

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: December 1, 2015

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ NA \_\_\_\_\_

DATE: November 18, 2015

TO: Public Utility Commission

FROM: Jim Stanage *JS*

THROUGH: Jason Eisdorfer, Bryan Conway, and Bruce Hellebuyck *BE*

SUBJECT: FRONTIER COMMUNICATIONS NORTHWEST INC.: (Docket No. ADV 96/Advice No. SC15-12, Docket No. ADV 97/Advice No. SC15-13, Docket No. ADV 98/Advice No. SC15-14, Docket No. ADV 106/Advice No. SC15-15, and Docket No. ADV 122/Advice No. SC15-16) Establishes Special Contracts submitted pursuant to ORS 759.250(5).

**STAFF RECOMMENDATION:**

Staff recommends that the Commission take no action with regard to these filings. If the Commission does not act within 90 days of the filings, the respective special contracts are deemed approved.

**DISCUSSION:**

**ADV 96/Advice No. SC15-12**

Frontier Communications Northwest Inc. (Frontier) proposes to establish a thirty-six month special contract with a confidential customer for Frontier Simply Unlimited Service-Challenger bundle, Simply Unlimited Service-Challenger plus High Speed Internet (HSI) service, and Simply Unlimited Service-Challenger plus FiOS. The service is being provided under the contract at a monthly rate of \$20.00 per unit, which represents a discount of 49 percent from the tariffed rate of \$38.99.

**ADV 97/Advice No. SC15-13**

Frontier proposes to establish a thirty-six month special contract with a confidential customer for Frontier Simply Unlimited Service-Challenger bundle and Simply Unlimited

Service-Challenger plus FiOS. The Simply Unlimited Service-Challenger bundle is being provided under the contract at a monthly rate of \$24.99 per unit, which represents a discount of 36 percent from the tariffed rate of \$38.99.

**ADV 98/Advice No. SC15-14**

Frontier proposes to establish a twelve-month special contract with a confidential customer for Frontier Simply Unlimited Service-Challenger bundle and Simply Unlimited Service-Challenger plus FiOS. The Simply Unlimited Service-Challenger bundle is being provided under the contract at a monthly rate of \$24.99 per unit, which represents a discount of 12 percent from the average tariffed rate of \$28.49.

**ADV 106/Advice No. SC15-15**

Frontier proposes to establish a thirty-six month special contract with a confidential customer for Frontier Simply Unlimited Service-Challenger bundle and Simply Unlimited Service-Challenger plus High Speed Internet (HSI) service. The Simply Unlimited Service-Challenger bundle is being provided under the contract at a monthly rate of \$24.99 per unit, which represents a discount of 36 percent from the tariffed rate of \$38.99.

**ADV 122/Advice No. SC15-16**

Frontier proposes to establish a thirty-six month special contract with a confidential customer for Frontier Simply Unlimited Service-Challenger bundle with the All in Feature Package. The service and additional feature package are being provided under the contract at a monthly rate of \$39.99 per unit, which represents a discount of 9 percent from the tariffed rate of \$43.98.

**STAFF ANALYSIS**

**Review Procedures**

Although the form of regulation that applies to Frontier changed August 18, 2014, pursuant to ORS 759.255 and the regulatory plan allowed by the Commission under Order No. 14-290 (UM 1677), its services offered through special contracts remain fully regulated. Thus, Frontier special contracts for its regulated services are still subject to ORS 759.250.

Telecommunications utilities are allowed under ORS 759.250 to enter into special contracts with customers without being subject to standard tariff filing procedures under ORS 759.175. In addition, special contracts are not subject to hearings (ORS 759.180) or suspension (ORS 759.185).

ORS 759.250 outlines the requirements for approval of telecommunications special contracts, which are as follows:

1. The contract service must be a new service with limited availability, respond to a unique customer requirement, or be subject to competition.
2. Prices must exceed the long-run incremental cost (LRIC) of providing the service.
3. Telecommunications utilities are required to file special contracts no later than 90 days following the effective date of the contract. Contracts must not exceed five years, and ORS 759.250 does not permit automatic contract renewals.
4. The Commission shall issue an order on the filed contract within 90 days of the filing. If the Commission does not act within 90 days of the filing, the contract is deemed approved. Staff understands that if a telecommunications utility does not provide sufficient evidence to support the contract under ORS 759.250, the staff may recommend that the Commission reject the contract.

### **Classification and Unjust Discrimination Criteria**

PUC Order No. 92-651 (Docket UM 254), issued May 1, 1992, adopted procedures and guidelines for telecommunications special contract filings. The order specifies that in assessing special contracts the Commission must consider the reasonableness of the contract rates and whether the rates result in unjust discrimination. The statutes that underlie these areas of concern are ORS 759.210 (classification of service and rates) and ORS 759.260 (unjust discrimination).

Staff's analysis regarding conformance with ORS 759.210 is twofold. First, staff determines if a special contract rate class is developed by the telecommunications utility for one or more of the following reasons: a) the quantity of the contract service used; b) the purpose for which the contract service is used; c) whether price competition or a service alternative exists; d) the contract service being provided; e) the conditions of contract service; or f) other reasonable considerations. Second, staff determines if the special contract results in revenue sufficient to ensure just and reasonable rates for remaining customers (i.e., a "prudency review").

To determine conformance with ORS 759.260, staff determines if the special contract avoids unjust discrimination and is dependent upon the outcome of the analyses outlined above. The statute does not restrict the Commission from subsequent scrutiny of the reasonableness of special contracts for ratemaking purposes.

The company submitted financial analyses that show the proposed rates cover the company's estimated LRIC for the contract service(s).

### **Conclusions**

Staff has investigated these filings and finds that they comply with Order No. 92-651 (UM 254), the contracted services are subject to competition, the contract prices cover the company's cost for each respective service, and the company would offer the discounted contract prices to any similarly situated customer requesting them.

### **PROPOSED COMMISSION MOTION:**

The Commission take no action with regard to these filings. Pursuant to ORS 759.250, if the Commission does not act within 90 days of the filings, these special contracts are deemed approved.