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April 5, 2013

Charlotte Savercool, Executive Assistant
U.S. House Committee on Energy and Commerce
2125 Rayburn House Building
Washington, DC 20515-6115

Dear Ms. Savercool:

I am submitting answers to the questions that you send after my testimony at the Subcommittee on Communications and Technology on Wednesday, February 27, 2013, to testify at the hearing entitled "Is the Broadband Stimulus Working." Please find my answers attached.

If you have any further questions please do not hesitate to give me a call.

Sincerely,

Michael K. Smith
State President-Vermont

The Honorable Cory Gardner

1. Mr. Smith, during the second panel, Congressman DeGette asked about a \$7 million payment that FairPoint received as a vendor from an award winner. I believe she was asking about the federal NTIA grant program and your answer referenced a state program. Did FairPoint receive any money from a AARA BTOP grant award recipient?

ANSWER

Thank you for the question. For clarification, we received \$8.6 million in reimbursement from either ARRA grant recipients or their contractors working for BTOP award winners. These monies partially reimbursed us for our costs for make-ready work necessary for the applicants to attach their cable to FairPoint's poles. In most cases this was right on top of our existing fiber. This work includes modifying existing pole attachments, which include FairPoint's, CLEC's, Cable TV's and in some cases the electric utilities facilities. It is important to note that this "reimbursement of costs" is recovery of money spent by FairPoint to make changes to the pole and does not directly benefit either FairPoint or any last mile broadband customers.

The Honorable Henry Waxman

1. I understand that during the time period of the Recovery Act implementation, FairPoint was the subject of a significant number of customer service complaints to the Vermont Public Service Board—roughly 9,000 complaints in 2009 and almost 4,000 in 2010. Do you believe FairPoint's customer service record have impacted the company's suitability to receive Recovery Act funding? If not, why not?

ANSWER

Thank you for the question. If the above Vermont complaint data was a contributing factor to impacting FairPoint's suitability to receive Recovery Act funding then this is truly unfortunate since this data appears to be interpreted incorrectly and appears to be inaccurate. There is no data that we could find that corresponds to the Vermont Public Service Board receiving 9,000 complaints in 2009 or nearly 4,000 complaints in 2010. Our records indicate that for 2009 there were 2,606 complaints made to the state in Vermont (less than one-percent of our total access lines in Vermont) and in 2010 there were 1,339 complaints (less than one-half of a percent of our total access lines in Vermont). It is uncertain what the source of the data is for the assertions that we received 9,000 complaints in Vermont in 2009, but if the Federal Communications Commission's ("FCC's") report "State Complaints Per 1,000,000 Lines" from the Automated Record Management Information System (ARMIS) was the source for these complaint numbers, there is a conversion that must be done before reporting complaint data

because it is based on “Per 1,000,000 Access Lines.” Using only Vermont data from the 2009 FCC Report 43-05 “The ARMIS Service Quality Report”, the FairPoint Vermont complaint number was 993. The difference between this figure and what we have in our Vermont data base is probably because by all accounts Vermont has a more liberal interpretation of what constitutes a complaint than most other states or the federal government.

In large part these complaints were based on a massive IT conversion and were largely resolved between the fourth quarter of 2009 and the first quarter of 2010 and it had no bearing on our operational capabilities to expand broadband. In fact, we kept an aggressive broadband expansion program in full deployment in Vermont during that time. Digging deeper about complaint levels in Vermont during this timeframe finds a dramatic decrease in complaints (almost 50%) from the third to the fourth quarter of 2009. In 2010, there was another significant decrease in complaints (55%). Certainly these numbers needed improvement, and at the time of the grant application and process, they were improving significantly. Today, FairPoint is achieving high service quality standards that are predicated on the turnaround that was happening toward the last quarter of 2009 and beginning of 2010.

2. Your testimony stated FairPoint’s concern about “overbuilding.” Yet it is my understanding that FairPoint’s own application for Recovery Act broadband funding would have included some areas that were already served by cable, DSL, and satellite providers. Would FairPoint’s proposed project have raised the type of “overbuild” concerns that you stated in your testimony? If not, why not?

ANSWER

I have reviewed FairPoint’s 2009 applications in Vermont, New Hampshire, and Maine. It is safe to conclude that the intent of those applications was to build where state officials thought that broadband was needed in their respective states. Although I can’t confirm that in every case there was no one being overbuilt-- since satellite transmission by its very definition could be considered to be an overbuild in loosely defined terms--it was the primary intent of the applications to bring broadband to the unserved. FairPoint’s 2010 Maine application had the same intended purpose. This intention is quite different than funding programs whose primary intent is to overbuild existing carriers.

3. According to the Committee’s annual request for oversight data on the high cost program, FairPoint is a major recipient of Universal Service funding through the FCC. In your testimony you noted that FairPoint invested \$196 million for the deployment of broadband services. Did you include any USF subsidies in this \$196 million calculation? If so, how much of USF subsidy did you include?

ANSWER

FairPoint has spent approximately \$196M on broadband expansion in the northern New England markets purchased from Verizon. During that same period the Company received approximately 2% of its revenues from USF. The high cost model support was spent in accordance with the various FCC rules and as such could have contributed, although fractionally, towards the total investment.

4. Is FairPoint using any USF funding to build in areas that may already have some broadband service such as from a local cable company or satellite provider?

ANSWER

USF funding comes in a variety of programs, but generally it is based on reimbursement for required operational spending and recovery of existing investments. The single USF program that FairPoint participates in and that is tied to specific broadband buildout is the CAF Phase I Incremental support funding which can only be used for broadband in unserved areas. In fact one of the issues with CAF Phase 1 funding is that if just one household is served by another provider within the entire census block then that census block can't be used for CAF Phase 1 funding.