

STATE OF NEW HAMPSHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION

DT 07-011

VERIZON NEW ENGLAND INC., BELL ATLANTIC COMMUNICATIONS, INC.,  
NYNEX LONG DISTANCE CO., VERIZON SELECT SERVICES INC.,  
AND FAIRPOINT COMMUNICATIONS, INC.

Transfer of Assets to FairPoint Communications, Inc.

DT 09-113

NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC  
D/B/A FAIRPOINT COMMUNICATIONS-NNE

Waiver of Certain Requirements Under the  
Performance Assurance Plan and Carrier to Carrier Guidelines

**Reply and Objection of Northern New England Telephone Operations LLC d/b/a FairPoint  
Communications - NNE to Motion for Civil Penalties**

NOW COMES Northern New England Telephone Operations LLC d/b/a FairPoint Communications - NNE ("FairPoint") and, pursuant to New Hampshire Public Utilities Commission (the "Commission") Puc. 203.07, hereby replies and objects to the Motion for Civil Penalties filed with the Commission on July 9, 2009 (the "Motion"), by Freedom Ring Communications, Inc. *et al.* (the "CLECs").

**A. The Motion Should be Dismissed as Moot**

1. In their Motion, the CLECs complained of FairPoint's Accessible Letter PRC 0018-06292009, dated June 29, 2009, in which FairPoint announced that PAP billing credits would be placed on hold pending the outcome of the Petitions for Waiver in DT 09-059 and DT 09-0113. However, on July 14, 2009, FairPoint released Accessible Letter PRC 0023-07142009

(attached as Exhibit A), announcing that PAP billing credits would be posted and released in New Hampshire. This effectively rescinded the June 29<sup>th</sup> Accessible Letter as it related to New Hampshire. Consequently, the Motion is now moot and should be dismissed as such.

**B. Civil Penalties are not Warranted.**

2. To the extent that the Commission is considering sanctions for the two week period in which FairPoint contemplated the suspension of PAP billing credits, this is unwarranted, unnecessary, and potentially wasteful of the resources of the Commission and FairPoint. FairPoint is not ignoring the requirements of the PAP program. It is seeking relief from a regulatory requirement which is burdensome and unnecessary under the current circumstances. FairPoint believed that its action was legally authorized and was appropriate while the waiver request is being considered. To avoid controversy, FairPoint has reinstated the credits (subject to reversal in the event the PAP relief being sought is granted). No possible harm has occurred meriting the consideration of penalties.

3. FairPoint's concerns regarding cash flow are a matter of record, and are the impetus for the original Petitions. FairPoint has resumed issuing billing credits to CLECs in New Hampshire. There is absolutely no benefit to the public interest for the Commission to entertain a Motion for Civil Penalties, as it would only ratchet up the stakes and place additional burdens on FairPoint while it addresses the important issues attendant to its Petitions.

**CONCLUSION**

FairPoint respectfully requests that the Commission

- 1) dismiss the Motion for Civil Penalties as moot or, in the alternative,
- 2) deny the Motion for Civil Penalties.

Respectfully submitted,

NORTHERN NEW ENGLAND TELEPHONE  
OPERATIONS LLC D/B/A FAIRPOINT  
COMMUNICATIONS - NNE AND  
FAIRPOINT COMMUNICATIONS, INC.

By Their Attorneys:

DEVINE, MILLIMET & BRANCH  
PROFESSIONAL ASSOCIATION

Dated: July 20, 2009

By: \_\_\_\_\_

  
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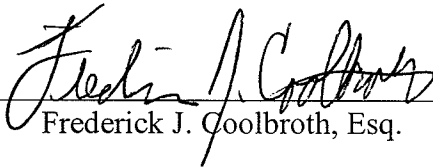
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### **CERTIFICATE OF SERVICE**

I hereby certify that a PDF copy of the foregoing Response and Objection was forwarded this day to the parties by electronic mail.

Dated: July 20, 2009

By: \_\_\_\_\_  
Frederick J. Coolbroth, Esq.

1 Davis Farm Road  
Portland, ME 04103**Industry Notification – Accessible Letter**

<b>Date:</b>	July 14, 2009	<b>Number:</b> PRC 0023-07142009
<b>Effective Date</b>	July 14, 2009	<b>Category:</b> PAP Credits
<b>Subject:</b>	<b>Update on PAP Credits – On Hold Until Outcome of PAP Waiver Request in VT only – NH and ME credits posted</b>	
<b>Related Letters:</b>	PRC 0018-06292009, PRC 0022-07132009	
<b>Attachments:</b>	N/A	
<b>Target Audience</b>	IXC, CLEC, Wireless, UNE	
<b>Area Impacted:</b>	ME, NH and VT	
<b>Wholesale Customer Response deadline:</b>	N/A	
<b>Contact:</b>	<b>Send all Questions to:</b> <a href="mailto:wholesalebilling@FairPoint.com">wholesalebilling@FairPoint.com</a>	
<b>Conference Call/Meeting</b>	N/A	

Dear FairPoint Communications Wholesale Customer:

This notice is being sent to remind FairPoint Communications Wholesale Customers that FairPoint has filed for PAP Waivers in all three states.

As stated in accessible letters PRC 0018-6292009 and PRC 0022-07132009, the PAP credits will remain in pending status in the state Vermont while the state commission reviews FairPoint's requests.

However, FairPoint Communications is posting and releasing the credits in the States of **New Hampshire and Maine** while the state commission reviews FairPoint's request.

Please refer all questions to [wholesalebilling@fairpoint.com](mailto:wholesalebilling@fairpoint.com)