

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
David C. Boyd
Marshall Johnson
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

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

ISSUE DATE: September 25, 2007

DOCKET NO. P-405/AR-07-516

ORDER ACCEPTING SETTLEMENTS AND
APPROVING THIRD REVISED
ALTERNATIVE REGULATION PLAN

PROCEDURAL HISTORY

On May 25, 1995, the Minnesota Legislature enacted Minn. Stat. §§ 237.76 through 237.772, which gave the Commission the authority to approve alternative forms of regulation (AFORs) for local exchange carriers (LECs) with more than 50,000 access lines.¹

On August 19, 1996, the Commission issued its Order Approving Frontier Communications of Minnesota, Inc.'s (Frontier's) Alternative Regulation Plan in Docket No. P-405/AR-95-1048.

On May 25, 2001, the Commission issued its Order Modifying Alternative Regulation Plan,² and on July 19, 2001, 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.

On October 28, 2004, the Commission approved Frontier's Second Revised AFOR Plan,³ which will expire on November 1, 2007.

On April 30, 2007, Frontier submitted for Commission approval its third revised AFOR plan to replace the current plan. The Commission established procedures and initiated settlement discussions for this AFOR plan with its June 7, 2007, Order.⁴

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

² Docket No. P-405/AR-00-394.

³ Docket No. P-405/AR-04-170.

⁴ Order Adopting Procedures and Requiring Settlement Conference, Docket No. P-405/AR-07-516 (June 7, 2007).

On July 26, 2007, Frontier filed revisions to its Plan through a negotiated settlement with the Department of Commerce (the Department). On the same date, Frontier and Verizon⁵ filed a settlement agreement.

On July 30, 2007, the commission issued a notice for all parties to provide comments on the settlement and revised plan. The Department filed comments recommending Commission approval of AFOR plan. No other party filed comments.

On August 13, 2007, the Department submitted its comments on the settlement agreement.

On September 13, 2007, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Alternative Regulation Plans

Minn. Stat. § 237.76 states:

The purpose of an alternative regulation plan is to provide a telephone company's customers with service of a quality consistent with commission rules at affordable rates, to facilitate the development of telecommunication alternatives for customers, and to provide, where appropriate, a regulatory environment with greater flexibility than is available under traditional rate-of-return regulation. . . .

Alternative regulation plans are intended to capture the benefits of emerging competition among local exchange carriers. These plans replace rate-of-return regulation with more flexible pricing procedures.

II. The Legal Standard

In general, the telecommunications statutes encourage parties to Commission proceedings to settle their disputes. Minn. Stat. § 237.076, subd.1. The Commission is to accept a settlement “upon finding that to do so is in the public interest and is supported by substantial evidence.” Minn. Stat. § 237.076, subd. 2.

The Department and Frontier submitted a settlement in this matter. The settlement serves as a joint recommendation by the parties to the settlement that the company’s plan meets all the statutory requirements and should be approved. By statute, however, the Commission is required to review settlements regarding proposed AFOR plans and decide whether to accept, reject or modify them. Minn. Stat. § 237.764, subd. 2.

⁵ MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services, MCI Communication Services, Inc., TTI National, and Teleconnect Long Distance Services and Systems Company.

III. The Settlement Plans

Frontier asserts that its proposed third AFOR Plan “reflects the Parties’ consideration of circumstances unique to Frontier, including Frontier’s current service quality, current state of the network and Frontier’s service offerings.” Frontier also states that its Third Revised Plan protects Frontier customers from rate increases for basic local exchange service for the first three years of the Third Revised Plan except under certain limited circumstances and provides for a \$1.00 cap on increases to monthly basic local service rates if the plan is extended for a fourth year.

The Third AFOR Plan also proposes changes to the Second Revised Plan generally patterned after provisions approved by the Commission of other incumbent LECs. Changes proposed include removal of penalties for failure to substantially comply with the service quality measures and to the structural format of the plan.

The Department’s August 13, 2007, comments indicate that it reviewed the plan, and evaluated it as substantially similar to the AFOR plan the Commission approved for Qwest Corporation (Qwest), in Docket No. P421/AR-05-1081.⁶ The Department asserted that the Frontier plan protects residential and business rates, maintains quality of service protections, and provides for a process to memorialize Frontier’s investment commitments in Minnesota.

A settlement agreement was also filed by Verizon and Frontier on July 26, 2007. Verizon requested to withdraw as a party to the case. In the stipulated agreement, Verizon agreed to withdraw from the case and to not oppose the Commission’s approval of the AFOR plan.

Frontier agreed, that for the duration of the Third AFOR plan, it will not argue in any complaint proceeding brought against it to reduce or adjust Frontier’s intrastate access charges, in the rulemaking proceeding on intrastate access charge reform,⁷ or in any other access charge proceeding that the Commission lacks the authority to reduce or adjust Frontier’s intrastate access rates or that such issues cannot be addressed outside of an AFOR proceeding.

IV. Commission Action

The Commission has reviewed the Third Revised Plan, which was submitted as a negotiated settlement, in light of the record established in this matter. No party has objected to the Commission’s approval of the settlement plan.

The Commission finds that the Third Revised Plan settlement agreement is reasonable, is supported by substantial evidence, and is in the public interest. The Commission finds that the plan complies with the statutory provisions of Minn. Stat. § 237.76 through 772.

The provisions of the Third Revised Plan maintain the essential elements of the current AFOR plan, which was approved by the Commission on October 28, 2004. Those provisions were found

⁶ See, e.g. In the Matter of a Petition by Qwest Corporation for Approval of Its Alternative Form of Regulation Plan, Docket No. P-421/AR-05-1081 (December 23, 2005).

⁷ Docket No. P-999/R-06-51.

to be reasonable at that time and the Commission finds that they continue to be so now. Based on the recommendation of the Department and the Parties to this proceeding, the Commission approves Frontier's AFOR Plan filed as a settlement in this matter.

The Commission also approves the settlement agreement filed by Frontier and Verizon Companies on July 26, 2007.

For all of these reasons, the Commission will approve the Agreement.

ORDER

1. The Commission accepts the settlement reached between Frontier Communications of Minnesota, Inc., and the Department of Commerce and approves the Third Revised Alternative Regulation plan, as filed on July 26, 2007.
2. The Commission accepts and approves the settlement agreement reached between Frontier and Verizon Companies, as filed on July 26, 2007.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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