



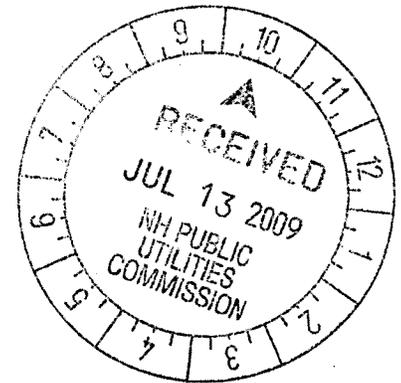
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July 10, 2009

Via Electronic Mail and Overnight Delivery

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



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

Dear Ms. Howland:

By this letter, DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad") concurs with the objections filed by Freedom Ring Communications d/b/a Bayring Communications ("Bayring") and One Communications regarding the above-referenced petition. Covad supports Bayring's request for the Commission to require FairPoint to continue to make required payments and/or bill credits under its Performance Assurance Plan ("PAP") while the case is pending. Covad requests that, ultimately, the Commission deny Fairpoint's Petition.

The PAP is intended to provide financial incentive for FairPoint to provide quality and non-discriminatory service to its wholesale customers. FairPoint's problems with implementing workable operational support systems ("OSS") has been problematic for Covad, at best, and caused Covad to utilize additional resources to resolve the problems. The FairPoint OSS implementation delays and problems have also affected Covad's ability to provide service to its customers in New Hampshire. Covad uses the FairPoint PAP data for internal review and reporting purposes, as well as to determine PAP penalties that are due to Covad. Covad is in receipt of FairPoint's published reports ("C2C", "PAP" and "C2C-PAP Detail") specific to Covad year-to-date (through May) for all but the month of February. Final PAP Reports reflect penalties due Covad consistently increasing month over month, which indicates that FairPoint's performance is getting worse, instead of better, as anticipated.

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FairPoint's intent of withholding PAP payments and data has been taken without Commission authorization, notice to affected customers, or an opportunity for affected wholesale providers to respond. The PAP, approved by the Commission, contains no provisions to allow FairPoint to unilaterally cease PAP payments or providing PAP data pending resolution of its waiver and modification requests. FairPoint also never requested the Commission to stay the requirements to pay applicable bill credits for its poor performance pending resolution of the requests; which Covad would have opposed. Covad supports and concurs with Bayring's analysis of the PAP regarding the lack of any self-help remedies that FairPoint has availed itself of before the petition was filed and during the pendency of this proceeding.

In addition, Covad submits that FairPoint's petition to waive current and future PAPs payments is inconsistent and violates the Settlement Agreement that FairPoint and Covad reached in the context of the sale of Verizon's assets to FairPoint.

Accordingly, Covad joins in Bayring's and One Communications' 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 be maintained until the Commission rules on FairPoint's Petition. In addition, Covad requests that the Commission require FairPoint to provide the underlying PAP data for February, and for all months during the pendency of this proceeding.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Katherine K. Mudge

cc: Service list (via electronic mail)