

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Investigation)
Into the Earnings of Cass County) Case No.
Telephone Company.)

STIPULATION AND AGREEMENT

COME NOW the Staff of the Missouri Public Service Commission ("Staff"), Cass County Telephone Company, Limited Partnership ("CassTel"), Local Exchange Company, LLC, ("LEC"),¹ FairPoint Communications, Inc. ("FairPoint"), FairPoint Communications Missouri, Inc. ("FairPoint Missouri") and the Office of Public Counsel ("OPC"), (sometimes hereinafter collectively referred to as the "Signatory Parties" or individually as a "Party") and state that the Staff has conducted an investigation into the earnings of CassTel. The Staff's earnings review was based on a calendar test year ending December 31, 2004, trued up through the first six months of 2005. Upon completion of its earnings review, the Staff and OPC began discussions with CassTel. As a result of extensive negotiations, the Signatory Parties stipulate and agree as follows:

I. **Definitions** The Signatory Parties, for purposes of this Stipulation and Agreement, agree to the following definitions:

A. **Closing Date:** the date of the closing of the sale of CassTel's assets to FairPoint Missouri that is the subject of Commission

¹ Although LEC is a party to this Stipulation and Agreement, LEC does not alter or waive its contention that it is not subject to the Commission's regulatory supervision and does not, by virtue of signing this agreement, consent or concede to the jurisdiction of the Commission over LEC's business or its members.

Case No. TM-2006-0306. The Closing Date shall not precede the Effective Date.

B. **Effective Date:** the latter of the date the Commission makes an order approving this Stipulation and Agreement without modification effective or the date the Commission denies a motion to rehear such an order. The Effective Date shall precede or be contemporaneous with the Closing Date.

C. **Credit Qualifying Customer:** A customer (other than CassTel, LEC, LLC, or any owner or officer, current or former, of CassTel or LEC, LLC in order to avoid any appearance of conflict of interest or impropriety) that is paying the full tariff rate for and receiving basic local telecommunications service in Missouri from CassTel ("Basic Local Service") on the Effective Date and who has been paying the full tariff rate for and receiving such service from CassTel on a continuous basis since January 1, 2005.

D. **Cash Distribution Qualifying Customer:** A customer (other than CassTel, LEC, LLC, or any owner or officer, current or former, of CassTel or LEC, LLC in order to avoid any appearance of conflict of interest or impropriety) that is paying the full tariff rate for and receiving basic local telecommunications service in Missouri from CassTel ("Basic Local Service") on the Closing Date and who has been paying the full tariff rate for and receiving such service from CassTel on a continuous basis since January 1, 2005.

II. Combined Customer Credit and Advance Cash Distribution

The Signatory Parties agree to the following:

A. Customer Credit: CassTel, or FairPoint Missouri² if the Closing Date precedes issuance of the customer credit, will issue a credit to each Credit Qualifying Customer. The aggregate amount of these credits shall be \$350,000. The credit for each Credit Qualifying Customer shall be \$350,000 divided by the total number of Missouri access lines billed to Credit Qualifying Customers as of the Effective Date, then multiplied by the number of Missouri access lines billed to the Credit Qualifying Customer as of the Effective Date. Expressed by a mathematical formula each Credit Qualifying Customer's credit = the number of Missouri access lines billed to the Credit Qualifying Customer as of the Effective Date x (\$350,000 / the total number of Missouri access lines billed to Credit Qualifying Customers as of the Effective Date). Credit Qualifying Customers shall receive the credit no later than the completion of the second billing cycle following the Effective Date.

B. Cash Distribution: CassTel agrees to pay Cash Distribution Qualifying Customers in Missouri the aggregate amount of \$3.25 million within 10 days after the Closing Date pursuant to the following process: On the Closing Date, FairPoint Missouri will withhold \$3.25 million of CassTel / LEC's proceeds from the sale in trust for the benefit of the Cash Distribution Qualifying Customers for the purpose of

² On January 23, 2006, a Joint Application was filed with the Commission for authority for CassTel to sell its regulated Missouri operations to FairPoint Communications Missouri, Inc., a case docketed by the Commission as Case No. TM-2006-0306.

making the cash distributions, and will make the cash distributions. The cash distribution to each Cash Distribution Qualifying Customer shall be \$3.25 million divided by the total number of Missouri access lines billed to Cash Distribution Qualifying Customers as of the Closing Date then multiplied by the number of Missouri access lines billed to the Cash Distribution Qualifying Customer as of the Closing Date. Expressed by a mathematical formula each Cash Distribution Qualifying Customer's advance cash distribution = the number of Missouri access lines billed to the Cash Distribution Qualifying Customer as of the Closing Date x (\$3.25 million / the total number of Missouri access lines billed to Cash Distribution Qualifying Customer access lines as of the Closing Date).

C. Customer Notice and Default Provisions:

(1) With respect to the customer credit of §II.A., above, CassTel will mail written notice to all Credit Qualifying Customers that are receiving basic local telecommunications service in Missouri from CassTel ("Basic Local Service") on the Effective Date advising them of the credit no later than thirty (30) days after the Effective Date. If a Credit Qualifying Customer discontinues receiving Basic Local Service before receiving the customer credit, CassTel or FairPoint Missouri, as applicable, will, in lieu of the credit, issue to the Credit Qualifying Customer a check in the amount of the credit due and mail the check to the last known billing address of the Credit Qualifying Customer.

(2) With respect to the cash distribution of §II.B., above, FairPoint Missouri must mail written notice to all Cash Distribution Qualifying Customers who receive basic local telecommunications service in Missouri from CassTel ("Basic Local Service") on the Closing Date that advises those customers of the cash distribution no later than thirty (30) days after the Closing Date. FairPoint Missouri must pay the advance cash distribution by mailing a check in the amount of the cash distribution due the Cash Distribution Qualifying Customer to the last known billing address of the Cash Distribution Qualifying Customer.

(3) After the foregoing procedures are used to distribute credits and cash distributions, all remaining credits and cash distributions shall be tendered in the form of a payment to the West Central Missouri Community Action Agency for use in funding that agency's low-income housing energy assistance program.

(4) Within one hundred and twenty (120) days after the Closing Date, the Executive Director of the Commission must receive from CassTel or FairPoint Missouri a report that shows (1) the credits issued (and payments issued in lieu thereof), (2) the cash distributions made and (3) the amount paid to the West Central Missouri Community Action Agency. The report shall identify which part of the amount paid to the West Central Missouri Community Action Agency originated from credits and which part originated from cash distributions.

D. Rate Schedule Revisions: CassTel's existing rate schedules do not require revision to implement this Agreement, including the credits and cash distributions.

E. Failure of Performance as Breach of Agreement: Failure to make any of the credits or payments set forth in this Agreement is a material breach of this Agreement whereupon the Staff and/or OPC may immediately file an overearnings complaint or take other action.

III. Accounting Authority Order: The Signatory Parties have entered into this Agreement anticipating the sale of CassTel's assets to FairPoint Missouri, which will become regulated by the Commission. The Signatory Parties agree a material condition of this Agreement is the Commission's grant of the following accounting authority:

A. Authorize FairPoint Missouri to amortize, based on the actual days of the month, as a reduction of booked local revenues, and as more specifically set forth in Appendix A hereto, \$3.6 million — the sum total of the credits and cash distributions set forth in **§II** of this Agreement — during the post-Closing Date moratorium set forth in **§IV** of this Agreement; and

B. Authorize CassTel to amortize, based on the actual days of the month, as a reduction of booked local revenues, \$350,000 (i.e., the amount of the **§II.A.**, customer credit), for a period of one year commencing on the Effective Date, if the Closing Date is not within forty-five (45) days after the Effective Date.

C. Authorize FairPoint Missouri to amortize, based on the actual days of the month, \$350,000 in accordance with **§III.B.**, the preceding paragraph, if the Closing Date is after CassTel begins amortizing \$350,000 as a reduction of booked local revenues in accordance with **§III.B.**

D. The purpose of these accounting orders is to spread, for accounting purposes, the impact of the credits and distributions (**§§II.A. and II.B.** above) over the rate moratorium period (**§IV.** below) rather than when they are incurred.

IV. Rate Moratorium:

A. Except as set forth in **§IV.B.**, below, if CassTel amortizes the customer credit in accordance with **§III.B.** above, no Party shall file an earnings complaint case concerning CassTel before January 1, 2007.

B. If the Closing Date occurs, no Party will file a general rate increase case or file or aid in the filing of a rate complaint case concerning the rates of CassTel or FairPoint Missouri, as applicable, during the two years (730 days) following the Effective Date, unless a significant, unusual event that has a major impact on CassTel or FairPoint Missouri, as applicable, occurs, an event such as:

- (a) terrorist activity or an act of God;
- (b) a significant change in federal or Missouri state tax law;
- (c) a significant change in federal or Missouri state utility laws or legislation affecting telephone companies; or

- (d) fraud, misrepresentation or nondisclosure of material matters relating to the finances or operations of CassTel.

And, further, that any rate adjustment resulting from any such rate increase or earnings complaint case would not become effective until at least six (6) months after a rate increase or rate complaint case is filed; provided that, nothing herein is intended to limit the exercise of the authority the Commission has under §386.390 RSMo on its own motion. This provision would not preclude the filing of revised tariffs and rates that are revenue neutral to CassTel or FairPoint Missouri, as applicable.

V. Rate-of-Return Regulation: CassTel agrees, and FairPoint Missouri also agrees if the Closing Date occurs, not to seek a status where it is not subject to rate-of-return regulation until after a Commission order is effective, final and non-appealable in a case where Missouri basic local telephone service rates for CassTel or FairPoint Missouri, as applicable, are reviewed by the Commission; therefore, until then CassTel and FairPoint Missouri, as applicable, shall not seek competitive classification under §392.361 RSMo 2000 or price cap status or competitive status under §392.245 RSMo Supp. 2005 or under any other statute. CassTel, LEC, FairPoint and FairPoint Missouri consent to the inclusion of this obligation as a condition to the transfer of CassTel's assets to FairPoint Missouri in Case No. TM-2006-0306.

VI. General Provisions:

A. Effective Date of this Agreement: This Agreement shall become effective upon the Effective Date defined in **§I.B.**

B. Reliance on Certain Representations: The Signatory Parties enter into this Agreement in reliance upon information provided to them by CassTel and LEC. If the Commission finds CassTel or LEC failed to provide the Staff or OPC with material and relevant information in the possession of either of them or in the event the Commission finds that CassTel or LEC misrepresented facts material and relevant to this Agreement, this Agreement shall be terminated.

C. Contingent Waiver of Rights:

(1) This Agreement has resulted from extensive negotiations among the Signatory Parties and the terms hereof are interdependent. In the event the Commission does not approve this Agreement without modification, then this Agreement shall be void and no Party shall be bound by any of the agreements or provisions hereof, except as otherwise provided herein.

(2) No Party shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation, any method of cost determination or cost allocation or revenue related methodology, and none shall be prejudiced or bound in any manner by the terms of this Agreement in any proceeding, whether this Agreement is approved or not, except as otherwise expressly specified herein.

(3) If the Commission does not unconditionally approve this Agreement without modification, and notwithstanding its provision that it shall become void, neither this Agreement, nor any matters associated

with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any Party has for a decision in accordance with §536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Signatory Parties shall retain all procedural and due process rights as fully as though this Agreement had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Agreement shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

(4) If the Commission accepts the specific terms of this Agreement, for the case established by the Commission for consideration of this Agreement, the Signatory Parties waive their respective rights pursuant to §536.070(2), RSMo to call, examine and cross-examine witnesses; their respective rights to present oral argument and written briefs pursuant to §536.080.1 RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2 RSMo 2000; their respective rights to seek rehearing pursuant to §386.500 RSMo 2000; and their respective rights to judicial review pursuant to §386.510 RSMo 2000. This waiver applies only to a Commission order respecting this Agreement issued in a proceeding for Commission review of this Agreement, and does not apply to any matters raised in any prior or

subsequent Commission proceeding, or any matters not explicitly addressed by this Agreement.

D. Right to Disclose:

(1) The Staff shall file suggestions or a memorandum in support of this Agreement. Each Party shall be served with a copy of any such suggestions or memorandum and shall be entitled to submit to the Commission, within five (5) business days of receipt of the Staff's suggestions or memorandum, responsive suggestions or a responsive memorandum which shall also be served on all Parties, including the Staff. The contents of any suggestions or memorandum provided by any party are its own, are not acquiesced in or otherwise adopted by the other Signatory Parties, whether or not the Commission approves and adopts this Agreement.

(2) At any Commission agenda meeting at which this Agreement is noticed to be considered by the Commission, the Staff also shall have the right to provide whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other Parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any protective order issued by the Commission in this case.

E. **Integration:** This Agreement incorporates all the agreements of the Signatory Parties with regard to all issues examined in the context of the Staff's earnings investigation of CassTel.

WHEREFORE, for the foregoing reason, the undersigned Signatory Parties respectfully request that the Commission issue its order approving this Agreement in its entirety, without modification.

Respectfully submitted,

Wm K Hoss # 28701
for Nathan Williams

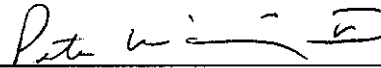
Nathan Williams #35512
Senior Counsel
Public Service Commission
P. O. Box 360
Jefferson City, Missouri 65102
Telephone: (573) 751-8701
Facsimile: (573) 751-9285
Email: nathan.williams@psc.mo.gov

FOR: Staff of the Missouri Public
Service Commission

W R England II

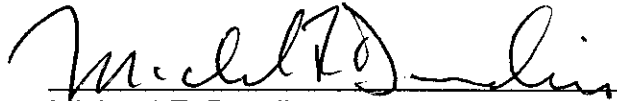
W. R. England, II #23975
Paul A. Boudreau #33155
Brydon, Swearngen & England, P.C.
312 East Capitol Avenue
P. O. Box 456
Jefferson City, Missouri 65102
Telephone: (573) 635-7166
Facsimile: (573) 635-0427
Email: trip@brydonlaw.com

FOR: Cass County Telephone
Company, Limited Partnership



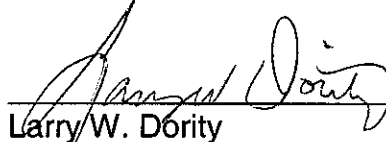
Peter Mirakian, III #47841
Mark A. Thornhill #26326
Spencer, Fane, Britt & Browne LLP
1000 Walnut, Suite 1400
Kansas City, MO 64106
Office: (816) 474-8100
Fax: (816) 474-3216
pmirakian@spencerfane.com

FOR: Local Exchange Company, LLC



Michael F. Dandino #24590
Office of the Public Counsel
P. O. Box 7800
Jefferson City, Missouri 65102
Telephone: (573) 751-5559
Facsimile: (573) 751-5562
Email: mike.dandino@ded.mo.gov

FOR: Office of the Public Counsel



Larry W. Dority #25617
Fischer & Dority, P.C.
101 Madison, Suite 400
Jefferson City, O 65101
(573) 636-6758
(573) 636-0383
iwdority@sprintmail.com

FOR: FairPoint Communications, Inc.
and FairPoint Communications
Missouri, Inc.

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all signatory counsel this 30th day of March 2006.

/s/ William K. Haas

William K. Haas