

FairPoint Rate of Return ICC Transition Funding



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Effect of the *Transformation Order*

- Under FCC rules, FairPoint's rate-of-return ("ROR") local exchange carriers ("LECs") are regulated:
 - As **price cap carriers** for purposes of the Connect America Fund ("CAF") Phase I and CAF Phase II high-cost support mechanisms, but
 - As **rate-of-return carriers** for purposes of the inter-carrier compensation ("ICC") rules, including the ICC transition
- FairPoint accepted the ROFR for model-based CAF II support in 15 of 17 states (in Colorado and Kansas they remain under CAF I Frozen Support until competitive bidding is conducted)
- ICC Transitional Support is calculated for FairPoint under Sections 51.917 (ROR LECs) and 51.915 (price cap LECs)

Most FairPoint ROR LECs Elected CAF II Model-Based Support

CAF II ROFR was declined	CAF II ROFR was accepted and model-based support is greater than frozen support	CAF II ROFR was accepted and model-based support is less than frozen support
<p>Colorado Kansas</p>	<p>Illinois Maine* Massachusetts New Hampshire Vermont Virginia</p>	<p>Alabama Florida Missouri New York Ohio Oklahoma Pennsylvania Washington</p>

*In **highlighted** states, FairPoint LECs are **ROR LECs**; in Maine, FairPoint LECs except **Community Service Telco** are price cap LECs

Key Dates for FairPoint ROR LECs

- Effective **January 1, 2012**, FairPoint ROR LECs were treated as price cap LECs for CAF purposes (though they were not required to convert to price caps) and began to receive CAF I Frozen Support as all price cap LECs did
- Effective **July 1, 2012**, FairPoint ROR LECs came under the ROR ICC Transition rules for:
 - ICC (access and reciprocal compensation rates)
 - ARC (end-user charges) and
 - ICC Transitional Support
- Effective **January 1, 2015**, FairPoint ROR LECs accepted ROFR for CAF II model-based support in all states but two

Recovery of Legacy Local Switching Support (LSS)

- ROR LECs with fewer than 50,000 lines were eligible for LSS prior to implementation of the *Transformation Order*
 - LSS resulted from the assignment of additional switching costs to the interstate jurisdiction for small LECs
 - These switching costs remain assigned to the interstate jurisdiction
- The Commission intended that costs previously recovered through LSS would, effective July 1, 2012, be recovered through the ROR ICC Transitional Support mechanism. *Transformation Order* ¶¶257, 872
- ICC transition rules for ROR LECs treat LSS as part of the 2011 Base Period revenues, which form the starting point for ROR LEC ICC Transitional Support – § 51.917
- No exceptions exist in the order or the rules to modify ROR ICC Transitional Support for ROR LECs associated with price cap carriers

Avoidance of Duplicate Recovery

- CAF rules for price cap LECs treat former LSS as part of CAF I Frozen Support
- FCC rules also prohibit “duplicate recovery” – § 51.917(d)(1)(iii)(D)(vii)
- To avoid duplicate recovery while FairPoint ROR LECs received CAF Phase I Frozen Support, NECA subtracted LSS from ICC Transition amounts for FairPoint ROR LECs
 - Duplicate recovery could have occurred between July 1, 2012 and December 31, 2014
 - Effective January 1, 2015, duplicate recovery is no longer possible

CAF II Model-Based Support Supercedes CAF I Frozen Support

- “Duplicate recovery” is not possible under CAF II
 - Model-based support is a forward-looking mechanism without regard to historic support amounts or historic costs – *E.g., Transformation Order ¶156*
 - The Commission indicated that the model-based support mechanism (and accompanying obligations) developed in CAF Phase II would supersede the CAF Phase I Frozen Support mechanism in its entirety (in states where the ROFR was accepted) as of January 1, 2015 – *CAF II Final Order ¶¶90, 94*
 - CAF II support has no impact on or relation to ICC Transitional Support under any Commission order or rule
 - ICC Transitional Support is not duplicative of CAF II support
- In the absence of duplicate support, calculation of ICC Transition Support must follow the rule – § 51.917
- The Commission may not decline to enforce its own rule

A Declaratory Ruling Should Be Issued To Remove Uncertainty

- NECA's reduction of former LSS amounts no longer makes sense because duplicate recovery no longer is possible
- NECA cites no rule that requires or permits it to subtract former LSS amounts from FairPoint's ICC Transitional Support
- NECA's comments do not even argue that it is correct in making these deductions to avoid duplicate recovery – NECA merely argues that it was correct prior to January 1, 2015, and there is no express rule instructing it now to change course
- FairPoint had no choice to be treated as price cap for CAF purposes, yet it is being penalized for this transitional mechanism; had it not been so treated, then it would continue to receive full LSS amounts as ROR LECs
- FairPoint's ROR LECs should be treated like other ROR LECs for purposes of ICC Transitional compensation, as required by the Commission's rules

Definitions Employed in the ICC Transition Calculation

- 2011 Rate-of-Return Carrier Base Period Revenue is defined in 47 CFR §51.917(b)(7):

2011 Rate-of-Return Carrier Base Period Revenue is the sum of:

- (i) 2011 Interstate Switched Access Revenue Requirement;
- (ii) Fiscal Year 2011 revenues from Transitional Intrastate Access Service received by March 31, 2012; and
- (iii) Fiscal Year 2011 reciprocal compensation revenues received by March 31, 2012, less Fiscal Year 2011 reciprocal compensation payments paid and/or payable by March 31, 2012.

- Rate-of-return Carrier Baseline Adjustment Factor is defined in 47 CFR §51.917(b)(3):

The Rate-of-Return Carrier Baseline Adjustment Factor, as used in calculating eligible recovery for Rate-of-Return Carriers, is equal to ninety-five (95) percent for the period beginning July 1, 2012. It is reduced by five (5) percent of its previous value in each subsequent annual tariff filing.

FairPoint ROR LEC Support By State

ROR LEC State	CAF I Frozen	CAF II	CAF Increase (Decrease)	LSS
Alabama	\$1,181,216	\$806,445	(\$374,771)	\$57,840
Florida	\$5,651,016	\$1,854,554	(\$3,796,462)	\$230,820
Illinois	\$756,951	\$1,086,151	\$329,200	\$182,784
Massachusetts	n/a	\$63,258	\$63,258	n/a
Maine (Community Svc)	\$1,192,650	\$86,658	(\$1,105,992)	\$296,016
Missouri	\$2,799,786	\$1,689,794	(\$1,109,992)	\$454,680
New York	\$3,713,940	\$2,505,011	(\$1,208,929)	\$1,593,180
Ohio	\$1,007,592	\$420,997	(\$586,595)	\$431,352
Oklahoma	\$1,108,119	\$215,303	(\$892,816)	\$109,800
Pennsylvania	\$649,224	\$155,938	(\$493,286)	\$229,596
Virginia	\$521,856	\$857,021	\$335,165	\$82,380
Washington	\$2,740,968	\$1,321,014	(\$1,419,954)	\$582,840
TOTAL	\$21,323,388	\$11,062,144	(\$10,261,244)	\$4,251,288