

COMMISSION OF
REGISTRATION
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TALLAHASSEE



ORIGINAL

June 8, 2000

Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Delivered via Federal Express and Fax

Re: ALLTEL's Response to FairPoint Communications Solutions Corp.'s Request for Mediation Pursuant to Section 252 of the Telecommunications Act of 1996

Dear Madam or Sir:

This letter is in response to the June 2, 2000, letter of Mr. Stephen T. Refsell, Vice President - Law, ALLTEL Corporation ("ALLTEL") to you requesting that the Florida Public Service Commission dismiss FairPoint Communications Solutions Corp.'s ("FairPoint") request for mediation. FairPoint's position is that ALLTEL's refusal to negotiate with Mr. Chad Pifer, on behalf of FairPoint, is clearly a deliberate violation of the duty to negotiate in good faith pursuant to the Telecommunications Act of 1996, §251(c)(1).

First, ALLTEL accurately states that Mr. Pifer was previously employed with ALLTEL for four years before being employed with FairPoint. However, ALLTEL inaccurately states that Mr. Pifer "for four years prior to mid-February, 2000, . . . negotiated interconnection agreements between ALLTEL and other telecommunications carriers." Mr. Pifer only served in this capacity during the last two years of his employment with ALLTEL.

Second, ALLTEL correctly states that Mr. Pifer actively engaged on ALLTEL's behalf in negotiations with FairPoint in the state of New York before ending his employment with ALLTEL. However, ALLTEL fails to point out that Mr. Pifer had not been actively involved in the negotiations between ALLTEL and FairPoint since September 1999, the time at which the negotiations were elevated to the level of an arbitration proceeding. Rather, ALLTEL removed Mr. Pifer from the FairPoint negotiation/arbitration case. Mr. Pifer's removal from the FairPoint negotiation/arbitration case was because he was not formally assigned a legal title or considered to be employed by ALLTEL in a legal capacity. Realizing this matter would require legal representation; ALLTEL requested the assistance of its legal counsel Mr. Refsell to intervene in the aforementioned proceeding.

Third, ALLTEL accurately states that Mr. Pifer is a lawyer who used his legal skills in negotiating interconnection agreements on the behalf of ALLTEL. However, he did not have the authority to act on behalf of ALLTEL in a legal capacity. Mr. Refsell or another member of the ALLTEL Corporate Legal Department reviewed every interconnection agreement, which Mr. Pifer drafted or assisted in drafting. FairPoint's position is that Mr. Pifer's involvement in negotiating an interconnection agreement on behalf of FairPoint in Florida does not "constitute [a] breach of fiduciary obligations, the violation of attorney-client privilege, the misappropriation of trade secrets, the breach of the duty to engage in good faith bargaining, and other violations of law, ethics and respectable business practices." If ALLTEL firmly believed Mr.

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Pifer's actions were of such a reprehensible nature, ALLTEL would have sought intervention at a much earlier date.

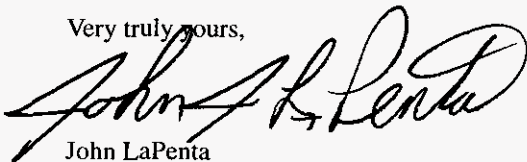
Fourth, ALLTEL incorrectly states that during Mr. Pifer's exit interview that he represented that he would not be negotiating interconnection agreements on behalf of FairPoint against ALLTEL. Mr. Pifer admits that during his exit interview with Mr. Alfred Busbee that he informed him that he would not be involved in the ongoing proceedings between ALLTEL and FairPoint in the states of New York and Pennsylvania. Mr. Pifer has upheld his commitment to ALLTEL, as he has not been involved in the proceedings against ALLTEL in New York and Pennsylvania. The only interaction Mr. Pifer has had with the ALLTEL has been limited to the states of Florida, Georgia, North Carolina, and Ohio.

Fifth, FairPoint does not dispute whether ALLTEL was actually in receipt of FairPoint's Bona Fide Request ("BFR"). Receipt of FairPoint's BFR was readily ascertained via checking the FedEx tracking numbers assigned to the March 15, 2000, and April 25, 2000, letters. FairPoint's contention is that ALLTEL failed to respond in accordance with FairPoint's BFR request. FairPoint's initial BFR respectfully requested that "ALLTEL provide a *written* response" to FairPoint's BFR. In addition, FairPoint's initial BFR requested that ALLTEL acknowledge receipt of the BFR by forwarding to FairPoint any required non-disclosure agreement which ALLTEL may require in order to commence negotiations. ALLTEL did not respond in writing, nor did ALLTEL forward the requested documentation. Mr. Busbee did not respond to FairPoint's request until April 26, 2000 – the day after FairPoint sent out its follow-up BFR request on April 25, 2000. This was the first contact Mr. Busbee had with Mr. Pifer, and the first time he raised his concerns regarding Mr. Pifer's representation of FairPoint. As for Mr. Refsell's acknowledgement, he did acknowledge actual receipt of the BFR, but stated that ALLTEL's cooperation depended upon how reasonable FairPoint would be in the negotiations. Therefore, ALLTEL's contention that it responded in a timely manner is inaccurate.

Finally, FairPoint does not desire to enter a long, costly unnecessary proceeding against ALLTEL. Thus, in order to comport with the obligation to negotiate in good faith as imposed by the Telecommunications Act of 1996, and in order to derail the delay tactics employed by ALLTEL, FairPoint will assign another negotiator to handle the ongoing negotiations between ALLTEL and FairPoint. At this time, FairPoint assigns John LaPenta as the negotiator for FairPoint. However, FairPoint maintains its position that it was not unethical for Mr. Pifer to make the original request on behalf of FairPoint, nor did Mr. Pifer violate any laws. In addition, FairPoint maintains that its March 15, 2000, letter served as a bona fide request for interconnection as set forth under the Telecommunications Act of 1996. In closing, FairPoint requests that ALLTEL forward the documents as previously requested to Mr. LaPenta at the following email address: jlapenta@fairpoint.com.

If you have any questions please contact me at 704-414-2524.

Very truly yours,



John LaPenta
Director Regulatory Affairs

cc: Calvin Favors
Chad Pifer
Alfred Busbee
Stephen Refsell