



March 15, 2012

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SECRETARY'S BUREAU

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: PA PUC Docket Nos. R-2011-2278283, R-2011-2278290 - Response to Objections of Verizon to Frontier's Tariff Provisions Implementing the VoIP provisions of the FCC's Report and Order in CC Docket No. 01-90

Dear Secretary Chiavetta:

Commonwealth Telephone Company, Frontier Communications of Pennsylvania, Frontier Communications of Oswayo, Frontier Communications of Canton, Frontier Communications of Lakewood, and Frontier Communications of Breezewood (collectively, "Frontier") recently filed tariff language in their Pennsylvania state access tariffs which incorporated changes ordered by the Federal Communications Commission ("FCC") in its November 18, 2011, *Report and Order and Further Notice of Proposed Rulemaking*.¹ Pursuant to the FCC Order, the revised tariff language provided that Frontier would assess rates equal to interstate switched access rates on all toll VoIP-PSTN traffic that it terminated. Subsequently, Frontier received secretarial letters from the Pennsylvania Public Utility Commission ("Commission") dated January 31, 2012 allowing the tariff supplements to go into effect.

On February 17, 2012 Verizon filed a letter taking issue with portions of Frontier's tariff filings as well as other filings made by both incumbent and competitive local exchange carriers, asserting that the FCC required the application of rates not higher than interstate switched access rates to both originating and terminating VoIP-PSTN traffic.² Verizon appears to be asking the Commission to instruct Frontier to revise its filings so that Frontier's tariffs would comport with Verizon's interpretation of the FCC Order, and require Frontier to reduce the originating intrastate access rates applicable to certain intrastate PSTN-originated traffic on Frontier's network.

Frontier disputes Verizon's interpretation of the FCC Order and urges the Commission to swiftly reject Verizon's request.

¹ *In re: Connect America Fund, et. al, Report & Order and Further Notice of Proposed Rulemaking*, FCC 11-161 (rel. Nov. 18, 2011) (*Report & Order and FNPRM*).

² Letter from Susan DeBusk Paiva, Assistant General Counsel – Pennsylvania, Verizon, to Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission (February 17, 2012).

The FCC was clear in its Order that it was not requiring reductions in originating access rates at this time. The FCC stated that it was “limiting reform to terminating access charges at this time”³, and noted its intent to “further evaluate” other charges such as originating access at a later date⁴. The FCC explicitly noted that it could not take action on originating access because there was an insufficient record to do so. Accordingly, in the FNPRM, the FCC “seek[s] comment on that final transition for *all* originating access charges,”⁵ which would necessarily include the access charges associated with calls that originate on the PSTN and terminate in VoIP.

The FCC took pains to preserve the status quo for originating access rates for calls originating on the PSTN while it develops a record on appropriate transition and recovery mechanisms for these charges in the further rulemaking. The parts of the Order capping and continuing intrastate access rates for the interim do not note any exception for traffic originated on the PSTN and terminated via VoIP.⁶ Moreover, the only portion of the Order’s VoIP-PSTN discussion that addresses originating access rates with any specificity itself acknowledges that originating access rates are “subject to the phase-down and elimination of those charges pursuant to a transition to be specified in response to the FNPRM”⁷— in other words, there is no intent to flash-cut these rates to interstate levels in the present Order, particularly when the Order does not even make any recovery available for these lost revenues. The intrastate originating access rate reductions that Verizon seeks are clearly beyond what the FCC intended.

Indeed, accepting the Verizon position would have the effect of creating new arbitrage opportunities out of an Order that was intended to eliminate such gaming of the system. There has never been any dispute about originating access charges that terminate on VoIP, though Verizon’s interpretation would create one. Frontier knows the jurisdiction of the traffic that originates on its network, but cannot determine how a call terminates—on the PSTN or via VoIP. As a result, Frontier would be forced to rely on another carrier’s specified percentage of VoIP-terminated traffic in a situation where the carrier has the incentive to inflate its actual percentage of VoIP traffic. A disparity in originating rates for intrastate traffic terminating on the PSTN versus on an IP network would incent an interexchange carrier such as Verizon to specify a larger percentage of VoIP-terminated traffic to minimize their cost. The creation of such a situation should be avoided, especially as the FCC does not set a timeframe for addressing originating traffic, so the arbitrage opportunity would continue in perpetuity until further FCC action.

³ *Report & Order and FNPRM* at ¶ 739.

⁴ *Id.* “[W]e address those elements in the FNPRM.” (that is, a Future Notice of Proposed Rulemaking).

⁵ *Id.* at ¶ 1298 (emphasis added).

⁶ *Id.* at ¶ 818. “[W]e take immediate action to cap all interstate originating access charges and intrastate originating access charges for price cap carriers. Although we *do not establish the transition for rate reductions* to bill-and-keep in this Order, we *seek comment in the FNPRM on the appropriate transition and recovery mechanism for ultimately phasing down originating access charges*. . . A cap on interstate originating access represents a *first step* as part of our measured transition toward comprehensive reform. . . .” (emphasis added).

⁷ *Id.* at ¶ 961, n. 1976.

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Verizon also took issue with the lack of a PVU factor when determining how to account for traffic that originates and terminates on Frontier's own network. Verizon asks for tariff modifications to address this contingency. The Frontier ILEC companies do not currently have traffic at this time that fits this description; therefore, a PVU factor cannot be developed. Frontier would agree that if this changes in the future, the development of a PVU for the purpose of this traffic would be appropriate.

Finally, the Commission in its March 6, 2012 letter asked if Frontier would be willing to meet in an informal consultative process in an attempt to work through the issues that are of concern to Verizon. While Frontier would be willing to participate in this effort in the event the Commission does not reject Verizon's concerns, Frontier believes the issues Verizon raised in its letter relative to the Frontier filings are without merit and should be rejected.

If you have any questions, please contact me at (585) 777-5645, or Ken.Mason@ftr.com.

Sincerely,



Kenneth Mason
Vice President, Government
and Regulatory Affairs

Encl. (orig + 3 copies)

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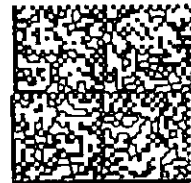
Ken Mason

180 South Clinton Ave., Rochester, NY 14646-0700
www.frontier.com

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