At as session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 16th day of September 2020.

CASE NO. 20-0400-T-PC

FRONTIER COMMUNICATIONS CORPORATION,
FRONTIER WEST VIRGINIA INC.
CITIZENS TELECOMMUNICATIONS COMPANY OF WEST VIRGINIA dba
FRONTIER COMMUNICATIONS OF WEST VIRGINIA,
FRONTIER COMMUNICATIONS OF AMERICA, INC. dba
FRONTIER LONG DISTANCE, and
FRONTIER COMMUNICATIONS ONLINE AND LONG DISTANCE INC. dba
FRONTIER COMMUNICATIONS OF AMERICA WEST VIRGINIA
Joint Petition for Expedited Approval of Certain Chapter 11-Related Reorganizational Changes.

COMMISSION ORDER

The Commission sets a procedural schedule and rules on petitions to intervene.

BACKGROUND

On May 21, 2020, Frontier Communications Corporation, Frontier West Virginia Inc., Citizens Telecommunications Company of West Virginia dba Frontier Communications of West Virginia, Frontier Communications of America, Inc. dba Frontier Long Distance, and Frontier Communications On-Line and Long Distance, Inc. dba Frontier Communications of America West Virginia (collectively Frontier or Petitioners) filed a Joint Petition for Expedited Approval of Certain Chapter 11-Related Reorganization Changes pursuant to W.Va. Code §24-2-12 (the Petition). The Petitioners sought approval of reorganizational changes to effectuate the Petitioners’ pre-arranged plan of reorganization under Chapter 11 of Title 11 of the United States Code (the Bankruptcy Code). The Petition stated that Frontier commenced a Chapter 11 bankruptcy proceeding on April 14, 2020 and filed its plan of reorganization with the Bankruptcy Court on May 15, 2020. Under the plan of reorganization, the Frontier parent corporation shares will be owned by a newly formed corporation owned primarily by its current senior note holders. In exchange for the senior note holders’ investment, approximately $10 billion of Frontier debt owed to the senior note holders will be cancelled. The Petition asserted that the proposed restructuring satisfies the three-part test of W.Va. Code
§24-2-12 and is consistent with the public interest. Frontier asked that the Commission retain this case, afford it expedited treatment, establish a procedural schedule, waive hearing if no substantial protest is received, approve the reorganization as to the West Virginia incumbent local exchange carriers (ILECs), and grant any additional relief as may be necessary.

The Commission received petitions to intervene from the Commission Consumer Advocate Division (CAD) on May 27, 2020, the Communications Workers of America, AFL-CIO (CWA) on June 18, 2020, and the West Virginia Broadband Enhancement Council (Broadband Council) on August 27, 2020.

On June 5, 2020, Frontier filed a Motion to Establish a Procedural Schedule including a date for Commission Staff and intervenors to file comments and a date for Frontier to file reply comments. Frontier urged the Commission to set a prompt hearing date if it believed a hearing was necessary.

Filings in the case docket reflect that Staff, CAD, CWA and Frontier have engaged in discovery.

On June 24, 2020, Staff filed an initial memorandum summarizing the Petition, recommending that the Commission retain the case and set a procedural schedule.

On August 6, 2020, Frontier filed an update on the status of its Chapter 11 Bankruptcy Court proceeding and progress toward confirmation of the plan of reorganization. Among other things, Frontier stated that the Bankruptcy Court would hold a hearing on plan confirmation on August 21, 2020. Following confirmation of the plan, Frontier would be prepared to emerge from Chapter 11 as soon as it secures necessary regulatory approvals, including the approval of this Commission. Frontier renewed its request for expedited review of its Petition.

On August 18, 2020, Frontier filed a letter to inform the Commission of actions in other jurisdictions regarding Frontier’s proposed reorganization pursuant to Chapter 11 of the Bankruptcy Code. Frontier stated that it expected proceedings in other states to conclude in the fall of 2020. Frontier stated that it also filed its application with the Federal Communications Commission on June 24, 2020 and comments are to be filed in that docket in August and September 2020. Frontier again urged the Commission to set a procedural schedule.

On August 19, 2020, Staff filed a memorandum recommending that the Commission approve the Petition subject to the condition that Frontier commit to ensure that adequate funds are available to Frontier to immediately implement the recommendations of the Focused Management Audit as ordered by the Commission in pending Commission Case No. 18-0291-T-P. Staff also recommended that Commission
approval of the Petition include a requirement that Frontier commit, consistent with the Frontier verified response to Staff Data Request 1-10, to “meeting applicable service quality metrics [both existing and those imposed pursuant to the Audit] and undertake steps in the ordinary course of its business to address service quality.”

On August 25, 2020, Staff filed a further recommendation that the Commission refrain from approving the transaction until Frontier provides assurances that (i) West Virginia will be included as one of the states where Frontier will deploy fiber upgrades to homes, and (ii) sufficient funds are available to immediately implement the recommendations of the Focused Management Audit as may be imposed by the Commission in pending Case No. 18-0291-T-P. In addition, Staff repeated its recommendation that Commission approval of the Petition include a requirement that Frontier make the commitment consistent with the Frontier verified response to Staff Data Request 1-10.

Staff explained that its concern arose because the Restructuring Support Agreement, a Frontier data response to Staff, and the Frontier filing with the FCC, described a future plan of virtual separation of fiber deployments in some states from broadband upgrades provided in other states. Staff believed the described virtual separation could result in West Virginia being excluded from states to receive fiber upgrades. Staff stated that the virtual separation could, therefore, result in West Virginia falling further behind with respect to quality landline and internet service.

On August 27, 2020, Frontier filed a copy of the Bankruptcy Court’s Order confirming a plan of reorganization for Frontier. In its cover letter, Frontier stated that regulatory approvals are the only remaining prerequisite to Frontier’s ability to conclude its Chapter 11 process.

On August 28, 2020, CWA filed a response to the August 25, 2020 Staff memorandum and urged the Commission to condition any approval of the Petition on Frontier hiring sufficient staff and investing sufficient funds in the copper telecommunications network in West Virginia. CWA also urged the Commission to condition approval on Frontier (i) providing sufficient funds and staff to implement the recommendations of the Focused Management Audit and (ii) meeting the Commission’s conditioned approval of Frontier’s acquisition of the former Verizon West Virginia properties in the May 13, 2010 Commission Order issued in Case No. 09-0871-T-PC. CWA urged the Commission to obtain under oath detailed and specific plans and commitments of timing, financial investment and staffing prior to considering Frontier’s Petition. CWA suggested that the Commission consider holding a hearing in this case.

Also on August 28, CAD filed a response to the August 25, 2020 Staff memorandum. CAD agreed with Staff that Commission approval of the Petition should be conditioned on Frontier’s binding commitment to spend sufficient funds, post-discharge
from Chapter 11, to comply with the auditor’s recommendations in Case No. 18-0291-T-P. CAD stated that it shared Staff’s concern regarding the planned virtual separation of fiber deployments in some states described in the plan of reorganization and summarized by Staff. CAD noted that the same copper lines serve landline and internet customers. CAD urged the Commission to condition its approval of the Petition on a Frontier commitment that West Virginia will be a state in which fiber will be deployed to homes. CAD also urged the Commission to require Frontier to ensure adequate capital to maintain and improve the copper network for phone and internet service.

On August 31, 2020, Frontier filed a letter in response to the August 19, 2020 and the August 25, 2020 Staff memoranda. In response to the August 19, 2020 Staff memorandum, Frontier agreed with the Staff recommendations made therein in principle, but stated that this docket and Case No. 18-0291-T-P are separate cases. Frontier summarized its responsive filings in Case No. 18-0291-T-P. Frontier also acknowledged the August 25, 2020 Staff memorandum, and stated that it opposed the Staff recommendation that the Commission refrain from approving the Petition until Frontier provides assurances that West Virginia will be included as a state in which fiber will be deployed to homes. Frontier indicated that it would file a more complete response to the August 24, 2020 memorandum on September 4, 2020. Frontier again requested approval of its Petition.

On September 4, 2020, Frontier filed a letter in response to the August 25, 2020 Staff memorandum and stated that the Commission should reject the suggestion by Staff to impose a fiber deployment condition. Frontier objected that Staff raised this as a new issue and stated that the Staff concerns are misplaced. Frontier stated,
On September 8, 2020, Frontier filed a response to the Broadband Council petition to intervene and argued that the Commission should deny the petition. Frontier stated that the Broadband Council exists to explore ways to expand access to broadband service and develop policies to extend broadband access to West Virginians. The Broadband Council petition stated that its interest in this proceeding is to promote broadband deployment. The Commission, however, lacks jurisdiction to require Frontier to provide broadband or any internet protocol-enabled service. Frontier urged the Commission to conclude that the Broadband Council has not shown a legal interest in the subject matter of this case and its intervention would unduly broaden the issues.

On September 11, 2020, the Broadband Council filed a response to Frontier’s September 8, 2020 filing opposing the Broadband Council intervention. The Broadband Council argued that its goal in this case is not broadband expansion. Instead, the Broadband Council is concerned that Frontier’s reorganization will harm West Virginia by causing Frontier to become substantially weaker and unable to provide adequate service of any type.

**DISCUSSION**

*Procedural Schedule*

The Commission will establish the procedural schedule set forth in the ordering paragraphs. The filings in the docket reflect that Frontier has filed responses to the Staff memoranda in this case, but has not yet responded to comments filed by CAD and CWA. Frontier should include its responses to CAD and CWA in its pre-filed testimony ordered herein.

*Petitions to intervene*

The CAD petition to intervene stated that CAD is required by statute and rule to represent the interests of residential ratepayers and this case has a potential for adverse effects on Frontier’s ratepayers in West Virginia. CAD Petition filed May 27, 2020. CAD asserted a legal interest in this proceeding and the Commission will grant it intervenor status.

The CWA petitioned to intervene to represent its member employees of Frontier and West Virginia ratepayers. CWA Petition filed June 18, 2020. CWA asserted a legal interest in this proceeding and the Commission will grant it intervenor status.

The Broadband Council petition to intervene and Response to Frontier’s Response to its petition to intervene asserted a legal interest in assuring quality voice and internet telecommunications services. Broadband Council Petition filed August 27, 2020; Response to Frontier filed September 11, 2020. The Broadband Council’s asserted
interest in ensuring quality voice service, however, is not unique. Because the public interest in quality of voice telecommunication service will be represented by other parties to this case including Staff, CAD and CWA, the Commission will deny the Council’s petition to intervene for the purpose of promoting quality of voice service.

It is clear from its statutory mandate and its petition to intervene that the Broadband Council’s main interest in this proceeding is Frontier’s improved provision and deployment of broadband service. Petition to intervene filed August 27, 2020; W.Va. Code §31G-1-4. Commission jurisdiction over Frontier’s broadband service is very narrow and limited insofar as it stems from Case No. 09-0871-T-PC in which the Commission noted the differences between the Verizon West Virginia Inc. business plan to de-emphasize landline service and the Frontier business plan to focus on reducing the losses in landline subscribers. See W.Va. Code §24-2-1(e). Based in part on the importance of adequate communication service in many rural areas of West Virginia, the Commission regarded the Frontier plan to focus on both landline and broadband service as a reason to approve Frontier’s acquisition of the Verizon West Virginia local exchange operations. In its Order approving that acquisition, the Commission stated:

Frontier has indicated that it views the Verizon business plan (to reduce its involvement in landlines and to focus on high speed broadband and cellular service in more densely populated areas) as presenting an opportunity for Frontier to arrest the downward slide in the number of landlines in this and other states by coupling its landline service with a commitment, after the acquisition, to extend broadband internet service into areas where Verizon is not willing to make the capital commitment for new or enhanced broadband service in this State.

Case No. 09-0871-T-PC, Commission Order May 13, 2010, at 3. The Commission lacks jurisdiction, however, to order where and when Frontier should expand its broadband service. Because the public interest in the quality of voice telecommunications service is adequately represented and because Broadband Council intervention for the purpose of improving expansion of broadband service would unduly broaden the issues in this case we will deny the Council’s petition to intervene.

**FINDINGS OF FACT**

1. Frontier seeks approval of reorganizational changes to effectuate the Petitioners’ pre-arranged plan of reorganization under Chapter 11 of the Bankruptcy Code.

3. Staff, CAD and CWA have filed comments in this proceeding. Staff memoranda filed August 19, 2020 and August 25, 2020; CAD Response to Staff memoranda filed August 28, 2020; CWA Response to Staff memoranda filed August 28, 2020


CONCLUSIONS OF LAW

1. The Commission should adopt a procedural schedule in this matter.

2. The Commission should grant the petitions to intervene filed by CAD and CWA.

3. The Commission should deny the petition to intervene filed by the Broadband Council because the interest it asserts in assuring quality voice telecommunication services is represented by other parties and its participation for the purpose of improving expansion of broadband service would unduly burden the issues in this case.

4. Frontier should include its responses to the comments filed by CAD and CWA in its pre-filed direct testimony.

ORDER

IT IS THEREFORE ORDERED that Commission adopts the following procedural schedule in this matter:

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<tr>
<th>Date</th>
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<tr>
<td>October 19, 2020</td>
<td>Pre-filed direct testimony of Frontier</td>
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<tr>
<td>October 22, 2020</td>
<td>Discovery completed</td>
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<tr>
<td>October 26, 2020</td>
<td>Pre-filed direct testimony of Staff and Intervenors including rebuttal testimony to Frontier direct testimony</td>
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<tr>
<td>October 28, 2020</td>
<td>In-person Hearing 9:30 a.m. Howard M. Cunningham Hearing Room, 201 Brooks Street, Charleston, WV</td>
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IT IS FURTHER ORDERED that to the extent additional discovery is requested, parties shall serve discovery documents by email with copies mailed to the Commission. Discovery responses shall be served within 10 working days, objections within 5 working days of the interrogatory, and motions to compel shall be timely.

IT IS FURTHER ORDERED that at the October 28, 2020 hearing, Frontier may
provide rebuttal testimony to the direct testimony of Staff and the intervenors, and Staff and the intervenors may present rebuttal testimony to the direct testimonies of one another.

IT IS FURTHER ORDERED that the Hearing on October 28, 2020 is scheduled to be in-person. Parties will be notified if the Commission decides to instead hold a videoconference hearing.

IT IS FURTHER ORDERED in observance of COVID-19 precautions, the hearing will not be open to the public to attend in person, but will be viewable live over the internet via the Commission internet website www.psc.state.wv.us, by clicking the link to “Commission Webcast”.

IT IS FURTHER ORDERED that the Consumer Advocate Division petition to intervene is granted.

IT IS FURTHER ORDERED that the Communications Workers of America, AFL-CIO petition to intervene is granted.

IT IS FURTHER ORDERED that the West Virginia Broadband Enhancement Council petition to intervene is denied.

IT IS FURTHER ORDERED that the Executive Secretary serve this Order upon the Commission and its Staff by hand delivery, upon all parties of record who have filed an e-service agreement with the Commission by electronic service and upon all other parties by United States Certified Mail, return receipt requested.

A True Copy, Teste,

Connie Graley, Executive Secretary

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