

**STATE OF VERMONT**  
**PUBLIC SERVICE BOARD**

Petition of Telephone Operating Company of        )  
Vermont LLC d/b/a FairPoint Communications        )     Docket No. \_\_\_\_\_  
for Modification of Docket 5903 Reporting  
Metrics

**PETITION OF FAIRPOINT COMMUNICATIONS FOR MODIFICATION OF**  
**DOCKET 5903 REPORTING METRICS**

By this petition (“Petition”), pursuant to the Public Service Board’s (“Board”) Order in Docket 8390, and 30 V.S.A. § 209, Telephone Operating Company of Vermont LLC d/b/a FairPoint Communications (“FairPoint”) requests that the Board open a proceeding and determine whether: (1) current applicable service quality reporting requirements should apply only to FairPoint customers without access to an alternative telecommunications provider; (2) the Docket 5903 “% cleared in 24 hours” metric continues to be appropriate and whether or not there are possible alternatives; and, (3) to the extent necessary, incorporate any changes resulting from this proceeding into FairPoint's Incentive Regulation Plan ( “IRP”).

In support of this Petition, FairPoint states the following:

1. FairPoint and the Department entered into a Memorandum of Understanding in Docket 8390 dated August 10, 2015 (“Docket 8390 MOU”) that provided in part:

The Department will support a FairPoint petition to the Board to open a proceeding (1) requesting that service quality reporting requirements apply only to FairPoint customers without access to an alternative telecommunications provider (to be defined in that proceeding), (2) seeking an evaluation of the continued appropriateness of, and possible alternatives to, the existing Docket 5903 “% cleared in 24 hours” metric, and (3), to the extent necessary, also incorporate the results of the proceeding as an amendment to FairPoint's Incentive Regulation Plan.<sup>1</sup>

The Board approved the MOU in its Docket 8390 Order.<sup>2</sup>

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<sup>1</sup> Docket 8390 MOU at 4.

<sup>2</sup> *Petition of Vermont Department of Public Service, etc.*, Docket No. 8390 (Vt. Pub. Serv. Bd. Dec. 18, 2015) (“Docket 8390 Order”).

2. As a result of the *Investigation into Service Quality Standards, Privacy Protections, and other Consumer Safeguards for Retail Telecommunications Service*, Docket No. 5903 (Vt. Pub. Serv. Bd. Jul. 7, 1999) (“Docket 5903 Order”), FairPoint, by and through its predecessor, became subject to “Attachment 1 – Service Quality Stipulation” (the “Stipulation”), which prescribed and set forth the service quality performance standards applicable to the parties to the Stipulation (the “Docket 5903 Metrics”).

3. The requested actions set forth in this Petition are appropriate in light of the significant changes in the telecommunications industry as they apply to FairPoint since the Docket 5903 Metrics were adopted. With the exponential growth of competition in the telecommunications market due to the significant expansion of wireless and Voice over Internet Protocol voice services, many consumers are discontinuing use of their traditional landline service altogether. Today, FairPoint retains roughly half of the customers it served when it acquired Verizon’s assets.<sup>3</sup> Despite these changes, FairPoint still continues to carry the obligation to provide voice service in all exchanges in its territory, even the most rural, costly and logistically difficult to serve.

4. Leading up to and during a work stoppage from October 2014 to February 2015, FairPoint experienced degraded service quality results, which were further exacerbated by other factors such as severe weather. Since that time FairPoint has implemented operational improvements and its current service quality has generally returned to normal levels.<sup>4</sup>

5. A proceeding to address the applicability of the Docket 5903 Metrics as applied to FairPoint is more appropriate now than ever. The Board-approved Stipulation associated with the Docket 5903 Metrics contemplated the potential for future modification by the Board.<sup>5</sup> In addition, the Board has previously applied the Docket 5903 Metrics differently to FairPoint than to other telecommunications providers. For example, FairPoint’s current IRP required different metrics under the Retail Service Quality Plan approved in Docket No. 7724 (the “RSQP”) until it met certain service quality milestones. FairPoint began reporting results and being measured

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<sup>3</sup> Docket 8390, Porter Direct Pf. at 3.

<sup>4</sup> Docket 8390, Porter MOU Pf. at 2.

<sup>5</sup> In particular, the Stipulation provided that “[t]he Parties agree that the service quality plan in Exhibit 1 may require review by the Board in the future with respect to the performance area measures and their respective Baseline Standard and Action Level Report trigger, reporting and action requirements.” Docket 5903 Stipulation at 4.

under the Docket 5903 Order on April 1, 2013, only after the RSQP milestones were met.<sup>6</sup> The recent Docket 8390 MOU and Board Order implementing certain terms of the Docket 8390 MOU further revised the application of the Docket 5903 Metrics to FairPoint<sup>7</sup> and also contemplated that this proceeding would apply only to FairPoint.<sup>8</sup>

6. FairPoint proposes to review with the Department and the Board in an initial conference the most efficient procedures to address the issues presented in the Petition. The proceeding should be staged to explore three separate questions:

- a. The extent of voice services competition, to determine how Vermont should define an alternative communications provider for FairPoint's voice services;
- b. The need for service quality reporting for FairPoint customers that have access to an alternative communications provider; and
- c. The need for service quality reporting for FairPoint customers that do not have access to an alternative communications provider. Where service quality reporting is required, the appropriate service quality metric(s), if any, that could supplant the % cleared in 24 hours metric as applied to FairPoint.

WHEREFORE, FairPoint respectfully requests that the Board:

- a. Schedule an initial conference to establish procedures applicable to this Petition and a schedule to facilitate review of the issues to be addressed in this proceeding;
- b. Find that the Docket 5903 Metrics should be limited to those areas where FairPoint customers do not have access to an alternative telecommunications voice provider;
- c. Find that the % cleared in 24 hours metric, where service quality reporting is required, should be replaced by a more appropriate metric; and
- d. To the extent necessary incorporate the results of the proceeding as an amendment to FairPoint's IRP.

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<sup>6</sup> Docket 8390, Fastiggi Direct Prefiled Testimony ("Pf.") at 2; Porter Reb. Pf. at 1.

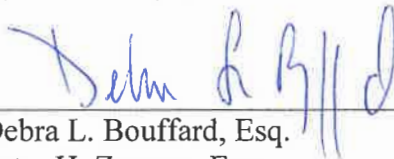
<sup>7</sup> Docket 8390 Order at 12 (measure Troubles Cleared metric on annual basis, limitation on number of Actions Plans required on annual basis).

<sup>8</sup> Docket 8390 Order at 13, 17.

DATED at Burlington, Vermont this 16<sup>th</sup> day of February, 2016.

TELEPHONE OPERATING COMPANY OF  
VERMONT LLC

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