

THE STATE OF NEW HAMPSHIRE

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January 31, 2014

Debra A. Howland
Executive Director
N.H. Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301

**Re: DT 12-337 FairPoint Wire Center Investigation
Report Regarding Future Process Improvements –
Initial Data Requests to Alleged Fiber-Based Collocators**

Dear Ms. Howland:

In Order No. 25,580 issued on October 7, 2013, the Commission directed Staff to conduct an investigation together with interested parties in order to develop and propose a reasonable and appropriate process to be implemented in future wire center reclassification proceedings, and to file a report summarizing the results of this initiative and the proposed process revisions, within 90 days of the date of the Order.

On January 14, 2014, Staff filed a report regarding future procedures that had been agreed to by representatives of FairPoint and the CLEC Association of Northern New England, Inc. (CANNE), and recommended that the Commission approve this future process. Staff noted that the proposed future process contemplates issuance by Staff of a set of initial data requests to alleged fiber-based collocators (FBCs) in the relevant FairPoint wire centers and that, while the parties had made substantial progress in developing the text and format of these initial data requests, there remained unresolved issues regarding fiber facilities operated pursuant to indefeasible right of use (IRU) agreements. Staff indicated it would file a subsequent report by January 31, 2014 including a copy of the initial data requests template, if agreement with the parties were reached, or a request for the Commission's assistance in resolving the issues, if agreement were not reached.

Staff reports that the parties have agreed to use of the attached initial set of data requests, including a subset of questions regarding IRU agreements involving alleged FBCs, with one unresolved issue regarding the scope of a single question regarding IRUs (as noted in the enclosed document). Staff recommends that the Commission resolve this issue and approve the future use of the initial data request set in connection with the stipulated process for future FairPoint wire center investigations.

With respect to the Motion for Clarification filed by CANNE on November 5, 2013, and FairPoint's Objection filed on November 15, 2013, Staff recommends that the Commission decline to adopt an IRU definition at this time, deferring any such determination until a more extensive factual and legal record has been developed in the context of a contested proceeding.

Sincerely,

A handwritten signature in black ink that reads "David K. Wiesner". The signature is written in a cursive style with a large, prominent "D" at the beginning.

David K. Wiesner
Staff Attorney/Hearings Examiner

Enclosure
cc: service list

DATA REQUESTS OF N.H. PUBLIC UTILITIES COMMISSION STAFF

INSTRUCTIONS

1. Please furnish data responses within ten (10) days pursuant to N.H. Admin. Rule Puc 203.09(f).
2. For the purposes of these requests, "document" is defined as any writing of every kind in the possession, custody or control of the Company, including but not limited to letters, facsimiles, minutes and records of meetings, memoranda, reports, notes, plans and maps, recordings, transcripts, records of telephone or other communications, vouchers and other accounting records, lists, engineering studies, rate studies, economic studies, and computer files.
3. For each response, please identify the individual who will be available for cross-examination concerning that response.
4. If the Company has no document which is responsive in any way to any portion of a data request, please so state. In addition, please identify the person who determined that no such document exists.
5. If requested data is duplicative of that furnished in response to another data request, please identify the response in which the information is contained.
6. If you find a request to be unclear or imprecise, please request clarification, by telephone, to the Staff member who forwarded these requests as soon as possible.

Data Requests from Commission Staff: Form Instructions

Please complete the form below with reference to the following specific instructions:

- A. In Section 1, list the parties that own more than 10% of your company. (Fictional example responses are provided in shaded italics.)
- B. Please fill out the table in Section 2 with one line for each fiber (meaning fiber optic cable or strand) that you had in operation at each listed wire center during any period from [the first date shown in FairPoint's back-up documentation] through the date of your response.
- C. As guidance, the first three shaded lines provide an example using a fictional respondent with two fiber collocations of some type in the Grovers Corners wire center and one in the Leah wire center.
- D. Please add extra lines where needed for a given wire center (as in example line 2).
- E. Please use the following definitions and directions in completing the table:
 1. **Leaves the wire center premises:** a fiber is considered to leave the wire center premises when it leaves the FairPoint central office(s) building itself, together with associated vaults, structures, equipment and facilities, and adjacent land, all being owned, leased or otherwise controlled by FairPoint.
 1. **Operate:** Control or direct the functioning of. In the case of a fiber-optic cable, "operate" includes controlling the placement, capacity and configuration of the cable itself.
 2. **Powered:** The fiber is attached to electrically powered and active equipment in the collocation facility.
 3. **Service Start Date:** The date by which the fiber was powered and was operated by you. You may report this as "By [the first date shown in FairPoint's back-up documentation]" if that is accurate.
 4. **Service End Date:** The date by which the fiber was no longer powered or no longer operated by you. If the fiber is still powered and operated by you, enter CURRENT. Include multiple lines in the table for fibers that have transitioned in and out of service.
 5. **Fiber Ownership:** Mark this column:
 - **Own:** where you own a fiber cable outright (do not use 'Own' for strands)
 - **FRP:** where you lease the fiber from FairPoint on an IRU basis
 - **CFP:** Where you lease the fiber on an IRU basis from a competitive fiber provider. (*List each such CFP in Section 2*).
 - **N/A:** None of the other responses (Own, FRP, or CFP) apply
- F. For each fiber listed as leased from FairPoint or a CFP on an IRU basis, complete the questions under Section 4.

Data Requests from Commission Staff: Form

1. Ownership of Your Company

List the name of each individual, corporation, company, other business organization, trust or other entity that has or had a 10% or greater share of your company's equity at any time between the earliest service start date and the latest service end date listed below and state the period during which such equity interest was owned or controlled:

Name: *Wayne Ventures* **Period of Ownership:** *June 2010-Current*
Anthony Stark Capital *March 2011-Dec. 2012*

2. Wire Center Fibers

Wire Center	CLLI	Fiber Ownership	Powered?	Leaves Wire Center Premises?	Service Start	Service End
<i>Grovers Corners</i>	<i>GRCRNHAM</i>	<i>OWN</i>	<i>N</i>	<i>Y</i>	<i>By 3/1/2010</i>	<i>Current</i>
<i>Grovers Corners</i>	<i>GRCRNHAM</i>	<i>CFP</i>	<i>Y</i>	<i>Y</i>	<i>6/15/2011</i>	<i>Current</i>
<i>Leah</i>	<i>LEAHNHBR</i>	<i>CFP</i>	<i>-</i>	<i>N</i>	<i>-</i>	<i>-</i>

3. Competitive Fiber Providers

In Grovers Corners we lease fiber from XYZ Fiber.
In Leah we lease fiber from Second City Fibronics.

4. Additional Questions for Each Fiber Leased on an IRU Basis (add sheets as necessary to provide answers for each such fiber)

- a. Party from which the fiber is leased:
- b. Start date and duration of the lease:
- c. Describe the circumstances, if any, under which the lease may be terminated before the end of the stated term.
- d. Are there any restrictions on the uses to which you may put the fiber, or the services you may provide over the fiber? If so, describe.
- e. Are there any restrictions on resale, assignment, or re-leasing of the fiber? If so, describe.
- f. Do you have the ability to splice the leased fiber strands? If so, at what points and under what circumstances? Please describe any restrictions on your ability to splice the fiber.
- g. Please describe the payment arrangements for the fiber. Please specify, in particular, whether an up-front payment was required, and if so, what up-front payments were required.
- h. Please specify who has the obligation to maintain and/or repair the fiber strands that are subject to the lease. If you contract with another party (for example, the fiber provider) for maintenance and/or repair of the fiber, please describe the arrangement, including the fees involved and the party to which the fees are paid.
- i. Please describe how you treat the lease as an accounting and tax matter (for example, as an asset, a lease, or an operating expense).

Comment [MCL1]: FairPoint believes this detail regarding splicing rights is unnecessary, irrelevant and burdensome, CANNE believes it could be relevant and is not burdensome.