

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Rule-Making for Provisions Delineating “Complete” Application Requirements for Rate Case and Major Plant Addition Applications Pursuant to Utah Code Sections 54-7-12 and 54-7-13.4

Docket No. 09-999-08
**COMMENTS OF FRONTIER
COMMUNICATIONS CORPORATION**

Citizens Telecommunications Company of Utah (d/b/a Frontier Communications of Utah) and Navajo Communications Company, Inc. (collectively “Frontier”) respectfully submit these comments on rules to be adopted by the Commission under Senate Bill 75 (“SB 75”) enacted by the Utah Legislature during the 2009 General Session. These comments are being submitted following publication of the Commission’s proposed Rule R746-700 in the *Utah State Bulletin* on August 15, 2009.

I. PROPOSED R746-700 INCONSISTENT WITH UCA § 54-7-12(7)

The Commission’s proposed Rule R746-700 is inconsistent with Utah Code Ann. § 54-7-12(7), which establishes a streamlined rate case procedure for telephone corporations with fewer than 30,000 subscriber access lines. Contrary to the clear intent of this streamlined procedure, R746-700 as proposed would erect formidable barriers in front of small telephone companies seeking to file rate cases. The proposed rule establishes a rigorous set of information requirements that a small telecommunications company must satisfy before the Commission will even consider its request for higher rates. While SB 75 gave the Commission the power and the obligation to define a complete rate case filing, it did not empower the Commission with the ability to nullify other sections of the statutes.

In the alternative to the proposed Rule R746-700, Frontier supports the earlier recommendation of the Utah Rural Telecommunications Association (“URTA”) to amend Utah

Admn. Code Rule R746-344, “Filing Requirements for Telephone Corporations with Less Than 5,000 Access Line Subscribers,” so as to include all telecommunications corporations with fewer than 30,000 lines.

II. PROPOSED R746-700 CONTAINS VAGUE AND UNDEFINED TERMS

R746-700-40.A.5 requires that a complete filing include fully referenced Part 64 and Part 36 cost allocations supported by source documents with full allocation of all joint costs. Unless several terms in this section of the proposed Rule are defined, a small telephone company risks having its rate case petition rejected because of misunderstanding the Commission’s intentions. The terms needing definition include “fully referenced,” “source documents,” “full allocation” and “joint costs.” The meaning of these terms is not obvious, and the lack of a precise definition in the proposed rule injects considerable uncertainty into the process that has great potential for costly and time-consuming disputes.

Other sections of the proposed rule contain undefined terms that have a similar potential for causing misunderstandings erupting in disputes. R746-700-40.B.3 requires tax adjustments to be set out in top sheet form. R746-700-40.B.5 requires the applicant to submit a copy of the current tax sharing agreement in which the company participates. R746-700-40.A.7 requires the applicant to submit copies of management letters from auditors and the company’s responses thereto. R746-700-41.A obliges the applicant to submit a Utah Class Cost of Service Study or alternative comparable class cost of service. The term “top sheet form” is unknown to Frontier, and Frontier is also puzzled by the term “tax sharing agreement.” Similarly, the term “management letter” may have different meanings for different companies, and the term “class cost of service” is not a term of art in the telecommunications industry.

III. PROPOSED RULE R746-700 DISCOURAGES USE OF FUTURE TEST YEARS

R746-700-10.A.2 requires an applicant to submit alternative future test period adjustments should it choose to use a future test year. This provision amounts to requiring a utility to file two rate cases if it believes a future test period is appropriate. Although it seems unlikely that a small telephone company would file a rate case using a future test period, imposing a second rate case filing needlessly discourages the use of future test years clearly permitted by Utah Code Ann. § 54-4-4(3). Alternatively, R746-700-10.B.2 allows an applicant to avoid submitting a second rate case with an alternative future test year but only if it extends the 240-day statutory timeline by seeking approval of a test period prior to filing a rate case.

IV. PROPOSED RULE R746-700 ADMINISTRATIVELY EXTENDS THE STATUTORY PRESCRIBED 240-DAY TIMELINE

R746-700-1.B mandates that utility file a “non-binding” notice of intent to file a rate case. Like the future test year provision noted previously, this notice provision administratively extends the 240-day timeline statutorily prescribed by Utah Code Ann. § 54-7-12(3).

V. PROPOSED RULE R746-700 SEEKS INFORMATION UP FRONT THAT IS MORE PROPERLY THE SUBJECT OF DISCOVERY

R746-700-40.A.7 requires the applicant to submit “...a detailed description of corporate restructurings and changes in affiliate relationships since the prior general rate case.” This requirement may not yield useful or relevant information, but it very well may prove to be a burdensome undertaking in light of the merger and acquisition trend in the telecommunications industry. For example, Frontier’s last rate case was in 2000, and it has undergone numerous changes in structure and affiliate relationships since then that would take considerable effort to describe chronologically while not yielding information pertinent to the calculation of revenue requirement.

Similarly, two additional provisions of the proposed rule inquire about matters better left for discovery. R746-700-40.A.11 requires certain detailed information about “bad debt reserve” balances and changes thereto over a considerable period of time, but it is not obvious that bad debts are a significant factor in every, if any, small telecommunications company rate case. Finally, R746-700-40.B.6 demands detailed information about property held for future use, but again it is not obvious that property held for future use is a significant factor in every, if any, small telecommunications company rate case.

VI. CONCLUSION

Frontier appreciates that SB 75 gives the Commission until September 21, 2009, to promulgate rules fixing minimum filing requirements for general rate cases, but the rules the Commission proposes to fulfill this obligation increase the regulatory burden confronting small telephone companies contrary to the streamlined rate case procedure established by Utah Code Ann. § 54-7-12(7). Defining certain terms and eliminating particular information requirements would improve the proposed rules, but instead Frontier urges the Commission as URTA has done to raise the access line threshold in R746-344 from 5,000 to 30,000 lines. The Legislature raised the threshold in § 54-7-12(7) from 5,000 to 30,000 lines in 2001, and this Commission should similarly extend the reach of R746-344.

DATED: September 15, 2009.

Respectfully submitted,

FRONTIER COMMUNICATIONS

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