

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

 @pa\_oca  
 /pennoca

FAX (717) 783-7152  
consumer@paoca.org

February 13, 2020

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Frontier Communications Commonwealth  
Telephone Company PSI/SPI Filing for Year  
2020  
Docket No. R-2020-3016152

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Formal Complaint and Public Statement in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Barrett C. Sheridan  
Barrett C. Sheridan  
Assistant Consumer Advocate  
PA Attorney I.D. # 61138  
E-Mail: [BSheridan@paoca.org](mailto:BSheridan@paoca.org)

Enclosures:

cc: Office of Special Assistants (email only: [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))  
Office of Administrative Law Judge (OALJ)  
Bureau of Technical Utility Services (email only)  
Certificate of Service

\*283779

**FORMAL COMPLAINT**  
**BEFORE THE**  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**1. COMPLAINANT**

Tanya J. McCloskey, Acting Consumer Advocate

555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Dauphin County

Phone – (717) 783-5048

Fax – (717) 783-7152

**2. UTILITY NAME**

Frontier Communications Commonwealth Telephone Company

**3. TYPE OF UTILITY**

Telephone

**4. COMPLAINT**

- A. On February 1, 2020, Frontier Communications Commonwealth Telephone Company (Company) filed its Annual Price Stability Index (PSI) and Stability Price Index (SPI) Report (PSI Report), pursuant to the Price Stability Mechanism (PSM) set forth in the Company’s Amended Chapter 30 Plan (Chapter 30 Plan).
- B. The Company’s PSI Report includes a calculation of the one-year change in Gross Domestic Product Price Index (GDI-PI) and applies that difference to total intrastate revenues from non-competitive service to determine whether an increase in revenues is allowed pursuant to the Company’s PSM. The Company’s PSI Report calculated the change in GDP-PI from third quarter of 2018 to third quarter of 2019.

- C. The Company's 2020 PSI Report indicates that an increase in revenues is allowed, based upon the Company's application of the PSM. The Company's 2020 PSI Report does not quantify the amount of the allowed increase in revenues.
- D. The Company did not file proposed tariffs to implement either a decrease or increase in rates.
- E. The Consumer Advocate is empowered to represent the interests of consumers before the Pennsylvania Public Utility Commission, pursuant to Act 1976-161 of the General Assembly, as amended. 71 Pa.Stat.Ann. §§ 309-1 et seq. (Purdon's Supp. 1990).
- F. The Company's PSM formula allows for a "Z factor" adjustment to recognize the effect of exogenous events. Exogenous events are positive or negative changes in the Company's revenues or expenses as defined in the Company's Chapter 30 Plan. Exogenous events include, but are not limited to, subsequent regulatory and legislative changes (state & federal) which affect revenues or expenses, to the extent not captured in GDI-PI. Exogenous expense events shall be flowed through dollar-for-dollar on the basis of review of that single expense item, utilizing the most recent per book level of such expense. See, Petition for Alternative Regulation and Network Modernization Plan of Commonwealth Telephone Company, Docket No. P-00961024, Amended Chapter 30 Plan (rev. Nov. 21, 2005), Part 3, A. Price Stability Plan for Non-Competitive Services (Chapter 30 Plan).
- G. On December 22, 2017, the federal Tax Cuts and Jobs Act: Tax Reform Bill (TCJA) was signed into law. The TCJA makes sweeping changes to the federal tax laws,

including reductions to federal income tax rates and other impacts. Additionally, a reduction in federal tax liability may have a corresponding reduction in state income tax liability.

- H. The Company's 2020 PSI Report does not include any "Z factor" adjustment to account for savings in tax expense resulting from this extraordinary, one-time change in federal law which is beyond the control of the Company and impacts the Company's revenues and/or expenses.
- I. The omission of an adjustment for this significant exogenous event may result in the Company's calculation of its allowed annual revenue increase to be overstated. The omission of an adjustment for this significant exogenous event may result in the Company's tally of its banked annual increases to be overstated. As a result of the omission of an adjustment to account for this significant exogenous event, the Company's rates for non-competitive services may be unjust and unreasonable.
- J. The omission of an adjustment for this significant exogenous event may result in the Company's rates for non-competitive services providing revenues or expenses – including expense savings – which subsidize the Company's competitive services.
- K. After initial review of the Company's filing, the Acting Consumer Advocate files this Formal Complaint in order to ensure that the Company's calculation of its allowed annual revenue increase, changes to the Company's bank of allowed revenue increases, and proposed no change in rates for non-competitive services is consistent with the Company's Chapter 30 Plan PSM and in compliance with the Public Utility Code, Commission regulation or policy. The Public Utility Code

provisions include Sections 1301, 1309, 1312, 3011, 3015(g), 3016(f), and 3019(b),  
(h). 66 Pa.C.S. §§ 1301, 1309, 1312, 3011, 3015(g), 3016(f), and 3019(b), (h).

**5. RELIEF**

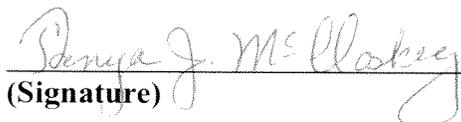
The Acting Consumer Advocate respectfully requests that the Public Utility Commission:

- A. Not approve the Company's 2020 PSI and SPI Reports, pending resolution of this Formal Complaint;
- B. Hold hearings;
- C. Determine that the Company's existing rates for non-competitive services are subject to investigation and possible refund, pending review of the Company's PSI and SPI Reports and resolution of this Formal Complaint;
- D. Consolidate this proceeding with the OCA's Formal Complaint opposing the Company's 2019 PSI filing on the same grounds;
- E. Grant any other relief deemed necessary.
- F.

**6. VERIFICATION AND SIGNATURE**

***Verification:***

***I, Tanya J. McCloskey, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).***

  
**(Signature)**

February 13, 2020  
**(Date)**

**7. LEGAL REPRESENTATION**

Barrett C. Sheridan  
Assistant Consumer Advocate  
PA Attorney I.D. # 61138  
E-Mail: BSheridan@paoca.org

Counsel for:

Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

283781

**PUBLIC STATEMENT  
OF THE OFFICE OF CONSUMER ADVOCATE  
PURSUANT TO 71 P.S. SECTION 309-4(E)**

Act 161 of the Pennsylvania General Assembly, 71 P.S. Section 309-2, as enacted July 9, 1976, authorizes the Office of Consumer Advocate (OCA) to represent the interests of consumers before the Pennsylvania Public Utility Commission (PUC or Commission). In accordance with Act 161, and for the following reasons, the OCA determined to file a Formal Complaint and participate in proceedings before the Commission involving Frontier Communications Commonwealth Telephone Company (Frontier Commonwealth or Company).

On February 1, 2020, Frontier Commonwealth filed its annual Price Stability Index (PSI) Report pursuant to Company's Chapter 30 Plan Price Stability Mechanism. The Company calculated an allowed increase in revenues based upon changes in the Gross Domestic Product Price Index (GDP-PI) between third quarter 2018 and third quarter 2019. The Company's 2020 PSI Report does not reflect any adjustment for reductions in the Company's tax expense resulting from the federal Tax Cuts and Jobs Act: Tax Reform Bill (TCJA). Frontier Commonwealth is permitted by its Price Stability Mechanism to "bank" or defer for future implementation the full annual revenue increase determined by the Company's 2020 PSI Report.

The OCA has filed this Complaint with the Commission to ensure that the Company's determination of its allowed annual increase in rates for non-competitive services is correct and that the Company's rates for non-competitive services are just and reasonable. The change in federal tax law effectuated by the TCJA is an exogenous event which is likely reducing the Company's tax expense. The OCA will seek to ensure that the Company's PSI/SPI Reports and rates for non-competitive services are adjusted as necessary to provide the Company's ratepayers

with the benefit of this significant and unusual change in federal tax law and reduction in the Company's tax expense.

CERTIFICATE OF SERVICE

Re: Frontier Communications :  
Commonwealth Telephone Company : Docket No. R-2020-3016152  
PSI/SPI for Year 2020 :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Formal Complaint and Public Statement, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 13<sup>th</sup> day of February 2020.

SERVICE BY E-MAIL and INTEROFFICE MAIL

Richard A. Kanaskie, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

John R. Evans, Esquire  
Office of Small Business Advocate  
555 Walnut Street  
1<sup>st</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923

SERVICE BY E-MAIL and FIRST CLASS MAIL, POSTAGE PREPAID

Charles E. Thomas III, Esquire  
Charles Thomas, Jr., Esquire  
Thomas Niesen, Esquire  
Thomas, Niesen & Thomas, LLC  
212 Locust Street  
Suite 302  
Harrisburg, PA 17101

/s/ Barrett C. Sheridan  
Barrett C. Sheridan  
Assistant Consumer Advocate  
PA Attorney I.D. # 61138  
E-Mail: [BSheridan@paoca.org](mailto:BSheridan@paoca.org)

Counsel for:  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: February 13, 2020  
\*283791