

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of:

A Rulemaking To Consider Adopting a Rule In WAC 480-120, Telephone Companies, Relating to Standards for Restoring Regulated Telecommunications Services Following an Outage and Customer Notification of Planned Service Interruptions.

DOCKET NO. UT-170031

Frontier Communications

2nd Round of
Comments on Proposed
Rulemaking

By Notice of Opportunity to File Written Comments (Notice) dated August 7, 2017, the Washington Utilities and Transportation Commission (Commission) has called for a 2nd round of comments on the Commission's filing with the Code Reviser a Proposal Statement of Inquiry (CR-101) to consider adopting a rule to address repair standards for service interruptions and impairments, excluding major outages.

Background.

Frontier Communications appreciates the opportunity to respond to the Commission's request for comments regarding the proposed rulemaking. We believe the Commission took appropriate action in issuing its Final Order in UT-140680, by eliminating service quality requirements on restoral times and allowing the fiercely competitive marketplace to discipline providers. Since the elimination of WAC 480-120-440, according to the UTC supplied data, only 12 Washington out-of-service complaints that were not force majeure, 3rd party cuts or holiday or weekend-related were recorded in 2016. To date in 2017, according to UTC supplied data, Frontier Communications has recorded only 5 out-of-service complaints that were not

Frontier Communications
1800 41st Street N-100
Everett, WA 98203

affected by issues over which Frontier had no control. We continue to advocate that this rulemaking is unnecessary, and would result in an obsolete mechanism to discipline providers.

The Proposed Rules are Unnecessary and Discriminate against Wireline ILECs.

Treating wireline companies differently than non-regulated voice service providers, results in unequal, additional regulatory burdens. That creates unfairness in the competitive market, contrary to guidance from the Legislature. As the Commission itself observed in Docket UT-121994, Order 06, Paragraph 46:

“Accordingly, as this marketplace and technological transformation occurs, we recognize that the traditional role of incumbent telecommunications providers such as Frontier, and the regulatory construct that is applied to them, should be re-examined, and where appropriate, regulation should give way to the discipline of the competitive marketplace. Incumbent telephone companies are increasingly subject to a vigorous level of inter- and intra-modal competition from CLECs, cable companies, wireless companies, and Voice over Internet Protocol (VoIP) providers that serve both business and residential consumers. These providers are not subject to the same regulatory requirements that apply to Frontier, and to that degree, they have a distinct competitive advantage.”

- 1) The Commission seeks comments or suggestion on alternatives to a firm repair interval that would enable consumers to receive timely restoration of impaired services while affording providers greater flexibility in addressing marketplace conditions*

A reasonable amount of time to restore service following an outage (especially in instances that are beyond the company’s control) vary greatly. As an ILEC, Frontier is dependent on reliable and operating commercial power and for safety reasons, generally is the last party to reattach to a downed pole after the electric provider since Frontier is generally the lowest attacher. Often times a repair requires the customer to be on site to

allow a technician access, but the property owner is not available within the proposed rule's timeline. To revert to a rate-of-return era solution to a problem that the Company has shown does not exist within Frontier's service territory creates an unfair advantage for those competitors not burdened with this outdated regulatory requirement, and is contrary to the Legislature's expressed intent. Establishing a reasonable interval for service restoral following an outage depends on an array of circumstances, many of which the proposed rule does not take into consideration. We continue to advocate to the Commission that the marketplace will determine what a reasonable time means to the consumer, and providers who do not perform will lose customers.

Frontier Communications offers the following edits to UT-170031, 480-120-411 Redline of Draft Rules.pdf

- (1) Repair all network out-of-service interruptions within forty-eight hours, excluding Sundays and legal holidays, except in the following circumstances when the company must repair the interruption as soon as possible:
 - ~~(e)(ii) the customer's inside wiring or customer premises equipment is the cause of the interruption;~~

In an effort to avoid further regulatory disparity in the marketplace it should be clear that the application of the rule be limited to include to only regulated basic telephone service. Frontier Communications would respectfully request the elimination of all unregulated products from the rule and further define regulated scope by adding the word "network".

Frontier Communications appreciates the addition of (1)(e)(iv). In the same spirit of the addition of this exemption we would suggest adding language that allows companies

flexibility when scheduling repair of damaged infrastructure by a 3rd party and not include 3rd party cuts in any out-of-service repair requirement metric. In addition, any rule adopted should include exemptions of all force majeure events including all Level II and above reported WSEOC events and Governor Emergency Proclamations and 3rd party cable cuts, as well as, preferred customer due dates outside of 48 hours.

In an effort to assist the Commission in furthering their request for suggestions on a “48 hour repair rule” Frontier acknowledges that in other states the company operates under Out-Of-Service requirements that provide for flexibility by using a percentage of customers within the state restored within 48 hours (e.g., a requirement for restoral of 90% of OOS conditions within 48 hours). Please note that most of the 29 states that Frontier Communications operates have eliminated out-of-service repair requirements due to the competitive nature of the marketplace and in an effort to provide for the equal regulatory treatment of providers. In an effort to avoid further disparity and regulatory burdens on Frontier Communications which are not required by unregulated competitors, if the Commission chooses this option, Frontier requests that out-of-service be defined as a complete loss of dial tone and that the company maintain this data and the data is only reported when the Commission determines it necessary.

In conclusion, and for the reasons stated, Frontier Communications encourages the Commission to decline to adopt the proposed new rule at this time.

Submitted this 11th _____day of September, 2017.

Frontier Communications

Cathy Dahlquist
Government & External Affairs Manager
1800 41st Street N-100
Everett, WA 98203

Frontier Communications
1800 41st Street N-100
Everett, WA 98203