

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

FRONTIER COMMUNICATIONS  
NORTHWEST, LLC, d/b/a ZIPLY  
FIBER,

Complainant,

v.

KALAMA TELEPHONE COMPANY,  
Respondent.

DOCKET UT-200751

ORDER 01

DISMISSING COMPLAINT AND  
COUNTERCLAIM

**BACKGROUND**

- 1 On August 18, 2020, Frontier Communications Northwest, LLC, d/b/a Ziplly Fiber (Ziplly Fiber) filed with the Washington Utilities and Transportation Commission (Commission) a formal complaint (Complaint) against Kalama Telephone Company (Kalama). In the Complaint, Ziplly Fiber alleges that Kalama has unlawfully encroached on Ziplly Fiber's service territory. On September 4, 2020, Kalama filed an answer denying the allegations in the Complaint and counterclaimed that Ziplly Fiber has unlawfully encroached on Kalama's service territory (Counterclaim).
- 2 The Commission conducted a virtual prehearing conference in this docket on October 13, 2020. During that prehearing conference, the parties requested a continuance of the proceedings for 90 days to enable their engineers to negotiate a resolution of the dispute. On October 14, 2020, the Commission issued a notice granting that request.
- 3 On January 12, 2021, counsel for Ziplly Fiber informed the presiding administrative law judge that the parties had settled their dispute and were preparing new service territory maps that they intended to include in their respective tariffs. Counsel requested a further continuance for 60 days to complete that process, which the judge granted.
- 4 On March 4, 2021, Ziplly Fiber filed a Motion to Withdraw Formal Complaint (Motion), on the grounds that the parties have settled their dispute. On the same day, Counsel for Kalama filed a letter confirming that settlement and stating that upon the Commission granting the Motion, Kalama withdraws the Counterclaim.

## DISCUSSION AND DECISION

- 5 Once the Commission has initiated an adjudication, a party may withdraw its complaint “on which a proceeding is based, only upon permission granted by the commission in response to a written motion. The motion must include any settlement or other agreement pursuant to which the party is seeking withdrawal.”<sup>1</sup> Zply Fiber filed such a motion but did not include any settlement or other agreement pursuant to which Zply Fiber is seeking withdrawal. Under the unique circumstances of this case, however, the Commission permits Zply Fiber to withdraw the Complaint and Kalama to withdraw its Counterclaim without considering in this docket the revised tariffs that reflect the parties’ settlement of their dispute.
- 6 The Commission has the authority to prescribe exchange area boundaries for telecommunications companies,<sup>2</sup> and company tariffs designate the prescribed areas in which they provide service. The complaint and counterclaim concern a dispute over the service territory boundaries of two incumbent local exchange companies. The Commission commenced an adjudication to resolve that dispute, but at the initial prehearing conference, the parties requested, and the Commission granted, an opportunity for the parties to negotiate a resolution before proceeding any further with the adjudication. Their negotiation was successful and resulted in proposed revisions to each company’s tariff that modify the boundary between them.
- 7 The Commission rule requires the parties to include in their withdrawal requests “any settlement or other agreement pursuant to which [they are] seeking withdrawal,” which in this case would be the revised company tariffs. The Commission, however, generally addresses such tariff filings through the open public meeting process in which Commission regulatory staff (Staff), as well as interested members of the public, can review, analyze, and comment on the filing, and the Commissioners consider the filing and any Staff or public comments in an open meeting. That process is better suited to examining the Zply Fiber and Kalama tariff revisions than considering them as settlement documents in this docket, particularly when the Commission suspended the adjudication before it effectively began.
- 8 Accordingly, the Commission on its own initiative exempts Zply Fiber from the requirement in WAC 480-07-380(3)(a) to include documentation of the parties’

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<sup>1</sup> WAC 480-07-380(3)(a).

<sup>2</sup> RCW 80.36.230.

settlement with the Motion and exempts Kalama from that same requirement with respect to withdrawal of its Counterclaim.<sup>3</sup> Each of the companies has filed a revised tariff in a separate docket,<sup>4</sup> and the Commission will consider those filings through the open public meeting process. Further action in this docket is unnecessary. The Commission, therefore, dismisses the Complaint and the Counterclaim.

**ORDER**

THE COMMISSION ORDERS:

- 9 (1) The Commission dismisses the complaint of Frontier Communications Northwest, LLC, d/b/a Ziplly Fiber against Kalama Telephone Company filed in this docket.
- 10 (2) The Commission dismisses the counterclaim of Kalama Telephone Company against Frontier Communications Northwest, LLC, d/b/a Ziplly Fiber filed in this docket.
- 11 (3) This docket is closed.

Dated at Lacey, Washington, and effective March 10, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Gregory J. Kopta*  
GREGORY J. KOPTA  
Administrative Law Judge

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<sup>3</sup> WAC 480-07-110(1).

<sup>4</sup> See Dockets UT-210134 (Ziplly Fiber revised tariff) and UT-210144 (Kalama revised tariff).