

THE STATE OF NEW HAMPSHIRE

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OFFICE OF THE CONSUMER ADVOCATE

21 S. FRUIT ST., SUITE 18
CONCORD, NEW HAMPSHIRE 03301-2429

May 18, 2007

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

CONFIDENTIAL
MATERIAL
IN COMM FILE

Re: DT 07-011 Verizon New England/FairPoint Communications
OCA's Second Motion to Compel FairPoint's Responses to Group I, Set 1, Data Requests

Dear Ms. Howland:

I enclose for filing with the Commission an original and seven copies of 1) a confidential version of the Office of Consumer Advocate's (OCA's) Motion to Compel FairPoint's Responses to Group I, Set 1, Data Requests; and 2) a redacted version of this motion.

By electronic mail, the OCA provided a copy of the redacted version of the motion to all parties in this docket. By mail, the OCA provided a copy of the confidential version of the motion to the individuals listed on the attached proprietary service list.

Please contact me with any questions. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Rorie E.P. Hollenberg".

Rorie E.P. Hollenberg
Staff Attorney

cc: service list (redacted version)
proprietary service list (confidential version)



Service List for Proprietary Information

PUC Staff 4 hard copies

John Antonuk, Liberty Consulting Group (PUC Consultant)

Victor Del Vecchio, Verizon General Counsel

Ellen Cummings, Verizon Communications

Steven Camerino, Counsel for Verizon

Frederick Coolbroth, Counsel for FairPoint Communications

Alexandra Blackmore, Counsel for NG

Gary Epler, Unitil General Counsel

Alan Mandl, Counsel for NECTA & Comcast

Scott Rubin, Counsel for Communication Workers of America

Scott Sawyer, Counsel for BayRing Communications, SegTEL & Otel Telekom

Alan Linder, NHLA

Gregory Kennan, Counsel for One Communications

Christopher Pollart, Counsel for NHEC

Robert Munnely Jr., Counsel for DSCI Corp

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BEFORE THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DT 07-011

VERIZON NEW ENGLAND, INC., BELL ATLANTIC COMMUNICATIONS, INC., NYNEX LONG DISTANCE CO., VERIZON SELECT SERVICES, INC., AND FAIRPOINT COMMUNICATIONS, INC.

Transfer of Assets to Fair Point Communications, Inc.

OFFICE OF CONSUMER ADVOCATE'S SECOND MOTION TO COMPEL FAIRPOINT'S RESPONSES TO GROUP I, SET 1, DATA REQUESTS

The Office of Consumer Advocate (OCA) respectfully requests that the N.H. Public Utilities Commission (Commission) compel FairPoint Communications, Inc. (FairPoint) to respond to certain Group I, set 1, data requests. In support, the OCA states the following facts and law:

I. Introduction

1. On January 31, 2007, Verizon New England (Verizon NE), Inc., Bell Atlantic Communications, Inc., NYNEX Long Distance Co., and Verizon Select Services, Inc. (collectively, Verizon) and FairPoint (together, Joint Petitioners) filed with the Commission a joint petition seeking approval of a series of transactions that, if consummated, would result in FairPoint (through subsidiaries) acquiring the current Verizon NE franchise to provide wireline telecommunications services in New Hampshire and owning the network Verizon NE currently uses to provide those services.
2. The Joint Petitioners request, *inter alia*,¹ a determination by the Commission that the proposed transactions are for the public good pursuant to RSA 374:30

¹ The Joint Petitioners also request that the appropriate subsidiary of FairPoint be designated an "eligible telecommunications carrier" pursuant to 47 U.S.C. §§ 254(e) and 214(e)(2) (concerning universal service assistance fund) for purposes of the affected service territory and that Verizon's current designation be rescinded. The Joint Petitioners further request that the Commission authorize Verizon NE to discontinue

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(governing transfers of utility franchises and assets), RSA 374:26 (governing authority to operate as a public utility), and, to the extent necessary, RSA 374:33 (governing transfers of 10 or more percent of ownership of a public utility).²

3. In determining whether the proposed transaction is in the public good, there is no “formulaic principle.”³ In doing so, the Commission “must exercise a measure of discretion.”⁴ The Commission’s resolution of opposing interests rests upon reasoned consideration of pertinent factors⁵ and must be made within the context of the current regulatory environment.⁶ As such, the public interest inquiry in this proceeding will require the Commission to examine a

service as a public utility in New Hampshire pursuant to RSA 374:28 (governing authority to discontinue providing service as a public utility).

² See, e.g., Appeal of Verizon New England, Inc., 153 N.H. 50, 62 (2005) (finding that Verizon failed to request, pursuant to RSA 374:30, Commission approval to transfer Yellow Pages business) citing Appeal of Public Serv. Co. of N.H., 124 N.H. 479, 483 (1984) (recognizing the “fact” that under RSA 374:30, all sales or transfers of regulated public utility property must be approved by the Commission after a finding that sales are for the public good); and Appeal of Legislative Utility Consumers’ Council, 120 N.H. 173, 174 (1980). See also, Appeal of Public Serv. Co. of N.H., 168 PUR 4th 596, 676 A2d 101 (1996) (concerning RSA 374:26); Re Merrimack County Telephone, 87 N.H. PUC 278, 281-282 (2002) (recognizing that RSA 374:33 requires the Commission to consider whether an acquisition “[is] in the public interest”, “provides net benefits to customers” and “is in the public good”); and Re Aquarion Water Company of New Hampshire 2006 WL 3326670 (N.H.P.U.C. Oct 31, 2006) (NO. 24,691, ID 149733) (reviewing transaction under public interest and public good standards of RSA 374:33 and RSA 374:30, respectively).

³ Re PSNH Proposed Restructuring Settlement, 85 N.H. PUC 125, 241 (2000) set aside on unrelated grounds, 89 N.H. PUC 294 (2004). See also, New England Tel. & Tel. Co. v. State, 95 N.H. 353, 364 (1949) (neither statutes nor the decisions of court require that the Commission use a particular formula or a combination of formulas in performing its statutory duty of determining whether rates are just and reasonable among themselves as well as in total); and New England Tel. & Tel. Co. v. State, 104 N.H. 229, 234 (1962) (Commission not compelled to use specific formula in setting rates).

⁴ Re Concord Electric Company, 87 N.H.P.U.C. 595, 606-607 (2002) (in the context of divestiture of generation plant or supply portfolios).

⁵ See Appeal of Conservation Law Foundation of New England, Inc. et al., 127 N.H. 606, 616 (1986), citing Permian Basin Area Rate Cases, 390 U.S. 747, 792 (1968) (reviewing court “obliged to study the record carefully in order ‘to assure [itself] that the [c]ommission has given reasoned consideration to each of the pertinent factors’ upon which the responsible derivation of policy and resolution of opposing interests must rest”).

⁶ See Re Public Serv. Co. of N.H., 89 N.H.P.U.C. 70, 96 (2004) (RSA 369-B:3-a analysis done within the context of “the evolution of the electric industry in New Hampshire from an environment where investments in generation were subject to traditional rate regulation - i.e., where all prudently incurred and reasonable expenses were recovered - to one in which market forces alone will determine cost recovery for investments in generation).

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variety of circumstances and factors, including information available to and utilized by the company during its consideration of the acquisition and merger.⁷

4. The OCA, as a statutory party to the docket, is charged with ensuring that the interests of residential ratepayers are represented in the docket,⁸ and, to do so, must undertake intensive analyses of how those interests will be impacted by the proposed acquisition and merger. In order for these analyses to occur, a wide range of information must be available and considered. Some of the most important information to be considered is that utilized to inform senior management and board members during the acquisition process. This information has the greatest assurance of being complete and free of “spin” due to fiduciary, legal and business responsibilities of senior management.
5. On March 16, 2007, the Commission issued the procedural schedule.⁹

⁷ See, e.g., Re PSNH Proposed Restructuring Settlement, 85 N.H.P.U.C. at 241-242 (public interest determination requires Commission to strike a balance between the utility and its customers); Re New Hampshire Public Utilities Commission Statewide Electric Utility Restructuring Plan, 143 N.H. 233, 236 (1998) (public interest test as enunciated by the Restructuring Act: whether the level of stranded cost recovery is “equitable, appropriate, and balanced.”); Re Public Service Co. of New Hampshire, 83 N.H.P.U.C. 278 (1998) (Commission’s finding that renegotiated rates paid by PSNH to wood-fired generators were not in the public interest required balancing of savings achieved for ratepayers against the costs and risks shifted from PSNH and the wood-fired generators, in addition to consideration of the economic impact upon the state, the community impact, enhanced energy security by utilizing mixed energy sources, including indigenous and renewable electrical energy production, and the potential environmental and health-related impacts); Grafton Electric Company v. State, 77 N.H. 539, 542 (1915) (“public good” finding required by statute requiring Commission approval of utility’s issuance of securities equated to “reasonable taking all interests into consideration.”); Re Connecticut Light and Power Co., 84 N.H.P.U.C. 634 (1999) (finding that allowing the generating assets in question to be an eligible facility will be beneficial to consumers and is in the public interest because the assets in question are being transferred to an entity that will be engaged in the competitive electricity market in New England, and the development and growth of that market is in the interest of New Hampshire electric customers).

⁸ RSA 363:28.

⁹ Order 24,733, March 16, 2007, pp. 6-7, and 20.

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6. Pursuant to the procedural schedule, the OCA propounded data requests to FairPoint on April 6, 2007. These data requests concerned Group I, Transactional and Financial Issues.¹⁰
7. On April 27, 2007, the OCA received FairPoint's responses to all of these data requests except: OCA 1-8, 1-16, 1-18, 1-19, 1-20, 1-21, 1-22, 1-26, 1-27, 1-28, 1-30, 1-34, 1-37, 1-47, 1-114 and 1-115.¹¹
8. On May 1, 2007, the OCA received FairPoint's response to OCA 1-8.
9. Of these responses received from FairPoint, the OCA has identified 24 that are incomplete, erroneous or not responsive: OCA 1-1, 1-15, 1-31, 1-35, 1-36, 1-37, 1-38, 1-40, 1-41, 1-42, 1-43, 1-44, 1-48, 1-51, 1-59, 1-60, 1-76, 1-96, 1-101, 1-112, 1-113, 1-114, 1-115, and 1-130(proprietary version).
10. Additionally, the OCA has identified a portion of a confidential attachment (CFPNH 0170-0189), which appears to contain overbroad redactions.
11. Between May 9 and May 17, the OCA provided FairPoint written summaries of its concerns about these data requests and, in good faith, engaged in discussions with FairPoint in an attempt to avoid the filing of a motion to compel. Puc 203.09(i)(4).
12. As a result of these exchanges, the OCA and FairPoint resolved, at least for the time being, the OCA's concerns about the following data responses, and in most cases, the company has agreed to provide supplemental responses to the

¹⁰ Staff Report of Technical Session held on February 27, 2007, dated March 5, 2007.

¹¹ The OCA's Motion to Compel FairPoint's Responses to Data Requests dated April 20, 2007, included all of these data requests. The request to compel OCA 1-47, however, was an error (*i.e.*, the OCA does not seek to compel FairPoint's response to this data request). In lieu of a hearing on the OCA's April 20 motion to compel, the OCA and FairPoint reached an agreement on the remaining disputed data requests (*i.e.*, OCA 1-4, 1-8, 1-13, 1-14, 1-16, 1-17, 1-18, 1-19, 1-20, 1-21, 1-22, 1-23, 1-24, 1-25, 1-26, 1-27, 1-28, 1-30, 1-34, 1-114 and 1-115).

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following data requests: OCA GI 1-1, 1-24, 1-31, 1-35, 1-36, 1-37, 1-40, 1-41, 1-42, 1-48, 1-51, 1-59, 1-60, 1-76, 1-96, 1-101, 1-112, 1-113, 1-114, 1-115, and 1-130. Also, FairPoint has agreed to supplement the disputed pages of its confidential attachment. Pending the review of these responses, the OCA reserves its rights to further compel responses from FairPoint concerning these data requests and confidential attachment.

13. In spite of these exchanges, differences between the OCA and FairPoint still exist.
14. Consequently, the OCA seeks to compel complete responses of FairPoint to the following data requests: OCA GI 1-15, 1-38, 1-43, and 1-44.¹²

II. Standard of review – discovery

15. The scope of discovery in Commission proceedings is broad and extends to information that is relevant to the proceeding or reasonably calculated to lead to the discovery of admissible evidence. See Re Public Service of New Hampshire, 86 NH PUC 730, 731 (2001) (citation omitted); and Re Public Service Company of New Hampshire, 89 NH PUC 226, 229 (2004) (citation omitted).
16. The Commission will deny discovery requests only when it “can perceive of no circumstance in which the requested data will be relevant.” Re Public Service of New Hampshire, 86 NH PUC at 731-732; and Re Public Service Company of New Hampshire, 89 NH PUC at 229.

¹² Attachment A.

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17. The underlying purpose of discovery in legal proceedings is to reach the truth. See Scontsas v. Citizens Insurance Co., 109 N.H. 386, 388 (1969), citing Hartford Accident &c. Co. v. Cutter, 108 N.H. 112, 113 (1967).
18. A party in a legal proceeding in New Hampshire is entitled to “be fully informed and have access to all evidence favorable to his side of the issue. This is true whether the issue is one which has been raised by him or by his opponents and whether the evidence is in the possession of his opponent or someone else.” Scontsas v. Citizens Insurance Co., 109 N.H. at 388.
19. “If a party is surprised [at trial] by the introduction of evidence or an issue or the presentation of a witness previously unknown to him, the trier of fact is likely to be deprived of having that party's side of the issue fully presented, and the system becomes less effective as a means of discovering the truth.” Id.
20. Likewise, the Commission has recognized the “liberality of the applicable discovery rule.” Re Public Service of New Hampshire, 86 NH PUC at 732.

III. FairPoint’s incomplete, incorrect and non-responsive responses

A. OCA 1-15

21. OCA 1-15 requested, in pertinent part, documents provided by FairPoint¹³ to Lehman Brothers in connection with its role as a financial advisor.
22. FairPoint objected to this request, but agreed to provide some response.¹⁴
23. The OCA reserved its rights to seek to compel a further response following the receipt of FairPoint’s response.¹⁵

¹³ The request of FairPoint to provide documents provided by Verizon to Lehman Brothers was an error.

¹⁴ The OCA hereby adopts and incorporates by reference its responses to FairPoint’s general objections, as stated in the OCA’s Motion to Compel FairPoint’s Responses to Data Requests, dated April 20, 2007, pp. 6-9.

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24. In its response, FairPoint provided no documents but indicated that Lehman Brothers “was engaged to provide financial advisory services related to the proposed transaction, including, but not limited to, assistance with due diligence, financial projections, and financing strategies” (emphasis added).
25. The OCA seeks to compel documents provided by FairPoint to Lehman Brothers associated with each of these three areas.
26. These documents are likely to lead to the discovery of admissible evidence. However, without having seen the documents it is not possible to state specifically what that evidence will be.
27. FairPoint would have provided to Lehman Brothers substantial financial and operational information of the company to facilitate performance of Lehman Brothers’ duties in the due diligence, financial projections and analysis, and financial strategies areas. *See* response to OCA I-1-15, and *****BEGIN PROPRIETARY***** *****END PROPRIETARY***** provided in the HSR materials.¹⁶
28. Based upon information and belief, these documents will likely address a number of matters pertinent to the public interest considerations associated with this proposed acquisition and merger, including the extent to which FairPoint’s proposed debt associated with the acquisition increased or decreased during the course of its negotiations with Verizon. This information is important in the Commission’s public interest determination because of FairPoint’s characteristic as a “high debt/high dividend” RLEC.

¹⁵ OCA’s Motion to Compel FairPoint’s Responses to Data Requests, dated April 20, 2007, pp. 4-5.

¹⁶ Attachment A and Proprietary Attachment A.

REDACTED

The higher the debt leverage and dividend, the greater the likelihood of a “financially distressed” utility in the future.

29. In addition, these documents will allow the parties and the Commission to trace or compare model results to the actual accounting and financial data to illustrate gaps if any between financial model results presented by the Leach testimony and actual accounting data. Such information is pertinent to the Commission’s public interest determination because it is necessary to test and assess the accuracy of the financial projections upon which the asserted financial viability rests, and to illuminate any assumptions and going forward changes in revenues or expenditures assumed by the company.
30. FairPoint’s continued refusal to produce documents such as these in this proceeding raises significant concerns about selective production of documents and information, and fosters an impression that there is something the company wishes to hide from view of the parties and the Commission.

B. OCA 1-38

31. OCA 1-38, in pertinent part, requested copies of cash flow analyses showing post-transaction projected cash flows for FairPoint.
32. FairPoint objected to this request, but during informal discussions prior to the OCA’s filing of its April 20th motion to compel, FairPoint agreed to provide some response to this data request.¹⁷
33. The OCA reserved its rights to seek to compel a further response following the receipt of FairPoint’s response.¹⁸

¹⁷ The OCA hereby adopts and incorporates by reference its responses to FairPoint’s general objections, as stated in the OCA’s Motion to Compel FairPoint’s Responses to Data Requests, dated April 20, 2007, pp. 6-9.

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34. In response, FairPoint provided limited documents related to its financial model, and nothing pertaining to the work of the retained investment advisors.
35. FairPoint has spent substantial sums for investment advisory services from Lehman Brothers, Morgan Stanley, and Deutsche Bank. These firms were retained to perform due diligence, produce financial projections and analyses, and address financial strategies. The financial projections would have focused on cash flows, which is the focus of this question, and is essential to assessing the financial viability of the new entity going forward. Clearly these investment advisors would have produced substantive documents, presentations and reports to FairPoint from time to time in the acquisition evaluation process addressing or evaluating the crucial topic of projected cash flow, since January 2006.
36. The OCA is willing to limit its request to include all output documents (*e.g.*, presentations and reports) of the three investment advisors (Lehman Brothers, Deutsche Bank and Morgan Stanley), back to January 2006, that were provided to FairPoint.
37. These documents are likely to lead to the discovery of admissible evidence. However, without having seen the documents, it is not possible to state specifically what the evidence will be.
38. These documents relate to financial analyses of FairPoint, including the critical financial metric of free cash flow, upon which the financial viability of the new entity rest. This information is pertinent to the Commission's public

¹⁸ OCA's Motion to Compel FairPoint's Responses to Data Requests, dated April 20, 2007, p. 18.

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interest determination because of FairPoint's characteristic as a "high debt/high dividend" RLEC. The higher the debt leverage and dividend, the greater the likelihood of a "financially distressed" utility in the future.

39. The undertakings which FairPoint seeks approval for will require significant amounts of cash flow.
40. For the proposed transaction to be in the public interest, Commission must be satisfied that FairPoint has the financial resources to fulfill these undertakings.
41. Without access to analyses by FairPoint and its investment advisors showing post-transaction projected cash flows for FairPoint, the parties and Commission will be unable to adequately test FairPoint's representations and abilities in this regard.
42. FairPoint would have the parties and Commission believe that the only materials available for discovery and consideration are those related to the "deal as struck," which FairPoint dates as on or after January 14, 2007, the date that its Board of Directors approved the "deal as struck." As such, FairPoint would have the parties and the Commission scrutinize the proposed merger and acquisition in a vacuum based on materials from one meeting.
43. However, the proposed merger and acquisition was the product of a *process* which took place over many, many months prior to the Board's official blessing. To say that the information considered and the documents created before then do not relate to the Commission's public interest determination is unreasonable and incorrect.
44. The "deal as struck" developed within the context of the information presented, reviewed or considered by FairPoint before the January 14th

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approval. Allowing FairPoint to limit its responses to post-January 14, 2007 information and documents would allow it to make arbitrary and self-serving distinctions about what documents pertaining to the acquisition they will or will not produce, to the detriment of the parties and the Commission, and, ultimately, the public interest.

45. We have an interest in avoiding FairPoint's selectivity and seeing the native documents in their entirety. The existing protective agreement addresses any confidentiality concerns and considerations.
46. These types of documents have been provided in other states' proceedings without the necessity of a motion to compel. *See, e.g.*, Application for Approval of the Transfer of Control of Alltel Kentucky, Inc. and Kentucky Alltel, Inc., case no. 2005-00534, before the Kentucky Public Service Commission.

C. OCA 1-43

47. OCA 1-43 requested copies of documents relating to the work performed by investment advisors for FairPoint regarding acquisition of the Verizon New England properties.
48. FairPoint objected to this request, but during informal discussions prior to the OCA's filing of its April 20th motion to compel, FairPoint agreed to provide some response to this data request.¹⁹
49. The OCA reserved its rights to seek to compel a further response following the receipt of FairPoint's response.²⁰

¹⁹ The OCA hereby adopts and incorporates by reference its responses to FairPoint's general objections, as stated in the OCA's Motion to Compel FairPoint's Responses to Data Requests, dated April 20, 2007, pp. 6-9.

REDACTED

50. In response, FairPoint provided “materials concerning the January 14, 2007 proposal to FairPoint’s Board of Directors.”
51. FairPoint has spent substantial sums for investment advisory services from Lehman Brothers, Morgan Stanley, and Deutsche Bank. These firms were retained to perform due diligence, produce financial projections and analyses, and address financial strategies. Clearly these investment advisors would have produced substantive documents, presentations and reports to FairPoint from time to time in the acquisition evaluation process addressing or evaluating the crucial topic of projected cash flow, since January 2006.
52. The OCA hereby incorporates by reference paragraphs 36 through 46, *infra*.

D. OCA 1-44

53. OCA 1-44 requested, in pertinent part, copies of all presentations to FairPoint's Board of Directors or any of its committees or working groups, “concerning the purchase of the Verizon land lines in Maine, New Hampshire and Vermont.”
54. FairPoint objected to this request, but agreed to provide some response.²¹
55. The OCA reserved its rights to seek to compel a further response following the receipt of FairPoint’s response.²²
56. In response, FairPoint provided only materials related to a Board meeting on January 14, 2007.

²⁰ OCA’s Motion to Compel FairPoint’s Responses to Data Requests, dated April 20, 2007, pp. 18-19.

²¹ The OCA hereby adopts and incorporates by reference its responses to FairPoint’s general objections, as stated in the OCA’s Motion to Compel FairPoint’s Responses to Data Requests, dated April 20, 2007, pp. 6-9.

²² OCA’s Motion to Compel FairPoint’s Responses to Data Requests, dated April 20, 2007, pp. 4-5.

REDACTED

57. The OCA is willing to limit its request to the period of time after January 2006. Additionally, the OCA is willing to have FairPoint, in the first instance, produce a list of documents that would be responsive to this request. Such a list should indicate the name of the document, the date of its creation, the author and his or her title.
58. This data request seeks some of the most important information that must be analyzed in this case in making a determination of whether the proposed transaction is in the public interest. The information that was utilized to inform senior management and board members during the acquisition process can provide the clearest view of the main issues in the transaction, and the potential impact on the company and its ratepayers. This information also has the greatest assurance of being complete and free of “spin” due to fiduciary, legal and business responsibilities of senior management.
59. The OCA hereby incorporates by reference paragraphs 42 through 45, *infra*.

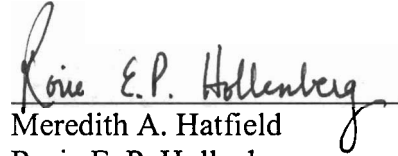
IV. Relief requested

Wherefore, the OCA respectfully requests the Commission to provide the following relief:

- A. Compel FairPoint’s responses to OCA Group I data requests: OCA GI 1-15, 1-38, 1-43, and 1-44; and
- B. Grant such other relief as justice requires.

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Respectfully submitted,

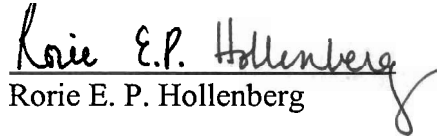


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was forwarded this day to the parties by electronic mail.

May 18, 2006


Rorie E. P. Hollenberg

FairPoint Communications, Inc.
State of New Hampshire
Docket No. DT 07-011

Respondent: Walter E. Leach, Jr.
Title: Executive Vice President,
Corporate Development

REQUEST: Office of Consumer Advocate
Group I, Set 1

DATED: April 5, 2007

ITEM: OCA 1-15 **The S-4 states:** "On March 20, 2006, FairPoint engaged Lehman Brothers as a financial advisor in connection with a proposed transaction with Verizon." Provide any and all documents provided by FairPoint and/or Verizon to Lehman Brothers in connection with its role as a financial advisor and describe fully the scope of Lehman Brother's engagement.

REPLY: **OBJECTION:** FairPoint objects to Data Request 1-15 to the extent it seeks confidential or proprietary information of a third party which FairPoint is not authorized to disclose. In addition, FairPoint objects to Data Request 1-15 on the grounds that it is overbroad, unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection FairPoint will provide information concerning the scope of Lehman Brother's engagement. [Objection served April 13, 2007.]

Lehman Brothers was engaged to provide financial advisory services related to the proposed transaction, including, but not limited to, assistance with due diligence, financial projections, and financing strategies.

FairPoint Communications, Inc.
State of New Hampshire
Docket No. DT 07-011

Respondent: Walter E. Leach, Jr.
Title: Executive Vice President,
Corporate Development

REQUEST: NHPUC Staff
Group I, Set 1

DATED: April 6, 2007

ITEM: Staff 1-118 Refer to the testimony of Walter Leach, pages 19 and 20. Please provide the financial forecast used by FairPoint management and its Board of Directors to establish a value for the Spinco assets. Provide the full model through 2015, with all supporting schedules, assumptions and work papers.

REPLY: **OBJECTION:** FairPoint objects to Data Request 1-118 on the grounds that it is overbroad and seeks some of FairPoint's most confidential and proprietary information, and that the request may seek confidential or proprietary information of a third party which FairPoint is not authorized to disclose. [Objection served April 13, 2007.]

With respect to Data Responses 1-72, 1-73, 1-95, 1-99, 1-100, 1-118, 1-119, 1-120, 1-121, 1-122, 1-123, 1-124 and 1-125, subject to and without waiving its objections, upon discussions with Staff during the week of April 18, 2007, FairPoint has agreed to provide the following information:

- a. outputs, supporting schedules, assumptions and work papers for the base case for FairPoint's management's recommendations to FairPoint' Board of Directors on January 14, 2007;
- b. any sensitivity analyses with supporting schedules, assumptions and work papers prepared in conjunction with (a) above;
- c. the financial forecast used by FairPoint management and Board of Directors to establish a value for the Spinco assets;

FairPoint Communications, Inc.
State of New Hampshire
Docket No. DT 07-011

Respondent:
Title:

REQUEST: Office of Consumer Advocate
Group I, Set 1

DATED: April 5, 2007

ITEM: OCA 1-43 **Provide copies** of documents relating to the work performed by investment advisors for FairPoint regarding acquisition of the Verizon New England properties.

REPLY: **OBJECTION:** FairPoint objects to Data Request 1-43 on the grounds that it seeks information protected by the attorney-client privilege and attorney work product doctrine, and that it is not reasonably calculated to lead to the discovery of admissible evidence. In addition, FairPoint objects to Data Request 1-43 on the grounds that it seeks information proprietary to third parties not under the control of FairPoint.
[Objection served April 13, 2007.]

Without waiving its objection, based on discussions with the OCA during the week of April 18, 2007, FairPoint believes that it is providing information responsive to this Data Request among the materials concerning the January 14, 2007 proposal to FairPoint's Board of Directors.

Proprietary Attachment A

REDACTED