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UTAH DEPARTMENT OF COMMERCE

Division of Public Utilities

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Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director
Brenda Salter, Assistant Division Director
Abdinasir Abdulle, Utility Technical Consultant Supervisor
Paul Hicken, Technical Consultant

Date: September 1, 2023

Re: **Docket No. 23-041-01**, Review of 2022 Annual Report for Citizens Telecommunications Company of Utah d/b/a Frontier Communications of Utah, and Recommendations for Utah Universal Service Fund assistance for Calendar Year 2024.

Recommendation (Approval With Conditions)

The Utah Division of Public Utilities (Division or DPU) recommends the Public Service Commission of Utah (Commission or PSC) approve with conditions the annual Utah Universal Service Fund (UUSF) amount payable to Frontier Communications of Utah (Frontier or Company) to \$3,934,329 annually, or \$327,860.75 monthly, effective January 1, 2024.

Issue

PSC Rule R746-8-401 requires the DPU to make annual recommendations to the PSC for adjustments to the monthly UUSF distribution to each provider based on an established FCC rate of return and the provider's financial information from its last Annual Report filed with the Commission. This memo details the recommended changes to the UUSF distribution for Frontier Communications of Utah.

Division of Public Utilities

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Background

The Division has reviewed the annual report of Frontier Communications of Utah received on March 29, 2023. Note that the Company's report was initially submitted on an older version of the annual report form. The Division later requested and received a new report on an updated form. The Company did not receive any UUSF support in 2023, nor has it received any support in recent years because the revenue model used by the Division indicated no support was warranted.

During the last five years, the Company had been going through bankruptcy proceedings and was making only minimal repairs to their network. The annual reports indicated the rate base was mostly depreciated and there were very few new assets added to base a return on. There were many service issues and customer counts were decreasing. In April of 2020, a competing company applied for Carrier of Last Resort (COLR) status to operate in five exchanges within Frontier's territory. On May 10, 2021, the Commission issued an order¹ granting CPCN certificates and COLR status to the competitor company, which allowed them to compete in Frontier's territory and to be eligible for USF support. The Commission concluded that competing COLRs in the same territory would be eligible for USF support, but it would not be in the public interest to build duplicative networks. How to assign the USF support was not determined at that time. On November 21, 2022, the Competitive Entry rule was amended² and language was added to determine how to divide the USF support between competing COLRs in the same territory. However, the rule is still ambiguous, and the Division does not have enough information to determine whether both COLRs should receive full USF support, or limited support and on what basis.

Pursuant to PSC Rule R746-8-401(4), the Division has calculated the amount of UUSF eligibility to be \$3,934,329 annually. Noted changes to the revenue requirement include but are not limited to the following. In 2021, the Company resolved the bankruptcy issues and in 2022, it invested more than \$7 million in new assets (mostly fiber) to the network. This increased the average rate base which was reported as \$13,375,945. In addition, the net operating revenue for 2022 decreased by \$2.2 million, while the operating expenses

¹ Docket No. 20-2618-01, Order on Review, Rehearing, or Reconsideration, P.24-25.

² Public Service Commission Rules, R746-349-10.

increased by more than \$1 million. The Division's analysis of Frontier's 2022 operations and the recommendation for 2024 UUSF distributions are as follows:

Discussion

In calculating the UUSF eligibility for Frontier Communications of Utah, the Division noted the following:

- 1) The Division notes that for 2022 Frontier reported only \$3,632 of Federal Lifeline support. No other Federal support was indicated. In 2021, the Company reported more than \$1.5 million in Federal support, mostly from switched access revenue.
- 2) Net Operating Revenue decreased – Frontier reported \$7.4 million of net operating revenue for 2022. This is a decrease of \$2.2 million from 2021 and is largely due to decreased switched access revenue as previously mentioned.
- 3) Total Operating Expense increased – Frontier reported \$9.3 million operating expense in 2022, an increase of \$1 million from 2021. Most of the increase is due to depreciation expenses.
- 4) Rate Base increased – The Company reported more than \$7 million of new assets added in 2022. Consequently, the total average rate base increased to \$13.3 million as reported for 2022.
- 5) Excess Accumulated Deferred Income Tax (EDIT) – This is a deferred liability which should be returned to the UUSF. However, the Company didn't receive any UUSF in prior years, and they stated that all debt obligations were resolved when they came out of bankruptcy. No adjustment is needed.
- 6) Imputed Revenue – Frontier did not complete the worksheet in the report to calculate imputed revenue. Consequently, no adjustments were made to revenue.
- 7) Rate of Return – The FCC prescribed Rate of Return (ROR) effective on July 1, 2021, is 9.75%.³ This is the ROR the DPU used for the revenue requirement calculation in this model.
- 8) State and Federal Income Tax – The DPU used a federal tax rate of 21% and a Utah tax rate of 4.85% to estimate future income taxes included in the UUSF calculation.

Conclusion

The DPU recommends approving with conditions the 2024 Utah USF distribution for Frontier Communications of Utah, to \$3,934,329 annually, or \$327,860.75 monthly. This recommendation is conditional on the Company providing previously requested information on the Exchange Details to the DPU by October 1, 2023. There may be further adjustments to this recommendation pending the receipt of additional information.

³ Federal Communications Commission DA 21-568A, item 7, WC Docket No. 21-148, May 14, 2021.

cc: Jessica Matushek, Director of Accounting, Frontier Communications of Utah.