

Minnesota Public Utilities Commission

Staff Briefing Paper

Meeting Date: October 9, 2014..... * Agenda Item # 1

Company: Farmers Mutual Telephone Co.; Frontier Communications of Minnesota

Docket No. P-522, 405/C-13-941
In the Matter of the Complaint by Farmers Mutual Telephone Co. (Farmers)
Against Frontier Communications of Minnesota (Frontier) Regarding Early
Termination Fees

Issues: Should the Commission dismiss Farmers' Complaint?

Staff: Kevin O'Grady.....651-201-2218

Relevant Documents

Farmers' ComplaintOctober 8, 2013
Order Finding Jurisdiction, Finding Grounds to Investigate,
and Requiring Answer January 30, 2014
Notice of and Order for Hearing April 9, 2014
Settlement July 15, 2014
OAH Closure August 6, 2014
Farmers' Request for Dismissal..... September 3, 2014

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Background

On October 8, 2013, Farmers Mutual Telephone Co. (Farmers) filed a Complaint against Frontier Communications of Minnesota (Frontier) arguing that Frontier is engaging in anticompetitive and unreasonable business practices by its imposition of early termination fees (ETFs) and by its use of automatic contract renewal without first obtaining informed customer consent.

On January 30, 2014, the Commission issued its *Order Finding Jurisdiction, Finding Grounds to Investigate, and Requiring Answer*.

On February 10, 2014, Frontier filed a Request for Reconsideration or Amendment of the *January 30th Order* to “make clear: (1) that the Commission is not asserting jurisdiction with respect to Internet or interstate phone services, and (2) the Commission will exercise jurisdiction only with respect to that portion of services provided by Frontier that encompass intrastate telephone services.”

On April 9, 2014, the Commission denied Frontier’s Request for Reconsideration and referred the matter to the Office of Administrative Hearings (OAH) for a contested case proceeding.

On July 15, 2014, Farmers filed a Settlement Agreement signed by Farmers, Frontier and the Minnesota Department of Commerce (DOC).

On August 6, 2014, the Administrative Law Judge (ALJ) filed a letter indicating closure of the OAH proceeding.

On September 3, 2014, Farmers filed a request to dismiss the Complaint.

Request for Dismissal

Introduction

In its Complaint, Farmers alleged that Frontier was engaging in anticompetitive and unreasonable business practices by inappropriately imposing ETFs and by automatically renewing customer contracts without first obtaining informed consent. Farmers claimed that it

had over 50 customers, formerly Frontier customers, who had inappropriately been charged ETFs by Frontier, and that Frontier's practices created a barrier to Farmers' ability to effectively compete.

Frontier denied the allegations.

Summary of the Settlement Agreement

In brief, the main terms of the Settlement are as follows:

- A. Frontier will inform each of its existing Digital Phone Service customers that its records indicate that the customer is bound by a term agreement and will restate the terms of the agreement. Customers that do not understand or do not agree with the conditions of the term agreement may modify their service with Frontier or terminate service with Frontier without incurring ETFs.
- B. Frontier will inform each of its existing High Speed Internet (HSI) customers that its ETF only applies to HSI service and that customers may terminate voice service without incurring ETFs.
- C. With respect to new customers, Frontier will provide notice clarifying the terms of the agreement (such notice subject to review by DOC). Frontier will also file a tariff addressing the conditions under which ETFs will apply.
- D. Customers that have ported service from Frontier to Farmers will receive a refund of any ETF paid unless Frontier can document that the customer has accepted the agreement's terms.
- E. Frontier will provide additional training to its customer service representatives to aid them in explaining to customers the terms of their agreements with Frontier.
- F. Frontier will post terms and conditions to its website clarifying which services in a bundle are associated with ETFs and will specify that a customer can opt out of any portion of a bundle without being held responsible for an ETF that applies to other portions of the bundle.

Request for Dismissal of Complaint

The Settlement was signed by Farmers, Frontier and DOC. Staff is unaware of any objection to

the Settlement. The parties to the Settlement do not seek Commission approval of the agreement. Rather, Farmers seeks dismissal of the Complaint. The terms of the Settlement have been filed as a public document.

Staff Comment

Staff supports dismissal of the Complaint.

Commission Options

1. Dismiss the Complaint.
2. Take other action.

Staff recommends option 1.