



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

800 Fifth Avenue #2000 • Seattle WA 98104-3188

March 14, 2013

SENT VIA EMAIL AND ABC LMI

Steven V. King
Acting Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: WUTC v. Frontier Communications Northwest Inc.'s
Docket UT-121994

Dear Mr. King:

Enclosed for filing in the above-referenced docket is the original and six (6) copies of Public Counsel Response to CLEC Intervenors' Joint Motion to Dismiss and Certificate of Service.

Sincerely,

Simon J. Fitch
Senior Assistant Attorney General
Public Counsel Division
(206) 389-2055

SJf:cjw
Enclosures
cc: Service List (E-mail and U.S. Mail)

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

FRONTIER COMMUNICATIONS
NORTHWEST INC.,

To be Regulated as a Competitive
Telecommunications Company
Pursuant to RCW 80.36.320

DOCKET UT-121944

PUBLIC COUNSEL RESPONSE TO
CLEC INTERVENORS' JOINT
MOTION TO DISMISS

1. Pursuant to Order February 15, 2013 (Prehearing Conference Order 02) in this docket, Public Counsel files this response to the CLEC Intervenor's Joint Motion to Dismiss. While Public Counsel does not take a position with respect to the wholesale issues raised by the CLECs, Public Counsel shares the concerns raised regarding the statutory vehicle chosen by Frontier for this filing. It appears that Frontier's filing should more properly have been made under the statute permitting competitive classification of services, RCW 80.36.330, rather than under RCW 80.36.320. Even as filed, Frontier's petition seeks only partial relief from its regulatory obligations, as it "does not impact Frontier's obligations with respect to: participation in low-income and hearing impaired programs; public safety, including E-911; Eligible Telecommunications Carrier status; carrier of last resort; or Section 251 and 252 interconnection and wholesale obligations under the Telecommunications Act."¹ Since the filing, initial discovery by Staff and Public Counsel indicates that the level of competition faced by Frontier varies significantly between services and geographic areas. Accordingly, Public Counsel

¹ Docket UT-121944, *Frontier Communications Northwest Inc's Replacement Amended Petition for Approval of Minimal Regulation in Accordance with RCW 80.36.320*, ¶ 2.

supports the recommendation of the CLEC Intervenor's in their motion,² that should the Commission decline to dismiss the Petition altogether, that "the Commission deem the Petition to be a request for competitive classification of Frontier's retail services pursuant to RCW 80.36.330.

2. DATED this 14th day of March, 2013.

ROBERT W. FERGUSON
Attorney General



Simon J. Fitch
Senior Assistant Attorney General
Public Counsel Division

² CLEC Intervenor's Joint Motion to Dismiss, ¶¶ 44-46.
PUBLIC COUNSEL RESPONSE TO
CLEC INTERVENORS' JOINT
MOTION TO DISMISS
DOCKET UT-121994

Docket UT-121994

FRONTIER COMPETITIVE CLASSIFICATION

I hereby certify that a true and correct copy of the Public Counsel Response to CLEC Intervenor's Joint Motion to Dismiss was sent to each of the parties of record shown below in sealed envelopes, via: First class mail, postage prepaid and E-Mail.

SERVICE LIST

**** = Receive Highly Confidential; * = Receive Confidential; NC = Receive Non-Confidential**

SERVICE LIST

FRONTIER COMMUNICATIONS

NW, INC.:

Timothy J. O'Connell
Stoel Rives, LLP
One Union Square
600 University St., 36th Fl.
Seattle, WA 98101

FRONTIER

COMMUNICATIONS NW, INC.:

1800 41st Street
Everett, WA 98201

UTC STAFF:

Jennifer Cameron-Rulkowski
Assistant Attorney General
1400 S. Evergreen Park
Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128

LEVEL 3

COMMUNICATIONS LLC:

Gregory T. Diamond
Regulatory Counsel
1505 5th Avenue Suite 501
Seattle, WA 98101

**INTEGRA TELECOM OF
WASHINGTON, INC.:**

Douglas Denney
Vice President, Costs & Policy
1201 NE Lloyd Blvd. Suite 500
Portland, OR 97232

CBEYOND

COMMUNICATIONS LLC :

320 Interstate North Parkway
Atlanta, GA 30339

**CBEYOND COMMUNICATIONS
LLC :**

Arthur A. Butler
Ater Wynne LLP
601 Union Street Suite 1501
Seattle, WA 98101-3981

**UNITED STATES DEPT OF
DEFENSE(DOD):**

Kyle J. Smith, Esq.
General Attorney
Regulatory Law Office
(JALS-RL)
U.S. Army Legal Services Agency
9275 Gunston Rd, Suite 1300
Fort Belvoir, VA 22060

**TW TELECOM OF
WASHINGTON, LLC:**
Lyndall Nipps
Vice President Regulatory
9665 Granite Ridge DR Suite 500
San Diego CA 92123

**TW TELECOM OF
WASHINGTON, LLC and
CHARTER FIBERLINK:**
Mark Trincherro
Davis Wright Tremaine LLP
1300 SW Fifth Ave Suite 2400
Portland, OR 97201-5630

CHARTER FIBERLINK:
Michael R. Moore
12405 Powerscourt Dr.
St. Louis, MO 63131

DATED: March 14, 2013.



CAROL BAKER
Legal Assistant