

**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)	CONFIRMATION OF <i>IN CAMERA</i>
)	HEARING
For an Order Declining to Assert)	(Set for April 17, 2012, 9:30 a.m.)
Jurisdiction Over, or, in the Alternative,)	
Approving the Indirect Transfer of)	
Control of Verizon Northwest Inc.)	
)	
.....)	

1 On March 28, 2012, the Washington Utilities and Transportation Commission (Commission) issued a Notice of *in Camera* Hearing (Notice). The purpose of the hearing is to address the highly confidential report that Frontier Communications Corporation (Frontier or Company) filed on December 23, 2011, purporting to change the plan for deployment of broadband services the Commission previously approved in Order 06. Specifically, the Notice states that the Commission will determine whether the Company has provided sufficient public information to allow the Commission to issue an order to be made public granting what the Commission has construed as Frontier’s motion to amend the existing broadband plan and establish appropriate conditions and deadlines.

2 As an alternative to the hearing, the Notice provided that Frontier could file a revised pleading by April 10, 2012, that complies with the provisions of WAC 480-07-160 governing confidential information, including the requirement that the Company state the basis for its highly confidential designation. The Commission would then determine whether it has enough publicly available information to allow it to issue an order without the need for the April 17 hearing.

3 On April 10, 2012, Frontier filed a Request for Acceptance of Revised Broadband Plan Report, Request for Confirmation of Treatment of Confidential and Highly Confidential Documents Filed, and Request for Clarification of Future Document Handling (Frontier Request). The Request states that it “constitutes Frontier’s

election of the alternative of filing a revised pleading.”¹ Frontier asks that the Commission accept the Company’s Revised Broadband Plan Report (Report) attached as Exhibit A to the Frontier Request. The Company also requests that “the Commission confirm and conclude that all previously designated and provided Highly Confidential and Confidential documents be afforded continuing treatment as originally designated” and “direct Staff and Frontier to jointly agree to procedures for handling Confidential and Highly Confidential documents on a going forward basis.”²

4 The Commission determines that Frontier has not provided sufficient publicly available information to allow the Commission to issue an order without the need for the April 17 hearing. The Report, unlike its predecessor, is not designated as highly confidential in its entirety, but the Company has designated the vast majority of document as highly confidential. Information on which the Commission would need to rely to render a decision to accept or reject the Report remains designated as highly confidential and thus publicly unavailable.

5 In addition, Frontier has not complied with the requirement in the Notice and in WAC 480-07-160(3)(a) that the Company state the basis on which the information is claimed to be highly confidential. Frontier states only that it has consistently designated this and comparable information as highly confidential or confidential without objection and that it “fall[s] within the provisions of . . . the Protective Order and of WAC 480-07-160.”³ Past practice is not a basis for a proper designation of information as confidential or highly confidential. Nor can Frontier state, without more, that the information falls within the protective order and the Commission rule. Rather, the Company has the burden to prove that disclosure of information it has designated as highly confidential “truly might impose a serious business risk if disseminated with the heightened protections” in the protective order.⁴

6 The Frontier Request, moreover, seeks an affirmative Commission finding that not only the Report but all information the Company has designated in this proceeding as highly confidential or confidential has been properly designated. The Commission cannot make such a finding without a hearing, including factual evidence sufficient to

¹ Frontier Request at 1. The Request does not comply with the requirement in WAC 480-07-395(1)(a) that paragraphs in pleadings be numbered. Accordingly, pin citations to this document are to page numbers.

² *Id.* at 12.

³ *Id.* at 4.

⁴ Order 01 ¶ 12.

satisfy Frontier's burden of proof.⁵ By its own request, as well as the insufficiency of its filing, Frontier has necessitated the April 17 hearing.

- 7 The Commission, therefore, will conduct the *in camera* hearing on April 17, 2012, as scheduled. The Commission anticipates that after convening the hearing, the Commission will direct that the proceedings go off the record for an informal discussion designed to resolve the matter. If you are unable to attend the hearing in person, you may attend via telephone. Persons desiring to participate via telephone must make advance reservations by calling Ms. Kippi Walker at (360) 664-1139, no later than 12:00 p.m. (noon) on Monday, April 16, 2012.

DATED at Olympia, Washington, and effective April 12, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge

⁵ See *id.* ¶¶ 28-29.