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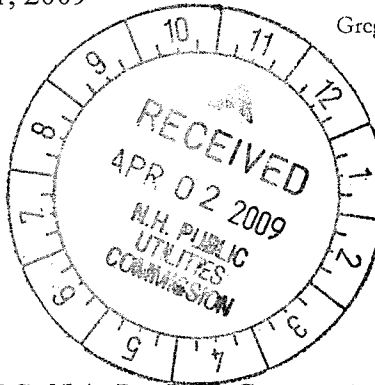
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April 1, 2009

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Via Overnight Delivery and Email

Robert Hunt, Esq.
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429



Re: *In re Freedom Ring Communications, LLC d/b/a BayRing Communications — Complaint
Against Verizon New Hampshire Re: Access Charges, DT 06-067*

Dear Mr. Hunt:

One Communications opposes FairPoint's March 27 request for an additional six weeks to accomplish the first two of four tasks set forth in the Staff's February 13 email necessary to resolve one of the last remaining issues in Phase II of this proceeding. Without explaining why its request is necessary or justified, FairPoint seeks an extension equal to the entire time period allotted to these first two tasks in the timetable that the Staff established on February 13.

Either FairPoint or Verizon is unlawfully holding overpayments made by One Communications and the other intervenors during the March-April 2008 time frame, which overpayments are subject to reparation under the Commission's Order No. 24,837 (March 21, 2008). If FairPoint's request is to be granted, the extension should be the minimum necessary for FairPoint and Verizon, through diligent effort, to accomplish the tasks they must complete to resolve the remaining Issues in Phase II.

In addition, FairPoint should not be permitted to seek discovery from the intervenors unless and until it has exhausted its efforts to work with Verizon to resolve the accounting concerning the March-April 2008 CCL overpayments. Either FairPoint or Verizon received the overpayments. Between them, they should have the information necessary to determine which received the payments and which owes them back to the intervenors. Further, any additional information needs of FairPoint should not result in further delays to the resolution of this case.

Background. This case commenced in April 2006, when BayRing filed its complaint against Verizon regarding the CCL charges. After a fully-adjudicated proceeding, the Commission issued Order No. 24,837 in March 2008, finding that Verizon had unlawfully collected CCL charges when no Verizon end-user or Verizon common line was involved in the call. After the Commission rejected Verizon's and FairPoint's motions for reconsideration of Order No. 24,837, the Staff held a technical session in early November 2008 to map out the process for determining the amounts of reparations that Verizon (and FairPoint to the extent applicable) would make on account of the CCL overcharges.

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As a result of that technical session, Verizon and the intervenors engaged in a process of information exchange, negotiation, and agreement concerning the specific amounts and dates of CCL overpayments to Verizon. While certain legal issues await Commission decision (such as the date when claims begin to run for the various parties and what interest rate is applicable to reparations), the process established at the technical session has resulted in resolution of most of the factual issues concerning the amounts of overpayments subject to reparation.

The major remaining factual issue concerns which of Verizon or FairPoint is responsible for repayment of CCL overcharges in the March-April 2008 time frame. There is no question that the intervenors made such overpayments. Further, through the informal process established by the Staff at the November 2008 technical session, there is no issue as to how the amounts of CCL overcharges are to be calculated. The only question is which of Verizon or FairPoint is responsible for refunding the overcharges. This issue, of course, is between Verizon and FairPoint.

To resolve this issue, the Staff set forth a series of tasks for FairPoint and Verizon to perform in order to resolve the question. The tasks quoted in FairPoint's March 27 letter are the first two such tasks; they were supposed to have been completed by March 27. Additional tasks follow from these two tasks. According to the Staff's February 13 schedule, the entire process of reconciling the March-April 2008 accounting was to be completed during the month of April 2009.

FairPoint's Request. FairPoint filed its March 27 letter requesting an extension without notice to or prior consultation with One Communications, or, on information and belief, the other intervenors. In that letter, FairPoint states only that it has not completed its assignments. It offers no reason why. Further, its request for six more weeks is equal to the original time frame set forth in the Staff's February 13 schedule. The only conclusion to be drawn from FairPoint's unexplained request for an extension equal in length to the entire project timeline is that FairPoint has not even gotten started.

If FairPoint needs a short amount of additional time to confer with Verizon so as to determine which of them is holding the unlawful overcharges paid by the intervenors, then it should request a reasonable extension and explain its reasons. Its unexplained request for an additional six weeks to accomplish what it already has had six weeks to do is not justified.

Further, FairPoint suggests that it intends to send requests for additional information to One Communications and the other intervenors. Nearly three years into this case, and after the completion of a successful process led by the Staff to quantify (and where necessary, compromise on) the amount of the unlawful CCL overpayments, it is entirely unclear what additional information FairPoint could possibly need.

One or the other of FairPoint or Verizon received the payments in question. The information needed to determine the dates and amounts of such payments is in the possession of

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one or both of them. The question of which of them owes the reparations is, at base, an issue between FairPoint and Verizon. Before FairPoint approaches the intervenors for additional information, it should work with Verizon — or seek discovery from Verizon if necessary — to determine the dates, amounts of the payments and whose bank account received the payments. This is what the February 13 Staff email intended, and FairPoint has shown no reason to depart from that process.

If, after exhaustion of this effort, there is additional information that FairPoint legitimately and reasonably needs to obtain from the intervenors in order to resolve the remaining issues in this case, One Communications wishes to cooperate. One Communications already has provided to FairPoint a statement of the amounts overpaid for the March-April 2008 time frame. FairPoint's vague statement of a need for additional information, however, should not be cause for further delay in the resolution of the amounts owed the intervenors.

Therefore, if an extension is granted, it should be as short as necessary for FairPoint, with diligent effort, to accomplish the assigned tasks without causing more than the minimum necessary slippage to the schedule. Further, if FairPoint intends to request additional information not already provided by the intervenors, FairPoint should act promptly and diligently to identify and request that information. Any such information requests also should not delay the schedule more than the minimum necessary.

If FairPoint is going to obtain an extension — which appears inevitable given that it already has missed its deadline — One Communications suggests that FairPoint and Verizon be required to complete tasks 3 and 4 on the Staff's February 13 email no later than Friday, April 17 (three weeks after the original deadline). Further, FairPoint should articulate to the Staff and parties its legitimate needs for further information in time to accomplish that goal. The Staff (its schedules permitting) should meet with Verizon and FairPoint to resolve transition and cutover issues concerning payments in the March-April 2008 period (task 6) the week of April 27. Verizon and FairPoint should complete reconciliation of the March-April 2008 accounting no later than May 15.

Please contact me if you have any questions.

Very truly yours,

FAGELBAUM & HELLER LLP

By: Gregory M. Kennan
Gregory M. Kennan



Cc: Debra A. Howland, Executive Director and Secretary
Service List (by email)