

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSIONDocket No. DT 16-872
Consolidated Communications Holdings, Inc.

Answers of Labor Intervenors to FairPoint's First Set of Data Requests

FP: Labor-6: Referencing the Barber Testimony, pages 47 through 50, under the heading "Conclusions and Recommendations": For each and every recommendation made therein by Mr. Barber, please identify the legal and statutory authority or authorities by which the Commission may impose each such condition.

Answer:

RSA 374:30, II became effective in August 2012 and sets forth the scope of the Commission's authority in this proceeding. That section reads as follows:

An incumbent local exchange carrier that is an excepted local exchange carrier may transfer or lease its franchise, works, or system, or any part of such franchise, works, or system, exercised or located in this state, or contract for the operation of its works and system located in this state, when the commission finds the utility to which the transfer is to be made is technically, managerially, and financially capable of maintaining the obligations of an incumbent local exchange carrier set forth in RSA 362:8 and RSA 374:22-p.

This is the first case in which the Commission will be called upon to interpret the scope of its authority under this provision. The statute could be read as an "all or nothing" requirement; that is, that if the Commission cannot make unconditional findings concerning the acquiring company's capabilities in each of the three functional areas, then the Commission must reject the proposed transaction. The statute also could be read so that the Commission could condition its findings; for example, finding that the acquiring company would not have the requisite capabilities unless the acquiring company agrees to take certain actions (for example, finding that the company would be technically capable of meeting its obligations only if it employed a certain number of qualified employees in particular positions).

Labor Intervenors do not know how the Commission will interpret the new statute. If the Commission takes an "all or nothing" approach, then Labor Intervenors would argue that the Commission must reject the proposed transaction based on the information currently available. In the event that the Commission interprets the statute such that its findings can be conditioned, Labor Intervenors will propose various conditions, including those contained in Mr. Barber's testimony.

Response provided by: Scott J. Rubin, counsel for Labor Intervenors