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VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Re: *Implementation of Section 224 of the Act*, WC Docket No. 07-245
A National Broadband Plan for Our Future, GN Docket No. 09-51

Dear Ms. Dortch:

On August 5, 2015, Micah Caldwell, Vice President, Regulatory Affairs, ITTA – The Voice of Mid-Size Communications Companies, and I met with Randy Clarke, Madeleine Findley, and Jonathan Reel of the Wireline Competition Bureau and Marcus Maher of the Office of General Counsel. The parties discussed Frontier’s and ITTA’s comments in response to the May 6, 2015 Public Notice requesting parties to refresh the record regarding the Petition for Reconsideration or Clarification (the “Petition”) filed by the National Cable and Telecommunications Association, COMPTTEL, and tw telecom inc. in the above-referenced proceedings.¹

Frontier and ITTA explained that they join the overwhelming support for the Petition and for the Commission to eliminate any unintended disparities between the cable rate and the new telecom rate for pole attachments. Frontier explained that it has experienced first-hand the competitive distortions and the artificial rate disparities predicted in the Petition. Frontier routinely faces attempts by power companies to use the urban telecom rate cost allocator (66%) for areas with lower numbers of average attaching entities, including for areas with less than an average of three attaching entities – the presumed average for rural areas.² The costs

¹ *Parties Asked to Refresh Record Regarding Petition to Reconsider Cost Allocators Used to Calculate the Telecom Rate for Pole Attachments*, Public Notice, 80 FR 27626 (2015) (“*Public Notice*”).

² See Response Ex. 7 ¶¶ 16-18, 20, 45, 46, *Commonwealth Tel. Co. v. UGI Utilities – Elec. Div.*, Docket No. 14-217, File No. EB-14-MD-007 (Aug. 25, 2014) (seeking to impose the 66-percent cost allocator when there is an average of 2.5 attachers); Response Ex. 2 ¶ 7 and App. C, p. 1, line 5, *Frontier Commc’ns of the Carolinas LLC v. Duke Energy Progress, Inc.*, Docket No. 14-213, File No. EB-13-MD-007 (Jan. 22, 2014) (seeking to impose the 66-percent cost allocator when there is an average of 2.4 attachers); Response Attachment A ¶¶ 6, 7, 9, *Frontier W.V. v. Appalachian Power Co.*, File No. EB-12-MD-004 (Aug. 17, 2012) (seeking to impose the 66-

of these distortions are dramatic and are particularly great in the rural areas that Frontier serves, where Frontier must obtain rights to many more additional poles to serve customers spread out over a greater geographic area.

Frontier and ITTA also discussed some of the unique challenges that incumbent local exchange carriers (“ILECs”) face under the FCC’s pole attachment rules. The parties explained that the trends that the FCC noted in its 2011 Order regarding relative pole ownership and bargaining power are even worse today. ILECs own fewer and fewer poles, leaving them in an inferior bargaining position.³ Indeed, because ILECs do not have a right of access to utilities’ poles under 47 U.S.C. § 224(f)(1), ILECs face even greater challenges than other attachers achieving just and reasonable rates and are at a competitive disadvantage. In discussing the importance of ensuring regulatory parity between ILECs and other attachers, Frontier pointed to the trend towards regulatory parity for ILECs in states that regulate pole attachments, noting that five states currently apply the cable rate to ILEC attachments and that a sixth state is expected to do so in the very near future.

Frontier and ITTA urged the FCC to swiftly grant the Petition, explaining that bringing the new telecom rate in line with the cable rate will remove a source of abuse and uncertainty in pole attachment negotiations. Moreover, by removing this unintended disparity, the FCC has an opportunity to promote broadband deployment, particularly in the rural areas that Frontier and ITTA’s member serve.

Pursuant to Section 1.1206(b) of the Commission’s rules, 47 C.F.R. §1.1206(b), this letter is being filed electronically with your office today.

Respectfully,

/s/ AJ Burton

AJ Burton

cc: Randy Clarke
Madeleine Findley
Marcus Maher
Jonathan Reel

percent cost allocator when there is an average of 2.57 and 2.58 attachers).

³ *Implementation of Section 224 of the Act*, Report and Order and Order on Reconsideration, 26 FCC Rcd 5240 ¶ 199 (2011).