year,

² FairPoint understands that the Science, Technology & Energy Committee of the New Hampshire House of Representatives has scheduled a hearing on SB 48 for March 20, 2012.

and communities then can be targeted for broadband service during 2013. Due to the extensive number of projects requiring engineering and construction efforts during the 2012-2013 time frame, FairPoint proposes to extend the deadline for a small portion of the 95% build project if certain incentive milestones are achieved by December 31, 2012. The entirety of the project then could be completed in measured and controlled manner that would not adversely affect other projects, such as the Federal government stimulus project to overlay FairPoint's network with a government funded network. This project requires an enormous amount of make ready work on FairPoint's part.

Additional projects are underway that impact scheduling considerations. FairPoint continues to remove dual poles in New Hampshire and Vermont. FairPoint also agreed to a broadband expansion project in Vermont similar to that being proposed here with deadlines in 2012. In the normal course of business, FairPoint continues to expand its Carrier Ethernet Services offering to business customers and much of this expansion requires engineering and construction resources. There are other projects requiring significant engineering and construction resources that FairPoint can discuss with the Commission in a confidential session during the upcoming hearing. FairPoint advises of these projects in order to provide a context for the requested extension of a small portion of the 95% broadband build project. FairPoint does not make such a request lightly and requests the accommodation to allow the most efficient use of engineering and construction resources.

The overall broadband build proposal is as follows:

1. FairPoint places the funds necessary for the extended/new project in a restricted account, similar to that undertaken in Vermont per Public Service Board Dockets 7725 and 7726. This account would be established upon the expiration of the filing deadline for motions for reconsideration in the event the Commission issues an order approving of the proposal. Restricted fund dollars may be used for capital expenditures or operating expenses. This fund may be withdrawn from on a monthly basis as expenditures are made on identified projects. Interest earned in the fund may also be used for the same purposes.
2. FairPoint works with the Staff later in 2012 to identify target communities in Coos County (with flexibility to identify other un-served target communities in the North Country) for broadband expansion with the use of the \$2,823,751. Similar to the Vermont project, FairPoint would have the discretion to choose the target communities.
3. To provide FairPoint with incentive to complete as much of the 95% broadband build project as possible in 2012, in the event that FairPoint achieved a 92% broadband availability rate by December 31, 2012, then the deadline to complete the remaining 3% of the 95% build project would be extended to December 31, 2013, and (essentially) folded into the target community project referenced in bullet #2 above. FairPoint would remain subject to the same penalties as now existing for any failure to complete the remaining 3% of the 95% build project by the revised December 31, 2013 deadline.

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4. Failure by FairPoint to achieve a 92% broadband availability rate by December 31, 2012, means that FairPoint must complete the 95% build project by March 31, 2013, subject to the same penalties as now in effect for a failure to meet the deadline of March 31, 2013. For the avoidance of doubt, there would be no monetary or other form of penalty for any failure to achieve the 92% availability by December 31, 2012.

5. The entirety of the broadband build project would be completed by December 31, 2013. FairPoint would have the flexibility to utilize the \$2,823,751 in a manner to maximize the potential for any funding that is or may become available pursuant to the recent Universal Service Funding reform order issued by the Federal Communications Commission and effective as of December 29, 2011.

FairPoint believes the above proposal to be more beneficial to the State of New Hampshire than the issuance of bill credits. Nonetheless, FairPoint will issue the bill credits and, if that is the preferred approach, FairPoint only requests that it be permitted sufficient time to process the Information Technology work related to retail billing statement changes and implement a single bill credit or a two month bill credit in the total amount of \$2,823,751 (subject to the February 2012 filing being finalized).

An original and 7 copies of this proposal, along with a compact disc, are enclosed herewith. Please do not hesitate to contact me in the event you need further information concerning the above.

Very truly yours,



Patrick C. McHugh

Electronic cc: Service List DT 07-011