

Public Service Commission of West Virginia

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November 10, 2020

Delegate Chad Lovejoy
West Virginia Legislature
186 Greystone Drive
Huntington, WV 25301

RECEIVED
2020 NOV 10 AM 8:33
WV PUBLIC SERVICE
COMMISSION

RE: RFA#20-030
Case No. 20-0400-T-P
Frontier West Virginia, Inc., Frontier Communications, Inc. and
Citizens Telecommunications Company of West Virginia
dba Frontier Communications of West Virginia

Dear Delegate Lovejoy:

Please be advised that your comment addressed to Chairman Lane was filed in the above-referenced case and has been referred to me for a response as the staff attorney assigned to this case. The Chairman and the other Commissioners are precluded from commenting on an active case. In your comment you express concern that Frontier's poor service contributed to its bankruptcy filing. You further stated that the Commission should require Frontier to make sufficient investment in fiber and employees to provide the level of service that West Virginia customers deserve.

The Commission has an open proceeding with Frontier on customer service, which resulted in a Focused Management Audit (Case No. 18-0291-T-PC). The intent of the Audit was to identify areas in which Frontier needed to make improvements to resolve ongoing customer service issues. The Commission will be entering an order in that case shortly.

Frontier provided a number of reasons for the bankruptcy filing, but its main purpose appears to be a restructuring of the company to eliminate \$10 billion in debt and approximately \$1 billion in interest expense annually. As part of commitments made to its

senior noteholders, Frontier committed to completing a “Virtual Separation” process, an accounting exercise designed to more properly allocate costs along state lines. It also included a provision wherein it would identify certain states as “ImproveCo” (where Frontier would make improvements to its copper network) and “Investco” (where Frontier would invest in fiber.)

The Commission has no authority to order Frontier to designate West Virginia as an InvestCo state or require it to install fiber to improve its broadband service. In the 2015 general session, the Legislature specifically excluded internet services from the Commission’s jurisdiction.

(e) The commission does not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

- (1) “Internet protocol-enabled service” means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data, or video.
- (2) “Voice-over Internet protocol service” means any service that:
 - (i) Enables real-time two-way voice communications that originate or terminate from the user’s location using Internet protocol or a successor protocol; and
 - (ii) Uses a broadband connection from the user’s location.
- (3) The term “voice-over Internet protocol service” includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

W.Va. Code §24-2-1-(e) (SB 576).

However, during the evidentiary hearing held in this case on November 5-6, 2020, Frontier representatives testified that West Virginia was selected as an “Investco” state under its “Virtual Separation” process, meaning that Frontier intends to expand its investment in fiber in West Virginia beginning in 2021. The Frontier representatives were unable or unwilling to provide any specific information during the hearing as to the extent of the planned investment or in which areas of West Virginia it intended to install fiber.

RFA#20-030
Del. C. Lovejoy
November 10, 2020
Page 3

You or your Staff may look at the Commission's electronic Web Docket to see what has been filed in this case to date by going to the Commission's website at <http://www.psc.state.wv.us/>. Thereafter, on the left side under the heading "Formal Case Information" click on "Case Information." Under the heading "Search," click on "Case." Enter the case number: 20-0400-T-P. Click "Search." Thereafter, click on "Activities" and you will be able to see a list of all filings made in the case. To see a particular document, just click on "View Document."

Thank you for allowing the Commission to assist in providing information on this particular case. I hope this information has been helpful. This is an informal opinion in response to an inquiry and is not binding on the Commission or Staff in any formal case. Please do not hesitate to call me or write to me if you have further questions and/or concerns. I may be reached during business hours, Monday through Friday, at 304-340-0763.

Sincerely,



Linda S. Bouvette
Staff Attorney
WV State Bar I.D. No. 5926

LSB/vm

CC: Charlotte Lane, Chairman, Public Service Commission of West Virginia
Wendy Braswell, Director, Legal Division, Public Service Commission
of West Virginia
Connie Graley, Executive Secretary, Public Service Commission of West Virginia
Susan Small, Director of Communications, Public Service Commission
of West Virginia