

DIRECT TESTIMONY

OF

MIKE OSTRANDER

FINANCIAL ANALYSIS DIVISION

ILLINOIS COMMERCE COMMISSION

FAIRPOINT COMMUNICATIONS INC.,
C-R TELEPHONE COMPANY D/B/A FAIRPOINT COMMUNICATIONS/
C-R TELEPHONE COMPANY, THE EL PASO TELEPHONE COMPANY D/B/A
FAIRPOINT COMMUNICATIONS/ THE EL PASO TELEPHONE COMPANY, AND
ODIN TELEPHONE EXCHANGE, INC. D/B/A FAIRPOINT COMMUNICATIONS/
ODIN TELEPHONE EXCHANGE, INC.

JOINT APPLICATION FOR APPROVAL OF A REORGANIZATION
PURSUANT TO SECTIONS 7-203 AND 7-204 OF
THE PUBLIC UTILITIES ACT

DOCKET NO. 10-0125

April 14, 2010

1 **Witness Identification**

2 **Q. Please state your name and business address.**

3 A. My name is Mike Ostrander. My business address is 527 East Capitol Avenue,
4 Springfield, Illinois 62701.

5
6 **Q. By whom are you employed and in what capacity?**

7 A. I am currently employed as an Accountant in the Accounting Department of the
8 Financial Analysis Division of the Illinois Commerce Commission (“ICC” or
9 “Commission”).

10

11 **Q. Please describe your professional background and affiliations.**

12 A. I received a Bachelor of Business Administration in Accounting from the
13 University of Notre Dame. I am a Certified Public Accountant and a Certified
14 Internal Auditor. I joined the Commission staff (“Staff”) in March 2006. Prior to
15 joining the Commission, I was employed for three years as a staff accountant in
16 public accounting, seventeen years in private industry with positions ranging from
17 accounting manager to corporate officer encompassing all areas of accounting
18 and internal auditing, and three years as controller of a law firm and software
19 company.

20

21 **Q. Have you previously testified before any regulatory bodies?**

22 A. Yes. I have testified on several occasions before the Commission.

23

24 **Purpose of Testimony**

25 **Q. Please describe the proposed transaction.**

26 A. FairPoint Communications, Inc. (“FairPoint” or “Company”), C-R Telephone
27 Company d/b/a FairPoint Communications / C-R Telephone Company (“C-R
28 Telephone”), The El Paso Telephone Company d/b/a FairPoint Communications
29 / The El Paso Telephone Company (“El Paso Telephone”) and Odin Telephone
30 Exchange, Inc. d/b/a FairPoint Communications / Odin Telephone Exchange, Inc.
31 (“Odin Telephone”) (collectively, the “Joint Applicants”) seek approval of a
32 reorganization pursuant to Sections and 7-204 of the Illinois Public Utilities Act
33 (“Act”). Joint Applicants seek approval because a change of ownership of more
34 than 50% of the voting capital stock of FairPoint will occur in connection with the
35 implementation of a bankruptcy restructuring plan to be approved by the United
36 States Bankruptcy Court for the Southern District of New York (the “Bankruptcy
37 Court”).

38

39 **Q. What is the purpose of your testimony in this proceeding?**

40 A. My testimony addresses the compliance of the proposed reorganization of
41 FairPoint with respect to Section 7-204(b)(2) and 7-204(b)(3) of the Act. I also
42 provide a recommendation to the Commission regarding its ruling on Section 7-
43 204(c) of the Act.

44

45 **Compliance with Sections 7-204(b)(2) and 7-204(b)(3)**

46 **Q. Describe the requirements of Section 7-204(b)(2).**

47 A. Section 7-204(b)(2) requires that, before approving a proposed reorganization,
48 the Commission find that the proposed reorganization will not result in the
49 unjustified subsidization of non-utility activities by the utility or its customers.

50

51 **Q. Describe the requirements of Section 7-204(b)(3).**

52 A. Section 7-204(b)(3) requires that, before approving a proposed reorganization,
53 the Commission find that costs and facilities are fairly and reasonably allocated
54 between utility and non-utility activities in such a manner that the Commission
55 may identify those costs and facilities which are properly included by the utility for
56 rate making purposes.

57

58 **Q. How do the Joint Applicants address the standards in Sections 7-204(b)(2)**
59 **and 7-204(b)(3) in their testimony?**

60 A. On page 46 of Joint Applicants' Exhibit 1.0, lines 1006 - 1011, Joint Applicants'
61 witness Alfred C. Giammarino states that neither the bankruptcy restructuring
62 plan nor the change in ownership of FairPoint will have any effect on the three
63 Illinois operating companies in regard to compliance with Sections 7-204(b)(2)
64 and 7-204(b)(3). C-R Telephone, El Paso Telephone, and Odin Telephone will
65 continue to be subject to and comply with 83 Ill. Admin. Code 712 and the cost
66 allocation requirements contained therein.

67

68 **Q. By what means can the Commission be assured that the Joint Applicants**
69 **will be in compliance with Sections 7-204(b)(2) and 7-204(b)(3)?**

70 A. The Joint Applicants remain subject to conditions as ordered by the Commission
71 in Docket No. 07-0191. (Joint Applicants' Exhibit 1.0, pp. 40-47) In addition, in
72 Docket No. 07-0191, the Joint Applicants agreed to the following conditions as
73 further evidence of compliance with Sections 7-204(b)(2) and 7-204(c)(3):

- 74 1. Commission Staff will be granted access to all books, accounts, records
75 and personnel of FairPoint Communications Inc., C-R Telephone
76 Company, El Paso Telephone Company, and Odin Telephone Exchange,
77 Inc. and all of their utility and non-utility affiliated sister and subsidiary
78 companies, as well as independent auditor's working papers, to the extent
79 permitted by the rules and policies of the independent auditor;
- 80 2. C-R Telephone Company, El Paso Telephone Company, and Odin
81 Telephone Exchange, Inc. will continue to comply with 83 Ill. Admin. Code
82 712;
- 83 3. FairPoint Communications Inc., C-R Telephone Company, El Paso
84 Telephone Company, and Odin Telephone Exchange, Inc. and all their
85 utility and non-utility affiliated sister and subsidiary companies will conduct
86 annual internal audits to test compliance with Section 7-204(b)(2) and 7-
87 204(b)(3). The internal audit report documenting findings, conclusions and
88 recommendations will be submitted to the Manager of Accounting of the
89 Commission by March 31st each year and associated working papers will
90 be available to Commission Staff for review. (Id., pp. 9-10)

91 Joint Applicants assert that these conditions remain in effect and can be relied
92 upon by the Commission again. (Joint Applicants Exhibit 1.0, p. 46-47)

93

94 **Finding Regarding Section 7-204(c)**

95 **Q. Describe the ruling the Commission must make to be in compliance with**
96 **Section 7-204(c).**

97 A. Section 7-204(c) provides that the Commission shall not approve a
98 reorganization without ruling on 1) the allocation of any savings resulting from the
99 proposed reorganization; and 2) whether this company should be allowed to

100 recover any costs incurred in accomplishing the proposed reorganization and, if
101 so, the amount of costs eligible for recovery and how the costs will be allocated.

102

103 **Q. How do the Joint Applicants propose to allocate any savings resulting from**
104 **the proposed reorganization?**

105 A. On page 50 of Joint Applicants' Exhibit 1.0, lines 1087 – 1090, Mr. Giammarino
106 indicates that there are no savings projected by the Joint Applicants at the
107 regulated intrastate operations as a result of the proposed reorganization.

108

109 **Q. Do the Joint Applicants project that any incremental costs will be incurred**
110 **at the Illinois operating company level as a result of the proposed**
111 **reorganization?**

112 A. On page 50 of Joint Applicants' Exhibit 1.0, lines 1092 – 1094, Mr. Giammarino
113 states that the Joint Applicants will not seek in this proceeding, nor will they seek
114 in any other proceeding before the Commission, to recover any costs incurred in
115 accomplishing the proposed reorganization.

116

117 **Recommendations**

118 **Q. What recommendations do you have for the Commission?**

119 A. I recommend that the Commission find that the Joint Applicants are in
120 compliance with Sections 7-204(b)(2) and 7-204(b)(3).

121

122 In regards to Commission compliance with Section 7-204(c), I recommend that
123 the Commission rule that:

- 124 1) The allocation of any savings resulting from the proposed reorganization
125 would flow through to the costs associated with the regulated intrastate
126 operations for consideration in setting rates by the Commission; and
127 2) The Joint Applicants will not be allowed to recover any costs incurred in
128 accomplishing the proposed reorganization in future rate proceedings.

129

130 I also recommend that the Commission order that the Joint Applicants remain
131 subject to certain conditions as ordered by the Commission in Docket No. 07-
132 0191 (Joint Applicants' Exhibit 1.0, Attachment 1.03, page 13). The Joint
133 Applicants have agreed to the following conditions as further evidence of
134 compliance with Sections 7-204(b)(2) and 7-204(c)(3):

- 135 1. Commission Staff will be granted access to all books, accounts, records
136 and personnel of FairPoint Communications Inc., C-R Telephone
137 Company, El Paso Telephone Company, and Odin Telephone Exchange,
138 Inc. and all of their utility and non-utility affiliated sister and subsidiary
139 companies, as well as independent auditor's working papers, to the extent
140 permitted by the rules and policies of the independent auditor;
- 141 2. C-R Telephone Company, El Paso Telephone Company, and Odin
142 Telephone Exchange, Inc. will continue to comply with 83 Ill. Admin. Code
143 712;
- 144 3. FairPoint Communications Inc., C-R Telephone Company, El Paso
145 Telephone Company, and Odin Telephone Exchange, Inc. and all their
146 utility and non-utility affiliated sister and subsidiary companies will conduct
147 annual internal audits to test compliance with Section 7-204(b)(2) and 7-
148 204(b)(3). The internal audit report documenting findings, conclusions and
149 recommendations will be submitted to the Manager of Accounting of the
150 Commission by March 31st each year and associated working papers will
151 be available to Commission Staff for review.

152

153 **Conclusion**

154 **Q. Does this question end your direct testimony?**

155 **A. Yes.**