STATE OF NEW HAMPSHIRE

BEFORE THE

PUBLIC UTILITIES COMMISSION

DT 06-067

Freedom Ring Communications LLC d/b/a BayRing Communications Complaint Against Verizon New Hampshire Regarding Access Charges

PREFILED TESTIMONY OF
MICHAEL T. SKRIVAN
ON BEHALF OF FAIRPOINT COMMUNICATIONS-NNE

September 28, 2009

Q. Please state your name and business address.

A. My name is Michael T. Skrivan, Vice President, Regulatory for FairPoint Communications, Inc. My business address is 1 Davis Farm Road, Portland, ME, 04105.

Q. Please describe your experience in the telecommunications industry and your educational background.

A. I have over thirty years of regulatory experience in the telecommunications industry. In 1977, I joined Ernst & Young's (then Ernst & Ernst) Telecommunications practice. My primary duties were performing cost separations studies for independent telephone companies and providing related regulatory consulting. In 1983, I joined Illinois Consolidated Telephone Company, a midsize carrier, to assist it in the implementation of access charges and carrier access billing and otherwise navigate the requirements associated with the AT&T/Bell System Divestiture. From 1992 through 1999, I provided regulatory consulting to rural and midsize local exchange carriers and started a telecommunications consulting practice in Tulsa, OK. From 1999 through April of 2007, I was Vice President, Revenues for Madison River Communications, a midsize local exchange carrier with operations in North Carolina, Illinois, Alabama and Georgia. My duties there included management of carrier relations, including ordering and billing functions, and negotiation and management of interconnection agreements with facilities-based competitive local exchange carriers ("CLECs") and wireless ("CMRS") providers; state and federal regulatory affairs; state and federal tariff management including annual interstate tariff filings; and jurisdictional cost studies.

I joined FairPoint Communications, Inc. in 2007 and was appointed to my current position in December, 2007.

I have actively participated in national telecommunication associations and workgroups, including participation in USTelecom's Telecom Policy Committee and as Chair of the USTelecom Midsize Caucus. I have testified in regulatory proceedings in a number of states including Wyoming, Illinois, North Carolina, and South Carolina. Most recently, I testified in North Carolina on behalf of Madison River in an interconnection arbitration involving Cingular and Alltel. I testified in Vermont, New Hampshire and Maine in FairPoint's merger proceedings.

I have a Bachelor of Arts in Business Administration and a Bachelor of Accounting from Washington State University, both received in 1977. I am a Certified Public Accountant (with a non-practicing license in Washington State) and a Certified Management Accountant. I was an instructor at USTelecom's two-week cost separations courses.

Q. What are your current responsibilities with FairPoint?

A. My duties relate to FairPoint's operations in Northern New England. I am responsible for filing and maintaining state and federal tariffs; administration of FairPoint's state and federal compliance obligations; development of state and federal regulatory policy; and oversight of regulatory cost support.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide description of the recent tariff filing and the supporting schedules associated with that filing.

Q. Please describe the basic situation regarding the recent tariff filing.

A. In 2006, the Commission opened the investigation in this Docket regarding the applicability of carrier common line access (“CCL”) charges to certain traffic. On March 21, 2008, the Commission issued Order No. 24,837 in this Docket determining that the CCL charge contained in NHPUC Tariff No. 85 of Verizon New England, Inc., d/b/a Verizon New Hampshire (“Verizon”) is chargeable only when Verizon provides the use of its common line (loop) facilities to provide access to or from a Verizon end user. *Id.*, pp. 31-32. On March 31, 2008, Northern New England Telephone Operations LLC, d/b/a FairPoint Communications - NNE (“FairPoint”) acquired the New Hampshire landline properties and business of Verizon and assumed the Verizon tariff NHPUC No. 85.

Verizon and FairPoint filed motions for rehearing with respect to Order No. 24,837; the Commission denied the motions in its Order No. 24,886 dated August 8, 2008. Following these denials, Verizon and FairPoint appealed to the New Hampshire Supreme Court. On May 7, 2009, the Supreme Court issued its decision reversing the Commission, holding that based on the plain language of tariff NHPUC No. 85, CCL access charges are properly chargeable to all switched access services, not solely those services for which FairPoint provides loop facilities for access to or from a FairPoint end user.

On August 11, 2009, the Commission issued its Order *Nisi* No. 25,002 (the “Order *Nisi*”) directing FairPoint to file tariff pages revising FairPoint tariff NHPUC No. 85 with respect to switched access charges “to clarify that FairPoint shall charge CCL only when a FairPoint common line is used in the provision of switched access services.” *Id.*, 2.

Q. Please describe the tariff that was filed, under your direction, in response to the Order *Nisi*.

A. In compliance with the Order *Nisi*, FairPoint filed revised tariff pages to eliminate the application of the CCL charge to access traffic which does not originate or terminate to a FairPoint end user on a revenue neutral basis. Revenue neutrality was accomplished by using an existing switched access rate element called the Interconnection Charge. This rate, previously set at $.0000 per minute, has been increased to $.010164 per minute. This rate will apply equally to all intrastate switched access usage, with the same rate applicable to all categories of traffic and applicable equally to originating and terminating traffic.

Q. Please describe how you calculated the rate for the Interconnection Charge?

A. Since the development of the Interconnection Charge was intended to be revenue neutral, the first part of the calculation was to select a test period and calculate the loss of CCL revenue associated with the Order *Nisi* changes. We reviewed the history of access charges and selected the months of May, June and July 2009, as the test period for this calculation.

Q. Why did you select that test period?

A. Given the history of CCL charges during this Docket and the subsequent appeal, the May-July, 2009 period provided the most reliable and most recent data. Let me explain. When FairPoint acquired the former Verizon landline operations in New Hampshire on April 1, 2008, we continued to operate under Verizon's operating systems. Among other things, this meant that Verizon personnel and Verizon systems were used to create and send carrier access bills to interexchange carriers in New Hampshire. Immediately upon FairPoint assuming control of the New Hampshire operations, at my direction, Verizon was instructed to discontinue billing the CCL charge on switched access traffic that does not originate from or terminate to a FairPoint end user. This was done to conform with the Commission's ruling regarding this traffic. However, this change took a few months to accomplish, during which time we instructed interexchange carriers not to pay that portion of their bills. In approximately June of 2008 the CCL charge was eliminated from bills for switched access traffic that does not originate from or terminate to a FairPoint end user, and credits were applied retroactively to April 1, 2008. Thus, during the second half of 2008 and the first quarter of 2009, no relevant billing was done for this service, and Verizon did not provide us with the usage data to calculate exactly the CCL charges for this period. In January and February, 2009, FairPoint cut over billing from Verizon to FairPoint's new operating systems. When the Supreme Court's decision on appeal became final, these CCL charges were reinstated for the entire period based on actual and estimated data. We chose to use the May, June and July bill periods, which were billed under our wholesale billing system following the cutover transition.

Q. Do you think this is a relevant and appropriate test period?

A. Yes. Our objective was to calculate the loss of CCL revenues reflecting the CCL charge changes specified in the Order *Nisi* and to calculate a replacement charge to restore the lost revenue. Since we used the same test period for both the CCL revenue loss and the replacement charge, this test period is reasonable. To the extent there might be any seasonality to the traffic, or to the extent some minutes may have been carried over from a previous period, these factors would impact the lost revenue calculation and the replacement rate calculation equally. This period also provides the most recent data we have, and it includes a time period for which we billed the CCL rate element in accordance with the Supreme Court's decision.

Q. Please describe the development of the replacement charge.

A. In the analysis of the access usage used to bill the CCL rate, we determined the portion of the minutes originating and terminating to FairPoint end users, as well as to non-FairPoint end users. We determined the amount of traffic originating and terminating. The reduction in CCL revenue was very simply calculated based on taking the number of intrastate originating and terminating minutes to non-FairPoint end users and multiplying it by the intrastate CCL rate. As described below, the lost revenues are collected through the Interconnection Charge, which is applied to all switched access minutes. The rate was therefore developed by dividing the lost CCL revenue by the total switched access minutes. In this case, the reduced CCL minutes for the test period equaled 31,211,782. Multiplying this minute total by the CCL rate of $.026494 resulted in reduced CCL revenue for the test period of $826,925. Total Interconnection Charge minutes for the test period were 81,361,717. Dividing the lost test period revenue of $826,925 by the total Interconnection Charge minutes for the test period yields an Interconnection Charge rate of $.010164. Attachment One to the Tariff filing provides this calculation. Attachment Two to the tariff filing details the minutes of use, by month, by traffic category separately for calls to and from FairPoint end users and to and from non-FairPoint end users for the test period.

Q. You state that FairPoint has chosen to use the Interconnection Charge as the vehicle to recover the lost CCL revenue. Can you explain what the Interconnection Charge represents?

A. Yes. The Interconnection Charge is based on the restructuring of access charges that resulted in legitimate costs assigned to switched access not being recovered by any other specific rate element. Therefore, when the FCC restructured interstate access charges, in order to allow carriers to recover their costs, it established this rate element, sometimes referred to as the Residual Interconnection Charge or the Interconnection Charge. This restructure was implemented when the FCC restructured Transport rates such that carriers could choose to use either Direct Trunked Transport or Tandem Switched Transport. Generally, the design of the Verizon intraLATA switched access tariff included a switched access structure consistent with the interstate structure, so a state Interconnection Charge was implemented. Although I do not know the specific history, the state charge was obviously reduced to zero at some point in time, given that the previous Interconnection Charge rate was zero. The federal Interconnection Charge was reduced to zero, for Verizon, in conjunction with the adoption of the CALLS plan.

Q. Can you describe how the restructure of transport charges resulted in costs that you describe not otherwise being recovered through specific rate elements?

A. Yes. Let me use the interstate process as an example. Through various cost mechanisms, including Part 32, Part 36, Part 64 and Part 69, costs are assigned to various categories of interstate access services, including Common Line, Local Switching, Local Transport and Special Access. Special Access rates are developed to recover loop and transport costs, and Switched Access Transport is then generally set to mirror special access rates based on standard assumptions. Based on the characteristics of these assumptions combined with the various cost allocation mechanisms, a number of transport rate elements are set, and the remaining transport revenue requirement recovered through the Interconnection Charge rate element.

Q. How did the CALLS plan eliminate the Interconnection Charge for Verizon at the federal level?

A. The CALLS plan, as a general description, increased end user Subscriber Line Charges, moved a portion of the access revenue to universal service (which established the Interstate Access Service (IAS) element), and reduced switched access. As switched access charges were reduced pursuant to price cap mechanism and the CALLS plan's temporary productivity offset of 6.5%, the first element to be reduced was the IC element. This element was eliminated over the course of time.

Q. In the Order *Nisi*, the PUC directed FairPoint to file the information required in PUC 1604.08(c)(9). Have you prepared that information?

A. Yes. See MTS Attachment One, which shows the estimated annual impact of on FairPoint revenues associated with the elimination of CCL on switched access to non-FairPoint end users and the estimated annual impact on FairPoint revenues associated with the increased Interconnection Charge rate. The annual impact was estimated by multiplying the three month test period by four (4). The customers impacted by both rate changes are the interexchange carriers, and the net impact on this customer group is revenue neutral. The decreased FairPoint revenue from the CCL changes is $3,307,700 and the increased revenue from the Interconnection Charge rate increase is $3,307,842. There is a *de minimus* change of $142.00 due to the rounding of the rate to six decimal places.

Q. Do you believe the merger order prevents FairPoint from filing a revenue neutral rate filing in response to the PUC's Order *Nisi*?

A. No. While I will leave the legal analysis to the attorneys, my understanding is that the Settlement Agreement among Verizon, FairPoint Communications, Inc. and the Commission Staff contemplated that wholesale rates would remain in place for three years. Given the terms of the Order *Nisi*, which directed changes in access rates, maintaining revenue neutrality best reflects the intent of the paragraph. A non-revenue neutral decrease in wholesale rates does not appear to be consistent with the last sentence of Section 9.1 of the Settlement Agreement, which states: "The Commission shall not seek to decrease such rates for effect during the three-year period following the Closing Date." I would also point out that in Section 9.3 of the Settlement Agreement, the parties agreed to adopt the provisions of the settlement agreement between FairPoint Communications, Inc. and certain CLECs attached as Exhibit 2 to the Settlement Agreement (the "CLEC Settlement"). Section 4(h) of the CLEC Settlement provides: "Notwithstanding anything herein to the contrary, FairPoint shall have the same rights and obligations as Verizon in connection with and arising out of any final order which may be issued with NHPUC Docket 06-067."

Q. Would you please comment on the applicability of RSA 378:17-a III.

A. RSA 378:17-a, III states as follows:

> III. (a) The commission should, as soon as possible after each significant decrease of interstate access charges by the federal government, consider corresponding reductions in intrastate access charges, taking into account both the disadvantages to customers of intrastate access charges that exceed interstate access charges and the disadvantages to customers of increases in charges for basic services.
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> (b) The commission should consider reducing intrastate access charges and increasing basic monthly service charges for local exchange carrier telephone utilities that have both a higher intrastate access charge than the state median intrastate access charge and a lower basic monthly service charge than the state median basic monthly service charge for exchanges with similar numbers of telephones within the local calling area.

The change directed in this case is not responsive to any recent change of which I am aware in federal access rates. Therefore, I do not believe that subsection (a) is applicable here. Subsection (b) expressly contemplates the concept of revenue neutrality by referencing both reductions in access rates and increases in basic service rates. Therefore, I believe that our filing is very much in concert with this statute. FairPoint did not consider increases in basic service rates due to the requirements of the Settlement Agreement.

Q. In the Order the PUC states that FairPoint did not file the information required under Puc 1605 to support the tariff page filing. Would you please comment on this statement?

A. We endeavored to conform fully to Part Puc 1605 and believed that we did so fully. Puc 1605.02(a) requires that we include the following four items in the filing:

> (1) A cover letter summarizing the proposed tariff change and, where applicable, percentage change in existing rate and revenue effect;
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> (2) Annotated and clean tariff pages showing the proposed changes as required pursuant to Puc 1604;
>
> (3) Supportive narrative, testimony or technical statement;

(4) Supportive schedules documenting the adjustments and supporting the calculations made in the proposal; and

(5) Any additional documentation required by the commission pursuant to (b) below.

The filing included the required cover letter and tariff pages. The cover letter and the attached schedules provided a full explanation of the proposed changes and the supporting calculations. FairPoint believes that it complied with the requirements of Puc Part 1605.

Q. Does this conclude your testimony?

A. Yes, it does.

Report of Proposed Rate Changes

Utility FairPoint Communications – NNE (New Hampshire) Date Filed September 28, 2009

Tariff No 85 or Page Nos ______ Effective Date ______

Rate or Class of Service	Effect of Proposed Change[1]	Average Number of Customers	Estimated Annual Revenue		Proposed Annual Change in Revenues		Proposed Change in Rates	
			Present Rates	Proposed Rates	Amount	%	Amount	%
CCL[2]	Decrease	Varies[5]	(3,307,700)	0	(3,307,700)	(100)	0	(100)
Interconnection Charge[3]	Increase	38	0	3,307,842	3,307,842	N/A	0.010164	N/A
Totals			(3,307,700)	3,307,842	142[4]	(100)	0.010164	(100)

[1]Show increases, decreases and net changes in each rate classification separately, where applicable.
[2]The data for the CCL represents the subset of the total CCL revenue impacted by the change in the application of the CCL detailed in the Commission's Order *Nisi* No. 25,002, August 11, 2009. There is a CCL rate that will continue to be applied to all traffic that originates or terminates with a FairPoint end-user.
[3] As the current rate for the Interconnection Charge is zero, calculations for % change in revenue and % change in rate are not applicable.
[4]The slight change in revenue is due to rounding. For an exact revenue neutral filing, the new rate for the Interconnection Charge would be 0.01016356378. The standard number of decimal places used for usage rates in the NHPUC No. 85 tariff is 6 and our billing system will not accommodate 11 decimal places. As a result, we have proposed 0.010164 as the new rate.
[5]The number of customers assessed the CCL will vary depending upon their traffic.

Denotes decrease ( )