

STATE OF NEW HAMPSHIRE

Inter-Department Communication

NHPUC 16MAY16PM3:18

DATE: May 16, 2016
AT (OFFICE): NHPUC

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FROM: Michael Ladam, Director, Regulatory Innovation and Strategy
SUBJECT: DT 16-510, Northern New England Telephone Operations LLC
Notification of Basic Services Price Increases
TO: Commissioners
Debra Howland, Executive Director
CC: David Wiesner, Staff Attorney

Executive Summary

On April 21, 2016, Northern New England Telephone Operations LLC (FairPoint) filed a notification with the Commission that it is raising its rates for residential "basic service." The letter of notification provides details of the amount of increase in each of the eight categories by which FairPoint assigns its basic service rates.

Rate increases for residential basic service for carriers such as FairPoint are subject to an annual cap. Carriers subject to this cap are not required to obtain Commission approval of their rate increases. However, in Staff's assessment, the requirement that these carriers file a notification of the rate increases suggests that the Commission should review these increases and determine whether they appear to fall within the cap.

Staff has reviewed FairPoint's filing. The rate increases it describes appear to fall within the cap. No further Commission action is required.

Background

Each Incumbent Local Exchange Carrier (ILEC) in New Hampshire is required under New Hampshire RSA 374:22-p, VIII(c) to notify the Commission "upon any changes to the rates" it charges residential customers for basic service. The law does not require that the notification be made prior to the change. Only specific retail residential service offerings are considered "basic service" under RSA 374:22-p, and each ILEC may raise its rates for such service by no more than ten percent each year (and by only five percent for basic service sold under the federal Lifeline program).

A customer of residential basic service will pay a monthly charge that includes a charge for local telephone service and various federal and state assessments. These include the Federal Subscriber Line Charge, the Federal Excise Tax, the state's E911

surcharge, and the state's Communications Services Tax. FairPoint also includes a "Municipal Property Tax Recovery Charge."

Prior to the increase announced on April 21, 2016, FairPoint's basic service rates had not changed for more than a year. FairPoint asserts that the new rates for non-Lifeline basic service are 10% higher than their previous rate, and that the new rates for Lifeline basic service are 5% higher than their previous rate. In both cases, FairPoint uses the sum of the local telephone service charge and the Municipal Property Tax Recovery Charge as the earlier rate on which the increase is based.

Inclusion of these property tax costs in the baseline for basic rate increases appears to be supported by Commission precedent. In Order No. 25,384 (June 27, 2012), the Commission observed that "the property tax now imposed upon FairPoint's poles and conduits and its use of municipal rights-of-way is a new expense of the Company that is not otherwise accounted for in its rates" and ruled that FairPoint was entitled to "seek recovery of that expense." (Page 9.) The Commission also offered guidance to FairPoint on how such costs should be treated once pending legislation took effect, stating that FairPoint could "address this cost by adjusting the rates for basic service and Lifeline service, up to no more than the cap provided by statute, without Commission review and approval." Alternatively, the Commission offered, FairPoint could seek Commission review and authorization for a rate hike based on treating changes in these property tax costs as an additional expense. (Page 11.)

Order No. 25,384 also directed that "recovery of FairPoint's property tax expense must be through its rates, rather than as a surcharge" (Page 12). This directive appears to rely on the Commission's authority over rates and bill presentment under RSA Chapter 378. On August 10, 2012, RSA 378:1-a took effect, excluding end-user services provided by most local exchange carriers, including FairPoint, from the provisions of that chapter. As a result, it appears that the prohibition against presenting property tax recovery as a surcharge is no longer in effect.

Rate Arithmetic

FairPoint included in its filing a "Summary of Basic Service Price Changes" that shows the rate changes for eight categories of residential basic rate service and eight corresponding versions of such service as supplied to Lifeline customers. The eight categories consist of five different rate groups for unlimited local calling service, plus three variations of measured service.

FairPoint presents the rate change calculations in a somewhat convoluted manner. The document includes a "Current Effective Rate" that is the sum of the "Current Published Rate" and the "Muni Prop Tax Surcharge." The "Current Effective Rate" does not appear as a line item on customer bills. The Company then calculates the "Rate Incr[ease] on Effective Rate" as 10% of that total (5% in the case of Lifeline services). This increase is added to the "Current Published Rate" -- not to the "Current Effective Rate" -- to produce a "New Billed Rate".

For example, prior to this increase a Rate Group A customer was billed \$11.53 for basic telephone service, plus \$0.99 as a “Municipal Property Tax Recovery Charge” line item, plus various other federal and state charges. FairPoint combines these two elements into a Current Effective Rate of \$12.52 ($\$11.53 + \0.99), producing an allowed rate increase under the 10% cap of \$1.25. FairPoint adds this amount to the “Current Published Rate,” so that the “New Billed Rate” is \$12.78 ($\$11.53 + \1.25). The “Municipal Property Tax Recovery” line item remains at \$0.99.

This rate calculation and result appears to be in keeping with RSA 374:22-p and Order 25,384, although the method of reporting the rate and increase may be confusing for customers.

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

Executive.Director@puc.nh.gov
amanda.noonan@puc.nh.gov
david.wiesner@puc.nh.gov
michael.ladam@puc.nh.gov
ocalitigation@oca.nh.gov
robert.meehan@fairpoint.com

Docket #: 16-510-1 Printed: May 16, 2016

FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**
- DEBRA A HOWLAND
EXECUTIVE DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**
- c) Serve a written copy on each person on the service list not able to receive electronic mail.**