

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

Nancy Lange	Chair
Dan Lipschultz	Commissioner
Matt Schuerger	Commissioner
Katie Sieben	Commissioner
John Tuma	Commissioner

**In the Matter of Frontier Communications
of Minnesota, Inc. Tariff Filing for
Instituting a Charge for Paper Bills**

DOCKET NO. P405/AM-14-427

**REPLY COMMENTS OF THE
OFFICE OF THE ATTORNEY GENERAL**

The Office of the Attorney General—Residential Utilities and Antitrust Division (“OAG”) submits the following Reply Comments in response to Frontier Communications’ May 26, 2017 filing proposing an additional charge for paper bills for certain customers. These Reply Comments will address issues raised by the Minnesota Department of Commerce (“Department”) in its June 13, 2017 Comments and by the Company in its June 21, 2017 Comments.

On May 26, 2017, in a brief filing, Frontier provided notification of its intent to institute a new charge for customers of its Frontier Digital Phone Bronze service who receive paper bills. The filing included a cover letter with a proposed customer notice and a clean tariff sheet reflecting the proposed paper bill fee. According to the Company, this new fee was developed in response to its commitment to “go green and help customers manage their bills.” The Company provided no supporting information for its new fee.

The Department filed an objection in Comments on June 13, 2017 in accordance with the process outlined in Frontier’s AFOR process. The Department recommended disapproval of Frontier’s proposal because it did not comply with the requirements listed in Minn.

Rule 7810.1400, subpart 1.¹ In particular, this rule requires “typed or machine printed” bills with an “itemized listing of all charges,” which the Department argues are not met by the terms of Frontier’s proposal. The Department also cited to the Minnesota law governing the provision of an electronic, or paperless bill, to consenting customers.²

The Company filed Comments on June 23. Frontier argued that the Department had not made “any credible assertion that Frontier’s filing violates state law, rule, or the public interest.”³ In particular, the Company responded to the Department’s claim that its filing violated Minnesota Rule 7810.1400 by stating that approval of its paper bill fee would not violate the Commission’s rule. On June 30, 2017 the Commission extended the period to file Reply Comments to July 17, 2017.

Frontier is currently regulated under the terms of its Alternative Form of Regulation (“AFOR”) plan.⁴ The Digital Phone Bronze service is a flexibly-priced service under the AFOR and any change to the service is governed by processes established in the AFOR plan. A successful objection under the AFOR process for flexibly-priced services requires a finding by the Commission that “Frontier’s proposal violates state law, or Commission rules or is otherwise not in the public interest.”⁵ Importantly, the Commission may disapprove the requested increase if only one of these criteria are violated. Frontier’s proposal violates all three, for the reasons described below.

¹ Department’s June 13, 2017 Comments at 4.

² Minn. Stat. § 237.101 (2016).

³ Frontier’s June 21, 2017 Comments at 3.

⁴ *In the Matter of a Petition by Frontier Communications of Minnesota, Inc., for Approval of its Revised Alternative Regulation (AFOR) Plan*, Docket No. P-405/AR-14-735, Order Approving Alternative Regulation Plan as Modified (Feb. 23, 2015).

⁵ *In the Matter of a Petition by Frontier Communications of Minnesota, Inc., for Approval of its Revised Alternative Regulation (AFOR) Plan*, Docket No. P-405/AR-14-735, Frontier Communications Alternative Form of Retail Regulation Plan for the State of Minnesota at 8 (effective Mar. 1, 2015).

These Reply Comments will respond to issues that have been raised in the record thus far and will demonstrate that legal and policy reasons justify Commission rejection of this proposal. First, it is unlawful and counter to Commission rules to charge customers an add-on fee in order to continue to receive the default paper bill, as the Company here proposes. Minnesota law establishes the paper bill as the default option. As such, current rates already reflect the costs associated with printing and delivering paper bills. Such a charge would require Frontier's customers to pay for each paper bill twice. In addition, Frontier's proposal strikes against the public interest. Many customers prefer to receive paper bills, even though electronic bills are available. There are consumer protection reasons why preservation of the paper bill, at no additional cost, is important for many Minnesotans. Ultimately, there is substantial evidence in the record that Frontier's requested paper bill fee should be disapproved by the Commission.

A paper bill is the default format for telephone services in Minnesota. It runs counter to Minnesota law and Commission rules to charge customers an additional fee in order to continue to receive the default bill. A paper bill is the default bill type in Minnesota because Minnesota Statutes section 237.101 requires customer authorization before switching to an electronic bill. This establishes a paper bill as the default bill format, the costs of which are and have been recovered through the rate established in Frontier's tariff.

The offering of a paper phone bill is also an affirmative requirement under Minnesota Rules, as noted by the Department in its Comments. While some consumers now prefer to receive bills and other company notices in paperless form, the CenturyLink docket cited by the Department is further evidence that the default form of the bill is still paper.⁶

The Company should not be allowed to extract an add-on fee from customers in order to maintain the default bill format. The flexibly-priced Frontier Digital Phone Bronze offering already takes into account costs such as billing in its rate. Frontier has not demonstrated that an add-on fee is necessary and, importantly, not duplicative. Flexibly-priced services are priced at a level equal to or exceeding the total service long-run incremental cost of providing that service.⁷ In other words, a company providing a flexibly-priced service cannot offer it below this level.⁸ Because of this, Frontier's existing rate for its Digital Phone Bronze service must already incorporate the cost to provide the default paper bill to customers. Under the law, this is required. To assess a paper bill penalty onto its customers would result in double-charging customers the costs associated with paper bills.⁹

In addition to being unlawful and counter to Commission rules, Frontier's paper bill fee should be rejected because it is not in the public interest. An attachment to the Department's

⁶ See Department's June 13, 2017 Comments at 4 (noting that the Commission's decision in the CenturyLink docket allowed customers to affirmatively opt-out of receipt of paper bills in favor of electronic delivery (citing *In the Matter of SBC Qwest Corporation Petition for Variance of Minn. Rules pt. 7810.1400 (Customer Billing)*, Docket No. P421/AM-0-275)).

⁷ Minn. Stat. § 237.762, subd. 6 (2016).

⁸ Total service costs are defined as follows:

[T]he total cost to the company of supplying a service, group of services, or basic network function. The term "long-run" means a period of time sufficient so that all inputs are avoidable based on the total increment of service . . . and includes the relevant costs resulting from the company's decision to provide the service [or] group of services

Minn. Stat. § 237.772, subd. 1 (2016).

⁹ The Company did not argue that the monthly rate for its Digital Phone Bronze product was priced below the applicable costs, nor did it provide any analysis in support of the \$1 fee it proposed.

Comments addressed the public interest considerations raised by Frontier’s proposal.¹⁰ These Reply Comments will respond to and expand upon the concerns raised by the Department. Frontier’s proposal strikes against a fundamental tenet of consumer protection—that it should be up to the consumer, not the company, to decide whether to receive electronic, paper, or both forms of bills. Companies may promote the adoption of paperless billing, which Frontier already does, but they should not extract additional fees from customers who wish to continue to receive a bill in the mail. Even in an age of rapidly-developing digital services, there continues to be a strong case for paper bills.

In 2016, the National Consumer Law Center (“NCLC”) released a study on the continued importance of paper bills across a broad range of industries.¹¹ The report concluded that paper bills “must be available for free for consumers who want them, and consumers should not be coerced into electronic statements or steered into them by default if paper is the consumer’s first choice.”¹² The NCLC went on to describe why paper statements are important and why electronic forms can fall short for some consumers.

According to the NCLC, paper bills are important because they provide an easy-to-follow record of the monthly charges incurred by the consumer.¹³ In addition, receipt of paper bills can help consumers identify unauthorized fees or charges on their bills that may otherwise go unnoticed.¹⁴ This vigilance can help consumers remedy problematic charges sooner, thus avoiding the payment of unauthorized added fees. A direct disincentive to continue to receive a

¹⁰ Department’s June 13, 2017 Comments at Attachment (noting that a paper bill fee 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 format of their choice).

¹¹ Chi Chi Wu & Lauren Saunders, *Paper Statements: An Important Consumer Protection*, Nat’l Consumer Law Ctr. (March 2016), available at http://www.nclc.org/images/pdf/banking_and_payment_systems/paper-statements-banking-protections.pdf.

¹² *Id.* at 1.

¹³ *Id.* at 1–2.

¹⁴ *Id.*

paper bill—here, in the form of a paper bill charge—would force consumers to choose between paying an add-on fee to continue receiving paper bills or abandoning paper billing for online-only statements. While this arrangement may work for some, it could also harm vulnerable Minnesotans, leaving them to choose between paying more for the same service or getting an electronic bill that they may have trouble accessing.

There are a number of reasons why it may be detrimental to some customers to make the switch from paper to electronic bill delivery. First, the “digital divide” prevents many consumers from access to reliable, high-quality broadband service. This divide overwhelmingly affects vulnerable populations such as low-income and elderly citizens.¹⁵ As such, any action that makes it more difficult or costly to receive a paper bill will have an outsized impact on these groups. Second, although some consumers may have internet access through a mobile device, access to a statement via such a device may be impractical or even impossible for many.¹⁶ Put simply, it is easier to read a letter-sized piece of paper than a 3-inch screen.

Many of Frontier’s affected customers may be harmed by the imposition of a paper bill fee because they lack access to the internet. The Frontier Digital Phone Bronze service is a bundled service that includes “one flat-rate residential one-party service access line” along with a menu of “features and services” such as caller ID, call waiting, and something called the “Digital Phone Enhanced Feature Pack.”¹⁷ **Internet service is not included in this offering.** This reduces the likelihood that Digital Phone Bronze customers have reliable access to the internet and, consequently, to a telephone bill that is only available online. To extract from these customers an additional fee in order to receive the paper bill that they currently receive as part of

¹⁵ *Id.* at 2.

¹⁶ *Id.* at 4–5.

¹⁷ Frontier Communications Tariff No. 2, Flexibly Priced Services, Section 6, First Revised Sheet 62.

the existing telephone bundle strikes directly against the public interest and should not be allowed.

The Commission should reject Frontier's proposal to charge its Frontier Digital Phone Bronze customers a fee to continue to receive paper bills. Under the provisions of the Company's AFOR, the Commission must reject the Company's proposal if there is substantial evidence in the record that the Company's proposal is unlawful, contrary to Commission rules, *or* detrimental to the public interest. Here, all three criteria are met. Minnesota law establishes the paper bill as the default bill format, the costs of which are already recovered in rates. The Commission's rules also establish the default bill format. Finally, there are a number of public interest considerations that illustrate the harm a paper bill fee would cause, especially to certain vulnerable populations.

Dated: July 17, 2017

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota

s/ **Joseph A. Dammel**

JOSEPH A. DAMMEL
Assistant Attorney General
Atty. Reg. No. 0395327

445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101-2131
(651) 757-1061 (Voice)
(651) 296-9663 (Fax)
joseph.dammel@ag.state.mn.us



LORI SWANSON
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

SUITE 1400
445 MINNESOTA STREET
ST. PAUL, MN 55101-2131
TELEPHONE: (651) 296-7575

July 17, 2017

Mr. Daniel Wolf, Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

RE: *In the Matter of Frontier Communications of Minnesota, Inc. Tariff Filing for Instituting a Charge for Paper Bills*
Docket No. P405/AM-14-427

Dear Mr. Wolf:

Enclosed and e-filed in the above-referenced matter please find *Reply Comments of the Office of the Attorney General*.

By copy of this letter, all parties have been served. An Affidavit of Service is also enclosed.

Sincerely,

s/ **Joseph A. Dammel**

JOSEPH A. DAMMEL
Assistant Attorney General

(651) 757-1061 (Voice)

(651) 296-9663 (Fax)

Enclosures

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_17-427_AM-17-427
Scott	Bohler	scott.bohler@ftr.com	Frontier Communications Corporation	2378 Wilshire Blvd Mound, MN 55364-1652	Electronic Service	No	OFF_SL_17-427_AM-17-427
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_17-427_AM-17-427
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_17-427_AM-17-427
Jack D.	Phillips	jack.phillips@ftr.com	Frontier Communications Of MN, Inc.	14450 Burnhaven Drive Burnsville, MN 55306	Electronic Service	No	OFF_SL_17-427_AM-17-427
Jessica	Tierney	jessica.tierney@ftr.com	Frontier Communications of America, Inc(3131)	21 West Ave Spencerport, NY 14559	Electronic Service	No	OFF_SL_17-427_AM-17-427
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_17-427_AM-17-427