

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

CRS 16-219

Northern New England Telephone Operations LLC

**Petition for Licenses to Maintain Utility Cables Over and Across Public Lands and Waters
of the State of New Hampshire**

**NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC'S (d/b/a FAIRPOINT
COMMUNICATIONS - NNE) REPLY TO THE TOWN OF HAMPTON'S COMMENTS
AND WRITTEN REQUEST FOR HEARING
(ORDER NO. 25,949)**

Pursuant to the Commission's Order *Nisi*, please find Northern New England Telephone Operations LLC's ("FairPoint" herein) reply comments to the Town of Hampton's (the "Town" herein) Comments and Written Request for Hearing, dated October 17, 2016 ("Hampton Comments"). FairPoint finds that its substantive reply comments filed in response to the comments filed by the Towns of Barrington, Belmont, Holderness, Jefferson, Meredith, Merrimack, Sunapee, Waterville Valley, and the City of Laconia (collectively, the "Municipalities") cover most of the issues raised by the Town of Hampton and need not be repeated here. To address a few issues not directly covered in FairPoint's reply to the Municipalities, FairPoint states the following:

1. Upon further review of its paper records, FairPoint located documentation confirming that the Commission previously authorized FairPoint pursuant to RSA 371:17 to place and maintain two 1800 pair submarine cables beneath the public waters of Tide Mill Creek in Hampton, New Hampshire. *See* Order No 18,572, Docket DE 87-12, dated February 11, 1987. Order No. 18,572 applies to the same submarine cables and state-owned water crossing

that FairPoint incorrectly included in its petition, which is the subject of the Town's comments and request for hearing in this proceeding. Accordingly, FairPoint respectfully requests that the Commission revise its Order *Nisi* to exclude the Tide Mill Creek crossing. (See Index No. 17.) For this reason, Hampton's Comments should be inapplicable to the Order *Nisi*.

2. FairPoint provides additional water crossing details to aid the Commission and the Town:

a. FairPoint has two 1800 pair direct buried submarine cables beneath the public waters of the Tide Mill Creek on the west side from manhole 45 (adjacent to cell tower) and on the east side through manhole 50 (adjacent to water tower) to pole 7/62 (latitude 42.915799; longitude -70.813342) and pole 7/63 (latitude 42.915961; longitude -70.813428).

3. Briefly turning to the substance of the Town's arguments notwithstanding the foregoing, the Town admits in its comments that "the Hampton Board of Selectmen amended all permissions/licenses previously given in any form or manner to Fairpoint [*sic*] for its infrastructure or that of any of it [*sic*] predecessors to be located in Town highways or rights of way...." (Hampton Comments at ¶ 9.) This clearly indicates that the Town is aware of and has employed methods to address the issues it is raising here. To the extent the Town is not clear as to the location, owner and current license or agreement status of FairPoint's facilities within proximity of the Tide Mill Creek crossing, the Town can address that issue independently and outside this proceeding. To delay this proceeding to allow research that would be futile and ultimately inapplicable to the Order *Nisi* would impose unnecessary and undue delay.

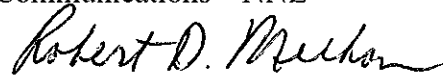
4. The Town also requests that the Commission conduct a hearing regarding Commission jurisdiction. The Commission already addressed the concern raised by Staff regarding the scope of RSA 371:17. (Order *Nisi* at 3-4.) Notwithstanding the question raised by

Staff, the Commission still decided in its judgment that it could and should approve the crossings. The Town should not be afforded a hearing on this issue when the Commission already considered and decided this issue and when the Town provides no arguments or facts to support more consideration on this issue. Lastly, by removing the Tide Mill Creek crossing from the Order *Nisi*, this issue need not be considered further.

For the foregoing reasons, FairPoint respectfully requests that the Commission amend its Order *Nisi* to delete the Tide Mill Creek crossing in Hampton, deny the Town's request, and allow the Order *Nisi* to go into effect.

Respectfully Submitted,

Northern New England Telephone
Operations LLC d/b/a FairPoint
Communications – NNE



Dated: October 24, 2016

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Certificate of Service

I hereby certify that an original and two copies of the above reply comments have this day been hand delivered to the Public Utilities Commission Executive Director and that copies of same have been sent electronically to the service list.