

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF FRONTIER) CASE NO. CTZ-T-21-01
COMMUNICATIONS OF AMERICA, INC.’S)
NOTICE FOR CANCELLATION OF) ORDER NO. 35252
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY NO. 323)

On May 14, 2021, Frontier Communications of America, Inc. (“Frontier America”) and Frontier Communications Online and Long Distance, Inc. (“Frontier Online”) (collectively the “Companies” or individually “Company”) submitted notice (“Notice”) of the Companies’ intent to withdraw and discontinue (1) Frontier’s Certificate of Public Convenience and Necessity (“CPCN No. 323”) granted by the Commission in Order No. 26775¹ and the Companies’ provision of IXC service under Title 62 of Idaho Code. The Companies also sought to withdraw any related tariffs. Because neither Company had customers in Idaho on the date of Notice, the Companies sought a waiver of the requirements in *Idaho Code* § 62-612(2) and Rule 20, IDAPA 31.01.01.020 that they post an advertisement in a newspaper or provide any other additional notification. Notification at 2, fn. 3.

The Companies’ request to withdraw and discontinue service was considered and approved by the Commission at its June 15, 2021, decision meeting. However, the Companies’ request for a waiver of the statutory public notice requirements was inadvertently omitted from the Commission’s consideration and therefore, not ruled upon.

On July 29, 2021, in a Supplemental Filing (“Filing”), the Companies further articulated why the publication requirement was not necessary to withdraw Frontier America’s CPCN.²

On October 6, 2021, the Commission issued a Notice of Application, Notice of Modified Procedure, and Suspension of the Effective Date. Order No. 35187.

¹ The Certificate was originally granted to Citizens Telecommunications Company (“Citizens”) in 1997. Sometime after the Certificate was issued, Citizens officially changed its name to Frontier Communications of America, Inc. See 1999 Idaho Secretary of State filing No. 391241, 6/24/2003, “Legacy Amendment.” Accordingly, in 2003, the Commission entered an Order amending the Certificate to reflect the name of the holder of the Certificate as “Frontier Communications of America.” Order No. 29394. The “Inc.” was not included in the Order, however, because Citizens erroneously failed to include the “Inc.” in its Application in Case No. CTZ-T-03-01.

² The Companies clarified in their Filing that, even though their Notice stated that Frontier Online would withdraw and discontinue IXC/Title 62 service, “Frontier Online does not hold authority to provide CLEC services and has not been issued a certificate by the Commission.” Filing at 1, fn. 1.

Staff filed comments on October 3, 2021, and the Companies filed reply comments on November 3, 2021.

Having reviewed the record in this case, the Commission finds that Idaho customers would not be harmed by withdrawing CPCN No. 323 from Frontier America and cancelling associated price lists, and therefore approves the same.

BACKGROUND

The Commission issues CPCNs to competitive local exchange carriers (“CLECs”) seeking to provide local exchange services in Idaho. Rule 114, IDAPA 31.01.01.114. *Idaho Code* § 62-612 requires a telephone corporation that provides basic local exchange or message telecommunication services to “file a notice . . . with the [C]ommission and . . . publish a notice . . . in a legal newspaper circulated within the local exchange area, and provide such other reasonable notice as may be required by the [C]ommission” when it proposes to withdraw or otherwise discontinue basic local exchange or message telecommunication services. *See Idaho Code* § 62-612(1)-(2). Commission Rule 20 likewise requires that a telephone corporation “file a notice with the Commission at least ninety (90) days in advance of the date that it intends to cease operations and publish a notice of such discontinuance in a legal newspaper circulated in its service area pursuant to Section 62-612, Idaho Code.”

STAFF COMMENTS

Staff stated *Idaho Code* § 62-612(2) and Rule 20, IDAPA 31.01.01.020, generally require a “telephone corporation proposing to withdraw or otherwise discontinue . . . services” to “publish notice in a legal newspaper circulated within the local exchange area” prior to withdrawing service. Staff Comments at 2-3. Staff further commented that *Idaho Code* § 62-604(14) defines a “telephone corporation” as “every corporation . . . providing telecommunication services” within Idaho. *Id.* Staff noted that *Idaho Code* § 62-612(1) “mandates that a telephone corporation ‘which provides’ service to a local exchange area may not discontinue service unless certain conditions are met.” *Id.* at 3.

Staff specifically stated that the relevant statutory language and rules required any telephone corporation providing Title 62 service in a local exchange area to notify its customers and the Commission prior to withdrawing service. *Id.* at 3. Staff noted the Companies’ acknowledgement that Frontier America no longer provided or offered services to Idaho customers. *Id.* (citing Filing at 3). Staff explained that it logically follows that for Frontier America

to cease providing or offering services, it must have previously provided or offered services in the past. *Id*

Staff stated that it appeared that either Frontier America or Frontier Online, or both Companies, provided services to Idaho customers then stopped.

Staff recommended that the Companies publish notice of the withdrawal of Frontier America's CPCN and the Companies' intent to withdraw their services in the smallest local exchange area possible.

COMPANY REPLY COMMENTS

The Companies reiterated their position that *Idaho Code* § 62-612 did not require Frontier America to publish notice of its withdrawal of its CPCN and that to hold otherwise overlooked "the relevant law and facts, serve[d] no public policy purpose, and [was] impractical." Reply Comments at 1.

The Companies clarified that "Frontier Communications transferred its operations in Idaho to Northwest Fiber, LLC on May 1, 2020, including the long-distance customers served by Frontier America." *Id*. Therefore, the Companies stated that Frontier America never withdrew or discontinued service to Idaho customers but that it lawfully transferred them to Northwest Fiber without a loss or disruption of service. *Id*.

The Companies submitted that the purpose of *Idaho Code* § 62-612 is to provide advance notice to customers that their services may be disrupted if they do not act. The Companies further submitted that since *Idaho Code* § 62-612 does not mention transfers of customer relationships and accounts it should not be interpreted broadly to apply to Frontier America's request. The Companies also pointed to the Commission's "longstanding practice of granting the cancellation of certificates without application of *Idaho Code* § 62-612." *Id*. at 2 (citing, as the most recent example, Case No. SPR-T-21-01).

The Companies reiterated that Frontier America had not provided services to any Idaho customers for over 18 months and that neither Company had terminated services to any Idaho customer, stating "no Idaho customers will be affected or even need notice." *Id*.

The Companies also stated that Frontier Online, contrary to what appeared to be Staff's position, never had a certificate from the Commission, nor authority to provide CLEC, local exchange, or IXC/Title 62 services in Idaho. Thus, it was Frontier Online's understanding that no formal Commission action was required in its case.

FINDINGS AND DISCUSSION

Any telephone corporation that acquired a CPCN and began providing basic local exchange service to Idaho customers after January 1, 1988, is subject to the provisions of Title 62 of the Idaho Code. Frontier America acquired its CPCN from the Commission in 1997. As represented by the Companies, Frontier America and Frontier Online previously transferred their Idaho operations and customers to another entity, Northwest Fiber. As a result, neither Company has provided services to Idaho customers in over 18 months.

Based on our review of the record, we find that the Companies have no Idaho customers and do not operate in Idaho, and that cancelling Frontier America's CPCN No. 323 would not harm Idaho customers. Accordingly, we find it reasonable and appropriate to cancel CPCN No. 323, along with Frontier America's pricelists and tariff on file with the Commission.

ORDER

IT IS HEREBY ORDERED that the Companies' request for cancellation of Frontier America's CPCN No. 323 without publishing notification in a legal newspaper is granted. The Company's CPCN No. 323, price lists, and tariffs are cancelled and no longer in effect, and the Company is no longer authorized to provide telecommunications services in Idaho.

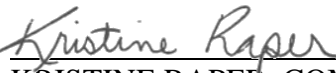
THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* §§ 61-626 and 62-619.

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DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 8th day of December 2021.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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