

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of Frontier Communications Corporation, Frontier California Inc. (U 1002 C), Citizens Telecommunications Company of California Inc. (U 1024 C), Frontier Communications of the Southwest Inc. (U 1026 C), Frontier Communications Online and Long Distance Inc. (U 7167 C), Frontier Communications of America, Inc. (U 5429 C) For Determination That Corporate Restructuring Is Exempt From or Compliant With Public Utilities Code Section 854.

Application 20-05-010

(Filed May 22, 2020)

**OPENING COMMENTS OF THE UTILITY REFORM NETWORK AND THE  
COMMUNICATION WORKERS OF AMERICA, DISTRICT 9 ON THE  
COMMUNICATIONS DIVISION'S REPORT ABOUT FRONTIER**

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September 28, 2020

## I. INTRODUCTION

Pursuant to the September 17, 2020 Email Ruling from Administrative Law Judge Wercinski, The Utility Reform Network (“TURN”) and the Communications Workers of America, District 9 (“CWA”) hereby submit opening comments on the Communications Division’s *Report About Frontier, Collection of Facts*, dated August 25, 2020 (“Report”).

## II. DISCUSSION

TURN and CWA appreciate the opportunity to comment on the Report and acknowledges the diligent work of Communications Division Staff to compile the important and useful data in the Report. The Report was distributed with little explanation, but appears to be a compilation of data from several sources including, reports submitted by Frontier, related Census data and other Commission-generated reports, explanations and descriptions of the status of Frontier’s regulatory obligations, and geographic and demographic descriptions of Frontier’s service territory in California. The Report is a valuable and relevant resource for stakeholders, including Commission staff and decisionmakers, to begin to understand Frontier’s operations and the makeup of its customers and the communities it serves.

However, the procedural posture, exact sources for the data, and proposed uses of the Report are unclear. TURN and CWA urge the Commission to use this Report as a reference tool to facilitate further evidence gathering, but not to incorporate into the evidentiary record in its current form. The Report mostly consists of facts, figures and data; however, these data are a result of Staff’s analysis and compilation of other reports and data sources. To ensure that “the substantial rights of the parties shall be preserved,”<sup>1</sup> the discussion, analysis and conclusions

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<sup>1</sup> Commission Rules of Practice and Procedure Rule 13.6(a) (noting that the technical rules of evidence should be applied in such a way to preserve the substantial rights of the parties).

contained in the Report should not be entered into the evidentiary record without further analysis and the opportunity to ask questions through discovery or cross examination. Further, the Commission's Rules require that documents and reports entered into the evidentiary record must be certified as true and correct under penalty of perjury.<sup>2</sup> It is unclear if the authors of this Report are prepared to appear, and, in TURN's and CWA's experience it is unusual for Staff witnesses to appear for cross examination for this purpose.

If the Report is entered into the record and provided a lighter "weight" to its evidentiary value due to the lack of scrutiny,<sup>3</sup> there still is a possibility that the Report will conflict with discovery responses and analysis in testimony from the parties to the proceeding. With these conflicts, this Report could muddy the record and lead to discussion regarding the validity of the data in the Report and divert the attention of the parties and decisionmakers from the public interest issues most critical in the proceeding. Finally, it is worth noting that this Report has been distributed very close to the deadline for intervenor opening testimony, perhaps disadvantaging intervenors by not allowing sufficient time to analyze and discuss this Report and leaving more time for Frontier to submit rebuttal testimony regarding the Report.

The Report's broad overview of Frontier's operations, reporting, and service territory in California is relevant to the issues in this proceeding, yet there are questions raised by this Report that would require further analysis if it is to be entered into the record. TURN's and CWA's brief analysis of the Report reveals questions regarding:

- The Consumer Affairs Branch complaint data, including the methodology for categorization of individual complaints, the rate of the complaints resolved in Frontier's "favor," and whether complaint categories such as "high bills" and "bill

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<sup>2</sup> Commission Rules of Practice and Procedure Rule 13.7(e).

<sup>3</sup> Commission Rules of Practice and Procedure Rule 13.10 (ALJ may require the production of further evidence on any issue, subject to compliance with Rule 13.1 and the require to preserve due process)

adjustments” indicate problems with Frontier’s affordability, billing and service quality;

- The relationship between the service quality metric data in this Report and the resulting resolutions adopting fines and reinvestment obligations for Frontier;
- The “rural” and “low income” mapping data including the sources and vintage of the data, and the use of statistics from Census data that “intersects” with Frontier’s service territory and customer household base, but does not appear to match its service territory;
- The discussion regarding whether Frontier has met its broadband “deployment milestones” for CAF and CASF, and the extent of any non-compliance;
- The definitions, assumptions, and calculations used to generate the broadband availability charts and mapping and the competition charts and mapping.

If the Report is going to be entered into the evidentiary record, TURN and CWA request the opportunity to further analyze and ask questions regarding the Report, perhaps through a discovery process or workshop or, at a minimum, on the record during the hearings.

### **III. CONCLUSION**

TURN and CWA acknowledge and support the detailed analysis and work performed to compile the information in this Report. TURN and CWA request further opportunity to analyze the Report and ask questions of Communications Division Staff if it is going to be part of the evidentiary record.

Dated: September 28, 2020

Respectfully submitted,

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Christine Mailloux  
The Utility Reform Network

*On behalf of TURN and  
Communications Workers of America, District 9*

