

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of

NORTHWEST FIBER, LLC,
FRONTIER COMMUNICATIONS
CORPORATION, AND FRONTIER
COMMUNICATIONS ILEC
HOLDINGS LLC,

For an Order Declining to Assert
Jurisdiction Over, or, in the Alternative,
Approving the Transfer of Control of
Frontier Communications Northwest,
Inc., to Northwest Fiber, LLC.

DOCKET UT-190574

ORDER 04

GRANTING PETITION TO
AMEND ORDER 03

BACKGROUND

- 1 On February 19, 2020, the Washington Utilities and Transportation Commission (Commission) entered Order 03 in this docket, approving and adopting settlement agreements authorizing the transfer of control of Frontier Communications Northwest now d/b/a Ziplly Fiber (Ziplly Fiber or Company) to Northwest Fiber, LLC. Condition 3a in Appendix A, Attachment A, to that Order (Condition 3a) requires that by the end of 2020, the Company will provide 10 megabits up/one megabit down broadband service in at least 19,713 locations within its service territory as required by the Federal Communications Commission's Connect America Fund requirements.
- 2 On January 15, 2021, Ziplly Fiber filed a petition with the Commission seeking to modify this condition. The Company explains that it fell short of meeting the requisite goal by 763 locations, or 3.87 percent, due to circumstances beyond the Company's control, including construction delays caused by wildfires last summer, COVID-19 exposure and infections, and inclement weather at the end of the year. Ziplly Fiber represents that it will complete the outstanding locations by February 16, 2021, and requests that the Commission modify Condition 3a to reflect this date and take no punitive action against the Company for failure to comply with the original condition.
- 3 No other party responded to Ziplly Fiber's petition.

DISCUSSION AND DECISION

- 4 We grant the Company’s petition. The circumstances Ziplly Fiber describes are *force majeure* events that generally excuse delays in performance of contractual or regulatory performance. The Company has minimized the scope and duration of these events, which affected less than four percent of the required locations and resulted in only a six-week delay in compliance. While Ziplly Fiber did not explain why it did not and could not file its petition until two weeks after the deadline in Order 03, we will not initiate enforcement action against the Company for failure to comply with that deadline in light of the overall circumstances and relatively brief delay.

ORDER

THE COMMISSION ORDERS:

- 5 (1) The Commission amends Condition 3a in Appendix A, Attachment A, to Order 03 to substitute “February 16, 2021” for “the end of 2020.”
- 6 (2) The Commission will not initiate enforcement action against Frontier Communications Northwest, LLC, d/b/a Ziplly Fiber for failure to comply with the deadline in the original Condition 3a.
- 7 (3) Order 03 as amended remains in full force and effect.

Dated at Olympia, Washington, and effective February 16, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner