

Phillip J. Russell (10445)  
JAMES DODGE RUSSELL & STEPHENS P.C.  
10 West Broadway, Suite 400  
Salt Lake City, Utah 84101  
Telephone: (801) 363-6363  
Facsimile: (801) 363-6666  
Email: prussell@jdrsllaw.com

Gregory C. Brubaker  
Associate General Counsel  
Frontier Communications  
Telephone: (260) 241-3606  
Email: gregory.c.brubaker@ftr.com

*Attorneys for Citizens Telecommunications Company of Utah  
d/b/a Frontier Communications*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

<p>In the Consolidated Matter of:</p> <p>The Applications of E Fiber Moab, LLC and E Fiber San Juan, LLC for a Certificate of Public Convenience and Necessity to Provide Facilities-Based Local Exchange Service and Be Designated as a Carrier of Last Resort in Certain Rural Exchanges</p>	<p>Docket No. 20-2618-01</p>
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**REBUTTAL TESTIMONY OF CARL E. ERHART**

Citizens Telecommunications Company of Utah d/b/a Frontier Communications (“Frontier”) hereby submits the pre-filed Rebuttal Testimony of Carl E. Erhart in this docket.

DATED this 16<sup>th</sup> day of October 2020.

JAMES DODGE RUSSELL & STEPHENS, P.C.



Phillip J. Russell  
*Counsel for Citizens Telecommunications Company of Utah d/b/a Frontier Communications*

Certificate of Service

**Docket No. 20-2618-01**

I hereby certify that a true and correct copy of the foregoing was served by email this 16th day of October, 2020, on the following:

**DIVISION OF PUBLIC UTILITIES**

Artie Powell	wpowell@utah.gov
Brenda Salter	bsalter@utah.gov
Ron Slusher	rslusher@utah.gov
Patricia Schmid	pschmid@agutah.gov
Justin Jetter	jjetter@agutah.gov
	dpudatarequest@utah.gov

**OFFICE OF CONSUMER SERVICES**

Michele Beck	mbeck@utah.gov
Alyson Anderson	akanderson@utah.gov
Robert Moore	rmoore@agutah.gov

**E FIBER MOAB & E FIBER SAN JUAN**

Kira M. Slawson	KiraM@blackburn-stoll.com
Brock Johansen	bjohansen@emerytelcom.com

**URTA**

Kira M. Slawson	KiraM@blackburn-stoll.com
Brett Anderson	BrettA@blackburn-stoll.com

/s/ Phillip J. Russell

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Be Designated as a Carrier of Last Resort in  
Certain Rural Exchanges

Docket No. 20-2618-01

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**Rebuttal Testimony of Carl E. Erhart**

**On Behalf of**

**Citizens Telecommunications Company of Utah d/b/a Frontier Communications**

**Frontier Exhibit 3.0**

**October 16, 2020**

**INTRODUCTION**

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**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Carl E. Erhart. My business address is 7979 N Belt Line Road, Irving, Texas 75063.

**Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

A. I am Vice President – Regulatory and Governmental Affairs for Frontier Communications Corporation, of which Citizens Telecommunications Company of Utah d/b/a Frontier Communications (“Frontier”) is a wholly owned subsidiary.

**Q. ARE YOU THE SAME CARL E. ERHART THAT SUBMITTED PRE-FILED DIRECT TESTIMONY ON BEHALF OF FRONTIER IN THIS SAME PROCEEDING?**

A. Yes.

**Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

A. My rebuttal testimony responds to an assertion made in testimony submitted by Douglas Meredith on behalf of the Utah Rural Telecom Association (“URTA”) regarding the bankruptcy proceeding involving Frontier, I also respond to various issues raised by the Division of Public Utilities (“DPU”) and the Office of Consumer Services (“OCS”).

**Q. URTA WITNESS MR. MEREDITH RAISES CONCERNS AND SPECULATION RELATED TO THE PENDING BANKRUPTCY PROCEEDING OF FRONTIER COMMUNICATIONS CORPORATION. PLEASE PROVIDE A CURRENT STATUS OF THAT PROCEEDING?**

A. In his Direct Testimony, Mr. Meredith speculates that Frontier’s Chapter 11 bankruptcy

23 proceeding, in which it proposed a plan of reorganization, may be converted to a Chapter  
24 7 proceeding, in which Frontier may be subject to liquidation of its assets.<sup>1</sup> In support of  
25 this speculation, Mr. Meredith cites to a standard quote from a May 14, 2020 Disclosure  
26 Statement filed by Frontier in the bankruptcy proceeding. Mr. Meredith fails to note,  
27 however, that on August 27, 2020 the bankruptcy court confirmed the Plan of  
28 Reorganization proposed by Frontier in that bankruptcy proceeding, paving the way for  
29 Frontier to complete the financial restructuring process and emerge from Chapter 11 once  
30 the remaining regulatory approvals are complete.<sup>2</sup> The Plan substantially deleverages  
31 Frontier's balance sheet, secures the going-concern value of Frontier's business,  
32 preserves thousands of jobs, and positions Frontier to emerge from the bankruptcy  
33 reorganization process as a stronger, financially sound telecommunications service  
34 provider. Contrary to Mr. Meredith's claim, Frontier is not subject to liquidation in the  
35 bankruptcy proceeding. The approved Plan of Reorganization, as well as other information and  
36 documents concerning Frontier's financial restructuring, are publicly available at:  
37 <https://cases.primeclerk.com/ft/>.

38 **Q. OTHER PARTIES CLAIM THAT THE COMPANY'S HIGH DEPRECIATION**  
39 **RESERVE RATIO IS DRIVEN BY DECLINING LEVELS OF INVESTMENT.**  
40 **PLEASE RESPOND.**

41 A. As explained in Frontier's response to DPU data requests which are also included as  
42 Confidential Exhibit No. 1.2D to OCS Witness Anderson's testimony, one of the primary

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<sup>1</sup> Direct Testimony of Douglas Meredith at lines 406-413.

<sup>2</sup> See Findings of Fact, Conclusions of Law, and Order Confirming the Fifth Amended Joint Plan of Reorganization of Frontier Communications Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code, *In re: Frontier Communications Corporation, et al.*, Case No. 20-22476 (RDD) (Bankr. S.D.N.Y. August 27, 2020).

43 drivers of capital investments is customer subscribership and network utilization. Over  
44 the past fifteen years, the combination of competition and technology substitution,  
45 primarily with customers replacing their wireline voice connection with wireless  
46 connection, has resulted in a loss of access lines, exceeding 60%.

47 The Moab exchange is a good example of the impact of selective competitive  
48 entry. While Moab was once Frontier's largest and only exchange with greater than  
49 5,000 access lines, Emery Telecommunications & Video was approved as a voice  
50 provider in this market in 1999. As described on page 22 of Mr. Johansen's testimony the  
51 company's "fiber facilities were constructed to provide service to primarily businesses  
52 and certain high-density residential areas in Moab." In other words, ET&V's business  
53 plan has been to leave all of the higher cost / lower revenue customers for Frontier to  
54 serve. While the Emery Telecom ILEC's have to date been exempt from this type of  
55 competition under the statutory "rural exemption," their affiliate ET&V has engaged in  
56 this type of selective entry that Emery and the other URITA members have advocated  
57 against. Frontier now serves well less than half the number of access lines it once served  
58 in that exchange. While Frontier has experienced a significant decline in the number of  
59 access lines served, its investment per access line served has remained relatively  
60 consistent. As a result of this competition and the rapid transition from a single provider  
61 in the market to today's environment where Frontier has lost more than 60% of the voice  
62 customers in the markets it serves, a high reserve ratio is not a reliable determinate of the  
63 need for investment.

64 **Q. OTHER PARTIES POINT TO 11 NORS REPORTS THE COMPANY**  
65 **SUBMITTED TO THE FCC OVER THE PAST 5 YEARS AS SUPPORT FOR**  
66 **THE COMMISSION APPROVING THE USE OF MILLIONS OF DOLLARS OF**  
67 **ONGONG UUSF DISTRIBUTIONS TO FUND THE DEPLOYMENT OF**  
68 **APPLICANTS' DUPLICATIVE VOICE NETWORK. PLEASE RESPOND TO**  
69 **THESE ASSERTIONS.**

70 A. While the FCC NORS system requires communications providers to electronically report  
71 information about significant disruptions or outages to their communications systems that  
72 meet specified thresholds, it also requires that providers report information regarding  
73 communications disruptions affecting Enhanced 911 facilities in some way. The OCS  
74 Exhibit incorrectly presents each of these 11 reportable events over the past 5 years as a  
75 complete outage of voice service and erroneously extrapolates that into a total number of  
76 "outage" minutes from all of the reports. A majority of the NORS reports were not, in  
77 fact, for total loss of voice service, but instead were reporting events in which 911 calling  
78 was impacted or somehow degraded. For example, in four of those events, customers  
79 could complete 911 calls with caller name and address being forwarded to the public  
80 safety answering point, but without the automatic location identification. I must also note  
81 that four of the events, including the three most significant events according to the OCS,  
82 resulted from third party damage to Frontier's network or a commercial power surge.  
83 And the largest event happened because a semi-truck damaged 1,500 feet of aerial fiber  
84 cable and several of the supporting poles. Frontier, of course, takes all outages or service  
85 interruptions seriously and strives to minimize them, but a deeper investigation into the

86 metrics cited by the OCS provides additional insight that does not support a conclusion  
87 that a highly subsidized duplicate network is in the public interest.

88 **Q. DOES THE COMPANY HAVE A RELEVANT METRIC TO DEMONSTRATE**  
89 **THE RELIABILITY OF ITS VOICE NETWORK?**

90 A. Yes, OCS CONFIDENTIAL Exhibit 1.2D, filed with the Direct Testimony of Alyson  
91 Anderson on behalf of the OCS, includes Frontier's response to DPU data request 1.2.  
92 That data request regards a calculation of the reliability of Frontier's network, which  
93 reflects that the company's network, consisting of 35 central offices, was fully functional  
94 for 99.9% of the time. A similar calculation for 2020 year to date would show that, these  
95 central offices have remained functional for 99.9% of the time.

96 **Q. THE OCS ASSERTS THAT THERE ARE "QUESTIONS AS TO WHETHER**  
97 **FRONTIER IS IN VIOLATION OF PSC RULE 746-340-5(B)(1) BY FAILING TO**  
98 **KEEP TROUBLE REPORTS OF ALL CUSTOMER COMPLAINTS."**<sup>3</sup> **PLEASE**  
99 **RESPOND TO THIS ASSERTION.**

100 A. The reality is that there are no such questions. In complaint dockets 19-041-01 and 19-  
101 041-02 and the OCS's request for agency action docket 19-041-04, the OCS requested  
102 data on (a) all Frontier trouble reports from Utah customers from 2012 forward and (b)  
103 all such trouble reports except those that had been submitted via an 800 phone number  
104 that Frontier maintains. Frontier produced all documents in its possession responsive to  
105 (a) but objected to (b) because it does not maintain records showing the path from which  
106 a trouble report is generated. Unsatisfied with Frontier's response, the OCS filed a

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<sup>3</sup> Direct Testimony of Alyson Anderson on behalf of the Office of Consumer Services at lines 218-220.



107 motion to compel Frontier to produce data responsive to (b), claiming in relevant part that  
108 Frontier has an obligation to maintain records showing the path from which a trouble  
109 report is generated under Utah Admin. Code R746-340-5.B.1. The Commission denied  
110 the OCS's motion to compel and in so doing expressly noted that the OCS had  
111 misinterpreted the Commission's rule: "The rule on which the OCS relies does not  
112 require Frontier to track complaints the way the OCS requests."<sup>4</sup>

113 **Q. OTHER PARTIES RAISE A CONCERN ABOUT THE POTENTIAL FOR TWO**  
114 **ROR REGULATED COLRS RECEIVING UUSF TO FUND DUPLICATIVE**  
115 **NETWORKS AND SERVICES IN THE SEVEN EXCHANGES AND ASK THE**  
116 **COMMISSION FOR GUIDANCE ON THIS ISSUE. SOME PARTIES PROPOSE**  
117 **THAT A SEPARATE RULEMAKING DOCKET MAY BE THE APPROPRIATE**  
118 **MECHANISM. DO YOU AGREE?**

119 A. Yes, the Commission should review the broader issue of UUSF eligibility and even the  
120 basic structure of the fund. However, such a review should not be focused solely on  
121 Frontier as this case highlights the need for a broader review of the UUSF. I also agree  
122 that this proceeding is not the proper mechanism as these issues would be better  
123 addressed in an industry-wide rulemaking where all interested parties can participate.

124 Where I disagree with the other parties is in their suggestion that the issues in that  
125 separate docket should be limited to Frontier's eligibility for UUSF. ET&V, the non-  
126 regulated affiliate of the Applicants, is already building out a competitive broadband  
127 network and does not need certification to sell its Carrier grade VoIP voice service, nor

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<sup>4</sup> Docket Nos. 19-041-01, 19-041-02, and 19-041-04, Order, p. 12 (April 24, 2020) (citing Utah Admin. Code R745-340-5.B.1).

128 should it receive UUSF funding to deploy a duplicative voice service. The Applicants'  
129 proposal is an attempt to game the existing UUSF in order to fund the competitive  
130 overbuild of an existing incumbent and would result in bad public policy. Other parties  
131 express concerns with the impact to the size of the UUSF if it were to fund duplicative  
132 networks or services. At a minimum, the Applicants' voice service would be duplicative  
133 of the service Frontier already offers as the current COLR in these markets. Therefore,  
134 the UUSF should not fund any capital costs or expenses associated with the Applicants'  
135 voice services. As it relates to the wholesale broadband service, the Applicants seek  
136 UUSF funding to upgrade and extend the existing network of their non-regulated  
137 affiliates and approval of the Applicants plan would likely strand much of the  
138 investments Frontier has made related to its deployment of High Speed Internet under the  
139 CAF program in these areas. Moreover, there are more competitively neutral ways that  
140 the UUSF could be restructured to advance the deployment of fixed broadband facilities  
141 in rural and high cost parts of the state. As the FCC has already done with the Federal  
142 USF and as other states have done with their state USF funds, the legacy cost-plus  
143 reimbursement model could be transitioned to a competitively neutral subsidy program  
144 with a recipients' support based on a forward-looking cost model. Again, these issues  
145 should be addressed in a separate UUSF rulemaking where the Commission could  
146 consider other alternatives and receive input from all stakeholders.

147 **Q. COULD THE COMMISSION APPROVE THE APPLICANTS' CPCN AND**  
148 **DEFER ALL OF THE ISSUES ASSOCIATED WITH THE STATE UUSF INTO A**  
149 **SEPARATE RULEMAKING?**

150 A. Yes. Approving the Applicants' CPCN request would grant them the authority to  
151 compete for the provision of voice service while the Commission considers the broader,  
152 precedent setting implications of multiple competitors being eligible for UUSF in the  
153 same market and to address the associated COLR obligations of each of those  
154 competitors. An industry wide rulemaking to review UUSF support for competitive  
155 markets will allow input from all stakeholders on an important policy decision that will  
156 ultimately impact other Utah markets.

157 **Q. DOES THIS CONCLUDE YOUR TESTIMONY**

158 A. Yes.