

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. Frontier maintains 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 data, only 12 out-of-service complaints were recorded in 2016 that were not the result of a force majeure event, 3rd party cut or holiday or weekend-related. To date in 2017, Frontier Communications has recorded only 5 out-of-service complaints that were not affected by issues over which

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Frontier had no control. Based on the data and in light of the competitiveness of the voice communications markets, Frontier does not believe this rulemaking is necessary at this time.

The Proposed Rules are Unnecessary and Discriminate against Wireline ILECs.

Treating ILECs differently than their non-regulated voice competitors, results in dispirit additional regulatory burdens and is inconsistent with the policy 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. 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. 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. Frontier maintains that the competitive marketplace does in fact determine what a reasonable time means to the consumer, and providers who do not perform to those standard will suffer the consequences .

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;~~

If the Commission decides to revise the rule and in an effort to avoid further regulatory disparity in the marketplace, it should be clear that the rule be limited in application to regulated basic residential telephone service. Frontier Communications would respectfully request the elimination of all unregulated products from the scope of the rule and further define the 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 Frontier would suggest adding language to clearly exempt repair of damaged infrastructure caused by a 3rd party and not include cable 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” and consistent with other states that still have an Out-Of-Service metric, the calculation should be based on a state-wide percentage of customers 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 in have eliminated out-of-service repair requirements due to the competitive nature of the marketplace and in an effort to level the playing field for all providers. Finally, Frontier proposes that any out-of-service condition be defined as a complete loss of dial tone and that reporting is limited to an exception basis.

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.

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