

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

**FAIRPOINT COMMUNICATIONS, INC.
PETITION FOR LIMITED WAIVER**

I. INTRODUCTION AND SUMMARY.

On behalf of its wholly-owned regulated subsidiaries, and pursuant to 47 C.F.R. § 1.3 and paragraphs 716 and 723 of the *USF/ICC Transformation Order*,¹ FairPoint Communications, Inc. (“FairPoint”) requests a limited waiver of the new call signaling rules adopted by the Commission as part of the *USF/ICC Transformation Order*.² A limited waiver of the rules is necessary because it is not feasible for FairPoint to implement the new phantom traffic rules in all circumstances.

Section 1.3 of the Commission’s rules provides that “[t]he Commission may grant a

¹ *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (Nov. 18, 2011) (“*USF/ICC Transformation Order*”).

² 47 C.F.R. § 64.1601(a)(1)-(2) (the “phantom traffic rules”).

waiver for any part of its rules for good cause shown. In making its determination, the Commission may consider hardship, equity, or more effective implementation of overall policy on an individual basis.”³ As explained further herein, good cause exists for the grant of this waiver, which is consistent with the overall policy inherent in the *USF/ICC Transformation Order* and is in the public interest, as it will prevent unnecessary investment in outdated technologies, preserving resources that can be directed to technology deployment that is more conducive to the policy goals *USF/ICC Transformation Order*.

FairPoint’s subsidiaries comprise a group of companies, many in rural areas, with a wide variety of legacy switches and signaling equipment. FairPoint’s ongoing review of these networks in light of the phantom traffic rules indicates that there are circumstances pertaining to certain platforms or certain types of traffic in which it will not be possible for FairPoint to fully comply with the new rules. Therefore, FairPoint requests a waiver of the new phantom traffic rules with respect to (1) certain SS7 network elements; and (2) multi-frequency (MF) signaling equipment, as discussed below.

FairPoint makes this request because it makes little sense to invest significantly in SS7 network elements and MF signaling equipment for intercarrier compensation purposes, given the transition away from these technologies in favor of IP-based solutions and, eventually, a full bill and keep regime. Moreover, it will take time for all carriers to fully evaluate the capabilities of their signaling equipment and to implement new solutions even where it is possible to do so.

Further, this request is consistent with the policy goals of the Commission’s rules, which do not involve intercarrier compensation in general, but are really targeted at phantom traffic schemes that intentionally abuse or evade industry call signaling standards, primarily to

³ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

the detriment of ILECs like FairPoint.⁴ FairPoint has been and continues to be supportive to the goals of the phantom traffic rules, and even given the requested waivers, is committed to working in other ways with interconnecting carriers to operate in accordance with the spirit of the rules.

II. FULLY IMPLEMENTING THE NEW RULES IN ALL CIRCUMSTANCES IS NOT POSSIBLE AND IS INCONSISTENT WITH THE PUBLIC INTEREST.

In the *USF/ICC Transformation Order*, the Commission adopted revisions to its call signaling rules. The new rules generally require transmission of calling party number (CPN) and charge number (CN) (if different) for voice traffic that touches the PSTN, regardless of the jurisdiction or technology used to generate the call.⁵ In addition, the rules prohibit an intermediate provider from “stripping or altering” the call signaling information provided by a preceding carrier.⁶ The Commission considered but ultimately declined to include any exceptions to its rules out of concern that exceptions could devour the rules.⁷ However, in recognition of the technical limitations of existing signaling equipment and the fluid state of the industry standards-setting process for IP communications, the Commission referred carriers to

⁴ See *USF/ICC Transformation Order* paras. 703-704. (“In some cases, service providers in the call path intentionally remove or alter identifying information to avoid paying the terminating rates that would apply if the call were accurately signaled and billed. . . . Collectively, problems involving unidentifiable or misidentified traffic appear to be widespread. . . . This sort of gamesmanship distorts the intercarrier compensation system and chokes off revenue that carriers depend on to deliver broadband and other essential services to consumers, particularly in rural and difficult to serve areas of the country. To address the problem, in the *USF/ICC Transformation NPRM*, we proposed to modify our call signaling rules to require originating service providers to provide signaling information that includes calling party number (“CPN”) for all voice traffic, regardless of jurisdiction, and to prohibit interconnecting carriers from stripping or altering that call signaling information.”)

⁵ See *USF/ICC Transformation Order* paras. 704, 710

⁶ See *id.* para. 704.

⁷ *Id.* para. 723

the waiver process which, like AT&T, CenturyLink and Verizon,⁸ FairPoint seeks to employ.

A. It is not Technically Feasible to Transmit Charge Number (“CN”) for all SS7 Capable Equipment Currently Deployed in FairPoint’s Networks.

At the time many SS7 capable switches were designed and deployed in FairPoint’s diverse networks, the applicable industry standard for non-equal access (“non-EA”) traffic (*e.g.*, traditional “local” traffic) did not require the use of the CN field. Consequently, many of these switches do not have the ability to generate and pass CN in this signaling field when it is different from the CPN. Based on FairPoint’s current assessment, significant software upgrades and modifications would be necessary before FairPoint could fully implement the new requirements for all SS7 switches. In addition, full compliance will never be feasible for a smaller subset of FairPoint’s SS7 capable switch equipment that is no longer supported by any vendor. In these instances, to fully implement the new rules it may be necessary to replace entire switches. Full switch replacement for the sole purpose of compliance with the new signaling rules (which essentially are only interim pending the transition to bill and keep) would be extremely burdensome and economically impractical. Although FairPoint has not fully tabulated the number of affected SS7 capable switches or arrived at an estimate of the cost of upgrades or replacements, it is clear that significant expenditures, on the order of millions of dollars, would be required. Therefore, FairPoint requests a limited waiver of the provision of 47 C.F.R. § 64.1601(a)(1) that requires FairPoint to originate and pass CN for non-EA traffic if compliance would require upgrades or replacement of the SS7 capable equipment. Such a waiver will not undermine the efficacy of the phantom traffic rules, because downstream carriers will still

⁸ See *AT&T Petition for Limited Waiver of Call Signaling Rules*, CC Docket Nos. 01-92, Public Notice, DA 12-34 (Jan. 10, 2012) (“*AT&T Petition*”); *CenturyLink Petition for Limited Waiver of Call Signaling Rules*, CC Docket Nos. 01-92 *et al.*, Public Notice, DA 12-104 (Jan. 30, 2012); *Petition for Limited Waiver of Verizon*, Feb. 10, 2012 (“*Verizon Petition*”).

receive CPN for all non-EA traffic and thus be able to verify that FairPoint is the originating carrier. FairPoint also concurs with Verizon that such a waiver need not foreclose industry efforts to seek more cost-effective alternatives (supported by industry standards) for complying with this rule in spirit, if not to the letter.⁹

In light of the significant financial and operational burdens to fully implement the new rule regarding passage of CN, and the relatively small benefit terminating carriers may obtain from receiving CN for all non-EA calls, grant of a limited waiver of the CN requirement is warranted.

B. The New Signaling Rules are not Technically Feasible with Respect to Some MF Signaling Applications.

The new phantom traffic rules also require that all providers of PSTN-bound voice communications that utilize multifrequency (“MF”) trunks pass CPN (or CN if different) in the automatic number identification (ANI) field. Here, too, the Commission recommended in the *USF/ICC Transformation Order* that carriers seek waivers if their networks could not comply with new MF signaling requirements,¹⁰ alluding to substantial evidence in this proceeding of the technical limitations of outdated MF signaling technologies.

FairPoint is similarly situated to AT&T, CenturyLink and Verizon in this regard. Like AT&T and Verizon, FairPoint utilizes some MF trunking to support its operator services and directory assistance platforms. In addition, FairPoint deploys Feature Group C (“FGC”) trunks using MF signaling to terminate non-EA traffic to some carriers that do not support SS7 signaling. FairPoint’s MF equipment was not designed to signal CPN or CN as contemplated by the Commission’s new rule, nor does the signaling standard provide relevant specifications for the ANI field. Accordingly, it is not technically feasible to populate the ANI field in this

⁹ See *Verizon Petition* at 5.

¹⁰ See *USF/ICC Transformation Order* ¶ 716

manner. As a consequence, FairPoint would need to replace all of its existing MF equipment in order to comply with the new rule. Even then, this would likely be futile (if not downright unwelcome) since, as a general rule, FairPoint's FGC trunks are in place as an accommodation to a terminating carrier that cannot support SS7 signaling.

Therefore, FairPoint requests a limited waiver of the provision of 47 C.F.R. § 64.1601(a)(1) that requires FairPoint to transmit CPN or CN in the MF signaling ANI field for non-EA traffic, if compliance would require upgrades or replacement of the MF capable equipment. Such a waiver will not undermine the efficacy of the phantom traffic rules because the affected downstream carriers are very few, are generally directly interconnected and well-known to FairPoint, and will still receive ANI for all non-EA traffic and thus be able to verify that FairPoint is the originating carrier. It would not further the public policy goals of the rules to require FairPoint to replace MF equipment under these circumstances. FairPoint also concurs with AT&T that such a waiver need not foreclose industry efforts to seek more cost-effective alternatives (supported by industry standards) for complying with the spirit of this rule.¹¹

In light of the significant financial and operational burdens to fully implement the new rule regarding MF signaling, and the relatively small benefit terminating carriers may obtain from receiving CN for all non-EA calls and thus grant of a limited waiver is warranted.

¹¹ See *AT&T Petition* at 7.

III. CONCLUSION

The Commission should grant FairPoint's request for a limited waiver of the new phantom traffic rules with respect to (1) certain SS7 network elements; (2) multi-frequency (MF) signaling equipment, as discussed herein.

Respectfully submitted,

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/s/

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