

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Frontier Communications )	Docket No. UT-
Northwest Inc.'s Petition to be Regulated )	FRONTIER COMMUNICATIONS
as a Competitive Telecommunications )	NORTHWEST INC.'S PETITION FOR
Company Pursuant to RCW 80.26.320 )	APPROVAL OF MINIMAL
)	REGULATION IN ACCORDANCE
)	WITH RCW 80.36.320
_____)	

**I. INTRODUCTION**

1. This petition is filed by Frontier Communications Northwest Inc. ("Frontier"), 1800 41<sup>st</sup> Street, Everett, Washington 98201. Frontier is represented in this matter by:

Kevin Saville  
Vice President & Associate General Counsel  
Frontier Communications Corporation  
2378 Wilshire Blvd.  
Mound, Minnesota 55364  
Phone: (952) 491-5564  
Fax: (952) 491-5577  
e-mail: Kevin.Saville@FTR.com

Timothy J. O'Connell  
Stoel Rives, LLP  
One Union Square  
600 University St., 36th Floor  
Seattle, WA 98101  
Phone: (206) 386-7562  
Fax: (206) 386-7500  
e-mail: tjoconnell@stoel.com

2. Frontier hereby petitions the Washington Utilities and Transportation Commission ("Commission") to classify the company and its telecommunications services as a competitive telecommunications company pursuant to RCW 80.36.320 and WAC 480-121-061. The geographic area for which Frontier requests competitive classification includes all of its serving areas (102 wire centers) in the state of Washington. This request 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. Frontier remains committed to fulfilling these obligations.

3. By this Petition, Frontier demonstrates that the company and its services are subject to effective market competition and therefore classification of the company as a competitive

telecommunications provider in accordance with RCW 80.36.320 and WAC 480-121-061 is in the public interest.

## II. STATUTORY AUTHORITY

4. The Commission's statutory authority to grant Frontier's Petition for Competitive Classification is set forth in RCW 80.36.320(1):

*The commission shall classify a telecommunications company as a competitive telecommunications company if the services it offers are subject to effective competition. Effective competition means that the company's customers have reasonably available alternatives and that the company does not have a significant captive customer base. In determining whether a company is competitive, factors the commission shall consider include but are not limited to:*

- (a) The number and sizes of alternative providers of service;*
- (b) The extent to which services are available from alternative providers in the relevant market;*
- (c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and*
- (d) Other indicators of market power which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.*

*The commission shall conduct the initial classification and any subsequent review of the classification in accordance with such procedures as the commission may establish by rule.*

5. Pursuant to RCW 80.36.310, Frontier requests that this petition be granted effective February 1, 2013. Should the Commission suspend the effective date and schedule hearings, then pursuant to this statute, a final order should be entered within six months from the date of filing. RCW 80.36.310(2).

## III. POLICY CONSIDERATIONS

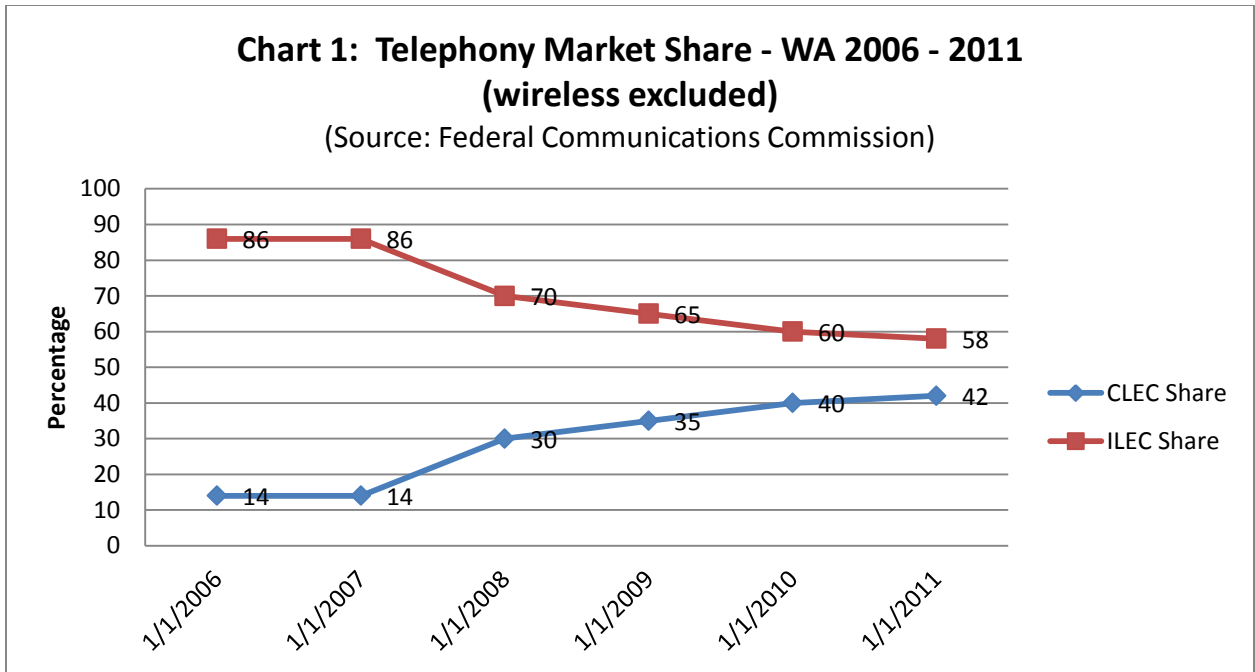
6. In accordance with RCW 80.36.300, it is the policy of the state to "... (5) Promote diversity in the supply of telecommunications services and products in telecommunications markets

throughout the state; and (6) Permit flexible regulation of competitive telecommunications companies and services.”

7. Consistent with this policy, and as supported by the facts in the Petition, Frontier urges the Commission to approve this Petition for competitive classification of the company. Frontier’s petition demonstrates that the number of competitive local exchange carriers (CLECs) subject to the Commission’s regulation, as well as numerous alternative service providers outside Commission regulation such as cable, wireless and VoIP providers, and their provision of business and residential services as described in this Petition, have irreversibly created an environment in Frontier’s service area where customers have reasonable service alternatives and Frontier does not have a significant captive customer base.
  
8. Alternative service provider competitors offer equivalent or substitute services that are comparable to Frontier’s service offerings on the basis of product design, price and availability. These alternative providers have captured a significant share of the market for business and residential telecommunications services and additional features. Frontier is no longer the largest or predominant provider of telecommunications service. Data released by the Federal Communications Commission (“FCC”) and reflected below in Chart 1 shows that CLECs have consistently expanded their market share of subscriber lines in Washington.<sup>1</sup>

---

<sup>1</sup> “Local Telephone Competition: Status as of June 30, 2011” Industry and Technology Division, Wireline Competition Bureau, Federal Communications Commission, June 2012, Table 12 (page 23).



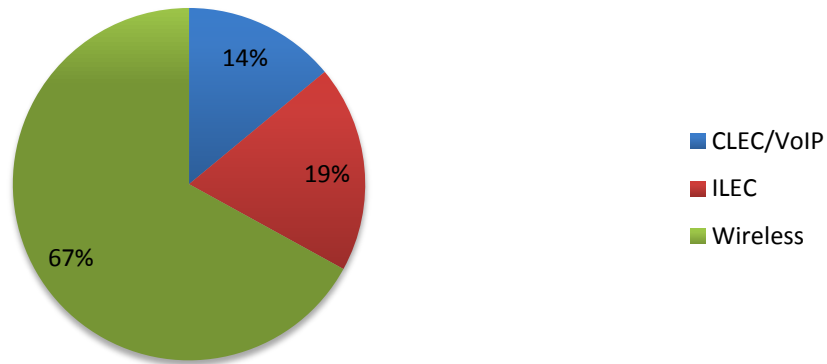
As of June 2011 competitive local exchange carriers had a 42% market share of the traditional landline telephony service as compared to 58% for incumbent carriers including Frontier.<sup>2</sup>

9. Wireless alternative service providers are now the predominant voice service provider in Washington and served 6.1 million subscribers in Washington as of June 2011 as compared to a combined 2.9 million subscribers for ILEC and non-ILEC access line providers of voice services when wireless carriers are included. As a result, the number of access lines served by ILECs as a percent share of consumers subscribing to voice service has declined precipitously to 19% of the total voice service lines as of June 2011.<sup>3</sup>

<sup>2</sup> “Local Telephone Competition: Status as of June 30, 2011” Industry and Technology Division, Wireline Competition Bureau, Federal Communications Commission, June 2012, Table 9 (page 20).

<sup>3</sup> “Local Telephone Competition: Status as of June 30, 2011” Industry and Technology Division, Wireline Competition Bureau, Federal Communications Commission, June 2012, Tables 9 and 18. As of June 30, 2011 in Washington, wireless providers served 6,118,000 subscribers (67%), ILECs served 1,772,000 subscribers (19%) and CLEC/VoIP providers served 1,224,000 subscribers (14%).

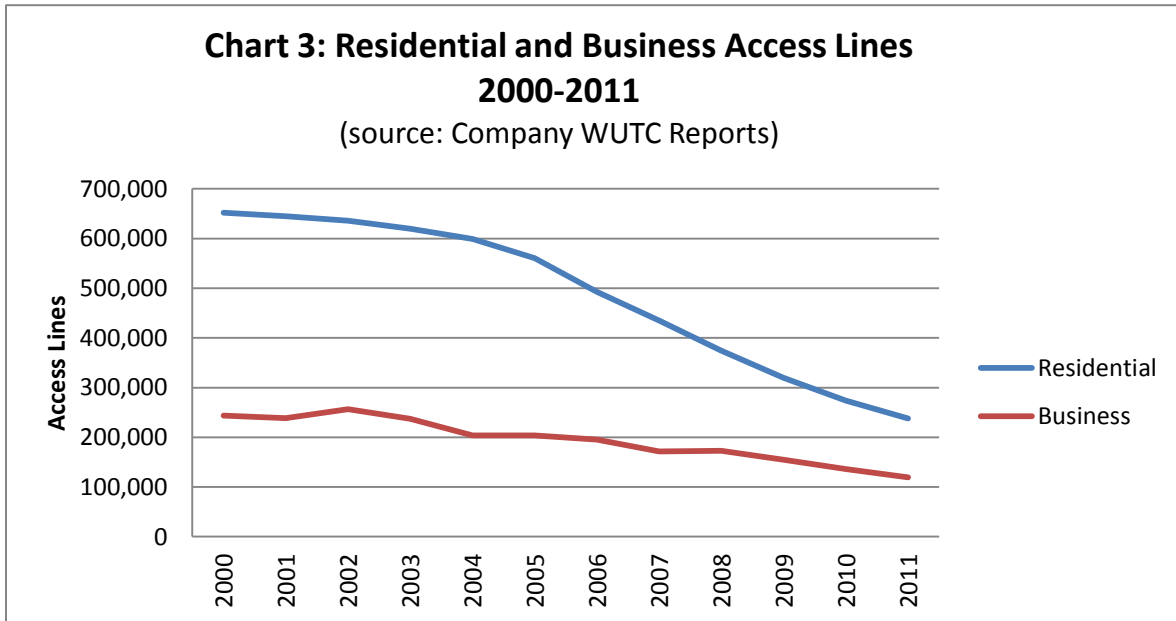
**Chart 2: 2011 Telephony  
Switched Access Lines per ILEC, CLEC, Interconnected VoIP  
& Mobile Subscribers  
(source: Federal Communications Commission)**



10. The fact that Frontier has experienced and is confronting significant competition from CLEC, VoIP and wireless alternative service providers is evidenced by the Company's dramatic loss of access lines in Washington in the last twelve years. Chart 3 below shows the downward trend in both the number of residential and business access lines since 2000 for Frontier. During the period between 2000 and 2011, the number of access lines served by Frontier in Washington declined from 895,435 to 357,348.<sup>4</sup>

---

<sup>4</sup> Declaration of Carl Gipson, Paragraph 5.



11. Between 2000 and 2011, Frontier lost over four hundred thousand residential retail access lines (from 651,680 access lines to 237,744 access lines) in Washington. This represents a 64% reduction in residential retail access lines during a period of time where U.S. Census data shows the population in Washington has increased by almost 16%.<sup>5</sup> Similarly, Frontier has experienced a 51% decrease in the number of business access lines in the same period, (from 243,755 access lines to 119,604 access lines) for a combined aggregate line loss of 60%.

12. Moreover, between January 1, 2012 and September 30, 2012, Frontier lost an additional 14,000 access lines (from 357,348 access lines to 342,869 access lines) since year-end 2011. The continuing and dramatic access line decreases during a time of population growth shows that consumers are subscribing to competitive alternatives to Frontier’s services to fulfill their telecommunications needs in Washington. As the preceding evidence makes clear, Frontier does not have a significant captive customer base for residential or business services.

<sup>5</sup> Declaration of Carl Gipson, Paragraph 6.

#### IV. RCW 80.36.320 and WAC 480-121-062 FACTORS

13. RCW 80.36.320 requires the Commission to consider, at a minimum, the following factors in determining whether a to classify a telecommunications company as a competitive telecommunications company:

- A. The number and size of alternative providers of services;
- B. The extent to which services are available from alternate service providers in the relevant market;
- C. The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms and conditions; and
- D. Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

14. WAC 480-121-061 also provides that the Company requesting Competitive Classification show that it is subject to effective competition. Effective competition means that customers of the service(s) have reasonably available alternatives and that the company does not have a significant captive customer base for the service(s).

15. Frontier will address each of the factors in RCW 80.36.320 and WAC 480-121-061 below.

**A. The number and size of the alternative providers of services.**

16. CLECs are one category of the alternative providers of business and residential telephony services in Frontier's Washington service area. According to Commission records, 181 CLECs were registered with the Commission a service providers as of October 2, 2012.<sup>6</sup> Frontier has entered into interconnection agreements with 101 of these CLECs to enable the CLEC to provide telecommunication service in Frontier's service territory in Washington. The list of the 101 CLECs with interconnection agreements with Frontier is included in Exhibit 1.<sup>7</sup>

---

<sup>6</sup> See Declaration of Carl Gipson, Paragraph 7.

<sup>7</sup> Declaration of Carl Gipson, Paragraph 8.

17. Another significant category of alternative service providers competing with Frontier includes the traditional cable television companies. Companies such as Comcast, Charter Communications and Wave Broadband compete with Frontier and provide telephony service either on a stand-alone basis or as part of a bundle of telephone/Internet/cable service using their video network infrastructure in Washington. In 91 of the 102 wire centers Frontier operates in Washington, a cable company provides service and competes with Frontier for customers.<sup>8</sup> Exhibit 2 is a list of cable providers in Frontier's Washington wire centers. The 91 exchanges with a competitive cable provider represent over 98% of Frontier's access lines.<sup>9</sup>

18. A third category of alternative service providers are the commercial mobile radio service (wireless) providers. AT&T Wireless, Verizon Wireless, T-Mobile, Sprint and a host of smaller wireless carriers in Washington offer services that are comparable or a substitute service for the telephone service provided by Frontier. Frontier has entered into interconnection agreements with fourteen of these wireless providers to exchange traffic in Frontier's service territory in Washington. The list of the fourteen wireless carriers with interconnection agreements with Frontier is included in Exhibit 3.<sup>10</sup> In addition, Exhibit 4 is a list of alternative service wireless providers providing service in each Frontier exchange.<sup>11</sup> According to this public information, there is at least one wireless service provider in every Frontier exchange in this state.

19. A fourth category of alternative service providers include the Voice over Internet Protocol (VoIP) service providers. VoIP providers include Vonage, Magic Jack, as well as many others. Services offered by these providers compete with Frontier's traditional voice wireline

---

<sup>8</sup> Declaration of Carl Gipson. Paragraph 9.

<sup>9</sup> *Id.*

<sup>10</sup> Declaration of Carl Gipson, Paragraph 10.

<sup>11</sup> Declaration of Carl Gipson, Paragraph 11.



offering. As long as a customer has access to a broadband connection, he or she can utilize the VoIP service to initiate and receive calls through the publicly-switched telephone network.<sup>12</sup> These VoIP providers are able to offer similar calling features as Frontier and other ILECs and CLECs such as number portability, voicemail, call waiting, 3-way calling, caller ID block, callerID, and others.

20. The alternative service providers operating and competing in Frontier's service territory range from large companies such as AT&T, Comcast, Charter Communications, Sprint, Verizon Wireless and Integra Telecom to small companies such as Astound Broadband and YMax Communications. Frontier does not have access to the confidential access line count information and revenue data specific to its competitors operating in Washington. Therefore, in Exhibit 5, Frontier has summarized publicly available data for several of the alternative service providers operating in Frontier's service area in Washington and the companies' parent company annual revenues and number of employees.<sup>13</sup>

**B. The extent to which services are available from alternative providers in the relevant market.**

21. The alternative service providers have clearly been successful in competing with Frontier as evidenced by the persistent and continuing loss of access lines by Frontier. As noted above, Frontier has experienced a 62% reduction in the number of access lines it serves in Washington from 895,435 as of January 1, 2001 to 342,869 as of September 30, 2012. This loss of access lines has been ubiquitous across Frontier's exchanges in that all but one of Frontier's 102 exchanges has experienced line losses since 2009. Exhibit 6 identifies the access line loss, by year and by exchange since 2009.<sup>14</sup>

---

<sup>12</sup> Declaration of Carl Gipson, Paragraph 12.

<sup>13</sup> Declaration of Carl Gipson, Paragraph 13.

<sup>14</sup> Declaration of Carl Gipson, Paragraph 14.

22. As reflected above and in Exhibit 2, in 91 of the 102 Frontier wire centers, which represents over 98% of Frontier's access lines, a cable company provides service and competes with Frontier for customers.<sup>15</sup>
23. As reflected above and in Exhibit 4, there is at least one wireless alternative service provider in every Frontier exchange in Washington.<sup>16</sup>
24. As further support to demonstrate the extent to which competitive services are available in Frontier's service area, Frontier has completed a ZIP code analysis using FCC Form 477 information regarding the ZIP code location where CLECs and non-ILEC interconnected VoIP providers provide service in Washington. The FCC data shows that 97.5% of the ZIP codes in Washington served by Frontier have at least one CLEC or non-ILEC interconnected VoIP provider serving the Frontier service area.<sup>17</sup> In fact, out of the 151 Washington ZIP codes served by Frontier, 95 ZIP codes have more than ten alternative providers (many with more than 30). The following chart and Exhibit 7 provide a summary breakdown of the number of alternative providers (CLEC and Interconnected Non-ILEC VoIP providers) in the 151 ZIP codes in which Frontier operates in Washington.

---

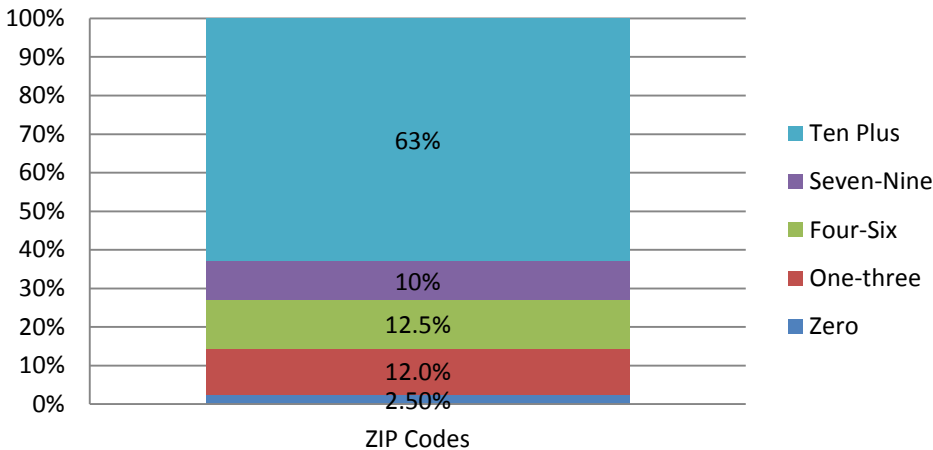
<sup>15</sup> Declaration of Carl Gipson, Paragraph 9.

<sup>16</sup> Declaration of Carl Gipson, Paragraph 11.

<sup>17</sup> Declaration of Carl Gipson, Paragraph 15.

**Chart 4: Percentage of Frontier-Served Zip Codes With CLEC or Interconnected Non-ILEC VoIP Competition**

(source: FCC Form 477 Data)



25. The effectiveness of the alternative service providers in Frontier’s service territory in Washington is further highlighted by the fact that in a seven month period from March 1, 2012 through September 30, 2012, Frontier completed the outgoing port of more than 15,000 access lines to a combination of more than 30 different competitors in Frontier’s Washington service territory. Ninety-one of Frontier’s 102 exchanges ported out numbers in this brief seven month period, which demonstrates the broad scope of the service availability from alternative providers in Frontier’s service area. A listing of exchanges and the number of telephone port outs completed is included in Exhibit 8.<sup>18</sup>

26. Consumers also have the ability to subscribe to telephony service through the cable company serving their area. Frontier has undertaken a review of each of the exchanges in which it operates in Washington and as noted above, a cable company competes with and provides service in 91 of the 102 exchanges in which Frontier operates. Exhibit 2 identifies each Frontier exchange and the cable company that operates in that exchange.<sup>19</sup>

<sup>18</sup> Declaration of Carl Gipson, Paragraph 16.

<sup>19</sup> Declaration of Carl Gipson, Paragraph 9.

27. As noted above, Frontier tracked the number of customer lines that were ported out to competitive alternative service providers between March 1, 2012 and September 30, 2012. During the seven month period, over one-third of the more than 15,000 port-out requests completed by Frontier were to cable providers.<sup>20</sup>
28. In addition to landline competition, Frontier has experienced substantial competition from wireless service providers offering a voice service. This is no surprise given that the wireless trade association CTIA reports that there are now 331 million active wireless phones in the United States, more than one for every man, woman and child.<sup>21</sup> According to the Centers for Disease Control, thirty-four percent of American homes had only wireless telephones during the second half of 2011.<sup>22</sup> Additionally, even with the subscribers with landline telephone service, sixteen percent of American homes received all or almost all of their calls on wireless telephones despite also having a landline phone in their house.<sup>23</sup>
29. Exhibit 9 is a wireless coverage map from the Washington State Department of Commerce, Broadband Program with Frontier exchanges overlaid and includes maps from the state's four largest wireless service providers Verizon Wireless, AT&T Wireless, T-Mobile, and Sprint. These maps demonstrate the ubiquity of wireless alternative service in every Frontier exchange, thereby giving subscribers further choice in telephonic service.<sup>24</sup>
30. As noted above, Frontier tracked the number of customer lines that were ported out to competitive alternative service providers between March 1, 2012 and September 30, 2012.

---

<sup>20</sup> Declaration of Carl Gipson, Paragraph 16.

<sup>21</sup> Declaration of Carl Gipson, Paragraph 17.

<sup>22</sup> Declaration of Carl Gipson, Paragraph 18.

<sup>23</sup> *Id.*

<sup>24</sup> Declaration of Carl Gipson, Paragraph 19.

During this short period, six wireless providers initiated over one thousand number port requests in the seven-month period, demonstrating the viability and scope of wireless service substitutability for Frontier's landline telephone service.<sup>25</sup>

31. The quantity of resold lines unbundled network element (UNE) loop and wholesale advantage (formerly UNE-P) services purchased by alternative providers to compete with Frontier's retail basic business and residential services provides further support for the breadth and extent of competitive service offerings available to consumers in Frontier's Washington service territory. There are currently 50 CLECs purchasing approximately 4,000 resold lines, 15,000 UNE loops and 10,000 UNE-P lines from Frontier in Washington.<sup>26</sup> It is important to note, however, that the quantities and information regarding alternative providers purchasing resale lines, UNE loops and UNE-P does not include any competitive activity in which the CLEC, cable company, VoIP provider or wireless carrier is providing service utilizing its own network or another third party's network other than Frontier's network to provide service.

**C. The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms and conditions**

32. Alternative providers have a variety of methods available to offer services to customers. Companies such as Comcast, Charter, Verizon Wireless and AT&T Mobility have built their own cable, wireless and other facilities in Washington.

33. Frontier's basic exchange services are available to resellers at a wholesale discount of 10.1% off the retail rate.<sup>27</sup> By reselling Frontier's retail services, CLECs have the ability to reach every single business and residential customer that Frontier serves in Washington and to

---

<sup>25</sup> Declaration of Carl Gipson, Paragraph 16.

<sup>26</sup> Declaration of Carl Gipson, Paragraph 20.

<sup>27</sup> Declaration of Carl Gipson, Paragraph 21.

provide the same retail services Frontier currently provides.

34. Alternative providers also provision business services by combining Frontier's unbundled network elements (UNEs) (i.e. unbundled loops) with their own elements or those of a third party. Frontier's rates for UNEs have been established by the Commission in various cost dockets.<sup>28</sup> CLECs also provision retail business services solely from Frontier's wholesale services, utilizing UNE-P, which provides a complete retail service using Frontier unbundled network elements. As with resale, using UNE-P, the alternative provider can reach every location to which Frontier has facilities and provide a functionally equivalent service to the retail service Frontier provides.
35. Customers in Frontier's service territory have a wide variety of services they can purchase from CLECs. An example is Integra Telecom's recent announcement of the launch of their hosted-PBX integrated voice and data service, which competes directly with Frontier's traditionally-regulated Centrex (Versaline) and PBX services. See Exhibit 10.<sup>29</sup> This is only one example of a competitive new service as residential and business subscribers are expected to spend approximately \$377 billion by 2016 on VoIP services.<sup>30</sup>
36. Another example of a residential competitive voice service offering is provided by Comcast. Comcast offers phone service for \$29.99 per month on a stand-alone basis. "This special price is for customers who currently do not subscribe to other XFINITY services." This offer provides 3-way calling, anonymous call rejection, call forwarding, call forwarding selective, call return, call screening, call waiting, caller ID, caller ID blocking per call/line, caller ID

---

<sup>28</sup> See, e.g., *In the Matter of the Review of Unbundled Loop and Switching Rates; the Deaveraged Zone Rate Structure; and Unbundled Network Elements, Transport, and Termination (Recurring Costs)*, Twenty-Fourth Supplemental Order, Docket UT-023003 (Feb. 9, 2005).

<sup>29</sup> Declaration of Carl Gipson, Paragraph 22.

<sup>30</sup> Declaration of Carl Gipson, Paragraph 23.

with call waiting, repeat dialing, and speed dial. Additionally, the “XFINITY Voice: Home Phone Service from Comcast” provides the following language in its advertisement:

XFINITY Voice from Comcast gives you more ways to connect and more ways to save. Not only do you get reliable home phone service with the best call clarity, but you also get unlimited nationwide talk and text – so you can save on your wireless bill too. It’s easy to switch – you can even keep your current home phone number. You’ll get the popular features you expect like Call Waiting, 3-Way Calling and even voicemail, plus features you might not expect like Caller ID on your TV, laptop, and smartphone. If you’re looking to get a new home phone service, switch to XFINITY Voice and make Comcast your home phone service provider.

See Exhibit 11.<sup>31</sup>

37. In addition to stand-alone phone service, Comcast offers various TV/Internet/Phone bundles, starting at \$99 per month. These packages combine cable, internet, and phone service, with a variety of different features including premium channels, faster download speeds, high definition, and DVR service. See Exhibit 12.<sup>32</sup>

38. Similarly, Wave Broadband offers residential telephone service for as low as \$19.95 per month, or \$9.95 per month with cable TV or Internet service. Wave Broadband phone services include local and long-distance calling, voice mail including “online access to your voice mail and settings” and “15 calling features, including Caller ID, Call Waiting, Call Forwarding, and more.” Wave Broadband also offers packages including basic cable, high speed internet, and phone service for as low as \$109 per month customers. See Exhibit 13.<sup>33</sup>

39. Charter also provides phone service to Washington customers for \$29.99 per month. Phone services can be bundled with cable and internet for a total of \$89.97 per month and provide customers with unlimited local and long distance calling, voicemail and “13 popular calling features like call waiting and call forwarding,” and “free 411 calls.” Bundling offers

---

<sup>31</sup> Declaration of Carl Gipson, Paragraph 24.

<sup>32</sup> Declaration of Carl Gipson, Paragraph 25.

<sup>33</sup> Declaration of Carl Gipson, Paragraph 26.

customers more features including faster internet, high definition, premium channels, and On Demand. See Exhibit 14.<sup>34</sup>

40. Vonage provides customers with a VoIP based service to make voice phone calls using a broadband connection. All it requires is a subscription to the service, and then an “Easy 3-Step Vonage Setup: 1. Plug your Vonage Box into your existing high-speed Internet connection. 2. Plug any home phone into the Vonage Box. 3. Pick up your phone and start dialing.” Vonage phone service is available at a low introductory rate of \$9.99 per month and “rates exclude internet service, surcharges, fees and taxes.” Most customers can transfer their current phone numbers to Vonage and customers can check the availability of the transfer through the Vonage website. See Exhibit 15.<sup>35</sup>

41. MagicJack also provides customers with a VoIP based service to make phone calls using a broadband connection. The MagicJack PLUS device can be used with or without a computer. By “either plugging it into your modem/router or by plugging it into a USB port on your computer,” phone calls can be made over “an active Internet connection.” “MagicJack requires one of the following internet connections: Broadband, High-Speed Internet, Cable Internet, DSL, WiFi, Wireless, WiMax” with a required “minimum bandwidth upload speed of 128 kb/s.” MagicJack also allows customers to transfer their phone number to the service for an initial fee, as well as an annual fee. See Exhibit 16.<sup>36</sup>

42. In addition to Vonage, MagicJack and similar consumer VoIP based services, Skype provides free voice and video services to users who download the free Skype software. Users need a webcam, internet connection, and “a computer or mobile device with a microphone and speakers” to access the free services, which include “video and voice calls to anyone else on Skype” and “instant messaging and file sharing.” Additional services available for a fee include “calls to mobiles and landlines worldwide at low rates,” text messages, and group

---

<sup>34</sup> Declaration of Carl Gipson, Paragraph 27.

<sup>35</sup> Declaration of Carl Gipson, Paragraph 28.

<sup>36</sup> Declaration of Carl Gipson, Paragraph 29.



video calls. Skype can even be used from a customer's current landline by using an adapter and internet connection, which allows customers "to make free Skype to Skype calls and great value calls to mobiles and landlines." Unlimited calling to landlines in the US and Canada is available for \$2.99 per month and unlimited worldwide calling for landlines for only \$13.99 per month. See Exhibit 17.<sup>37</sup>

43. As noted above, wireless voice service has become the predominant method of voice communications. Wireless providers offer various plans that include unlimited voice minutes for both local and long distance calls. AT&T Wireless provides unlimited voice calling for as low as \$69.99 per month, which includes voicemail, call forwarding, call waiting, caller ID, long distance calls, and conference calling. Additionally, for a fee, AT&T wireless customers have access to out of the country calls, data and internet services, and text, picture, and video messaging. AT&T also offers wireless "home phone" option with unlimited minutes for \$19.99 per month. See Exhibit 18.<sup>38</sup>

44. T-Mobile provides unlimited nationwide voice calling and unlimited domestic messages (text, picture, and video), including call forwarding, call hold, call waiting, caller ID, conference calling, Customer Care, directory assistance (for an additional charge), and voicemail, at a rate of \$59.99 per month. Data plans and additional storage can be added for higher rates. T-Mobile also provides group plans. See Exhibit 19.<sup>39</sup>

45. Verizon Wireless provides wireless services with unlimited voice calling and texting for \$70 per month, which includes some data as well. Increased data services are available for higher rates, as well as group plans. See Exhibit 20.<sup>40</sup>

---

<sup>37</sup> Declaration of Carl Gipson, Paragraph 30.

<sup>38</sup> Declaration of Carl Gipson, Paragraph 31.

<sup>39</sup> Declaration of Carl Gipson, Paragraph 32.

<sup>40</sup> Declaration of Carl Gipson, Paragraph 33.

46. Sprint provides a “Simply Everything” plan that has unlimited voice minutes, roaming, domestic long distance, unlimited text, pictures, and video messaging, and unlimited data including email and music. Lower rates are available, but with decreasing numbers of minutes. Group plans are also available, at different prices. See Exhibit 21.<sup>41</sup>
47. Exhibit 22 is a summary of other residential and small business competitive offerings compiled by Frontier in Frontier’s service area, including Comcast, Charter, LocalTel, and Wave Broadband for residential services and Comcast, Charter, LocalTel, Wave Broadband, and Integra for business services.<sup>42</sup>
48. Growth in the number of Wi-Fi hotspots are also providing voice options for consumers. Wireless subscribers can also subscribe to nomadic VoIP providers such as Skype so that even if subscribers lack a cellular signal, voice calls can still be made using VoIP over Wi-Fi. As an example, Starbucks offers AT&T Wi-Fi for free in all its company-owned stores in the U.S. Customers, including mobile phone and tablet users, have unlimited access to a Wi-Fi signal with no purchase or subscription required, no password is required and there are no session time limits. There are over 400 Starbucks locations in Washington alone.<sup>43</sup>

**D. Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.**

*Market Share*

49. As noted above, between 2000 and 2011, Frontier lost 64% or over four hundred thousand residential retail access lines (from 651,680 access lines to 237,744 access lines) and 51% business access (from 243,755 access lines to 119,604 access lines) in Washington for a combined aggregate line loss of 60%. See Chart 3 above. Moreover, between January 1, 2012 and September 30, 2012, Frontier lost an additional 14,000 access lines. This data

---

<sup>41</sup> Declaration of Carl Gipson, Paragraph 34.

<sup>42</sup> Declaration of Carl Gipson, Paragraph 35.

<sup>43</sup> Declaration of Carl Gibson, Paragraph 36.

makes it clear that Frontier does not have a significant captive customer base for residential or business services.

50. Exhibit 8 also highlights the downward trend in Frontier's access lines by wire center, further demonstrating the ubiquitous loss of market share throughout Frontier's service territory in Washington.

### Growth in Market Share

51. RCW 80.36.320 identifies growth in market share as an indicator of effective competition. Chart 1 above shows the upward trend of market share for CLEC and interconnected VoIP providers over the last six years. The FCC's recent analysis, "Local Telephone Competition: Status as of June 30, 2011," published by its Wireline Competition Bureau in July 2012, shows that Washington residents and businesses are adopting VoIP/CLEC offerings at a faster rate than the national average – 42 percent for Washington versus 36 percent national average.<sup>44</sup> These data do not include wireless substitution into determining market share, so the 42 percent non-ILEC and VoIP subscribership is the *minimum* amount of market share served by alternative service providers. When wireless is taken into account, as Chart 2 illustrates, the ILEC share of subscribers is decidedly less.

### Ease of Entry

52. As noted above, by using Frontier's network and facilities, CLECs can serve any and all residential and business customers served by Frontier either through resale or UNEs.

53. Notwithstanding reclassification of Frontier as a competitive service provider, Frontier's obligations to provide interconnection services, UNEs and resale pursuant to Sections 251 and 252 of the Telecommunications Act will not be affected.

---

<sup>44</sup> "Local Telephone Competition: Status as of June 30, 2011" Industry and Technology Division, Wireline Competition Bureau, Federal Communications Commission, June 2012, Table 9 (page 20).

54. In addition, this request 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; or carrier of last resort.
55. Exhibits 9 and 10 show that wireless service providers have entered the market and have facilities in place across the state to provide service to compete with Frontier and to provide consumers with choices in terms of services.
56. Cable companies have also entered the market and deployed their own facilities that may be utilized to provide competitive voice service. As noted, Exhibit 2 shows that a cable company competes with and provides service in 91 of the 102 exchanges in which Frontier operates in Washington.
57. Other third party and VoIP providers have also entered the market relying on broadband and other facilities to provide competitive voice services. Companies such as Vonage, MagicJack and Skype provide new low cost choices for subscribers that were not available or even envisioned a short time ago further evidencing the ability of small and previously unknown providers to enter the market now and in the future.
58. The variety and expanding market share of alternative service providers providing voice and other substitute services today, combined with loss of more than sixty percent of its access lines in Washington since 2000, demonstrates that Frontier no longer has the market power or captive customer base to warrant the continuation of the existing regulatory requirements that contemplated a monopoly service provider. Frontier should be classified as a competitive company.

## **V. Conclusion**

59. As evidenced by this petition and the accompanying exhibits and Declaration of Carl Gipson, effective competition for residential and business exchange services clearly exist in Frontier's service territory throughout Washington. Therefore, Frontier should be classified by the Commission as a competitive telecommunications company pursuant to RCW 80.36.320 and WAC 480-120-062 effective February 1, 2013. Subsequent to competitive classification by the

Commission, Frontier will place relevant price lists or catalogs on the company website for public viewing.

Respectfully submitted this 21<sup>st</sup> day of December, 2012.

FRONTIER COMMUNICATIONS  
NORTHWEST INC.

STOEL RIVES, LLP

By: \_\_\_\_\_ /s/

By \_\_\_\_\_ /s/

Kevin Saville  
Vice President & Associate General Counsel  
Frontier Communications Corporation  
2378 Wilshire Blvd.  
Mound, Minnesota 55364  
Phone: 952-491-5564  
Fax: 952-491-5577  
Email: [Kevin.Saville@FTR.com](mailto:Kevin.Saville@FTR.com)

Timothy J. O'Connell  
WSBA No. 15372  
One Union Square  
600 University St., Suite 3600  
Seattle, WA 98101  
Phone (206) 624-0900  
Fax (206) 386-7500  
Email: [tjoconnell@stoel.com](mailto:tjoconnell@stoel.com)