MINNESOTA
PUBLIC UTILITIES COMMISSION

Staff Briefing Papers

Meeting Date	April 14, 2022	Agenda Item 1**
Company	Frontier Communications of Minnesota, Inc., Citizens Telecommunications Company of Minnesota, LLC, and Frontier Communications of America, Inc. (Frontier)	
Docket No.	**P-405, 407, 5316 / CI-21-150** **In the Matter of a Commission Inquiry into Frontier Communications' Virtual Separation Analysis**	
Issues	1. How should the Commission proceed with this investigation?	

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✓ **Relevant Documents**	**Date**
Commission Order Setting Inquiry Scope and Schedule	September 29, 2021
Informational Filing Citizens Telecommunication of Minnesota, LLC and Frontier Communications of Minnesota, Inc. including Exhibits 1 and 2	October 29, 2021
Comments of the Minnesota Department of Commerce including Attachments	December 28, 2021
Comments of the Communications Workers of America (CWA) and The International Brotherhood of Electrical Workers (IBEW)	December 28, 2021
Reply Comments of Citizens Telecommunications Company of Minnesota, LLC and Frontier Communications of Minnesota, Inc.	February 11, 2022

The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

I. Statement of the Issues

How should the Commission proceed with this investigation?

II. Background

In the July 23, 2020 reply comments filed in Docket No. P-405, 407, 5316/PA-20-504 (Frontier Restructuring docket), the Communications Workers of America (CWA) first raised the issue of virtual separation (VS) appearing to be an integral part of Frontier Communications of Minnesota, Inc.'s (Frontier's) restructuring plan.[1] As such, the CWA opined that it is critical for the Department of Commerce (Department) and the Public Utilities Commission (Commission) to understand its potential effects in Minnesota.

At the Commission's September 24, 2020, Agenda Meeting to consider Frontier's restructuring plan, the Commission determined that Docket No. 20-504 was not the proper proceeding to analyze virtual separation, but the Commission would open a separate investigation related to virtual separation at the conclusion of the Frontier Restructuring docket.

On March 3, 2021, the Commission issued its Notice of Comment Period for a Commission investigation of Frontier's virtual separation analysis in the current docket (Docket No. 21-150). Initial comments were required by April 5, 2021, and reply comments were due by April 19, 2021. The Commission posed the following topics for Comment:

1. What should the goal of the Commission's inquiry into this matter be?
2. What should the scope of the docket be?
3. What schedule should the Commission set for this proceeding?
4. Are there other issues or concerns related to this matter?

On March 31, 2021, comments were filed by the Minnesota Department of Commerce (Department).

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[1] Staff notes CWA in Comments at p. 2 and Frontier in Reply at p. 2 both cite Frontier's Restructuring Support Agreement (RSA) which describes "Virtual Separation" (VS) as follows:

> " The Debtors will use commercially reasonable best efforts to provide a detailed report by no later than the Plan Effective Date detailing analysis and development of the following:
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> ▪ a virtual separation under the same ownership structure of select state operations where the reorganized Debtors will conduct fiber deployments ("InvestCo") from those state operations where the reorganized Debtors will perform broadband upgrades and operational improvements ("ImproveCo"), with such allocation of state operations to be reasonably acceptable to the Company Parties and the Required Consenting Noteholders (the "Virtual Separation"), such that the Reorganized Frontier Board (as defined below) may, at its determination, adopt and implement the Virtual Separation at any time on or after the Plan Effective Date; and
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> ▪ an internal revenue and cost sharing model based around the Virtual Separation."

On April 5, 2021, comments were filed by both Frontier and, jointly, the CWA and International Brotherhood of Electrical Workers (IBEW).

On April 20, 2021, reply comments were filed by both Frontier and, jointly, the CWA and IBEW.

On September 29, 2021, the Commission issued its Order Setting Inquiry Scope and Schedule (September 29, 2021, Order). In this Order, the Commission set the scope of the proceeding to include some or all the following:

a. To clarify what "virtual separation" means as used by Frontier Communications of Minnesota, Inc.; Citizens Telecommunications Company of Minnesota, LLC; and Frontier Communications of America, Inc.

b. To understand why Frontier has elected to use virtual separation.

c. To better understand the origins of virtual separation and the extent to which Frontier has vetted the approach to anticipate its positive or negative affect on telecommunications service quality in Minnesota.

d. To understand why Frontier has not elected to use virtual separation prior to its reorganization.

e. To understand how Frontier intends to use virtual separation in other states. f. To understand how virtual separation works as an accounting approach for a multi-state telecommunications corporation.

g. To understand how virtual separation relates to Frontier's decisions to designate a state as an "InvestCo" or an "ImproveCo" state.

h. To understand the advantages and disadvantages virtual separation will impose on "ImproveCo" and "InvestCo" states.

i. To determine if virtual separation will divert/impact investment in Minnesota, including the deployment of infrastructure for higher speeds and greater capacity for voice, video, and data.

j. To determine if the virtual separation approach will divert financial resources away from maintaining and provisioning voice service in Minnesota, especially in less densely populated areas.

k. To understand how virtual separation will be used to determine future workforce needs.

l. To understand how virtual separation will be used to determine investment plans and whether Frontier's virtual separation analysis will change what is invested in Minnesota.

m. Other issues relating to how virtual separation will impact Frontier's Minnesota operations.

n. For purposes of this investigation, "virtual separation" includes any subsequent investment plans that will impact Minnesota service quality.

On October 19, 2021, Frontier filed a petition for reconsideration of the Commission's September 29, 2021, Order.

On October 27, 2021, an answer to Frontier's petition was filed by the Minnesota Department of Commerce.

On October 29, 2021, Frontier filed information and exhibits addressing the 13 questions contained in the Order Setting Inquiry Scope and Schedule.

On December 23, 2021, the Commission issued an Order Denying Frontier's request for reconsideration.

On December 28, 2021, comments were filed by the Department and, jointly, CWA and IBEW.

On February 11, 2022, reply comments were filed by Frontier.

III. **Parties' Comments**

Frontier (Informational Filing)

As explained in Frontier's October 29, 2021, Informational Filing in this docket ("Informational Filing"), Frontier undertook the virtual separation analysis to better understand, monitor, and improve its overall operating performance. The goal was to improve Frontier's ability to evaluate and operate its business and identify and isolate individual state-related indirect costs across its 25-state footprint. Through the virtual separation analyses, Frontier completed a disciplined review of its cost structure and cost allocation methodology and implemented internal reporting mechanisms that allow management to better understand the economics of Frontier's various state level operations.

Frontier explained that the virtual separation accounting analysis was not directed to determining future investments. Nonetheless, Frontier notes that it has completed substantial expansion of Fiber-to-the-Premises gig-capable service in Minnesota and has improved its service quality. Specifically, Frontier provided the following service quality report summary on pages 3-7 of the October 29, 2021, Informational filing and illustrated it graphically on page 6 of that document:

> For three of the six metrics (Installation of primary service, Repeat troubles, and Held orders), Frontier has consistently met the Settlement Agreement standards for both

> Metro and NonMetro areas for all seven consecutive quarters since the January 1, 2020 (the start of the quarter in which the Settlement Agreement became effective).
>
> For two of the six metrics (Trouble rate and Repair appointments met), Frontier has met the Settlement Agreement standards in the Metro area for all seven consecutive quarters since the January 1, 2020 effective date of the Settlement Agreement. In the Non-Metro areas, Frontier has met the Trouble rate standard (troubles per 100 access lines) [2]
>
> for four of the seven quarters since January 1, 2020. This standard was not met in three quarters based on isolated issues—in two of the quarters a single exchange out of Frontier's 116 exchanges missed the standard and in the other quarter only two exchanges out of 116 missed the standard. 3 In other words, even with the technical noncompliance in three quarters, in each of these quarters at least 114 of Frontier's 116 Non-Metro exchanges or 98% of the Non-Metro exchanges have met the Trouble rate standard. Frontier has also met the Repair appointments standard in Non-Metro areas for the last 4 quarters.
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> For the remaining service quality-related metric (Restoral of out of service conditions), Frontier has made continuing improvements in its performance since entering into the Settlement Agreement. Frontier has undertaken several actions during 2020 and 2021, which have enhanced its ability to promptly respond and restore service for customers. These actions include: (1) hiring additional technicians; (2) improving internal monitoring and tracking systems to ensure prompt action on out-of-service trouble tickets; and (3) increased focus on prioritizing restoral of voice service. These actions have resulted in improved results.
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> In the Metro area, in the first quarter of 2020 Frontier restored 93% of out-of-service conditions within 24 hours, which was slightly below the standard of 95% restored within 24 hours. Since that time, Metro area results have met the 95% within 24 hours standard the following six quarters. In the Non-Metro area, for the first three quarters of 2020 Frontier did not meet the standard of 95% restored within 24 hours (89% in the first quarter, 86% in the second quarter, and 89% in the third quarter). However, in the fourth quarter of 2020, the Non-Metro area results exceeded the standard by restoring 96% of out-of-service conditions within 24 hours. Since that time, Non-Metro area results have met the 95% within 24 hours standard for the following four quarters.

Frontier's , Oct. 29, 2021 Informational Filing, pp. 8-9. Frontier urges that fiber optic facilities are not needed to provide any regulated telephone service and meet its service quality obligations in Minnesota.

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[2] The objective is to have less than 6.5 trouble reports per 100 access lines per month.

With respect to the Commission's question regarding how virtual separation relates to Frontier's decisions to designate a state as an "InvestCo" or an "ImproveCo" state, Frontier indicates it has stopped using this terminology and it has no applicability to its planned investment decisions. (October 29, 2021 Comments, p. 12).

Department

Virtual Separation (Department)

The Department believes activity-based methodologies, such as Frontier's post-bankruptcy virtual-separation approach, purportedly attempt to assign indirect costs in a more precise manner than its historical cost allocation methodology. Activity-based cost accounting requires businesses to review their activities to identify cost drivers (i.e., sources of costs or the reasons they are incurred). The cost drivers can then be analyzed to determine whether they do or do not add value to products or services. Activity-based cost accounting can provide businesses with more accurate understandings of their profit and costs centers for business decisions. Activity-based cost accounting also can be more subjective because the company will likely need to make judgment calls when assigning cost drivers to products or services, as opposed to assigning indirect costs based on a percentage of either direct cost or of revenues generated by the service. The subjectivity in assigning cost is a concern since a company can make business decisions based on factors other than cost, and then allocate indirect cost in a manner that purports to justify those decisions.

According to Frontier, it previously assigned indirect costs to its respective jurisdictions as a percentage of revenue generated. Thus, for example, if state A generated 8% of Frontier's revenue it also was assigned 8% of the company's indirect costs. Frontier is now assigning indirect costs by categories that drive operating expenses at the cost center level. Frontier believes this activity-based approach provides more precision than the previously used revenue-based approach.[3]

The Department's analysis of Frontier's virtual separation report is trade secret and is provided on pages 3 through 5 of the Department's December 28, 2021, comments.

Frontier Reply

Frontier pointed out the Department Comments confirm Frontier's description of the virtual separation process as an accounting exercise directed at a more precise allocation of indirect costs using "[A]ctivities-based methodologies". More importantly, the Department Comments state: "[T]he Department has not found cause for the Commission to further investigate Frontier's virtual separation methodology at this time . . .."[4]

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[3] Please see pages 2-3 of the Department's December 28, 2021, comments.

[4] Please see page 2 of Frontier's February 11, 2022, reply comments. Also, please see Frontier's October 29, 2021 Informational Filing at pages 9-12 for Frontier's discussion of virtual separation.

Prospects for Future Investment in Minnesota (Department)

The Department indicated Frontier's plans suggest that the company intends to prioritize fiber-to-the-premise investments in its largest operating states (CA, TX, FL, CT, WV, IL, NY, OH) ahead of its remaining jurisdictions. Frontier's filings also suggest that it will prioritize "brownfield clusters" with internal rates of return (IRRs) exceeding 30%. IRR is a metric used to analyze and estimate the return generated from a particular investment. A "cluster" is geographic location with sufficient geographic density to support fiber-to-the-premise (FTTP). A "brownfield" for Frontier's purposes is a previously developed area where network facilities had previously been deployed.

The Department analysis of Frontier's future investment in Minnesota is trade secret and is provided on page 6 of the Department's December 28, 2021, comments.

Beyond IRR considerations, Frontier's decision to prioritize "brownfield" locations also may be a concern for some existing customers or potential customers. In addition to brownfields, Frontier has considered making "Tower/Small Cell" and "Densification/Edge Out" investments. The "Tower/Small Cell" category describes service that relies on towers and antennae to provide wireless connections. In low-density areas, this type of wireless service could be a desirable service option given the unavailability or unaffordability of FTTP. The "Densification/ Edge Out" category describes areas where Frontier could densify brownfield builds and expand its fiber networks to areas adjacent to currently served locations. This category likely captures customers living in exurban or "just outside of town" areas that might expect to have better service but are not able to access it. According to available documentation, however, both categories can expect to receive a fraction of the investment planned for brownfield locations.[5]

Frontier Reply

Frontier indicated the Department's investigation and Comments also addressed Frontier's investments in its Minnesota operations, including: (1) Frontier's use of "more granular" economic analysis of investment decisions (to replace of "Investco" and "Improveco" classification); and (2) Frontier's significant investment in FTTP infrastructure in Minnesota. As the Department Comments explain: (1) Frontier's footprint in Minnesota contains only a limited number of locations in which FTTP deployment would meet the criteria of generating a reasonable return on investment with sufficient "clustering" for FTTP deployment; and (2) in 2021 Frontier completed FTTP deployment to a higher number of locations in Minnesota than met these criteria.

In summary Frontier indicated, the Department Comments recognize that Frontier has already invested and deployed FTTP in Minnesota to all current Minnesota locations where Frontier's financial analysis rationally supported deployment. Frontier will continue to evaluate opportunities to further expand FTTP into its network as appropriate.[6]

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5 Please see pages 5-7 of the Department's December 28, 2021, comments.

6 Please see pages 2-3 of Frontier's February 11, 2022, reply comments.

Comparison Between Minnesota and Neighboring States (Department)

The Department indicated the Commission's September 29, 2021, Order further recognized comparisons between Minnesota and Frontier's other operating states might inform our understanding of its operations and plans. The subjectivity that exists in the virtual separation methodology can result in some states being favored over others.

The Department analysis of Frontier's comparison between Minnesota and neighboring states is trade secret and is provided on pages 7-9 of the Department's December 28, 2021, comments.

Customers that have chosen to stop receiving telephone and/or broadband service from Frontier have presumably chosen to receive service from another provider. While serving fewer customers may justify a reduction in employees, to the extent there are insufficient staff resources to meet customer expectations for service quality, staff reductions may perpetuate the decline in customers retaining service with Frontier. Company decisions based on virtual separations will influence investment decisions, the staffing needed to support new and existing infrastructure, and whether customers choose to retain Frontier as their service provider.[7]

ImproveCo versus InvestCo States (Department)

The Department pointed out the Commission's Order asked interested parties to investigate Frontier's proposal to designate different state operations as an "InvestCo" or an "ImproveCo" state. In its bankruptcy filing, Frontier proposed to divide its state operations where it would conduct fiber deployments from those where it would perform broadband upgrades and operational improvements. According to the filing, areas where new fiber deployments were expected would be labeled "InvestCo," while other areas would be labeled "ImproveCo." Frontier states that it no longer uses the "InvestCo" and "ImproveCo" terminology and that it will "invest and improve its network operations throughout its operating territory including areas that are not identified for fiber-to-the-premise deployment." Given this explanation, the "InvestCo" and "ImproveCo" terminology appears to have limited relevance to Frontier's plans. As such, it appears that Frontier is making investment decisions on a more granular basis.[8]

Frontier

Frontier pointed out the virtual separation analysis was completed to better and more accurately allocate indirect costs than the prior "allocation by revenue" approach. The new allocation methodology has been applied to all of Frontier 25-state operations and imposes no advantages or disadvantages on any state beyond how indirect costs are allocated.[9]

Department Conclusion

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[7] Please see pages 7-9 of the Department's December 28, 2021, comments.

[8] Please see page 10 of the Department's December 28, 2021, comments.

[9] Please see pages 12-13 of the Frontier's October 29, 2021, Informational Filing and pages 2-5 of Exhibit 1 of the Informational Filing.

The Department's investigation of the meaning and purpose of Frontier's "virtual separation" methodology, and its potential impact on Minnesota customers, provided insight into Frontier's investment decision making. However, the Department has not reached any conclusions on whether Frontier appropriately allocates indirect cost using its virtual separations methodology, given the time constraints of this investigation. To the extent that customer service quality issues arise going forward, it may be due to the lack of investment and inadequate staffing and give cause for further investigation into Frontier's reliance on its virtual separation methodology for decision making. If, however, Frontier adequately invests in its Minnesota network and has adequate staffing to properly serve its customers, there would be no cause to investigate further. As such, the Department has not found cause for the Commission to further investigate Frontier's virtual separation methodology at this time, but believes the Commission should not hesitate to seek additional investigation if it learns that Minnesota customers are either not receiving adequate service, or are adversely and unfairly impacted by business decisions based on Frontier's indirect cost allocations.

Unless another party produces information to support further investigation, the Department recommends that the Commission adopt decision alternative Nos. 1 and 2 shown below:

1. Find that no further action is needed at this time and close the investigation on Frontier's virtual separation methodology.

2. Inform Frontier that the Commission will investigate further upon determining that Minnesota customers may be adversely or unfairly impacted by "virtual separation" or any subsequent investment plan.[10]

Frontier Reply

Frontier's service quality results show compliance and continuing improvement using its existing network. The actions that Frontier has taken to achieve these substantial service quality improvements remain in place and are not impacted in any way by the virtual separation accounting analysis. The improvements Frontier has made support the Department's recommendation that this docket should be closed.[11]

Frontier supports the Department's position that: (1) no further action is needed at this time and the Commission should close this investigation on Frontier's virtual separation exercise; and (2) the Commission could open a further investigation if future circumstances warrant future concern.[12]

CWA/IBEW

Minnesota Investment Plans (CWA/IBEW)

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10 Please see pages 10-11 of the Department's December 28, 2021, comments.

11 Please see pages 3-6 of Frontier's February 11, 2022, reply comments.

12 Please see page 6 of Frontier's February 11, 2022, reply comments.

The CWA/IBEW indicated the Commission opened this investigation following approval of Frontier's bankruptcy related restructuring to seek assurance that Frontier had a plan to sufficiently invest in the Minnesota network to ensure the long-term viability and resiliency of critical telecommunications services for Minnesota customers. Other state regulatory agencies that approved Frontier's restructuring had similar concerns and sought binding investment commitments to assure that service would be adequate. Frontier's track record of poor performance and mismanagement leading up to the bankruptcy gave credibility to these concerns. Across Frontier's footprint, the free market has not in the past been adequate to protect consumers and ensure good service, as evidenced by service quality investigations and settlements in Minnesota and elsewhere.

The Order issued by the Commission made explicit that the intent of this investigation was to understand Frontier's plans for investment in telecommunications services in Minnesota and was not limited to the company's evolving definition of the phrase "Virtual Separation."

> For purposes of this inquiry and as used in the scope set forth below, the term "virtual separation" shall also include subsequent investment plans arising from that process and from the bankruptcy that may impact Minnesota service quality, whether Frontier considers them part of virtual separation or is calling them something new.[13]

CWA/IBEW find that Frontier's October 29, 2021, informational filing (Informational Filing) resorts to generic statements, such as the following quote, and fails to address this explicit instruction by the Commission to provide information regarding Frontier's investment plans in Minnesota:

> In terms of its future broadband deployment, every company engages in capital allocation assessments to determine whether and where to target capital expenditures. Frontier has finite capital, and it cannot deploy fiber or otherwise expand broadband to every customer location in its service territory. Frontier will continue to invest and improve its network operations throughout its operating territory, including in areas that are not identified for FTTP deployment. This will include expenditures to repair, maintain, and upgrade network infrastructure to provide improved services.[14]

In addition, Frontier says that it could deploy additional fiber in Minnesota if state or federal subsidies are provided to fund Frontier's investment. Please see pages 4-6 of the CWA/IBEW's December 28, 2021 comments for a further discussion of the degree of Frontier's responsiveness related to plans for investment in Minnesota.

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[13] Order Setting Inquiry Scope and Schedule, In the Matter of a Commission Inquiry into Frontier Communications' Virtual Separation Analysis, Docket No. P-405,407,5316/CI-21-150, at 7 (Sep. 29, 2021).

[14] Frontier's Public Informational Filing, In the Matter of a Commission Inquiry into Frontier Communications' Virtual Separation Analysis, Docket No. P-405,407,5316/CI-21-150, at 7 (Oct. 29, 2021).

Frontier Reply

Frontier indicated the CWA/IBEW Comments assert several times that Frontier was obligated to provide specific, detailed information regarding its planned future investment in fiber optic facilities for Minnesota. However, the Commission's direction in its September 29, 2021, Order Setting Inquiry Scope and Schedule in this docket does not support this assertion. The 14 clauses included in that Order (in ordering clauses 1.a through 1.n) include a variety of topics, but they do not include a request for specific investment plans from Frontier. Rather, the Commission Order questioned how the virtual separation process would impact Frontier's decision-making regarding future investments.

Frontier's Informational Filing responded in detail to that question. In addition, Frontier's Informational Filing showed that Frontier completed significant FTTP deployment in Minnesota in 2021, including deployment of FTTP to more locations in Minnesota than Frontier's financial models supported.[15]

Virtual Separation (InvestCo and ImproveCo) (CWA/IBEW)

CWA/IBEW believe Frontier's statements regarding Virtual Separation also raise questions regarding its lack of transparency. Frontier states that "InvestCo" and "ImproveCo" are not in current use by the company, even though Frontier negotiated settlements that are under enforcement by regulatory agencies in other states that use this terminology. Moreover, the Company's assertion that cost allocation decisions informed by the Virtual Separation analysis have no bearing on investment decisions are undermined by statements indicating that build and maintenance costs are a crucial component in Frontier's decision-making regarding capital expenditures and new investments. Please see pages 6-8 of the CWA/IBEW's December 28, 2021 comments for a further discussion of virtual separation.

Frontier Reply

Frontier indicated the CWA/IBEW Comments insist that the InvestCo and ImproveCo terminology remains germane to Frontier's current and future planning for Minnesota. To the contrary, as Frontier clarified in its Informational Filing, those terms were in use during Frontier's Chapter 11 restructuring to better understand the cost characteristics of its operations as a part of the emergence from the Chapter 11 process. However, since emerging from Chapter 11, Frontier's approach to future investment has not been guided by the InvestCo and ImproveCo categories.

While the CWA/IBEW Comments point to the use of those terms in two other public service commission orders, and Frontier's response to those orders, those orders and responses occurred prior to Frontier's emergence from Chapter 11 in April 2021. The InvestCo and ImproveCo categorization approach was subsequently discontinued and is no longer is used by Frontier, as the Department Comments confirm. Instead, Frontier is pursuing investment based on financially disciplined analysis of investment costs and potential returns, as the Department

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15 Please see page 8 of Frontier's February 11, 2022, comments. Also, please see Frontier's October 29, 2021 Informational Filing at pages 7-8 for a more detailed discussion of Frontier's investment in Minnesota.

Comments also confirm. Based on this analysis, Frontier completed the deployment of FTTP to thousands of households in Minnesota in 2021.[16]

Long Term Service Quality (CWA/IBEW)

CWA/IBEW indicated Frontier states that compliance with and improvement on metrics tracked as part of the 2020 Service Quality Agreement ("Settlement Agreement") prove that future service to Minnesota customers will meet service quality standards. However, sustainable, long-run service quality requires investment in preventive maintenance, not a temporary focus on prompt repairs. Without an investment in maintenance (including repairing or replacing deteriorated cable and ensuring proper air pressure is maintained on cables) and a sufficient staff of outside technicians to perform maintenance, service quality will deteriorate, and repair needs will eventually overwhelm Frontier's reduced staffing. Frontier's Informational Filing and recent track record do not give evidence that this investment has been made. Please see pages 8-9 of the CWA/IBEW's December 28, 2021, comments for a further discussion of service quality.[17]

Frontier Reply

As Frontier made clear in its Informational Filing, the virtual separation concept has no bearing and no impact on Frontier's determination of its future workforce needs. The virtual separation analysis focused on indirect costs and not direct costs related to workforce staffing in Minnesota. Nothing in the CWA/IBEW Comments draw this fact into question.

CWA/IBEW make several anecdotal statements regarding Frontier's operational management and workforce size to support their opinion that Frontier should hire and retain more union technicians. However, there is no support for the CWA/IBEW position given that Frontier has consistently met and satisfied the rigorous service quality requirements included in the Settlement Agreement.

Frontier indicated the Department Comments directly address the issue of workforce levels, noting that recent changes in Frontier's workforce levels (in Minnesota and other neighboring states) are consistent with the changes in Frontier's declining telephone customer levels during that same period. Further, as explained above and evidenced by Frontier's quarterly service quality metrics filings in the Frontier Service Quality docket (P-407, 405/CI-18-122), the changes to the workforce levels in Minnesota that Frontier has made have resulted in a workforce size in Minnesota that is sufficient to produce telephone service quality results meeting and exceeding the Commission service quality standards.[18]

Fiber Investment in Minnesota (CWA/IBEW)

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[16] Please see page 8 of Frontier's February 11, 2022, reply comments.

[17] Please see pages 8-9 of the CWA/IBEW's December 28, 2021, comments.

[18] Please see pages 6-7 of Frontier's February 11, 2022, reply comments. Also, please see Frontier's October 29, 2021, Informational Filing, at page 14 for additional discussion of future workforce needs.

CWA/IBEW believe Frontier's plans for investment in fiber in Minnesota is critical for the future of telecommunications services for Minnesota customers. Fiber, whether as backhaul for last-mile copper or deployed to the premise, offers better economics to Frontier in terms of lower maintenance costs and improved pricing, which will lead to higher profits and more incentive for investment, in addition to better quality of service. CWA/ IBEW are requesting that Frontier provide information that is responsive to the September 29th Order, most especially: (1) Frontier's current plans for fiber and other investment in Minnesota, (2) the "wave" of investment Minnesota service areas have been placed in under Frontier's current long-term investment plan, (3) information describing how those investment plans were determined and (4) Frontier's plans to deploy sufficient staffing and resources to maintain service quality for Minnesota customers following the expiration of the Settlement Agreement on January 22, 2022. This information will allow the commission to fulfill the goals articulated in its September 29th Order, which were a "full understanding of how Frontier's investment plans emerging out of bankruptcy and the virtual separation process will impact the quality of Frontier's telecommunications service to Minnesota customers." Please see pages 9-10 of the CWA/IBEW's December 28, 2021, comments for a further discussion of fiber investment.[19]

Frontier Reply

The CWA/IBEW Comments assert that further FTTP deployment by Frontier in Minnesota is necessary to ensure adequate service quality. To the contrary, the first and most important point is that Frontier's current service quality refutes any claim that there is any significant existing service quality issue relating to Frontier telephone service in Minnesota, or any basis for any further investigation related to Frontier's service quality.

Second, the CWA/IBEW Comments ignore the information in Frontier's Informational Filing, which demonstrates that further FTTP deployment is not required for Frontier to maintain adequate voice service in the state. Frontier's existing network is fully capable of providing quality voice telephone service.

As Frontier explained in its Informational Filing: (1) copper has been and continues to be a reliable, efficient and effective technology to provide voice telephone service and (2) no additional FTTP facilities are needed by Frontier to provide regulated telephone service that meet all service quality requirements that apply to regulated telephone service in Minnesota. Rather, Frontier can meet all applicable requirements for quality regulated telephone service through the continued use of Frontier's existing network in Minnesota, with no increase in investments beyond the routine additions, repair, and selective replacement of individual portions of Frontier's facilities.

Further, as the Department Comments note, Frontier has already deployed FTTP in those all areas of Minnesota where Frontier determined deployment was economically rational. Frontier is farther along in deploying FTTP to economically viable locations in its Minnesota service area than it is in many other states in its service footprint.

19 Please see pages 1-4 of the CWA/IBEW's December 28, 2021, comments.

The Frontier Informational Filing further explained that, to the extent FTTP is deployed in Minnesota by Frontier, voice service will be provided over the FTTP via voice over internet protocol (VoIP), which the Commission does not regulate. Because FTTP will not be used to provide regulated voice service, the level of any additional FTTP investment by Frontier is irrelevant to the provision of regulated telephone service.

As such, the Commission should reject the CWA/IBEW attempts to encourage the Commission to direct what technology and what processes Frontier uses to provide service in Minnesota, especially VoIP and Internet services not regulated by the Commission.[20]

Conclusion (CWA/IBEW)

The CWA/IBEW believe the Commission should require Frontier to fulfill the stated goals of the proceeding and provide information responsive to the Commission's September 29, 2021, Order. Frontier should provide the following: (1) Frontier's current plans for fiber and other investment in Minnesota, (2) the "wave" of investment Minnesota service areas have been placed in under Frontier's long-term investment plan, (3) information describing how those investment plans were determined and (4) Frontier's plans to deploy sufficient staffing and resources to maintain service quality for Minnesota customers following the expiration of the 2019 Service Quality settlement on January 22, 2022.[21]

Frontier Reply

Frontier indicated through the virtual separation analysis, the Company completed a disciplined review of its cost structure and cost allocation methodology and implemented internal reporting mechanisms that allow management to better understand the economics of Frontier's various state-level operations. The goal was to improve Frontier's ability to evaluate and operate its business and identify and isolate individual state-related costs across its 25-state footprint. The virtual separation analysis does not and will not directly affect workforce needs or future investment decisions or actions in Minnesota. Frontier has recently deployed FTTP to financially viable locations in Minnesota.

Frontier's service quality has improved substantially. As a result, Frontier's service quality provides no basis for any further action.

Frontier urges the Commission to adopt the Department's recommendation to find that no further action is needed at this time and close the investigation on Frontier's virtual separation methodology.[22]

20 Please see pages 9-10 of Frontier's February 11, 2022, reply comments. Also, please see Frontier's October 29, 2021, Informational Filing, at pages 8-9 and Exhibit 2 for a more detailed discussion that fiber optics are not necessary for providing regulated telephone service.

21 Please see pages 10-11 of the CWA/IBEW's December 28, 2021, comments.

22 Please see pages 10-11 of Frontier's February 11, 2022, reply comments.

IV. Staff Analysis

As the record makes clear, virtual separation is a cost allocation exercise. This is not unlike what normally happens in a traditional utility rate case. Frontier performed this analysis across its 25 states as part of the bankruptcy reorganization plan. It should be viewed as a more refined analysis of the allocation of indirect costs to each state. This provides a better view for Frontier to analyze the performances of each state. As such, this is a completely rational approach for the Company to take which is in the interest of all stakeholders.

With respect to ongoing service quality, Frontier has dramatically increased its service quality over that last two years since the Settlement Agreement was implemented.[23] Under the Settlement Agreement, Frontier has monitored and reported on 13 separate performance metrics directly related to telephone service quality. For 11 of the 13 separate performance metrics in the Settlement Agreement, Frontier has met and exceeded the applicable standards for both Metro area and Non-Metro area exchanges in each of the eight quarters beginning January 1, 2020 and extending through December 31, 2021.

In the Metro area, Frontier has met the all the Settlement Agreement standards for all eight quarters since the January 1, 2020 start date. In the Non-Metro area, Frontier has met the Trouble Rate standard for five of the eight quarters since January 1, 2020.

For the other service quality-related metric (Restoral of Out of Service conditions) that was not met in all eight quarters since January 1, 2020, Frontier has made continuing improvements in its performance since entering into the Settlement Agreement. Frontier has undertaken several actions which have enhanced its ability to promptly respond and restore service for customers. These actions include: (1) hiring additional technicians; (2) improving internal monitoring and tracking systems to ensure prompt action on out-of-service trouble tickets; and (3) increased focus on prioritizing restoral of voice service. These actions have led to improved results.

Staff believes that Frontier’s results show compliance and continuing improvement using its existing network. The actions that Frontier has taken to achieve these substantial service quality improvements remain in place and are not impacted in any way by the virtual separation accounting analysis. Based on these documented improvements, Staff recommends that this docket should be closed.

As such, Staff agrees with both Frontier and the Department that:

1. no further action is needed at this time and the Commission should close this investigation on Frontier’s virtual separation exercise; and

2. the Commission could open a further investigation if future circumstances warrant future concern.

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[23] In the Matter of a Commission Inquiry into the Service Quality, Customer Service, and Billing Practices of Frontier Communications, Docket No. P407, 405/CI-18-122, Order Approving Settlement as Modified (Jan. 22, 2020).

Regarding the concerns of the CWA/IBEW, Frontier has indicated that it has deployed fiber to the premise (FTTP) to all the economically efficient areas of Minnesota. As the record indicates, Minnesota is ahead of other states in this regard. FTTP is not used to provide regulated voice service. As the record reflects, Frontier's deployment of FTTP is not necessary to the service subject to the Commission's jurisdiction.

V. Decision Options

How should the Commission proceed with this investigation?

1. Close the Virtual Separation investigation and docket and determine that:

   A. no further action is needed at this time and the Commission should close this investigation on Frontier's virtual separation exercise; and

   B. the Commission could open a further investigation if future circumstances warrant future concern (Department and Frontier).

2. Keep proceeding open and require Frontier to provide the following:

   A. Frontier's current plans for fiber and other investment in Minnesota;

   B. the "wave" of investment (fiber deployments) Minnesota service areas have been placed in under Frontier's long-term investment plan;

   C. information describing how those investment plans were determined; and

   D. Frontier's plans to deploy sufficient staffing and resources to maintain service quality for Minnesota customers following the expiration of the 2020 Service Quality settlement on January 22, 2022 (CWA/IBEW).