

September 3, 2009

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VIA HAND DELIVERY

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

Re: DT 07-011; Verizon New England Inc., *et al.*, Transfer of Assets to FairPoint Communications, Inc.

Response to Secretarial Letter dated July 21, 2009, as Amended by the Secretarial Letter dated August 21, 2009 (collectively, the "Secretarial Letter")

Dear Ms. Howland:

This letter is submitted in response to the above-reference Secretarial Letter, in which the New Hampshire Public Utilities Commission (the "Commission") directed the Staff to "...file a report of the technical session [held on July 28 and July 30, 2009] and any recommendations for further action...". The Commission also provided for other parties to Docket DT 07-011 to file similar comments. Pursuant to the Secretarial Letter, the comments below are submitted on behalf of FairPoint Communications, Inc., and Northern New England Telephone Operations LLC d/b/a FairPoint Communications - NNE (collectively, "FairPoint").

I. Introduction and Background Information.

In submitting the comments and recommendations noted below, FairPoint has not attempted to cover every topic addressed during the technical session in the form of a discovery deposition held on July 28 and 30, 2009 (hereinafter the "deposition"). At the deposition, seven (7) FairPoint witnesses provided over Five Hundred Fifty (550) pages of testimony. Indeed, FairPoint submits that such a submission would not be beneficial to the Commission's analysis. Instead, the purpose of this submission is to advise the Commission of FairPoint's recommendations with respect to further regulatory

Debra A. Howland
Executive Director & Secretary
September 3, 2009
Page 2

proceedings and to highlight certain areas of operations that FairPoint has improved upon and to acknowledge certain areas that FairPoint knows it must continue to improve.

II. FairPoint's Recommendations.

With respect to the Commission's request for recommendations, FairPoint recommends that the Commission at this time take no further action other than to continue its monitoring of FairPoint's ongoing efforts to improve business operations to pre-cutover levels or better. Indeed, FairPoint notes that the regulatory officials of the three (3) Northern New England states intend to hold a joint status conference on September 9, 2009. Senior executives of FairPoint, including Mr. David L. Hauser (FairPoint's Chair of the Board of Directors and the Chief Executive Officer), plan to attend this joint status conference and address the questions and concerns raised by members of the Commission, the Maine Public Utilities Commission and the Vermont Public Service Board. To the extent the Commission develops preliminary ideas with respect to "recommendations for further action", FairPoint respectfully would urge that it be provided the opportunity to consider such recommendations and respond further during the joint status conference (or at a later date, if necessary).

In developing any recommendations for further actions, FairPoint respectfully requests that the Commission consider whether such actions adversely will impact FairPoint's business operations and FairPoint's continued efforts to improve service and related service metrics. In considering the Petition to Establish a New Adjudicative Docket to Investigate FairPoint Communications, Inc., filed by the New Hampshire Office of Consumer Advocate on July 17, 2009 (the "Petition to Investigate"), the Commission should take note of the expansive and (in FairPoint's opinion) overly broad nature of the proposed investigation. Compelling FairPoint, Capgemini US L.L.C., Liberty Consulting Group and Verizon New England Inc.¹ to participate in such a docket most likely will afford the rate payers of New Hampshire with no benefit.

Certainly, based upon the nature of the relief sought on pages 14-15 of the Petition to Investigate, the parties to such a docket will be flooded with data requests and other forms of discovery requests. In turn, FairPoint and other parties under investigation will need to conduct discovery on the allegations and claims made by the various Intervenors. Such proceedings necessarily will entail significant time and effort on the part of

¹ FairPoint at this time expresses no opinion on the Commission's jurisdiction over any of the non-FairPoint entities named within the Petition to Investigate.

Debra A. Howland
Executive Director & Secretary
September 3, 2009
Page 3

FairPoint representatives, and necessarily will lead to extensive costs of litigation. Time spent by key personnel answering extensive discovery requests and attending to litigation matters is time spent away from attending to FairPoint's business operations and the needs of FairPoint's customers.

Similarly, FairPoint questions the need for yet another "independent monitor". *See ex. Petition to Investigate*, para(s). 27, 35-36². Requiring FairPoint to educate a new outside consulting firm with respect to cutover and operational support systems based issues, address questions, respond to requests for documents and attend to requests for interviews only will distract FairPoint from the appointed task at hand - to continue to improve its operational systems and service levels, and to operate its business as promised. Moreover, the Consumer Advocate has not addressed or commented upon the financial impact to FairPoint caused by all of these new regulatory proceedings.

Simply stated, FairPoint respectfully submits that new or expanded regulatory proceedings would not be in the public interest.

III. Deposition Information.

As explained during the deposition, FairPoint continues to make progress in fully integrating its operating systems. Peter G. Nixon, FairPoint's President, testified during the deposition that FairPoint had returned to business as usual in several respects. For example, the Consumer Call Center has been at business as usual since approximately June 2009. *See Tr. Day I*, at p. 14.10-24. In addition, FairPoint markedly has improved the response time to the Repair Call Center, such that calls are answered in less than one (1) minute. *Id.* at p. 15.1-11. Consumer retail billing also returned to business as usual with known billing errors tracking at below one percent (1%). *Id.* at p. 15.19-24. Importantly, FairPoint's network has operated at pre-cutover levels since the day of cutover. *See Tr. Day I*, at p. 17.13-16.

That said, FairPoint's position was not and has not been that the job is complete. Mr. Nixon acknowledged that complex billing for business retail and wholesale customers has not returned to business as usual. *Id.* at p. 16.17-21. Wholesale customers continue to complain about several issues, and FairPoint continues to work through issues with such

² FairPoint notes that the Maine Public Advocate made similar recommendations to the Maine Commission in (among other filings) a letter dated August 24, 2009, submitted in Maine Commission Dockets 2007-67 and 2008-108.

customers. FairPoint has acknowledged, for example, that certain payments made during July 2009 from BayRing Communications have not been posted by the time of the deposition. Mr. Nixon testified to such matters and explained that the issues were in the process of being corrected. *See* Tr. Day II, at p. 22.15-23. The FairPoint team is dedicated to achieving excellence in its service level and has been working day and night to achieve such results.

Considering that the deposition transcripts fill over 550 pages of testimony, FairPoint (and other parties) could comment extensively on specific claims by specific parties. Overall, FairPoint has recognized the need to improve various areas of its operations. FairPoint has secured expert assistance depending upon the issue at hand. Aricent, for example, had been retained to assist customer service representatives to make the most efficient use of certain systems. *Id.* at ps. 155-156. Other consultants with expertise in any problem area will be retained as necessary. *Id.* at p. 156.3-11. FairPoint will continue to review its business operations to make the organization most efficient in dealing with customer needs (wholesale and retail). Most recently, FairPoint reorganized its Wholesale Organization. FairPoint believes this reorganization will address many concerns raised by wholesale customers. The reorganization allows FairPoint's wholesale customer service representatives with specialized skill sets to address issues raised by wholesale customers within the representatives' specific areas of expertise. *See* Tr. Day II, ps. 38.9 - 44.15. Efforts to improve are continuing and will continue.

In considering the recommendations of Intervenors, FairPoint urges the Commission to examine "recommendations" in the context of specific, detailed problems. In other words, the Commission should disregard generalized complaints not supported by facts. The Commission also should place little weight on recommendations not accompanied by an analysis of the impact on FairPoint's efforts to improve its performance, especially in light of the fact that FairPoint's senior management reorganization and the reorganization of the Wholesale Organization have been implemented within the past few months. Requiring FairPoint to undertake new efforts to satisfy public claims for Commission intervention only may hinder future progress towards business as usual.

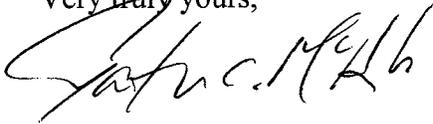
With respect to the joint filing made today by One Communications on behalf of several wholesale customers, FairPoint hereby incorporates by reference (as if fully set forth herein) the response filed on behalf of FairPoint by Attorney Michael J. Morrissey dated August 18, 2009. *See* Submission by Attorney Paula W. Foley, dated September 3, 2009, Attachment 2.

Debra A. Howland
Executive Director & Secretary
September 3, 2009
Page 5

FairPoint appreciates the opportunity to provide comments pursuant to the Secretarial Letter. FairPoint reserves the right to request an opportunity to comment further after an evaluation of the comments and recommendations filed by other parties to this Docket.

Seven (7) copies of this original correspondence and a compact disk containing this correspondence also are enclosed.

Very truly yours,

A handwritten signature in black ink, appearing to read "Patrick C. McHugh". The signature is fluid and cursive, with the first name being the most prominent.

Patrick C. McHugh

PCM:kaa

Enclosures

cc: Electronic Service List