

**STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN, 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 fundamental standard of review of a transfer of control by the Commission is whether the proposed transfer will serve the public interest, convenience, and necessity, pursuant to sections 214(a) and 310(d) of the Act. The Commission has not grappled meaningfully with the question of whether this transaction truly satisfies that public interest standard. Accordingly, I must dissent from this Order.

This transaction presents a different set of issues than those raised in many of the recent large-provider transactions, in which the Commission has looked at increasing consolidation and loss of competition. Yet, the issues are just as pressing for the citizens affected, if not more so. In this case, we are asked to address whether the divestiture of the entire operations of three contiguous states will serve the public interest. In the balance are the lifeline connections and broadband opportunities of the approximately 3 million people who live in Maine, Vermont, and New Hampshire. Given the significant and growing role of telecommunications services in the health of our communities, this decision will have a momentous impact for the citizens, businesses, and governments of these three states. As this Commission has recognized, telecommunications, particularly as we migrate to a broadband world, is a critical engine for economic development, essential for public safety and disaster response, and vital to the opportunities available for these communities.

According to precedent, the Commission considers in its public interest inquiry whether the applicant for a license has the requisite “citizenship, character, financial, technical, and other qualifications.” The applicants have asserted that this transaction would produce numerous public interest benefits, including enhanced service quality, increased capital expenditures, accelerated broadband deployment, and the creation of new jobs in the region. At the same time, we have heard serious concerns about whether this transaction, as proposed, would serve the public interest. The Communications Workers of America (CWA) has argued that “[t]he proposed transaction is so fraught with financial, operational, service quality and broadband risks that the Commission must protect the public interest by either denying the transaction or attaching significant conditions.”<sup>1</sup> Similar questions have been raised in our record by the International Brotherhood of Electrical Workers (IBEW), as well as citizens’ organizations, including the American Association of Retired Persons (AARP), the Consumer Federation of America (CFA), and Free Press. At the state level, red flags have been raised by the Maine Public Utilities Commission Hearing Examiner, the Maine Public Advocate, the Vermont Department of Public Service, the staff of the New Hampshire Public Utilities Commission, and the New Hampshire Consumer Advocate. The Vermont Public Service Board did more than raise red flags -- it put up a red light in denying the transaction as proposed. These commenters raise serious issues that would have benefited from more attention than the casual dismissal we offer today.

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<sup>1</sup> Letter from Larry Cohen, CWA, President, to the Honorable Kevin Martin, Chairman, Federal Communications Commission (Nov. 28, 2007).

I am particularly concerned about these issues because Vermont, Maine, and New Hampshire have an exceptionally high percentage of rural residents.<sup>2</sup> Consumers in these rural areas, despite the efforts of state and local governments, face some of the lowest levels of broadband penetration in the country.<sup>3</sup> A rural-focused company may provide real benefits for the consumers in this region, but more careful attention to the benefits proffered seems warranted here, particularly given the size and scale of the transaction. Like a python swallowing an elephant, the acquiring company here will be taking the reins of an entity that is approximately six times larger than its current size.

Yet, inexplicably, there are no special measures in this Order to address the concerns about broadband deployment, wholesale service, or service quality for customers in these three states. The Order itself does not wrestle in any serious way with the ultimate question for consumers, as posed by the consumer commenters, of what level of service these new customers will be receiving and at what price.<sup>4</sup> Instead, this Order takes at face value assertion after assertion without engaging in meaningful analysis. I might have been persuaded that, with the proper analysis and conditions, this merger could serve the public interest. Sadly, neither is offered in this Order.

We hear so much about promoting broadband deployment, but here the Commission has a specific opportunity to promote the public interest and fails to take any concrete steps to ensure that the consumers of Maine, Vermont, and New Hampshire will not be deprived. There are no binding commitments, no reports to monitor progress, and no commitment to oversight. Instead, we leave these issues to the state commissions. Fortunately, our colleagues in the state commissions are well positioned to grapple with these questions, but it is clear that this Commission did not intend to meaningfully address these issues.

For these reasons, I respectfully dissent.

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<sup>2</sup> U.S. Census Bureau, Census Summary File 3, Table P5 (viewed at <http://factfinder.census.gov>).

<sup>3</sup> Comments of Consumer Federation of America and Free Press at 2.

<sup>4</sup> *Id.*