



the Agreement's details, and its costs and benefits. In addition, representatives of each party will be available to respond to any questions regarding the proposed settlement that the Commission may have.

4 Each of the Parties is presenting separate testimony in support of the Agreement, explaining why the proposal satisfies each of their interests and addressing other particular issues.

### III. SCOPE OF THE UNDERLYING DISPUTE

5 The underlying dispute concerns Frontier's Petition for Approval of Minimal Regulation in Accordance With RCW 80.36.320 (Petition). Under RCW 80.36.320, "the Commission shall classify a telecommunications company as a competitive telecommunications company if the services it offers are subject to effective competition." The statute defines "effective competition" to mean that "the company's customers have reasonably available alternatives and that the company does not have a significant captive customer base."

6 In its Petition, Frontier sought classification as a competitive telecommunications company, which would have the effect, if granted, of moving all of the Company's services from tariffs on file with the Commission to price catalogs or price lists maintained by Frontier. Frontier filed direct testimony in support of the Company's assertion that its services are subject to effective competition. Staff and Public Counsel disagreed with this assertion in their respective response testimonies, contending that Frontier had failed to meet its statutory burden and recommended that the Commission deny Frontier's Petition. The Parties entered into settlement negotiations. Frontier filed rebuttal testimony. Soon thereafter, the parties reached a full settlement of the dispute.

#### IV. DESCRIPTION OF PROPOSED SETTLEMENT

7 The Agreement is structured to address all of the services in each of Frontier's seven tariffs in order of tariff number. First, the Agreement addresses intrastate access, which has two components: (1) switched access, or the access charges that other carriers pay Frontier to carry their calls; and (2) special access services that Frontier provides to other carriers on a wholesale basis as well as to retail end user customers. Next, the Agreement discusses local exchange services, and contains provisions that affect three general categories of service: (1) basic residential stand-alone service, with associated services; (2) basic stand-alone "small business" service (1 to 3 lines); and (3) business services provided to medium-sized and large businesses, and additional local exchange services that the Parties agreed were appropriate to offer from Frontier's proposed price catalog. Then the Agreement proposes a plan for those remaining wholesale services generally governed by federal law, consisting of interconnection, collocation, access to unbundled network elements, and resale of local exchange service, and further proposes treatment of advanced data services more consistently with how packet switched services are treated by the FCC, which Frontier offers to both retail and wholesale customers. Finally, the Agreement contains commitments regarding stand-alone DSL, a recommendation for waiver of particular regulatory requirements, a statement of the effective period of the agreement, and a provision for notice to customers concerning the terms of the Agreement.

##### **Intrastate Access**

8 Frontier's switched access and special access services currently are contained in its WN U-16 Facilities for Intrastate Access Tariff ("Intrastate Access Tariff"). The Agreement

provides that Frontier will maintain this Intrastate Access Tariff on file with the Commission at present.

9           When the appeal of the Federal Communications Commission's (FCC's) ICC transformation order is concluded, however, with respect to switched access charges, Frontier will make a filing with the Commission to propose possible changes with respect to switched access services. Potentially, Frontier could propose that switched access services be removed from the tariff, if the FCC's order is upheld. Switched access services are not end-user services and, therefore, consistent with Order 4 in this docket, they are not generally part of the effective competition analysis. Accordingly, Frontier could remove switched access from its Intrastate Access Tariff and place the service in a catalog if the Commission were to find that this was in the public interest.

10           With respect to special access services, the Agreement provides that Frontier can file banded rates. The rate band minimum is set at 10 percent below Frontier's existing rates, and the maximum is capped at Frontier's interstate rates. According to Frontier, for many special access services and service elements, its interstate rates currently are higher than its intrastate rates. Pursuant to the Agreement, if Frontier wants to change the rate, within the band, the Company must give 10 days' notice to the Commission and to its customers subscribing to that service. If the rate change involves a rate decrease, Frontier must file a TSLRIC cost study showing that the proposed rates are above cost.

11           Under the Agreement, wholesale customers may continue to purchase special access services out of the Intrastate Access Tariff. The competitive local exchange carriers (CLECs) that intervened in this proceeding entered into an agreement with Frontier, which is on file in this docket (CLEC Settlement). The CLEC Settlement provides rate stability for

the CLECs for a period of time and provides that special access services (among other services) will be available for purchase out of price catalogs maintained on Frontier's website. The provision in the Agreement among Frontier, Staff, and Public Counsel is intended to protect against a potential price squeeze that could result from a disparity between rates offered in the wholesale price catalog and the Intrastate Access Tariff.

### **Local Exchange Services**

12           With respect to local exchange services, the Agreement allows Frontier to remove from tariff those services provided to medium-sized and large business customers, and requires Frontier to retain basic service provided to small business customers and residential customers in the tariff. "Small business" customer refers to a customer who purchases up to three business lines. Local exchange services are contained in Frontier's WN U-17 General and Local Exchange Tariff ("Local Exchange Tariff").

13           The Agreement reflects the Parties' view that the business services Frontier provides typically to medium-sized and large business customers are subject to effective competition and can be classified under RCW 80.36.330 as competitive services. Although Frontier filed its Petition pursuant to RCW 80.36.320, the Parties believe that the statutory analysis required by RCW 80.36.330 and RCW 80.36.320 is sufficiently alike to warrant classifying certain of Frontier's services as competitive under RCW 80.36.330.

14           Classification of particular services as competitive allows Frontier to remove them from tariff and offer these services in a price catalog on its website. Competitive classification under RCW 80.36.330 requires Frontier to charge rates for the competitively classified services that cover their cost. In addition, competitive classification under RCW 80.36.330 makes Frontier eligible for waiver of regulatory requirements. Waivers are

discussed in more detail below. Regarding waivers, however, notwithstanding the option set forth in RCW 80.36.330(8), the Parties have not agreed to waive RCW 80.36.170 (prohibiting unreasonable preference) and RCW 80.36.180 (prohibiting rate discrimination).

15           The Agreement provides for some rate flexibility for basic stand-alone residential and small business services. Specifically, under the Agreement, Frontier will file banded rates in accordance with RCW 80.36.340 for basic stand-alone residential service and basic stand-alone small business service. These rates will not be deaveraged. Furthermore, until October 1, 2013, Frontier may not increase these rates.

16           For basic stand-alone residential service, the rate band will be set at a maximum of \$2 above existing rates and \$4 below, and Frontier cannot increase rates more than \$1 in any 12-month period. Lifeline and WTAP customers will not be affected by any basic residential service rate increase. For basic stand-alone small business service, the rate band will be set at a maximum of \$3 above existing rates and \$4 below, and Frontier cannot increase rates more than \$2 in any 12-month period. If Frontier wants to change a rate, within the band, the Company must give 10 days' notice to the Commission and to its customers subscribing to that service. In addition, if Frontier decreases its rates below existing rates, Frontier must file a TSLRIC cost study showing that the new rates would be above cost.

17           Statutory authority for banded rates resides in RCW 80.36.340, and a Commission rule, WAC 480-80-112, addresses filing requirements. Under RCW 80.36.340, the Commission may approve a tariff which includes banded rates for any telecommunications service if such tariff is in the public interest. The statute further provides that the minimum rate in the rate band shall cover the cost of the service. The Parties believe that allowing

Frontier to file banded rates provides the Company with flexibility to address any competitive pressures. In addition, the Commission's rule governing banded rate filings, WAC 480-80-112, a company filing banded rates must provide information "detailing the potential effect on revenue of the proposed banded rate tariff range, as well as the effect on revenue of the current or proposed rate." Staff has performed a preliminary analysis of Frontier data on file with the Commission and believes that, if the proposed rate bands are implemented, there is a very low risk that Frontier would over earn. Accordingly, allowing Frontier to implement banded rates is in the public interest.

18           The Parties reviewed the Local Exchange Tariff in detail to determine which services should remain in the tariff along with basic stand-alone residential and small business services and which services could appropriately be removed and offered in a price catalog. Appendix A to the Agreement is the result of this analysis. It consists of over 800 pages of redlined tariff sheets. Because of its voluminous nature, the Parties have provided Appendix A in electronic form only. It is the intent of the Parties that Frontier will remove from its Local Exchange Tariff those items that are stricken through and will offer those items in the Company's proposed Local Exchange Service Catalog on Frontier's website. Generally, services associated with basic stand-alone residential and small business services will remain in the tariff. Following is a non-exclusive list of important services that, pursuant to the Agreement, will remain in Frontier's Local Exchange Tariff:

- E-911 Emergency Services
- N11 Dialing Service such as 811 ("Call before you dig")
- Native American Lifeline
- Washington Telephone Assistance Program (WTAP)
- Free Directory Assistance Service for Disabled Individuals

- Tax Adjustments
- Vacation Service
- Exchange Area Maps
- Line Extensions

19 The Agreement provides further that Frontier will continue to offer each service it moves from its Local Exchange Tariff on a stand-alone basis and to price service bundles at a price that does not exceed the sum of the stand-alone rates of the individual components. In the Agreement Frontier commits to serving as the carrier of last resort for all of the services it transfers into its proposed Local Exchange Service Catalog and will obtain the Commission's approval before discontinuing any of these services.

#### **Wholesale Services**

20 The Agreement provides that Frontier may withdraw its remaining tariffs containing wholesale services and offer these services in a price catalog or price list on Frontier's website. These services consist of interconnection, collocation, access to unbundled network elements, resale of local exchange service, and advanced data services. The Parties recognize that there is some overlap between their Agreement and the CLEC Settlement. None of the terms of this Agreement, however, is intended to remove any of the protections that are contained in the CLEC Settlement. Consistent with Order 4, which generally excluded from any analysis under RCW 80.36.320 or RCW 80.36.330 those wholesale services provided, pursuant to federal law, to other carriers, the Parties understand that these services may be transferred to catalog so long as this does not conflict with the public interest. Given the protections that the CLECs have negotiated for all similarly situated carriers as well as retail customers wishing to purchase those services offered with the requirement that the purchaser have an interconnection agreement with Frontier, the Parties



believe that it is in the public interest to allow Frontier to move its remaining wholesale services from tariff into a price catalog.

21 In its WN U-23 Advanced Data Services (“ADS Tariff”) Frontier offers services such as Asynchronous Transfer Mode (“ATM”), Frame Relay, and Transparent LAN, with Transparent LAN service being grandfathered to existing customers as of March 1<sup>st</sup>, 2013. These are earlier generation packet-switched data services typically used by larger commercial customers (e.g., banks and other multi-location businesses) for transfer of voice, data, and video communications among locations. These services are largely being displaced by the migration to Ethernet/IP-based services offered by Frontier and other providers as non-tariffed services. In addition, these services are no longer subject to tariffing or Title II regulation for Frontier at the federal level.<sup>1</sup> Purchasers of these services benefit from grandfathered rates under the Agreements. Frontier’s retail customers that take service from the ADS Tariff, as well as any wholesale customers who might benefit, will retain existing rates indefinitely. The Agreement further provides that Frontier will obtain the Commission’s approval before discontinuing any of these services.

### DSL

22 The Agreement provides that Frontier will continue to offer stand-alone DSL or another comparable broadband service to residential and small business customers. Frontier may petition to the Commission to terminate this commitment on or after December 31, 2015. Otherwise, the commitment will expire on December 31, 2016.

---

<sup>1</sup> Verizon, including its Verizon Northwest affiliate (the pre-July 1, 2010 transaction name of Frontier Northwest Inc.), filed a petition with the FCC for forbearance from Title II and Computer Inquiry Rules for these packet-switched services on December 20, 2004. Forbearance was “deemed granted” on March 19, 2006 by operation of law. Similarly, Frontier made a filing seeking forbearance for its packet-switched broadband services on August 4, 2006. The FCC granted forbearance to Frontier (and Embarq) in its October 24, 2007 Memorandum and Opinion Order in WC Docket No. 06-147.

## **Waivers**

23           The Agreement adopts the recommendations concerning waiver of regulatory requirements originally filed as an exhibit to the testimony of Staff witness, William Weinman. This exhibit, as modified to reflect two recommendations no longer applicable, comprises Appendix B to the Agreement. In the event that the recommendations in Appendix B conflict with Order 06 authorizing Frontier's acquisition of Verizon Northwest, Inc. in Docket UT-090842, the Agreement provides that Order 06 controls.

## **Effective Date, Preservation of Settlement Terms, and Notice**

24           The Agreement will be effective upon approval by the Commission and will remain in effect unless and until the Commission issues a future order that expressly supersedes the terms of this Agreement. In addition, the Agreement provides that Frontier will not seek a modification of any of the terms of the Agreement that would take effect before December 31, 2015.

25           If the Commission approves the Agreement, Frontier will notify its customers in a bill message. The notification will include a general explanation of the terms of the Agreement.

## **V. STATEMENT OF PARTIES' INTERESTS AND THE PUBLIC INTEREST**

26           This Agreement represents a compromise of the positions of the Parties. Furthermore, it is important to recognize that this Agreement was crafted within the constraints of existing law not only to provide relief to the Company where appropriate but also to protect ratepayers and to support the continued growth of telecommunications competition in Washington.

27

The Parties find it is in their best interests to avoid the expense, inconvenience, uncertainty, and delay inherent in a litigated outcome. Likewise, it is in the public interest that this dispute conclude without the additional expenditure of public resources on litigation expenses.

#### VI. LEGAL POINTS THAT BEAR ON PROPOSED SETTLEMENT

28

In WAC 480-07-700, the Commission states its support for parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest. The Parties have resolved all of the issues in dispute between them, and their resolution complies with Commission rules and, as explained above, is consistent with the public interest.

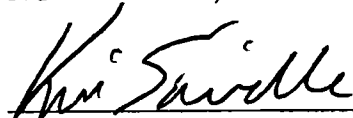
#### VII. CONCLUSION

29

Because the Parties have negotiated a compromise on all of the issues in this dispute and because the settlement is in the public interest, the Parties request that the Commission issue an order approving the Agreement in full.

Respectfully submitted this 23rd day of May, 2013.

**FRONTIER COMMUNICATIONS  
NORTHWEST, INC.**

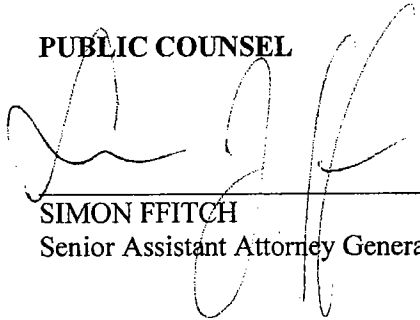


\_\_\_\_\_  
KEVIN SAVILLE

Vice President & Associate General Counsel

ROBERT W. FERGUSON  
Attorney General

**PUBLIC COUNSEL**



---

SIMON FFITCH  
Senior Assistant Attorney General

ROBERT W. FERGUSON  
Attorney General

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

---

JENNIFER CAMERON-RULKOWSKI  
Assistant Attorney General  
Counsel for the Washington Utilities and  
Transportation Commission

ROBERT W. FERGUSON  
Attorney General

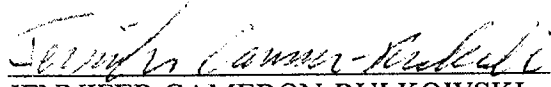
**PUBLIC COUNSEL**

---

SIMON FFITCH  
Senior Assistant Attorney General

ROBERT W. FERGUSON  
Attorney General

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

  
JENNIFER CAMERON-RULKOWSKI  
Assistant Attorney General  
Counsel for the Washington Utilities and  
Transportation Commission