



# PUBLIC NOTICE

**Federal Communications Commission**  
**445 12<sup>th</sup> St., S.W.**  
**Washington, D.C. 20554**

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**DA 13-213**

**Released: February 14, 2013**

**WIRELINE COMPETITION BUREAU SEEKS COMMENT ON THE  
FAIRPOINT COMMUNICATIONS, INC.  
PETITION FOR WAIVER OF CERTAIN HIGH-COST UNIVERSAL SERVICE RULES**

**WC Docket No. 10-90**  
**WC Docket No. 05-337**

**Comment Date: March 18, 2013**  
**Reply Comment Date: April 2, 2013**

The Wireline Competition Bureau seeks comment on a petition filed by FairPoint Communications, Inc. (FairPoint)<sup>1</sup> for waiver of section 54.313(c) of the Commission's rules, which requires price cap recipients of frozen high-cost support to certify annually that a percentage of the frozen high-cost support received in a given year was used to build and operate broadband-capable networks used to offer the provider's own retail broadband service in areas substantially unserved by an unsubsidized competitor.<sup>2</sup> In the *USF/ICC Transformation Order*, the Commission froze all support under then-existing high-cost support mechanisms for price cap carriers and their rate-of-return affiliates equal to the amount of support each carrier received in 2011.<sup>3</sup> In its petition, FairPoint specifically seeks to exclude from the broadband obligations in section 54.313(c) the portions of its frozen high-cost universal service support received by the company in 2013 and subsequent years which was derived from the Interstate Access Support, Interstate Common Line Support and Local Switching Support it had received in 2011.<sup>4</sup>

Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before the dates indicated above.<sup>5</sup> Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).<sup>6</sup>

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<sup>1</sup> FairPoint Communications, Inc. Petition for Waiver, WC Docket Nos. 10-90 and 05-337 (filed February 8, 2013) (Petition).

<sup>2</sup> Petition at 1; 47 C.F.R. § 54.313 (c).

<sup>3</sup> *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17715, para. 133, 17722-23, paras. 149-50 (2011) (*USF/ICC Transformation Order*), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 18, 2011).

<sup>4</sup> Petition at 2.

<sup>5</sup> 47 C.F.R. §§ 1.415, 1.419.

<sup>6</sup> 47 C.F.R. § 1.415(f)(3).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

**In addition, one copy of each pleading must be sent to each of the following:**

- (1) Abdel Eqab, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B431, Washington, D.C. 20554; e-mail: [Abdel-Hamid.Eqab@fcc.gov](mailto:Abdel-Hamid.Eqab@fcc.gov); and
- (2) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A452, Washington, D.C. 20554; e-mail: <mailto:Charles.Tyler@fcc.gov>.

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>7</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments

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<sup>6</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

<sup>7</sup> 47 C.F.R. §§ 1.1200 *et seq.*

already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, please contact Abdel Eqab, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484.

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