THE STATE OF NEW HAMPSHIRE

BEFORE THE PUBLIC UTILITIES COMMISSION

Docket No. DT 16-______

EXHIBIT
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#1
DT 16-872

CONSOLIDATED COMMUNICATIONS HOLDINGS, INC.

and

FAIRPOINT COMMUNICATIONS, INC.

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

<u>SUMMARY</u>

This is a joint petition by Consolidated Communications Holdings, Inc., and FairPoint Communications, Inc., two longstanding wireline providers, both public companies in good standing, to allow them to merge at a national level as expeditiously as possible to pursue the opportunities of more significant scale while continuing to pursue excellence in service at a local level in the states currently served by them. The merger does not involve a technical cutover of any kind, does not reduce competition in any market, and creates a more financially sound entity that will pool the management resources of two companies whose roots started in telephone service in the 19th century.

I. Introduction

Consolidated Communications Holdings, Inc. ("Consolidated Holdings") and FairPoint Communications, Inc. ("FairPoint") (together, "the Petitioners") respectfully petition the New Hampshire Public Utilities Commission ("the Commission") pursuant to RSA 374:30, II for findings[1] regarding the acquisition of FairPoint, as further described below. With the consummation of the transaction described below in Section III, FairPoint will continue to own its New Hampshire franchise, works and system as a wholly owned subsidiary of Consolidated Communications, Inc. ("CCI"), which is itself a wholly owned subsidiary of Consolidated Holdings. As described below, Consolidated Holdings, together with CCI, possesses the technical, managerial and financial capabilities to ensure that FairPoint continues to maintain all of the obligations of an incumbent local exchange carrier ("ILEC") set forth in RSA 362:8[2] and RSA 374:22-p.[3]

II. The Petitioners and Related Parties

A. Consolidated Holdings, CCI and Falcon Merger Sub, Inc.

Consolidated Holdings is a publicly-traded Delaware corporation (NASDAQ: CNSL) with principal offices at 121 South 17th Street, Mattoon, Illinois 61938, and is registered to do

[1] The Petitioners seek all Commission findings and/or approvals as are required by law, and have stated herein those findings they believe to be implicated by the terms of the Transaction. To the extent the Commission determines that other findings or approvals are necessary, the Petitioners request that the Commission issue an order making such findings and granting any and all such approvals and authorizations that are required in connection with or as a result of the transactions described in this Petition.

[2] These include obligations: (1) arising under the Commission's authority under the federal Communications Act of 1934, as amended; (2) that arose prior to February 1, 2011 relating to availability of broadband services, soft disconnect processes and capital expenditure commitments within the state; (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 (regarding transfer of utility franchise, works or system).

[3] These obligations relate to the provision of basic service, rate caps and rate reporting.

business in New Hampshire. As a holding company, Consolidated Holdings does not directly provide telecommunications services in any state and will not directly provide telecommunications services upon completion of the transaction that is described below in Section III.

CCI is a direct, wholly owned subsidiary of Consolidated Holdings. CCI is an Illinois corporation headquartered in Mattoon, Illinois and registered to do business in New Hampshire. Consolidated Holdings and CCI (together, "Consolidated"), through their various operating subsidiaries ("the Consolidated Companies"), provide a wide range of telecommunications services to residential and business customers primarily in eleven (11) states: California, Illinois, Iowa, Kansas, Minnesota, Missouri, North Dakota, Pennsylvania, South Dakota, Texas and Wisconsin. These services include: local and long-distance telephone service; high-speed broadband Internet access; standard and high-definition digital television and digital telephone service; custom calling features; private line services; carrier access services; network capacity services over regional fiber optic networks; and directory publishing.

The Consolidated Companies' fiber network covers 14,100 fiber miles, reaches 5,500 on-net buildings, and serves 1,100 connected cellular towers. The Consolidated Companies include both ILECs and competitive local exchange carriers ("CLECs"). A list of these companies and the services they provide is submitted herewith as Attachment 1. Currently, Consolidated Holdings' operating companies provide approximately: 219,000 residential broadband connections; 409,000 business broadband connections (including over 7,000 Metro Ethernet connections); 189,000 residential voice lines (both VoIP[4] and wireline voice service); and approximately 269,000 business voice lines (also both VoIP and wireline voice service).

[4] Voice over Internet Protocol.

Falcon Merger Sub, Inc. ("Merger Sub") is a Delaware corporation formed for the purposes of the transaction described below in Section III. Merger Sub is registered to do business in New Hampshire, and is a direct, wholly owned subsidiary of Consolidated Holdings.

B. FairPoint

FairPoint is a publicly-traded Delaware corporation (NASDAQ: FRP) with its principal offices located at 521 E. Morehead Street, Suite 500, Charlotte, North Carolina 28202. FairPoint is the parent company of Northern New England Telephone Operations, LLC d/b/a FairPoint Communications-NNE ("NNETO"), and Northland Telephone Company of Maine, Inc. ("Northland"), both New Hampshire ILECs that are excepted local exchange carriers ("ELECs") and of Enhanced Communications of Northern New England, Inc. ("ECNNE") and UI Long Distance, Inc. ("UILD"), both authorized as intrastate toll providers in New Hampshire and classified as ELECs. *See* RSA 362:7, I. (b) and (c)(1)-(3).[5]

III. Description of the Proposed Transaction

On December 3, 2016, the Petitioners, along with Merger Sub, entered into an Agreement and Plan of Merger ("Merger Agreement") which is submitted with this Petition as Attachment 2. Under the terms of the Merger Agreement, Consolidated Holdings will acquire all of the outstanding equity interests in FairPoint in exchange for Consolidated Holdings stock valued at approximately $1.5 billion (the "Transaction"). Under the Merger Agreement, Merger Sub will merge with and into FairPoint, whereupon Merger Sub will cease to exist and FairPoint will remain as the surviving corporation. Upon completion of the Transaction, Consolidated

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[5] NNETO is defined to be an ELEC by RSA 362:7, I. (c)(1); ECNNE and UILD are defined to be ELECs by RSA 362:7, I. (c)(3); Northland filed its notice of ELEC election with the Commission effective December 1, 2014, pursuant to RSA 362:7, I. (c)(2).

Holdings will contribute all of the equity interest in FairPoint to its direct, wholly owned-subsidiary, CCI, so that FairPoint will be a direct, wholly owned subsidiary of CCI.

After the Transaction closes, Bob Udell, the current President and Chief Executive Officer of Consolidated Holdings, will continue to serve as President and Chief Executive Officer of the combined company, and one director from the FairPoint Board of Directors will join the Board of Directors of Consolidated Holdings, which will expand from 8 to 9 directors. Consolidated Holdings will continue to be publicly traded, and no person or entity will hold or will control ten percent or more of the equity or voting equity of Consolidated Holdings upon the closing of the Transaction. The combined company will retain the Consolidated Communications name and will be headquartered in Mattoon, Illinois. As a result, NNETO, Northland, ECNNE and UILD will become indirect subsidiaries of Consolidated Holdings. Diagrams depicting the pre-and post-Transaction corporate ownership structures are submitted herewith as Attachment 3.

The Transaction will be seamless to all current FairPoint retail and wholesale customers in New Hampshire and in all other states in which FairPoint conducts business, as well as to all carriers with which FairPoint interconnects (including, without limitation, Rural Local Exchange Carriers ("RLECs")). Because the Transaction involves only a change of ownership at the holding company level, it will not affect any of the operations or obligations of FairPoint or its subsidiaries. Immediately after the Transaction, FairPoint and its subsidiaries will remain intact and will continue to adhere to their contractual and other obligations, including NNETO's current retail and wholesale obligations as an ILEC-ELEC. No existing retail or wholesale services, or any interconnection-based services with other carriers, will be discontinued or interrupted as the result of the Transaction. Therefore, customers will not experience any change in services, rates, or terms and conditions of service. There will be no need to change any billing systems or operational support systems before or after the closing of the Transaction. Existing tariffs, interconnection agreements, retail catalogs and customer agreements will not be affected by the Transaction and will remain in effect. Future changes, if any, in rates, terms and conditions of service will be made in accordance with applicable rules and notice requirements.[6]

A significant majority of FairPoint's existing employees who provide services in Maine, New Hampshire and/or Vermont will be retained, which, when coupled with the employees of the Consolidated Companies, will ensure the availability of a skilled workforce with knowledge and experience in providing retail and wholesale services. Consolidated and CCI will honor all current collective bargaining agreements with FairPoint's union employees and will offer management employees benefits comparable to those that they currently enjoy.

The Transaction is expected to strengthen Consolidated's growth opportunities, enhancing its scale with a fiber-rich network that will extend across 24 states and include 35,100 fiber route miles, 8,500 on-network buildings, 2,400 fiber connected towers, 839,600 voice connections and 795,500 data and internet connections. It will also provide Consolidated with additional operating and strategic flexibility going forward. The Transaction is expected to generate annual operating synergies of approximately $55 million, including $45 million in annual savings from reduced operating costs and $10 million in annual savings in vendor and other third-party costs, within two years after completion of the merger.

FairPoint's merger into the Consolidated organization will result in a stronger company that will be well-positioned to meet its obligations as an ILEC-ELEC and as a carrier-of-last-

[6] The Transaction does not raise any slamming concerns or necessitate compliance with procedures to notify customers prior to a carrier-to-carrier sale or transfer of subscribers as the Transaction does not involve a change in any customer's existing service provider. The customers of NNETO and Northland will remain with their current carrier and will continue to be served under the carrier's existing authorizations.

resort ("COLR") in the State of New Hampshire. Post-merger, the combined company will possess network redundancy and a greater scale which will increase purchasing power and ability to access capital. The combined company will also possess a greater ability to provide innovative and expanded services. Current and future FairPoint customers will enjoy the benefit of the Consolidated Companies' record of providing a high quality customer experience. These benefits will extend to installation and service appointment processes, consumer-friendly pricing and packaging choices, and the delivery of further advanced broadband services.

IV. Standard of Review

The proposed Transaction between FairPoint and Consolidated involves a stock acquisition of and merger with a parent company of four operating entities that have ELEC status under New Hampshire law. Because RSA 374:30, I and RSA Chapter 369 expressly do not apply in the case of ELECs, RSA 374:30, II governs this transaction. That statute provides that an ILEC that is an ELEC may transfer its New Hampshire franchise, works or system if the Commission finds that the utility to which the transfer is to be made is technically, managerially and financially capable of maintaining the obligations of an ILEC set forth in RSA 362:8 and RSA 374:22-p.

The obligations of an ILEC-ELEC under RSA 362:8 are those:

(1) arising under the Commission's authority under the federal Communications Act of 1934, as amended;

(2) that arose prior to February 1, 2011, relating to availability of broadband services, soft disconnect processes and capital expenditure commitments within the state;

(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).

RSA 374:22-p, VIII, sets forth the following obligations for ILECs:

(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.

As the Petitioners demonstrate below, Consolidated Holdings and CCI possess the necessary technical, managerial and financial capabilities to maintain the above-stated obligations.

V. Consolidated Holdings' and CCI's Technical, Managerial and Financial Capabilities to Maintain New Hampshire ILEC Obligations

Technical Capabilities

With over a century of experience in providing telecommunications services, the Consolidated Companies possess the technical, managerial and financial capabilities of operating an ILEC-ELEC in New Hampshire and maintaining the ILEC obligations set forth in RSA 362:8 and RSA 374:22-p. The Consolidated Companies trace their roots to the Mattoon Telephone Company, which was founded in 1894. They leverage a fiber-rich network to offer advanced telecommunications solutions to residential, commercial and wholesale customers in 11 states.

To serve their customers, the Consolidated Companies employ a skilled workforce of approximately 1,800 employees with extensive telecommunications experience. On average, each employee possesses 12 years of experience. In addition to their own resources, the Consolidated Companies intend to draw upon FairPoint's resources to meet the ILEC obligations set forth in RSA 362:8 and RSA 374:22-p. Because FairPoint is currently meeting those obligations and because FairPoint and its operating subsidiaries, including NNETO and Northland, will remain intact and continue their current systems and operations after the Transaction closes, the Commission may readily make the findings required by RSA 374:30, II. This operational continuity will insure that FairPoint's existing obligations as a New Hampshire ILEC-ELEC will continue to be fulfilled in a seamless fashion.

All of FairPoint's existing obligations under its interconnection agreements, tariffs, contracts and other arrangements, including its obligations under the federal Telecommunications Act to provide wholesale services (47 U.S.C. §§ 251 and 252) and to serve as an Eligible Telecommunications Carrier ("ETC") (47 U.S.C. §§ 214(e)(1) and 254(e)), will be unaffected by the Transaction. Consolidated will cause FairPoint to maintain its obligations arising under the Commission's authority under the federal Act and those relating to the provision of services to CLECs, RLECs, interexchange carriers and wireless carriers. *See* RSA 362:8, I. and III. Moreover, because there are no systems or billing conversions required in connection with the Transaction, the Transaction will be seamless to FairPoint's wholesale and retail customers. As a holding company stock transaction and merger, the Transaction has no similarities to the 2007 acquisition of Verizon New England's Northern New England wireline operations by FairPoint. FairPoint's back-office systems for Operations Support Systems and billing are now well-established, and there will be no change in those systems following the

Transaction. Consolidated expects that after closing, the combined companies' management will begin evaluating all systems, including Consolidated's legacy systems, to determine which ones best suit the needs of the larger company, and initiate an integration plan to unify systems company-wide. Consolidated expects this process to take between 12 and 24 months.

Managerial Capabilities

Consolidated's management has significant experience operating ILECs in rural and small urban markets, and has successfully served customers in such markets, bringing innovative broadband and video services while running a financially sound company with the ability to invest and maintain the network and foster growth. All of Consolidated Holdings' ILEC subsidiaries are designated as ETCs and serve as COLRs (or their equivalents under applicable state law) in their respective service areas. In addition, CCI's affiliate, Consolidated Communications of Illinois Company (f/k/a Illinois Consolidated Telephone Company), is both a tandem switch operator and a provider of E911 services in Illinois.

Consolidated has also had substantial success integrating acquired companies. Recent acquisitions include: TXUC (2004), North Pittsburgh (2007), SureWest (2012), Enventis (2014) and CTC (2016). Consolidated employs a highly-structured project management approach to each acquisition which includes collaboration with its counterparties.

Financial Capabilities

Consolidated Holdings is a financially secure, publicly-traded company with consistent financial results. Its operating revenues for 2013, 2014 and 2015 were: $601.6 million, $635.7 million and $775.7 million, respectively; earnings before interest, tax, depreciation and amortization (EBITDA) for the same years were: $286.5 million; $288.5 million and $328.9 million, respectively. Consolidated is committed to long-term investment in its network operations. The value of the FairPoint/Consolidated transaction is $1.5 billion, including net debt of $887 million as of September 30, 2016.

Consolidated has already secured $935 million in term loan facilities to refinance FairPoint's existing credit facility with its current outstanding balance of approximately $916 million debt and for transaction-related fees and expenses. Having secured this financing brings greater certainty and reduced risk to the Transaction. Consolidated's $935 million in incremental term loan facilities will begin accruing interest starting in January 2017 at a rate of 4% (calculated by adding 3% to the indicative LIBOR that is no less than 1%). This rate is slightly favorable to Consolidated's expectations and brings financial certainty and lowers risk to the combined company. This will allow Consolidated to proceed through its stated transition and integration on a measured and methodical pace without the pressures that could have arisen from less favorable credit terms. Because Consolidated's new credit facility is more favorable than FairPoint's existing facility, this will clearly lower risk and financial pressure for FairPoint with indirect benefits to its New Hampshire customers.

As described above, Consolidated will accrue interest at a rate of 4% on its credit facility for this transaction while FairPoint's existing facility bears a blended interest rate of about 7.9%. FairPoint's debt consists of two credit facilities. First is a term loan facility of $616 million accruing interest of 7.5% (calculated by adding 6.25% to the indicative LIBOR rate that is defined as no less than 1.25%). Second is a note facility in the amount of $300 million bearing an interest rate of 8.75%. This difference between Consolidated's rates and FairPoint's rates arises in part because Consolidated has a more favorable credit rating than FairPoint. Consolidated has a Moody's rating service rating of Ba3 versus FairPoint's rating of B2, a two level or "notch" difference, while the S&P rating for Consolidated is B+ versus FairPoint's rating of B, a one level or "notch" difference. Further, Consolidated has a more favorable reputation and profile than FairPoint in credit markets, generally allowing for better access to capital.

Importantly, the Transaction significantly improves overall net leverage. In general, the leverage ratio is a financial measurement that assesses how much capital comes in the form of debt (loans), or assesses the ability of a company to meet financial obligations. As has been publicly stated, upon the closing of the Transaction, it is expected that the combined companies' net leverage ratio drops from approximately 4.4x measured as of September 30 2016, to approximately 3.8x (including expected synergies) measured at the closing on a pro forma basis.

Another factor in the rate differential is that Consolidated has explicitly pledged the regulated and non-regulated assets of operating companies as collateral while FairPoint did not explicitly provide a pledge as part of its collateral package. While non-pledged assets may be more bankruptcy-remote, the implicit effect of any holding company entering bankruptcy does not change the impact on its subsidiary operating companies.

While FairPoint would hope that it could improve on the terms of its credit facility in the event FairPoint were to seek access to the credit market outside of the Transaction, it is unlikely that FairPoint could achieve the favorable rates that Consolidated has already secured. Consolidated's financing, in addition to providing certainty and lower risk, provides a better financial platform measured both against FairPoint's current facility and against FairPoint's likelihood of achieving such financing on a stand-alone basis in the future.

The Transaction is expected to produce $55 million in synergies and will result in a stronger company financially. It is noteworthy that Consolidated Holdings met or exceeded its projected synergies in previous acquisitions, such as with North Pittsburgh in 2007 and SureWest in 2012. While some of the expected efficiencies resulting from the Transaction are related to corporate overhead, a significant component of the efficiencies is related to network and operations costs. The Petitioners expect at least $8 million annually in network access synergies. These efficiencies have multiple benefits: some directly reduce the incremental cost of providing service, offering the opportunity for the Consolidated Companies to compete with larger providers with the advantages of incumbency, scale, or both. In addition, the network efficiencies will better position the combined company to make strategic economic investments.

Finally, FairPoint has fully satisfied the capital expenditure obligations that arose from the Commission's 2008 approval of the Verizon-FairPoint merger proceeding,[7] so there is no enforcement issue under RSA 362:8, II regarding those obligations.

Broadband

Since 2007, Consolidated Holdings has acquired three (3) ILECs: North Pittsburgh in 2007; SureWest in 2012; and Enventis in 2014. With each ILEC acquisition, Consolidated Holdings has made it a priority to upgrade the broadband capability of its network, and has been able to make an immediate impact in improving both the availability and quality of the broadband service offered to customers. For example, Consolidated has increased the number of homes passed by broadband-capable facilities in its Illinois, Texas, and Pennsylvania study areas from 320,912 in 2012 to 362,173 in 2016 (a nearly 13% increase); and in its California study area from 355,520 in 2012 to 370,755 in 2016 (a more than 4% increase). In the former Enventis operating companies, which were acquired in 2014, the number of homes passed has also increased in each subsequent year. Consolidated also has increased available broadband speeds

[7] Docket DT 07-011, Order Approving Settlement Agreement with Conditions, Order No. 24,823 (Feb. 25, 2008) at 21.

in these territories since the acquisitions, and has introduced 100 Mbps download capability in portions of every market it serves. Currently, the Consolidated Companies provide at least 20 Mbps download speeds to 90 percent of their broadband customers.

Bringing similar improvement to FairPoint's broadband customers is achievable in no small measure because of the improvement to broadband service and quality that FairPoint has made since emerging from reorganization under Chapter 11 of the U.S. Bankruptcy Code in 2011, especially in the Northern New England states, when compared to the state of the broadband network in that region when FairPoint acquired it from Verizon. Across the three Northern New England states, FairPoint currently provides approximately 377,000 voice connections and 325,000 broadband connections (including residential, business and wholesale connections). FairPoint has expanded its broadband coverage and increased its available speeds since the emergence from Chapter 11 in 2011. Broadband coverage and speeds in Northern New England have increased since FairPoint acquired the Verizon lines in Maine, New Hampshire and Vermont. Further, the network improvements that provide for more and faster broadband will continue.

FairPoint has met its New Hampshire broadband commitments existing prior to February 1, 2011. *See* Memorandum from Michael Ladam, Assistant Director of Telecommunications, DT 07-011 (March 10, 2014). Consolidated Holdings and FairPoint have each accepted support from the Connect America Fund ("CAF"). Both companies are on track to meet or exceed the intermediate and long-term milestones required as a condition of receiving such funding. The Transaction will not disrupt FairPoint's commitments as a recipient of CAF support. Pursuant to RSA 362:8, II, Consolidated agrees to maintain FairPoint's broadband commitments.

Other Commitments

Consolidated will assume FairPoint's obligations that arise from the Commission's authority under the Communications Act of 1934, as amended, and those relating to "soft disconnect processes."[8] *See* RSA 362:8, I and II. As indicated above, Consolidated will assume all of FairPoint's intercarrier obligations relating to the provision of services to competitive local exchange carriers, interexchange carriers and wireless carriers, regardless of technology. *See* RSA 362:8, III. Consolidated will also adhere to the basic service, rate caps and rate reporting requirements of RSA 374:22-p, VIII.

Consolidated is committed to maintaining a local presence in the communities it serves and will continue to fulfill FairPoint's historic community commitments. In 2015, the Consolidated Companies contributed $1.3 million to charitable organizations and their employees contributed 37,000 volunteer hours. For the past 32 years, Consolidated has hosted a Special Olympics Family Festival, the largest event of its kind in the country, bringing together 800 Special Olympic Athletes and 1,200 volunteers.

Consolidated is also committed to continuing a collaborative relationship with the Commission and its Staff and to honoring FairPoint's obligations as the largest ILEC-ELEC in New Hampshire. The Transaction reflects Consolidated's commitment to the communities and customers it serves, and Consolidated expects to continue the collaborative process to carry forward FairPoint's service obligations.

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[8] The Petitioners understand these obligations to be commensurate with those set forth in a Memorandum of Understanding between FairPoint and New Hampshire Legal Assistance dated October 13, 2007, as follows: "[C]onsumers disconnected for non-payment of telephone bills will continue to have access to dial tone for the limited purposes of calling 911 for emergencies and for calling the FairPoint business office for a period of at least ninety days. Soft disconnects (i) will only be available where facilities and telephone numbering resources are available, (ii) will be subject to technical, provisioning and activation considerations and (iii) will not be available to customers who port their telephone numbers to other wireline, wireless or broadband service or other provider."

VI. Requests for Relief

For all the reasons stated above, the Petitioners respectfully request that the Commission:

(A) Find, pursuant to RSA 374:30, II, that Consolidated Holdings and CCI are technically, managerially and financially capable of causing FairPoint to maintain the obligations of an incumbent local exchange carrier set forth in RSA 362:8 and RSA 374:22-p; and

(B) Grant such further relief as is necessary and appropriate.

Dated: December 29, 2016

Respectfully Submitted,

FairPoint Communications, Inc.
By its Attorneys,
Primmer Piper Eggleston & Cramer PC

By: ______________________
Paul J. Phillips
900 Elm Street, 19th Floor
Manchester, NH 03105-3600
Tel. (603) 626-3300
Email: pphillips@primmer.com

Consolidated Communications Holdings, Inc.
By its Attorneys,
Orr & Reno, P.A.

By: ______________________
Susan S. Geiger
45 South Main Street
Concord, NH 03302-3550
Tel. (603) 223-9154
Email: sgeiger@orr-reno.com

1655594_1