

December 22, 2011

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BY HAND DELIVERY

Debra A. Howland, Executive Director & Secretary
NH Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301

Re: Northern New England Telephone Operations LLC Tariff NHPUC No. 3

Dear Ms. Howland:

On behalf of Northern New England Telephone Operations LLC d/b/a FairPoint Communications - NNE ("FairPoint"), we are filing the following tariff material for effect January 21, 2011 consisting of:

NHPUC No. 3

Section

5

6

30

Revision of Pages

First Revision of Pages 1 and 4

First Revision of Page 5

First Revision of Page 9

On September 10, 2009, FairPoint made a revenue neutral filing of tariff pages that revised the application of the CCL charge and increased the interconnection charge. Shortly thereafter, FairPoint withdrew the tariff filing to the extent that the Commission determined that it constituted a voluntary filing under RSA 374:6. In its Order No. 25,219 dated May 4, 2011, the Commission granted FairPoint's request to withdraw its tariff filing and deemed it illustrative for purposes of further investigation and proceedings. This grant was altered in subsequent Order No. 25,283 dated October 28, 2011, in which the Commission determined that only the increase to the interconnection charge was withdrawn, while the revised application of the CCL charge would be deemed accepted, but suspended in application and effect.

As of the date of this tariff filing, both the interconnection charge and the CCL charge are subject to investigation in DT 06-067. However, only one of these is considered to be on file by the Commission, even though the Commission also affirmed in Order No. 25,283

that the revisions to the application of the CCL charge are intertwined with the increased interconnection charge and that these two questions are intended to be dealt with as a package.¹ Consistent with the Commission's determination, and to ensure that both questions are officially before the Commission, FairPoint is refiling the revised tariff incorporating both charges while continuing to reserve all rights to dispute the Commission's authority to impose any of these revisions.

In addition to this cover letter, this filing also consists of:

- Supportive testimony of Michael T. Skrivan, as filed in DT 06-067;
- Report of Proposed Rate Changes describing the percentage changes in existing rates and revenue effect;
- Annotated and clean tariff pages showing the changes to the tariff; and
- Supportive schedules, as filed in DT 06-067 as Exhibits MTS-2 and MTS-3, documenting the adjustments and supporting the calculations made for the revised tariff.

This filing is made with an effective date of 30 days in accordance with applicable law. However, FairPoint presumes that the Commission may suspend this filing, pursuant to RSA 378:6, I(b), which provides that the commission may suspend a tariff filing for 3 months, with an extension of 5 additional months upon reasonable explanation. Pending resolution of the questions in DT 06-067, and while reserving all rights, FairPoint will not object to such suspension, assuming that no prejudicial conditions are attached.

This filing is identical to the one that FairPoint submitted on November 30, 2011 and which the Commission rejected, implying that the time constraints of RSA 378:6, IV were not consistent with the procedural schedule in DT 06-067. After due consideration of the Commission's reasoning, FairPoint believes that RSA 378:6, I(b) is actually the most appropriate and lawful statute to apply to this filing. Accordingly, it is resubmitting the tariff on that basis.

FairPoint presumes that the Commission may have rejected the November 30, 2011 tariff filing based on the assumption that RSA 378:6, IV, passed in 1997 with industry support, completely supersedes RSA 378:6, I(b), *i.e.* that RSA 378:6, I(b), and its extended timeframe, could no longer apply to telephone company filings *at all*. This would lead to a conclusion that, because FairPoint's filing was not a "general rate increase" under RSA

¹ DT 06-067, Order 25,283 at 29.

378:6, I(a), the only option was a review under RSA 378:6, IV, which had to be completed in 60 days -- shorter than the procedural schedule in DT 06-067.

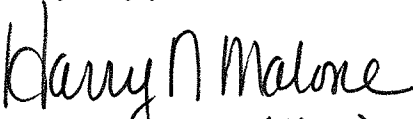
However, our research indicates that this is not an "either/or" situation after all. Attached is the legislative history of HB452, which was codified as RSA 378:6, IV. Contained within is the testimony of Commissioner Ignatius, then General Counsel to the Commission, in which she stated that RSA 378:6, IV is intended to only apply to changes in the *terms and conditions* of services, not rates, and that some types of rate filings should continue to be handled under RSA 378:6, I(b). The pertinent portions of her testimony highlighted on pages 5-6 and page 11 of the "Committee Minutes" section of the attached document. In short, she states that:

if it involves a rate change, whether it is a telephone company or anyone else, it would be under the section above [i.e. RSA 378:6, I(b)] . . . that is an existing statute that is a longer period of time to review. The 3 month review and you could have an additional 5 months.

The bill before the committee at the time has language identical to that in the eventual statute. Thus, FairPoint believes that, under this interpretation, RSA 378:6, I(b) applies to the subject tariff filing, and that it also provides ample to time to review the provisions within the context of DT 06-067.

Please contact me if you have any questions about this filing or wish to discuss it further.

Very truly yours,


Harry N. Malone (kaa)

HNH:kaa

Enclosures

cc: DT 06-067 Electronic Service List