

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

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JOINT APPLICATION OF VERIZON NEW))
ENGLAND INC., FAIRPOINT COMMUNICA-))
TIONS, INC., ET AL. FOR APPROVAL OF) **DOCKET DT 07-011**
TRANSFER OF NEW HAMPSHIRE))
ASSETS))
_____)

**COMMENTS OF BAYRING COMMUNICATIONS AND SEGTEL, INC. ON CUTOVER
READINESS**

Freedom Ring Communications, LLC d/b/a BayRing Communications (“BayRing”) and segTEL, Inc. (“segTEL”), by their attorney, file these Comments on FairPoint’s Cutover Readiness. On November 12, The Liberty Group (“Liberty”) issued its most recent FairPoint Cutover Monitoring Status Report (“Liberty’s November Report”). In it, Liberty concluded that “FairPoint has demonstrated satisfaction of the cutover readiness criteria in all areas except CLEC testing, business process documentation, and training.”¹ Liberty goes on to state that it “believes that the status of business process development and training is sufficiently advanced to support a conclusion that the lack of complete satisfaction of these cutover readiness criteria does not constitute a significant impediment to FairPoint’s declaring cutover readiness.”² With respect to CLEC testing, the Liberty Group states that “there is further work that FairPoint must complete in order to satisfy the CLEC testing cutover readiness criteria.”³

BayRing and segTEL respectfully urge the Commission to deny FairPoint's request to issue its Irrevocable Notice of Readiness on November 30, because FairPoint has not satisfied the cutover

¹ *Liberty’s November Report*, page 2.

² *Id.*

³ *Id.*

readiness criteria for its wholesale operational support systems (“CLEC OSS”). BayRing and segTEL are most troubled that the only criteria that FairPoint has failed to satisfy relate to the OSS that FairPoint intends to make available to its competitors.⁴ For the reasons discussed below, BayRing and segTEL are concerned that FairPoint will have the incentive and the ability to discriminate against CLECs if the Commission permits FairPoint to issue its irrevocable notice of cutover readiness before FairPoint has demonstrated to the Commission’s duly authorized consultant and to the Commission that it has fully complied with the cutover readiness criteria for the CLEC OSS.

**NONDISCRIMINATORY ACCESS TO FAIRPOINT’S OSS
IS A PREREQUISITE TO COMPETITION IN NEW HAMPSHIRE**

Prior to the merger between Fairpoint and Verizon, BayRing and segTEL were dependent on Verizon for non-discriminatory access to Verizon’s operational support systems for ordering, provisioning, maintenance and repair, and billing for the network elements, collocation and interconnection services they leased from Verizon in order to provide retail services to end users.⁵ As the Commission knows, Verizon was required to demonstrate that it provided its competitors with non-discriminatory access to its OSS *before* it was permitted to enter the out-of-region long distance market.

FairPoint is now providing these services to CLECs by way of a Transition Services Agreement (“TSA”) with Verizon.⁶ For the first eight months after the closing, FairPoint has paid Verizon \$14.2 million per month for these services. After the first eight months, certain requirements are imposed on CapGemini and Verizon to defray the financial impact of a delayed

⁴ BayRing is not satisfied with the training that it has received to date in connection with FairPoint’s wholesale OSS and understand that the Liberty Group did not review FairPoint’s training to CLECs.

⁵ *Affidavit of Wendy Wilusz*, para. 4.

⁶ *Id.*, para 5.

cutover.⁷ Under the TSA, FairPoint had sole authority to determine when it will cutover from Verizon's systems to its systems. However, it agreed to the appointment of a third party monitor to help the three states address concerns raised in the proceedings that failures in the transition from Verizon to FairPoint systems can produce adverse customer impacts.⁸

Once FairPoint is permitted to cutover from Verizon's systems to its own systems, BayRing and segTEL will be dependent on FairPoint for all of the support and systems that CLECs use for the preordering, ordering, provisioning, maintenance and repair, and billing for wholesale services.

As the Commission and the FCC have previously found, non-discriminatory access to Verizon's operating support systems is a prerequisite to competition.⁹ The FCC has determined that without nondiscriminatory access to the BOC's OSS, a competing carrier "will be severely disadvantaged, if not precluded altogether, from fairly competing" in the local exchange market.¹⁰

FairPoint is a BOC. As such, FairPoint is legally obligated to provide CLECs with non-discriminatory access to its OSS under the Telecommunications Act.¹¹

Given the importance of FairPoint's OSS to the competitive landscape in New Hampshire, it is imperative that FairPoint demonstrate that it has met the wholesale cutover readiness criteria *before* it is permitted to issue its irrevocable notice of cutover, not after it does so. Liberty has found that FairPoint has not satisfied the cutover criteria for CLEC testing. If the Commission permits FairPoint to provide its irrevocable notice of cutover to Verizon before it has satisfied the cutover criteria for CLEC testing, FairPoint will have no incentive to go back later and fix it. There

⁷ Order No. 24,823, *Verizon New England, Inc. Bell Atlantic Communications Inc., NYNEX Long Distance Co., Verizon Select Services, Inc. and FairPoint Communications, Inc., Petition for Authority to Transfer Assets and Franchise*, p. 26 (February 25, 2008).

⁸ FairPoint Cutover Monitoring Statement of Scope, page 1.

⁹ *Verizon New Hampshire 271 Order*, Appendix F, para. 25.

¹⁰ *In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, CC Docket 99-295, Memorandum Opinion and Order, para. 83 (1999).

¹¹ 47 U.S.C. section 271(c)(2)(b).

will simply be no incentive for FairPoint to provide its competitors with non-discriminatory access to its systems after the Commission has already permitted to FairPoint to issue such notice. The Commission did not lower the bar for Verizon and recommend that it be permitted to enter the long distance market *before* Verizon had demonstrated that its CLEC OSS were nondiscriminatory. Nor should the Commission now lower the bar for FairPoint and permit it to issue its irrevocable letter of cutover *before* it has satisfied the cutover criteria for CLEC testing.

FAIRPOINT MUST NOT BE PERMITTED TO ISSUE ITS IRREVOCABLE NOTICE OF CUTOVER ON NOVEMBER 30 BASED ON A PREDICTIVE JUDGMENT THAT IT WILL MEET THE CUTOVER CRITERIA FOR WHOLESALE SYSTEMS

According to Liberty's November Report, there is additional work that FairPoint must complete in order to satisfy the CLEC testing cutover readiness criteria." Liberty concluded, however, that "with continued diligence by FairPoint and full cooperation from the wholesale customers, Liberty believes that it is feasible to demonstrate sufficient satisfaction of the CLEC testing cutover criteria in a few more weeks."¹²

In spite of the Liberty Group's conclusion that FairPoint has not met the express cutover criteria for wholesale testing, FairPoint has filed with the Commission a Provisional Notice of Cutover Readiness and Rebuttal which states that "FairPoint believes it will be ready by November 30, 2008, to file an irrevocable notice of cutover readiness with Verizon."¹³ This of course raises the concern that FairPoint is seeking to issue its irrevocable notice of cutover before it has demonstrated that it has achieved full compliance with the CLEC OSS cutover criteria. The Commission must not let this happen.

¹² Liberty's November Report, p. 2.

¹³ *Provisional Notice of Cutover Readiness and Rebuttal*, dated November 12, 2008.

From a CLEC perspective, the need for a third party monitor was to address the concern that FairPoint, a company with far less financial resources than Verizon, with a marked financial incentive to get off of Verizon's systems prematurely, and that the wholesale systems, staffing and training applicable to CLECs would get short shrift if left to FairPoint's discretion. Indeed, the CLEC's predictions appear to carry weight, since the CLEC OSS is the only software module that has not passed the criteria that Liberty used to measure the readiness of each system. BayRing and segTEL fear that the lack of parity between FairPoint's internal OSS and the CLEC OSS will continue if the Commission permits FairPoint to issue its Irrevocable Notice of Cutover Readiness to Verizon *before* it has complied with the cutover readiness criteria for CLEC OSS testing and training.

FAIRPOINT HAS INTENTIONALLY LIMITED AND CONTROLLED CLEC TESTING OF THE CLEC OSS

BayRing and segTEL believe that the limitations and restrictions FairPoint has placed on CLEC testing have hampered the development of a robust CLEC OSS. Liberty's November Report corroborates the limitations on CLEC OSS testing. It concluded that the testing environments for CLECs were "intentionally designed to restrict access to only a subset of the operations support systems applications and data" and that "some of the restrictions have hampered the effectiveness and efficiency of training."¹⁴

One example of such a restriction is that CLECs are limited to testing the only the CLEC OSS interface that is used for pre-order verifications, initial order entry and for trouble ticket management.¹⁵ BayRing was not permitted to test any of the subsequent processing to complete provisioning, initiate billing, update databases, or complete the processing of trouble tickets. Unlike

¹⁴ *Liberty's November Report*, p. 3.

¹⁵ *Liberty's November Report*, p. 12.

FairPoint's internal testing, end-to-end testing is simply not included in the CLEC test environment.¹⁶ In the pre-filed testimony of Kath Mullholland, segTEL points out that the testing falls short of the highly integrated system functionality testing that CLECs were led to believe would be made available.¹⁷ BayRing and segTEL are concerned that this gaping disparity between testing of the FairPoint OSS and testing of the CLEC OSS is evidence that the CLEC OSS has not been given the same priority as FairPoint's internal OSS. Just as FairPoint's internal testing permits end-to-end testing, so should CLEC testing.

Liberty also states that they have made live observations of test cases considered successfully passed by Capgemini, although producing incorrect results. Liberty considers one cause of these observed incorrect results to be the complexity of maintaining consistency in the various testing environments. BayRing and segTEL agree that removing the limitations on CLEC testing so that it more closely matches FairPoint's internal testing would provide test results that are more relevant to the readiness and robustness of the CLEC OSS and provide more time for CLECs to test new scenarios instead of putting CLECs in the position of having to repeat inadequate and flawed tests.

**BAYRING'S AND segTEL'S TESTING EXPERIENCE CORROBORATES
LIBERTY'S CONCLUSION THAT FAIRPOINT'S CLEC OSS IS NOT READY**

Liberty's November Report concludes that FairPoint has not demonstrated that it has satisfied any of the readiness criteria that apply to CLEC testing of FairPoint's OSS. It is most troubling that at this late date, the only criteria that FairPoint has not met concerns the systems that FairPoint makes available to its competitors. These criteria are :

- i. Have 100 percent of the tests been executed?

¹⁶ *Affidavit of Wendy Wilusz*, para. 12.

¹⁷ Pre-filed testimony of Kath Mullholland, pp. 6-15.

- ii. Are there no severity 1 defects and no severity 2 defects without manual work arounds?
 - iii. Does the cumulative effect of manual workarounds across all operational support system testing require additional workforce with equivalent headcount of no more than 50
 - iv. Do all defects have assigned target fix dates?
- i. *Have 100 percent of the tests been executed?*

At the outset, it must be understood that CLECs were not free to choose the transactions and scenarios they wanted to test, but were required to choose from a limited test-bed created by FairPoint.¹⁸ Liberty's November Report acknowledges that the "source test bed" data that can be used is "highly restricted, and flexibility in running the scenarios is very limited." BayRing and segTEL believe the "highly restricted" and narrow test bed for CLECs must be addressed for there to be adequate and nondiscriminatory testing.

Second, when BayRing began testing it was limited to two hour windows.¹⁹ This required BayRing to selectively test from the already small test bed created by FairPoint. As BayRing's Director of Operations, Wendy Wilusz, states in her Affidavit, "there was no way for BayRing to successfully navigate through all test scenarios in the given two-hour allotments, regardless of how many additional time slots were added. The error rate was higher than we expected, whether they were processing errors, access errors, or defects. This resulted in even less time to test."²⁰ Recently, FairPoint expanded the test window for three hours and BayRing intends to keep testing.²¹ Another example of the limitations placed on CLECs that do not appear to apply to FairPoint's internal testing occurred during the last round of testing. According to Ms. Wilusz, "FairPoint provided a conference bridge for support. Our staff was directed not to submit anything in an "error status," but rather to identify the error for the FairPoint support on the conference bridge, which, in turn,

¹⁸ *Id.*, para. 13.

¹⁹ *Id.*, para 14.

²⁰ *Id.*.

²¹ *Id.*.

resulted in instructions on how to force the system to accept the order so the error could be fixed.”

In addition to taking up additional time, which could have been used for testing, this process raises some question about the accuracy of testing results.

In order to satisfy this criterion, the Liberty Group believes FairPoint must:

- Add and allow the CLECs to execute additional test cases that would provide coverage of the scenarios that are most important for EDI users; this could be accomplished through the addition of seven new test cases which some EDI users have recommended and indicated that would meet their business needs and which Liberty understands FairPoint intends to introduce;
- Internally test or provide a means for CLECs to test all forms of EDI response messages, including those that can originate in the back-end systems, such as rejects, jeopardy notices, provisioning completion notices, and design layout records;
- Provide evidence to Liberty that the CLEC testing scenarios sufficiently mirror the historical range of wholesale transactions in the northern New England States.

BayRing and segTEL certainly agree that more work needs to be done to satisfy this criterion, but the problems that they have encountered apply to their experience using the webGUI interface. Accordingly, the Liberty Group’s recommendations concerning additional testing for EDI users alone are not sufficient. The problems with the lack of integrated systems functionality described by segTEL and the end-to-end testing for CLECs, restrictive test bed, time limitations, error rates and constraints described by BayRing apply equally to carriers that use the webGUI interface and not just with EDI users.

ii. Are there no severity 1 defects and no severity 2 defects without manual workarounds?

According to the Liberty Group’s Report, at page 14, as of November 9, there were eight open defects, none of which are severity 1 or 2 defect, and FairPoint reports that all of these defects have been fixed and are ready for retesting by the CLEC testers. It should be understood that

Liberty “relied principally on the [testing] results reported by Capgemini and Fairpoint.” Despite the fact that Liberty exposed the existence of inconsistent test results and errors in tester reporting, it relied heavily on Capgemini and FairPoint reported test results which were in direct conflict to the results that CLECs such as BayRing were reporting.²² These conflicting test results must be resolved through additional testing prior to the irrevocable notice of cutover.

BayRing’s testing, as controlled and limited as it has been, has revealed a number of specific problems with FairPoint’s OSS. For example, service responses do not list the features associated with installations of loops, or with hot cut and disconnect orders²³ Nor do they come with pair, cable and telephone number information or circuit reference. Nor do they indicate where the loop is installed or the customer’s name.²⁴ This is critical information that CLECs need.

Currently, Verizon’s systems permit CLECs to print and look at the actual order to determine if what the OSS has confirmed is what the CLEC ordered. BayRing understands FairPoint is working on this but no resolution has been provided to BayRing to date. The lack of a resolution creates excessive manual work and documentation.

The discussion in Liberty’s November Report pertaining to test results for billing is brief. It states that additional rounds of testing have occasionally revealed “minor” billing errors. However, BayRing believes that the ramifications of any billing errors needs to be closely scrutinized because the impact on CLECs and end-users can be highly problematic and extremely time-consuming to resolve. Customers lose faith quickly when they receive inaccurate bills. The impact on CLECs of receiving inaccurate wholesale bills could be overwhelming, depending on the number of disputes that are generated.

²² *Affidavit of Wendy Wilusz*, para. 18.

²³ *Id.*

²⁴ *Id.*

Liberty recommends that FairPoint modify its hot cut process to address the concerns raised by CLECs and provide an acceptable workaround by cutover and a more permanent solution after cutover.²⁵ BayRing supports this recommendation, but the permanent solution should be resolved prior to cutover.

Every time a UNE-loop provider, such as BayRing, wins a small business customer from the incumbent, the handoff from one local provider to the other requires a hot cut.²⁶ Hot cuts must be closely coordinated and the orders must be correct in all respects, or the result will be a service disruption, sometimes lasting a few minutes, and, depending on the type of error, sometimes lasting many hours. Service disruptions of this magnitude are not acceptable. BayRing has had good results with Verizon's WPTS hot cut process and would like to be able to continue using it or a FairPoint process that mirrors it.²⁷

Historically, BayRing has also had the use of a toll free hot cut support line (877HOTCUTS), which was utilized for 72 hours following the cut to avoid problems that can arise if a hot cut goes awry.²⁸ Verizon eliminated this feature several months ago and apparently FairPoint does not intend to offer it. The result is that if a customer is disconnected outside of FairPoint's RCCC's typical business hours, there is no recourse or support until normal business hours. A repair ticket cannot be generated because hot cut orders typically remain open within the RCCC system until accepted and closed, preventing a trouble ticket from being opened. If FairPoint were to adopt the current process with the CLEC OSS as tested, the process does not

²⁵ *Liberty's November Report*, p. 15.

²⁶ Affidavit of Wendy Wilusz, para. 21.

²⁷ *Id.*, para. 22.

²⁸ *Id.*

provide for an acceptable response and has the potential to result in extended down time for the customer.²⁹

In its *Supplemental Statement Concerning Notice of Cutover Readiness*, dated November 18, FairPoint has described a new hot cut process. BayRing has not had the opportunity to review the proposal in depth, but has briefly reviewed it and believes it may have merit.³⁰ BayRing would like the opportunity to test it to see if it works.³¹ Unfortunately, FairPoint's hot cut proposal does not address the after-hours issue described above.

iii Does the cumulative effect of manual workarounds across all operational support system testing require additional workforce with equivalent headcount of no more than 50?

Liberty cannot conclude that FairPoint has met this criterion at this time.

iv Do all the defects have assigned fix dates?

Liberty cannot conclude that FairPoint has met this criterion at this time.

CLECS HAVE ENCOUNTERED DEFICIENCIES WITH FAIRPOINT'S TRAINING

Liberty's November 2008 Report concludes that FairPoint has failed to demonstrate that its final version of training documentation has been completed, reviewed and approved and that it failed to demonstrate that it has completed all the training courses planned to date with 90 percent proficiency.³² In spite of the failure to meet this criteria, Liberty believes that FairPoint should be able to complete adequate training of its employees by the end of January. Liberty makes no reference to the status of FairPoint's training of CLEC personnel.

As described in paragraph 25 of the Affidavit of Wendy Wilusz, BayRing has encountered substantial difficulties with FairPoint's training:

²⁹ *Id.*

³⁰ *Id.*, para 23,

³¹ *Id.*

³² Liberty's November Report, page 23.

The training that FairPoint has provided to BayRing has been limited to resale and LNP orders. BayRing has not yet had the opportunity to explore the T-1 process. The Pre-order transaction training only covered Address Validations and reserving Telephone Numbers. Training on the extrapolation and reading of Customer Service Records to date has been neglected as has the instruction on how to read Loop Qualifications, and pull Directory Listing information using the FairPoint GUI. These skills are the foundation required in order to place an order with FairPoint. The lack of comprehensive training in the area of Directory Listings carries a year-long hardship for customers if the result is misprinted or omitted information.

Further, FairPoint's "train-the-trainer" sessions attended by BayRing's staff to address these areas demonstrated how to pull an address validation, however the result of following FairPoint's training instruction yielded a system failure due to the sample being populated with MD (Maryland) instead of ME (Maine).³³ This demonstrates a lack of attention to detail that has been consistent with what has been delivered to BayRing.³⁴

Finally, FairPoint's training does not appear to be well thought out and organized.³⁵ BayRing has found that the information used to populate the data fields is inaccurate or incomplete, causing their examples to "error out." This, in turn, requires manual intervention by FairPoint staff to push through the order to avoid the order form erroring out. BayRing employees are not benefiting from training that provides them a process and clear understanding of functionality.³⁶

**THE EMBARGO OF ORDERS, EXTENSION OF INTERVALS, AND 90 DAY
WAIVER OF THE PAP THAT FAIRPOINT HAS PROPOSED IN CONNECTION WITH
THE DARK PERIOD ARE ANTI-COMPETITIVE**

³³ *Id.*, para 26.

³⁴ *Id.*

³⁵ *Id.*, para 27.

³⁶ *Id.*

As noted in the Liberty's November status report, FairPoint has proposed a voluntary embargo of orders that would be due to complete during the so-called "dark period,"³⁷ which is currently scheduled to be from January 23 through January 30. FairPoint has also indicated in its Wholesale Cutover Communication Plan, dated, November 13, 2008, that it plans to request relief from the Maine, New Hampshire and Vermont regulatory agencies from any absolute interval requirements for the month in which Cutover begins, the month in which Cutover is completed, and the month following cutover completion.³⁸ BayRing and segTEL oppose Fairpoint's proposal because it tends to impede and delay the choice that customers have made to leave FairPoint in favor of other carriers. It also modifies the PAP which contains standard intervals. The Commission must not FairPoint to implement this anticompetitive proposal.

For all of the above reasons, BayRing and segTEL urge the Commission to prohibit FairPoint from issuing its nonrevocable notice of cutover until the Liberty Group is satisfied that FairPoint has complied with the cutover readiness criteria for CLEC testing.

Respectfully Submitted,

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Attorney for BayRing and segTEL

³⁷ The dark period is that period of time during which Verizon's systems have been shut off and FairPoint's systems are not yet up and running.

³⁸ *Affidavit of Wendy Wilusz*, para 32.