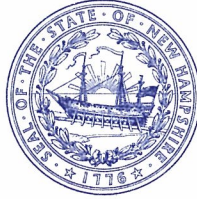


THE STATE OF NEW HAMPSHIRE

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STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: April 6, 2012

AT (OFFICE): NHPUC

MCL
FROM: Michael Ladam, Assistant Director of Telecommunications
SUBJECT: DT 07-11, FairPoint Communications – NNE Service Quality Penalties
TO: Commissioners
Debra Howland, Executive Director
Kate Bailey, Director, Telecommunications



Staff has reviewed three letters from Ryan Taylor of FairPoint Communications, Inc. & Northern New England Telephone Operations LLC (FairPoint) concerning the Service Quality Improvement (SQI) results for calendar year 2011. The letters are:

- Request for Staff waiver of Service Quality Index related to October snowstorm (received Jan 31, 2012)
- Request for Staff waiver of Service Quality Index related to Tropical Storm Irene (received Jan 31, 2012)
- Penalty Assessment for 2011, SQI Plan (received Feb 23, 2012)

Exhibit 3 (FairPoint Retail Quality of Service Commitments) of the 2008 Settlement Agreement approved in Order 24,823, dated February 25, 2008, allows FairPoint to exclude performance results for intervals during major storms and other major events. This exclusion requires Staff concurrence. Staff reviewed the two proposed exclusions with several concerns in mind:

- Are they limited in scope to “force majeure” events;
- How much of the full year’s performance do they exclude from the SQI metrics; and
- Do they use an appropriate methodology to exclude those intervals?

Force Majeure: Both the October snowstorm and the August tropical storm were major weather events in which the Governor asked for federal disaster declarations, activated the Incident Planning and Operations Center, and called out the National Guard. (The President approved the disaster declaration for Irene.) The snowstorm resulted in a “top three” loss of electrical power across the state. As the largest telephone company in New Hampshire, FairPoint provides critical support in repairing utility poles during such events. In Staff’s assessment, both incidents qualify as “force majeure” events.

Scope of Exclusion: FairPoint has requested waivers of 12 to 13 days for the October storm and five to six days for Tropical storm Irene. (The range of days is because FairPoint has concluded that some performance measures are affected for one additional day compared to others.) This excludes 17 to 19 days in the course of a full year: 4.7% to 5.2% of the total. In Staff’s assessment, this level of exclusion does not interfere with the effectiveness of the SQI measurement and penalty system.

Methodology: Staff’s first observation on methodology is that FairPoint breaks down each waiver request into a span of days rather than weeks or even months. This provides greater accuracy – fewer days that were less affected by the incidents are excluded. The second observation is that earlier concerns regarding the calculation of “Trouble Reports per 100 Lines” have been addressed.¹ In Staff’s assessment, the methodology used in revising the SQI metrics based on the proposed exclusions is appropriate.

In his letter of February 23, 2012, Mr. Taylor reports that the SQI penalty amount, after adjusting the metrics for these exclusions, is \$233,333. Staff has independently calculated the amount and reached the same total.

Staff recommends that the Commission order FairPoint to include the 2011 SQI penalty of \$233,333 in the combined penalty to be distributed according to Order 25,336 (March 22, 2012) and any subsequent amendments made to that order. This proposal is consistent with FairPoint’s own recommendations.

¹ This metric actually reports Troubles per 100 Lines per Month. Therefore we cannot simply delete the trouble count for excluded days. As a hypothetical example: if FairPoint typically had one trouble report per day for every thousand lines, that would translate to 30 per thousand for a full month and be reported as 3 trouble reports per 100 lines. If 15 days were excluded and the remaining days were typical, the calculation would drop to 1.5 trouble reports per 100 lines – showing an apparent improvement for equivalent performance. A more accurate methodology, which Staff proposed and FairPoint adopted, is to use the average of the included days, rather than 0, for the excluded days here. That keeps the metric at 3 in this hypothetical example.)