



June 13, 2017

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East Suite 350  
St Paul Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce**  
Docket No. P405/AM-17-427

Dear Mr. Wolf:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

Request by Frontier Communications of Minnesota, Inc. to institute a charge for paper bills to customers of Frontier Digital Phone Bronze Service.

The petition was filed on May 26, 2017 by:

Scott Bohler  
Regulatory Manager  
Frontier Communications of Minnesota, Inc.  
2378 Wilshire Blvd.  
Mound, MN 55364

The Department of Commerce recommends that the Commission disapprove the proposal and is available to answer any questions the Commission may have.

Sincerely,

/s/ DIANE DIETZ  
Rate Analyst

DD/lt  
Attachment

## Before the Minnesota Public Utilities Commission

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### Comments of the Minnesota Department of Commerce

Docket Number: P405/AM-17-427

#### I. BACKGROUND

On May 26, 2017, Frontier Communications of Minnesota, Inc. (Frontier) filed a tariff revision proposing to institute a \$1 per month fee for customers, who subscribe to Frontier Digital Phone Bronze Service and receive a paper bill through the US Mail. Under the proposal, if a customer opts to receive only an electronic bill and not a paper bill, the monthly recurring charge for bill delivery will be waived. Frontier states that its online payment portal enables customers to view their bills, including prior bills, check payment history, and make payments of their telephone bills online through Frontier.com or the MyFrontier Mobile application. According to Frontier, online bill delivery is a discretionary service and customers who opt to receive online bill delivery will receive an email reminder when their bill is available. Currently, the proposed \$1 per month fee for paper bills only applies to the Frontier Digital Phone Bronze Service.

Frontier Digital Phone Bronze Service (previously known as Frontier Digital Phone Essentials Service) is a bundled package that is currently designated as a grandfathered service, available only to existing subscribers at their existing locations. Frontier Digital Phone Bronze Service is described as follows in Frontier's Minnesota Tariff No. 2 for Flexibly Priced Services (Section 6, sheet 62):

Frontier Digital Phone Bronze is a package offering available to residential customers and includes one flat-rate residential one-party service access line and the customer's choice of the features and services listed below, including certain non-regulated and federally price listed services. Listing of the non-regulated and federally price listed services is provided only for the purpose of clarity and does not imply that these services are subject to state authority.

The features and services included in the bundle are as follows: Residence One-Party Service, Caller ID – Name, Call Waiting, and Frontier Communications of America's, - Frontier Digital Phone Bronze Calling Plan (a long distance service referenced in Frontier's Federal Price List).

## II. STATEMENT OF ISSUES

- 1) Whether the Commission should approve the proposal of Frontier Communications of Minnesota to institute a charge for paper bills for customers of Frontier Digital Phone Bronze Service.

## III. LEGAL REFERENCES

Minnesota Rules pt. 7810.1400, subpart 1 (Customer Billing) states:

Bills to customers shall be typed or machine-printed, rendered regularly, and shall contain an itemized listing of all charges and the period of time covered by the billing. Statements itemizing message toll charges shall be included in bills to customer.

Emphasis added.

Minnesota Statutes section 237.101 (Electronic Billing) states:

A telephone company may provide a customer's periodic account statement to the customer in electronic format in lieu of paper format if the customer has authorized the electronic format in writing.

Minn. Rules pt. 7829.3200 establishes the conditions under which the Commission may grant variances to its rules:

Subpart 1. (When granted) The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

Subpart 2. (Conditions) A variance may be granted contingent upon compliance with conditions imposed by the commission.

Subpart 3. (Duration) Unless the commission orders otherwise, variances automatically expire in one year. They may be revoked sooner due to changes in circumstances or due to failure to comply with requirements imposed as a condition of receiving a variance.

Frontier's most recent Alternative Form of Regulation (AFOR) Plan was filed on June 15, 2015 in Docket No. P405/AM-14-735. The AFOR Plan (Appendix A) designates Frontier Digital Phone Bronze (formerly known as Frontier Digital Phone Essentials) as a Flexibly Priced Service. The AFOR Plan (Procedures for Objection to Price Increases to Flexibly-Priced Services, Section IV.C.2.c, page 8) states as follows:

[A]ny interested person may file an objection with the Commission or the Commission on its own motion may act within 20 days of the notice. In its objection, the interested person or the Commission shall include the manner in which Frontier's proposal violates state law or Commission rules or otherwise is not in the public interest. If after receipt of a valid objection, the Commission within 120 days of the date of notice makes a specific findings based on substantial evidence demonstrating that Frontier's proposal violates state law, or Commission rules or is otherwise not in the public interest, it may disapprove the requested increase or approve a lesser increase.

#### **IV. ANALYSIS**

Minnesota Rules pt. 7810.1400, subpart 1 (Customer Billing) requires that telephone companies regularly render "typed or machine-printed" bills containing an itemized listing of all charges. While Frontier has stated that customers of Frontier's Digital Phone Bronze service will receive an itemized listing of all charges through electronic billing, electronic billing will not fulfill the requirement of issuing "typed or machine-printed" bills.

Minnesota Rules pt. 7810.1400 effectively makes the issuance of paper "typed or machine-printed" bills a required element of basic phone service. As such, the cost of issuing paper bills should be recovered through the charges for local and long distance services. Customers should not incur a special charge for paper bills when the billing functionality is a required element of phone service.

Given that Frontier's Digital Phone Bronze Service package does not include Internet access, subscribers may not have Internet access and may not be able to readily obtain access to an electronic version of their bills. The failure to include Internet service as a component of the bundle makes it readily apparent that Digital Phone Bronze Service is akin to traditional phone service where subscribers must depend upon receiving a paper version of their bill for all billing-related information. While Minnesota Rules pt. 7810.1400 was promulgated prior to the general introduction of Internet service, the lack of Internet access as a component of Frontier's Digital Phone Bronze Service makes the service consistent with the services offered at the time the rule was promulgated by the Commission. The concern over access to electronic billing information is compounded by the fact that Frontier's Digital Phone Bronze Service is a grandfathered service, so the package components may not be readily altered to include Internet access.

Frontier's proposal to apply a monthly charge for the issuance of paper bills was not accompanied by a request, under Minnesota Rules pt. 7829.3200, for a variance to the requirements in Minnesota Rules pt. 7810.1400. The Department has included comments on a potential variance under Minnesota Rules pt. 7829.3200 in the Attachment to these comments.

In a previous docket, the Commission decided that customers could opt-out of receiving paper monthly bills. In the Commission's April 17, 2008 Order in Docket No. P421/AM-08-275, the Commission found that a rule variance, under Minnesota Rules pt. 7829.3200, was unnecessary for Qwest Corporation dba CenturyLink to allow customers to opt-out of receiving paper bills. Unlike the current docket, the Qwest proposal did not involve the prospect of applying a special monthly charge for paper bills.

Frontier's proposal, to apply a monthly charge on the bills of those Digital Phone Bronze Service subscribers who fail to opt-out of receiving paper bills, does not comply with the requirements of the Minnesota Rules pt. 7810.1400, subpart 1. Therefore, the Department recommends disapproval of the proposal.

**V. ALTERNATIVES**

- A. Approve the Proposal.
- B. Disapprove the Proposal.
- C. Take other action the Commission deems appropriate.

**VI. RECOMMENDATION**

- B. Disapprove the proposal.

/lt

## DOC Attachment

Minnesota Rules part 7810.1400, subpart 1 requires bills for telephone and telecommunications services to be typed or machine printed, rendered regularly, and contain an itemization of all charges including charges for toll services.

Minnesota Rules part 7829.3200 allows the Commission to grant a variance to its rules when it determines that three conditions have been fulfilled.

A. *THE FIRST CONDITION FOR GRANTING A VARIANCE REQUIRES THAT ENFORCEMENT OF THE RULE WOULD IMPOSE AN EXCESSIVE BURDEN UPON THE APPLICANT OR OTHERS AFFECTED BY THE RULE*

The first prerequisite for granting a variance is when enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule. To the extent that a Frontier Digital Phone Bronze subscriber would prefer to receive electronic billing, in lieu of a paper bill, the proposed paper bill fee imposes no burden on that subscriber. However, to the extent the subscriber has no convenient means of accessing the Internet, the paper bill fee does impose a burden on the subscriber. The fee discourages customers from obtaining paper bills even though they may not have convenient access to the Internet.

Enforcement of the regulatory requirement in Minnesota Rules part 7810.1400, subpart 1 imposes little or no burden upon Frontier given that the carrier can continue to recover billing costs through its monthly access line charges as it currently does for its local exchange services.

Frontier has failed to fulfill the first condition for granting a variance, because enforcement of the rule imposes little or no burden upon the carrier, while granting the variance may impose a significant burden on the affected customers.

B. *THE SECOND CONDITION FOR GRANTING A VARIANCE REQUIRES THAT GRANTING A VARIANCE WOULD NOT ADVERSELY AFFECT THE PUBLIC INTEREST.*

The second prerequisite for granting a variance requires that granting the variance would not adversely affect the public interest. The public has an interest in receiving timely and convenient billing information, so they can verify the itemized charges on their bills. The economic interest of subscribers is best served when they are fully informed about the terms and rates for their telecommunications services. A paper bill fee discourages customers from receiving paper bills, which may be the preferred method of the customer to ensure that billing information is correct and reflects the customer's understanding of the subscribership agreement.

Frontier has failed to fulfill the second condition for granting a variance, because the public interest is adversely affected by the application of a paper bill charge that discourages customers who desire paper bills from receiving them.

*C. THE THIRD CONDITION FOR GRANTING A VARIANCE REQUIRES THAT GRANTING THE VARIANCE WOULD NOT CONFLICT WITH THE STANDARDS IMPOSED BY LAW*

The third prerequisite for granting a variance requires that granting the variance would not conflict with the standards imposed by law. The two sections in the Minnesota Statutes that apply to billing – Minn. Stat. §237.101 and §325F.692 – do not specifically address the possibility of a charge being applied to the issuance of paper bills.

*D. IF NECESSARY, THE COMMISSION MAY GRANT EITHER A TEMPORARY OR A PERMANENT VARIANCE*

Minn. Rules pt. 7829.3200 allows the Commission to grant either a temporary or a permanent variance to its rules. Minn. Rules pt. 7829.3200, subpart 3 (Duration) states as follows: Unless the commission orders otherwise, variances automatically expire in one year. They may be revoked sooner due to changes in circumstances or due to failure to comply with requirements imposed as a condition of receiving a variance.

In the current case, Frontier has not filled all three of the criteria for granting a variance, so it is not necessary to consider the term of such a variance.

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce  
Comments**

**Docket No. P405/AM-17-427**

**Dated this 13<sup>th</sup> day of June 2017**

**/s/Sharon Ferguson**



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