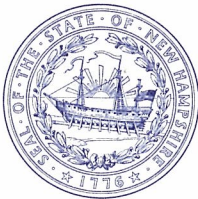


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October 23, 2009

Debra A. Howland  
Executive Director  
New Hampshire Public Utilities Commission  
21 South Fruit Street  
Concord, NH 03301



Re: DT 09-039 Freedom Ring Communication d/b/a BayRing Comm.  
Complaint Against FairPoint Communications NNE for Failure to Provide  
BayRing with an Operating Support System  
Staff Report in Response to Secretarial Letter of April 20, 2009

Dear Ms. Howland:

On March 3, 2009, the Commission forwarded to FairPoint Communications-NNE (FairPoint) pursuant to RSA 365:1 a complaint filed by Freedom Ring Communications d/b/a BayRing Communications (BayRing) regarding Operating Support Systems (OSS).

Based on BayRing's complaint and FairPoint's answer, the Commission determined that further investigation was merited. Accordingly, the Commission directed FairPoint to meet with BayRing and Staff to discuss the business processes for wholesale escalations from receipt to completion, for resolution of backlogs for ASRs and for hot cuts. The Commission directed that the participants further explore the status of pre-ordering and false completion notices and whether progress has been made to correct these issues. Staff was further directed to, following the meeting, file a report on whether it is likely that an informal resolution of the operational issues raised by BayRing can be accomplished or a recommendation on how to proceed.

On May 7, 2009, Staff conducted a meeting with FairPoint and BayRing. As a result of the meeting, Staff concluded that an informal resolution of the operational issues raised by BayRing was not likely.

In the intervening months, FairPoint has made progress in correcting system defects and data errors and, although FairPoint is not operating as it did before cutover, the OSS issues identified in BayRing's complaint are no longer as severe as they were

when BayRing filed its complaint. BayRing also requested the Commission open an investigation to determine whether FairPoint's OSS is adequate, whether FairPoint should be fined, or whether the Commission should recommend to the FCC that FairPoint's 271 authority be revoked, and that the Commission determine an amount FairPoint should pay BayRing in reparations.

The issues raised by BayRing are not unique to it and are either before the Commission in other proceedings or are not yet ripe. The Commission is aware of the operational and financial issues FairPoint is experiencing and has conducted several status conferences to keep abreast of FairPoint's progress. The issue of whether and to what extent FairPoint should have financial consequences based on its performance assurance plan is under consideration in Docket No. DT 09-113. With respect to reparations due to BayRing, Order No. 24,823 allows a CLEC to petition the Commission for reimbursement of substantial and extraordinary costs directly related to the transition from Verizon to FairPoint but requires the petitioner to quantify such costs. BayRing requests in its petition that the Commission determine the amount of compensation that FairPoint owes BayRing, as opposed to quantifying its substantial and extraordinary costs.

Due to the Commission's ongoing activities regarding FairPoint, a complaint filed by one CLEC is not likely the most efficient method to dispose of the remaining issues raised. Accordingly, Staff recommends the Commission close this complaint, without prejudice, continue its efforts toward improving FairPoint's operational problems, and entertain a petition for reimbursement of substantial and extraordinary costs if and when it is fully supported and filed.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Hunt", with a long horizontal flourish extending to the right.

Robert D. Hunt  
Staff Attorney

Cc: Service List

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Docket #: 09-039      Printed: October 23, 2009

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