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March 27, 2019

Ms. Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: DT 16-872: Joint Petition For Findings in Furtherance of the Acquisition of FairPoint Communications, Inc. and its New Hampshire Operating Subsidiaries by Consolidated Communications Holdings, Inc.

Dear Ms. Howland:

Enclosed for filing in the above-captioned docket please find an original and six (6) copies of a Motion for Protective Order and Confidential Treatment filed on behalf of Consolidated Communications ("Consolidated"). The enclosed Motion seeks protective treatment for Consolidated's 2018 capital expenditure and incremental maintenance and network repairs plans. This confidential information is being provided to the Commission in accordance with Section II. C. paragraph I 7 of a Revised Settlement Agreement, which the Commission approved in Order No. 26, 022 (May 31, 2017).

Seven (7) copies of the transmittal letter and unredacted (confidential) Exhibits A through C and one redacted (public) copy of Exhibits A through C are also enclosed. Please maintain the unredacted documents within the Commission offices in a secure location as required by N.H. Admin. Rule Puc 203.08(g).

Please contact me if there is any question or concern with these filings.

Respectfully submitted,

A handwritten signature in black ink that reads 'Robert D. Meehan'.

Robert D. Meehan | Director – Government Affairs
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STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION
DT 16-872

**Joint Petition For Findings in Furtherance of the Acquisition of FairPoint Communications, Inc. and
its New Hampshire Operating Subsidiaries by Consolidated Communications Holdings, Inc.**

MOTION FOR PROTECTIVE ORDER
AND CONFIDENTIAL TREATMENT

NOW COMES Consolidated Communications Of Northern New England Company, Inc. ("Consolidated"), and, pursuant to RSA 91-A:5, IV and N.H. Admin. Rule Puc 203.05(b), respectfully moves the New Hampshire Public Utilities Commission ("the Commission") to issue a protective order which accords confidential treatment to certain information described below and submitted herewith. In support of this Motion, Consolidated Communications states as follows:

1. On December 29, 2016, Consolidated Communications Holdings, Inc. and FairPoint Communications, Inc. ("FairPoint") filed a Joint Petition in the above-captioned docket requesting findings from the Commission under RSA 374:30, II relative to a merger transaction involving the transfer of FairPoint's assets to Consolidated.
2. In Order No. 26,022 issued May 31, 2017 in the above-captioned docket, the Commission approved a Revised Settlement Agreement which, *inter alia*, requires Consolidated to make investments in its New Hampshire network and submit notification filings. Revised Settlement Agreement (May 25, 2017), Section II. C. paragraph 16.
3. The above-referenced Merger Transaction closing occurred on July 3, 2017. See Letter from Consolidated's Vice President-Regulatory & Policy, Michael Shultz, to Executive Director Debra A. Howland dated July 13, 2017. Therefore, in accordance with the Revised Settlement Agreement,

Consolidated is providing its 2018 Network Improvement Capital Investment Commitment Notification Filing ("Network Investment Notification Filing") to the Commission contemporaneously with the filing of the instant Motion.

4. For the reasons discussed below, Consolidated seeks to protect its Network Investment Notification Filing from public disclosure.

5. The Network Investment Notification Filing contains capital expenditure and network deployment information which is competitively-sensitive confidential and commercial information that Consolidated does not routinely disclose to anyone outside of its corporate organization or its authorized representatives. As such, the information is entitled to be protected from public disclosure under RSA 91-A:5, IV.

6. In determining whether confidential, commercial or financial information within the meaning of RSA 91-A:5, IV is exempt from public disclosure, the Commission employs a "three-step balancing test for determining whether certain documents meet this designation." *Vivint Solar, Inc.*, DE 15-303, Order No. 25, 859 (Jan. 15, 2016), p. 22. The Commission first determines whether the information in question involves a privacy interest. *Id.*, p. 23. If a privacy interest is implicated, the Commission considers whether the public has an interest in disclosure of the information. *Id.* If so, then the Commission balances the public's interest in disclosure against the moving party's privacy interests "to determine whether disclosure is warranted." *Id.*

7. Consolidated's Network Investment Notification Filing meets the above-stated test. The filing contains private, competitively-sensitive and commercial information which Consolidated safeguards and does not publicly disclose. Consolidated is engaged in an intensely competitive industry over which the Commission has relatively limited regulatory authority. Disclosure of this information would be an invasion of Consolidated's privacy and would be competitively harmful to Consolidated if its competitors were able to obtain access to it. Moreover, given that there is only one intervenor in this

docket, there is little if any, public interest associated with obtaining this competitively sensitive information. Even assuming, *arguendo*, a public interest in disclosure exists, that interest is outweighed by Consolidated's interests in maintaining the confidentiality of the information. Accordingly, disclosure is not warranted.

8. Consolidated requests that the Commission issue an order protecting the above-described information from public disclosure and prohibiting copying, duplication, dissemination or disclosure of it in any form. Consolidated requests that the protective order also extend to any discovery, testimony, argument or briefing in this docket relative to the confidential information.

9. In accordance with N.H. Admin. R. Puc 201.04 (b) and (c), redacted and unredacted versions of the Network Investment Notification Filing are submitted herewith.

WHEREFORE, Consolidated respectfully requests the Commission:

- A. Issue an appropriate order that exempts from public disclosure and otherwise protects the confidentiality of the unredacted information referenced above and filed herewith; and
- B. Grant such additional relief as it deems appropriate.

Respectfully submitted,

**Consolidated Communications of Northern
New England Company, Inc.**

By its representative,



Date: March 27, 2019

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Certificate of Service

I hereby certify that on this 27th day of March, 2019 a copy of the foregoing Motion was served electronically to persons on the Service List in this docket.

