

THE STATE OF NEW HAMPSHIRE

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January 14, 2010

Denis Paiste
Business Reporter
New Hampshire Union Leader
100 William Loeb Drive
P.O. Box 9555
Manchester, NH 03108-9555

Re: New Hampshire Public Records Act Request

Dear Mr. Paiste:

Please treat this as the Commission's response to your letter of January 7, 2010, received via email at this office on January 7, 2010, requesting information pursuant to RSA 91-A:4 and RSA 378:43. Specifically, you seek a copy of the Accenture report and cover letter filed on November 30, 2009, by Northern New England Telephone Operations LLC d/b/a FairPoint Communications - NNE (FairPoint).

FairPoint was provided a copy of your request and, on January 13, 2010, its counsel filed a letter reiterating FairPoint's position that the Accenture report is confidential pursuant to RSA 378:43. A copy of that letter is attached.

The Commission has concluded that, pursuant to RSA 378:43, a hearing must be held in order to determine whether the Accenture report satisfies the requirements of RSA 378:43, II. An order scheduling the required hearing is attached. Please feel free to contact me at (603) 271-6005 if you have any questions about the foregoing.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "F. Anne Ross".

F. Anne Ross, Esq.
General Counsel

Enclosure

DEVINE
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ATTORNEYS AT LAW

January 13, 2010

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**VIA ELECTRONIC DELIVERY &
UNITED STATES MAIL**

Debra A. Howland
Executive Director & Secretary
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301

Re: DT 07-011; Verizon New England Inc., *et al.*, Transfer of Assets to FairPoint Communications, Inc.; Response to Right-to-Know Request filed by the New Hampshire Union Leader

Dear Ms. Howland:

As you know, Devine, Millimet & Branch, Professional Association, represents FairPoint Communications, Inc., and its subsidiaries, including Northern New England Telephone Operations LLC d/b/a FairPoint Communications - NNE (collectively, "FairPoint"). We have been made aware of a right-to-know request filed with the Public Utilities Commission on January 8, 2009, by the New Hampshire Union Leader (the "Union Leader") pursuant to RSA Chapter 91-A and RSA 378:43(II) and (III). Pursuant to the request, the Union Leader seeks a copy of a report prepared by Accenture dated November 25, 2009 (the "Accenture Report") which contains the results of a consulting engagement related to the improvement of FairPoint's customer delivery organization, processes and systems.

On behalf of FairPoint, we provided the Accenture Report to the Commission's Staff under confidential seal pursuant to RSA 378:43 in Docket DT 07-011. We also provided a copy of the Accenture Report to the New Hampshire Consumer Advocate on a confidential basis pursuant to the existing Protective Agreement between the Consumer Advocate and FairPoint executed in connection with this Docket. On behalf of FairPoint, we believe the submission meets the requirements of RSA 378:43(II) and, pursuant to that provision and the Protective Agreement, the Accenture Report should not be disclosed to the Union Leader.

The Accenture Report has not been disclosed to the public by members of FairPoint or Accenture. In fact, the retention agreement between FairPoint and Accenture requires FairPoint to maintain the confidentiality of the report and FairPoint has honored that provision. As such, the report is not of the "general public knowledge" and has not been "published elsewhere". See RSA

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Debra A. Howland
Executive Director & Secretary
January 13, 2010
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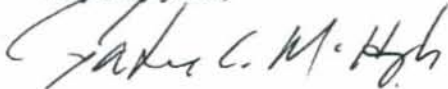
378:43(II). The release of such information and the knowledge that such information likely is to be released to the public in the future will have a chilling affect on the ability of Accenture and future consultants to give the necessary candid assessment to FairPoint or any other company subject to the Commission's jurisdiction with respect to the issues under review. It is likely that, with public disclosure of confidential reports such as the Accenture Report, consultants (such as Accenture) will refrain from providing detailed written reports to their clients and, instead, provide verbal assessments that may need to be repeated on multiple occasions in order to allow the clients to obtain the true value of the consultant's review.

In addition, the Accenture Report contains information which pertains to competitive services and sets forth trade secrets that required significant costs and effort to produce. Without limiting any of FairPoint's legal arguments, we also note that the Accenture Report contains information which qualifies as "other confidential, research, development, financial or commercial information" that the Commission should not release to the public. *Id.*

In the event the Commission decides to schedule a hearing on the Union Leader's request pursuant to RSA 378:43(III), FairPoint requests prior notice of said hearing and an opportunity to be heard. FairPoint requests that ample notice be provided in order to ensure that a witness or witnesses are able to attend any hearing on FairPoint's behalf.

Please feel free to contact me with any questions. Thank you.

Very truly yours,



Patrick C. McHugh

PCM:kaa

Enclosures

cc: Office of Consumer Advocate
Electronic Service List