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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

Re: 8YY Access Charge Reform, WC Docket No. 18-156

Dear Ms. Dortch:

On May 22, 2018, the undersigned of Frontier Communications Corporation ("Frontier") met with Amy Bender, legal advisor to Commissioner O'Rielly, to discuss Frontier's concerns with the draft *Further Notice of Proposed Rulemaking* in this docket.

Although the draft item indicates it seeks to curb arbitrage and gaming,¹ the Commission proposes a drastic overhaul of the toll-free calling system instead of a narrowly tailored proposal to reduce arbitrage. Frontier explained that it does not engage in such arbitrage and gaming and that it is likely a small number of bad actors that are the cause of any arbitrage problems. Frontier also explained that the Commission's proposal turns the concept of toll-free calling on its head, shifting the costs from end user customers (often rural in Frontier's case) to large businesses that purchase toll free numbers and the providers of toll free services. At the same time, proposals targeted directly at arbitrage and gaming would avoid those negative impacts to end users.

To the extent that the target of the proposal is arbitrage and not elimination of the toll-free 8YY system, Frontier believes that there are several proposals that could curb abusive practices from the limited bad actors in the interim while the Commission contemplates comprehensive reform.² Frontier, together with NCTA – The Internet & Television Association, Windstream, NTCA – The Rural Broadband Association, American Cable Association, ITTA, and WTA jointly wrote the Commission in November asking the Commission "to take targeted actions to address such abusive schemes while the Commission more fully examines the appropriate treatment of legitimate 8YY

¹ See *8YY Access Charge Reform*, Draft Further Notice of Proposed Rulemaking, FCC-CIRC1806-07 ¶¶ 1-2 (2018) ("*Draft FNPRM*").

² See, e.g., Letter from Gerard J. Waldron, Counsel to Inteliquent, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 et al. (filed Dec. 21, 2017).

traffic for compensation purposes.”³ Frontier, like NTCA,⁴ has been participating with an industry group examining these issues, and is committed to coming to a reasonable solution to truly target arbitrage, whether it is a mirroring rule, a presumption for a lower rate when there is suspicious traffic, or some other solution.

However, if the Commission pursues more comprehensive 8YY reform, a sufficient transition period and an access recovery mechanism are necessary and should be contemplated not only for originating end office and tandem switching and transport charges, but also for database query charges.⁵ The Commission importantly acknowledges “that a ‘flash cut’ to bill-and-keep might be ‘hugely disruptive for originating access providers.’”⁶ But the draft seems to have inadvertently focused that discussion on the end office and tandem switching and transport charges and not on the database query charges. Frontier explained that just because the proposed end result is not \$0 does not mean that the database query charge proposed would not represent a “flash cut.” The database query charge proposal implicates the exact same considerations, and Frontier requested that the transition and recovery discussion explicitly cover 8YY database dips.

Frontier also explained – recognizing that this item is still at the draft *FNPRM* stage – that the draft wrongly suggests that ILECs should be able to make up for lost revenues by increasing their rates.⁷ Unfortunately, ILECs are not able to freely price their voice services in all states like their voice competitors. Frontier’s interstate end-user rates are still effectively capped, and, indeed, still go into Frontier’s overall price cap filing. Additionally, many of Frontier’s 29 states prevent or otherwise regulate price increases. At the same time, simply freezing the 10% annual decline in eligible recovery and adjusting the access recovery charge, subscriber line charge, and \$30 rate cap at a level comparable to inflation would at least mitigate the worst harms to rural broadband investment.

³ See Letter from Frontier, NCTA – The Internet & Television Association, Windstream, NTCA – The Rural Broadband Association, American Cable Association, ITTA, and WTA, to Marlene Dortch, Dockets 01-92 and 16-363 (Nov. 1, 2017).

⁴ See Letter from NTCA – The Rural Broadband Association, to Marlene Dortch, Docket Nos. 18-155; 18-156; 17-206; & 10-90 (filed May 22, 2018).

⁵ See *Draft FNPRM* ¶¶ 51-67.

⁶ *Id.* ¶ 51.

⁷ See *id.* ¶ 63 (“[I]ncumbent LECs, like competitive LECs, should be able to recover revenues they may lose as a result of our proposals directly from their end users, subject only to the discipline of the market.”).

By narrowly targeting arbitrage and gaming in the near-term, the Commission can ensure that 8YY reform does not harm rural consumers or broadband. At a minimum, the Commission must ensure that there truly are no “flash cuts,” including for database query charges, and that incumbent LECs recover those costs to avoid the worst harms to rural broadband deployment.

Sincerely,

/s/ AJ Burton

AJ Burton

cc: Amy Bender