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State of Minnesota
Before the
Minnesota Public Utilities Commission

Dan Lipschultz	Vice-Chair/Commissioner
Matt Schuerger	Commissioner
Katie Sieben	Commissioner
John Tuma	Commissioner

In the Matter of a Commission Inquiry into
the Service Quality, Customer Service, and
Billing Practices of Frontier Communications

Docket No. P407, 405/CI-18-122

RESPONSE TO REPORT OF THE DEPARTMENT OF COMMERCE

**OF
FRONTIER COMMUNICATIONS OF MINNESOTA, INC. AND
CITIZENS TELECOMMUNICATIONS OF MINNESOTA, LLC**

March 5, 2019

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I. INTRODUCTION AND SUMMARY

Frontier Communications of Minnesota, Inc. (“Frontier-MN”) and Citizens Telecommunications Company of Minnesota, LLC (“CTC-MN”) (Frontier-MN and CTC-MN referred to collectively as “Frontier”) submit this Response to the January 4, 2019 Report of the Minnesota Department of Commerce (“Department Report”).¹

Frontier recognizes the concerns and complaints of the customers who have participated in the public hearings and have filed comments with the Commission and Frontier is committed to improving its customers’ service experience. Contrary to the Department Report, however, Frontier’s Minnesota customers are not facing a widespread crisis or breakdown related to their telephone service. Rather, Frontier’s telephone network is still highly reliable in terms of minutes of dial tone availability and Frontier’s telephone lines are consistently and effectively working for the vast majority of its customers in International Falls, Ely, Two Harbors, McGregor, Delano, Mound, Burnsville, Apple Valley, Fairmont, Worthington and more than 100 cities and towns across Minnesota served by Frontier.

Over 90% of Frontier’s Minnesota customers have not experienced any service outage in the last year, and approximately 95% of the Frontier customers who have reported a service outage had their telephone service restored by Frontier within 24 hours. In other words, only 443 of Frontier’s approximately 79,000 telephone customers experienced a telephone service outage of greater than twenty-four hours in 2018.²

¹ The Response is submitted pursuant to the Commission’s April 26, 2018 ORDER INITIATING INVESTIGATION AND REFERRING MATTER FOR PUBLIC HEARINGS in this Docket (the “April 26 Order”) and February 14, 2019 ORDER EXTENDING DEADLINE FOR FRONTIER’S RESPONSE AND PROPOSING MEDIATION (the “February 14 Order”).

² While the Department Report condemns Frontier for poor service, it fails to acknowledge that other utilities have experienced much more widespread and extended power outages across the state, and the indirect pressures these outages may put on Frontier’s telephone network and backup power resources. For example, electric utilities have experienced several widespread weather-related outages in recent years. See <http://www.startribune.com/xcel-exploring-how-to-fix-issues-that-caused-outages-during-polar-vortex/506521632/>; <http://www.startribune.com/hundreds-of-thousands-lack-power-in-twin-cities/212464871/>;

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Frontier also continues to install new telephone service orders, with approximately 21,000 new service orders completed in 2018. Further, the number of telephone access lines supported by each of Frontier's more than 100 technicians has decreased by 33%, meaning there are relatively more technicians available in 2018 per telephone line than 10 years ago. Frontier's overall performance under its recently concluded Alternative Form of Regulation ("AFOR") plans, in which Frontier consistently satisfied service standards for trouble reports (Frontier had a 1% trouble report rate over last 3 years compared to obligation of 2.5%),³ timely installations (Frontier met the 95% installation standard in each of last 3 years)⁴ and held orders (Frontier has consistently met the standard of less than 4 held orders for telephone service in each of last 3 years),⁵ also demonstrates that the Department Report has greatly overstated the breadth and severity of the Frontier telephone service issues.

Frontier recognizes the importance of continuing to improve its service to meet the expectations of its customers and the Commission. Frontier is committed to this objective. At each of the public hearings in this investigation, Frontier customer service specialists were in attendance to answer customer questions and to review and respond to each customer with service or billing concerns. Frontier informed the people attending the meeting that the service specialists were available, and that Frontier would investigate and follow up with each customer. At the meetings, 89 customers approached the service specialists. Frontier's

<http://www.startribune.com/tens-of-thousands-still-without-power-in-minneapolis-west-metro/212678461/>

³ Under its AFOR, the objective for both Frontier-MN and CTC-MN were to maintain service so that the average rate of all customer trouble reports in an exchange was no greater than 2.5 per 100 telephones per month. At no point during 2-16-2018 did Frontier-MN or CTC-MN have an average exceeding 1.0 troubles per 100 telephone lines per month.

⁴ Under its AFOR, the objective for both Frontier-MN and CTC-MN was to install 95% of telephone service orders within three days. Frontier-MN and CTC-MN both exceeded the AFOR objective to complete 95% of installations within three days.

⁵ For each year of its 2015 through 2018 AFOR report, both Frontier-MN and CTC-MN fully satisfied (and greatly exceeded) the objective of no more than an average of four held orders for primary line telephone service not completed within 30 days, and reported zero held orders.

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representatives investigated and followed up with each of these 89 customers, and in a number of instances worked with Frontier's operations teams to accelerate installation or repair work, modify the services provided to the customer, address any billing errors, and/or provided billing or courtesy credits.

Frontier has also taken steps to enhance and improve the quality of telephone service it provides generally in Minnesota. Frontier has initiated widespread training to enhance the performance of its customer service centers that answer customer calls related to billing and other service issues. Frontier has recently implemented procedures to systematically direct calls from Minnesota customers to a select group of experienced service representatives. Frontier has also prioritized how it handles customer service trouble calls received by its Telephone Repair group each month. In addition, Frontier has initiated steps to inform its customers, including bill messaging to all of its Minnesota residential customers, of the steps they can take to be eligible for Frontier's medical priority services.⁶

Frontier is also committed to working cooperatively and expeditiously in mediation to negotiate and implement terms that will reasonably and effectively address concerns raised by its customers. The mediation process began with a conference call on February 21, 2019 and includes mediation sessions scheduled for March 15, 2019 and March 21, 2019.⁷

If this investigation is not resolved through a settlement, a contested case hearing will be needed to meet the requirements of Minn. Stat. § 237.081 and due process, because the Department Report does not provide an adequate basis to resolve material fact questions arising

⁶ Frontier now has a dedicated webpage (<https://frontier.com/corporate/mn-medical-notation>) for customers to learn about and complete paperwork to become eligible for medical priority service. Frontier's March 2019 bills include a message informing customers of the medical certification webpage and process.

⁷ MEDIATION SCHEDULING ORDER (Feb. 25, 2019).

from this investigation. The unresolved material fact issues raised by the Department Report arise from a number of defects, including the following.

A consistent pattern of over-generalization: The Department Report consistently over-generalizes from concerns raised by limited numbers of customers to its over 80 sweeping conclusions and over 130 recommendations concerning 32 separate aspects of Frontier’s overall operations. As a result, a contested case, including the right to review the specific customer details the Department based its allegations on and the opportunity to cross-examine Department witnesses, is needed to determine the credibility of the Department’s analysis, conclusions and recommendations.

Department refusal to respond to Information Requests related to its Report: The need for a contested case to test the Department’s analysis, conclusions and recommendations is underscored by the Department’s refusal to answer Information Requests requesting data supporting the calculations and allegations in the Report related to the Department’s attempts to overgeneralize isolated incidents into claims of impacts on “many” customers.⁸ These very frequent broad gaps between limited customer complaints and the sweeping conclusions in the Department Report cannot be resolved without a contested case.

Confusion of Internet concerns with telephone service: A contested case is also needed to sort the substantial majority of the customer complaints or concerns related to Internet access

⁸ For example, in the Department Report asserted that it had reviewed and was basing its conclusions on 250 reports concerning Frontier telephone service, 400 reports concerning both telephone and Internet service, 325 reports concerning only Internet service, and 150 other reports that were unclear regarding the customer’s specific service with Frontier Department Report at 1. On January 10, 2019 Frontier submitted an information request to the Department asking the Department to identify which customer complaints/reports made up each of these categories referred by the Department (Frontier No. 1). The Department refused to provide a list or identify the customers it alleged made up these different groups. In fact, the Department did not respond to any of Frontier’s other five information requests on the basis that it was not required to provide any information to Frontier and instead provided only a CD containing all data without any further explanation relating any individual complaints to the various claims in the Department Report.

from regulated telephone service. The information in the record shows that a substantial majority of the customers that made comments at the public hearings and filed comments with the Commission expressed concerns about Frontier's Internet service, and especially concerns related to Frontier not providing faster Internet speeds in many rural areas of the state.

Reliance on sources lacking a foundation of technical knowledge: The Department Report relies on the affidavit of Jeffrey S. Lacher (the "Lacher Affidavit") to support conclusions and recommendations regarding 10 of the 32 service topics addressed in the Department Report. However, as shown below, Mr. Lacher is not employed by Frontier and lacks any first-hand knowledge of Frontier or its operations. Frontier employees with first-hand knowledge also refute the Lacher Affidavit. The Department Report also accepts customer explanations of technical issues and internal Frontier operations that are beyond the facts available or technical knowledge of customers. A contested case is needed to test the credibility of these sources and determine the weight, if any, they deserve.

These factors, coupled with the other material disputed facts identified in this response which Frontier is prepared to present in further detail to the Commission in this proceeding, demonstrate the need for contested case under Minn. Stat. § 237.081 in the event this matter is not resolved through a settlement.

II. FRONTIER IS TAKING PROACTIVE STEPS TO IMPROVE SERVICE QUALITY.

As explained in more detail below, Frontier is already taking steps to improve service quality for its customers.

A. Frontier is implementing improvements to its customer service process.

Certain of the customer comments noted in the Department's Report related to unsatisfactory experiences customers have had when calling into Frontier's call centers. While

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the wide variety of concerns that customers may be calling about makes it virtually impossible to resolve 100% of customer issues in a single call, Frontier strives to meet customer expectations. As a result, Frontier has recently initiated changes in call center structure and procedures intended to improve the experience for its Minnesota customers. These changes have proceeded in phases and continue to this point. There are two major areas of changes.

1. *Frontier has established a group of designated customer service representatives and call routing for Minnesota customers.*

Frontier recently implemented call center software that recognizes that an incoming call to a general customer service line is from a Minnesota customer, and routes the call to the designated group of representatives with more experience and knowledge of Minnesota specific operations. Frontier has designated a group of more experienced call center representatives with more experience and knowledge of Minnesota specific operations to handle customer calls from Minnesota related to billing and general service issues. These representatives have been selected based on generally higher levels of experience and having more knowledge and experience in the specifics of Frontier's Minnesota operations. These characteristics will enable the customer service representatives to deal more efficiently and effectively with Minnesota customer questions or concerns.

The number of service troubles and repair requests reported to the service centers varies by month and the service center groups that address telephone service repairs is a different group from the service center responding to Internet service issues. Frontier has also taken steps to prioritize from Minnesota customers to the designated customer representative group and other service centers responsible for addressing telephone service repairs and outages to enable Minnesota customer calls to be answered more expeditiously.

2. *Frontier has implemented additional training for customer service representatives.*

Frontier has also implemented additional training for all customer service representatives in order to improve the customers' experience with Frontier's representatives when calling Frontier for assistance. The additional training includes specific coaching on general service demeanor and customer service techniques. Frontier's goal is to provide improved skills to help the customer service representatives better respond to customer questions and concerns and to ensure that customers, regardless of resolution of the specific issue, are treated respectfully. This additional training should also enable all customer service representatives to more effectively and accurately respond to customer inquiries.

Frontier believes that improving the first part of customer service, the interaction with Frontier customer service representatives, will improve the customer's experience with all following aspects of customer service as well.

B. Frontier is improving access to medical needs priority.

The Department Report referenced five customers that had expressed concerns related to priority service procedures for customers with medical needs.⁹ Frontier has an established Medical Emergency Accounts Program ("MEA Program") that allows customers to indicate that they have a medical need for access to telephone service. While Frontier's MEA Program has been in place for years and Frontier's requirements to establish eligibility (certification by a customer's medical provider) are typical, Frontier is taking steps to improve customer awareness and access to the MEA Program and to improve its performance.

⁹ Department Report at 26-27. Frontier researched the accounts of the four identified customers referenced by the Department Report and none of these customers had completed the process to have a medical emergency priority designation placed on their account. Frontier was unable to identify the records as to the one unidentified customer.

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Frontier customers enroll in the MEA Program by providing documentation of their medical need to Frontier, certified by a medical professional. Establishing eligibility is an accepted component of providing priority response for customers with medical needs. Frontier's requirements to establish eligibility (a statement to be provided medical professional) are consistent with standard practice and increases the likelihood those that truly need priority treatment will receive it.¹⁰

Upon receipt of the customer's medical provider certification, the customer's account is flagged in the billing and customer support system to identify their MEA status to Frontier personnel. In the event of a subsequent trouble report called in by that customer, the medical need indicator in the customer's records is identified for priority handling. Frontier's policy is to make every reasonable effort to prioritize the repair or restoral of that customer's telephone service.

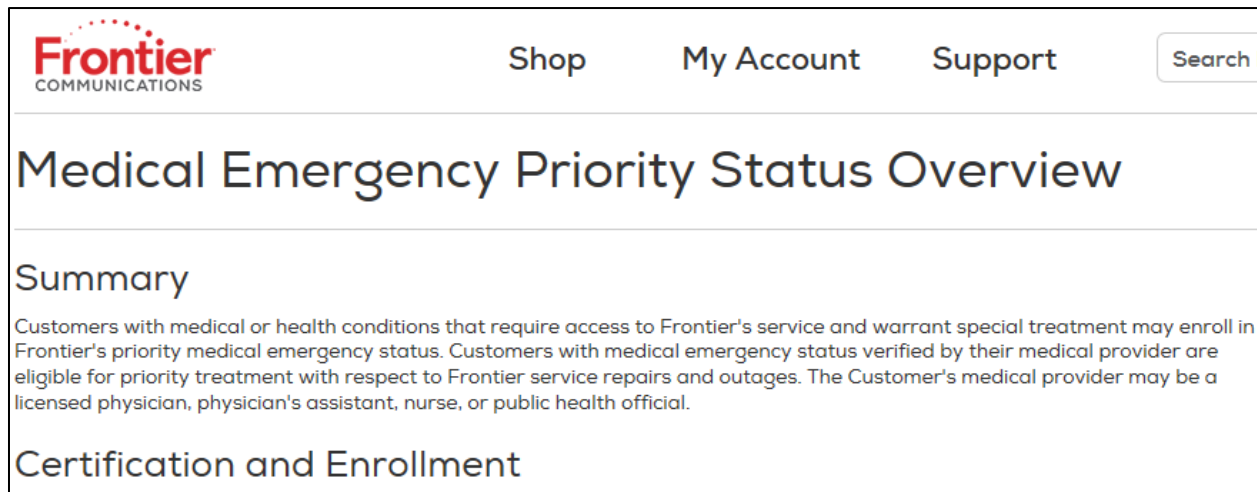
Enrollment in the MEA Program is intended to occur prior to a customer calling in trouble so that eligibility can be established before repair priority is needed and the account appropriately flagged to more easily identify and prioritize. The ability to provide priority service will be improved if eligibility and enrollment in the MEA Program is established before priority service is needed. Enrolling in the MEA Program will enable customer service personnel to note a customer's trouble report for priority handling. Notice of medical needs provided at the time of a trouble report will not enroll the customer in the MEA Program, nor will that information automatically be transferred to any subsequent trouble reports from the customer, as the MEA Program requires the customer to provide documentation certified by a

¹⁰ Under Minn. Stat. § 216B.098, subd. 5, electric and natural gas utilities are required to maintain service upon written certification or initial certification by telephone and written certification writhing five business days thereafter, "provided that the utility receives written certification, or initial certification by telephone and written certification within five business days, that failure to reconnect or continue service will impair or threaten the health or safety of a resident of the customer's household."

medical professional. However, as part of Frontier's commitment to improving customer awareness of the MEA process, Frontier has initiated training of customer service representatives to make customers aware of the MEA Program and requirements at the time of the call so the account is flagged should there be a future need for expedited service.

Additional information regarding the MEA Program has been added to Frontier's website at frontier.com/MNMedicalNotation, a part of which is shown below:

Figure 1
Screenshot of MEA Program Webpage



While Frontier's MEA Program has been in place for years and Frontier's requirements to establish eligibility are typical, customer comments indicate that the MEA Program, including the eligibility requirements and its benefits, are not as widely known to Frontier customers as intended. To increase its customer service representatives' awareness, Frontier has also updated its customer service training materials to ensure its representatives are informed of and prepared to effectively assist with customer calls and requests to have a MEA flag added to their account.

To increase customer awareness of, and ability to use, the MEA Program, Frontier is initiating a bill message that is appearing in customer bills beginning in March, 2019 that will explain the MEA Program and instruct customers how to enroll. That bill message provides:

**IMPORTANT INFORMATION ABOUT PRIORITY MEDICAL EMERGENCY
STATUS**

Customers with a physician-verified health condition may sign up for Frontier’s priority medical emergency status. Customers who submit a completed medical certification will be eligible for prioritized treatment with respect to service repairs and outages. For further information or to enroll, go to www.frontier.com/MNMedicalNotation. Questions? Please contact customer service.

Similar notifications and additional information will also be included in future published printed telephone directories distributed to its Minnesota customers. Frontier believes that these proactive steps Frontier has initiated will inform customers of the availability and process for enrolling in interested in Frontier’s medical priority processes.

**III. FRONTIER’S AFOR PERFORMANCE SHOWS SERVICE QUALITY THAT IS
GENERALLY CONSISTENT WITH AFOR OBJECTIVES, CONTRARY TO
THE DEPARTMENT REPORT.**

**A. Frontier’s consistently met most AFOR objectives and was in substantial
compliance as defined in the AFOR Plans.**

Frontier-MN was under an AFOR Plan between 1996 and March 1, 2018 and CTC-MN was under an AFOR Plan between 2008 and November 1, 2018. The AFOR Plans were substantively the same and included service quality objectives that generally exceeded the standards in Minnesota rules, along with investment plans. Over the years, Frontier-MN and CTC-MN operated under the AFOR Plans, both provided service that generally met the service objectives of their AFOR Plans.

The AFOR Plans used five metrics to measure service quality:

- Time intervals for installation of service, with the “objective ... to install primary service within three business days;”
- Time intervals for restoration or repair of service, with the “objective ... to clear 95% of all out-of-service troubles within 24 hours of the time such troubles are reported;”

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- Trouble rates, with the “objective ... to maintain service that the average rate of all customer trouble reports in an exchange is no greater than 2.5 per 100 telephones per month;”
- Held orders, with “held orders shall not exceed a daily average of more than 4 held orders for primary line service ... not provided ... in 30 days ... and results “determined by a 12-month annual statewide average;” and
- Answer time with calls on hold no more than 60 seconds on the average after the last menu option is selected before being answered by a live service representative” and results to “be determined by a 12-month annual statewide average of the performance for the measure for all customer calls.”

Compliance was not measured on a per-event basis, as the Department Report suggests,¹¹ but rather on an overall basis based on company-wide performance over a one-year period. Both Frontier-MN and CTC-MN were also required to file annual reports with the Commission detailing performance,¹² which Frontier-MN and CTC-MN submitted and the Department regularly reviewed while Frontier operated under the AFORs.

Contrary to the picture presented in the Department Report, the AFOR performance shows Frontier-MN and CTC-MN performed well over the 2015-2018 period.¹³ Under the AFOR Plans, the objective for both Frontier-MN and CTC-MN was to maintain service so that the average rate of all customer trouble reports in an exchange was no greater than 2.5 per 100 telephones per month.¹⁴ The trouble report objective standard is intended to be an indicator of

¹¹ Department Report at 37 “If Frontier had correctly recorded and reported the 38 extended phone service outages ..., the Report would have indicated that Frontier opened 60 trouble tickets that month in Wyoming, of which only 20 trouble tickets were repaired within 24 hours, *for a 33.3 percent performance quality*, a significantly lower percentage than the 95 percent required.”

¹² The reporting obligations were as follows:

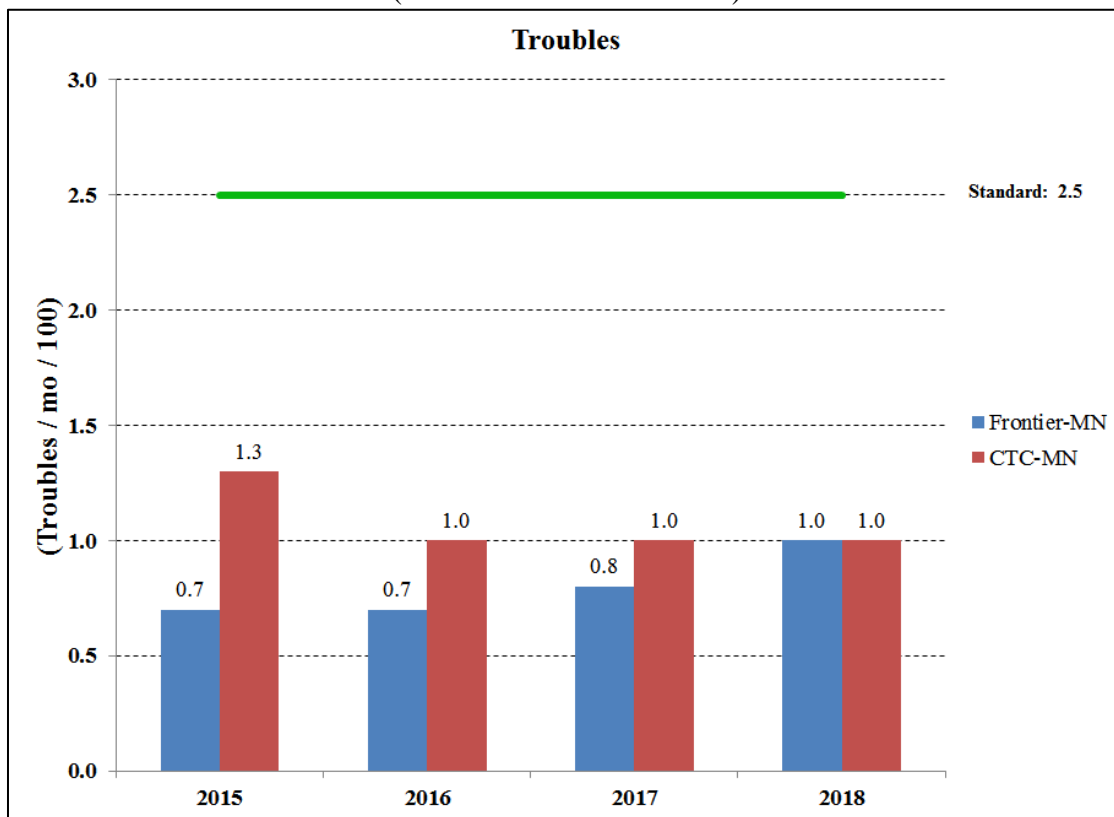
[Frontier-MN/CTC-MN] shall report annually on its performance in meeting the quality of the five service standards for the previous year to the Commission and the Department. The filing will include monthly results on an exchange basis for the Time intervals for installation of service, me intervals for restoration or repair of service, and Trouble rates measures. For other measures, monthly results will be provided on a state-wide basis.

¹³ Attachment 1 provides summaries of Frontier’s AFOR performance across the five service quality categories over the 2015-2018 period.

¹⁴ See AFOR Plan at Section V.A.

overall performance.¹⁵ At no point did either Frontier-MN or CTC-MN have an average of more than 1.5 troubles per 100 telephone lines per month. Frontier's service performance results were: (1) 2015, Frontier-MN 0.7 and CTC-MN 1.3 troubles per 100 lines; (2) 2016, Frontier-MN 0.7 and CTC-MN 1.0 troubles per 100 lines; (3) 2017, Frontier-MN 0.8 and CTC-MN 1.0 troubles per 100 lines; and (4) 2018, Frontier-MN 1.0 and CTC-MN 1.0 troubles per 100 lines. Each year and each company was well below the 2.5 troubles per 100 line service quality objective. Figure 2 below summarizes Frontier's performance regarding troubles:

Figure 2
(Troubles/month/100 lines)



¹⁵ See Minn. R. 7810.5900 reads in part:

It shall be the objective to so maintain service that the average rate of all customer trouble reports in an exchange is no greater than 6.5 per 100 telephones per month. A customer trouble report rate of more than 8.0 per 100 telephones per month by repair bureau on a continuing basis indicates a need for investigative or corrective action.

Frontier's consistent ability to not only meet, but substantially exceed, the trouble report rate standard directly contradicts the Department Report's conclusions that Frontier's telephone network is in a state of overall disrepair and inadequate for the provision of telephone service.¹⁶

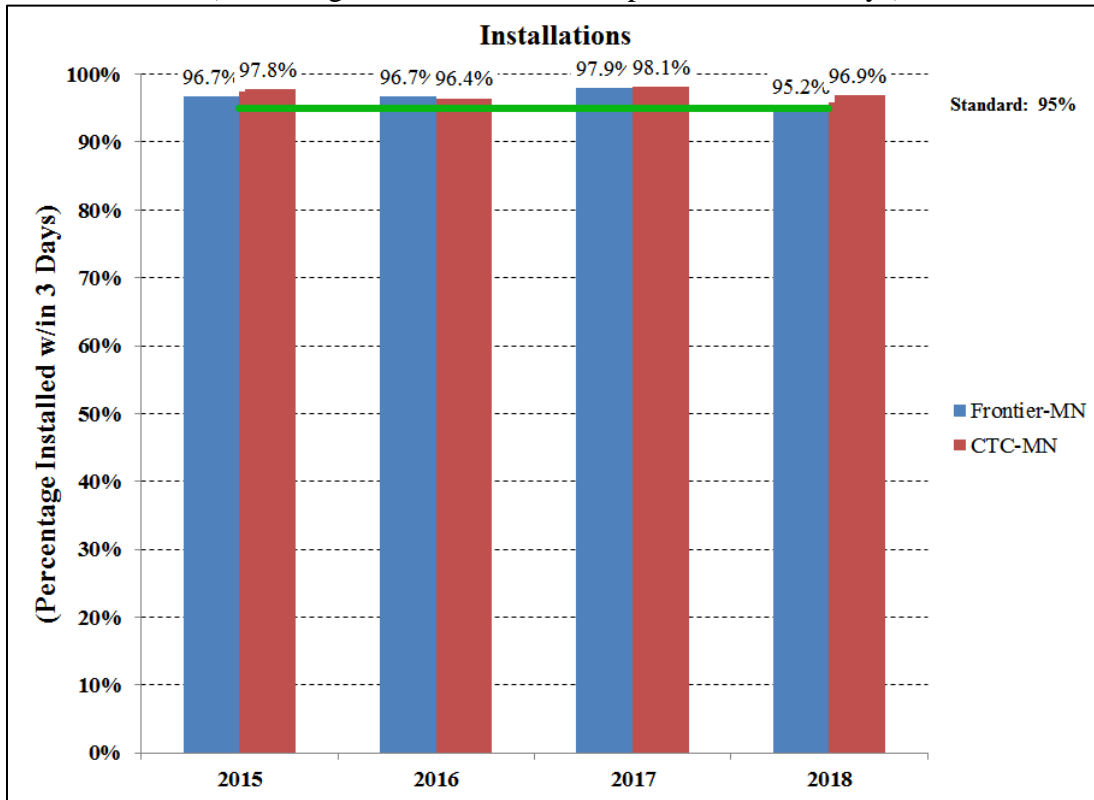
Frontier's AFOR data also refutes the Department's characterizations of Frontier's telephone service installations and repairs.¹⁷ Frontier-MN and CTC-MN both exceeded the AFOR objective to complete 95% of installations within three days. Frontier met the AFOR Plans installation objective in every year between 2015 and 2018.

The percentage of installations completed within three days were: (1) 2015, Frontier-MN 96.7% and CTC-MN 97.8%; (2) 2016, Frontier-MN 96.7% and CTC-MN 96.4%; (3) 2017, Frontier-MN 97.9% and CTC-MN 98.1%; and (4) 2018, Frontier-MN 95.2% and CTC-MN 96.9% of service orders within 3 days. Figure 3 below summarizes Frontier's performance regarding installations:

¹⁶ Department Report at 10-21.

¹⁷ Department Report at 85-88 (Installations) and 104-111 (Clear Troubles).

Figure 3
(Percentage of Installations Completed within 3 Days)



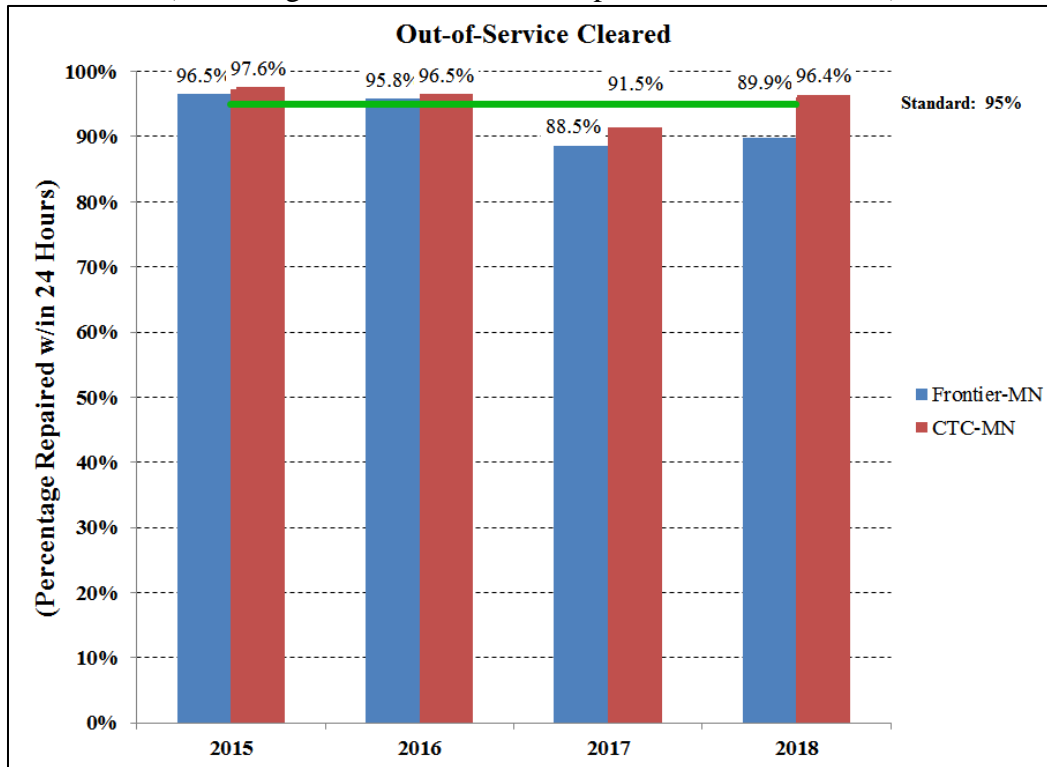
In short, and in direct contradiction of the Department’s allegations related to Frontier’s service performance, over the last several years Frontier consistently completed service orders in accordance with its service installation obligations and remains committed to installing telephone service to its residential customers as soon as reasonably possible.

Frontier also generally fulfilled the AFOR out-of-service clearance objective during 2015-2018, though there were some periods in which performance did not meet the objective. Frontier’s AFOR Plans contained an objective of restoring out-of-service conditions issues within 24 hours 95% of the time.

Frontier overall met these objectives in several years although there were some periods of when its performance was between 88.5% and 95%. Frontier’s percentages of out-of-service cleared within 24 hours were: (1) 2015, Frontier-MN 96.5% and CTC-MN 97.6%; (2) 2016,

Frontier-MN 95.8% and CTC-MN 96.5%; (3) 2017, Frontier-MN 88.5% and CTC-MN 91.5%; and (4) 2018, Frontier 89.9% and CTC-MN 96.4%. As required, Frontier reported these results to the Commission in its AFOR compliance filings, which the Department reviewed. Figure 4 below summarizes Frontier’s performance clearance of out-of-service conditions:

Figure 4
(Percentage of Out-of-Service Repaired within 24 Hours)



Frontier recognizes that it did not meet the 95% out-of-service restoration in 24 hour objectives in 2017 and 2018. However, it is important to put these figures in context.

On a combined basis, in 2018 Frontier-MN and CTC-MN had 7,932 out-of-service reports, and Frontier cleared 7,489 (94.4%) reported customer telephone service outages within 24 hours. A total of 7,932 of customers reporting a telephone service outage in 2018. In other words, approximately 90% of Frontier’s 79,000 Minnesota telephone customers did not report a **single** telephone service outage in 2018. Further, 7,489 of the customers that did report a telephone service outage had their telephone service outage restored in 24 hours or less. This

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means a total of 443 customers (significantly less than 1% of Frontier’s Minnesota customer base) experienced a telephone service outage of greater than 24 hours in 2018, as reflected in Table 1 below:

Table 1
2018 Total Out-of-service Customer Tickets
(Frontier-MN & CTC-MN)

Total OOS Customer Tickets	7,932
OOS Tickets Restored in 24H.	7,489
Total Customers OOS > 24H	443
Percentage Restored in 24H	94.4%

While Frontier would prefer that not a single customer experience a telephone outage of greater than 24 hours, at times because of weather, the distribution, location and number of customer outages, staffing resources and other unanticipated issues, it becomes impossible for the 24 hours restoration objective to be met. The low population density of portions of Frontier’s service area adds to the difficulty of clearing out-of-service issues within 24 hours, but Frontier remains committed to resolving out-of-service issues as soon as possible.

Regardless, the fact that during 2018, 443 customers experienced a telephone service outage of 24 hours or greater and that almost 95% of customers experiencing an out of service condition had service restored in less than 24 hours refutes the Department Report’s mischaracterization of system wide, extended service outages being experienced by Frontier’s customers.

Frontier’s AFORs also included an objective that the company average fewer than four held orders on a daily basis. A held order is defined as a primary telephone line service not provided within 30 days of a request. For each year of its 2015 through 2018 AFOR reports for Frontier-MN and CTC-MN, Frontier fully satisfied (and greatly exceeded) the objective of no

more than an average of four held orders, reporting no held orders in which a telephone service line was not completed within 30 days. A chart of the held order objective and Frontier's AFOR Plan performance is included in Attachment 1. Again, the actual data showing that Frontier fully satisfied the applicable service objective for held orders refutes the Department Report's conclusions of wide spread service delays and other deficiencies regarding Frontier's telephone service.¹⁸

Under the Frontier AFOR plans, the customer service call center answer time objective for both Frontier-MN and CTC-MN was an "average" answer time of less than 60 seconds or 1 minute to answer customer calls. A chart of the call answer time objective and Frontier's AFOR performance is included in Attachment 1. Frontier acknowledges that its answer time performance has fallen short of applicable objective of answering, with average call answer time exceeding the 60 second average answer time objective. However, as this data shows, in 2018 and 2017 Frontier's average answer times were below three minutes. While this did not meet the AFOR Plan objectives, call answer times to speak to a company representative have generally increased for a range of consumer products and services, including cable TV, mobile telephone services, financial services, benefits, and even health care. Frontier's average answer time of 158 seconds (less than 3 minutes) does not support the Department Report's claims of widespread, severe service deficiencies.

B. Frontier is taking steps to improve customer service center and repair performance.

Frontier is not indifferent to customer concerns and is taking proactive steps to improve customer service. As discussed in Section II above, Frontier has taken proactive steps to improve its customer service answer times, including prioritizing the routing for Minnesota calls

¹⁸ Department Report at 85-88 (Installations) and at 88-92 (Refusal to Install Service).

and directing Minnesota customer service calls regarding billing and certain other service issues to specially designated and experienced service center teams. Frontier has also initiated additional training for its customer service representatives to ensure its customer service experience is enhanced.

In response to the customer concerns raised in this proceeding, Frontier also took steps in 2018 to improve repair services, as explained in the Declaration of George Meskowski. Following retirements and other service technician vacancies, Frontier began using independent contractors in 2018 to enable to the Company to better respond to customer service issues. Contrary to the implications of the Department Report, Frontier is not indifferent to service quality issues for its customers and the facts summarized above refute the Department Report conclusions that Frontier's service quality is severely deficient.

IV. FRONTIER INTENDS TO PARTICIPATE FULLY IN MEDIATION WHILE IMPLEMENTING SERVICE QUALITY IMPROVEMENTS.

Frontier welcomes the opportunity to try to reach a reasonable and prompt resolution to this case. Frontier therefore supports the Commission's February 14, 2019 request for mediation under Minn. R. 1400.5950, subp. 3(A). On February 21, 2019, Frontier, the Department and the Office of Attorney General participated in an initial conference call meeting called by Administrative Law Judge ("ALJ") Jeffery Oxley. Mediation sessions have been scheduled for March 15, 2019 and March 21, 2019. Mediation conducted by the Office of Administrative Hearings provides an opportunity to reach a reasonable and prompt resolution of this case because of the large number disputed issues. Settlement has proven to be a viable mechanism to

resolve large numbers of disputed service quality issues.¹⁹ If a settled resolution cannot be reached, a contested case will be required to resolve this matter.

V. MINN. STAT. § 237.081 AND DUE PROCESS WILL REQUIRE A CONTESTED CASE IF A SETTLEMENT IS NOT REACHED.

If this investigation is not resolved by settlement, Minn. Stat. § 237.081 will require a contested case because of many unresolved material fact issues. Due process also requires a contested case because cross examination of witnesses will be needed.

The Commission has often ordered contested cases in Commission-initiated investigations under Minn. Stat. § 237.081, including in service quality investigations. The unresolved material fact issues in this investigation require the same approach.

A. Minn. Stat. § 237.081 requires a contested case.

Minn. Stat. § 237.081 provides that if “the commission finds that a significant factual issue raised has not be resolved to [the Commission’s] satisfaction,²⁰... the commission shall order that a contested case hearing be conducted under chapter 14”²¹ The primary issues in this case are “whether and, if so, to what extent, [Frontier] [is] or [has] been in violation of any applicable customer service, service quality, or billing practice requirements or standards.”²²

The Department’s conclusions are subject to many material factual disputes, and are contradicted by facts presented by Frontier. Specifically, as explained in Section VI below:

- (1) The Department Report relies heavily on the Lacher Affidavit, which is speculative and lacks any reliable foundation of first-hand knowledge;

¹⁹ The Briefing Papers for the Commission’s January 24, 2019 meeting cited the Commission’s August 8, 20103 ORDER ACCEPTING SETTLEMENT AND DISMISSING COMPLAINT in Docket P5323/C-03-140 (the “McLeod Order”). The McLeod Order resolved a Commission investigation that originated as a Department Complaint. While the issues in the McLeod case were different than this investigation, the McLeod Order supports the usefulness of settlement to resolve service quality investigations.

²⁰ Minn. Stat. § 237.081, subd. 2(a).

²¹ Minn. Stat. § 237.081, subd. 2(c). Frontier does not agree to an expedited hearing because the complex disputed facts involved make such a summary proceeding insufficient and because of the need to cross examine witnesses.

²² April 26 Order at Order Point 1.

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- 2) Many conclusions about telephone service in the Department Report rest on comments and complaints about Internet service access and speeds;
- (3) The photographs in the Department Report are not representative of Frontier's many thousand miles of cable and service pedestals in Minnesota;
- (4) The Department has refused to answer Information Requests concerning the support for the conclusions in the Department Report, which underscores the need for a contested case; and
- (5) The sweeping conclusions and recommendations in the Department Report routinely overgeneralize from limited comments and untested factual claims.

Prior Commission and Minnesota court cases demonstrate the need for a contested case as a result of these factors.

1. Prior Commission cases demonstrate the need for a contested case.

Prior Commission investigations under Minn. Stat. § 237.081 demonstrate that the current case meets the Commission's criteria for use of contested cases. Specifically, the Commission has recognized the need for a contested case where specific facts resolve issues before the Commission, and where multiple issues are presented. The same conditions exist in the current case.

For example, in 2010 the Commission ordered a contested case under Minn. Stat. § 237.081 in its investigation of whether Qwest was providing CLECs nondiscriminatory access to network elements. After receiving complaints, comments and reply comments, the Commission concluded "it cannot satisfactorily resolve the issues raised in the complaint on the basis of the record before it; those issues turn on *specific facts* that might best be developed in formal evidentiary hearings."²³

The Commission similarly ordered a contested case in its investigation under Minn. Stat. § 237.081 into possible discriminatory practices regarding U S WEST's MegaBit services,

²³ *In re Commission Investigation into Qwest Corporation's Provision of Network Elements to CLECs and into Related Marketing Practices Targeting CLEC Customers*, Docket No. P421/CI-09-1066, NOTICE AND ORDER FOR HEARING, 2 (Apr. 26, 2010) (emphasis added).

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saying: “The Commission finds that it cannot resolve, on the basis of the record before it, many of the issues listed below. They turn in part on factual issues best developed in formal evidentiary proceedings.”²⁴ The Commission also ordered a contested case under Minn. Stat. § 237.081 in a dispute between Qwest and Desktop Media over charges imposed by Qwest,²⁵ and in a complaint by the Department that TCG Minnesota had violated its tariffs by charge MCI affiliates rates that were lower than its tariffs.²⁶

In each of these cases, the need for a contested case was dependent on whether “a significant factual issue raised has not been resolved to [the Commission’s] satisfaction.”²⁷ These cases show that the Commission has been objective in determining if a contested case is needed, and has rejected an arbitrary approach. The issues in this case are no less controlled by disputed specific facts, as explained in Section VI below.

2. *Prior Minnesota court cases confirm the need for a contested case.*

Minnesota court cases establish that a party seeking a contested case must: (1) demonstrate facts that will aid the Commission in making a decision;²⁸ and (2) make a timely request for a contested case.²⁹ Frontier has met both requirements.

As discussed in Section VI, below, Frontier has identified several material facts that contradict the Department Report and would aid the Commission in making its decision in this

²⁴ *In re Complaint Relating to U S WEST Communications, Inc.’s Promotion of its MegaBit Services*, Docket No. P421/C-98-997, NOTICE AND ORDER FOR HEARING (Nov. 20, 1998).

²⁵ *In re Complaint of Desktop Media, Inc. Against Qwest Corporation Regarding Disputed Charges*, Docket No. P421/C-05-1209, NOTICE AND ORDER FOR HEARING (July 3, 2008).

²⁶ *In re Department of Commerce’s Formal Complaint and Request for Commission Action Regarding TCG Minnesota, Inc.*, Docket No. P5496/C-06-498, NOTICE AND ORDER FOR HEARING (Oct. 23, 2006).

²⁷ Minn. Stat. § 237.081, subd. 2(a).

²⁸ *In re N. States Power Co.*, 676 N.W.2d 326, 335 (Minn. Ct. App. 2004) (“Minn. R. 7829.1000 provides that to be entitled to a contested case hearing, relator must show that there are contested material facts. The burden is on the relator, as the party requesting a contested case hearing, to demonstrate the existence of material facts that would aid the agency in making a decision. There must be some showing that evidence can be produced that is contrary to the action proposed by the agency.”). The standard for a contested case under Minn. Stat. 237.081 is similar to that under Minn. R. 7829.1000.

²⁹ *In re Deregulation of Installation and Maintenance of Inside Wiring*, 420 N.W.2d 650, 655 (Minn. Ct. App. 1988) (“We first note that NWB at no time actually requested a contested case hearing.”).

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case. Such a demonstration supports ordering a contested case. Frontier has also made a timely request for a contested case if a settlement does not result from mediation.

It is also clear that the requirement for a contested case applies to issues that involve customer service. For example, in *Tofte*³⁰ the Court remanded a Commission decision that had been made without contested case, saying: “[W]e are ...left with questions that can only be answered by a remand to enable Qwest and the MPUC to revisit the issues, to provide sufficient evidence to support or refute the positions taken by each”³¹ The Court also found “the principle of ‘universal service’ does not justify the MPUC’s decision to require Qwest to bear the majority of the costs of installing phone lines ..., particularly when the record lacks evidence to support that decision.”³²

Similarly, *Summary Investigation*³³ reversed a Commission decision to implement two specific remedies for disabled persons that lacked record support: “While we applaud the reasoning behind the Commission’s exercise of its authority in this instance, nevertheless there is no evidence in the record supporting the Commission’s decision.”³⁴ On remand, the Commission ordered a contested case to develop the needed fact record.³⁵

The legislative amendment of Minn. Stat. § 237.081 to specify the use of a contested case if “the commission finds that a significant factual issue raised has not been resolved to its satisfaction” underscores the need for a contested case in this proceeding of a settlement does not result from mediation. *Inside Wiring* held that the “formal hearing” requirement under the then-current version of Minn. Stat. § 237.081 “[did] not necessitate a contested case hearing. Rather,

³⁰ *In re Request for Service in Qwest’s Tofte Exchange*, 666 N.W.2d 391 (Minn. Ct. App. 2003).

³¹ *Id.* at 397.

³² *Id.*

³³ *In re Minn. Pub. Utils Comm’n Initiation of Summary Investigation*, 417 N.W.2d 274 (Minn. Ct. App. 1987).

³⁴ *Id.* at 287.

³⁵ *Matter of Request for Service in Qwest’s Tofte Exchange*, Docket No. P-421/CP-00-686, NOTICE AND ORDER FOR HEARING (January 28, 2004).

where the legislature has indicated that a contested case hearing is required, the legislature has so stated.”³⁶ Following that decision, in 1989, the Legislature revised Minn. Stat. § 237.081 to state that a “contested case” is required upon the Commission finding a significant factual issue raised has not been resolved to its satisfaction.³⁷ The Legislature’s decision to expressly provide for a contested case underscores the need for a contested case to resolve material fact disputes.

Section VI below identifies facts that are contrary to the Department Report and that relate to material decisions the Commission needs to make. Frontier has also requested a contested case. Minn. Stat. § 237.081 requires a contested case if “a significant factual issue raised has not be resolved to [the Commission’s] satisfaction.” Accordingly, a contested case will be required if a settled resolution cannot be achieved.

3. *Due process requires a contested case.*

Due process also requires a contested case in this proceeding. Even when not specifically mandated by a statute, a contested case hearing may be constitutionally required when a property interest is at stake.³⁸ Frontier’s right and ability to provide telecommunication service in Minnesota is potentially being challenged by the Department in this case. As a result, Frontier must be provided the opportunity to challenge specific factual allegations and legal conclusions, including the opportunity to confront and cross-examine adverse witnesses.³⁹ Accordingly, due process requires that Frontier have the opportunity to: 1) present witnesses and documentary evidence regarding its service; and 2) cross examine Department witnesses. A contested case is the only procedural mechanism available to protect Frontier’s due process rights and achieve a fair outcome.

³⁶ Inside Wiring, 420 N.W.2d at 655.

³⁷ 1989 Minn. Laws Ch. 74, § 4.

³⁸ Cable Commun. Bd. v. Nor-W. Cable Commun. Partn., 356 N.W.2d 658, 666 (Minn. 1984).

³⁹ Goldberg v. Kelly, 397 U.S. 254, 269 (1970) (“In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses.”).

B. The Department Report is not substantial evidence and accepting the Department Report without a contested case would be arbitrary and capricious.

The Department Report does not meet the requirement for substantial evidence, and accepting the Department Report without a contested case would be arbitrary and capricious.

1. The Department Report is not substantial evidence that would support its conclusions and recommendations.

Any decision by the Commission must be supported by substantial evidence.⁴⁰ The mere presence of “‘some’ or ‘any’ evidence” is not sufficient.⁴¹ Rather, there is only substantial evidence to support a decision when “considering the evidence in its entirety, there is relevant evidence that a reasonable person would accept as adequate to support a conclusion.”⁴² The current record does not constitute substantial evidence to support the findings requested by the Department Report.

The Department Report rests on elements that do not constitute substantial evidence. These elements are: (1) a combination of customer statements at public hearings and customer written comments and (2) the Lacher Affidavit; (3) misapplying statements regarding Internet service to telephone service; and (4) customer comments and statements regarding technical aspects of Frontier’s system.⁴³ None of these elements, individually or taken together, constitutes “relevant evidence that a reasonable person would accept as adequate to support [the Department’s conclusions],”⁴⁴ particularly when contradicted by evidence that Frontier has

⁴⁰ Minn. Stat. § 14.69(e).

⁴¹ In re A.D., 883 N.W.2d 251, 259 (Minn. 2016) (“the substantial-evidence standard requires more than ‘a scintilla of evidence’ and more than ‘some’ or ‘any’ evidence”).

⁴² *Id.*

⁴³ Sections VI.B. and VI.C. provide additional discussion of the problems associated with the Department’s reliance on the Lacher Affidavit and the misuse of information regarding internet service.

⁴⁴ In re A.D., 883 N.W.2d at 259.

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identified. Accepting the Department Report and its overgeneralized conclusions would not fulfill the obligation to take “a hard look at the salient problems.”⁴⁵

2. *Adopting the conclusions and recommendations in the Department Report without a contested case would be arbitrary and capricious.*

Commission decisions may not be “arbitrary or capricious.”⁴⁶ A Commission decision that all material facts were “resolved to its satisfaction” in the face of the factual disputes presented by Frontier would represent the Commission’s “will, not its judgment,” and therefore would be arbitrary and capricious.⁴⁷

According to the Department Report, it is based upon “complaints and concerns shared by Minnesota consumers...”⁴⁸ which “illuminat[e] the Frontier customer experience.”⁴⁹ The comments submitted in this docket – which are from less than 2% of Frontier’s Minnesota customer population and a significant majority of which relate to Internet service, not telephone service – do not provide a reasonable basis to characterize the entirety of the Frontier customer telephone service experience. Accepting the claims of a small percentage of customer information, without accepting other evidence or without the opportunity for cross examining the Department experts to assess the basis for their acceptance would fail “to consider an important

⁴⁵ West McDonald Lake Assn. v. Minn. DNR, 899 N.W.2d 832, 840 (Minn. Ct. App. 2017) (“But the state agency’s efforts must not merely represent the agency’s will. And a combination of danger signals which suggest the agency has not taken a hard look at the salient problems and a lack of articulated standards and reflective findings in an agency’s decision suggest that it is not supported by substantial evidence in the record.” (internal citations and quotations omitted)).

⁴⁶ Minn. Stat. § 14.69(f).

⁴⁷ Review of 2005 Annual Automatic Adjustment of Charges, 768 NW 2d 112, 118 (Minn. 2009). *See also* Kind Heart Daycare v. Comm. of Human Servs., 905 N.W.2d 1, 17 (Minn. 2017) (Chutich, J, concurring in part, dissenting in part) (“An agency may act arbitrarily or capriciously if its determination represents its will and not its judgment. Although I do not believe that standard was met in this case, the Department’s pre-hearing conduct drew the agency’s impartiality into question in a way that undermines confidence in its ultimate decision.” (internal citations and quotations omitted)).

⁴⁸ Department Report at 1.

⁴⁹ Department Report at 1.

aspect of the problem”⁵⁰ and would reflect a decision based on will, not judgment.⁵¹ Accordingly, a contested case is required.

In addition to the factual issues, a number of legal issues are also raised by this proceeding and the Department Report, including:

- Limits of the Commission’s jurisdiction regarding Internet service availability and quality;
- The requirements under the 26 Minnesota statutes and 24 Minnesota rules for which the Department claims violations must be considered; and
- The Department’s frequent recommendations that “the Department staff can review each consumer comment ... and provide an accounting to the Commission, subject to comment, for the pursuit of penalties.”

The implications of these factors are wide-ranging, and the Commission would benefit from a report of an ALJ addressing the factors and whether there is evidence sufficient to support such recommendations.

VI. THE MANY FACTUAL FLAWS IN THE DEPARTMENT REPORT AND CONFLICTING FACTS REQUIRE A CONTESTED CASE TO RESOLVE.

The Department Report does not provide the Commission with an adequate basis to make such assessment of whether, and to what extent, Frontier has violated relevant requirements and standards,⁵² and represents only one side of many complex and contested factual issues. The Department Report’s recommendations for further Department investigations, accountings, and

⁵⁰ In Re Partners in Nutrition, 904 N.W.2d 223, 233 (Minn. Ct. App. 2017) (quoting Citizens Advocating Responsible Dev. v. Kandiyohi City Bd. of Comm’rs, 713 N.W.2d 817, 832 (Minn. 2006)).

⁵¹ Markwardt v. State Water Resources Bd., 254 N.W.2d 371, 374 (Minn. 1977) (“A court will not interfere with the conclusions of such agency unless it appears that the agency has violated a constitutional provision, has exceeded its statutory authority or jurisdiction, has followed an unlawful procedure, has proceeded on an erroneous theory of law, has taken an action without substantial evidence in support thereof, or has acted arbitrarily or capriciously so that its determination represents its will and not its judgment.”).

⁵² April 26 Order at 3.

comments attempt to sidestep and do not meet the need for a resolution of factual disputes that complies with Minn. Stat. § 237.081 and due process.⁵³

A claim that the Department Report is directed primarily to the future is similarly ineffective in meeting those requirements and is also incorrect. The Department Report recommends over 20 “accountings, often with penalties to follow.”⁵⁴ Further, even the Department Report’s recommendations as to the future rely on the existence of extensive past violations, a premise that the Department Report does not support.

As discussed below, many of the Department’s conclusions are also contrary to facts regarding the operation of Frontier’s systems and service provided by Frontier, rest on statements that lack any basis in knowledge, and go well beyond customers’ actual comments or complaints. In short, the Department Report lacks a factual foundation and rests on overgeneralizing that inadequate foundation.

A. The Department’s refusal to answer Information Requests underscores the need for a contested case.

Frontier has attempted to obtain information from the Department that addresses critical issues essential to get to whatever facts may be behind the broad generalities and broad characterizations in the Department Report. A copy of Frontier’s Information Requests are included as Attachment 2. In response, the Department: (1) provided a CD that simply contained the entire catalog of customer communications used by the Department (with no connection between any of the communications and any of the many Department statements and claims in the Department Report); and (2) indicated that no further response would be provided because this was a matter before the Commission which did not include a right by non-governmental

⁵³ While the Department Report characterizes the gap between the absence of support and its recommendations as merely an “ambiguity,” this gap is far more than an ambiguity. See Department Report at 3.

⁵⁴ See Department Report at 19, 20, 27, 52, 59 (x 3), 62, 66, 79 (x 2), 81, 84, 87, 92, 95, 103 (x 2), 109, 113, 115, and 122.

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parties to ask questions of the Department.⁵⁵ Such an approach underscores the need for a contested case to provide any reasonable opportunity for Frontier to defend itself.

Specifically, Frontier sent Information Requests to the Department on January 10, 2019 that asked the Department to provide information to:

- Identify the customer complaints and statements that supported the Department claims of 250 reports concerning phone service, 400 reports concerning both phone and Internet access, 325 reports concerning only Internet access, and 150 reports that were unclear (Frontier No. 1);
- Describe the process used by the Department to associate customer comments, testimony or complaints with various claimed rule infractions (Frontier No. 2);
- Identify which of the many recommendations in the Department Report pertain to voice telephone service and which pertain to Internet access (Frontier No. 3);
- Identify which of the many conclusions in the Department Report pertain to voice telecommunications services and which pertain to DSL or Internet access services; (Frontier No. 4);
- Other contacts between the Department persons who testified (Frontier No. 5); and
- The customers referred to that were included in the many claims in the Department Report of impacts on “many consumers”, “many subscribers”, and other characterizations of the numbers of customers affected, including “over 85 persons” and “more than 40 customers.” (Frontier No. 6).

On January 18, 2019, the Department sent a CD which contained an electronic record of the public, and a portion of the nonpublic, comments and statements in the docket along with a letter indicating that this was the Department’s response to Frontier’s Information Request. But the CD did not make any connections between the multitude of comments or statements and any particular Department conclusions or recommendations, which leaves completely unaddressed the critical question of whether there is any factual support for the specific statements, conclusions, and recommendations in the Department Report (identified in the Frontier Information Requests).

⁵⁵ See Attachment 3.

The January 18, 2019 letter was followed by a voice mail on February 1, 2019 from the Department confirming that no further response would be provided to any information requests because this was a matter before the Commission, which did not include a right by non-governmental parties to ask questions of the Department. In short, the Department has refused to provide information to support the many very broad generalizations in the Report, making the Report practically and legally unreviewable and unreliable in relation to many statements and all conclusions and recommendations. Meaningful responses to Information Requests that enable Frontier to review the specific complaints and comments the Department Report referenced and relied upon to support its allegations and conclusions is imperative to test the credibility and reasonableness of those statements, conclusions, and recommendations.

The Department statements at the Commission's January 24, 2019 hearing and the Department Report's characterization of the gap between its conclusions and recommendations in the Department Report and the record as an "ambiguity,"⁵⁶ indicate that the Department's position is that no contested case is needed. That position, combined with the Department's refusal to answer even basic questions pertaining to the basis for the many conclusions and recommendations in the Department Report, would preclude any meaningful testing of the Department Report, which would be a blatant violation of Minn. Stat. § 237.081 and due process.

B. The Department Report rests heavily on the Lacher affidavit, which lacks any basis in first-hand knowledge or other support.

The Department Report relies extensively on the Lacher Affidavit. The Department's reliance is misplaced because Mr. Lacher has no first-hand, direct knowledge of Frontier, having never been employed or retained by Frontier. Rather, the Lacher Affidavit includes a mix of

⁵⁶ Department Report at 2.

speculation and hearsay based from unidentified individuals that also may or may not have any first-hand knowledge of Frontier from years earlier. In fact, Mr. Lacher acknowledges that the information in his Affidavit was based on his knowledge regarding trouble ticket and repair order processes that were in place prior to 2012 and technician dispatch processes prior to December 2016, and therefore he was “unable to confirm” that the practices he describes in his Affidavit continue today.⁵⁷ Cross examination in a contested case is needed to resolve these defects. Further, Frontier has evidence and will provide testimony of Frontier witnesses disputing the claims in the Lacher Affidavit concerning Frontier business practices.

1. The Department relied extensively on the Lacher Affidavit.

The Lacher Affidavit is cited 13 times and is relied on by the Department Report in connection conclusions and recommendations relating to 10 topics, as shown in Table 2 below:

Table 2
DOC Reliance on Lacher Affidavit

<u>Topic</u>	<u>Citation</u>
Duties of dispatchers and field technicians	Department Report, p. 29, n. 58; p. 131
Priority of new service over repairs	Department Report, p. 29, n. 60; p. 30; p. 131
Duties of customer service representatives	Department Report, p. 30
Handling of tickets	Department Report, p. 39; p. 131
Actions of dispatchers	Department Report, p. 39
Auto-dialer	Department Report, p. 39
Mechanics of repair que	Department Report, p. 39
Sales commissions	Department Report, p. 67 and n. 147
Sales goals	Department Report, p. 67-68
Frontier HR policies	Department Report, p. 68 and n. 148

The Department Report’s heavy reliance on the Lacher Affidavit underscores the need to test its credibility and reliability in a contested case.

⁵⁷ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 3.

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2. *Frontier witnesses with first-hand knowledge of Frontier business practices show claims in the Lacher Affidavit are mistaken or incomplete and thus misleading.*

The Lacher Affidavit is mistaken as to critical claims regarding Frontier’s business practices, and it is incomplete and this misleading as to others, as shown by Declarations of Frontier employees with first-hand knowledge of the Frontier practices. Frontier will expand on these Declarations with testimony, as needed, later in this proceeding.

The Lacher Affidavit is incomplete and thus misleading in claiming that the numbers of Frontier technicians has declined since 2008 “likely resulting in many more customers not having their repair take place as scheduled.”⁵⁸ As explained in the Declaration of George Meskowski,⁵⁹ and as shown in Table 3 below, the number of access lines in service in Minnesota has decreased at a greater rate than the number of technicians:

Table 3
Numbers of Frontier Access Lines and Technicians⁶⁰

	2008	2013	2014	2015	2016	2017	2018
Total Union Technicians	180	141	130	127	125	125	108
Independent Contractors	0	0	0	0	0	0	11
Total Technicians	180	141	130	127	125	125	119
Total Access Lines	197,728	148,512	140,028	123,580	103,919	89,647	78,917
Access Lines / Technician	1,098	1,053	1,077	973	831	717	663

As a result, the number of access lines per technician has improved (decreased) since 2008 from 1,098 access lines per technicians in 2008 to 633 access lines per technician in 2018,

⁵⁸ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 7.

⁵⁹ Attachment 4.

⁶⁰ Counts of access lines and technicians as of December 31 of each year.

meaning there are relatively more technicians available in 2018 per telephone line that Frontier serves than in 2008.⁶¹

The Lacher Affidavit is incorrect in its claims that Frontier prioritizes tickets to give priority to new tickets rather than old tickets, and that installations of new service are prioritized over repairs. Mr. Meskowski's Declaration explains that repair tickets are handled in a first in, first out basis and customer acceptance and availability are major factors in determining installations and repairs.

The related statements of Mark Doffing are also incorrect in regard to Frontier's use of contract technicians and the reasons for such use.⁶² The need to deploy fully trained technicians during 2018 meant that a regular training cycle for new employees could not be completed by the time the technicians were needed.

Mr. Doffing's statements regarding temporary repairs are incomplete in failing to recognize that temporary repairs are sometimes needed, especially during the winter months when the ground is frozen, which lead to repairs that need follow-up. Similarly, Mr. Doffing's explanation of cable replacement does not take into account the several steps and decisions needed in that process, including consideration of the cost-benefits of replacing a long run of cable to address a problem that is confined to a small segment.

The Lacher Affidavit is also incomplete and thus misleading in its claims regarding the dispatch of technicians and interaction of technicians with the dispatch center. As explained in the Declaration of Darrell Senior,⁶³ Frontier Dispatch Director, customers have the option of

⁶¹ Total Frontier lines in service (telephone and internet only customers combined) have also decreased at a greater rate than the number of technicians, from a ratio of 1098 total lines/ technician in 2008 to a ratio of 870 total lines/technician in 2018.

⁶² See DOC000563-000568.

⁶³ Attachment 5.

speaking to a live dispatcher. Customers with missed appointments due to Frontier scheduling are also provided priority in rescheduling.

The Lacher Affidavit is also incomplete and thus misleading in its discussion of multiple problems relating to a single (“common”) cause. If a customer trouble is not resolved by a curing the common problem, the customer’s trouble in given priority.

3. *A contested case is needed to determine whether the Lacher Affidavit deserves any weight or credibility in relation to issues in this case.*

While the standard for admissibility in a contested case is broad, the Lacher Affidavit would not meet that standard. If admitted, it would be entitled to little or no weight.

Mr. Lacher lacks this firsthand knowledge: he has never been employed or retained by Frontier. Since Mr. Lacher has never been a Frontier employee, he does not have firsthand knowledge of Frontier’s operations and his testimony on that topic.

The Lacher Affidavit also cannot be justified as admissible hearsay. Hearsay is admissible in contested cases “if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs.”⁶⁴ The Lacher Affidavit does not meet this standard. While the Lacher Affidavit implies that it is based on statements by current and/or former Frontier employees, it never identifies *any* Frontier employees (or independent contractors) that were in contact with Mr. Lacher, nor does it provide any detail as to how or when Mr. Lacher learned the information he repeats in the Lacher Affidavit. No reasonable, prudent person would rely on information with the lack of foundation in the conduct of serious affairs.

Even accepted at face value, the Lacher Affidavit is also primarily based on outdated information. The Lacher Affidavit admits the Burnsville call center where trouble tickets were

⁶⁴ Minn. R. 1400.7300, subp. 1.

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created closed in “roughly 2012” and the dispatch center was closed in December 2016.⁶⁵ Yet, the Department Report relies on the Lacher Affidavit as evidence of what is currently happening even though Mr. Lacher is clear that he “was unable to confirm that the practices [he] discuss[es] ... continue to the present day....”⁶⁶ A reasonable, prudent person would not rely on the Lacher Affidavit as evidence of current practice.

Further, the Lacher Affidavit is, on its face, speculative. For example, the Lacher Affidavit indicates that there “may be” a “dumping” problem with vendors because of customer service incentives.⁶⁷ This speculation is not informed by “specific knowledge of Frontier’s contracts and policies” or any knowledge of “who [Frontier’s] vendors may be....”⁶⁸ Rather, the Lacher Affidavit attributes these practices to Frontier based on Mr. Lacher’s “experience with customer service employees for vendors at *other companies*....”⁶⁹ The Lacher Affidavit also speculates as to customer actions,⁷⁰ scheduling,⁷¹ work priorities,⁷² creation of tickets,⁷³ processing of tickets,⁷⁴ Frontier policies,⁷⁵ role of incentives,⁷⁶ and common cause tickets.⁷⁷

⁶⁵ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 3.

⁶⁶ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 3.

⁶⁷ Department Report, Attachment 3 (Lacher Affidavit) at ¶¶ 11-14.

⁶⁸ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 14.

⁶⁹ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 14 (emphasis added).

⁷⁰ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 6 (“Customers that were expecting a technician who did not arrive as scheduled *may* call Frontier....” (emphasis added)).

⁷¹ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 6 (“The number of Frontier technicians in Minnesota on the CWA roster has significantly declined since 2008, *likely* resulting in many more customers not having their repair take place as scheduled....” (emphasis added)).

⁷² Department Report, Attachment 3 (Lacher Affidavit) at ¶ 8 (“Further, the prioritization of a technician’s work *appears* to clearly be.... Although this is not the written policy, it *appears* to be the case....” (emphasis added)).

⁷³ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 10 (“more than one ticket *may* be created for the same problem” (emphasis added)).

⁷⁴ Department Report, Attachment 3 (Lacher Affidavit) at ¶¶ 10, 15, 17 (“Error tickets that are not duplicates *may* be sent back to a CSR to collect missing information [T] order *may* be closed The customer *may* be told that their ticket was lost, but there *may* never have been a ticket created. ... [T]he CRS *may* tell the customer their ticket has been ‘lost.’” (emphasis added)).

⁷⁵ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 13 (“The failure to meet sales goals for a period of time *could* mean discipline or termination.” (emphasis added)).

⁷⁶ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 14 (“The Vendor issues... described above, *may* be the result of similar incentives.... CSR’s employed by Vendors *may* have a strong incentive to ‘dump’ repair calls as quickly as possible.” (emphasis added)).

Without the benefit of information pertaining to the basis of Mr. Lacher's knowledge, none of these speculative statements should be considered admissible hearsay.

A contested case is needed to evaluate the admissibility and whether any weight should be given to the Lacher Affidavit and the Department Report conclusions based on that affidavit. In a contested case, Frontier could initiate discovery on: (1) the specifics of Mr. Lacher's knowledge of Frontier's operations that are not provided as part of the Lacher Affidavit;⁷⁸ and (2) the Department Report's acceptance of the speculation in the Lacher Affidavit as to Frontier's operations;⁷⁹ Frontier would be able to cross examine Mr. Lacher and Department witnesses.⁸⁰ These steps are essential to providing the Commission with an adequate record upon which to weigh the evidence and make decisions in this case.

C. Many conclusions about telephone service in the Department Report rest on comments and complaints about Internet service access and speeds.

The Department Report is severely flawed by its substantial reliance on complaints regarding Internet service access and speeds to support its conclusions and recommendations regarding regulated telephone service.

1. Concerns regarding Internet service are beyond the scope of this case.

Concerns over Frontier's Internet service are beyond the scope of this investigation,⁸¹ and the Department's continued attempt to have the Commission assert jurisdiction over broadband

⁷⁷ Department Report, Attachment 3 (Lacher Affidavit) at ¶ 16 ("It is *possible* that tickets that are not related to the Common Cause, but identified as such, are closed despite not being corrected." (emphasis added)).

⁷⁸ Minn. R. 1400.6700.

⁷⁹ See e.g. Department Report at 29, n. 60 (citing Department Report, Attachment 3 (Lacher Affidavit) at ¶¶ 8, 13-15); Department Report at 30, n. 62 (citing Department Report, Attachment 3 (Lacher Affidavit); Department Report at 39, n. 85 (citing Attachment 3 (Lacher Affidavit); Department Report, at 67, n. 147 (citing Department Report, Attachment 3 (Lacher Affidavit); Department Report at 68, n. 148 (citing Department Report, Attachment 3 (Lacher Affidavit) at ¶ 13).

⁸⁰ Minn. R. 1400.7800.

⁸¹ April 26 Order at 3 ("[T]he Commission finds reason to pursue an investigation of customer service, service quality, and billing practices *related to Frontier's telephone service.*" (emphasis added)).

Internet access is contrary to settled law. The Commission should not follow the Department’s invitation to deviate from clear precedent on this issue.

The FCC has consistently held that broadband Internet access is an interstate information service subject to regulation by the federal government—not state public utility commissions.⁸² The FCC’s position on the regulation of broadband Internet has also remained consistent across the last two different executive administrations.⁸³ In 2015, the FCC reaffirmed its “longstanding conclusion that broadband Internet access service is jurisdictionally interstate for regulatory purposes.”⁸⁴ The FCC reiterated this same principle in 2018 by recognizing “it is well-settled that Internet access is a jurisdictionally interstate service.”⁸⁵ Importantly, both the *2015 Open Internet Order* and the *2018 Restoring Internet Freedom Order* expressly preempted state and local regulation of Internet service,⁸⁶ with both FCCs being clear that state or local regulation that is contrary to national policy is prohibited. Many of the recommendations in the Department Report are clearly inconsistent with preemption reflected in the *2018 Restoring Internet Freedom Order*.⁸⁷

⁸² *Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, FCC 15-24, 30 FCC Rcd. 5601 (2015) [*hereinafter 2015 Open Internet Order*]; *Restoring Internet Freedom*, Declaratory Ruling, Report and Order, and Order, FCC 17-166, 33 FCC Rcd. 311 (2018) [*hereinafter 2018 Restoring Internet Freedom Order*].

⁸³ *Id.*

⁸⁴ *2015 Open Internet Order* at ¶ 431.

⁸⁵ *2018 Restoring Internet Freedom Order* at ¶ 199 (quoting *Bell Atl. Tel. Cos. v. FCC*, 206 F.3d 1, 5 (D.C. Cir. 2000)).

⁸⁶ *2015 Open Internet Order* at ¶ 433; *2018 Restoring Internet Freedom Order* at ¶¶ 194-196.

⁸⁷ *2018 Restoring Internet Freedom Order* at ¶ 195 (“Among other things, we thereby preempt any so-called ‘economic’ or ‘public utility-type’ regulations, including common-carriage requirements akin to those found in Title II of the Act and its implementing rules, as well as other rules or requirements that we repeal or refrain from imposing today because they could pose an obstacle to or place an undue burden on the provision of broadband Internet access service and conflict with the deregulatory approach we adopt today.”); ¶ 195, n. 730 (“The terms ‘economic regulation’ and ‘public utility-type regulation,’ as used here, are terms of art that the Commission has used to include, among other things, requirements that all rates and practices be just and reasonable; prohibitions on unjust or unreasonable discrimination; tariffing requirements; accounting requirements; entry and exit restrictions; interconnection obligations; and unbundling or network-access requirements.”).

The federal courts in the Eighth Circuit have also recognized limitations on the Commission's authority over information services.⁸⁸ In *Vonage*, the district court noted that "Congress has expressed a clear intent to leave the Internet free from undue regulation," and "[s]tate regulation would effectively decimate" this mandate.⁸⁹ The Eighth Circuit upheld this principle in *Minnesota Public Utilities Commission v. FCC* when it concluded that "any regulation of an information service conflicts with the federal policy of non-regulation."⁹⁰ Likewise, in *Charter Advanced Services*, the district court determined that state regulation of Charter's interconnected VoIP offering was "preempted and impermissible."⁹¹ On appeal, the Eighth Circuit upheld the district court's decision, concluding that Charter's VoIP service is an information service federally preempted from state regulation.⁹² Because of this binding legal authority and clear FCC guidance, the Department has no legal basis to ask the Commission to assert jurisdiction over Frontier's broadband Internet access.

2. *Concerns about Internet service were far more frequent than concerns about telephone service and undoubtedly affected customer claims and positions regarding telephone service.*

There is no dispute that the complaints filed in this proceeding and in the public hearings regarding Internet service were far more frequent than concerns regarding telephone service.

According to the Department's Report, approximately 725 of customer complaints and statements in this docket (over 70%) relate, in whole or part, to Frontier's Internet service.⁹³

⁸⁸ *Charter Advanced Services (MN), LLC v. Lange*, 903 F.3d 715 (8th Cir. 2018); *Minn. Pub. Util. Comm'n v. FCC*, 483 F.3d 570 (8th Cir. 2007); *Charter Advanced Servs. (MN) v. Lange*, 259 F. Supp. 3d 980, 991 (D. Minn. 2017); *Vonage Holdings Corp. v. Minn. Pub. Util. Comm'n*, 290 F.Supp.2d 993 (D. Minn. 2003).

⁸⁹ *Vonage Holdings Corp.*, 290 F. Supp. at 994.

⁹⁰ *Minn. Pub. Util. Comm'n*, 483 F.3d at 580.

⁹¹ *Charter Advanced Servs. (MN)*, 259 F. Supp. 3d at 991.

⁹² *Charter Advanced Services (MN)*, 903 F.3d at 720.

⁹³ Department Report at 1 (identifying 400 reports that concern both telephone and internet access service, 325 reports that concern only internet access, and 150 reports where the service type was "not readily apparent"). As discussed in more detail below, the Department refused to explain the process by which it classified customer complaints.

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According to the Department Report, 250 customer complaints and statements (25%) relate only to phone service and 400 customer complaints and statements relate to both telephone and Internet service. Taken at face value, this means that less than 1% of Frontier customers made complaints or statements regarding regulated telephone service.

The Department Report argues that the number of customer who “took the time” to attend a hearing, write a comment or make a complaint “are likely to be a fraction” of the total customers with similar experiences.⁹⁴ This claim, which is central to the Department’s sweeping conclusions and recommendations, is likely to be overstated given the extensive publicity, the number of public hearings, efforts to encourage comments and the length of time the public was able to file comments on the Commission’s website. The time needed to attend a hearing is significant, but there were 130 statements made at hearings. The time needed to make a written comment, many of which were very abbreviated emails, is far less. The Department Report is again overstating impacts.

The Department did not respond to Frontier Information requests that asked the Department to indicate which complaints pertained to Internet service versus regulated telephone service, a basic step in responding to and assessing the Department’s conclusions and recommendations. Further, other information indicates that the Department has over-counted the number of complaints that pertain to both Internet access and regulated telephone service.

Frontier conducted an initial review of 467 written comments and testimony provided by 130 individuals at the public hearings (based on information available as of December 2018). That review indicates that approximately 743 concerns were expressed, with approximately 65% (479) pertaining to Internet access service, approximately 21% (157) pertaining to telephone service, and 23% (107) pertaining to customer service center matters. Of the 130 individual

⁹⁴ Department Report at 1.

commenters or persons testifying at the public hearings, approximately 82% (101) expressed concerns regarding Internet service.

The ALJ noted in his Report on Public Hearings: “To be sure, the majority of complaints concerned Frontier’s information services and not its telecommunication services.”⁹⁵ The ALJ also observed: “From the public testimony as summarized in this report, the Administrative Law Judge concludes that the public distinguishes between Internet access and voice service, but not between voice communications via information services and voice communications via telecommunications services.”⁹⁶ Similarly, the ALJ noted: “Few individuals speaking at the hearings appeared to be aware of the regulatory consequences in choosing between Internet information service telephony or VoIP and POTS or a voice telecommunications service.”⁹⁷

The ALJ also noted: “[T]he record lacks certainty as to which particular customer complaints are within the Commission’s jurisdiction and which are not. It is not always clear from the record whether customers’ comments on a voice service or a “landline” service are comments on POTS or Frontier’s VoIP service or a third-party VoIP application.”⁹⁸

These observations by the ALJ call into serious question the Department Report’s assessment of the number of customers which complaints regarding Frontier’s regulated services and underscore the need for a careful assessment of the complaints that is lacking in the Department Report. Attributing written comments to regulated telephone or Internet access services is even less certain. Since the assessment of customer complaints by the Department is the primary support for the sweeping conclusions and recommendations in the Department Report, a careful review in a contested case is required.

⁹⁵ ALJ Report on Public Hearings at ¶ 152.

⁹⁶ ALJ Report on Public Hearings at ¶ 13.

⁹⁷ ALJ Report on Public Hearings at ¶ 14.

⁹⁸ ALJ Report on Public Hearings at ¶ 15.

A contested case is needed to assess the nature and number of complaints relating to Internet and telephone service, and the effect of Internet complaints on customer perceptions and complaints regarding telecommunications service. An accurate assessment of that effect is essential given the clear jurisdictional distinctions between telephone service and Internet access service.

D. The photographs in the Department Report are not representative of Frontier's many thousands of miles of cable and service pedestals in Minnesota.

The Department asserts that "Frontier is not providing timely repair or replacement of broken, damaged, or deteriorated parts of its plant, as is required by Minn. R. 7810.3300."⁹⁹ To support this assertion, the Department identifies a number of pictures from the city of Ceylon, Minnesota.¹⁰⁰ As explained above, Frontier has approximately 28,000 miles of cable facilities and 134,500 pedestals in service in the more than 100 communities Frontier serves in Minnesota. The photographs in the Department Report are not representative of Frontier's overall plant in service and present an incomplete and misleading impression of Frontier facilities, as noted in the Declarations of Frontier employees George Meskowski, Tom Anderson,¹⁰¹ and Jeffrey Georges.¹⁰² Frontier will expand on these Declarations with testimony later in this proceeding.

The photographs of pedestals are incomplete and not representative of Frontier's 134,500 pedestals in service in Minnesota. As explained in the Declaration of George Meskowski, while the photographed pedestals show the adverse effects of weather and time, the services provided using those pedestals were functional and these isolated photographs are not representative of the 134,500 Frontier pedestals in service in Minnesota. Further, Frontier completed repairs of these

⁹⁹ Department Report at 18.

¹⁰⁰ See Department Report at 14-15; Department Report, Attachment 1 at 54-65; Department Report, Attachment 4 at 1-4.

¹⁰¹ Attachment 6.

¹⁰² Attachment 7.

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pedestals following the customer identification of these concerns. An example of pedestal before repair and after repair photographs is attached to Mr. Meskowski's Declaration. If there are other pedestals in similar situations, Frontier will endeavor to make timely repairs.

The photographs of cable facilities in Ceylon are similarly incomplete and not representative of Frontier's 28,000 miles of cable facilities in service in Minnesota. As explained in the Declaration of Jeffrey Georges, Local Manager of Operations for Southwest Minnesota, the cable facilities located in Ceylon were intended as temporary repairs, and were relocated to permanent locations in October, 2018. Further, as Mr. Georges notes, the services provided using these temporary facilities were functional even before the relocations in October, 2018. Finally, the photographs show the effects of a severe storm hit Ceylon on September 20, 2018 (shortly before the photographs were taken), which damaged some of Frontier's temporary facilities, as Mr. Georges also notes.

The photographs of Frontier cable located on a bridge are also not representative of Frontier's 28,000 miles of cable facilities in service in Minnesota and do not reflect all conditions relating to that cable. As explained in the Declaration of Tom Anderson, Outside Plant Engineer, an employee of a Frontier outside contractor went to the property on November 7, 2018 and explained his intent to repair the cable to the owner. The owner refused to allow the employee access to the Frontier line.

Frontier seeks to maintain all of its outside plant in the best possible condition. Not every mile of cable or every pedestal can be kept in that condition at all times. Weather, especially during the winter months, third parties, and time all adversely impact Frontier's network, and at any one point in time, there will be broken pedestals, bad cable and other network troubles. The Frontier Declarations demonstrate, however, that the photographs relied upon by the Department

as documentation of the “state” of Frontier’s total network infrastructure do not indicate a widespread and persistent service failure and there is no basis to conclude that these photographs would be representative of Frontier’s 28,000 miles of cable facilities and 134,500 pedestals in service in Minnesota.

E. The Department Report rests on unreasonable standards for determining a violation of rules or service.

The Department Report asserts that Frontier “has been violating at least 35 separate laws and rules”¹⁰³ and service quality objectives from the Frontier AFORs. Many of these alleged violations rest on a small number of customer comments and complaints overgeneralized to the entire universe of Frontier’s Minnesota customers. There is simply no basis in fact or in law to extrapolate a limited number of customer complaints or service failures to a conclusion that Frontier has violated 35 laws and requirements. Such a determination would require the Commission to conclude that each individual service quality miss for each customer equates to a violation of law, which would be inconsistent with law and Frontier’s performance under the prior AFOR Plans.

With 28,000 miles of cable and 134,500 pedestals in service, it is unrealistic to equate individualized events with systemic service violations. It is for this reason that Frontier’s former AFOR Plans all measured service quality in terms of objectives, percentages, rates and averages.¹⁰⁴ Electric utilities similarly measure service quality not on individualized events but

¹⁰³ Department Report at 2.

¹⁰⁴ See Department Report, Attachment 4 (Frontier AFORs) at 15 (“objective will be to install primary service within three business days, or on the requested installation date, if later ... Pursuant to Rule 7810.5800, the objective will be to clear 95% of all out-of-service troubles within 24 hours of the time such troubles are reported, or by appointment date, if later. ... Pursuant to Rule 7810.5900, the objective will be to maintain service that the average rate of all customer trouble reports in an exchange is no greater than 6.5 per 100 telephones per month. ... Frontier shall not exceed a daily average of more than 4 held orders for primary line service. ... Calls to the Service Center will be on hold no more than 60 seconds on the average after the last menu option is selected before being answered by a live service representative. ... Results shall be determined by a 12-month annual statewide average of the performance for the measure for combined customer, business and repair calls.”).

rather system-wide averages and levels adopted by the Commission.¹⁰⁵ A contested case is required to allow Frontier to review and to challenge the Department's assertions regarding individualized events extrapolated across Frontier's entire operations and provide its own facts before the Commission can reach any conclusion.

F. The sweeping conclusions and recommendations in the Department Report are based on overgeneralizing limited comments and untested factual claims.

Sections VI. A through VI.E, above, identify deficiencies of the Department Report that affect all aspects of the Department's analysis, conclusions and recommendations. This Section VI. F addresses the individual sections of the Department Report.

Due to the scope of the Department's Report (32 separate topics, over 80 conclusions, and 130 recommendations covering 133 single spaced pages of text and over 390 pages of attachments) and the Department's refusal to respond to Information Requests directed at the Department's analytical approach and conclusions,¹⁰⁶ Frontier's response does not and could not identify all areas of dispute. Accordingly, Frontier notes its dispute of any specific Department claim, conclusion, and recommendation not directly addressed below.

As demonstrated below, the Department Report does not provide an adequate basis for a Commission decision because of lack of factual support, substantial exaggerations, and erroneous conclusions and recommendations. These defects will require a contested case to resolve.

The Department Report frequently relies on small numbers of unverified customer complaints to make overgeneralized and sweeping conclusions and recommendations. Further, as shown below, many of those comments and complaints exceed the scope of the customers'

¹⁰⁵ See Minn. R. 7826.0200 (defining CAIDI, SAIDI, and SAIFI); *In the Matter of Xcel Energy's 2015/2016 Annual Safety, Reliability, Service Quality Report, and Proposed Annual Reliability Standards for 2017*, Docket No. E002/M-16-281, E002/17-249, Order (Feb. 9, 2018) (adopting 2017 SAIDI, SAIFI and CAIDI goals for 2017).

¹⁰⁶ See Attachments 1 and 2.

knowledge and contain other factual flaws. Even if accepted at face value, those comments and complaints would not support the scope of the conclusions and recommendations. These serious deficiencies further preclude reliance on the Department Report to resolve the material factual disputes in this docket.

The following are Frontier's responses to select topics addressed in the Department Report.

1. Engineering Safety; Construction and Maintenance (Sections A and B)

The Department Report relies heavily on eight photographs taken at one point in time to support its conclusion that Frontier has failed to adequately maintain its network. However, taken at face value, these photographs do not begin to reflect Frontier's overall network in Minnesota, which includes 28,000 miles of cable facilities and 134,500 pedestals, large portions of which are installed in very sparsely populated areas.

Further, as explained in Section VI.D above, the defects shown in the photographs have been repaired. As explained in the Declaration of Jeffrey Georges, repairs have been made in Ceylon. As also explained in the Declaration of Tom Anderson, the owner of the bridge in the photo on page 16 of the Department Report has refused to allow a Frontier contractor to make repairs and the owner is no longer a Frontier customer.

The Department Report fails to link any type of customer service outage or issue to these photographs and instead assumes that dented pedestals and temporary telephone drop lines equate to failed service performance. Frontier will provide substantial and incontrovertible evidence that its network is providing consistent and reliable telephone service to its customers.

The Department Report also relies on the Lacher Affidavit and testimony of Mr. Mark Doffing for the proposition that Frontier has improperly reduced staff and is currently operating

with insufficiently low staffing levels.¹⁰⁷ This is not correct. As explained in the Declaration of George Meskowski, the number of access line per field technician has been significantly reduced between 2008 and 2018. As also explained in Section VI. D total staff count has declined, but lines in service have declined more rapidly, and technician staffing ratios have improved since 2008.

The Department Report claims 85 customers claimed defects in Frontier plant.¹⁰⁸ Even if that claim was correct, that would not justify the sweeping conclusions and recommendation relating to Frontier's 100,000 customers and its overall network of 28,000 miles of cable facilities and 134,500 pedestals in Minnesota. Further, the Department has refused to provide any information identifying these claims customers.

For all of these reasons, the Department Report does not support its sweeping conclusions and recommendations.

2. *Emergency Operations (Section C)*

The Department Report's sweeping conclusions and recommendations related to Emergency Operations are also based on testimony of two customers. One customer speculated that "Frontier will only deliver a generator from another location if the telephone outage lasts more than a day."¹⁰⁹ The other customer simply said that outages occur and Frontier delays repairs.¹¹⁰

While the Department also noted that "Frontier did not indicate the duration of an outage before Frontier would provide a backup generator,"¹¹¹ the Department never asked that question. In fact, the vast majority of Frontier's exchanges have a permanent generator in place and

¹⁰⁷ Department Report at 17-18.

¹⁰⁸ Department Report at 11.

¹⁰⁹ Department Report at 21-22.

¹¹⁰ Department Report at 22.

¹¹¹ Department Report at 22.

Frontier’s policy is to dispatch backup generators to offices that do not have permanent generators within four hours of learning of a power outage, as shown in the attached Declaration of George Meskowski.

On the basis of this insubstantial customer testimony, the Department Report issued three pages of conclusions and recommendations, including multiple reports, distribution of cell or satellite phones “within 24 hours of receiving a report of an outage,”¹¹² and credits to customers, with the Commission to “reevaluate whether the reporting should continue” after 12 months.¹¹³ The mismatch between the absence of significant evidence and the extensive and burdensome recommendations demonstrates the absence of an adequate factual record for the Department Report and the need for a contested case to establish the facts.

3. *Customer Trouble Reports (Section D)*

The Department Report discusses the comments of four identified customers and one unidentified customer concerning medical needs.¹¹⁴ From this limited information, the Department Report concludes that Frontier is indifferent to customers with medical needs and has violated Minn. R. 7810.5900, and recommends three multipart recommendations.¹¹⁵ The record does come close to supporting the Department Report’s conclusions or recommendations.

There is no indication in the Department Report that any of these four customers ever notified Frontier in advance that they had a significant medical issue or condition that would necessitate priority or specialized treatment.¹¹⁶ The Department did not ask Frontier, and [NOT

¹¹² Department Report at 23.

¹¹³ Department Report at 25.

¹¹⁴ Department Report at 25.

¹¹⁵ The Department recommends that the Commission find that Frontier violated Minn. R. 7810.5900, initiate a detailed review of customer comments related to trouble reports and require Frontier to file a “detailed plan” for emergency services. Department Report at 27-28.

¹¹⁶ [NOT PUBLIC DATA BEGINS

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[REDACTED] NOT PUBLIC DATA ENDS] Frontier's basic requirement for certification by a medical professional is consistent with other utilities and the standards applied to gas and electric utilities under Minn. Stat. § 216B.098, subd. 5, all of which provide for certification as a condition of eligibility for medical priority consideration.

However, Frontier acknowledges that more can be done to publicize its requirements, and has taken steps to improve customer awareness of both the availability of priority for medical conditions and the steps needed to be eligible for such priority, as explained in Section II above.¹¹⁷ For all of these reasons, a contested case is needed to establish any factual basis for any conclusions or recommendations.

4. *Relationship of Internet and Telephone Service (Section E)*

The Department Report asserts that the Commission can and should consider how its provision of broadband service impacts its telephone service.¹¹⁸ Frontier has explained the legal defects in the Department's position in Section IV C above.

Even without the jurisdictional problems with the Department's position, the factual record relied upon by the Department Report is insufficient to support its conclusions and recommendations. The Department Report relies on the Lacher Affidavit and a handful of customer experiences to claim that at Frontier "orders for new telephone or Internet access

[REDACTED] NOT PUBLIC DATA ENDS] to resolve the issue. Mr. B.S.'s complaint was intentionally omitted from the Department's production, so we do not have any more details other than what is contained in the Report.

¹¹⁷ Among other steps, Frontier created a new web portal to help customers better understand the program and facilitate participation for those who are eligible. See www.frontier.com/MNMedicalNotation.

¹¹⁸ Department Report at 28-29.

service...take[s] priority over repairs of Internet or phone.”¹¹⁹ To the contrary, as explained in Section VI.B above, there is no such prioritization, as the Declaration of George Meskowski shows. With such a clear dispute of material facts, a contested case would be needed before any of its conclusions or recommendations in the Department Report could be accepted.

5. *Retention of Records (Section F)*

The Department Report contains multiple references to “lost” trouble tickets.¹²⁰ The Department Report infers that the tickets are deliberately eliminated surreptitiously in order to improve Frontier’s performance metrics. However, there is no evidence that is sufficient to support that allegation.

The Department Report identifies only four customers, out of Frontier's thousands of Minnesota customers, who claimed “lost” tickets, none of whom would have knowledge of, or any reliable basis to comment on, internal Frontier operations. The Report also relies heavily on the Lacher Affidavit to “explain[] how tickets are handled and closed or ‘lost.’”¹²¹ However, as explained in Section VI.B above, the Declarations of George Meskowski, Frontier Director of Operations, and Darrell Senior, Frontier Dispatch Director, refute the claims in the Lacher Affidavit, including the inference that Frontier improperly deals with trouble tickets.

This dispute of material fact demonstrates the need for a contested case.

6. *Failure to Report Disruptions Affecting a Substantial Number of Customers (Section G)*

The Department Report discusses reports of service disruption affecting a “substantial number of customers” based on two storm related outages in 2017, one a 14-day outage in Wyoming affecting 38 customers and the other in Crane Lake affecting an unspecified number of

¹¹⁹ Department Report at 29.

¹²⁰ Department Report at 2, 37-39.

¹²¹ Department Report at 39.

customers with “the damage was widespread and restoration was difficult” and 1 customer out of service for a substantial time. During this time, Frontier had approximately 80,000 telephone service customers in Minnesota.¹²² While Frontier regrets the length of these outages, neither outage represented a substantial number of customers in that context.

The Department Report recommends the Commission: “[r]equire Frontier to show cause on why the Commission should not find that it has violated Minn. R. 7812.0600, requiring Frontier to report promptly to the commission any specific occurrence or development which disrupts the service of a substantial number of its customers”¹²³ Asking for a show-cause presentation on the basis of such minimal support underscores shows the lack of objectivity that affects the Department Report and confirms the need for a contested case proceeding.

7. *Information Available (Section H)*

The Department Report claims that 40 customers complained about inconvenience in obtaining repairs involving Frontier customer service representatives.¹²⁴ Frontier asked the Department to identify the 40 specific customers in an Information Request No. 6, dated January 10, 2019. The Department refused to provide this information to Frontier.

The Department Report discussed the comments of eight customers.¹²⁵ From this record, the Department Report makes four recommendations, including that the Commission issue a finding that Frontier has violated Minn. R. 7810.1000.

Frontier is aware that customers have initiated complaints, and Frontier has taken steps to improve customer service representative response as described in detail in Section II above.

¹²² Department Report at 43.

¹²³ Department Report at 43.

¹²⁴ Department Report at 44.

¹²⁵ The reliability and relevance of these customer claims is far from solid. For example, Frontier found that one of these customers disconnected her service in November, 2013.

There is not, however, any basis for the conclusions and recommendations in the Department Report.

8. *Complaint Procedures (Section I)*

The Department Report claims that Frontier does not contact customers within five days of receiving a customer complaint lodged with the Commission.¹²⁶ The Department Report further concludes that Frontier fails to communicate with customers while repairs are pending.¹²⁷ The Department Report states that more than 40 customers complained but does not identify those customers and refused to identify the customers in response to Frontier Information Requests. The Department Report discusses nonpublic comments of four customers and one public comment.¹²⁸ Taken at face value, these customer complaints do not support the conclusions and recommendations in the Department Report. Further, Frontier disputes the Department Report's characterization of the reports it discusses.

For example, Frontier disputes the Department's characterization of the situation involving Ms. T.M. As explained in Frontier's response to complaint no. 716628, included as DOC002985, [NOT PUBLIC DATA BEGINS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] NOT PUBLIC DATA ENDS]

¹²⁶ Department Report at 48-49.

¹²⁷ Department Report at 49. Minn. R. 7810.1100 requires carriers to respond to customer complaints within 5 days and update customers every 14 days thereafter until the problem is resolved.

¹²⁸ Department Report at 51. Frontier speculates that these are the same 40 customers the Department cites for the previous allegations, but the Department refused to provide its basis for the conclusions in this Section.

be needed before any recommendations beyond what Frontier is already voluntarily implementing could be adopted.

9. *Record of Complaints (Section J)*

The Department Report claims that Frontier disregards Commission rules¹³² and fails to keep adequate records regarding customer complaints.¹³³ The Department Report acknowledges, however, that the dispute boils down to “Frontier’s definition of what is a ‘customer complaint.’”¹³⁴ Specifically, the Department Report alleges that Frontier does not keep its records in an aggregated basis that would allow the Department to systematically analyze how Frontier treats complaints.¹³⁵ It cites the definition of a “complaint” as part of the basis for its conclusions.

The Department Report suggests that any customer trouble ticket qualifies as a “complaint” in the meaning of Minn. R. 7810.1200.¹³⁶ The Department Report’s definition of complaint would apply regardless of whether Frontier responds and addresses the trouble ticket immediately upon the customer contacting Frontier or whether some further action was taken. The Department Report also seems to suggest that any general customer statement that they are unhappy with any aspect of Frontier’s service rises to the level of a complaint.

This is not the first time the Department has urged the Commission to redefine a rule based on a complaint.¹³⁷ The Commission previously declined to accept that approach. The Commission should do so again in this case.

¹³² Department Report at 53

¹³³ Department Report at 52.

¹³⁴ Department Report at 53.

¹³⁵ Department Report at 53.

¹³⁶ Department Report at 53-54.

¹³⁷ Department Report at 53 (citing *In re Inquiry into CenturyLink’s Compliance with TAP Statutes and Rules*, Docket No. P-421/C-17-796 (2018)).

The Department Report recommends that, if the Commission disagrees with the Department's redefinition of complaint, the Commission should use this opportunity to adopt a new definition of customer complaint, which would presumably apply to all telephone companies in Minnesota.¹³⁸ The Department Report's expansive definition would create uncertainty and generate misleading performance metrics that lend little usable information to any analysis, and this docket is not an appropriate mechanism for creating new definitions or requirements that would impact all Minnesota telephone companies.

The Department Report also alleges that Frontier improperly credits customers for service outages¹³⁹ and "systematically refuses to provide the refund for services outages" required by rule and the AFOR Plans.¹⁴⁰ The Department Report relies on anecdotal evidence from three customers to make these sweeping conclusions and recommends additional reporting, including an accounting of every credit due to any customer over a four year period.¹⁴¹ The record does not support these conclusions or recommendations.

10. Customer Billing (Section K)

The Department Report cites billing complaints of 13 identified customers who identified disputes with Frontier regarding billing matters.¹⁴² The disputes include an allegation that Frontier charges late fees for on-time payments made online and allegations related to cancellation fees.¹⁴³ The Department did not inquire as to Frontier's position regarding these complaints and provides no objective evidence to support its conclusions.

¹³⁸ Department Report at 55.

¹³⁹ Department Report at 59.

¹⁴⁰ Department Report at 61.

¹⁴¹ Department Report at 62.

¹⁴² Department Report at 56-58.

¹⁴³ Department Report at 56-57.

From this very limited record, the Department concludes that “Frontier has severe deficiencies in its billing practices”¹⁴⁴ and makes 13 multi-part recommendations, including numerous accounting and ongoing reports for 5 years. There is no basis to believe that the experiences of these 13 customers are representative of Frontier’s approach to online billing or the assessment of cancellation fees, much less support the recommendations in the Department Report. Rather, a contested case would be needed to determine if there was adequate support for any conclusions or recommendations.

11. Billing and Explanations (Section L)

The Department Report alleges that Frontier is inappropriately charging customers for paper bills and that Frontier routinely refuses to explain its rates and bills.¹⁴⁵ To conclude that Frontier violates Minnesota rules with its handling of paper billing, the Department Report relies on only two customer comments.¹⁴⁶ To conclude that Frontier fails to adequately explain its rates and charges, the Department Report relies on the confusion of a “few” customers.¹⁴⁷

The Department Report is also mistaken as to Frontier’s billing practices. Frontier does not default to electronic billing and charge for paper billing. Customers can select either electronic or paper billing, at no charge. If an “electronic billed” customer also wants a paper bill copy in addition to their electronic bill, there is a charge for that duplicative paper billing.

Occasionally billing errors do occur and, once notified, Frontier looks to rectify these quickly, however the allegedly confusing charges primarily relate to regulatory charges and non-regulatory charges. Consumer questions regarding billing matters are very common in the industry. Frontier, like other carriers, takes the education of its consumers seriously and provides

¹⁴⁴ Department Report at 58.

¹⁴⁵ Department Report at 63-67.

¹⁴⁶ Department Report at 64. Many of the billing allegations rely on the same handful of customer comments and allegations on a broad range of issues further discounting the reliability of the comments or the advisability of reaching conclusions on such a narrow basis.

¹⁴⁷ Department Report at 67.

voluminous information to resolve any confusion. The extensive information available on the Frontier website regarding common charges on Frontier bills is an example of that information.¹⁴⁸

The Department Report again lacks any adequate factual basis to make sweeping and over-generalized conclusions and recommendations.

12. *Loading (Section M)*

The Department Report alleges that Frontier adds unauthorized charges to “many” customer bills.¹⁴⁹ The complaints included difficulty removing unauthorized charges (one customer), charges for services not authorized (two customers), and charges for three-way conferences not made (two customers), and charges for directory assistance not used (two customers).

The allegations rely on the recollection and allegation of customer against records. Frontier strives to investigate each allegation and issue credits as appropriate. Contrary to the Department Report, Frontier’s records indicate that the consumer complaints cited by the Department were the result of unintentional use of a service or a misunderstanding between Frontier’s customer service representatives and the consumer, not some malicious intent.¹⁵⁰ For example, the Department Report cites the experience of Ms. Banta as evidence of Frontier’s failure to issue timely credits when warranted. [NOT PUBLIC DATA BEGINS ██████████

¹⁴⁸ See <https://go.frontier.com/customer-support/understanding-my-bill>. The website provides a page by page explanation of every charge.

¹⁴⁹ Department Report at 68.

¹⁵⁰ Frontier performed a comprehensive review of Ms. Hill’s account in response to complaint number 71720. As part of that review, [NOT PUBLIC DATA BEGINS ██████████

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[REDACTED]
[REDACTED] NOT PUBLIC DATA ENDS]

Accordingly, Frontier does not accept the Department Report's position that the cited complaints reflect any inappropriate determinations by Frontier or any pattern of intentional charges for services that were not requested or utilized by the customer. Further, even if taken at face value, this small number of complaints would not support a conclusion that there was a widespread violation of law.

The Department Report's willingness to assign motives and draw conclusions from this record underscores the unreliability of all of the conclusions and recommendations in the Department Report.

13. *Contracts (Section N)*

The Department Report makes many assertions regarding contracts for services which the Department Report recognizes include "phone or Internet" services.¹⁵¹ The allegations include refusal to cancel contracts, the imposition of early termination fees, automatic contract renewal terms, and the lack of signed contracts.¹⁵²

The Department's allegations have several flaws. First, the Department Report makes no effort to distinguish between Internet and telephone contracts and includes eight recommendations which also do not distinguish between Internet and telephone service. Second, the existence and enforcement of contract terms does not violate Minnesota law. Further, contrary to the Department's assertions, term contracts are a common feature for service providers and may include early termination fees and automatic renewal in exchange for a lower

¹⁵¹ Department Report at 74.

¹⁵² Department Report at 72-73.

monthly rate for the service or bundle of services than would be available without the term agreement. Finally, almost all of Frontier's term contracts are related to long distance or Internet service. Frontier's local telephone service is generally provided under its local tariff on a month to month basis. It also appears that at least some of the customer claims discussed in the Department Report were the result of misunderstandings.¹⁵³ Frontier has undertaken refresher training for its customer service representatives to improve on the communication regarding these issues.¹⁵⁴

Frontier submits that a fairly developed record would demonstrate that customers are agreeing to terms and purchasing services in the normal course of business and that the recommendations and conclusions in the Department Report are broadly overgeneralized and lack adequate factual support.

14. Disconnection of Service (Section O-1)

The Report states that: "Many consumers reported concerns regarding Frontier's practices for disconnecting service ..." ¹⁵⁵ but discusses the comments of only four witnesses, one who addressed reconnection fees for Internet service ¹⁵⁶ and three who discussed two disconnections and being required to pay outstanding unpaid bills to re-establish service. ¹⁵⁷

One of the complaints that the Department Report relies upon to show that Frontier disconnects service without notice was closed by the Commission after the customer, Mr. L, failed to respond to Frontier's attempts to investigate the claim. The only other complaint that the Department Report cites was the complaint of Mr. D.S. **[NOT PUBLIC DATA BEGINS**

¹⁵³ There was confusion when at least one customer was signed up. After the customer contacted Frontier, Frontier reviewed the call history and applied the promotional pricing for the entire two-year term.

¹⁵⁴ A more robust discussion of Frontier's training initiative is available in Section II.

¹⁵⁵ Department Report at 77.

¹⁵⁶ Department Report, Attachment 1 at 167-68.

¹⁵⁷ Department Report, Attachment 1 at 75.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] **NOT PUBLIC DATA ENDS]** Such a complaint does not establish a pattern and practice of disconnecting service without notice.

From these customer comments, the Department Report concludes that “Frontier has a practice of disconnecting the service of telephone subscribers for other than ‘valid cause’”¹⁵⁸ and makes seven burdensome recommendations, including a finding of rule violation, “Department staff ... review each consumer’s comments ... [with] an accounting to the Commission, subject to comment, for the pursuit of penalties,” refunds and ongoing reports for five years.¹⁵⁹

None of these examples demonstrate that Frontier is acting outside industry practice or in conflict with Commission rules or its tariffs. Further, the absence of support in comparison to the extensive range of recommendations underscores the lack of objectivity in the Department Report’s assessment of information.

15. *Disconnection Notice Requirements (O-2)*

The Department Report concludes that Frontier disconnects service without notice based on the concerns of two unidentified customers.¹⁶⁰ Because the customers were not identified, Frontier has been unable to verify what, if anything may have occurred. Based on those two comments, the Report makes six burdensome recommendations, including a finding of rule violation, recommending an accounting by the Department for “pursuit of penalties,” and ongoing reporting by Frontier for five years.

¹⁵⁸ Department Report at 78.

¹⁵⁹ Department Report at 79.

¹⁶⁰ Department Report at 80.

The absence of adequate support for any further action is clear as is the disproportionate response from the Department Report and its lack of objectivity.

16. *Bill Disputes (Section O-3)*

The Department Report concludes that “Frontier fails to inform or supply a copy of an ‘escrow payment form’ to customers who dispute the company’s bills.” The Department Reports cites the experience of two customers regarding the bill disputes to support their conclusion. From the experiences of these two customers, the Department concludes “[i]t appears that Frontier fails to inform customers of the Commission’s escrow process, or to supply to customers who dispute the company’s bills a copy of the ‘escrow payment form’” ... and that Frontier “fails to comply with the requirement of Minn. R. 7810.2400 and 7810.2500.”¹⁶¹ The Department’s conclusions are completely unsupported by the cited customers, as neither customer comes anywhere close to addressing escrow payment.¹⁶² Further, the Department omits several important facts regarding these particular situations.

Ms. Rezny [NOT PUBLIC DATA BEGINS

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Frontier [NOT PUBLIC DATA BEGINS

[REDACTED]

¹⁶¹ Department Report at 82.

¹⁶² See DOC 000196-000197 (Rezny); DOC004102-004104 (R.L.).

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The Department Report again overgeneralized and its conclusions and recommendations which completely lack adequate factual support.

17. *Delay in Initial Service or Upgrade (Health Priority) (Section O-4)*

The Department Report concludes that “Frontier may not be meeting its obligation to install service timely, and to otherwise comply with its obligations under Minn. R. 7810.2800 and its AFOR.”¹⁶³ In support of this conclusion, the Department Report discusses the experiences of two customers, only one of whom was identified.¹⁶⁴

Frontier is concerned about reports of delays, but a review of the actual letter from one of the customers indicates that the facts are somewhat complicated.¹⁶⁵ In that instance, primary service was installed at the location; it was subsequent business lines that were at issue. As to the other customer, Frontier cannot respond to the assertions made by Ms. E.C. without more underlying information. In a contested case, the parties can exchange confidential information and have full disclosure.

In any event, given the fact that Frontier consistently met the service installation objectives under its AFOR Plans, even taken at full face value, the testimony of two customers would not support a finding of defective installation practices across the entire universe of Frontier’s customers. Accordingly, the Department Report lacks adequate factual support.

¹⁶³ Department Report at 87.

¹⁶⁴ Department Report at 87.

¹⁶⁵ Department Report at 86 (referencing John Kirby Public Comment of Mar. 6, 2018). Mr. Kirby acknowledges that he had become “irate” with Frontier staff triggering a need for specialized treatment of his account.

18. *Refusal to Provide Service (Section P-1)*

The Department claims that 11 customers raised concerns related to difficulty in obtaining service over several years.¹⁶⁶ Only three customers were identified by the Department.¹⁶⁷ Taken at face value, if 11 customers had experienced the difficulties described, that number would not indicate a widespread problem, much less violation of statutes or rules, especially given that Frontier has consistently met the applicable service installation objectives under its AFORs.

The examples provided by the Department do not support the conclusion. For example, the Department Report relies on the testimony of Ms. Diane Eaton to conclude Frontier “does not comply with its obligations as a COLR, under Minn. Stat § 237.06 and Minn. R. 7810.5000, and did not comply with the objectives of its AFOR to install primary local service within three business days.”¹⁶⁸

To the contrary, Section 8.1 of the CTC-MN tariff provides the policy for line extensions. Ms. Eaton built a new home and now resides in an area in which Frontier’s line extension policy would apply. Ms. Eaton was presented with the cost of a line extension and chose not to obtain Frontier’s service. Thus, the Department’s conclusion that Frontier violated its COLR obligations cannot be supported with factually inaccurate assertions.

The Department Report further concludes that Frontier has violated two Minnesota statutes, a Minnesota rule, its obligations as an Eligible Telecommunications Carrier (“ETC”), and its AFORs.¹⁶⁹ The Report also recommends an accounting and construction to all customer

¹⁶⁶ Department Report at 88.

¹⁶⁷ Department Report at 90-91.

¹⁶⁸ Department Report at 91.

¹⁶⁹ Department Report at 91.

locations without any excess construction charges (unless Frontier files a petition). This position is in direct conflict with line extension policy as articulated in Frontier's tariff.¹⁷⁰

Even if the Department Report's factual argument is accepted at face value, the record would be clearly inadequate to support any findings or remedies.

19. Telephone Operators (Section P-2)

Frontier recognizes that many customers have been displeased with interactions with Frontier's customer service centers. It is also possible that, however, in some instances the customers making the calls may have contributed to misunderstandings.

Frontier does dispute, however, the Department Report recommendations, including the recommendation that the Commission find that "Frontier has violated Minn. R. 7810.5100 for each complaint or comment raised in the current proceeding where a customer conveyed that the Frontier Service representative was not courteous, considerate and efficient."¹⁷¹ Rule 7810.5100 addresses telephone operators. None of the customer comments or complaints in this docket have dealt with telephone operators. Frontier employs thousands of customer service representatives and certainly any one representative on any one particular day could be difficult and unresponsive to a customer's request.

Frontier recognizes that improvement to the operation of Frontier's customer service centers is needed and Frontier has taken steps to improve the operation of its customer service centers as explained in Section II above. However, the Department's one-sided and unbalanced approach of overgeneralizing isolated incidents into a ubiquitous service quality failure is

¹⁷⁰ The local tariffs can be accessed at <http://carrier.frontiercorp.com/crtf/tariffs/index.cfm?fuseaction=local&sctnID=6&stateID=MN>. The line extension policy is contained in Section 8 of the CTC-MN's tariff and Section 10 of the Frontier-MN tariff.

¹⁷¹ Department Report at 95.

reflected throughout the Department Report and makes it completely insufficient for drawing any conclusion about the overall level of Frontier's service performance.

20. Answering Time (Section P-3)

Frontier acknowledges that its customer service answering time has failed to meet the objectives in its previous AFOR and that customers have experienced an average answer time of 158 seconds (less than three minutes) in the last year.¹⁷² Although this answer time result exceeds the prior AFOR objective, it also fails to take into account changes in consumer preferences and methods available for consumers to have their service issues addressed. Frontier has taken significant steps to improve call answering time, as described in Section II above, and there is no basis for the Commission to adopt the recommendations in the Department Report.

21. Transmission Quality (Section P-4)

The Department Report claims that over 75 customers complained about call quality, but identified and discussed the comments of only eight customers.¹⁷³ As noted above, Frontier has consistently met and exceeded the objective under its AFOR for customer service trouble report rates, which was less than 4% of customer service lines per month. Seventy-five customers represent less than 1/10th of 1% of Frontier's telephone service customers. Further, it is far from clear that the sources of any such trouble represent system wide issues.¹⁷⁴

From this limited record, the Department Report makes five multipart recommendations, including recommendations that the Commission find that "Frontier has knowingly violated"

¹⁷² A more fulsome discussion of Frontier's performance under its AFOR is contained in Section III.

¹⁷³ Department Report at 100.

¹⁷⁴ Frontier records show Ms. Ryan [NOT PUBLIC DATA BEGINS

Commission rules, that Commission authorize the Department to take action “for the pursuit of penalties,” and that ongoing reporting be required.

22. *Interruptions of Service (Section P-5)*

The Department Report asserts that Frontier has failed to meet objective for repair of out-of-service (“OOS”), relying significantly on the Lacher Affidavit and an outage at Wyoming MN that resulted from severe weather.¹⁷⁵ The Department Report also states that the Wyoming outage would have caused the Wyoming exchange to fail the objective for clearance of 95% of out-of-service situations for one month (July 2017).¹⁷⁶

The Department Report does not recognize that compliance with the OOS service objective is not determined on a “per exchange, per month” approach. Rather, it is determined on a company-wide, annual basis. Additionally, the objective to restore service must be tempered in the face of force majeure events out of the control of the carrier.

The Department Report also states that Frontier “routinely failed to meet” OOS objective.¹⁷⁷ To the contrary, as explained in Section V. A. below, Frontier generally met and exceeded the OOS objective under its AFOR Plans.

On the basis of this minimal information and flawed analysis, the Department Report makes extensive recommendations, including a finding of violation of Minn. R. 7812.5800, and further proposes: “If Frontier provides anything other than an unqualified acknowledgement of the violation, it should be required to include in its response how the reduction of field technicians, as provided in the affidavit of CWA representative Jeff Lacher, is consistent with the requirements of the rule.”¹⁷⁸ The unbalanced approach in the Department Report is obvious.

¹⁷⁵ Department Report at 105-06.

¹⁷⁶ Department Report at 105-06.

¹⁷⁷ Department Report at 105.

¹⁷⁸ Department Report at 109 (Emphasis added).

As explained in Section VI. B above, the claim of the Lacher Affidavit is based on incomplete and outdated information and is mistaken. Rather, the ratios of field technicians to the number of telephone access lines have increased over the last 10 years. In addition, the claims in the Department Report regarding “Repeat Trouble” fails to recognize that this objective was excluded from the Frontier AFORs in 2015 and does not appear at all in the Commission’s rules.

23. Repeat Trouble (Section P-6)

The Department Report asserts that Frontier “failed to provide customers the appropriate credits required by its AFOR plan” for repeat troubles.¹⁷⁹ The Department Report acknowledges that “Frontier was not required to report on repeat troubles either when its AFOR plans were in effect, or now, and the Department does not know how much credit, if any, Frontier has provided for repeat troubles.”¹⁸⁰

The Department Report relies on the written comments of four customers alleging repeat trouble and makes three recommendations. For example, the Department Report relied upon the Public Comment of Nicci Trierweiler to conclude that “there appears to be a high incidence of repeated line failures.”¹⁸¹ Following Ms. Trierweiler’s March 9, 2018 complaint to the CAO, Frontier [NOT PUBLIC DATA BEGINS

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¹⁷⁹ Department Report at 111.

¹⁸⁰ Department Report at 111-12.

¹⁸¹ Department Report at 112.

Based on this scant evidence, the Department recommended that the Commission require Frontier to show cause why it did not violate its AFOR plan.¹⁸² The Department further recommends that the Commission require Frontier to provide a notice to all customers regarding credits available for repeat troubles despite the absence of any applicable requirement.¹⁸³

These recommendations are not supported by the record and should not be accepted by the Commission without a contested case proceeding which will allow the conclusions of the Department to be appropriately tested.

24. Missed Repair Appointment (Section P-7)

The Department Report claims that over 25 customers described missed service appointments, but those customers were not identified in the Department Report or in response to Frontier's Information Requests directed to the Department on January 10, 2019.¹⁸⁴ The Department Report relies upon only two identified customers and one unidentified customer. The Department Report fails to acknowledge that there are many situations in which the responsibility for missed appointments does not fall solely on a service provider.

From this very limited record, the Department Report speculates that customers were entitled to, and did not receive, a bill credit "although customers generally did not mention the failure to receive a bill credit."¹⁸⁵ The Department Report also makes four detailed recommendations seeking declaration by the Commission that Frontier has violated its AFOR and seeks punitive action.

The record is inadequate to support either the conclusions or recommendations in the Department Report.

¹⁸² Department Report at 113.

¹⁸³ Department Report at 116.

¹⁸⁴ Department Report at 114.

¹⁸⁵ Department Report at 115.

25. *Lifeline TAP (Section Q)*

The Department Report concludes that Frontier has communication failures regarding the Lifeline and TAP programs.¹⁸⁶ The allegations in the Department Report cannot be validated because they are based solely on four comments from unidentified individuals and, in any event, do not demonstrate a gap in Frontier's Lifeline and TAP programs. Entry and ongoing participation in the TAP and Lifeline program is subject to a demonstration of eligibility that satisfies the FCC's national requirements. Failure to qualify is not the result of actions by Frontier. The parameters of the TAP program are already part of Frontier's customer service representatives training, but as discussed in Section VI below, Frontier will refresh the TAP eligibility requirements with the representatives assigned to Minnesota.

The Department Report asserts that a customer may receive Lifeline/TAP benefits at the same time as a vacation rate service is in place.¹⁸⁷ The Department's position regarding Lifeline is mistaken under federal law.¹⁸⁸ Contrary to the Department's assertion that a carrier may apply a Lifeline discount to an inactive line, the FCC requires a carrier to certify that the customer is purchasing an unsupported service, which for voice requires, at a minimum, local calling at no additional charge.¹⁸⁹ A telephone line put out-of-service on a vacation rate does not qualify because it is not capable of making the required local calls.¹⁹⁰ It is industry standard to allow a Lifeline customer to transition from an active service with the Lifeline discount to a vacation rate, which does not allow for a Lifeline discount because such a discount is not allowed under federal law. Further, no change in that standard should be considered in a complaint docket without participation by other affected companies and stakeholders.

¹⁸⁶ Department Report at 118.

¹⁸⁷ Department Report at 116.

¹⁸⁸ See *In re Lifeline and Link Up Reform and Modernization*, WC Dkt No. 11-42, FCC 16-38 (April 27, 2016).

¹⁸⁹ See 47 C.F.R. §§ 54.400(m), (n).

¹⁹⁰ Even Minnesota's Lifeline and TAP materials indicate that an eligible consumer must be purchasing a qualifying telephone service. <https://mn.gov/puc/telecommunications/telephone-discounts/>.

Based on these customer comments, Department recommends an extensive report and additional training for Frontier’s employees. Frontier complies with federal and Minnesota law. The scant comments cited by the Department do not support any conclusions, much less the Department’s recommendations.

26. November 18, 2018 PUC Notice Re Bundling (Section R)

The Department Report included an unrelated matter and recommended that the Commission adjudicate that matter within the scope of this investigation.¹⁹¹ Such a procedure would be inappropriate and should be rejected by the Commission.

In 2018, the Commission received a customer complaint in which the consumer was offered specific local services and prices in a bill insert. Frontier provides that insert to its residential local service customers annually, pursuant to Minn. Stat. 237.66 subd. 1,¹⁹² which requires local exchange carriers to annually provide notice to customers of local services available to the customer. The Frontier bill insert listed the local offering of “Digital Phone Essentials” at a price of \$21.99 per month. The local offering of Digital Phone Essentials includes a residential telephone line and certain calling features for \$21.99. The bill insert noted that the “Digital Phone Essentials” offering excluded long distance.

The customer contacted Frontier to order the Digital Phone Essentials service, and was quoted a price of \$29.99, which included a long distance component. The long distance service is provided by Frontier Communications of America, Inc. (“FCA”), an affiliate of Frontier’s local

¹⁹¹ Department Report at 119-23.

¹⁹² Minn. Stat 237.66 subd 1: Notice to local residential customers.

A telephone company, when a residential customer initially requests service or requests a change of service, and annually in the form of a bill insert, shall advise each residential customer of the price of all service options available to that customer. The requirement of an annual notice through a bill insert does not apply to long-distance service.

exchange carrier entities. The FCA tariffed price is \$8.00.¹⁹³ The sum of those two prices (\$21.99 from the local exchange carrier entity and \$8.00 from FCA) was the \$29.99 price quoted to the customer. While most customers take advantage of that long distance component, it is not mandatory and a customer is not required to purchase it in connection with the local Digital Phone Essentials offering.

On November 9, 2018, the Commission sought comment on whether Frontier's practice of bundling local and long distance service violates Minn. Stat. §§237.662, 237.663, or other statutes and rules. Frontier's action does not violate the law. It is long standing industry practice to offer local and long distance service by affiliated carriers for the convenience of customers. This issue is already before the Commission and it would be inappropriate to address in this docket.

27. *Internet Issues (Section S)*

The Department Report includes an extensive discussion of billing issues that the Department Report recognizes are related to Internet service.¹⁹⁴ The Department Report claims Frontier is violating Minn. R. 7810.1400 by selling Internet packages that allegedly do not deliver the maximum speed in the service package the customer purchased.

Despite voluminous federal law to the contrary, the Department Report argues that the "communications services" referenced in the rule include all communications services including CMRS, Internet access, and cable.¹⁹⁵ The ALJ's Report on Public Hearings acknowledges, "any state regulations of an information service conflicts with the federal policy of non-regulation so

¹⁹³ FCA's interstate tariffs can be found at:
<http://carrier.frontiercorp.com/crtf/tariffs/index.cfm?fuseaction=fcc§nID=8>.

¹⁹⁴ Department Report at 123-26.

¹⁹⁵ Department Report at 123.

[state] regulation is preempted by federal law.”¹⁹⁶ As additionally explained in Section VI. C above, matters pertaining to Internet access are outside of the Commission’s jurisdiction and the Commission should disregard the Department’s ongoing efforts to bootstrap Internet services with regulated telephone services and expand the scope of this proceeding.

28. *CAF Funds (Section T)*

The Department claims that the reporting provided by Frontier-MN and CTC-MN “was minimal”¹⁹⁷ and asserts that the information provided “has been too minimal for the Commission to perform the duties delegated by the FCC.”¹⁹⁸ The Department recommends Frontier provide an extensive report “within 90 days of the Commission’s Order.”¹⁹⁹

There is no basis for the Department’s claims of failure to invest or failure of the Commission to perform its duties. The Department also fails to recognize that the CAF program provides support to increase Internet speeds to census blocks identified by the FCC (not by Frontier) and covers the operations expense to maintain the network as well as the ongoing capital investment to enhance and extend the network.²⁰⁰ The CAF program and its related rules and requirements were created by the FCC, and the reporting required in relation to CAF support has been established by the FCC.²⁰¹ Further, the Reports submitted by Frontier to the FCC (with copies to the Commission) have been consistent and compliant with those FCC requirements.²⁰² Further, the FCC’s Administrator’s public reporting map shows that Frontier has successfully

¹⁹⁶ Judge Oxley Report at 3 (*quoting Charter Advanced Services LLC v. Lange*, 903 F.3d 715, 718 (8th Cir. 2018)).

¹⁹⁷ Department Report at 127.

¹⁹⁸ Department Report at 128.

¹⁹⁹ Department Report at 128.

²⁰⁰ *See generally* Department Report at 128-29.

²⁰¹ *See In re ETC Annual Reports and Certifications*, WC Docket No. 14-58, FCC 17-87, 32 FCC Rcd 5944 (2017).

²⁰² The Commission acknowledged Frontier’s compliance by recertifying it as an eligible telecommunications carrier. *In re Annual Certifications Related to Eligible Telecommunications Carriers’ Use of Federal Universal Service Support*, P-999/PR-18-08.

expanded 10/1 Mbps broadband to thousands of Minnesotans, consistent with FCC requirements, and provides detailed information at the level of individual homes and businesses.²⁰³

There is also no basis for any additional reporting of information beyond what the FCC has found to be sufficient for the CAF program.

29. *AFOR Investment Commitment (Section U)*

The Department recommends conducting a detailed investigation of investments in Ely because “there is more evidence in the record from Ely customers concerning investment, due to the location of a Commission public hearing.”²⁰⁴ Reports of customers do not provide any basis to determine the levels of investment made in any location.

While the Department Report characterizes the “required reporting as minimal,”²⁰⁵ the data filed with the Commission was available to the Department (which made no objection or request for further information).

The CTC-MN and Frontier-MN AFOR plans each stated that it was “expected that capital investment will exceed” the levels of investment made by each of CTC-MN and Frontier-MN in the 2012-2014 period. Frontier-MN invested \$19.5 million in 2012-2014 and CTC-MN invested \$32 million in 2012-2014. The investments of Frontier-MN and CTC-MN in 2015-2017 each exceeded their levels of investment in 2012-2014.

Thus, Frontier has fulfilled the AFOR investment commitments identified in the AFORs. There is no rational basis for a focused examination of the Ely exchange or any question of Frontier’s investment under its AFORs.

²⁰³ USAC, *Connect America Fund Broadband Map* (last accessed Mar. 4, 2019), <https://data.usac.org/publicreports/caf-map/>.

²⁰⁴ Department Report at 129.

²⁰⁵ Department Report at 127.

Frontier also provided all annual reports of AFOR investments for each of CTC-MN and Frontier-MN, as required. These reports provide actual evidence of investments, unlike comments from customers who have no actual knowledge of whether investments were or were not made. Accordingly, there is no basis for the investigation recommended by the Department.

30. CAPTEL (Section V)

The Department Report discusses the comments made by a couple who submitted a public comment.²⁰⁶ The allegation is that Frontier's WiFi service failed a customer and his CAPTEL device. The Department Report concedes a WiFi connection is acknowledged as the source of the issue with the CAPTEL connection.

On the basis of one comment, the Department Report recommends that Frontier be required to "hav[e] sufficient personnel to address problems in a timely manner" and "the Commission should consider, as it fashions remedies, ... Frontier's poor quality broadband Internet services and facilities."²⁰⁷ This remedy to address a WiFi connection is without support in the record, and as noted above, beyond the Commission's jurisdiction.

31. Discrimination (Section W)

The Department alleges that Frontier discriminates in favor of new installations over repairs, citing the testimony of two customers and the Lacher Affidavit.²⁰⁸ The Department claims that "many complaints, and... discovery" demonstrate that "it is evident that Frontier violates state and federal laws in many ways, and further violates laws by trying to conceal its shabby service."²⁰⁹

²⁰⁶ Department Report at 129.

²⁰⁷ Department Report at 130.

²⁰⁸ Department Report at 130, 131.

²⁰⁹ Department Report at 131-32.

Contrary to these claims, Frontier does not discriminate between similarly situated customers, as explained in Section VI. B above. Customers do not have any basis of knowledge regarding internal Frontier management practices, and the Lacher Affidavit supports no conclusions, as also explained in Section VI. B above.

Accordingly, there is no adequate support for the sweeping recommendations in the Department Report.

VII. CONCLUSION

Frontier acknowledges the concerns and complaints of the customers who have participated in the public hearings and have filed comments with the Commission. Frontier is committed to improving its customers' service experience and has affirmatively taken steps to enhance telephone service quality in Minnesota.

Contrary to the Department Report, however, Frontier's Minnesota customers are not facing a crisis or widespread deficiencies related to their telephone service. The vast majority of Frontier's telephone service customers have experienced no service outages and the record reflects that Frontier has consistently met a majority of the service quality metrics it was subject to under its AFOR plans. The Department's efforts to extrapolate isolated customer issues to Frontier's entire network is not supported in the existing record and Frontier questions and/or disputes the facts relied upon by the Department to support its conclusions and recommendations for relief.

Frontier looks forward to participating in mediation to achieve a prompt resolution of this matter. If this matter is not resolved by settlement, a contested case is required by Minn. Stat. § 237.081 and due process, and would be the only appropriate procedural method to resolve this complex matter.

Respectfully submitted,

MOSS & BARNETT, PA

/s/

Richard J. Johnson

Moss & Barnett, P.A.

150 South Fifth Street

Suite 1200

Minneapolis, MN 55402

612-877-5275

Rick.Johnson@lawmoss.com

and

Kevin Saville

Senior Vice President and General Counsel

Frontier Communications

401 Merrit 7

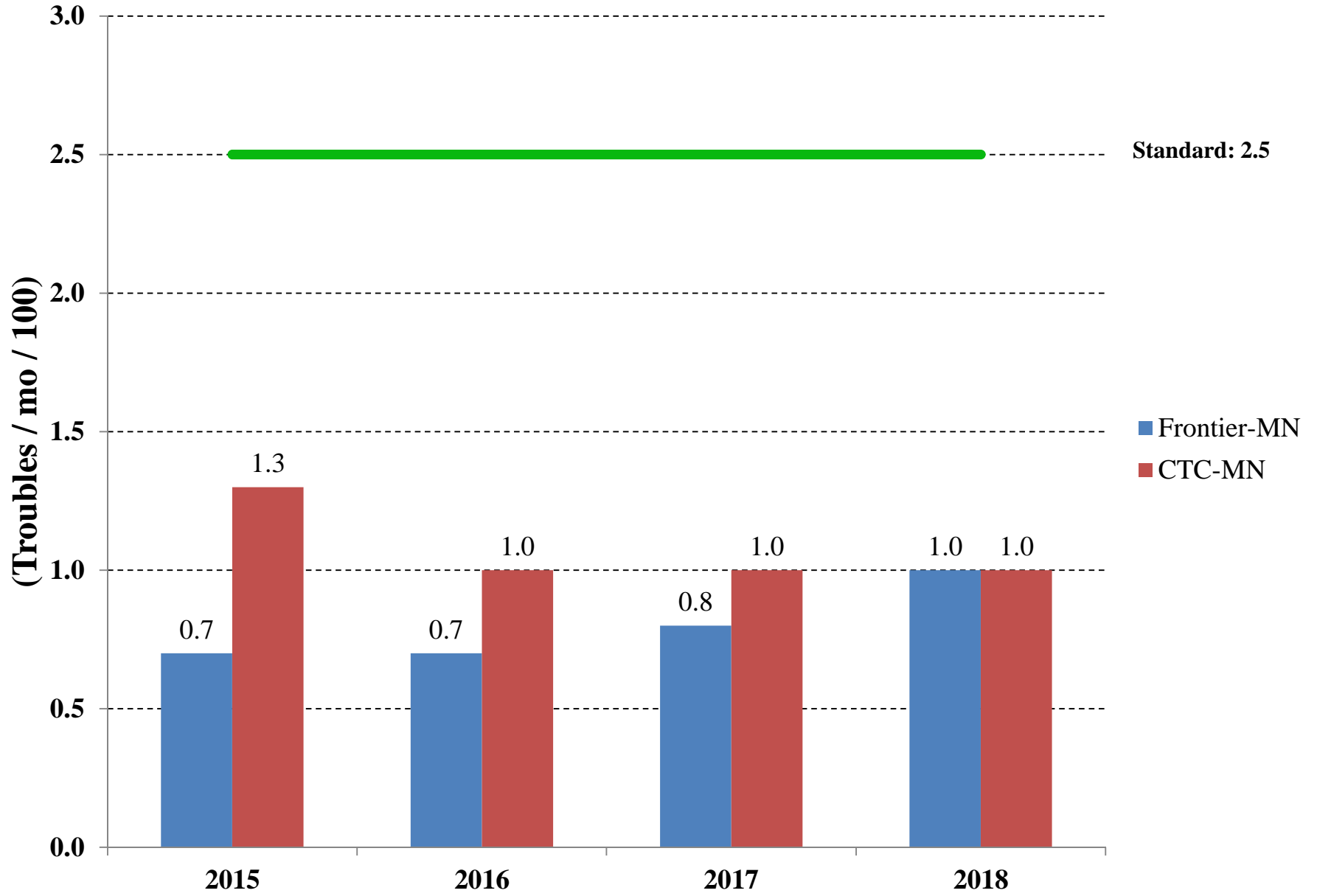
Norwalk, CT 06851

203-614-5030

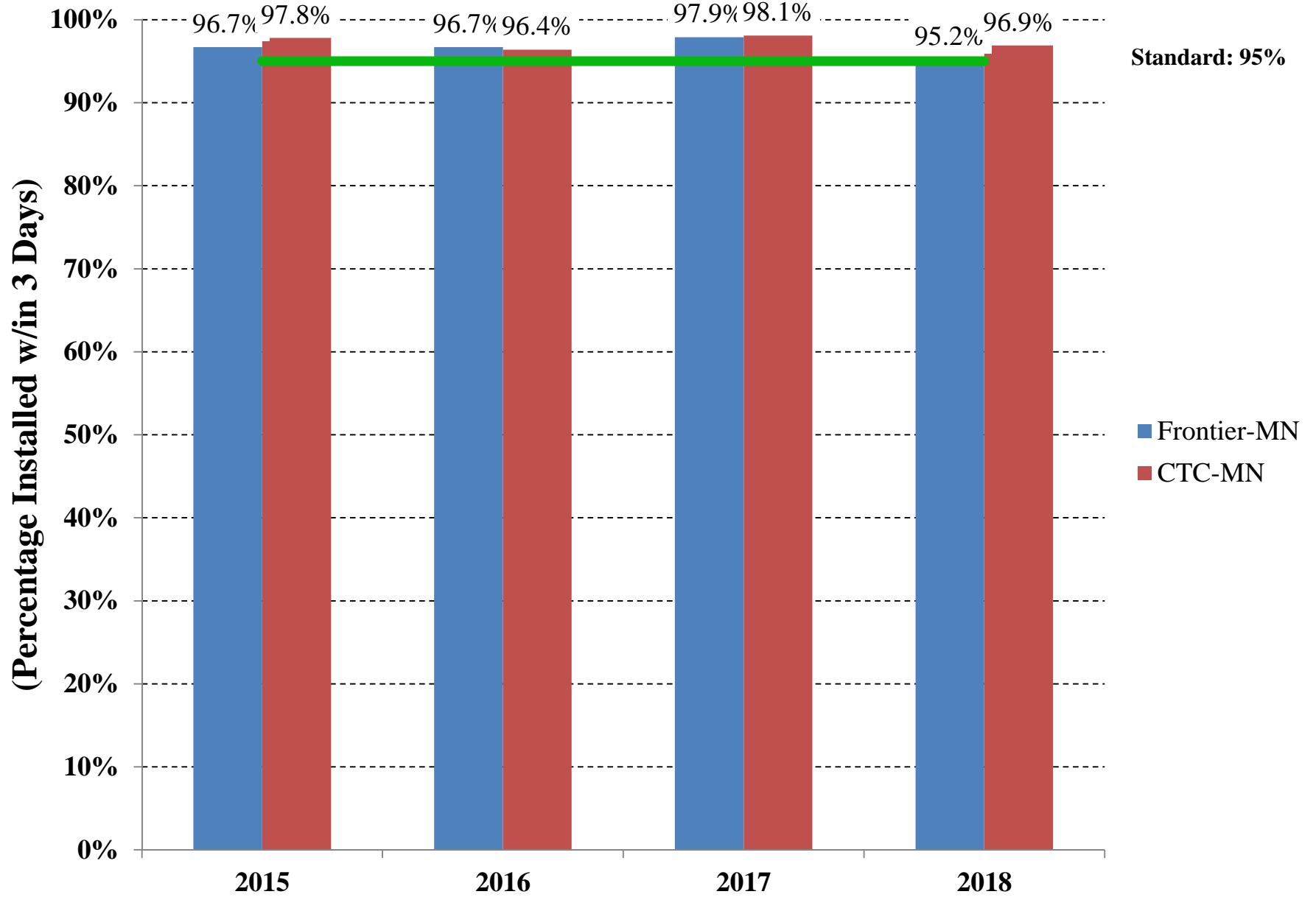
Kevin.Saville@ftr.com

Attorneys on Behalf of Frontier Communications

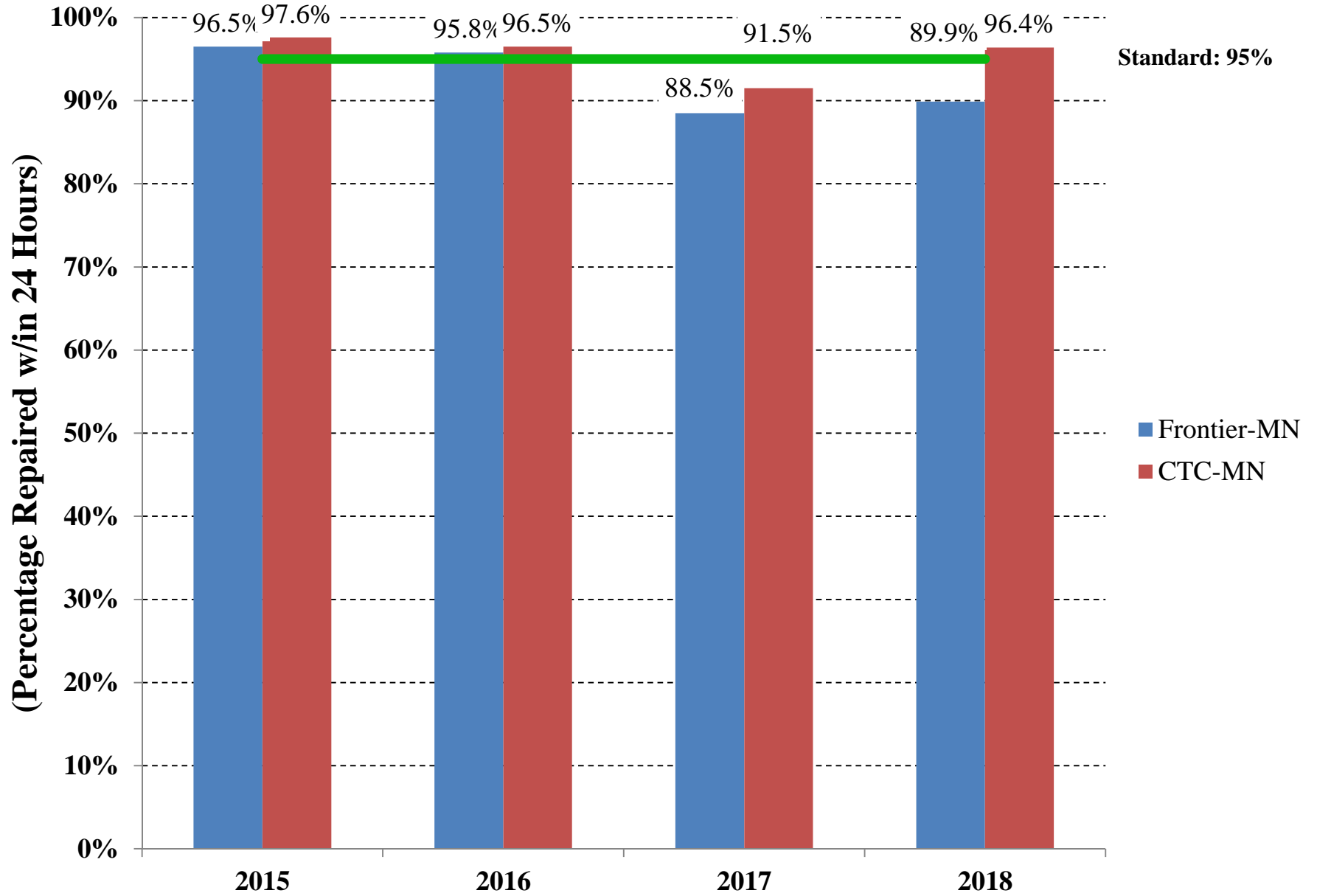
Troubles



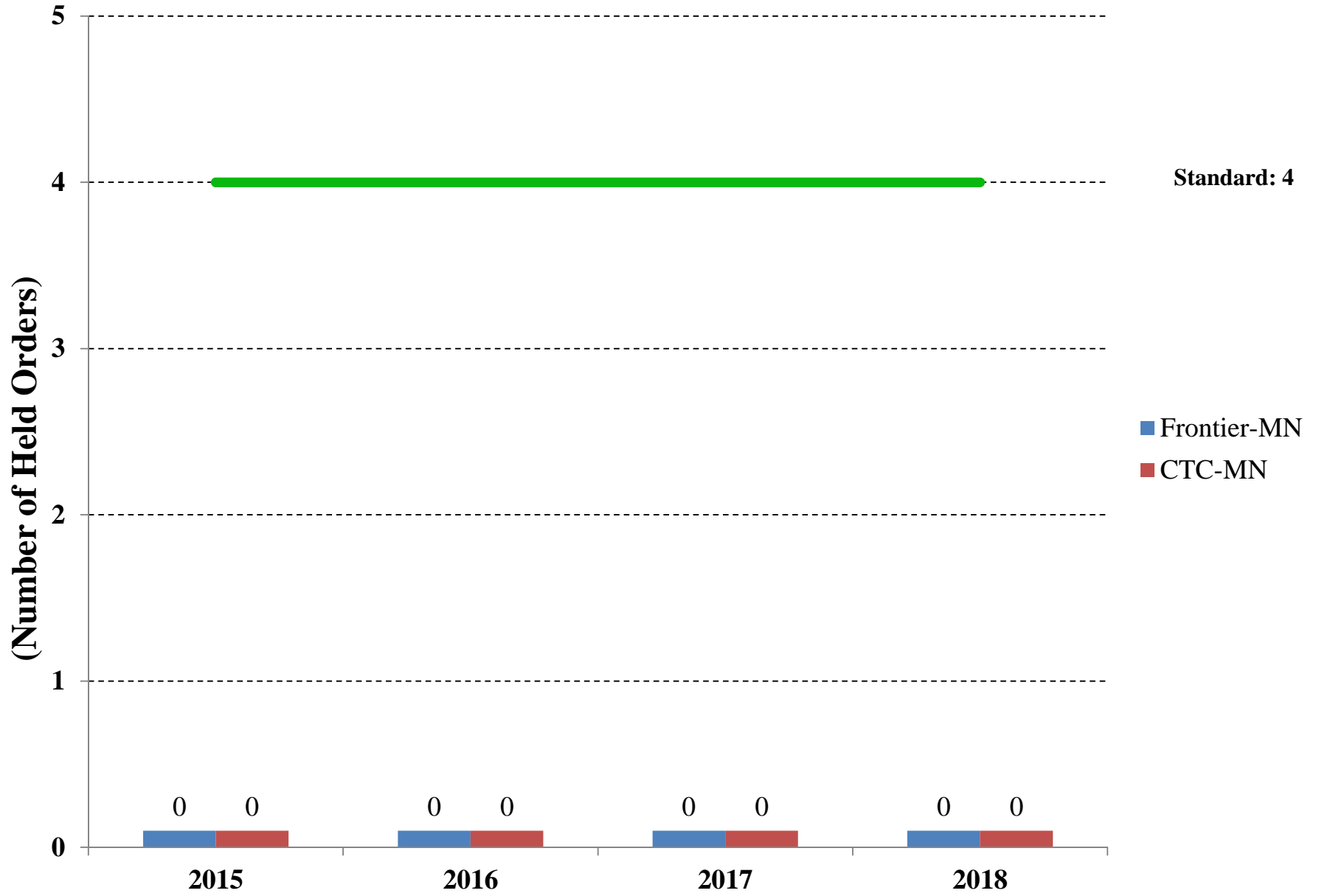
Installations



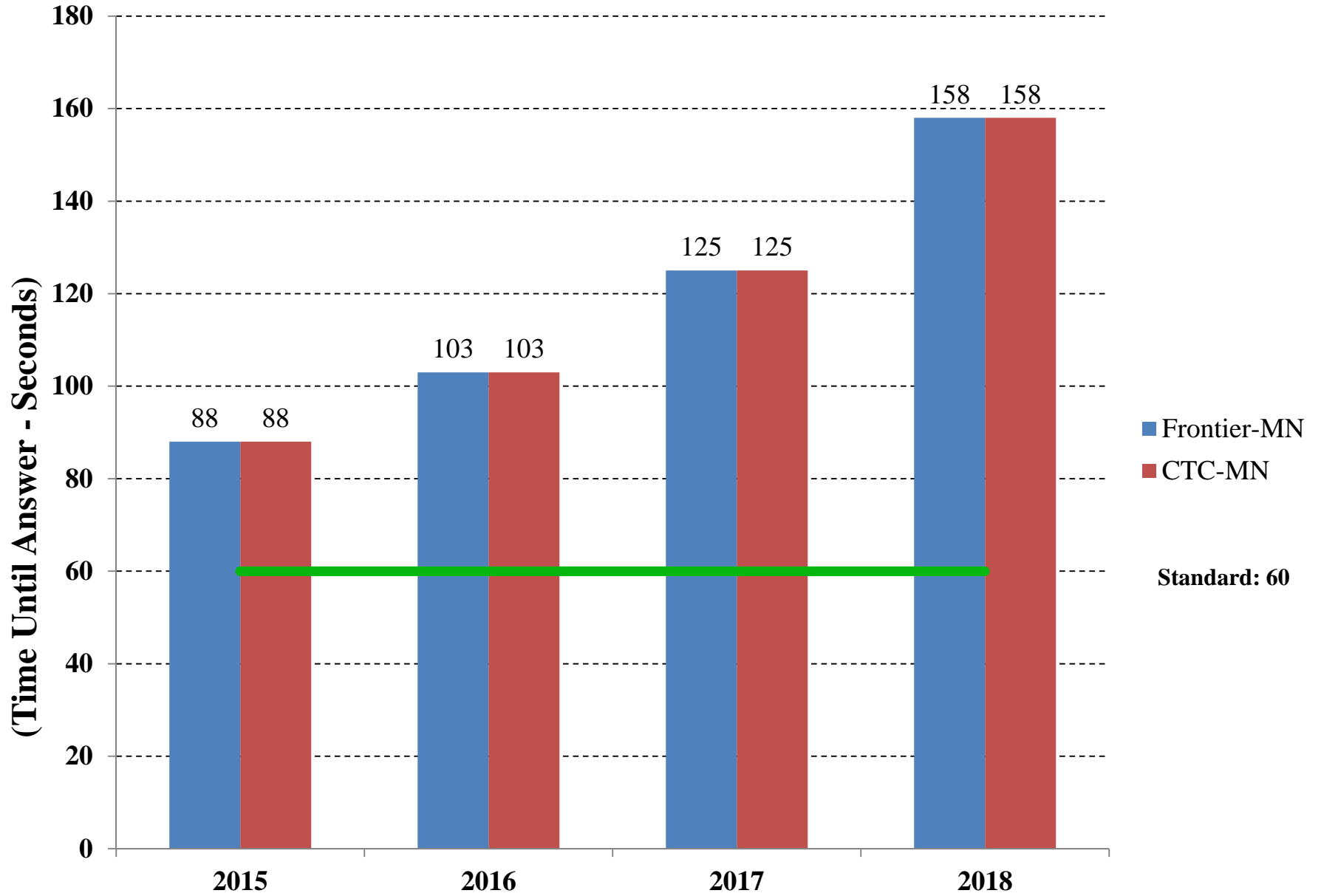
Out-of-Service Cleared



Held Orders



Answer Time





January 10, 2019

Via U.S. Mail and Email

Linda S. Jensen
Assistant Attorney General
Suite 1800
445 Minnesota Street
St. Paul, MN
55101-2134

Re: In the Matter of a Commission Inquiry into the Service Quality, Customer Service, and Billing Practices of Frontier Communications, Docket No. P-407, 405/CI-18-122

Dear Ms. Jensen:

Enclosed and served upon you please find Information Requests Nos. 1-6 in the above matter. Please provide the Responses of the Department of Commerce to the undersigned.

Very truly yours,



Richard J. Johnson
Attorney at Law
P: (612) 877-5275 F: (612) 877-5038
Rick.Johnson@lawmoss.com

/RJJ
Enclosure
4515843v1

**Frontier Communications of Minnesota, Inc.
Citizens Telecommunications Company of Minnesota, LLC**

INFORMATION REQUEST

MPUC Docket No.: P407, 405/CI-18-122 Nonpublic Public
Requested From: Linda S. Jensen
Minnesota Department of Commerce Date Requested: 1/10/19
Date Response Due: 1/21/19
Requested by: Richard J. Johnson
Email Address(es) Rick.Johnson@lawmoss.com
Phone Number(s) (612) 877-5275

Request Number: Frontier-1
Topic: Categorization of Public Comments, Testimony and Complaints
Reference: Department January 4, 2019 Report, p. 1, 10

Request:

The Department's January 4, 2019 Report states
"Over a thousand consumer complaints and statements were submitted in this investigation. Of those complaints, there were approximately:
- 650 reports that concern Frontier's phone service, either as part of a bundle or as a standalone service.
• 250 reports that concern only phone service.
• 400 reports that concern both telephone and internet access services.
- 325 reports that concern only internet access.
- 150 reports where the service type was not readily apparent."

The Department's January 4, 2019 Report also states
"As part of the Department's investigation, it reviewed public comments, testimony and complaints to regulatory agencies from Frontier's Minnesota customers. ... The below analysis reviews each of the complaint types that the Department tracked through the information shared by consumers."

- A) Please identify the "650 reports that concern Frontier's phone service, either as part of a bundle or as a standalone service." For each such report, please provide:
The customer name(s)
Date of comment, testimony, or complaint
-

To be completed by responder

Response By:
Title:
Department:
Telephone:

- Source of the comment, testimony or complaint (*i.e.* SpeakUp, Public Hearing (including date and location), other regulatory agency, etc.)
- B) Please identify the “250 reports that concern only phone service.” For each such report, please provide:
The customer name(s)
Date of comment, testimony, or complaint
Source of the comment, testimony or complaint (*i.e.* SpeakUp, Public Hearing (including date and location), other regulatory agency, etc.)
- C) Please identify the “400 reports that concern both phone service and internet service.” For each such report, please provide:
The customer name(s)
Date of comment, testimony, or complaint
Source of the comment, testimony or complaint (*i.e.* SpeakUp, Public Hearing (including date and location), other regulatory agency, etc.)
- D) Please identify the “325 reports that concern only internet access service.” For each such report, please provide:
The customer name(s)
Date of comment, testimony, or complaint
Source of the comment, testimony or complaint (*i.e.* SpeakUp, Public Hearing (including date and location), other regulatory agency, etc.)
- E) Please identify the “150 reports where the service type was not readily apparent.” For each such report, please provide:
The customer name(s)
Date of comment, testimony, or complaint
Source of the comment, testimony or complaint (*i.e.* SpeakUp, Public Hearing (including date and location), other regulatory agency, etc.)

Please provide a copy of the documents, including any spreadsheets, workpapers, notes, etc., used to categorize these groups of customers into the groups of 650 reports, 250 reports, 400 reports, 325 reports, and 150 reports.

**Frontier Communications of Minnesota, Inc.
Citizens Telecommunications Company of Minnesota, LLC**

INFORMATION REQUEST

MPUC Docket No.: P407, 405/CI-18-122 Nonpublic Public
Requested From: Linda S. Jensen
Minnesota Department of Commerce Date Requested: 1/10/19
Date Response Due: 1/21/19
Requested by: Richard J. Johnson
Email Address(es) Rick.Johnson@lawmoss.com
Phone Number(s) (612) 877-5275

Request Number: Frontier-2
Topic: Categorization of Public Comments, Testimony and Complaints
Reference: Department January 4, 2019 Report, p. 3, 10

Request:

The Department's January 4, 2019 Report states
"the Department's Comments categorize subscribers' concerns by rule violation..."

The Department's January 4, 2019 Report also states
"As part of the Department's investigation, it reviewed public comments, testimony and complaints to regulatory agencies from Frontier's Minnesota customers. ... The below analysis reviews each of the complaint types that the Department tracked through the information shared by consumers."

- A) Please explain process by which the Department associated or assigned a rule to each public comment, testimony, or complaint.
- B) For each public comment, testimony, or complaint reviewed by the Department, please provide:
 - The customer name(s)
 - Date of comment, testimony, or complaint
 - Source of the comment, testimony or complaint (*i.e.* SpeakUp, Public Hearing (including date and location), other regulatory agency, etc.)
 - The rule(s) associated with or assigned to the public comment, testimony or complaint by the Department

To be completed by responder

Response By:
Title:
Department:
Telephone:

Please provide a copy of the documents, including any spreadsheets, workpapers, notes, etc., used to categorize these groups of customers.

**Frontier Communications of Minnesota, Inc.
Citizens Telecommunications Company of Minnesota, LLC**

INFORMATION REQUEST

MPUC Docket No.: P407, 405/CI-18-122 Nonpublic Public
Requested From: Linda S. Jensen
Minnesota Department of Commerce Date Requested: 1/10/19
Date Response Due: 1/21/19
Requested by: Richard J. Johnson
Email Address(es) Rick.Johnson@lawmoss.com
Phone Number(s) (612) 877-5275

Request Number: Frontier-3
Topic: Categorization of Recommendations
Reference: Department January 4, 2019 Report; ALJ's November 16, 2018 Report on
Public Hearings, ¶ 10

Request:

The Department's January 4, 2019 Report makes "Recommendations" on pages 19-21, 23-25, 27-28, 43-44, 47-48, 51-52, 55, 58-59, 62-63, 65-66, 68, 71-72, 76-77, 79-80, 81-82, 83-85, 87-88, 91-92, 95-96, 99-100, 103-104, 109-111, 113, 115-116, 118, 122-123, 126, 128, 129, 130, and 132.

- A) Which of each of these Recommendations pertain to Frontier's "voice telecommunications service," as identified in paragraph 14 of the November 16, 2018 Report on Public Hearings of the Administrative Law Judge in this proceeding?
- B) For each of these Recommendations, please identify whether it pertains to Frontier's "DSL or internet access service," including VOIP service, as identified in paragraph 10 of the ALJ's November 16, 2018 Report on Public Hearings.

To be completed by responder

Response By:
Title:
Department:
Telephone:

**Frontier Communications of Minnesota, Inc.
Citizens Telecommunications Company of Minnesota, LLC**

INFORMATION REQUEST

MPUC Docket No.: P407, 405/CI-18-122 Nonpublic Public
Requested From: Linda S. Jensen
Minnesota Department of Commerce Date Requested: 1/10/19
Date Response Due: 1/21/19
Requested by: Richard J. Johnson
Email Address(es) Rick.Johnson@lawmoss.com
Phone Number(s) (612) 877-5275

Request Number: Frontier-4
Topic: Categorization of Conclusions
Reference: Department January 4, 2019 Report; ALJ's November 16, 2018 Report on Public Hearings, ¶ 10

Request:

The Department's January 4, 2019 Report makes "Conclusions" on pages 18-19, 41-42, 51, 61-62, 65, 68, 70-71, 75-76, 87, 91, 118, 121-122, 125-126, 128, 130, 131-132, and 133.

- A) Which of each of these Conclusions pertain to Frontier's "voice telecommunications services," as identified in paragraph 14 of the November 16, 2018 Report on Public Hearings of the Administrative Law Judge in this proceeding?
- B) For each of these Conclusions, please identify whether it pertains to Frontier's "DSL or internet access service," including VOIP service, as identified in paragraph 10 of the ALJ's November 16, 2018 Report on Public Hearings.

To be completed by responder

Response By:
Title:
Department:
Telephone:

**Frontier Communications of Minnesota, Inc.
Citizens Telecommunications Company of Minnesota, LLC**

INFORMATION REQUEST

MPUC Docket No.: P407, 405/CI-18-122 Nonpublic Public
Requested From: Linda S. Jensen
Minnesota Department of Commerce Date Requested: 1/10/19
Date Response Due: 1/21/19
Requested by: Richard J. Johnson
Email Address(es) Rick.Johnson@lawmoss.com
Phone Number(s) (612) 877-5275

Request Number: Frontier-5
Topic: Communications with Customers
Reference:

Request:

Has the Department had contacts or communications with any persons who testified at public hearings or submitted comments that are included on the eDockets site for this proceeding?

If yes, please identify the persons with whom the Department has had such contacts or communications.

To be completed by responder

Response By:
Title:
Department:
Telephone:

**Frontier Communications of Minnesota, Inc.
Citizens Telecommunications Company of Minnesota, LLC**

INFORMATION REQUEST

MPUC Docket No.: P407, 405/CI-18-122 Nonpublic Public
Requested From: Linda S. Jensen
Minnesota Department of Commerce Date Requested: 1/10/19
Date Response Due: 1/21/19
Requested by: Richard J. Johnson
Email Address(es) Rick.Johnson@lawmoss.com
Phone Number(s) (612) 877-5275

Request Number: Frontier-6
Topic: Identification of Customers
Reference: See below

Request:

Please identify by name and address (if available) of each “consumer”, “customer”, “subscriber”, or “person” to which the Department was referring in each of the following parts of the Report.

- A) At page 2, the Report states: “The findings of this investigation detail an extraordinary situation, where customers have suffered with outages of months, or more....”
 - B) At page 2, the Report states: “Frontier customers repeatedly reported that their ‘trouble’ reports had become, mysteriously, ‘lost.’”
 - C) At page 11, the Report states: “Many consumers reported damaged or deteriorated pedestals causing wires to be exposed to the elements or animals, damaged poles or lines, and unburied cable causing safety hazards.”
 - D) At page 13, the Report states: “Over 85 persons throughout Frontier’s service territory reported concerns regarding deteriorating, damaged, or broken Frontier plant or equipment.”
 - E) At page 13, the Report states: “Also, many consumers reported that Frontier often leaves temporary and other lines,”
 - F) At page 16, the Report states: “Many consumers were concerned that Frontier’s unburied lines pose a safety hazard.”
-

To be completed by responder

Response By:
Title:
Department:
Telephone:

- G) At page 16, the Report states: “Other consumers reported that Frontier’s persistent reliance on unburied, exposed temporary lines causes repeat outages or transmission issues.”
- H) At page 17, the Report states: “Many subscribers observed that Frontier’s technicians are only able to make quick-fixes to telephone plant damage or deficiencies, and that these interim solutions do not last.”
- I) At page 25, the Report states: “The following are examples of the many disturbing reports of customers, which suggest that Frontier’s arrangements to repair emergency troubles, including its record creation and maintenance, fail to adequately address bona fide emergency needs of Minnesota subscribers.”
- J) At page 33, the Report states: “Other ‘bundled’ phone and internet service customers have reported that Frontier representatives have told them that Frontier fails to maintains enough working lines in their area....”
- K) At page 38, the Report states: “Many Frontier subscribers complained that, when they call to check on the repair status of a previously reported outage, they were told there was no repair ticket for the outage.”
- L) At page 44, the Report states: “Based on more than 40 customers’ complaints about Frontier’s painfully inconvenient customer service, and representatives who seemingly often provide false information”
- M) At page 44, the Report states: “Many customers reported that contacting Frontier was anything but convenient, describing long hold times prior to speaking with a customer service representatives.”
- N) At page 46, the Report states: “Other consumers reported that Frontier’s customer service representatives would either refuse to transfer them to a supervisor, when requested, or supervisors would fail to return calls as promised or requested.”
- O) At page 47, the Report states: “Many subscribers describe Frontier representatives who appear unqualified—either unable or unwilling—to address the customer’s concerns.”
- P) At page 56, the Report states: “Many consumers reported concerns with Frontier’s billing practices,”
- Q) At page 56, the Report states: “Several consumers reported that Frontier did not apply the represented vacation rate to their account, often coming home to large bills when Frontier charged full price during their time away.”
- R) At page 56, the Report states: “Other consumers reported that after canceling service, Frontier continued to bill them each month.”
- S) At page 68, the Report states: “Many consumers reported unauthorized charges on bills for telephone services.”

- T) At page 69, the Report states: “Many consumers reported unauthorized charges on bills and subsequent difficulty in having these charges removed.
- U) At page 72, the Report states: “Other consumers knew they contracted for a term, but Frontier claimed that the price was locked-in for a shorter period than the contract term.”
- V) At page 74, the Report states: “Many consumers reported being unaware that they had a term contract or that their contract auto-renewed.”
- W) At page 75, the Report states: “Frontier’s contracting procedures are unclear and its terms of service are either wholly unknown or unclear to many consumers.
- X) At page 77, the Report states: “Many consumers reported concerns regarding Frontier’s practices for disconnecting service,”
- Y) At page 77, the Report also states: “In addition, many consumers reported lengthy delays in Frontier’s installation of telephone service.”
- Z) At page 93, the Report states: “Many consumers described experiences where Frontier’s customer service representatives were inefficient or rude, not courteous, considerate, and efficient,”
- AA) At page 97, the Report states: “Other consumers reported that once they get ahold of a customer service representative, the call may be disconnected causing them to being the process again.”



STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL

January 18, 2019

SUITE 1800
445 MINNESOTA STREET
ST. PAUL, MN 55101-2134
TELEPHONE: (651) 297-2040

Ms. Shannon Heim, Esq.
Moss and Barnett
150 South Fifth Street, Ste 1200
Minneapolis, MN, 55402

Re: *In re Commission Inquiry into the Service Quality, Customer Service, and Billing Practices of Frontier Communications, P407, 405/CI-18-122*

Dear Ms. Heim:

Enclosed is the bates numbered Record of Subscriber and Public Complaints and Comments on which the Department's January 4, 2019 Report was based, in large part. This Record includes civil investigative data, and private data on individuals that is not public.¹

This Record is provided in reply to Mr. Richard J. Johnson's letter of January 10 (together with what Mr. Johnson identified as "Frontier's first set of information requests.") Although a contested case is not pending, provision of these documents with bates numbering will aid the law enforcement process and promote public safety, which is a concern in this docket. Please note that, as indicated in footnote 1 below, the Department does not include complaints that are neither public nor previously provided to the Department by Frontier, where it is not immediately evident that the customer has provided consent to release the document to Frontier.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Linda S. Jensen", with a long horizontal flourish extending to the right.

LINDA S. JENSEN
Assistant Attorney General

(651) 757-1472 (Voice)
(651) 297-1235 (Fax)
linda.s.jensen@ag.state.mn.us

Attorney for Minnesota Department of Commerce

¹ In the interest of providing this Record to Frontier quickly, a small number of bates numbered documents have not been included, consisting of complaints by subscribers to the Commission's CAO, where, on the face of the document, it is not immediately evident whether the private data on an individual is already in Frontier's possession or that the customer has otherwise provided consent to release the document to Frontier. The Department is reviewing these documents, and anticipates providing them to Frontier as quickly as it can.

8. My affidavit: (1) provides data on the current and historical number of technicians in our Minnesota service territory; (2) explains the use of outside, independent contractor technicians in 2018; (3) corrects certain statements in the Lacher Affidavit; (4) explains Frontier policies and procedures regarding temporary fixes and cable replacements; and (5) discusses technician job responsibilities.

9. According to the Lacher Affidavit, Mr. Lacher is a Staff Representative/Organizer for the Communications Workers of America located in Minneapolis. Frontier has no records of Mr. Lacher having been employed by Frontier.

10. The Lacher Affidavit discusses the number of Communications Workers of America (CWA) technicians at paragraph 7. That discussion is incomplete in that: (1) it does not include the number of International Brotherhood of Electrical Workers (IBEW) technicians in Minnesota in any year or the number of outside contractor technicians employed in 2018 in Minnesota; and (2) it fails to recognize that the number of Frontier telephone lines in service has also decreased with the result that there are more technicians per 1,000 lines in service in 2018 than there were in 2008. Frontier's number of Minnesota technicians (or technicians plus outside contractors) has also remained generally stable since 2014 even though the number of telephone access lines provided to customers in Minnesota has continued to decline.

11. Beginning in 2018 and continuing today, Frontier also employed independent contractors that complete certain customer service installation and repair work. This information was provided to the Department as part of Frontier's response to DOC-33 and DOC-63, copies of which are included as Schedule 1 and Schedule 2. As of February, 28, 2019, Frontier employed 103 technicians in Minnesota and six independent contractors.

12. The following table presents the total numbers of lines in service and the total numbers of technicians by year:

	2008	2013	2014	2015	2016	2017	2018
Total Union Technicians	180	141	130	127	125	125	108
Independent Contractors	0	0	0	0	0	0	11
Total Technicians	180	141	130	127	125	125	119
Total Access Lines	197,728	148,512	140,028	123,580	103,919	89,647	78,917
Access Lines / Technician	1,098	1,053	1,077	973	831	717	663

13. Frontier began using independent contractors in the second and third quarters of 2018. At that time, we had four postings for full-time, employee positions. All of the applicants would have required training that could not be completed in time for them to be available for deployment during our busy repair season, which is in the third quarter. We therefore utilized contractors for the 2018 busy season. We have since hired two people from the original job posting, and are in progress filling the other positions.

14. Paragraph 5 of the Lacher Affidavit discusses steps after an appointment is missed, but this description is not entirely correct. First, technicians are to make every effort to complete the work assigned to them. Second, technicians must contact and receive approval from their Local Manager prior to referring any work for rescheduling.

15. The claims regarding ticket prioritization (new tickets take priority over old tickets) in Paragraph 8a of the Lacher Affidavit are not correct. Repair tickets are addressed on a first in first out basis. If a repair ticket is missed or delayed, the customer a new service date is negotiated with the customer. Customer input and acceptance is important because the customer may need to be present for Frontier to complete the repair service work.

16. The claims regarding prioritization (new service installations are prioritized over repairs) in Paragraph 8b of the Lacher Affidavit are not correct. Customer input and acceptance is important because the customer may need to be present for Frontier to complete the repair service work or installation. Tickets are completed based on the scheduled service date. Frontier has the ability to utilize overtime to complete both new orders and repairs.

17. The assertion in Paragraph 8c of the Lacher Affidavit that jobs receiving federal funding take priority over repairs is not correct. Technicians are tasked with completing all work within assigned timeframes. This requires balancing of priorities. We balance competing demands in repair, installation and construction.

18. The Doffing Testimony, p. 28, lines 2-10 discuss technicians performing temporary fixes as a result of declining investment. Mr. Doffing's Testimony fails to acknowledge that temporary fixes are sometimes necessary as a result of the specific circumstances (e.g. frozen ground) or while permanent solutions are developed. The permanent solutions may require engineering and other evaluation before permanent solutions can be developed and completed.

19. The Doffing Testimony, p. 29, lines 13-22, discusses cable replacement. Mr. Doffing's Testimony does not recognize that cable replacement is a complicated process involving several steps. First, a problem needs to be identified and isolated, as cables can run for thousands of feet. It makes little practical sense to replace thousands of feet of cable if the issue is isolated to a small section. Second, once the problem is identified and isolated, an engineering work order is developed. The work order process is important, as it provides the technical parameters of the replacement and provides a basis for the accounting records that are required

for capitalization and depreciation. Again, temporary fixes are performed so as to maintain service while permanent solutions are developed and completed.

20. The Doffing Testimony, p. 30, ln. 13 – p. 31, ln. 6, discusses the elimination of specialized positions. Frontier’s contracts with the IBEW and CWA identify the technician’s job responsibilities and expectations. Each contract provides for the job title “Sales & Service Technician.” Individuals hired as Sales & Service Technicians are expected to be able to repair and install voice and broadband services.

21. The Department included photographs provided on pages 12 and 13 of the Report that show certain Frontier pedestals.

22. The pedestals depicted in those photographs are in less than ideal condition, and show the effects of weather and time. However, the service provided using those facilities was fully functional and equivalent to service provided over more presentable facilities.

23. In October, 2018, Frontier conducted repairs and maintenance work on these pedestals.

24. Schedule 3 to this Affidavit shows the result of that repair and maintenance work, using one specific identifiable pedestal as an example.

25. Regarding pages 21-25 and Frontier’s use of power generators: as explained in Frontier’s response to DOC-40, a copy of which is included as Schedule 4, Frontier has permanent generators at 105 of its exchanges. Frontier has portable generators for the other exchanges. Frontier’s operational policy is to bring a portable generator to one of its facilities experiencing an extended power outage within 4 hours of becoming aware of the outage. For purposes of the policy, an extended power outage is any outage expected to last 4 or more hours. We assess the expected duration of the power outage by contacting our electric utility.

PUBLIC DOCUMENT Frontier Response
NOT PUBLIC DATA HAS BEEN EXCISED Attachment 4, Schedule 1
Minnesota Department of Commerce
Information Request

Docket Number: P405-P407/CI-18-122 Nonpublic Public
Requested From: Scott Bohler Date of Request: 5/10/2018
Citizens Telecommunications Response Due: 5/21/2018
Company of MN, LLC
Frontier Communications of
Minnesota, Inc.
Type of Inquiry: General

Requested by: Bonnie Johnson/Diane Dietz
Email Address(es): bonnie.johnson@state.mn.us/diane.dietz@state.mn.us
Phone Number(s): 651-539-1880/651-539-1876

Request Number: 33
Topic: NA
Reference(s): NA

Request:

For each calendar year from 2013 through 2018, provide the number of outside network technicians Frontier employed who perform repair and installation duties in Minnesota, for all Frontier products/services.

Provide the information by the geographic area to which the technicians are assigned and identify the geographic area. Please specify the number of technicians who are assigned to perform repair, the number assigned to perform installation, and the number who are assigned to perform both repair and installation work. If technicians are assigned to specific products/services, specify the number for each type of product or service.

Answer)

Frontier technicians are trained and enabled to perform all types of outside plant work including repair, installation, and maintenance for all Frontier services. There are no specific technicians dedicated to only one type of work or particular service. See following table for numbers and locations of technicians.

To be completed by responder

Response Date: May 23, 2018
Response by: Scott Bohler
Email Address: scott.bohler@ftr.com
Phone Number: (952) 491-5534

PUBLIC DOCUMENT Frontier Response
 NOT PUBLIC DATA HAS BEEN EXCISED Attachment 4, Schedule 1

Reporting Center	2013	2014	2015	2016	2017	2018	Geographic Coverage
Atwater/Hector	3	3	3	3	3	2	Belgrade, Elrosa, Raymond, Prinsburg, Atwater, Hector, Cosmos, Lake Lillian, Kandyohi, Svea
Wheaton	1	1	1	1	1	1	Wheaton, Herman
Canby	3	3	3	3	3	3	Canby, Madison, Dawson, St Leo, Ivanhoe, Porter
Slayton	4	3	3	3	3	3	Balaton, Currie, Avoca, Iona, Leota, Edgerton, Lake Wilson, Chandler, Slayton
Clarkfield	3	3	3	3	3	2	Clarkfield, Boyd, Hazel Run, Hanley Falls, Cottonwood, Ghent, Lynd
Tyler	2	2	1	1	1	1	Tyler, Hardwick, Jasper, Arco
Worthington	5	5	5	6	6	4	Worthington, Ellsworth, Adrian, Bigelow, Okabena, Lakefield
Mt. Lake	3	2	1	2	2	1	Mountain Lake, Odin, Ormsby, Comfrey, Delft, Butterfield
Fairmont	8	6	7	7	7	4	Fairmont, East Chain, Ceylon, Welcome, Sherburn, Trimont, Truman, Northrop, Lewisville
Watertown	9	9	7	8	9	9	Watertown, Mound, Delano, Maple Plain, St Bonifacius, Mayer, New Germany
LeCenter	10	9	10	9	9	8	LeCenter, Janesville, Elysian, Waterville, Kilkenny, Montgomery, Jordan, Belle Plaine, Henderson, Arlington, Green Isle
Cannon Falls	12	11	11	10	9	9	Cannon Falls, Kenyon, Wanamingo, West Concord, Byron, Dodge Center, Claremont, Blooming Prairie, Ellendale, Clarks Grove, Hollandale, Hayfield, Brownsdale, Dexter, Kiester, Alden, Lyle, Adams, Leroy
Lakeville	29	27	25	25	25	24	Lakeville, Apple Valley, Burnsville, Farmington, Rosemount
Wyoming	10	9	9	9	9	8	Wyoming, Almelund, Taylor Falls, Lindstrom, Scandia
Milaca	9	8	8	8	8	7	Milaca, Clear Lake, Clearwater, Pease, Onamia, Garrison, Malmo, Isle, Wahkon
McGregor	10	9	9	8	8	5	McGregor, Kimberly, McGrath, Finlayson, Askov, Nickerson, Sturgeon Lake, Denham, Kettle River, Wright, Cromwell, Gateway, Palisade, Jacobson, Warba, Floodwood, Brookston, Alborn, Meadowlands
Warren	3	3	3	3	3	2	Warren, Alvarado, Oslo, Argyle, Stephen, Kennedy, Hallock
International Falls	5	5	5	5	5	5	International Falls, Big Falls, Little Fork, Ericsburg, Ranier, Kabetogama, Greaney, Bear River
Ely	12	12	13	11	11	10	Ely, Two Harbors, Crane Lake, Tower, Embarrass, Aurora, Hoyt Lake, Palo, Babbitt
Totals	141	130	127	125	125	108	

* All technicians are Combo techs

PUBLIC DOCUMENT Frontier Response
NOT PUBLIC DATA HAS BEEN EXCISED Attachment 4, Schedule 2
Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number: P405-P407/CI-18-122 Nonpublic Public
Requested From: Scott Bohler Date of Request: 11/2/2018
Citizens Telecommunications Response Due: 11/12/2018
Company of MN, LLC
Frontier Communications of
Minnesota, Inc.

Type of Inquiry: General
Requested by: Bonnie Johnson; Diane Dietz
Email Address(es): bonnie.johnson@state.mn.us; diane.dietz@state.mn.us
Phone Number(s): 651-539-1880; 651-539-1876

Request Number: 63

In response to DOC IR 33, Frontier provided a table with the number of outside network technicians employed who perform repair and installation duties from 2013 through 2018 to date. Frontier stated that Frontier technicians are trained and enabled to perform all types of outside plant work including repair, installation, and maintenance for all Frontier services.

At the Lakeville public hearing Frontier employee, Mr. Mark Doffing, provided testimony stating that some of the outside network technician duties are being assigned to outside network technician "contract workers". Specifically, Mr. Doffing states that "In the more rural areas of southern Minnesota, two outside technicians are now doing the job that used to be done by eight. That's one central office tech for the main central office down there and then one outside tech for the whole town of Fairmont. We have put in some contractors as a safety net just to help get service to people, but we're looking for CWA members, we're looking for front line employees to replace those positions." (See Lakeville 2 PM and 6 PM full size PDF, p. 30, lines 15-24)

Request:

- a. Using the table Frontier provided in its response to DOC IR 33, state the number of technicians identified that are outside network technician contract workers and the number of technicians that are Frontier employees, for each Reporting Center and Geographic Coverage area.
- b. In a separate table, provide the number of hours worked per month for each year by the Frontier network technicians and the outside network technician contract workers. If there are multiple contract workers, provide the information separately for each outside network technician contract worker.

To be completed by responder

Response Date: 11/15/18
Response by: Scott Bohler
Email Address: scott.bohler@ftr.com
Phone Number: (952) 491-5534

PUBLIC DOCUMENT Frontier Response
NOT PUBLIC DATA HAS BEEN EXCISED Attachment 4, Schedule 2
Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number: P405-P407/CI-18-122 Nonpublic Public
Requested From: Scott Bohler Date of Request: 11/2/2018
Citizens Telecommunications Response Due: 11/12/2018
Company of MN, LLC
Frontier Communications of
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- c. Describe in detail the resources, such as an employment agency, or other vendor that Frontier uses to obtain its outside network technician contract workers.
- d. Describe in detail the training Frontier provides for its outside network technician contract workers, or the training these workers receive elsewhere.
- e. Do outside network technician contract workers receive the same wages as Frontier outside network technician employees? If not, what is the average wage of CWA outside network technicians, and the average wage of outside network technician contract workers?

Answer)

- a. All the technicians identified in Frontier's response to DOC IR 33 are Frontier employees. Frontier began using contract workers in June 2018. Since that time, a total of 11 contract workers have been utilized. See attached file "*Response to Request 63a.pdf*".
- b. Due to a change in systems used to record hours, information regarding the hours worked by month by Frontier technicians is only available for 2017 and 2018. See attached file "*Response to Request 63b.pdf*". Frontier has a single source provider contract with Butler Telecommunications to provide skilled and trained contract workers. Contract workers are not paid directly by Frontier. Rather, Frontier compensates Butler Telecommunications based on the number and type of jobs completed. That compensation to Butler Telecommunications covers a number of costs that Butler incurs in completing jobs: employee wages, vehicles, equipment, overheads, etc. Frontier is not privy to the specific wages that Butler Telecommunications provides its employees.
- c. See response to (b) above.
- d. Frontier does not provide training to contract workers. Butler Telecommunications provides workers fit and ready to complete the jobs assigned, and provides those workers with the

To be completed by responder

Response Date: 11/15/18
Response by: Scott Bohler
Email Address: scott.bohler@ftr.com
Phone Number: (952) 491-5534

PUBLIC DOCUMENT **Frontier Response**
NOT PUBLIC DATA HAS BEEN EXCISED **Attachment 4, Schedule 2**
Minnesota Department of Commerce
Division of Energy Resources
Information Request

Docket Number: P405-P407/CI-18-122 Nonpublic Public
Requested From: Scott Bohler Date of Request: 11/2/2018
Citizens Telecommunications Response Due: 11/12/2018
Company of MN, LLC
Frontier Communications of
Minnesota, Inc.
Type of Inquiry: General
Requested by: Bonnie Johnson; Diane Dietz
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Phone Number(s): 651-539-1880; 651-539-1876

necessary skills, tools and vehicles. Frontier is not aware of the specific training history of the contract workers.

- e. Frontier does not pay the contract workers directly and is not aware of the specific wages paid by Butler Telecommunications. Therefore, a comparison of employee versus contract wages is not possible.

To be completed by responder

Response Date: 11/15/18
Response by: Scott Bohler
Email Address: scott.bohler@ftr.com
Phone Number: (952) 491-5534

NOT PUBLIC DATA HAS BEEN EXCISED Attachment 4, Schedule 2

Reporting Center	2013	2014	2015	2016	2017	2018	2018 contractors	Geographic Coverage
Atwater/Hector	3	3	3	3	3	2		Belgrade, Elrosa, Raymond, Prinsburg, Atwater, Hector, Cosmos, Lake Lillian, Kandyohi, Svea
Wheaton	1	1	1	1	1	1		Wheaton, Herman
Canby	3	3	3	3	3	3		Canby, Madison, Dawson, St Leo, Ivanhoe, Porter
Slayton	4	3	3	3	3	3		Balaton, Currie, Avoca, Iona, Leota, Edgerton, Lake Wilson, Chandler, Slayton
Clarkfield	3	3	3	3	3	2		Clarkfield, Boyd, Hazel Run, Hanley Falls, Cottonwood, Ghent, Lynd
Tyler	2	2	1	1	1	1		Tyler, Hardwick, Jasper, Arco
Worthington	5	5	5	6	6	4	1	Worthington, Ellsworth, Adrian, Bigelow, Okabena, Lakefield
Mt. Lake	3	2	1	2	2	1	1	Mountain Lake, Odin, Ormsby, Comfrey, Delft, Butterfield
Fairmont	8	6	7	7	7	4	3	Fairmont, East Chain, Ceylon, Welcome, Sherburn, Trimont, Truman, Northrop, Lewisville
Watertown	9	9	7	8	9	9		Watertown, Mound, Delano, Maple Plain, St Bonifacius, Mayer, New Germany
LeCenter	10	9	10	9	9	8		LeCenter, Janesville, Elysian, Waterville, Kilkenny, Montgomery, Jordan, Belle Plaine, Henderson, Arlington, Green Isle
Cannon Falls	12	11	11	10	9	9	1	Cannon Falls, Kenyon, Wanamingo, West Concord, Byron, Dodge Center, Claremont, Blooming Prairie, Ellendale, Clarks Grove, Hollandale, Hayfield, Brownsdale, Dexter, Kiester, Alden, Lyle, Adams, Leroy
Lakeville	29	27	25	25	25	24	1	Lakeville, Apple Valley, Burnsville, Farmington, Rosemount
Wyoming	10	9	9	9	9	8		Wyoming, Almelund, Taylor Falls, Lindstrom, Scandia
Milaca	9	8	8	8	8	7		Milaca, Clear Lake, Clearwater, Pease, Onamia, Garrison, Malmo, Isle, Wahkon
McGregor	10	9	9	8	8	5	1	McGregor, Kimberly, McGrath, Finlayson, Askov, Nickerson, Sturgeon Lake, Denham, Kettle River, Wright, Cromwell, Gateway, Palisade, Jacobson, Warba, Floodwood, Brookston, Alborn, Meadowlands
Warren	3	3	3	3	3	2		Warren, Alvarado, Oslo, Argyle, Stephen, Kennedy, Hallock
International Falls	5	5	5	5	5	5	1	International Falls, Big Falls, Little Fork, Ericsburg, Ranier, Kabetogama, Greaney, Bear River
Ely	12	12	13	11	11	10	2	Ely, Two Harbors, Crane Lake, Tower, Embarrass, Aurora, Hoyt Lake, Palo, Babbitt
Totals	141	130	127	125	125	108	11	

* All technicians are Combo techs

DOC Report, p. 12



Current



PUBLIC DOCUMENT Frontier Response
NOT PUBLIC DATA HAS BEEN EXCISED Attachment 4, Schedule 4
Minnesota Department of Commerce
Information Request

Docket Number: P405-P407/CI-18-122 Nonpublic Public
Requested From: Scott Bohler Date of Request: 6/7/2018
Citizens Telecommunications Company of MN, LLC
Frontier Communications of Minnesota, Inc.
Type of Inquiry: General Response Due: 6/18/2018

Requested by: Bonnie Johnson/Diane Dietz
Email Address(es): bonnie.johnson@state.mn.us/diane.dietz@state.mn.us
Phone Number(s): 651-539-1880/651-539-1876

Request Number: 40
Topic: NA
Reference(s): NA

Request:

Information Request No. 38 asked Frontier “Does the central office that serves Marine on the St. Croix have a back-up power generator on site in the event the electric company serving the area has a power outage? If the answer is no, how does Frontier maintain service to its customers in this area in the event of a power outage?” Frontier responded that “The site does not have a permanent back-up power generator on site. Portable generators are available to be brought to the site to provide power in the event of a commercial power outage.”

- a. Are there other central offices in Minnesota, remote or otherwise, that do not have a permanent back-up power generator on site?
- b. If so, identify those central offices.
- c. How does Frontier learn of a commercial power outage?
- d. Describe in detail the process Frontier follows when commercial power is lost in a central office with no permanent back-up power generator on site, including whether Frontier immediately delivers a portable generator to the site so customers do not lose the ability to dial 911. Provide all training materials associated with this process.
- e. Does Frontier notify customers served by a central office that does not have permanent back-up power generator on site that there is no back-up power?
- f. Provide all communications with public safety agencies or other third parties relating to the practices of Frontier regarding the use of portable generators, and all documents demonstrating the reasonableness of the practice.

To be completed by responder

Response Date: June 18, 2018
Response by: Scott Bohler
Email Address: scott.bohler@ftr.com
Phone Number: (952) 491-5534

PUBLIC DOCUMENT **Frontier Response**
NOT PUBLIC DATA HAS BEEN EXCISED Attachment 4, Schedule 4
Minnesota Department of Commerce
Information Request

Docket Number: P405-P407/CI-18-122 Nonpublic Public
Requested From: Scott Bohler Date of Request: 6/7/2018
Citizens Telecommunications Company of MN, LLC
Frontier Communications of Minnesota, Inc.
Type of Inquiry: General Response Due: 6/18/2018

Requested by: Bonnie Johnson/Diane Dietz
Email Address(es): bonnie.johnson@state.mn.us/diane.dietz@state.mn.us
Phone Number(s): 651-539-1880/651-539-1876

Answer)

- a. Rule 7810.3900 requires that a permanent auxiliary power unit be installed in exchanges exceeding 5,000 lines. Frontier has no exchanges exceeding 5,000 lines. Thus, there is no requirement for permanent generators in any Frontier exchange. Nevertheless, Frontier has installed permanent generators in the majority of its exchanges. Permanent generators are in place in the following exchanges:

Adrian	Claremont	Greaney	Lakeville	Raymond
Alborn	Clear Lake	Hallock	Le Center	Rosemount
Alden	Clearwater	Hanley Falls	Leota	Scandia-Marine
Apple Valley	Cosmos	Hayfield	Lewisville	Sherburn
Arco	Cottonwood	Hazel Run	Lindstrom	Slayton
Argyle	Crane Lake	Hector	Littlefork	St Leo
Arlington	Cromwell	Herman	Madison	Stephen
Askov	Dawson	International	Maple Plain	Svea
Atwater	Delano	Falls	Mayer	Tower
Aurora	Dodge Center	Isle	Mcgregor	Trimont
Babbitt	Edgerton	Ivanhoe	Meadowlands	Truman
Balaton	Ellendale	Janesville	Milaca	Two Harbors
Belgrade	Ellsworth	Jasper	Montgomery	Tyler
Belle Plaine	Ely	Jordan	Mound	Warba
Big Falls	Elysian	Kabetogama	Mountain	Warren
Blooming Prairie	Embarrass	Kandiyohi	Lake	Watertown
Burnsville	Fairmont	Kennedy	Nickerson	Waterville
Byron	Farmington	Kenyon	Okabena	Wheaton
Canby	Finlayson	Kilkenny	Onamia	Worthington
Cannon Falls	Floodwood	Lake Lillian	Oslo	Wright
Cherry Grove	Ghent	Lakefield	Ranier	Wyoming

To be completed by responder

Response Date: June 18, 2018
Response by: Scott Bohler
Email Address: scott.bohler@ftr.com
Phone Number: (952) 491-5534

PUBLIC DOCUMENT **Frontier Response**
NOT PUBLIC DATA HAS BEEN EXCISED Attachment 4, Schedule 4
Minnesota Department of Commerce
Information Request

Docket Number: P405-P407/CI-18-122 Nonpublic Public
Requested From: Scott Bohler Date of Request: 6/7/2018
Citizens Telecommunications Company of MN, LLC
Frontier Communications of Minnesota, Inc.
Type of Inquiry: General Response Due: 6/18/2018

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b. The following exchanges do not have permanent generators:

Adams	Chandler	Fountain	Kiester	Palo
Almelund	Clarkfield	Garrison	Kimberly	Pease
Alvarado	Clarks Grove	Gateway	Lake Wilson	Porter
Avoca	Comfrey	Green Isle	LeRoy	Prinsburg
Bear River	Currie	Hardwick	Lyle	St. Bonifacius
Bigelow	Delft	Henderson	Lynd	Sturgeon Lake
Boyd	Denham	Hollandale	Malmo	Taylor Falls
Brimson	Dexter	Hoyt Lakes	McGrath	Wahkon
Brookston	East Chain	Iona	New Germany	Wanamingo
Brownsdale	Ellsworth	Isabella	Northrop	Welcome
Butterfield	Elrosa	Jacobson	Odin	West Concord
Ceylon	Ericsburg	Kettle River	Palisade	

- c. Frontier's Network Operations Center monitors Frontier's network on a 24/7 basis. The NOC will investigate and respond when equipment produces alarms or messages regarding failures or irregularities, such as power outages. In addition, our local personnel monitor equipment and respond to direct customer contacts.
- d. Frontier processes to address network outages generically are described in the attached document. An event triggered by the loss of commercial power would be addressed pursuant to the procedures identified in the document.
- e. Frontier does not notify customers regarding the back-up power arrangements for their exchange.
- f. Frontier communicates with law enforcement during any major outages. When there are significant power disruption issues, the power companies must do restoral first before Frontier can safely address our facilities. During those major disruptions, Frontier will communicate with the power companies involved to determine when the situation is safe for Frontier personnel to work in the areas to address any issues with Frontier equipment.

To be completed by responder

Response Date: June 18, 2018
Response by: Scott Bohler
Email Address: scott.bohler@ftr.com
Phone Number: (952) 491-5534

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of a Commission Inquiry into the
Service Quality, Customer Service, and Billing
Practices of Frontier Communications.

MPUC P-407, 405/CI-18-122

**DECLARATION OF
DARRELL SENIOR**

STATE OF INDIANA)
) ss:
COUNTY OF ALLEN)

Darrell Senior declares under penalty of perjury as follows:

1. I am employed by Frontier Communications (“Frontier”) as the Dispatch Director, Ft. Wayne Dispatch Center and After Hours Dispatch. I was hired by a Frontier predecessor on February 9, 1998.

2. In this role, I manage Frontier’s Ft. Wayne dispatch center, which handles dispatch calls for Frontier’s Minnesota technicians, as well as technicians in other states in which Frontier and its affiliates operate.

3. I am aware that the Department of Commerce (the “Department”) filed a report in this docket on January 4, 2019 (the “Report”) regarding Frontier’s service.

4. The Department included an affidavit of Jeff S. Lacher (the “Lacher Affidavit”) with the Report. The Lacher Affidavit was included as Attachment 3 to the Report.

5. The Lacher Affidavit makes several claims regarding dispatch of technicians and technician interactions with the dispatch center. I oversee Frontier’s dispatch center activities impacting Minnesota, and am therefore in a position to assess and respond to those claims.

6. My affidavit: (1) describes the Endeavor and VXField systems Frontier uses for dispatch activities; (2) explains how those systems are utilized in the dispatch process; and (3) corrects certain statements in the Lacher Affidavit.

7. Endeavor is the order entry and trouble ticket entry system for Frontier. When a customer calls in to order service or report a trouble, the Endeavor system is used to collect all customer information, determine if the customer has a current account, generate a ticket number, validate existing service and address, determine due date for ticket type (order or trouble ticket) and prepare the ticket for the next needed stage. Endeavor feeds into the DPI system which houses information regarding the customer's service and billing. Dispatchers will also use DPI to look deeper into trouble tickets and to change due dates or to send to Assignment.

8. VXField is the system used once a ticket is ready for dispatch. Tickets in VXField have due dates assigned and are in various statuses. Tickets with a due date of today or earlier have a "Pending" status and are waiting to be assigned to a technician. Tickets can be auto assigned by algorithm or manually assigned. The system performs auto assignments based on technician qualifications, availability and priority of the work. Work not assigned to a technician by the auto assignment system but due that day is assigned by manual allocation in VXField by dispatchers. In addition to "pending," tickets may also have status of "Tech in Route" and "Complete".

9. The Dispatch Center uses DPI when needing to see additional detail information about the ticket or to change an order due date due to a customer request, or to route a ticket to assignment. In the event dispatch needs to create a ticket, they would use DPI to do so.

10. Paragraph 4 of the Lacher Affidavit discusses the process by which a dispatcher contacts a customer if a technician is not able to make an appointment. The description in the Affidavit is not entirely correct. Dispatchers or an auto dialer contact customers at the phone number provided to Frontier by the customer. This number is the "Can be Reached" number and is not necessarily the telephone number associated with the customer's access line. For example,

it may be a cell phone number or a work number. The “Can be Reached” number is validated by a Care Center Representative at the time the customer reports the service issue. Typically, rather than a Dispatcher contacting the customer when it is known that a technician will not be able to arrive that day, the customer is contacted at their Can Be Reached number by an automated dialer. The automated dialer will advise the customer that the technician will not be able to make the committed date and then offer the next available date to the customer. There is also an opt-out option for the customer during this call to speak with a live person. If the customer is not available for the call, the customer is provided a number to call if they wish to schedule a different date for the service call.

11. Paragraph 4 of the Lacher Affidavit describes the process of a customer being contacted by an auto-dialer. That description is not correct. When a technician is not able to make an appointment and we contact a customer, the initial contact is with an automated dialer system. The customer, however, always has the option to opt out of the automated dialer system and speak with a live person as addressed above in paragraph 10.

12. When a technician is not able to make an appointment, we contact the customer to reschedule as described in paragraph 10 and 11, above. We work with the customer to find the most convenient time for the rescheduled appointment. Every effort is to be made to ensure that customers requiring a rescheduled appointment due to Frontier missing the first appointment receive priority dispatch to be worked and completed by a technician so as to not disappoint a customer a second time by not showing up. If the customer has not provided a “Can Be Reached” number, the dispatch team looks at other systems for any other contact number. If there is no other contact number, the job is placed on the schedule for the next day.

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of a Commission Inquiry into the
Service Quality, Customer Service, and Billing
Practices of Frontier Communications.

MPUC P-407, 405/CI-18-122

**DECLARATION OF
TOM ANDERSON**

STATE OF MINNESOTA)
) ss:
COUNTY OF MILLE LACS)

Tom Anderson declares under penalty of perjury as follows:

1. I am employed by Citizens Telecommunications Company of Minnesota, LLC (“Frontier”) as an Outside Plant Engineer. I was hired by Frontier in 2002.
2. In this role, I design and construct cable solutions.
3. I am aware that the Department of Commerce (“the Department”) filed a report in this docket on January 4, 2019 (“the Report”) regarding Frontier’s service.
4. I have reviewed pages 15 and 16 of the Report referring to the Frontier line on the deck of a bridge on the property of Ms. Alice Lake of Wright, Minnesota.
5. On November 6, 2018, Frontier requested its contractor, MasTec North America (“MasTec”) go to the Lake property to repair the line.
6. MasTec employee, Rick Lessard, went to the Lake property on November 7, 2018.
7. Mr. Lessard told me that when he arrived at the Lake property, he introduced himself to Ms. Lake and explained to her that Frontier hired him to repair the Frontier line on her bridge.

DOC Attachment 1, p. 55

January 19, 2019

Docket No. P405-P407/CI-18-122
Department Comment, Jan. 4, 2019, Attach
Page 55 of 245



DOC Attachment 1, p. 56

Docket No. P405-P407/CI-18-122
Department Comment, Jan. 4, 2019, Attach. 1
Page 56 of 245



January 19, 2019



DOC Attachment 1, p. 60

January 19, 2019



DOC Attachment 4, p. 3

Docket No. P405-P407/CI-18-122
Department Comment, Jan. 4, 2019, Attach. 4
Page 3 of 6

"It elevates up into the tree that is now acting as a Frontier telephone pole," Gibeau said. "And so it goes up over the tree, and to the next tree across the street. Through a bunch of branches which isn't safe. And this here actually has been this way for almost three years."

Gibeau said one resident worried about severing a Frontier cable with a lawnmower moved the line from the grass into a flower bed for safety. Another attached a line to a post to get it off the ground. Gibeau said town officials have repeatedly asked Frontier to fix the problems, but so far nothing has happened.

They even reached out to the state attorney general's office for help. Now they're taking their case to the Public Utilities Commission.

Gibeau attended the agency's recent hearing in Slayton concerning Frontier complaints. There he told an administrative law judge that the Ceylon issue is larger than just unsafe cables laying in the grass.

He said the unfinished work symbolizes corporate indifference to the vital work of completing an adequate rural telecommunications network.



Ceylon City Council Member John Gibeau says Frontier Communications failed to complete this telephone line project. The cables have not been buried or attached to poles. This one crosses a propane gas tank. Mark Steil | MPR News

January 19, 2019

