

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: January 8, 2013
AT (OFFICE): NHPUC

ML

FROM: Michael Ladam, Assistant Director of Telecommunications

SUBJECT: DT 12-337, Northern New England Telephone Operations, LLC
d/b/a FairPoint Communications – Tariff Filing to Implement Certain
Provisions of the Order on Remand

TO: Commissioners
Debra Howland, Executive Director

On November 19, 2012, Northern New England Telephone Operations, LLC d/b/a FairPoint Communications – NNE (FairPoint) submitted a filing to revise the language in its wholesale Collocation Tariff No. 2. According to FairPoint, this revision updates its tariff obligations in accordance with Federal Communications Commission (FCC) rules regarding competition levels in particular wire centers.

On December 18, 2012, the Commission extended the time for determination of the proposed revision to January 18, 2013, pursuant to NH RSA 378:6, IV. The Commission also at that time granted the CLEC Association of Northern New England (CANNE) permission to intervene.

Since that time, members of CANNE have responded to data requests issued by FairPoint regarding the status of purported collocated facilities. The number of such facilities located at each wire center forms the basis for determining what level of facilities sharing is required of FairPoint under federal law. The responses from CANNE in some cases dispute FairPoint's assertion of collocation and in other cases report that the CLEC has not completed its investigation into the status of the facilities. These responses leave the question of wire center impairment levels unresolved.

Although this docket is formally a tariff revision proposal, the changes proposed are allowed under federal law only where sufficient competition exists. Ruling on it requires a determination of the level of competition in 27 separate wire centers.

In Staff's assessment, in the absence of a consensus among parties, this determination will require an investigation that is beyond the normal scope and timeframe of tariff filings. Until such an investigation is conducted, the Commission cannot have a basis on which to find that the proposed revisions are just and reasonable as required under New Hampshire RSA 374:1 and 374:2. Staff consequently recommends that the Commission a) reject this tariff filing pursuant to RSA 378:6, IV; and b) open an investigation into wire center impairment status under RSA 365:5.