

STATE OF NEW HAMPSHIRE
Before the
PUBLIC UTILITIES COMMISSION

**FairPoint Communications Inc. --
Reorganization**

DT 10-025

**BRIEF OF CRC
COMMUNICATIONS OF
MAINE, INC.**

**POST HEARING BRIEF OF
CRC COMMUNICATIONS OF MAINE, INC.**

CRC Communications of Maine, Inc. (“CRC”) provides the following comments for the Commission’s consideration in this matter.

I. ARGUMENT

CRC does not oppose the Commission’s approval of FairPoint’s application for approval of the reorganization expected to result from FairPoint’s bankruptcy reorganization plan. The reorganization will result in significant deleveraging of FairPoint’s operations which should put FairPoint in a place where it is better able to meet its service obligations to both retail and wholesale customers.

As explained in its testimony, CRC depends on FairPoint for prompt, efficient, reliable wholesale service in order to meet its obligations to its customers. Direct Testimony of Nicholas Winchester (April 19, 2010) (“Winchester Dir.”) at 1-2. FairPoint’s financial and operational health impacts both wholesale and retail customers alike. The fact that a customer purchases their retail services from CRC should not diminish the Commission’s concern with whether the underlying wholesale services are provisioned correctly and on time. Leading New Hampshire

businesses depend upon CLECs to provide services that enable them to grow and support the New Hampshire economy. If FairPoint is unable or unwilling to provide its wholesale services in a manner that meets federal, state, and industry standards, end user customers will not receive the services they need and CLECs, rather than FairPoint, will be blamed for the poor service. Competition will be unfairly diminished as state and federal telecommunications policies are undermined. Further, as pointed out by Non-Advocate Staff at the hearings, to the extent that FairPoint's poor wholesale service drives customers completely off FairPoint and CLEC networks, nobody will win – CLECs will lose customers and FairPoint will lose considerable wholesale revenues. Tr. 5/26 at 33-35.

As the testimony presented by Mr. Winchester and Mr. Tisdale explains, CLECs continue to experience significant problems with wholesale provisioning and billing issues despite the fact that more than 15 months have passed since the cutover from Verizon's back office systems. The full extent of the wholesale issues is not fully known because, as admitted during the hearings, FairPoint's PAP (Performance Assurance Plan) and Carrier to Carrier metric reporting over the past years has not been accurate and did not include reports on 111 metrics. Tr. 5/24 at 181 (Allen) ("I would say some of FairPoint's previous PAP reporting has been inaccurate, that's correct."); Tr. 5/25 at 34.

Of significant concern to CRC is FairPoint's claim that the system conversion is over and that there is no need to budget monies for years beyond 2010 for cutover-related systems fixes. Tr. 5/24 at 54, 64-65, 185. The record before the Commission is quite clear - there are still significant problems with basic systems functionality that need to be remediated. Mr. Allen admitted that "there are manual interventions or manual processes in place today that we had anticipated would be automated [at cutover]." Tr. 5/24 at 184. CRC Exhibit 11/11A – the

Liberty List of Continuing CLEC Issues - contains over 109 issues that *currently* impact CLECs and their customers. CRC Exhibits 12-14 demonstrate the continuing difficulties associated with directory listings, including a continued high rate of rejected orders, late issuance by FairPoint of Listing Verification Reports (LVRs), and a very labor-intensive reconciliation process for the LVRs. FairPoint witness Ms. McLean stated plainly that "...directory listings is not a pretty process. It is neither efficient nor how we want it to work." Tr. 5/25 at 45. As Mr. Winchester pointed out in his testimony, directory listings, whether they be used in an actual phone book, for 411 purposes, or for Internet listings, are very important to customers – both wholesale and retail. Winchester Dir. at 5.

Of further concern to CRC are statements made by FairPoint witness Mr. Skrivan regarding the potential for FairPoint to seek to recover the costs of its failed systems and their fixes from wholesale customers. In response to a discovery question that asked directly whether FairPoint sought to recover costs associated with its systems and modifications, Mr. Skrivan responded, on behalf of FairPoint, that "While FairPoint currently does not have any plans to seek recover of costs associated with systems modification, FairPoint cannot commit to what it might do in the future with regard to cost recovery." CRC Ex. 8. During cross examination, it became clear, and Mr. Skrivan actually admitted, that the real answer to the data response should have been that FairPoint had not considered the question or reached a decision. Tr. 5/25 at 34. Given the enormous burdens placed on CLECs over the past two years with the transition from Verizon to FairPoint, it would add insult to injury to require CLECs to pay FairPoint for back office systems that do not work properly and which have caused the CLECs to incur significant additional costs.

FairPoint's track record in providing permanent fixes and/or fulfilling its promises leads CRC and even the Commission itself, to question FairPoint's ability to meet its claim that many of the problems are fixed and that the remaining issues will be solved in the near future. Tr. 5/24 at 260. Indeed, it is clear from the testimony given by Ms. MacLean and Ms. Weatherwax that FairPoint has a significant ways to go before its systems will be in full compliance with state, federal, and industry standards for both its retail and wholesale operations. Completion of the Accenture projects through the CDIP (Customer Delivery Improvement Program), while a significant step in the right direction, will not guarantee that FairPoint's operations will be up to "business as usual" standards because there are many other ongoing projects and issues outside of the scope the CDIP program that must be addressed and/or completed. Tr. 5/25 at 16-17. It is essential to FairPoint's own survival, as well as to its wholesale and retail customers' interests, that FairPoint get its back office systems fully operational as quickly, efficiently, and accurately as possible.

II. CONCLUSION

CRC urges the Commission to continue to monitor FairPoint's wholesale operations closely and, once FairPoint emerges from bankruptcy, take any and all appropriate steps to ensure that FairPoint's wholesale operations meet state, federal and industry standards.

Respectfully submitted,

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