

February 28, 2018

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

RE: **In the Matter of Frontier Communications of Minnesota, Inc. Election of Small Company  
Alternative Form of Regulation Pursuant to Minnesota Statute § 237.773, Subdivision 2.**  
Docket No. P405/AR-16-696

Dear Mr. Wolf:

Attached are the second set of Supplemental Comments of the Minnesota Department of Commerce regarding Frontier Communications of Minnesota, Inc.'s election to be regulated as a small telephone company pursuant to Minnesota Statute § 237.773.

Sincerely,

/s/ BONNIE JOHNSON  
Telecommunications Analyst

BJ/ja  
Attachment



## Before the Minnesota Public Utilities Commission

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### Comments of the Minnesota Department of Commerce

Docket No. P405/AR-16-696

#### I. BACKGROUND

On February 23, 2015, the Minnesota Public Utilities Commission (Commission) issued an order approving the Alternative Form of Regulation Plan (AFOR) of Frontier Communications of Minnesota, Inc. (Frontier), in Docket No. P-405/AR-14-735. The Frontier AFOR has a duration of three years and will expire on March 1, 2018.

On August 19, 2016, Frontier filed a notice to inform the Commission of its election to be regulated as a small company pursuant to Minnesota Statute § 237.773.

On September 8, 2016, the Department of Commerce (Department) filed comments recommending that the Commission consider whether it is permissible for Frontier to be subject to the provisions of the small company AFOR statute prior to the expiration of its “large” company AFOR. The Commission took no action on Frontier’s election.

On August 1, 2017, Frontier filed a letter in Docket No. P-405/AR-14-735 advising the Commission that it is allowing its large company AFOR plan to expire on March 1, 2018 and upon its expiration, Frontier will be regulated under the small telephone company alternative regulation provisions of Minnesota Statute § 237.773.

On August 29, 2017, the Department filed Supplemental Comments asking the Commission to consider whether Frontier’s election to be subject to the small company AFOR statute is permissible, while it continues to operate under a large company AFOR.

On September 18, 2017, Frontier filed a reply stating that the statute does not provide for any Commission action in response to a small company’s election. Frontier also stated that the Department’s August 29, 2017 concerns are groundless and the Commission should not consider them.

On February 7, 2018, the Commission opened an investigation entitled *In the Matter of a Commission Inquiry into the Service Quality, Customer Service, and Billing Practices of Frontier Communications*. Docket No. P405, P407/CI-18-122 was assigned.

On February 12, 2018, the Commission issued a notice in Docket No. P405, P407/CI-18-122 requesting comments. The notice stated:

Between January 2017 and January 2018, the Minnesota Public Utilities Commission's Consumer Affairs Office (CAO) received a large volume of complaints related to the service quality, customer service, and billing practices of Frontier Communications. After attempts to mediate these complaints, many of them remain unresolved.

## II. LEGAL REFERENCES

Minnesota Statute § 237.766 subdivision 1, entitled “[p]lan duration,” states that an approved AFOR plan “must remain in force as approved for the term specified in the plan, which must be for no less than three years” and “within six months prior to the termination of the plan the company shall give notice that it will propose a new plan.”

Minnesota Statute § 237.76 states: “[t]he purpose of an alternative regulation plan is to provide a telephone company's customers with service of a quality consistent with commission rules at affordable rates, to facilitate the development of telecommunications alternatives for customers, and to provide, where appropriate, a regulatory environment with greater flexibility than is available under traditional rate-of-return regulation as reflected in other provisions of this chapter.”

Minnesota Statute § 237.773 enables a company with fewer than 50,000 subscribers to elect to be subject to the provisions of the small company AFOR statutes without any action by the Commission under certain conditions.

Specifically, Minnesota Statute § 237.773, Subdivision 2 states in part:

A local telephone company with fewer than 50,000 subscribers may elect to become a small telephone company by notice to the commission, in writing, of its decision.

Minnesota Statute § 237.773, Subdivision 2, however, goes on to state:

If, before electing under this subdivision, a small telephone company has been found by the Commission to have significant quality of service problems in violation of applicable commission

rules, that company must either resolve the quality of service problems or develop a plan to resolve the quality of service problems in conformance with Minnesota Statute § 237.765. The quality of service plan must be approved by the commission in order for an election under this subdivision to be effective. The commission shall make a determination on the quality of service plan within 60 days after it is submitted.

### **III. ANALYSIS**

The Department observes that, under the provisions of Minnesota Statute § 237.773, Subdivision 2, the remedies available to the Commission on the service quality investigation may be affected by the date Frontier is determined to be operating under a small company AFOR.

In its August 29, 2017 Supplemental Comments, the Department stated that the language of Minnesota Statute § 237.76 appears to support the conclusion that a telephone company can operate under only one AFOR plan at a time. If the Commission agrees the earliest date Frontier can make its election of the small company AFOR is March 1, 2018, when Frontier's large company AFOR expires, the Commission's investigation into Frontier's service quality would have been initiated before Frontier's election to a small company AFOR plan.

If instead Frontier's election of the small company AFOR is determined by the Commission to be August 1, 2016, when Frontier filed the letter electing to be under a small company AFOR, then the Commission's investigation into Frontier's service quality would have been initiated long after Frontier was under a small company AFOR plan.

### **IV. CONCLUSION**

In light of its recent Inquiry into the service quality, customer service, and billing practices of Frontier Communications, the Commission may wish to make a determination on the effective date of the small company AFOR election by Frontier. If the inquiry in Docket No. P405, P407/CI-18-122 preceded the effective date of the small company AFOR election, the statute provides for a quality of service plan to be developed, if the Commission deems such action to be appropriate.

/ja

## **CERTIFICATE OF SERVICE**

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

**Minnesota Department of Commerce  
Second Set of Supplemental Comments**

**Docket No. P405/AR-16-696**

**Dated this 28<sup>th</sup> day of February 2018**

**/s/Sharon Ferguson**

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Scott	Bohler	scott.bohler@ftr.com	Frontier Communications Corporation	2378 Wilshire Blvd  Mound, MN 55364-1652	Electronic Service	No	OFF_SL_16-696_AR-16-696
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_16-696_AR-16-696
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_16-696_AR-16-696
Ian	Dobson	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_16-696_AR-16-696
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_16-696_AR-16-696