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Mr. Steven King, Executive Director and Secretary
Washington Utilities and Transportation Commission
P. O. Box 47250
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Subject: **Frontier Communications NW Inc. Comments on Commission *Notice* in Docket No. UT-140680**

Dear Mr. King,

On May 9, 2014 the Commission issued a *Notice of Opportunity to File Written Comments* ("Notice") in a rulemaking to consider amending rules in WACs 480-120, -121, -122, -123, -140 and -143, due to competitive changes within the telecommunications industry.

On May 20, 2014 Commission Staff posted in the same docket a draft summary matrix ("Staff Summary") containing redline drafts of WACs to be amended as proposed by Staff.

Frontier appreciates the opportunity to comment on this important rulemaking proceeding. As the Notice states, due to competitive changes within the telecommunications market, the rules should be examined to see which should be removed, amended, or left in place in order to better serve customers. The Commission's rules should indeed reflect the reality of the current telecommunications market.

Addressing Notice Questions

1. **Validity of distinguishing between Class A and Class B ILECs.**

Classification of LECs into Class A and Class B holds little relevance in today's market. There exist only two large traditional ILEC entities in Washington -- CenturyLink and Frontier. According to the latest FCC data available, Washington state has approximately 1.4 million ILEC access lines, whereas non-ILEC wireline providers serve approximately 1.3 million residential switched and VoIP access lines (the data do not distinguish between large and small LECs).[1]

However, the same FCC report states that wireless providers in Washington serve over 6.4 million subscribers (at the end of 2012, sure to be higher today).[2] Frontier does not have a wireless affiliate.

The *Notice* states that the Commission wishes to update its rules to reflect the reality of today's telecommunications marketplace and no data point illustrates the reality better. The number of wireless subscribers in Washington is almost level with population (6.4 million wireless subscribers year-end

[1] "Total End-User Switched Access Lines and VoIP Subscriptions by State as of December 31, 2012," Local Telephone Competition: Status as of December 31, 2012. Federal Communications Commission, page 20, available at: https://apps.fcc.gov/edocs_public/attachmatch/DOC-324413A1.pdf
[2] Ibid at 29.

2012; 6.8 million people in Washington year-end 2012)[3] and is over four-and-a-half times the number of ILEC access lines.

The Commission should embrace competitive neutrality and eliminate the Class A/Class B distinction where it is not required by federal rules or for accounting purposes. In years past perhaps it made more sense to stratify the LECs into large and small, thereby setting up a regulatory relief system that alleviated administrative headaches for smaller providers. However, in today's environment such a system that ignores large and small non-traditional telecom providers serves little purpose.

2. Applicability of Carrier of Last Resort responsibilities in a competitive environment.

Historically, carrier of Last Resort (COLR) obligations played an important part in ensuring federal and state universal service policies. For over one hundred years the challenge in telephony has been to extend the network to remote areas so that everyone, rich or poor, rural or urban, could at least access basic telephone services.

Today's telecommunications market continues to undergo radical changes through convergence of telephony, video and data services. On the federal level, Congress and regulators are generally pushing for universal service of broadband availability through various mechanisms. And while states do not have the same jurisdiction over information services, state legislators and regulators are also trying to achieve some sort of universal service for today's information needs.

COLR policy carried both costs and benefits for the incumbent telecommunications provider. The benefits, generally, were use of asingle-provider franchise area for the incumbent. The incumbent also benefitted from rate designs that would cover the high cost of expanding the network into non-economical areas: providers would still have the opportunity to realize "sufficient" returns on this investment.

The costs to the incumbent were, and continue to be, high as well. Incumbents essentially had to throw the traditional business plan out the window – service had to be furnished on demand in areas where other utilities or providers, given the choice, had shied away from. The incumbent with COLR obligations could be prohibited from cessation of services without Commission approval – a lengthy and potentially costly process itself. Incumbents also had to adjust their access rates and shift the costs onto other classes of customers in order to build in the implicit subsidies that allowed for the extension of services.

The challenge facing industry and regulators today is, now that the telecommunications industry is largely competitive, with fiber, copper and coaxial cable (and often wireless spectrum) providing the same or equivalent services, should COLR obligations adapt to the current environment, particularly in areas or exchanges that are competitive? Frontier believes that is the essence of the Commission's *Notice* question.

Most customers today want more than just basic telephony service (i.e. two-way switched, single line, call waiting/forwarding, toll limitation, equal access, et. al.). In fact, more customers each day are choosing alternative services over basic telephony – services that include all the basic services and often much more. Broadband and wireless are capable of providing what is essentially basic voice service while delivering information services (i.e. data) as well. So while the number of access lines and the associated revenue that supports such technology declines, broadband customers increase. How regulators should take into account COLR obligations when information services are already capable of providing basic telephony services has implications upon providers' capital expenditure and business plans.

In a "competitive" area, should regulators continue to mandate COLR obligations, and if so, how? If a customer has access to basic telephony service, does it matter the platform used to provide that service?

Carriers that receive state or federal subsidies to provide service in high cost areas should continue their COLR obligations. Carriers that provide service in competitive areas should be relieved of mandatory service obligations. Forcing carriers to provide service in a competitive area equates to a competitive

[3] U.S. Census Bureau, available at: http://quickfacts.census.gov/qfd/states/53000.html

disadvantage for the carrier and results in scarce resources being sunk into economic costs that will never effectively be recovered. The Commission should work toward removing COLR obligations in exchanges where competition exists.

3. Need to modify service restoral requirements for major outages.

Frontier proposes no changes to the major service restoral rules (WAC 480-120-412 and accompanying definitions in WAC 4180-120-021) at this time.

4. Desirability of reducing service quality reporting requirements.

The Commission should amend the service quality reporting requirements to reflect the competitive nature of the telecommunications industry. Consumers who are dissatisfied with an aspect of their telecommunications provider have ample other options from which to choose. The legislature, in RCW 80.36.300 states in part that it is the policy of the state to "Promote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state…"

Mandatory service quality reporting was implemented largely so that the Commission and consumers could monitor the quality with which the single-provider carriers offered services. As there was little to no competitive pressure to keep LECs' service quality high in years past, regulatory oversight provided such discipline. Today's market provides the more desirable option of oversight through market pressures – customers can walk away from telecommunications providers that are not meeting the customers' needs.

Service quality reporting should be amended to the point that all providers should revert to Class B reporting status; WACs 480-120-439 §§ (3)(4) (6)-(9) should no longer be required to be reported monthly. Frontier suggests that current Class A LECs retain the information generated by the required reports in section 439 (except for the major outages) for a period of three years, but only be required to file such information with the Commission in response to a data request or investigation. This would put all LECs on a similar footing, regardless of size.

In addition to amending WAC section 480-120-439, the Commission should also address WACs 480-120-105, -112, and -440.

WAC 480-120-105 addresses performance standards for installation or activation of access lines. As pointed out in the Staff Summary, competition provides consumers with easy and quick access to telephony services. A customer can walk into a wireless provider's retail store and walk out with a mobile telephone a few minutes later (in fact, customers can even pick up pre-paid phones – both feature or smart phones – at retail outlets like 7-Eleven). It is in the LECs' best interests to install a customer's line expediently in order to compete with the ubiquitous nature of wireless competitors.

WAC 480-120-112 addresses company performance for orders for nonbasic services. The same rationale holds true as addressed in amending section 480-120-105. Competitors to traditional LECs are providing alternative services quickly and simply and that competition disciplines the traditional LECs.

WAC 480-120-440 addresses repair standards for service interruptions and impairments, excluding major outages. Competition also provides sufficient incentive for LECs to repair service interruptions expeditiously. Other facilities-based carriers provide competitive pressure on LECs to maintain their networks to a high level of customer satisfaction. Otherwise, consumers will show a vote of no-confidence by switching providers.

5. Applicability and content of line extension requirements.

Concerns over line extensions have generally transitioned over the years from ensuring universal service to voice-grade facilities to today's quest to expand broadband availability. Line extension policy should work in tandem with reasonable carrier of last resort (COLR) obligations. Line extensions are essentially

a subset of COLR obligations; e.g., LECs are required to provide "service upon demand,"[4] which arguably includes the competitive urban/suburban areas as well as the remote areas.

Frontier advocates here for a shortening of line extension requirements from the current 1,000 foot allowance to an allowance of 1/10th of a mile. The telecommunications industry is steadily moving towards a competitive environment where implicit and explicit subsidies are no longer warranted. Customers face competitive advantages and choices today where they did not in years past. The extraordinary cost for line extensions used to be recouped in access charges (e.g. implicit subsidies) or other regulatory mechanisms. Today, mandatory line extensions place carriers subject to them at a competitive disadvantage because there are fewer opportunities to recoup costs, now that customers have other providers to choose from.

6. Increasing the minimum annual filing fee and eliminating the waiver of the minimum fee.
Frontier stresses the need for competitive neutrality in assessing fees and the waiver of fees but has no further response to this issue at this time.

Conclusion
Frontier appreciates the Commission's work on this proceeding, as it addresses some needed updates to rules that reflect the earlier era of a single-provider of local exchange service within an area. Times have changed and Frontier looks forward to working with the Commission and industry and consumer advocate stakeholders to implement amended rules that reflect today's competitive telecommunications environment.

If you have any questions please feel free to contact me.

Sincerely,

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[4] RCW. 80.36.090