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April 7, 2023

Via Electronic Filing

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

Re: Office of Consumer Advocate, Office of Small Business Advocate v. Commonwealth Telephone Company, LLC d/b/a Frontier Communications Telephone Company
Docket No. C-2023-3037574

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Commonwealth Telephone Company, LLC d/b/a Frontier Communications Telephone Company's ("Frontier Commonwealth") Prehearing Conference Memorandum in the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Bryce R. Beard

Bryce R. Beard

BRB/red
Enclosure

cc: Hon. Stephen K. Hass w/enc. (via email only)
Hon. John Coogan w/enc. (via email only)
Cert. of Service w/enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office of Consumer Advocate, Office of	:	
Small Business Advocate,	:	
	:	
v.	:	Docket No. C-2023-3037574
	:	
Commonwealth Telephone Company, LLC	:	
d/b/a Frontier Communications Telephone	:	
Company,	:	
Respondent.	:	

**PREHEARING CONFERENCE MEMORANDUM OF
COMMONWEALTH TELEPHONE COMPANY, LLC D/B/A
FRONTIER COMMUNICATIONS TELEPHONE COMPANY**

TO THE ADMINISTRATIVE LAW JUDGES STEVEN K. HAAS AND JOHN COOGAN

Commonwealth Telephone Company, LLC d/b/a Frontier Communications Telephone Company (“Frontier Commonwealth”) hereby submits this Prehearing Memorandum pursuant to 52 Pa. Code § 5.222 and Your Honors’ March 9, 2023 Prehearing Order.

I. PROCEDURAL HISTORY

On January 9, 2023, the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”) filed a Joint Complaint at the above referenced docket. The Joint Complaint alleges, *inter alia*, that Frontier Commonwealth has failed to comply with the Public Utility Code and the Commission’s regulations, with Frontier Commonwealth’s Amended Chapter 30 Plan, and the “Frontier Voluntary Commitments” as a product of the Commission’s approval of Frontier’s post-bankruptcy change in control. In particular, the Joint Complaint alleges that Frontier Commonwealth is providing unreasonable telephone service to its customers

within the service territory of Frontier Commonwealth, which is adversely affecting customers. On February 21, 2023, Frontier Commonwealth filed a verified Answer to the Joint Complaint.

II. ISSUES

The Joint Complaint seeks a variety of remedies regarding the quality of telephone and internet service of Frontier Commonwealth based on issues raised by residential and small business customers in the Frontier Commonwealth service territory. While Frontier Commonwealth agrees that quality of service issues occurred during the fourth quarter of 2022, Frontier Commonwealth intends to highlight the several significant steps that it has taken and is taking to affirmatively address the quality of service issues raised by those customers. Otherwise, Frontier Commonwealth has complied with its Chapter 30 Plan and Voluntary Commitments, as well as Commission regulations.

Frontier Commonwealth reserves the right to address any other issues that may arise during this proceeding or as raised by the public.

III. SERVICE OF DOCUMENTS

Frontier Commonwealth requests that all documents in this proceeding be electronically served on:

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IV. **PROPOSED LITIGATION SCHEDULE**

Frontier Commonwealth, the OCA, and the OSBA have agreed to the below proposed schedule which includes in-person public input sessions subject to Your Honors' availability.

<u>Litigation Schedule</u>	<u>Proposed Date</u>
In-Person Public Input Hearings	June 6, 7, 8, 2023 (Tues, Wed, Thurs)
OCA/OSBA Direct Testimony	July 19, 2023
Frontier Commonwealth Rebuttal Testimony	September 7, 2023
OCA/OSBA Surrebuttal Testimony	October 5, 2023
Evidentiary Hearings	October 24 & 25, 2023

V. **DISCOVERY**

The Parties have engaged in extensive discovery to date. Regarding the OCA's proposed modifications to the Commission's discovery rules, Frontier Commonwealth is generally agreeable with two exceptions: (1) The discovery intervals set forth in the Commission's regulations should not be modified *prior to* the OCA/OSBA submission of direct testimony on July 19, 2023; and (2) there should be a provision made to reduce the discovery timelines *after* the filing of the OCA/OSBA Surrebuttal on October 5, 2023.

With respect to the discovery prior to the submission of the complainants' direct testimony, Frontier Commonwealth has already responded to two sets of extensive and detailed

discovery with many subparts which required significant, time intensive investigations to compile the information responsive to the requests. The OCA has not stated why it believes its proposed discovery modifications need to go into effect immediately, especially in light of the fact that complainants' direct testimony is not due until July 19, 2023. This four-month period of time should be more than sufficient to allow discovery to occur without modification of the normal discovery rules. Immediately effective modifications will increase the burden on the parties in discovery when doing so is not necessary.

After the service of the OCA/OSBA Direct testimony on July 19, 2023, Frontier Commonwealth is agreeable to the OCA's proposed modifications.

After the service of the OCA/OSBA Surrebuttal testimony on October 5, 2023, Frontier Commonwealth proposes further tightening, given the 20 day interval prior to hearings, as follows:

- A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service of the interrogatories or requests for production.
- B. Objections to interrogatories and/or requests for production shall be communicated orally within three (3) calendar days of service; unresolved objections shall be served in writing within four (4) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) business days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within one (1) business days of service of such motions.
- E. Requests for admission be deemed admitted unless answered within seven (7) days or objected to within three (3) days of service.
- F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.
- G. On the Record Data requests will be provided within five (5) calendar days.

VI. WITNESSES

At this time, Frontier Commonwealth cannot identify specific witnesses who will be submitting testimony until it has reviewed both the testimony from the Public Input Hearings and the OCA's and OSBA's direct testimony as the parties with the burden of proof. Frontier Commonwealth will inform the OCA and OSBA as soon as practicable who Frontier Commonwealth intends to submit testimony of after reasonable time to review the OCA and OSBA's direct case. Frontier Commonwealth reserves the right to add additional witnesses or change the identity of its witnesses at any time upon appropriate notice to the ALJs and the parties.

VII. PUBLIC INPUT HEARINGS

Frontier Commonwealth is aware of a strong consumer and legislative interest for in-person public input hearings based on the OCA and OSBA's collection of informal complaints, and the various letters sent from state legislators based in Frontier Commonwealth's service territory.

Frontier Commonwealth is agreeable to three in-person public input hearings in the Company's service territory at locations to be determined. Frontier Commonwealth recommends that the three in-person public input hearings take place over a two-day period, with two hearings held on one day (early afternoon and evening), and the other to be held the preceding or following day (evening if preceding day, morning or early afternoon if following day) at three locations to be determined based on the public and legislator's requests.

VIII. SETTLEMENT

In recognition of the Commission's policy to encourage settlements, 52 Pa. Code § 5.231, Frontier Commonwealth welcomes the opportunity to engage in settlement negotiations in an attempt to reach a resolution of the Formal Complaint.

IX. ENTRY OF A PROTECTIVE ORDER

The parties have previously entered into an informal confidentiality agreement in order to facilitate the sharing of confidential responses to discovery in this proceeding. The parties expect to file for a Protective Order in the near future.

Respectfully Submitted,

/s/ Norman J. Kennard

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Dated: April 7, 2023

*Counsel for Commonwealth Telephone Company,
LLC d/b/a Frontier Communications Telephone
Company*

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Frontier Commonwealth's **Prehearing Conference Memorandum** upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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Dated: April 7, 2023

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