

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of)	DOCKET UT-090842
)	
VERIZON COMMUNICATIONS)	
INC. AND FRONTIER)	
COMMUNICATIONS)	
CORPORATION)	NOTICE OF <i>IN CAMERA</i> HEARING
)	(Set for April 17, 2012, 9:30 a.m.)
For an Order Declining to Assert)	
Jurisdiction Over, or, in the Alternative,)	
Approving the Indirect Transfer of)	
Control of Verizon Northwest Inc.)	
)	
.....)	

1 **Background.** By Order 06, Final Order Approving and Adopting, Subject to Conditions, Multiparty Settlement Agreements and Authorizing Transaction, entered, April 1, 2010, the Washington Utilities and Transportation commission (Commission) approved the multiparty settlement agreement (Agreement) entered into between Verizon Communications, Inc., Frontier Communications Corporation (Frontier), and the Commission Staff.¹ In Commitment 15 of that Agreement, Frontier is required to deploy broadband service to no less than 95 percent of Washington wire centers, which is 97 out of a total of 102 Washington wire centers, within two years of closing.² The same commitment also provides a specific target to deploy broadband to 50 percent of the households in each unserved and underserved wire center by the end of 2011.³ In Commitment 14 of the Agreement, Frontier agreed that if it is technically infeasible to fulfill one or more of the broadband objectives in Commitment 15, it must immediately (within 30 days of determining the technical

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

² Order 06 ¶52. This transaction closed on July 1, 2010.

³ Order 06, Appendix A, Attachment 1 ¶ 15.

infeasibility) submit to the Commission a detailed report identifying the technical infeasibility and proposing an alternative broad deployment plan that provides at least a similar level of public benefit.⁴ The Commission may accept the alternative plan or it may order a different broadband plan.⁵

2 On December 23, 2011, Frontier filed a report containing “information regarding changes to the . . . broadband extension plan . . . and [replacing] the existing Broadband Alternative Plan.”⁶ The entire report is designated as “Highly Confidential.”

3 **Decision.** We construe Frontier’s pleading as a motion to amend the provisions of Order 06 that require broadband expansion to 50 percent of the households in the unserved and underserved wire centers by the end of 2011. No party filed a response to Frontier’s pleading.

4 Our rule, WAC 480-07-160, governs confidential information and provides specific guidelines for designating information as confidential and for filing such information with the Commission. Frontier’s pleading does not comply with the requirements of WAC 480-07-160. Specifically under WAC 480-07-160(3)(a), any person who submits information under a claim of confidentiality is a “provider.”⁷ A provider may claim protection under this rule only by strict compliance with its requirements and the failure to do so may result in the submission not being accepted as one including confidential information.

5 In particular, a provider must submit the claim of confidentiality at the same time the information is submitted and must state the basis upon which the information is claimed to be confidential and must identify any person (other than the provider) that might be directly affected by disclosure of the information.⁸

⁴ *Id.* ¶ 14.

⁵ *Id.*

⁶ Cover letter dated December 23, 2011.

⁷ WAC 480-07-160(1)(b).

⁸ WAC 480-07-160(3)(a). The rule also provides the criteria for determining that information is confidential in WAC 480-07-160(2).

6 In its cover letter, Frontier states that the entire document is highly confidential. Because the Commission must craft an order that gives at least some rationale for its decision, designation of the entire document as highly confidential does not give the Commission any information on which it can base its decision if the order itself is to be publicly available. In other words, there is no *public* information that allows the Commission to grant, in an order to be made public, Frontier's motion to amend the existing broadband plan and establish appropriate conditions and deadlines. Accordingly, we conclude that the most efficient and cost-effective way to address Frontier's motion is to conduct an *in camera* proceeding in order to ascertain what information on which the Commission may rely. Only those individuals who have signed a Protective Agreement and agreed to abide by the terms and conditions of Order 01, Protective Order, entered July 23, 2009, will be permitted to participate in the *in camera* proceeding.

7 **THE COMMISSION GIVES NOTICE That it will hold an *in camera* hearing in this matter at 9:30 a.m., on Tuesday, April 17, 2012, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

8 In the alternative, Frontier may prepare a revised pleading that complies with the content and filing requirements of WAC 480-07-160 including clearly highlighting the information it believes is highly confidential,⁹ stating the basis for the designation, and identifying the persons who would be directly affected by the disclosure. Frontier must file the revised pleading together with a draft order granting the relief it requests. If Frontier selects this alternative, the revised pleading and draft order must be filed no later than **Tuesday, April 10, 2012**. The Commission would then determine whether it has enough publicly available information to allow it issue an order without the need for the April 17 hearing.

DATED at Olympia, Washington, and effective March 28, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER

⁹ WAC 480-07-160(3)(c)(ii).

Executive Director and Secretary