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November 3, 2021

By Electronic Filing

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

Re: In the Matter of Frontier Communications of America, Inc.'s
Notice for Cancellation of Certificate of Public Convenience and Necessity No. 323
Case No. CTZ-T-21-01

Dear Ms. Noriyuki:

Please find below the Reply Comments of Frontier Communications of America, Inc. ("Frontier America") and Frontier Communications Online and Long Distance, Inc. ("Frontier Online") to the extent Frontier Online is considered a party to this proceeding, which respond to the Commission Staff Comments filed on October 27, 2021 ("Staff Comments").

As the Commission is aware, Frontier Communications transferred its operations in Idaho to Northwest Fiber, LLC on May 1, 2020, including the long-distance customers served by Frontier America. Since that time, Frontier America has not served any customers in Idaho. Frontier America respectfully reiterates that Idaho Code § 62-612 does not apply to its request to cancel Certificate No. 323 (or to its earlier transfer of customer relationships, if that is what Staff suggests), and that any determination to the contrary overlooks the relevant law and facts, serves no public policy purpose, and is impractical. As we explained, the newspaper publication requirement in Idaho Code § 62-612 only applies to a telephone corporation that is currently providing services and wishes to stop doing so. That is not the scenario at issue here.

In arguing otherwise, Commission Staff appears to misunderstand if not overlook a critical (and the most salient) fact: Frontier America never withdrew or discontinued service to Idaho customers. Rather, the reason that Frontier America has no customers in Idaho is because it lawfully *transferred* them to another provider – Northwest Fiber, LLC – on May 1, 2020. Those customers did not experience any loss or disruption of service – their service continued with a new provider, Northwest Fiber.

To the extent Staff is now suggesting that this past action triggered the application of Idaho Code § 62-612, it is again mistaken. Interpreting Idaho Code § 62-612 in this manner

would expand the application of the statute to include transfers of customer relationships and accounts, a scenario that is not mentioned in the statutory text.¹ That Frontier America's transfer of service was not a discontinuance or withdrawal of service under Idaho Code § 62-612 is further supported by the statute's chief purpose of informing customers *in advance* that their telecommunications service will be discontinued if they do not take action.

In short, requiring a company that is authorized to provide service but does not actually have customers to publish notice to its nonexistent customers in a newspaper of the administrative action of cancelling a certificate is beyond the statute's reach and intent. The Commission should therefore grant Frontier America's request, consistent with the Commission's longstanding practice of granting the cancellation of certificates without application of Idaho Code § 62-612.²

In the event the Commission now seeks to depart from that precedent and impose a newspaper notice requirement here, and putting aside any other legal obstacles to such a reversal, Frontier America reiterates its request for a waiver.³ No policy objective would be furthered by a newspaper notice here given that Frontier America has not provided service to any customers in Idaho for over 18 months, and notably, Commission Staff does not identify one. The goal of the newspaper publication 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 and no service was terminated; therefore, no Idaho customers will be affected or even need notice.

If the Commission nonetheless endorses the Staff's position, Frontier America respectfully requests guidance regarding how it could comply. Although Staff recommends that

¹ An interpretation that requires the application of Idaho Code § 62-612 to every situation in which an entity that possesses a certificate to provide telecommunications services no longer actively serves any customers would also seem to make the statute apply to situations in which all the customers of the certificated entity choose to select a new service provider, leaving the certificated entity with no customers.

² See, e.g., Case No. SPR-T-21-01, Order No. 34985 (Apr. 6, 2021); Case No. ECL-T-20-01, Order No. 34903 (Mar. 26, 2021); Case No. INX-T-20-01, Order No. 34904 (Mar. 12, 2021); Case No. MCI-T-04-01, Order No. 29569 (Aug. 19, 2004); Case No. ABS-T-03-01, Order No. 29388 (Dec. 3, 2003); Case No. CHC-T-03-01, Order No. 29381 (Nov. 17, 2003); Case No. USD-T-03-01, Order No. 29357 (Oct. 20, 2003); Case No. QTC-T-01-01, Order No. 28797 (July 31, 2001).

The Notice Letter used language from Idaho Code § 62-612 because Frontier America could not identify a specific statute governing the cancellation of CLEC certificates. Without conceding that Idaho Code § 62-612 or Rule 20 apply to Frontier America or Frontier Online, the Notice Letter requested a waiver *to the extent necessary* of the newspaper notice publication requirement. The Notice Letter also noted that the requested effective date was consistent with the timing requirements of Rule 20, IDAPA 31.01.01.020, and that providing notice was consistent with both Rule 20 and Idaho Code § 62-612.

³ See Idaho Code § 62-602(5) (directing Commission administration of Title 62, Chapter 6 in accordance with statutory policy).

Frontier America be required to publish a newspaper notice in the “smallest” local exchange area possible, without specifying one – a suggestion that seems to concede the inapplicability of the newspaper notice rule to the facts at hand – Frontier America would still need guidance to identify the proper area and the appropriate newspaper, as well as the content of such a notice.

Separately, the Staff Comments appear to take a new position that Idaho Code § 62-612 applies to Frontier Online, despite the fact that Frontier Online never had a Certificate from the Commission, never held authority to provide CLEC services, never provided local exchange services, and does not provide IXC/Title 62 services. It is Frontier Online’s understanding that formal action by the Commission is not required for Frontier Online to stop providing IXC services in Idaho, and in any event, Idaho Code § 62-612 should not apply for the reasons noted above.

Finally, Frontier America supports Commission consideration of this matter without a formal hearing.

Respectfully submitted,

/s/ Michael Keegan
Michael Keegan

Counsel to Frontier Communications of America, Inc.