



PUBLIC NOTICE

Federal Communications Commission
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DA 15-1440

Released: December 17, 2015

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON FAIRPOINT COMMUNICATIONS, INC. PETITION FOR DECLARATORY RULING REGARDING THE APPLICATION OF SECTION 51.917 OF THE COMMISSION'S RULES

WC Docket No. 10-90
CC Docket No. 01-92
WC Docket No. 07-135

Comment Date: January 19, 2016

Reply Comment Date: February 3, 2016

On December 10, 2015, FairPoint Communications, Inc. (FairPoint) filed a Petition for Declaratory Ruling (Petition) in the above-captioned proceedings.¹ FairPoint states that, as of January 1, 2015, the National Exchange Carrier Association (NECA) has improperly “deducted an amount from FairPoint’s CAF-ICC Adjusted Base Period Revenue that is equivalent to Fairpoint’s former revenue from local switching support (LSS).”² FairPoint asks the Commission to declare that NECA should (1) correct its Eligible Recovery calculations under section 51.917 of the Commission’s rules, retroactive to January 1, 2015; (2) restore the funding that NECA has been subtracting under an erroneous interpretation of the Commission’s rules; and (3) to the extent necessary, refile its access tariffs for 2014/2015 and 2015/2016 to effectuate the correct calculations.³

Pursuant to sections 1.2 and 1.419 of the Commission’s rules, 47 CFR §§ 1.2, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission. Comments and reply comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the Commission’s Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Because more than one docket number appears in the caption of this proceeding, filers

¹ Petition of FairPoint Communications, Inc. for Declaratory Ruling, WC Docket Nos. 07-135 and 10-90, CC Docket No. 01-92 (filed Dec. 10, 2015). The Commission may “on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.” 47 C.F.R. § 1.2.

² *Id.* at 1.

³ *Id.* at 22.

must submit two additional copies for each additional docket number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (tty).

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁴ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, please contact Robin Cohn, Pricing Policy Division, Wireline Competition Bureau, at (202) 418-2747 or via email at Robin.Cohn@fcc.gov.

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⁴ 47 C.F.R. § 1.1200 *et seq.*