



**Paula W. Foley**  
Regulatory Affairs Counsel  
5 Wall Street  
Burlington, MA 01803  
781-372-5713 Tel.  
781-362-1313 Fax  
[pfoley@onecommunications.com](mailto:pfoley@onecommunications.com)

*Via Electronic Mail and Overnight Delivery*

June 29, 2009



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

**Re: FairPoint Communications' Petition for Waiver of Certain Requirements under the Performance Assurance Plan and Carrier to Carrier Guidelines, Docket No. DT 09-113**

Dear Ms. Howland:

By this letter, One Communications concurs with the letter filed in this docket on June 25, 2009, by Freedom Ring Communications d/b/a Bayring Communications ("Bayring"). In its letter, Bayring urges the Commission to require FairPoint to continue to make required payments and/or bill credits under the applicable Performance Assurance Plan ("PAP") pending resolution of FairPoint's requests to waive and modify the PAP in Docket Nos. DT 09-113 and DT 09-059.

Similar to Bayring's experience, on June 25, 2009, One Communications was notified by John Berard, FairPoint's Wholesale Customer Relations Director, that FairPoint would not be making *any* further required payments or applicable bill credits while its requests for waiver and modification are pending before the Commission. While FairPoint has credited One Communications for certain February and March PAP payments due, FairPoint has refused to credit One Communications for any payments currently due from the April PAP reports.

FairPoint has taken this action without Commission authorization. The PAP contains no provisions allowing FairPoint to unilaterally cease PAP payments pending resolution of its waiver and modification requests. Moreover, FairPoint never requested that the Commission stay the requirements to pay applicable bill credits for its poor performance pending resolution of the requests.

As pointed out by Bayring, the PAP does not allow FairPoint to undertake a self-help plan to stop making penalty payments for poor performance simply because FairPoint does not want to make such payments. Instead, the PAP requires that changes to the PAP may be implemented only when ordered by the Commission. See PAP at 24 (“Any modifications to the Plan will be implemented as soon as is reasonably practical *after Commission approval of the modifications.*”).

Therefore, One Communications joins in Bayring’s request that the Commission enter an Order that prohibits FairPoint from ceasing all PAP payments and/or bill credits for FairPoint’s poor wholesale performance under the PAP and that these payments and/or bill credits must be maintained until the Commission is able to consider the issues raised by FairPoint’s requests.

Please feel free to contact me if you have any questions. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paula W. Foley", with a long horizontal line extending to the right.

Paula W. Foley

cc: Service list (via electronic mail)