

THE STATE OF NEW HAMPSHIRE



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August 15, 2013

Re: DT 12-337, Northern New England Telephone Operations LLC  
d/b/a FairPoint Communications-NNE Wire Centers Investigation  
Acknowledgement of Revised Tariff Filing, Extension of Time for  
Determination, and Order for Submission of Legal Briefs

To the Parties:

On August 9, 2013, FairPoint Communications filed revisions to its NH PUC Tariff No. 2 that remove twenty wire centers which FairPoint no longer asserts are non-impaired and provide for an additional six-month transition period for DS1 and DS3 interoffice transport between the offices still under investigation in this proceeding. FairPoint stated in its cover letter that, pursuant to the changes to be made in this filing, it will not (1) charge any increased rate for the offices being removed for the period from January 15, 2013 through the effective date of the revised tariff filing, nor (2) disconnect any DS1 and DS3 unbundled network elements (UNEs) for the period from August 15, 2013 through the proposed effective date of the revised tariff filing.

On August 12, 2013, Commission Staff filed a memorandum that summarized the current status of its investigation of the alleged fiber-based collocations in wire centers listed in FairPoint's revised tariff. Staff outlined certain additional factual inquiries and legal issues required to be addressed in connection with the completion of this investigation. Staff's memorandum recommends the Commission order that briefs be submitted regarding specified questions of legal interpretation.

Based on the foregoing developments, the Commission has determined unanimously as follows:

1. Receipt of FairPoint's revised tariff filing on August 9, 2013 is acknowledged, and FairPoint shall not (1) charge any increased rate for the offices being removed for the period from January 15, 2013 through the effective date of the revised tariff filing, or (2) disconnect any DS1 and DS3 UNEs for the period from August 15, 2013 through the effective date of the revised tariff filing.
2. In view of the need for further factual investigation and legal analysis regarding the seven FairPoint wire centers described in Staff's memorandum, the time for Commission determination regarding the proposed tariff revisions is extended by an additional 30 days, until October 8, 2013, pursuant to RSA 378:6, IV.

3. FairPoint and CANNE are directed, and other parties are permitted, to file briefs on or before September 4, 2013, regarding the following questions of legal interpretation:
- (a) Does a CLEC, with collocation and active electrical power, using its own optronics to activate dark fiber provided by another CLEC on an indefeasible right to use basis, qualify as a fiber-based collocator?
  - (b) If there is one CLEC terminating fiber in a competitive access transport terminal and three additional CLECs using the same fiber cable on an indefeasible right to use basis, should this be counted as 4 fiber-based collocators? Why or why not?
  - (c) Does a CLEC, with collocation, active electrical power and fiber optic cable extending from the collocation facility to a termination point in the wire center area not owned or controlled by FairPoint (e.g., a fiber loop extending to a business) qualify as a fiber-based collocation?
  - (d) Does fiber terminated at one end in the wire center (e.g., a collocation or competitive access transport terminal) extending from the collocation facility to a termination point in the wire center area that is owned or controlled by FairPoint qualify as a fiber-based collocation?
  - (e) Based on the discovery responses received to date, are there other legal precedents or regulatory interpretations that should be considered by the Commission in determining the appropriate classification of the seven listed wire centers?

Sincerely,



Debra A. Howland  
Executive Director

cc: Docket File  
Service List (Electronically)

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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**FILING INSTRUCTIONS:**

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:
- DEBRA A HOWLAND  
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- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.