

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120

**Office of Consumer Advocate and
Office of Small Business Advocate
v.
Commonwealth Telephone Company, LLC
d/b/a Frontier Communications Telephone
Company**

**Public Meeting held May 9, 2024
3037574-ALJ
Docket No. C-2023-3037574**

STATEMENT OF VICE CHAIR KIMBERLY BARROW

On January 9, 2023, the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA) filed a Joint Formal Complaint¹ against Commonwealth Telephone Company, LLC d/b/a Frontier Communications Telephone Company² (Frontier) alleging violations of the Public Utility Code, Commission's Regulations, Frontier's Amended Chapter 30 Plan, and the Frontier Voluntary Commitments established as part of the post-bankruptcy change in control.³ The Joint Formal Complaint averred multiple telephone service quality issues, including but not limited to outages that lasted days or weeks, recurring outages, noise or static impeding the ability to hear, and untimely and/or missed repair appointments. The Complaint also averred multiple broadband service quality issues, including but not limited to denial of broadband service, outages which lasted for days, recurring outages, and internet speed below the Chapter 30 minimum of 1.544 Mbps down.

Public input hearings were held on June 6-8, 2023, and July 19, 2023, with a total of 93 customers participating, and an evidentiary hearing was held on October 24, 2023. The Parties filed a Joint Petition for Approval of Settlement (Joint Petition) on October 25, 2023. The OCA filed 138 comments that were submitted by the public in response to the settlement, and Frontier filed Reply Comments.

An Initial Decision was issued by Administrative Law Judges (ALJ) Steven K. Haas and John Coogan on March 21, 2024, approving the Joint Petition in its entirety without modification. The Joint Petition includes various settlement terms, including but not limited to customer credits, customer refunds, capital investments and copper wire repair, quarterly reporting requirements, metrics/benchmarks, customer support, workforce development, and periodic meetings with

¹ The Joint Formal Complaint was based upon approximately 300 informal complaints submitted by residential and small business customers to legislators and forwarded to the OCA and the OSBA.

² Frontier is a certificated public utility authorized to provide local exchange telecommunications services to the public in all of Wyoming County and in portions of Berks, Bradford, Bucks, Carbon, Chester, Columbia, Dauphin, Lackawanna, Lancaster, Lehigh, Luzerne, Lycoming, Monroe, Northampton, Schuylkill, Sullivan, Susquehanna, Tioga, and York Counties.

³ *Joint Application of Frontier Communications Corporation, et al. for Approval of a Change in Control*, Dockets A-2020-3020004, et al. (Secretarial Letter dated Jan. 19, 2021); Exhibit 1. Notably, the January 19, 2021 Secretarial Letter summarizes Frontier's voluntary commitments in Pennsylvania to include \$50 million in capital expenditures over a four-year period ending on December 31, 2024 and numerous reporting and process-oriented changes regarding customers service as well as complaints. *Id.* at 10; Exhibit 1.

OCA, OSBA, and Commission staff. Notably, the Joint Petition does not include a civil penalty and the Initial Decision does not include a *Rosi* analysis consistent with the Commission's *Policy Statement regarding Factors and Standards for Evaluating Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations*.⁴

At the onset, I am troubled by the fact that the Parties and ALJs in this matter did not complete a *Rosi* analysis. The Commission's Policy Statement sets forth ten factors that the Commission may consider in evaluating whether a civil penalty for violating a Commission order, regulation, or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest.⁵ While I acknowledge that the Commission does not apply the factors as strictly in settled cases as it does in litigated cases, the Commission nevertheless utilizes the ten factors to evaluate whether a proposed settlement is reasonable and in the public interest.⁶

Additionally, I disagree with the lack of a civil penalty in this matter.⁷ The consequences of the actions averred in the Joint Formal Complaint resulted in Frontier customers being without access to telephone or broadband services which could impact the customer's access to education, medical or emergency services, work, and/or personal communications and interactions. It is well known that access to telephone and broadband services is critical to everyday life and lack of access could have a serious impact, thus the consequences of Frontier's alleged conduct should be deemed serious.⁸

While I acknowledge that Frontier is agreeing to expend \$100 million in capital expenditures, which includes expanding its workforce⁹ and providing bonuses to individuals hired in the Northern Tier region,¹⁰ this Settlement does not provide a deterrent for Frontier's troubling conduct exhibited over the years.

⁴ 52 Pa. Code § 69.1201; *see also Joseph A. Rosi v. Bell-Atlantic-Pennsylvania, Inc.*, Docket No. C-00992409 (Order entered March 16, 2000).

⁵ 52 Pa. Code § 69.1201.

⁶ 52 Pa. Code § 69.1201(b).

⁷ *See, e.g., Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink*, Docket No. M-2020-3012956 (Order entered January 14, 2021)(Commission approved settlement with civil penalty in the amount of \$32,050 for alleged violations related to untimely service installations, Section 1501 violations, and Chapter 30 violations.); *Ken Eernisse v. Verizon Pennsylvania LLC*, C-2012-2287023 (December 5, 2013 Opinion and Order) (Commission assessed a civil penalty of \$20,050 for failure to provide reasonable and adequate service to one customer for an extended period of time, resulting in multiple violations and service outages.); *Curt Eckroth v. Verizon Pennsylvania Inc.* Docket No. C-2011-2279168 (April 18, 2013, Opinion and Order) (Commission assessed a civil penalty of \$1,000.00 for various service outages.); *Larry L. Wolfe v. Verizon North LLP*, Docket No. C-2011-2266224 (Order entered December 20, 2012) (Commission assessed a civil penalty of \$1,250 for various violations involving service interruptions of one customer.).

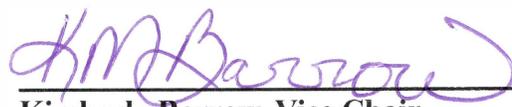
⁸ I note that some of Frontier's witnesses provided testimony regarding the availability of competitive alternatives. To be clear, the presence or absence of reasonable alternative providers has no bearing on Frontier's obligation to "furnish and maintain adequate, efficient, safe, and reasonable service and facilities" and that such service "shall be reasonably continuous and without unreasonable interruptions or delay . . . and shall be in conformity with the regulations and orders of the commission." 66 Pa.C.S. § 1501; *see also* 52 Pa. Code § 63.57 (Customer trouble reports); 66 Pa.C.S. § 3014 (Network modernization plans.).

⁹ I note that Frontier's witnesses in this matter argue that Frontier's network was not the cause of its service quality issues, but rather its personnel shortage. However, the settlement only includes one (1) settlement term related to workforce development.

¹⁰ The Northern Tier Region is identified in the Joint Petition as including Bradford, Sullivan, Susquehanna, Tioga, and Wyoming Counties.

As a business, Frontier should have been investing in its infrastructure and workforce, without being prompted by the OCA, the OSBA, or the Commission. This Settlement directs Frontier to complete various actions and commitments that it already should have been completing. I wholeheartedly agree that the \$100 million capital expenditure provision will help Frontier's customers and hopefully address the service quality issues identified in the Joint Formal Complaint, but requiring Frontier to make an appropriate investment in its facilities, its workforce, and its business in order to deliver a reasonable level of service, does not provide a deterrent for future behavior or punish for past behavior.

May 9, 2024



Kimberly Barrow, Vice Chair