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PUBLIC REDACTED VERSION

September 4, 2020

SUBMITTED VIA ECFS
Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *8YY Access Charge Reform*, WC Docket No. 18-156

Dear Ms. Dortch:

On Wednesday, September 1, 2020, A.J. Burton of Frontier Communications ("Frontier") and the undersigned spoke with members of the Commission's staff to discuss the above-referenced matter. Participants for the Commission included Lisa Hone, Eric Ralph, Gil Strobel, David Zesiger, Octavian Carare, Al Lewis, Doug Slotten, Peter Bean, Ahuva Battams, Jonathan Cannon, Richard Kwiatkowski, and Shane Taylor.

During the meeting, Frontier provided and discussed the attached HIGHLY CONFIDENTIAL document ("Attachment"), which details the revenue losses it would encounter in the coming years if the Commission were to eliminate originating access charges for 8YY calls. The Attachment first sets out the total 8YY revenues that Frontier expects it would collect between now and June, 2025, assuming **[[BEGIN HIGHLY CONFIDENTIAL]]** **[[END HIGHLY CONFIDENTIAL]]** line loss per month and no reduction in 8YY access charges. The Attachment then modifies these figures to reflect the expected rate step-down. It then depicts the revenue loss attributable to the rate step-down. It then depicts the number of "line months" it expects to serve during each of the years addressed (i.e., the number of lines times twelve). Finally, it divides the projected revenue loss attributable to the rate step-down by the number of line-months expected to determine the per-line, per-month loss – in other words, the degree of pricing flexibility Frontier would need to be able to recoup all relevant losses. As the Attachment shows, the flexibility needed amounts to **[[BEGIN HIGHLY CONFIDENTIAL]]**

[[END HIGHLY CONFIDENTIAL]]

Frontier emphasized during the meeting the continued importance of a recovery mechanism to the item's overall soundness and sustainability, and the centrality of such a mechanism to the settlement proposal submitted by USTelecom.[1] This advocacy was consistent with USTelecom's filings[2] and with Frontier's consistent advocacy over the past two years. In light of the Further Notice of Proposed Rulemaking's discussion of appropriate recovery mechanisms,[3] Frontier expressly asked the Commission in 2018 to "[a]djust[] the access recovery mechanism from the 2011 *USF/ICC Transformation Order*" by freezing the step-down in per-line recovery and "adjust[ing] the access recovery charge cap, the $30 residential rate ceiling, and the SLC multi-line business cap" to allow for recovery of lost revenues.[4] Frontier subsequently emphasized that any item the Commission considers must include a recovery mechanism for mid-sized ILECs. It met with Bureau personnel on August 3 to discuss its legal

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[1] *See* Letter from Mike Saperstein, Vice President, Strategic Initiatives & Partnerships, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-156, at 1 (filed Feb. 25, 2020) ("*USTelecom Compromise Letter*").

[2] *See, e.g.*, *See* Letter from Mike Saperstein, Vice President, Strategic Initiatives & Partnerships, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-156, at 1-2 (filed Aug. 31, 2020) ("Each component of compromise solution – including the transition timelines, rates, and ability to recover revenues – w[as] necessary to get sufficient member support amongst various stakeholders to move forward. In particular, as USTelecom has explained previously, if a carrier cannot charge its customer, that would be inconsistent with the 2011 order, and poses legal risks to the sustainability of the item."); Letter from Mike Saperstein, Vice President, Strategic Initiatives & Partnerships, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-156, at 1 (filed Aug. 24, 2020) (same).

[3] *See 8YY Access Charge Reform*, Further Notice of Proposed Rulemaking, 33 FCC Rcd 5723, 5724 ¶ 4 (noting that Commission sought comment on "the best way for carriers to recover legitimate revenues they may lose as a result of our proposed reforms"); *id.* at 5741-43 ¶¶ 61-67 (seeking comment on recovery-related issues) (2018).

[4] Reply Comments of Frontier Communications Corporation, WC Docket No. 18-156, at 12-13 (filed Oct. 1, 2018). These were the first comments that Frontier filed on its own in the proceeding, having filed joint initial comments alongside Windstream and NTCA. *See* Comments of Windstream Services, LLC, Frontier Communications Corporation, and NTCA—The Rural Broadband Association, WC Docket No. 18-156 (filed Sept. 4, 2018).

concerns with any such order and offer to provide estimates of its expected revenue losses.[5] Three days later, USTelecom submitted a letter stating that, "for its mid-size price cap members alone, 8YY originating access represents at least a quantity similar or greater than [the $30.4 million figure] cited by NTCA."[6] Finally, in *ex parte* letters filed August 24 and August 26,[7] Frontier set out a menu of options the Commission might pursue to ensure compensation for 8YY origination.

Finally, Frontier reiterated that it has proposed several complementary approaches the Commission might adopt in ensuring that providers are compensated for originating 8YY calls. It could, for example, allow price cap carriers to include revenue losses in the eligible recovery for their annual price cap filings. It could, along the lines proposed by USTelecom, increase the SLC by $0.15 per month with the first step in 2021 and by an additional $0.15 per month with the second step in 2022.[8] This would reflect, in total, a modest *4.62 percent* increase in the cap (from $6.50 to $6.80) since 2011, whereas inflation throughout the economy during this period has exceeded *15 percent.*[9] At the same time (or as an alternative), the Commission could raise the $30 residential rate ceiling associated with the Access Recovery Charge ("ARC"), which is currently set at an amount that is significantly below the Commission's own estimated average urban monthly rate of $34.81.[10] Alternatively, the Commission could choose to adopt the instant

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[5] *See* Letter from Russell P. Hanser, Counsel to Frontier, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-156 (filed Aug. 5, 2020).

[6] Letter from Mike Saperstein, Vice President, Strategic Initiatives & Partnerships, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-156, at 1 (filed Aug. 6, 2020).

[7] *See* Letter from Russell P. Hanser, Counsel to Frontier, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-156 (filed Aug. 26, 2020); Letter from Russell P. Hanser, Counsel to Frontier, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-156 (filed Aug. 24, 2020).

[8] *See USTelecom Compromise Letter*.

[9] *See, e.g.*, U.S. Inflation Calculator, *available at* https://www.usinflationcalculator.com/.

[10] *See* 47 C.F.R. § 51.915(a)(12); Public Notice, Wireline Competition Bureau and Office of Economics and Analytics Announce Results of 2020 Urban Rate Survey for Fixed Voice and Broadband Services, Posting of Survey Data and Explanatory Notes, and Required Minimum Usage Allowance for Eligible Telecommunications Carriers, WC Dkt. No. 10-90, DA 19-1237 (rel. Dec. 5, 2019), available at https://docs.fcc.gov/public/attachments/DA-19-1237A1.pdf. Frontier notes that the ARC has, from its inception, been used to recoup lost intrastate revenues as well as interstate revenues. The *USF/ICC Transformation Order* permitted price cap carriers to impose the ARC beginning in the first year of the intercarrier compensation transition, *see* 47 C.F.R. § 51.915, even though the first two years of the transition only reduced *intrastate* access rates, *see id.* § 51.907(b), (c).

item only in connection with an order that further deregulated interstate end-user rates for price cap carriers, affording such providers latitude to recoup costs associated with originating 8YY calls.[11]

For the foregoing reasons, the Commission should not eliminate 8YY access charges without simultaneously allowing local exchange carriers such as Frontier to recover lost revenues.

Sincerely,

/s/ Russell P. Hanser
Russell P. Hanser
Counsel to Frontier Communications

Attachment

cc (via electronic mail):

David Zesiger
Lisa Hone

[11] *See generally* Reply Comments of Windstream Services, LLC, Consolidated Communications, Inc., and Frontier Communications Corporation, WC Docket No. 20-71 (Aug. 4, 2020).

HIGHLY CONFIDENTIAL ATTACHMENT REDACTED