



# STATE OF MINNESOTA

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January 4, 2019

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place E, Ste. 350  
St. Paul, MN 55101

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

Dear Mr. Wolf:

Attached is the Department of Commerce's report following its investigation of Frontier Communications' service quality, customer service, and billing practices, as requested in the Commission's April 26, 2018 Order Initiating Investigation and Referring Matter for Public Hearings. The report contains the Department's findings as of this time and recommendations, as the Commission requested.

Sincerely,

*/s/ Linda S. Jensen*

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Enclosures  
cc: Service list

**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION  
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Chair  
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Commissioner  
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Commissioner

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

**REPORT OF THE MINNESOTA DEPARTMENT OF COMMERCE**

Dated: January 4, 2019

Respectfully Submitted.

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**Comments of the Minnesota Department of Commerce**  
***On its Investigation into Frontier Communications Service Quality, Customer Service, and***  
***Billing Practices, MPUC Docket No. P407, 405/C-18-122***

**I. EXECUTIVE SUMMARY**

At the request<sup>1</sup> of the Minnesota Public Utilities Commission (Commission), the Minnesota Department of Commerce (Department) investigated complaints and concerns shared by Minnesota consumers who rely on Frontier Communications of Minnesota, Inc. and Citizens Telecommunications of MN, LLC (collectively referred to as “Frontier”).<sup>2</sup> Frontier customers filed complaints with the Commission, provided statements at seven public hearings on the Commission’s Speak Up comment forum, and sought assistance from other regulatory agencies, including the Department, the Federal Communications Commission (FCC), and the Minnesota Attorney General.

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.
  - o 250 reports that concern only phone service.
  - o 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.

As with almost all complaints to regulatory agencies, the number of customers who took the time to attend a public hearing, write a public comment, or to report their concerns to a government agency by filing a complaint is likely to be a fraction of the customers with similar experiences.

The written reports by Frontier’s Minnesota customers, including many with careful documentation, are extremely helpful for illuminating the Frontier customer experience. All of this documentation is an invaluable tool to assist the Commission in understanding the problems, so that proper remedies can be implemented. The oral public hearing testimony also provided a compelling sampling<sup>3</sup> of Frontier customers’ experiences. Further, customers across

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<sup>1</sup> PUC Docket No.: P407,405/CI-18-122, Notice Requesting Comments on Frontier Communications’ Service Quality, Customer Service, and Billing Practices, issued Feb. 12, 2018.

<sup>2</sup> Frontier Communications of Minnesota, Inc. and Citizens Telecommunications of MN, LLC are affiliated operating entities, each have a certificate of authority to operate in Minnesota, doing business as “Frontier.” In these comments, the Department will use “Frontier” when referring to both entities, and will use “Frontier Communications” and “Citizens” when referring to the individual operating entity.

<sup>3</sup> As the Commission was clear in its order, the seven hearings were not intended to comprehensively examine all Minnesotans concerns regarding Frontier, but to provide a reasonable sampling or cross-section from Frontier’s various service areas.

almost all areas of the State have filed comments and complaints. Thus, the Commission has some assurance that these reports are a fair indication of the range of problems occurring across all parts of Frontier's service area.

Minnesota consumers, whether urban or rural, should receive adequate service that complies with all rules and regulations. The Commission has both the responsibility and the authority to ensure Minnesota consumers are served by a company that operates within the law and the Commission's service quality rules. As the Commission carries out its regulatory duties with respect to telecommunications service, the Commission also must consider how to encourage the efficient deployment of broadband service offerings. Internet service does not have the detailed consumer protections that are available with telecommunications services, as provided for in the Commission's rules. But, as these comments illustrate, the Commission does have some legal responsibilities and oversight pertaining to the provision of broadband internet service. The telecommunications goals and broadband goals in Minnesota Statutes, Chapter 237, make it clear that the Commission has some responsibility for what is transpiring in the State with both telecommunications and broadband internet services.

From the Department's review of the approximately one thousand customer complaints, it appears that Frontier has been violating at least 35 separate laws and rules that the Commission has clear authority to enforce through this regulatory proceeding. In addition, the Minnesota legislature has provided a clear set of remedies to curb misconduct of rogue companies, ones who routinely, knowingly disregard the law and jeopardize the lives and well-being of Minnesotans, including hefty civil penalties and criminal prosecutions. (Minnesota Statutes sections 237.081 and 237.46).

The findings of this investigation detail an extraordinary situation, where customers have suffered with outages of months, or more, when the law requires telephone utilities to make all reasonable efforts to prevent interruptions of service. When interruptions occur, telephone utilities are to restore service "with the shortest possible delay."<sup>4</sup> Frontier customers with these outages include those with family members with urgent medical needs, such as pacemakers monitored by their medical teams via the customer's landline. The alternatives and corrective measures available to the Commission all merit consideration. Where the Commission believes it lacks authority to correct problems that clearly exist, it may take steps to guide a problematic issue toward a resolution.

The degradation of Frontier's operations in Minnesota, while it was operating under an Alternative Form of Regulation (AFOR) plan, cannot quickly, or easily, be resolved. Not only are there large numbers of serious violations, they are interrelated. For example, the Commission's rules require regulated utilities to maintain accurate records, but Frontier customers repeatedly reported that their "trouble" reports had become, mysteriously, "lost." These Comments discuss Frontier's recordkeeping, which appears to have become so deficient that, for some critically important data, such as data on duration of outages, the Company's records cannot be

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<sup>4</sup> Minn. R. 7810.5800.

relied upon by Frontier’s executives or the Commission to know if the company is meeting its performance obligations or not. As discussed in these Comments, it will take significant, multi-step actions by the Commission to set Frontier on a path to reach an acceptable level of performance, and any actions ordered by the Commission will need verifiable methods to ensure compliance. Further, additional problems may be uncovered during the remainder of the current investigation or during the compliance process. The Department recommends in these Comments that the Commission not rely on data from Frontier’s records, unless a Frontier executive officer confirms the accuracy of that data.

## **II. INTRODUCTION**

This investigative report is to inform the Commission on the nature and scope of complaints, legal requirements, and potential remedies. To this end, the Department’s Comments categorize subscribers’ concerns by rule violation, identify applicable legal requirements, provide some examples of customer complaints in each category (for perspective on how Frontier’s conduct affects subscribers), and recommend actions the Commission may wish to order. For each of the over 35 laws and rules Frontier has violated or appears to have violated, these Comments offer recommendations that the Commission may order.<sup>5</sup> The Commission has a number of actions and corrective measures available to it: If the record shows a clear violation of a statute or regulation, the Commission should find that there has been a violation. Alternatively, if it appears that there has been a violation, but some ambiguity exists, the Commission may ask Frontier to show why the Commission should not find that there has been a violation, affording Frontier an opportunity to clarify the record, or the Commission may order an accounting or other information to clarify the ambiguity. If the Commission chooses to pursue penalties as a remedy, the Commission may need more information to determine the number of instances of a violation. In other matters, customer refunds may be warranted. The Company may need to send customers notice for either educational purposes, or to ensure customers know they are to receive a bill credit or refund. For most actions the Commission orders Frontier to undertake, a filing demonstrating compliance will be needed.

These Comments have several attachments. The largest are Attachments 1 and 2. Attachment 1 is the customer’s complete statement and documents, if any, for each example discussed in these Comments. These documents are in alphabetical order, based on the last name of the customer, and include only documents that are public. Attachment 2 provides Frontier’s responses to the Department information requests (DOC IRs) cited in these Comments, in numeric order.

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<sup>5</sup> Because over 35 statute and rule violations are addressed in these Comments, each with specific recommendations for corrective action, the recommendations are not repeated and summarized at the end of these Comments.

### III. BACKGROUND

On February 12, 2018, the Commission issued a Notice requesting comments on Frontier's service quality, customer service, and billing practices. In its Notice, the Commission stated that it had received a large number of subscriber complaints concerning Frontier Communications between January 2017 and January 2018. After it attempted to mediate these complaints, the Commission's Consumer Affairs Office (CAO) indicated that many remained unresolved.

In its April 26, 2018 Order, the Commission requested that the Department file a report within 90 days of the last public hearing conducted in this docket on the Department's findings, with responses of Frontier and other interested parties due 30 days after the Department's report.<sup>6</sup> The Order directed the Office of Administrative Hearings (OAH) to conduct a series of public hearings at locations across Frontier's service area.

Seven public hearings were held in five Minnesota communities between September 4, 2018 and September 26, 2018.<sup>7</sup>

On November 16, 2018, Administrative Law Judge (ALJ) Jeffery Oxley, who conducted the public hearings, filed a report summarizing the complaints of those consumers attending the public hearings. As Frontier has service territory throughout the state, the hearings were a considerable distance away for many consumers. Nevertheless, many customers did travel significant distances to tell of their personal experiences with Frontier, and to seek help in resolving their complaints.

The ALJ Report provides groupings of complaints, similar to what the Department does in these comments. The ALJ makes it clear that simply sharing the number of customers that have experienced a similar problem fails to convey the overall customer experience. The ALJ supports the Commission reading the evidence provided by consumers to give the Commission a better appreciation of the customer experience and how the lives of the individuals, families, small businesses and entire communities have, and continue to be, negatively affected by Frontier's conduct. The Department agrees that it is beneficial to read all of the complaints submitted to understand the customer experience. Given the large volume of complaints, a significant amount of time is required to do so. While each customer with service issues needs attention, the sampling of complaints examined in these Comments (and included in Attachment A), show the impact that Frontier's violations have on Minnesotans, and identify the systemic problems the Commission should address.

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<sup>6</sup> The Department's report was due on December 25, 2018. On December 19, 2018, the Department provided a letter to the Commission that it anticipated filing its comments no later than January 4, 2019.

<sup>7</sup> Hearings were held in the evenings in Ely on September 4, 2018, McGregor on September 5, 2018, and Wyoming on September 12, 2018. Hearings were held in both the afternoon and evenings in Slayton on September 25, 2018 and in Lakeville on September 26, 2018.



#### **IV. LEGAL REFERENCES**

The following statutes, rules, and regulatory requirements all appear to apply to the complaints raised by consumers. The text of each of these requirements will not be provided in this section, but are provided in greater detail when discussed later in these Comments. Also, to the extent that there are other regulatory requirements that have not been identified here, the requirement has no less effect and does not impact the ability of the requirement to be enforced.

##### **A. Minnesota Statutes**

1. Minn. Stat. § 216A.07 Commissioner Powers and Duties
2. Minn. Stat. § 216B. Public Utilities
3. Minn. Stat. § 237.11 Telecommunications Goals
4. Minn. Stat. § 237.012 Broadband Goals
5. Minn. Stat. § 237.06 Rates and Deposits
6. Minn. Stat. § 237.081 Investigation
7. Minn. Stat. § 237.082 Telecommunications Rate and Service Goals
8. Minn. Stat. § 237.09 Discrimination Prohibited
9. Minn. Stat. § 237.11 Inspecting Records and Property; Reports Required
10. Minn. Stat. § 237.121 Prohibited Practices
11. Minn. Stat. § 237.15 Investigation and Hearing; Authority Delegated
12. Minn. Stat. § 237.16 Local Exchange Competition, Rules
13. Minn. Stat. § 237.27 Attorney General to Compel Obedience
14. Minn. Stat. § 237.28 Burden of Proof
15. Minn. Stat. § 237.435 Annual Universal Service Funding Certification
16. Minn. Stat. § 237.46 Gross Misdemeanor violation
17. Minn. Stat. § 237.461 Enforcement
18. Minn. Stat. § 237.56 Adequate Service Enforcement
19. Minn. Stat. § 237.60 Discriminatory Practices; Service Costs
20. Minn. Stat. § 237.66 Disclosure of Local Service Options
21. Minn. Stat. § 237.663 Loading
22. Minn. Stat. § 237.76 Alternative Regulation Plan; Purpose
23. Minn. Stat. § 237.761 Alternative Regulation Plan; Service
24. Minn. Stat. § 237.762 Alternative Regulation Plan Rate, Price
25. Minn. Stat. § 237.765 Quality of Service
26. Minn. Stat. 237.773 Alternative Regulation for Small Telephone Company

##### **B. Minnesota Administrative Rules**

1. MR 7810.0400 Retention of Records
2. MR 7810.0600 Report to Commission on Service Disruption
3. MR 7810.1000 Information Available to Customer and Public

4. MR 7810.1100 Complaint Procedures
5. MR 7810.1200 Record of Complaint
6. MR 7810.1400 Customer Billing
7. MR 7810.1600 Deposit
8. MR 7810.2200 Reconnection of Service
9. MR 7810.2300 Notice Requirements
10. MR 7810.2400 Bill Disputes
11. MR 7810.2500 Escrow Process
12. MR 7810.2800 Delay in Initial Service or Upgrade
13. MR 7810.3200 Construction of Telephone Plant
14. MR 7810.3300 Maintenance of Plant and Equipment
15. MR 7810.3900 Emergency Operations
16. MR 7810.4900 Adequacy of Service
17. MR 7810.5000 Utility Obligations
18. MR 7810.5100 Telephone Operators
19. MR 7810.5200 Answering Time
20. MR 7810.5500 Transmission Requirements
21. MR 7810.5800 Interruptions of Service
22. MR 7810.5900 Customer Trouble Reports
23. MR 7810.6000 Protective Measures
24. MR 7810.8600 Notice

**C. Alternative Form of Regulation (AFOR) Regulatory Scheme**

- a. Frontier:
  - i. Large company AFOR plan expired on March 1, 2018. This AFOR plan provided for customer relief if Frontier failed to meet specified service quality standards.
  - ii. Frontier elected to be subject to a small company AFOR, provided for in Minn. Stat. § 237.773, upon the expiration of its large company AFOR plan.
- b. Citizens:
  - i. Large company AFOR expired on October 31, 2018. Similar to the Frontier operating company, the plan specified service quality standards with customer remedies.
  - ii. Notice filed on November 15, 2018 electing to be subject to a small company AFOR, provided for in Minn. Stat. § 237.773.

**D. Carrier of Last Resort**

Minn. R. 7810.5000 states:

Each telephone utility shall provide telephone service to the public in its service area in accordance with its rules and tariffs on file with

the commission. Such service shall meet or exceed the standards set forth in this chapter. Each telephone utility has the obligation of continually reviewing its operations to assure the furnishing of adequate service. Each telephone utility shall maintain records of its operations in sufficient detail as is necessary to permit such review and such records shall be made available for inspection by the commission upon request at any time within the period prescribed for retention of such records. Each utility shall make measurements to determine the level of service for each item included in these rules. Each utility shall provide the commission or its staff with the measurements and summaries thereof for any of the items included herein on request of the commission or its staff. Records of these measurements and summaries shall be retained by the utility as specified by the commission.

#### **E. Eligible Telecommunications Carrier (ETC)**

Frontier is an ETC as defined in Title 47 of the Code of Federal Regulations, Part 54. As an ETC Frontier is eligible to receive federal funds to support provision of service in high cost areas and participate in other federal programs, including Lifeline. On June 15, 2015, Frontier accepted the model-based support offer of \$27,551,363 from the federal government to serve 46,910 homes and businesses in the Citizens operating territory.<sup>8</sup> As of December 1, 2018, the minimum service standard was a speed of 18 Mbps downstream/2 Mbps upstream for the Lifeline program.<sup>9</sup> The minimum service standard for CAF II funding is 10/1 Mbps.<sup>10</sup> In setting the requirements to participate in the Connect America Fund (CAF), the FCC required: “Each Connect America Fund support recipient must offer voice as a standalone service, but may separately bundle its broadband offerings with a voice service.”<sup>11</sup>

The Commission annually certifies ETCs’ use of federal universal service support.<sup>12</sup> There were allegations raised by consumers that Frontier insufficiently invests in, and maintains its network in, Minnesota. Therefore, the Department’s September 10, 2018 comments in the ETC recertification Docket recommended that the Commission may wish to study Frontier’s use of federal funds in more depth in the 18-122 investigation. The Department also recommended that the Commission approve Frontier’s ETC recertification because, at this time, denying Frontier the federal funds it is scheduled to receive could have negative consequences for Minnesota consumers.

47 U.S.C. § 54.101 (b) states: “an eligible telecommunications carrier must offer voice telephony as set forth in paragraph (a) of this section in order to receive federal universal

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<sup>8</sup> <https://docs.fcc.gov/public/attachments/DA-15-707A1.pdf>

<sup>9</sup> <https://www.usac.org/li/program-requirements/lifeline-broadband.aspx>

<sup>10</sup> <https://docs.fcc.gov/public/attachments/FCC-14-190A1.pdf>

<sup>11</sup> USF/ICC Transformation Order, 26 FCC Rcd at 17693, para. 80.

<sup>12</sup> The 2018 certification was Docket No. P999/PR-18-08.

service support.” Part (a) requires voice grade access to the public switched network or its functional equivalent.

47 U.S.C. § 54.201 states in part:

(d) A common carrier designated as an ETC under this section shall be eligible to receive universal service support in accordance with section 254 of the Act and shall, throughout the service area for which the designation is received:

(1) Offer the services that are supported by federal universal service support mechanisms under subpart B of this part and section 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier); and

(2) Advertise the availability of such services and the charges therefore using media of general distribution.

47 U.S.C. § 54.203 states in part:

If no common carrier will provide the services that are supported by federal universal service support mechanisms under section 254(c) of the Act and subpart B of this part to an unserved community or any portion thereof that requests such service, the Commission, with respect to interstate services, or a state commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof.

Minn. R. 7811.1400 and 7812.1400, subp. 13 state:

The commission may order an LSP [Local Service Provider] to provide the services that are supported by a federal universal service support mechanism to an otherwise unserved area only as provided in section 102(a) of the act and consistent with Minnesota Statutes, secs. 237.081 and 237.16.

Minn. R. 7811.0600, subp. 4, and 7812.0600, subp. 4 state:

An LSP designated an ETC by the commission must provide local service, including, if necessary, facilities-based service, to all requesting customers within the carrier's service area on a nondiscriminatory basis, regardless of a customer's proximity to the carrier's facilities. An LSP may assess special construction charges approved by the commission if existing facilities are not available to serve the customer.

Congress, in 47 USC § 214 (e), requires as a precondition to assessing FCC high cost or Lifeline support subsidies, that providers be designated ETCs by a state commission. Telecommunications carriers are defined by 47 USC § 153 (51) as "any provider of telecommunications services [and a] telecommunications carrier shall be treated as a common carrier . . . only to the extent that it is engaged in telecommunications services."

In its October 31, 2005 *Order Adopting FCC Requirements for Designating Eligible Telecommunications Carriers, As Modified*, Docket P999/M-05-1169, the Commission ordered:

After the date of this Order, petitioners to the Commission to be designated an eligible telecommunications carrier under 47 U.S.C. § 214(e)(2) must

- (1) (A) Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. Each applicant shall certify that it (1) provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and (2) provide service within a reasonable period of time, if the potential customer is with the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by (a) modifying or replacing the requesting customer's equipment; (b) deploying a roof-mounted antenna or other equipment; (c) adjusting the nearest cell tower; (d) adjusting network or customer facilities; (e) reselling services from another carrier's facilities to provide service; or (f) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment . . .

## **V. ANALYSIS OF FRONTIER'S SERVICE COMPLAINTS**

As part of the Department's investigation, it reviewed public comments, public testimony, and complaints to regulatory agencies from Frontier's Minnesota customers. These customers reported a broad range of issues concerning Frontier's service quality, ranging from months long outages to long wait times to speak with customer service representatives. Many customers reported several issues that occurred over long spans of time. Many of the issues reported by consumers show direct violations of Minnesota law and Commission rules, and indicate broad, systemic problems with Frontier's service quality, recordkeeping, and business operations. The below analysis reviews each of the complaint types that the Department tracked through the information shared by consumers.

### **A. ENGINEERING/SAFETY. Physical plant problems.**

Consumer reports, news stories,<sup>13</sup> and the Department's investigation have revealed deficiencies in Frontier's outside plant resulting from Frontier's failure to keep its plant and equipment in a good state of repair. Consumers reported broken pedestals, unburied lines, and other damaged or deteriorated plant and equipment laying out in the open. Consumers also voiced concerns regarding Frontier's ability to respond adequately to emergencies and outages following storms. The Department's investigation concludes that Frontier's failure to maintain its plant and provide reasonable responses to outages following storms or other acts of God, results in violations of several Commission rules, fails to provide safe and adequate service to many consumers, and presents safety hazards to the public at large.

### **B. CONSTRUCTION AND MAINTENANCE. Telephone Plant and Equipment is Inadequate and Appears Unsafe.**

Consumers reported many instances of staggering deficiencies in Frontier's outside plant and its failure to repair reported damage or other problems with cable, poles, pedestals, and other infrastructure. Consumer comments raise serious concerns about the safety and adequacy of Frontier's plant and about Frontier's ability to maintain reliable service, given these physical deficiencies.

Several of Minnesota Rules require telephone utilities to maintain plant and equipment "in good state of repair consistent with safety and adequate service performance."<sup>14</sup>

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<sup>13</sup> Attachment 4 - Mark Steil, *Southern Minn. Towns Fed Up with Telecom Service*, MPRNews (Oct. 1, 2018), available at <https://www.mprnews.org/story/2018/10/01/frontier-investigation> (hereinafter MPR News Story). See also Kyle Kuphal, *Public Hearings Taking Comments on Frontier Communications*, Pipestone County Star (Sept. 11, 2018), available at <https://www.pipestonestar.com/articles/public-hearings-taking-comments-on-frontier-communications/>

<sup>14</sup> Minn. R. 7810.3300: "Each telephone utility shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe and adequate service. Maintenance shall include keeping all plant and equipment in good state of repair consistent with safety and adequate service

Particularly, “Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced.”<sup>15</sup> “Electrical faults such as leakage or poor insulation, noise, induction, cross talk, or poor transmission characteristics, shall be corrected to the extent practicable within the design capability of the plant affected.”<sup>16</sup> In addition, telephone utilities are obligated to “employ reasonable engineering and administrative procedures to determine the adequacy of service being provided to the customer.”<sup>17</sup> Construction of the telephone utility plant is subject to the provisions of the current National Electric Safety Code.<sup>18</sup>

Frontier also made investment commitments in the most recent Commission-approved AFOR plans.<sup>19</sup> In identical AFOR plans, for its two operating companies, Frontier represented to the Commission, to secure the Commission’s approval of the AFOR plans as its governing documents, that Frontier was “committed to making the investments necessary to maintain reliable service, consistent with the service quality metrics contained in this plan.”<sup>20</sup> The Company committed to continuing “to invest significant resources to maintain network reliability,” including “deploying backup systems that are designed to detect and repair system problems.” More specifically, the Company represented that “[c]opper network enhancements, fiber optics and associated next generation electronics are expected future investments to establish a future network that will meet the needs of customers.”

Over 85 persons throughout Frontier’s service territory reported concerns regarding deteriorating, damaged, or broken Frontier plant or equipment. 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. Frontier often failed to make repairs for substantial amounts of time despite consumers repeatedly reporting the issues.

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performance. Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced. Adjustable apparatus and equipment shall be readjusted as necessary when found by preventive routines or fault location tests to be in unsatisfactory operating condition. Electrical faults, such as leakage or poor insulation, noise, induction, cross talk, or poor transmission characteristics, shall be corrected to the extent practicable within the design capability of the plant affected.” The telephone plant must also meet “the provisions of the National Electrical Safety Code or such other appropriate regulation as may be prescribed.” Minn. R. 7810.3200 (2017).

<sup>15</sup> Minn. R. 7810.3300.

<sup>16</sup> Minn. R. 7810.3300. *See also* the discussion of Minn. R. 7810.5500, regarding maintenance of transmission facilities, below.

<sup>17</sup> Minn. R. 7810.4900.

<sup>18</sup> Minn. R. 7810.3200.

<sup>19</sup> A separate AFOR plan existed for Frontier Communications of Minnesota, Inc. and Citizens Telecommunications Company of MN, LLC.

<sup>20</sup> Attachment 5 - Frontier AFOR ¶ VI(A); Citizens AFOR ¶ VI(A).

At the Wyoming public hearing, Ms. Sandra Brincefield described how the pedestal near her home had been falling apart for years.<sup>21</sup> After calling four or five times with no result and watching Frontier technicians pass by without fixing the problem, Ms. Brincefield taped up the box herself to prevent bees from making hives in it and to make it easier to mow her lawn.

Mr. and Ms. Ulshafer of Kelsey, MN, reported poor transmission issues with their landline, including crackling and buzzing, in May 18, 2018.<sup>22</sup> Mr. and Ms. Ulshafer submitted photos of four different pedestals along their road showing them knocked over, wires exposed, and submersed in ice.

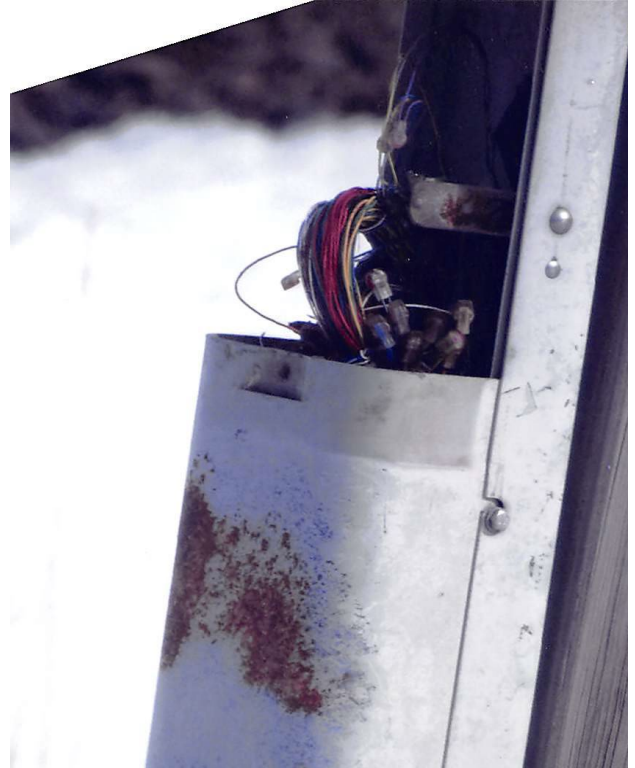


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<sup>21</sup> Attachment 1 - Sandra Brincefield Public Testimony of Sept. 12, 2018 (DOC 3 – 000363 – 000367).

<sup>22</sup> Attachment 1 – Mr. Daryl and Ms. Cindy Ulshafer Public Complaint of May 18, 2018 (DOC 22 – 003120 – 003126). On December 21, 2018, Ms. Cindy Ulshafer authorized the Department to make their complaint public and include it in the Department’s comments.





Also, many consumers reported that Frontier often leaves temporary and other lines above ground for months or years, causing safety hazards, repeat outages, or poor transmission. Consumers reported Frontier running temporary lines running through the woods, over creeks,<sup>23</sup> across decks,<sup>24</sup> on branches, or over a propane gas tank.<sup>25</sup>

Ceylon City Council Member, Mr. John Gibeau reported that the City of Ceylon has experienced numerous issues with deteriorating and damaged Frontier infrastructure, including many lines that are either unburied or not elevated.<sup>26</sup> Mr. Gibeau reported examples of wires laying on the ground for over three years, wires tied to trees instead of suspended on poles, and lines suspended on stakes. Mr. Gibeau reported that despite many contacts and reports to Frontier management, Frontier has failed to address the City's concerns. Mr. Gibeau submitted

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<sup>23</sup> Attachment 1 –Katherine Lahti Public Comment of Feb. 21, 2018 (DOC 06 – 000928).

<sup>24</sup> Ms. L.V. Nonpublic Complaint to Minnesota Attorney General of Aug. 11, 2017 (DOC 23 - 003448 – 003450).

<sup>25</sup> Attachment 4 - MPR News story.

<sup>26</sup> Attachment 1 – John Gibeau Public Testimony of Sept. 25, 2018, and Public Comment of Oct. 1, 2018 (DOC 4 - 000505 – 000513; DOC 11 - 001640 – 001651 (photos)).

several pictures showing damaged or defective lines and pedestals in Ceylon, including the below photos. During its visit to Ceylon, MPR News obtained and published photos showing Frontier Communications' cable laid across a residential propane tank.<sup>27</sup>



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<sup>27</sup> Attachment 1 – John Gibeau Public Comment of Oct. 1, 2018 (DOC 11 - 001640-1651 (photos)). MPR News also ran a story on Frontier's poor infrastructure in Ceylon, Minnesota, which included further photographs of unburied or not elevated line. See Attachment 4 – MPR News Story.



(Image courtesy: Mark Steil, MPR News)

Ms. Alice Lake of Wright, MN, reported that Frontier’s line to service her home lays on the deck of a bridge over the Tamarack River.<sup>28</sup> Ms. Lake reported that the line becomes immersed when the river floods and can remain underwater for days, causing prolonged outages. Ms. Lake submitted several photographs in the public hearing record showing the above-ground line as far back as 2012:

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<sup>28</sup> Attachment 1 - Pub. Hr. Ex. 7; Alice Lake Public Comment of March 20, 2018 (DOC 8 – 001116).



Many consumers were concerned that Frontier’s unburied lines pose a safety hazard. For example, Mr. Richard Lough of Wright observed that the many temporary lines on the ground, hanging on trees, in driveways, and fields pose dangerous risks. “All it would take is a teenage child to go out bird hunting one day and to trip on a line. Just think! The safety should be the #1 concern for Frontier to start getting things done and done right! before any such terrible thing does happen.”<sup>29</sup>

Other consumers reported that Frontier’s persistent reliance on unburied, exposed temporary lines causes repeat outages or transmission issues.<sup>30</sup> For example, Ms. Kari Olson reported that her mother, Ms. Pearl Shirley lives on her farm south of Farmington.<sup>31</sup> Ms. Olson reported that in April, 2018 Frontier replaced a line that was buzzing with a new line that Frontier simply laid on the ground, where it remained as of the date of the Lakeville Public Hearing in September. Ms. Olson reported that in heavy rains the temporary line lost service, causing concern for Ms. Shirley. Ms. Olson reported that Frontier has said it is waiting on a

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<sup>29</sup> Attachment 1 - Richard Lough Public Comment of March 1, 2018 (DOC 7 – 000976 - 000977).

<sup>30</sup> Attachment 1 - Robert and Jamie Lawless Public Comment of Sept. 2018 (DOC 10 – 001397 - 001398). *See also* A.B. Nonpublic Complaint of July 18, 2018 (DOC 21 – 002802). Transmission issues may also be a violation of Minn. R. 7810.5500 (2017), as discussed below.

<sup>31</sup> Attachment 1 – Kari Olson Public Testimony of Sept. 26, 2018 (DOC 5 - 000718 – 000722).

permit from the county, but Ms. Olson stated that the local government agencies have assured her that Frontier does not need a permit because the line is located on private property.

The mid-September, 2018 Speak Up comment of Ms. Jayne Shaffer of LeRoy, Minnesota (DOC 14-001922) stated in part:

The recent and most frustrating issue has been extended periods of time without service. We were out 17 days in July, and then 10 days from August into September. To make a very long story short, *while I explained that a phone line was laying on a sidewalk and boulevard where children ride bikes, my first available service call was over a week away.* When the technician came and restrung the line, our internet worked, but the land line still wasn't functioning.

In addition, customers and other members of the public reported that despite repeated requests to Frontier, temporary lines often remain on the ground for months or years without installation of a permanent buried line. For example, Mr. Harry Tolzman of Lakeville reported that he has had a temporary line to his home for two years.<sup>32</sup> Mr. Tolzman submitted into the public hearing record a response from Frontier after he complained to the FCC.<sup>33</sup> In Frontier's response to the FCC, dated August 16, 2017, Frontier represented to the FCC that it "will be burying the line on August 31, 2017." Mr. Tolzman testified that the line remained unburied as of the Lakeville Public Hearing on September 26, 2018.

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. As subscriber Laura Dunphy observed, "[I]t is like putting a band aid on a severed artery."<sup>34</sup> Most consumers discussing this issue did not fault the technicians, but instead noted that Frontier was not supplying its technicians with appropriate tools or materials.<sup>35</sup>

As Mr. Mark Doffing, President of Local 7270 of the Communication Workers of America (CWA), testified: "Frontier's lack of investment has led to deteriorating plant that is increasingly difficult for our technicians to maintain. As a result, our technicians are forced to jury-rig quick fixes because Frontier won't repair or replace the damaged cables, poles, cabinets, other network infrastructure to ensure that customers receive the reliable, high-quality phone and Internet service that they are paying for."<sup>36</sup> Mr. Doffing observed that because Frontier does not spend funds to adequately repair its aging infrastructure, the quick-fixes that Frontier's

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<sup>32</sup> Attachment 1 - Harry Tolzman Public Testimony of Sept. 26, 2018 (DOC 5 – 000558 - 000562).

<sup>33</sup> Attachment 1 - Pub. Hr. Ex. 28.

<sup>34</sup> Attachment 1 - Ms. Laura Dunphy Public Comment of February 26, 2018 (DOC 7 – 000961).

<sup>35</sup> See also section P5 below (regarding Frontier's failure to restore service as soon as possible appears to be an intentional choice of the company, as seen in Frontier's failure to provide sufficient resources to make compliance possible).

<sup>36</sup> Attachment 1 - Mark Doffing Public Testimony of Sept. 26, 2018 (DOC 5 - 000563 – 000568).

technicians must put together mean that the same issue will need to be addressed again soon. Mr. Doffing stated that low staffing levels have caused each technician to take on more and varied tasks and causes outages to last longer. “It’s a frustration for our members. CWA technicians want to be in a position to provide great service and keep customers satisfied,” said Mr. Doffing.<sup>37</sup>

The Department submitted information requests to Frontier in May regarding how it identifies reports to rehabilitate its plant. Frontier responded that since 2010 it used a Defective Cable Reports (DCR) process to identify and report defective cable issues.<sup>38</sup> Recently, however, Frontier informed the Department that Frontier’s management no longer uses the DCR system, “as it has determined that the system does not adequately track or distribute sufficient detailed information.” “Instead, Frontier’s technicians, managers, and engineering personnel directly review defective plant issues and communicate regarding needed repairs.” Frontier supplied a list of “certain plant repair and rehabilitation projects that have been completed since 2014.”<sup>39</sup> This list identified only \$605,204 in expenditures since 2014. Frontier did not indicate that the list was exhaustive. Further, the Department requested information from Frontier regarding any additional investment made in response to consumer concerns or otherwise, and to supplement this information monthly.<sup>40</sup> Frontier did not provide any information on increased investments in its outside plant or repair equipment or in hiring technicians in its response, and has not provided the requested monthly updates.

## Conclusions

Consumer reports demonstrate 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.

It is reasonable to infer from the consumer reports that Frontier is not supplying its technicians with sufficient tools, equipment, materials, or time to adequately maintain Frontier’s plant in order to render “safe and adequate service” as is required by Minn. R. 7810.3300.

Contrary to Frontier’s representations to obtain Commission approval of its AFOR plans, Frontier does not appear to have made “investments necessary to maintain reliable service, consistent with the service quality metrics contained in this plan.” Consumers’ reports of Frontier’s deteriorating and damaged plant and observations of Frontier’s lack of equipment, material, and workforce demonstrate Frontier’s lack of investment in its physical plant in

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<sup>37</sup> Frontier confirmed that it has significantly drawn down its technician staff in recent years and uses contract workers to attempt to supplement its reduced levels of full time technicians. Attachment 2 – Frontier Response to DOC Information request (IR) No. 63; Frontier Response to DOC IR No. 33.

<sup>38</sup> Attachment 2 – Frontier Response to DOC IR No. 18.

<sup>39</sup> Attachment 2 – Frontier Response to DOC IR No. 67.

<sup>40</sup> Attachment 2 – Frontier Response to DOC IR No. 12. *See also* Attachment 2 – Frontier Response to DOC IR No. 51 (Department follow up on response to DOC IR No. 12 regarding handling of complaints).

Minnesota. The information Frontier provided to the Department regarding its investments in the past four years, detailing only \$605,203.65 in plant repair and rehabilitation projects, seems extremely limited given the size of Frontier's service territory and number of customers in Minnesota.

Frontier's responses to the Department's information requests also indicated that Frontier currently lacks a consistent method of reporting, tracking, and implementing repair and rehabilitation projects, which may violate the requirement in Minn. R. 7810.4900 that telephone utilities "employ reasonable engineering and administrative procedures to determine the adequacy of service being provided to the customer."

Contrary to the requirement of Minn. R. 7810.3200, it appears from the many reports and photographs of citizens, public officials and subscribers, Frontier appears not to be constructing telephone plant as required by the provisions of the current National Electrical Safety Code, as is presently in effect in Minnesota.

Frontier's failure to adequately maintain its plant manifests itself in service quality issues, such as more frequent outages, poor transmission quality, and increased service center call traffic from consumers attempting to remedy these problems. In addition to directly impacting Frontier's service quality, many of the reported deficiencies in Frontier's infrastructure pose hazards to the general public and liability to the private landowners on whose property Frontier's plant is located.

Frontier likely cannot remedy its other service quality problems and provide safe and adequate service without significant increased infrastructure investment.

## **Recommendations**

The Commission should order the following:

- 1) Find that Frontier has violated 1) Minn. R. 7810.3300 requiring a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe and adequate service; 2) Minn. R. 7810.4900 requiring Frontier to employ reasonable engineering and administrative procedures to determine the adequacy of service being provided to the customer; 3) the most recent AFOR plans in which Frontier committed to invest significant resources to maintain network and, 4) Minn. R. 7810.5500 requiring Frontier to furnish and maintain adequate plant, equipment, and facilities to provide satisfactory transmission of communications between customers in their service areas.
- 2) If the Commission agrees with the above recommendation, the Department staff can review each consumer's comments in this matter and provide an accounting to the Commission of the number of instances of these violations, subject to comment, for the pursuit of penalties.

- 3) Require Frontier within 60 days of the date of the Commission's Order to demonstrate that it complies with Minn. R. 7810.3200 that its plant meets the provisions of the National Electrical Safety Code. The filing should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to its accuracy.
- 4) Require Frontier to commit the monetary investment in its plant in Minnesota to provide adequate service, satisfying the requirements in the Commission's rules, including Minn. R. 7810.5000,<sup>41</sup> and to take the steps necessary to assure the furnishing of adequate service. Frontier's commitments should include, at minimum:
  - a. It will upgrade or repair all existing broken or damaged pedestals and other infrastructure.
  - b. It will permanently install all existing temporary lines.
  - c. It will hire additional staff to make these repairs and to install the permanent lines, without shifting resources that cause neglect or delay in some other part of Frontier's system in Minnesota.
- 5) Require Frontier to provide, within 60 days of the Commission's Order, an accounting of all temporary lines, above-ground lines awaiting burial, other exposed lines, broken or damaged pedestal, broken or damaged poles, or other outside plant concerns, including those reported by others in this proceeding. Frontier should provide estimated dates for burial, elevation and repair of temporary or otherwise not-permanently-installed lines; Frontier should provide monthly updates demonstrating permanent installation of these lines.
- 6) If Frontier is unable to permanently install any temporary lines within 90 days of the Commission's Order, the Commission should order that Frontier waive any rates for telephone services provided via that facility, as the service being provided is inadequate. The customers should continue to receive telephone services at no charge until Frontier permanently installs the line.
- 7) Require Frontier to provide a notice within 30 days of the Commission's Order to all its customers that it will permanently install all temporary lines within 3 months or the customer will receive telephone service at no charge. The notice should include contact information of the Department to enable customers to report Frontier's failure to comply with the Commission's Order, so the Department can take the necessary steps to enforce compliance. Frontier should submit the proposed notice to both Commission and Department staff for review and input.

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<sup>41</sup> Minn. R. 7810.5000 provides in part that a telephone utility must provide telephone service that will "meet or exceed the standards set forth in this chapter. Each telephone utility has the obligation of continually reviewing its operations to assure the furnishing of adequate service."



Upon agreement by the staff of both agencies, the Commission's Executive Secretary shall approve the notice.

- 8) Require Frontier to submit a plan within 60 days of the Commission's Order detailing Frontier's commitment for consistently and adequately identifying troubles related to broken, damaged, or deteriorated plant, including timelines and milestones for all stages prior to full rehabilitation. The plan will be subject to comment and will include an affidavit of a Frontier executive officer verifying its accuracy.
- 9) Require Frontier to provide an ongoing quarterly report detailing:
  - a. The status of its system to track trouble reports on outside plant.
  - a. The status of any temporary lines that are not permanently installed within 90 days of when a temporary line was placed, with confirmation that the customer is receiving telephone services at no charge.
  - b. To explain why any temporary line was not permanently installed within 90 days.
  - c. All customer calls to Frontier on broken, damaged or deteriorated plant.

**C. EMERGENCY OPERATIONS. Must Make Reasonable Provisions to Meet Emergencies Caused by a Storm, Act of God, Power Loss, or Similar Event.**

Comments and complaints from Frontier's customers raise concern that Frontier has not taken reasonable steps to be able to respond to emergencies resulting from loss of power, lightning storms, rain storms, or other acts of God.

Minn. R. 7810.3900 requires telephone utilities to "make reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in traffic, illness of operators, or from fire, storm, or acts of God."<sup>42</sup>

As part of this obligation, Minn. R. 7810.3900 requires utilities to "make reasonable provisions for emergency power." Although each office is not required to have an emergency power generator, "a mobile power unit" must be available to be delivered "on short notice, and which can be readily connected." In addition, "Each central office shall contain as a minimum four hours of battery reserve."

Mr. Paul Anderson reported that phone outages are common when Frontier's power fails in Marine on St. Croix.<sup>43</sup> Mr. Anderson commented that Frontier will only deliver a

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<sup>42</sup> This is also discussed below, in connection with Minn. R. 7810.5800, which requires Frontier to "reestablish service with the shortest possible delay," without regard to whether a failure is caused by an act of God, negligence, or a some intentional action.

<sup>43</sup> Attachment 1 - Paul Anderson Speak Up Comment of Feb. 19, 2018 (DOC 12 – 001801).

generator from another location if the telephone outage lasts more than a day. Mr. Anderson expressed concern because there is limited cell phone coverage in his area and 911 service is not available during these long response times to power related outages.

Ms. M. R. sent her complaint to the Commission that her telephone repeatedly goes out of service, especially during storms, and that Frontier delays repairs.<sup>44</sup> Ms. M.R. said her telephone was out of order on July 18th, but Frontier would not repair her service until July 24th. In its response, Frontier said the outage was “due to inclement weather,” in that lightning damaged the distribution wire and power board supply, and it issued AFOR “Out of Service” bill credits to Ms. M. R.<sup>45</sup> Frontier said its delay in restoring service was because “no replacement parts were available so new equipment had to be ordered.”

In response to a Department request for information, Frontier stated that some of its central offices lack on-site back-up power generators, and portable generators are available to be brought in.<sup>46</sup> Frontier did not indicate the duration of an outage before Frontier would provide a backup generator.

## **Conclusion**

If Mr. Anderson’s report is accurate, that multiple days elapsed before Frontier delivered a generator to the Marine on St. Croix central office, then Frontier is not complying with Minn. R. 7810.3900, which requires a “mobile power unit” available “on short notice” to take over after the four-hour battery supply fails.

Further, if Mr. Anderson’s report (that Frontier will only deliver a generator from another location if the telephone outage lasts more than a day) is accurate, then Frontier’s practice, of purposely delaying restoration, appears to violate its duty to take reasonable steps to address emergencies resulting from a power outage, in violation of Minn. R. 7810.3900 , which requires service to be restored as quickly as possible, and to violate Minn. R. 7810.5800 which requires Frontier “reestablish service with the shortest possible delay,” with a minimum objective of 95 percent of troubles restored in 24 hours. To the contrary, comments and complaints suggest that Frontier plans for some of its customers to suffer phone outages of at least 24 hours when power is lost.<sup>47</sup>

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<sup>44</sup> Ms. M.R. Nonpublic Complaint to the Commission of July 18, 2018 (DOC 22-003059-61). Frontier’s response to the Complaint acknowledged and issued credits for the following outages: June 7, 2018 (telephone); June 19, 2018 (one-month telephone/internet); July 16, 2018 (16 days telephone/internet); July 24, 2018 (8 days telephone/internet).

<sup>45</sup> Minn. R. 7810.1400, subp. 2 establishes when bill credits are due, and Frontier Response to DOC IR 13 and attachment thereto provides Frontier’s protocols for when credits were due or excluded from being due to a customer under the terms of Frontier’s former AFORs. Frontier’s recent assertion that it did not follow the protocol detailed in its Response to IR 13 nor issue AFOR credits for outages “caused by” acts of God is discussed further below, in section P5 of these Comments.

<sup>46</sup> Attachment 2 – Frontier Response to DOC IR No. 38.

<sup>47</sup> See discussion below at P5, P6, and P7 regarding other Frontier business practices that appear to violate or attempt improperly to circumvent the restoration of service requirements of Minn. R. 7810.5800.

## Recommendation

The Commission should enter an order that:

- 1) Requires Frontier to file, within 60 days of the Commission's Order, a report demonstrating that Frontier complies with Minn. R. 7810.3900 (and Minn. R. 7810.5800, which requires Frontier to "reestablish service with the shortest possible delay") by providing evidence demonstrating that it:
  - a. Has made reasonable provision to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in traffic, illness of operators, or from fire, storm, or acts of God, including arrangements Frontier has made that secure Frontier's access to staff, equipment, and material that may be needed to re-establish telephone service with the shortest possible delay;
  - b. has a minimum of four hours of battery backup at each central office;
  - c. has made provision to ensure that mobile power units are available to be delivered "on short notice" and "readily connected" with the "shortest possible delay."
  - d. has informed employees of the procedures to be followed in the event of emergency, to prevent and mitigate interruption or impairment of telecommunications service, and ensure the "shortest possible delay" for restoration of service;

The report should include an affidavit by a Frontier executive officer who states that he or she has reviewed the report and attests to its accuracy, and be subject to comment.

- 2) Order Frontier to distribute a functional cell phone or satellite phone capable of reaching 911 and emergency services from the customer's residence, within 24 hours of receiving a report of an outage to any customer identified in Frontier's records as having a medical condition in the household, if an outage is expected to last more than 24 hours. <sup>48</sup> There should be no charge to the customer for the access to or use of the telephone, including any data charges.

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<sup>48</sup> See section V (D), below for further discussion of Minn. R. 7810.5900, which requires Frontier to make arrangements to "clear trouble of an emergency nature at all hours, consistent with the bona fide needs of the customer" and a process for Frontier to identify customers with a bona fide emergency medical situation.

- 3) For any business customer that has an outage that lasts more than 24 hours, order Frontier to temporarily forward calls to a cell phone or other number, upon the request of the business. The call forwarding should be at no charge to the business.
- 4) Require Frontier, within 60 days of the Commission's order, to prepare a proposed written notice to its customers that details how a subscriber can become treated as a person who will receive medical priority. The notice will be provided not only to subscribers, but also will be published in a prominent manner on Frontier's website(s), and provided in writing to all future subscribers upon their becoming a customer. The proposed requirements and the notice that Frontier proposes should be submitted for review to Commission and Department of Commerce staff, and, if there is agreement, approved by the Executive Secretary. After the notice is provided to current customers, the Company shall file proof of compliance, and the Company shall file proof of compliance annually thereafter. Such proofs shall include an affidavit of a Frontier executive officer attesting to the veracity of the information.
- 5) Order Frontier to file within 60 days of the Commission's Order, a proposed notice that informs customers of their rights in the event of an outage. The proposed notice should include:
  - a. The right to a cell phone or satellite phone to customers with a medical condition in the household, if the outage is to last more than 24 hour, at no cost to the customer.
  - b. The need for customers to notify Frontier if there is a medical condition in the household, so that Frontier has this information in their records.
  - c. The availability to businesses to have their phone calls forwarded to a cell phone or other number for the duration of the outage, at no cost to the customer.
  - d. The right to a bill credit for an outage that exceeds 24 hours
  - e. That customers may contact the Department of Commerce to enforce the Commission's Order, if any of the provisions are not met by the company.

The notice that Frontier proposes should be submitted for review to Commission and Department of Commerce staff, and, if there is agreement, approved by the Executive Secretary. After the notice is provided to current customers, the Company shall file proof of compliance, including an affidavit of a Frontier executive officer attesting to the veracity of the information.

- 6) To ensure Frontier complies with the Commission's rules on a prospective basis, require Frontier to provide a weekly report of all outages that exceed 24 hours. The report shall be subject to comment and:
  - a. Explain the reason why the company was unable to make reasonable provisions to prevent the outages from exceeding 24 hours.

- b. Demonstrate that Frontier has implemented reasonable procedures to ensure that service is restored as quickly as possible, and to ensure that no future outage will be longer than 24 hours in the affected exchanges by undertaking such steps as hiring additional employees, authorizing overtime for technicians to perform repairs, and maintaining sufficient material and equipment to effect timely repairs.
- c. Demonstrate that all affected customers have been provided with a credit.
- d. Demonstrate that Frontier has complied with paragraphs 3 and 4 above (regarding alternative access to voice service during prolonged outages.)

The report should include an affidavit of a Frontier executive officer that states that he or she has reviewed the report and attests to the accuracy of the report. After 12 months the Commission should reevaluate whether the reporting should continue.

**D. CUSTOMER TROUBLE REPORTS. Clear trouble of an emergency nature at all hours, consistent with the bona fide needs of the customer. Medical issues.**

From comments and complaints, it is evident that Frontier does not have arrangements in place to ensure that it performs emergency repairs at all hours, consistent with the bona fide needs of its customers.

Minn. R. 7810.5900, among other things, requires Frontier to make arrangements to “clear trouble of an emergency nature at all hours, consistent with the bona fide needs of the customer and personal safety of utility personnel” and to maintain accurate records of trouble reports.<sup>49</sup>

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.

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<sup>49</sup> Minn. R. 7810.5900 requires: “Arrangements shall be made to receive customer trouble reports 24 hours daily and to clear trouble of an emergency nature at all hours, consistent with the bona fide needs of the customer and personal safety of utility personnel.

Each telephone utility shall maintain an accurate record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date, and nature of the report, the action taken to clear trouble or satisfy the complaint, and the date and time of trouble clearance or other disposition. This record shall be available to the commission or its authorized representatives upon request at any time within the period prescribed for retention of such records.

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.”

At the Commission’s public hearing in Ely, Ms. Johnson, a customer of Frontier and its predecessors for 50 years, testified that she and her husband had no telephone or internet access service at their home in Eagle’s Nest Township (near Ely) during the summer of 2017.<sup>50</sup> Ms. Johnson testified that when she called Frontier to report a phone outage, she told the Frontier representative that her 90-year-old husband had a pacemaker and needed telephone service to connect to his heart monitor, which sends information via the telephone line to St. Luke’s Hospital in Duluth. The Frontier representative assured her that Frontier would expedite repair due to medical necessity. Contrary to this assurance, Frontier did not restore service for two weeks.

When the line failed again in June Ms. Johnson called Frontier to report the outage and was issued an “emergency medical repair” ticket, but Frontier did not restore service for 36 days. In the meantime, Ms. Johnson’s son called Frontier in an attempt to expedite the repair and was promised a repair appointment on a specific date. Ms. Johnson’s son drove several hours from the Minneapolis/St. Paul area to his parent’s home in Eagle’s Nest Township, to meet the technician, but the Frontier repair technician failed to show up. When her son called Frontier to inquire about the situation, he was informed that the telephone outage was Ms. Johnson’s problem and not Frontier’s problem.

Mr. Victor Leppke filed a public comment on behalf of his 96-year-old brother,<sup>51</sup> who lost phone service or access to emergency services from March 23, 2018 to April 4, 2018. Mr. Leppke said that, when the repair technician arrived at the Leppke home, the technician said that the repair would have been completed sooner if Frontier’s customer service department had informed the repair technician of the landline telephone outage. Mr. Leppke observed that, “with Frontier, the right hand does not know what the left hand is doing.”

Ms. Nancy Olson testified about the repair delays on the landline telephone of her 98-year-old mother-in-law.<sup>52</sup> After Ms. Olson’s mother-in-law lost telephone service, Ms. Olson phoned Frontier and was informed by the Frontier customer service representative the landline would be repaired within 24 hours, because the situation was an emergency. After waiting 10 days for Frontier to restore service, and six more calls to Frontier, the Olsons hired an electrician to repair the landline telephone. The Frontier repair technician, who arrived 12 days after Ms. Olson reported the trouble, said Frontier had not informed him that the service should be restored on an emergency basis.

Ms. Heather Kvale stated that her “elderly father lives in Welcome . . . and has been without a landline for over 2 months. Frontier eventually sent someone out and they [laid] cable, and have left it, covering 6 access [roads] to the field for the combines to run over, for a

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<sup>50</sup> Attachment 1 – Nancy Johnson Public Testimony of Sept. 4, 2018 (DOC 1 - 000036 – 000039).

<sup>51</sup> Attachment 1 - Victor Leppke Public Comment of Apr. 19, 2018 (DOC 8 - 001224).

<sup>52</sup> Attachment 1 - Nancy Olson Public Testimony of Sept. 25, 2018 (DOC 4 - 000498 – 000500).

month or more. This is an urgent situation as it is absolutely necessary that he have a phone line in his health situation.”<sup>53</sup>

Mr. B. S. contacted the Department about getting his emergency landline telephone service restored by Frontier.<sup>54</sup> Mr. B. S. said that his home was hit by lightning on October 3, 2018 and he lost telephone and internet access service. He immediately contacted Frontier, informed Frontier that his wife suffers from several serious medical conditions, and was told the repair would not be made until October 15, 2018. While waiting for the repair Mr. B. S. saw Frontier trucks drive past his home 3 times. The outage prevented communication with emergency services, physicians and family during the lengthy wait.

## **Conclusion**

It is clear from reports of Frontier customers that Frontier is not fulfilling its obligation under Minn. R.7810.5900 to “clear trouble of an emergency nature at all hours, consistent with the bona fide needs of the customer.” It is highly troublesome that Frontier’s processes are inadequate and representatives *inaccurately assure subscribers*, such as Ms. Johnson and Ms. Olson, that their serious medical emergencies would be handled as an emergency, when, in fact, the customers’ telephone and access to emergency service was not restored, consistent with the customers’ bona fide need. In the view of the Department, it is untenable for a company to continue to operate in Minnesota, if the company puts consumers medical needs at risk.

## **Recommendations**

The Commission should order the following relief:

- 1) Find that Frontier has violated Minn. R. 7810.5900 to “clear trouble of an emergency nature at all hours, consistent with the bona fide needs of the customer.”
- 2) If the Commission agrees, the Department staff can review each consumer comment in this matter and provide an accounting to the Commission, subject to comment, for the pursuit of penalties.
- 3) Require Frontier within 60 days of the date of the Commission’s Order to file a detailed plan that demonstrates how it will comply with Minn. R. 7810.5900, by showing that Frontier has implemented practices to ensure it can meet its obligations. The plan should be subject to comment, and include an affidavit of a Frontier executive officer attesting to the veracity of the information. To ensure that Frontier maintains adequate staffing, training, compliance, supervision and general oversight, the plan at minimum, should specify how Frontier will:

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<sup>53</sup> Attachment 1 - Heather Kvale Public Comment of Oct. 4, 2018 (DOC 11 - 001770).

<sup>54</sup> Mr. B.S. Nonpublic Complaint of Oct. 5, 2018 (DOC 10 – 001600 – 001601).

- a. Determine what is required for a customer to be treated as having a bona fide need for Frontier to provide service on an emergency basis.
- b. Ensure that customers know how to identify themselves as having a bona fide need for Frontier to provide service on an emergency basis.
- c. Ensure that all of its representatives, technicians, dispatchers and other staff accurately identify and respond to customer emergencies.
- d. Ensure adequate staffing levels of customer service representatives, technical specialists, dispatchers, billing specialists, or other representatives who assist Minnesota customers with bona fide emergency circumstances via telephone;
- e. Provide for enhanced training to customer service representatives, technical specialists, dispatchers, billing specialists, or other representatives to accurately render assistance;
- f. Enhance its processes, systems, or call-center technology to assist customer service representatives in quickly resolving reported emergency issues; and
- g. Possibly designate a customer service staff to specifically serve Minnesota customers.

**E. RELATIONSHIP OF INTERNET AND TELEPHONE SERVICES. Provision of Internet Access Service Directly and Indirectly Impacts Minnesota Telephone Subscribers**

The Commission should consider the facts regarding Frontier’s provision of internet access service in Minnesota because, in many cases, Frontier’s provision of internet access service interferes with Frontier’s provision of voice service, and vice versa. In other cases, Frontier’s failure to employ sufficient resources to provide phone and internet access service has resulted in long and repeated outages, involuntary disconnects due to Frontier’s business practice of “swapping” of non-working facilities for working facilities, poor customer service (e.g. long telephone wait times trying to communicate with Frontier), and false representations of internet quality. The record created by Frontier subscribers of complaints involve long and repeated outages, long delays in service installation, even longer delays for repairs, “lost” tickets, degraded facilities, and poor billing and customer service practices.<sup>55</sup>

The Commission may wish to consider in its Order<sup>56</sup> the fact that Frontier’s poor quality broadband internet access services and facilities both *directly* and *indirectly* impact Frontier’s

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<sup>55</sup> Also, as discussed in section F2 below, and exemplified by the Wyoming outage, Frontier customers who purchase “bundled” internet and phone service are subjected to unreasonable discrimination by Frontier.

<sup>56</sup> The Commission has statutory authority to consider and make findings and orders regarding telecommunications providers’ broadband services and facilities. Three separate statutes in Chapter 237 direct the Commission to consider broadband in its regulatory activity, two of the Commission’s rules concern broadband, and the Commission is expressly delegated authority to certify certain facts regarding the broadband facilities deployed by ETCs like Frontier:



provision of regulated services. This is primarily because Frontier broadband and telephone services are provided by Frontier using a single, shared set of resources.

Frontier's telephone and internet access services generally use the same physical network and the same human resources. Most Minnesota customers receive Frontier's telephone and internet access services over the same copper facilities or copper/fiber hybrid networks.<sup>57</sup> Dispatchers and field technicians handle installation and repair of both internet access and telephone services.<sup>58</sup> Customer service representatives address purchases, repairs, and other services for both telephone and internet access customers. Broadband-related calls and telephone-related complaints and inquiries are handled by the same group of representatives—and customers suffer extraordinarily long wait times that egregiously violate Minnesota's telephone answering time requirements.<sup>59</sup>

One consequence of Frontier's resource sharing is that orders for *new* telephone or internet access service, being a new source of revenue for Frontier, and a sales commission for the customer service representative, take priority over *repairs* of internet or phone.<sup>60</sup> This has created an intolerable situation for many Minnesotans. While delays for installation of internet access service can interfere with important tasks for subscribers' schooling, business, and other daily concerns, the failure to immediately repair and restore telephone service as required by Minnesota law can be a life or death hazard for subscribers who depend on landline telephone service to access 911 emergency services, operate security systems, or have other security and

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- Minn. Stat. § 237.011 directs the Commission to consider a carrier's "deployment of infrastructure for higher speed telecommunication services and greater capacity for voice, video, and data transmission . . . ."
  - Minn. Stat. § 237.012 identifies Minnesota's speed-related broadband goals.
  - Minn. Stat. § 237.761, subd. 8, requires a company with an AFOR plan to make an investment commitment to *the Commission*. The investment commitments under Frontier and Citizens' previously in force AFOR plans were effective during the period when consumers filed complaints and comments regarding Frontier's broadband services.
  - Minn. R. 7812.0600, subp. 7, prohibits disconnection of local service for nonpayment of *information service* charges.
  - Minn. R. 7810.1400, subp. 3, requires carriers to "provide any information and assistance necessary to enable that person to obtain the most economical **communications service** conforming to the person's stated needs." (emphasis added.)
  - Respecting the express delegation of authority over ETCs such as Frontier, see Docket No. P407, 405/CI-18-122, Petition of the Minnesota Department of Commerce for Reconsideration and/or Clarification, May 2, 2018, pp. 4-8 (stating among other things that the Commission is required to investigate and certify to the FCC that the Connect America Cost Model (CACM) broadband funds are used appropriately).

<sup>57</sup> Facilities associated with a customer's services include, for example, the central office, cable, serving area interface (SAI) (a.k.a. cross-box, cabinet, or pedestal) and the terminal. Besides a cross connect point, the SAI sometimes contains a DSLAM or more rarely a remote concentrator or both.

[https://en.wikipedia.org/wiki/Serving\\_area\\_interface](https://en.wikipedia.org/wiki/Serving_area_interface)

<sup>58</sup> Attachment 2 – Frontier Response to DOC IR No. 33; Attachment 3 – Affidavit of Jeff S. Lacher ¶ 4.

<sup>59</sup> Minn. R. 7810.5200 requires calls to be answered within 20 seconds.

<sup>60</sup> Attachment 3 – Affidavit of Jeff S. Lacher ¶¶ 8, 13-15.

safety needs, such as pacemaker monitoring and communications with lifeline devices worn for the security of vulnerable Minnesotans.

An example of how Frontier's sharing of resources to serve both internet access service and telephone service negatively impacts telephone customers was reported by Robert and Renee Bodine, who are elderly and have health issues.<sup>61</sup> The Bodines experienced an eight-day-long outage of their phone and internet. They explained, "After several days went by, we visited the local office of Frontier in Lindstrom, and . . . we were told that new hookups in the area receive priority over repairs to existing customers, and 'they would get to it as soon as they could.'"

The Affidavit of Mr. Jeff S. Lacher, corroborates the information provided by telephone customers such as the Bodines.<sup>62</sup> Mr. Lacher, a representative of the CWA, states:

The same technicians who perform repairs on tickets also install new services on orders, and it is the same technicians that repair and install both telephone and internet services. If greater emphasis is placed on completion of new service installation orders, it takes longer for repair tickets to be addressed, with the problems being even more significant with the reduction in technicians.

Mr. Lacher also states his conclusion that, at Frontier, "[n]ew service installations are prioritized over repairs" as evidenced by "the fact that overtime is granted for technicians to complete orders, but no overtime is permitted to complete repairs," and "[j]obs receiving federal money take priority over repairs."

Mr. Lacher's Affidavit further confirms that Frontier appears to have placed compliance with Minnesota's telephone service quality regulations low in the list of priorities of customer service representatives and technicians who service internet and phone orders and repairs:

13. Since Frontier closed its Repair Departments in December of 2016, which only handled repair calls, CSRs now handle both Orders and Tickets. There is an incentive for CSRs to avoid repair calls. CSRs are required to meet sales goals every month before they are eligible to receive commissions and these sales goals have increased substantially over time. Low wages for CSRs mean commissions are a significant part of their incomes. The failure to meet sales goals for a period of time could mean discipline or termination. By shortening the time spent on repair calls and

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<sup>61</sup> Attachment 1 – Robert and Renee Bodine Public Comment of Aug. 24, 2018 (DOC 10-001564).

<sup>62</sup> Attachment 3 – Affidavit of Jeff S. Lacher.

creating tickets, or by quickly dumping repair calls to other departments, a CSR is more available to receive Order calls.

The Commission should take into consideration the facts about how Frontier provides and maintains both telephone and internet access service in Minnesota, as it fashions relief in this docket.

Several hundred subscribers to Frontier's bundled phone and internet access services reported their concerns in this matter, many of whom are directly negatively impacted by Frontier's internet-related lengthy delays, poor service quality, and inadequate facilities or records of facilities.

Elizabeth Mohr's testimony describes an experience typical of many Frontier complaints regarding bundled service.<sup>63</sup> Among other things, while servicing Ms. Mohr's internet access service: Frontier (1) disconnected her telephone service without notice or consent, (2) left her without phone service for 12 days; (3) forced her to spend over 45 hours on the telephone seeking service; (4) "lost" five of the six repair tickets it issued; and (5) refused to install new internet access service because its records showed "no ports available" despite Ms. Mohr's census block's internet access service being funded by a CAF II grant to Frontier. Ms. Mohr reported that although she now receives the represented internet speed, "We found it took us 47 of our hours on the phone with Frontier to get that service, even though they sent us a flier that said you should be able to call and get it. So 47 hours on the phone of our time, six tickets, five of which were closed with no answer. They never showed up." Ms. Mohr summarized, "Like I said, 47 hours on the phone time, time off of work, time at home waiting for them. You can get better service from them but you have to be willing to put up a fight. I have been hung up on, probably in the last 13 years, probably 200 times. When I would call and say, I have an issue with your network, they wouldn't believe me. Between my husband and myself, we have 20 years of network administration. We could ping to their system and tell them where the problem was failing and they wouldn't believe us, and they would hang up on us. So clearly, Frontier has a problem." Ms. Mohr observed how internet and phone are inextricably tied together for her Frontier service: "You can't usually separate your phone and internet any longer with Frontier. They only allow VoIP phones for most of us. If you upgrade your service, your phone is tied to your internet. No internet, no phone."

Ms. Shellie Metzler of Finlayson reported regarding the poor quality of her Frontier internet-phone bundle was equally problematic, and, shockingly, directly prevented her from receiving telephone service and 911 access for over a year.<sup>64</sup> Ms. Metzler reported that in July and August 2016 she spent over 20 hours and many phone calls attempting to get Frontier to provide telephone and internet access service at her rural Minnesota home. She eventually received an installation date for her phone and internet of September 6. On that day, Ms. Metzler reported that her phone and internet were not activated. Frontier told Ms. Metzler

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<sup>63</sup> Attachment 1 – Elizabeth Mohr Public Testimony of Sept. 12, 2018 (DOC 3-000380-84).

<sup>64</sup> Attachment 1 – Shellie Metzler Speak Up Comment of Mar. 7, 2018 (DOC 12-001821-22).

that it “could not activate because there were no lines for the internet.” Ms. Metzler continued, “I changed the order to a flat line installation (telephone only), the order confirmed with an activation date of September 14. Again, the service was not activated and I followed up with a phone call to Frontier customer service. I was then told there were no services available. Some neighbors said that I should call and stay on a ‘waiting list’ for a telephone line because there are not enough lines to service the area. I called again on September 28 and was put on a waiting list for a flat line (regular telephone line) and was told it may be 1 to 2 months.”

Every few months, Ms. Metzler would call and resubmit her order. It was not until September 2017 that Ms. Metzler received phone service, and eventually internet access with “Broadband Ultra-12 mbps.” After service was installed, Ms. Metzler reported, “I could not hear when on the phone because of the static. Also, each time the phone rang, the internet would go off line.” Regarding her Broadband Ultra-12 mbps service, Ms. Metzler reported, “I am receiving, if lucky, 1.2 mbps. Last week within two days the internet dropped over 100 times. Dropped service and slow internet speeds are everyday occurrences. I should not be charged for the 12 mbps because I have never had it. I should not be charged for the 6 mbps because I do not get that either. This is very frustrating as I operate a small business and depend on the internet.” Like many Minnesota citizens, Ms. Metzler reported that “Frontier is my only affordable option for internet,” and that Frontier’s poor internet service quality “seems to be a ‘company-wide’ issue focused on rural/non metro areas.”

Ms. Metzler has orally informed the Department that the service quality problem she reported — being unable to hear when on phone because of the static and party-line, and of losing internet access each time the phone rings — remains a continuing problem today.

Similarly, Mr. Marty Sterzinger testified at the Slayton hearing about Frontier’s service for his business, the 19&75 Filling Station at Ivanhoe, Minnesota. Mr. Sterzinger explained that Frontier’s poor internet access service directly interferes with his business’ critically important analog voice lines. Mr. Sterzinger said that his analog Verifone service is negatively impacted by Frontier’s transmitting his internet and analog voice services over a single copper loop,<sup>65</sup> solely because Frontier has failed to maintain its facilities adequately:

I use a Verifone system, or a point of sales system. ... They use an analog system for backup, and we use broadband for credit card

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<sup>65</sup> Verifone also provides communications services over analog lines for use of persons who are visually impaired. <https://www.verifone.com/en/us/press-release/introducing-verifone-navigator> Similarly, CapTel (captioned telephone) provides communications services over analog lines for persons whose hearing is impaired (a mandatory service offering for ETCs like Frontier). Critical medical alert services and remote monitoring of medical devices such as pacemakers that are designed for traditional analog telephone landlines may or may not work on an IP substitute and will not work on wireless. And business devices such as facsimile machines require a functioning analog line. See, e.g., Joe Poll Speak Up Comment of Feb. 24, 2018 (DOC 12 – 001812 – 1814) (reporting that he needs fax machine for use in business, has repeatedly complained to Frontier about noise on the line that interferes with fax function, audio quality is so poor could not understand voice transmissions, and internet speed on-tenth or less than Mr. Poll pays for).

clearing. . . . We are running a 24-hour truck stop and, you know, no Internet, no broadband, no credit cards, it doesn't work. As far as the backup goes, Verifone keeps telling me that the voice communication lines are too noisy. I've got 12-pair cable coming out to the store from the central office. They've only found one pair that's conducive for communication, 11 pair are broken.

Other “bundled” phone and internet service customers have reported that Frontier representatives have told them that Frontier fails to maintain enough working lines in their area to provide adequate phone and internet access services to all of the customers to whom it has sold these services in that area. In this apparently common circumstance, Frontier’s practice is that, when one customer is out of service [or is receiving impaired service] and requests repair, in order to restore service to that subscriber, Frontier disconnects, without notice, the service of another subscriber, and “swaps” the other subscriber’s working lines or cards for the non-working line or card of the subscriber whose service is being restored.

A typical example is the public comment of Debra Boldt of Glen, Minnesota, who lives on a lake with some summer residents.<sup>66</sup> Ms. Boldt reported that to restore service to one neighbor, Frontier switches non-working lines with the working line of a summer resident who may not know their service is disconnected until they next visit; and, when that person complains, Frontier will then switch the working line from a different resident.

Similarly, Tom Grant testified at the Lakeville public hearing that Frontier technicians have told him, “they basically move cards or switches to be able to solve the problem for that individual customer, while knowing full well that that creates havoc for others that reside on that same node.”<sup>67</sup>

Wayne Nierenhausen testified that technicians have told him: “[W]hen they get a complaint, there’s some kind of card within that box that’s a quarter mile from my house that they will change to basically whoever made the complaint to get faster speed, but then when another call is made, they’ll switch that card out, put it to whoever made the complaint, and then put the old card back in.”<sup>68</sup>

## **Conclusion**

As the Commission fashions relief for Frontier customers and determines other corrective action, the Commission should take into consideration the fact that Frontier’s bundled phone and internet access services are directly negatively impacted by Frontier’s internet access service-related lengthy delays, poor service quality, and inadequate facilities or records of facilities.

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<sup>66</sup> Attachment 1 – Debra Boldt Public Comment of Sept. 26, 2018 (DOC 10 – 001450-51).

<sup>67</sup> Attachment 1 – Tom Grant Public Testimony of Sept. 26, 2018 (DOC 5 – 000672-78).

<sup>68</sup> Attachment 1 – Wayne Nierenhausen Public Testimony of Sept. 26, 2018 (DOC 5 – 000668-72).

**F. RETENTION OF RECORDS. Records to be maintained in sufficient detail to review service performance.**

From complaints received by regulatory agencies, and from Frontier's responses to discovery, it appears that Frontier fails to reasonably create and maintain records. Accurately creating and maintaining records is critical for a company to be able to analyze its procedures and actions. Accurate records are also necessary for state regulatory agencies to be able to determine whether a company is complying with the law and rules, and thus operating in the public interest. Frontier's operating practices have resulted in records that cannot be relied upon to demonstrate Frontier's compliance with Minnesota Statutes and Rules, which are intended to allow for an accurate analysis of whether a telephone company has adequately performed its duties.

Minn. R. 7810.0400 states: "Each telephone utility shall maintain records of its operations in sufficient detail to permit review of its service performance, and such records shall be made available to the commission upon request. All records required by this chapter shall be preserved for the period of time specified in the current edition of the Federal Communications Commission's records retention schedule, unless otherwise specified by the commission."

Frontier's poor record creation and maintenance practices have masked its poor service quality, which might otherwise have come to light much sooner. Had the facts on Frontier's service quality been known sooner, not only could problems have been addressed, but also customers would have received bill adjustments and AFOR Out of Service (and other) credits owed to them for Frontier's failure to meet its service quality requirements under Minn. R. 7810.1400 and Frontier's AFOR plans. These requirements include the following:

- Minn. R. 7810.1400, subp. 2 states in part: "In the event a customer's service is interrupted otherwise than by negligence or willful act of the customer and it remains out of order for 24 hours after being reported to the utility, adjustments shall be made to the customer, based upon the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative. The refund may be accomplished by a credit on a subsequent bill for telephone service."
- Frontier's AFOR plans required Frontier to provide: (a) a pro rata adjustment (i.e., 1/30th) of the monthly recurring charge for the first two days (Residential) and one day (Business) that there is a service outage; (b) credit a residential customer \$5 per day for each day after 48 hours and business customers \$10 per day after 24 hours for service outages, and (c) if the company misses a repair ticket commitment date for voice service, and the customer is required to be at the premises, Frontier will provide a bill credit of \$10 for a residential customer or \$20 for a business customer for each trouble report.

## 1. Frontier’s Inadequate Out of Service Reporting.

Frontier’s Out of Service Report, which was required by Frontier’s AFOR plans, was an important record that was intended to enable the Commission to assess Frontier’s service performance. The AFOR plans required Frontier to prepare a separate Out of Service Report for each month for each exchange service area.<sup>69</sup>

Out of Service Reports were prepared by Frontier based on its own records relating to service performance. The most significant records for preparing the Out of Service Reports were the “repair tickets”<sup>70</sup> that the Company “opens” when a service outage is reported, and “closes” when service is restored. Minn. R. 7810.5800 requires companies to have an objective of repairing 95% of out of service conditions within 24 hours, and the AFOR plans provided a monetary remedy when Frontier failed to restore a customer’s service within 24 hours.<sup>71</sup>

Frontier included in its Out of Service Reports outages where the repair tickets assigned a “closing code” indicating Frontier was at fault for the outage. Tickets with a closing code of “customer-caused” were not included in the Out of Service reports to the Commission. For this reason, the accuracy of the closing code was important in determining whether Frontier met its objectives in restoring service after outages. During its investigation, as is discussed in the following sections, the Department learned that Frontier was not accurate in assigning closing codes, and that Frontier omitted very high percentages of untimely service restorations from its reporting to the Commission; that it, it appears to have significantly overstated its performance for a period of years.

## 2. Frontier’s Process for Opening Repair Tickets on Service Bundles Results in Under-Recording and Under-Reporting of Telephone Outages.

Frontier customer service representatives do not review the various services on an account when a customer reports a line outage. Frontier’s response to the DOC IR No. 50 states that, if the customer does not specify that telephone service is part of the line outage,

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<sup>69</sup> Frontier’s AFOR provides it will monitor and report annually to the Commission and Department on the following five service quality standards: (i) Time intervals for installation of service (within three business days); (ii) Time intervals for restoration or repair of service (clear 95% of all out-of-service troubles within 24 hours); (iii) Trouble rates (average rate of all customer trouble reports in an exchange to not exceed 6.5 per 100 telephones per month); (iv) Held orders (daily average of no more than 4 held orders—primary line service not provided within 30 days or on date requested if later); (v) Answer time (service center calls on hold no more than 60 seconds on average). Frontier’s AFOR also required the filing to “include monthly results on *an exchange basis* for the Time intervals for installation of service, Time intervals for restoration or repair of service, and Trouble rates measures.” For other measures, monthly results were to be provided on *a state-wide basis*. Attachment 5 – Frontier AFOR Plan ¶ V. Citizens AFOR plan contains identical reporting requirements. Attachment 5 – Citizens AFOR Plan ¶ V.

<sup>70</sup> Troubles and Repairs both have the same meaning in these comments unless indicated otherwise. A repair report and trouble report are the same report.

<sup>71</sup> Attachment 5 – Frontier AFOR Plan ¶¶ V(C)(ii), V(E)(2).

Frontier does not ask and does not open a trouble ticket on the telephone service outage, but instead treats the line outage as concerning only loss of internet service, which is neither reportable under the AFOR, nor a basis for paying credits if service is not timely restored.<sup>72</sup> Because many--perhaps most-- Frontier customers subscribe to service “bundles” that include telephone and internet service,<sup>73</sup> this process results in the under-reporting of untimely Frontier phone outages.<sup>74</sup> The under-reporting of extended telephone service outages resulted in the Commission lacking accurate service quality information when Frontier operated under AFOR plans, and in customers being deprived of Out of Service bill credits owed to them.

For example, an outage in Wyoming, Minnesota in July 2017 (the July 2017 Wyoming Outage) illustrates how Frontier’s process for inaccurately opening and coding repair tickets resulted in substantial under-recording and under-reporting of extended telephone outages. A lightning strike occurred in Frontier’s Wyoming exchange in July 2017.<sup>75</sup> As a result, 38 Frontier customers lost telephone service<sup>76</sup> but Frontier identified the telephone service outage on only 17 of the trouble tickets, and Frontier did not record a telephone service outage for the other 21 (55 percent) customers who lost phone service, but recorded the outages as “internet-only” outages, which it does not report on its AFOR Out of Service reports to the Commission.

To compound this under-recording error, Frontier identified via discovery a second deficiency in its process for recording trouble tickets: a software error in how it “coded” trouble tickets. In response to a Department IR about the 17 telephone trouble tickets in the July 2017 Wyoming Outage, Frontier disclosed that it found that Frontier had been systematically and routinely assigning a “customer-caused” trouble code in the software program that managed the coding of Frontier’s trouble ticket closures.<sup>77</sup>

Initially Frontier had claimed a technician made an error when closing the tickets in the July 2017 Wyoming Outage as “Customer Caused.”<sup>78</sup> When the Department, in an Information Request, asked for all of this particular technician’s tickets for the months of June, July, and August in 2017, to determine whether this technician had an unusually high number of customer-caused ticket closures, Frontier determined that, rather than the problem being a

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<sup>72</sup> Attachment 2 – Frontier Response to DOC IR No. 50.

<sup>73</sup> Frontier reports that approximately 60% of its internet service customers also purchase telephone service.

Attachment 2 – Frontier Response to DOC IR No. 48.

<sup>74</sup> Frontier’s processes do not allow for out of service credits when the report code is DSL but the phone service is also out if the customer has not specifically reported that both phone and internet service are not working.

Attachment 2 – Response to DOC IR No. 50 (stating that a special ticket type is created that allows for credit if a customer specifically reports a simultaneous internet and phone outage); and Attachment 2 – Response to DOC IR No. 55 (stating Frontier will open a voice ticket “if *the customer* informs the Frontier representative that *both* their internet and phone service are not working” (emphasis added)).

<sup>75</sup> Attachment 2 – Frontier Response to DOC IR No. 62.

<sup>76</sup> In addition to the 38 phone customers who reported a phone outage, five customers reported a loss of their internet access (only) service.

<sup>77</sup> Attachment 2 – Frontier Response to DOC IR No. 44.

<sup>78</sup> Attachment 2 – Frontier Response to DOC IR No. 16.



single technician’s error, it was a software error-- a reference table in its data warehouse – that assigned the wrong description to the “fault” code for the 17 telephone repair tickets. In the Wyoming example, that meant that, as a result of the miscoding, the 17 Wyoming outages that had been properly identified as telephone outages were then mis-recorded as having been caused by each of the customers, and therefore, the 17 phone outages were not reportable on the AFOR Out of Service Report for July in the Wyoming exchange.

The net result of these two errors, in how Frontier’s customer service opened telephone repair tickets—as “internet-only”-- and in how Frontier’s software coded the closing of telephone repair tickets --as being the fault of the customer, instead of the fault of the Company--was that none of the 38 phone outages that occurred in the July 2017 Wyoming Outage, in which subscribers were without phone service for 14 days, were reported by Frontier in its July 2017 Out of Service Report.<sup>79</sup> If Frontier had correctly recorded and reported the 38 extended phone service outages on its Wyoming July Out of Service Report, 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.

Even more significantly, Frontier’s Response to the Department indicated that the software error, with the data warehouse assigning the wrong description to the closing fault code, had gone uncorrected for almost two years and affected almost 1,200 extended telephone service failures.<sup>80</sup> These improperly coded extended telephone service outages were not reported to the Commission as telephone outages in its AFOR reporting. The affected customers were not provided with bill credits owed them under Minn. R. 7810.1400 and the Company’s AFOR plan.

### **3. Frontier’s Practice of Closing Repair Tickets Even Though the Customer’s Service Has Not Been Restored Results in Under-Recording and Under-Reporting of Telephone Outages.**

Another problem with the accuracy of Frontier’s records is Frontier’s practice of closing repair tickets, even though the customer’s service has not been restored. This practice results in records that overstate Frontier’s repair performance. Similarly, the “disappearance” of repair tickets, which numerous customers called “lost” tickets based on representations of customer service representatives, removes the report of the outage from Frontier records. Again, if Frontier records do not show that there was an outage, it overstates performance. Records affected by prematurely closed and “lost” tickets would not only mask poor service quality, but would also result in customers not receiving bill adjustments and credits owed to them for the failure of Frontier to timely restore service.

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<sup>79</sup> Attachment 2 – Frontier Response to DOC IR No. 46.

<sup>80</sup> Frontier stated that this error appears to have been ongoing since the first half of 2017, over a year before the July 2017 Wyoming outage. Attachment 2 – Frontier Response to DOC IR No. 64.

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. Customers are told the ticket is “lost” or that the ticket was closed, even though the repair had not been made. This forces the customer to again request repair, and Frontier to issue a second repair ticket, with a new due date. And the subscriber again must wait for Frontier to fix the problem. If the service is timely repaired, then Frontier would record it has met the standards for repair.

One Frontier customer, Ms. Elizabeth Mohr testified at the public hearing in Wyoming, Minnesota that “We’ve all seen lost tickets, both for the phone and internet. My phone was out for 12 days. They never came out to fix it. They just are working one day, and I called and I said, Oh, do I get a credit? They said, No, we don’t [have] a ticket that shows your service was out, so we can’t give you a credit.”<sup>81</sup>

Another customer, Ms. Nita Utterback, stated that when she has reported her telephone and internet access service to be out of service, “[a] lot of times I would get a phone call, hey, it’s all fixed. And the phone would be fine, but the internet would still be down. So I’d call and say, yeah, the phone is fixed, but not the Internet. Oh, well that service ticket has been closed. I’m sorry, you’ll have to open a new one. So another two to three weeks to get the Internet fixed.”<sup>82</sup>

Yet another customer, Ms. Maureen Holtzman, reported that “[w]hen I would reference the helpdesk ticket confirmation numbers that I was given, they would have frequently been ‘lost’ and I would have to start over with a new representative.”<sup>83</sup>

Similarly Ms. Karen Miller explained, “[w]hen I was making complaints every day, I asked for the records of all my complaints to be sent to me because the manager would not get on the phone and explain to me why there are so many issues. The manager told the customer service representative I was speaking to that they are not allowed to give me the records on my account because they own them. While I was talking to the customer service representative she said, ‘OMG, your records are being deleted.’ I asked how that could happen and she stated she didn’t know”.<sup>84</sup>

As these examples show, Frontier appears to routinely fail to comply with Minnesota Statutes and Rules requiring accurate records of outages and repairs. Frontier’s apparently common practice of closing or losing repair tickets, without regard to whether the repair has been effected means that Frontier has over-stated its quality of service performance for making timely repairs, and denied customers credits they deserve where Frontier has not repaired the

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<sup>81</sup> Attachment 1 – Elizabeth Mohr Public Testimony of Sept. 12, 2018 (DOC 3 – 000380-84).

<sup>82</sup> Attachment 1 – Nita Utterback Public Testimony of Sept. 4, 2018 (DOC 1 – 000039-40).

<sup>83</sup> Attachment 1 – Maureen Holtzman Public Comment of Feb. 17, 2018 (DOC 6 – 000832).

<sup>84</sup> Attachment 1 – Karen Miller Public Comment of Mar. 21, 2018 (DOC 8 – 001141).

customers service in a reasonable amount of time. The Affidavit of Jeff S. Lacher<sup>85</sup> explains how tickets are handled and closed or “lost:”

4. When a Dispatcher knows that a technician will be unable to make it to a customer to perform a repair or installation, as scheduled,<sup>86</sup> the Dispatcher sends the record into an auto-dialer system as there will need to be a new date scheduled for the repair. The auto-dialer calls the customer number that is on the ticket or order.<sup>87</sup> The customer hears a recording, which states that a technician is unable to be there today. The customer is either provided a new date and time when the repair is scheduled, or instructed to call back into Frontier to schedule a different day and time. In this process, a new due date is assigned.

5. If there is no call back number for the customer **or the only number is out-of service**, the customer's job is placed back into "Pending". When it hits the "Pending" queue after being "Jep"<sup>88</sup> called, the Pending Queue loads the Techs with their jobs for the following day. Again, if the Techs cannot get through the jobs on their load, they would either call the customer or send it back to the Pending queue, where it again goes to the auto-dialer, as described above.

6. Customers that were expecting a technician who did not arrive as scheduled may call Frontier and be told that their ticket was lost. Tickets cannot be "lost." Tickets are either open, closed once completed, canceled by the customer if they call back and the service is now working, or deactivated.

Because the “closing” of a repair ticket is the data used to show that a repair has been complete and service restored, Frontier’s records affected by prematurely closed and missing tickets mask poor service quality and result in customers not receiving bill adjustments and credits owed to them.

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<sup>85</sup> Attachment 3 – Affidavit of Jeff S. Lacher.

<sup>86</sup> In Note 1 to the Lacher Affidavit, Mr. Lacher said: “1. The calls are then referred to as ‘Jep’ calls-meaning that they are in Jeopardy of not getting done by the scheduled time- but in practice they were not in jeopardy in the sense that it was clear they are already late).”

<sup>87</sup> In Note 2 to the Lacher Affidavit, Mr. Lacher explained: “Tickets” refer to Out-of-Service or other problem calls. “Orders” refer to new service or upgrade calls. Collectively, “Tickets” and “Orders” are referred to as “jobs.”

<sup>88</sup> Note 1 to the Lacher Affidavit.

#### **4. Frontier Fails to Provide the Required Credits for Out of Service Conditions Due to Inaccurate Record Keeping.**

Failure to adjust the bill, as required by Minn. R. 7810.1400, or provide the required credit<sup>89</sup> per Frontier's former AFOR plan Out of Service provision<sup>90</sup> happens when:

- No ticket was opened on the phone service outage if the customer has a bundle with phone and internet access service, even though the phone service was not working, because the ticket was opened for the internet service outage only;
- There is no record the customer called and the customer has to call back and open a new trouble ticket;
- The ticket was closed without the repair being done, the customer has to call back and request the repair again, causing Frontier to open a new trouble ticket;
- The technician who performed the repair coded the ticket inaccurately;<sup>91</sup>
- An "error" in Frontier's software caused the wrong closing code to be applied (for example it identified the trouble as customer caused when it was not); and
- Frontier creates a common cause ticket when the needed repair affects multiple customers, and closes the ticket when the common cause problem is repaired, without addressing other problems individual customers reported.

#### **5. Frontier Fails to Record ALL Complaints as Required**

Frontier's definition of a complaint is limited to any complaint received by an outside agency such as the Commission, the Department, the Minnesota Attorney General, a federal agency such as the FCC, or the Better Business Bureau (BBB). Even with the limited definition of what constitutes a complaint, Frontier does not seem to manage those complaints.<sup>92</sup> For

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<sup>89</sup> AFOR ¶ V(E)(2) specified that, if Frontier failed to reinstate basic primary residential service within 48 hours and basic primary business service within 24 hours of the outage Frontier would provide the customer a pro rata adjustment (i.e., 1/30th) of the monthly recurring charge for the first two days (Residential) and one day (Business) that there is a service outage. Frontier would also provide the customer \$5 for each day thereafter that the Residential customer is out-of-service and \$10 for each day the Business customer is out-of-service.

<sup>90</sup> AFOR § V (C) (ii) stated "Time intervals for restoration or repair of service. 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."

<sup>91</sup> Not only are protracted phone service outages not reported to the Commission, but credits to a customer's bill were not required if the repair ticket was closed using a code reflecting that Frontier was not responsible for the outage. For example, if the customer contacted Frontier because the phone service was not working, and the problem identified by the Frontier technician was that the customer's phone set no longer worked, the cause for that trouble is not assigned to Frontier. However, if the problem is with Frontier, and if the technician assigns an inaccurate closing code to the ticket, such as "customer-caused," Frontier will not adjust the customer bill or provide a credit.

<sup>92</sup> Frontier's limited definition of complaint and other record keeping problems have created to difficulty in the Department's efforts to ensure consumers concerns are being addressed and monitor compliance. For example, when the Department requested information regarding a complaint made by the Jasper City Council by letter,

example, DOC Information Request (IR) Nos. 2, 51, and 53 all request Frontier to provide the complaints sent to Frontier from the CAO, DOC, AG, FCC and the BBB. Frontier should have provided the Department all those complaints that came to Frontier via state and federal agencies, and the BBB since January 1, 2017. When the Department compared the complaints Frontier provided to the Department via the information request, with the complaints the CAO had provided to Frontier, it was immediately evident that most of the complaints the CAO had sent to Frontier were not included in Frontier's Response to DOC IR No. 51.<sup>93</sup>

On October 22, 2018, the Department asked Frontier to supplement its response to IR No. 51. Concerned that Frontier's earlier response appeared to have omitted complaints, the Department provided Frontier with the last name and the CAO Case ID # of ten records that it believed had been omitted from Frontier's initial response.

On October 31, 2018, Frontier asked the Department for more information on three of the ten complaints that were missing. Frontier asked for "full names, dates, phone numbers" because Frontier was unable to locate the three complaints by using the last name and CAO case ID number.

In Frontier's Supplemental Response of November 1, 2018, to DOC IR No. 51, which requested **all** subscriber complaints in Frontier's possession that had been "filed by Frontier customers with the Commission in the course of this investigation," Frontier provided **no additional records** other than the ten subscriber complaints that the Department had specifically identified.

It appears that Frontier is failing to meet the requirements of Minn. R. 7810.1200 requiring utilities to make and keep a record of all complaints received by it from its customers, including the name and address of the complaining customer, the date and nature of the complaint, and its disposition and date, and to maintain the records in "such a manner as will enable it to review and analyze its procedures and actions."

## **6. Conclusions Regarding Frontier's Failure to Make and Retain Adequate Records**

Among other problems, it appears that:

- Frontier does not accurately record and report telephone outages, in violation of Commission rules.
- Frontier cancels, closes, or "loses" repair tickets before the repair is made, which leaves the customer's service out of order, understates outages, and denies the customer of any credit that is due.

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Frontier responded that it had no record of that complaint and could not locate any such letter in its files. Attachment 2 – Frontier Response to DOC IR No. 61.

<sup>93</sup> Frontier claimed in response to Department discovery that it had provided all complaints from regulatory agencies including the Commission (CAO). Attachment 2 – Frontier Response to DOC IR No. 66.

- Frontier appears to employ record creation procedures, including use of an auto-dialer when a repair commitment cannot be met, that may require the customer to “initiate” a subsequent call to schedule an appointment and increase the duration the customer is out of service.
- Based at least in part on its improper record creation practices, where the telephone service outage is not identified on the trouble ticket, Frontier denies bill adjustments and credits that Frontier owes to customers for service-outage related conditions.
- Frontier is unable to accurately analyze and correct its own performance, because it does not track complaints in a manner enabling it to do so.
- Frontier’s poor record creation and maintenance practices mean that regulatory agencies cannot rely upon the company’s records to assess Frontier’s service quality.

In regulatory filings, the telephone utility controls the information provided to parties; however, it is also the utility’s responsibility to provide truthful and accurate representations of facts and information. If utilities withhold information, either intentionally or unintentionally, then the implicit assumptions of the regulatory compact cannot be fulfilled. Regulators are unable to determine whether information is accurate or represents the entirety of facts related to a given inquiry.

From the large number of complaints received by regulatory agencies, and from Frontier’s responses to discovery, it appears that Frontier’s failure to reasonably create and maintain records has resulted in records that cannot be relied upon for purposes of determining Frontier’s compliance with several Minnesota statutes and rules that set service quality standards. The recommendations of the Department, in numerous areas of these Comments account for the fact that Frontier’s records cannot be relied upon.

**G. REPORT TO COMMISSION ON SERVICE DISRUPTION. Frontier Has Failed to Report Service Disruptions Affecting a Substantial Number of Customers**

Minn. R. 7810.0600 requires that telephone companies report to the Commission any service disruption to a “substantial” number of customers.<sup>94</sup>

The Department is not aware of any service disruption that Frontier reported to the Commission, and Frontier’s responses to Department IRs and subscriber complaints suggest that Frontier has not done so. The term “substantial” is not defined in Minn. R. 7810.0600, however, Minn. R. 7810.5800, regarding interruptions of service, requires telephone utilities to report to the Commission a prolonged and serious interruption of service to a “large” number of customers, while Minn. R. 7810.0600 concerns occurrences that disrupt a “substantial” number of customers.

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<sup>94</sup> Minn. R. 7810.0600 requires that “[e]ach telephone utility shall report promptly to the commission any specific occurrence or development which disrupts the service of a substantial number of its customers or which may impair the utility’s ability to furnish service to a substantial number of customers.”

The Department learned of at least two such outages that should have been reported to the Commission.

The first outage took place in July 2017 in the Wyoming exchange, caused by a lightning strike. The outage lasted 14 days, beginning on July 8<sup>th</sup> with service restored on July 21<sup>st</sup>, and 38 customers were deprived of telephone service during the outage.

The second outage occurred in the Crane Lake exchange during the summer of 2018, and was also caused by a lightning strike. One customer was out of service for 50 days, from June 29<sup>th</sup> until August 17<sup>th</sup>. In response to DOC IR No. 72, which asked whether the customer was provided credit under the AFOR plan's remedy for out of service, Frontier said it was not required to report this outage for service quality purposes under the AFOR, and that:

As noted above, a large area of Frontier's service territory in Northern Minnesota was impacted by a series of lightning storms. These storms caused widespread damage to Frontier cable facilities. Repair of affected cable, and in some cases replacement of cable, was a time consuming effort with work spread over a relatively large geographic area. In many cases, access to the impacted cable was difficult as much of the affected area is remote. Much of the impacted cable was submarine cable placed in lakes and other water bodies. Accessing, inspecting, and repairing that underwater cable required access by boat. Obtaining and coordinating suitable boats and repair equipment was difficult. Repair of the underwater facilities was dependent to some degree upon weather. Thus, Frontier could not repair all trouble immediately, but was required to engage in a repair effort over several weeks and over a widespread geographic area to address all the damaged cable.<sup>95</sup>

Although Frontier admits the damage was widespread and restoration was difficult, Frontier did not report this outage to the Commission as required under Minn. R. 7810.0600, or Minn. R. 7810.5800.

## **Recommendations**

- 1) Require 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 or which may impair the utility's ability to furnish service to a substantial number of customers.

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<sup>95</sup> Attachment 2 – Frontier Response to DOC IR No. 72.

- 2) Other recommendations related to this matter are provided with other sections to these comments.

**H. INFORMATION AVAILABLE TO CUSTOMER AND PUBLIC. Frontier Fails to Provide Its Customers with Convenient Access to Qualified Personnel, Including Supervisors.**

Based on more than 40 customers' complaints about Frontier's painfully inconvenient customer service, and representatives who seemingly often provide false information, Frontier appears to have implemented unreasonable business practices that violate Minn. Stat. § 237.06 and Minn. R. 7810.1000.

Minn. R. 7810.1000<sup>96</sup> requires telephone utilities like Frontier to provide customers "convenient access" to qualified personnel, including supervisors, to provide information on services and rates, process service orders, explain charges on bills, adjust erroneous charges, and otherwise represent the telephone utility. Minn. Stat. § 237.06 requires Minnesota telephone companies to furnish reasonably adequate service and facilities for the accommodation of the public, at fair and reasonable rates.<sup>97</sup> The Legislature specifically charged the Commission, as it performs its responsibilities, with the duty to consider "state goals" of maintaining reasonable rates and maintaining or improving quality of service.<sup>98</sup>

Although Frontier customers have described Frontier's field technicians as wonderful, they do not have the same sentiments as to Frontier's customer service representatives. Subscribers received inaccurate information and expressed great frustration when dealing with Frontier's customer service personnel, even characterizing the service as being rude and/or unhelpful. Customers also said Frontier's customer service representatives would often refuse to transfer the customer to a supervisor or the supervisor would fail to return their call as requested. The following are fairly typical complaints about Frontier's representatives:

Many customers reported that contacting Frontier was anything but convenient, describing long hold times prior to speaking with a customer service representatives. Also, several consumers reported that they believed Frontier representatives were unqualified, untrained, or otherwise provided them with inaccurate information:

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<sup>96</sup> Minn. R. 7810.1000, subp. 1 states: "Access to information provided. Business offices shall be staffed to provide customers and others with convenient access to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error and to generally act as representatives of the utility."

<sup>97</sup> Minn. Stat. § 237.06 states: "It shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof. All unreasonable rates, tolls, and charges are hereby declared to be unlawful."

<sup>98</sup> Minn. Stat. § 237.011 states that ". . . state goals that should be considered as the commission executes its regulatory duties with respect to telecommunication services [include] . . . (2) maintaining just and reasonable rates" and "(5) maintaining or improving quality of service."



- Ms. N said<sup>99</sup> she had been trying to get telephone service for her 82-year-old mother, who lived in a senior living center. Ms. N. had contacted Frontier customer service to buy phone service, but was informed that Frontier “would not set up phone service for her mother unless she also purchased internet service” because, the Frontier representative claimed, “the area in which her mother lives requires bundling of these two services.”
- Mr. J. P. first requested telephone service in June of 2017.<sup>100</sup> Frontier customer service informed him that Frontier did not serve his area; several neighbors, however had Frontier phone service. Mr. J. P. said that after a year of repeatedly calling Frontier, a Frontier customer service representative “found my records and opted to cancel the existing order and start a new one.” After the installation finally was scheduled for June 19, 2018, the technician failed to show up. Mr. J. P. again called customer service, he said:

Called back, as I had not heard from dispatch. First person checked on order and tried to reroute me to dispatch. Got someone from technical support who said she could not help and sent me back to customer service. Another wait for an agent then this guy couldn't even find my information. It was so bad he kept calling me Mr. Nichols and couldn't even keep straight why I called in the first place. I asked to speak to a supervisor so while I was waiting I found the Frontier FB page and saw I could communicate through Messenger. I conversed with a guy named Dennis ... At 3:00 he advised a service tech would be there within 30 minutes. After an hour and no service guy, he finally advised dispatch had “lied” to him and they couldn't make it until the next day.

After several more months without phone service, and another dozen calls with Frontier representatives, Mr. J. P. contacted the CAO on September 11, 2018. Incredibly, the response by Frontier shows that the its records reflect an installation request created on June 14, 2018, a year later than when Mr. J. P. first attempted to obtain service. Frontier's response to the CAO said Frontier would install service on October 5, 2018, “as requested by the customer.”

- Ms. Jayne Shaffer of LeRoy, Minnesota said:<sup>101</sup>

We have had a very frustrating last several months with Frontier. The recent and most frustrating issue has been extended periods of time without service. ... When I called it in, my call was answered

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<sup>99</sup> Office of the Minnesota Attorney General correspondence to Frontier of April 11, 2018 on behalf of Ms. N. of Kettle River, Minnesota. (DOC 26 – 003634) (Nonpublic).

<sup>100</sup> Mr. P. Nonpublic Complaint to PUC of Sept. 11, 2018 (DOC 30 – 004341).

<sup>101</sup> Attachment 1 – Jayne Shaffer Speak Up Comment of mid-Sept., 2018 (DOC 14 – 001922)

by a customer service tech named Jesse, who's greeting was as follows: "HELLO, HELLO, HELLO!! Thank YOU for calling Frontier!!" It was so loud and unprofessional that I had to wonder how it was permitted in what is supposed to be a communications business.

In Ms. Shaffer's experience, "[e]ach call to the service department lasted a minimum of 25 minutes to a max of one hour." Most recently, in late August, the phone went out again, and the service call lasted 1 hour 39 minutes. Ms. Shaffer states she:

was cut off, transferred without being able to fully describe my problem, put on hold for long periods, and finally dropped to begin the process again. When I became disgusted, I was told I was being rude and inappropriate. I explained that was not my intent, but that this had been extremely frustrating, having just gone through this barely a month before. I told them at one time, service like this was amended by giving a customer a refund or a month of free service. I was told I would have to contact customer service again when my service was restored. I haven't been able to bring myself to go through that experience, as I know where it got me last time.

Ms. Shaffer concluded that, "[i]t seems that the Frontier customer service department is totally immune to anything that the customer says, perhaps because they deal with so many unhappy customers due to their company's poor service."

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.

For example, Ms. Barb Samarzia of Holyoke, at the McGregor public hearing said, after hearing other subscriber's statements to Judge Oxley that, "[o]ur experiences are the same as everybody else's, it's just uncanny how service can be so horrible."<sup>102</sup> She explained that on one occasion, when she attempted to obtain assistance for loss of service, a Frontier technician who happened to be in the area worked with her for two hours, trying to get customer service to accept Ms. Samarzia's report of the service problem, and to open a repair ticket, so the technician could perform the repair. The customer service representative refused to open a repair ticket or to allow Ms. Samarzia or the technician to speak with a supervisor; as a result, the service was not repaired. On another occasion, after having been kept waiting on hold for a half-hour, the representative said she would call Ms. Samarzia back, but did not do so. Most recently, said Ms. Samarzia, on August 27, she:

"called Frontier for repair for our phone . . . at 12:30, the first time when I reached the menu to hit number 5, I did so and it promptly

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<sup>102</sup> Attachment 1 – Barb Samarzia Public Testimony of Sept. 5, 2018 (DOC 2 – 000207).

hung up. I called back and was on hold for at least five minutes when I was cut off. I called a third time and this time they asked for a call-back number, which he [Ms. Samarzia's husband] gave, and he spoke to somebody about it and they said they had to do a line test. After a number of seconds I was hung up on. Called back again at 12:47. John, at 1:05, said he was transferring me to a copper technician. She asked me for a call-back number and I gave it to her and then I got a dial tone. Hung up on me again. 1:15. Now it's 1:42 and I have no call back. So we were out of phone service for about a week and a half."

Ms. Samarzia concluded: "I don't even dare call Frontier to get some money back, it won't happen. They've already told me that fact in 2017, I'll never get any money back from any service not done."

Similarly, Ms. Peggy and Mr. Doug Lashmett reported that while attempting to dispute Frontier's auto-renewal of their contract, after they specifically requested it not be auto-renewed, they were assured a manager would call them back once one was available, but no manager ever called back.<sup>103</sup> Ms. Ruth Hunecke reported that while trying to resolve a billing dispute with Frontier, she "asked to speak with management" and was told "that management would not be able to help me either."<sup>104</sup>

## **Conclusion**

Complaints of consumers indicate that Frontier falls significantly short of meeting its obligations under Minn. R. 7810.1000. Access to representatives is almost always inconvenient, with long hold times, and customers often report being hung up on or passed from one representative to another. Many subscribers describe Frontier representatives who appear unqualified—either unable or unwilling—to address the customer's concerns. Seldom have supervisory personnel been reported by customers to be available or willing to assist them. Customers and prospective customers report encountering Frontier representatives who often fail to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error, or otherwise assist them.

## **Recommendations**

The Commission should order the following relief:

- 1) Find that Frontier has violated Minn. R. 7810.0100 by failing to provide convenient access to personnel, including supervisory personnel.

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<sup>103</sup> Attachment 1 – Peggy and Doug Lashmett Public Comment of Apr. 8, 2018 (DOC 8 – 001187).

<sup>104</sup> Attachment 1 – Ruth Hunecke Public Comment of Feb. 19, 2018 (DOC 6 – 000816).

- 2) The period of the violation should be found to have started no later than when the Commission initiated this investigation and should continue until such time as Frontier demonstrates affirmative steps have been taken to achieve compliance with the rule.
- 3) Require Frontier within 60 days of the date of the Commission's Order to demonstrate that it complies with Minn. R. 7810.1000, by filing evidence, showing that it has implemented practices to ensure it meets its obligations. The filing should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to its accuracy.
- 4) Require Frontier within 60 days of the Commission's order, to prepare a proposed written notice to its customers: (a) informing customers of the company's obligations under Minn. R. 7810.1100 and (b) stating that, if any customer believes that the Company has failed to comply with these requirements, they should contact the Department of Commerce at 651-539-1883 or telecom.commerce@state.mn.us. All instances presented by subscribers will be used to determine the number of violations of the rule. The notice that Frontier proposes should be submitted for review to Commission and Department of Commerce staff, and, if there is agreement, approved by the Executive Secretary. After the notice is provided to current customers, the Company shall file proof of compliance, including an affidavit of a Frontier executive officer attesting to the veracity of the information.

**I. COMPLAINT PROCEDURES. Frontier Fails to Contact the Customer within 5 Business Days, and Once Every 14 Calendar Days Thereafter on the Status of Unresolved Complaints.**

From the more than 40 complaints and comments of subscribers and others, it appears that Frontier does not have procedures to ensure that customers with complaints are contacted within five business days, and every 14 days thereafter, until the complaint is resolved or sent to the Commission, as is required by Minn. R. 7810.1100.

Minn. R. 7810.1100 requires telephone companies to have personnel available to hear inquiries and complaints, and to employ qualified personnel to receive and, if possible, resolve all customer inquiries, requests, and complaints.<sup>105</sup> When a complaint cannot be immediately resolved, the utility must contact the customer within five business days and at least once every 14 calendar days thereafter, to advise the customer regarding the status of its investigation the complaint is mutually resolved; or the utility investigates and unilaterally resolves it; or the customer files a written complaint with the Public Utilities Commission (or the courts).<sup>106</sup>

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<sup>105</sup> Minn. R. 7810.1100, subp. 1.

<sup>106</sup> Minn. R. 7810.1100, subp. 2.

When the Public Utilities Commission forwards a customer complaint to the utility, the utility must respond within five business days.<sup>107</sup>

- Mr. Dale Burkhardt, who owns land and operates a spraying service in rural Trimont reported on Frontier customer service’s unhelpfulness after Frontier caused his telephone line to be cut in July 2018.<sup>108</sup> Frontier failed to restore service, even though he called every couple of weeks. Instead he was hung up on, twice, by customer service. Subsequently, customer service claimed the repair had been completed, when it had not. At the time of the Slayton hearing, his phone and internet access service still had not been restored. This harmed his business, because August and September should have been busy months for crop spraying, but customers could not reach him.
- Ms. T.M. said that, after an outage that began on July 3, she had called Frontier three times to get her telephone service restored to her Finlayson home, but had been ignored by Frontier.<sup>109</sup> She indicated that Frontier had not responded. After a month-long outage with no response from Frontier, she sent her complaint to the Commission on August 3, where Commission staff, Ms. Erin Petschel, assisted her by writing Frontier that same day. The Company’s response to the Commission, dated August 14 claimed that a technician visited on July 12, found that a short in inside wiring caused the outage and that “the technician repaired and cleaned up the wires to resolve the concern.” Oddly, the same response acknowledged, however, that Frontier, in fact, had had no contact with Ms. Petchel during the month-long outage, and that Frontier on August 6 repaired a faulty port on the remote terminal to restore service. Frontier also stated it credited T.M. only \$65 for the month-long outage, significantly less than the credit required by the AFOR plan.

Ms. K’s family lost service on June 30, 2018,<sup>110</sup> and on July 01, 2018, she chatted with a Frontier representative who set the repair for July 6, 2018: “I asked if it could be sooner because of my husband’s health problems. He indicated the ticket was with the test board and *he was unable to escalate it but to go back on chat in 45 minutes so the ticket could be flagged.* I went back on and when my number was reached sat there for hour and no one chatted. I started over and shortly after 3:00 p.m. *I chatted with Maddi. She had a medical placed on the ticket and indicated a technician would be out sooner than the 6th but she did not have a date.*” Ms. K reported that on July 6, 2018 she still had no response and “went back on chat and after waiting 1/2 an hour got on with Nicole. . . . She said the ticket was still pending. She talked to the dispatcher and indicated they had just got access to the ticket out of testing. It had not been assigned to a technician. So I said ‘We just continue to wait and cancel all our plans??’

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<sup>107</sup> Minn. R. 7810.1100, subp. 3.

<sup>108</sup> Attachment 1 - Dale Burkhardt Public Testimony of Sept. 25, 2018 (DOC 04 – 000461-464).

<sup>109</sup> Ms. T.M. Nonpublic Complaint of 2018 to PUC of Aug. 2018 (DOC 22 – 002984).

<sup>110</sup> Ms. K. Nonpublic Complaint to PUC of July 17, 2018 (DOC 21 – 002942).

She checked further and told me they did not need access to our home for the repair. (This would seem to indicate they knew what the problem was?)”

No one arrived on the reported repair ticket on July 6 or any time after. When Ms. K contacted Frontier on July 7, the company representative informed her that Frontier records had no ticket to restore service on July 6th

Over the next two weeks, Ms. K repeatedly contacted Frontier, spending long times on hold, *but she received no response, call back, or other assistance.*

Ms. K. began writing to Frontier’s CEO, the Attorney General and the Commission: “My husband is 81 and I will turn 80 in August. We absolutely need this phone for his medical team to take care of him and so our children can keep in touch. Frontier makes no effort to explain the problem or let us know if there is progress....” “Our phone has been out of order since June 30th. There is a medical on it, as my husband has many medical problems. He is monitored daily thru wifi by St. Mary's heart center and if his medicine needs to be adjusted they phone us. *Currently they have to e-mail. First date set for repair was July 6th, although we were told it would be sooner with the medical on it. I have chatted 3 times with your techs and have copies of all. Nobody seems to be able to give me helpful information. We are left in the dark as to why and when. Now they say the 19th of July. What kind of service is that?? We are ½ mile away from the nearest neighbor, 81 and 79 years of age. Have been a customer for years and now we are just ?? nothing?*” Frontier’s only response was a robo-mail noting arrival of her message.

Shockingly, Frontier’s eventual written response to the Commission about Ms. K’s complaint (Frontier “Complaint Number: 71617”) admitted that “Frontier’s consultant submitted a medical expedite request on July 1, 2018.” *For the first time, however, after an outage of almost three weeks, Frontier revealed that Frontier’s procedures assign no meaning to its “consultant’s” request for a medical expedite.* Frontier said that, for an outage to be treated as a medical priority, “A letter/document must be received from Customer’s physician annually certifying that a medical emergency exists and that phone service is essential, and that the letter or document must contain the following:

- State registration or license number of physician.
- Name and address of seriously ill person.
- Name, signature of licensed physician or public health official (nurse or physician's assistant) certifying illness or medical emergency and date.
- Optional - Any services beyond local exchange service that may be necessary to reach customer’s doctor and that absence of such services would be a serious risk of inaccessibility of emergency medical assistance.
- Customer should be instructed letter/document should be mailed to the Frontier Correspondence address or fax Frontier Communications, P. O. Box 5166, Tampa, FL 33675 Fax 888-609-9919

Many Frontier customers and members of the public, and government agencies reported unsafe, unburied wires strung across their property or otherwise in public areas, and informed Commission staff that Frontier essentially ignored their complaints for months, and sometimes years. Among these many complaints is, for example, Mr. K, who eventually filed a complaint with the Commission (and Attorney General’s Office) in July of 2018, regarding exposed, seemingly hazardous wiring strung six months earlier across his property to reach a neighbor’s home.<sup>111</sup> Despite opening a ticket in April, Frontier failed to bury the cable, “became nonresponsive and unhelpful,” and his calls to complain to Frontier simply disconnected. Twenty days after Commission staff contacted Frontier on his behalf, Frontier responded to say the wires were buried in late July.

Less fortunate are customers such as Ms. B, who filed a July 2018 complaint with the Commission regarding Frontier wiring that had been across her yard and across the alley for more than a year, and repeatedly had to be reattached when the neighbors ran it over and was hazardous to her children, who play in the yard.<sup>112</sup> Ms. B’s letter to the President of Frontier even failed to get results, as did the Commission’s July 20, 2018 letter to Frontier. *Frontier’s August 3 response informed the Commission that Frontier could “not guarantee any specific date for project completion.”*

## Conclusions

Complaints of customers and other citizens, and correspondence to and from Commission staff on behalf of subscribers and others indicate that Frontier does not meet its obligations under Minn. R. 7810.1100. It appears that Frontier does not have procedures whereby qualified personnel are available during regular business hours to receive and, if possible, resolve all customer inquiries, requests, and complaints. Nor does Frontier have procedures to ensure that customers with complaints are contacted within five business days, and every 14 days thereafter, until the complaint is resolved or sent to the Commission, as is required by Minn. R. 7811.1100. From documents obtained by the Department, it appears that Frontier, in fact, does not even respond to the Commission within 5 days, as Minn. R. 7811.1100 requires.

It is particularly troublesome that Frontier’s procedures for addressing subscriber complaints are so poor that *representatives fail to accurately communicate with subscribers, such as Ms. K, to inform them that their life or death medical emergencies will be disregarded* unless a very specific protocol, unknown to the subscriber, is followed.

## Recommendations

The Commission should order the following relief:

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<sup>111</sup> Mr. K. of Rosemount, Nonpublic Complaint to PUC (and AG) of July 11, 2018, (DOC 21-002936).

<sup>112</sup> Ms. B. of Truman Minnesota, Nonpublic Complaint to PUC of July 18, 2018 (DOC 21 – 002802-2804).

- 1) Find that Frontier has violated Minn. R. 7810.1100 by failing to contact customers on the status of their complaint within five business days, and every 14 days thereafter, until the complaint is mutually resolved, final disposition of the matter has been made, or the customer files a written complaint with the Commission or the courts.
- 2) If the Commission agrees, the Department staff can review each consumer's comments in this matter and provide an accounting to the Commission, subject to Comment, for the pursuit of penalties.
- 3) Require Frontier to demonstrate that it will comply with Minn. R. 7810.1100 by filing evidence, within 60 days of the date of the Commission's Order showing that it has implemented practices to ensure it can meet its obligations. The filing should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to its accuracy.
- 4) Require Frontier within 60 days of the Commission's order, to prepare a proposed written notice to its customers: (a) informing customers of the company's obligations under Minn. R. 7810.1100 and (b) stating that, if any customer believes that the Company has failed to comply with these requirements, they may contact the Department of Commerce at 651-539-1883 or telecom.commerce@state.mn.us. All instances presented by subscribers will be used to determine the number of violations of the rule. The notice that Frontier proposes should be submitted for review to Commission and Department of Commerce staff, and, if there is agreement, approved by the Executive Secretary. After the notice is provided to current customers, the Company shall file proof of compliance, including an affidavit of a Frontier executive officer attesting to the veracity of the information.

**J. RECORD OF COMPLAINT. Frontier's Records of Complaints Are Insufficient to Enable It to Review and Analyze Its Procedures and Actions.**

Frontier has stated that it does not keep a record of *all* of its customers' complaints in such a manner that affords it the ability to review and analyze its procedures and actions. Instead, Frontier said, it limits its separate record of complaints to communications sent to Frontier from by state and federal agencies (e.g. the Department, Office of Attorney General, and FCC), and the Better Business Bureau<sup>113</sup>, presumably on behalf of customers, Frontier does not record complaints from customers in a manner that they can be aggregated and used by

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<sup>113</sup> DOC IR No. 1a asked Frontier to explain in detail how Frontier records complaints, and No. 1b asked Frontier to outline the criteria Frontier uses to determine whether a customer's communication is considered a complaint. Frontier stated in its response to DOC IR No. 1a that only complaints received from outside agencies (such as the Commission or the FCC) are recorded in a Frontier system called Unisys. The Unisys system is used to track and retain customer information related to the complaints (such account number, contact information including address), copies of the original complaint received from the agency, and the Frontier responses. Attachment 2 – Frontier Response to DOC IR No. 1.



Frontier management to analyze its procedures and actions to ensure compliance with the Commission's rules. Nor, apparently, does it have effective procedures in place to treat communications from local governments on behalf of customers as "complaints."<sup>114</sup>

Minn. R. 7810.1200 requires telephone utilities to record all customer complaints to "enable it to review and analyze its procedures and actions."<sup>115</sup>

The complaints raised by consumers on Frontier's service quality and operating practices demonstrate that there have been a significant number of problems for some length of time. Yet, the state regulatory agencies appear to have been largely unaware of many of the significant problems experienced by Frontier customers. Only after a large number of customers complained to the Consumer Affairs Office at the Commission, between January 2017 and January 2018, did the Commission determine to open this investigation.

Frontier's disregard of Minn. R. 7810.1200 is largely based on Frontier's definition of what is a "customer complaint." Frontier claims that it does not record, in any readily accessible fashion, customer complaints other than those that come to the attention of third parties, such as the Commission, Commerce, the AG, a federal agency such as the FCC, or the BBB. Because Frontier has not, and continues not to comply with of Minn. R. 7810.1200, its records cannot be relied upon to analyze its quality of service. Since not all customers understand they may turn to a state or federal agency for assistance, or may choose to not do so, it is nearly certain that the complaints that Frontier does track represent only the tip of the iceberg.

As the Commission is aware, the Department disagrees with Frontier's narrow definition of "complaint." In Docket No. P421/C-17-796, the Department recommended the Commission consider clarifying the definition of "complaint" to reduce the potential for gamesmanship in recording and reporting. The Department offered the following definition for the Commission's consideration:

A complaint is any expression of dissatisfaction, whether oral or written, and whether justified, and resolved in the customer's favor or not, from or on behalf of an eligible complainant about the firm's provision, repair and, billing of, or failure to provide such functions of a regulated service. Telephone and telecommunications carriers' records of complaints must include detailed descriptions of each

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<sup>114</sup> Attachment 2 – Frontier Response to DOC IR No. 61.

<sup>115</sup> Minn. R. 7810.1200 states: "[e]ach utility shall keep a record of all complaints received by it from its customers *which shall be classified as directed by the Public Utilities Commission*. The record shall show the name and address of the customer, the date and nature of the complaint, and its disposition and date thereof. The utility shall keep records of the customer complaints in such a manner as will enable it to review and analyze its procedures and actions." (emphasis added).

individual customer complaint and the accompanying resolution, to allow the carrier to review and analyze its procedures and actions, as required in Minnesota Administrative Rule 7810.1200.<sup>116</sup>

The Commission's rules only offer consumer protections if consumers' acts of contacting Frontier's customer service representatives with problems are recognized as complaints. For example, Minn. R. 7810.1100, subp. 2, specifies that, if a "complaint cannot be promptly resolved, the utility shall contact the customer within five business days and at least once every 14 calendar days thereafter, and advise the customer regarding the status of its investigation until: the complaint is mutually resolved; or the utility advises the customer of the results of its investigation and final disposition of the matter; or the customer files a written complaint with the Public Utilities Commission or the courts." If the Commission were to adopt Frontier's narrow definition of "complaint," Frontier (and other carriers) would be allowed to not contact the customer within 5 days.

Other rules that are implicated with the narrow definition of complaint may include:

Minn. R. 7810.1100, subp. 1 states: "[p]ersonnel available to hear inquiries and complaints. The utility shall establish such procedures whereby qualified personnel shall be available during regular business hours to receive and, if possible, resolve all customer inquiries, requests, and complaints."

Minn. R. 7810.0400 states in part: "Each telephone utility shall maintain records of its operations in sufficient detail to permit review of its service performance, and such records shall be made available to the commission upon request."

Minn. R. 7810.0600 states: "Each telephone utility shall report promptly to the commission any specific occurrence or development which disrupts the service of a substantial number of its customers or which may impair the utility's ability to furnish service to a substantial number of customers."

Minn. R. 7810.0900 states in part: "...all records required by this chapter shall be kept within the state or shall be made available to the commission or its authorized representatives at any time upon request."

As specified in the rule, Frontier is required to record customer complaints in a manner for Frontier executives to correct deficiencies. Frontier does not appear to use complaints as a tool to review and analyze its procedures and actions. This is demonstrated by the large

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<sup>116</sup> *In re Commission Inquiry into CenturyLink's Compliance with TAP Statutes and Rules*, Department of Commerce's Public Comments at 10 (Mar. 13, 2018) (eDocket No. 20183-140973-02).

numbers of complaints regarding the time it takes to restore phone service to customers,<sup>117</sup> especially the compelling complaints of customers with medical needs who have been given misinformation by Frontier customer service.<sup>118</sup> The Commission should not allow a situation to persist in which Frontier’s executives could claim to have been kept in the dark, unaware of Frontier’s practices toward customers that routinely violate Minnesota laws and Commission rules. It would be better for the Commission to reject Frontier’s narrow definition of complaint, and articulate a clear definition, to make future non-compliance less attractive.

## **Conclusion**

The commission should reject Frontier’s narrow definition of complaint, and determine that Frontier has violated Minn. R. 7810.1200, and Minn. R. 7810.1100, subps. 1 and 2. Frontier’s narrow definition of the word “complaint” has a direct effect on the compliance required with each of the rules that uses the word “complaint,” and the limited complaints Frontier considers to be complaints has inhibited its ability to review and analyze its procedures and actions as required by the rules.

## **Recommendation**

The Commission should order the following:

- 1) Issue a clarification or definition as applied to Frontier of what constitutes a complaint for purposes of compliance under Minn. R. 7810.1200 and Minn. R. 7810.1100, subp. 2.
- 2) If the Commission does not wish to define what constitutes a complaint in this proceeding, it should require that complaints made by customers, to Frontier’s customer service representatives, be included in what Frontier considers to be a complaint. The customer complaint does not need to be received from a third party. Frontier should be required to submit a proposal on how it will define a complaint to give meaning to the Commission’s rules.
- 3) To demonstrate compliance, with however the Commission chooses to proceed with recommendations 1) and 2), the Commission should require Frontier to provide the Department with all complaints it receives for some limited period of time, such as one month, to ensure that complaints made by customers to only customer service representatives are recognized as complaints.

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<sup>117</sup> See discussion in section P5.

<sup>118</sup> See discussion in section D.

## **K. CUSTOMER BILLING; DEPOSIT AND GUARANTEE REQUIREMENTS**

### **1. Frontier has Unreasonable Charges and Practices that Result in Improper Over Charges**

It appears from the record that Frontier has failed to comply with Minn. Stat. § 237.06, which requires Frontier to have “reasonable” rates and charges. Many consumers reported concerns with Frontier’s billing practices, ranging from bills being difficult to understand to Frontier billing for services months after cancellation. Consumers reported that Frontier’s salespeople often misrepresented the terms of the consumer’s plan. Customers also reported that these persistent billing issues took up countless hours of their time with customer service representatives and were a consistent source of frustration with Frontier. In addition to general concerns with Frontier’s billing practices, consumers reported direct violations of Minnesota statutes and the Commission’s service quality rules, which are discussed further in the sections below.

Minn. Stat. § 237.06 provides, “All unreasonable rates, tolls, and charges are hereby declared to be unlawful.”

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. For example, Lloyd Ollila testified at the Ely public hearing that he believed his phone and internet were to receive a vacation rate beginning in January 2018.<sup>119</sup> Mr. Ollila reported that instead he was charged full price from January to May, resulting in a \$347.58 charge. Mr. Ollila reported that he called in mid-May to correct the problem and a Frontier representative told him it was resolved, but in June, Frontier demanded he pay the full price.

Consumers also reported frustration with Frontier’s practice of charging late fees for online payments that consumers submitted before the due date. For example, Charlene Hawkins reported that it takes Frontier at least five days to process her online payments.<sup>120</sup> Ms. Hawkins reported that she submitted an online payment on August 31, but it had not cleared by the September 4 due date. Ms. Hawkins believed, based on past experience, that Frontier would charge a late fee. Similarly, Nancy Fiebelkorn reported that after Frontier recently charged a late fee on her account, she called Frontier and the representative stated that her bill was paid August 16 but was due August 15.<sup>121</sup> Ms. Fiebelkorn reported that her records confirm she paid the bill on the 15th.

Other consumers reported that after cancelling service, Frontier continued to bill them each month. For example, Aaron Oquist reported that upon moving to a new house in Stacy,

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<sup>119</sup> Attachment 1 - Lloyd Ollila Public Testimony of Sept. 4, 2018 (DOC 1 – 000027-000028).

<sup>120</sup> Attachment 1 - Charlene Hawkins Public Testimony of Sept. 4, 2018 (DOC 1 – 000023-000026).

<sup>121</sup> Attachment 1 - Nancy Fiebelkorn Public Comment of Sept. 12, 2018 (DOC 10 – 001381).

he obtained phone and internet service from Frontier.<sup>122</sup> Mr. Oquist reported that after three days he discovered that Frontier would not be able to supply the represented internet speed so he cancelled service. Mr. Oquist reported that he discovered on his credit report months later that Frontier had continued billing him and reported a delinquent debt to the credit reporting agencies. Mr. Oquist reported that Frontier would admit its mistake on the phone but would not remove the charges and notify the credit reporting agencies. Mr. Oquist reported that in 2016 he paid Frontier several hundred dollars on the understanding that Frontier would remove the debt from his credit report, but Frontier has refused to contact the credit reporting agencies.

At least one consumer reported that Frontier would not allow them to cancel service. Ms. Tabitha Odegaard reported that following her father-in-law's death in November 2017, she tried to cancel his service with Frontier.<sup>123</sup> Frontier refused to cancel service because Ms. Odegaard did not have the passwords for her father-in-law's account. Ms. Odegaard stated, "I would've thought with learning that the father-in-law passed away that they would've been understanding that I did not know the passwords and let me cancel service." As of February 2018, Ms. Odegaard reported still paying for service.

Mr. S. filed a complaint with the Commission regarding charges simply appearing on his bill.<sup>124</sup> Mr. S stated that, during one conversation with Frontier, Mr. S requested removal of a \$2.99 per month charge for "Anonymous Call Service" and inquired about a possible modem update to improve his internet access speed. As a result of the telephone conversation with Frontier, the Carrier disconnected Mr. S's Internet service. After that, the bill that Mr. L received from Frontier showed a \$6.99 per month charge for Residential Voice Mail Service and a \$9.99 charge for Equipment Delivery and Handling.

Lastly, consumers reported concerns with Frontier's method of refunding balances from cancelled accounts. Several consumers reported concerns with Frontier's practice of waiting 90 days to issue any refunds and issuing a refund as a gift card. For example, Emily Ingram testified that when she canceled her Frontier service, Frontier waited 90 days to refund a \$25 account balance.<sup>125</sup> Ms. Ingram indicated this was unfair due to Frontier's practice of assessing late fees for payments that are only one day late. Similarly, Richard Bergquist reported that when he cancelled his landline service, Frontier would only send a gift card for the roughly \$75 credit balance.<sup>126</sup> Mr. Bergquist reported that when the gift card did not arrive, Frontier said it would be another six to eight weeks. Mr. Bergquist reported that he eventually received the gift card ten-weeks later, but it did not work. Mr. Bergquist eventually received a working gift card after eight more weeks. Frontier stated in response to a Department IR that its policy is to postpone processing bill credits after a customer cancels service "to allow for long-distance

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<sup>122</sup> Attachment 1 - Aaron Oquist Public Comment of Feb. 17, 2018 (DOC 6 – 000839).

<sup>123</sup> Attachment 1 - Tabitha Odegaard Public Comment of Feb. 19, 2018 (DOC 6 – 000847).

<sup>124</sup> Mr. D. S. Nonpublic Complaint to PUC of Feb. 28, 2018 (DOC 25 – 003583-3588).

<sup>125</sup> Attachment 1 - Emily Ingram Public Testimony of Sept. 4, 2018 (DOC 1 – 000069-74).

<sup>126</sup> Attachment 1 - Richard Bergquist Public Comment of Feb. 20, 2018 (DOC 6 – 000870).

and/or 3<sup>rd</sup> party services charges to post,” and stated that this may take up to 60 days for long-distance providers to provide billing information.<sup>127</sup>

At least two consumers reported not receiving a refund of the balance on their accounts. Linda Splettstoeszer reported that after she cancelled her account, Frontier told her it would refund the balance on her account by sending a check.<sup>128</sup> Ms. Splettstoeszer reports that Frontier has not refunded this balance but instead continues to send statements showing a positive balance. Similarly, Fred Resler reported that after he canceled service, instead of returning his balance, Frontier continued sending statements reflecting the positive balance with no new charges or services, but the statements showed monthly taxes being deducted from the positive balance.<sup>129</sup>

## **Conclusion**

Consumer submitted reports demonstrate that Frontier has severe deficiencies in its billing practices, resulting in unreasonable charges to Minnesota consumers. Frontier’s failure to place accounts on vacation status, as requested, has resulted in consumers receiving large bills and collection notices. Also, Frontier’s practice of charging late fees for payments made by the consumer before the due date, but may take Frontier several days to process, harm consumers and may be unfair: If the time lag is due to the consumer’s financial institution, it is not Frontier’s responsibility. If the time lag is due to Frontier’s system, Frontier needs to correct the problem.

If reports like those from Mr. Oquist and Ms. Odegaard are correct, that Frontier either refuses to cancel service or claims to cancel service but continues to bill the consumer, then Frontier is receiving funds for services not provided, engaging in unfair billing practices, and potentially engaging in anticompetitive conduct.

Last, Frontier’s practice of waiting 90 days to refund consumers’ account balances may be unreasonable as it is not apparent that Frontier calculates or applies interest on this amount. To the extent Frontier uses gift cards, rather than a check or electronic funds transfer to refund the balance, it appears to add to the already long 90-day wait for consumers to receive money owed them.

## **Recommendation**

The Commission should order the following relief:

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<sup>127</sup> Attachment 2 – Frontier Response to DOC IR No. 11.

<sup>128</sup> Attachment 1 - Linda Splettstoeszer Public Comment of April 1, 2018 (DOC 8-001195).

<sup>129</sup> Attachment 1 – Fred Resler Public Testimony of Sept. 12, 2018 (DOC 3 – 000326-328); Pub. Hr. Ex. 12 (DOC 03 – 000326 - 000328).

- 1) Require Frontier to provide an accounting of all customers that requested the vacation rate from January 1, 2015 to present. The accounting should include:
  - a. The customer's name;
  - b. The customer's telephone number or email address;
  - c. The period over which the vacation rate was to apply;
  - d. The amount of the customer's regular monthly billing and the amount of the billing during the period that the vacation rate was applicable; and
  - e. Confirmation that all consumers have received refunds of any excess charges.
- 2) Require Frontier to provide an accounting of all customers who have contested their late fees since January 1, 2015, to determine whether the late payment was due to a Frontier side processing issue.
- 3) Require Frontier to provide an accounting of all consumers who reported that Frontier failed to cancel their account, for the period from January 1, 2015 to present. Frontier should determine whether each of these customers have received refunds of any additional payments made, including any late fees assessed.
- 4) Require Frontier to submit a list of all consumers that were referred to collection agencies from January 1, 2015 to present. Frontier should identify those customers that were disputing Frontier's charges. Frontier should also identify all customers that have stated their credit was damaged as a result of Frontier.
- 5) Require Frontier to provide its training materials on how customer service representatives are to assist consumers with cancellation of accounts following the death of a family member.
- 6) Require Frontier to show why its practices of refunding balances on cancelled accounts is reasonable, including:
  - a. Why Frontier should not be required to refund the balance earlier than 90 days.
  - b. Why Frontier should not be required to pay interest on consumers' outstanding balances, pursuant to Minn. Stat. § 325E.02.
  - c. Why Frontier should not be required to refund the outstanding amount via check or electronic transfer and prohibited from using gift cards.

## **2. Adjustment of bill due to interruption of service**

Subscriber complaints and Frontier's responses to discovery appear to show that Frontier does not accurately and timely adjust the bills of customers who failed to receive service due to service outages.<sup>130</sup>

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<sup>130</sup> This topic is also addressed in section P5 below, which concerns Frontier's failure to timely restore service after an interruption, as required by Minn. R. 7810.5800 and Frontier's former AFOR plan.

Minn. R. 7810.1400, subp. 2, prevents customers whose telephones are out of order for more than 24 hours from being billed for services they did not receive, by requiring a refund of amounts customers paid for services not received. The amount of the refund is a pro rata share of the month's payment for service and facilities that were out of service.<sup>131</sup>

For periods of time when Frontier operated under an AFOR, customers similarly were entitled to a pro rata adjustment of the monthly recurring charge for the first two days (residential) and one day (business) of a service outage, and thereafter \$5/day for a residential customer and \$10/day for a business customer.<sup>132</sup>

Minn. Stat. § 237.011 states: "state goals that should be considered as the commission executes its regulatory duties with respect to telecommunication services" include "(2) maintaining just and reasonable rates" and "(5) maintaining or improving quality of service."

The ALJ Report at paragraph 158 concluded that the testimony at the hearing "indicates that Frontier does not always provide pro rata refunds of charges," as required by Minn. R. 7810.1400, subp. 2.<sup>133</sup> Public comments and subscriber complaints confirm the ALJ's conclusion. For example:

- Kathy and Dennis Westlin of Ely stated that, for the past 40 years they have been customers of Frontier, "because we have no other options."<sup>134</sup> On June 28, 2018, a storm knocked out the Westlin's power, telephone, and internet. Power was restored within 36 hours, but when the Westlins reported the outage, Frontier told them it would not restore service until August 3rd, (36 days after the storm). After services were restored, they phoned Frontier to request a refund for the days without service, but Frontier said it would refund only \$28.34. No credit appeared on the August or September bills, so the Westlins again called Frontier. The representative stated that a refund had been started but not completed; and that the amount would now be only \$20.96. The Westlins believe a \$20.96 credit is inadequate for 13 days without internet and 36 days without phone service, especially when they still had to pay the "Other Charges" in full. Prorating each service and including the "Other Charges," the Westlins calculate a figure closer to a \$60 refund. The Westlins indicated: "First it is

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<sup>131</sup> Minn. R. 7810.1400, subp. 2 states: "In the event a customer's service is interrupted otherwise than by negligence or willful act of the customer and it remains out of order for 24 hours after being reported to the utility, adjustments shall be made to the customer, based upon the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative. The refund may be accomplished by a credit on a subsequent bill for telephone service. If in the case of such interruption, service is restored on or before the day after it is reported or found by the company, no allowance will be made."

<sup>132</sup> Frontier AFOR ¶ V(E) 2, eDocket No. 20156-111444-012, filed June 15, 2015.

<sup>133</sup> In support of this conclusion, Judge Oxley cited the testimony of many Minnesota consumers as referenced in footnote 45 of the ALJ Report.

<sup>134</sup> Attachment 1 - Kathy and Dennis Westlin Public Comment of Sept. 22, 2018 (DOC 10 – 001488 - 001490).



unacceptable to not have phone service for over a month. Secondly it is unacceptable to pay anything for phone service when none was provided. Thirdly the repair is crude. . . . We pay 24/7 for phone service. When there is no phone and or internet service one should not have to pay.”<sup>135</sup>

- Daniel Gleason and Jenifer Enos of Maple Plain reported Frontier explained that Frontier is the only option for internet and phone, and details many issues with Frontier including refusals to provide credit for extended service outages. At the beginning of May of 2017, Mr. Gleason and Ms. Enos reported calling Frontier about promotions for a new plan: “After talking to the representative, I stated that I would talk it over and get back to them. When I arrived home that night, our internet service was not working. I called to find out why and the person I talked to stated our account had been cancelled.” Frontier finally restored telephone service after a three week outage and internet after five or more weeks.

Mr. Gleason and Ms. Enos reported that as credit for the outages, Frontier “promised us an Amazon card for our troubles, this was never received. Instead, we received a bill for twice our usual amount as they added in partial monthly charges and activation fees. . . . We did ask for a refund since our service was not working but they would not discount our account. When we would call to find out why, they would say that either it showed it was working on their side or that our account was past due and they were going to send us to collections.”

- Elaine S. Smith reported that she had been unable to receive phone calls for a month, that Frontier had promised to restore service by the date of the comment, but had not done so.<sup>136</sup> Ms. Smith is 79 years old, and explained that she needs to receive wellness calls by phone, but cannot due to the telephone service outage. She reported, “I had to cancel my Life Alert because they couldn’t get through.” Ms. Smith was billed for “another” month for which she received no service, was not credited for the outage, and believes that \$40 to \$45 bill is too much to pay.

## Conclusions

Based on its review of Frontier’s practices as discussed in subscriber complaints, the Department notes, first, that Frontier’s refund practices plainly violate the law, because Frontier systematically refuses to provide the refund for service outages that is required by Minn. R. 7810.1400, subp. 2, as well as the company’s AFOR plan.

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<sup>135</sup> See Section P5 on Interruptions of Service concerning Frontier’s argument that the AFOR adjustment and credit does not apply to line outages caused by acts of God.

<sup>136</sup> Attachment 1 - Elaine S. Smith Public Comment of Aug. 8, 2018 (DOC 9 - 001345).

Although a pro rata share of the monthly recurring charge and possibly AFOR credits are required to be refunded, subscribers who suffered extended outages, in the best of circumstances, reported that Frontier refunds either only a portion of the amounts due to the subscribers or no refund at all. For example, in the case of Kathy and Dennis Westlin, discussed above, Frontier gave a credit of \$20.96 for a 36-day telephone outage. The Westlins are in a Citizens exchange that was covered by an AFOR plan at the time of the outage, the credit should have been a pro-rata adjustment of the monthly recurring charge for the first two days, plus \$170, which is \$5/day for additional 34 days.

## Recommendations

The Commission should order the following relief:

- 1) Find that Frontier has violated Minn. R. 7810.1400, subp. 2, if a customer's service was interrupted other than by negligence or willful act of the customer, and remained out of service for 24 hours after being reported to Frontier, unless Frontier provided a pro rata credit of the month's charges for the period of days the service and facilities were useless or inoperative.
- 2) For periods of time when Frontier operated under an AFOR, find that Frontier has violated the terms of its AFOR plan, if customers were entitled to a pro rata adjustment of the monthly recurring charge for the first two days (residential) and one day (business) of a service outage, and thereafter \$5/day for a residential customer and \$10/day for a business customer, unless Frontier provided the credits.
- 3) Require Frontier, within 60 days of the Commission's Order, to file an accounting to demonstrate that subscribers entitled to a credit during years 2015 through 2018 have received a correct bill credit in the amount required by Minn. R. 7810.1400 subp. 2, and/or the applicable AFOR plan. If a former telephone service subscriber no longer subscribes to telephone service, the refund is still required.<sup>137</sup> The accounting should list:
  - a) Each customer with a telephone service outage of more than 24 hours, for the calendar years 2015, 2016, 2017, and 2018.
  - b) The date the outage began.
  - c) The number of days the customer was without telephone service.
  - d) Whether the customer received telephone service from Frontier Communications or Citizens telecommunications.
  - e) The amount of credit provided to the customer.
  - f) The amount of credit the customer should have received.

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<sup>137</sup> If any refund payment cannot be made because a past subscriber cannot be found despite the best effort of Frontier, such refunds shall be treated by Frontier as "unclaimed property" of the subscriber as defined in Minn. Stat. Ch. 345

The accounting from Frontier should be subject to comment, and should include an affidavit of a Frontier executive officer stating that Frontier has issued to each customer the appropriate credit due or stating the month when Frontier will provide credits will be provided, and attesting to the accuracy of the information in the accounting.

- 4) Require Frontier within 60 days of the Commission's Order, to demonstrate that it is complying with Minn. R. 7810.1400 subp. 2 by filing evidence showing the practices that it has implemented to ensure it provides appropriate bill credits to subscribers.
- 5) Frontier should be required to provide a notice to customers that if they experienced a telephone service outage of greater than 24 hours on or after January 1, 2015, the credit they received is being reviewed. If a credit was required, customers should expect to see the credit on their bill in the coming months. If customers do not receive a credit, but believe they are entitled to a credit other than what may have been initially received, the customer may contact the Department at 651-539-1883 or [telecom.commerce@state.mn.us](mailto:telecom.commerce@state.mn.us)
- 6) Frontier should be required to submit a filing after all credits have been issued to demonstrate compliance, including an Affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to the accuracy of the filing.
- 7) For five years Frontier shall file monthly reports on all service outages that exceed 24 hours. The report should include:
  - a) The customer name and telephone number;
  - b) The date the outage began;
  - c) The length of the outage; and
  - d) The amount of the credit provided to the customer

**L. PAPER BILLING; BILL ADJUSTMENTS FOR OUT OF SERVICE; EXPLANATION OF BILLS AND RATES**

**1. Paper Billing**

It appears from subscriber complaints that Frontier has a practice of rendering bills electronically by default and charging customers for printed bills, which violates a Minnesota statute, Commission rule, and a Commission order specifically prohibiting Frontier from engaging in this practice.

Minn. Stat. § 237.101, regarding electronic billing, states: "A telephone company may provide a customer's periodic account statement to the customer in electronic format in lieu of paper format if the customer has authorized the electronic format in writing." Also, Minn. R.

7810.1400, subp. 1 requires that, as part of local service, customers receive their bills in paper, as “typed or machine-printed” bills.

The Commission has considered electronic billing issues in dockets regarding other telephone utilities and for Frontier itself. *In the Matter of SBC Qwest Corporation Petition for Variance of Minn. Rules pt. 7810.1400 (Customer Billing)*, Docket No. P421/AM-08-275, the Commission adopted the recommendations of the Department, and granted a petition of Qwest asking for authorization to issue “summary bills” upon customer request. Although the Department recommended granting the petition, it explained that the petition was consistent with Minnesota law only because the proposed summary billing was offered on an “opt-in” basis, and was in addition to the detailed paper bill to which subscribers are entitled.

As recently as last year, the Commission specifically ordered Frontier not to impose an “opt-out” electronic billing scheme or charge for paper bills, in *In the Matter of a Filing to Institute a Charge for Paper Bills for Customers*, Docket No. P-405/AM-17-427, Sept. 11, 2017. There, Frontier filed a tariff proposing to convert all accounts to electronic billing, and to charge customers who “opted-out” of electronic billing \$1 per month to receive a paper bill. The Department opposed this proposal to charge customers who “opt-out” of electronic billing. The Commission agreed with the Department, finding that paper bills are “an essential element of basic telephone service.” The Commission noted that customers may have neither the means to access electronic bills, nor the desire to receive electronic billing. Citing Minn. R. 7810.1400, subp. 1, the Commission denied Frontier’s proposal.

Several consumers submitted comments indicating that Frontier is violating the statute, rule, and Commission’s order requiring free, paper bills. Stephanie Josephson has been a phone customer of Frontier for forty years.<sup>138</sup> In one of her two Speak Up comments, Ms. Josephson stated, “I called customer service earlier this spring because my bill went up yet again. I pay my bill online, but still prefer to get a paper bill in the mail.... She told me I needed to go to paperless billing as they were charging customers for paper billing since Jan 2018.”<sup>139</sup>

Daniel Gleason and Jenifer Enos of Maple Plain reported concerns in March 2018 regarding what appears to be a conversion to an electronic bill (an “opt-out), without the subscribers’ knowledge.<sup>140</sup> Mr. Gleason and Ms. Enos reported that Frontier failed unexpectedly, to render a written bill. Mr. Gleason and Ms. Enos reported: “Just last month we received a notice from Frontier stating that we were two months past-due and they were going to disconnect our service if it was not paid in 10 days. I did check my records and it was past due only because I did not receive any invoices from them. I went to pay the entire amount and was treated very, very poorly by the person that I spoke with on the phone.” Ms. Enos verbally advised the Department, in December 2018, that from April 2018 until they cancelled service in late 2018,

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<sup>138</sup> Attachment 1 - Stephanie Josephson Speak Up comment of Sept. 26, 2018 (DOC 16 - 001968).

<sup>139</sup> Attachment 1 - Stephanie Josephson Speak Up comment of Sept. 27, 2018 (DOC 15 – 001948 - 001949).

<sup>140</sup> Attachment 1 - Daniel Gleason and Jenifer Enos Public Comment of Mar. 19, 2018 (DOC 8 - 001090).

Frontier provided no paper invoices, only online statements. The subscribers never agreed to “opt-in” to electronic billing.

### **Conclusions:**

The Department’s Comments in *In the Matter of a Filing to Institute a Charge for Paper Bills for Customers*, Docket No. P-405/AM-17-427, June 13, 2017, observed that fees for paper bills would affect the public interest in receiving timely and convenient billing information, the economic interest of customers in reviewing the terms and rates contained in the bill, and the interest of customers in receiving the bill in the format they choose. The Reply Comments of the OAG in the same docket observed that paper bills help some consumers identify unauthorized fees or charges on their bills that might otherwise go unnoticed.

Based on its review of Frontier’s practices, the Department notes, first, that the practices identified above by subscribers, if accurate, would violate the law and commission orders. The Commission specifically disapproved Frontier’s proposal to impose an “opt-out” system for customers who wished to avoid electronic billing in its September 11, 2017 Order.<sup>141</sup> The opt-out approach to the imposition of electronic billing would also violate Minn. R. 7810.1400, subp. 1.

Second, if Frontier is not only operating an “opt-out” scheme for electronic billing, but also charging a fee for paper bills, as described by subscribers, it further violates Minn. R. 7810.1400 subp. 1, and the Commission’s September 11, 2017 Order.

Third, if Frontier has switched customers to electronic billing as described by subscribers, without the written authorization of the subscriber, Frontier’s practice violates Minn. Stat. §237.101, which requires customers’ authorization of electronic bills to be in writing.

Fourth, the Commission may pursue penalties to help prevent a repeat of this situation; because the practices described by subscribers do not appear to be accidental or unintended, but instead part of a pattern and business practice. The conduct therefore appears to be a knowing and intentional violation of Minnesota laws, rules, and Commission Orders.

### **Recommendations**

The Commission should order the following relief:

- A. Require Frontier to demonstrate, within 60 days of the Commission’s order, that Frontier complies with Minn. R. 7810.1400, subp. 1, by filing evidence showing that it provides paper billing to any subscriber from whom it has not received written

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<sup>141</sup> *In the Matter of a Filing to Institute a Charge for Paper Bills for Customers*, Docket No. P-405/AM-17-427, Order Disapproving Tariff (Sept. 11, 2017).

authorization for electronic billing of a telecommunications service. The filing should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to its accuracy.

- B. Require Frontier to submit for review by Commission and Department staff, any customer notice or solicitation it uses concerning the availability of electronic billing, for the one-year period after issuance of this order. Upon agreement by Commission and Department staff, the Executive Secretary should be authorized to grant approval of the notice or solicitation.
- C. Require Frontier to provide, within 60 days of the Commission's order, an accounting to demonstrate that subscribers to telecommunications services, who have paid fees during years 2015 through 2018 for paper billing, have been provided with a bill credit or refund of all such charges in the amount required by Minn. R. 7810.1400, subp. 1. If a former telephone service subscriber no longer subscribes to telephone service, the refund is still required.<sup>142</sup> The accounting should identify:
  - a) Each customer entitled to a bill credit or refund for the calendar years 2015, 2016, 2017, and 2018;
  - b) The date that the charges for paper bills began;
  - c) The number of times each customer was wrongly charged a fee for a paper bill;
  - e) The amount of credit or refund, if any provided in the past to the customer; and
  - f) The amount of credit the customer should have received.

The accounting from Frontier should be submitted to the Commission, should be subject to comment, and should include an affidavit of a Frontier executive officer stating that customers have been provided the appropriate credit or refund due or the month when such credits or refund will be provided, and attesting to the accuracy of the accounting.

- D. Require Frontier to provide a notice to customers stating that the customer is entitled to a paper bill for telephone service, at no charge. The notice should be submitted for review to Commission and Department staff, and if there is agreement, approved by the Executive Secretary. The notice should state that, if any customer has incurred a charge for a paper bill, they should contact the Department of Commerce at 651-539-1875 or [telecom.commerce@state.mn.us](mailto:telecom.commerce@state.mn.us).

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<sup>142</sup> If any refund payment cannot be made because a past subscriber cannot be found despite the best effort of Frontier, such refunds shall be treated by Frontier as "unclaimed property" of the subscriber as defined in Minn. Stat. Ch. 345, and Frontier shall file an accounting with the Commission describing its disposition of any such funds within one hundred and eighty days of this order.

## 2. Failure to explain rates and bill charges

Subscriber complaints and comments appear to show that Frontier’s representatives do not explain Frontier’s rates and bill charges when requested to do so. Frontier appears to not explain options available to enable subscribers and applicants to obtain the most economical communications service for their needs.

Minn. R. 7810.1400, subp. 3, requires telephone utilities, on request, to explain their rates and charges. Utilities must also explain options available to enable subscribers and applicants to obtain the most economical “communications service”<sup>143</sup> for their needs.<sup>144</sup>

A few customers submitted complaints indicating that Frontier fails in its obligation to explain Frontier’s rates and bill charges upon request. For example, V.W. stated that no one at Frontier has been able to satisfactorily explain what “directory/non-reg” charges are, but noted that these charges add a substantial amount to her bill. V.W. reported that it also took several calls to determine that the “non basic charges” on her phone related to internet.<sup>145</sup> Similarly H.B. and F.B. reported making “many, many phone calls monthly over the years asking for assistance and explanation as to ‘what are the charges for?’ Either the personnel at Frontier, whom I spoke with, were unable or unwilling to answer my question.”<sup>146</sup> H.B. and F.B. reported a specific issue dating “back to November 2015 when we notice a charge under the line item of ‘Balance Forwarded’, which was repeated month after month.” H.B. and F.B. reported “Not one of their representatives could answer; ‘what is this charge for?’ Except for one representative whom I spoke with in January 2016 said: ‘that’s not right, you shouldn’t have to pay for that.’ But we paid the bills monthly.”

Second, regarding for the obligation of Frontier to provide “any information and assistance necessary to enable that person to obtain the *most economical communications service* conforming to the person's stated needs,” the Affidavit of Jeff S. Lacher explains that Frontier customer service representatives have incentives to sell Frontier services because they are required to meet sales goals every month before they are eligible to receive commissions.<sup>147</sup> Mr. Lacher also explains that these sales goals have increased substantially

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<sup>143</sup> “Communications services” includes telecom (landline and wireless), Internet, cable, satellite, and managed services. [https://en.wikipedia.org/wiki/Communications\\_service\\_provider](https://en.wikipedia.org/wiki/Communications_service_provider)

<sup>144</sup> Minn. R. 7810.1400, subp. 3 states: “Upon the request of any customer or applicant, the utility shall provide an explanation of the rates, charges, and provisions applicable to the service furnished or available to such customer or applicant, and shall provide any information and assistance necessary to enable that person to obtain the most economical communications service conforming to the person's stated needs. Applicants for telephone service shall be advised as to alternate services available to meet their stated communications requirements. This information may include printed explanations of alternate services and rates. Correspondingly, the utility shall notify its customers of any services and shall provide an estimate of the initial billing for basic monthly service, including fractional monthly amounts, plus any other applicable charges.”

<sup>145</sup> V.W. Nonpublic Complaint to Commission of May 29, 2018 (DOC 22 - 003131 - 003134).

<sup>146</sup> H.B. and F.B. Nonpublic Complaint to Commission of May 27, 2018 (DOC 21 - 002899 - 002905).

<sup>147</sup> Attachment 3 - Aff. of Jeff S. Lacher.

over time, and low wages mean commissions are a significant part of CSRs' incomes. In addition, Mr. Lacher explains that "failure to meet sales goals for a period of time could mean discipline or termination."<sup>148</sup>

## Conclusions

The record shows that Frontier provides company representatives commissions as an incentive to sell more costly services to subscribers and applicants.<sup>149</sup> From the complaints and comments of subscribers, it appears that this practice potentially may interfere with Frontier's obligation to explain options available to enable subscribers to obtain the most economical communications service for their needs.

## Recommendations

- 1) Require Frontier, within 60 days of the Commission's Order, to file a report that demonstrates that the company has implemented procedures that ensure that company representatives comply with Minn. R. 7810.1400, subp. 3, and consistently explain Frontier's rates and charges on request, as well as options available to enable subscribers and applicants to obtain the most economical communications service for their needs. The filing should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to its accuracy.

## M. **LOADING: BILLING FOR SERVICES NOT ORDERED**

Many consumers reported unauthorized charges on bills for telephone services. These charges and the consumers' descriptions of difficulties in obtaining credits for the unauthorized charges or blocking unauthorized per-use services, demonstrate violations of Minnesota's anti-loading statute, Minn. Stat. § 237.633.

Telephone companies and telecommunications carriers are prohibited by Minnesota statute from charging a telephone service subscriber for "a telephone or telecommunications service that is not required by the commission to be offered and for which the subscriber did not explicitly contract."<sup>150</sup> If such a service is charged on a per-use basis, the charge must be credited to the subscriber's next monthly bill, "if the subscriber notifies the telephone company or telecommunications carrier that the subscriber did not utilize the service or did not authorize the utilization of the service."<sup>151</sup> The statute also requires that if the company is notified that

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<sup>148</sup> Attachment 3 – Affidavit of Jeff S. Lacher, ¶ 13" (...CSRs are required to meet sales goals every month before they are eligible to receive commissions and these sales goals have increased substantially over time. Low wages for CSRs mean commissions are a significant part of their incomes. The failure to meet sales goals for a period of time could mean discipline or termination.")

<sup>149</sup> *Id.*

<sup>150</sup> Minn. Stat. § 237.663(a) (2018).

<sup>151</sup> Minn. Stat. § 237.663(b) (2018).



the subscriber did not utilize or authorize the service, the company must notify the subscriber of the ability to block the service and must do so if the subscriber requests.<sup>152</sup> The company may not charge a recurring fee for blocking the service.<sup>153</sup>

Many consumers reported unauthorized charges on bills and subsequent difficulty in having these charges removed. Unauthorized charges include unrequested landlines, accounts created without the customer's authorization, unauthorized three-way calling, and charges for directory assistance that could not have been made by the consumer. In addition, some consumers reported that due to fatigue from long and frequent customer-service calls to remove the unauthorized charges, consumers simply continued to pay for unauthorized services.<sup>154</sup>

At least two consumers report being billed for unauthorized telephone service. Nancy Banta reported that while trying to locate her account, a customer service representative informed her that her account number was her account's landline number.<sup>155</sup> Ms. Banta reported that she did not request a landline, but learned she had been paying for landline service for over a year. Ms. Banta reports that it took time to get the landline removed from her account and she only received a small credit for the months of unauthorized charges. Another consumer, Thomas Langworthy, reported that while trying to cancel his service, Frontier opened a new account in his name and billed him for telephone and internet service.<sup>156</sup> Mr. Langworthy reported that in spite of Frontier's representation that the matter was resolved, he was billed on the unauthorized account for two additional months.

At least four consumers reported being billed for three-way calls that they did not make. Sharon Danley reported discovering a three-way-calling charge on her bill.<sup>157</sup> Ms. Danley notified a Frontier customer service representative that she did not authorize a three-way call and did not even know how to do so. While Frontier did credit that charge, Ms. Danley recently learned that she had again been charged for three-way calling. When Ms. Danley was eventually able to contact Frontier, the customer service representative told her that the three-way calling feature had not been blocked by the previous customer service representative. Ms. Danley testified that she was never notified that blocking the feature was an option. Similarly, Arindam Taran testified that he has been billed for three-way calling on several different occasions on a line that is not supposed to have three-way calling.<sup>158</sup> Mr. Taran said that he has given up calling to receive credit for the unauthorized three-way calls because it takes too much time.

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<sup>152</sup> Minn. Stat. § 237.663(c) (2018).

<sup>153</sup> Minn. Stat. § 237.663(c) (2018).

<sup>154</sup> Attachment 1 - NanMarie Hill Public Comment of May 21, 2018 (DOC 9 - 001319 - 001320).

<sup>155</sup> Attachment 1 - Nancy Banta Public Comment of Apr. 2, 2018 (DOC 8 - 001197-001198).

<sup>156</sup> Attachment 1 - Thomas Langworthy Public Comment of Sept. 18, 2018 (DOC 10 - 001394 - 001394A)

<sup>157</sup> Attachment 1 - Sharon Danley Public Testimony of Sept. 26, 2018 (DOC 5 - 000607 - 000613)

<sup>158</sup> Attachment 1 - Arindam Taran Public Testimony of Sept. 26, 2018 (DOC 5 - 000622 - 000626)

Frontier's User Guide indicates that its system makes it quite easy to accidentally initiate a three way call: "To avoid placing a three-way call accidentally, hang up your phone for at least three seconds between every call, whether it's a three-way call or not, to reset your phone line. If you have a fax machine or modem that allows simultaneous dialing, make sure you reprogram it to allow at least three seconds between transmissions."<sup>159</sup>

When the Department inquired about this issue, Frontier stated that three-way calling per activation is available in some exchanges and not others, and "In exchanges served by a switch capable of providing the service, by default all lines will have access to the feature."<sup>160</sup> Frontier also stated, "No notification or disclosure specific to three-way calling per activation feature is explicitly provided to the customer." Frontier refused to identify all customers that disputed three-way calling charges since January 1, 2017, either verbally or in writing, claiming this request was overly burdensome.

Consumers also reported unauthorized charges for directory assistance calls that the consumers did not make. For example, Joseph Kristoff reported that on his June, July, and August bills there was a \$1.50 charge listed under "Other Service Charges and Credits," with the only explanation being "Frontier."<sup>161</sup> Mr. Kristoff reported that he eventually discovered the charges were for directory assistance calls that neither he nor anyone in his household made, due to the call being made during the very early morning. Mr. Kristoff stated that Frontier agents rudely insisted the calls were legitimate and that if he did not want the charge he should not call directory assistance. After being persistent, the charges were eventually credited to Mr. Kristoff's account. Similarly, Ms. Lisa McDonald reported Frontier charged her business for directory assistance calls that were never made.<sup>162</sup> Ms. McDonald explained that she knew that no one called directory assistance because many calls occurred in the middle of the night, when the office was locked and alarmed. Ms. McDonald reports that Frontier told her that she could not block 411 calls from being made from her business phone due to federal law.

## Conclusions

If consumers' reports are accurate, Frontier's charges for an unordered landline service and its opening of unauthorized accounts appear to be clear violations of Minn. Stat. § 237.663(a). Also, consumers testified that, due to Frontier's poor customer service, it is difficult to obtain credit for the unauthorized charges due to them under Minn. Stat. § 237.663(b).

Regarding unauthorized three-way calling charges, it appears that Frontier's system creates great risk of unauthorized three-way calling charges. By allowing all phones in some areas to assess a three-way calling charge when the consumer does not allow enough time

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<sup>159</sup> *Instructions on Using Frontier Calling Features: User Guide*, 2016, available at <https://frontier.com/~media/HelpCenter/Documents/phone/calling-features/frontier-calling-features.ashx?la=en>.

<sup>160</sup> Attachment 2 – Frontier Response to DOC IR No. 65.

<sup>161</sup> Attachment 1 - Joseph Kristoff Public Comment of Sept. 12, 2018 (DOC 10 - 001411).

<sup>162</sup> Attachment 1 - Lisa McDonald Public Comment of Sept. 25, 2018 (DOC 10 - 001495).

between phone calls, or whose fax machine is not programmed to allow three seconds between dialing, Frontier creates the potential for numerous unauthorized charges. This practice also creates the potential for Frontier to gain a financial windfall should consumers not carefully monitor their bills and contest the charges. As Frontier stated, consumers are not notified of the existence of this feature, and unless the consumer reads Frontier's User Guide thoroughly, consumers are not notified that making back-to-back calls could incur three-way calling charges. Placing the burden on consumers to either monitor the intervals between calls or reprogram fax machines is not reasonable and likely has resulted in numerous violations of Minn. Stat. § 237.663.

Frontier also may not comply with the notice requirements of Minn. Stat. § 237.663 (c), which requires a company that has been notified of an unauthorized per-use charge, to "inform the subscriber of the ability to block the services from future use by the subscriber, and shall block the services from future use by the subscriber, if the subscriber requests." For example, if Ms. Danley is correct that Frontier did not notify her of the ability to block three-way calling after she reported the first unauthorized charge, then Frontier is in violation of this statute.

Frontier may also be misleading customers being told that they may not block 411 calls from a business phone due to federal law.

## **Recommendation**

The Commission should order the following relief:

- 1) Require Frontier to identify all customers that disputed three-way calling on their bills since January 1, 2017, and demonstrate:
  - a) All disputed three-way calling charges have been credited on the monthly bill immediately following the customer's dispute;
  - b) Frontier has notified all customers who have disputed three-way calling charges of the ability to block three-way calling;
  - c) Frontier has blocked three-way calling for all customers who requested that it be blocked; and
  - d) Frontier has not billed customers a fee for blocking three-way calling.
- 2) Require that, within 90 days, Frontier either (1) demonstrate that its system has been corrected to not authorize three-way calling charges when consumers make back-to-back calls or (2) demonstrate that its system has been modified to default to blocking three-way calling for consumers who have not ordered it.
- 3) Within 30 days, require that Frontier provide notification to all voice customers in exchanges served by a switch capable of three-way calling of the following:
  - a) Three-way calling was on the customer's line by default;
  - b) That three-way calling charges may have been incurred by making a call within 3 seconds of another call, or sometimes with fax machines; and

- c) The customer should contact Frontier if three way calling charges were billed, without the customer’s knowledge and intent of making a three-way call.
  - d) If the Commission should choose to not require customers to make an affirmative choice to have three way calling capability on their line, then
    - i) Customers should be notified that they can block the three-way calling feature free of charge and provide a process for doing so; and
    - ii) The length of time between calls that are to be three-way calls should be reduced to less than 3 seconds, to reduce the incidence of customers being billed for a service that they did not authorize.
- 4) Require Frontier to identify all customers that disputed the creation of unauthorized accounts for voice telephone service since January 1, 2017; to demonstrate that all unauthorized accounts have been deactivated; and to certify that the consumer was refunded for any charges paid on an unauthorized account.
- 5) Require Frontier to identify all customers that reported unauthorized charges for directory assistance or 411 calls, and:
- a) Demonstrate that all disputed directory assistance calls have been credited or otherwise refunded.
  - b) Require Frontier to investigate the cause of unauthorized directory assistance calls and within 60 days, to submit a compliance filing detailing the results of its investigation and proposed solution to reduce unauthorized directory assistance charges.
  - c) Frontier should show why it should not be found to have violated Minn. Stat. § 237.663(c) when it informed one or more Frontier customers that it could not block 411 calls from being made from a business phone due to federal law.

**N. CONTRACTS: Refusal to Cancel; Early Termination Fees; Auto Renewal Without Notice; Customers Unware of Contracts; Contracts Never Signed.**

Numerous consumers reported concerns with Frontier’s contract processes and provisions, particularly Frontier’s failure to provide a signed contract, Frontier’s failure to provide a copy of contract terms to which the consumer allegedly agreed, and Frontier’s assessment of large early termination fees (ETFs) without notifying consumers of the existence of ETFs, either prior to cancellation or at the time of contracting. Often, consumers did not know they were under contract as Frontier had either not adequately informed them of the contract length or had auto-renewed the contract without the consumer’s consent, knowledge, or adequate notice. 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.

Minn. Stat. § 237.011(2) requires the Commission to consider the goal of maintaining just and reasonable rates as it executes its regulatory duties regarding telecommunication services. Minn. Stat. § 237.06 provides: “It shall be the duty of every telephone company to

furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof. All unreasonable rates, tolls, and charges are hereby declared to be unlawful.”

Frontier’s practice of charging early termination fees for auto-renewed contracts has been subject to scrutiny in the recent past. In 2013, Farmers Mutual Telephone Company filed a verified complaint with the Commission, alleging that Frontier’s routine practice of imposing ETFs and automatic-renewal of contracts without consumers’ consent was an anticompetitive and unreasonable business practice.<sup>163</sup> Specifically, Farmers alleged that many consumers who ported away from Frontier to Farmers did not recall entering into a contract, customers were unaware that contracts automatically renewed (extending the imposition of ETFs), and Frontier refused to produce either a signed copy of the contract or a transcript of the sales call evidencing the customer’s informed acceptance of contract terms.<sup>164</sup>

Pursuant to a settlement (“2014 Settlement Agreement”), Frontier agreed to take several steps including notification requirements to both existing and new customers.<sup>165</sup> For existing digital voice customers, Frontier agreed to send a bill insert informing them of the existence of a term agreement, that the time period of their term agreement is shown on their monthly bill, that an ETF will apply if they exit the agreement early, and that their term agreement may auto-renew.<sup>166</sup> If the customer did not agree with the conditions of the term agreement, the customer could terminate the existing agreement and replace it with month-to-month service; switch to a different service with Frontier; terminate service; or switch to another carrier.<sup>167</sup> For new customers entering a term agreement, Frontier agreed to provide notice—via letter, email, or bill message—identifying “the services subject to the term agreement, which specific services are associated with ETFs, and the specific dollar amount of the ETF applicable to each service,” disclosing “any applicable auto-renewal conditions,” and specifying that “the customer may opt out of any portion of a bundle of services without being held responsible for the ETF(s) that apply to the portions of the bundle that are retained.”<sup>168</sup> Frontier also agreed to update its tariff to include these notice requirements.<sup>169</sup>

The Department requested documentation from Frontier showing that the notice that Frontier provides to new customers complies with the 2014 Settlement Agreement.<sup>170</sup> Frontier

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<sup>163</sup> *In re Farmers Mut. Tel. Co. Compl. Against Frontier Commc’ns of Minn., Inc. re Early Termination Fees*, MPUC Docket No. 13-941, Verified Compl. and Request for Temporary Relief at 1 (Oct. 8, 2013) (eDocket No. 201310-92229-01).

<sup>164</sup> *Id.* at 3-4.

<sup>165</sup> *In re Farmers Mut. Tel. Co. Compl. Against Frontier Commc’ns of Minn., Inc. re Early Termination Fees*, MPUC Docket No. 13-941, Settlement Agreement (July 15, 2014) (eDocket No. 20147-101522-01).

<sup>166</sup> *Id.* ¶ A.

<sup>167</sup> *Id.* ¶ A.

<sup>168</sup> *Id.* ¶ C.1.

<sup>169</sup> *Id.* ¶ C.4.

<sup>170</sup> Attachment 2 – Frontier Response to DOC IR No. 58.

responded, “Currently, the auto-renew feature is not included when customers subscribe to new term plans. As a result, the content of the customer bill message notice has changed to:

‘You are currently subscribing to a term plan for [TERM PLAN NAME], which provides you a discount on your long distance services for [LENGTH OF TERM]. If you prematurely terminate this plan, an Early Termination Fee of [ETF AMOUNT] will apply.’”

Frontier continued, “In addition, each monthly bill of a customer in a term plan identifies the service subject to a term plan, the beginning and ending dates of that term plan, and information regarding any early termination fee liability.”<sup>171</sup> Frontier did not provide the date that it discontinued auto-renewal for new plans.

In response to a Department information request, Frontier provided a list of over 8,000 ETFs charged to Minnesota consumers for phone or internet from January 1, 2015 to October 1, 2018.<sup>172</sup>

In public comments and testimony, or individual complaints, several consumers reported that after being charged for terminating their contract, Frontier would not produce either a written or oral contract to show that the consumer agreed to the ETF. For example, Serenity Cox of the Green Isle Community School reported that the school changed phone providers in August 2018 after finding “a more efficient and cost effective company to work with.”<sup>173</sup> Ms. Cox reports that two months later, Frontier billed the school \$4,300 for terminating the contract early. Ms. Cox reports that the school’s financial officer discovered that neither the school nor Frontier had a copy of the contract. When the school made a claim requesting a contract, Ms. Cox reports it was denied by Frontier, even though Frontier admitted that they could not locate the contract on file.

Many consumers reported being unaware that they had a term contract or that their contract auto-renewed. Some consumers, due to the length of time they had service with Frontier, believed the term canceled years ago. For example, Troy and Dixie Duerkson reported that they understood their phone contract had expired five years ago, but when they called to change their phone plan, Frontier said they would owe \$100 under their contract.<sup>174</sup> The Duerksens reported that they did not receive either a written contract or a phone call regarding a new contract. Similarly, Ronald Kitmann reported that, due to poor service, he canceled his

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<sup>171</sup> Attachment 2 – Frontier Response to DOC IR No. 58.

<sup>172</sup> Frontier Response DOC IR No. 59. The IR response is not attached because the spreadsheet includes addresses and phone numbers of consumers as well as whether their account is in collections.

<sup>173</sup> Attachment 1 - Serenity Cox Public Comment of Feb. 28, 2018 (DOC 7 - 000991 - 000992).

<sup>174</sup> Attachment 1 - Troy and Dixie Duerksen Public Comment of Feb. 25, 2018 (DOC 7 - 000947). *See also* Mary Lunde Public Comment of Feb. 7, 2018 (DOC 6 - 000864) (describing a similar ETF while cancelling what she learned was an auto-renewed contract).

internet along with the landline he had for 36 years.<sup>175</sup> Mr. Kitzmann reported that Frontier charged a \$100 ETF.

At least one consumer reported being unable to cancel the automatic renewal of the contract. Peggy and Doug Lashmett reported that they called Frontier in January 2017 to cancel the auto renewal on their phone and internet bundle.<sup>176</sup> A customer service representative told the Lashmetts that the auto-renewal would be canceled and the rate would not change. A few months later, the Lashmetts reported noticing that the auto-renewal date on their bill was listed a year later than previously. The Lashmetts reported that when they called Frontier again, a second customer service representative told them that they were still under automatic renewal because the previous customer service representative had reinstated it to make the rate the same.

At least one consumer reported that although Frontier represented a contract term of a certain period, Frontier ultimately raised rates after only part of the contract term. For example, Sylvan Tekrony, representing Denise's Tax and Accounting, stated that he signed up the business for internet and phone for a two-year contract.<sup>177</sup> Mr. Tekrony described his understanding from speaking with Frontier's salesperson that the business was agreeing to two-years of service at a set rate. Mr. Tekrony reported that a year later the bill increased by about 250% and when the business owner called Frontier, it stated that the rate was only guaranteed for a year.

## **Conclusions**

Frontier's contracting procedures are unclear and its terms of service are either wholly unknown or unclear to many consumers. In some cases, Frontier customers who had been with Frontier prior to the 2014 Settlement Agreement did not appear to receive adequate notice regarding Frontier's auto-renewal policies and believed they were no longer under contract. Because Frontier refuses to provide consumers with the contract terms or a recording of what the consumer allegedly agreed to, consumers do not have adequate recourse to challenge ETFs. If consumers such as the Green Isle Community school are correct that Frontier denies claims contesting ETFs even if Frontier cannot locate a contract or agreement showing that the consumer agreed to an ETF, this draws not only Frontier's ETF policy under scrutiny but also its recordkeeping.

Frontier appears to place the burden on the consumer to show that the consumer did not agree to an early termination fee. Frontier does not appear to instruct its customer service representatives to perform a records check to ensure that consumers were notified they were subscribing to a term agreement, that an ETF would be assessed, or that disclosed "any

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<sup>175</sup> Attachment 1 - Ronald Kitzmann Speak Up Comment of August 18, 2018 (DOC 13 - 001885).

<sup>176</sup> Attachment 1 - Peggy and Doug Lashmett Public Comment of Apr. 8, 2018 (DOC 8 - 001187).

<sup>177</sup> Attachment 1 - Sylvan Tekrony Public Testimony of Sept. 25, 2018 (DOC 4 - 000497 - 000499)

applicable auto-renewal conditions,” as required by the 2014 Settlement Agreement. While Frontier claimed that it “does not assess an ETF unless it believes the customer has agreed to the term service plan,” and that “Verbal acceptance is verified by a third-party entity,”<sup>178</sup> customers indicate just the opposite—that consumers must disprove that the presumed ETF applies.

In addition, Frontier’s reported practice of having non-symmetrical periods for the customer’s contract period vis-à-vis Frontier’s price guarantee appears unfair and unreasonable. Consumers reasonably understand contracts to be bilateral—that their agreement to make two-years of payments is in consideration for a company locking in its price for the two-year term. If consumers such as Mr. Tekrony are correct, that Frontier is describing a two-year term for the consumer but only locking in a price for one year, this practice is at least unreasonable and unfair.

### **Recommendations**

- 1) Require Frontier to show why its practices with applying ETFs, in cases where there is neither a signed contract nor a verbal recording, is not an act of fraud.
- 2) Require Frontier to refund ETFs it has collected from January 1, 2015 to present, unless Frontier can produce a signed customer contract or a verbal recording that clearly identifies the applicability and amount of the ETF.
- 3) Prior to any further collection of an ETF without a signed contract or verbal recording by the customer, ETFs should not apply on a going forward basis, unless the Commission accepts a proposal to be submitted by Frontier. Customer service representatives should validate the existence of a signed contract prior to telling the customer that an ETF applies. A Frontier executive officer should attest that this practice has been implemented.
- 4) If Frontier desires to submit a proposal for the Commission consideration concerning ETFs, require Frontier to demonstrate that its process for assessing ETFs ensures the following:
  - a) That the consumer received adequate notice of the ETF and auto-renewal provisions as required by the 2014 Settlement Agreement;
  - b) That the consumer actually agreed to a term contract; and
  - c) That the consumer has adequate recourse to contest the propriety of an ETF on a case by case basis.
- 5) Require Frontier to demonstrate that its salespersons and customer service representatives will provide clear explanations of the length of the term of the

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<sup>178</sup> Attachment 2 – Frontier Supplemental Response (Nov. 1, 2018) to DOC IR No. 59. It is unclear at what stage the “third-party entity” verifies any verbal acceptance of the contract agreement.



contract, the existence and amount of any early termination fees, any auto-renewal features of the contract, and the ability to cancel and process for canceling any auto-renewal feature of a contract prior to the consumer contracting for service.

- 6) Require Frontier salespersons and customer service representatives to receive recorded verbal confirmation from consumers that the consumer understands and agrees to the length of the term of the contract, the existence and amount of any early termination fees, and any auto-renewal features of the contract, and the consumer understands that he or she may cancel any auto-renewal of a contract at any time.
- 7) Require Frontier to notify all current consumers of the ability to cancel the auto-renewal feature on their contract and provide a clear, step-by-step process for consumers to do so without penalty.
- 8) Require that the terms of the 2014 Settlement Agreement be incorporated into Frontier's standard training materials.

#### **O. DISCONNECTION OF SERVICE; SERVICE DELAY**

Many consumers reported concerns regarding Frontier's practices for disconnecting service, such as assessing reconnection fees where disconnection was not for a valid cause and failing to provide adequate notice of disconnection. The Department's investigation also raises concerns regarding Frontier's compliance with the bill dispute process set-up by the Commission's rules. In addition, many consumers reported lengthy delays in Frontier's installation of telephone service.

##### **1. RECONNECTION OF SERVICE FEE/ "Activation fee" is prohibited if there was no "Valid Cause" to disconnect.**

From customer complaints, it appears that Frontier has disconnected the service of telephone subscribers for other than "valid cause" and charged a reconnection fee in violation of the requirements of Minn. R. 7810.2200.

Minn. R. 7810.2200 provides that a telephone utility may charge subscribers its tariffed reconnection fee<sup>179</sup> only if service had been disconnected for "valid cause." "Valid cause" for disconnection does not include failure to pay a portion of a phone bill for internet access or other information services, which is also specifically prohibited by Minn. R. 7812.0600 subp. 7: "An LSP may disconnect a customer's basic local service as allowed under parts 7810.1800 to 7810.2000, except that it shall not disconnect basic local service for nonpayment of . . . information service charges or any service other than basic local service."

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<sup>179</sup> Further, the utility may charge a reconnect fee for disconnection of service pursuant to part 7810.1900, item B, regarding disconnections for hazardous conditions, only if customer provided equipment (CPE) caused the hazard.

Customers reported that Frontier charged reconnection fees after Frontier disconnected service. Ms. Juanita Nolan reported at the McGregor public hearing saying: “ I only have a landline. I live alone. And there is no one really close that if I was hurt that I could crawl to get a line or get help. Two weeks is just too much. ... So I called again to Frontier and explained that I didn’t have internet, and they said, well, you called and shut it off. But I did not call and shut it off. So they’re going to put it back on for me within two days for a charge of \$80. And that was on my bill, in which I discussed – and I apologize for being so rude to them – but I was very disgusted. ...I called them actually today and it’s going to be about a week before they can come out and fix my phone again, which it’s never been totally fixed. I have the static. I have internet that goes out because they said I turned it off, they were charging me \$80.”<sup>180</sup>

Ms. J.N. complained by email<sup>181</sup> on February 17, 2018 to the CAO stating: “I called and asked them to put my service on a vacation hold which they never did then billed me, then permanently disconnected my service which resulted in almost 600\$ in which I paid to get my service restarted.” (Non-public DOC 000813).

Mr. Daniel Gleason and Ms. Jenifer Enos of Maple Plain reported that at the beginning of May of 2017, Ms. Enos called Frontier about promotions for a new plan: “After talking to the representative, I stated that I would talk it over and get back to them.”<sup>182</sup> “When I arrived home that night, our internet service was not working. I called to find out why and the person I talked to stated our account had been cancelled.” Frontier restored telephone service after a three week outage and internet after five or more weeks. Mr. Gleason and Ms. Enos reported that they never received a credit for the prolonged outage, and instead they “received a bill for twice our usual amount as they added in partial monthly charges and activation fees.”<sup>183</sup> In April, 2018, Frontier notified the subscribers they were “two months past-due and they were going to disconnect our service if it was not paid in 10 days. I did check my records and it was past due only because I did not receive any invoices from them.”<sup>184</sup>

## Conclusion

It appears from customer complaints that Frontier has a practice of disconnecting the service of telephone subscribers for other than “valid cause” and has charged reconnection fees in violation of the requirements of Minn. R. 7810.2200.

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<sup>180</sup> Attachment 1 – Juanita Nolan Public Comment, McGregor public hearing (DOC000150- 000152)

<sup>181</sup> Ms. J.N. complaint by email on February 17, 2018 to the CAO stating: (Non-public DOC 000813).

<sup>182</sup> Attachment 1 - Daniel Gleason and Jenifer Enos Public Comment of Mar. 19, 2018 (DOC 8-001090).

<sup>183</sup> It is possible that Mr. Gleason and Ms. Enos were victims of Frontier’s February 2018 switching of customers to electronic billing in violation of the Commission’s Order specifically prohibiting an “opt-out” scheme for electronic billing, in *In the Matter of a Filing to Institute a Charge for Paper Bills for Customers*, Docket No. P-405/AM-17-427, Sept. 11, 2017, and in violation of Minn. R. 7810.1400, subp. 1, and Minn. Stat. § 237.101, which requires customers’ authorization of electronic bills to be in writing, as described in section C above.

<sup>184</sup> Attachment 1 – Mr. Daniel Gleason and Ms. Jenifer Enos Public Comment of Mar. 19, 2018 (DOC 8-001090).

## Recommendations

The Commission should order the following relief:

- 1) Find that Frontier has violated Minn. R. 7810.2200 for each customer not validly disconnected and charged a fee for reconnection.
- 2) If the Commission agrees, the Department staff can review each consumer's comments in this matter and provide an accounting to the Commission, subject to comment, for the pursuit of penalties.
- 3) Require Frontier, within 60 days of the date of the Commission's Order, to demonstrate compliance with Minn. R. 7810.2200 by filing a report showing that it has implemented practices that ensure it appropriately charges reconnect fees. The Report will be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the information and attests to its accuracy.
- 4) Require Frontier to file an accounting, within 60 days of the Commission's Order, to demonstrate that subscribers and former subscribers who were improperly charged a reconnection fee, and are therefore entitled to a credit or refund for the period January 1, 2015 through 2018, have received a correct bill credit or refund in the amount required by Minn. R. 7810.2200. If a former telephone service subscriber no longer subscribes to telephone service, the refund is still required.<sup>185</sup> The accounting should list:
  - a) Each customer charged a reconnect fee, for the calendar years 2015, 2016, 2017, and 2018;
  - b) The date of the charge;
  - c) The amount of the charge;
  - d) The reason for the disconnection; and
  - e) The amount the customer should have been charged.

The accounting from Frontier should be subject to comment, and include an affidavit of a Frontier executive officer attesting to the accuracy of the information Frontier provides.

- 5) Require Frontier to provide a notice to customers and former customers of the circumstances under which a reconnection fee is authorized, and that if they were charged in circumstances other than that, the credit or refund they received is being

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<sup>185</sup> If any refund payment cannot be made because a past subscriber cannot be found despite the best effort of Frontier, such refunds shall be treated by Frontier as "unclaimed property" of the subscriber as defined in Minn. Stat. Ch. 345. Frontier shall file a report within 180 days describing all refunds treated as unclaimed property.

reviewed. The notice should state that, if a large credit or refund was required, customers should expect to see the refund or credit on their bill in the coming months; and, if customers or former customers do not receive a refund or credit, but believe they are entitled to a refund or credit, the customer may contact the Department of Commerce at 651-539-1883 or telecom.commerce@state.mn.us.

- 6) Require Frontier to submit a filing after all refunds and credits have been issued to demonstrate compliance, including the date and amount of the bill credit or refund Frontier has provided to the customer or former customer. The filing should be submitted to the Commission, be subject to comment, and should include an affidavit of a Frontier executive officer attesting to the accuracy of the filing.
- 7) Require Frontier to file quarterly reports on all reconnection fees charged for five years following the Commission's Order. The report should include:
  - a) Each customer charged a reconnect fee;
  - b) The date of the charge;
  - c) The amount of the charge;
  - d) The reason for the disconnection; and
  - e) An affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to the validity of the charges and accuracy of the information in the report.

## **2. DISCONNECTION NOTICE REQUIREMENTS.**

It appears from subscriber complaints that Frontier's practices include disconnection of customers' service without notice, in violation of Minn. R. 7810.2300, and Minnesota law requiring reasonably adequate service.

Minn. R. 7810.1800, lists the circumstances under which a utility may disconnect service to a customer but requires notice to be provided. Minn. R. 7810.2300 provides that any required notice "must precede the action to be taken by at least five days excluding Sundays and legal holidays," and be delivered by first class mail to the service address or to the separate billing address, if any. Alternatively, notices may be delivered in writing by a representative of the utility; receipt of them must be signed by the customer, if present, or some other member of the customer's family of responsible age, or the utility representative must make an affidavit under oath that the utility representative delivered the notice to the customer, or the customer's residence or business.<sup>186</sup> Minn. R. 7810.2300 also requires the utility keep a record of all required notices and all affidavits required, which must be made available to the Commission. "Disconnection notices shall contain the date on or after which disconnection will occur, reason for disconnection, and methods of avoiding disconnection in normal, easy-to-understand language."

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<sup>186</sup> Minn. R. 7810.2300 (2017).

Mr. L. filed a complaint with the Commission alleging that Frontier discontinued his service in July, 2017 after the Company failed to charge his account via Auto-Pay.<sup>187</sup> Mr. L alleges that he did not receive adequate notice of the Auto-Pay failure. As a result, Mr. L's account went into arrears and, in August, 2017, Frontier disconnected his landline and internet. When Mr. L contacted Frontier, the Company ignored the fact that he was under a three year contract for \$19.99 per month and informed him that his service would only be reconnected with a rate increase from \$19.99 per month to \$49.94 per month.

Mr. S. filed a complaint with the Commission.<sup>188</sup> Mr. S stated that, during one conversation with Frontier, Mr. S requested removal of a \$2.99 per month charge for "Anonymous Call Service" and inquired about a possible modem update to improve his internet access speed. As a result of the telephone conversation with Frontier, the Carrier disconnected Mr. S's Internet service. After that, the bill that Mr. L received from Frontier showed a \$6.99 per month charge for Residential Voice Mail Service and a \$9.99 charge for Equipment Delivery and Handling.

## **Conclusion**

It appears from subscriber complaints that Frontier has at times failed to properly notify customers of disconnection of customers' service without notice, in violation of Minn. R. 7810.2300.

## **Recommendations**

The Commission should order the following relief:

- 1) Find that Frontier has violated Minn. R. 7810.2300 for each customer disconnected without notice.
- 2) If the Commission agrees, the Department staff can review each consumer's comments in this matter and provide an accounting to the Commission, subject to Comment, for the pursuit of penalties.
- 3) Require Frontier within 60 days of the date of the Commission's Order to demonstrate compliance with Minn. R. 7810.2300 and 7812.0600, subp. 7 by filing a report showing the practices Frontier has implemented to ensure it does not disconnect customers without proper notice, and otherwise complies with Minn. R.7810.2300 and 7812.0600, subp. 7. The report shall include an affidavit of a

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<sup>187</sup> Mr. L. of Ely Nonpublic Complaint to CAO of Dec. 6, 2017 (DOC 17 – 002092 – 002098) and (DOC 23 – 003488 – 003493)

<sup>188</sup> Mr. D. S. Nonpublic Complaint to CAO of Feb. 28, 2018 (DOC 25 - 003583 - 003588).

Frontier executive officer, stating that he or she has reviewed the information and attests to its accuracy.

- 4) Require Frontier to provide a copy of the notice it proposes to use for disconnections of service. The notice that Frontier proposes should be submitted for review to Commission and Department of Commerce staff, and, if there is agreement, approved by the Executive Secretary.
- 5) Require Frontier to provide a notice to customers that it may have disconnected service without receiving at least five days' notice, excluding Sunday's and legal holidays. If any customer believes they were disconnected from service without proper notice, they may contact the Department of Commerce at 651-539-1883 or telecom.commerce@state.mn.us. Customers that incurred any fees associated with the disconnection should receive a refund. This will allow the Department to track the number of violations that may be used for the assessment of penalties if such penalties are pursued in District Court.
- 6) Require Frontier to file quarterly reports on all disconnections, for five years following the Commission's Order. The report should include:
  - a) Each customer whose service was disconnected;
  - b) The date of the disconnection;
  - c) The date of the notice of the impending disconnection;
  - d) The reason for the disconnection;
  - e) An affidavit of a Frontier executive officer stating that he or she has reviewed the quarterly report and attests to its accuracy, and that the disconnections were made in compliance with Minn. R. 7810.2300 and 7812.0600 subp. 7.

### **3. BILL DISPUTES. No disconnect if bill is disputed.**

It appears that Frontier fails to inform or supply a copy of an "escrow payment form" to customers who dispute the company's bills, thereby failing to comply with the requirements of Minn. R. 7810.2400 and 7810.2500.

In Minn. R. 7810.2400 and 7810.2500, the Commission established a simple dispute resolution mechanism. Under Minn. R. 7810.2400, if a customer advises the utility, that he or she disputes the bill or underlying service that affects the bill, the utility promptly must investigate the dispute; advise the customer of investigation and its result; attempt to resolve the dispute; and withhold any planned disconnection of service until the investigation is completed and the customer is informed of the findings of fact. Upon the findings of the utility, the customer must pay the bill that the utility claims is owed, but, if the resolution is not satisfactory, the customer can designate a disputed portion under the "escrow" process detailed in Minn. R. 7810.2500.

Minn. R. 7810.2500 states that the dissatisfied customer must be provided by the utility with an “escrow payment form” to send to the Commission to commence an informal complaint and must pay the full amount shown on the post-investigation billing of the telephone utility. By doing so, the customer is deemed to have filed an informal complaint with the Commission, pursuant to the Commission’s rules of practice, parts 7829.0100 to 7829.3200. Refunds to which the customer is subsequently determined to be entitled earn interest.

Despite the many customer public comments, testimony, and complaints, no Frontier customer indicated that they were aware of or had been “provided by the utility” the “escrow payment form” called for by Minn. R. 7810.2500. It appears that Frontier may not inform customers of their right to seek assistance from the Commission.

For example, Ms. Nancy Rezny testified that approximately three years ago she paid her bill online, in the amount of \$236.78.<sup>189</sup> When Frontier claimed she had not paid, she presented Frontier with proof of payment from her credit union, which showed that the funds had been electronically transferred and accepted by Frontier, but Frontier continued to dispute the fact of the payment. Frontier then disconnected her internet access and telephone service, and placed a bad credit report for 400 and some dollars for the disputed amount. When Ms. Rezny subsequently purchased a car, she discovered the damage to her credit, which increased the rate of interest on her car loan.

Mr. R.L. of Taylors Falls reported that after he ordered service from Frontier and scheduled installation for June 4th, 2017, and then again on June 16th, 23rd, and 24<sup>th</sup>, 2017, but no technician arrived.<sup>190</sup> Because of these missed appointments, Mr. R.L. contacted Frontier and cancelled his order. Despite the cancellation, several days later, a technician arrived to install service. Mr. R.L. was never provided service by Frontier, but was nevertheless billed, which negatively affected his credit. Only after the Minnesota Attorney General contacted the company in 2018 did Frontier cease collection activity.

## **Conclusion**

It appears that Frontier fails to inform customers of the Commission’s escrow process, or to supply to customers who dispute the company’s bills with a copy of the “escrow payment form” that is required to be “clearly marked and provided by the utility” to the customer. It appears that Frontier fails to comply with the requirements of Minn. R. 7810.2400 and 7810.2500.

## **Recommendations**

The Commission should order the following relief:

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<sup>189</sup> Attachment 1 - Nancy Rezny Public Testimony of Sept. 5, 2018 (DOC 2-000196).

<sup>190</sup> Mr. R.L. Nonpublic Complaint to Attorney General of Feb. 28, 2018 (DOC 27-004102-004104).

- 1) Find that Frontier has violated Minn. R. 7810.2400 and Minn. R. 7810.2500 when it has failed to inform customers of the Commission's escrow process, and to supply to customers who dispute the company's bills a copy of the "escrow payment form."
- 2) If the Commission agrees, the Department staff can review each consumer's comments in this matter and provide an accounting to the Commission, subject to Comment, for the pursuit of penalties.
- 3) In addition, or instead of the Department providing the accounting of the violations from the customer complaints, the Commission may require Frontier to provide, within 60 days of the Commission's Order, a report showing the following:
  - a) For the calendar years 2016, 2017, and 2018, the identity of each customer who was either disconnected or had his account sent to a collection agency, who was not provided with the information to inform the customer of his or her rights to designate funds in escrow and file a complaint with the Commission;
  - b) The date of the disconnection or referral to a collection agency; and
  - c) The reason for the disconnection or referral to a collection agency;
  - d) Any evidence that Frontier informed customers of the Commission's escrow process and supplied customers who dispute the company's bills with a copy of the escrow payment form.
- 4) Require Frontier to provide a report within 60 days of the date of the Commission's Order, demonstrating that it has implemented practices that ensure it does not disconnect or send customer accounts to collections, without first (a) informing customers in writing of their rights under Minn. R. 7810.2400 and 7810.2500 to designate funds in escrow and file a complaint with the Commission; (b) supplying to customers who dispute charges on Frontier's bills a copy of a clearly marked escrow payment form for the customer to submit to the Commission; and (c) otherwise comply with Minn. R. 7810.2400, 7810.2500, 7812.0600, subp. 7, and Minn. Stat. § 237.06. The report shall include an affidavit of a Frontier executive officer, stating that he or she has reviewed the information and attests to its accuracy.
- 5) Require Frontier to provide a copy of the notice it proposes to use for informing customers of (a) their rights under Minn. R. 7810.2400 and 7810.2500 to designate funds in escrow and file a complaint with the Commission; (b) their rights to dispute charges on Frontier's bills and receive from Frontier a clearly marked escrow payment form for the customer to submit to the Commission. The notice should be submitted for review to Commission and Commerce staff, and, if there is agreement, approved by the Executive Secretary. The notice shall include an explanation that, as to disputed charges, customers have the rights: (a) upon reporting to Frontier a disputed charge, to receive from Frontier a copy of a clearly marked escrow



payment form for the customer to submit to Frontier and the Commission, and (b) to file a complaint with the Commission and designate the disputed amount that Frontier is to hold in escrow. The notice should state that, if any customer believes that the Company has failed to comply with these rules and laws, they should contact the Department of Commerce at 651-539-1883 or [telecom.commerce@state.mn.us](mailto:telecom.commerce@state.mn.us). After the notice is provided, the Company shall file proof of compliance, including an affidavit of a Frontier executive officer attesting to the veracity of the information.

**4. DELAY IN INITIAL SERVICE OR UPGRADE. Priority for public health/ safety.**

It appears that Frontier may not meet its obligation to install service timely, or otherwise comply with its obligations under Minn. R. 7810.2800 and its AFOR.

Minn. R. 7810.2800 provides the following regarding installation delays:

During such periods of time as telephone utilities may not be able to supply initial telephone service to an applicant or upgrade existing customers within 30 days after the day applicant desires service, the telephone utility shall keep a record by exchanges showing the name and address of each applicant for service, the date of application, date service desired, the class and grade of service applied for, together with the reason for the inability to provide the new service or higher grade to the applicant. When, because of shortage of facilities, a utility is unable to supply main telephone service on dates requested by applicants, first priority shall be given to furnishing those services which are essential to public health and safety. In cases of prolonged shortage or other emergency, the commission may require establishment of a priority plan subject to its approval for clearing held orders, and may request periodic reports concerning the progress being made. Ninety percent of the utility's commitments to customers as to the date of installation of regular service orders shall be met excepting customer-caused delays and acts of God.

The Citizen's and Frontier AFOR plans had the following provisions concerning timely installation of service.

If unable to provide primary local exchange service (that is, the first access line to the customer providing local dial tone and local usage necessary to receive a call to a customer) within three business days, or on the requested installation date, if later, for company reasons, the company shall waive the one-time installation charge for primary line connections, and shall also offer the customer free

of charge a telephone number, a directory assistance listing, and the customer's choice of either:

- 1) Free remote call forwarding of that number until service is provisioned;  
or
- 2) A free voice mailbox to which the customer's calls may be directed until service is provisioned.

The company shall give priority installation commitments to customers who identify critical medical situations. Critical medical situations are identified as infants on monitoring systems, individuals on life support systems, or other life-threatening emergencies. If the delay is due to customer actions or other force majeure conditions, then no remedy will be required.

Consumers reported long delays in Frontier's installation of service, often without compensation or the AFOR remedy. John Kirby, who operates Metropolitan Court Reporters indicated that his business relocated at the end of June 2018.<sup>191</sup> Frontier scheduled an appointment to transfer the service for a residential line and two business lines (phone and fax). When the technician arrived, he informed Mr. Kirby that the company's records showed a work order for the residential line only. Despite many calls, several trips to Frontier's Rosemount office, and multiple no-shows of technicians (for which Mr. Kirby had arranged to be available), phone and fax service was not installed for Mr. Kirby's business for three months. Upon restoration of service, Mr. Kirby found a message to the unconnected business line from Frontier, to schedule an appointment to install service to that same unconnected number. Despite providing no service on the two business lines from June 28 to the end of September, Frontier billed the full amount. Mr. Kirby informed the Department that, after his public comment, Frontier adjusted his phone bill by only \$68. Mr. Kirby is in a Frontier exchange covered by an AFOR plan at the time of the delayed installation, which required Frontier to waive the one time installation charge for primary line connections, and also offer the customer free of charge, a telephone number, a directory assistance listing, and the customer's choice of either: 1) Free remote call forwarding of that number until service is provisioned; or 2) a free voice mailbox to which the customer's calls may be directed until service is provisioned.

Another consumer, Ms. E.C., reported in June 2018 that she and her husband are elderly, and had been awaiting installation of phone service in Finlayson since March.<sup>192</sup> Ms. E.C. indicated she had given up and tried during the week of June 29 to cancel the installation order, but had been unable to do so because Frontier hung up on her numerous times. Ms. E.C. is in a Citizens' service area and was covered by an AFOR plan and should have been provided with the same relief as Mr. Kirby, as explained above.

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<sup>191</sup> Attachment 1 – John Kirby Public Comment of Mar. 6, 2018 (DOC 08-001175 - 0001176).

<sup>192</sup> Ms. E.C. Nonpublic Complaint to Commission of June 29, 2018 (DOC 21-002829).

## Conclusions:

Complaints of consumers indicate 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.

## Recommendations

The Commission should order the following relief:

- 1) Require Frontier to demonstrate compliance with Minn. R. 7810.2800 by filing evidence, within 60 days of the date of the Commission's Order, that it has implemented practices to ensure it meets its obligations. The filing should be subject to comment, and include an affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to its accuracy.
- 2) Require Frontier to file an accounting within 60 days of the Commission's Order, to demonstrate that subscribers and former subscribers, who qualified for the customer remedy for a delayed installation, were properly provided with the required AFOR relief. Frontier should file an accounting for the period from January 1, 2015 through 2018, that includes the following information:
  - a) A report listing all customers that received the AFOR remedies pertaining to installations. The list should include:
    1. Customer name;
    2. Customer telephone number;
    3. The exchange where the customer resided when provided the remedy; and
    4. The date the customer was provided with the remedy.
  - b) A report listing all customers that did not receive the AFOR remedies but did not have service installed on their primary line within three business days. This list should include:
    1. Customer name;
    2. Customer telephone number;
    3. The exchange where the customer resided at the time installation was to occur;
    4. The amount the customer was charged for the installation; and
    5. The value of the applicable AFOR remedy, if the customer was provided installation at no charge, a telephone number, a directory assistance listing, and either remote call forwarding or a free voice mailbox.

The accounting should be submitted to the Commission, subject to comment, and should include an affidavit of a Frontier executive officer stating that he or she has reviewed the information and attests to the accuracy of the accounting and the veracity of the information.

- 3) Request Frontier to provide a notice to customers and former customers that if they installed telephone service and were not provided with the stated benefits in the AFOR plans, they may be entitled to a credit. The notice should state that customers should expect to see the refund or credit on their bill in the coming months if they did not receive the AFOR benefits, if installation took more than three business days. The notice should also state that if customers or former customers do not receive a refund or credit, but believe they are entitled to a refund or credit, the customer may contact the Department of Commerce at 651-539-1883 or [telecom.commerce@state.mn.us](mailto:telecom.commerce@state.mn.us). Frontier's proposed notice should be submitted for review to Commission and Department staff, and, if there is agreement, approved by the Executive Secretary. After the notice is provided, Frontier shall file proof of compliance, including an affidavit of a Frontier executive officer attesting to the veracity of the information.

## **P. INSPECTIONS, TESTS, SERVICE REQUIREMENTS**

### **1. UTILITY OBLIGATIONS. REFUSAL TO INSTALL SERVICE. CARRIER OF LAST RESORT**

The Department identified 11 consumer complaints/concerns filed in this proceeding related to the difficulty with obtaining telephone service from Frontier. Consumers raised the serious concerns regarding Frontier's refusal to install any telephone service, or failure to install in a timely manner. This can be very dangerous, because, without Frontier telephone service, residents of Frontier's service area may have no access to emergency or other important services.

Several statutes and rules state the duties of telephone utilities such as Frontier, who are common carrier telephone service providers that enjoy monopoly or near-monopoly markets in their exchange service areas. This set of duties is commonly referred to the duties of a "carrier of last resort" (COLR).

Among the COLR duties is the obligation to offer phone service to everyone in the service territory, referred to as the "universal service" requirement. Universal service means the carrier must offer reasonably affordable rates (even for residents of rural "high-cost" areas and those with low incomes) to everyone in its service area (including persons with physical

disabilities). Specifically, in Minnesota, Minn. Stat. § 237.06<sup>193</sup> requires telephone companies to provide “reasonably adequate service and facilities” for the “accommodation of the public”, at rates that are “fair and reasonable.” The Legislature has specifically directed the Commission, in Minn. Stat. § 237.011<sup>194</sup> to consider in all proceedings that it should preserve universal service, ensure that a monopoly provider’s rates are reasonable, and otherwise protect customers of telephone companies that face little or no competitive pressure to adequately serve customers.

Minn. Stat. § 237.121<sup>195</sup> requires companies to abide by their tariffs, price lists, and contracts, and with all of the Commission’s rules and orders. Further, the Commission has the “power of life and death” over a monopoly telephone utility, in that the Legislature endowed the Commission, in Minn. Stat § 237.16,<sup>196</sup> with the “exclusive authority” to authorize an entity to serve, and to determine how best to protect consumers from “monopolistic practices” and “preserve the state’s commitment to universal service.”

The Commission has by rule further ensured universal service: Minn. R. 7810.5000<sup>197</sup> requires telephone utilities to provide phone service to everyone in their service area, and for the service quality to “meet or exceed the standards set forth in this chapter.”

Further, Minn. R. 7810.5000 requires each telephone utility to “continually” review its operations to assure that it provides adequate service to the public.

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<sup>193</sup> Minn. Stat. § 237.06 states in part: “It shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof.”

<sup>194</sup> Minn. Stat. § 237.011 includes the following state goals that should be considered as the commission executes its regulatory duties with respect to telecommunication services:

- (1) supporting universal service;
- (5) maintaining or improving quality of service;
- (7) ensuring consumer protections are maintained in the transition [from a monopoly situation] to a competitive market for local telecommunications service...

<sup>195</sup> Minn. Stat. § 237.121 states in part: (a) a telephone company or telecommunications carrier may not do any of the following with respect to services regulated by the commission: ... (3) fail to provide a service, product, or facility to a consumer other than a telephone company or telecommunications carrier in accordance with its applicable tariffs, price lists, or contracts and with the commission’s rules and orders;

<sup>196</sup> Minn. Stat. § 237.16, subd.1 states in part: “[f]or the purpose of bringing about fair and reasonable competition for local exchange telephone services, the commission has the authority ... to: ... authorize any person to ... furnish local service to subscribers in any municipality of this state, and to prescribe the terms and conditions upon which ... service delivery may be carried on; and ...[to] establish terms and conditions for the entry of telephone service providers so as to protect consumers from monopolistic practices and preserve the state’s commitment to universal service.

<sup>197</sup> Minn. R. 7810.5000 states in part: “[e]ach telephone utility shall provide telephone service to the public in its service area in accordance with its rules and tariffs on file with the commission. Such service shall meet or exceed the standards set forth in this chapter. Each telephone utility has the obligation of continually reviewing its operations to assure the furnishing of adequate service.”

Finally, the Frontier AFOR<sup>198</sup>, specifies that Frontier was to have an objective of installing primary local telephone service within three business days, and if Frontier failed to do so, it was to provide compensation to the customer.<sup>199</sup>

Many households, including those whose members include elderly, disabled, or otherwise medically at-risk individuals, rely on their telephone to access emergency services, but also to stay in touch with schools, daycares, work, doctors, family, friends, etc. From complaints and comments, however, it is evident that Frontier refuses to serve for months and even more than a year to obtain primary basic local telephone service. This is unacceptable and contrary to Minnesota's laws and the Commission's rules referenced above. Also, Frontier is certified as an eligible telecommunications carrier and is receiving nearly \$28 million over 10 years to bring broadband to over 14,000 locations. As discussed below, as an ETC provider, Frontier is also obligated to offer service throughout its service area.

Customers have demonstrated that Frontier in fact does not offer timely installation of telephone service in its service area. For example, Ms. Shellie Metzler told of her difficult experience when she tried ordering service from Frontier on the Commission's Speak Up Forum.<sup>200</sup> Ms. Metzler first attempted to order both telephone and internet service in July of 2016. Frontier failed to provide service for more than a year. Only in September 2017, after many, many calls and hours spent with Frontier customer service representatives, did Frontier provide service.

Ms. Diane Eaton testified at the Wyoming public hearing that Frontier refused to provide landline service.<sup>201</sup> Ms. Eaton stated that her husband has memory problems and cannot remember how to use a cell phone. Ms. Eaton explained that this is a very dangerous situation for the elderly people in the community.<sup>202</sup>

Mr. John Peterson stated, in September 2018, that he first requested telephone service in June of 2017.<sup>203</sup> After numerous unfruitful communications with Frontier, including promises that service would be installed, but field technicians not showing up, service was still

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<sup>198</sup> *In the Matter of a Petition by Frontier Communications of Minnesota, Inc. for Approval of its Revised Alternative Regulation (AFOR) Plan*, MPUC Docket No. P405/AR-14-735 the Commission, "Order Approving Alternative Regulation Plan as Modified" issued February 23, 2015.

<sup>199</sup> The AFOR states that, if Frontier fails to timely provide primary local exchange service, Frontier shall waive the one-time installation charge for primary line connections, and offer the customer free of charge a telephone number, a directory assistance listing, and the customer's choice of either: 1) Free remote call forwarding of that number until service is provisioned; or 2) A free voice mailbox to which the customer's calls may be directed until service is provisioned." And, further, Frontier must give priority installation commitments to customers who identify "critical medical situations." Critical medical situations are defined in the AFOR as any "life-threatening emergencies."

<sup>200</sup> Attachment 1 - Metzler Speak up Comment of March 7, 2018 (DOC 12 – 001821 - 001823).

<sup>201</sup> Attachment 1 - Eaton Public Testimony of September 12, 2018 (DOC 3 - 000307-000310)

<sup>202</sup> See also section D regarding the requirement of Minn. R. 7810.5900 for Frontier to provide repairs consistent with the medical needs of the subscriber.

<sup>203</sup> Attachment 1 – John Peterson Public Comment of September 2018 (DOC 30 - 004342 - 004345)

not installed as of September of 2018, and Mr. Peterson remained without service, as he had been for a period of 15 months.

## Conclusions

Consistent with the Commission's goals as set out in Minn. Stat. § 237.011, the Commission should undertake to preserve universal service and protect Minnesota customers from a telephone company that faces little or no competitive pressure that would otherwise require it to adequately serve customers.

Consistent with the authority afforded to the Commission by Minn. Stat § 237.16, the Commission should protect consumers from the monopolistic practices of Frontier and make an order that preserves the state's commitment to universal service.

From citizen complaints, it is clear that 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 requirements of its AFOR to install primary local service within three business days.

It also appears that Frontier, in violation of Minn. R. 7810.5000, does not "continually" review its operations to assure that it provides adequate service to the public. If it were appropriately reviewing its installation operations to ensure it was providing adequate service, it would not have a practice of refusing to serve customers residing within in its monopoly service area.

## Recommendations

The Commission should order the following relief:

- 1) The Commission should find that Frontier has violated Minn. Stat. § 237.06, Minn. R. 7810.5000, and its duties as an ETC<sup>204</sup>, in that Frontier has failed to serve a person residing within its service territory, and has knowingly placed members of those households at risk, and thereby has also violated Minn. Stat. § 237.121 by failing to comply with the Commission's rules.
- 2) Require Frontier within 60 days of the date of the Commission's Order, to demonstrate that it complies with Minn. R. 7810.5000 by filing evidence showing that it has implemented practices to ensure it meets its obligations. The filing should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to its accuracy.

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<sup>204</sup> Minn. R. 7811.0600, subp. 4 and 7812.0600 subp. 4 state in part: "An LSP designated an ETC by the **commission must provide local service, including, if necessary, facilities-based service, to all requesting customers within the carrier's service area** on a nondiscriminatory basis, regardless of a customer's proximity to the carrier's facilities."

- 3) Require Frontier to file an accounting within 60 days of the Commission's Order, to demonstrate that the requests of subscribers, and former subscribers, who are or were residing in Frontier's service area, but were denied telephone service have been properly addressed. Frontier should file a reporting for the period from January 1, 2015 through 2018, that includes the following information:
  - a) A list of customers that Frontier denied telephone service.
  - b) A list of customers that Frontier would only agree to serve if the customer paid an excess construction charge.
  - c) The amount of the excess construction charge, associated with each customer in b above.
  - d) The method Frontier uses to calculate the excess construction charge, including the details on three accounts identified in these comments where there was an excess construction charge, demonstrating how the amount of the charge was calculated.
  - e) A list of customers that rejected the excess construction charge and didn't receive service.

The accounting should be subject to comment and should include an affidavit by a Frontier executive officer stating that he or she has reviewed the information and attests to the accuracy of the accounting.

- 4) The Commission should require Frontier to provide telephone service to all customers in its service territory, with no excess construction charge, unless Frontier submits a petition to the Commission that it intends to impose an excess construction charge for whatever installation is at issue. Since such matters are time sensitive to consumers, the petition should be deemed as acknowledged and Frontier may apply the charge in 10 days, unless there is a challenge to the charge, in which case the funds shall be placed in escrow and the matter will be heard by the Commission to determine the reasonableness of the charge.

When Frontier intends to apply an excess construction charge, Frontier should be required to provide a notice to consumers seeking to have telephone service installed, notifying them of their rights to challenge the charge before the Commission and to have the funds placed in escrow. The notice that Frontier proposes should be submitted for review to Commission and Department of Commerce staff, and, if there is agreement, approved by the Executive Secretary.

## **2. TELEPHONE OPERATORS. Courteous.**

At least 29 of the complaints/concerns filed by customer in this proceeding raise concerns about the ability of Frontier to consistently provide courteous and considerate service to customers.



Minn. R. 7810.5100 requires Frontier to adopt “[s]uitable practices” “with the objective of providing efficient and pleasing service to the customers. Telephone operators shall be instructed to be courteous, considerate, and efficient in the handling of all calls. . . .”<sup>205</sup>

Many consumers described experiences where Frontier’s customer service representatives were inefficient or rude, not courteous, considerate, and efficient as required by Minn. R. 7810.5100.

On June 29, 2018, Ms. E.C. called the Commission reporting that she and her husband, who are senior citizens, had tried, unsuccessfully, from March to June 2018 to obtain Frontier residential phone service.<sup>206</sup> After three months of waiting for Frontier to provide phone service, Ms. E.C. called to cancel her order, but Frontier customer service representatives repeatedly hung up on her. Finally, Ms. E.C. was informed a supervisor would call her back. As of June 29, 2018, when she sought help from the Commission, Frontier had not returned the calls to Ms. E.C. as Frontier’s representative promised.

At the public hearing in Slayton, Mr. Dale Burkhardt spoke of noise on his landline telephone and explained that the many service outages he had suffered<sup>207</sup> had adversely affected his home-based business. Mr. Burkhardt testified that Frontier customer service representatives had twice simply hung up on him. In addition, Mr. Burkhardt reported that on another occasion, Frontier customer representatives insisted that a technician had already repaired his phone service, when in fact, no technician had appeared at his home and no repair had been made.

Ms. Marge Alden, a Frontier residential customer in Shafer, filed comments about the discourteous service she received in her attempts to obtain billing credits to which she was entitled, but had not received, and about Frontier’s failure to switch her service to vacation rate service while she was away from home.<sup>208</sup> Ms. Alden said:

“the staff in part have been very rude and even claimed the court ordered hearings on their service were only their idea to better

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<sup>205</sup> While Minn. R. 7810.5100 uses the now-quaint term “operator”, many functions performed by operators when the rule was promulgated in the 1970s are now handed by machines and other functions of operators are now handled by job classes called “customer service representatives” or “CSRs”. Similarly, Minn. R. 7810.5200 requires “operators” and customer service “representatives” to timely “answer” (i.e. help--or at least take information to help--the customer) all incoming calls of customers. Minn. R. 7810.5200 states, in part: “Adequate forces shall be provided at local manual offices in order to assure that 95 percent of the calls will be answered within ten seconds. Ninety percent of repair service calls, calls to the business office, and other calls shall be answered within 20 seconds. An “answer” shall mean that the operator or representative is ready to render assistance and/or ready to accept information necessary to process the call.” From this, it appears that the requirements in Minn. R. 7810.5100 and 7810.5200 are meant to apply to **all** incoming calls from customers, including calls handled by the job title called “customer service representative.”

<sup>206</sup> Ms. C. Nonpublic Complaint to Commission of June 29, 2018, (DOC 21 - 002829 - 002830)

<sup>207</sup> Attachment 1 – Dale Burkhardt, Public Testimony of Sept. 25, 2018 (DOC 4 - 000461 - 000464).

<sup>208</sup> Attachment 1 - Ms. Marge Alden Public Comment, approximately Sept. 21, 2018 (DOC 10 - 001416)

their service. Representatives have said they will handle it and they have even given me confirmation numbers but it does not get handled and they continue to bill me. . . They continued to charge me, after many phone calls, chat line discussions and letters, I just talked to a representative who told me they changed their policy and are no longer doing vacation mode. I pointed out that they charged me for the vacation mode charge and she said they just changed their policies. I asked if they sent the change out to customers and she said no, I requested a copy and they denied me a copy. The bill is now about \$400 for a service I am not receiving and after they charged for the vacation mode charge. She also said unless I paid it they would not reinstate my service.”

Joseph Kristoff bills for June, July, and August bills included a \$1.50 charge under “Other Service Charges and Credits,” described as “Frontier.”<sup>209</sup> Mr. Kristoff eventually discovered the charges were for directory assistance calls that neither he was certain no one in his household made. Mr. Kristoff stated that Frontier agents rudely insisted the calls were legitimate and that if he did not want the charge he should not call directory assistance.

Ms. Kelly Hjort told of her many “aggravating” experiences with Frontier as a monopoly provider in rural service area.<sup>210</sup> She explained that, among other things, she made “tons of phone calls to Customer service and rude and/or no help,” and, when she finally tried to cancel service in favor of getting by with a cell phone, “they said after days that they couldn’t cancel us because there were local freezes on our telephone so canceling couldn’t happen! Our canceling was getting rejected....Frontier lies to its customers. They will say anything to a customer to keep them or prolong the canceling of them!”

Ms. Emily Green stated that<sup>211</sup> after cancelling service, charges appeared on her bill for service she did not receive, and Frontier customer service assured her the bill would be adjusted. Instead she was charged again for monthly billing, and when she again called, Frontier customer service promised to take 20 dollars off her bill and transfer her call to someone who could cancel the account. Instead of transferring the call, however, Frontier customer service hung up on her. This happened 4 more times before she got a hold of someone. She concluded, “[t]hey have sent me to collections for this.”

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<sup>209</sup> Attachment 1 - Joseph Kristoff Public Comment of Sept. 12, 2018 (DOC 10 - 001411)

<sup>210</sup> Attachment 1 - Ms. Kelly Hjort Speak Up Comment of Feb. 19, 2018 (DOC 12-001804).

<sup>211</sup> Attachment 1 - Ms. Emily Green, public Speak Up comment of approximately Oct. 2, 2018 (DOC 15-001950).

## Conclusion

The Oxford English Dictionary defines “courteous” as being “[p]olite, respectful, or considerate in manner.”<sup>212</sup> It defines “considerate” as “[c]areful not to inconvenience or harm others.”<sup>213</sup> Lastly, it defines “efficient,” when referring to a person, as “working in a well-organized and competent way.”<sup>214</sup>

While it is commonplace for customers of competitive businesses to expect customer service representatives to be reasonably civil, that appears not to be a practice that Frontier requires of its staff, even though Minn. R. 7810.5100 specifically requires representatives to be “courteous, considerate, and efficient in the handling of all calls.”

The treatment received by customers of Frontier does not comply with Minn. R. 7810.5100, when the rule is interpreted in the light of general standards of business conduct.

## Recommendation

The Commission should order the following relief:

- 1) 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 customer service representative was not courteous, considerate, and efficient.
- 2) If the Commission agrees, the Department staff can review each consumer’s comments in this matter and provide an accounting to the Commission, subject to Comment, for the pursuit of penalties.
- 3) Require Frontier to demonstrate that it will comply with Minn. R. 7810.5100 by filing evidence, within 60 days of the date of the Commission’s Order showing that it has implemented practices to ensure it will meet its obligations. The filing should include an affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to its accuracy, and be subject to comment.
- 4) Require Frontier within 60 days of the Commission’s order, to prepare a proposed written notice to its customers: (a) informing customers of the company’s obligations under Minn. R. 7810.5100 and (b) stating that, if any customer believes that the Company has failed to comply with these requirements, they should contact the Department of Commerce at 651-539-1883 or [telecom.commerce@state.mn.us](mailto:telecom.commerce@state.mn.us). All instances presented by subscribers will be used to determine the number of violations of the rule. The notice that Frontier proposes should be submitted for

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<sup>212</sup> <https://en.oxforddictionaries.com/definition/courteous>

<sup>213</sup> <https://en.oxforddictionaries.com/definition/considerate>

<sup>214</sup> <https://en.oxforddictionaries.com/definition/efficient>

review to Commission and Department of Commerce staff, and, if there is agreement, approved by the Executive Secretary. After the notice is provided to current customers, the Company shall file proof of compliance including an affidavit of a Frontier executive officer attesting to its veracity.

**3. ANSWERING TIME. Customer not to be sitting on hold. Answer within 20 seconds by representative ready to accept information and process call.**

When calling Frontier, in excess of 100 subscribers reported hold times far longer than the 20 seconds required by the Minnesota rules or the 60 seconds required by Frontier's former AFORs.

Minn. R. 7810.5200 requires, "Ninety percent of repair service calls, calls to the business office, and other calls shall be answered within 20 seconds." The rule goes on to clarify that an "'answer' shall mean that the operator or representative is ready to render assistance and/or ready to accept information necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an answer." While they were in effect, Frontier's AFORs allowed for a slightly longer wait time, of 60 seconds, for the purpose of determining "substantial compliance".<sup>215</sup>

Customers reported long wait times and, having their calls transferred from one customer service representative to another for reporting even simple outages. For example, Ms. Barbara Richter of Milaca stated that while reporting the second of two telephone outages last year, she called Frontier using her cell phone, for which she is charged by the minute:

I was on hold for 15 minutes before an actual person came on the line. After explaining that we had no land line service, he said that he had to transfer me to someone else. I was on hold another 15-20 minutes .... I again explained my problem and this individual did some testing and checking and concluded that it was Frontier equipment that was to blame but then had to get approval from a supervisor before giving me a repair order number and scheduling the repairs. My cellphone battery was close to dying through this lengthy, and unnecessary conversation.<sup>216</sup>

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<sup>215</sup> Frontier AFOR ¶ V.C(v); Citizens AFOR ¶ V.C(v). Frontier's AFOR, in effect from March 1, 2015 to March 1, 2018, and Citizens' AFOR, in effect from November 1, 2015 to November 1, 2018 said: "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. The service representative will accept the information needed to begin processing the call and direct the caller to the appropriate specialize personnel, as appropriate. Results shall be determined by a 12-month annual statewide average of the performance for the measure for combined customer, business and repair calls."

<sup>216</sup> Attachment 1 - Ms. Barbara Richter public comment of March 7, 2018 (DOC 8 - 001108 -001109).

Similarly, Ms. R. Jane Brown reported that on October 2, 2018, she called Frontier to report a landline outage and waited on hold for 26 minutes before speaking to a customer service representative.<sup>217</sup>

Consumers who do not have a cell phone or cell service at their homes reported being uniquely impacted by these long wait times. For example, Richard Dreger reported the following when his phone went out in October 2017: “So I get in my car, drive a mile and a half away from my house to use my cell phone. . . . So it took probably 45 minutes to phone in the service call. I thought why is this taking so long, I’m on hold and on hold.”<sup>218</sup>

Similarly, Mr. Robert and Ms. Renee Bodine of Lindstrom reported that when their phone and internet recently went down, “It took hours to get someone to answer our call to report the outage, which in itself was very frustrating given we did not have home access to a phone or computer to contact them.”<sup>219</sup> The Bodines reported that although they eventually obtained a repair date that was several days out, this was only after “a ridiculous amount of time being left ‘on hold,’ on more than one occasion.” The Bodines report that the outage lasted eight days and noted, “We were assured by customer service that we would receive credit for the amount of time our service was disabled, which of course never happened, and is just not worth the hassle of another phone call.”

The experience of Ms. Elizabeth Mohr is typical of many complaints about Frontier.<sup>220</sup> Among other things, while servicing Ms. Mohr’s internet access service: Frontier (1) disconnected her telephone service without notice or consent, (2) left her without phone service for 12 days; (3) forced her to spend 47 hours on the telephone seeking restoration of phone service; (4) “lost” five of the six repair tickets it issued; and (5) refused to install new internet access service because its records showed “no ports available,” despite Ms. Mohr’s census block’s internet access service being funded by a CAF II grant to Frontier.

Other consumers reported that once they get ahold of a customer service representative, the call may be disconnected causing them to begin the process again. For example, Mr. Kent Lorentzen of Jacobsen, who subscribes to bundled service, provided a list of the most recent reported issues he has had with Frontier, including dates and times of events spent talking to customer service.<sup>221</sup> Among Mr. Lorentzen’s concerns, was his experience of August 27, 2017, showing his experience with a Frontier customer service representative:

10:15 am - Called to report DSL out, placed on hold.  
10:28 am - Was disconnected.  
10:29 am - Called again and placed on hold.  
10:41 am - Connected to a person to report problem.

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<sup>217</sup> Attachment 1 - Ms. R. Jane Brown Public Comment of October 2, 2018 (DOC 11 - 001763).

<sup>218</sup> Attachment 1 - Mr. Richard Dreger Public Testimony of Sept. 5, 2018 (DOC 2 - 000170-000175).

<sup>219</sup> Attachment 1 - Mr. Robert and Ms. Renee Bodine Public Comment of August 24, 2018 (DOC 10 - 001564).

<sup>220</sup> Attachment 1 - Ms. Elizabeth Mohr Public Testimony of Sept. 12, 2018 (DOC 03-000380).

<sup>221</sup> Attachment 1 - Kent Lorentzen Public Comment of April 30, 2018 (DOC 8 - 001251-52).

10:43 am - Disconnected again before completing report of problem.  
10:44 am - Called again and placed on hold.  
10:59 am - Connected to a person and was finally able to report problem.

Consumers also reported that after being connected to a customer service representative they would be transferred several times, even for simple issues such as generating a work order. For example, Mr. Paul Neubauer of Apple Valley reported that on August 9, 2018, he called customer service to report that his telephone was not receiving incoming calls.<sup>222</sup> Mr. Neubauer reported speaking to six different people from Frontier, to try to have a work order issued. Mr. Neubauer continued, “[h]aving been passed back and forth between Frontier staff, I finally got them to generate a work order, when all it should have taken is one phone call and a few notes inserted in a database.”

Mr. Roy Robison testified that dozens of times every year they have a phone interruption, with no service at all.<sup>223</sup> Because of lack of cell phone service in the area, Mr. Robison must drive two miles to Osceola to use a payphone to contact Frontier’s customer service. Mr. Robison states that spending a half hour, on a payphone, to get a job ticket is ridiculous.

The Department requested reports required under the Frontier AFOR plans for answering time from March 2018 and each month thereafter.<sup>224</sup> These reports show Citizens only met its AFOR’s average answering time of 60 seconds in one month, July 2018, while Frontier did not meet the 20 second requirement under Minn. R. 7810.5200 from March to October 2018. Broadly, Frontier’s and Citizens’ answering times ranged from a low of 55 seconds in June 2018 to a high of 441 seconds (over seven minutes) in January 2018. While Frontier’s and Citizens’ reported answering time improved during summer 2018, it quickly increased in Fall 2018 reaching an average of 198 seconds in October 2018. The Department notes that these are averages and individuals consumers, such as those stated above, may wait much longer.

## **Conclusion**

The long wait times reported by consumers to access a customer service representative, to receive assistance, and Frontier’s inefficient rendering of customer service, violate Minn. R. 7810.5200. In addition, the long wait times and often failure to transfer to the appropriate specialized personnel appear to have violated Frontier’s AFOR requirements, while the AFORs were in force.

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<sup>222</sup> Attachment 1 – Mr. Paul Neubauer Public Testimony of Aug. 9, 2018 (DOC 5 -000577-80).

<sup>223</sup> Attachment 1 - Mr. Roy Robison Public Testimony of Sept. 12, 2018 (DOC 3 - 000392 to 000396).

<sup>224</sup> Attachment 2 –Frontier Supplemental Response (Nov. 14, 2018) to DOC IR No. 32. The information on answering times is identical for both Frontier and Citizens customers.

The poor quality of service reported – with long wait times, transfers, and long phone calls, being hung up on and repeating the cycle—also affect individuals’ ability to obtain remedies from Frontier for which they are entitled by the Commission’s rules, and recover required bill credits and adjustments for outages. As Mr. and Ms. Bodine explained, it is often “just not worth the hassle of another phone call” to try to get credit for even lengthy outages.

The long wait times reported by customers appear to be not only caused by Frontier’s lack of investment in staffing, but also are a symptom of the larger infrastructure failures, transmission issues, billing, and other deficiencies reported by consumers. This is because whenever a customer has an issue, whether it is a down line, overbilling, lack of clarity in billing, missed repair appointments, or an internet or phone outage, consumers are directed to call the same help line. In this way, Frontier likely will need to remedy other systemic issues, including customer problems with its internet service, to achieve compliance with Minn. R. 7810.5200, which requires timely answer times on calls to Frontier.

### **Recommendations**

The Commission should order the following relief:

- 1) Require Frontier to show why the Commission should not find that it has violated Minn. R. 7810.1400, subp. 1, by not having adequate forces to answer 90 percent of repair service calls, calls to the business office, and other calls within 20 seconds.
- 2) Require Frontier to file a report demonstrating that it complies with Minn. R. 7810.5200 by filing evidence, within 60 days of the date of the Commission’s Order showing that it has implemented practices to ensure it will meet its obligations. The report shall be subject to comment and should demonstrate, at minimum, that Frontier will:
  - a. Ensure adequate staffing levels of customer service representatives, technical specialists, billing specialists, or other representatives who assist Minnesota consumers via telephone;
  - b. Provide enhanced training to customer service representatives to efficiently render assistance;
  - c. Enhance its processes, systems, or call-center technology to assist customer service representatives in quickly resolving reported issues; and
  - d. Possibly designating customer service staff to specifically serve Minnesota consumers.

The Report should include an affidavit by a Frontier executive officer stating that he or she has reviewed the information and attests to its accuracy.

- 3) Require Frontier to submit quarterly reports demonstrating that it is meeting its obligation to provide customer service representatives who can render assistance

within 20 seconds for 90 percent of all calls. The report should identify all calls where the call is not “answered” (as defined by Minn. R. 7810.5200) within 20 seconds, within one minute, within 5 minutes, within 10 minutes, within 20 minutes, and over 20 minutes. The Report will be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the information and attests to its accuracy.

- 4) If Frontier’s compliance filings show Frontier fails to substantially comply with answering time requirements, monetary penalties should be pursued. Penalties should be in a sufficient amount to deter violations and encourage Frontier to invest further resources in its customer service operations to serve Minnesota consumers.

#### **4. TRANSMISSION REQUIREMENTS. Cross talk, static, noise.**

Customers located across Frontier’s service territory have reported issues with Frontier’s transmission quality, such as noise and cross talk on phone lines, from which it strongly appears that Frontier has knowingly failed to comply with the requirements of Minn. R. 7810.3300<sup>225</sup>, 5500<sup>226</sup>, and, to the extent that Frontier has not compensated affected customers for impairment of their service, Frontier appears also to have violated Minn. R. 7810.1400, subp. 2 and its former AFOR Plans’ Out of Service obligations.

Minn. R. 7810.5500 (2017) requires telephone utilities to provide and maintain adequate facilities to satisfactorily transmit communications. The rule also requires transmission to be “at adequate volume levels and free of excessive distortion” and that “[l]evels of noise and cross talk shall be such as not to impair communications.”

Similarly, Minn. R. 7810.3300<sup>227</sup> requires electrical faults, such as leakage, poor insulation, noise, induction, cross talk, or poor transmission characteristics to be corrected.

Minn. R. 7810.1400, subp. 2 requires that, if a customer's service is interrupted and out of order for 24 hours after being reported, the monthly bill must be pro-rated to account for

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<sup>225</sup> Minn. R. 7810.3300 states: “Electrical faults, such as leakage or poor insulation, noise, induction, cross talk, or poor transmission characteristics, shall be corrected to the extent practicable within the design capability of the plant affected.”

<sup>226</sup> Minn. R. 7810.5500 states: “Telephone utilities shall furnish and maintain adequate plant, equipment, and facilities to provide satisfactory transmission of communications between customers in their service areas. Transmission shall be at adequate volume levels and free of excessive distortion. Levels of noise and cross talk shall be such as not to impair communications.”

<sup>227</sup> Minn. R. 7810.3300 states, in part: “Electrical faults, such as leakage or poor insulation, noise, induction, cross talk, or poor transmission characteristics, shall be corrected to the extent practicable within the design capability of the plant affected.”



the loss of service.<sup>228</sup> Similarly, Frontier's former AFOR plans had Out of Service requirements that requires customers to be compensated when their service was interrupted.<sup>229</sup>

During the course of this Commission's investigation, over 75 Frontier customers reported poor transmission quality on their phones, describing crackling, buzzing, static, or hearing other voices on the line (cross-talk). Subscribers reported that Frontier has often not repaired these transmission quality concerns for significant amounts of time or the issue recurs and Frontier does not provide a permanent solution.

Several subscribers reported that the noise on their line is sometimes so loud that they cannot carry on conversations or otherwise use their phones. For example, Ms. Sanda Oslin and Ms. Michele Flynn of Sturgeon Lake reported that the phone "is unusable more than usable" because the "line is crackly and very loud, so when it acts up, [they] cannot hear anything the other person says."<sup>230</sup>

Ms. Oslin and Ms. Flynn also reported that loss of service occurs repeatedly, and that each time they call customer service they are told to connect the phone to the outside box, even though they do this routinely enough to know the problem is not in the house. Ms. Oslin and Ms. Flynn reported that repair dates are often five days out, which is concerning due to their location: "We live in an area with no cellphone service, so in an emergency, we are in trouble out here."

Ms. Lois Ryan of Montgomery also reported repeated loss of service due to transmission noise that Frontier does not permanently repair. She said that every few months she hears buzzing on the line, which gets so loud they cannot use the phone service due to the noise. Ms. Ryan reported, "I call Frontier, they come out and fix it, and then the noise will come back again."<sup>231</sup> Similarly, Mr. Alan and Ms. Rosemary Maki reported calling Frontier repeatedly to fix humming on the line that becomes "so loud it is sometimes impossible to have a conversation."

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<sup>228</sup> Minn. R. 7810.1400 subp. 2 states in part: "In the event a customer's service is interrupted otherwise than by negligence or willful act of the customer and it remains out of order for 24 hours after being reported to the utility, adjustments shall be made to the customer, based upon the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative."

<sup>229</sup> The AFOR plans' section V(E)2 and 3, provided, respectively: "2. Out of Service If Frontier fails to reinstate basic primary residential service within 48 hours and basic primary business service within 24 hours of the outage or a later date requested by the customer for the repair to be made, for Company reasons, Frontier will provide the customer a pro rata adjustment (i.e., 1/30th) of the monthly recurring charge for the first two days (Residential) and one day (Business) that there is a service outage. Frontier shall provide the customer \$5 for each day thereafter that the Residential customer is out-of-service and \$10 for each day the Business customer is out-of-service" and "3. Repeat Trouble "For instances of the same trouble for voice service reported on the same access line within 30 days, Frontier will credit individual residential customer(s) \$5 for each like-occurrence and business customer(s) \$10 for each like-occurrence."

<sup>230</sup> Attachment 1 - Ms. Sanda Oslin and Ms. Michele Flynn Public Comment of March 3, 2018 (DOC 7 - 000995-00096).

<sup>231</sup> Attachment 1 - Ms. Lois Ryan Public Comment of July 31, 2018 (DOC 9 - 001337).

<sup>232</sup> Mr. and Ms. Maki said, “[w]e have called Frontier repeatedly asking for help. Even the repairman has told us he can’t get rid of the humming.” Similarly, Ms. Rebecca Carson reported that she has called Frontier many times to report “poor line quality, buzzing on the line due to obvious shorts and internet service continuously dropping and having to be restarted (also probably a result of shorts in the lines).”<sup>233</sup>

Other subscribers explained in their comments and complaints that they have repeatedly reported to Frontier transmission quality that is so bad that the service is unusable, but their loss of service occurred only during heavy rains or wet weather. For example, Mr. Craig and Ms. Susan Cole of Littlefork reported: “We have a landline that doesn’t always work especially if we have wet weather and then we have such a loud hum we can’t hear the other party we are talking to.”<sup>234</sup> Similarly, Nicci Trierweiler reported that she has contacted Frontier many times about noise on her line.<sup>235</sup> Ms. Trierweiler reported that since 1995 her family’s telephone “line goes bad in the spring if it rains too much, we get a static noise on the line.” Ms. Trierweiler also reported that when her neighbor located two miles away, turns on his electric fence there is corresponding “pulsing buzz on the line.” Ms. Trierweiler reports that Frontier has said “there is nothing they can do about it, we just have to live with it.” Ms. Trierweiler reports that Frontier refuses to issue credits or discounts even though noise on the line makes the phone service unusable.

The level of noise on the line prevented Mr. Joe Poll from the use of a fax machine for his business.<sup>236</sup> Mr. Poll also reported, “[d]uring conversations the audio would get so low, quiet that you could not hear what the person on the other end was saying. Then the audio would get louder and dissipate again.” Also, Mr. Poll reported that “[a]udio quality was so poor that we couldn’t even understand our answering [machine] messages.” Mr. Poll, like so many other Minnesota Frontier customers, stated that he reported these issues many times to Frontier, and although Frontier sent out technicians the problem was not remedied. Mr. Poll reported that the last repair technician sent out in May-June 2017 explained that the needed “fix is for Frontier to bury a new cable” but, because Mr. Poll is “the only customer on this end/leg of the line Frontier won’t do that.”

## **Conclusion**

Subscribers’ widespread reports of repeated transmission failures demonstrate that Frontier has failed to remedy even repeated complaints of poor transmission quality, and has thereby violated Minn. R. 7810.5500. Further, the violations of Minn. R. 7810.5500 have been ongoing, sometimes reoccurring service interruptions for many years.

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<sup>232</sup> Attachment 1 - Ms. Rosemary Maki Public Comment of February 25, 2018 (DOC 7 - 000953).

<sup>233</sup> Attachment 1 – Ms. Rebecca Carson Public Comment of May 25, 2018 (DOC 11 – 001764 - 001765).

<sup>234</sup> Attachment 1 – Mr. and Ms. Craig and Susan Cole Public Comment of May 23, 2018 (DOC 9 – 001290 – 001291).

<sup>235</sup> Attachment 1 – Ms. Nicci Trierweiler Public Comment of March 8, 2018 (DOC 8 – 001062 - 001063).

<sup>236</sup> Attachment 1 – Mr. Joe Poll Speak Up Comment of February 24, 2018 (DOC 12 – 001812 -001814).

Subscriber reports also plainly demonstrate that Frontier is failing to correct, to the extent practicable, electrical faults, such as leakage or poor insulation, noise, induction, cross talk, or poor transmission characteristics, in violation of Minn. R. 7810.3300.

Finally, it appears that Frontier has failed to compensate some or all of its customers affected by the loss of service caused by transmission failures, and has thereby violated Minn. R. 7810.1400, subp. 2 (bills must be prorated for days without service); the former AFOR plan provision for restoration of service; and the former AFOR provision compensating customers for each repeat trouble. Each of these violations is addressed in their respective sections of these comments.

### **Recommendations**

The Commission should order the following relief:

- 1) Find that Frontier has knowingly violated the requirements of Minn. R. 7810. 3300 and 7810.5500, with its poor transmission quality.
- 2) If the Commission agrees, the Department staff can review each consumer's comments in this matter and provide an accounting to the Commission, subject to comment, for the pursuit of penalties. The Department would identify each complaint received that identifies a failure by Frontier to timely effect a permanent repair of electrical faults or poor transmission characteristics.
- 3) Require Frontier to file within 60 days of the Commission's Order an accounting demonstrating that all customers who have complained about the transmission quality, volume levels, distortion, electrical faults, such as leakage, poor insulation, noise, induction, cross talk, or other poor transmission characteristics on their telephone from January 1, 2015 to present have received credits or adjustments due to them for loss of service. The accounting should include the following:
  - a. The customer's name.
  - b. The customer's exchange
  - c. Each date that the customer complained about noise or other transmission quality.
  - d. The bill adjustment owed (if any) pursuant to Minn. R. 7810.1400, subp. 2 by calculating the amount due to each customer from the date the customer first reported that their phone was not usable, until the date that the service was restored.

The accounting should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the information and attests to its accuracy.

- 4) Require Frontier to file a report, within 60 days of the date of the Commission's Order, demonstrating how it will comply with Minn. R. 7810.3300, 7810.5500, and 7810.1400, subp. 2 by filing evidence that it has implemented practices to ensure it will meet its obligations. Frontier's report should be subject to comment, and include:
  - a. Frontier's plan to replace problematic or aging lines.
  - b. Frontier's plan to obtain resources, including human resources needed to install replacement lines, without shifting resources that cause neglect in some other part of Frontier's system in Minnesota.
  - c. A commitment that Frontier will treat customers whose use of their phones becomes impaired because of transmission quality problems, volume levels, distortion, electrical faults, such as leakage, poor insulation, noise, induction, cross talk, or other poor transmission characteristics as an interruption of service, which entitles customers to receive a bill adjustment pursuant to Minn. R. 7810.1400, subp. 2.

The Report should include an affidavit of a Frontier executive officer stating that he or she has reviewed the information and attests to its accuracy.

- 5) Require Frontier to provide quarterly reports identifying all complaints, inquiries, or concerns of Frontier subscribers regarding transmission quality concerns. The report should include:
  - a. an explanation of how the transmission quality concerns were remedied; and,
  - b. whether a bill adjustment was provided to the customer, and if so, the amount, and the reason for the amount of the adjustment.

The quarterly report should include an affidavit of a Frontier executive officer stating that he or she has reviewed the information and attests to its accuracy.

## **5. INTERRUPTIONS OF SERVICE. Clear 95% of troubles in 24 hours.**

Frontier plainly is failing to satisfy the requirement of Minn. R. 7810.5800, to restore customer's service after an outage with the "shortest possible delay," and it appears to have failed to satisfy the objective set out in its former AFOR plans, to clear 95% of out of service troubles in 24 hours.<sup>237</sup> Further, when its former AFOR plans were in effect, Frontier routinely

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<sup>237</sup> Minn. R. 7810.5800. Each telephone utility shall make all reasonable efforts to prevent interruptions of service. When interruptions occur, the utility shall reestablish service with the *shortest possible delay*. The minimum objective should be to clear 95 percent of all out-of-service troubles within 24 hours of the time such troubles are reported. In the event that service must be interrupted for purposes of working on the lines or equipment, the work shall be done at a time which will cause minimal inconvenience to customers. Each utility shall attempt to notify

failed to meet with the AFOR plans' Out of Service provisions for service interruptions to be repaired in 24 hours.<sup>238</sup>

From customer complaints, discovery, and the Affidavit of Mr. Lacher, it appears that Frontier does not comply with the Commission's rule that requires Frontier to restore service with the "shortest possible delay."<sup>239</sup> Moreover, because Frontier appears to have insufficient resources—particularly human resources-- to achieve the tasks set for it by Minn. R. 7810.5800, it would be an unreasonable stretch to conclude that Frontier has made all reasonable efforts to minimize interruptions of service.

The Frontier AFOR plan, section V (C) ii states,<sup>240</sup> as to the time intervals for restoration or repair of service, that, pursuant to Minn. R. 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. From customer complaints, discovery, and the Affidavit of Mr. Lacher, it appears that there is sufficient cause to believe that Frontier has not established the minimum objective of clearing 95% of troubles in 24 hours.

As was explained earlier in these Comments, Frontier's Out of Service Reports appear to be grossly inaccurate because Frontier does not report all telephone outages<sup>241</sup> on its AFOR Out of Service Reports, making it impossible for the state regulatory agencies to use those records to determine whether 95% of all out of service troubles are cleared in 24 hours. Nevertheless, certain facts can be inferred from source documents other than Frontier's Out of Service Reports. For example, the impact of just two of Frontier's record-creation errors discussed above (Frontier's failure to open tickets on all phone outages, and the coding error that went undetected for almost two years) was substantial. In the example of the July 2017 Wyoming exchange outage, discovery involving examination of the original trouble tickets shows that 38 customers experienced a 14-days-long telephone service outage. None of the 38 tickets were

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each affected customer in advance of the interruption. Emergency service shall be available, as required, for the duration of the interruption.

<sup>238</sup> V(C) (ii) stated "Time intervals for restoration or repair of service. 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."

<sup>239</sup> Minn. R. 7810.5800 also requires Frontier inform the Commission, as soon as possible, of any major catastrophe such as that caused by fire, flood, violent wind storms, or other acts of God which apparently will result in prolonged and serious interruption of service to a large number of customers. Such "prolonged and serious" outages, of course, should be extremely rare because telephone utilities are also required to anticipate, plan for, and "make reasonable provisions to meet emergencies resulting from failures of lighting or power service, ... from fire, storm, or acts of God." Minn. R. 7810.3900.

<sup>240</sup> The Frontier AFOR plan, section V (C) II states, as to the time intervals for restoration or repair of service, that, pursuant to Minn. R. 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.

<sup>241</sup> Among other things, Frontier does not report all of the telephone outages suffered by customers who purchase bundled internet and phone service from Frontier, nor compensate customers for the lost service. In the Wyoming example discussed above, Frontier reported fewer than half the telephone outages and did not compensate even those customers. (17/38ths or 44 percent).

reported in Frontier's AFOR Out of Service Report for Wyoming for July 2017. If Frontier had correctly reported the 38 telephone outages on its July Out of Service Report, the Report would have indicated that Frontier opened 60 trouble tickets, of which 20 trouble tickets were repaired within 24 hours, for **33.3 percent** performance.

It is important to understand that Frontier's incorrect AFOR Out of Service Reports were not the only negative consequence of Frontier's under-recording of phone service outages in its records. Incorrect records deprive customers of AFOR remedies to which they are entitled. For example, the further impact of Frontier's incorrectly recording the Wyoming outage is that affected customers were not only out of service, but also were deprived of thousands of dollars due to them as Out of Service credits under section V (E) 2 of the Frontier AFORs.<sup>242</sup> (a pro-rata adjustment for the first two day on each residential line plus each of the 38 customers was to receive \$5/day for the additional 12 days they were without service.)

In its investigation of interruptions of service, and Frontier's failure to create and maintain accurate information about outages, the Department asked Frontier in an IR why Frontier did not treat the Wyoming outage as an Out of Service event under the AFOR, (which meant Frontier would have reported the outage on Frontier's Wyoming July Out of Service Report and Frontier would have issued the affected customers Out of Service bill credits under AFOR § V. E. 2). Frontier's surprising response was that

"[t]he AFOR excludes troubles caused by events outside Frontier's control, events such as lightning storms . . . ." <sup>243</sup>

This novel characterization of the AFOR appears to the Department to be an after-the-fact effort by Frontier to articulate *some* colorable excuse for its poor service quality, false Out of Service records, and violation of its AFORs.<sup>244</sup> For several reasons, Frontier's argument seems implausible. The AFOR does not exclude interruptions of service, outages, and other troubles caused by acts of God, such as lightning storms.

First, almost ALL service outages in Minnesota are caused by acts of God, and are outside the control of utilities. Wind blows, branches fall, rain causes electrical shorts in copper wire, and lightning storms are commonplace. In the view of the Department, it is highly improbable that, when the Commission approved the AFOR plan as Frontier's governing

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<sup>242</sup> Frontier AFOR § V (E) 2 states: Out of Service If CTC-Minnesota fails to reinstate basic primary residential service within 48 hours and basic primary business service within 24 hours of the outage ... for Company reasons, CTC-Minnesota will provide the customer a pro rata adjustment (i.e., 1/30th) of the monthly recurring charge for the first two days (Residential) and one day (Business) that there is a service outage. CTC-Minnesota shall provide the customer \$5 for each day thereafter that the Residential customer is out-of-service and \$10 for each day the Business customer is out-of-service.

<sup>243</sup> Attachment 2 – Frontier Response to DOC IR No. 71.

<sup>244</sup> To the best of the Department's knowledge, no other Minnesota telephone company has ever advanced this excuse for failure to restore service after a failure.

document, the Commission intended that customers, rather than Frontier, should bear the costs of a prolonged outage whenever a lightning storm or falling tree limb caused a service outage, and Frontier chose to delay, for its own business reasons, restoration of phone service.

Second, such an intended meaning is highly improbable because it is inconsistent with the Commission's own rules for every other telephone utility in the state, which requires telephone utilities to be prepared "to meet emergencies resulting from failures of lighting or power service ... or from fire, storm, or acts of God."<sup>245</sup> There would be no rational reason for the Commission to both mandate that utilities be prepared to deal with storms, while simultaneously freeing Frontier of the obligation to refund customers for loss of service under the specific, special circumstance of: (1) a storm knocking out service and (2) Frontier choosing for business reasons to delay restoration of service.

Third, Frontier's past actions involving lightning knocking out phone service are inconsistent with its new argument. To the best knowledge of the Department, Frontier has never before argued that the AFOR provides no remedy when an act of God knocks out phone service and Frontier chooses to postpone repairs to a time Frontier finds more suitable for business reasons. In its prior responses to customer complaints about prolonged outages, Frontier has resolved the complaints by paying AFOR Out of Service credits without regard to whether the cause of the outage was an act of God or a factor within its control. For example, Frontier's response to the CAO regarding a consumer's outage caused by a lightning strike did not mention Frontier's new act-of-God-exclusion-argument; Frontier issued the required AFOR Out of Service credit.<sup>246</sup> Frontier's actions in paying AFOR Out of Service credits to some customers is reasonable evidence of how Frontier should have handled the July Wyoming service outage, because Frontier is a regulated common carrier; it may not discriminate among similarly situated customers. If Frontier granted AFOR Out of Service credits to some customers for outages caused by lightning strikes but not others, it would violate the statutory prohibition against unreasonable discrimination among similarly situated telephone customers.<sup>247</sup>

Fourth, Frontier's new argument about what the AFOR means is also inconsistent with Frontier's own documented, existing procedures (attached hereto) for processing AFOR credits in Minnesota.<sup>248</sup> Those procedures, entitled "Minnesota Guidelines" lay out in black and white the procedures to be followed for the issuance of AFOR Out of Service credits in Minnesota. The Minnesota Guidelines explains that an AFOR Out of Service (OOS) credit is "a credit for an out of service dial tone condition exceeding 24 hours from the time the trouble is reported." The Minnesota Guidelines state that "the customer does not need to request a credit; customer credits are automatically issued," and the following three reasons *are the only reasons why an outage is excluded from AFOR Out of Service credit*:

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<sup>245</sup> Minn. R. 7810.3900.

<sup>246</sup> Attachment 2 – Frontier Response to DOC IR. No. 16.

<sup>247</sup> Minn. Stat. § 237.09 prohibits unreasonable discrimination.

<sup>248</sup> See Attachment 2 – Frontier Response to DOC IR No. 13 and attachment thereto at page 2, Entitled "Minnesota Guidelines."

“Out of Service (OOS): The following are ineligible for credit:

- Repair appointments set by the customer past 24 hours.
- Troubles resulting from the negligent or willful act of the customer.
- Troubles resulting from customer equipment, including inside wire.”

Notably, the Minnesota Guidelines do not say that the “troubles caused by events outside Frontier’s control, events such as lightning storms” are ineligible for treatment under the AFOR.

Finally, because most outages are caused by acts of God, and Frontier alone manages its resources and chooses when to restore customers’ phone service, adoption of Frontier’s argument that outages caused by acts of God are excluded from treatment under the AFOR would mean that customers could expect Frontier to never restore service in a timely manner. Under Frontier’s interpretation, an exception for storms would swallow the rule that requires Frontier to restore customer’s service as soon as possible.

There is a final requirement of Minn. R. 7810.5800 that Frontier is also disregarding, the obligation that “when interruptions occur, the utility shall reestablish service with the shortest possible delay, and *“emergency service shall be available, as required, for the duration of the interruption.”*<sup>249</sup>

As was discussed above, in the section of these Comments regarding Minn. R. 7810.5900, and the many complaints about Frontier’s disregard for the distress and danger it causes subscribers who have emergency situations, for whom phone service is critical, the Commission should take control of the situation, and provide subscribers relief. The Department recommends that the Commission enforce this aspect of Minn. R. 7810.5800, and order Frontier to provide emergency service that subscribers require for the duration of any service interruption, in the form, if necessary, of useable cellular or satellite communications services.

## **Conclusion**

From the complaints and comments of subscribers, the records the Company has provided to date in response to discovery, and the Lacher Affidavit, it appears that Frontier has routinely, intentionally violated—and is continuing to violate—Minn. R. 7810.5800, in that Frontier does not appear to make all reasonable efforts to prevent interruptions of service or reestablish service with the *“shortest possible delay,”* while providing *“emergency service ... as required, for the duration of the interruption.”* It also routinely violated its former AFOR Out of Service obligations, created false Out of Service records, and deprived customers of the

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<sup>249</sup> Minn. R. 7810.5800 Each telephone utility shall make all reasonable efforts to prevent interruptions of service. When interruptions occur, the utility shall reestablish service with the shortest possible delay. ... **Emergency service shall be available, as required, for the duration of the interruption.**



monetary remedies afforded them under the AFOR. The Commission should put a stop to this misconduct.

### **Recommendations**

The Commission should order the following:

- 1) Require Frontier to show why the Commission should not find that it has violated Minn. R. 7812.5800, requiring Frontier to make reasonable efforts to prevent interruptions in service, to reestablish service with the shortest possible delay, and to have the minimum objective to clear 95 percent of all out of-service troubles within 24 hours of the time the trouble is reported. 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.
- 2) Find that Frontier has violated the provisions in its AFOR plans by treating outages caused by an act of God as not being subject to the AFOR's reporting and remedies provisions. Find that Frontier's misreporting resulted in the regulatory agencies being unaware of the substantial problems Frontier customers were experiencing with service being restored; that the regulatory agencies were deceived into believing that Frontier was meeting its service quality requirements, when it was not; and customers were denied the remedies to which they were entitled under the AFOR plan for out of service, and possibly for repeat troubles and missed repair appointments.
- 3) Frontier should be required to provide an accounting of any credits it may have denied customers by excluding from the remedies provided for under its AFOR plans outages caused by an act of God, for the period from January 1, 2015 until each of its AFOR plans expired. Frontier should be required to make any such customers whole by providing the credit. The accounting should provide the customer's name, telephone number, and, if available, email address and the amount of the credit owed to the customer, together with data demonstrating how the amount was determined. The accounting should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the information and attests to its accuracy.
- 4) Require Frontier to provide a notice to customers stating that it erroneously failed to provide credits that it owed to customers under its AFOR plans. The notice should state that customers with an outage of greater than 24 hours during the term of the AFOR plans should expect to see a credit on their bill in the next couple of months, if not previously received. If a customer believes they are entitled to a credit due to an outage, but do not see it on their bill, they should contact the Department of

Commerce at 651-539-1883. The notice should be submitted for review to PUC and Commerce staff, and if there is agreement, approved by the Executive Secretary.

- 5) Require Frontier to show why the Commission should not require an audit of all of its trouble tickets in Minnesota for a time period the Commission deems appropriate, to determine Frontier's compliance with Minn. R 7810.5800 and its (former) AFOR plans, including Frontier's effort to prevent interruptions, to restore service quickly, and to have an objective to clear 95 percent of outages within 24 hours. If the Commission orders an audit, it should be done by an independent third party approved by the Commission, at Frontier's expense. If an audit is ordered, it should include:
  - a. A review of all trouble tickets opened regarding internet access service, determining if the customer also has/had voice service when the outage occurred, and whether the clearing code identified an issue that would have impacted the voice service.
  - b. A review of repair tickets Frontier omitted in its reporting as a result of a change made in a reference table in the data warehouse that assigned the wrong description to the ticket closing fault code (customer caused instead of Frontier caused).<sup>250</sup>
  - c. The identity of each affected customer with an outage, whether the customer received the proper credits and bill adjustments, including any AFOR remedy credit, if applicable
  - d. Any other failure of Frontier to meet its requirements under the AFOR or Commission rules of which the auditor becomes aware.

The auditor's findings should be subject to comment by the parties and approval by the Commission.

- 6) Require Frontier to file with the Commission the same out of service reports that it provides to its management team to enable the management team to assess performance and take any necessary steps to correct deficiencies. Such reports should be submitted to the Commission with the same frequency that the reports are submitted to Frontier's management. If Frontier does not provide its management team with out of service reports, then:
  - a. Require Frontier to show why the Commission should not find it is violating Minn. R. 7810.0400, which requires records of operations in sufficient detail to permit review of its service performance.
  - b. Require Frontier to develop an out of service report that will be shared with its management team no less than monthly, and submitted to the Commission.

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<sup>250</sup> See discussion in Section F.

- 7) To ensure improved compliance with the requirement of Minn. R. 7810.5800, that telephone utilities reestablish service with the shortest possible delay, "and provide "[e]mergency service ...for the duration of the interruption," require Frontier to show why the Commission should not require Frontier to provide a functioning satellite or cellular telephone capable of reaching 911 and emergency services from inside the customer's residence, at no charge to the customer, if service is not restored with 24 hours.
- 8) To ensure future compliance with the requirement of Minn. R. 7810.5800, which requires Frontier to inform the Commission as soon as possible of any major catastrophe such as that caused by fire, flood, violent wind storms, or other acts of God, which will result in prolonged and serious interruption of service to a large number of customers, the Commission should require Frontier to submit a proposal that will be subject to comment, stating the circumstances under which Frontier will provide such notifications in the future. The proposal should include:
  - a. What Frontier believes should be considered a prolonged and serious interruption of service.
  - b. What Frontier believes should be considered a large number of customers.
  - c. For outages where customers are unable to place a 911 emergency call, how many customers must be affected over what period of time before Frontier believes the rule should apply.

**6. REPEAT TROUBLE. AFOR credit when trouble on same line within 30 days.**

It appears Frontier failed to provide customers the appropriate credits required by its AFOR plan, section V (E) 3 for repeat troubles. Some of this failure appears to be due to Frontier not recording all phone outages and miscoding trouble tickets as being customer-caused outages, as is discussed above. There appear to be at least 35 complaints that identified repeat troubles.

Under the AFOR plans for each of its operating companies, Frontier was to provide credits for repeat troubles. Specifically, the AFOR plans section V (E) 3 state:

For instances of the same trouble for voice service reported on the same access line within 30 days, Frontier will credit individual residential customer(s) \$5 for each like-occurrence and business customer(s) \$10 for each like-occurrence.<sup>251</sup>

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

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<sup>251</sup> Attachment 5, Frontier AFOR, Section V, E3. Repeat Trouble.

provided for repeat troubles. However, customer comments and complaints reflect a pattern of repeat troubles. For example:

- Mr. Dan Darbo, Manager of the Golf Course Clubhouse in Hoyt Lakes wrote on September 10, 2018, “This past year was horrific. In June I lost the phone service and the internet. I called Frontier (which actually took 2 days to get through to talk to someone, and I told them the problem, and their response was they have it on the list and would be able to get their and fix it in 25 days!!” Mr. Darbo goes to state that, “2 weeks later the same problem happened. I had no phone and no credit card service. I again called in the problem, and again I was told it would be close to 30 days before they could fix it.”<sup>252</sup>
- In August 2018, Ms. Theresa Miklausich, an 83 year old widow of Aurora Minnesota wrote, “I have just spent 18 days without my phone – July 1-18. Then it was fixed for 6 days. Then another 10 days without it for a total of 28 days.”<sup>253</sup>
- On September 20, 2018, Ms. Debbie Staehle of Crane Lake Minnesota filed comments in the docket stating, “Frontier Communications has consistently provided extremely poor service and resolution of telephone outages. Our property in northern MN was without service multiple times this summer with the longest stretch of time of 6 weeks. This is unacceptable with no cell phone service from Verizon in the area either.” Ms. Staehle also stated that, “Repeated twice daily phone calls to Frontier for information was frustrating because I didn’t speak with the same customer service agent ever!!”<sup>254</sup>
- Finally, as was discussed in an earlier section of these comments, regarding Frontier’s failure to “provide and maintain adequate facilities to satisfactorily transmit communications,” in violation of Minn. R. 7810.5500 and 7810.3300,<sup>255</sup> there appears to be a high incidence of repeated line failures, including repeated failures when it rains or there are other recurring conditions that make subscriber’s telephone service useless, and a failure by Frontier to issue bill credits<sup>256</sup>.

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<sup>252</sup> Attachment 1 - Mr. Darbo’s Public Comment of September 10, 2018 (DOC 10- 001365-001366).

<sup>253</sup> Attachment 1 - Ms. Miklausich’s Public Comment of August 2018 (DOC 001357 and 001359).

<sup>254</sup> Attachment 1 - Ms. Staehle’s Public Comment of September 20, 2018 (DOC 001452).

<sup>255</sup> Minn. R. 7810.5500 states: “Telephone utilities shall furnish and maintain adequate plant, equipment, and facilities to provide satisfactory transmission of communications between customers in their service areas. Transmission shall be at adequate volume levels and free of excessive distortion. Levels of noise and cross talk shall be such as not to impair communications.”

<sup>255</sup> Minn. R. 7810.3300 states, in part: “Electrical faults, such as leakage or poor insulation, noise, induction, cross talk, or poor transmission characteristics, shall be corrected to the extent practicable within the design capability of the plant affected.”

<sup>256</sup> Attachment 1 - Nicci Trierweiler Public Comment of Mar. 8, 2018 (DOC 8 - 001062-001063)) reported that she has contacted Frontier many times about repeated noise on her line. Ms. Trierweiler reported that since 1995 her family’s telephone “line goes bad in the spring if it rains too much, we get a static noise on the line.” Ms.

## Recommendations

The Commission should order the following relief:

- 1) Frontier should be required to show why the Commission should not find that it has violated section V (E) 3 of its AFOR plans. Frontier should provide, within 30 days of the Commission's Order, an accounting of all credits it provided to customer's for repeat troubles during the term of its AFOR plans.
- 2) Require Frontier to provide a notice to customers stating that during the term of the AFOR plans, customers who experienced the same trouble for voice service on the same access line within 30 days were entitled to a credit. The notice should be submitted for review to PUC and Commerce staff, and if there is agreement, approved by the Executive Secretary. The notice should state that customers who have had a repeat trouble should expect to see a credit on their bill in the next couple of months. If a customer believes they are entitled to a credit due to a repeat trouble, but do not see it on their bill, they should contact the Department of Commerce at 651-539-1883.
- 3) If the Commission accepts the recommendation stated earlier in this Department Comment, that there should be an audit performed to ensure that all repairs have been accurately recorded. At that time, Frontier should further review its records to ensure any credit due to customers under the AFOR remedy is applied. This recommendation is made because, as was discussed earlier in these comments, Frontier erroneously coded some trouble tickets as customer caused troubles. As such, Frontier would not have provided a credit for a repeat trouble, if indeed there was a repeat trouble. Thus, until there has been an accurate reporting of troubles, neither Frontier nor the Commission will know if there are customers that should have received a credit.

### **7. MISSED REPAIR APPOINTMENT. Bill Credit for "No Show."**

From the many customer reports, it appears to be commonplace for Frontier customer service representatives to inform a customer that a repair appointment is scheduled, but no Frontier technician shows up for the repair appointment.

When Frontier's AFORs were in force in Minnesota, they stated:

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Trierweiler also reported that when her neighbor, that is two miles away, turns on his electric fence there is "a pulsing buzz on the line." Ms. Trierweiler reported that Frontier has said "there is nothing they can do about it, we just have to live with it." Ms. Trierweiler said Frontier refuses to issue credits or discounts although line noise makes the phone unusable.

If the company misses a repair ticket commitment date for voice service, and the customer is required to be at the premises, Frontier will provide a remedy to the customer which will include a credit on the bill of the affected customer in the amount of \$10 for a residential customer or \$20 for a business customer for each trouble report. If the missed commitment is due to events beyond Frontier's reasonable control (e.g., the customer's failure to provide Frontier with adequate or correct information or failure to arrange for access to the premises, or force majeure events, etc.), then no remedy will be required.

Over 25 customers reported that Frontier missed scheduled repair appointments. For example, Ms. Joy Barbre of Delano, MN, reported that she called Frontier on March 13, 2018 to repair her landline.<sup>257</sup> Ms. Barbre reported that a Frontier representative told her that a technician would arrive the following day and that she needed to be home for the appointment. The technician did not come on the scheduled day. When Ms. Barbre called Frontier, a representative told her that the technician had run out of time but would come the next morning and she still needed to be home. Ms. Barbre reported that the technician did not come the next morning. When Ms. Barbre again called Frontier, a representative told her that the repair was cancelled because Frontier believed the outage was due to an area wide problem, which had been fixed. At Ms. Barbre's request, the Frontier representative confirmed that Ms. Barbre's phone was still out and issued a new repair ticket for the next day. A technician called Ms. Barbre that afternoon, saying he could come; however, the problem was later pinpointed to the central office.

Customers reported that Frontier's missed repair appointments caused hardship as well as frustration. For example, Ms. M. R. of Chisago City reported that in 2017 she missed two and a half days of work due to Frontier's missed appointments.<sup>258</sup>

Ms. Nancy Johnson reported her sons drove long distances to be available for telephone repair appointments to help out their aging parents.<sup>259</sup> Ms. Johnson reported that on June 30, 2018, one of her sons drove from the Twin Cities to Eagles Nest and waited all day, but the Frontier technician did not come. Ms. Johnson reported that when her phone was still out over two weeks later, her other son drove up from the Twin Cities and sat in her Eagles Nest home all day waiting for Frontier. Again, the Frontier technician did not come.

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<sup>257</sup> Attachment 1 - Joy Barbre's Public Comment of March 20, 2018 (DOC 08-001091).

<sup>258</sup> Ms. M. R. Nonpublic Complaint to Minnesota Attorney General, correspondence to Frontier on Dec. 19, 2017 (DOC 23 - 003225-003227).

<sup>259</sup> Attachment 1 - Ms. Nancy Johnson Public Testimony September 4, 2018 (DOC 000036-39; Ely Pub. Hr. T. at 36-39 (Sept. 4, 2018)).

## Conclusion

Customer reports clearly demonstrate that in many instances Frontier has missed scheduled appointments and may not have provided the required bill credit for missed appointments to which customers were entitled under Frontier's previously in force AFORs, section V (E) 4. Although customers generally did not mention failure to receive a bill credit for the missed appointments, it is unlikely customers were aware any credit was required. These missed appointments often caused customers hardship and frustration due to unnecessarily using up the individual's time away from work, necessitating additional calls to customer service to reschedule, and disrupting daily life. Customers' reports like Ms. Barbre's also indicate that Frontier is failing to alert customers that the Frontier technician will not arrive if Frontier believes an outage is a common outage.<sup>260</sup>

## Recommendations

The Commission should order the following relief:

- 1) Find that Frontier has violated the provisions in its AFOR plans that required customers to be provided a credit for missed repair appointments, unless Frontier is able to demonstrate, through an accounting within 60 days of the Commission's Order, that subscribers and former subscribers received credit for missed repair appointments as required by Frontier's AFOR plans. The accounting should report for missed repair appointments between March 1, 2015 and March 1, 2018 for customers in Frontier Communications' service territory and between November 1, 2015 and November 1, 2018 for customers in Citizens Telecommunications' service territory. If a former telephone service subscriber no longer subscribes to telephone service, the refund is still required. The accounting should include:<sup>261</sup>
  - a. The subscriber's name;
  - b. The subscriber's telephone number or email address;
  - c. The number and dates of missed repair appointments;
  - d. Whether the subscriber received telephone service from Frontier Communications or Citizens Telecommunications;
  - e. The amount of credit provided to the subscriber;
  - f. The amount of credit the subscriber should have received; and
  - g. An explanation of how Frontier identified the missed repair appointments for the purpose of this accounting, including how missed repair appointments are or are not affected by the deficiencies in repair ticket recordkeeping described by the Department in section F.

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<sup>260</sup> Additional problems with Frontier's treatment of common cause tickets are described above.

<sup>261</sup> If any refund payment cannot be made because a past subscriber cannot be found despite the best effort of Frontier, such refunds shall be treated by Frontier as "unclaimed property" of the subscriber as defined in Minn. Stat. Ch. 345. Frontier shall file a report within 180 days describing all refunds treated as unclaimed property.

The report should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the information and attests to its accuracy.

- 2) If Frontier provides no instances of customers receiving credits for missed repair appointments under the terms of the AFOR plans, the Department staff can review each consumer's comments in this matter and provide an accounting to the Commission, subject to comment, on those instances of missed repair appointments, so the Commission can order Frontier to provide the credits.
- 3) Require Frontier to provide notice to subscribers and former subscribers of the circumstances under which a credit was due for missed repair appointments, and that if the subscriber experienced a missed repair appointment, the credit or refund required is being reviewed. The notice should state that, if a credit or refund was required, subscribers should expect to see the credit on their bill in the coming months or receive a refund promptly; and, if subscribers or former customers do not receive a refund or credit but believe they are entitled to a refund of credit, the customer may contact the Department of Commerce at 651-539-1883 or [telecom.commerce@state.mn.us](mailto:telecom.commerce@state.mn.us). The notice that Frontier proposes should be submitted for review to Commission and Department of Commerce staff, and, if there is agreement, approved by the Executive Secretary. After the notice is provided to current customers, the Company shall file proof of compliance, including an affidavit of a Frontier executive officer attesting to the veracity of the information. All instances presented by subscribers will be used to determine the number of violations of the rule.
- 4) Require Frontier to demonstrate by filing evidence, within 60 days of the date of the Commission's Order, that it has implemented practices to consistently meet repair dates and times and to notify customers in advance in the rare cases where Frontier cannot meet the repair date due to unforeseeable circumstances. The filing shall be accompanied by an affidavit of a Frontier executive officer attesting to the veracity of the information provided.

**Q. LIFELINE/TAP**

Comments from Frontier's customers raise concerns that Frontier may be mishandling the Lifeline and Telephone Assistance Plan (TAP) benefits. There is customer confusion and consumers report difficulty in communicating with Frontier representatives regarding the application and recertification process.

In general, the Minnesota Legislature has adopted laws intended to make telephone service universally available in Minnesota, including making service affordable for low income



citizens. Minn. Stat. § 237.06<sup>262</sup> requires telephone companies like Frontier to provide “reasonably adequate service” for the “accommodation of the public” at rates that are “fair and reasonable.” The Legislature specifically directed the Commission, in Minn. Stat. § 237.011<sup>263</sup> to consider in all proceedings that it should preserve universal service, ensure that a monopoly provider’s rates are reasonable, and otherwise protect customers of telephone companies which have little or no competitive pressure to adequately serve the public, including low income citizens. Minn. Stat. § 237.71 and Minn. R. 7817.0200<sup>264</sup> and 7817.0400, subp. 1, specifically require Frontier to provide accurate and complete information on the TAP program and application process to ensure that customers are afforded the opportunity to acquire TAP benefits.

During the Slayton Public Hearings, Mr. Doug Lande stated that Frontier refused him vacation rate service because he signed up for the Lifeline program, and according to the Frontier representative, Mr. Lande would be “getting two benefits at once.” However, being on vacation rate service does not disqualify a customer from receiving Lifeline/TAP benefits. The Lifeline/TAP benefits are only available up to a designated level and cannot exceed the amount of the monthly service rate. Frontier provided Mr. Lande misinformation.<sup>265</sup>

Ms. N. K. filed a complaint with the Commission, because she could find no one at Frontier who could assist her in signing up for the Lifeline/TAP programs.<sup>266</sup>

Mr. P. O. filed a complaint with the Commission alleging that the application for Lifeline/TAP benefits he filed on behalf of his 103 year old aunt, was rejected, because he completed the wrong form. He had obtained the application form from the Minnesota PUC website, but apparently that form was not accepted by Frontier and Frontier representatives were unfamiliar with the Minnesota PUC form.<sup>267</sup>

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<sup>262</sup> Minn. Stat. § 237.06 states in part: “It shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof.”

<sup>263</sup> Minn. Stat. § 237.011 includes the following state goals that should be considered as the commission executes its regulatory duties with respect to telecommunication services:

- (1) supporting universal service;
- (5) maintaining or improving quality of service;
- (7) ensuring consumer protections are maintained in the transition [from a monopoly situation] to a competitive market for local telecommunications service...

<sup>264</sup> **7817.0200 explains that** the purpose of the “telephone assistance plan [is] to provide telephone assistance credits to reduce the local telephone rates of eligible residential households” so that “customers are afforded the opportunity to acquire the benefits of ... federal matching plans. This chapter is to be liberally construed to further these purposes.”

<sup>265</sup> Attachment 1 - Mr. Doug Lande Public Testimony of Sept. 25, 2018 (DOC 1-000101 – 000104 and 000107 – 000108).

<sup>266</sup> Ms. N. K. Nonpublic Complaint to Commission (DOC 17 – 002070).

<sup>267</sup> Mr. P. O. Nonpublic Complaint to Commission (DOC 17-002098 to 002100).

Mr. H. B. filed a complaint with the Minnesota PUC, because a Frontier letter informing him of the rejection of his application did not provide him with sufficient details to understand the qualifying income levels for the program.<sup>268</sup>

Ms. B. A. filed a complaint because she lost her benefits without being satisfactorily informed of the loss of benefits by Frontier. In this case, she only found out about the loss of benefits after she filed a billing complaint with the FCC.<sup>269</sup>

## **Conclusions**

The customer complaints regarding Frontier's administration of the TAP program identify communication problems between customers and Frontier. The provision of complete and accurate Lifeline/TAP information by Frontier is mandated by Minnesota law and is a prerequisite to administering a successful TAP program that fulfills the needs of eligible customers.

## **Recommendation**

The Commission should order the following:

- 1) Direct Frontier to file a report with the Commission within 60 days of the Commission's order, demonstrating that Frontier has ensured that it appropriately trains its customer service representatives regarding the TAP program and the relationship between the TAP and Lifeline programs. The report must demonstrate that Frontier employees' training ensures that customers are given accurate TAP program information. The report must include training material, specify which customer service representative groups receive TAP training, the frequency with which Frontier personnel receive ongoing training to ensure that the TAP program is understood, and any additional information to demonstrate that Frontier has taken appropriate steps to achieve the statutory goal of making the TAP program available to eligible Minnesotans. The report should also demonstrate that Frontier's public website, including applications and customer service representatives providing website "chat" communications, accurately refers customers who seek information on the TAP program to the Commission's website on the Lifeline/TAP program and application process. The report should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the information and attests to the accuracy of the information.

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<sup>268</sup> Mr. H. B. Nonpublic Complaint to Commission of Nov. 9, 2017 (DOC 23 – 003409 – 003410).

<sup>269</sup> Ms. B. A. Nonpublic Complaint to the FCC of Feb. 21, 2018. (DOC 29-004176).

**R. CUSTOMER COMPLAINT IN NOVEMBER 9, 2018 PUC NOTICE**

On November 9, 2018, the Commission issued a Notice Requesting Comments on Frontier Communications' Billing Practices. The Notice requested stakeholders to investigate and comment on whether Frontier's actions, as described in the following may violate Minn. Stat. §§ 237.662, 237.663, or other statutes and rules:

The Commission has received a customer complaint in which the consumer was offered specific services and costs in the attached flyer. The customer elected to receive "Digital Phone Essentials" at a cost of \$21.99 per month. The offer excludes long distance and notes that "other fees may apply." The customer was charged \$29.99. Taxes and other fees are listed separately. Frontier explains that, as tariffed, the Digital Phone Essentials comes with a mandatory \$8.00 per month long distance service, making the actual charge for Digital Phone Essentials \$29.99, not \$21.99 as advertised. The customer was offered a tariffed basic line with a standalone caller ID at \$35.61 as an alternative.

Several Minnesota statutes and rules may apply to this customer's complaint, regarding requirements for long-distance providers, prohibitions against loading and other billing rules, and requirements for offering bundled service. First, Minn. Stat. § 237.662 subd. 1 requires phone companies to disclose specific information when selling long distance service:

when contacted by a customer regarding the purchase of long-distance telecommunications services, or when soliciting customers via mail or telephone, a provider of long distance services shall provide the customer with the following information, if the service is being offered to the customer, about the service offering, either orally or in writing:"

...

(2) the price or range of prices of intrastate . . . message toll service accessed by dialing "1+" or "10-xxx", including any difference in prices for evening, night, or weekend calls;

...

(5) any special promotional rate or promotional offering related to the services or prices described in clauses (1) to (4) above, including any limitations or restrictions on the promotional rates or offerings.

Subdivision. 2 of the same statute requires additional written disclosures about pricing of long distance prices:

If a customer agrees to purchase telecommunications services from the provider of long-distance services on a presubscription basis, the provider shall send the customer written information regarding services subscribed to, containing:"

(1) the information regarding prices and charges described in subdivision 1, clauses (1) to (5);

(2) the price for calls placed with a calling card issued to the customer by the provider and any surcharge for placing calls with a calling card;

...

This written information must be sent to the customer within seven business days from the date of the verification of the customer's authorization, unless federal law or regulation requires notice to be sent by an earlier date.

Finally, subdivision 3 of the same statutes removes the filed rate doctrine as a defense if a customer challenges unexpected charges for long distance charges. Minn. Stat. § 237.662, subd.3 provides that telecommunications carriers cannot defend against "any action brought for failure to disclose intrastate prices for which disclosure is required under this section" on the basis that intrastate tariffs and price lists for long-distance services are on file with state regulators.

Next, Minn. Stat. § 237.663 (Loading) states in part:

(a) Except as provided in paragraph (b) or (c), a telephone company or telecommunications carrier providing local service shall not charge a telephone service subscriber, as defined in section 325F.692, for a telephone or telecommunications service that is not required by the commission to be offered and for which the subscriber did not explicitly contract.

Minn. Stat. § 237.626, subd. 2 (Bundled Service):

(a) A telephone company or telecommunications carrier may offer telecommunications services subject to the regulatory jurisdiction of the commission as part of a package of services that may include goods and services other than those subject to the commission's regulatory jurisdiction. Subject to the requirements of this chapter and the associated rules and orders of the commission applicable to those regulated services, a telephone company may establish the prices, terms, and conditions of a package of services, except that: (1) each telecommunications service subject to the regulatory jurisdiction of the commission must be available to customers on a stand-alone basis; and (2) at the time the packaged offering is introduced or at the time the packaged price is subsequently changed, the packaged rate or price may not exceed the sum of the

unpackaged rates or prices for the individual service elements or services.

(b) Nothing in this subdivision is intended to extend or diminish the regulatory authority of the commission or the department.

Minn. Stat. § 237.07 requires carriers to operate consistent with their tariff and to include all applicable rates and service conditions in its tariff.

Minn. R. 7810.1400 (Customer Billing) requires, among other things, an itemized listing charges and the provision of an explanation of rates and charges upon the request of any customer or applicant.

## **Conclusions**

Minnesota law and the Commission rules allow Frontier to offer bundled services, but places restrictions on the use of bundled pricing. Minn. Stat. § 237.662, subd. 1(4), requires carriers offering long distance service to provide detailed pricing information including “fixed flat fees, service charges, surcharges, termination charges or other non-service-specific charges.” Minn. Stat. § 237.662, subd. 2, requires carriers offering long distance services to send written information regarding all applicable prices and charges. While Minn. Stat. § 237.626 allows carriers to offer bundled services, the law establishes restrictions on the use of bundled services including the requirement that the packaged rate or price may not exceed the sum of the unpackaged rates or prices for the individual service elements or services.

In the complaint cited in the Commission’s November 9, 2018 Notice Requesting Comments, and the accompanying Frontier Notice entitled “Information for Frontier Communications’ Residential Customers,” it appears that Frontier may have violated Minnesota law. While the Frontier Notice references basic standalone rates, it fails to fulfill the statutory obligations applicable to bundled services, such as the “Digital Phone Essential” bundle purchased by the complainant referenced in the Commission’s November 9, 2018 Notice. That is, the Frontier Notice to customers does not specify that the bundle includes long distance service and applies a separate monthly rate for long distance service, which appears to violate the specific requirements of Minn. Stat. § 237.662, subd. 2. Further, the Notice to customers, in the attachment cited above, does not reference “fixed flat fees, service charges, surcharges” as required by Minn. Stat. § 237.662, subd. 1.

Finally, while the prices listed on the Frontier Notice appear to be set so that “the packaged rate or price [does] not exceed the sum of the unpackaged rates or prices for the individual service elements or services,” as required by Minn. Stat. § 237.626, subd. 2, the pricing on the Frontier Notice does not reflect the true pricing of the service. Frontier’s failure to list all applicable “fixed flat fees, service charges, surcharges” masks the fact that the monthly rate for standalone service is higher than the rate for the “Digital Phone Essentials” bundle in violation of Minn. Stat. § 237.662.

The Tariff of Frontier Communications of Minnesota, Inc. does not specifically reference “Digital Phone Essentials” service at a rate of \$21.99 as cited in the Frontier Notice discussed above. Frontier’s Flexibly Priced Services Tariff No. 2 (Section 6, page 64) references “Frontier Digital Phone Bronze” service at a monthly rate of \$24.99, plus \$3.99 for the feature pack, and states that this service option was formerly called “Frontier Digital Phone Essentials.” Frontier’s Tariff No. 2 (Section 6, pages 75 and 79) references “Frontier Digital Phone Essentials 1 – 2010” and “Frontier Digital Phone Nationwide Unlimited with Essentials 1 – 2010” as grandfathered services offered at monthly rates of \$28.99 (plus \$3.99 per month for the feature pack) and \$39.99 (plus \$3.99 per month for the feature pack), respectively. None of the three service options cited above matches the monthly rate cited in the Frontier customer notice offering “Digital Phone Essentials” service for \$21.99 per month. It appears that Frontier has violated Minn. Stat. § 237.07 requiring the carrier to operate consistent with its tariff and include all applicable rates and service conditions in its tariff.

### **Recommendation**

The Commission should order the following relief:

1. Direct Frontier to file comments, within 30 days of the Order in this case, showing why it should not be held in violation of the requirements of Minn. Stat. § 237.662 for failing to disclose, in writing, the price, terms and restrictions of long distance service.
2. Direct Frontier to file comments, within 30 days of the Order in this case, showing why it should not be held in violation of the requirements of Minn. Stat. § 237.663 for charging a customer for a telephone service that is not required by the commission to be offered and for which the subscriber did not explicitly contract.
3. Direct Frontier to file comments, within 30 days of the Order in this case, showing why it should not be held in violation of the requirements of Minn. Stat. § 237.626 for offering a bundled service at a rate that exceeds the sum of the unpackaged rates for the individual service elements or services.
4. Direct Frontier to file comments, within 30 days of the Order in this case, showing why it should not be held in violation of the requirements of Minn. Stat. § 237.07 requiring the tariffing of the rates and conditions of all services.
5. In the event that Frontier does not demonstrate that it complied with the statutory requirement of having its rates and conditions of service in its tariff, direct Frontier to provide an accounting of all customers that were charged the \$8 per month long distance fee when subscribed to Digital Phone Essentials. This list should include the name, email address and/or phone number, and the period over which each customer was charged the \$8 fee.

6. In the event that Frontier does not demonstrate that it complied with the statutory requirement of having its rates and conditions of service in its tariff, require Frontier to refund the total amount collected from each customer that was not tariffed.

In the event that Frontier does not demonstrate that it complied with the statutory requirement of having its rates and conditions of service in its tariff, require Frontier within 60 days of the Commission's order finding Frontier has not made the necessary showing, to prepare a proposed notice to its customers (1) informing customers of Frontier's obligations under Minn. Stat. § 237.662 and the Commission's order, and (2) stating that customers whose bills included an \$8 per month long distance fee when subscribed to Digital Phone Essentials are entitled to a refund of the charges. The notice should be submitted for review to Commission and Department staff, and if there is agreement, approved by the Executive Secretary. The notice should state that customers who paid the \$8 per month long distance fee should expect a refund in the next couple of months, and that, if a customer believes they are entitled to a refund but do not see it on their bill, they should contact the Department of Commerce at 651-539-1883 or [telecom.commerce@state.mn.us](mailto:telecom.commerce@state.mn.us). All instances presented by subscribers will be used to determine the number of violations of the statute.

**S. INTERNET BILLING ISSUES. Charges for a service unavailable. No bill credit for outage.**

Many subscribers reported billing issues— such as inflated bills, surprising new charges, and refusals to provide credit for services not provided during extended outages, in connection with their internet access service.

Minn. R. 7810.1400, subp. 3, states that a utility “shall provide any information and assistance necessary to enable that person to obtain the most economical communications service conforming to the person’s stated needs....” Internet access service is considered to be a “communications service<sup>270</sup>”.

Many subscribers indicated that, contrary to the strictures of Minn. R. 7810.1400 subp.3, Frontier has sold them “upgraded” more costly internet access services as a purported solution to avoiding inadequate service;<sup>271</sup> however, the more costly service merely increased

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<sup>270</sup> “Communications services” includes the entire panoply of communications services, not just telephone or telecommunications services, but also CMRS, internet access, cable, etc. services. The term “communications services providers” encompasses public and private companies in the telecom (landline and wireless), Internet, cable, satellite, and managed services businesses.”

[https://en.wikipedia.org/wiki/Communications\\_service\\_provider](https://en.wikipedia.org/wiki/Communications_service_provider)

<sup>271</sup> Similarly, several consumers expressed frustration regarding Frontier's marketing of speeds “up to” a stated speed but failing to provide speeds close to that amount. Many consumers felt this practice was deceptive. The State of New York recently settled a dispute with Charter Communications regarding Charter's similar marketing tactics including representing speeds that could not be delivered. The settlement, in addition to requiring Charter to pay over \$62.5 million in restitution, required Charter in its advertising to (a) describe internet speeds as “wired”; (b) disclose that wireless speeds may vary; and (c) disclose factors that may cause actual experience to vary. The settlement also prohibits Charter in its advertising from making unsubstantiated claims about (a) the

the price without correcting the slow speeds. For example, in the case of Ms. Shellie Metzler,<sup>272</sup> Frontier sold her Frontier’s “Broadband Ultra-12 mbps” service, but at her rural Finlayson location, she indicated, she is able to receive *only one-tenth* that speed, at best. “Last week within two days the internet dropped over 100 times. Dropped service and slow internet speeds are everyday occurrences.” She said, “I should not be charged for the 12 mbps because I have never had it. I should not be charged for the 6 mbps because I do not get that either. This is very frustrating as I operate a small business and depend on the internet.”

Similarly, Mr. Marty Sterzinger testified at the Slayton hearing that for his business, Frontier sold him higher priced services that did not address his stated need.<sup>273</sup> First, Frontier sold him a “broadband business service so I’m supposed to have business repair times within 24 hours.” Mr. Sterzinger paid premium rates for 24-hour restoration, which is the objective specified in the Commission’s rules,<sup>274</sup> even when the customer does not pay extra for it.<sup>275</sup> Paying for a service to which he is entitled without charge is not more economical for Mr. Sterzinger. Even worse, Mr. Sterzinger did not even get what he paid for: when Mr. Sterzinger has reported an outage, he was told he would get a call-back in a week, not in 24 hours. Frontier also sold Mr. Sterzinger a purported solution for an inadequate “dynamic” IP address that kept switching every three to four minutes, and the server in Farmington frequently dropped the DNS when it issued a new IP address. When Mr. Sterzinger sought a solution from Frontier, Frontier told him “the only way to fix the problem”, which was to buy a more costly static IP, which would cost him another \$25 to \$30 a month. Mr. Sterzinger reported that the more costly static IP address did not solve the problem, because the static IP still drops. Finally, Mr. Sterzinger described what may be the root problem, poor Frontier maintenance of its network. Mr. Sterzinger explained: “I’ve got 12-pair cable coming out to the store from the [Frontier] central office. They’ve only found one pair that’s conducive for communication, 11 pair are broken.”

Some customers complained-- not of being sold unnecessarily costly services--but of Frontier outright charging them for items of which the customer was completely unaware. Mr. D. S.’s complaint to the Commission states that Frontier, without his knowledge, adds items to his bill such as, “Equipment Delivery and Handling Fee” (\$9. 99), “Residential Basic Voice Mail” (\$6. 99), and “Anonymous Call” (\$2.99).<sup>276</sup> Mr. D. S stated that his most recent issues with Frontier was unexpected increased charges on his bill. He said, “I noticed that my monthly bill

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speed required for particular internet activities like streaming; (b) the reliability of internet service; and (c) the availability of promised speed over wifi. N.Y. Atty. General Press Release, *A.G. Underwood Announces Record \$174.2 Million Consumer Fraud Settlement With Charter For Defrauding Internet Subscribers* (Dec. 18, 2018), <https://ag.ny.gov/press-release/ag-underwood-announces-record-1742-million-consumer-fraud-settlement-charter>.

<sup>272</sup> Attachment 1 – Shellie Metzler Speak Up Comment of Mar. 7, 2018 (DOC 12-001821-22).

<sup>273</sup> Attachment 1 – Marty Sterzinger Public Testimony of Sept. 25, 2018 (DOC 4-000443-47).

<sup>274</sup> Minn. R. 7810.5800.

<sup>275</sup> Further, the former AFOR plan provided for a business to have service restored within 24 hours or the customer is to be provided with a pro-rata adjustment of the monthly recurring charge and \$10 for each day the business is out of service.

<sup>276</sup> Mr. D. S. Nonpublic Complaint to Commission of Feb. 28, 2018 (DOC 25 - 003583 - 003588).



had increased without any explanation” with line items for phone and broadband increasing from one month to the next by 6 and 20 percent. Although he called Frontier multiple times, he received no explanation other than “that’s the new amount.” When he asked for prices on phone plans, he said, Frontier verbally quoted prices “but when I asked for them to E-mail me the options detail available, I was told that it would be a security risk to send that information out to me.”

On May 17, 2018, the Department received an inquiry from a customer asking why Frontier was charging her a new \$1.99 monthly recurring fee entitled “Internet Infrastructure Surcharge.” Upon reviewing the new item, the Department learned that Frontier had offered customers “price for life” internet access services and fixed internet access prices for a term of years, often bundled with fixed two-year telephone service contracts. Without notice to its customers, however, Frontier added new items to the bundled customers’ bills on two occasions in 2018 by adding on the new recurring line item, “Internet Infrastructure Surcharge.” The new line item initially was \$1.99. Frontier subsequently hiked the recurring charge to \$3.99.

Notwithstanding Frontier’s duty under Minn. R. 7810.1400, subp. 3, to provide customers the “information and assistance necessary” to enable a customer “to obtain the most economical communications service,” in some cases, Frontier has stated to the Department that these customer’s complaints of overcharges and unauthorized charges pertain to internet access or to Frontier’s physical plant, and therefore cannot be addressed by the Commission.<sup>277</sup> For example, in an email to a customer dated May 24, 2018, Ms. Sharon Armstrong, a Frontier Executive Customer Relations representative stated: “The Internet Infrastructure Surcharge is not a ... government surcharge. The fee is to defray some of the costs of maintenance of the local network.” In a subsequent Response to a Department IR, Frontier further explained the “local network” to consist of:

Components of the “local network” in Ms. Armstrong’s statement would include electronics used to provide internet service as well as the facilities used to house, power, and protect those electronics. In addition, this would include the transport facilities used to transit internet traffic between the customer and Frontier’s central offices and between central offices and major internet peering locations.<sup>278</sup>

## Conclusions

From customer complaints and comments, it appears that Frontier routinely violates Minn. R. 7810.1400, subp. 3, and that the utility fails to provide all information and assistance

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<sup>277</sup> Attachment 2 – Frontier Initial Response to DOC IR No. 39; Frontier Response to DOC IR No. 66.

<sup>278</sup> Attachment 2 – Frontier Supplemental Response (Nov. 8, 2018) to DOC IR 39.

necessary so its customers and prospective customers can “obtain the most economical communications service conforming to the person’s stated needs....”

## **Recommendation**

If the Commission determines that some customer complaints concern matters that are outside its enforcement authority under Minn. R. 7810.1400, subp. 3, or that the Commission otherwise lacks authority to curb Frontier’s practices of charging customers for unnecessary and/or unauthorized services, the Commission could take the following actions:

- 1) Refer to the Minnesota Attorney General, for his consideration, the question of whether Frontier has engaged in bait and switch tactics, where customers signed up for service at an agreed price with a term commitment, but Frontier increased the price during that term.
- 2) Refer to the Minnesota Attorney General, for his consideration, the question of whether Frontier provided, or was even capable of providing the internet service speeds and quality that Frontier claimed to offer; and also, and whether there are any consumers protections that may be applicable in this regard.
- 3) Refer to the Minnesota Attorney General, for his consideration, the FCC, or the FTC, the question of whether there are any truth-in-billing requirements that may be applicable to the application of the Internet Infrastructure Surcharge, including the question of whether the charge is clearly and conspicuously identified on the consumer’s bill.
- 4) The FCC has found that billing information that is unclear under Section 64.2401(b) violates Section 201(b) of the Act.<sup>279</sup> This Commission should refer to the FCC the question of whether the unclear “Internet Infrastructure Surcharge,” when included on a customer’s telephone bill, also violates Section 201(b) of the Act. This question may include whether unclear surcharges for internet service are permissible when not included on the same bill as telephone service.
- 5) The Commission should give consideration to whether it will review the Internet Infrastructure Surcharge in connection with Frontier’s ETC status. If the Commission takes no action on this point at this time, it may do so when Frontier comes before the Commission in the ETC recertification process.

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<sup>279</sup> <https://www.fcc.gov/document/fcc-adopts-declaratory-ruling-truth-billing>

**T. CONNECT AMERICA FUNDS. Subscribers in Census Blocks Designated to receive Connect America Funds (CAF II)**

The Federal Communications Commission expressly delegated authority to this Minnesota Commission to investigate and make findings regarding ETCs such as Frontier. Docket No. P407, 405/CI-18-122, *Petition of the Minnesota Department of Commerce for Reconsideration and/or Clarification*, May 2, 2018, pp. 4-8. Among other things, the Commission is required to certify to the FCC that the broadband funds are used for their intended purpose, by carriers such as Frontier.

The Frontier AFOR plan that expired on March 1, 2018, stated:

Within 30 days of the FCC's CAF II offerings, Frontier will report to the Commission its investment plans including the areas eligible for CAF funding, and the CAF II funding amounts that Frontier is eligible to receive for those areas. Within 120 days of the FCC's CAF II offerings, Frontier will report to the Commission the CAF II funding amounts that Frontier accepts, and the amounts of Frontier's own investment in addition to any CAF II funding received in Minnesota.

Beginning in 2016, Frontier will submit a report to the Commission that describes the investments and its funding, including any investments supported by CAF funding, in technological and infrastructure enhancement, it has made during the previous calendar year. The report will be filed by March 1 of each year.<sup>280</sup>

The information Frontier and Citizens provided with its required reporting was minimal. For example, Citizens' report filed on February 28, 2018 in its AFOR Docket, P-407/AR-15-388 contained only the following information:

During 2017, CTC-MN spent a total of \$16,596,537 for technological and infrastructure enhancements.

Some of the notable enhancements included in this amount are:

- Expansion of distribution facilities ( \$292K)
- Expansion of DSL and broadband capacity ( \$371.6K)
- CAF II projects ( \$11.6M)
- Relocation/replacement for road work (\$2M)
- Station connections (\$1.2M)

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<sup>280</sup> Attachment 5 – Frontier AFOR ¶ VI.B. The Citizens AFOR plan that expired on November 1, 2018, also contained this exact language.

## Conclusions

To date, the information Frontier has submitted has been too minimal for the Commission to perform the duties delegated by the FCC, including the authority to investigate and make findings as part of the Commission's obligation to certify to the FCC that the Connect America funds are used appropriately by Frontier. As with other ETCs in the recertification process, Frontier has provided insufficient information to determine whether the unserved households that received service funded by CAF II are in fact offered service at internet access speeds of at least 10/1 Mbps.<sup>281</sup> While the Commission's responsibilities are the same for all ETCs, the Commission may consider in its ETC recertification process whether there is a basis to do a more in-depth analysis, based on complaints received by consumers on any particular ETC.

## Recommendation

The Commission should order the following:

Require Frontier to file within 90 days of the Commission's Order, and on an annual basis when it files its petition for ETC recertification, a list of households (name, email address and telephone number) where CAF II funding was used to serve previously unserved households, along with a statement specifying the internet access service that is available to each household. This requirement should continue for as long as there is any question on whether Frontier is meeting its obligations to receive CAF II funds.

## U. AFOR INVESTMENT COMMITMENT

In Citizens' AFOR plan, the required investment plan includes the following statement:

During 2015, CTC-Minnesota intends to upgrade DSLAMs in the Delano, Ely, Mound, Ranier, and Watertown exchange. These upgrades will allow for the provision of faster internet speeds, of up to 40Meg.<sup>282</sup>

In Frontiers' AFOR plan, the required investment plan includes the following statement:

During 2015, Frontier intends to upgrade DSLAMs in the Balaton, Belle Plaine, Elysian, Henderson, and Janesville exchanges. These upgrades will allow for the provision of faster internet speeds, of up to 40.<sup>283</sup>

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<sup>281</sup> Frontier supplied some additional information regarding its CAF II projects in Scandia in response to a Department IR, but the Department believes that targeted IRs are not a sustainable solution for the Commission to perform its duties to certify to the FCC that funds are used appropriately. Attachment 2 – Frontier Response to DOC IR No. 68.

<sup>282</sup> Attachment 5 – Citizens AFOR ¶ VI.B.

<sup>283</sup> Attachment 5 – Frontier AFOR ¶ VI.B.

Since the AFOR plans were under the Commission’s jurisdiction, and since broadband investment was part of the investment commitments that allowed Frontier and Citizens operating companies to be free from rate of return regulation, it is clearly within the Commission’s purview to examine whether the AFOR investment commitments were met. The Commission could study each of the exchanges identified in the investment commitment, but it may be more practical to select a single exchange, such as Ely—as there is more evidence in the record from Ely customers concerning investment, due to the location of a Commission’s public hearing.

## **Recommendation**

The Commission should require Frontier to submit the following information for its Ely exchange:

- 1) The number of residential and business customers it has in Ely, for either telephone or internet service.
- 2) The number of residential and business customers in Ely that have a Frontier internet service offering.
- 3) The number of residential and business customers in Ely that receive internet download speeds of nearly 40 Mbps. The names as well as email addresses or telephone numbers should be provided to enable the Department to contact a sample of customers to learn if they are receiving these stated speeds.
- 4) The number of residential and business customers in Ely that are receiving internet service at a minimum of 10/1 Mbps.

## **V. CAPTEL**

The Commission should consider the impact of Frontier’s practices on people with disabilities. Some customers with a hearing impairment use captioned telephone (CapTel), enabling the customer to read everything that the other party says, while also listening to the other party. CapTel may be provided over traditional analog lines, or using an internet connection if one is available. The equipment used by the customer differs based on whether the customer has a traditional CapTel line or iCapTel, with the “i” representing that it is an internet based phone.

Mr. Tom and Ms. Linda Kuamme of Milaca reported that Mr. Kuamme is hearing impaired and uses a CapTel phone.<sup>284</sup> The complaint discusses the numerous times that CapTel did not work as a result of no WiFi connection, including not having service for over a week. The complaint also discusses the difficulty with receiving assistance from Frontier representatives and the numerous expenses that were incurred, and the inability to obtain corrections for inappropriately billed charges.

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<sup>284</sup> Attachment 1 – Tom and Linda Kuamme Public Comment of Feb. 23, 2018 (DOC 8-001046-52).

## Conclusions and Recommendations

Because the same technicians and customer service representatives work on both internet and telephone issues, and some particularly vulnerable customers may rely on Frontier's internet for essential communications through devices like iCapTel, if Frontier were simply required to meet the service quality requirements for telephone service, primarily by having sufficient personnel to address problems in a timely manner, customers needing devices like CapTel or iCapTel would benefit. Further, the Commission should consider, as it fashions remedies, the fact that Frontier's poor quality broadband internet access services and facilities, as Frontier has implemented them, both directly and indirectly impact Frontier's provision of regulated services as well.

### **W. DISCRIMINATION. Unreasonable Discrimination Among Subscribers Prohibited.**

Frontier has the incentive to, and in fact does, engage in various acts of discrimination against its Minnesota subscribers that may be prohibited by state and federal law. Frontier:

- Prioritizes new service installation over repairing the service of existing subscribers.
- Prioritizes the repair of service to customers with greater profit margins over the repair of service to customers with lower profit margins.
- Provides better maintenance and repair services to customers that have competitive alternatives than it provides to customers with few or no competitive alternatives.
- Repairs service for customers located in more densely-populated areas more quickly than it repairs service for customers in the more rural areas.
- Engages in additional prohibited activity, such as "losing" repair tickets, ostensibly to conceal its illegal discriminatory conduct and attempt to avoid the regulatory consequences of its discriminatory treatment of customers.

Minn. Stat. § 237.09 prohibits telephone companies like Frontier from discriminating against similarly situated customers in its service territories.<sup>285</sup> Minn. R. 7811.0600, subp. 4 and 7812.0600, subp. 4 also require ETCs designated by the Commission to provide local service on a non-discriminatory basis.<sup>286</sup>

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<sup>285</sup> Minn. Stat. § 237.09, subd. 1 states: "No telephone company, or any agent or officer thereof, shall, directly or indirectly, in any manner, knowingly or willfully, charge, demand, collect, or receive from any person, firm, or corporation, a greater or less compensation for any intrastate service rendered or to be rendered by it than it charges, demands, collects, or receives from any other firm, person, or corporation for a like and contemporaneous intrastate service under similar circumstances." Subdivision 2 specifies that "[a] telephone company that offers or provides a service or services, service elements, features, or functionalities on a separate, stand-alone basis to any customer shall provide that service, service element, feature, or functionality pursuant to tariff to *all similarly situated persons* . . ." (emphasis added).

<sup>286</sup> Minn. R. 7811.0600, subp. 4, and 7812.0600, subp. 4 state in part: "An LSP designated an ETC by the commission must provide local service, including, if necessary, facilities-based service, to all requesting customers within the carrier's service area on a nondiscriminatory basis, regardless of a customer's proximity to the carrier's facilities."

Installations of new service take priority over repairs, showing that Frontier favors new customers, and the additional revenue they provide, over existing customers. For example, Mr. and Ms. Bodine reported, in their public comment discussed above, “we were told that new hookups in the area receive priority over repairs to existing customers, and ‘they would get to [our outage] as soon as they could.’”<sup>287</sup>

Typical of the complaints of Frontier’s discriminatory treatment of rural customers, who lack competitive choices, is the experience of Ms. Elizabeth Mohr.<sup>288</sup> Among other things, while servicing Ms. Mohr’s internet access service: Frontier (1) disconnected her telephone service without notice or consent, (2) left her without phone service for 12 days; (3) forced her to spend over 45 hours on the telephone seeking service; (4) “lost” five of the six repair tickets it issued; and (5) refused to install new internet access service because its records showed “no ports available” despite the network to Ms. Mohr’s house being funded by the CAF II grant to Frontier.

The Lacher Affidavit corroborates the information provided by telephone customers who have received discriminatory treatment from Frontier. Mr. Lacher states:

The same technicians who perform repairs on tickets also install new services on orders, and it is the same technicians that repair and install both telephone and internet services. If greater emphasis is placed on completion of new service installation orders, it takes longer for repair tickets to be addressed, with the problems being even more significant with the reduction in technicians. Further, the prioritization of a technician’s work appears to clearly be:

- a. Newer tickets take priority over old tickets since the old tickets have already missed the required standard for the repair.
- b. New service installations are prioritized over repairs. Although this is not the written policy, it appears to be the case as evidenced by the fact that overtime is granted for technicians to complete orders, but no overtime is permitted to complete repairs.
- c. Jobs receiving federal money take priority over repairs.

## Conclusions

From many complaints, and through discovery, it is evident that Frontier violates state and federal laws by discriminating among customers in numerous ways, and further violates

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<sup>287</sup> Attachment 1 – Robert and Renee Bodine Public Comment of Aug. 24, 2018 (DOC 10-001564).

<sup>288</sup> Attachment 1 – Elizabeth Mohr Public Testimony of Sept. 12, 2018 (DOC 3-000380-84).

laws by trying to conceal its shabby service and sometimes shocking behavior toward customers.

## **Recommendation**

The Commission should order the following relief:

1. As stated earlier in these Comments, require Frontier to demonstrate that there is as high a percentage of trouble reports in its metropolitan areas that are not cleared within 24 hours, as there are in rural areas. Frontier should provide the percentage of trouble reports not cleared in 24 hours in rural exchanges and in urban exchanges for the calendar years 2015 through 2018. Frontier should list which exchanges are in the rural list and which exchanges are in the urban list. If there are a higher percentage of trouble reports in rural exchanges, the Commission should determine whether Frontier has engaged in discrimination, which is prohibited by Minn. Stat. § 237.09.
2. Require Frontier to show why it should not be found to have violated Minn. Stat. § 237.09 by discriminating against similarly situated customers in its service territories in the following ways:
  - Prioritizing customers that are having new service installed over existing subscribers in need of repair.
  - Prioritizing the repair of service to customers with greater profit margins over the repair of service to customers with lower profit margins.
  - Providing better maintenance and repair services to customers that have competitive alternatives than it provides to customers with few or no competitive alternatives.
  - Engaging in additional prohibited activity, such as “losing” repair tickets, to conceal discriminatory conduct and avoiding the regulatory consequences of discriminatory treatment of customers.
3. Require Frontier to file a comprehensive plan to demonstrate that it will comply with state and federal law prohibiting discrimination going forward, by filing evidence within 60 days of the date of the Commission’s Order, showing that it has implemented practices to ensure it will meet its obligations. The filing should be subject to comment and include an affidavit of a Frontier executive officer stating that he or she has reviewed the filing and attests to its accuracy.



## VI. CONCLUSIONS

Under Minnesota's laws, the failure of a telecommunications provider to comply with the rules can be remedied by the Commission under Minn. Stat. § 237.081.<sup>289</sup> In addition, the Commission can refer the matter for criminal prosecution and/or recovery of civil penalties,<sup>290</sup> which the Commission may find appropriate, particularly with respect to the complete disregard the company has shown for the safety of subscribers, large numbers of whom have complained about extended service outages, and an inability to reach 911 emergency services. These outages of long duration are particularly dangerous for vulnerable Minnesotans.

Many Minnesotans that live in Frontier's service territory need to receive service from the one company that is a viable service provider in the area, Frontier. As numerous consumers have stated, if there were a viable alternative, they would end their service with Frontier, but for many, there is simply no alternative. Simply put, the Minnesota regulatory agencies should not be lulled into believing that there are competitive alternatives to all Minnesota customers, and that no regulatory response is needed. Thus, while the Commission has the authority under Minn. Stat. § 237.16 subd. 5 to revoke or temporarily suspend service, these are not viable options as customers need a service provider. But, with the broad powers of the Commission, it can ensure that the companies authorized to serve in Minnesota are complying with the Commission's rules and serving the public interest.

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<sup>289</sup> Minn. Stat. 237.08, subd. 4. provides that, "Whenever the commission finds, after a proceeding under subdivision 2, that (1) a service that can be reasonably demanded cannot be obtained, (2) that any rate, toll, tariff, charge, or schedule, or any regulation, measurement, practice, act, or omission affecting or relating to the production, transmission, delivery, or furnishing of telephone service or any service in connection with telephone service, is in any respect unreasonable, insufficient, or unjustly discriminatory, or (3) that any service is inadequate, the commission shall make an order respecting the tariff, regulation, act, omission, practice, or service that is just and reasonable and, if applicable, shall establish just and reasonable rates and prices."

<sup>290</sup> 237.461 subd. 1 permits Chapter 237 and the rules and orders of the commission to "be enforced by any one or combination of: criminal prosecution, action to recover civil penalties, injunction, action to compel performance, and other appropriate action." Subd. 2 states that "A person who knowingly and intentionally violates a provision of this chapter or rule or order of the commission adopted under this chapter shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of at least \$100 and not more than \$5,000 for each day of each violation."

## **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  
Report**

**Docket No. P405, 407/CI-18-122**

**Dated this 4<sup>th</sup> day of January 2019**

**/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_18-122_Official
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_18-122_Official
Brent	Christensen	bchristensen@mnta.org	Minnesota Telecom Alliance	1000 Westgate Drive, Ste 252  St. Paul, MN 55117	Electronic Service	No	OFF_SL_18-122_Official
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_18-122_Official
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_18-122_Official
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