

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DT 09-___

**Petition of FairPoint Communications
for Waiver of Certain Requirements
Under the Performance Assurance Plan and
Carrier to Carrier Guidelines**

Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE ("FairPoint Communications") hereby requests that the New Hampshire Public Utilities Commission (the "Commission") waive the requirements of the Performance Assurance Plan ("PAP") as amended in the November 21, 2006 filing in DT 06-168 and the associated Carrier to Carrier Guidelines Performance Standards and Reports ("C2C"), so as to remove certain of FairPoint Communications' reporting obligations under the PAP and the C2C. In support of the request, FairPoint Communications states as follows:

1. Following the acquisition of certain Verizon New England Inc. ("Verizon") assets, FairPoint Communications has continued the task of developing its own operational systems and transitioning from Verizon systems to its new systems. The cutover involved moving from Verizon's over 600 systems to FairPoint Communications' approximately 60 systems.

2. The PAP and the C2C Reporting and Guidelines were established in the context of Verizon's system capabilities. As a result of the implementation of its systems, FairPoint Communications will no longer be able to report the results of certain measures. In particular and as described more fully below, (1) information associated with corresponding retail

operations is no longer available for certain parity metrics, (2) the operations underlying other measures are no longer being performed, (3) information associated with certain metrics is no longer available under FairPoint Communications' systems, and (4) the services associated with other metrics have never been requested by the CLECs in Maine, New Hampshire and Vermont and under the new systems will no longer be available to CLECs or are processed in a manner different than the metric contemplates. FairPoint Communications respectfully requests the Commission permanently waive the reporting requirements and associated penalty requirements for these metrics.

3. FairPoint Communications further requests that the Commission grant a temporary one (1) month waiver of the reporting requirements beyond the current one month grace period as well as any associated penalties for eleven (11) of the metrics listed below, for which the data will not be available for the months of February and March, due to either systems issues where programming changes need to be implemented, a lack of data in the systems as a result of the manual processing of orders, or a lack of data as a result of the delay in the carrier billing cycle.

4. Among other grounds, the PAP provides that a waiver may be requested due to "situations beyond [FairPoint Communications'] control that negatively affect its ability to satisfy only those measures with Benchmark standards ... [where it can] demonstrate clearly and convincingly the extraordinary nature of the circumstances involved, the impact the circumstances had on [FairPoint Communications'] service quality, why [FairPoint Communications'] normal, reasonable preparations for difficult situations proved inadequate, and the specific days affected by the event." PAP Appendix C at 39-40. FairPoint Communications respectfully submits that these criteria are met in this case.

5. The need for a waiver is due to circumstances that, as a practical matter, are beyond FairPoint Communications' control. The PAP reporting requirements and metrics were designed to reflect Verizon's 600+ systems. The terms of the asset acquisition arrangements required that FairPoint Communications no longer use Verizon's systems, and therefore FairPoint Communications was required to build its own systems. Rather than duplicating Verizon's legacy systems, FairPoint Communications developed state-of-the-art systems designed for its needs and reflecting the recommendations of its consultant, Capgemini.¹ It would have been impractical and highly inefficient to replicate all of Verizon's systems subject to reporting requirements or metrics under the PAP, solely for the purpose of avoiding any change to those reporting requirements and metrics. As a result, FairPoint Communications submits that the need for a waiver is due to circumstances beyond its control. In addition, the PAP provisions concerning waiver requests should be extended to parity measures where, as here, the waiver is due to unavailability of retail results, rather than a failure to assure that wholesale results are in parity with retail results.

6. FairPoint Communications also submits that this Petition demonstrates clearly and convincingly (1) the extraordinary nature of the circumstances involved, (2) the impact the circumstances had on FairPoint Communications' service quality, (3) why FairPoint Communications' normal, reasonable preparations for difficult situations proved inadequate, and (4) the specific days affected by the event. First, the creation of FairPoint Communications' systems reflects extraordinary circumstances, involving the creation of 60 systems necessary to provide service to 1.5 million lines. FairPoint Communications is unaware of any instance in which such a large number of complex, integrated systems were created at a single time to serve

¹ "CapGemini is technically qualified to develop the required systems and insure a reasonably smooth cutover." Verizon Transfer of Assets and Sale to FairPoint, DT 07-011, Order No. 24,823 at 37 (Feb. 25, 2008) ("Transfer Order").

such a large number of customers. Second, as indicated above, the new systems do not allow FairPoint Communications to continue certain of the PAP reporting requirements and metrics. Third, the design of FairPoint Communications' systems was the result of an intensive effort by it and Capgemini; no amount of planning or preparation could have resulted in systems that continued the legacy reporting requirements and metrics without introducing increased costs and inefficiencies. Finally, as indicated below, FairPoint seeks a temporary, two-month waiver for certain requirements and a permanent waiver for other requirements.² Further support for the request is contained in the discussion below.

A. Permanent Waiver

7. FairPoint Communications requests a permanent waiver of the reporting requirements and associated penalties for the following metrics:

8. Corresponding Retail Results Unavailable. Certain Pre-Ordering Metrics and one Maintenance and Repair metric reported in the PAP and C2C were previously evaluated based upon parity with comparable retail results. FairPoint Communications systems will not be able to perform the retail results simulations performed by previously-used Verizon systems. FairPoint Communications proposes to substitute benchmarks as the means to evaluate these elements of its wholesale performance. Attachment 1 lists the PAP and C2C metrics involved and proposed interim benchmarks based upon estimated FairPoint Communications system performance. FairPoint Communications requests the Commission adopt these interim benchmarks as a substitute for the parity results until one year of actual system performance data is available for evaluation, at which point permanent benchmarks can be established.

² The waivers are requested under the terms of the PAP and therefore are consistent with the Transfer Order condition that the PAP remain in effect. Transfer Order at 30, 31. Furthermore, the temporary waiver herein comports with the spirit of the grace period provided by the Commission in the Transfer Order. Transfer Order at 76.

9. Underlying Operations No Longer Performed. The PAP and C2C require reporting of certain pre-ordering wholesale transactions performance and Interface Availability, based upon multiple interfaces which existed for CLECs to process transactions with the Verizon systems. The PAP and C2C currently reflects measures for EDI, CORBA, Web/GUI, eWPTS and EB (electronic bonding) interfaces. With the transition to FairPoint Communications systems, there are now only three interfaces: Web/GUI, eWPTS³ and WISOR. The WISOR interface replaces EDI and EB. The CORBA interface has been eliminated; therefore, the Pre-Ordering Interface Availability, Average Response Time and Parsed CSR metrics for which CORBA results were reported can no longer be reported. In addition, results for CLECs which previously used EDI or EB interfaces and now use the WISOR interface will be reported under WISOR measurements. FairPoint requests the Commission change the reporting requirements so as to only require FairPoint Communications to report results for the systems they currently employ (WISOR Web/GUI and eWPTS). The impacted metrics are listed below:

- a) Metric Number PO-2, OSS Interface Availability
- b) Metric Number PO-1-01, Average Response Time- Customer Service Record
- c) Metric Number PO-1-02, Average Response Time- Due Date Availability
- d) Metric Number PO-1-03, Average Response Time- Address Validation
- e) Metric Number PO-1-04, Average Response Time- Product and Service Availability
- f) Metric Number PO-1-05, Average Response Time- Telephone Number Availability and Reservation
- g) Metric Number PO-1-06, Average Response Time- Mechanized Loop Qualifications- xDSL
- h) Metric Number PO-1-07, Average Response Time- Reject Query
- i) Metric Number PO-1-09, Parsed CSR

10. Unavailable Information. The C2C requires reporting of certain metrics to which the Verizon systems automatically generated reports. FairPoint Communications systems are not structured to capture these reports. Since this metric cannot be reported due to system changes,

³ FairPoint Communications' eWTPS interface is currently under development and will be available at a future date.

FairPoint Communications requests the Commission waive the requirement to report and any associated penalties for the following metrics:

- a) MR-1-05, Average Response Time- Trouble Report History (by TN/Circuit)
- b) OR-3-02-1000, Percent LSR Resubmission Not Rejected

11. Inapplicable Services or Processes. The C2C requires FairPoint Communications to report certain metrics that are no longer applicable because the CLECs in Maine, New Hampshire and Vermont either do not order the services associated with these metrics or do not process their orders in the manner the metric contemplates. Since there will be no data for the following metrics because these metrics are not applicable to CLEC operations in New Hampshire, they will not be reported:

- a) Metric Number OR-1-08, Percent On Time ASRC- No Facility Check (Fax/Mail)
- b) Metric Number OR-1-10, Percent On Time ASRC- Facility Check (Fax/Mail)
- c) Metric Number OR-2-08, Percent On Time Reject- No Facility Check (Fax)
- d) Metric Number OR-2-10, Percent On Time Reject- Facility Check (Fax)
- e) Metric Number Number OR-13-13523, Percent of Large Job Hot Cut Project Negotiations Completed
- f) Metric Number PR-1-13-3525, Average Interval Offered-Hot Cuts-No Dispatch
- g) Metric Number PR-3-12-3531, Percent Completed in 15 Business Days
- h) Metric Number PR-3-12-3532, Percent Completed in 15 Business Days
- i) Metric Number PR-3-13-3531, Percent Completed in 26 Business Days
- j) Metric Number PR-3-13-3533, Percent Completed in 26 Business Days
- k) Metric Number PR-6-02-3523, Percent Installation Troubles Reported within seven business days
- l) Metric Number PR-6-02-3525, Percent Installation Troubles Reported within seven business days
- m) Metric Number PR-9-01-3523, Percent On Time Performance- Hot Cut
- n) Metric Number PR-9-01-3525, Percent On Time Performance- Hot Cut
- o) Metric Number PR-9-04-3525, Percent On Time Performance Batch Due Date

12. FairPoint Communications systems were developed without the capability to report data regarding line sharing and line splitting in the PAP. These offerings represent a small portion of the transactions processed by the CLECs. The PAP metrics for which this data is not available are identified in Attachment 2. To the extent that they may still be applicable,

FairPoint Communications requests the Commission waive the requirement to report results and any associated penalties for these metric results.

B. Temporary Waiver

13. Following an extensive review of the wholesale data report in preparation for the March 28, 2009 February Reporting deadline in Maine and Vermont, FairPoint Communications has identified eleven (11) metrics for which data is not currently available. The data for these metrics is not available for the February report due to systems issues where programming changes need to be implemented, a lack of data in the systems as a result of the manual processing of orders, or a lack of data as a result of the delay in the billing cycle. FairPoint Communications respectfully requests the Commission grant a temporary one (1) month waiver beyond the current grace period for reporting the following metrics:

- 1) Metric Number NP-1-01-5000, Percent Final Trunk Groups exceeding Blocking Standard
- 2) Metric Number NP-1-02-5000, Percent Final Trunk Groups exceeding Blocking Standard (No Exceptions)
- 3) Metric Number NP-1-03-5000, Number Final Trunk Groups exceeding Blocking Standard-2 months
- 4) Metric Number NP-1-04-5000, Number Final Trunk Groups exceeding Blocking Standard-3 months
- 5) Metric Number OR-6, Percent Service Order Accuracy
- 6) Metric Number OR-11, Percent Resale/UNE-P Provider Notification in Days
- 7) Metric Number BI-3-04, Percent CLEC Billing Claims Acknowledged within two (2) Business Days
- 8) Metric Number BI-9-01, Percent Billing Completeness in 12 Billing Cycles
- 9) Metric Number BI-1, Timeliness of Daily Usage Feed
- 10) Metric Number BI-2, Timeliness of Carrier Bill
- 11) Metric Number PO-3, Percent Answered within 30 Seconds

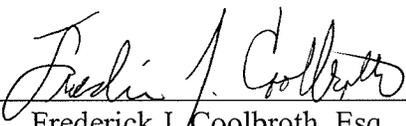
WHEREFORE, FairPoint Communications requests that the Commission waive the C2C and PAP reporting requirements and associated penalties requested in this petition.

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

By their Attorneys,

DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION

Dated: March 26, 2009

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Attachment 1

METRIC_ID	METRIC_DESC	PRODUCT_DESC	95% within x seconds benchmark
PO-1-01-6020	Average Response Time - Customer Service Record (CSR)	EDI	20
PO-1-01-6050	Average Response Time - Customer Service Record (CSR)	WEB GUI/LSI/W	20
PO-1-02-6020	Average Response Time - Due Date Availability	EDI	14
PO-1-02-6050	Average Response Time - Due Date Availability	WEB GUI/LSI/W	14
PO-1-03-6020	Average Response Time - Address Validation	EDI	14
PO-1-03-6050	Average Response Time - Address Validation	WEB GUI/LSI/W	14
PO-1-04-6020	Average Response Time - Product & Service Availability	EDI	14
PO-1-04-6050	Average Response Time - Product & Service Availability	WEB GUI/LSI/W	14
PO-1-05-6020	Average Response Time - Telephone Number Availability & Reservation	EDI	20
PO-1-05-6050	Average Response Time - Telephone Number Availability & Reservation	WEB GUI/LSI/W	20
PO-1-06-6020	Average Response Time - Mechanized Loop Qualification - xDSL	EDI	14
PO-1-06-6050	Average Response Time - Mechanized Loop Qualification - xDSL	WEB GUI/LSI/W	14
PO-1-07-6020	Average Response Time - Rejected Query+	EDI	14
PO-1-07-6050	Average Response Time - Rejected Query+	WEB GUI/LSI/W	14
PO-1-09-6020	Parsed CSR	EDI	20
MR-1-06-6050	Average Response Time - Test Trouble (POTS Only)	WISOR	45

ATTACHMENT 2
LINESHARING/LINESPLITTING PAP METRICS

<u>METRIC_ID</u>	<u>METRIC_DESC</u>	<u>PRODUCT_DESC</u>
OR-1-04-3340	% On Time LSRC/ASRC - No Facility Check (Electronic - No Flow Through)	UNE 2-Wire xDSL - Line Sharing & Line Splitting (combined)
OR-2-04-3340	% On Time LSR/ASR Reject - No Facility Check (Electronic - No Flow-through)	UNE 2-Wire xDSL - Line Sharing & Line Splitting (combined)
OR-1-06-3340	% On Time LSRC/ASRC - Facility Check	UNE Line Sharing/Split
OR-2-06-3340	% OT LSR/ASR Rej - Facility Check	UNE Line Sharing/Split
PR-3-03-3340	% Completed w/in 3 Days (1-5 lines) No Disp	UNE Line Sharing/Split
PR-3-03-3340	% Completed w/in 3 Days (1-5 lines) No Disp	UNE Line Sharing/Split
PR-4-02-3340	Average Delay Days -Total	UNE Line Sharing/Split
PR-4-04-3340	% Missed Appointment -Dispatch	UNE Line Sharing/Split
PR-4-05-3340	% Missed Appointment -No Dispatch *	UNE Line Sharing/Split
PR-6-01-3340	% Installation Troubles w/in 30 Days *	UNE Line Sharing/Split
PR-8-01-3340	% Open Orders in Hold Status >30 Days *	UNE Line Sharing/Split
MR-3-01-3340	% Missed Repair Appointment -Loop	UNE Line Sharing/Split
MR-3-02-3340	% Missed Repair Appointment -CO	UNE Line Sharing/Split
MR-4-02-3340	Mean Time To Repair -Loop	UNE Line Sharing/Split
MR-4-03-3340	Mean Time To Repair -CO	UNE Line Sharing/Split
MR-4-04-3340	% Cleared (all troubles) w/in 24 Hours	UNE Line Sharing/Split
MR-4-07-3340	% Out of Service >12 Hours	UNE Line Sharing/Split
MR-5-01-3340	% Repeat Reports w/in 30 Days	UNE Line Sharing/Split