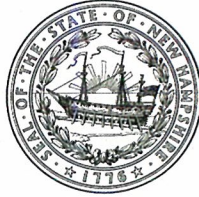


STATE OF NEW HAMPSHIRE



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January 14, 2014

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Debra A. Howland
Executive Director
N.H. Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301

**Re: DT 12-337 FairPoint Wire Center Investigation, Report of
Stakeholder Agreement Regarding Future Process Improvements**

Dear Ms. Howland:

In Order No. 25,580 issued on October 7, 2013, the Commission directed Staff to conduct an investigation together with interested parties in order to develop and propose a reasonable and appropriate process to be implemented in future wire center reclassification proceedings, and to file a report summarizing the results of this initiative and the proposed process revisions, within 90 days of the date of the Order. By secretarial letter dated November 6, 2013, the Commission scheduled a technical session to consider and discuss potential future process alternatives to be held on November 20, 2013 at the Commission.

The technical session was held at the Commission on November 20, 2013, and was attended by representatives of FairPoint, the CLEC Association of Northern New England, Inc. ("CANNE"), and Commission Staff. Based on discussions during the technical session and subsequent communications with these parties, the participants agreed to a process to evaluate future FairPoint filings to reclassify wire centers within the statutory deadlines of RSA 378:6, IV. The proposed process, which is described in the attached document, establishes procedures for filing and notice by FairPoint and for discovery and investigation by Staff. Staff believes the proposed process represents a reasonable and balanced approach that should significantly reduce the time necessary to investigate and resolve future FairPoint tariff filings to reclassify its wire centers.

The process contemplates issuance by Staff of a set of initial data requests to alleged fiber-based collocators in the relevant FairPoint wire centers. The parties and Staff intended to include a copy of the agreed upon data requests with the filing. Although we have made substantial progress in developing the text and format of these initial data requests, there are

certain unresolved issues regarding fiber facilities operated pursuant to infeasible right of use (IRU) agreements. Staff believes there is a reasonable likelihood that the parties may be able to resolve these IRU issues and reach final agreement on a template for initial data requests, if more time is available to pursue further discussions.

Staff recommends that the Commission approve the proposed procedures set forth in the attached document. Staff will file a copy of the initial data requests template by January 31, 2014, if agreement with the parties is reached, and may request the Commission's assistance in resolving the issues, if agreement is not reached.

Sincerely,

A handwritten signature in cursive script that reads "David Wiesner".

David K. Wiesner
Staff Attorney/Hearings Examiner

Process for FairPoint Filings to Reclassify Wire Centers

1. FairPoint will make a tariff filing with the Commission proposing a reclassification of any wire center or wire centers. The filing must include a cover letter specifying the wire centers proposed to be reclassified and each network element that would be affected by such reclassification, together with back-up documentation reasonably sufficient to show that each wire center contains no less than the minimum number of “fiber-based collocators” (FBCs), as defined in 47 C.F.R. §51.5, or business lines, or both, as interpreted by the New Hampshire Public Utilities Commission (the FP Supporting Documentation).¹ FairPoint will include in its filing the most current contact information in its records for the appropriate representative of each such alleged FBC, including name, address, telephone number, and e-mail address.
2. No later than the date of the tariff filing, FairPoint will provide a redacted copy of its tariff filing to each alleged FBC, including only the FP Supporting Documentation specific to that alleged FBC. FairPoint also will issue an accessible letter notifying all CLECs that a tariff filing has been made to reclassify the specified wire center(s), and specifying the proposed reclassification. The FairPoint filing must include a copy of this accessible letter, as well as a representation that the required notice has been provided to each alleged FBC.
3. If Staff does not believe that the FP Supporting Documentation is reasonably sufficient to show that no less than the minimum number of alleged FBCs is collocated in each specified wire center with fiber optic cable and related equipment as of the date of the FairPoint tariff filing, then Staff will recommend that the tariff filing be rejected.
4. If Staff believes that FairPoint has provided FP Supporting Documentation meeting this standard, then Staff will issue data requests to the alleged FBC contacts identified by FairPoint. The alleged FBCs issued these data requests will have 10 days to respond, per Puc 203.09(f). Staff also may issue data requests to any party, including FairPoint, or utilize other investigatory means Staff deems appropriate to gather relevant information, at any stage of the proceeding.
5. If such data request responses and other information obtained by Staff through its investigation support the undisputed factual and legal conclusion that a wire center contains at least the minimum number of FBCs, business lines, or both, as of the date of FairPoint’s tariff filing, then Staff will recommend that the relevant wire center be reclassified as fully or partially unimpaired as set forth in FairPoint’s tariff filing.
6. If contested legal issues are identified, but facts are undisputed, then Staff will recommend a briefing schedule to be concluded in time for the Commission to issue a decision within no more than 60 days from the tariff filing date, if possible.

¹ FP Supporting Documentation considered adequate to meet this standard includes, but is not limited to, copies of FairPoint records showing that a fiber pull was completed from manhole zero to the CLEC collocation.

7. If facts are in dispute based on the FP Supporting Documentation, the responses provided by alleged FBCs to Staff data requests, and any other information obtained by Staff through its investigation, then Staff will conduct a conference call or calls with or between FairPoint and each specific alleged FBC to attempt resolution of the disputed factual issues.
8. If the facts in dispute cannot be resolved, then Staff will recommend that the FairPoint tariff filing be rejected and the disputed facts be investigated and possibly adjudicated through an evidentiary hearing. Once the investigation and any such evidentiary hearing have been completed, and if the Commission has issued an order approving reclassification of the specified wire center(s), then FairPoint will be permitted to make the tariff effective as of the date of submission of its compliance filing.
9. In the event that an alleged FBC does not respond to Staff data requests notwithstanding reasonable efforts by Staff to compel such response, and the status of the alleged FBC in a wire center is material to the proposed reclassification of such wire center, then Staff will conduct a site visit to such wire center with FairPoint (and other parties subject to confidentiality restrictions), and attempt to make a determination whether the alleged FBC meets the requirements to be counted as an FBC with respect to that wire center. If such a determination can be made based on the site visit, then the process will continue and Staff will recommend that the alleged FBC be found to be an actual FBC with respect to that wire center. If such a determination cannot be made following the site visit, then Staff will recommend that the tariff filing be rejected with respect to that wire center.
10. If the tariff review period is extended by an additional 30 days, and a decision ultimately is made within the 60-day period approving FairPoint's tariff filing, then transition rates will go into effect as of the originally proposed tariff effective date, but the applicable transition periods for discontinuation or conversion of facilities will begin as of the date the Commission approves the reclassification or allows it to take effect.
11. Confidentiality restrictions and procedures will apply as in the investigation conducted in Docket DT 12-337, in order to protect any information that associates a particular alleged collocator with a particular wire center.
12. If circumstances arise which are not covered by the procedures above, Staff will expeditiously convene a status conference to determine how to resolve the issues, in connection with which conference all parties will be expected to work in good faith to establish an expedited procedural schedule for the resolution of such issues.