

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of	)	DOCKET UT-090842
	)	
VERIZON COMMUNICATIONS INC.	)	
AND FRONTIER COMMUNICATIONS	)	ORDER 10
CORPORATION	)	
	)	
For an Order Declining to Assert	)	ORDER GRANTING REVISED
Jurisdiction Over, or, in the Alternative,	)	PETITION TO AMEND ORDER 06
Approving the Indirect Transfer of	)	
Control of Verizon Northwest Inc.	)	
	)	
.....	)	

**BACKGROUND**

- 1 By Order 06, Final Order Approving and Adopting, Subject to Conditions, Multiparty Settlement Agreements and Authorizing Transaction, entered April 16, 2010 (Order 06), the Washington Utilities and Transportation Commission (Commission) approved the multiparty settlement agreement (Agreement) entered into between Verizon Communications, Inc., Frontier Communications Corporation, and the Commission Staff (Staff), as well as other settlement agreements, resolving the issues arising from the application for Commission approval of indirect transfer of control of Verizon Northwest Inc., now Frontier Communications Northwest Inc. (Frontier or Company).<sup>1</sup>
  
- 2 Commitment 19 of the Agreement requires three augmentations to Frontier’s Service Performance Guarantee (SPG) program. Frontier agreed to maintain these augmentations for a minimum of two years, after which the Company could petition the Commission to be relieved of that obligation.<sup>2</sup> Commitment 15 of the Agreement

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<sup>1</sup> 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.

<sup>2</sup> Order 06 ¶ 177.

contains broadband deployment requirements. Frontier committed to deploy broadband service to no less than 95 percent of the Company's Washington wire centers within two years and to make broadband service available to approximately 89 percent of the households in aggregate within Frontier's existing footprint by the end of 2014 (and 85 percent of households in aggregate in underserved wire centers by the end of 2013).<sup>3</sup>

3 On September 17, 2013, Frontier filed a Petition to Amend the Agreement (Petition). The Petition sought three modifications: (1) eliminate the earnings review required under Commitment 2 of the Agreement; (2) remove the augments to the Company's SPG program; and (3) allow a satellite broadband program Frontier has developed to satisfy the Company's broadband expansion commitments.

4 Frontier subsequently negotiated these requested amendments with Staff and Public Counsel, and on October 6, 2013, filed a Revised Petition to Amend Order 06 (Revised Petition). The Company represents that Staff and Public Counsel have agreed with the relief requested in the Revised Petition. No party filed a response.

5 In the Revised Petition, Frontier no longer requests a waiver of the earnings review, but the Company continues to seek relief from the three augments to its SPG program. Frontier proposes to revert to crediting customers \$25 (rather than the augmented \$35) for missed service installation or repair appointments, as well as prorated credit adjustments for outages that last longer than 24 hours. In addition, the Company would discontinue offering alternative service in the event basic service is unavailable and the \$5 credit for any out-of-service condition that exceeds two days.

6 Frontier also requests a modification to one of the broadband deployment commitments in Order 06. The Company represents that it has satisfied most of those commitments and continues to expand broadband availability in its service territory. As part of those continuing efforts, Frontier has entered into a partnership with HughesNet to provide "Frontier Broadband," a satellite-based broadband service with download speeds ranging from five to 15 megabits per second (Mbps) and one to two Mbps upload. "Frontier specifically asks the Commission to permit alteration of the Agreement to allow the company to recognize Frontier Broadband availability in five specific under-served exchanges in order to meet the eighty-five percent broadband availability in each underserved wire center by the end of calendar year 2013

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<sup>3</sup> *Id.* ¶ 52 & Appendix A, Attachment 1 ¶ 15.

commitment.”<sup>4</sup> Frontier states that these five exchanges currently have between 51 and 70 percent broadband availability, but increasing that percentage to 85 using wireline digital subscriber line (DSL) facilities would cost \$5 million to enable service to approximately 2,650 households, which would not be a prudent infrastructure investment.

- 7 As an alternative to this DSL investment, the Company proposes to make its satellite-based Frontier Broadband service available to the customers in the five exchanges. Frontier would offer that service at the same price as the Company’s DSL-based broadband service through December 31, 2015, and would publicize the availability of the Frontier Broadband service via direct mail and a press release. The Company would also provide a confidential report to the Commission by May 31, 2016, detailing the number of potential subscribers eligible for the discounted offering and detailing the number of customers in each exchange who subscribed to that service as of June 30, 2014; December 31, 2014; June 30, 2015; December 31, 2015; and March 31, 2016. Frontier maintains that “Frontier Broadband offers an opportunity to satisfy a regulatory commitment while meeting market and consumer demands elsewhere and therefore should be judged in the public interest.”<sup>5</sup>

### DECISION

- 8 We find that Frontier’s proposed modifications to Order 06 are reasonable and consistent with both the Commission’s objectives underlying that order and the reduced regulation of the Company that the Commission recently approved in Docket UT-121994. We agree that the Commission should no longer require the augments to Frontier’s SPG and that the Frontier Broadband service as the Company describes it will provide customers in the five underserved wire centers with an acceptable form of access to broadband service.
- 9 The augments to Frontier’s SPG required in Order 06 were designed to ensure that the Company’s service quality did not suffer as a result of the ownership change the Commission approved in this docket. We are not aware of any significant decline in Frontier’s service quality since the transfer of ownership and thus this condition appears to have satisfied its intended purpose. Since entering Order 06, moreover, the Commission has recognized that most of Frontier’s local exchange services are subject to effective competition and that the market should play a greater role in

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<sup>4</sup> Revised Petition ¶ 12. The five exchanges are Entiat, Manson, Newport, Quincy, and Deming.

<sup>5</sup> Revised Petition ¶ 18.

disciplining the rates, terms, and conditions of those services. The Commission continues to oversee and enforce the Company's service quality obligations, but we agree with Frontier, Staff, and Public Counsel that the augmentations to the Company's SPG are no longer necessary at this time.

- 10 We thus amend Order 06 to remove the augments to Frontier's SPG. We, of course, reserve the ability to revisit the sufficiency of the SPG or the Commission's service quality rules should the need arise in the future.
- 11 The conditions on broadband service deployment to which Frontier agreed similarly were intended to maintain or enhance the Company's incentive to make these services available to all of its customers, regardless of where they live. We commend Frontier for meeting or exceeding many of those conditions, and we agree that the Frontier Broadband service described in the Revised Petition is consistent with the goals in Order 06. The development of a satellite-based service to provide broadband to customers in remote locations confirms the continuing transformation of the telecommunications market we recognized in our order in Docket UT-121994 classifying most of Frontier's services as competitive. The Company should not be required to invest in landline facilities when a far less expensive option is available to provide comparable broadband service at the same price to consumers.
- 12 We therefore amend Order 06 to permit Frontier to rely on its Frontier Broadband service as described in the Revised Petition to satisfy the conditions that the Company make broadband service available to approximately 85 percent of households in aggregate in the five specified underserved wire centers by the end of 2013 and those wire centers' contribution to the approximately 89 percent of the households in aggregate to which Frontier must make broadband service available by the end of 2014. Again, however, we reserve the ability to amend this determination if the Frontier Broadband service the Company provides to the customers in these wire centers is not as described or if Frontier does not comply with the conditions it proposes in its Revised Petition.

### **ORDER**

THE COMMISSION ORDERS, That Order 06 is amended as follows:

- 13 (1) Frontier Communications Northwest Inc. is no longer obligated to offer customers the augments to its Service Performance Guarantee program described in paragraph 177 and Appendix A, Attachment 1, paragraph 19.

- 14 (2) Frontier Communications Northwest Inc. may rely on its satellite-based Frontier Broadband service to satisfy its obligation to make broadband service available to approximately 85 percent of households in the Entiat, Manson, Newport, Quincy, and Deming wire centers as required in paragraph 52 and Appendix A, Attachment 1, paragraph 15, upon the following conditions:
- (a) Frontier Communications Northwest Inc. offers and provides its Frontier Broadband service to customers in those wire centers at the same price as the Company's DSL-based broadband service through December 31, 2015;
  - (b) Frontier Communications Northwest Inc. publicizes the availability of the Frontier Broadband service in the five exchanges via direct mail and a press release; and
  - (c) Frontier Communications Northwest Inc. files a report with the Commission by May 31, 2016, detailing the number of potential subscribers eligible for Frontier Broadband service in the five exchanges and detailing the number of customers in each exchange who subscribed to that service as of June 30, 2014; December 31, 2014; June 30, 2015; December 31, 2015; and March 31, 2016.

Dated at Olympia, Washington, and effective February 5, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner