VERIZON NEW ENGLAND, INC. And FAIRPOINT COMMUNICATIONS, INC. et al. Request for Approval of Affiliated Interest Transaction and Transfer of Assets of Verizon's Property and Customer Relations to be Merged with and into FairPoint Communications, Inc.	)))))))))	**Docket No. DT 07-011**

COMMENTS OF FREEDOM RING COMMUNICATIONS D/B/A BAYRING COMMUNICATIONS

In accordance with the request of the Commission for comments in this proceeding, Freedom Ring Communication d/b/a BayRing Communications ("Bayring") provides the following comments and concerns regarding this proceeding.

I. Introduction

Beginning with the proceedings leading up to the merger and transfer of operations to FairPoint from Verizon, BayRing has continuously stressed the importance of ensuring that this transfer and cutover of service does not adversely impact the hard fought efforts to develop fair and adequate systems to ensure that wholesale service quality is maintained at acceptable levels. This was the foundation towards the decision to allow Verizon into the long distance service, through independent third party proof that OSS systems were fully capable of providing just, reasonable and nondiscriminatory service, as required by the 1996 Telecommunications Act, and by this Commission's state based authority.

In particular, BayRing insisted that any transfer of wholesale operations to FairPoint required sufficient and clear arrangements to prevent FairPoint from wiping away years of effort to establish a functioning wholesale system benefiting competition and consumer interests in New Hampshire. As a result of hard negotiations, BayRing reached a settlement agreement with FairPoint on the terms under which BayRing would be able to move forward in a new wholesale relationship with FairPoint. These conditions were explicitly made a part of the approval to the transfer.

However, as indicated in the detailed complaint of BayRing, filed in Docket No. 09-039, instead of maintaining the level of service that existed before the cutover, FairPoint's wholesale operations have been nothing short of deplorable. The problems that BayRing has experienced, and FairPoint's specific failures, following the cutover, to provide a CLEC based OSS are documented in BayRing's Complaint. The OSS problems identified in this Complaint have been the source of problems not just to BayRing, but to the entire CLEC industry, as explained by the other companies, and as listed in the CLEC Key Issues and Recommendations that were prepared for FairPoint at a Transition Workshop as part of the Vermont proceedings in Docket No. 7270.[1] The problems that CLECs have experienced (as have other entities) have been documented, and the Commission must take steps to establish concrete oversight, using whatever regulatory authority is available over FairPoint, to correct these documented deficiencies.

II. An Independent Auditor To Oversee FairPoint's Wholesale Operations and Service Should be Required.

Given the unacceptable degradation in service since the cutover a set of standards must be established for FairPoint, in order for service levels to be brought back to acceptable levels. This will require an independent audit of FairPoint's systems, particularly its OSS, measured against clear benchmarks, and subject to clear penalties if

[1] BayRing agrees with the comments and insights offered by the other CLEC companies, such as segTel, CRC Communications, and One Communications.

the OSS is not able to reach these standards. This is similar to the process that Verizon was required to undergo during its tests against the "checklist" of Section 271, and the third party audits performed of Verizon's OSS. FairPoint seeks to deploy a new and revised OSS that should be subjected to, at minimum, the same level of scrutiny, against the same level of measurements. One suggestion that has been made, that BayRing agrees with, is to establish clear and objectively measurable milestones for FairPoint to reach. Notably, these milestones must be met with serious penalties in the event of failure. FairPoint has made many commitments associated with these proceedings, and many have been simply ignored by FairPoint, when convenient.

For example, despite its contractual commitment to BayRing to adhere to the current PAP applicable in New Hampshire, including the applicable metrics, FairPoint has waged a relentless campaign to abolish the PAP and to wipe out, and claw back, all the penalty payments/bill credits that have been incurred (that reflect poor quality of service), as indicated in FairPoint's filings in DT – 09-113. FairPoint also attempted to unilaterally ignore the Orders of this Commission, by ceasing to pay any PAP penalties, forcing BayRing to bring another complaint and request for penalties. FairPoint relented, temporarily, proving that only with the threat of severe financial penalties will FairPoint be sufficiently motivated to correct its poor performance and adhere to the conditions under which this Commission approved the transfer.

In order to move the company towards improvements, BayRing fully doubts that FairPoint can be trusted to undertake this effort alone and without sufficient oversight of independent monitors and auditors. Consequently, the Commission must at minimum retain an independent auditor to review several key FairPoint systems and operations, and to work cooperatively with CLECs and the Commission to develop clear milestones and steps designed to correct for several obvious flaws. Specifically, the Commission should:

1) Appoint an outside auditor to review FairPoint's systems and their plan to correct for the failed wholesale OSS;

2) Appoint an outside and independent auditor to review the current staffing levels and sufficiency of the existing management to handle the scale of problems facing FairPoint;

3) Appoint an independent auditor to fully review the existing PAP, and only when FairPoint's systems return to reasonable operational levels that existed before cutover, to recommend specific changes to simplify the PAP; and

4) Appoint an independent auditor to review FairPoint's billing systems given that the wholesale billing systems are not functioning properly and will only lead to unnecessary billing errors and disputes

III. The commission should require FairPoint to work collaboratively with the Commission and CLEC's to determine and agree on the definition and measurements of the term "business as usual"

In order to reach the milestones required BayRing expects that, at the very least, FairPoint will perform at a level that existed at the time Verizon transferred its operations to FairPoint. This is the minimum acceptable level of "business as usual" that must be expected of FairPoint in accordance with its obligations under law. Of course, this means that FairPoint must meet the level of service reflected in the way Verizon's OSS was developed and independently verified through the Section 271 process.

For example, FairPoint must be able to process orders without system issues that delay delivery of service to customers or cause them to lose service when they should not. Similarly, the backlog of orders with FairPoint must be maintained at no worse than the same levels managed by Verizon on a daily basis. FairPoint must not be allowed to set a new poor level of service as "business as usual" and the Commission cannot simply accept that FairPoint is capable of establishing the appropriate levels of service by itself.

III. The Commission Must Oversee FairPoint's Responsiveness to CLEC Complaints

At the NH technical session FairPoint stated that all escalations to the Commission should be cleared within 24 hours, and further that complaints that are presented to the Commission are being treated with a higher priority. However, BayRing rarely experiences a cleared escalation of a complaint within 24 hours, and the published response times for each level of FairPoint escalation for a CLEC is often missed. Forcing FairPoint to report on its timing of resolving CLEC based complaints to the Commission will allow for more accurate assessment of FairPoint's commitment to solving customer impact concerns and complaints.

Accordingly, the Commission should mandate that FairPoint report all escalations from CLECs to FairPoint so that the Commission can better assess the escalation process provided to CLECS for their customers. This mandate should request the definition and process for determining the priority of these escalations as well as report on the response time frames from each level of the escalation. These measurements would provide the commission a better assessment of complaints and responses.

V. FairPoint's Directory Listing Process Must Be Improved

FairPoint recently told CLEC's that over 60,000 wholesale directory listing orders have not yet been processed, and remarkably many of these orders date back to cutover in January. The Commission should require FairPoint to disclose any and all defects that impact the CLECS ability to have customers directory information listed correctly and timely. Again, the Commission should ensure that milestones are set for FairPoint to meet so as to move FairPoint's directory listing process back to acceptable levels. For these wholesale order FairPoint should explain the root cause, the steps to be taken to reach resolution; the time frame to resolution; and how FairPoint will compensate CLECs if they fail to process the required orders for directly listings. FairPoint should be required to compensate the CLECS and their customers for their failure to process these orders. At the very least, FairPoint should be required to provide directory listing services for these 60,000 customers at no charge to CLECs until they can provision these orders on a timely fashion.

VI. FairPoint's Explanations of OSS Defects Have Not Been Adequate

FairPoint provided several explanations of why its OSS is not working properly, as as part of the responses to the Vermont Technical Session. FairPoint's descriptions are not complete, and did not include any explanation of the problems and the processes used to prioritize the issues. Consequently, the commission should require FairPoint to establish the following in clear and measurable ways:

a. What is the process for identifying OSS defects?

b. What is the process for determining the order in which they will be corrected?

c. What are the definitions of the severity levels shown in the responses provided by FairPoint?

d. Where is the internal documentation showing how the defect identification and correction process is to be handled?

e. What the exact role of Cap Gemini?

f. Who is responsible for the end to end testing of the OSS system?

VII. FairPoint Must Prove The Accuracy of The Reporting for Metrics That Are Used in the PAP

Since FairPoint is not using the Verizon systems, the Commission and CLECs must be assured of the accuracy of both the metrics collection process and the calculation of these metrics. Given the failure of FairPoint to handle basic metric reporting (as indicated in BayRing's complaints in DT – 09 – 059, DT – 09 – 039 and DT – 09 – 113) an audit of the new FairPoint systems, and their ability to report metrics properly, must be undertaken.

FairPoint's view (in its response to the CLEC recommendations submitted at the Vermont workshop) is that the performance metrics Verizon used in ME, NH, and VT were subject to a "rigorous audit" by the outside consulting firm KPMG. FairPoint believes that it is unnecessary to undertake a new audit because it would be costly and time consuming and a distraction to the FairPoint Wholesale Group. This rationale is unacceptable. FairPoint is not using Verizon's OSS, such that a new and independent audit is absolutely required in order to establish that the new systems are capable of measuring and reporting accurately. If FairPoint refuses to allow an audit of the current metrics, the commission should require that FairPoint participate in, and pass the same "rigorous audit" that the Verizon metrics passed as a requirement for providing long distance services under Section 271.

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Respectfully Submitted,

Freedom Ring Communication d/b/a
BayRing Communications

By: ______________________

Alan M. Shoer
ADLER POLLOCK & SHEEHAN P.C.
One Citizens Plaza, 8th Floor
Providence, RI 02903

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