



April 1, 2015

**Office of the Public Advocate Testimony in SUPPORT of LD 879 “An Act to Ensure High-quality Telecommunications Services to Maine Consumers and Businesses”**

Chairman Dion, Chairman Woodsome and Members of the Energy, Utilities and Technology Committee,

The Office of the Public Advocate testifies in support of LD 879, “An Act to Ensure High-quality Telecommunications Services to Maine Consumers and Businesses.” The bill makes a number of changes to the regulation of telecommunications utilities, but this testimony will focus on the proposed changes to the laws governing service quality standards for provider of last resort service (POLR). We believe that in light of recent experience the Legislature should seriously consider imposing mandatory service quality penalties for providers of POLR service.

**Key Points**

- Service quality standards are fundamental to achieving the state goal of safe, reliable, universally available telephone service.
- Absent these requirements, POLR service could be allowed to degrade to the point where it amounts to de facto abandonment of POLR service for a given customer or in a given service area.
- There is objective evidence of reductions in service quality for the state’s largest telephone utility.
- Making penalties automatic, as proposed by this bill, would send an important message that providing POLR service that meets these basic service quality standards is not optional.

Prior to 2012, service-quality regulation applied only to FairPoint, and to its predecessor Verizon-Maine, through successive 5-year regulatory plans known as the

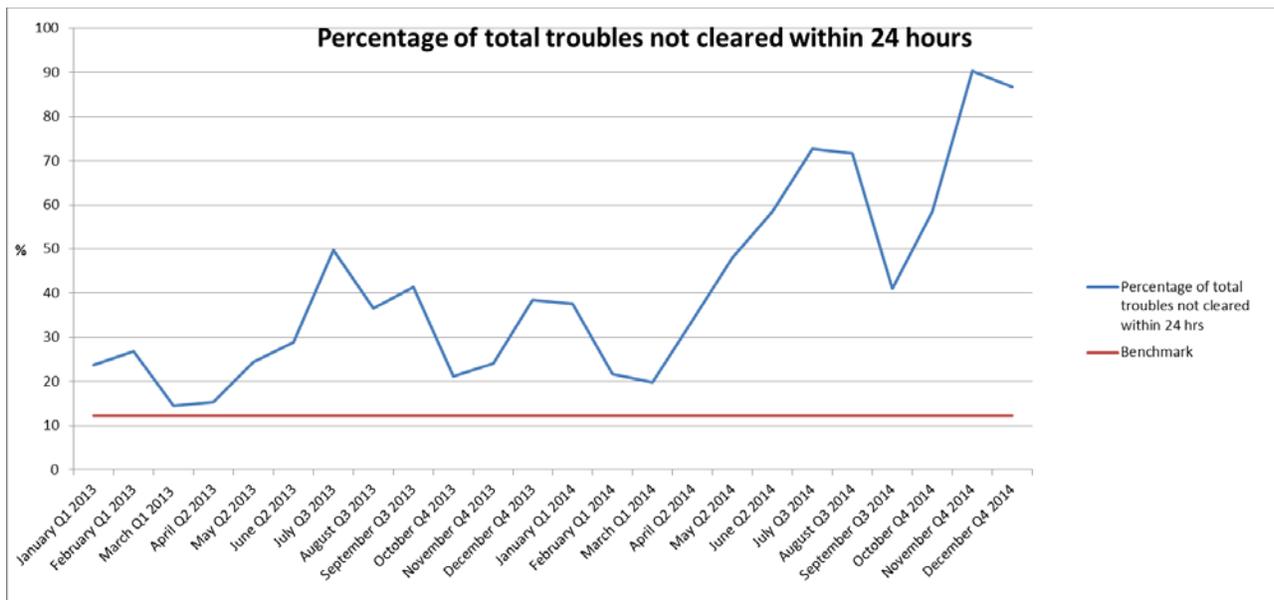
Alternative Form of Regulation (AFOR). These included numerous detailed service quality reporting requirements and automatic, escalating penalties for non-compliance. The last FairPoint AFOR ended on July 31, 2013, and along with it the associated penalties.

The 2012 Telecommunications Reform Act eliminated the vast majority of regulatory oversight over telephone service, but affirmed the continued need for service-quality regulation, and included a requirement that the Commission establish POLR service quality rules, in 35-A M.R.S. 7225. The Commission crafted its Chapter 201 rules establishing service quality standards for the newly defined provider of last resort service, which would now apply to all POLR providers, not just FairPoint. These rules were finally put into effect in July of 2014.

One of the biggest differences between the new Chapter 201 rules and the FairPoint AFOR that expired in 2013 was that penalties for failing to meet these standards were no longer automatic. Under the new rules, service quality that under the applicable standards is objectively inadequate can only result in penalties if the Commission decides to open an investigation, and then decides to impose penalties. We had the opportunity to explain this process repeatedly to customers over the last six months. Customers were often shocked to learn that even with the dramatic service quality failures during the strike, there was no guarantee that FairPoint would pay a penny in penalties as a result.

Service quality standards are what make the state goal of universal telephone service meaningful. They give substance to the state obligation of POLR providers to provide safe, reliable service. Absent these requirements, POLR service could be allowed to degrade to the point where it amounts to de facto abandonment of POLR service for a given customer or in a given service area.

Based on the evidence from the recent MUSF proceeding at the Commission, FairPoint has the incentive to minimize its costs of network maintenance, particularly for regulated POLR service in the most rural parts of its service territory, which the Company has indicated is its least profitable service. FairPoint has fought the Commission's service quality rules at every step. There is objective and well-documented evidence of reductions in service quality even before the recent strike.



Anecdotal evidence supports this as well. For example, customers who reached out to our office over the last six months have reported chronic static on their telephone line, a problem that escalates during rain or snow events making calls virtually impossible. The Commission has opened investigations into FairPoint’s failure to meet its service quality standards for the last two quarters.

Making penalties automatic would send an important message that providing POLR service that meets these basic service quality standards is not optional. The bill as drafted preserves the ability of the Commission to not impose penalties if the POLR provider can show that the failure is due to factors beyond the service provider’s control. But defaults matter, and under the bill, the default is penalties. In short, we believe it is much more likely that a POLR provider will respond to default penalties than the possibility of penalties after an extended Commission investigation.

We look forward to working with the Committee on this bill, and will be present at the work session.

Respectfully submitted,

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Public Advocate