

March 17, 2016

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Appropriate Framework For Broadband Access To the Internet Over Wireline Facilities*, CC Docket No. 02-33; *Connect America Fund*, WC Docket No. 10-90: Notice of *Ex Parte* Presentation

Dear Ms. Dortch:

On Wednesday, March 16, 2016, Michael Skrivan of FairPoint Communications, Inc. (“FairPoint”) and I spoke (in person and by telephone conference call) with the following Commission personnel: Pam Arluk, Ted Burmeister, Robin Cohn, Doug Klein, Richard Kwiatkowski, Rhonda Lien, Alex Minard, Deena Shetler, Doug Slotten, Gil Strobel, and Stephanie Weiner. As described below, three pending FairPoint petitions were addressed in this discussion.

First, FairPoint described its pending petition for a declaratory ruling in WC Docket No. 10-90 to restore LSS-related support amounts to FairPoint’s ICC Transitional Support, for its rate-of-return carriers in the 15 states where model-based support has been accepted under Connect America Fund (“CAF”) Phase II, retroactive to January 1, 2015, when CAF Phase I frozen support was discontinued in those states.

FairPoint explained that there is no duplicate recovery of LSS-related amounts between CAF model-based support and ICC Transitional Support, and requested therefore that the Commission instruct NECA to restore the approximately \$4.2 million per year that has been deducted from FairPoint’s eligible recovery since January 1, 2015, and correct its tariff accordingly. The enclosed materials, which describe the issue in greater detail, were distributed as part of FairPoint’s presentation.

NECA has been reducing FairPoint’s ICC Transitional Support by five percent per year *and* deducting the entire LSS-derived amount from FairPoint’s Eligible Recovery. FairPoint has been harmed by these improper deductions, which are not permitted under Section 51.917 of the Commission’s rules. FairPoint disputes that CAF Phase II model-based support “duplicates” any CAF Phase I frozen support; as explained in FairPoint’s petition, CAF Phase II is a forward-

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looking mechanism that imposes a brand new set of onerous build-out and performance obligations on price cap carriers that accept it (which is why the Commission made it optional, unlike frozen CAF Phase I support). In any event, to the extent that NECA believes that there is some duplicate recover, NECA should be deducting only *that portion* of CAF Phase II support attributable to local voice switching, rather than the entire amount times 120 percent. NECA cannot justify its current practice. FairPoint requests that the Bureau instruct NECA accordingly.

Second, FairPoint requested action on its March 17, 2015 petition in WC Docket No. 10-90 and CC Docket No. 01-92 to include in its Base Period Revenue \$124,531.06 in access revenues, billed by FairPoint to Halo Wireless, Inc. for traffic terminated to Halo during Fiscal Year 2011, which were not collected by FairPoint as a result Halo's access avoidance scheme and subsequent bankruptcy.

Third, FairPoint requested action on its pending petition for a declaratory ruling or waiver in WC Docket No. 10-90 and CC Docket No. 02-33 in order that its broadband Internet access service ("BIAS") be subject to the same universal service contribution obligations as price cap carriers and other BIAS providers that previously were not required to offer BIAS on a common carrier basis. FairPoint observed that it operates at a competitive disadvantage in providing BIAS because its retail BIAS revenues are subject to a contribution obligation (currently 17.9 percent) not required of its BIAS competitors. This petition was filed in May 2013.

Please direct any questions concerning this filing to me.

Very truly yours,



Karen Brinkmann

Counsel for FairPoint

Enclosures

cc: Pam Arluk
Ted Burmeister
Robin Cohn
Doug Klein
Richard Kwiatkowski
Rhonda Lien
Alex Minard
Deena Shetler
Doug Slotten
Gil Strobel
Stephanie Weiner