

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

RIVERCOM 911,  
Complainant,

v.

FRONTIER COMMUNICATIONS  
NORTHWEST INC.  
and  
QWEST CORPORATION, d/b/a  
CENTURYLINK QC

Respondents

Docket No. UT-171016

FRONTIER’S MOTION TO DISMISS

**I. INTRODUCTION**

1. In accordance with WUTC rules WAC 480-07-370, -375, and -380, Frontier Communications Northwest Inc. (“Frontier”) moves the Washington Utilities and Transportation Commission (“Commission” or “UTC”) to dismiss the purported formal complaint by RiverCom 911 (“RiverCom”) for the reasons set out below. Frontier’s motion is timely and in accordance with WAC 480-07-380.

**II. STATUTORY REQUIREMENTS AND COMMISSION RULES FOR FORMAL COMPLAINTS**

2. Complainant completely fails to meet multiple requirements of WAC 480-07-370(1)(a) and (b), and therefore has not perfected a formal complaint.

3. A formal complaint is defined as one filed in accordance with RCW 80.04.110 or 81.04.110, complaints filed under RCW 80.54.030, and Commission complaints. As of this date, this proceeding has not been designated a Commission complaint.

4. RiverCom’s complaint references no statutory basis for the complaint itself, and additionally fails to cite any statute or rule violated by the Respondents. It fails the threshold definition of a formal complaint.

5. The complaint also fails to comply with the requirement that it state any requested relief (see WAC 480-07-370(b)(iii)).

6. The complaint additionally fails to comply with the requirement to provide “Citations to statutes or commission rules the complainant alleges that the respondent has violated and that provide the commission with jurisdiction to resolve the complaint and grant the relief the complainant requests;” (WAC 480-07-370 (b)(iv)).

7. Nor does the complaint comply with WAC 480-07-370 (b)(v), and plead any facts or law sufficient to demonstrate that the complainant has complied with all other prerequisites. In fact, the complainant fails to offer any facts at all regarding its theory on how the outage occurred. RiverCom simply presumes the trouble originated somewhere outside of its operations without offering any shred of evidence to support its assertion.

### ARGUMENT

8. RiverCom’s submission falls far short of the Commission’s requirements for a formal complaint, and it should be dismissed. WAC 480-07-141<sup>1</sup> is clear: the UTC staff should have reviewed RiverCom’s filing for its clear lack of compliance with WAC 480-07-370 and rejected it. Fortunately, the Commission can remedy this situation by exercising its powers to subsequently reject a document found deficient (as enumerated in Section 3), and it should do just that. The Commission rule on formal complaints exists (in part) to ensure that Respondents are on notice of the factual and statutory grounds for the formal complaint, and have notice of the requested relief. Otherwise, Respondents are denied their rule-required notice and as a result, do not get the benefit of the administrative due process they are owed under Washington statutes

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<sup>1</sup> WAC 480-07-141

**Commission receipt of a document is not filing or acceptance.**

The commission receives documents for administrative purposes, and such receipt alone does not constitute filing or legal acceptance of a document.

(1) **Compliance review.** Upon receipt, the commission will review a submission to determine whether it complies with applicable filing requirements prior to accepting it for filing and assigning a docket number, if applicable.

(2) **Notice of, and opportunity to correct, noncompliance.** The commission will identify any areas of noncompliance in the submission and will notify the person who made the submission within two business days, or as soon thereafter as practicable, of any areas of noncompliance that require corrective action before the commission can accept the document for filing. The notification will indicate one of the following:

- (a) A requirement to submit one or more additional documents (e.g., a cover letter, certificate of service, etc.);
- (b) A requirement to resubmit the document with the deficiencies corrected within a specified period of time; or
- (c) Rejection of the document and its return to the sender.

The commission will consider corrected documents to have been filed on the date the original documents were submitted if the deficiencies are not substantive or otherwise do not impair or hamper the commission's ability to timely review, analyze, or act on the merits of the submission. Otherwise, the commission will consider the documents to have been filed on the date the corrected documents are submitted.

(3) **No waiver of noncompliance.** By accepting a submission for filing in a docket or assigning a docket number, the commission does not necessarily certify that the submission complies with all filing requirements or waive the commission's ability to subsequently reject a document as deficient or require deficiencies to be corrected; provided that in the absence of extraordinary circumstances, the commission will not reject a document for failure to comply with applicable filing requirements more than five business days after the document has been submitted, and documents are deemed accepted and filed unless the commission provides notice of noncompliance within that time period.

and specific Commission rules. Moreover, without any requested relief, the Commission has nothing to grant and thus the filing fails to state a claim on which relief can be granted.

#### **IV. CONCLUSION AND REQUESTED RELIEF**

Frontier respectfully moves the Commission to dismiss the RiverCom complaint for its failure to meet the requirements of Commission rules and its administrative due process defects, as noted above.

DATED this 23<sup>rd</sup> day of October, 2017.

Frontier Communications Northwest Inc.



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