

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 07-011

VERIZON NEW ENGLAND, ET AL.

Transfer of Assets to FairPoint Communications, Inc.

Order Amending Order No. 25,331 on Service Quality Penalties

ORDER NO. 25,336

March 22, 2012

In 2007, Verizon New England and affiliated entities (Verizon) filed a joint application for merger with FairPoint Communications Inc. (FairPoint) whereby Verizon would transfer its assets and franchise in Northern New England, including New Hampshire, to FairPoint. By Order No. 24,823 (February 25, 2008), the Commission approved a settlement agreement (2008 settlement) that permitted the transfer, subject to certain conditions. Under the 2008 settlement and subsequent order, FairPoint agreed to abide by certain service quality standards and to self-enforcing penalties should it not meet those standards. *Verizon New England, et al.*, Order No. 24,823 (Feb. 25, 2008) at 33, 72. The standards and penalties were modified in a settlement agreement (2010 settlement) reached in the context of FairPoint's bankruptcy and approved by the Commission. *FairPoint Communications, Inc., et al.*, Order No. 25,129 (July 7, 2010) at 17.

On January 25, 2012, Staff filed a memorandum and recommendation relative to the service quality penalties. According to that recommendation FairPoint owes \$2,590,418 in service quality penalties for 2009 and 2010 and Staff recommended, consistent with the above-referenced agreements and orders, that FairPoint pay those penalties through bill credits at \$.99 per line per month beginning on April 1, 2012 until fully paid, which would require a number of

months to be paid in full. On January 31, 2012, FairPoint submitted a response to Staff's memorandum and recommendation and requested that the Commission not adopt Staff's recommendation, but instead grant FairPoint and Staff a period of time to discuss the possible use of the service quality penalty funds for the expansion of broadband in northern New Hampshire.

On February 6, 2012, the Commission issued Order No. 25,331 adopting Staff's recommendation regarding bill credits. The Commission, however, noted that there may be merit in FairPoint's request to expand broadband. Therefore, the Commission concluded that if FairPoint submitted a broadband expansion plan by March 1, 2012, the Commission would hold a hearing on the plan on March 15 to determine whether the plan was acceptable. FairPoint submitted a plan on March 1, 2012 in which it noted that for calendar year 2011 there are additional penalties of \$233,333, making the total amount \$2,823,751. At the hearing held on March 19, 2012 Staff stated that it was reviewing the 2011 amounts, but that initially they appeared accurate.

At the March 19 hearing, numerous record requests were made of FairPoint and FairPoint was given two weeks to respond. Thus, the requested information about the expansion plan will not be submitted until April 2, 2012. At hearing FairPoint stated that, at this point, its billing systems would not permit it to apply credits beginning on April 1, 2012, but that it could do so by June 1. In addition, FairPoint stated that it would prefer to pay the credits in one or two months rather than at \$.99 per line per month as recommended by Staff.

Because there are outstanding record requests providing greater detail on the plan submitted by FairPoint that will not be received until after the April 1, 2012 deadline set in Order

No. 25,331 and because FairPoint's billing system cannot process the credits without more lead time, the Commission hereby amends Order No. 25,331 as follows: The April 1, 2012 date for beginning bill credits is extended to June 1, 2012, and the credits shall be paid in a single month at the amount per line necessary to refund the total amount due. Subsequently, FairPoint shall file an accounting report of the refund confirming that the credited amount fully refunded the total amount of penalties due. With respect to the total amount due, Staff stated that it is reviewing the additional \$233,333 in penalties for calendar year 2011 as calculated by FairPoint. When it has completed its review, Staff shall file a memorandum identifying the final amount of the 2011 penalties and the total amount of service quality penalties to date.

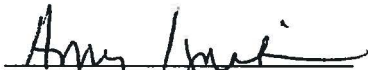
If, upon review of the information in the record requests, however, the Commission accepts the plan submitted by FairPoint, credits shall not be paid and the broadband expansion plan will continue to be developed. In that event, the Commission shall issue a further order relating to the plan and the process to reach final implementation.

Based upon the foregoing, it is hereby

ORDERED, that Order No. 25,331 is amended as set out above; and it is

FURTHER ORDERED, that Staff shall file a memorandum identifying the final amount of the 2011 penalties and the total amount of service quality penalties to date when it completes its review of the penalty calculation submitted by FairPoint.


By order of the Public Utilities Commission of New Hampshire this twenty-second day
of March, 2012.



Amy L. Ignatius
Chairman



Michael D. Harrington
Commissioner



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director

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

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