

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Phyllis A. Reha	Commissioner
Gregory Scott	Commissioner

In the Matter of a Petition by Frontier
Communications of Minnesota, Inc. for
Renewal and Revision of its Second Revised
Alternative Regulation Plan

ISSUE DATE: March 19, 2004

DOCKET NO. P-405/AR-04-170

ORDER ADOPTING PROCEDURES AND
REQUIRING SETTLEMENT CONFERENCE

PROCEDURAL HISTORY

On May 25, 1995, the Minnesota legislature enacted and the Governor signed into law Minn. Stat. §§ 237.76 through 237.772 which give the Commission the authority to approve alternative forms of regulation for local exchange carriers (LECs) with more than 50,000 access lines.¹ The statute was subsequently modified by the legislature and signed into law in 1997, with an effective date of May 31, 1997.

On March 9, 2001, the Minnesota Department of Commerce (the Department), the Residential and Small Business Utilities Division of the Office of the Attorney General (RUD-OAG), and Frontier (the Parties) filed a Revised Alternative Form of Regulation (AFOR) Plan settlement with the Commission. The Plan was to be in effect for three years.

On May 25, 2001, the Commission issued its ORDER MODIFYING ALTERNATIVE REGULATION PLAN. In this Order, the Commission modified the Parties' proposed settlement regarding the rate design portion of the plan. As a part of the Commission's decision, Frontier was required to make a compliance filing consistent with the Order. On June 4, 2001, Frontier made a compliance filing with the Commission pursuant to the Commission's May 25th Order.

On July 19, 2001, the Commission issued its ORDER CLARIFYING MAY 25, 2001 ORDER. As a result of this Order, Frontier's First Revised AFOR Plan became effective August 1, 2001.

¹ Minn. Stat. § 237.773 applies to AFOR plans for LECs with less than 50,000 access lines.

On January 30, 2004, Frontier filed a second revised plan six months prior to the termination of the current plan, pursuant to Minn. Stat. § 237.766 and the provisions of the AFOR Plan.

The Commission met on March 11, 2004 to consider this matter.

FINDINGS AND CONCLUSIONS

In this Order, the Commission addresses two issues: 1) the procedures for review of Frontier's Second Revised AFOR Plan; and 2) the settlement process required under Minn. Stat. § 237.764, subd. 2.

I. REVIEW PROCEDURES

Staff prepared a detailed set of procedures and at the hearing on this matter, Frontier proposed five changes. Frontier's proposed changes were as follows:

- in Section E - Comments on the Adequacy of Frontier's Filing as to Form, the reply comments would be submitted to the Commission within 10 (rather than 5) days following the 30 day comment period;
- in Section F - Comments on the Merits of Frontier's AFOR Renewal, reply comments would be submitted to the Commission within 14 (rather than 10) days following the 60 day comment period;
- delete the text proposed for Section H - Public Meetings² entirely and replace with the following:

The Commission will conduct public meetings it may consider necessary. The Commission will determine at a later date whether to conduct public meetings.

² As proposed by Commission staff, Section H was as follows:

The Commission will conduct public meetings it may consider necessary. The Company shall submit a schedule of proposed public meetings within 30 days of the issue date of the Order. The exact date, time and location of each public hearing shall be published in the appropriate local newspaper.

- In Section I - Customer Notice, delete the text proposed for Section I³ and replace with the following:

The Commission will order the Company to provide notice of the proposed Second Revised AFOR Plan to all its individual customers. Frontier filed a proposed customer notice with its Application. The Company shall work with the Department of Commerce, the RUD-OAG, and Commission staff to finalize the proposed notice and to determine the timing of the notice.

- Add a new Section N - Withdrawal of Second Revised AFOR by Frontier

Frontier may withdraw its Second Revised AFOR at any time by filing a Notice of Withdrawal with the Commission. Any objections shall be submitted to the Commission within 14 days following the filing of the Notice of Withdrawal.

The Commission finds that Frontier's proposed amendments are reasonable and that the procedures, as amended, are appropriate for this matter. The Commission will, therefore, adopt the procedures as amended in this Order.

³ As proposed by Commission staff, Section I was as follows:

The Commission will order the Company to publish a customer notice as a display advertisement in newspapers of general circulation in all county seats in its service area. The Commission will also order the Company to send notices to city clerks and/or city administrators in all cities within its service area. The Company shall submit within 30 days of the Order a proposed customer notice including the dates, times and locations of the public hearings referenced in Section G above and subject to approval by Commission staff.

The notice shall be published twice, once approximately 2 weeks before the public meeting scheduled in a particular area and again approximately 2 days before the public meeting in a particular area.

The Commission will also order the Company to submit to the Commission at least two weeks prior to the first publication date a list of the newspapers where the customer notice will be published and the date each notice will be published, and a list of city clerks/ administrators that will be notified.

Finally, the Commission will order the Company to provide notice of the proposed Second Revised AFOR Plan to all of its individual customers. This notice shall be given to customers at least two weeks before the first scheduled public meeting.

II. SETTLEMENT CONFERENCE PROCEDURES

Minn. Stat. § 237.764, subd. 2, requires the Commission to convene a settlement conference to encourage settlement or stipulation of issues. Minn. Stat. § 237.764, subd.1(f) allows the Commission to accept, reject, or modify the proposed settlement within 60 days from the date it was submitted.

Since the Company's current AFOR plan expires on August 1, 2004, the Commission will direct the parties to convene a settlement conference as soon as practicable and to submit either a settlement report or a recommended time extension by April 15, 2004.

The Commission will also require the Company to submit a written progress report on the settlement negotiations every 30 days thereafter. Any settlement submitted to the Commission should fully discuss the merits of the settlement as well as the associated proposed plan.

ORDER

1. The Commission hereby adopts the following procedures for review and adoption of Frontier's Second Revised AFOR:

A. Initial Notice and Service List

The Commission will serve an Order on all persons on the service list developed for *In the Matter of Frontier of Minnesota Inc.'s Revised Plan for Alternative Regulation*, Docket No. P-405/AR-00-394.

Staff notes that the Company has served copies of its proposed AFOR Renewal on the Department of Commerce (Department of Commerce) and on the Residential and Small Business Division of the Office of the Attorney General (OAG). The Commission will order the Company to serve, within 10 days following the issuance of the Order, a copy of the filing and a copy of the Order on all telecommunications carriers with which the Company has an interconnection agreement. Further, the Commission will order the Company to provide it with a list of all persons to which it served the filing and Order within 10 days following the issuance of this Order.

Other interested persons may obtain copies of the proposed AFOR Renewal by contacting the Company at:

Frontier Communications of Minnesota
2378 Wilshire Boulevard
Mound, MN 55364
952-491-5564

Any person who wishes to intervene as a party shall file a petition under Minn. Rules, part 7829.0800 within 20 days of the Order.

B. Petition for Intervention

Any person who wishes to intervene as a party shall file a petition under Minn. Rules, part 7829.0800 within 20 days of the Order.

C. Declaration of Interest Form

A Declaration of Interest Form is attached to this Order as Attachment A. Any person who would like to be placed on the service list for this proceeding must so indicate on the form and return it to the Commission within 20 days of the date of this Order.

D. Service of Documents

After receiving the Declaration of Interest Form or intervention petition, the Commission will establish and maintain the official service list for this proceeding. After the service list is distributed, a copy of all documents submitted to the Commission must be served with proof of service on all other persons on the service list.

An original and 15 copies of all documents shall be served on the Commission by submitting them to:

Burl Haar, Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101-2147.

Any questions concerning this matter should be addressed to Commission staff member: Marc Fournier at 651-296-3793.

E. Comments on the Adequacy of Frontier's Filing as to Form

The Commission will accept written comments on the adequacy of Frontier's filing as to form on or before the 30th day following issuance of this Order. Specifically, comments should address whether the Company's filing meets the requirements of Minn. Stat. §§237.76-237.769 and the renewal provisions of the current Plan and whether the filing meets the requirements for expedited proceedings under section 237.61.

Reply comments shall be submitted to the Commission within 10 days following the 30 day comment period.

Following receipt of comments and replies, the Commission will, if it deems necessary, schedule a meeting to determine the adequacy of the Company's filing as to form. The Commission will reject a filing that it finds to be substantially out of compliance with Minn. Stat. §§ 237.76 *et seq.*

If there are no objections as to form, the Commission will proceed with the other schedules as described below.

F. Comments on the Merits of Frontier's Proposed AFOR Renewal

The Commission will accept comments on the merits of Frontier's proposed Second Revised AFOR Plan or before the 60th day following issuance of this Order. Comments should, at a minimum, address: (1) the merits of the Company's filing; (2) differences between the current AFOR plan and the proposed AFOR Renewal; and (3) whether or not the Commission should approve the filing.

Reply comments shall be submitted to the Commission within 14 days following the 60 day comment period.

G. Protective Order

The Commission will adopt a protective order to deal with the protection of trade secret and privileged data in this docket. Protective orders must be submitted to the Commission within 20 days of the issue date of this Order.

H. Public Meetings

The Commission will conduct public meetings it may consider necessary. The Commission will determine at a later date whether to conduct public meetings.

I. Customer Notice

The Company shall provide notice of the proposed Second Revised AFOR Plan to all its individual customers. Frontier filed a proposed customer notice with its Application. The Company shall work with the Department of Commerce, the RUD-OAG, and Commission staff to finalize the proposed notice and to determine the timing of the notice.

J. Information Requests

Frontier and all parties shall answer any information requests that may be issued by the Commission staff, the Department, the RUD-OAG or any other party within 10 days of receipt of the request. A copy of each information request must be served on the Commission and on the service list developed for this proceeding. Answers to the information requests shall be served on the party filing the request and on other parties and non-party participants upon request, subject to the protective order described above.

K. Expedited Proceeding Under Minn. Stat. §237.61

Approximately 3 months from the date of this Order, a hearing, in accordance with Minn. Stat. §237.61, will be held. The Company and parties to the proceeding may present oral arguments to the Commission and their respective experts and representatives shall be available for questions. The Commission will then deliberate and issue its Order on the appropriateness of the Second Revised AFOR Plan. In accordance with Minn. Stat. § 237.764, subd. 2, if a substantial number of, but less than all, parties submit a settlement agreement to the Commission, the Commission may hold a hearing and adopt the parties' stipulation in place of the hearing referenced above. Once a stipulation for settlement is submitted to the Commission, the Commission will accept, reject or modify the proposed settlement within 60 days from the date it was submitted.

L. Authority to Vary Time Periods

Pursuant to its authority under Minn. Rule, part 7829.3100 and to further expedite this proceeding, the Commission hereby delegates to its Executive Secretary the authority to vary the time periods established in the Order on its own motion or at the request of a party for good cause shown.

M. Current AFOR Plan

This Order contemplates final approval of Frontier's proposed Second Revised AFOR Plan prior to the current plan's expiration date, August 1, 2004. If the parties wish to request that the Commission revise the current AFOR plan to reflect an expiration date beyond August 1, 2004, parties should so indicate in their comments on the merits of Frontier's proposed Second Revised AFOR Plan.

N. Withdrawal of Second Revised AFOR by Frontier

Frontier may withdraw its Second Revised AFOR at any time by filing a Notice of Withdrawal with the Commission.⁴ Any objections shall be submitted to the Commission within 14 days following the filing of the Notice of Withdrawal.

2. The Parties shall convene a settlement conference as soon as practicable, and to submit either a settlement report or a recommended time extension by April 15, 2004 and the Company shall submit a written progress report on the settlement negotiations every 30 days thereafter.

⁴ As discussed at the hearing on this matter, it is understood that consistent with practice before the Commission the Company's withdrawal requires Commission approval before it becomes effective.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), or 1-800-627-3529 (MN relay service).

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
Suite 350, 121 Seventh Place East
St. Paul, MN 55101-2147

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Renewal and Revision of its Second Revised
Alternative Regulation Plan

Docket No. P-405/AR-04-170

DECLARATION OF INTEREST

The person named below would like to remain on the mailing list for the above captioned matter.

NAME:

ADDRESS:

TELEPHONE NO.:

PERSON'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PERSON OR ATTORNEY: _____

DATE: _____

The person named below would like to be deemed an interested person for purposes of
Minn. Stat. § 237.61 in this proceeding.

NAME:

ADDRESS:

TELEPHONE NO.:

PERSON'S ATTORNEY OR OTHER REPRESENTATIVE: _____

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PERSON OR ATTORNEY: _____

DATE: _____