

**WUTC DOCKET UT-121994
SETTLEMENT
OF CLEC ISSUES**

The following is settlement between Frontier Communications Northwest Inc. (“Frontier”) and Cbeyond Communications LLC, Integra Telecom of Washington, Inc., tw telecom of washington, llc, Level 3 Communications, LLC and Charter Fiberlink WA-CCVII, LLC (collectively “CLEC Intervenors”). CLEC Intervenors would, of course, welcome other parties to the docket to join in such a settlement. More importantly, CLECs desire to have other parties not oppose such a settlement.

- I. In consideration for Frontier agreeing to the Wholesale Conditions, listed below, CLEC Intervenors will not oppose Frontier’s Petition in this docket. However, nothing in this agreement shall be construed as a statement of CLEC Intervenors’ support, acceptance or endorsement of any determination of effective competition by the Washington Utilities and Transportation Commission (“Commission”).
- II. Frontier and CLEC Intervenors will jointly support the Commission’s adoption of the Settlement and incorporation of the Settlement terms and conditions and the Wholesale Conditions as part of any Commission Order in this docket (“Commission Order”).
- III. The parties agree that a breach by Frontier of any of the Settlement terms and conditions or any of the Wholesale Conditions would constitute a violation of the Commission Order.
- IV. The parties agree that CLEC Intervenors, Frontier or any other aggrieved party, may file a complaint with the Commission, pursuant to applicable authority including, but not limited to RCW 80.04.110, alleging one or more violations of the Settlement terms and conditions or any of the Wholesale Conditions.
- V. The parties agree that the Commission has the authority to resolve any such complaint and grant any and all appropriate relief, including but not limited to the imposition of penalties pursuant to RCW 80.04.380 through 80.04.405.
- VI. The parties agree that, should Frontier desire to amend any of the Settlement terms and conditions or any of the Wholesale Conditions, Frontier would be required to file a petition in this docket seeking modification to the particular Settlement term or condition or Wholesale Condition; provided, however, that Frontier agrees that it will not seek to implement any price increase or change of any term or condition of any “ICA Wholesale Service” or “Non-ICA Wholesale Service”, as those terms are defined in the Wholesale Conditions, or seek to implement relief of any of the conditions of this Settlement Agreement, until at least July 1, 2017. The parties further agree that, except as otherwise required by federal law, Frontier shall have the burden of demonstrating that any proposed changes to rates, terms or conditions of any “ICA Wholesale Services” or “Non-

ICA Wholesale Services” will be fair, just and reasonable. The parties further agree that, in the event Frontier seeks to be relieved of any of the conditions in this Settlement Agreement, Frontier shall have the burden of demonstrating that relief from such condition is in the public interest. The parties agree that the Commission has the authority to consider any such petition and to grant any and all appropriate relief consistent with RCW 80.04.210 and WAC 480-07-875.

WHOLESALE CONDITIONS

I. Definitions

“CLEC” shall mean a competitive local exchange carrier certified to provide local exchange service in Washington by the Commission, but not classified as an ILEC under the Telecommunications Act of 1996. *See* 47 USC § 251(h)

“Frontier” shall be defined as Frontier Communications Northwest, Inc., the petitioner in WUTC Docket No. 121994.

“ICA Service Catalogues” shall mean a listing of rates, terms and conditions applicable to the services contained in the following Frontier Washington tariffs as of the date Frontier filed its Petition in this docket: WN-U-18 Network Interconnection Access Service, WN-U-20 Collocation Service, WN-U-21-Unbundled Network Elements, WN-U-22 Resale Local Exchange Services and made available for public review on Frontier’s website at Frontier.com/wholesale.

“ICA Wholesale Services” shall be defined to include all services and facilities provided pursuant to interconnection agreements entered into pursuant to the Telecommunications Act of 1996 [*See* 47 U.S.C. §§ 251-252] and approved by the Commission and also any and all services and facilities included in the following Frontier Washington tariffs as of the date Frontier filed its Petition in this docket:

- WN U-18 Network Interconnection Access Service
- WN U-20 Collocation Service
- WN U-21 Unbundled Networks Elements
- WN U-22 Resale Local Exchange Services

“Non-ICA Wholesale Service Catalogues” shall mean a listing of rates, terms and conditions for the services contained in the following Frontier Washington tariffs as of the date Frontier filed its Petition in this docket: WN U-16 Facilities for Intrastate Access, and WN U-23 Advanced Data Services and made available for public review on Frontier’s website at Frontier.com/wholesale.

“Non-ICA Wholesale Services” shall be defined to include any and all intrastate services and facilities purchased by CLECs from Frontier in Washington, included in the following Frontier Washington tariffs on the date Frontier filed its Petition in this docket:

WN U-16 Facilities for Intrastate Access
WN U-23 Advanced Data Services

II. ICA Wholesale Services

1. Within thirty (30) days of the Commission Order in this docket adopting the Settlement Agreement and these Wholesale Conditions, Frontier shall detariff and memorialize in ICA Service Catalogues the rates, terms and conditions contained in the following Frontier Washington tariffs as of the date Frontier filed its Petition in this docket: WN-U-18 Network Interconnection Access Service, WN-U-20 Collocation Service, WN-U-21-Unbundled Network Elements, WN-U-22 Resale Local Exchange Services. Within thirty (30) days of the Commission Order in this docket adopting the Settlement Agreement and these Wholesale Conditions, Frontier will provide the proposed Service Catalogue to the CLEC Intervenors for review and comment. The CLEC Intervenors will have thirty (30) days to identify and notify Frontier in writing of any substantive deviation between the terms, conditions or rates in the former tariff and the Service Catalogue. Within ten days of receiving written notice of an identified discrepancy Frontier shall either: i) revise the Service Catalogue to correct the identified discrepancy or ii) advise the CLECs that it will seek resolution of the identified discrepancy with the Commission, during which time the identified term, condition or rate shall not go into effect in the Service Catalogue. Within sixty (60) days of the Commission Order in this docket adopting the Settlement Agreement and these Wholesale Conditions, for each and every interconnection agreement in Washington in effect at the time that expressly references services in the above-referenced Frontier Washington tariffs, or otherwise references any “applicable tariffs,” Frontier shall propose an amendment that expressly incorporates by reference the rates, terms and conditions of the ICA Service Catalogues. In the event there is a discrepancy between rates, terms or conditions contained in the Service Catalogue and a CLEC’s Interconnection Agreement, the rates, terms and conditions in the Interconnection Agreement will control.
2. Frontier acknowledges and agrees that any changes to any rate, term or condition in any interconnection agreement, including any change to a rate, term or condition contained in an ICA Service Catalogue incorporated by reference in an interconnection agreement, must be effectuated pursuant to the terms of such interconnection agreement and subject to 47 U.S.C. §§ 251-252 and the approval of the Commission; provided, however, that Frontier may seek Commission approval of changes to any such rates in a generic cost docket.
3. Frontier acknowledges that Commission approval of its Petition in this docket shall not in any way impact its continuing obligations under existing ICAs and shall not in any way impact its continuing obligations under Sections 251 and 252 of the Telecommunications Act of 1996, 47 U.S.C. 251-252, nor any federal or state regulations, orders or rules promulgated under such statutes, nor any federal rules or orders promulgated under any section of the Federal Communications Act of 1934 (the “Communications Act”), as amended, including, without limitation, the order issued by the Federal Communications Commission in *In Re: Connect America Fund*, FCC 11- 161, WC Docket No. 10-90

(November 18, 2011) (“ICC Transformation Order”). Nor will Frontier create any new rate elements or charges for services, facilities or functionalities that are currently already provided under existing rates, terms or conditions of existing ICAs or the rates terms and conditions contained in the following Washington Frontier tariffs as of the date Frontier filed its Petition in this docket: WN-U-18 Network Interconnection Access Service, WN-U-20 Collocation Service, WN-U-21-Unbundled Network Elements, WN-U-22 Resale Local Exchange Services.

4. Frontier will not seek to avoid any of its obligations under any existing ICAs or any of its continuing obligations under Sections 251 and 252 of the Telecommunications Act on the grounds that Frontier is not an incumbent local exchange carrier (“ILEC”) under the Communications Act, 47 U.S.C. § 151 *et seq.*, nor on the grounds that it is exempt from any of such obligations pursuant to Section 251(f)(1) or Section 251(f)(2) of the Communications Act.

III. Non-ICA Wholesale Services

5. Within thirty (30) days of the Commission Order in this docket adopting the Settlement Agreement and these Wholesale Conditions, Frontier shall detariff and memorialize in Non-ICA Wholesale Service Catalogues the rates, terms and conditions contained in the following Washington Frontier tariffs as of the date Frontier filed its Petition in this docket: WN U-16 Facilities for Intrastate Access, and WN U-23 Advanced Data Services. Within thirty (30) days of the Commission Order in this docket adopting the Settlement Agreement and these Wholesale Conditions, Frontier will provide the proposed Service Catalogue to the CLEC Intervenors for review and comment. The CLEC Intervenors will have thirty (30) days to identify and notify Frontier in writing of any substantive deviation between the terms, conditions or rates in the former tariff and the Service Catalogue. Within ten days of receiving written notice of an identified discrepancy Frontier shall either: i) revise the Service Catalogue to correct the identified discrepancy or ii) advise the CLECs that it will seek resolution of the identified discrepancy with the Commission, during which time the identified term, condition or rate shall not go into effect in the Service Catalogue. Only carriers certified as a long distance provider or CLECs certified as a telecommunications provider with the Commission would be allowed to order services included in the Non-ICA Wholesale Services Catalogues. No Frontier Non-ICA Wholesale Services in WN U-16 Facilities for Intrastate Access, and WN U-23 Advanced Data Services and offered to CLECs as of the date Frontier filed its Petition in this docket will be discontinued or terminated unless first approved by the Commission pursuant to a petition filed by Frontier in this docket. Nothing in the provision or this Settlement will impact or prevent Frontier from including services in WN U-16 Facilities for Intrastate Access, and WN U-23 Advanced Data Services in a separate price catalogue of services available to retail end user customers, long distance providers, CLECs and other wholesale customers.
6. Notwithstanding the foregoing, Frontier and any CLEC may mutually agree to discontinue, terminate or modify a Non-ICA Wholesale Service provided by Frontier to such CLEC.

7. Frontier will continue to offer to competitive carriers any and all Non-ICA Wholesale Services, as that term is defined herein, offered as of the date Frontier filed its Petition in this docket, under the same rates, terms and conditions as they were offered on the date Frontier filed its Petition in this docket; provided, however, that Frontier will be permitted to lower the rates for any such services offered to competitive carriers without seeking prior approval from the Commission. Nor will Frontier create any new rate elements or charges for facilities or functionalities that are currently already provided under existing rates, terms or conditions. Frontier will continue to offer any currently offered Term and Volume Discount plans identified in WN U-16 Facilities for Intrastate Access, and WN U-23 Advanced Data Services. Frontier will honor any existing contracts for Non-ICA Services on an individualized term pricing plan arrangement for the duration of the contracted term.

Subject to and in accordance with the ICC Transformation Order, Frontier will cap and continue to maintain the existing service rates for intrastate originating switched access, and transition terminating switched access services as provided in the ICC Transformation Order. To the extent the FCC or a court allows companies to restructure or increase certain intrastate switched access rate elements as part of the Order or further proceedings associated with that Order, this Settlement will not impact or limit Frontier's ability to restructure intrastate switched access rate elements or implement other rate elements in accordance with the ICC Transformation Order or related orders. If a court by final order not thereafter appealable overturns the ICC Transformation Order, Frontier agrees to not increase the aggregate intrastate switched access rates beyond the aggregate rates in effect on December 29, 2011, without first petitioning and obtaining approval from the Commission to increase the intrastate switched access rates.

8. If Frontier wishes to increase the price or change any term or condition of any Non-ICA Wholesale Service offered to competitive carriers as of the date Frontier filed its Petition in this docket, Frontier must file a petition in this docket seeking modification of the particular Settlement term or condition or Wholesale Condition and demonstrate that the requested change is in the public interest; provided, however, that Frontier agrees that it will not seek to implement any price increase or change of any term or condition of any Non-ICA Wholesale Service, or seek to implement relief from any condition in this settlement Agreement, until at least July 1, 2017. The parties agree that the Commission has the authority to consider any such petition and to grant any and all appropriate relief consistent with RCW 80.04.210 and WAC 480-07-875.


IV. Generally Applicable Terms and Conditions

9. Except as otherwise allowed under federal or Washington law, all rates, tolls, contracts and charges, rules and regulations of Frontier for services rendered and equipment and facilities supplied to CLECs shall be fair, just, reasonable and sufficient, and the service so to be rendered any CLEC by Frontier shall be rendered and performed in a prompt, expeditious and efficient manner and the facilities, instrumentalities and equipment furnished by Frontier shall be safe, kept in good condition and repair, and its appliances, instrumentalities and service shall be modern, adequate, sufficient and efficient.

10. Except as otherwise required under federal law, including but not limited to 47 U.S.C. Sections 251 and 252, Frontier shall not make or give any undue or unreasonable preference or advantage to any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. Frontier agrees that the Commission shall have primary jurisdiction to determine whether any of its rates, regulations, or practices violates this condition.
11. As to the pricing of or access to ICA Wholesale Services or Non-ICA Wholesale Services, except as otherwise required under federal law, including but not limited to 47 U.S.C. Sections 251 and 252, Frontier shall not make or grant any undue or unreasonable preference or advantage to itself or to any other person providing telecommunications service, nor subject any telecommunications company to any undue or unreasonable prejudice or competitive disadvantage. Frontier agrees that the Commission shall have primary jurisdiction to determine whether any of its rates, regulations, or practices violates this condition.
12. Frontier agrees that any of the CLEC Intervenors, or any other aggrieved entity, may file a complaint with the Commission, pursuant to RCW 80.04.110, alleging one or more violations of any term or condition of the Settlement Agreement or any of the Wholesale Conditions. Frontier agrees that it will not argue in this docket or any future proceeding that the Commission lacks jurisdiction to consider such a complaint. Frontier further agrees that the provisions of RCW 80.04.110(1)(b) do not apply to any such complaint and agrees not to argue that the provisions of RCW 80.04.110(1)(b) apply to any such complaint. Frontier further agrees that nothing in the Settlement Agreement, the Wholesale Conditions or the Commission Order in any way negates the right of the CLEC Intervenors, or any other aggrieved entity, to file a complaint pursuant to RCW 80.04.110(1)(c).
13. Frontier agrees that, if the Commission determines that a rate, term or condition for any service or facility offered pursuant to competitive classification, including any of the services or facilities covered by this agreement, is ambiguous, there is a rebuttable presumption that the ambiguity will be construed in the favor of the CLEC.
14. This Settlement shall not take effect in the event the Commission issues an order denying Frontier's Petition in this docket or Frontier otherwise elects to not be classified as a competitive carrier pursuant to RCW 80.36.320.

This Settlement of CLEC Issues is agreed to by the following Parties as of April 16, 2013:

Frontier Communications Northwest Inc.

By: 
Printed Name: Kenneth Mason
Title: VP - Government and Regulatory Affairs
Date: April 15, 2013

Cbeyond Communications LLC

By: _____
Printed Name: _____
Title: _____
Date: _____

Integra Telecom of Washington, Inc.

By: _____
Printed Name: _____
Title: _____
Date: _____

tw telecom of washington, llc


By: _____
Printed Name: _____
Title: _____
Date: _____

This Settlement of CLEC Issues is agreed to by the following Parties as of April 16, 2013:

Frontier Communications Northwest Inc.

By: _____
Printed Name: _____
Title: _____
Date: _____

Cbeyond Communications LLC

By: 
Printed Name: ARTHUR A BUTLER
Title: ATTORNEY
Date: 4/15/13

Integra Telecom of Washington, Inc.

By: _____
Printed Name: _____
Title: _____
Date: _____

tw telecom of washington, llc

By: _____
Printed Name: _____
Title: _____
Date: _____

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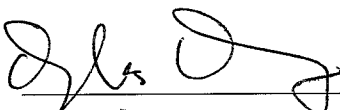
Frontier Communications Northwest Inc.

By: _____
Printed Name: _____
Title: _____
Date: _____

Cbeyond Communications LLC

By: _____
Printed Name: _____
Title: _____
Date: _____

Integra Telecom of Washington, Inc.

By:  _____
Printed Name: Douglas Denney
Title: Vice President, Costs & Policy
Date: 4/15/2013

tw telecom of washington, llc

By: _____
Printed Name: _____
Title: _____
Date: _____

This Settlement of CLEC Issues is agreed to by the following Parties as of April 16 2013:

Frontier Communications Northwest Inc.

By: _____
Printed Name: _____
Title: _____
Date: _____

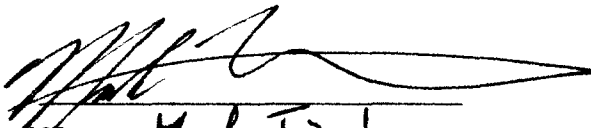
Cbeyond Communications LLC

By: _____
Printed Name: _____
Title: _____
Date: _____

Integra Telecom of Washington, Inc.

By: _____
Printed Name: _____
Title: _____
Date: _____

tw telecom of washington, llc

By: 
Printed Name: Mark Trinchero
Title: Attorney
Date: April 15, 2013

Level 3 Communications, LLC

By: *M. J. Shortley*
Printed Name: Michael J Shortley, III
Title: Vice President - Legal
Date: 16 April 2012

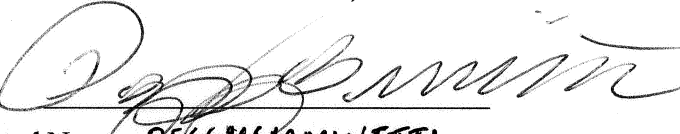
Charter Fiberlink WA-CCVII, LLC

By: _____
Printed Name: _____
Title: _____
Date: _____

Level 3 Communications, LLC

By: _____
Printed Name: _____
Title: _____
Date: _____

Charter Fiberlink WA-CCVII, LLC

By: 
Printed Name: PEGGY GIAMINETTI
Title: VP - FINANCE
Date: 4/15/2013