

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
The FairPoint Telephone Companies) **Transmittal No. 26**
Tariff F.C.C. Nos. 1 and 2)
)
_____)

**THE FAIRPOINT TELEPHONE COMPANIES
RESPONSE TO PETITION OF SPRINT COMMUNICATIONS COMPANY, L.P. TO
REJECT, IN PART**

The FairPoint Telephone Companies¹ ("FairPoint"), pursuant to 47 C.F.R. § 1.773(b), hereby responds to the Petition of Sprint Communications Company, L.P. ("Sprint") to Reject, In Part, the tariff revisions to FairPoint's Tariff F.C.C. No. 1 and F.C.C. No. 2, filed in Transmittal No. 26 on December 20, 2011. Sprint fails to offer any credible arguments to support rejection of any portion of FairPoint's tariff revisions filed in Transmittal No. 26.

Sprint's offers two arguments in favor of rejection of portions of the FairPoint tariff revisions. First, it alleges that FairPoint's definition of "VoIP-PSTN" "fails to make clear that this term is limited to Access Reciprocal Compensation traffic that Fairpoint exchanges with VoIP providers." (Petition., p.1.) Sprint contends that FairPoint's definition "arguably would include all traffic it exchanges with other carriers, including perhaps intraMTA traffic exchanged between FairPoint and a CMRS provider." (Petition, pp. 1-2.)

Sprint's contention is meritless. FairPoint very clearly defines "VOIP-PSTN Access Traffic" [emphasis added] as " the access traffic exchanged between the Company and the Customer in time division multiplexing ("TDM") format that originates and/or terminates in Internet protocol ("IP")

¹ Northern New England Telephone Operations, LLC, Telephone Operating Company of Vermont, LLC, China Telephone Co., Maine Telephone Co., Northland Telephone Company of Maine, Inc., FairPoint Vermont, Inc., Sidney Telephone Company, and Standish Telephone Co.

format. Traffic originates and/or terminates in IP format if it originates from and/or terminates to an end user customer of a service that requires Internet protocol compatible customer premises equipment." (Tariff F.C.C. No. 1, page 2-210 and Tariff F.C.C. No. 2, page 2-87.) This definition clearly includes only access traffic and includes only traffic that originates and/or terminates in IP format. FairPoint's definition is consistent the Commission's rules, which distinguish "non-access reciprocal compensation" (e.g., 47 C.F.R. §51.703 and 51.705) from "access reciprocal compensation" (e.g., 47 C.F.R. §51.913). IntraMTA CMRS traffic is defined in 47 C.F.R. §51.705 as "non-access" traffic and is clearly not contemplated within FairPoint's definition of VoIP-PSTN Access Traffic.

Sprint's second complaint is that the FairPoint tariff does not include "a mechanism that enables carriers that provide both telecommunications services and VoIP services to identify the VoIP traffic it sends to Fairpoint for termination." (Petition, p. 2.) Sprint notes in its footnote 2 that this "omission...may be of little consequence in the interstate jurisdiction," but argues that "given that Fairpoint is likely to file identical intrastate tariffs...failing to provide carriers the means to separate their VoIP traffic from their TDM traffic may enable Fairpoint to charge its higher intrastate access rates on VoIP traffic contrary to the FCC's prescription." [Petition, p. 2.]

Sprint's second criticism is also completely unfounded. Contrary to Sprint's supposition, FairPoint did not file tariff revisions in its intrastate tariffs that are identical to those filed in its interstate tariffs. To the contrary, FairPoint has filed intrastate tariff revisions that include nearly the same language that Sprint cites from Verizon's Connecticut tariff filing as an appropriate model for implementing the FCC's rules with respect to the assessment of access charges on VoIP-PSTN access traffic. FairPoint purposely excluded the discussion of Percent Interstate VoIP (PVU) from its interstate tariffs and included it solely in its intrastate tariffs for precisely the reason that Sprint recognized in footnote 2. That is, because FairPoint's interstate tariff will apply to both TDM and interstate VoIP-PSTN access traffic, there is no

reason to describe the method of distinguishing VoIP-PSTN from TDM access traffic within the interstate tariffs.²

CONCLUSION

For the reasons stated above, the Bureau should conclude that the Sprint's arguments are without merit and that its request to reject in part FairPoint's Tariff F.C.C. Nos. 1 and 2, Transmittal No. 26 is unfounded. The tariff filing made by FairPoint should be allowed to become effective as filed.

Dated: December 28, 2011

Respectfully submitted,

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² Notably, Verizon has apparently not filed any revisions to its interstate access tariffs to reflect the FCC's rules regarding the treatment of VoIP-PSTN access traffic.

CERTIFICATE OF SERVICE

I, Sharon Thomas, hereby certify that on this 28rd day of December, 2011, I caused a true and correct copy of the foregoing THE FAIRPOINT TELEPHONE COMPANIES RESPONSE TO PETITION OF SPRINT COMMUNICATIONS COMPANY, L.P. TO REJECT , IN PART to be served on the following parties:

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