

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 06-067

FREEDOM RING COMMUNICATIONS, LLC D/B/A BAYRING COMMUNICATIONS

Complaint Against Verizon New Hampshire Regarding Access Charges

Order Rejecting Tariff Filing Without Prejudice

ORDER NO. 25,301

December 14, 2011

On November 30, 2011, Northern New England Telephone Operations, LLC d/b/a FairPoint Communications-NNE (FairPoint) filed with the Commission various revisions to its Tariff No. 3, for effect on December 30, 2011. Specifically, the tariff revisions amend the language in FairPoint's tariff regarding the application of the carrier common line (CCL) charge, and increase the Interconnection Charge. The history regarding these charges is set out in prior orders of the Commission in this docket and will not be recounted here, except as may be relevant.

FairPoint previously filed, on September 10, 2009, nearly identical proposed revisions to its tariff. In its cover letter for the November 30, 2011 filing, FairPoint recounts that in Order No. 25,219 (May 4, 2011) the Commission granted FairPoint's request to withdraw the September 10, 2009 tariff filing and have it treated as illustrative. Subsequently, in Order No. 25,283 (October 28, 2011), the Commission amended its decision and concluded that the portion of the tariff revisions relating to the CCL charge would be accepted, but would not take effect. *See Freedom Ring Communications, LLC d/b/a BayRing Communications*, Order No. 25,283 (Oct. 28, 2011) at 31. Also by that order, the Commission affirmed its decision to allow the portion of the tariff relating to the Interconnection Charge to be withdrawn and treated as

illustrative. *See id.* Specifically, the Commission concluded that “the portion of the tariff filing covering FairPoint’s interconnection charge is withdrawn and will be treated as illustrative so that it may be the basis for further consideration in this proceeding without invoking the statutory timing constraints of RSA 378:6.” *Id.*

In its cover letter, FairPoint acknowledges that “both the interconnection charge and the CCL charge are subject to investigation in DT 06-067. However, only one of these is considered to be on file by the Commission . . . and to ensure that both questions are officially before the Commission FairPoint is refileing the revised tariff incorporating both charges while continuing to reserve all rights to dispute the Commission’s authority to impose any of these revisions.” FairPoint November 30, 2011 Cover Letter at 1-2. FairPoint also notes that it made the filing with an effective date 30 days following the submission of the tariff “in accordance with applicable law”, but that it “presumes that the Commission will suspend this filing pending resolution of the questions in DT 06-067.” FairPoint November 30, 2011 Cover Letter at 2.

While we understand FairPoint’s assumption that the Commission might suspend the tariff in order to avoid the time constraints on review of tariffs contained in RSA 378:6, IV, we believe a better path, given the terms of the statute, is to reject the tariff and treat it as illustrative. This will allow us to conduct our investigation of the tariff consistent with the schedule in this docket, which we recently extended at FairPoint’s request. The schedule now calls for hearing on the merits on March 8, 2012. *See Freedom Ring Communications, LLC d/b/a BayRing Communications*, Order No. 25,295 (Nov. 30, 2011) at 5. As stated earlier in this proceeding, the Commission’s intent is to review FairPoint’s tariff without invoking the statutory timing constraints of RSA 378:6, *Freedom Ring Communications, LLC d/b/a BayRing Communications*,

Order No. 25,283 (Oct. 28, 2011) at 31. It is for that same reason that the Commission rejects this most recent filing. This rejection is without prejudice to any further process in this docket and is not a finding on the merits of the tariff itself.

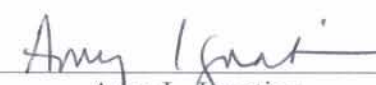
For clarity, we note that because the original decision to allow FairPoint's tariff to be withdrawn in May, FairPoint and the other parties have continued to pursue this case on the understanding that the amendments to both the CCL charge and the Interconnection Charge are before the Commission for determination. FairPoint acknowledges as much in its cover letter on the tariff revisions in issue here when it notes that "both the interconnection charge and the CCL charge are subject to investigation in DT 06-067." FairPoint November 30, 2011 Cover Letter at 1. We do not intend this rejection to alter that understanding. Thus, although we reject this filing, we will continue to review this matter, including by reviewing both the CCL charge and the Interconnection Charge, in accordance with the approved procedural schedule in this docket.

Based upon the foregoing, it is hereby

ORDERED, that FairPoint's proposed tariff pages dated November 30, 2011 for effect on December 30, 2011 are hereby rejected, without prejudice.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of
December, 2011.


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Kimberly Nolin Smith
Assistant Secretary

