

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS, DISSENTING**

Re: *Applications Filed for the Transfer of Certain Spectrum Licenses and Section 214 Authorizations in the States of Maine, New Hampshire, and Vermont from Verizon Communications Inc. and its Subsidiaries to FairPoint Communications, Inc.*, Memorandum Opinion and Order, WC Docket No. 07-22

The residents of Maine, New Hampshire and Vermont deserve high quality, affordable broadband and telecommunications service. Bringing these services to the four corners of the country is the infrastructure challenge of our time. If the people and businesses of northern New England are going to be connected, competitive, and have access to cutting edge technologies, the largest telecommunications provider in these states has to be committed and able to provide first-rate broadband services throughout the region, particularly to areas as rural as these. So the Commission is asked to consider whether it serves the public interest for FairPoint to acquire Verizon's assets and responsibilities to serve these states.

The record has a number of competing and conflicting assertions. Petitioners promise that they will invest in bringing broadband to these areas, increase jobs and increase quality of service. In contrast, there is sizable information in the record to show that FairPoint may be limited by the terms of their agreement in its ability to deliver on its promises. If the seller is not committed to ubiquitous broadband deployment, then letting someone else with more commitment do the job makes sense. But if the buyer is shackled by the costs of the agreement, it becomes more difficult to see how the public interest is served. As a result of this particular transaction, FairPoint may be unable to meet its broadband promises, have less reliable service, employ fewer people over time and meet its other commitments due to its heavy debt load and historically high dividends. Were I confident that FairPoint could deliver on these promises, then the public interest argument they put forward would be more persuasive. However, today's Order relies almost entirely on the assertions of the applicants and makes no endeavor to get under the hood to confirm that these promises are realistic.

The Order repeatedly deems the concerns raised by the transaction's opponents as "speculative." There are at least two definitions of the word "speculation." One is "[a] conclusion, an opinion, or a theory reached by conjecture."¹ I believe that the concerns raised in the record have merit, are certainly more than conjecture and at a minimum deserving of an in-depth analysis. Those in northern New England who have made such an endeavor have concluded that the transaction is problematic. In recent days, the Vermont Public Service Board rejected the proposed transaction and the Maine Public Utilities Commission approved it only after substantial changes to its terms. Both concluded that the transaction as originally proposed and as proffered to the FCC would not well serve the citizens of their respective states. The New Hampshire Public Utilities Commission staff and the New Hampshire Consumer Advocate also have serious concerns with the proposed transaction.

In weighing the public interest benefits of this transaction, I believe it is incumbent on the Commission to determine whether the applicants' proposals are in fact speculative or real. As Larry Cohen, President of the Communications Workers of America, advised, those reviewing the transaction in the states did not "accept[] FairPoint's and Verizon's stated promises. Instead, they subjected the Applicants' projections, assumptions and statements to rigorous analysis. Consequently, the regulatory agencies in these states have a comprehensive record from which to reach a decision. We expect nothing

¹ *The American Heritage College Dictionary*, 3rd ed., Houghton Mifflin Co. (2000).

less from the Federal Communications Commission.”² Disappointingly, the Commission did not heed this advice and gave little credence to the concerns raised in the record.

The Commission was asked by a number of parties, including Members of Congress from these states, to wait for the state commissions to complete their work before acting. We should be doing that in order to benefit from their more granular analysis and their on-the-scene knowledge and experience. Nevertheless, I hope and expect that the states will continue independently in their consideration of this matter despite the FCC’s action today.

I conclude with a second definition for “speculation”: “[e]ngagement in risky business transactions on the chance of quick or considerable profit.”³ I worry that this transaction falls within this definition and that the Commission has not undertaken the analysis to know for sure. For these reasons, I dissent.

² Letter from Larry Cohen, President of the Communications Workers of America, to Chairman Kevin Martin, FCC, WC Docket No. 07-22 at 1 (Nov. 27, 2007).

³ *The American Heritage College Dictionary*, 3rd ed., Houghton Mifflin Co. (2000).