

**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  
KATHLEEN Q. ABERNATHY**

**FRONTIER COMMUNICATIONS NORTHWEST INC.**

**MAY 14, 2013**

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1 **I. WITNESS INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Kathleen Quinn Abernathy. My business address is 2301 N St.NW,  
4 Washington, DC 20037.

5

6 **Q. ON WHAT COMPANY'S BEHALF IS THIS TESTIMONY SUBMITTED?**

7 A. This testimony is submitted on behalf of Frontier Communications Northwest Inc.  
8 ("Frontier").

9

10 **Q. WHAT IS YOUR POSITION AND WHAT ARE YOUR AREAS OF**  
11 **RESPONSIBILITY?**

12 A. I am the Executive Vice President, External Affairs for Frontier Communications  
13 Corporation. I have overall responsibility for federal and state regulatory and legislative  
14 matters on behalf of Frontier.

15

16 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND.**

17 A. I received a B.A. magna cum laude from Marquette University and a J.D. from Catholic  
18 University of America's Columbus School of Law.

19

20 **Q. PLEASE SUMMARIZE YOUR BACKGROUND IN THE**  
21 **TELECOMMUNICATIONS INDUSTRY.**

22 A. From March 2010 to June 2012, I was Chief Legal Officer and Executive Vice President,  
23 Regulatory and Governmental Affairs. Prior to joining Frontier, I was a Partner at

1 Wilkinson Barker Knauer LLP, advising clients on a wide range of legal, policy and  
2 regulatory issues related to telecommunications and the media. Before this, I was a  
3 Partner at the law firm of Akin Gump Strauss Hauer & Feld, LLP.

4  
5 I served as a Commissioner with the Federal Communications Commission (FCC) from  
6 2001-2005. While a Commissioner, I chaired the Federal-State Joint Board on Universal  
7 Service and participated as a U.S. representative in numerous international bilateral and  
8 multilateral negotiations, including the 2002 International Telecommunication Union  
9 (ITU) Plenipotentiary Conference and the 2003 ITU World Radiocommunications  
10 Conference. Prior to joining the FCC, I was Vice President for Public Policy at  
11 BroadBand Office Communications; Vice President for Regulatory Affairs at US West;  
12 and Vice President for Federal Regulatory Affairs at AirTouch Communications. Earlier  
13 in my career, I was Legal Advisor to two FCC commissioners and a Special Assistant to  
14 the agency's General Counsel.

15  
16 I also served on Frontier Communications' board of directors from April 2006 through  
17 February 2010. I am currently on the boards of the John Gardner Fellowship Association,  
18 which is affiliated with U.C. Berkley, and Stanford University and I also serve on the  
19 board of ISO New England Inc., the operator of New England's bulk power and  
20 wholesale electricity markets.

21 **II. SUMMARY OF TESTIMONY**

22 **Q. PLEASE SUMMARIZE YOUR TESTIMONY?**

1 A. My testimony responds to the direct testimony filed on April 25 by Jing Liu, Jing Y.  
2 Roth, and William H. Weinman of the Commission Staff (“Staff”) and Dr. Trevor R.  
3 Roycroft, Ph.D on behalf of Public Counsel. In their testimony, Staff and Public Counsel  
4 fail to acknowledge the unprecedented level of competition Frontier now faces in  
5 Washington and the regulatory disparity between Frontier and its competitors that is  
6 undermining Frontier’s ability to effectively compete in the communications  
7 marketplace. The Commission does not regulate Frontier’s intermodal competitors  
8 (wireless, cable, VoIP and other providers) and CLECs are subject to only minimal  
9 regulation. The market share of other competitive providers continues to expand at the  
10 expense of Frontier as Frontier, and its predecessor, has lost more than sixty percent  
11 (60%) of its access lines in Washington since 2000. These losses continue and will  
12 continue and will undermine Frontier’s long-term ability to compete and invest in  
13 infrastructure in Washington unless the Commission takes action to relieve Frontier of  
14 the regulatory constraints which no longer provide discernible public interest benefits and  
15 create additional costs and burdens for Frontier, while impeding Frontier’s ability to offer  
16 its services in a similar manner as its competitors.

17

18 **III. RESPONSE TO STAFF AND PUBLIC COUNSEL TESTIMONY**

19 **Q. DO YOU AGREE WITH STAFF AND PUBLIC COUNSEL’S**  
20 **RECOMMENDATION THAT THE COMMISSION SHOULD CONTINUE TO**  
21 **REGULATE FRONTIER AND CERTAIN SERVICES AS IT HAS IN THE PAST**  
22 **AND DENY FRONTIER’S REQUEST TO BE CLASSIFIED AS A**  
23 **COMPETITIVE SERVICE PROVIDER?**

1 A. Absolutely not. Staff and Public Counsel's witnesses have recommended that Frontier's  
2 request to be classified as a competitive service provider, which would move it closer to  
3 regulatory parity with the providers against Frontier competes, be denied. Instead Staff  
4 argues that Frontier's basic residential, basic business and special access service continue  
5 to be regulated as they have been in the past under monopoly era, rate of return  
6 regulation. Obtaining reduced regulation is entirely consistent with the public interest,  
7 avoids unnecessary costs and will enable Frontier to begin to transition to a level  
8 regulatory playing field in Washington. Frontier has invested more than \$190 million in  
9 facilities and infrastructure in Washington between July 2010 (the date Frontier acquired  
10 the Washington operations from Verizon) and December 2012. Unfortunately, Frontier's  
11 legacy as a regulated entity continues to result in overhead costs and expenses that  
12 challenge our ability to compete and as our revenues decline, our ability to continue to  
13 invest in infrastructure similarly declines. Frontier has more than 1100 employees in the  
14 state and has upgraded its network and deployed broadband service to over ninety-three  
15 percent (93%) of the households in its service territory. Yet despite the scope of this  
16 investment and presence in Washington, Frontier is continuing to confront dramatic  
17 customer losses in our traditional legacy phone business. We must adjust how we do  
18 business, offer alternative products and services to our customers and eliminate costly,  
19 legacy monopoly telephone regulations on our telecommunications services. This  
20 Petition would recognize the reality of today's changing marketplace by granting Frontier  
21 greater pricing flexibility on all the services it offers, thus providing greater regulatory  
22 parity with the wireless, cable TV, competitive local exchange carriers (CLEC), Voice  
23 over Internet Protocol ("VoIP") and other providers with which it must compete for both

1 business and residential customers. The dynamics of the existing marketplace results in  
2 competitive pressures that provide appropriate checks on telecommunication services  
3 pricing, quality of service and the availability of service. Regulatory requirements that  
4 may have been appropriate 10 or 20 years ago are no longer necessary to protect the  
5 public and should be eliminated.

6  
7 **Q. PLEASE SUMMARIZE THE CONCERNS YOU HAVE WITH THE STAFF AND**  
8 **PUBLIC COUNSEL'S ANALYSIS OF FRONTIER'S REQUEST FOR**  
9 **COMPETITIVE STATUS?**

10 A. I do not believe Staff and Public Counsel appreciate the changing nature of today's  
11 market and therefore fail to adequately recognize the level of competition that Frontier is  
12 confronts in both its residential and business markets. Staff Witness Jing Roth testified  
13 that "Frontier's network business exchange services are subject to effective competition"  
14 except for "one party stand-alone business line" service. Staff Witnesses Weinman has  
15 suggested that intrastate special access services are not competitive. Staff Witness Jing  
16 Liu testifies that Frontier's stand-alone basic residential service is not subject to effective  
17 competition. And Public Counsel witness Trevor Roycroft concludes that effective  
18 competition does not exist across Frontier's service area. Frontier witnesses Jack Phillips  
19 and Billy Jack Gregg will address the specific points raised by Staff and Public Counsel  
20 witnesses in more detail, however, I want to focus on two important points that I believe  
21 Staff and Public Counsel failed to recognize in their analysis and recommendation that  
22 Frontier's request to be classified as a competitive carrier be denied. First, contrary to the  
23 testimony of Staff, the Commission should not require that alternative service provider

1 competitors offer identical or virtually identical services (e.g. stand-alone basic  
2 residential or stand-alone basic business) for the services to be deemed subject to  
3 competition. The real test is whether when pricing our products or bundles we are  
4 constrained by competitors seeking to provide service to those same customers with  
5 alternative service packages or bundled offerings. The customer benefits with choices  
6 and options all priced competitively, yet differently. Just because a service offered is not  
7 identical, does not mean that it is not subject to competition. Customers make decisions  
8 on the current options available to them, and it is clear that as bundling data and video  
9 services together has grown, so too has the level of competition and, for Frontier, the loss  
10 of customers due to competition. I want to be clear though, Frontier has committed in  
11 earlier testimony by witnesses Jack Phillips and Billy Jack Gregg to continuing its  
12 obligations as a Carrier of Last Resort and an Eligible Telecommunications Carrier in the  
13 state of Washington, which means these stand-alone services will remain available.  
14 Second, Frontier's loss of market share and the impact of wireless service as an accepted  
15 substitute for wireline service provided by Frontier should be significant, if not the  
16 predominant, factors in assessing whether the market is competitive. Frontier should not  
17 be required endure further and potentially crippling customer losses in Washington  
18 before the Commission finds that effective competition exists.

19  
20 **Q. DO STAFF AND PUBLIC COUNSEL ACKNOWLEDGE IN THEIR**  
21 **TESTIMONY THAT CONSUMERS IN WASHINGTON HAVE A WIDE RANGE**  
22 **CHOICES FOR EQUIVALENT OR SUBSTITUTE SERVICES FROM OTHER**  
23 **PROVIDERS IN WASHINGTON?**



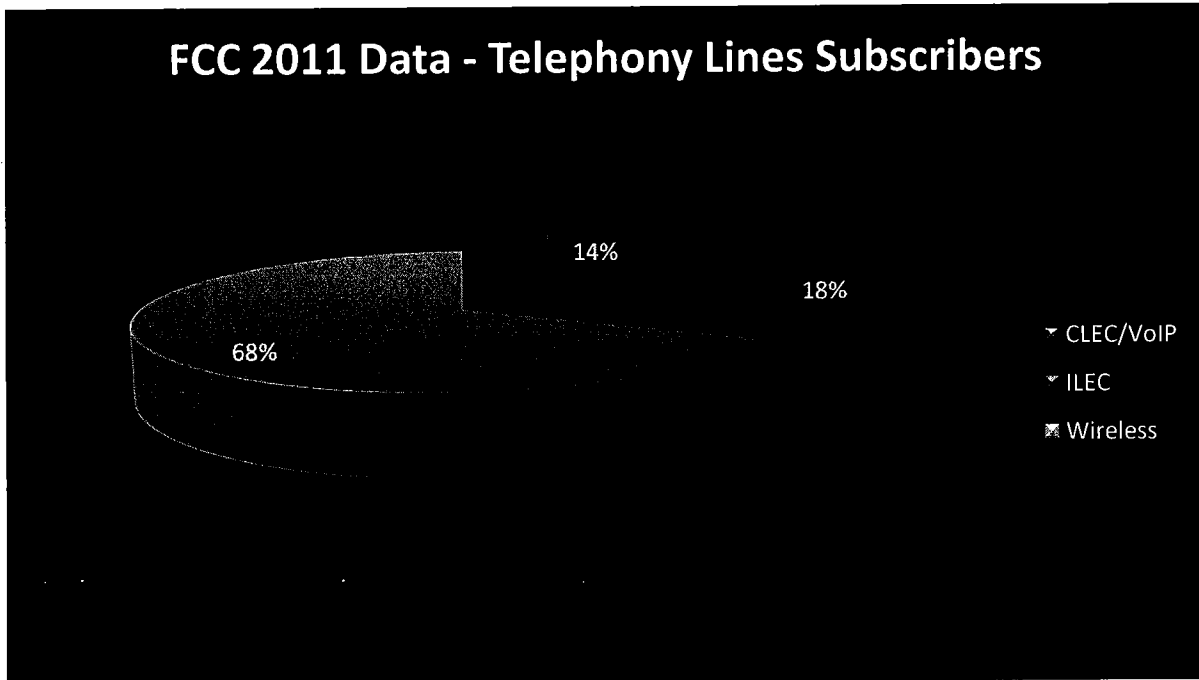
1 A. No. I do not believe that Staff and Public Counsel appreciate that consumers are willing  
2 to replace traditional landline service offered by Frontier with competitive alternatives  
3 such as wireless and services offered via the Internet. In Washington today, competitors  
4 offer equivalent or substitute services that are comparable to Frontier's service offerings  
5 on the basis of product design, price and availability. For example, cable TV providers  
6 and VoIP providers offer services and packages that enable consumers to make and  
7 receive voice calls across the street, across town, across the country and around the world  
8 both from their home or business or from virtually anywhere in the world. A myriad of  
9 service options, including real time video voice communications using Skype, Facetime,  
10 Facebook and other platforms also displace traditional landline service for residential  
11 customers. Similarly, as explained in the testimony of Jack Phillips, both traditional  
12 CLECs and cable TV companies have expanded their networks and offer a wide array of  
13 services to business customers, including small business customers. According to the  
14 FCC's data, CLECs/VoIP providers have been able to increase their market share by  
15 thirty percent (30%) in Washington just in the four year period between December 2007  
16 and December 2011.<sup>1</sup> This market share analysis shows that CLECs and VoIP providers  
17 offer highly viable and competitive service alternatives to traditional ILEC services  
18 offered by Frontier in Washington.

19  
20 However, the fact that is the most striking about the growth in CLEC/VoIP market share  
21 is that it does not take into account the impact of wireless service substitution for landline  
22 services both with respect to residential and business customers in Washington. Neither

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<sup>1</sup> "Local Telephone Competition: Status as of December 31, 2011" Industry and Technology Division, Wireline Competition Bureau, Federal Communications Commission, January 2013) at Table 9 (page 20).

1 the Staff nor Public Counsel witnesses appear to recognize that wireless alternative  
2 service providers are now the predominant voice service provider category in  
3 Washington. As the FCC has reported, the number of access lines served by ILECs as a  
4 percent share of consumers subscribing to voice service has declined to 18% of the total  
5 voice service lines as of December 2011. This data is reflected in the chart below:

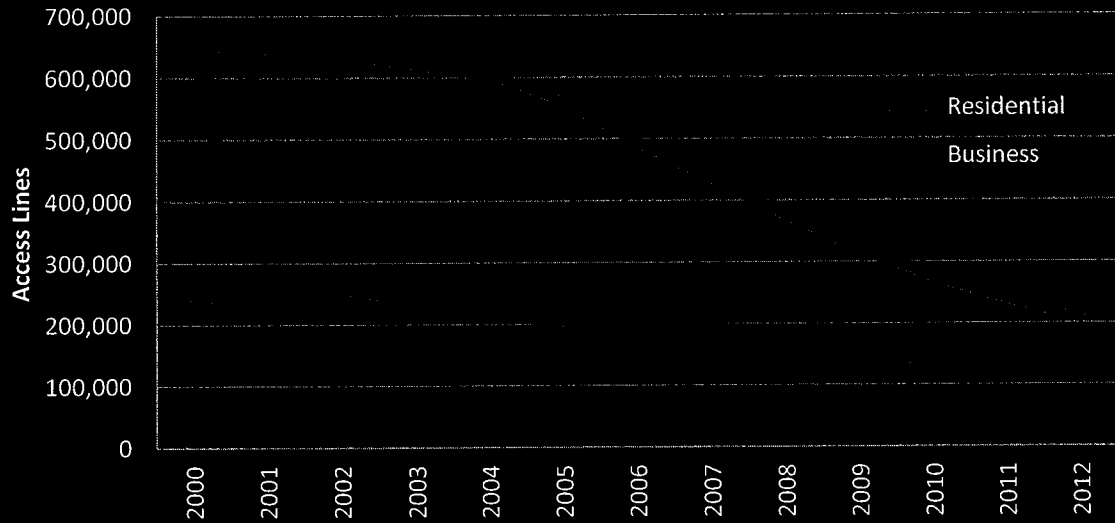


6  
7 Although Staff and Public Counsel may not view wireless service as a competitive  
8 substitute for Frontier's services, consumers in Washington clearly do. Wireless  
9 companies ranging from AT&T Wireless, Verizon Wireless, T-Mobile, Sprint and a host  
10 of other wireless providers, now offer a panoply of services that substitute for both basic  
11 residential service and basic business voice service. Frontier is confronted by the fact  
12 that more and more residential consumers and small business customers have "cut the  
13 cord" and rely exclusively on a wireless phone instead of a traditional landline phone.  
14 The wireless alternative not only constrains how Frontier prices products and services,  
15 but it also has an impact on how competitive we are retaining existing customers.

1 **Q. DO THE STAFF AND PUBLIC COUNSEL WITNESSES RECOGNIZE THAT**  
2 **THE ROBUST AND EXPANDING COMPETITION IN WASHINGTON HAVE**  
3 **DRAMACTICALLY AND IRREVERSABLY IMPACTED FRONTIER?**

4 A. No. Although Frontier witness Jack Phillips has presented previous testimony explaining  
5 that Frontier has experienced significant competition from CLEC, VoIP, cable, wireless  
6 and other alternative service providers, Staff and Public Counsel witnesses suggest that  
7 the level of competition confronted by Frontier is still not significant enough to support  
8 classification of Frontier as a competitive telecommunications carrier. These conclusions  
9 are undermined by the Company's dramatic and consistent loss of access lines in  
10 Washington. During the period between 2000 and 2012, the aggregate number of access  
11 lines served by Frontier in Washington declined approximately sixty-four percent (64%).  
12 In other words, at this point in time, Frontier has lost two-thirds of its access lines and is  
13 currently only serving one-third (1/3) of the access lines it did in the year 2000. The  
14 following chart summarizes this trend:

## Frontier Access Line Losses



1  
2 Unfortunately, this steady loss of access lines is continuing and clearly demonstrates that  
3 Frontier does not have a captive customer base for residential or business services and  
4 that Frontier is continuing to confront competition and a decreasing market share.

5  
6 The question this Commission must consider is whether the sixty-four percent (64%)  
7 aggregate and continuing loss in access lines combined with the increase in wireless  
8 penetration and the presence of other competitive alternative providers is sufficient to  
9 demonstrate that Frontier is facing robust and irreversible competition in Washington  
10 such that Frontier should be classified as a competitive telecommunications carrier.

11 Public policy supports reducing regulatory impediments for Frontier so it can compete  
12 and remain a viable and effective competitor in the marketplace. There is ample  
13 evidence that Frontier must competitively price its products and services to stem the loss  
14 of customers to wireless, cable and other competitors. At this point, ongoing outdated

1 monopoly phone regulations should be eliminated to provide Frontier with regulatory  
2 parity with its competitors.

3  
4 **IV. CONCLUSION**

5 **Q. DO MARKET CONDITIONS EXIST TO CLASSIFY FRONTIER AS A**  
6 **COMPETITIVE TELECOMMUNICATIONS COMPANY?**

7 A. Yes. I respectfully disagree with the conclusions of Staff and Public Counsel witnesses  
8 that the level of competition confronting Frontier does not support reclassifying Frontier  
9 as a competitive service provider. The competitive telecommunications market has  
10 undergone a paradigm shift, and Frontier is now facing broad competition in Washington  
11 not only from traditional wireline CLEC competitors but also from “intermodal”  
12 competitors such as wireless, cable, VoIP, Internet-based and other providers. The  
13 composition of the competitive Washington telecommunications market is dynamic, and  
14 customer preferences are clearly shifting away from traditional landline services toward  
15 wireless and other services that have attractive and ever-evolving telecommunications  
16 applications. In a continuing trend, Frontier’s network is no longer a critical path for  
17 competitors to deliver local exchange services. The variety and expanding market share  
18 of alternative service providers providing voice and other substitute services, combined  
19 with loss of more than sixty percent (60%) of its access lines in Washington since  
20 2000, demonstrates that Frontier does not have market power or a captive customer base  
21 to warrant the continuation of the existing regulatory requirements designed to constrain  
22 pricing by a monopoly service provider. Prices and rates, along with the quality of  
23 service, are effectively constrained by the market. A level playing field will not only

1 help ensure the survival of the Company and its services, but it will also ensure  
2 innovation and more choices in the marketplace for customers.

3

4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

5 A. Yes, it does.