

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
David C. Boyd
Nancy Lange
Dan Lipschultz
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition by Frontier
Communications of Minnesota, Inc. for
Approval of its Revised Alternative Regulation
(AFOR) Plan

ISSUE DATE: October 10, 2014

DOCKET NO. P-405/AR-14-735

ORDER ADOPTING PROCEDURES
AND REQUIRING SETTLEMENT
CONFERENCE

PROCEDURAL HISTORY

On August 29, 2014, Frontier Communications of Minnesota (Frontier) filed a Notice of Proposed New Alternative Form of Regulation (AFOR) Plan. Frontier proposed the new AFOR plan to succeed its existing AFOR plan, which expires on March 1, 2015.

On October 2, 2014, the Commission met to establish procedures for developing the record and acting on the Company's proposal. Frontier and the Minnesota Department of Commerce (the Department) appeared at the meeting.

The parties present concurred in the procedural framework below.

FINDINGS AND CONCLUSIONS

Minn. Stat. § 237.764 sets forth general procedures for adopting, renewing, and modifying AFOR plans. Among other things, the statute provides for a settlement conference to encourage settlement or stipulation of issues, public meetings as necessary, expedited proceedings under Minn. Stat § 237.61, and a six-month timeline for resolution unless the petitioner and the Commission agree otherwise.

At the October 2 hearing, all parties present agreed that the procedural framework articulated below was reasonable and supported its adoption. The Commission concurs; it is essentially the same framework used in other recent AFOR cases, and it has proven workable and efficient. The Commission will adopt it, as set forth in the ordering paragraphs. Further, the Commission will delegate to the Executive Secretary the authority to vary time periods or require other procedures as necessary to facilitate final action on the case by the statutory deadline.

Finally, it is likely that parties to the case will request a protective order to govern the treatment and disclosure of confidential information. The Commission will, by separate order, appoint a lead

Commissioner under Minn. Stat. § 216A.03, subd. 9, to act on such requests.

ORDER

1. By October 13, 2014, Frontier shall post its petition, any public meetings determined to be required by the Commission, and the case timetable and any other pertinent information on its website.
2. Frontier shall post notice on the public portion of its website as well as in the area where normal communications occur with telecommunications carriers with which it has an interconnection agreement.
3. Frontier shall serve notice on all retail customers within 45 days after the notice is approved by the Executive Secretary. The customer notice must be developed with the Department and Commission staff, and contain information about the availability of the Plan details and the ability to post comments and questions through the Commission's website.
4. Within 10 days of the date of this Order, any interested person wishing to be on the service list shall file a Declaration of Interest form (Appendix A).
5. Within 10 days of the date of this Order, any interested person wishing to intervene as a party shall file a petition to intervene.
6. Within 10 days of the date of this Order, any proposed protective orders shall be filed.
7. Frontier, and all parties, shall answer any information requests within 10 days of receipt, and shall serve a copy of each information request and answer on the service list, and on non-party participants upon request.
8. Comments on the adequacy of the Company's August 29 filing shall be filed by November 10, 2014.
9. Comments on the merits of the petition shall be filed by December 5, 2014, and replies shall be filed by December 19, 2014.
10. Frontier shall prominently include on its website and in customer notices instructions on how to post comments regarding the proposed plan using the Commission's website, and include a link to the Commission's website. Frontier shall further provide the following instructions:

Persons without internet access may send Comments by U.S. mail to Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul MN 55101-2147. Commenters should include the Commission's docket number **14-735** in all communications.
11. Frontier shall file in the case record any public comments it receives.
12. Parties filing comments or participating in settlement discussions are directed to formally address the public interest aspects of the Company's proposal, and the proposal's compliance with all relevant statutes. Parties are specifically directed to address, at a minimum, the 11 issues identified in pages 6 – 9 of the Commission staff's September 25, 2014, Briefing Papers (Appendix B).

13. The Commission delegates to the Executive Secretary authority to handle further procedural issues.
14. The Commission hereby convenes a settlement conference and directs the parties to conduct initial discussions within 10 days of the date of this Order. Parties shall submit any resulting settlement agreement by December 19, 2014.
15. Frontier shall submit a written progress report regarding the status of settlement discussions on November 10 and November 28, 2014.
16. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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APPENDIX A



STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

Declaration of Interest

In the Matter of a Petition by Frontier Communications of Minnesota, Inc. for Approval of its Revised Alternative Regulation (AFOR) Plan, Docket No. P405/AR-14-735

_____ Please **keep** me on the mailing list for the above captioned matter

Print First and Last Names here: _____

Print Company Name here: _____

Print Office Address here: _____

Print Telephone Number here: _____

Print E-mail Address here: _____

By signing below, I accept electronic service as legal service at the email address provided above.

Signature

Date

Complete, sign and [eFile](#)

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APPENDIX B

Based on limited review, important issues raised in Frontier's proposal requiring further record development by the parties include:

1. Frontier's proposal to add broadband services to the list of services classified as non-telephone services, as included under the following section.
 - Section IV. Classification, Rates and Prices for Retail Services
 - A. General Provisions
 1. Initial Classification.
 -
 - b. All services offered by Frontier which are not telephone services and/or are not subject to regulation by the Commission are not subject to regulation under this Plan. Such services include, but not limited to radio common carrier services, customer premises equipment, billing and collection services, inside wiring, broadband services, and services tariffed in the Federal jurisdiction. Nothing in this Plan adds to or reduces in any way the authority of the Minnesota Public Utilities Commission, the Department of Commerce or the Office of the Attorney General.

Frontier's proposal seeks to limit or preclude Commission authority regarding any service utilizing broadband technology. Staff notes that Chapter 237 of the Minnesota Statutes establishes an ongoing Commission role regarding broadband. Parties should formally address whether this case is the appropriate venue, and if so, whether the technology used to provide a service should be used as a basis for the regulatory classification or treatment of a service.

2. There are concerns about how Frontier classifies certain services.

Frontier classifies specific telephone services as price-regulated, flexibly priced and nonprice-regulated listed in Appendix A, Schedules 1, 2 and 3 respectively.

The list of price-regulated services is identical to the list in the Current AFOR Plan.

There are changes in the flexibly priced list. For example, the Facility Charges for New Residential Development Areas has been removed. In its stead, Line Extension Charges and Business Traffic Study Services are now added. Staff notes that there is an outstanding customer complaint for Frontier assessment of construction or Line Extension charges currently tariffed as flexibly priced service. Frontier proposes to charge the new customer thousands of dollars for the installation of telephone service where the next door neighbor already has telephone service. The complaint raises issues on the appropriateness of this service classification in light of Minn. Stat. §237.06 which provides that every telephone company has a duty to furnish reasonably adequate service at fair and reasonable rates and charges.

Also, in Docket P405/AM-14-604, Frontier proposes to classify Emergency Connect 911 Only Service as flexibly priced. That classification is disputed by the Department of

Commerce since 911 Emergency Services is specifically listed as a price-regulated service under Minn. Stat. § 237.761 (3)(8).

These examples indicate a need to review Frontier's classification of services and the effect on how these services are regulated in accordance with the AFOR and other relevant statutes.

3. The following provision is carried over from the Current Plan, giving the Commission one hundred twenty (120) days to make a final determination if an objection is filed on the classification of new services. This is not consistent with Minn. Stat. 237.761, Subd. 7 which requires the Commission to determine the classification of a service, if no objection is filed, within ninety (90) days of filing.
- Section IV. Classification, Rates and Prices for Retail Services
 - A. General Provisions
 2. The Introduction of New Services
 - b. Classification
.....If the Commission does not act within one-hundred-twenty (120) days, the classification is approved as filed.

Staff notes however, that the Commission may consider the classification of a service at any time under Minn. Stat. §237.081.

4. Frontier wants the ability to increase rates for price-regulated services.

The AFOR statutes generally prohibit any price increase for the recurring and nonrecurring rates for price-regulated services (Minn. Stat. 237.762, subd. 1), but allow very limited scenarios where rates can be raised above the Regulated Price, which is the price of a price-regulated service on the effective date of the Plan. Subd. 3 of Minn. Stat. 237.762 provides that.....Except as provided in paragraph (b), the rates or prices may not exceed the initial rates or prices for the service determined under subdivision 1 for the first three years of the plan.Said paragraph (b) provides "An approved plan may allow changes in rates for price-regulated services after two years to reflect:

- (1) Changes in state and federal taxes;
- (2) Changes in jurisdictional allocations from the Federal Communications Commission, the amount of which the telephone company cannot control and for which equal and opposite exogenous changes are made on the federal level; and
- (3) Substantial financial impacts of investments in telecommunications infrastructure which are made: (i) if the investments, for any 12-month period, exceed 20 percent of the gross plant investment of the company, or (ii) the result of government mandates to construct specific telephone infrastructure, the mandate applies to local telephone companies, and the company would not otherwise be compensated through some other manner under the plan.

Frontier proposes to increase prices for one-party basic local and business services, as proposed in the following section:

- Section IV. Classification, Rates and Prices for Retail Services
 - B. Price-Regulated Services
 - a. Price Caps for Certain Price-Regulated Services
 -After the first year of the Plan Frontier may increase the monthly rate for one-party basic local residential services (R1) and one-party basic business service (B1) up to a total of \$2 over the remaining term of the Plan and Frontier may increase the installation and service restoration charges associated with these services up to \$2 over the remaining term of the Plan.
- 5. Frontier proposes to delete the provision predicated any increase in rates of price regulated service on a demonstration of substantial compliance with service quality standards in Section IV. B.c.”Frontier may not increase the price of a price-regulated service if it has not demonstrated substantial compliance with the quality of service standards set forth in the plan.”
- 6. Frontier deletes the following provision relating to outstate/metro rate parity in Section IV. B.a.”If Frontier implements the optional rates increases in Year 3 of the Plan, Frontier will not increase the outstate prices for one-party basic local residential service by more than it increases the metro price of one-party basic local residential service.”
- 7. Under Service Quality, the Plan in Section V. A. states that Frontier is governed by the Commission’s service quality standards, appearing in Chapter 7810 of the Commission’s Rules. Frontier is not clear about the impact of the open Rulemaking docket on Possible Changes to Minn. Rule Chapter 7810 on its Service Quality Plan.
- 8. Under Service Quality in Section V. A., Frontier deletes the section pertaining to Substantial Compliance as referred to in Minn. Stat. 237.765(a)(1) and stated in the Current Plan as

Appendix B, Section C. “Substantial Compliance with retail service quality standards is satisfied if Frontier meets 6 out of 7 of its individual service quality standards per year.”
- 9. Under Service Quality in Section V. A., Frontier removes provisions for measuring and reporting metric standards, referenced in Minn. Stat. 237.765 (a)(3) and as provided in the Current Plan as

Appendix B, Section D: Annual Service Quality Reports

“Frontier shall report annually to the Commission, the Department, and the OAG its performance in meeting the quality of service standards for the previous year. The filing will include monthly results on an exchanges basis for the Installation Interval, Restoration of Out of Service, POTS Repeat Trouble Report Rate, and POTS Missed

Repair Commitment measures. For other measures, monthly results will be provided on a state-wide basis.

10. Minn. Stat. 237.765 (a)(2) provides certain specific service quality metrics (e.g., Held Orders, Trouble Rates, etc.). The Proposed Plan's provision under Service Quality does not contain these specific metrics.
11. Frontier's Investment Plan in Section VI needs to be reviewed as to whether it satisfies Minn. Stat. 237.761, Subd. 8.

At a minimum, parties should address the public interest aspects of the Company's proposal, including the proposal's compliance with all relevant statutes. More specifically, the parties should address the 11 issues discussed above, in substantial detail, in their filed Comments or Settlement. This will provide a sound record basis to inform the Commission's decision regarding any new AFOR plan for the Company.

Recommended Review Procedures

The AFOR statutes, the Current AFOR Plan, and Commission practice provide guidance on how the Commission should proceed to review the proposed new plan. The procedural items presented here reflect the dual track for review of an AFOR Plan filing, allowing for both a) an expedited proceeding under Minn. Stat. §237.61 pursuant to Minn. Stat. §237.769, and b) a settlement process under Minn. Stat. §237.764, subd. 2.

Attachment A contains a summary of Staff's recommended timeline for the milestones of the case.

A. Notices, Service List, and Intervention

Staff proposes that the Commission direct the Company to post its AFOR filing, any public meetings determined by the Commission, and the case timetable and any other pertinent information at its website (URL to be determined by Frontier) within 5 days of the Commission Order. The website shall include a feature permitting interested persons to ask questions and submit comments about the proposed Plan. This will provide interested people the information necessary to be informed about and participate in the ensuing discussion about the proposed AFOR Plan.

Staff proposes that the Commission serve the Order on all persons on the service list developed in Frontier's last AFOR proceeding in Docket No. P405/AR-11-562, *In the Matter of a Petition by Frontier Communications of Minnesota's Proposal to Join an Existing AFOR Plan of its Corporate Affiliate Citizens Telecommunications of Minnesota*. The Order shall require any person who wishes to be on the service list for this proceeding to file a Declaration of Interest (Form attached as Attachment B), within 20 days of the date of the Order.