

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Frontier	)	DOCKET UT-121994
Communications Northwest Inc.'s	)	
Petition to Be Regulated as a	)	ORDER 01
Competitive Telecommunications	)	
Company Pursuant to RCW 80.36.320	)	ISSUE A COMPLAINT AND
	)	ORDER SUSPENDING
	)	EFFECTIVE DATE AND SETTING
	)	PETITION FOR HEARING
.....)	)	

**I. BACKGROUND**

- 1 On January 24, 2013, Frontier Communications Northwest Inc. (Frontier or Company) filed with the Washington Utilities and Transportation Commission (Commission) a Replacement Amended Petition for Approval of Minimal Regulation in Accordance with RCW 80.36.320 (Petition), seeking classification as a competitive telecommunications company throughout its current service territory. This filing replaces the Company's prior Petition for Approval of Minimal Regulation in Accordance with RCW 80.36.320 filed on December 24, 2012.
- 2 Frontier contends that the Company and its services are subject to effective market competition and that classification of the Company as competitive is in the public interest. Frontier represents that its request does not impact the Company's obligations with respect to participation in low-income and hearing impaired programs, public safety, including E-911; Eligible Telecommunications Carrier status; carrier of last resort; or Section 251 and 252 interconnection and wholesale obligations under the federal Telecommunications Act of 1996. The stated effective date is May 1, 2013.
- 3 On January 25, 2013, Frontier filed the Declaration of Carl A. Gipson of Additional Notice in Accordance with WAC 480-120-198, which details the notices Frontier has provided and will provide to its customers about the Petition.
- 4 The petition came before the Commission at its regularly scheduled open public meeting on January 31, 2013.

## II. MEMORANDUM

5 Pursuant to RCW 80.36.310, a telecommunications company may petition to be  
classified as competitive telecommunications company under RCW 80.36.320. The  
company must state an effective date for the classification and provide notice and  
publication of the proposed classification. The proposed classification will take  
effect on the date stated unless the Commission suspends the date and sets the  
matter for hearing under chapter 34.05 RCW.

6 “The commission shall classify a telecommunications company as a competitive  
telecommunications company if the services it offers are subject to effective  
competition.”<sup>1</sup> The statute defines “effective competition” to mean that “customers  
of the service have reasonably available alternatives and that the company does not  
have a significant captive customer base.”<sup>2</sup> In determining whether a company is  
competitive, the Commission shall consider, among other factors, the following:

- (1) The number and size of alternative providers of service;
- (2) The extent to which services are available from alternative providers  
in the relevant market;
- (3) The ability of alternative providers to make functionally equivalent or  
substitute services readily available at competitive rates, terms, and  
conditions; and
- (4) Other indicators of market power, which may include market share,  
growth in market share, ease of entry, and the affiliation of providers  
of services.<sup>3</sup>

7 The Petition provides information and analysis on each of these statutory factors. At  
the Commission’s open public meeting on January 31, 2013, various parties,  
including Commission Staff and Public Counsel, indicated a desire to further  
investigate and analyze the Petition. A representative of Frontier agreed that such  
further analysis would be appropriate. The Commission agrees that interested  
parties should have the opportunity to examine the Company’s information and  
present additional evidence, analysis, and recommendations on whether the  
Commission should classify Frontier as a competitive telecommunications company.

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<sup>1</sup> RCW 80.36.320(1).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

8 Accordingly, the Commission suspends the effective date of the competitive  
classification specified in the Petition and sets the matter for investigation and  
hearing.

### III. FINDINGS AND CONCLUSIONS

- 9 (1) The Washington Utilities and Transportation Commission is an agency of  
the State of Washington vested by statute with the authority to regulate rates,  
regulations, and practices of public service companies, including  
telecommunications companies. RCW 80.01.040; RCW Chapters 80.04 and  
80.36.
- 10 (2) Frontier is a telecommunications company and is a public service company  
subject to the jurisdiction of the Commission.
- 11 (3) On January 24, 2013, Frontier filed a Replacement Amended Petition for  
Approval of Minimal Regulation in Accordance with RCW 80.36.320 to  
replace the Company's prior Petition for Approval of Minimal Regulation in  
Accordance with RCW 80.36.320 filed on December 24, 2012. For purposes  
of RCW 80.36.310, the filing date of Frontier's petition is January 24, 2013.
- 12 (4) This matter was brought before the Commission at its regularly scheduled  
meeting on January 31, 2013.
- 13 (5) The Petition raises issues that require further investigation. The Commission  
and interested parties should have the opportunity to examine the  
information Frontier has provided in support of its Petition and to present  
additional evidence, analysis, and recommendations on whether the  
Commission should classify Frontier as a competitive telecommunications  
company.
- 14 (6) Pursuant to RCW 80.36.310, the Commission will suspend the competitive  
classification specified in the Petition and conduct an investigation of the  
Petition.
- 15 (7) As required by RCW 80.04.130(2), Frontier bears the burden of proof to  
show that the proposed competitive classification meets the statutory  
standards.

**IV. ORDER**

**THE COMMISSION ORDERS:**

- 16 (1) The competitive classification specified in the Replacement Amended Petition for Approval of Minimal Regulation in Accordance with RCW 80.36.320 filed by Frontier Communications Northwest Inc., on January 24, 2013, replacing the petition the Company filed on December 24, 2012, is suspended.
- 17 (2) The Commission will institute an investigation of the Petition, including but not necessarily limited to the extent to which Frontier Communications Northwest Inc., is subject to effective competition, and will hold hearings as determined by further order of the Commission.

DATED at Olympia, Washington, and effective January 31, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PHILIP B. JONES, Commissioner