

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DT 11-__

**Petition of FairPoint Communications
for Approval of Simplified Metrics Plan and
Wholesale Performance Plan**

Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE ("FairPoint") hereby requests that the New Hampshire Public Utilities Commission (the "Commission"), pursuant to its authority under RSA 365:3, establish a proceeding for the deliberation and approval of a revised Simplified Metrics Plan ("SMP") and Wholesale Performance Plan ("WPP") for FairPoint's wholesale service provisioning and delivery.

I. BACKGROUND

In Docket No. DT 01-006, in conjunction with its efforts to obtain relief from the FCC under Section 271 of the Communications Act, Verizon New England proposed to the Commission, and eventually obtained approval of a wholesale service performance assurance plan ("PAP") and its underlying Carrier to Carrier metrics ("C2C") modeled on the performance enforcement mechanisms previously approved by the New York and Massachusetts public utilities commissions.¹ Such a plan had been held by the FCC to be convincing evidence that the regional Bell Operating Companies ("BOCs") would continue provisioning high quality service to CLECs after obtaining Section 271 authority, an important element of the public interest standard.

¹ Order No. 23,940 (March 29, 2002). A very similar PAP and associated C2C Guidelines were also approved by the Maine Public Utilities Commission and Vermont Public Service Board as well.

As part of its settlement of various issues related to the purchase of Verizon's assets in northern New England, FairPoint agreed to adopt the terms of the existing PAP.² Furthermore, FairPoint agreed with the Commission and representative competitive local exchange carriers ("CLECs") that it would work cooperatively with the CLECs and Commission Staff to develop and implement a simplified, uniform PAP applicable to in Maine, New Hampshire and Vermont.³ FairPoint agreed to begin this process by proposing for consideration by the CLECs a revised PAP that could be implemented in all three states.

FairPoint distributed proposed revised C2C metrics in May 2009, followed by teleconferences in June 2009 and October 2009. FairPoint distributed further information concerning the simplified plan in September and October 2009. Following a teleconference on October 31, 2009, further discussions were tabled as a consequence of FairPoint's Chapter 11 bankruptcy filing.

Discussions resumed in November 2010, when FairPoint circulated a proposed simplified PAP to CLECs in all three states. Since that time, there have been four more teleconferences, in December, January, February and March, although those meetings have, at CLEC insistence, been devoted to questions regarding the existing PAP. FairPoint has responded to questions regarding the operation of the current PAP, and Commission Staff have become engaged in the collaborative process.

² DT 07-011, Order No. 24,823 at 30 (Feb. 25, 2008). The version under which FairPoint currently operates was approved by the Commission in 2005. DT 05-096, Order No. 24,504 (Aug. 19, 2005).

³ See DT 07-011, Order No. 24,823 at 31 (Feb. 25, 2008); DT 07-011, Settlement Stipulation Among FairPoint Communications, Inc., Freedom Ring Communications, LLC d/b/a Bayring Communications, LLC, Segtel, Inc., and Otel Telekom, Inc., Settlement Term 6.c. (Oct. 17, 2007), *see also* DT 07-011; Settlement Agreement Among the Joint Petitioners and the Commission Staff § 9.3 (Jan. 23, 2008).

II. CURRENT PROPOSAL

FairPoint believes it is the appropriate time to establish a formal proceeding to address the SMP and WPP, now that FairPoint has emerged from bankruptcy and considering the increasing involvement of Staff of the Commission. Furthermore, differences have emerged among the parties as to the conduct of the collaborative process and discussions related to the SMP and WPP have essentially ceased. FairPoint believes that the process could now benefit from the procedural structure that the Commission can provide.

FairPoint has attached its SMP and WPP proposals. Briefly, the proposals differ from the current C2C and PAP in that they no longer track the New York C2C and PAP, but instead rely on their own metrics, i.e. SMP, specific to northern New England. The SMP eliminates metrics related to services that are no longer provided and OSS interfaces that no longer exist. It also eliminates redundant metrics and metrics for which there has been little or no activity.⁴ The WPP greatly reduces the complexity of the existing PAP. It eliminates service segmentation (i.e. MOE, Critical Measures, Special Provisions) as well as process segmentation (e.g. Change Control, Domain Clustering) and instead focuses directly on transactions that FairPoint believes are most important to CLEC success; it does not include metrics related to mutual obligations among parties, e.g. number porting; and it streamlines the performance scoring with simplified calculations and a “miss/met” system rather than a three-tiered performance score.

In accordance with the procedural schedule to be established by the Commission, FairPoint will submit comments and testimony describing the SMP and WPP in detail, their

⁴ In a letter to the Commission dated March 4, 2011 in Dockets DT 09-059 and DT 09-113, FairPoint indicated that the WPP would comprise 69 metrics. Further refinement of the WPP has resulted in the elimination of 11 more metrics associated with the UNE 2-Wire Digital products due to the lack of long term activity for those metrics. Thus, the number of metrics in the WPP is now 58.

underlying principles, and how they contrast with the current C2C and PAP. These comments will establish that the WPP is easier to understand and implement.

III. PROPOSED SCHEDULE

FairPoint proposes the following procedural schedule:

Prehearing Conference/Technical Session	April 21, 2011
FairPoint Direct Testimony	May 9, 2011
Technical Session ⁵	May 17, 2011
Data Requests on FairPoint	May 23, 2011
Responses to Data Requests	June 20, 2011
Respondent Direct Testimony	June 27, 2011
Technical Session	July 12, 2011
Data Requests on Respondents	July 25, 2011
Responses to Data Requests	August 22, 2011
Rebuttal Testimony	August 29, 2011
Data Requests on Rebuttal Testimony	September 5, 2011
Responses to Data Requests	September 19, 2011
Hearing	October 6, 2011
Briefs	November 3, 2011
Reply Briefs	November 17, 2011

Similar petitions for approval of the SMP and WPP are being filed concurrently with the Maine Public Utilities Commission and the Vermont Public Service Board, both of whom have also directed FairPoint to develop a simplified PAP as a condition of the asset transfer. FairPoint respectfully suggests that the Commission coordinate with them regarding scheduling, as well as the possibility of joint hearings. Furthermore, FairPoint suggests that all parties would benefit if the three agencies joined in retaining whatever experts may be required to facilitate the discussions and review of the SMP and WPP.

IV. OTHER PROCEEDINGS

The Commission has several open proceedings related to the current PAP. In DT 06-168, the Commission has before it revisions to the existing PAP that were filed by Verizon New

⁵ It is suggested that that all technical sessions/workshops be coincident across all three states in the interest of administrative efficiency.

England, Inc. on November 21, 2006, as required by the existing PAP. This proceeding was tabled shortly thereafter to consider the transfer of assets from Verizon to FairPoint. In light of this current request, FairPoint respectfully requests that DT 06-168 be terminated without prejudice in favor of the WPP.

In DT 09-059, the Commission is considering FairPoint's request to waive certain requirements under the existing PAP and associated C2C guidelines. None of the metrics at issue are in the proposed SMP, not to mention that many issues in that proceeding have been mooted or their importance diminished due to the passage of time and the discharge or settlement of claims through FairPoint's recently concluded bankruptcy. This proceeding is currently stayed.

In DT 09-113, the Commission is considering FairPoint's request to adjust the dollars at risk related to the PAP. This proceeding is also stayed, although FairPoint has requested that this stay be lifted. FairPoint continues to seek this relief and, concurrently with this petition, is filing an amended petition reflecting the change in circumstances since that proceeding was initiated.

In DT 09-206, the Commission is considering a request by Freedom Ring Communications d/b/a BayRing Communications and segTEL, Inc. to establish a proceeding to audit the existing PAP, among other relief. Because the relief requested in that proceeding is subsumed by this proceeding or is an extension of that requested in DT 09-059 and DT 09-113, FairPoint respectfully requests that the Commission terminate that proceeding and fold the surviving issues into either this proceeding or DT 09-113 as appropriate.

WHEREFORE, FairPoint Communications, Inc. requests that the Commission open a proceeding for the deliberation and approval of a Simplified Metrics Plan and Wholesale Performance Plan for FairPoint's wholesale service provisioning and delivery, and terminate the proceedings in DT 06-168 and DT 09-206 in accordance with the recommendations herein.

Northern New England Telephone Operations LLC
d/b/a FairPoint Communications-NNE

By their Attorneys,

DEVINE, MILLIMET & BRANCH,
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Dated: March 24, 2011

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