

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

**DATE:** November 2, 2009

**AT (OFFICE):** NHPUC

**FROM:**  Kate Bailey and Anne Ross

**SUBJECT:** Staff Recommendation on FairPoint's  
Petition for a General Scheduling Order

**TO:** Commissioners

On October 30, 2009, FairPoint filed a petition requesting that the Commission extend mandatory filing and appearance requirements and deadlines between October 26 and November 13, by 21 days and that the Commission establish no new deadlines for effect prior to November 16, 2009. FairPoint's request appears to apply to all pending dockets involving FairPoint including DT 07-011.

The above named Staff have reviewed the status of the following pending dockets involving FairPoint.

| Docket No. | Deadline                                                     | Notes                       |
|------------|--------------------------------------------------------------|-----------------------------|
| DT 06-067  | Ruling on Motions Pending                                    | Complaint against VZ/FP     |
| DT 07-011  | See attached matrix of required filings                      | petitioner                  |
| DT 08-004  | None pending                                                 | Rulemaking – comments filed |
| DT 08-028  | Decision pending                                             | intervenor                  |
| DT 09-039  | None pending                                                 | Complaint against FP        |
| DT 09-059  | Docket Held in Abeyance                                      | petitioner                  |
| DT 09-113  | Ruling on Motions to Dismiss or for Summary Judgment pending | petitioner                  |
| DT 09-195  | Routine Tariff filing                                        | petitioner                  |
| DT 09-196  | Routine Tariff filing                                        | petitioner                  |
| DT 09-202  | Routine Tariff filing                                        | petitioner                  |

In addition, the above named Staff have reviewed the specific filing requirements for FairPoint in 07-011 that would be due during the requested period. A copy of the filing requirements is attached to this memorandum. Based upon this review Staff recommends that the Commission grant FairPoint's request in order to allow FairPoint to devote resources to its bankruptcy restructuring efforts.

**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. |

**DT 07-011**  
**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     |

**DT 07-011**  
**Reports Requiring Adjudicative Process**

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