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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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

STAFF OF the Idaho Public Utilities Commission, by and through its Attorney of record, Riley Newton, Deputy Attorney General, submits the following comments.

BACKGROUND

On May 14, 2021, Frontier Communications of America Inc. ("Frontier") and Frontier Communications Online and Long Distance, Inc. ("Frontier Online") (collectively the "Companies") submitted notice of the Companies' intent to withdraw and discontinue ("Notice"): (1) Frontier's Certificate of Public Convenience and Necessity ("CPCN No. 323") granted by the Commission in Order No. 26775¹; (2) Frontier's provision of IXC service under

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-03-1.

Title 62; and (3) Frontier Online’s provision of IXC service under Title 62. The Companies also sought to withdraw any related tariffs. Because neither company had customers at 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 (“Rule 20”) that they post an advertisement in a newspaper or provide any other 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 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 is not necessary for them to withdraw their CPCN.

On October 6, 2021, the Commission issued a Notice of Application, Notice of Modified Procedure, and Suspension of the Effective Date to allow for further input and provide more information for the Commission to properly consider whether to grant the Companies’ request for a waiver of the publication requirements. Order No. 35187.

STAFF ANALYSIS

In their Filing, the Companies state that *Idaho Code* § 62-612 only applies to “telephone corporations that are currently providing certain services in Idaho.” Filing at 2. Because the Companies are not currently providing services in Idaho, they assert they are not a “telephone corporation” subject to the notice requirements of *Idaho Code* § 62-612. *Id.* at 2-3.

The Companies submit that complying with *Idaho Code* § 62-612 and Rule 20 would be difficult and unwarranted because it is unclear in which “local exchange area” they would publish notice of discontinuation of services and any published notification would only confuse customers of Frontier’s former affiliates (Frontier Idaho and Frontier NW) who recently operated under names including the term “Frontier.” *Id.* The Companies state that no policy objectives of the relevant rules and statutes would be served by publishing notice in a newspaper because there are no customers who will be impacted by the withdrawal of their CPCN. *Id.* at 3.

Staff has reviewed the controlling rules and statutory provisions. *Idaho Code* § 62-612(2) indicates that a “telephone corporation proposing to withdraw or otherwise discontinue . . . services” is required to “publish notice in a legal newspaper circulated within the local exchange

area . . .” Commission Rule 20, IDAPA 31.01.01.20, similarly requires a telephone corporation, prior to discontinuing services, to publish notice in the local newspaper within its exchange area.

A “telephone corporation” is defined in *Idaho Code* § 62-604(14) as “every corporation . . . providing telecommunication services” within Idaho. (emphasis added). *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 meant. *Idaho Code* § 62-612(2) instructs that a telephone corporation “proposing to withdraw or otherwise discontinue . . . services” shall publish a notice of withdrawal of service in the relevant legal newspaper.

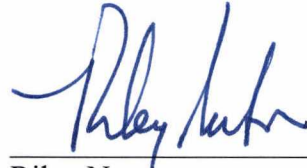
As indicated above, if a telephone corporation provides telecommunication services in a local exchange area in Idaho, it is statutorily required to notify the Commission and publish notice in a newspaper when it intends to stop providing such services in Idaho. As the statute make clear, this notification is to occur *prior* to withdrawal or discontinuance of service. Nowhere do the Companies state that they never were a “telephone corporation” under Title 62 of the Idaho Code subject to publication requirements upon withdrawal of their services. As the Companies indicated in their Notice, Frontier “no longer provides any services in Idaho” Filing at 1. It seems to follow from the preceding statement that Frontier was offering and providing services in Idaho and, at some point, stopped. If that was the case, pursuant to the controlling statutes and rules, Frontier was required to provide notification when it stopped offering and providing services to customers in Idaho.

In sum, based on the material provided, it appears that Frontier, Frontier Online, or both, offered and provided telecommunication services in Idaho, stopped providing those services in Idaho without notifying the Commission or its customers, and now request a waiver from the statutory requirements.

STAFF RECOMMENDATION

Staff believes the Companies should publish notice of their intent to withdraw their services and Frontier’s CPCN in a newspaper in a local exchange area as required by the controlling statutes and rules. Staff believes this local exchange area should be limited to the smallest area possible.

Respectfully submitted this 27th day of October 2021.

A handwritten signature in blue ink, appearing to read "Riley Newton".


Riley Newton
Deputy Attorney General

i:umisc/comments/ctzt21.1rndk comments

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 27th DAY OF OCTOBER 2021, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. CTZ-T-21-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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