

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

VERIZON NEW ENGLAND INC., et al)
)
)
RE: Request for Approval of Affiliated)
Interest Transaction and Transfer of)
Assets of Verizon's Property and Customer)
Relations to be Merged With and Into)
FairPoint Communications, Inc.)
)
Docket No.: DT 07-011)

**BRIEF
OF
CITY OF PORTSMOUTH**

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Dated: November 20, 2007

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

Verizon New England Inc., Bell Atlantic)
Communications, Inc., NYNEX Long)
Distance Company and Verizon Select) DT 07-011
Services Inc.'s Transfer of Assets to)
FairPoint Communications, Inc.)

City of Portsmouth Brief

Introduction

The City of Portsmouth (hereinafter the "City") intervened in this docket to bring to the Commission's attention the concerns it has relative to the proposed transfer of assets of Verizon New England Inc. (and its related entities hereinafter "Verizon") to FairPoint Communications Inc (hereinafter "FairPoint"). The City's concerns are summarized as follows: (1) FairPoint's ability to remedy existing performance issues relative to utility relocation and double poles; (2) the provision of video services; and (3) licensing and municipal attachment issues. The City requests that if the Commission approves the transaction that it impose such conditions as may be necessary to ensure that the proposed transaction addresses these concerns in the interest of the "public good" pursuant to RSA 374:30.

1. **Municipal Utility Relocations and Double Poles**

If the Commission approves the transfer of assets to FairPoint, the transfer should not exacerbate the performance problems that currently exist relative to municipal relocations. As explained by the City of Portsmouth's Director of Public Works, the City has had concerns regarding Verizon's performance for several years prior to the initiation of this docket. Testimony of Steve Parkinson, P.E., City of Portsmouth Ex. 1P. Those concerns center on Verizon's failure to move timely its

facilities during municipal construction projects. Id. Frequently when new poles are set, PSNH transfers its facilities promptly, and then the work languishes because Verizon fails to move its facilities in a timely manner. Id.

The City is concerned that the transfer of assets to FairPoint will not only fail to alleviate the existing situation, but exacerbate the performance problems related to the moving of telephone utilities. FairPoint representatives have made a number of positive statements regarding their willingness to improve performance with regard to municipal projects. The City has also reviewed the Memorandum of Understanding entered into between FairPoint and Public Service Company of New Hampshire (PSNH). PSNH Ex 3-P. The City believes that the Memorandum of Understanding, in so far as it reflects a commitment to participate in meetings with municipal public works officials to coordinate and schedule work and to revisit, is a good start. Id. at p. 3-4. Crucial however is whether FairPoint will have the financial and other resources to actually get the job done in a timely manner.

Related to the issue of responsiveness on municipal projects is the problem of “double poles”. See Testimony of Steve Parkinson, City of Portsmouth Ex. 1P. The City believes that the Memorandum of Understanding with PSNH represents a start to the double pole problem. In the Memorandum, FairPoint has committed to addressing the approximately 7,000 double poles state wide within 36 months following an initial 6-month post-merger transition period. PSNH Ex 3-P. The City requests a more aggressive schedule for addressing double poles. In a compact City such as Portsmouth, with an important component of its economic health derived from tourist dollars, the prospect of waiting three and a half years for a resolution to the City’s

double poles is not acceptable particularly when the City has provided a detailed list of the outstanding double poles and offered to prioritize. Testimony of Steve Parkinson, City of Portsmouth Ex. 1P.

2. Provision of Video Services

As described in the testimony of John Gregg, Chairman of the City of Portsmouth's Cable Commission, the City believes it is important that competition in the field of video providers be encouraged. Testimony of John Gregg, City of Portsmouth Ex. 2-P. The only video provider to date is Comcast. Id. Eighty five percent of Portsmouth residents presently subscribe to Comcast, and their number one concern with the service is price. Id. Video competition would be beneficial in the long run in moderating the price of video as well as ensuring high quality. The Portsmouth Cable Commission recommended that video be offered within two years of the transfer. FairPoint has represented that it is prepared to explore the provision of video. In view of FairPoint's representations, the City supports the recommendation described in the Brief of the Seven Municipalities in Section V(B) that the Commission condition approval of the transfer subject to Fairpoint's compliance with all local, state and federal laws and regulations regarding the provision of video services.

3. Licensing and Attachments

The City concurs with the recommendations set forth in the Brief of the Seven Intervening Municipalities at Sections III and IV relative to pole licensing and attachments. The City supports the arguments made therein and provides the following additional support.

The City currently uses space on the poles for its fire alarm systems. Testimony of Steve Parkinson, City of Portsmouth Ex. 1P. As technology and emergency planning needs change, FairPoint should be prepared to work with the municipalities toward the goal of enhanced public safety. The City also would benefit from the sharing of pole and conduit location information. Id. The City has much of its own infrastructure mapped electronically and it would facilitate design and the provision of emergency services to have greater utility information. Id. The City has not to date updated its pole licenses in anticipation of the development of a standard form which would ease administration for both the utilities and the municipalities. Should the transfer be approved, the recommendations set forth in the Brief of the Seven Intervening Municipalities at Sections III and IV would facilitate municipal licensing and attachments.

Conclusion

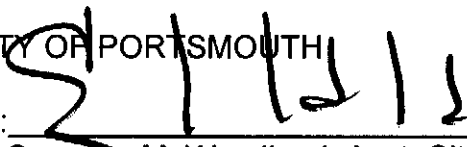
For the foregoing reasons, the City of Portsmouth respectfully requests that, if the Commission approves the transfer, it impose such conditions as may be necessary to address the concerns of the City of Portsmouth.

Dated: 11/20/07

Respectfully submitted,

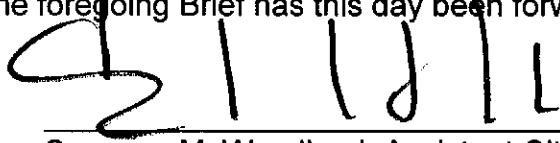
CITY OF PORTSMOUTH

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Brief has this day been forwarded via e-mail to the electronic service list.

A handwritten signature in black ink, appearing to read 'Suzanne M. Woodland', written over a horizontal line.

Suzanne M. Woodland, Assistant City Attorney