

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**



DT 16-872

**Joint Petition for Findings in Furtherance of the
Acquisition of FairPoint Communications, Inc.
and its New Hampshire Operating Subsidiaries
by Consolidated Communications Holdings, Inc.**

**PREFILED DIRECT TESTIMONY OF
MICHAEL C. REED**

On Behalf of FairPoint Communications, Inc.

January 17, 2017

PREFILED DIRECT TESTIMONY OF MICHAEL C. REED

1 **I. INTRODUCTION**

2 **Q: Please state your name, occupation, and place of business.**

3 A: My name is Michael C. Reed. My business address is 1 Davis Farm Road,
4 Portland, Maine 04103. Since 2010, I have been employed by FairPoint
5 Communications, Inc. (“FairPoint”) as the FairPoint State President in Maine.
6 For this transaction, I am serving as FairPoint’s witness in the various state
7 regulatory proceedings.

8 **Q: Please describe your other relevant background and experience.**

9 A: I have more than 40 years of technical, administrative and executive experience in
10 the telecommunications industry, including more than 20 years of direct
11 experience in external affairs, with primary responsibility for regulatory and
12 legislative matters. Prior to joining FairPoint in 2010, I worked for TDS Telecom
13 for 13 years as Manager of State Government Affairs in the Government and
14 Regulatory Affairs Department. I had responsibility for all of TDS’s regulatory
15 and legislative affairs in the States of Maine, Vermont, New Hampshire, New
16 York, and Pennsylvania. For 29 years before that, I held various positions with
17 NYNEX Corporation including regulatory affairs, switching and outside plant
18 operations, service quality oversight and maintenance.

19 **Q: Have you previously testified before the New Hampshire Public Utilities**
20 **Commission (“Commission”)?**

1 A: Yes. I have previously testified before the Commission in Docket Nos. DT 07-
2 027 and DT 09-136. I have also testified in numerous regulatory proceedings
3 before the state public utilities commissions in Maine and Vermont.

4 **Q: What is the purpose of your testimony?**

5 A: My testimony supports the Joint Petition filed on December 29, 2016, by
6 Consolidated Communications Holdings, Inc. (“Consolidated”) and FairPoint, in
7 which Consolidated and FairPoint seek Commission approval to complete
8 Consolidated’s stock acquisition of FairPoint. In particular, I provide background
9 information about FairPoint and explain how the proposed transaction satisfies all
10 of the applicable statutory standards for approval by the Commission.

11 **Q: Please summarize FairPoint’s position in this proceeding.**

12 A: The acquisition of FairPoint’s stock by Consolidated will give FairPoint a new
13 corporate owner, with improved financial and strategic flexibility and with greater
14 operational capacity and scale, while leaving in place and unchanged all of
15 FairPoint’s existing operating authority, its existing accounting and billing
16 systems, its existing contracts and agreements, its existing wholesale
17 arrangements, and its existing obligations under orders issued by the Commission
18 and by other courts and agencies in New Hampshire. The transaction will be
19 seamless to FairPoint’s wholesale and retail customers in New Hampshire.
20 Importantly, no system cutover is required when Consolidated takes over
21 ownership of FairPoint. The transaction will promote the public good and will

1 not obstruct or prevent competition in the telecommunications marketplace in
2 New Hampshire.

3 **Q: Have the Joint Petitioners requested a deadline for issuing a final order in**
4 **this matter to support the closing of the transaction?**

5 A: Yes. The Joint Petitioners have asked for expedited approval from the
6 Commission so as to meet a planned closing date of June 30, 2017, for the
7 transaction, and therefore respectfully requested that the Commission issue its
8 requested findings in this proceeding by early May. As the Petition indicates,
9 meeting the scheduled closing date will minimize the ticking fees that will shortly
10 begin accruing on the debt refinancing that Consolidated has secured as part of
11 this transaction.

12 **II. DESCRIPTION OF THE TRANSACTION**

13 **Q: Please briefly describe the transaction involved in this proceeding.**

14 A: Consolidated and FairPoint are both publicly traded companies. Under an
15 Agreement and Plan of Merger (“Agreement”) dated December 3, 2016,
16 Consolidated will acquire 100% of the equity in FairPoint in an exchange for
17 Consolidated stock valued at approximately \$1.5 billion. Consolidated will
18 contribute all of FairPoint’s equity interests to a directly, wholly owned
19 Consolidated subsidiary, Consolidated Communications, Inc. (“CCI”). CCI has
20 formed its own subsidiary, Falcon Merger Sub, Inc. (“Falcon”), solely for the
21 purpose of this transaction. At the closing, Falcon will merge with and into
22 FairPoint, whereupon Falcon will cease to exist and FairPoint, as the surviving

1 entity, will become a wholly owned subsidiary of CCI. FairPoint will continue to
2 exist and will continue to be the direct owner of its existing subsidiaries, including
3 its four operating subsidiaries in New Hampshire. Consolidated, as the ultimate
4 upstream parent corporation, will be the indirect owner of FairPoint and its
5 subsidiaries. The combined company will retain the Consolidated
6 Communications name and will be headquartered in Mattoon, Illinois.

7 **Q: What does the transaction mean in practical terms for stakeholders of**
8 **FairPoint's operations in New Hampshire?**

9 A: The transaction will be seamless to customers of FairPoint's wholesale and retail
10 services and to other users of FairPoint's network in New Hampshire, including
11 competitive local exchange carriers ("CLECs") that are parties with FairPoint to
12 interconnection agreements, utility companies that are parties with FairPoint to
13 pole agreements, and Rural Local Exchange Carriers ("RLECs") with whom
14 FairPoint has longstanding network arrangements. The transaction does not
15 require the registration of any new providers of communications services in New
16 Hampshire. The existing FairPoint operating entities will continue to provide
17 services under their existing authority. FairPoint, through its New Hampshire
18 operating subsidiaries, will continue to be a party to all existing contracts and
19 agreements, including its collective bargaining agreements with FairPoint's union
20 employees. The transaction does not require any change in the rates, terms or
21 conditions of FairPoint's services. The transaction also does not require any
22 system cutovers, so customers and carriers will experience no change and no
23 disruption in their FairPoint accounts as a result of the transaction. In practical

1 terms, the transaction will create a combined company with greater scale and
2 strategic flexibility than FairPoint has as a standalone company, without requiring
3 any changes in FairPoint's existing operations. FairPoint will have a new
4 corporate owner with an overall stronger financial position and will eventually
5 have its services rebranded under the Consolidated Communications name.

6 **Q: Does the proposed transaction differ from FairPoint's 2008 acquisition of**
7 **Verizon's landline business in New Hampshire?**

8 A: Yes, the present transaction differs markedly from the Verizon acquisition both
9 structurally and financially. In the FairPoint acquisition of the landline assets of
10 Verizon New England, which the Commission approved in 2008 in Docket DT
11 07-011, FairPoint did not acquire Verizon-New Hampshire's back-office systems
12 that supported the network, daily operations, customer service and billing.
13 Instead, Verizon agreed to continue providing those back-office functions on a
14 transitional basis after the closing until FairPoint could develop a completely new
15 back-office system and then "cutover" from the legacy Verizon systems to the
16 newly developed FairPoint systems. In the proposed transaction, there are no
17 transitional services and there will be no "cutover" required by the transaction.
18 As I said, the transaction will be seamless to all current stakeholders of
19 FairPoint's operations in New Hampshire and in all other states in which
20 FairPoint conducts business. Unlike in 2008, no new approvals to operate are
21 required from the Commission to complete the present transaction.

22 The 2008 acquisition was an asset purchase that required significant
23 borrowing by FairPoint to meet the purchase price for the Verizon assets. The

1 transaction occurred just as the U.S. credit markets were beginning to show the
2 effects of the global economic downturn. The final piece of FairPoint's 2008
3 transaction financing for the Verizon acquisition was priced at very high interest
4 rates that ultimately proved unsustainable, and FairPoint entered bankruptcy
5 protection in 2009. By contrast, the present acquisition is an all-stock transaction
6 that requires no transfer of assets. Consolidated is assuming FairPoint's existing
7 debt and has already secured the requisite financing , so that no part of the debt
8 will be subject to late-breaking changes in market conditions. The new financing
9 is at a lower interest rate than FairPoint's existing debt and extends maturity from
10 2019 to 2022.

11 **Q: Does the proposed transaction meet the challenges of the changing**
12 **telecommunications industry?**

13 A: Yes. The industry has experienced significant changes in technology, regulation
14 and competition since the Verizon merger. Wireline companies like FairPoint
15 have experienced significant loss of access lines as competing technologies, from
16 wireless to cable telephony to over-the-top Voice over Internet Protocol ("VoIP")
17 providers, have claimed an increasing share of the voice communications market.
18 On the federal side, the Federal Communications Commission ("FCC") has
19 adopted comprehensive reforms of both interstate access and federal universal
20 service, with resulting pressures on the revenues of landline carriers. At the same
21 time, customers require ever-increasing broadband data speeds to meet the needs
22 of an evolving communications marketplace. FairPoint has so far kept pace with
23 these industry changes by making significant investments in its broadband

1 infrastructure and by adding new services, such as its data center services, to
2 diversify its business offerings. Consolidated's acquisition of FairPoint will
3 create a combined company with sufficient scale and diversification to meet these
4 challenges while remaining close enough to its local communities to respond to
5 the needs of its customers.

6 **III. INFORMATION ABOUT FAIRPOINT**

7 **Q: Please identify the New Hampshire operating entities of FairPoint that are**
8 **affected by this transaction.**

9 A: FairPoint has four operating entities in New Hampshire: Northern New England
10 Telephone Operations LLC d/b/a FairPoint Communications-NNE ("NNETO"),
11 Enhanced Communications of Northern New England, Inc. ("ECNNE"),
12 Northland Telephone Company of Maine, Inc. ("Northland"), and UI Long
13 Distance, Inc. ("UILD"). Under the Agreement and Plan of Merger, each of these
14 operating entities will pledge its assets as security for Consolidated's debt
15 refinancing. However, the transaction will not require any change in the existing
16 operating authority for these companies, other than an eventual change in the
17 name under which they operate. All of the New Hampshire operating entities are
18 classified as "excepted local exchange carriers" ("ELECs") under New
19 Hampshire law.

20 NNETO is an incumbent local exchange carrier that is authorized to operate a
21 telephone utility in the State of New Hampshire, and provides local exchange and
22 exchange access services in approximately 118 exchanges across the State of New

1 Hampshire. In addition, more than 95% of NNETO's access lines in New
2 Hampshire have access to high speed Internet service. NNETO operates more
3 than 125 buildings in New Hampshire, and 95% of its central offices are enabled
4 for Ethernet connections capable of symmetrical dedicated transport speeds of up
5 to 1 Gig. NNETO is also a designated Eligible Telecommunications Carrier
6 ("ETC"), under 47 U.S.C. § 214(e)(2), in its New Hampshire exchanges. NNETO
7 is defined to be an ELEC by RSA 362:7, I (c)(1).

8 Northland is an incumbent local exchange carrier authorized to operate as a
9 telephone utility in the State of New. Northland provides intrastate
10 telecommunications services in the exchanges of Chatham and East Conway. In
11 addition, Northland provides Internet and ancillary services to its retail customers.
12 Northland is also the designated ETC, under 47 U.S.C. § 214(e)(2), in the
13 aforesaid exchanges. Northland filed its notice of ELEC election with the
14 Commission effective December 1, 2014, pursuant to RSA 362:7, I(c)(2).

15 UILD and ECNNE both provide intrastate long distance and Internet services
16 in New Hampshire. ECNNE and UILD are defined to be ELECs by RSA 362:7,
17 I(c)(3).

18 **Q: What is the current regulatory status of FairPoint's operating entities in New**
19 **Hampshire?**

20 A: NNETO and Northland are classified as ILEC-ELECs in New Hampshire, while
21 ECNNE and UILD are ELECs but not ILECs. In addition, NNETO and
22 Northland are designated as Eligible Telecommunications Carriers ("ETCs")
23 under federal law in their respective New Hampshire service areas. FairPoint

1 accepted approximately \$4.375 million in annual Connect America Fund Phase II
2 ("CAF II") funding to provision 10/1 Mbps broadband service to 13,131 locations
3 in FairPoint's service areas in New Hampshire by 2021.

4 **Q: Please describe the significant pending regulatory proceedings involving**
5 **FairPoint and/or its operating subsidiaries in New Hampshire.**

6 A: Other than the present Docket, there are no significant regulatory proceedings
7 now pending that involve FairPoint or its New Hampshire operating subsidiaries.

8 **IV. REVIEW OF THE TRANSACTION**

9 **Q: What statutory standard will the Commission use in this case?**

10 A: The proposed transaction involves a stock acquisition of and merger with the
11 parent company of four operating entities that have ELEC status under New
12 Hampshire law. Because the FairPoint operating companies are all ELECs, RSA
13 374:30, II governs this transaction. That statute provides that an ILEC that is an
14 ELEC may transfer its New Hampshire franchise, works or system if the
15 Commission finds that the utility to which the transfer is to be made is
16 technically, managerially and financially capable of maintaining the obligations of
17 an ILEC set forth in RSA 362:8 and RSA 374:22-p. The ILEC obligations set
18 forth in RSA 362:8 are those:

- 19 (1) arising under the Commission's authority under the federal
20 Communications Act of 1934, as amended;
21
22 (2) that arose prior to February 1, 2011, relating to availability of
23 broadband services, soft disconnect processes and capital
24 expenditure commitments within the state;
25

(3) relating to the provision of services to competitive local exchange carriers, interexchange carriers, and wireless carriers, regardless of technology; and

(4) arising under RSA 374:22-p (basic service, rate caps and reporting) and RSA 374:30, II (relating to the transfer of utility franchise, works or system).

The ILEC obligations set forth in RSA 374:22-p, VIII, are as follows:

(1) ILECs are prohibited from discontinuing basic service, regardless of technology used, in any portion of their franchise area unless the Commission determines that the public good will not be adversely affected by such withdrawal of service;

(2) ILEC-ELECs' rates for basic service may not increase by more than 5 percent for Lifeline Telephone Assistance customers and by more than 10 percent for all other basic service customers in each of the 8 years after the effective date of this paragraph or the effective date of an existing alternative plan of regulation. However, the Commission may approve additional rate adjustments to reflect changes in federal, state, or local government taxes, mandates, rules, regulations, or statutes; and

(3) ILEC-ELECs must report basic service rate changes to the Commission.

Technical, Managerial and Financial Capabilities

Q: Do you believe Consolidated has the technical, managerial and financial capabilities to maintain the ILEC-ELEC obligations of the FairPoint entities in New Hampshire?

A: Consolidated will provide details of its technical and managerial experience and the strength and soundness of its finances. FairPoint fully supports Consolidated's position in this proceeding.

ILEC-ELEC Obligations Under RSA 362:8 and RSA 374:22-p

Q: Is FairPoint presently satisfying its ILEC-ELEC obligations under RSA 362:8 and RSA 374:22-p?

A: Yes. FairPoint's New Hampshire operating entities are meeting all of their obligations arising under the Federal Communications Act of 1934, as amended. These include, without limitation: NNETO's and Northland's obligations as federal Eligible Telecommunications Carriers ("ETCs") under 47 U.S.C. § 214(e)(1); NNETO's and Northland's obligations as incumbent local exchange carriers ("ILECs") under 47 U.S.C. § 251(a)-(c); and NNETO's obligations as a regional Bell Operating Company ("RBOC") under 47 U.S.C. § 271 et seq.

FairPoint has satisfied all of the obligations that arose prior to February 1, 2011, relating to the availability of broadband, soft disconnect processes, and capital expenditure commitments within the state.

FairPoint is meeting its obligations to provide services to CLECs, interexchange carriers, and wireless carriers, regardless of technology.

Finally, FairPoint is meeting all of its obligations arising under RSA 374:22-p (relating to basic service, rate caps and reporting) and RSA 374:30, II (relating to the transfer of utility franchise, works or system). FairPoint has not discontinued basic service in any portion of its franchise area. Second, FairPoint is complying with the rate caps on basic service set in RSA 374:22-p, VIII(b). Finally, FairPoint has agreed to report any changes in basic service rates to the Commission.

1 **Q: Do you have any reason to believe that Consolidated will be unable to**
2 **maintain FairPoint's obligations under RSA 362:8 and RSA 374:22-p as a**
3 **result of this transaction?**

4 **A: No, I do not.**

5 **Q: Does this conclude your prefiled direct testimony?**

6 **A: Yes.**