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June 27, 2016

VIA ELECTRONIC FILING

Matthew DelNero, Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: WC Docket Nos. 12-61, 07-204, 07-21

Dear Mr. DelNero:

Pursuant to the *US Telecom Forbearance Order*, the enclosed Cost Assignment Compliance Plan is submitted for FairPoint Communications, Inc.'s price cap local exchange carriers ("Price Cap LECs"). Please direct any questions regarding this filing to me.

Respectfully submitted,

A handwritten signature in blue ink that reads "Michael T. Skrivan".

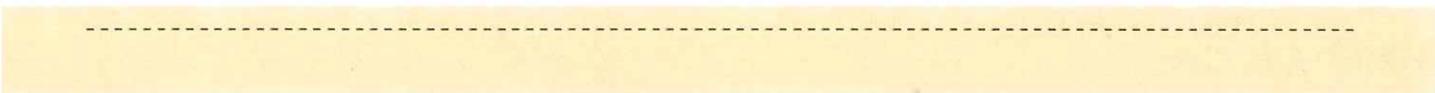
Michael T. Skrivan

Enclosure

cc: Deena Shetler, Deputy Chief, Wireline Competition Bureau  
Pamela Arluk, Chief, WCB Pricing Policy Division

FAIRPOINT COMMUNICATIONS, INC.  
COST ASSIGNMENT FORBEARANCE COMPLIANCE PLAN

JUNE 27, 2016



FairPoint Communications  
Cost Assignment Forbearance Compliance Plan

I. Introduction and Summary

FairPoint Communications, Inc. (“FairPoint”) files this Cost Assignment Forbearance Compliance Plan (the “Plan”) to take advantage of the regulatory relief granted to price cap local exchange carriers (“LECs”) in the Commission’s *US Telecom Forbearance Order*.<sup>1</sup> The Plan is applicable to the eight FairPoint Price Cap LECs:

- China Telephone Company
- FairPoint Vermont, Inc.
- Maine Telephone Company
- Northern Telephone Company of Maine, Inc.
- Northern New England Telephone Operating Company LLC
- Sidney Telephone Company
- Standish Telephone Company
- Telephone Operating Company of Vermont LLC

The Plan describes how the FairPoint Price Cap LECs will comply with the continuing accounting and record-keeping requirements under the Communications Act and the Commission’s rules, and satisfy the conditions contained in the *US Telecom Forbearance Order*. The Plan resembles other approved plans filed by AT&T, Verizon, Qwest,<sup>2</sup> CenturyLink,<sup>3</sup> Windstream,<sup>4</sup> Cincinnati Bell,<sup>5</sup> Frontier,<sup>6</sup> and Hawaiian Telcom.<sup>7</sup> The Plan includes the following components:

<sup>1</sup> *Petition of US Telecom for Forbearance Under 47 U.S.C. §160(c) from Enforcement of Certain Legacy Telecommunications Regulations*, Memorandum Opinion and Order, 28 FCC Rcd 7627, 7651-53 (2013).

<sup>2</sup> *Wireline Competition Bureau Approves Compliance Plans*, 23 FCC Rcd 18417 (2008).

<sup>3</sup> *Wireline Competition Bureau Approves CenturyLink Compliance Plan*, 29 FCC Rcd 3158 (2014).

<sup>4</sup> *Wireline Competition Bureau Approves Windstream Compliance Plan*, 29 FCC Rcd 10093 (2014).

<sup>5</sup> *Wireline Competition Bureau Approves Cincinnati Bell Compliance Plan*, 30 FCC Rcd 2323 (2015).

<sup>6</sup> *Wireline Competition Bureau Approves Frontier Compliance Plan*, WC Docket Nos. 12-61, 07-204, 07-21, Public Notice DA 15-1162 (Wireline Competition Bur. Oct. 9, 2015).

- a. A description (Section II) of how the FairPoint Price Cap LECs will maintain their accounting procedures and accounting data so that they will be able to provide information in a timely manner, if requested by the Commission, to comply with the conditions of the *US Telecom Forbearance Order*.
- b. A description (Section III) of the procedures the FairPoint Price Cap LECs will follow to ensure compliance with Section 254(k) of the Communications Act, together with a certification executed by a FairPoint executive attesting that the FairPoint Price Cap LECs will comply with the requirements of Section 254(k) in the absence of Commission cost assignment rules, and provide to the Commission information necessary to establish such compliance upon receipt of an appropriate request.<sup>8</sup> FairPoint also will designate a single point of contact for Section 254(k) compliance.
- c. A description (Section IV) of the transition process that the FairPoint Price Cap LECs will undertake to implement the procedures set forth in this Plan.

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<sup>7</sup> *Wireline Competition Bureau Approves Hawaiian Telcom Compliance Plan*, WC Docket Nos. 12-61, 07-204, 07-21, Public Notice DA 16-32 (Wireline Competition Bur. Jan. 12, 2016).

<sup>8</sup> At this time, FairPoint does not seek to take advantage of forbearance from the separate affiliate requirement under 47 C.F.R. §64.1903, also granted in the *US Telecom Forbearance Order*. See *US Telecom Forbearance Order*, 28 FCC Rcd at 7691. Thus, FairPoint will continue to comply with independent obligations unaffected by the cost assignment forbearance granted in that order. In the future, if FairPoint decides to take advantage of the separate affiliate forbearance granted in the *US Telecom Forbearance Order*, FairPoint will file a separate compliance plan addressing the conditions for that relief.

FairPoint respectfully requests that the Wireline Competition Bureau promptly approve this Plan so that the FairPoint Price Cap LECs may avail themselves at the earliest possible date of the relief from the cost assignment rules that the Commission granted to price cap carriers in the *US Telecom Forbearance Order*.

II. Plan for Maintenance of Accounting Procedures and Data for Future FCC Use Upon Request

In the *US Telecom Forbearance Order*, the Commission conditioned its cost assignment forbearance upon a requirement that price cap LECs “continue complying with the Part 32 Uniform System of Accounts [USOA] rules...and...provide Part 32 data on request by the Commission for use in rulemaking, adjudications, or for other regulatory purposes.”<sup>9</sup> In doing so, the Commission noted, “Part 32 USOA data are the underlying raw data used in the Cost Assignment rules.”<sup>10</sup>

The FairPoint Price Cap LECs propose a five-part plan for continued compliance with the remaining Part 32 USOA rules and maintenance of their accounting procedures and data in a manner that will allow the FairPoint Price Cap LECs to provide useable information on a timely basis in the event that the Commission determines in the future that it needs allocated accounting cost data to serve a regulatory purpose.

First, the FairPoint Price Cap LECs will continue to maintain USOA books of account that include account-specific investment, expense and revenue data for Part 32 accounts. Specifically, the FairPoint Price Cap LECs will continue to record incumbent LEC (“ILEC”) investment, expense

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<sup>9</sup> *US Telecom Forbearance Order*, 28 FCC Rcd at 7651.

<sup>10</sup> *US Telecom Forbearance Order*, 28 FCC Rcd at 7651.

and revenue information into their general ledgers and other accounting records as necessary to create and prospectively maintain accounting data in conformity with the Part 32 account structure. All of this data will remain available for inspection by the Commission or for reporting to the Commission by the FairPoint Price Cap LECs for regulatory purposes, consistent with the Commission's policies on records retention.

Second, the FairPoint Price Cap LECs will maintain their most recent cost allocation results, including a calculation of corresponding ratios by USOA account for regulated/non-regulated, state/interstate, and each Part 69 rate element, using data from the calendar year immediately preceding the date on which the Bureau approves the Plan. If the Commission were to request this cost allocation information or associated data in the future, the FairPoint Price Cap LECs would provide the information using the aforementioned ratios while reserving the right to update the ratios to track significant accounting or regulatory changes that might occur after the Plan is approved. In evaluating whether to undertake such an update, the FairPoint Price Cap LECs would assess the reliability of the existing ratios and the relative burden of updating them.

Third, in the event the Commission appropriately seeks allocated cost information needed for a federal regulatory purpose beyond the data that can be derived from the preserved information described above, the FairPoint Price Cap LECs would – to the extent not unreasonably burdensome – perform special economic cost studies to respond to such a request.

Fourth, in connection with the commitments listed above, the FairPoint Price Cap LECs will retain data and documentation sufficient to describe their present accounting methods and cost allocation procedures. This commitment includes retaining any training materials, guidelines and

systems documentation relevant to cost allocation as of the date the Plan is approved. Such documentation will be assembled and maintained by one or more individuals who are familiar with the cost allocation subject matter. The FairPoint Price Cap LECs likewise will maintain in an electronic medium the systems, spreadsheets and software necessary for cost assignment purposes.

Finally, with respect to affiliate transactions (specifically, 47 C.F.R. §32.27), the FairPoint Price Cap LECs prospectively will record and price such transactions in accordance with Generally Accepted Accounting Principles (“GAAP”) or other appropriate accounting standards that may modify or replace GAAP in the future. The FairPoint Price Cap LECs also will apply this approach to transactions between any of the FairPoint Price Cap LECs and any of their affiliates that are subject to FCC rule Section 64.1903,<sup>11</sup> such as the sharing of personnel, for example. This approach would comply with the intent of the rule to ensure that regulated operations do not subsidize non-regulated operations. The FairPoint Price Cap LECs also will retain sufficient data and documentation of their present accounting methods and procedures for affiliate transactions. This commitment includes retaining any necessary training materials, guidelines and systems documentation existing as of the date the Plan is approved. Such documentation will be assembled and maintained by one or more individuals who are familiar with the affiliate transaction subject matter.

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<sup>11</sup> 47 C.F.R. §64.1903.

III. Annual Certification and Compliance With Section 254(k)

The *US Telecom Forbearance Order* also conditions cost assignment forbearance upon a requirement that price cap LECs “certify, on an annual basis, that they have complied with Section 254(k) of the Act, and will maintain and provide any requested cost accounting information necessary to prove such compliance in the event of an administrative action, investigation or audit.”<sup>12</sup>

As required, the FairPoint Price Cap LECs’ first annual certification attesting to its compliance with Section 254(k) of the Communications Act in the absence of cost assignment rules is attached to this Plan. This certification is signed by Kevin O’Quinn, Senior Director, Regulatory Financial Reporting & Taxes, who also attests that the FairPoint Price Cap LECs will provide information to the Commission necessary to establish Section 254(k) compliance upon appropriate request.

The Commission has already determined that an annual certification is a suitable indicator of compliance for some carriers.<sup>13</sup> As such, the attached certification itself largely satisfies the obligations of the FairPoint Price Cap LECs under Section 254(k) and the conditions of forbearance set forth in the *US Telecom Forbearance Order*.

Section 254(k) provides that a “telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition.”<sup>14</sup> The Commission has indicated that this requirement is intended to prevent ILECs from gaining an unfair advantage in

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<sup>12</sup> *US Telecom Forbearance Order*, 28 FCC Rcd at 7652 (footnote omitted).

<sup>13</sup> See 47 C.F.R. §64.905.

<sup>14</sup> 47 U.S.C. §254(k).

markets for services that are competitive by assigning excessive costs to non-competitive services.<sup>15</sup> The Commission's price cap regime reduces any incentive to assign excessive costs to non-competitive services because price caps "severs the direct link between regulated costs and prices," and restricts price increases, "reducing incentives to shift non-regulated costs to regulated services."<sup>16</sup>

Thus, because the FairPoint Price Cap LECs are regulated under the Commission's price cap regime, they already have reduced incentives to shift excessive costs to services that might be considered non-competitive. Nevertheless, the FairPoint Price Cap LECs will continue to comply with Section 254(k) and will not allocate excessive costs to non-competitive services, as verified in the attached certificate.

Further, the Commission retains authority to investigate the FairPoint Price Cap LECs' compliance with Section 254(k). As of the date of approval of the Plan, the FairPoint Price Cap LECs will designate a single point of contact for Section 254(k) compliance, to ensure that relevant FairPoint personnel are aware of and adhere to the obligations of the FairPoint Price Cap LECs under Section 254(k).

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<sup>15</sup> See *Implementation of Section 254(k) of the Communications Act of 1934*, Order, 12 FCC Rcd 6415 (1997). See also *Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities*, CC Docket No. 86-111, Report and Order, 2 FCC Rcd 1298, 1300, recon. 2 FCC Rcd 6283 (1987), further recon. 3 FCC Rcd 6701 (1988), *aff'd sub nom. Southwestern Bell Corp. v. FCC*, 896 F.2d 1378 (D.C. Cir. 1990).

<sup>16</sup> *US Telecom Forbearance Order*, 28 FCC Rcd at 7649 (citations omitted).

#### IV. Forbearance Transition Schedule

The FairPoint Price Cap LECs intend to implement the forbearance granted in the *US Telecom Forbearance Order* as soon as possible following the Bureau's approval of this Plan. The relief requested herein will help the FairPoint Price Cap LECs move toward accounting systems that are more in keeping with those used by competitive businesses. To that end, the FairPoint Price Cap LECs have already reviewed their accounting systems and cost assignment processes in light of the forbearance from the cost assignment rules granted in the *US Telecom Forbearance Order*. In addition, the FairPoint Price Cap LECs have reviewed and evaluated the *US Telecom Forbearance Order* with their subject-matter experts, and the companies expect to begin implementing the requested relief immediately upon the Bureau's approval of this Plan. Forbearance will allow the FairPoint Price Cap LECs to immediately discontinue performing certain cost assignment activities that have no place in today's telecommunications market under the Commission's price cap regime.

Regarding the preservation of accounting material and data for future use by the Commission, the FairPoint Price Cap LECs' subject-matter experts from their finance, legal, compliance and information technology groups will work together to implement the compliance measures described above, beginning upon approval of this Plan.

Except as otherwise described in the Plan or as may be required by state law, the FairPoint Price Cap LECs (a) will not prepare any cost allocation results under forbore rule Sections 32.23 and 32.5280, and Parts 36, 64 and 69 of the Commission's rules, nor perform attendant studies

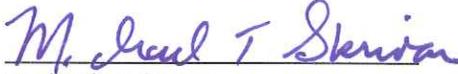
used to determine allocation ratios, effective immediately upon the Bureau's approval of the Plan; and (b) will begin the transition away from the Commission's affiliate transaction rules under forbore rule Section 32.27 in favor of GAAP (or its successor) for such transactions, effective immediately upon the Bureau's approval of the Plan.

Assuming timely evaluation and approval of the Plan, the FairPoint Price Cap LECs generally expect to implement the forbearance granted in the *US Telecom Forbearance Order* in the manner described herein as soon as the third quarter 2016.

V. Conclusion

The Plan described herein satisfies the conditions established in the *US Telecom Forbearance Order*. The FairPoint Price Cap LECs respectfully request that the Bureau approve this Plan at the earliest possible date.

June 27, 2016

  
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Vice President, Regulatory  
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(207) 535-4150

FairPoint Communications  
Cost Assignment Forbearance Compliance Plan

**Section 254(k) Certification of the FairPoint Price Cap LECs**

I hereby certify, to the best of my knowledge, information and belief, that the FairPoint Price Cap LECs (as defined in the attached Cost Assignment Forbearance Compliance Plan) will comply with their obligations under Section 254(k) of the Communications Act of 1934, as amended, and the FairPoint Price Cap LECs will maintain and provide to the Federal Communications Commission any cost accounting information necessary to establish such compliance, if appropriately requested to provide such information.

  
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Kevin O'Quinn  
Senior Director, Regulatory Financial Reporting & Taxes  
FairPoint Communications, Inc.

Notary

Subscribed and sworn before me, a notary public in and for the state/commonwealth of  
New Hampshire and the county of Hillsborough,  
on this 27<sup>th</sup> day of June 2016.

My commission expires 8/24/16.

  
  
Notary Public Karen A. Charron