

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: January 22, 2013

AT (OFFICE): NHPUC

ML

FROM: Michael Ladam, Assistant Director of Telecommunications

SUBJECT: DT 07-011, Northern New England Telephone Operations, LLC
d/b/a FairPoint Communications – Broadband Expansion Plan

TO: Commissioners
Debra Howland, Executive Director

On November 1, 2012, FairPoint Communications, Inc. (FairPoint) filed a plan proposing to invest \$2,823,751 of penalties otherwise due to ratepayers, plus \$500,000 of additional FairPoint funding, in broadband expansion projects pursuant to Order 25,739 (June 26, 2012). That order established certain requirements for such a project, and stipulated that the penalties must be returned to ratepayers rather than used for broadband expansion unless those requirements are met. The requirement that is relevant today is that the project must provide broadband to "1,000 to 3,000 customers who might not otherwise have broadband service." (Order 25,739, page 11).

Staff reviewed FairPoint's submittal of November 1, 2012, and identified five projects within it that appear to not meet this requirement, based on competitive alternatives shown for those areas on the Federal Communications Commission National Broadband Map. Staff worked with FairPoint to identify a more clearly unserved area that FairPoint was willing to include in the overall program instead of these apparently-served areas. Staff reviewed this revised plan with the state Broadband Director in the Department of Resources and Economic Development (DRED). FairPoint filed its revised plan on January 18, 2013. Staff and DRED have jointly concluded that the revised plan meets the requirements of Order 25,739, in particular by providing broadband in areas not otherwise covered.

Order 25,739 also established two conditions under which the March 31, 2013 deadline for FairPoint to achieve a minimum 95% broadband availability across the state, and a minimum 75% broadband availability in particular rural areas, would be extended to December 31, 2013. (That deadline was originally established in a settlement agreement approved in Order 24,823 of February 25, 2008.) The two conditions are 1) Commission acceptance of this broadband expansion plan; and 2) FairPoint achievement of 92% broadband availability across the state by December 31, 2012. On December 28, 2012, Staff reported to the Commission that FairPoint had asserted that it had achieved 92.82% coverage, and had provided Staff with public announcements of broadband expansion in various localities that supported this assertion. Staff recommended that the Commission accept FairPoint's representation.

Based on the foregoing, Staff recommends that the Commission 1) approve the FairPoint plan for broadband expansion as submitted on November 1, 2012, and revised on January 18, 2013; and 2) declare that the criteria for extension of the March 31, 2013 deadline for achieving 95% broadband coverage have been met, and that the deadline has been extended to December 31, 2013.