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5 **BEFORE THE WASHINGTON UTILITIES**  
6 **AND TRANSPORTATION COMMISSION**

7 WASHINGTON UTILITIES AND  
8 TRANSPORTATION COMMISSION,

UT-033011

9 Complainant,

10 v.

DECLARATION OF JOHN LAPENTA IN  
SUPPORT OF FAIRPOINT CARRIER  
SERVICES, INC.'S MOTION FOR SUMMARY  
DISPOSITION

11 ADVANCED TELCOM, INC., dba  
12 ADVANCED TELCOM GROUP;  
13 ALLEGIANCE TELECOM, INC.; AT&T  
14 COMMUNICATIONS OF THE PACIFIC  
15 NORTHWEST AND TCG SEATTLE;  
16 COVAD COMMUNICATIONS  
17 COMPANY; ELECTRIC LIGHTWAVE,  
18 LLC; ESCHELON TELECOM OF  
19 WASHINGTON, INC.; FAIRPOINT  
20 CARRIER SERVICES, INC. f/k/a  
21 FAIRPOINT COMMUNICATIONS  
22 SOLUTIONS CORP.; GLOBAL CROSSING  
23 LOCAL SERVICES, INC.; INTEGRA  
24 TELECOM OF WASHINGTON, INC.;  
25 WORLDCOM, INC.; McLEODUSA  
26 TELECOMMUNICATIONS SERVICES,  
INC.; SBC TELECOM, INC.; QWEST  
CORPORATION; and XO WASHINGTON,  
INC.

Respondents.

DECLARATION OF JOHN LaPENTA IN  
SUPPORT OF FAIRPOINT'S MOTION FOR  
SUMMARY DISPOSITION - 1

Law Office of  
Richard A. Finnigan  
2405 Evergreen Park Dr. SW  
Suite B-1  
Olympia, WA 98502  
(360) 956-7001

1 I, John LaPenta, declare under penalty of perjury, under the laws of the state of North  
2 Carolina, that the following statements are true and correct.

- 3 1. I am over the age of eighteen and competent to testify.
- 4 2. I am Assistant General Counsel of FairPoint Carrier Services, Inc. formerly known as  
5 FairPoint Communications Solutions Corp. (“FairPoint”).
- 6 3. I was involved in the negotiation of the settlement of a dispute between FairPoint and Qwest  
7 Corporation (“Qwest”) concerning a billing dispute between the parties.
- 8 4. That billing dispute was finally resolved by execution of a settlement agreement on  
9 September 4, 2001 (the “Settlement Agreement”).
- 10 5. The billing dispute involved monthly collocation charges and interoffice facilities charges.  
11 Shortly after the execution of the Settlement Agreement FairPoint sold its assets in the  
12 Northwest.
- 13 6. The Settlement Agreement called for a one-time lump sum payment from Qwest to  
14 FairPoint for past billing disputes with Qwest.
- 15 7. Additionally, the parties originally negotiated a provision that Qwest would provide  
16 FairPoint with “400 coordinated 2-wire voice grade loop installations.” Regardless of  
17 whether this provision would or would not have been deemed an “interconnection”  
18 provision under the Telecommunications Act of 1996, before execution of the Settlement  
19 Agreement, this provision was stricken. It was not part of the executed Settlement  
20 Agreement.  
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1 8. Additionally, in order to prevent the need for future lawsuits concerning similar billing  
2 disputes related to the assets at issue in the Settlement Agreement, FairPoint and Qwest  
3 agreed to a dispute escalation procedure outlined in paragraph 7 of the Settlement  
4 Agreement.

5 9. However, since FairPoint sold the assets over which the billing dispute was centered shortly  
6 after execution of the Settlement Agreement, neither FairPoint nor Qwest ever utilized any  
7 of the dispute escalation provisions of the Settlement Agreement.  
8

9 10. The Settlement Agreement is a “dead” agreement, meaning that it is no longer an agreement  
10 under which FairPoint believes that it or Qwest has any “ongoing” obligations.

11 11. The Settlement Agreement was meant to resolve the then-existing one-time billing dispute  
12 between FairPoint and Qwest in 2001.

13 RESPECTFULLY SUBMITTED, this \_\_\_\_\_ day of November, 2003.

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18 JOHN LaPENTA  
19 FairPoint Carrier Services, Inc.  
20 Assistant General Counsel  
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CERTIFICATE OF SERVICE- 1

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