



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY LEGAL SERVICES AGENCY  
9275 GUNSTON ROAD  
FORT BELVOIR, VIRGINIA 22060-5546

May 17, 2013

REPLY TO  
ATTENTION OF  
Regulatory Law Office  
U 4210

**VIA EXPEDITED OVERNIGHT MAIL PRIVATE COURIER  
and ELECTRONIC (Email) MAIL (on May 17, 2013)**

Commission Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P.O. Box 47250  
Olympia, WA 98504-7250

**Subject: DoD/FEA's Testimony of August H. Ankum, Ph.D. in Support of Settlement Agreement Between Frontier and DoD/FEA**

**Re: *In the Matter of Frontier Communications Northwest, Inc.'s Petition to be Regulated as a Competitive Telecommunications Company Pursuant to RCW 80.36.320 - Docket UT-121994***

To The Honorable Commission Executive Director and Secretary:

Enclosed for filing in the above-captioned proceeding are the hard copy original and six (6) copies of the United States Department of Defense and All Other Federal Executive Agencies' (collectively referred to herein as "DoD/FEA's") **Testimony of August H. Ankum, Ph.D. in Support of Settlement Agreement Between Frontier and DoD/FEA**. A Certificate of Service is appended to this filing.

Copies of this document are being sent in accord with the Certificate of Service. Inquiries to this office regarding this proceeding should be directed to the undersigned at (703) 614 - 3918.

Thank you for your cooperation and assistance in this matter.

Regards,

Stephen S. Melnikoff  
General Attorney  
Regulatory Law Office (JALS-RL/IP)  
U. S. Army Legal Services Agency  
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Enclosure: Original and six (6) copies  
Cf: See Certificate of Service

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Frontier	)	DOCKET NO. UT-121994
Communications Northwest Inc.'s	)	
Petition to be Regulated as a Competitive	)	THE UNITED STATES
Telecommunications Company Pursuant	)	DEPARTMENT OF DEFENSE AND
to RCW 80.36.320	)	ALL OTHER FEDERAL EXECUTIVE
	)	AGENCIES'
	)	
_____	)	CERTIFICATE OF SERVICE

**CERTIFICATE OF SERVICE**

I certify that I have caused a copy of the appropriate foregoing document, together with this Certificate of Service, in Docket No. UT-121994 to be sent this day by electronic service (email) and postage prepaid, properly addressed, first class U.S. Mail (or private courier) to the counsel and parties named below, as indicated:

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<p>Honorable Gregory J. Kopta  Administrative Law Judge  Washington Utilities and  Transportation Commission  1300 S. Evergreen Park Drive S.W.  P.O. Box 47250  Olympia, WA 98504-7250  <u><a href="mailto:gkopta@utc.wa.gov">gkopta@utc.wa.gov</a></u></p>	

Dated this 17<sup>th</sup> day of May 2013,  
at Fort Belvoir, Virginia.

  
\_\_\_\_\_  
Stephen S. Melnikoff

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**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Frontier	)	DOCKET NO. UT-121994
Communications Northwest Inc.'s	)	
Petition to be Regulated as a Competitive	)	THE UNITED STATES
Telecommunications Company Pursuant	)	DEPARTMENT OF DEFENSE AND
to RCW 80.36.320	)	ALL OTHER FEDERAL EXECUTIVE
	)	AGENCIES' NOTICE OF FILING
	)	TESTIMONY OF AUGUST H.
	)	ANKUM, Ph.D. IN SUPPORT OF
	)	SETTLEMENT AGREEMENT

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**NOTICE OF FILING TESTIMONY OF AUGUST H. ANKUM, Ph.D.  
IN SUPPORT OF SETTLEMENT AGREEMENT**

The United States Department of Defense and all other Federal Executive Agencies (collectively referred to herein as "DoD/FEA") hereby files the Testimony of August H. Ankum, Ph.D. in Support of Settlement Agreement Between Frontier Communications Northwest Inc. ("Frontier") and DoD/FEA.

Respectfully submitted,

May 17, 2013

  
\_\_\_\_\_  
Stephen S. Melnikoff

General Attorney

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9275 Gunston Road  
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For  
The United States Department of Defense  
And  
All other Federal Executive Agencies

**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

**TESTIMONY**

**OF**

**AUGUST H. ANKUM, Ph.D.**

**IN SUPPORT OF SETTLEMENT AGREEMENT BETWEEN**

**FRONTIER COMMUNICATIONS NORTHWEST INC.**

**AND**

**THE U.S. DEPARTMENT OF DEFENSE**

**and**

**ALL OTHER FEDERAL EXECUTIVE AGENCIES**

**MAY 17, 2013**

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**EXHIBIT**

Exhibit AHA-7: SETTLEMENT AGREEMENT RESOLVING DOD/FEA ISSUES

1 **I. INTRODUCTION**

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

3 A. My name is August H. Ankum. I currently serve as Senior Vice President and Chief  
4 Economist of QSI Consulting, Inc. My business address is 429 North 13th Street, Apt.  
5 2D, Philadelphia, Pennsylvania 19123.

6 **Q. ARE YOU THE SAME AUGUST ANKUM WHO FILED RESPONSE**  
7 **TESTIMONY IN THIS PROCEEDING ON APRIL 25, 2013?**

8 A. Yes.

9 **Q. ON WHOSE BEHALF ARE YOU FILING THIS TESTIMONY?**

10 A. I am appearing on behalf of the consumer interests of the U.S. Department of Defense  
11 (“DoD”) and all other Federal Executive Agencies (“FEA”) in Washington.

12 **II. PURPOSE AND SUMMARY**

13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A. The purpose of this testimony is to: (1) describe the Settlement Agreement reached  
15 between DoD/FEA and Frontier Communications Northwest, Inc. (hereafter “Frontier”)  
16 in this docket and (2) explain why the Washington Utilities and Transportation  
17 Commission (“WUTC” or “Commission”) specifically should approve and adopt this  
18 Settlement Agreement. For purposes of this testimony, I will refer to the Settlement  
19 Agreement reached between DoD/FEA and Frontier as the *Settlement of DoD/FEA*



1        *Issues*, and I have attached a copy as Exhibit AHA-7 to this testimony. This testimony is  
2        being filed pursuant to WAC § 480-07-740(2)(b) and the Administrative Law Judge's  
3        Notice Granting Request to File Testimony In Support of Settlement Agreement dated  
4        May 14, 2013.

5        **Q.    BESIDES YOUR TESTIMONY AND THE SETTLEMENT OF DOD/FEA ISSUES,**  
6        **ARE THERE OTHER DOCUMENTS BEING FILED IN SUPPORT OF THE**  
7        **SETTLEMENT REACHED BETWEEN FRONTIER AND DOD/FEA?**

8        A.    Yes. Concurrent with my testimony, Frontier is also filing testimony pursuant to WAC §  
9        480-07-740(2)(b) in support of the *Settlement of DoD/FEA Issues*. In addition, Frontier  
10       and DoD/FEA are jointly filing a Joint Narrative Supporting the Settlement Agreement  
11       under WAC § 480-07-740(2)(a). Additionally, on May 14, 2013, the Settlement was  
12       filed with the Commission as an attachment to the Joint Motion of Frontier and  
13       DoD/FEA For Leave to File Narrative and Testimony In Support Of Settlement  
14       Agreement.

15       **Q.    IN YOUR PRE-FILED RESPONSE TESTIMONY SUBMITTED ON APRIL 25,**  
16       **2013, YOU RECOMMENDED THAT THE COMMISSION REJECT**  
17       **FRONTIER'S PETITION FOR RECLASSIFYING THE COMPANY AS**  
18       **COMPETITIVE UNDER RCW 80.36.320. IS THIS STILL YOUR**  
19       **RECOMMENDATION?**

1 A. In my April 25, 2013, Response Testimony, I addressed Frontier's Petition<sup>1</sup> by focusing  
2 on the business local services purchased by DoD/FEA from Frontier in Washington. I  
3 recommended that the Commission reject Frontier's Petition because, in DoD/FEA's  
4 view, Frontier had not demonstrated "effective competition" for these business local  
5 services.<sup>2</sup> I also stated that if the WUTC is inclined to approve Frontier's Petition, the  
6 Commission should at least make such approval conditional upon the existence of  
7 safeguards for DoD/FEA much like those which were implemented between DoD/FEA  
8 and CenturyLink QC in a recent "effective competition" proceeding in Arizona.<sup>3</sup> Since  
9 my pre-filed response testimony was submitted, DoD/FEA and Frontier have reached a  
10 settlement agreement that would provide these safeguards. Therefore, my  
11 recommendation has changed since my response testimony. I now recommend that the  
12 WUTC specifically approve and adopt the *Settlement of DoD/FEA Issues*, and I take no  
13 position on whether the Commission should approve or deny Frontier's Petition.

14 **III. SETTLEMENT OF DOD/FEA ISSUES**

15 **Q. PLEASE BRIEFLY DESCRIBE THE SETTLEMENT OF DOD/FEA ISSUES.**

16 A. The Settlement Agreement covers four areas: (1) administrative provisions; (2) service  
17 availability; (3) rates, terms and conditions; and (4) general provisions. The substantive

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<sup>1</sup> Frontier Communications Northwest Inc.'s Replacement Amended Petition for Approval of Minimal Regulation in Accordance with RCW 80.36.320, Docket No. UT-121994 (1/23/13) ("Frontier Petition").

<sup>2</sup> Ankum Response Testimony, p. 67, lines 1-12 (4/25/13).

<sup>3</sup> Ankum Response Testimony, pp. 67-68 (4/25/13) and Exhibit AHA-4.

1 conditions related to service availability, rates, terms and conditions, and general  
2 provisions are contained within Attachment 1 to the Settlement Agreement.

3 **Q. PLEASE SUMMARIZE THE ADMINISTRATIVE PROVISIONS.**

4 A. After a section on background on the Settlement Agreement, there are fourteen sections  
5 in the *Settlement of DoD/FEA Issues* addressing administrative provisions. These  
6 administrative provisions (i) define the *Settlement of DoD/FEA Issues* as a “Multiparty  
7 Settlement” under § WAC 480-07-730(3); (ii) clarifies that neither Party<sup>4</sup> accepts the  
8 other Party’s legal or factual assertions or arguments; (iii) establishes a proposed  
9 effective date and a five (5) year duration; (iv) describes the procedure for filing the  
10 *Settlement of DoD/FEA Issues* with the Commission and the actions required of the  
11 Parties to support its approval; (v) establishes guidelines regarding any announcements or  
12 press releases; (vi) describes the procedures available to the Parties if the Commission  
13 rejects the *Settlement of DoD/FEA Issues* or approves it subject to modifications not  
14 proposed by either Party; (vii) describes the procedures for executing the *Settlement of*  
15 *DoD/FEA Issues*; and (viii) memorializes the Parties’ agreement that the *Settlement of*  
16 *DoD/FEA Issues* is in the public interest, resolves all outstanding contested issues as  
17 between Frontier and DoD/FEA and should be approved by the Commission with no  
18 material changes.

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<sup>4</sup> The term “Party” in this testimony refers to either DoD/FEA or Frontier. The term “Parties” refers to DoD/FEA and Frontier collectively.

1   **Q.    DESCRIBE THE SUBSTANTIVE SAFEGUARDS IN THE *SETTLEMENT OF***  
2   ***DOD/FEA ISSUES.***

3    A.    As discussed above, the substantive safeguards in the *Settlement of DoD/FEA Issues* are  
4    contained in Attachment 1 to the Settlement Agreement. The primary safeguards will be  
5    provided within a Master Services Agreement (“MSA”) that will be executed by the  
6    Parties immediately after the Commission issues a ruling on Frontier’s Petition. *See,*  
7    Attachment 1, ¶ A. At a high level, the MSA will be a commercial individual case basis  
8    (“ICB”) - type arrangement requiring Frontier to provide certain business services to  
9    DoD/FEA at rates, terms and conditions no higher or less advantageous than now existing  
10   for at least five (5) years, provided that DoD/FEA satisfies a revenue volume threshold  
11   commitment. The MSA will be executed and take effect on July 1, 2013, with a five (5)  
12   year term, and will automatically renew for another one (1) year term unless either Party  
13   provides written notice of intent to terminate the MSA no less than 90 days prior to the  
14   expiration date of the then current term. *See,* Attachment 1, ¶ A(5).

15   **Q.    DESCRIBE THE SERVICE AVAILABILITY PROVISIONS OF THE MSA.**

16    A.    The services covered by the MSA are “intrastate WUTC regulated business services  
17    purchased by DoD/FEA as of July 1, 2013” and the MSA includes a sample list of those  
18    services. For services covered by the MSA, DoD/FEA entities will be permitted to  
19    maintain those services as well as move, change, terminate or add to those services  
20    (subject to applicable charges) during the duration of the *Settlement of DoD/FEA Issues.*  
21    *See,* Attachment 1, ¶¶ A(1) and A(2). The service availability provisions of the MSA

1 will ensure that the business services DoD/FEA currently purchases from Frontier or will  
2 need to purchase from Frontier will be available for the foreseeable future if the  
3 Commission approves Frontier's Petition.

4 **Q. DESCRIBE THE RATE PROVISIONS OF THE MSA.**

5 A. Rates for services covered by the MSA will be, for the duration of the MSA, capped at  
6 the rates in Frontier's intrastate tariffs effective as of January 1, 2013, or the actual rates  
7 applicable and billed to DoD/FEA as of July 1, 2013, whichever is lower. In addition, if,  
8 during the MSA's duration, DoD/FEA identifies rates for MSA services that are higher  
9 than those listed in Frontier's Tariffs, Service Catalogs, or Price Lists, then the rates for  
10 MSA services will be adjusted to the applicable lower rates going forward. *See*,  
11 Attachment 1, ¶ (A)(3).

12 **Q. DESCRIBE THE TERMS AND CONDITIONS PROVISIONS OF THE MSA.**

13 A. Terms and conditions for services covered by the MSA will, for the duration of the MSA,  
14 be those in Frontier's tariff effective as of January 1, 2013, or those applicable to the  
15 present service offerings provided by Frontier to DoD/FEA as of July 1, 2013. In  
16 addition, if, during the MSA's duration, DoD/FEA identifies terms or conditions for  
17 MSA services that are less advantageous than those listed in Frontier's Tariffs, Service  
18 Catalogs, or Price Lists, then the terms or conditions for MSA services will be adjusted to  
19 the more advantageous terms and conditions going forward. *See*, Attachment 1, ¶ (A)(3).

20 **Q. DESCRIBE THE VOLUME COMMITMENT OF THE MSA.**

1 A. The MSA contains a volume commitment under which DoD/FEA entities agree to  
2 collectively maintain Washington total annual direct retail service billings by Frontier  
3 that are at least 85% of such annual purchases of retail services in the year preceding the  
4 MSA's effective date. The Parties have estimated such annual billings to be between  
5 \$1.5 million and \$2.0 million, and the MSA states that the Parties will calculate a more  
6 precise annual amount once the MSA is executed. So long as DoD/FEA satisfies this  
7 volume commitment, the MSA rates, terms and conditions will apply for the MSA's  
8 duration. *See*, Attachment 1, ¶ (A)(4).

9 **Q. WHAT IF DOD/FEA'S RETAIL BILLINGS FROM FRONTIER FALL BELOW**  
10 **THE 85% VOLUME THRESHOLD?**

11 A. The MSA contains a process by which Frontier may determine on an annual basis  
12 whether the volume commitment has been satisfied. If Frontier determines that the  
13 volume commitment has not been satisfied, it may notify DoD/FEA in writing. If, after  
14 notice, DoD/FEA's Washington total annual direct retail service billings from Frontier  
15 remain below the 85% threshold for 180 days, then Frontier may (at its option) either  
16 terminate the MSA or negotiate different rates, terms and conditions for MSA services.  
17 *See*, Attachment 1, ¶ (A)(4).

18 **Q. DESCRIBE THE GENERAL PROVISIONS IN THE SETTLEMENT OF**  
19 **DOD/FEA ISSUES.**

20 A. Paragraphs B, C, D and E of Attachment 1 contain general provisions not directly related  
21 to the MSA safeguards. Paragraph B states that if Frontier withdraws tariffs for business

1 services, then Frontier will retain copies of the tariffs it had on file immediately prior to  
2 detariffing and make those tariff documents available electronically to DoD/FEA upon  
3 request. Paragraph C specifies the DoD/FEA contact(s) that must be provided any notice  
4 required by the Settlement Agreement. Paragraph D clarifies that nothing in the  
5 Settlement Agreement is intended to prevent Frontier or potential alternative providers  
6 from competing for the business services DoD/FEA purchases in Washington. Paragraph  
7 E states that the *Settlement of DoD/FEA Issues* is not impacted by, and is independent of,  
8 any other settlement(s) between Frontier and other entities.

9 **Q. DOES THE SETTLEMENT OF DOD/FEA ISSUES ADDRESS SERVICE**  
10 **QUALITY?**

11 A. It does not specifically. There is nothing in the Settlement Agreement which would  
12 impact the Commission's current service quality requirements or obligations, nor does it  
13 impact any changes that the Commission may make in the course of this proceeding or in  
14 the future. It is my belief that any future Commission service quality requirements would  
15 apply to MSA services taken by DoD/FEA under the Settlement Agreement, unless  
16 expressly exempted by the Commission.

17 **Q. DOES THE RECOMMENDED EFFECTIVE DATE OF THE SETTLEMENT OF**  
18 **DOD/FEA ISSUES PROVIDE SUFFICIENT TIME FOR THE COMMISSION'S**  
19 **CONSIDERATION?**

20 A. Yes, I believe there is sufficient time. The recommended effective date of the MSA in  
21 the *Settlement of DoD/FEA Issues* is July 1, 2013. This provides approximately 44 days

1           between the filing of the Parties’ Joint Narrative/Testimonies in Support of the Settlement  
2           and the MSA’s requested effective date, which is more than twice as long as the  
3           minimum twenty-one (21) days required for less complex matters under WAC § 480-07-  
4           740(1)(b).

5   **IV. THE SETTLEMENT OF DOD/FEA ISSUES RESOLVES DOD/FEA’S**  
6   **CONCERNS WITH FRONTIER’S PETITION AND IS IN THE PUBLIC**  
7   **INTEREST**

8   **Q.   HOW DO THE SAFEGUARDS IN THE *SETTLEMENT OF DOD/FEA ISSUES***  
9   **RESOLVE THE CONCERNS OF DOD/FEA YOU DESCRIBED IN YOUR**  
10 **RESPONSE TESTIMONY SUBMITTED ON APRIL 25, 2013?**

11   A.   My Response Testimony explained that DoD/FEA is a large business customer of  
12   Frontier in Washington and argued there is not “effective competition,” under RCW §  
13   80.36.320, for the business local services DoD/FEA purchases from Frontier in  
14   Washington. I also described DoD/FEA’s concerns related to the Commission approving  
15   Frontier’s Petition in the absence of “effective competition”: (1) there would be no  
16   assurance that the business services DoD/FEA purchases from Frontier would be  
17   available in the future; (2) assuming that services would remain available in the future,  
18   there would be no indication the rates, terms and conditions for those services would  
19   remain just and reasonable; and (3) there would be no “safety net” – such as that  
20   currently provided by Frontier’s tariffs – for DoD/FEA customers.<sup>5</sup>

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<sup>5</sup> Ankum Response Testimony, pp. 21-23 (4/25/13).



1       As described above in Section III of this testimony, each of these concerns would be  
2       addressed by the *Settlement of DoD/FEA Issues* by ensuring for the duration of the MSA:  
3       that the services purchased by DoD/FEA from Frontier remain available; that the rates,  
4       terms and conditions of those services are no higher or less advantageous than they are  
5       today; and that Frontier will provide copies of tariffs to DoD/FEA upon request for  
6       services that are detariffed.

7       **Q.   HOW ARE THE SAFEGUARDS IN THE SETTLEMENT OF DOD/FEA ISSUES**  
8       **IN THE PUBLIC INTEREST?**

9       A.   The Settlement Agreement is in the public interest because it fairly balances Frontier's  
10       desire for additional regulatory flexibility with the need to protect DoD/FEA customers,  
11       which still rely on Frontier's services in the State of Washington. The Settlement  
12       Agreement also provides stability for DoD/FEA about what services will be available and  
13       at what rates, terms and conditions, as well as stability for Frontier related to its local  
14       exchange services revenues for planning, operational and investment purposes – while  
15       not discouraging competition from potential alternative providers that may want to  
16       provide business services to DoD/FEA in competition with Frontier in the future. In  
17       addition, the Settlement Agreement avoids trial risks and conserves resources – time,  
18       effort and costs of litigation – for the Parties as well as the Commission. Finally, it is my  
19       understanding that Frontier will make the Settlement's MSA Volume and Term Plan  
20       available to other customers similarly situated to DoD/FEA customer entities,  
21       collectively.

1   **Q.   PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS?**

2   A.   The safeguards in the *Settlement of DoD/FEA Issues* are in the public interest and  
3       satisfactorily address the DoD/FEA concerns detailed in my Response Testimony.  
4       Therefore, I recommend that the Commission specifically approve and adopt the  
5       *Settlement of DoD/FEA Issues* without any changes.

6   **Q.   DOES THIS CONCLUDE YOUR TESTIMONY REGARDING THE**  
7       ***SETTLEMENT OF DOD/FEA ISSUES?***

8   A.   Yes.

**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 80.36.320

Docket No. UT-121994

SETTLEMENT AGREEMENT

1 This Agreement ("Agreement") is entered into between Frontier Communications Northwest Inc. ("Frontier") and the U.S. Department of Defense and All Other Federal Executive Agencies ("DoD/FEA") (collectively "Parties" or individually a "Party").

**A. Background**

2 This docket concerns a Petition by Frontier to be classified as a competitive telecommunications provider pursuant to RCW 80.36.320. On December 21, 2012 Frontier filed a petition ("the Petition") with the Washington Utilities and Transportation Commission ("Commission") to be classified as a competitive provider pursuant to RCW 80.36.320. On January 23, 2013, Frontier filed an amended petition in the proceeding. On February 7, 2013, DoD/FEA filed a petition to intervene, which was granted on February 15, 2013. Frontier submitted testimony on February 28, 2013, and DoD/FEA submitted testimony on April 25, 2013. In its testimony, DoD/FEA raised a number of issues in connection with Frontier's Petition. DoD/FEA and Frontier engaged in settlement discussions to address DoD/FEA's issues and now enter voluntarily into this Agreement to resolve all contested issues between the Parties in the proceeding.

**B. Nature of Agreement**

3 This Agreement is a "Multiparty Settlement" within the meaning of WAC 480-07-730(3), and the Parties agree that the Agreement is in the public interest and should be accepted in resolution

of all issues in this docket as between Frontier and DoD/FEA. The Parties understand that this Agreement is subject to Commission approval and that any parties opposed to the Commission's adoption of this proposed settlement retain certain rights under WAC 480-07-740(2)(c). The Parties further understand that DoD/FEA has agreed to the terms of this Agreement based upon the substantive provisions included in Attachment 1 to this Agreement.

**C. Positions Are Not Conceded**

4 In reaching this Agreement, no Party accedes to any particular argument made by any other Party.

**D. Agreement Subject to Commission Approval.**

5 The Parties understand and agree that this Agreement in no manner binds the Commission in ruling on the pending proceeding until such a time as the Commission approves the Agreement. The Agreement is expressly subject to Commission approval except for Sections I and J below.

**E. Agreed Conditions on Approval of the Transaction**

6 The conditions agreed upon by the Parties are set forth in Attachment 1 to this Agreement. All conditions in Attachment 1 apply for five (5) years following July 1, 2013, unless otherwise specifically noted in the condition in Attachment 1.

**F. Effective Date**

7 The effective date of the Agreement is the date the Agreement is approved, without change, by Commission order. Notwithstanding the effective date of the Agreement as a whole, Sections I and J below, which require the Parties to support the Agreement before the Commission and govern publicity regarding the Agreement, are effective on the execution date of the Agreement. The execution date of the Agreement is the date of the latest signature.

8 If the Commission rejects the Agreement, the Agreement shall terminate, and the parties respectfully request that the Commission will instead enter an order on all contested issues. In the event the Commission accepts the Agreement upon conditions not proposed herein, the procedures set forth in Section K below shall apply.

**G. Filing of the Agreement**

9 The Parties agree to use the following procedures to seek Commission approval of the Agreement. Frontier will file this Agreement with the Commission on behalf of the Parties and the Parties will simultaneously file written testimony in support of the Agreement. The transmittal letter will recommend that the Commission accept this Agreement as the complete and final resolution of all issues raised by DoD/FEA in this proceeding.

**H. Agreement Approval Procedures**

10 The Parties understand the Commission has discretion, consistent with applicable law, to determine the appropriate procedures for determining whether it will approve this Agreement. Pursuant to WAC 480-07-740, the Parties urge the Commission to approve the settlement.

**I. Support of the Agreement**

11 The Parties agree to use their best efforts to support the Agreement as a settlement of all their contested issues in the pending proceeding. At a minimum, the Parties will provide supporting witnesses to sponsor the Agreement at a Commission hearing and recommend that the Commission issue an order adopting this Agreement as the resolution of their contested issues in this proceeding and to provide such other evidence or briefing that the Commission may require pursuant to WAC 480-07-740(2). No Party to this Agreement or their agents, employees, consultants or attorneys will engage in any advocacy contrary to the Commission's prompt

consideration of this Agreement or support any other party's opposition to this Agreement before the Commission or otherwise.

**J. Publicity**

12 All Parties agree: (1) to provide the other Party the right to review in advance of publication any and all announcements or news releases that the Party intends to make about the Agreement (with the right of review to include a reasonable opportunity to request changes to the text of such announcements) and (2) to include in any news release or announcement a statement that the Agreement is subject to Commission approval.

**K. Procedure if the Commission Provides Less Than Full Approval**

13 In the event the Commission rejects or alters this Agreement, the Parties propose that the Commission decide all their contested issues. In the event the Commission accepts the Agreement upon conditions not proposed herein, each Party reserves its right, upon written notice to the Commission and the parties within five (5) business days of the Commission's Order, to state its rejection of the conditions and withdrawal from the Agreement with the effect of respectfully requesting the Commission decide all contested issues as provided above.

**L. The Agreement as Precedent**

14 The Parties have entered into this Agreement to avoid further expense, inconvenience, uncertainty and delay. Nothing in this Agreement (or any testimony, presentation or briefing supporting the Agreement) shall be asserted or deemed to mean that a Party agreed with or adopted another Party's legal or factual assertions in this proceeding.

15 Because this Agreement represents a compromise position of the Parties in this Commission's proceeding, the Parties agree that no conduct, statements or documents disclosed in the

negotiation of the Agreement shall be admissible as evidence in this or any other proceeding.

This paragraph does not apply to non-privileged, publicly available documents.

- 16 Furthermore, because this Agreement represents a compromise position of the Parties in this Commission's proceeding, no Party may use this Agreement or the supporting testimonies or supporting pleadings and briefs of the other Party in this proceeding as precedent on the appropriateness of the positions of that other Party in any other proceeding. The limitations in this paragraph shall not apply to any proceeding to enforce the terms of this Agreement or any Commission order adopting this Agreement in full.

**M. Entire Agreement**

- 17 The Parties acknowledge that this Agreement is the product of negotiations and compromise and shall not be construed against any Party on the basis that it was the drafter of any or all portions of this Agreement. This Agreement constitutes the Parties' entire agreement on all matters set forth herein, and it supersedes any and all prior oral and written understandings or agreements on such matters that previously existed or occurred in this proceeding, and no such prior understanding or agreement or related representations shall be relied upon by the Parties.

**N. Integrated Agreement**

- 18 The Parties recommend that the Commission approve this Agreement with no material changes. The Parties have agreed to this Agreement as an integrated document.

**O. Manner of Execution**

- 19 This Agreement is considered executed when all Parties sign the Agreement. A designated and authorized representative may sign the Agreement on a Party's behalf. The Parties may execute this Agreement in counterparts. If the Agreement is executed in counterparts, all counterparts

shall constitute one agreement. A faxed signature page containing the signature of a Party is acceptable as an original signature page signed by that Party. Each Party shall indicate the date of its signature on the Agreement.

U.S. DEPARTMENT OF DEFENSE AND ALL OTHER FEDERAL EXECUTIVE AGENCIES

  
Stephen S. Melnikoff  
Attorney for DoD/FEA

May 14, 2013  
Date

FRONTIER COMMUNICATIONS NORTHWEST INC.

\_\_\_\_\_

\_\_\_\_\_  
Date



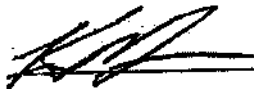
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U.S. DEPARTMENT OF DEFENSE AND ALL OTHER FEDERAL EXECUTIVE AGENCIES

\_\_\_\_\_  
Stephen S. Melnikoff  
Attorney for DoD/FEA

\_\_\_\_\_  
Date

FRONTIER COMMUNICATIONS NORTHWEST INC.

 \_\_\_\_\_

May 14, 2013  
Date

## ATTACHMENT 1

**A. Master Service Arrangement ("MSA") Volume and Term Plan:** Immediately after the Washington Utilities and Transportation Commission ("WUTC") issues its ruling on Frontier's Petition in this proceeding, Frontier and DoD/FEA will execute a commercial individual case basis ("ICB") - type MSA pursuant to which Frontier will provide certain services in its Washington operating territory to the DoD/FEA for a period of five (5) years at rates, terms and conditions that shall be no higher or less advantageous than now existing and subject to the following terms:

1. All DoD and FEA United States government entities will be allowed to maintain or order additional services covered under the MSA.
2. Services to be provided pursuant to the MSA are limited to Frontier's intrastate WUTC regulated business services purchased by DoD/FEA as of July 1, 2013. These include, but are not necessarily limited to, the following: Centrex, PBX, Special Access and private line, ISDN (PRI and BRI), Retail Flat and Measured Rate Business Services (1FB and 1MB), Direct Inward Dial (DIDs), vertical features (e.g., call waiting, call forwarding, caller ID, and 3-way calling), foreign exchange service, and analog trunks, ("MSA Services"). DoD/FEA customer entities may move, change, terminate or add MSA services and DoD/FEA agrees to pay all standard applicable charges related to such changes. To the extent DoD/FEA customer entities are purchasing other categories of Washington intrastate WUTC regulated business services as of the effective date of this Settlement Agreement (i.e., the date the Settlement Agreement is approved, either without change or with modification accepted by both Parties, by Commission order) those services will be included as MSA Services.
3. The initial MSA Services rates that will apply will be capped at the rates for the specific MSA Services reflected in Frontier's intrastate tariffs on file with the WUTC and effective as of January 1, 2013 or the actual services rates applicable and billed as of July 1, 2013 to DoD/FEA for each of those specific MSA Services, whichever is lower. The initial associated terms and conditions for the MSA Services will be those likewise in effect either as of those January 1, 2013 tariffs or those applicable to the actual present specific services provided by Frontier to DoD/FEA as of July 1, 2013. If during the MSA's duration any rates, terms or conditions for services covered under the MSA are identified by DoD/FEA as higher or less advantageous than those listed in the applicable Tariffs, Service Catalogs, or Price Lists, then those MSA rates, terms and conditions shall be adjusted going forward to reflect the applicable lower or more advantageous rates, terms or conditions.
4. The rates, terms and conditions identified in paragraph 3 above and the MSA will remain in effect as long as the DoD and FEA United States government entities collectively maintain Washington total service levels that result in Washington total annual direct retail service billings by Frontier that are at least eighty-five percent (85%) of the Washington total annual direct retail service billings by Frontier for the year preceding the effective date of the MSA (i.e., July 1, 2013). As of the date of this Settlement, Washington total annual direct retail service billings from Frontier to DoD/FEA is estimated at between \$1.5 million and \$2 million. A more precise and updated figure

will be calculated by DoD/FEA and Frontier, and utilized when the MSA is executed on July 1, 2013. Within sixty (60) days after the end of each anniversary year (e.g., July 1, 2014) of the MSA's effective date, Frontier may notify DoD/FEA in writing if the purchase commitment has not been satisfied. If, after notice from Frontier, the Washington total annual direct retail service billings remain below the eighty-five percent (85%) level for one hundred eighty (180) days, then Frontier may, at its option, either terminate the MSA or negotiate different rates, terms and conditions for the MSA Services.

5. The MSA shall be executed and take effect July 1, 2013, with a five year term. At the end of the term, the MSA will automatically renew for another one year unless either party provides written notice of intent to terminate no less than 90 days prior to the expiration of the then current term.
6. To the extent the WUTC declines to grant Frontier's Petition to be classified as a competitive telecommunications provider or declines to classify as competitive any of the business services included in this MSA or Frontier is otherwise required to continue to comply with the WAC ICB filing requirements, Frontier will file with the WUTC the MSA for the MSA services impacted thereby as an ICB available to DoD/FEA with a proposed effective date of July 1, 2013.

**B. Tariff Availability Commitments:** In the event that a Frontier regulated retail local exchange business service that is currently provided by Frontier to DoD/FEA in Washington is declared "competitive" or deregulated and Frontier withdraws the tariff for the service during the duration of the MSA, Frontier agrees to retain a copy of the tariff that was in effect immediately preceding any detariffing or deregulation and will make that tariff available to DoD/FEA for review electronically upon request. This commitment will remain in place for the duration of the MSA.

**C. Notice:** To the extent that notice to DoD/FEA is required under the provisions of this Settlement Agreement, such notice should be made to: Chief, U.S. Army Legal Services Agency (JALS-RL/IP), 9275 Gunston Road, Fort Belvoir, Virginia 22060-5546; as well as to the applicable procurement officers of the individual DoD/FEA customer entities involved as appropriate.

**D. No Restrictions on Competition:** Nothing in this Settlement Agreement is intended to prevent either Frontier or potential alternative providers of local exchange services in Washington from aggressively and fairly competing (e.g., offering lower prices or more favorable terms and conditions) to be providers of the intrastate local exchange business services which DoD/FEA procures in Washington.

**E. Relationship to Other Settlements:** This Settlement Agreement is not impacted by and is independent of any other settlement(s), present or future, between Frontier and any other party(ies) in this proceeding unless expressly agreed to by both Parties in writing.