

RECEIVED

2021 JUL 29 PM 2:43

IDAHO PUBLIC
UTILITIES COMMISSION

1800 M STREET, NW
SUITE 800N
WASHINGTON, DC 20036
TEL 202.783.4141
FAX 202.783.5851
WWW.WBKLaw.COM
MICHAEL KEEGAN
202.383.3372
MKEEGAN@WBKLaw.COM

July 29, 2021

By Electronic Filing

Jan Noriyuki, Secretary
Idaho Public Utilities Commission
11331 West Chinden Boulevard, Building 8, Suite 201-A
Boise, Idaho 83714

Re: Notice of Withdrawal and Discontinuance of CLEC and IXC/Title 62 Service of
Frontier Communications of America, Inc.
Case No. CTZ-T-21-01

Dear Ms. Noriyuki:

On May 14, 2021, Frontier Communications of America, Inc. (“Frontier America”)¹ filed a letter notifying the Idaho Public Utilities Commission (“Commission”) that Frontier America seeks to voluntarily withdraw and discontinue the above-referenced services, including Frontier America’s Certificate No. 323 granted by the Commission in Case No. CTX-T-96-1,² effective on August 12, 2021 (“Notice Letter”). In the Notice Letter, Frontier America indicated that it no longer provides any services in Idaho and has no customers in Idaho.³

¹ The Notice Letter also notified the Commission that Frontier Communications Online and Long Distance, Inc. (“Frontier Online”) would withdraw and discontinue the provision of IXC/Title 62 services. Frontier Online does not hold authority to provide CLEC services and has not been issued a certificate by the Commission.

² See Order No. 26775 (Jan. 27, 1997) (granting Certificate No. 323 to Citizens Telecommunications Company, which changed its name in 2003 to Frontier Communications of America, Inc.).

³ The Notice Letter does not relate to or impact Citizens Telecommunications Company of Idaho d/b/a Frontier Communications of Idaho (“Frontier Idaho”) or Frontier Communications Northwest Inc. (“Frontier NW”) or the services provided by those entities. In April 2020, a transaction was completed in which certain companies that were then affiliates of Frontier America—including Frontier Idaho and Frontier NW—were sold to Northwest Fiber, LLC. As such, Frontier Idaho and Frontier NW are no longer affiliated with Frontier America.

On June 10, 2021, Staff of the Commission issued a Decision Memorandum recommending that Frontier America be granted its request and that Certificate No. 323 be withdrawn without prejudice.

Subsequent to the issuance of Staff's Decision Memorandum, Frontier America's representative received informal communications from an attorney for the Commission concerning whether Frontier America had complied with Idaho Code § 62-612(2)'s condition that a "telephone corporation proposing to withdraw or otherwise discontinue [basic local exchange or message telecommunication service] to a local exchange area shall publish a notice of such withdrawal in a legal newspaper circulated within the local exchange area"⁴

It is not clear to Frontier America whether or how this subsequent informal communication impacts Staff's preceding formal recommendation, which made no reference to this provision. In any event, Frontier America submits that the provision to publish a notice in a "legal newspaper" does not apply in this case. Alternatively, Frontier America respectfully reiterates its request for a waiver of this provision.⁵

Idaho Code § 62-612 applies to telephone corporations that are currently providing certain services in Idaho. The definition of "telephone corporation" includes corporations "providing telecommunications services for compensation within this state." Idaho Code § 62-603(14). Under the language of the definition, an entity must be actively "*providing* telecommunications services" to be a telephone corporation under Idaho law (emphasis added). By contrast, Frontier America is not currently providing any services in Idaho; it is merely *authorized* to provide services. As such, Frontier America arguably is not a telephone corporation to which Idaho Code § 62-612 applies.⁶

Other provisions in Idaho Code § 62-612 confirm that its scope is limited to telephone corporations that are currently and actively providing service in the state. Paragraph (2) of Idaho Code § 62-612 applies to a telephone corporation "proposing to withdraw or otherwise discontinue" services. Thus, for paragraph (2) to apply, a telephone corporation must currently be providing a service for that service to be withdrawn or discontinued. As noted above,

⁴ To the extent required, Frontier America submits that it complied with Idaho Code § 62-612's provision to "file a notice of such withdrawal or discontinuance of service with the commission" by submitting the Notice Letter dated May 14, 2021.

⁵ Frontier America's Notice Letter stated that because it no longer has any customers in Idaho, to the extent necessary, Frontier America sought "a waiver of the requirement in Idaho Code § 62-612(2) and Idaho Admin. Code § 31.01.01.020 to post an advertisement in a newspaper or to perform any other notification requirement."

⁶ The Notice Letter did not seek a jurisdictional determination of Frontier America but simply sought to ensure that the Commission's records are up to date.

although Frontier America is *authorized* to provide local exchange service in Idaho, it does not actually provide any such service and does not have any customers in Idaho.

Likewise, paragraph (1) of Idaho Code § 62-612 refers to “[a] telephone corporation subject to this chapter *which provides* basic local exchange or message telephone telecommunication service ...” (emphasis added), indicating that the statutory provision applies only to telephone corporation actively *providing* services, rather than merely *authorized* to provide services. Again, Frontier America does not provide any services in Idaho.

Furthermore, no policy objective would be furthered by a newspaper notice here. The goal of the newspaper publication referenced in Idaho Code § 62-612 and Idaho Admin. Code § 31.01.01.020 is clearly to provide advance notice to affected customers that their telephone service may be terminated. In this case, Frontier America has no customers in Idaho; therefore, no Idaho customers will be affected or even need notice.⁷ If anything, a newspaper notice in this context would risk creating confusion among consumers.

Finally, it is unclear how Frontier America could reasonably be expected to comply with this provision under the circumstances. Because Frontier America does not provide any services or have any customers in *any* local exchange area, it is unclear which legal newspapers in which local exchange areas would satisfy the provision.

As stated in the Notice Letter, the public convenience and necessity will not be adversely affected by proposed action. Frontier America no longer offers or provides any services to Idaho customers pursuant to the above-referenced authority and currently has no customers in Idaho. Therefore, no customer’s service will be interrupted or disconnected. Frontier America respectfully requests that the Commission grant or accept Frontier America’s notice, as applicable, consistent with the Idaho Code and Idaho Administrative Code.

If you have any questions regarding this notification, please contact me.

Respectfully submitted,

/s/ Michael Keegan
Michael Keegan

Counsel to Frontier Communications of America, Inc.

⁷ Moreover, in this instance, the publication of a notice may lead to confusion because Frontier America provides no services and has no customers, but its former affiliates Frontier Idaho and Frontier NW do have customers and those entities recently operated under similar names that included the term “Frontier.”