

**FairPoint Communications, Inc.**  
**State of New Hampshire**  
**Docket No. DT 07-011**

**FAIRPOINT EXHIBIT 50**

**Respondent:** Michael T. Skrivan  
**Title:** Senior Director,  
Regulatory Affairs

**ORAL DATA REQUEST:** What are the provisions of the Communication Act of 1934, as amended, which would impose obligations on FairPoint similar to the obligations imposed on BOC(s) by Section 272(e)?

**DATED:** October 26, 2007

**REPLY:** Generally speaking, Section 272(e) contains nondiscrimination obligations associated with the pricing and provisioning of local exchange, exchange access, and intra- and interLATA facilities and services between an incumbent local exchange carrier (subject to Section 251c obligations) and its section 272 long distance affiliate.

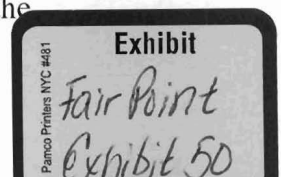
Pricing for Transactions Between Affiliates

In Part 32.27 of the FCC's Rules and Regulations, the FCC adopted rules that govern the accounting for affiliate transactions involving a regulated carrier. The FCC has stated that its affiliate transaction rules apply to the pricing of services and asset transfers provided between a regulated carrier and non-regulated affiliates. These rules are generally the same as those imposed for pricing transactions under Section 272(e).

When determining price for services or assets, a hierarchy is applied and the first pricing rule in the hierarchy, which is applicable, is used to determine the price.

**Tariff Rate** Services/assets provided between a carrier (ILEC) and its affiliate pursuant to a tariff must be recorded at the tariff rate. Non-tariff services/assets provided between an ILEC and its affiliate pursuant to publicly filed agreements (interconnection agreements) submitted to a state commission or statements of generally available terms (filed with a state commission) must be recorded using the charges appearing in the publicly filed agreements or statements.

**Prevailing Market Price** Non-tariff services/assets provided between an ILEC and its affiliate that are also available to non-affiliate entities and qualify for prevailing price evaluation, must be recorded at the



prevailing price. In order to qualify for prevailing price valuation, sales of a particular service (or asset) to third parties must encompass greater than 25 percent of the total quantity of such product or service sold by an entity. This 25 percent threshold on a service-by-service (or asset-by-asset) basis, rather than on a product line or service line basis.

**Cost or Fair Market Value** For all non-tariff services/assets, not covered by “prevailing market price” pricing described above or the exceptions listed below, provided by an ILEC to its affiliate, the services/assets must be recorded at the higher of fair market value and fully distributed cost/net book value. For all other non-tariff services/assets, not covered by “prevailing market price” pricing described above or the exceptions listed below, received by an ILEC from its affiliate, the service/asset must be recorded at the lower of fair market value and fully distributed cost/net book value. The ILEC may use the higher of fair market value and fully distributed cost/net book value as a “floor” and the lower of fair market value and fully distributed cost/net book value as a “ceiling” to value transactions, depending on the direction of the transactions.

There are two instances where services, not subject to either tariff rates or prevailing market prices, may be exempt from fair market value comparisons to fully distributed cost. In these instances the ILEC need not make a good faith determination of fair market value but may record the services simply at fully distributed cost.

**Service Company Exception** Services received by an ILEC from its affiliate (“a Service Company Affiliate”) that exists solely to provide services to members of the carrier’s corporate family.

- **De minimis Exception** When the total annual value of transactions for a service between the ILEC and a given affiliate is less than \$500,000.

#### Provision of Local Exchange Service, Access Service, IntraLATA and InterLATA Facilities

Section 201(b) of the Act provides, in part: “All charges, practices, classifications, and regulations for and in connection with [interstate or foreign] communication service, shall be just and reasonable and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful.”

In addition, Section 202(a) of the Act provides: “It shall be unlawful for any common carrier to make any unjust or unreasonable

discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.”

These provisions of the statute apply to all carriers providing interstate and international telecommunications services, not just BOCs.

Moreover, FairPoint has proposed that it would submit to the requirements of the PAP and C2C Guidelines adopted for Verizon, which will ensure FairPoint will report on its fulfillment of requests for wholesale services from unaffiliated entities compared to how it provides services to itself.

Through the combination of these federal and state requirements, FairPoint’s local exchange operations in the acquired territory will be subject to the same types of safeguards that Section 272(e) of the Act imposed on BOCs.