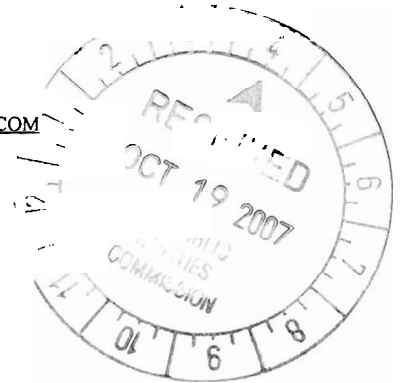


# DEVINE MILLIMET

ATTORNEYS AT LAW

October 19, 2007

PATRICK C. MCHUGH  
603.695.8572  
[PMCHUGH@DEVINEMILLIMET.COM](mailto:PMCHUGH@DEVINEMILLIMET.COM)



## By Hand Delivery

Debra A. Howland  
Executive Director & Secretary  
New Hampshire Public Utilities Commission  
21 S. Fruit St., Ste. 10  
Concord, NH 03301

Re: DT 07-011 Verizon New England Inc., Bell Atlantic Communications Inc.,  
NYNEX Long Distance Co., Verizon Select Services Inc., and Fairpoint  
Communications, Inc.

Dear Ms. Howland:

This letter will serve as a response to the letter request filed by Attorney Alan Mandl, counsel for New England Cable and Telecommunication Association, Inc. ("NECTA"), and Comcast Phone of New Hampshire, LLC ("Comcast"), dated October 18, 2007. In that request, Attorney Mandl, among other things, requests certain procedural revisions to the hearing process scheduled to begin on Monday, October 22, 2007, and seeks to file new testimony. FairPoint Communications, Inc. ("FairPoint") responds to the proposed revisions herein below.

First, FairPoint intends to state on the evidentiary record on Monday, October 22 that it adopts the terms of the Settlement Stipulation filed with this Commission on Wednesday, October 17, 2007. Given that FairPoint agreed to the terms of the Settlement Stipulation and filed it with the Commission, that statement should come as no surprise to any Intervenor. Second, FairPoint has no objection to the "sponsors of the Settlement Stipulation" offering testimony to explain the terms of the document to the extent the terms are not self-explanatory or to the extent parties may have questions concerning the Settlement Stipulation. That process should occur on Wednesday, October 31. As with other settlement panel witnesses, such as the electric utilities, FairPoint would expect certain of its witnesses to join the panel of Mr. Ball, Mr. Thayer and Mr. Katz. Such an approach would be consistent with the orderly and efficient conduct of the proceeding. *See eg., PUC 203.20(f).*

In addition, the approach noted above is consistent with PUC 203.26. This rule specifically allows the joint petitioners to begin and end the proceedings. The rule states that the joint petitioners "[i]n hearings,...shall have the opportunity to open and close any part of the presentation..." *See PUC 203.26 (emphasis added).* Thus, questions concerning the Settlement

Ms. Debra A. Howland  
October 19, 2007  
Page 2

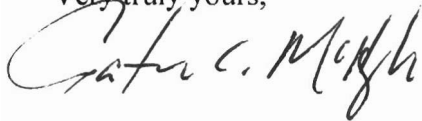
Stipulation are best left to be presented at the end of the hearing, consistent with the scheduling of the settlement panels as contemplated.

FairPoint objects to NECTA and Comcast being permitted to provide new testimony as requested by Attorney Mandl. Neither FairPoint nor Verizon have an opportunity to prepare cross examination of such new testimony. Nor does the procedural schedule allow for new testimony to be filed during the hearings. Parties are free to settle at any time before, during or after the hearings<sup>1</sup>. There is no requirement that non-settling parties be permitted to submit new testimony beyond the time frame contemplated by the discovery schedule simply because of a settlement.

Lastly, FairPoint believes the Commission should treat the substance of Attorney Mandl's letter request as the subject of a motion. There is no reason to free NECTA/Comcast from long standing administrative rules. PUC 203.04-05 and PUC 203.07 impose certain requirements on parties seeking relief through what is properly considered to be a motion practice. The fact that NECTA/Comcast failed to adhere to this Commission's administrative rules in seeking relief is sufficient to deny the request.

Thank for your attention to this matter.

Very truly yours,



Patrick C. McHugh

PCM:kaa

cc: Office of Consumer Advocate  
Electronic Service List  
Alan D. Mandl, Esquire

---

<sup>1</sup> In this case, of course, FairPoint also filed the Settlement Stipulation 14 days prior to the date when the settlement panel would be available to explain its terms, providing NECTA/Comcast ample opportunity to review the Stipulation and prepare questions, if any, concerning the document.