**STATE OF NEW HAMPSHIRE**
**BEFORE THE**
**PUBLIC UTILITIES COMMISSION**

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| In the Matter of | ) | |
| | ) | |
| FREEDOM RING COMMUNICATIONS, LLC | ) | DT 06-067 |
| D/B/A BAYRING COMMUNICATIONS | ) | |
| | ) | |
| Complaint Against Verizon New Hampshire | ) | |
| Re: Access Charges | ) | |

## OBJECTION TO FAIRPOINT'S MOTION TO CERTIFY INTERLOCUTORY TRANSFER STATEMENT

Global Crossing Telecommunications, Inc. ("Global Crossing") hereby objects to FairPoint's May 24, 2011 Motion to Certify Interlocutory Transfer Statement in the above-captioned proceeding ("Motion"). The Motion is simply an attempt to delay FairPoint's compliance with the Commission's orders relating to its carrier common line ("CCL") charge and should therefore be denied.

In Order No. 24,837, issued on March 21, 2008, the Commission found, after an exhaustive hearing in Phase I of this docket, that FairPoint should not be permitted to assess a CCL charge on traffic that does not traverse its common lines. It reached this conclusion based on the wording of FairPoint's tariff and on the Commission's finding that "the CCL rate element was intended to recover and, in fact, does recover a portion of the costs of the local loop or common line" and is not a "contribution element" that is not intended specifically to recover common line costs. Order No. 24,837 at 31. The New Hampshire Supreme Court subsequently reversed this decision based on the wording of FairPoint's tariff, but said that the Commission was free to amend the tariff going forward. *See Verizon New England, Inc.*, 153 N.H. 693, 700 (2009).

Following the Supreme Court's decision, the Commission issued Order No. 25,002 on August 11, 2009, in which it mandated that FairPoint amend its tariff and stop assessing the CCL charge on traffic that does not traverse FairPoint common lines. FairPoint responded with a tariff revision on September 10, 2009 that complied with the Commission's order, but also with another tariff revision that would impose a new "Interconnection Charge" to make up revenue FairPoint would not receive as a result of the change to its CCL charge. Following some additional procedural maneuvers — including one where FairPoint sought to withdraw its tariff revisions — and FairPoint's bankruptcy, the Commission on May 4, 2011 issued Order No. 25,219. In that order, the Commission determined that it would treat FairPoint's September 2009 tariff revisions as informational and proceed with a hearing on the question of whether those revisions, including the new Interconnection Charge, were reasonable. Order No. 25,219 at 6-7. In establishing the scope of the hearing, the Commission stated that it would "not re-litigate the purpose or propriety of the CCL charge" because it had already made a finding on that subject in Phase I of this proceeding and because that finding "was not addressed or overturned by the Supreme Court" when it, based solely on the wording of FairPoint's tariff, reversed the Commission's original March 2008 decision on the CCL charge. *Id.* at 7.

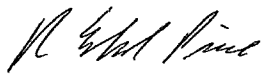
FairPoint, not satisfied with the Commission's decision to allow it to withdraw its September 2009 tariff filings and hold a hearing on the reasonableness of the Interconnection Charge, is now requesting in its Motion that the Commission ask the Supreme Court if it will order the Commission to re-litigate Phase I of this proceeding and decide yet again that the CCL charge is intended to recover only loop-related costs. This request flies in the face of judicial economy and is merely an attempt to delay implementation of the Commission's decision, reached first in March 2008 and then again in September 2009, that FairPoint should not assess a

CCL charge on traffic that does not traverse its loops because that charge was not intended — and should not be used — to recover costs not related to FairPoint loops. There is simply no reason to re-litigate that question before the Commission. Nor is there any reason to ask the Supreme Court whether the Commission needs to re-litigate that question because the Court clearly contemplated that the Commission could order FairPoint to make tariff revisions going forward based on the Commission's findings in Phase I. *See Verizon*, 153 N.H. at 700 ("If the tariff should be amended, it should be amended as a result of the regulatory process, and not by a decision of this court.").

In its Motion FairPoint claims that the purpose of Phase I "was to determine if the CCL was being lawfully applied in accordance with the tariff" and not "whether any prospective modifications to the tariffs are appropriate …." Motion at 7. And yet the record in Phase I contains testimony on the purpose of the CCL and whether it is a contribution element, and the Commission made a decision about that issue in March 2008, and the Supreme Court said that prospective tariff modifications should be handled through the regulatory process. Under the circumstances, re-litigating those issues is unnecessary, and asking the Supreme Court whether the Commission needs to re-litigate those issues would serve no purpose.

The Commission should therefore deny FairPoint's Motion and proceed with the hearing as set out in Order No. 25,219.

Respectfully submitted,



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June 2, 2011