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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Frontier Communications Corporation, Frontier California Inc. (U1002C), Citizens Telecommunications Company of California Inc. (U1024C), Frontier Communications of the Southwest Inc. (U1026C), Frontier Communications Online and Long Distance Inc. (U7167C), Frontier Communications of America, Inc. (U5429C) for Determination that Corporate Restructuring is Exempt from or Compliant with Public Utilities Code Section 854.

Application 20-05-010

**E-MAIL RULING REGARDING EVIDENTIARY HEARINGS
AND MOTIONS FOR ADMISSION OF TESTIMONY AND
DOCUMENTS INTO EVIDENTIARY RECORD**

Dated October 14, 2020, at San Francisco, California.

/s/ PETER WERCINSKI

Peter Wercinski
Administrative Law Judge

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Sent: Wednesday, October 14, 2020 1:26 PM

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Subject: A.20-05-010 E-Mail Ruling Regarding Evidentiary Hearings and Motions for Admission of Testimony and Documents into Evidentiary Record

The evidentiary hearings scheduled for October 26-28, 2020 are taken off-calendar. On August 28, 2020, a ruling was issued setting a status conference on October 13, 2020 to consider whether evidentiary hearings were needed in this proceeding. The ruling directed the parties to serve written responses on October 12, 2020 stating whether evidentiary hearings were required, the identification of all material issues of disputed fact to be addressed at the hearings, the identification of all witnesses to testify at the hearings and, for each witness, the material issues of disputed fact to which the witness will testify and, for witnesses to be cross-examined, the estimated amount of time for cross-examination. The purpose of those instructions was to have the parties provide specific information sufficiently in advance of the scheduled hearing dates to allow the Administrative Law Judge to make prompt decisions regarding hearing necessity, witness scheduling, and time allocation, and to confirm the adequacy of the parties' technical capabilities in a remote hearing environment. Instead, the parties failed to present specific information in their October 12, 2020 responses and in the discussions at the October 13, 2020 status conference regarding several issues identified in the August 28, 2020 ruling. For example, the Public Advocates Office stated in its October 12, 2020 response that "all material issues in the Scoping Memo remain at issue." When asked at the October 13, 2020 status conference whether all 21 Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) issues would need to be addressed at evidentiary hearings, counsel said no but failed to identify which issues would need to be addressed at the hearings. In its October 12, 2020 response, The Utility Reform Network (TURN) stated that it was still reviewing testimony regarding a plan for cross-examination and identification of disputed issues of fact. Although TURN's response did reference several issues it identified as disputed facts, TURN failed to state that those references were all of the material issues of disputed fact to be addressed at the hearings. In its response, Applicants failed to identify any Scoping Memo issues but rather argued that the hearings should focus on Intervenor's "numerous proposed conditions." Although some of the parties in their October 12, 2020 responses and at the October 13, 2020 status conference attempted to identify disputed material issues of fact, those attempts often failed in that they lacked specificity or were argument, assertions of policy, or claims for the imposition of conditions based upon uncertainty regarding the possible future effects of Applicants'

restructuring. The deficiencies in the parties' written responses and the discussion at the status conference support the conclusion that evidentiary hearings would not result in advancing issue clarity or the resolution of disputed factual matters, that the parties can fully and fairly address all material issues in this proceeding through the admission of testimony and documents into the evidentiary record and the submission of legal briefs, and that the time and resources of the parties and the Commission would not be well served by evidentiary hearings.

Despite the issues described above, a party may file and serve a motion requesting the resetting of evidentiary hearings in this proceeding provided the motion complies with each of the following requirements:

1. The motion shall be filed and served no later than October 19, 2020.
2. The motion shall set forth each disputed material issue of fact to be addressed at the evidentiary hearings and, for each such issue of fact, shall set forth:
 - a. A detailed description of the dispute at issue, including references to applicable documents that reflect the issue. It shall not be a sufficient description to reference only the language of an issue set forth in the Scoping Memo.
 - b. A detailed explanation why the issue is material, why the issue is factual rather than legal or policy-based, and the specific benefits to this proceeding that will result from addressing the issue at the evidentiary hearings, including why the issue cannot be adequately addressed through testimony and documents admitted into the evidentiary record and the parties' briefing.
 - c. Identify each witness to be examined or cross-examined about the issue.
 - d. Identify the total amount of hearing time to be scheduled for that issue, including the time needed by the party and an estimated time for all other parties to complete the examination or cross-examination of all witnesses on the issue.
3. For each witness proposed by a party to testify, the party shall meet and confer with counsel for that witness and shall state in the motion that the witness is available to testify remotely and that the witness has the technical capability to testify remotely through Webex video and telephone audio connections. The party shall state in the motion the specific dates and times that the witness is available to testify that correspond to the possible evidentiary hearing dates set forth below.
4. Before filing a motion, the filing party shall meet and confer with all other parties and fully discuss each of the requirements set forth in this ruling and solicit responses from the other parties. A party filing a motion shall include in the motion a complete report regarding the responses of the other parties to its proposed motion.
5. The possible evidentiary hearing dates are now October 27 and 28, 2020 and November 5 and 6, 2020. A filing party may propose one or a maximum of two days for evidentiary hearings provided that it complies with each requirement set forth in this ruling, including the specific information set forth in Requirement 3.
6. A party may promptly file and serve a written response to a motion to reset evidentiary hearings. However, under Commission Rule of Practice and Procedure 11.1(g), a ruling may be issued before a response is filed.
7. If a motion to reset evidentiary hearings is granted, all party representatives and all witnesses shall make themselves available on October 26, 2020 at a time to be determined to confirm the technical capabilities of all participants in the evidentiary hearings. The grant

of any motion to reset evidentiary hearings will not alter the schedule for the submission of opening and reply briefs set forth in the Scoping Memo.

The parties are also directed to file and serve motions for the admission of testimony and documents into the evidentiary record (Motions) by no later than October 21, 2020. In the Motions, the parties shall tentatively mark each item to be considered for admission into the evidentiary record by a three-letter abbreviation corresponding to that party's name followed by a number (e.g., FTR-001). The deadline for filing and serving responses to the Motions, including any responsive motions to strike, shall be October 26, 2020. The deadline for filing and serving replies regarding the Motions shall be October 29, 2020. No party shall file a motion for the admission of testimony and documents into the evidentiary record after the deadline set forth in this ruling except upon the stipulation of all parties or upon a showing of good cause.

IT IS SO RULED.

THE DOCKET OFFICE SHALL FILE THIS RULING.

Peter Wercinski

Administrative Law Judge

California Public Utilities Commission

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