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Larry Cohen
President

Via Fax

November 28, 2007

The Honorable Kevin Martin
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

In re: WC Docket No. 07-22

Dear Commissioner Martin:

In her report, the Hearing Examiner for the Maine Public Utilities Commission (PUC) recommends that the Maine Public Utilities Commission reject the proposed sale of Verizon's network to FairPoint Communications. If the PUC rejects that advice, the examiner recommends forty-seven conditions to ameliorate some of the risks posed to the public interest.

The advisory staff of the Maine PUC (the Examiner) now joins the staffs of the New Hampshire Public Utilities Commission and the Vermont Department of Public Service, as well as the Maine Public Advocate, the New Hampshire Consumer Advocate, and the CWA and IBEW in recommending a rejection of the transaction as currently structured. In the alternative, each of these parties recommends numerous stringent conditions that should be placed on any approval to protect the public interest.

Not one of these groups accepted FairPoint's and Verizon's stated promises. Instead, they subjected the Applicants' projections, assumptions and statements to rigorous analysis. Consequently, the regulatory agencies in these states have a comprehensive record from which to reach a decision. We expect nothing less from the Federal Communications Commission.

We strongly recommend that the Commission attach significant conditions to any approval of the proposed transaction. We previously outlined the many public interest harms posed by the transaction. The Commission should not approve a transaction with so many risks without significant conditions to protect the public interest from potential harms – especially when the staffs of the agencies representing ratepayers in each of the three states have recommended many such protective conditions.

We also urge the Commission again to hold off on making its decision until after the states have issued their orders concerning the proposed transaction to prevent any undue influence on those proceedings. These decisions are expected by mid-December.

The specific language used by the Maine Examiner well illustrates the risks posed by the transaction to the public interest.

> "We find that, taken as a whole, **the proposed Transaction subjects both ratepayers and shareholders to substantial risks and harms that are not outweighed by any of the potential benefits of the Transaction**. In the event that the Commission disagrees with our overall assessment, we include in this Report our recommendations regarding potential conditions the Commission could impose on the Joint Applicants that may ameliorate the risks and harms to ratepayers and shareholders that we discuss throughout this Report. [page 1, emphasis added]
>
> "**a more important question plagues us as well, i.e., does there exist *any* combination of conditions which would adequately insulate Maine ratepayers from a transaction that transfers the majority of the State's public switched telephone network from a utility with solid investment-grade credit ratings to a utility that is expected to fall within the speculative-grade rating category?** [page 22, emphasis added]
>
> "**we are by no means assuming that the Commission can impose any set of conditions that will assure FairPoint's future viability, considering the financial, operational and competitive issues FairPoint faces under the terms of the Transaction as proposed and the industry environment it will encounter.**" [page 82, emphasis added]

The rigorous and wide range of the conditions recommended by the Maine Hearing Examiner also are illustrative of the significant risks posed by the transaction. The forty-seven recommendations which are attached to this letter include the following:

- Renegotiate terms of the agreement resulting in a $600 million reduction in FairPoint's debt
- Reduce FairPoint's dividend by 30% annually

- Require FairPoint to increase its broadband investment to $28 million from $17.55 million, and focus additional investment in un-served, rural areas and require Verizon to pay $12 million for previous broadband commitments.
- Require FairPoint to meet stronger service quality standards with higher penalties
- Require Verizon to grant FairPoint permission to hire former Verizon workers without a waiting period
- FairPoint to develop plan to address potential loss of experienced workers
- Renegotiate the Transition Services Agreement for a $0 cost for six months and thereafter at a reduced cost until retired workers are replaced.

The proposed transaction is so fraught with financial, operational, service quality and broadband risks that the Commission must protect the public interest by either denying the transaction or attaching significant conditions.

Sincerely,

Larry Cohen
President

cc: Commissioner Jonathan S. Adelstein
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Deborah Taylor Tate

Enclosures

APPENDIX 3
[pages 290-294 of the Maine PUC Examiner's Report]

SUMMARY OF RECOMMENDED CONDITIONS

Financial and Transactional Issues

V-D-1	Require the transaction to be restructured to reduce FairPoint's bond debt by $600 million.
V-D-2	Require FairPoint to immediately reduce the dividends it pays to its shareholders by $42 million.
V-D-3	Require FairPoint to file the "near final" loan agreements for Commission review and approval prior to closing with the Commission reserving the right to impose additional mitigating conditions if the terms materially change.
V-D-4	Require FairPoint to provide detailed quarterly and annual financial results as well as copies of all financial filings made with the FCC and SEC.
V-D-5	Establish a specific annual report form for FairPoint.
V-D-6	Allow FairPoint to temporarily adopt Verizon's CAM conditioned on FairPoint filing with the Commission within one month of closing a report that provides a detailed description of how the Verizon CAM will be used specifically by FairPoint in allocating costs.
V-D-7	Require FairPoint, as part of its annual report, to include a spreadsheet, chart or other form that shows all revenues and charges to or from its regulated ILEC operations in Maine to any affiliated interest.
V-D-8	Prohibits FairPoint from recovering an acquisition premium or transaction costs from Maine ratepayers and make clear the appropriate capital structure for rate making purposes will be determined in any future rate case involving FairPoint's Maine operations.

Wholesale Issues

VI-A-1	Consider FairPoint to be a successor and assign of Verizon and, therefore, subject to the requirements of section 271 as well as all other obligations applicable to BOCs.
VI-A-2	Require FairPoint, upon request, to extend all the terms of its interconnection agreements by at least two years.
VI-A-3	Require FairPoint to file an updated version of Verizon's wholesale tariff within a year of closing.
VI-A-4	Require FairPoint to abide by section 251 and impose a three-year freeze on section 251 UNE rates.
VI-A-5	Prohibit FairPoint from seeking either a section 251(f)(1) or 251(f)(2) exemption.
VI-A-6	Require FairPoint to provide access to unbundled switching, DS3 local loops in Portland, DS3 and dark fiber transport between Portland and Bangor as well as any future loops and transport/dark fiber routes that attain non-impaired status under section 251.
VI-A-7	Require FairPoint to abide by the terms of the District Court's Remand Proceeding as it relates to line sharing and dark fiber loops.
VI-A-8	Require FairPoint to file copies of any agreements which create ongoing obligations pertaining to "resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation, interconnection, unbundled network elements or collocations" with the Commission for a period of at least three years.
VI-A-9	Require FairPoint to participate in, and abide by, the Commission's Rapid Response Process, which includes jurisdiction over any operational disputes involving section 271 UNEs.
VI-A-10	Require FairPoint to abide by the terms of Verizon's PAP until FairPoint and the CLECs develop a more simplified PAP.
VI-A-11	Require FairPoint to freeze access rates for three years.
VI-A-12	Require both FairPoint and Verizon to pro-rate any volume commitments related to wholesale services.
VI-A-13	Prohibit FairPoint from counting MCI fiber-based collocations for impairment purposes under section 251 for a period of three years.
VI-A-14	Require FairPoint to file a monthly status report regarding progress in putting together the Pole Licensing and Administration Group and set April 1, 2007 as the deadline for FairPoint to be

	ready to assume pole licensing and administration duties.
VI-A-15	Require FairPoint to refrain from filing petitions for forbearance with the FCC for a period of three years.

Back Office Systems

VI-B-1	Require Verizon to offer its TSA services to FairPoint at a price equal to $0 per month for 6 months, if necessary, after closing. If after six months FairPoint still requires use of the TSA services, then Verizon will be allowed to begin charging fees consistent with those currently included in Schedules A-D of the TSA.
VI-B-2	Require FairPoint, as a condition of approval, to fulfill its commitment related to a third-party monitor, i.e., to fund and cooperate as necessary to allow the consultant to fulfill in a meaningful way, the Scope of Work identified in Advisors Exhibit 338.
VI-B-3	Retain the right to suspend and investigate FairPoint's readiness for cutover based upon material defects or deficiencies identified by the consultants or comments received by the parties.
VI-B-4	Require FairPoint to compensate CLECs, if a CLEC brings and successfully defends its claim, for unreasonable costs in moving from the Verizon to the FairPoint systems.
VI-B-5	Prohibit FairPoint from charging its CLEC customers for training that is specific to understanding or interacting with its new systems and interfaces for a period of six months after cutover.

Broadband

VI-C-1	Require FairPoint to increase the investment currently committed to its broadband expansion plan, from $17.55 million, to $28 million.
VI-C-2	Require FairPoint to focus the additional investment ($10.45 million) in rural areas, preferably unserved by other broadband delivery technologies
VI-C-3	Require Verizon, as a condition of its request for abandonment, to pay the entirety of the $12 million in additional broadband investment it agreed to make in Docket No. 2005-155, without seeking, or receiving, reimbursement, either directly or indirectly, from FairPoint.
VI-C-4	Forbid FairPoint from compensating Verizon, either directly or indirectly, for the $12 million in DSL investments related to Docket No. 2005-155.
VI-C-3	Require FairPoint to price its broadband-related services at statewide rates, without differences between urban, suburban or rural wire centers. All promotional and standard offerings should be available to all of FairPoint's Maine-based customers at the same prices, terms and conditions.
VI-C-4	For a period of at least three years from closing, FairPoint will provide all DSL-related services from a subsidiary separate and apart from the regulated telephone enterprise. The separate subsidiary will purchase all DSL-related functionalities from the regulated utility at a rate equal to ****BEGIN SUPER COMPETIVIELY CONFIDENTIAL**** _____ ****END SUPER COMPETITIVELY CONFIDENTIAL**** per line, per month. To the extent that FairPoint, at any time during this period, believes that the "transfer rate" identified above should be adjusted, based upon changes in cost incurred by the regulated enterprise in providing the necessary functionality, FairPoint may petition the Commission to review the rate and if necessary, approve a different rate. The Commission may, at its discretion, extend the period within which FairPoint is required to maintain this arrangement for one additional 3-year period.

VI-C-5	For a period of at least three years from closing, FairPoint will provide, where it has the facilities to do so, its DSL products on a stand-alone basis. Specifically, FairPoint will not include requirements that consumers also purchase its telecommunications services or any other services it offers as a condition of purchasing DSL services. During this period, FairPoint's stand-alone DSL service will not exceed the effective transfer price described above, plus 25%. The Commission may, at its discretion, extend the period within which FairPoint is required to maintain this arrangement for one additional 3-year period.

Service Quality

VIII-1	Require Verizon to grant FairPoint permission to hire former Verizon employees without any waiting period.
VIII-2	Require Verizon to continue to provide services pursuant to the TSA at a reduced cost beyond the six month no cost period recommended in the Back Office Systems Section above (Section VII(C)) until such time that FairPoint can hire employees to replace the employees who choose to retire.
VIII-3	Require FairPoint to develop a plan to address the potential loss of experienced workers.
VIII-4	Require Verizon/FairPoint to submit a monthly report depicting key call center statistics beginning immediately after the close as well as require Verizon to continue answering customer calls at no cost after the six month TSA period if Verizon fails to meet the call center metrics contained in the staff recommended SQI during the six month TSA period. Verizon should continue to answer customer calls on FairPoint's behalf until such time as it complies with the call center metrics for at least three consecutive months.
VIII-5	Require FairPoint to comply with the Recommended SQI from Docket No. 2005-155.
VIII-6	Require FairPoint to meet the specific commitments it has made regarding hiring additional staff, refurbishing wire centers, and prioritizing repair dispatches.
VIII-7	If the Commission does not accept OPA's recommendation to reduce the sales price by $600 million, require Verizon to place funds in an escrow account sufficient to cover the cost of completing the necessary wire center refurbishments.
VIII-8	If the Commission decides an SQI is not necessary as a condition, require Verizon to improve its performance regarding the "Repair Reports Not Cleared in 24 Hours – Residential" service quality metric through the creation of the escrow account referenced above.

Federal Regulatory

XIII-1	Require FairPoint to obtain a waiver of the FCC's price cap rules before the Transaction closes.
XIII-2	Prohibit FairPoint from increasing its access rates, including special access rates or SLC rates, above those currently allowed for Verizon for four years - even if FairPoint is required to file its own rates.
XIII-3	Encourage FairPoint to lobby the FCC for changes to the rural support mechanism and the high-cost benchmark.

ETC Status

XI -1	As a condition of being granted ETC status, FairPoint must: 1) provide the nine services supported by the USF that are required of ETCs; 2) advertise the availability of, and prices for, such services; 3) offer Lifeline and Link-Up to customers and 4) use the USF funds it receives in compliance with 47 U.S.C. § 254(e).

Privacy Policy

X-1	Require Verizon to continue to be subject to the Commission's jurisdiction for purposes of the existing claims in the *NSA Proceeding*. In the alternative, require Verizon to indemnify FairPoint for any penalties that the Commission might impose if the *NSA Proceeding*.
X-2	Require FairPoint to review its privacy policy and practices to specifically consider whether changes may be necessary and report back to the Commission in six months.