

STATE OF NEW HAMPSHIRE
Inter-Department Communication

DATE: February 27, 2008
AT (OFFICE): NHPUC

FROM: Kate Bailey
Lynn Fabrizio 

SUBJECT: DT 07-011, Verizon Sale of Assets to FairPoint
Stipulated Filing Requirements

TO: Chairman Getz
Commissioner Morrison
Commissioner Below
Executive Director Howland
General Counsel Kreis



On January 24, 2008, FairPoint and Verizon jointly filed a settlement agreement entered into with Staff proposing conditions to resolve outstanding issues in Docket No. DT 07-011. The agreement contains numerous filing requirements required of FairPoint. At the close of hearings on the agreement on Tuesday, February 5, 2008, the Chairman requested FairPoint and Staff to provide a list of all such requirements to parties in the docket. The requested listing is attached. FairPoint concurs in both this memorandum and the attached listing of filing requirements.

This memorandum and attachment serve to clarify the filing requirements included in various sections of the settlement agreement. Clarifications include to whom the various filings will be addressed and the nature of the filings themselves, including frequency and duration of the requirements. All non-confidential information will be available for public inspection, as it is today, regardless of how or with whom it is filed at the Commission.

The intent of the signatories in developing specific filing requirements was to ensure efficient and effective implementation of the settlement agreement. The filing requirements are divided into three categories: On-Going, Compliance, and Adjudicative. On-Going filings are periodic (monthly, semi-annual, annual) reports that FairPoint will submit to either Staff or the Commission's Executive Director. Compliance filings will be submitted either on a one-time basis or monthly for a finite duration. Adjudicative filings are those reports requiring Commission review and, in some cases, approval, through a docketed adjudicative proceeding.

All filing requirements are subject to the Right To Know Law (RSA 91-A) and, therefore, will be made in accordance with normal Commission procedures. Thus, all non-confidential materials will be made publicly available in the normal course of business through the Commission's document archives and website. To the extent necessary, and except as noted below, confidential materials will be filed in accordance with RSA 378:43. Materials provided in the course of adjudicative proceedings will be provided to parties entitled to receive them, in accordance with confidentiality requirements. Staff recommends that FairPoint submit all non-confidential on-going and compliance filings through the Commission's electronic records filing system and be made available to members of the public through the Commission website. The agreement does not contemplate separate filings to the Office of Consumer Advocate (OCA) because it is understood that the OCA will continue to have access to filings made to the Commission in the normal course of operations.

The Notes/Bonds are being offered as a private placement under Section 4 (2) of the Securities Act of 1933 and thus FairPoint must limit distribution to only accredited (sophisticated) investors (determined based on net worth, annual compensation and other criteria) and not more than 35 non-accredited investors. If the Description of Notes, which is a fundamental part of the offering document, is made public such disclosure could be construed as a general solicitation of investors and could cause the offering to not be a valid private placement. In addition, as explained by Mr. Leach during the hearings, premature disclosure of the Description of Notes or the proposed final Credit Agreement (even if inadvertent) could adversely affect the marketing of the Notes/Bonds and the placement of the debt. Accordingly, the final Credit Agreement and the near-final Description of Notes should be filed *in camera* with the Commission.

The attached listing does not include filing requirements that are mandated by statute and Commission rules, such as the filing of wholesale and access tariffs filed pursuant to RSA 378:1 and Puc 411.01, as required in Section 9.3 of the settlement agreement.

This filing reflects comments received from the OCA. We note that, although the OCA agrees that the revised spreadsheet lists addresses all filing requirements included in the settlement agreement, their concurrence does not alter the position they stated at hearing that they are entitled to unredacted copies of all filings made under the settlement agreement.

DT 07-011
On-Going Monitoring and Event Triggered Reports

Reference	Description	Frequency	Recipient	Reporting Begins or Is Triggered By	Reporting Expires	Notes
P.8, Sec.2.1.8	Capital Expenditures	Quarterly	Director Telecom	Follows first quarter following close	No expiration	On-going. Report form and content to be approved by the Commission.
P.17, Sec.3.8	Broadband Expansion	Semi-annually	Director Telecom	6 months following close	Until 95% availability achieved	On-going. Report form and content to be approved by the Commission.
P.20, Sec.5.2	Remediation Plan for Service Quality Problems	One-time	Director Telecom	Two service quality measures are at less than 95% of the applicable standard for three consecutive months or at less than 90% of the applicable standard for 1 month.	No expiration	Event-triggered
P.20, Sec.5.2	Resumption of Monthly Staffing Report for Failure to Meet QoS	Monthly	Director Telecom	Two service quality measures are at less than 95% of the applicable standard for three consecutive months or at less than 90% of the applicable standard for 1 month.	Until QoS standards achieved	Event-triggered
P.20, Sec.5.2	Staffing by Function	Semi-annually	Director Telecom	1 year following close	No expiration	On-going
P.20, Sec.6	Financial	Quarterly and Annually	Director Telecom	Follows first quarter following close	No expiration	On-going
P.20, Sec.7	Affiliate Agreements and Arrangements	When Revisions Are Made	Executive Director	As required by statute	No expiration	Statutory
PP. 22-23, Sec. 8.4	Notice of "alternative arrangements"	One-time, conditional requirement	Director Consumer Affairs	If condition precedent is met, notice is required at least 3 months prior to cutover or May 1, 2008, whichever is earlier		This requirement applies only in the event FairPoint fails to secure vendor contracts.
P.26, Sec.10.4	Service Quality Performance	Monthly	Director Telecom	20 days following end of a month	No expiration	On-going

P.27, Sec.10.7.1 (P. 28, Sec. 10.7.6)	Double Pole Inventory and Removal	Quarterly (with monthly status reports, as necessary under Sec. 10.7.6)	Director Telecom	Within 6 months following close	On-going. When double pole inventory is 500 or less, report becomes annual.	If pole removal work is not completed by 7/31/11, FairPoint will submit monthly status reports until Sec. 10.7.1 is satisfied.
P. 31, Sec. 10.8.2.1	Proposed remediation plan re: service quality limits on business acquisitions	Optional, one-time filing	Director Telecom	At FairPoint's option, any time after second anniversary of close		Prior to submitting a proposed plan at its own option, FairPoint will file a draft plan for Staff review.
P.33, Sec.12.2.1	Notice of Transfer of Single Class of Assets Exceeding \$5 Million	Quarterly	Director Telecom	When single class of assets exceeding \$5 million is transferred	No expiration	Event-triggered
Exhibit 3, Sec. 3.7	Report of investigation and corrective action re: customer trouble report standards		Director Telecom	30 days following third consecutive month metrics exceed the standard		For surveillance purposes, this requirement applies only to the extent a wire center is not covered by the Network Improvement Plan under Section 10.2 of the settlement agreement.

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Compliance Filings**

Reference	Description	Frequency	Recipient	Reporting Begins	Reporting Expires	Notes
P.12, 2.5.3	\$50 million infrastructure plan	One-time (with updates as appropriate)	Executive Director	Within 1 year of close	Initial plan filed; updated as appropriate	Review and approval process to be determined by Commission if necessary
P.19, Sec.5.1	Staffing Status	Monthly	Director Telecom	30 days following close	Upon creation of full staffing efforts	
P. 22, Sec. 8.3	Proposed retail billing format	One-time	Director Consumer Affairs	Earlier of 3 months prior to cutover or May 1, 2008		Filed for Staff review purposes
P. 24, Sec. 9.2	Commercial Agreements under Section 217 of the Telecom Act	Upon conclusion of any agreement that falls under this section	Director Telecom	After close		After 3 years, FairPoint may petition for a waiver
P.25 Sec.9.5	Status Report on Assembling Pole Licensing and Administration Group	Monthly	Director Telecom	1 month after close	Upon creation of Pole Licensing and Administrative Group	
P.25, Sec.10.1	Progress on Network Improvement	Monthly	Director Telecom	1 month after close	Until full Network Improvement Plan is filed	
P.26, Sec.10.2	Network Improvement Plan	One-time	Executive Director	Earlier of 3 months following cutover or August 1, 2008	Filed once	
P.27, Sec.10.7.1	Double Pole Inventory and Detailed Work Plan	One-time	Director Telecom	Within 6 months following close	Filed once	
P.33, Sec.12.2.1	Asset Transfer Schedule Form	One-time	Director Telecom	After close	Filed once	Commission approval as to form and content if agreement not reached

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Reports Requiring Adjudicative Process

Reference	Description	Frequency	Recipient	Reporting Begins	Reporting Expires	Notes
P.13, 2.7	Final Credit Agreement	One-time	Executive Director (<i>in camera</i>)	No later than 10 calendar days before close	Filed once	Adjudicative only upon Commission <i>in camera</i> determination
P.13, 2.8	Near-final description of notes	One-time	Executive Director (<i>in camera</i>)	No later than 2 business days after final order	Filed once	Adjudicative only upon Commission <i>in camera</i> determination
P.15, 3.6	Plan to spend remainder of \$56.4 million on broadband if 95% availability has been achieved	One-time	Executive Director	62 months from close	Filed once	Requires Commission review and approval
P.20, Sec.7	Proposed Cost Allocation Manual (including budget pro-forma of 2008 charges to and from: affiliates, 3-state operation, and individual states)	One-time	Executive Director	Within 6 months following close	Filed once	Requires Commission review and approval