

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

In the Matter of the Joint Application of Frontier Communications Corporation, Frontier Subsidiary Telco, LLC, Citizens Newtel, LLC, Frontier Communications of Minnesota, Inc., Citizens Telecommunications Company of Minnesota, LLC, and Frontier Communications of America, Inc. for Approval of a Transfer of Control due to a Chapter 11 Plan of Reorganization of Frontier Communications Corporation and its Subsidiaries

ISSUE DATE: December 7, 2020

DOCKET NO. P-405, P-407,  
P-5361/PA-20-504

ORDER APPROVING TRANSFER OF CONTROL OF MINNESOTA TELECOMMUNICATIONS SUBSIDIARIES

**PROCEDURAL HISTORY**

On May 22, 2020, Frontier Communications Corporation, Frontier Subsidiary Telco, LLC, Citizens Newtel, LLC, Frontier Communications of Minnesota, Inc., Citizens Telecommunications Company of Minnesota, LLC, and Frontier Communications of America, Inc. (collectively, Frontier or the Company) filed an application seeking approval to reorganize the companies as part of a plan to reduce debts. This plan would entail, among other things, dissolving Frontier Communications Corporation and transferring various subsidiaries to a new entity called New Frontier Communications Parent.

On July 8, 2020, the Commission received comments from –

- the Communications Workers of America – District 7 (CWA),
- the Laborers District Council of Minnesota and North Dakota (LIUNA), and
- The Minnesota Department of Commerce (Department).

By July 24, 2020, the Commission had received reply comments from CWA, the Department, and Frontier.

On September 3, 2020, Frontier filed updated information.

On September 24, 2020, the Commission met to address this matter.

## **FINDINGS AND CONCLUSIONS**

### **I. Summary of Commission Action**

The Commission will approve the application to transfer control of Frontier's Minnesota operating subsidiaries to New Frontier Communications Parent with the following provisions:

- Frontier's Minnesota operating subsidiaries will continue to be responsible for regulatory filings and fees.
- Frontier must notify the Commission when it has completed the transaction.
- A corporate officer must, on behalf of New Frontier Communications Parent and its Minnesota affiliates, file a sworn affidavit acknowledging the firms' obligations under Minnesota's Settlement Order,<sup>1</sup> including the commitment to pay claims to current and former customers.

### **II. Legal Context**

#### **A. Bankruptcy**

When a business is unable to service its debt or pay its creditors, the business or its creditors can file with a federal court for protection under U.S. bankruptcy law, Chapter 7 or Chapter 11.<sup>2</sup> In Chapter 7, the business ceases operations and a trustee sells the business's assets and distributes the proceeds to creditors. But in Chapter 11, typically the debtor remains in control of its business operations subject to the oversight and jurisdiction of the court, and the business and its creditors develop a plan for restructuring the debt obligations. Often this restructuring entails the transfer of assets and equity.

Frontier has filed for reorganization under Chapter 11.

#### **B. Statutes Governing the Transfer of the Assets of Minnesota Telecommunications Companies**

Minn. Stat. § 237.23 requires anyone subject to Minnesota's telecommunications statutes to obtain Commission approval before acquiring the property or franchise of a telephone company doing business in Minnesota.

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<sup>1</sup> *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, Order Approving Settlement as Modified (Jan. 22, 2020) (Settlement Order).

<sup>2</sup> 11 U.S.C., Chapters 7 and 11.

Likewise, Minn. Stat. § 237.74, subd. 12, states that the Commission must first consider the public convenience and necessity before authorizing any telecommunications carrier to acquire or operate plant in Minnesota.

In making these determinations, the Commission considers whether the transaction is in the public interest—that is, whether service will be preserved and whether a transaction will provide possible benefits to Minnesota consumers.<sup>3</sup>

### **C. Frontier’s Service Quality Proceedings**

Following an increase in the number of consumer complaints from customers of Frontier Communications of Minnesota, Inc., and Citizens Telecommunications of MN, LLC, the Commission launched an investigation into the Company’s service quality. This investigation culminated in the Commission’s Order Approving Settlement as Modified (Jan. 22, 2020) (Settlement Order), clarifying the standards Frontier is to meet and establishing remedies for service quality lapses.<sup>4</sup>

In addition, the Minnesota Attorney General issued a press release on July 13, 2020, announcing that Frontier had signed an Assurance of Discontinuance.<sup>5</sup> Among other things, this agreement provides consumer protections related to broadband services and bundled packages including broadband, as well as a commitment for an investment of \$10 million in broadband facilities (beyond funds provided by federal support programs).

## **III. The Proposed Reorganization**

### **A. Entities Involved in the Bankruptcy**

Frontier Communications Corporation claims to be the fourth largest local telecommunications company in the United States, with approximately 4.1 million customers served by approximately 18,300 employees spread across 99 subsidiaries, including 50 incumbent local exchange carriers (ILECs) operating in 25 states.

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<sup>3</sup> See, e.g., *In the Matter of the Application for Charter Communications, Inc. to Engage in a Reorganization*, Docket No. P-5535, 5615/PA-09-560, Order at 6–8 (July 13, 2009); *In the Matter of the Request for Approval of a Transfer of Control of McLeodUSA Telecommunications Services, Inc. and McLeodUSA Telecom Development, Inc.*, Docket No. P-5634, 5323/PA-02-201, Order at 4–5 (March 22, 2002).

<sup>4</sup> *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, Order Approving Settlement as Modified (January 22, 2020).

<sup>5</sup> *In the Matter of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier Communications of Minnesota, Inc., and Citizens Telecommunications Company of Minnesota, LLC d/b/a Frontier Communications*, Minnesota Second Judicial District Court File No. 62-CV-204025, Assurance of Discontinuance (filed July 13, 2020). Among other things, Frontier agreed to discontinue assessing certain charges.

In particular, Frontier Communications Corporation owns the following entities:

- Frontier Subsidiary Telco, LLC, which owns Frontier Communications of Minnesota, Inc.—an ILEC with approximately 30,000 residential and commercial customers in Minnesota.
- Citizens Newtel, LLC, which owns Citizens Telecommunications Company of Minnesota, LLC—an ILEC with approximately 44,000 residential and commercial customers in Minnesota.
- Frontier Communications of America, Inc.—a firm that has been certified to provide both interexchange service and local exchange service in Minnesota (although in Minnesota it currently provides only interexchange service).

## **B. Frontier’s Bankruptcy and Reorganization**

Frontier’s bankruptcy has proceeded as follows:

- On April 14, 2020, Frontier filed petitions with the United States Bankruptcy Court for the Southern District of New York to reorganize under US Bankruptcy Code, Chapter 11.<sup>6</sup>
- On May 15, 2020, Frontier filed with the bankruptcy court its Joint Plan of Reorganization of Frontier Communications Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code.
- And on August 26, 2020, the bankruptcy court issued its Order Approving Plan of Reorganization.<sup>7</sup>

Frontier estimates that the proposed restructuring would reduce Frontier’s funded debt obligations from approximately \$17.5 billion to approximately \$6.5 billion, and reduce its annual interest expense by approximately \$1 billion. According to Frontier, this transaction would preserve the firm, maintain thousands of jobs, and put Frontier on a sounder financial footing to provide high-quality service and compete in the telecommunications market. It would also dissolve Frontier Communications Corporation and transfer its remaining assets to New Frontier Communications Parent.

As part of the restructuring, Frontier proposes “virtual separation” of accounts. Rather than continue its practice of allocating the Company’s indirect expenses to state operations based on each state’s revenues, Frontier proposes to refine this process to better reflect the economics of individual states and groups of states.

According to Frontier, the Company’s Minnesota operating subsidiaries will continue providing retail and wholesale services without interruption according to their existing terms. The

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<sup>6</sup> See *In re Frontier Communications Corporation, et al.*, Case No. 20-22476 (RDD).

<sup>7</sup> *Id.*, Findings of Fact, Conclusions of Law, And Order Confirming the Fifth Amended Joint Plan of Reorganization of Frontier Communications Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (August 26, 2020) (Doc. No. 1005).

restructuring will not result in the assignment of any of the certificates, authorizations, assets, or customers of any of these subsidiaries, and Frontier will continue to comply with all applicable statutes, rules, and obligations under current and future Commission orders, including obligations under the January 22, 2020 Settlement Order.

#### **IV. Positions of the Parties**

The positions of the parties evolved throughout this proceeding as Frontier has provided additional details about its proposal, and as the bankruptcy proceeding has progressed. By the time of the Commission’s meeting, the parties argued as follows:

##### **A. CWA**

CWA questions whether Frontier’s proposal has been sufficiently developed to warrant Commission approval. CWA argues that Frontier has not provided sufficient explanation of how the Company’s proposed “virtual separation” could affect the Company’s operations in Minnesota, and whether the proposal would adequately protect the interests of customers and employees. CWA seeks further clarification about Frontier’s proposal to divide its operations between “InvestCo,” where the Company would deploy additional fiberoptic cables and technology, and “ImproveCo,” where the Company would perform broadband upgrades and operational improvements. And CWA asks whether Frontier has entered into side agreements with its major creditors regarding how the Company would operate after emerging from bankruptcy.

##### **B. LIUNA**

LIUNA acknowledges that Frontier has cause to restructure its debts in order to continue serving customers and meeting essential obligations. That said, LIUNA argues that Frontier has provided insufficient information about how it would balance the need to operate more efficiently while maintaining service quality—and avoiding layoffs among contractors.

##### **C. The Department**

Having reviewed Frontier’s filing, the Department largely supports the petition—that is, authorizing Frontier’s Minnesota operating subsidiaries to retain their certificates of authority as they are transferred to New Frontier Communications Parent. But the Department recommended that the Commission establish certain conditions, including the following:

- Frontier’s Minnesota operating subsidiaries would remain responsible for all regulatory filings and fees.
- Frontier should notify the Commission when the reorganization is complete.

- Frontier should memorialize its commitments under the Settlement Order of January 22, 2020, including its commitment to pay claims to current and former customers.

In addition, the Department recommends requiring Frontier to grant Minnesota “most favored state” status—that is, require Frontier to grant Minnesota no less generous terms than the Company grants to any other state. The Department expressed concern that if Frontier acquiesced in implementing burdensome provisions benefiting other states, this would deplete the resources Frontier would have for serving Minnesota customers. But during the agenda meeting the Department clarified that it recommends authorizing Frontier to proceed with its reorganization, whether or not the Commission requires the Company to grant Minnesota “most favored state” status.

#### **D. Frontier**

Frontier argues that its proposed “virtual separation” refers to an operational tool to manage indirect costs that best aligns with the economic realities of operating a multi-state firm. This tool would not alter in any way the Company’s standard accounting according to the Uniform System of Accounts. And Frontier argues that the terms “InvestCo” and “ImproveCo” are conceptual, simply acknowledging that Frontier must make strategic decisions about where it will make its next investments in fiber optics. According to the Company, none of these matters justify postponing action on the restructuring.

Frontier also opposes the Department’s proposal to require Minnesota to receive “most favored state” status. According to the Company, this kind of provision would be burdensome to administer, potentially setting of a process whereby Frontier would have to iterate between state Commissions in finalizing approval of the terms of the restructuring. Moreover, Minnesota has already established the service quality provisions it deems appropriate in its Settlement Order and the Attorney General’s Assurance of Discontinuance. Under the circumstances, Frontier argues, a “most favored state” provision would be superfluous.

#### **V. Commission Action**

Within the context of evaluating Frontier’s service quality in Minnesota, it had become clear that the Company’s Minnesota operations faced challenging financial circumstances. In particular, the growth of wireless technology has contributed to a decline in the number of landline subscribers. Having reviewed the application and the party comments, the Commission is persuaded that Frontier’s proposed reorganization will provide Frontier, including its operations in Minnesota, with the best opportunity to structure a business plan that will enable the Company to meet its obligations to its customers and investors.

Because these actions are consistent with the public convenience and necessity and in the public interest, the Commission will approve Frontier’s proposal to transfer control of its Minnesota operating entities to New Frontier Communications Parent under Minn. Stat. §§ 237.23 and 237.74, subd. 12—albeit with the following clarifications.

Specifically, the Commission clarifies that Frontier’s operating subsidiaries in Minnesota will continue to be responsible for all regulatory filings and fees. Frontier must notify the Commission when the reorganization has been completed. And Frontier Communications Corporation and its obligated corporate affiliated entities must memorialize their commitments under the Settlement Order of January 22, 2020—including their commitment to pay claims to current and former customers. To this end, a Frontier office must file an affidavit affirming this commitment within 20 days of emerging from Chapter 11 bankruptcy.

That said, the Commission is not persuaded that this docket justifies requiring Frontier to grant Minnesota “most favored state” status. Whatever the merits of such provisions in general, Frontier’s 2020 service quality settlement has already established in detail the standards Frontier must meet, and the remedies for noncompliance. Among other things, the settlement establishes a plan for improving ten measures of service quality, and for reporting on twenty service topics. It identifies 16 measures of service quality and a process to secure monetary remedies for past service quality lapses, and also provides remedies for future service quality lapses. And it preserves the authority of the Commission, the Department, and the Office of the Attorney General to investigate service-related topics. Moreover, the Office of the Attorney General has supplemented this settlement with an additional agreement addressing broadband matters. Given this unique context, it is unclear what additional benefits a “most favored state” requirement could provide to Minnesota customers.

Likewise, the CWA and LIUNA argue that some aspects of the reorganization documents—including the references to “virtual separation” and the distinctions between InvestCo and ImproveCo—are not set forth in detail. But to the extent that Frontier affirms its obligations to the Settlement Order, the Commission finds that the interests of Minnesota customers will be well protected. Accordingly, the Commission will decline to impose additional conditions on Frontier’s restructuring, other than those set forth above and in the Ordering Paragraphs.

The Commission will so order.

## **ORDER**

1. The Commission approves the application of Frontier Communications Corporation, Frontier Subsidiary Telco, LLC, Citizens Newtel, LLC, Frontier Communications of Minnesota, Inc., Citizens Telecommunications Company of Minnesota, LLC, and Frontier Communications of America, Inc., for the transfer of control of Frontier’s Minnesota operating subsidiaries to New Frontier Communications Parent.
2. Frontier’s Minnesota operating subsidiaries may retain their certificates of authority, but will be responsible for regulatory filings and fees.
3. Frontier shall file notices of completion within 20 days of the completion of the transaction.
4. Frontier Communications Corporation and its obligated corporate affiliated entities shall memorialize their commitments under the Settlement Order of January 22, 2020, including their commitment to pay claims to current and former customers, by submitting within 20 days of emerging from Chapter 11 bankruptcy a sworn affidavit from an

authorized officer affirming this commitment.

5. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert  
Executive Secretary



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## **CERTIFICATE OF SERVICE**

I, Leesa Norton, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

**Minnesota Public Utilities Commission  
ORDER APPROVING TRANSFER OF CONTROL OF MINNESOTA  
TELECOMMUNICATIONS SUBSIDIARIES**

Docket Number: **P-405, P-407, P-5361/PA-20-504**

Dated this 7th day of December, 2020

/s/ Leesa Norton

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Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_20-504_PA-20-504
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