

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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| In the Matter of |) | |
| |) | |
| Accelerating Wireline Broadband Deployment by |) | WC Docket No. 17-84 |
| Removing Barriers to Infrastructure Investment |) | |
| |) | |

**REPLY COMMENTS OF
FRONTIER COMMUNICATIONS CORPORATION**

Frontier Communications Corporation (“Frontier”)¹ hereby submits reply comments to the Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment in the above-referenced docket.² Frontier submitted comprehensive comments in the initial comment round,³ and Frontier’s industry association, USTelecom – The Broadband Association, is filing comprehensive reply comments.⁴ Frontier files these brief reply comments today on the discrete issue of one-touch make-ready (“OTMR”) due to significant concerns on this issue and to supplement the record with Frontier’s recently-filed federal court challenge to the West Virginia OTMR law that was enacted in April of this year. Nonetheless, the targeted scope of these reply comments does not detract from Frontier’s commitment to the other proposals discussed in Frontier’s and USTelecom’s comments, especially including rationalizing ILEC attachment rates and streamlining copper retirement and discontinuance procedures.

¹ These reply comments are filed on behalf of Frontier and all of its regulated affiliates.

² *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment, WC Docket No. 17-84 (Apr. 21, 2017) (“*NPRM*,” “*NOI*,” or “*Request*,” as appropriate).

³ See Comments of Frontier Communications, WC Docket No. 17-84 (June 15, 2017).

⁴ See Reply Comments of USTelecom, WC Docket No. 17-84 (July 17, 2017).

As to Frontier’s significant concerns regarding OTMR, West Virginia recently enacted a pole attachment policy very similar to the Louisville OTMR policy,⁵ and Frontier earlier this month challenged the law in federal court due to its irreparably flawed framework.⁶ As explained in Frontier’s complaint, this law, among other things, allows new attachers in certain cases to move the facilities of pre-existing attachers without even so much as notice.⁷

As Frontier explains in its complaint, this lack of notice deprives Frontier “of the opportunity to assess the potential for network disruption caused by the alteration or relocation of its facilities or of Third Party User’s facilities, and to specify and oversee the work in order to avoid or minimize any potential for harm to its network and other property – and ensure the continuity and quality of service to its customers.”⁸ As Frontier further explains, this framework severely hampers any opportunity in locating and correcting network trouble caused by new attachers: “Either Frontier will not be notified at all of the location or nature of the new Attacher’s work or, even where Frontier is entitled to notice, it may not know of the location and type of work.”⁹

Already, based on the initial round of comments in the Commission’s docket, the record in the present proceeding confirms similar significant concerns with OTMR policies, particularly one as extreme as West Virginia’s. For example, CenturyLink explains that “[p]roposals to mandate a one-touch process raise similar concerns to allowing new attachers to move existing

⁵ West Va. H.B. 3093, to be codified at West Va. Code § 31G-4-2 (West Virginia Code) (attached hereto as Attachment 1, pp. 18-62).

⁶ *Frontier West Virginia Inc. et al v. Justice et al.*, 2:17-cv-03560 (filed July 7, 2017) (attached hereto as Attachment 1).

⁷ *Id.* ¶ 27.

⁸ *Id.* ¶ 32.

⁹ *Id.* ¶ 33.

attachments without permission: increased chances of safety lapses, service disruption, contract concerns, and disputes over liability.”¹⁰ Likewise, NCTA explains that OTMR “ignores the make-ready procedures required by statute and represents a radical change from the Commission’s policies, which always have been premised on the common-sense notion that each party maintains complete control over its own facilities.”¹¹ Similarly, Comcast indicates that OTMR “frameworks ignore the statutory protections Section 224 affords to existing attachers, and create significant risks of service disruption and other harms for those service providers and the consumers they serve.”¹² Communications Workers of America also recognizes these problems: “ordinances, such as those adopted by some local authorities, prioritize speed over safety and quality service, circumventing necessary processes currently in place and often leaving third parties and their contractors without accountability for poor or unsafe work.”¹³ And ITTA explains that “[e]ach version of OTMR on which the Commission seeks comment is infused with overly prescriptive, inflexible timelines that, at best, may provide some benefit in more urban areas where there are already numerous attachers on a pole.”¹⁴

While Frontier believes that any processes that remove the facilities owner from the process are fundamentally flawed, even parties most vocally supporting OTMR do not go to the extreme measures of the West Virginia statute, which removes advance notice in certain cases

¹⁰ Comments of CenturyLink, WC Docket No. 17-84 at 15 (June 15, 2017).

¹¹ Comments of NCTA – The Internet & Television Association, WC Docket No. 17-84 at 13-14 (June 15, 2017) (citing 47 U.S.C. §224(h), which requires that an attaching party be provided with advance notice and a reasonable opportunity to add to or modify its existing attachment).

¹² Comments of Comcast, WC Docket No. 17-84 at 20 (June 15, 2017).

¹³ Comments of Communications Workers of America, WC Docket No. 17-84 at 4 (June 15, 2017).

¹⁴ Comments of ITTA, WC Docket No. 17-84 (June 15, 2017).

and only provides 14 days for post-construction review. For instance, Google Fiber, which has led the way in calls for OTMR, supports at least 15 days' written notice for simple make ready and would provide 60 days to perform a field inspection.¹⁵ Another vocal OTMR supporter, Level 3, supports these same time frames.¹⁶ Even these ardent supporters recognize that, at an absolute minimum, parties must be given some notice before their property rights are affected and must have adequate time to review all work conducted on their facilities. Frontier and other facility owners ask this notice also be adequate and reasonable.

Ultimately, Frontier remains significantly concerned about any OTMR policy, especially to the extent any OTMR policy, such as that in West Virginia: (1) does not provide sufficient advance notice; (2) deprives existing attachers of their property rights; (3) deprives existing attachers of an opportunity to adjust their own equipment; (4) risks the continuity and quality of service to its customers; (5) fails to properly address liability issues; (6) undermines union contracts; and (7) fails to provide adequate time for post-construction inspection.

Respectfully submitted,

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¹⁵ Comments of Google Fiber, WC Docket No. 17-84 at 5-6 (June 15, 2017).

¹⁶ Comments of Level 3, WC Docket No. 17-84 at 3 (June 15, 2017).