



May 29, 2012

Filing Center  
Oregon Public Utility Commission  
550 Capitol Street NE Suite 215  
Salem, OR 97301

RE: UM 1547 Call Termination Investigation - Comments of Frontier Communications

Dear Filing Center,

Enclosed for filing is the original and one copy of Frontier Communications comments and certificate of service in Docket UM 1547. Please don't hesitate to contact me at (503) 645-7909 should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Renee M. Willer". The signature is written in a cursive, flowing style.

Renee M. Willer  
Regulatory Manager  
Frontier Communications  
[renee.willer@ftr.com](mailto:renee.willer@ftr.com)

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1547

In the Matter of )  
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PUBLIC UTILITY COMMISSION OF ) COMMENTS OF  
OREGON STAFF ) Frontier Communications  
Investigation of Call Termination Issues )

Frontier Communications Northwest Inc. and Citizens Telecommunications Company of Oregon d/b/a Frontier Communications of Oregon (collectively, "Frontier") submit the following comments in response to Staff's analysis and comments dated April 23, 2012.

This docket was opened in July of 2011 and in the past year Staff has done a considerable amount of analysis reviewing complaints and call completion data that were submitted by the carriers. In their comments, Staff outlines four possible solutions to the call termination issue and recommends that a rulemaking process be initiated to expressly prohibit discriminatory practices in the provision of telecommunications services. Absent a specific draft proposal suggesting what proposed rules might look like, Frontier addresses in these comments only the call termination situation in general and the four options presented by the Staff.

No one can dispute that call completion issues have impacted Oregon customers, and efforts to identify the scope and origin of the problem have proven difficult. Nationally, the FCC has taken steps to identify the scope of the problem and implemented rules and processes designed to remedy the problem over a period of time. Because this issue is a national in scope, affecting both interstate and intrastate call delivery, Frontier suggests that it is best handled consistently for all jurisdictions, rather than having separate and possibly conflicting state rules and requirements.

On February 6, 2012, the FCC Wireline Competition Bureau issued a Declaratory Ruling reinforcing the agency's prohibition on blocking, choking, reducing or restricting traffic and advising that call termination and call quality problems may constitute unjust and unreasonable practices in violation of section 202 of the Communications Act. The Commission also made clear that carriers are directly bound by the general prohibition on call blocking with respect to VoIP-PSTN traffic, as well as other traffic. The Declaratory Ruling provides avenues for enforcement including cease-and-desist orders, forfeitures, and license revocations. In addition, the FCC has created a Rural Call Completion Task Force and has coordinated with the ATIS (Alliance for Telecommunications Industry Solutions) to establish best practices for call completion.

In addition to the Declaratory Ruling, the FCC also addressed the issue in its Intercarrier Compensation-USF Transformation Order (ICC-USF Order)<sup>1</sup>. The ICC-USF Order affirmed the prohibition on call blocking and adopted rules reforming intercarrier compensation, transitioning to bill-and-keep and reducing termination charges during a transition period. This process should eliminate the incentive for cost avoidance that is driving the call termination issue.

Staff lays out four possible solutions to consider; A) Supporting actions at the federal level, B) Decreasing termination fees in rural areas, C) Amending the service quality rules and D) Amending the certification rules.

Frontier continues to believe that Solution A, supporting actions at the federal level, is the best avenue to address call completion issues. The FCC in its Declaratory Ruling and ICC/USF Reform Order has put the processes in motion to address bad actors through enforcement of the Declaratory Ruling and transitioning intrastate access rates to interstate levels to eliminate carriers' attempts to avoid paying legitimate intrastate access on terminating calls. At a minimum, the Commission should give the new rules time to

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<sup>1</sup> *In the Matter of the Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, CC Docket Nos. 01-92 & 96-45, GN Docket No. 09-51, WC Docket No.s 10-90, -7-135, & 03-109, WT Docket No. 10-208, FCC 11-161 (rel. Nov. 18 2011), 76 Fed Reg. 73,830 (Nov. 29, 2011) (“*USF/ICC Transformation Order*”).

have an impact, and if necessary, gather further data, before taking further action. Should the Commission determine that a rulemaking is the appropriate avenue, the requirement should be straightforward and mirror the requirements mandated by the FCC.

Staff also proposed three other options. One option is imposing further reductions on terminating rates, going beyond what the FCC has already set in place. Such action, prior to knowing the full impact on companies, would be imprudent and potentially unnecessary. Another option staff suggested was amending service quality rules. This option, as well, may be unnecessary. In addition, such rules are unlikely to apply to unregulated and/or out-of-state IXC providers who, at least according to information provided by Staff appear to be most frequently a cause for concern.

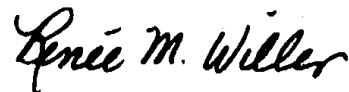
Staff's final recommendation is Solution D, amending the certification rules (OAR 860-032-0007), as a means to provide an enforcement mechanism for bad actors. As a practical matter, we believe staff already has the authority to conduct call analysis using call generator software to determine blockages from consumer's locations to specific areas in an effort to identify carriers who are not complying with federal requirements.

Staff proposes that OAR 860-032-0007 be amended to include provision that 1) prohibit telecommunication service providers from subjecting any particular person, class of person, or locality to any undue or unreasonable prejudice or disadvantage; 2) prohibit blocking, choking, reducing, or restricting traffic in any way, including to avoid termination charges; and 3) make telecommunications service provider responsible for acts, omissions, or failures of their agents or other persons acting for or employed by the carrier. Here again, the limits on the Commission's jurisdiction may make such changes irrelevant. A rule to prohibit prejudice or disadvantage is unnecessary, since it is already required under 47 USC § 202(a). A rule to prohibit manipulation of traffic may be useful, to the extent it mirrors the FCC's rules. However, it will not apply to providers who are unregulated, out-of-state, and/or providing interstate service.

The third element of Staff's recommendation is particularly problematic, as it is difficult if not nearly impossible for carriers to guarantee control of call handling in every instance. A provider may contract with a certain carrier to handle traffic, but that carrier may choose to contract with another carrier, a scenario which may be repeated more than once, and leave the originating carrier with no knowledge or control of call routing past the first hand off. While contractual provisions may require compliance with the rules, the originating provider cannot guarantee unknown providers' actual compliance, and it would be unreasonable to attempt such a requirement in this context. The Commission should focus its enforcement efforts on identifying and going after the bad actors.

In conclusion, Frontier believes that efforts being taken at the federal level through the FCC's Declaratory Ruling on Call Termination Issues, the Rural Call Completion Task Force and ATIS determining best practices and the FCC ICC/USF Reform Order will reduce and eventually eliminate access avoidance and call termination issues. Should the Commission determine that the certification rules (OAR 860-032-0007) be amended, they should be narrowly focused to mirror the requirements of the FCC and not hold originating providers responsible for the non-compliance of subcontractors over which they have no control.

Respectfully submitted this 29<sup>th</sup> day of May 2012,

A handwritten signature in black ink that reads "Renee M. Willer". The signature is written in a cursive, flowing style.

Renee M. Willer  
Authorized Representative  
Frontier Communications  
20575 NW Von Neumann Dr.  
Beaverton, OR 97006

CERTIFICATE OF SERVICE  
UM 1547

I certify that I have this day sent the attached Comments of Frontier Communications in the above mentioned docket to the service list by electronic mail:

PUC Filing Center  
550 Capitol Street NE Ste 215  
Salem, OR 97301-2551  
[puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us)

Charles Best  
[chuck@charleslbest.com](mailto:chuck@charleslbest.com)

Lisa Rackner  
McDowell Rackner & Gibson PC  
[dockets@mcd-law.com](mailto:dockets@mcd-law.com)

David Collier  
AT&T  
[david.collier@att.com](mailto:david.collier@att.com)

Malia Brock  
Oregon Public Utility Commission  
[malia.brock@state.or.us](mailto:malia.brock@state.or.us)

William E. Hendricks  
CenturyLink  
[tre.hendricks@centurylink.com](mailto:tre.hendricks@centurylink.com)

Doug Cooley  
Comcast  
[doug\\_cooley@cable.comcast.com](mailto:doug_cooley@cable.comcast.com)

Cynthia Manheim  
AT&T  
[cindy.manheim@att.com](mailto:cindy.manheim@att.com)

George Schreck  
Integra Telecom  
[george.schreck@integratelecom.com](mailto:george.schreck@integratelecom.com)

Ron L. Trullinger  
CenturyLink  
[ron.trullinger@centurylink.com](mailto:ron.trullinger@centurylink.com)

Greg Diamond  
Level 3  
[greg.diamond@level3.com](mailto:greg.diamond@level3.com)

Citizens' Utility Board of Oregon  
[dockets@oregoncub.org](mailto:dockets@oregoncub.org)

Mike Dewey  
OCTA  
[mdewey@oregoncable.com](mailto:mdewey@oregoncable.com)

Catriona McCracken  
CUB  
[catriona@oregoncub.org](mailto:catriona@oregoncub.org)

Jason Jones  
Department of Justice  
[jason.w.jones@state.or.us](mailto:jason.w.jones@state.or.us)

Mark Trincherro  
DWT LLP  
[marktrincherro@dwt.com](mailto:marktrincherro@dwt.com)

Richard Severy  
Verizon  
[richard.b.severy@verizon.com](mailto:richard.b.severy@verizon.com)

Doug Denney  
Integra Telecom  
[dkdenney@integratelecom.com](mailto:dkdenney@integratelecom.com)

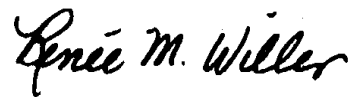
Rudolph Reyes  
Verizon  
[rudy.reyes@verizon.com](mailto:rudy.reyes@verizon.com)

Johanna Riemenschneider  
Department of Justice  
[johanna.riemenschneider@doj.state.or.us](mailto:johanna.riemenschneider@doj.state.or.us)

Lorraine Kocen  
Verizon  
[lorraine.kocen@verizon.com](mailto:lorraine.kocen@verizon.com)

Marc Carlton  
Williams, Kastner & Gibbs  
[mcarlton@williamskastner.com](mailto:mcarlton@williamskastner.com)

Dated this 29<sup>th</sup> day of May, 2012



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Renee M. Willer  
Frontier Communications  
Authorized Representative