

THE STATE OF NEW HAMPSHIRE

DT 10-025

BEFORE THE

PUBLIC UTILITIES COMMISSION

DT 10-025

**FAIRPOINT COMMUNICATIONS, INC. ET AL.  
REQUEST FOR APPROVALS IN CONNECTION WITH  
BANKRUPTCY REORGANIZATION PLAN**

**COMCAST PHONE OF NEW HAMPSHIRE, LLC's  
FIRST SET OF DATA REQUESTS TO FAIRPOINT**

NOW COMES Comcast Phone of New Hampshire, LLC ("Comcast"), by and through its attorneys, and, pursuant to N.H. Admin. Rule Puc 203.09, submits the following data requests to FairPoint Communications, Inc., Northern New England Telephone Operations, LLC d/b/a FairPoint Communications-NNE, and Northland Telephone Company of Maine, Inc. (collectively referred to as "FairPoint").

**Definitions and Instructions**

**A. Definitions**

As used herein:

"2008 Approval Order" means Order No. 24,823 issued February 25, 2008 in Docket No. DT 07-011.

"2008 Settlement" means the Settlement Agreement Among the Joint Petitioners and the Commission Staff in Docket No. DT 07-011 filed in that docket on January 23, 2008.

"CLEC" means competitive local exchange carrier.

"CLEC Settlement" means the Stipulated Settlement Terms by and among FairPoint and various competitive local exchange carriers which is Exhibit 2 to the 2008 Settlement.

"Comcast" means Comcast Phone of New Hampshire, LLC.

"Commission" means the New Hampshire Public Utilities Commission.

“FairPoint” means FairPoint Communications, Inc., its subsidiaries, operating companies, affiliates, directors, officers, employees, and agents, unless otherwise indicated.

“FairPoint-Comcast ICA” means the interconnection agreement between FairPoint and Comcast that is currently in effect.

“Identify”, “identification” or “identity” when used in connection with: (i) a natural person means to state the person’s name, employer and business address; (ii) a corporation or other entity means to state the name of the entity, “d/b/a” designation if any, address of its principal place of business, and address of its principal place of business in New Hampshire; (iii) a document means to state a description, including name of author or source, date and addressee(s); (iv) a communication means to state a description, including participants, date and content of the communication; and (v) a place means to state a description of a precise geographic location or address.

“NH PUC Regulatory Settlement” means the documents contained in Exhibit E to the First Amended Joint Plan of Reorganization which was filed in the above-captioned docket with the Request for Approvals in Connection with the Reorganization Plan.

“State the basis for” means:

(i) to identify and specify the sources relied upon in making the allegation, contention, conclusion, position or answer;

(ii) to identify and specify all facts on which the respondent relies or intends to rely in support of the allegation, contention, conclusion, position or answer, and

(iii) to set forth and explain the nature and application to the relevant facts of all pertinent legal theories upon which the respondent relies for its knowledge, information and/or belief that there are good grounds to support such allegation, contention, conclusion, position or answer.

**B. Instructions**

1. Please answer these questions separately and fully under oath.

2. These data requests seek answers as of the date propounded (i.e. March 17, 2010) but shall be deemed to be continuing so that any additional information relating in any way to these data requests that FairPoint acquires or becomes known to FairPoint up to and including the time of hearing shall be provided promptly after such information is acquired or becomes known.

3. In answering these data requests, FairPoint shall divulge all information in its possession, control or available to FairPoint, including information in the possession or control of its agents, representatives, or any other persons acting on its behalf, and not merely such information as is known by persons answering these data requests based on their personal knowledge.

4. If persons answering these requests find any data request to be ambiguous, please notify counsel for Comcast so that the request may be clarified prior to the submission of a written response.

5. Please begin each response to a data request on a separate page and, prior to providing the response, reproduce the question/request to which the response applies. Organize the responses to each data request so that it is clear which specific information and/or documents are being furnished in response to each data request.

6. Please describe with specificity precisely which portion or portions of a document are responsive to a particular data request. If a document is responsive to more than one data request, it is not necessary to supply duplicate copies. Instead, simply state that the document has already been provided, state which data request the document has already been provided under and state specifically which portion or portions of the document are responsive to each portion of each of the data requests to which the document applies. If any document requested has been destroyed, lost or is otherwise unavailable, please list and identify the document, describe the document with as much detail as possible, and state the circumstances of its loss, destruction or unavailability.

7. If there is an objection to any data request, please state the basis for the objection. If the objection is based on privilege, identify the privilege and the facts on which the privilege is based. If a claim of privilege is asserted with respect to a document, provide the date, title or number of the document, the identity of the person who prepared or signed it, the identity of the person to whom it was directed, a general description of the subject matter, the identity of the person holding it and the location of its custody.

8. For each response, please identify the person who provided the response and who will be responsible for cross-examination concerning the response and all documents and exhibits produced as part of the response. Also, for each response, identify each individual who supplied any information in response to the questions.

### **DATA REQUESTS**

For the following questions, please refer to: (1) the "2008 Approval Order"; (2) the "2008 Settlement"; (3) the "CLEC Settlement"; and, (4) the "NHPUC Regulatory Settlement".

1-1. Reference paragraph 9.1 of the 2008 Settlement which states "For a period of three years following the Closing Date, FairPoint shall continue providing the wholesale services offered by Verizon as of the Closing Date. FairPoint will not seek to increase wholesale rates to take effect during the three years following the Closing Date. The Commission shall not seek to decrease such rates for effect during the three-year period following the Closing Date." In addition, please refer to Mr. Murtha's prefiled testimony, page 10, lines 1-3. Please:

(a) state whether said paragraph 9.1 will remain in effect and unchanged at the conclusion of Docket No. DT 10-025;

(b) state whether said paragraph 9.1 will remain in effect and unchanged upon the federal Bankruptcy Court's approval of FairPoint's Plan of Reorganization;

(c) state whether FairPoint is proposing any changes or modifications to said paragraph 9.1, and if so, specifically identify such change or modification and explain the reason therefor.

1-2. Reference paragraph 9.3 of the 2008 Settlement which states "The Signatories to this agreement agree to the adoption herein of the Stipulated Settlement Terms agreed to by and among FairPoint and certain CLECs, attached hereto as Exhibit 2. FairPoint agrees to adopt Verizon's wholesale and access tariffs in effect as of the Closing Date and will continue to file such tariffs with the Commission pursuant to RSA 378:1 and PUC 411.01, as applicable." In addition, please refer to Mr. Murtha's prefiled testimony, page 10, lines 1-3. Please:

(a) state whether said paragraph 9.3 and the CLEC Settlement will remain in effect and unchanged at the conclusion of Docket No. DT 10-025;

(b) state whether said paragraph 9.3 and the CLEC Settlement will remain in effect and unchanged upon the federal Bankruptcy Court's approval of FairPoint's Plan of Reorganization;

(c) state whether FairPoint is proposing any changes or modifications to said paragraph 9.3 or the CLEC Settlement, and if so, specifically identify such change or modification and explain the reason therefor.

(d) confirm that as set forth in page 74 of the 2008 Approval Order, the effect of said paragraph 9.3 of the 2008 Settlement is that the terms and conditions of the CLEC Settlement apply to all CLECs in New Hampshire, including those who were not signatories to the CLEC Settlement.

1-3. Reference paragraph 9.4 of the 2008 Settlement which states "FairPoint agrees to pay for the conduct of an independent audit of its wholesale performance assurance plan. If a simplified wholesale performance assurance plan is adopted prior to June 1, 2010, the audit shall take place following the first six months during which that plan is in effect. If

no simplified plan is in effect by June 1, 2010, or if efforts to develop such a plan have terminated before that date, then FairPoint agrees to such an independent audit of the existing wholesale performance assurance plan. The Commission will be solely responsible for the choice of the independent auditor, but will afford FairPoint the opportunity to submit the names of firms to be included within the list of firms to receive requests for proposals for the provision of such services.” In addition, please refer to Mr. Murtha’s prefiled testimony, page 10, lines 1-3. Please:

- (a) state whether said paragraph 9.4 and the CLEC Settlement will remain in effect and unchanged at the conclusion of Docket No. DT 10-025;
- (b) state whether said paragraph 9.4 and the CLEC Settlement will remain in effect and unchanged upon the federal Bankruptcy Court’s approval of FairPoint’s Plan of Reorganization;
- (c) state whether FairPoint is proposing any changes or modifications to said paragraph 9.4 or the CLEC Settlement, and if so, specifically identify such change or modification and explain the reason therefor.

For the following questions (1-4 through 1-27), please refer to the CLEC Settlement, and to pp. 73 – 77 of the 2008 Approval Order discussing the CLEC Settlement. In addition, please refer to Mr. Murtha’s prefiled testimony, page 10, lines 1-3. For each of the following sections of the CLEC Settlement, please:

- (a) state whether the section will remain in effect and unchanged at the conclusion of Docket No. 10-025;
- (b) state whether the section will remain in effect and unchanged upon the federal Bankruptcy Court’s approval of FairPoint’s Plan of Reorganization;
- (c) state whether FairPoint is proposing any changes or modifications to the section, and if so, specifically identify such change or modification and explain the reason therefor.

- 1-4. Section 1.a.
- 1-5. Section 1.b.
- 1-6. Section 1.c.
- 1-7. Section 1.d.
- 1-8. Section 2.a.
- 1-9. Section 2.b.
- 1-10. Section 2.c.
- 1-11. Section 2.e.
- 1-12. Section 3.c.
- 1-13. Section 3.d.
- 1-14. Section 3.e.
- 1-15. Section 4.a.

- 1-16. Section 4.b.
- 1-17. Section 4.d.
- 1-18. Section 4.e.
- 1-19. Section 4.f.
- 1-20. Section 5.a.
- 1-21. Section 5.b.
- 1-22. Section 6.a.
- 1-23. Section 6.b.
- 1-24. Section 6.c.
- 1-25. Section 6.e.
- 1-26. Section 7.a.
- 1-27. Section 7.b.

For the following questions (1-28 through 1-34) please refer to paragraphs 32 and 33 of the "Request for Approvals in Connection with the Reorganization Plan of FairPoint Communications, Inc., et al. dated February 24, 2010 filed in DT 10-025. In addition, please refer to Mr. Murtha's prefiled testimony, page 10, lines 1-3.

1-28. Please confirm that FairPoint does not consider the CLEC Settlement or the 2008 Settlement to be "executory contracts" subject to rejection or assumption in the FairPoint bankruptcy proceedings. If FairPoint does consider either the CLEC Settlement or the 2008 Settlement to be executory contracts, please state whether FairPoint intends to reject or assume either or both of those Settlements.

If you contend that they are executory contracts subject to either rejection or assumption, please state the basis for that contention.

1-29. Please state whether the FairPoint-Comcast ICA will remain in effect and unchanged at the conclusion of Docket No. DT 10-025.

1-30. Please state whether the FairPoint-Comcast ICA will remain in effect and unchanged after Bankruptcy Court approval of the plan of reorganization.

1-31. If FairPoint is not seeking to have the FairPoint-Comcast ICA remain in effect and unchanged post reorganization, and instead either will reject the FairPoint-Comcast ICA or seek to modify it, please indicate whether the current FairPoint-Comcast ICA would remain in effect until a new interconnection agreement is negotiated or arbitrated.

1-32. If the current FairPoint-Comcast ICA will not remain in effect and unchanged, please identify the document or authority (e.g. ICA, tariff, etc.) that would govern the operational relationship between FairPoint and Comcast that would insure that traffic continues to be exchanged between customers of each company in the same manner as it is currently being exchanged.

1-33. If the current FairPoint-Comcast ICA will not remain in effect and unchanged post reorganization, indicate whether FairPoint would: a) "block" the handoff of traffic

between FairPoint and Comcast; or b) otherwise fail to exchange traffic between customers of FairPoint and Comcast.

1-34. If the current FairPoint-Comcast ICA will not remain in effect and unchanged post reorganization, identify and describe all of the changes to the FairPoint-Comcast ICA rates, terms and conditions that FairPoint proposes to negotiate and put in place. Please include in your response the template or standard terms and conditions FairPoint would use for negotiations with Comcast.

1-35. Please confirm that Comcast Phone of New Hampshire, LLC is a Class 6 Unsecured Creditor of an Allowed NNE Subsidiary, as set forth at C.6, page 55 of the Second Amended Disclosure Statement for Debtor's Second Amended Plan of Reorganization. If the answer is yes, please confirm that pursuant to the Reorganization Plan, Comcast Phone of New Hampshire, LLC, as a holder of an Allowed NNE Subsidiary Unsecured Claim, will be paid an amount in cash equal to 100% of its Allowed NNE Subsidiary Unsecured Claim. If not, please explain why not.

1-36. Please refer to Mr. Allen's prefiled testimony, page 21, lines 8-20.

a. Does FairPoint intend to continue the wholesale billing activities described therein throughout and after the conclusion of its bankruptcy proceedings? If not, please state which activities will cease and when they are expected to cease.

b. Does FairPoint intend to commence any additional activities designed to insure more accurate wholesale billing? If so, please describe those activities and state when they are expected to commence.

1-37. Please refer to Mr. Giammarino's prefiled testimony, page 22, lines 21-22. Please state whether the term "customers" appearing in line 22 is intended to include FairPoint's wholesale customers. If FairPoint does not intend "customers" to include its wholesale customers, please explain why.

1-38. Please refer to Mr. Giammarino's prefiled testimony, page 40, lines 1-3. Please state whether the term "customer service" appearing in line 2 is intended to include wholesale customer service. If FairPoint does not intend "customer service" to include wholesale customer service, please explain why.

1-39. Please refer to Mr. Giammarino's prefiled testimony, page 40, lines 10-11 and identify each executory contract which FairPoint is undertaking to renegotiate.

1-40. Please refer to Mr. Lamphere's prefiled testimony, page 15, line 22 and page 16, line 5. Please state whether the term "customers" is intended to include FairPoint's wholesale customers. If FairPoint does not intend "customers" include its wholesale customers, please explain why.

1-41. Please refer to Ms. Weatherwax's prefiled testimony, page 15, line 2. Please state whether the term "CLEC partners" refers to all of FairPoint's wholesale customers who are CLECs. If the term "CLEC partners" does not refer to all of FairPoint's wholesale customers who are CLECs, please identify the entities or persons to whom the term "CLEC partners" is intended to apply.

1-42. Reference the provision of the Maine Regulatory Settlement in which FairPoint agrees to comply with the Maine Public Utilities Commission's February 1, 2008 order issued in Docket Nos. 2007-67 and 2005-155. Please describe the effect on Comcast resulting from the fact that the NH PUC Regulatory Settlement does not contain a similar provision requiring FairPoint to comply with the 2008 Approval Order.

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