

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Frontier Communications )  
Northwest Inc.'s Petition to be Regulated )  
as a Competitive Telecommunications )  
Company Pursuant to RCW 80.26.320 )  
\_\_\_\_\_ )

Docket No. UT-121994

**REBUTTAL TESTIMONY  
OF  
BILLY JACK GREGG**

**FRONTIER COMMUNICATIONS NORTHWEST INC.**

**MAY 14, 2013**

**TABLE OF CONTENTS**

**I. ACCESS SERVICES..... 2**

**II. ETC OBLIGATIONS & STAND-ALONE VOICE..... 9**

1 **Q. WHAT IS YOUR NAME?**

2 **A.** My name is Billy Jack Gregg.

3

4 **Q. ARE YOU THE SAME BILLY JACK GREGG WHO HAS PREVIOUSLY**  
5 **SUBMITTED DIRECT TESTIMONY ON BEHALF OF FRONTIER**  
6 **COMMUNICATIONS NORTHWEST INC.?**

7 **A.** Yes.

8

9 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS**  
10 **CASE?**

11 **A.** I will respond to the testimony of Staff witness William Weinman concerning intrastate  
12 special and switched access services. I will also respond to Staff witnesses Jing Liu and  
13 Jing Roth concerning Frontier's responsibilities as an eligible telecommunications carrier  
14 and the obligation to provide stand-alone voice service. I will also comment on the  
15 availability of competitive options in Frontier's Washington service area.

16

17 **I. ACCESS SERVICES**

18 **Q. AT PAGE 11 OF HIS TESTIMONY, STAFF WITNESS WEINMAN STATES**  
19 **THAT FRONTIER HAS NOT MET THE STATUTORY BURDEN OF SHOWING**  
20 **THAT INTRASTATE SPECIAL ACCESS SERVICES ARE SUBJECT TO**  
21 **EFFECTIVE COMPETITION. DO YOU AGREE?**

1 A. No. Frontier presented evidence that showed that intrastate special access is provided by  
2 other carriers, that intrastate special access is a relatively small portion of Frontier's  
3 overall access revenues, and that as a practical matter, interstate special access is  
4 available as an alternative based on the customer's preference. Furthermore, Frontier has  
5 now entered into a Settlement Agreement with the competitive local exchange carriers  
6 (CLECs) that order the bulk of Frontier's intrastate special access services in order to  
7 satisfy their concerns with Frontier's status as a competitive carrier. As described in the  
8 testimonies of Frontier witness Phillips, CLEC witness Wood, Integra witness Denney,  
9 and the Joint Narrative Supporting Settlement Agreement, this Settlement Agreement  
10 provides procedures for the transition from regulated tariffed rates to the service catalog  
11 proposed by Frontier, and provides a period of stability in rates, terms and conditions for  
12 Frontier's wholesale services, including access services.

13  
14 **Q. THE CLEC'S WHO ARE PARTY TO THE SETTLEMENT AGREEMENT ARE**  
15 **WHOLESALE CUSTOMERS OF FRONTIER. DOESN'T FRONTIER ALSO**  
16 **PROVIDE SPECIAL ACCESS SERVICES TO RETAIL CUSTOMERS?**

17 A. Yes. As noted by Mr. Weinman at page 11 of his testimony, Frontier also has the burden  
18 of showing that intrastate retail special access services are subject to effective  
19 competition. These customers, like the CLEC's, lease particular dedicated facilities from  
20 Frontier for their own network purposes. As a practical matter, since the same end users  
21 that are served by Frontier at retail can also be served by the CLEC's that order special  
22 access on a wholesale basis, the rate stabilization provisions included in the CLEC

1 Settlement Agreement will effectively act as a cap on rates that Frontier can charge to  
2 retail special access customers.

3  
4 **Q. HOW WILL THE CLEC SETTLEMENT AGREEMENT ACT AS A CAP ON**  
5 **FRONTIER'S SPECIAL ACCESS RETAIL RATES?**

6 A. At the most basic level, special access consists simply of a telecommunications  
7 transmission line or channel which is dedicated to a particular customer. These facilities  
8 can be leased from Frontier, they can be leased from CLECs, or they can be leased from  
9 any company with needed facilities in the desired location. In the alternative, the  
10 customer can build the facilities himself, or the customer can contract with another  
11 company to build the facilities. Moreover, special access does not have to rely on  
12 wireline facilities, and can be provided wirelessly or by microwave link. In many  
13 instances, CLEC's lease special access facilities from Frontier for the CLEC's own  
14 network purposes; in other cases they lease special access facilities in order to fulfill an  
15 order from an end user. Since Frontier has committed in the Settlement Agreement to  
16 cap special access rates to CLEC's for a period of years, Frontier will be effectively  
17 precluded from raising special access rates to its own end users above the rates that  
18 Frontier charges to its wholesale customers, the CLEC's. If Frontier did raise its special  
19 access rates to retail customers, it would open itself to competitive loss since CLEC's  
20 could offer the same service to the retail customer at a lower rate.

21

1 **Q. AT PAGE 11 MR. WEINMAN FURTHER STATES THAT FRONTIER DID NOT**  
2 **“OFFER ANY EVIDENCE THAT SPECIAL ACCESS CUSTOMERS HAVE**  
3 **REASONABLY AVAILABLE ALTERNATIVES OR THAT THE COMPANY**  
4 **DOES NOT HAVE A SIGNIFICANT CAPTIVE CUSTOMER BASE.” HOW DO**  
5 **YOU RESPOND?**

6 A. In some ways it is difficult to address Staff’s criticism because special access itself is a  
7 form of competition. In other words, Frontier’s competitors and end users are purchasing  
8 piece parts of Frontier’s network through special access in lieu of taking retail local  
9 exchange services from Frontier. Competition from special access began prior to passage  
10 of the 1996 Telecommunications Act when carriers such as ATT and MCI would  
11 purchase DS-1’s or DS-3’s from Frontier through special access as part of the facilities  
12 needed to provide private network services to large customers. This competition  
13 accelerated after the passage of the Act as many new carriers entered the  
14 telecommunications market, building networks and offering services to each other and to  
15 end users. End users also began self-provisioning their own private networks prior to  
16 passage of the Act. Both competitors and end users have increased their use of special  
17 access over the years, accelerating the erosion of Frontier’s retail local exchange  
18 customer base and revenues.

19  
20 **Q. ON WHAT BASIS DO YOU CONCLUDE THAT FRONTIER’S RETAIL**  
21 **SPECIAL ACCESS CUSTOMERS HAVE REASONABLY AVAILABLE**  
22 **ALTERNATIVES AND THAT FRONTIER DOES NOT HAVE A SIGNIFICANT**  
23 **CAPTIVE CUSTOMER BASE?**

1 A. Wholesale customers and end users purchase intrastate special access services from  
2 Frontier in all but four rural exchanges in Washington – Entiat, Loomis, Mansfield and  
3 Nile.<sup>1</sup> In addition to facilities purchased under the intrastate special access tariff,  
4 competitive carriers have leased over 80,000 UNE loops which are used to provide  
5 service to end users. As shown in the table below,<sup>2</sup> 83% of UNE loops leased by other  
6 competitive carriers are DS-1's or Enhanced Extended Loops (EEL's), a combination of  
7 loop and transport, used to provide service to large customers.

**FRONTIER NORTHWEST  
UNE LOOPS IN WASHINGTON  
2012**

Type of UNE Loop	Number
DS0	3,497
DS1	44,760
DSL	3,959
EEL	22,248
ULN	6,286
<b>TOTAL</b>	<b>80,750</b>

8 In order to use this large number of UNE loops, over 20 competitive carriers have  
9 established arrangements with Frontier to collocate their own equipment in Frontier  
10 central offices. These collocation arrangements are found in virtually every metropolitan  
11 statistical area (MSA) served by Frontier in the state of Washington. Finally, different  
12 telecommunications carriers have networks that overlap Frontier's network in  
13 Washington, as well the networks of other Washington incumbent carriers. All of these  
14 carriers, including Frontier and competitive carriers, purchase and vend network facilities

---

<sup>1</sup> These four exchanges contain a total of 1,800 access lines.

<sup>2</sup> In the table, "DS0" means a designed voice-grade loop; "DS1" means a designed loop capable of providing digital service level 1 bandwidth (1.44 megabits per second); "DSL" means a loop capable of providing access to the Internet; "EEL" means an combination of loop and interoffice transport; and "ULN" (unbundled loop – non-designed) means a non-designed DS0 loop; i.e., a plain copper loop with no other functionality or testing included.

1 to each other on an on-going basis in order to provide the facilities and services that  
2 wholesale and retail customers require. A review of the responses by the CLEC's to data  
3 requests in this case shows that the CLEC's are able to acquire network facilities, such as  
4 dark fiber and high capacity circuits, from numerous other carriers besides Frontier. The  
5 facilities provided to end users by CLEC's, whether nominated as "special access" or  
6 "UNE loops" or otherwise, are simply what are necessary to provide service to the  
7 customer. A carrier providing a dedicated service to an end user customer will acquire  
8 the necessary network piece parts from the most attractive alternative available, whether  
9 that be from the carrier's own facilities or by using a combination of owned and leased  
10 facilities. In short, retail special access customers have reasonably available alternatives  
11 and are not captive customers of Frontier.

12  
13 **Q. BUT WHY HASN'T FRONTIER PROVIDED DATA FOR THE SPECIAL**  
14 **ACCESS MARKET SIMILAR TO THE RETAIL LOCAL EXCHANGE**  
15 **MARKET DATA SHOWING THE PROGRESS OF COMPETITION?**

16 A. There are not the same competitive metrics in the special access market that exist in the  
17 retail local exchange market. While Frontier can track the number of retail port-outs to  
18 competitors in each exchange, in most cases Frontier has no idea how either an end user  
19 or wholesale customer uses a special access facility. When a CLEC leases special access  
20 services from Frontier, Frontier does not know whether the CLEC is using the facilities  
21 for its own network purposes or to provide service to an end user. When a retail special  
22 access customer drops service from Frontier, it is difficult to tell if it is because Frontier's  
23 special access facilities have been replaced by a competitor, or whether the customer has



1 migrated from a dedicated special access DS-1 line to a higher capacity service, such as  
2 Ethernet, provided by Frontier or some other provider. Nevertheless, the data does show  
3 that special access services are present in the vast majority of Frontier's exchanges in  
4 Washington, and that the special access market is one of the most competitive in which  
5 Frontier engages.

6  
7 **Q. AT PAGE 12 OF HIS TESTIMONY STAFF WITNESS WEINMAN OBJECTS TO**  
8 **THE DETARIFFING OF FRONTIER'S SWITCHED ACCESS RATES, AND**  
9 **STATES THAT IF THE COURTS OVERTURN THE FCC'S INTERCARRIER**  
10 **COMPENSATION REGIME ON APPEAL, THEN A REGULATORY VOID MAY**  
11 **RESULT, LEAVING FRONTIER'S INTRASTATE ACCESS RATES FREE OF**  
12 **REGULATORY SCRUTINY. HOW DO YOU RESPOND?**

13 A. I am not sure why this point is relevant. As I understand it, in Order 4 in this case, the  
14 Commission clarified that the focus of this proceeding is whether *end user* customers  
15 have reasonably available alternatives and whether Frontier has a significant captive  
16 customer base. By definition, switched access is not a service used by end user  
17 customers. Having said that, Mr. Weinman is correct that the FCC'S Connect America  
18 Fund (CAF) Order capped price cap carriers' access rates as of December 29, 2011, and  
19 initiated a multi-year program to unify and then phase-down intercarrier compensation  
20 rates to bill-and-keep. Under the FCC's scheduled phase-down, all terminating switched  
21 access rates of all price cap carriers will be unified at interstate levels in the next  
22 scheduled phase-down step, effective July 1, 2013. The FCC has stated that state  
23 commissions retain a vital role in reviewing carrier compliance with the phase-down

1 schedule.<sup>3</sup> As part of its response to Staff data requests in this case, Frontier has  
2 committed that if its petition is approved, it will file for review by the WUTC all  
3 workpapers showing the derivation of new phase-down rates each year at the same time  
4 those workpapers are filed with the FCC.<sup>4</sup>

5  
6 **Q. BUT WHAT IF A FEDERAL COURT OVERTURNS OR MODIFIES THE FCC'S**  
7 **INTERCARRIER COMPENSATION REGIME?**

8 A. Obviously Frontier will comply with whatever the Court and the FCC require. In the  
9 Settlement Agreement with the CLECs, Frontier committed that if the FCC's intercarrier  
10 compensation regime is overturned, then it will not increase interstate switched access  
11 rates above the aggregate rates that existed on December 29, 2011, unless the approval of  
12 the WUTC is first obtained. Moreover, even though the Commission's existing  
13 regulation of intrastate terminating switched access may currently be "moot"<sup>5</sup> in light of  
14 the CAF Order, existing state regulation has not been repealed. If the FCC's CAF Order  
15 is overturned, WAC 480-120-540, which governs terminating access charges, will still  
16 control. In other words, there will not be a regulatory void.

17  
18 **II. ETC OBLIGATIONS & STAND-ALONE VOICE**

19 **Q. AT PAGES 18 AND 19 OF HER TESTIMONY, STAFF WITNESS JING LIU**  
20 **SAYS THAT IF FRONTIER'S PETITION IN THIS CASE IS GRANTED, THAT**  
21 **FRONTIER WILL BE FREED OF ITS OBLIGATIONS AS AN ELIGIBLE**

---

<sup>3</sup> CAF Order, ¶813.

<sup>4</sup> Frontier Response to UTC Staff Data Request No. 117.

<sup>5</sup> Order 4, fn. 9.

1           **TELECOMMUNICATIONS CARRIER (ETC) AND CARRIER OF LAST**  
2           **RESORT (COLR). DO YOU AGREE?**

3    A.    No. As I stated in my direct testimony, the granting of Frontier's petition in this case will  
4           not change Frontier's obligations as an ETC. Under Section 214 of the Federal  
5           Telecommunications Act, in order to be eligible to receive universal service support, a  
6           telecommunications carrier must, throughout the service area for which it is designated as  
7           an ETC: (1) offer the services that are supported by universal service using its own  
8           facilities or a combination of its own facilities and resale; and (2) advertise the  
9           availability and charges of its supported services using media of general availability.<sup>6</sup>  
10          Frontier and its predecessors in Washington were designated as ETC's throughout their  
11          Washington service areas shortly after passage of the Telecommunications Act of 1996.  
12          Under Section 214(e) of the Federal Telecommunications Act, Frontier cannot relinquish  
13          its ETC responsibilities for any area unless more than one ETC serves the area, and until  
14          the WUTC grants its approval.

15  
16    **Q.    BESIDES THE GENERAL OBLIGATIONS IMPOSED BY FEDERAL STATUTE,**  
17           **WHAT ARE FRONTIER'S REQUIREMENTS AS AN ETC UNDER FCC**  
18           **REGULATIONS?**

19    A.    The FCC's regulations impose substantial requirements on those carriers that take up the  
20          mantle of ETC. Among these requirements are the following:

---

<sup>6</sup> 47 USC 214(e)(1).

- 1           • ETC's must provide stand-alone voice service throughout their designated  
2           service area at reasonably comparable rates, using any technology.<sup>7</sup>
- 3           • ETC's must offer broadband, as defined by the FCC, at rates that are comparable  
4           to offerings of comparable broadband services in urban areas.<sup>8</sup>
- 5           • ETC's must report on how much universal service support was received and how  
6           it was spent to improve service quality or build out broadband. Information  
7           must be submitted on a wire center or census block basis depending on how  
8           support was received.<sup>9</sup>
- 9           • ETC's must prepare a five-year service quality improvement plan and report on  
10          progress meeting its targets.<sup>10</sup>
- 11          • ETC's must provide detailed information on outages in the previous calendar  
12          year.<sup>11</sup>
- 13          • ETC's must provide information on the number of unfilled service requests from  
14          potential customers.<sup>12</sup>
- 15          • ETC's must provide the number of complaints per thousand connections for the  
16          previous calendar year.<sup>13</sup>
- 17          • ETC's must certify compliance with applicable service quality standards and  
18          consumer protection rules.<sup>14</sup>
- 19          • ETC's must certify their ability to function in emergency situations.<sup>15</sup>

---

<sup>7</sup> CAF Order, ¶¶80-81; 47 CFR §§54.101; 54.313(a)(10).

<sup>8</sup> CAF Order, ¶86; 47 CFR §54.313(b).

<sup>9</sup> 47 CFR §54.313(a)(1).

<sup>10</sup> *Id.*

<sup>11</sup> 47 CFR §54.313(a)(2).

<sup>12</sup> 47 CFR §54.313(a)(3).

<sup>13</sup> 47 CFR §54.313(a)(4).

<sup>14</sup> 47 CFR §54.313(a)(5).

- 1           • ETC's must provide a list of price offerings and certify that pricing of voice  
2           services is not below a specified rate floor, nor above a national average urban  
3           rate benchmark.<sup>16</sup>
- 4           • ETC's receiving Connect America Fund support must build-out broadband  
5           service in unserved areas and meet specified build-out benchmarks.<sup>17</sup>
- 6           • Additional requirements apply to ETC's serving tribal lands.<sup>18</sup>

7

8   **Q.    WHAT DO YOU CONCLUDE FROM THESE ETC REQUIREMENTS?**

9   A.    As an ETC designated by the WUTC under Federal law, Frontier will continue to act as  
10   the COLR within its Washington service area. These obligations will continue unless and  
11   until Frontier requests that it be relieved of these obligations, and the WUTC agrees,  
12   based on an analysis of whether there are other ETCs in the area capable of providing the  
13   requisite service. Moreover, Frontier has no intention of making such a request.

14

15   **Q.    STAFF WITNESSES JING LIU AND JING ROTH SUGGEST THAT STAND-  
16   ALONE VOICE SERVICE FOR RESIDENTIAL AND SMALL BUSINESS  
17   CUSTOMERS WOULD BE ENDANGERED IF FRONTIER IS GRANTED  
18   COMPETITIVE STATUS. DO YOU HAVE ANY COMMENTS?**

19   A.    I do not agree with their conclusions. As set forth above, Frontier must continue to  
20   provide stand-alone voice service at reasonably comparable rates throughout its

---

<sup>15</sup> 54 CFR §54.313(a)(6).

<sup>16</sup> CAF Order ¶¶238-239; 592; 54 CFR §54.313(a)(7),54.313(a)(10) & 54.313(h).

<sup>17</sup> 54 CFR §54.313(b).

<sup>18</sup> 54 CFR §54.313(a)(9).

1 Washington service area for so long as it is an ETC. Furthermore, Frontier will not be  
2 able to relinquish its ETC status without the concurrence of the WUTC.

3  
4 **Q. STAFF WITNESSES HAVE EXPRESSED CONCERN THAT RATES FOR**  
5 **STAND-ALONE VOICE SERVICE IN RURAL AREAS WILL BE RAISED IF**  
6 **FRONTIER IS GRANTED COMPETITIVE STATUS. DO YOU BELIEVE THIS IS**  
7 **LIKELY?**

8 A. No. Preliminarily, I note that the Commission has rejected this argument before in the  
9 2003 Qwest business services case.<sup>19</sup> As a matter of straightforward market analysis, it  
10 should do so again. In a market characterized by multiple providers of  
11 telecommunications services that are able to provide functional equivalents of voice  
12 service over several different platforms, it makes no sense for an incumbent that has been  
13 losing 5 to 10% of its access lines each year to significantly raise rates on a core market  
14 such as stand-alone voice service, regardless of where the stand-alone voice customer is  
15 located. Such action would inevitably lead to more line loss. In addition, the expansion  
16 of broadband into currently unserved areas will provide customers even more choices for  
17 voice service, as well as broadband. In this regard, it should be pointed out that  
18 broadband has been price deregulated ever since it has been introduced. Far from such  
19 deregulation leading to price differentiation and discrimination, broadband has been  
20 characterized by uniform pricing across urban and rural areas, and declining rates. This  
21 is because the imperatives of national and regional marketing and competition have

---

<sup>19</sup> *In the Matter of the Petition of Qwest Corporation for Competitive Classification of Basic Business Exchange Telecommunications Services*, Docket No. UT-030614, Order No. 7, (“*Qwest Business Services Order*”) ¶ 107 (December 22, 2003)

1 trumped the traditional concerns with cost of service which were the basis of regulatory  
2 pricing. Quite simply, it is more efficient to offer a uniform commodity to the public at a  
3 uniform price than to differentiate among different customers based on location or current  
4 presence of competitors.

5  
6 **Q. SEVERAL WITNESSES MADE COMMENTS ABOUT THE GEOGRAPHIC**  
7 **SCOPE OF RETAIL COMPETITION IN WASHINGTON AND OPINED THAT**  
8 **THERE WERE NUMEROUS RURAL EXCHANGES THAT HAD NO**  
9 **COMPETITIVE OPTIONS. ARE THESE STATEMENTS CONSISTENT WITH**  
10 **THE DATA?**

11 A. While it is probably true that there are fewer competitors in rural areas, the data shows  
12 that there is a competitive presence throughout Frontier's service territory in Washington.  
13 As presented in the rebuttal testimony of Frontier witness Phillips, during the March 2012  
14 to March 2013 period Frontier experienced "port outs" (a customer switching to a  
15 competitor and retaining his or her previous telephone number) in all but three of its  
16 exchanges: Stevens Pass, Nile and Loomis. Even though there was not port-out activity  
17 in these three rural exchanges during the specified period, competitors do provide access  
18 lines in all three of these exchanges. The point is that even in the most rural portions of  
19 Frontier's Washington service area, competitors are present and there are options for  
20 customers.

21

1 **Q. DOES THE LACK OF PORT OUT ACTIVITY IN THOSE THREE EXCHANGES**  
2 **INDICATE THAT FRONTIER HAS A SIGNIFICANT CAPTIVE CUSTOMER**  
3 **BASE?**

4 A. Not at all. I note that these three exchanges had a total of only 894 access lines (using  
5 December 2012 data). Looking at it the other way, this indicates that over the last year  
6 Frontier has experienced competitive activity leading to line loss in exchanges covering  
7 99.72% of its access lines in the state. I know that this Commission has previously found  
8 no significant captive customer base when competitors were present in exchanges  
9 covering the vast majority of a petitioning party's access lines.<sup>20</sup> I believe the same  
10 conclusion would be appropriate here.

11  
12 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

13 A. Yes.

---

<sup>20</sup>*Qwest Business Services Order*, ¶¶40-41, 106.