

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Revised Tariff Filing of )	
FairPoint Communications Missouri, Inc. d/b/a )	File No. IT-2012 _____
FairPoint Communications )	Tariff No. JI-2012-0720

**Motion for Expedited Treatment**

Comes now FairPoint Communications Missouri, Inc. d/b/a FairPoint Communications (“Company”), and for its Motion for Expedited Treatment and Waivers states to the Missouri Public Service Commission (“Commission” or “PSC”) as follows:

1. On November 18, 2012, the Federal Communications Commission (FCC) issued its *USF/ICC Transformation Order* (FCC *USF/ICC Order*).<sup>1</sup> Among other things, the FCC’s *USF/ICC Order* set a minimum \$10.00 local rate floor for residential service that all incumbent local exchange companies (ILECs) must meet by July 1, 2012 or lose federal High Cost Loop (HCL) Universal Service Fund (USF) support in the amount by which the rate floors exceed the company’s local rates. The plain language of the FCC’s *USF/ICC Order* appeared to require the local rates to be in effect on July 1, 2012:

“We will phase in this rate floor in three steps, **beginning with an initial rate floor of \$10 for the period July 1, 2012 through June 30, 2013.**”<sup>2</sup>

The Company reasonably relied on this language as it prepared its rate increase tariffs and customer notice to make the rates effective on July 1, 2012.

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<sup>1</sup> *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 et al., FCC 11-161.

<sup>2</sup> *Id.* at ¶239.

2. Thus, the Company sought to comply with the FCC's *USF/ICC Order* yet make the rate increases effective no sooner than necessary. There was widespread belief among the industry and with the PSC's Staff that the deadline was July 1, 2012.

3. In May 2012, Company filed revised tariffs to increase its local service rates to meet the FCC's \$10.00 benchmark. In order to help mitigate this rate increase for its customers, the Company also filed revised tariffs reducing the rates for its MCA Plans. The tariffs bore a July 1, 2012 effective date, and Company's tariff filing included customer notice to be provided to all customers of the rate changes at least 30 days in advance of the July 1 effective date.

4. On May 14, 2012, the FCC released its *Third Order on Clarification*,<sup>3</sup> ("*Third Order*") which addresses various effective dates and changes certain reporting dates and requirements. Among other things, the *Third Order* established **June 1, 2012** as the reporting date for purposes of reporting whether Company's basic local rates meet the FCC's \$10.00 benchmark. As a result, the Company will lose six months of USF HCL support if its local rates do not meet the \$10.00 rate floor by June 1, 2012 rather than July 1, 2012.

5. Request for Relief. The *Third Order* requires \$10.00 rates to be in effect for reporting purposes by June 1, 2012, rather than July 1, 2012. Because Company had already begun the billing process, new bills and the included customer notice have already been processed and have already been sent to customers by the time the Commission acts on this motion. Therefore, the Company requests that the

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<sup>3</sup> *Third Order on Reconsideration*, WC Docket No. 10-90 et al., FCC 12-52.

Commission approve the Company's tariffs to be effective June 1, 2012, with the understanding that the proposed rate changes will not be implemented until July 1, 2012. Expedited relief will prevent harm to both the Company and its customers. For the Company, it will establish tariff rates effective June 1, 2012 that comply with the FCC's *USF/ICC Order* and prevent the company from losing six (6) months of USF HCL support. The Company's customers will see no rate changes on their bills until July 1, 2012 as originally intended, and customers will receive 30 days' customer notice of the changes without the need for a confusing second customer notice.

6. Good cause. The FCC did not announce its June 1, 2012 deadline until Monday, May 14, 2012, leaving less than thirty (30) days available to implement rate changes and notify customers. If the Company's rates are not in effect by that time, the Company will lose six (6) months of USF HCL support which the Company estimates at this time to be approximately \$94,000.00. The Company acted as soon as possible after the FCC's *Third Order* was released to file this pleading.

7. Waiver of 30-day notice requirement. As a part of its initial tariff filing, Company has already provided for customer notice of its July 1, 2012 rate changes. Accordingly, Company requests waiver of §392.220.2 and §392.230.5 insofar as they require 30-day notice to the Commission. Section 392.220.2 provides:

**The Commission for good cause shown may allow changes in rates, charges or rentals without requiring thirty days' notice, under such circumstances as it may prescribe.**

(Emphasis supplied.) The unique circumstances presented by the *FCC's Third Order* present the requisite good cause.

**Request for Expedited Relief pursuant to 4 CSR 240-2.080(14)**

8. Relief Requested by May 23, 2012. The Company requests action as soon as possible and no later than May 23, 2012 in order to allow an order granting expedited approval to become effective.

9. Harm Avoided. Company would lose USF High Cost Loop Support for six (6) months, resulting in substantial harm and revenue losses to the company and its ability to continue providing service in high-cost, low-density rural areas. Moving the effective date of the \$10.00 rate tariffs from July 1 to June 1 will have no negative effect on the Company's individual customers because the billing of the new rates (although effective) will not be implemented until July 1, 2012.

10. Pleading Filed as Soon as Possible. The FCC's thirty-page *Third Order* was issued on May 14, 2012. This pleading was filed as soon as possible after Company's counsel and consultants reviewed the *Third Order*.

WHEREFORE, the Company respectfully requests that the Commission grant expedited treatment, approve the tariffs to go into effect on June 1, 2012, and issue such other relief as is necessary and reasonable in the circumstances.

Respectfully submitted,

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ATTORNEYS FOR  
FAIRPOINT COMMUNICATIONS

## CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the above and foregoing document were sent by electronic mail, or hand-delivered, on this 17<sup>th</sup> day of May, 2012, to:

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/s/ Larry W. Dority  
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