

**STATE OF NEW HAMPSHIRE**

## Inter-Department Communication

**DATE:** March 10, 2014**AT (OFFICE):** NHPUC

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**FROM:** Michael Ladam, Assistant Director of Telecommunications**SUBJECT:** DT 07-011: Verizon Communications et. al., Transfer of Assets to FairPoint Communications, Inc.: Completion of Broadband Commitments**TO:** Commissioners  
Debra Howland, Executive Director**Background**

Commission Order 24,823 dated February 25, 2008, approved the transfer of assets from Verizon Communications to FairPoint Communications, Inc. (FairPoint). Order 24,823 incorporated a Settlement Agreement in which FairPoint made two commitments under which it has undertaken to expand broadband availability in the state. This memo reports that both of these commitments have been completed and that Docket DT 07-011 may now be closed.

In the first of these commitments (BB1), FairPoint agreed to make broadband available on at least 95% of its access lines throughout its territory, including at least 75% of those access lines located in the more rural areas classified as "UNE Zone III" wire centers. This commitment was originally tied to a deadline for completion of March 31, 2013; in a Secretarial letter dated January 29, 2013, the Commission extended this deadline to December 31, 2013.

In the second of these commitments (BB2), FairPoint agreed to pay penalties in the form of consumer rebates in the event it did not achieve certain agreed-upon service quality benchmarks. In 2012, FairPoint petitioned the Commission to allow these penalties to instead be used in a program to further expand broadband availability. In Order 25,379 dated June 26, 2012, the Commission conditionally approved this modification of the original penalty agreement. The conditions included a) joint development by FairPoint, Commission Staff, and the Department of Resources and Economic Development (DRED) of a list of target areas including a minimum of 1,000 residences; b) further investment of \$500,000 by FairPoint beyond the penalty amounts; and c) the approval of the plan by the Governor and Executive Council. FairPoint subsequently agreed to the additional investment and developed a detailed list of target areas with Staff and DRED. The Governor and Council approved the plan.

Although it also had a December 31, 2013 deadline, the BB2 plan is entirely incremental to BB1. On successful completion, the BB1 plan was to provide broadband availability to 95% of the access lines in FairPoint territory. On successful completion, the BB2 plan was to provide broadband to locations still unserved despite the BB1 plan,

and not served by competitor offerings. As documented in a Staff Memorandum of December 9, 2013, following a minor correction the BB2 plan was to deliver broadband to 2,462 such locations.

Both of these programs involve deployment of new or upgraded central office or outside plant facilities.

FairPoint has regularly reported its progress on each of these programs to Staff. (For BB2, such reports were required to release escrow funds during construction.) Staff has closely reviewed the reports for completeness, for mathematical accuracy, and for consistency with Staff's understanding of broadband deployment status in New Hampshire from other sources.

### **Commitment Completion**

On January 21, 2014, FairPoint reported to the Commission that it has successfully completed the BB1 program. The BB1 program has made broadband available to 95% of FairPoint access lines throughout its territory, including 90.75% of the access lines in rural "UNE Zone III" wire centers.

On January 21, 2014, FairPoint also reported to the Commission that it has successfully completed the BB2 program, delivering broadband to 2,462 locations that were otherwise unserved.

Staff has reviewed both the interim and final reports for each program and is satisfied that both have been completed as described, delivering on the commitments made. All escrow funds have now been disbursed as set forth in Order No. 25,379.

In Order 25,360 dated May 8, 2012, the Commission emphasized the need to "bring about meaningful improvement in telecommunications to some of the unserved parts of the state." FairPoint, DRED, and the Commission have successfully worked together to accomplish this.

With the completion of these two projects, there are no remaining issues which need to be addressed in Docket No. DT 07-011, and the docket may be closed.

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