

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of US Telecom for Forbearance)	WC Docket No. 12-61
Under 47 U.S.C. § 160(c) from Enforcement)	
Of Certain Legacy Telecommunications)	
Regulations)	

REPLY COMMENTS OF FRONTIER COMMUNICATIONS CORPORATION

Frontier Communications Corporation (“Frontier”) hereby submits the following reply comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) request for comment on the United States Telecom Association’s *Petition for Forbearance*.¹ Frontier, which operates a telecommunications network across 27 states, is the largest provider of communications services focused on rural America. Frontier supports the USTelecom *Petition* as a necessary vehicle to eliminate unnecessary regulation that drains resources from communications providers without benefit to the public interest or competitive market. These comments discuss **Category 4: Part 32 Uniform System of Accounts** specifically but Frontier supports the *Petition* in its entirety.

Frontier is committed to doing its part to meet the Commission’s broadband deployment goals in its territories.² Frontier is investing hundreds of millions of dollars to deploy broadband

¹ Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations (filed Feb. 16, 2012) (“*Petition*”). See Public Notice, WC Dkt. No. 12-61, DA 12-352 (rel. Mar 8, 2012).

² *In re: Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking* WC Dkt No. 10-90, FCC 11-161, at ¶ 51 (rel. Nov. 18, 2011) (“*Universal Service Reform Order*”) (“All Americans in all parts of the nation, including those in rural, insular, and high-cost areas, should have access to affordable modern

in predominantly rural areas; areas that the Commission has found are most likely to lack broadband service.³ Frontier's broadband deployment commitments are specific and meaningful; Frontier is committed to invest in America's future by deploying broadband with download speeds of at least 4 Mbps to 85 percent of the territories it acquired from Verizon (4.8 million access lines across 14 states) by 2015.⁴ At acquisition, Frontier's new territories had only 62 percent broadband coverage, in contrast to a 92 percent broadband deployment rate in Frontier's legacy territory. This 92 percent was achieved in high-cost, low density areas, demonstrating Frontier's past and continued support to broadband deployment.⁵

As is evident, Frontier has focused its resources on broadband deployment; unfortunately, costly, burdensome and outdated regulatory obligations all too often divert scarce resources from broadband deployment. Because of the purchase of the former Verizon properties, Frontier is subject to a patchwork of different regulatory obligations based upon the historic classification of the territory. In West Virginia, Frontier is the designated BOC for the majority of its West Virginia territory, while it is treated as an independent ILEC in its other 26 states and a portion of West Virginia that it owned prior to its transaction with Verizon. This distinction triggers numerous differences in reporting requirements that have been engendered by the lack of a

communications networks capable of supporting the necessary applications that empower them to learn, work, create, and innovate.”).

³ *In re: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act; A National Broadband Plan for Our Future*, GN Docket Nos. 10-159; 09-51, *Sixth Broadband Deployment Report*, FCC 10-129 at ¶ 28 (rel. July 20, 2010) (“*Sixth Broadband Deployment Report*”) (“Based on our analysis, we conclude that broadband is not being deployed to all Americans in a reasonable and timely fashion. Our analysis shows . . . approximately 14 to 24 million Americans do not have access to broadband today. [This] group appears to be disproportionately lower-income Americans and Americans who live in rural areas.”).

⁴ *See in re: Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control*, WC Docket No. 09-95, *Memorandum Opinion and Order*, 25 FCC Rcd. 5972 at App. C (rel. May 21, 2010) (*Frontier-Verizon Acquisition Order*). Frontier completed its acquisition from Verizon on July 1, 2010.

⁵ *Id.* at ¶ 50.

uniform, updated regulatory policy. Frontier is in a similar position to CenturyLink, “which includes BOC and independent ILEC operations, [therefore] this conflicting mix of regulatory obligations greatly complicates the task of complying with applicable law in a sensible and cost effective manner.”⁶

There is no good reason for disparate regulatory treatment of Frontier’s West Virginia territory, which comprises approximately 10% of the company’s access lines and broadband subscribers,⁷ and the remaining independent ILEC territory, which exists both in West Virginia and Frontier’s other 26 states of operation.⁸ And there is certainly no reason that any of the currently outdated regulations described in the *Petition* should continue to apply to any telecommunications provider. The combined effect of burdensome and haphazard regulation is to divert resources away from the network deployments and upgrades that Frontier is committed to delivering.

Some of Frontier’s competitors and wholesale network users do not appear to understand the effect of overly burdensome regulatory policies on network deployments. COMPTTEL, for example, in its comments opposing the *Petition* states that “even if the Commission were to determine that certain of the regulations from which USTelecom seeks relief have outlived their usefulness, which it should not, it cannot possibly make that determination with respect to certain

⁶ Comments of CenturyLink, Inc., WC Dkt. No. 12-61, at 6 (filed Apr. 9, 2012) (“CenturyLink Comments”).

⁷ See Frontier Communications Corp., Annual Report (Form 10-K), at 7 (Feb. 23, 2012).

⁸ See CenturyLink Comments at 6 (“In addition to being clearly outdated, many of the regulations covered by the *Petition* currently apply on a haphazard and inconsistent basis. Some requirements apply only to independent ILECs and not to BOCs, while others apply to BOCs but not independent ILECs. For example, the Commission has granted forbearance to the BOCs with respect to equal access scripting, cost assignment, ARMIS 43-01 and structural separation requirements, find the rules obsolete and unnecessary, but independent ILECs generally must still comply with these same or similar, pointless requirements. Likewise, the BOCs, but not independent ILECs, are still subject to ONA, ECI and certain separate affiliate *Computer Inquiry* requirements for some, but not all, of the information services they provide.”).

others. . .”⁹ At the same time COMPTTEL seeks to deny ILECs relief from even regulations that “have outlived their usefulness,” COMPTTEL, in a separate proceeding before the Commission, decries the lack of ILEC IP-based networks and wants to shift costs to ILECs for terminating in TDM:

The best way for conversion costs to be “borne by the carrier electing TDM conversion” is for the carriers to interconnect in IP (where technically feasible), and then (if needed) perform the TDM conversion on its side of the interconnection. In this way, the costs would be absorbed by the carrier favoring old technology (the carrier that requires the TDM conversion to complete the call), not by first imposing those costs on the carrier favoring the IP interconnection, that doesn’t require the TDM conversion.¹⁰

COMPTTEL appears to have little appreciation of the cost/resource relationships between regulatory compliance and network upgrades and, in addition, is using this proceeding as a means to ensure that its incumbent competitors are saddled with more burdensome regulations than it has itself.

The outdated and irrational regulatory obligations, which Frontier’s competitors COMPTTEL and Sprint¹¹ seek to maintain, simply extend the regulatory disparity in the favor of cable and wireless providers. The Michigan Public Service Commission (“MPSC”) seems to acknowledge this, yet opposes regulatory relief because broadband and wireless services:

[A]re not regulated in the same manner as the traditional legacy services, and this has provided [some USTelecom members with broadband and wireless business areas] with a greater opportunity to venture into these services. This part of their business is growing and will continue to grow - regardless of the FCC’s action in this proceeding. It is the MPSC’s position that the regulatory structure in place for the legacy services has been in place, and should remain in place, to protect those wireline customers from potential abuses even more so today.¹²

The MPSC fails to recognize the situation of incumbent LECs like Frontier that focus on wireline services. In many cases these less-regulated providers are direct competitors for legacy services without the same regulations. There is no need to maintain a last bastion of regulation

⁹ Comments of COMPTTEL, WC Dkt. No. 12-61, at 5 (filed Apr. 9, 2012).

¹⁰ Comments of COMPTTEL, WC Dkt. No. 10-90 et al., at 30 (filed Feb. 24, 2012).

¹¹ See generally Comments of Sprint Nextel Corp., WC Dkt. No. 12-61 (filed Apr. 9, 2012).

¹² Comments of Michigan Public Service Commission, WC Dkt. No. 12-61 (filed Apr. 9, 2012) at 3-4.

in a highly competitive field. And, given the MPSC's acknowledgement that much of the competition is not under the same regulatory regime, to maintain excessive regulation would only strengthen the competitors of Frontier and other ILECs at the ILECs' expense.

A recent USTelecom report shows that in 2011 wireline providers accounted for 41% (\$27B) of the total broadband infrastructure investment across the United States, including cable and wireless infrastructure.¹³ The ILECs' "[h]ighspeed fixed access and fiber core networks are essential to carry the large volume of data traffic, which has grown from the equivalent of 8.3 million DVDs per month in 2000 to more than 1.4 billion DVDs per month in 2010, and which is expected to triple again over the next five years."¹⁴ There is a clear need for investment in the networks but the extra regulation of ILECs depletes funding availability. Frontier agrees with Verizon that the *Petition* "recognizes that outdated and anachronistic regulation stands as an obstacle to further network investment and could jeopardize the development and introduction of advanced services. Forbearing from unnecessary regulatory requirements that may discourage such investment will help increase the capabilities of our nation's communications infrastructure."¹⁵

By way of example, forbearance from the Commission's Part 32 Uniform System of Accounts regulations illustrates the benefits of regulatory relief that the *Petition* can provide. As USTelecom describes, "[b]y virtue of Part 32, ILECs must maintain two separate sets of accounting records: the 'regulatory books' mandated by Part 32 and the real 'financial books'

¹³ PATRICK BROGAN, USTELECOM RESEARCH BRIEF: UPDATED CAPITAL SPENDING DATA SHOW CONTINUED SIGNIFICANT BROADBAND INVESTMENT IN NATION'S INFORMATION INFRASTRUCTURE 3 (2012) *available at*: http://www.ustelecom.org/sites/default/files/documents/042012_Investment_2011_Research_Brief.pdf.

¹⁴ *Id.*

¹⁵ Comments of Verizon, WC Dkt. No. 12-61, at 5 (filed Apr. 9, 2012).

prepared in accordance with GAAP.”¹⁶ In addition to the senselessness of maintaining two sets of books, the *Petition* points out that the information maintained in these records is currently useless for the price cap,¹⁷ cost allocation,¹⁸ and separations¹⁹ purposes for which they were originally designed. This is also an area where Frontier’s BOC territory is under slightly different rules than Frontier’s other service areas, even within the same state. Part 32 accounting rules drain a significant amount of resources, both in cost and staff time, that could be better applied to expanding Frontier’s network.

Part 32 accounting rules are only useful in the federal rate-of-return context, and given that Frontier is nearly exclusively price cap on the federal level,²⁰ there is no basis for maintaining a this requirement. Frontier is still subject to rate-of-return regulation at the state level on approximately 35 percent of its access lines (65% of its access lines are price cap at the state level), yet this is no reason to maintain the federal Part 32 accounting requirements. If Frontier’s requested conversion of its average schedule companies is approved, Frontier will be a 100% federal price cap company. Where state rate-of-return regulations are implicated and reporting requirements are warranted, the states have appropriate reporting requirements in place today that are appropriately tailored to the regulation. It is instructive that in New York, a state in

¹⁶ *Petition* at 35.

¹⁷ *Id.* at 37 (“Part 32 requirements are unnecessary to ensure that price cap carriers charge just, reasonable, and nondiscriminatory rates. In fact, Part 32 has no bearing on the rates charged by price cap carriers.”).

¹⁸ *Id.* (“Part 32 accounting data historically were used for cost allocation procedures under Part 64 and for jurisdictional separations purposes under Part 36. However the Commission has granted forbearance to the BOCs from Part 64 cost allocation requirements. . . .”). Frontier notes that the Commission granted Verizon forbearance from Part 64 cost allocation requirements despite the fact that it had state-level rate-of-return regulation in several entities that Frontier acquired.

¹⁹ *Id.* at 38 (“Furthermore, whatever relevance Part 32 accounting data may have had under Part 36 has long since evaporated given that the jurisdictional separation factors for price cap carriers have been frozen for more than a decade.”).

²⁰ See Joint Petition of Price Cap Holding Companies for Conversion of Average Schedule Affiliates to Price Cap Regulation and for Limited Waiver Relief, WC Dkt. No. 12-63 (filed Mar. 1, 2012). Frontier notes that notwithstanding the pending petition, Frontier’s remaining federal rate-of-return companies are average schedule companies and therefore not cost-based.

which Frontier is subject to state-level rate-of-return regulation and therefore Part 32 regulations could arguably be more applicable, the New York Public Service Commission “does not oppose the bulk of USTA’s petition,”²¹ including elimination of the Part 32 regulations. Vermont explicitly agrees that Part 32 regulations could be eliminated as long as it does not affect the state’s ability to request information on their own.²² These comments demonstrate that states have the appropriate reporting mechanisms in place today and the Commission should not retain federal rules to provide information that the states are otherwise capable of accessing, nor have any other purpose.

Elimination of Part 32 rules, in addition to the complete forbearance relief requested in the *Petition*, would have positive effects on the entire communications industry, promoting competition and infrastructure upgrades, which ultimately benefits consumers.

CONCLUSION

For the foregoing reasons Frontier respectfully requests the Commission to adopt the forbearance relief as set forth in the *Petition*.

Respectfully submitted,

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April 24, 2012

²¹ Comments of the New York Public Service Commission, WC Dkt. No. 12-61, at 1 (filed Apr. 9, 2012).

²² See Comments of the Vermont Public Service Board, WC Dkt. No. 12-61, at 1 (filed Apr. 9, 2012).