

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the Commission to Examine Issues)
Related to the Transition to Intermodal Competition in the) Case 05-C-0616
Provision of Telecommunications Services)
)

COMMENTS OF FRONTIER COMMUNICATIONS

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to permit New York's ILECs to compete on the same terms and with the same freedoms as their many competitors enjoy.

In reviewing the current state of Commission regulation, the Commission must not simply look at a current snapshot of the industry, but rather must recognize the underlying market forces and fundamentals which are irrevocably accelerating unregulated competition in all relevant markets. The Commission must recognize that traditional concepts, terms and categories such as "telephone service", "local exchange" and "long distance" are no longer accurate, nor even relevant, and that regulation focused on the activities corresponding to such terms is no longer necessary or desirable. The Commission must revise regulation to account not only for the robust competition which already exists today, but for more far-reaching competition which will certainly develop in the future.

Other states and the Federal Communications Commission have not waited for competition to overwhelm the ILECs before undertaking far reaching regulatory reform, and in some cases near full deregulation. For example, Iowa ILECs have the option of removing all services from rate regulation by the Iowa Utilities Board except for single line flat-rated residential and business service rates, which become subject to price cap regulation.² In Georgia, ILECs may opt into price cap regulation of residential and single line business services and freely set the rates for all other services. Georgia also provides a process for the reduction of access charges with upward adjustments to other rates.³ Alabama is optionally deregulating new bundled offerings and new contract offerings, price capping basic telephone rates and capping

² Iowa Code Ann §476.1D(1)(c).

³ Georgia Code §§46-5-165, 46-5-166.

the capital amount that an ILEC must absorb to provide basic service.⁴ Pennsylvania has established an optional alternative form of ILEC regulation that includes broad pricing flexibility for optional, bundled and competitive services.⁵

No unanticipated consumer or regulatory outcomes have occurred in any of these states, despite the fact that the telecommunications markets in each of these states are far less competitive than New York's markets. In each state a judgment was made to proceed with substantial regulatory relaxations in light of emerging and future levels of competition so that ILECs will have an opportunity to compete effectively and consumers will be able to reap the rewards of a free market. Such a judgment is likewise appropriate and justified in this state.

The Federal Communications Commission is taking similar steps with respect to both retail and wholesale broadband services. On August 5, 2005, the FCC announced the effective deregulation and the leveling of the playing field for wireline broadband services used to access the Internet, by placing ILEC-provided broadband services into the same regulatory position as functionally equivalent broadband services provided by cable television companies.⁶ This Commission should likewise do what it can within its own jurisdiction to place ILECs on an equal footing with other service providers offering functionally equivalent services.

Furthermore, in revising its regulations to level the playing field between ILECs and their myriad intra- and inter-modal competitors, the Commission should recognize (and, to the extent possible, attempt to compensate for) competitive disadvantages impacting ILECs which are outside the Commission's jurisdiction and control. For example, ILEC services are subject to

⁴ Alabama Code §§37-2A-1 through 37-2A-11.

⁵ 66 Pa. C.S. Chapter 30.

⁶ FCC News Release, "FCC Eliminates Mandated Sharing Requirement on Incumbents' Wireline Broadband Internet Access – Decision Places Telephone and Cable Companies on Equal Footing" (released Aug. 5, 2005).

federal excise taxes⁷ and state and local gross receipts taxes,⁸ which their Cable Television (“CATV”), wireless and Voice over Internet Protocol (“VoIP”) competitors largely or wholly escape. Similarly, many competitors are not covered by laws which require ILECs to charge E-911 surcharges and to remit the proceeds to local governmental agencies.⁹

These unequal tax, surcharge and fee treatments place ILECs at a distinct competitive disadvantage, as evidenced by the aggressive efforts of Time Warner Cable -- a global CATV, entertainment and communications giant several times larger than Frontier – to advertise and promote the fact that its VoIP and broadband service offerings, unlike Frontier’s products, do not bear such charges. Adding insult to injury, that same company has refused to allow Frontier to advertise its competing services on Time Warner’s local cable systems, a situation amounting to yet another unfair competitive disadvantage Frontier and other ILECs must endure in meeting the challenges of these aggressive inter-modal competitors.

Given these inequities, the Commission should do everything within its jurisdiction to level the playing field to the extent that it has the power to do so. Because the Commission cannot and should not increase the regulatory requirements on the multitude of unregulated entities competing with ILECs, the Commission should reduce the regulation of ILECs to the full extent possible. A reasonable standard for the Commission’s review should be that if a requirement does not apply to wireless, VoIP or CATV providers, then it should not apply to ILECs.

⁷ 26 U.S.C. §4251.

⁸ New York Tax Law, Article 9.

⁹ New York County Law, Articles 6 and 6-A.

II. REGULATION MUST BE ADJUSTED TO REFLECT MARKETPLACE AND INDUSTRY REALITIES

Frontier is concerned that the Commission's view of the breadth of the current competitive market is too narrow. The Commission's analysis of competition at pages 5-9 of the June 29, 2005 Order Initiating Proceeding and Inviting Comments in this proceeding deals almost exclusively with voice telephony services. Basic telephone service, however, is becoming an increasingly small and unimportant portion of the packages of services that consumers are buying and competitors are providing; indeed, basic telephone service is often wholly displaced and substituted by other products, either individually or in combination, such as email, instant messaging, net conferencing and weblogs -- all of which may be delivered wirelessly -- as well as by competitively provided telephone, wireless voice, VoIP and other IP- and broadband-based products. Frontier offers the following paradigm of a more expansive view of the marketplace, based on the concept of "Network Enabled Services".

Current regulation is based on a paradigm that no longer reflects consumer, market or industry realities. When most current regulations were promulgated the relevant industry was "telephone" or subsequently "telecommunications", the relevant segments were defined as "local exchange" and "long distance", and market power appeared to be concentrated in the "local exchange". This paradigm largely applied from the creation of the telephone in the 19th century, up through the passage of the Telecommunications Act of 1996. In the intervening 9 years, however, the realities have changed dramatically.

"Telephone", "telecommunications", "local exchange" and "long distance" no longer accurately describe the services that consumers and businesses primarily purchase nor the manner in which those services are employed. Likewise, those terms exclude most of the entities

that provide the vast majority of services actually purchased by consumers and businesses, and the manner in which those entities compete. Today's reality is defined instead by the expansive concept of "Network Enabled Services", of which "telephone", "local exchange" and "long distance" are relatively minor elements. Network Enabled Services are composed of three broad categories -- Connectivity, Communications and Content -- as illustrated on the attached Exhibit.

"Connectivity" refers to last mile and intermediate bandwidth, which may be supplied over a physical medium or via wireless spectrum. The sole use of Connectivity is as a conduit for the delivery and receipt of Communications and Content, the characteristics of which may dictate the bandwidth requirements for any given Connection. "Communications" refers to any electronic interactive correspondence between two or more individuals, either in real-time or via a form of messaging, two-way or multi-way, in text, voice or multi-media format. Finally, "Content" refers to any electronic transmission of information other than an interactive correspondence between individuals. Typical forms of Content include entertainment (text, audio, video, multi-media, gaming, etc.), information (data, library resources, sports scores, news, etc.), and online applications such as software, automation services, or commerce.

Historically, Connectivity was defined as a copper pair (last mile) or transport (intermediate), which were the "means" to -- and synonymous with -- standard, narrowband voice Communications (i.e., "telephone"). Today, however, Connectivity is delivered by diverse and various media, including copper, coax, fiber, microwave and wireless spectrum as the "means" to diverse and specialized broadband Content as well as various forms of Communication. For example, in the home, CATV is the dominant provider of bandwidth today, primarily for multimedia Content (i.e., television), but increasingly for Internet-based Content and Internet-based Communications including email, instant messaging, video conferencing and

lately for VoIP as well. In the office, business-focused regional, national and global companies dominate in the provision of Connectivity (typically T1 or some form of DSL) for the delivery of myriad forms of business Communications and Content. Finally, in both home and office, narrowband landline Connectivity – i.e., plain old telephone service (“**POTS**”) -- is being displaced by wireless Connectivity, which is dominated by another segment of global companies and partnerships such as Verizon Wireless (a joint venture of Verizon and Vodafone) and Cingular (a joint venture of SBC and BellSouth).

Similarly, Communications in prior eras was limited to standard, real-time, narrowband, fixed-location voice telephone service, which was (and largely still is) the bread and butter of ILECs. Today, however, diverse options and substitutes from a multitude of sources compete with the ILECs’ basic voice telephony offerings. Communications options are available in a dizzying array of choices, including: real-time or messaging, text, voice or multi-media, narrowband or broadband, fixed or mobile (wireless). Additionally, narrowband Communications – both voice and text, real-time and messaging – are increasingly migrating to mobile platforms employing wireless Connectivity. At the same time, VoIP, Instant Messaging (IM), Email and other IP-enabled/broadband-enabled Communications are Connectivity-independent; for example a piece of customer premises equipment (“**CPE**”) supplied by a VoIP provider such as Vonage can be used to place voice telephone calls over any broadband Connection to the public Internet. This is an unprecedented disentanglement from one another of Connectivity and Communications, which were previously synonymous and inseparable; Communications has become merely an application riding atop a Connection, and is no longer necessarily a fundamental aspect of a specific Connection.

Finally, Content has also evolved dramatically in recent years. For most of the past century, Content was finite but ubiquitous, characterized by one-way, over-the-air broadcast radio or television. Today, however, Content is profuse, increasingly interactive, and dominated by large scale global providers. In the Home, television is still the primary form of Content, but CATV and Direct Broadcast Satellite (“**DBS**”) have almost entirely displaced over-the-air broadcast, with Internet-based options growing rapidly. For both conventional television and Internet-based content, CATV providers, their affiliates or joint ventures dominate much of this programming. In the Office, Content is dominated by specialized financial and business information and software companies, including affiliates of major CATV providers. ILECs have virtually no presence in Content markets at present.¹⁰

Though they previously defined the total scope of options available to consumers and businesses -- and thus were the appropriate focus of regulation -- the categories defined by the terms “telephony”, “local exchange” and “long distance” are today increasingly imprecise, artificial and arbitrary. “Network Enabled Services, and its three component categories – Connectivity, Communications and Content – are truer descriptors of competitive, market and consumer realities. By continuing to focus purely on the narrow category of “local exchange”, while ignoring these broader more relevant categories, traditional regulation will create increasingly perverse results. ILECs’ supposed “dominance” of fixed location, narrowband, wireline local exchange voice telephone service is no more relevant to today’s marketplace

¹⁰ To date, the most high profile and significant efforts by ILECs in the Content arena have been various ILECs' agency or resale arrangements with Digital Broadcast Satellite (DBS) providers, whereby the DBS providers' television products may be bundled and co-marketed with the ILECs' telephone and high speed Internet products. In such an arrangement, however, an ILEC essentially operates as a sales and billing agent for a DBS provider's video delivery platform, with the Content delivered via such platform actually owned and controlled by 3rd parties, a large percentage of whom are competing CATV providers such as Time Warner.

realities than is Apple Computer's "dominance" of the Macintosh operating system; both ILECs and Apple participate in markets much larger than the small segments in which each is supposedly "dominant".

The example of Time Warner Cable Television is illustrative of this point. In terms of Connectivity, Time Warner controls a ubiquitous, substantially unregulated local CATV network. In terms of Content, Time Warner Cable is part of a global corporate empire dominant in news, entertainment, print, audio, video, movies, music, online services, software, etc. In terms of Communications, that same empire dominates email and instant messaging. In the early years of this decade, Time Warner successfully leveraged its dominance of CATV Connectivity and Content to secure a leading position in broadband IP-based Connectivity in its markets. It is now leveraging its dominance of combined CATV/broadband Connectivity and global Content in order to dominate voice Communications via its VoIP offerings. Against this powerful, multi-faceted competitor, Frontier's supposed "dominance" of traditional narrowband, wireline local exchange voice telephone in its markets is wholly irrelevant and illusory.

As this discussion demonstrates, Network Enabled Services are dominated by unregulated or lightly regulated global conglomerates, such as Time Warner, Comcast, Verizon Wireless and Cingular. Paradoxically, however, regulation uniquely targets and handicaps ILECs like Frontier, while allowing these other powerful global competitors near complete and unfettered movement. Consumer welfare, the public interest and principles of competitive neutrality require that ILECs be freed to meet these formidable challengers without artificial regulatory handicaps. This means that Frontier and other ILECs must be freed from:

- Expensive, backward-looking mandates
- Restrictions on pricing

- Other costly, intrusive and distorting regulations.

III. FRONTIER'S PROPOSAL

A. Frontier's Specific Proposals for Regulatory Reform.

Frontier proposes that the Commission implement the following regulatory reforms for ILECs in order to level the playing field and to promote fair and effective competition:

1. Alternative regulatory plan. As described in the preceding sections, ILECs face robust, well-financed intra- and inter-modal competition virtually ubiquitously throughout New York State. In order to be able to meet such competition, each ILEC should be permitted to optionally replace its existing regulatory regime (e.g. rate-of-return, price cap, or negotiated alternative form of regulation) with a new price regulation plan, which would address the following three categories of services: (i) basic single line residential telephone service; (ii) intrastate switched access service; and (iii) all other PSC-regulated services. At the end of five years, this alternative regulatory plan would be subject to review, renewal or revision.

i. Basic single line residential telephone service. The level of competition faced by Frontier and other ILECs justifies substantial regulatory relief across all service categories. However, Frontier recognizes that for some period of time the Commission may wish to maintain specific safeguards on service purchased by certain customers. In light of the aggressive manner in which wireless companies, CATV companies and CLECs compete to provide bundled services to residential consumers and any and all services to business customers across the state, the only customers who might remotely require any residual protection are those residential households which choose to purchase single line, un-featured residential telephone

service on a stand-alone basis. For such households, ILECs may yet continue to function as the provider of last resort. Thus, it may be appropriate to maintain a limited amount of additional regulatory oversight of such basic service for a finite transitional period.

To that end, the Frontier proposal would subject basic, single line, un-featured residential service¹¹ to a price cap mechanism established at the higher of the ILEC's existing rate or Verizon-New York's rate for similarly situated customers, plus or minus annual changes in the Consumer Price Index and a limited option of rate rebalancing as described in subsection ii. below. Regardless of how the price cap may change over time, the fact of the matter is that ILEC prices for basic service will be heavily constrained by competitive market forces. Additionally, ILECs' requirements to provide new basic dial tone service without construction charges would be capped at a capital cost of \$5,000 per customer for line extensions or facilities upgrades.

ii. Intrastate Switched Access. Like basic, single line, un-featured residential telephone service, switched access may require some additional level of protection. Under the Frontier plan, intrastate switched access charges will be fixed at current levels, with changes permitted only as a result of: (1) discretionary reductions in such charges by an individual ILEC; (2) a generic regulatory proceeding which alters such charges in a revenue neutral manner; (3) a revenue neutral rate rebalancing of such charges, with rebalancing occurring among various switched access elements or between switched access elements and

¹¹ Frontier proposes to define "basic service" as a single, residential line without features, offered ubiquitously to every household within an exchange on a stand-alone basis, with full backup power for the minimum period of hours currently required of the ILEC, full 911/E911, CALEA and other public safety compliance, full call signaling compliance, the ability to place and receive calls to and from any PSTN telephone number, long distance equal access, the consumer protections of Parts 602, 609 and billing "bucketization", a price-capped or otherwise regulated price, no less than the current local calling area, and compliance with applicable industry standards for sound quality and availability.

other service prices, except that such rebalancing could not result in an increase in the price cap on basic single line residential telephone service of more than \$1 per calendar year; (4) approval by the Commission of an individual ILEC's proposal to increase its aggregate switched access rates in a non-revenue neutral manner, with such approval occurring as a result of an expedited proceeding to be completed no more than 60 days after the ILEC files its complete case including any appropriate cost studies.

iii. All other PSC-regulated services. As described in the preceding sections and in the discussion of the price cap mechanism for basic, single line, un-featured residential telephone service, all other services offered by ILECs are robustly competitive or contestable. Thus, under the Frontier proposal the Commission should detariff all other PSC-regulated services, just as the Commission detariffed billing and collection services in 1990.¹²

ILECs' intermodal competitors do not tariff their fully substitutable services, and ILEC tariffing only slows down ILECs' competitive responses while providing one-sided and unfair notice of their pricing plans to their unregulated competitors. Continuing the tariffing requirement for ILECs in today's competitive circumstances is like requiring vendors of consumer electric clothes dryers to submit to price regulation while vendors of consumer natural gas clothes dryers go unregulated.

Frontier's proposal does not cover reciprocal compensation or unbundled network elements. To the extent the pricing and provision of reciprocal compensation and unbundled network elements are largely governed by applicable and effective federal laws and regulations, the Commission's jurisdiction over such activities is limited. However, Frontier urges the

¹² Case 89-C-191, *Proceeding on Motion of the Commission to Review Telecommunications Industry Provision of Billing and Collection Services to Third Parties*, Opinion and Order Concerning the Regulation of Billing and Collection Services (issued and effective Dec. 28, 1990).

Commission to exercise those powers it does possess over such activities in a manner to limit the competitive harms and costs imposed on ILECs.

2. Application, deposit, billing, service termination and similar regulations.

The Commission should repeal service application, deposit, advance payment, billing and collection regulations (Parts 600, 606, 608 and 609 and the billing “bucketization” requirements established in Case 90-C-1148¹³) for all services except for Part 609 and the billing “bucketization” requirements as applied to basic unfeatured single line residential service. The ILECs’ unregulated wireless, VoIP, broadband and cable telephony voice providers are not required to follow any of these rules, and the ILECs should be freed from them except for the most basic of services.

3. Consumer Relations Rules and Service Standards Reporting. The

Commission should repeal consumer relations and service standards requirements and reporting (Parts 602 and 603), because these requirements impose substantial costs on ILECs and do not apply to their unregulated facilities-based providers. Frontier recognizes the need of the Commission to continue to monitor the availability of high quality dial tone service. Frontier therefore proposes that the Commission continue to monitor the Commission Complaint Rate, adjusted as discussed below¹⁴ to reflect justified complaints.

In light of the Commission’s concern with basic service customers, although Frontier believes that the competitive market should ensure high levels of customer service, Frontier

¹³ See Case 90-C-1148, *In the Matter of the Rules and Regulations of the Public Service Commission Contained in 16, NYCRR, Chapter VI, Telephone and Telegraph Corporations – Amendments to Subchapter A, Service, by the Addition of a New Part 606 – Billing and Collection Services*, Order Approving Settlement Agreement, and Order Approving Modification of Settlement Agreement (issued and effective Aug. 7, 1992 and Dec. 30, 1993).

¹⁴ See response to “Service Quality” question 1, below.

would propose that Part 602 would continue to apply to basic unfeatured single line residential service.

4. Annual and TMP Reports. The Commission should eliminate annual reporting requirements (Part 641) and Transition Monitoring Plan (“**TMP**”) filings, except for the filing of copies of reports and data required to be filed with the FCC, and except for the ownership reporting requirements of Public Service Law §111, for the same reason that none of these obligations apply to most intermodal competitors. With respect to the TMP, there is no need to monitor competition in an already competitive market, and there is no way to monitor competition effectively if most of the competitors make no filings.

5. The Capital Program Filing. The Commission should eliminate the Capital Program Filing requirement (16 NYCRR §644.3), again for the same reasons.

6. Harmonization of State and Federal USOA. The Commission should eliminate differences between the New York State Uniform System of Accounts (Parts 660-684) and the Federal Communications Commission’s Uniform System of Accounts (47 CFR Part 32) in light of the fact that the accounting differences only add costs without providing information necessary for regulation in a competitive environment.

7. The Network Reliability Proceeding. The Commission should terminate the Network Reliability proceeding¹⁵ without adding new investment or reporting requirements, in light of the fact that the ILECs’ networks, already the most reliable of all the competitive networks in New York State, are rapidly losing customers to unregulated dial tone providers with

¹⁵ Case 03-C-922, *Proceeding on Motion of the Commission to Examine Telephone Network Reliability*.

less robust networks (e.g., cellular, VoIP and cable telephony) who are offering lower prices for even the most basic telephone services in part because of the lack of such requirements.

8. Regulatory Reserves. The Commission should eliminate any remaining “regulatory reserves”, which only serve to provide an “overhang” against the ILECs’ future financial results in this highly competitive market, and require significant resources to maintain, research and reconcile. ILECs’ competitors face no such overhangs.

9. Grandfathering. The Commission should eliminate the requirement to “grandfather” existing customers for a period of time when a service, other than basic single-line unfeatured residential service, is withdrawn or changed.

10. EAS Requirements. The Commission should eliminate the Extended Area Service process and requirements,¹⁶ because local calling areas and long distance charges will be established by the competitive market. Many competitors including wireless, VoIP and cable telephony providers as well as many ILECs themselves already offer low-cost flat rate nationwide calling plans that make local calling areas irrelevant, and any consumer wishing a larger calling area need only subscribe to one of these many plans. However, some protections may still be appropriate for the most basic of services, and Frontier’s proposal preserves existing local calling areas for basic, unfeatured single line residential customers.

11. ICB Filings. The Commission should detariff Individual Case Basis (ICB) contracts in competitive situations. The Commission has permitted short ICB filings for

¹⁶ Case 91-C-0197, *Extended Area Service Guidelines, filed in Case 26403: Adoption of Revisions*, Staff Report Approved as Recommended and so Ordered by the Commission (issued and effective June 17, 1991).

customer-specific contracts for well over a decade,¹⁷ but not even these notice requirements apply to the ILECs' unregulated facilities-based competitors. Therefore, the filing requirement only serves to provide one-sided and inequitable notice to the unregulated competitors of the pricing and services being offered pursuant to ICB contracts, and should be eliminated.

12. Voice Mail. The Commission should recognize that voice mail is an enhanced service because it involves subscriber interaction with stored information.¹⁸ In addition, voice mail is fully competitive, with many unregulated service providers offering the same service.¹⁹ The Commission should detariff voice mail as it did billing and collection services in 1990.²⁰

B. Unnecessary and Non-Optimal, But Minimally Distorting, Additional Safeguards.

In Frontier's view every location in New York State is subject to competition. In the very few areas where there are no facilities-based competitors, either intramodal or intermodal, all telecommunications services down to the most basic dial tone services are fully contestable, given the accelerating expansion of wireless and CATV operations, and the potential entry of widespread broadband-over-power line and wireless broadband providers. The Commission can and should promptly adopt all of the regulatory reforms proposed above, without fear.

¹⁷ Case 91-M-0927, *Proceeding on Motion of the Commission as to the Administration of Utility Tariffs with Respect to Individually Negotiated Contracts Between Customers and Utilities*, Order Concerning Tariffs Authorizing Individually Negotiated Contracts (issued and effective May 8, 1992).

¹⁸ 47 U.S.C. §64.702(a).

¹⁹ The 2004-2005 Rochester, NY Yellow Pages list 5 unregulated voice mail providers in the Rochester area.

²⁰ Case 89-C-191, *Proceeding on Motion of the Commission to Review Telecommunications Industry Provision of Billing and Collection Services to Third Parties*, Opinion and Order Concerning the Regulation of Billing and Collection Services (issued and effective Dec. 28, 1990).

However, if the Commission remains concerned that such measures will not provide sufficient safeguards, or if the Commission, upon soliciting and receiving advice and counsel from high legal authority, determines that it cannot legally undertake such measures without additional safeguards, Frontier would not oppose the inclusion of two additional mechanisms. While Frontier believes the addition of such mechanisms would be non-optimal, and unnecessary to safeguard the public interest and consumer welfare, Frontier believes these mechanisms would be preferable to other more invasive and cumbersome regulatory requirements.

1. Competitive Trigger. Implementation of reforms 1 and 2, above, (*alternative regulatory plan and elimination of application, deposit, billing, service termination and similar regulations*) could be conditioned on satisfaction of a competitive trigger at the rate center level. If adopted, such a trigger should be based on the presence of one or more of the following competitors in the rate center: (1) a facilities-based broadband service provider (e.g., cable modem, broadband-over-power line, WiMAX, or WiFi); (2) a wireless service provider; or (3) a CLEC delivering local dial tone service via its own switching platform (conventional or “soft”, regardless of the physical location of such platform). The remaining proposed reforms, 3 through 12 above, should be adopted for all areas of the state whether or not such trigger is met.

The presence of a facilities-based retail broadband service provider ensures competition because of the host of VoIP providers, such as Vonage, that stand ready, willing and able to provide dial tone services over any broadband connection. The presence of a wireless service provider ensures competition because wireless service is a direct substitute for ILEC dial tone, and in fact many wireless customers do not maintain a landline telephone at all. The presence of

a CLEC delivering dialtone services over its own switching facilities ensures competition because the CLEC can readily provide any form of broadband or dial tone service.²¹

Frontier urges the Commission not to apply a formulaic approach to the existence of competition. Frontier believes that any such approach can be manipulated by the user to achieve political ends. In addition, any formula that treats an area as non-competitive despite the presence of an actual competitor would ignore reality. It does not take 3, 4 or 5 competitors to establish competition, and the fact that every telecommunications market in New York State is fully contestable disciplines even a single player in the market.

2. Min-Max Pricing for “all other PSC-regulated services”. In lieu of the detariffing of “all other PSC-regulated services” as prescribed in item 1(iii), above, the Commission should at a bare minimum make such services subject to minimum-maximum (“**min-max**”) pricing ranges. Frontier believes that even this level of regulation is unnecessary and undesirable, but that such a pricing regime could be minimally acceptable provided that: (i) ILECs are allowed complete freedom to price within the prescribed range without filing specific rates; (ii) the minimum price could be filed as zero, and the maximum price could be filed at up to 115% of current rates without being made subject to rate-of-return or cost review; (iii) the maximum price could be subsequently increased upon approval of the Commission in a proceeding to be completed no more than 60 days after the ILEC files its complete case

²¹ It should be irrelevant whether such a CLEC uses its own, third party or ILEC facilities in the local loop. This proceeding will not alter the Telecommunications Act of 1996 or the FCC’s implementing orders and regulations, which means that however this proceeding turns out, CLECs with their own switching facilities will continue to have access to ILEC loops, either under mutually agreeable commercial arrangements or under highly regulated UNE prices, terms and conditions.

including any appropriate cost studies; and (iv) any bundle including services not subject to Commission regulation would be detariffed.

IV. LEGAL BASIS OF FRONTIER'S PROPOSAL

All of the measures proposed herein are entirely within the Commission's current statutory authority and are supported by Commission precedent. With respect to detariffing, the Commission detariffed billing and collection services that it determined were "non-bottleneck" in Opinion No. 90-33.²² Frontier submits that the provision of telephone services, except possibly for the most basic of residential dial tone lines, is "non-bottleneck" where there is another facilities-based provider of dial tone services that is either unregulated or lightly regulated by the Commission.

With respect to flexible price ranges, the Commission has for many years approved the filing of broad minimum-maximum ranges of prices for optional or competitive regulated services, with price changes within the min-max ranges effective upon filing the changes on one day's notice.²³ By definition, any services subject to facilities-based competition are both optional and competitive for any consumer.

²² Case 89-C-191, *Proceeding on Motion of the Commission to Review Telecommunications Industry Provision of Billing and Collection Services to Third Parties*, Opinion and Order Concerning the Regulation of Billing and Collection Services (issued and effective Dec. 28, 1990).

²³ See Opinion No. 96-13, Case 94-C-0095, *Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market*, Opinion and Order Adopting Regulatory Framework, footnote 2 at p. 29 (issued and effective May 22, 1996). See also Frontier Telephone of Rochester Tariff P.S.C. No. 2 – Telephone, Section 19.

With respect to optional price caps on basic services and switched access charges, the Commission has on a number of occasions approved such innovative regulatory plans.²⁴

All other proposals made herein can be accomplished by changes in the Commission's regulations or by Commission order, without statutory amendments.²⁵

V. RESPONSES TO THE COMMISSION'S QUESTIONS

Consumer Protections

- 1. In view of the proliferation of competitive alternatives, is it appropriate for the Commission to relax some of its traditional consumer protections applicable to wireline companies?**

Frontier's response: Yes. It is not only appropriate but essential for the Commission to do so. As described in above, unregulated facilities-based service providers are aggressively competing with ILECs in all customer segments and services. Thus, it is unreasonable and uneconomical to continue to impose traditional consumer restrictions only to one class of provider that happens, as a matter of history, to be regulated rather than unregulated.

- 2. Are there core consumer protections (e.g., slamming, cramming, termination notices, contract disclosures) that should be enforced by the Commission, notwithstanding the**

²⁴ E.g. Frontier's Open Market Plan, initiated in 1995 by Opinion No. 94-25, Cases 93-C-0103 and 93-C-0033, *Petition of Rochester Telephone Corporation for Approval of Proposed Restructuring Plan* and *Petition of Rochester Telephone Corporation for Approval of a New Multi Year Rate Stability Plan*, Opinion and Order Approving Joint Stipulation and Agreement (issued and effective Nov. 10, 1994).

²⁵ Frontier recognizes that changes in the regulations would require at least one additional notice and comment period pursuant to the State Administrative Procedure Act.

existence of competitive choices? Should a set of core consumer protections apply to wireless and VoIP/cable telephony, as well as traditional wireline?

Frontier's response: The Commission cannot under present law increase requirements applicable to wireless, VoIP and cable telephony providers. Accordingly, the Commission should reduce the requirements on ILECs as described above.

- 3. Does the Commission have a unique role to play in addressing consumer complaints? Should a common forum for the timely handling of consumer complaints be available under the auspices of the Commission? In other words, should the Commission's complaint handling function and the authority to enforce core consumer protections be extended to wireless and VoIP/cable telephony? If so, what should the nature and scope of that function be?**

Frontier's response: Although the Commission lacks authority to address consumer complaints of wireless, VoIP and cable telephony customers and should therefore as a matter of logic and competitive equity refrain from applying this layer of regulation to ILECs, Frontier does not object to the Commission's continuing jurisdiction over ILECs' consumer complaints. As described below,²⁶ Frontier proposes that the Commission justified complaint rate be the only remaining service standard, in place of the standards in Part 603. Both complaint jurisdiction and consumer complaints as a service standard would continue the unlevel playing field, and the Commission should eliminate these requirements in the future as unregulated competition continues to accelerate.

²⁶ See response to "Service Quality" question 1, below.

4. What impact might municipally owned wire/wireless networks have?

Frontier's response: Municipally owned networks, whether wired or wireless, further tilt the playing field against ILECs because of municipalities' exemption from taxes, their ability to finance capital expenditures and operating losses out of tax revenues, and the near-total lack of regulation of such services when provided over either wires or unlicensed spectrum.

There is little if anything that the Commission can do about any of these matters except to recognize that even if the Commission does all it can to level the playing field, it will still remain tilted against the ILECs if tax-supported and tax-exempt government entities compete against heavily taxed ILECs.

Universal Service

1. Do the universal service goals articulated in 1996 remain valid in 2005?

Frontier's response: Yes. Now is the time to implement the fourth principle: "Providers in like circumstances should be subject to like regulation." Given the level of intermodal competition in the marketplace, the appropriate response is not to increase regulation of lightly regulated providers, but to decrease regulation of heavily regulated providers.

2. Our view that "basic service" should be periodically re-evaluated appears appropriate in view of the expanding use of and reliance on high speed and wireless telecommunications capabilities. Does the existing definition of "basic service" remain appropriate in today's environment?

Frontier's response: No. As described above, given the intermodal options available in the marketplace, a "basic service" should be defined as a single residential line without features that is not part of a bundle of other regulated or unregulated services. Where customers elect to purchase additional lines, features, or services, the formerly "basic" component of such service should no longer be treated as basic in recognition of the fact that all such bundles and combinations are subject to competition, and even the most basic of dial tone services provided by intermodal competitors are not subject to regulation.

- 3. Although, to date, we have not found a need to establish a universal service funding mechanism to ensure generally affordable rates in "high cost" areas of the state, does that conclusion remain valid as traditional revenue streams are challenged by growing competition, technological advancement, and evolving intercarrier compensation arrangements?**

Frontier's response: A state universal service fund might be desirable if it could be implemented in a purely competitively neutral manner. However, given the lack of Commission jurisdiction over most wireless, cable, VoIP and other broadband and dial tone competitors, it is impossible to implement a universal service fund in a competitively neutral manner unless there are significant changes in both federal and state law. A new fund that is not competitively neutral would tilt the playing field in the wrong direction, because its financial requirements would fall most heavily on the ILECs that are experiencing the highest level of competition. Creating a new fund based mostly on contributions from a subset of the competitors in the most competitive markets would harm, not benefit, competition.

Frontier, however, does not oppose the continuation of the Targeted Assistance Fund (TAF), which is a kind of universal service fund. The TAF provides valuable public benefits, but the Commission should understand that it tilts the playing field because of the lack of intermodal provider contributions. However, the Commission should stand ready to eliminate even this funding requirement if its inequities become too severe to sustain in a competitive market.

4. What approaches should we pursue to ensure the continued availability of affordable basic telecommunications service to all consumers in New York?

Frontier's response: Frontier submits that its proposal assures the continued availability of affordable basic telecommunications service. This proposal strikes an appropriate balance between regulatory flexibility and consumer protection in the face of accelerating intermodal competition by relaxing the regulation of optional and bundled services while maintaining protection for consumers who only purchase a basic telephone line.

Market Power and Regulatory Flexibility

1. The basic issue confronting us today is, given the proliferation of intermodal competition and choices for consumers, what is the appropriate role of the regulator in preventing market power abuses? More particularly, is there sufficient actual and potential competition for retail telecommunications service, including residential basic local telephone service, to prevent a firm from raising its price or providing poor quality service without suffering commensurate competitive losses?

Frontier's response: As described above, the competitive market in New York State is extremely robust and mature. That market has produced strong, relevant and self-

sustaining customer and competitive protections whose power makes continuation of most regulatory protections unnecessary and in many cases undesirable. The state and federal law books are full of antitrust, trade practice and other consumer protection statutes and regulations that apply if the marketplace fails to prevent abuse. Frontier's regulatory reform proposal provides a safety net for basic residential customers, including pricing and service quality protections as well as Commission complaint jurisdiction, thus ensuring against abuse of basic service customers. No additional regulation is required or desirable.

2. **What measure of competition should we consider when determining whether retail pricing flexibility is appropriate? Can the Department's competitive index be used for this purpose?**

Frontier's response: See Frontier's response to #5, below.

3. **Are the criteria and assigned weights in the Department's competitive index reasonable? In particular, is the VoIP telephone weight reasonable in light of current carrier policies concerning the availability of stand-alone broadband?**

Frontier's response: See Frontier's response to #5, below.

4. **Can price levels from competitive areas serve as a first level gauge of reasonableness for prices in non-competitive areas?**

Frontier's response: See Frontier's response to #5, below.

5. **How do we define competitive versus non-competitive areas/markets?**

Frontier's response to 2, 3, 4 and 5: Frontier urges the Commission not to apply any mechanical index of competition. An index can be tweaked and manipulated until it produces the result desired by its user. No one can credibly dispute that New York State's markets are robustly and irrevocably competitive. Other states, on far less evidence and with far less competition, have implemented far reaching regulatory relief with no adverse effects. New York State should not just follow their example, but should seek to lead in that effort, given that its markets are by every measure the most competitive in the world.

If, however, the Commission insists on a more granular measure of competition, Frontier proposes a very simple test: a rate center should be considered competitive, and Frontier's proposed alternative regulatory plan should apply, if there is at least one of the following competitors in the rate center: (1) a facilities-based retail broadband service provider (e.g., cable modem, broadband over power line, WiMAX, or WiFi); (2) a wireless service provider; or (3) a CLEC delivering dialtone services via its own switching facilities.

6. Should we allow rates in less densely populated areas to increase to their underlying cost levels?

Frontier's response: Frontier's plan allows market forces to set rates for non-basic services, including service bundles. Frontier believes that with the decreasing costs and increasing bandwidths of new technologies and the acceleration of intermodal market entry, the market will cause rates for non-basic services in all parts of the State to decline. This, however, should not be something that the Commission should "allow" or "deny." Market forces should set the prices of competitive services.

For basic services, Frontier's proposal is to allow ILECs to elect either Frontier's price cap proposal or the continuation of their current regulatory pricing regime. Under the price cap proposal, basic service prices would not increase for the next 5 years above the higher of an ILEC's existing price or the relevant Verizon New York price, plus or minus changes in the Consumer Price Index, and rate balancing as set forth in Section III.A.1.ii, above.

Service Quality

1. How should we adapt our service quality regulation to the marketplace realities?

Frontier's response: The Commission should replace its existing service standards with a single measurement of "justified" complaints for each ILEC. The Commission should amend its current complaint process to quantify "justified" complaints in order to avoid creating incentives for competitors to game the system by filing bogus complaints. Even this level of regulation and monitoring goes beyond the nonexistent requirements applicable to ILECs' intermodal competitors. However, the current Complaint rate measurement is not excessively burdensome, and if modified to quantify "justified" complaints, it could serve as a minimally intrusive means for the Commission to continue to monitor the overall level of ILECs' service quality.

2. Are output-oriented performance measures still valid as a means of informing consumer choices, and, if so, should they be expanded to include all modes (wired and wireless, VoIP and cable telephony)?

Frontier's response: No. Performance measures cannot inform consumer choices if most of the competitors in the marketplace do not provide these measures. Thus, this question raises a moot point. The Commission cannot currently regulate wireless, VoIP or most cable telephony providers. Unless and until that situation changes, the Commission should apply its competitive principle that like competitors should be regulated alike, and remove restrictions on ILECs that do not apply to their intermodal competitors.

It is also far from clear that the Commission's current performance measures track the performance factors for which consumers are actually willing to pay. Matching performance to consumer expectations and prices is a function of a competitive market, not a function that can be accurately performed by regulation.

- 3. Should proactive service quality performance oversight and enforcement of whatever breadth be limited to less competitive markets or geographic areas? More importantly, indeed critically, how can this be done in a manner that ensures the overall reliability of the underlying inputs, the interconnected networks themselves?**

Frontier's response: The competitive marketplace is virtually ubiquitous throughout New York State and will enforce consumers' service quality requirements. Frontier submits that the Commission should maintain service quality reporting by ILECs only through the Commission complaint rate.

- 4. Regulatory reform in the area of telecommunications service quality must not compromise the state's economic well-being, security, or safety. How is this done in other critical infrastructure areas (e.g., transportation), and how do those experiences inform us?**

Frontier's response: Frontier offers no comment on this question.

- 5. Is our performance-centric approach appropriate in an era of intermodal competition, where other service providers (e.g., wireless VoIP) are not subjected to our regulation?**

Frontier's response: No. Regulating one competitor and not others providing functionally the same services damages competition.

- 6. If our service quality regulation and reporting were extended to all modalities (wireline and wireless) and all providers (e.g., VoIP and cellular), what, if any, legal constraints apply to extending basic service quality regulation to all modalities?**

Frontier's response: The Commission has been prohibited from regulating VoIP by a Federal court decision²⁷ and a preemptive FCC order.²⁸ VoIP-over-cable services appear to be covered by these decisions. Public Service Law §5(6) deregulates cellular providers and there is federal preemption of some state regulation (of entry and rates) in this area as well.²⁹ Unless and until these restrictions are removed, this question is moot. The Commission should apply its competitive principle that like competitors should be regulated alike, and remove restrictions on ILECs that do not apply to their intermodal competitors.

- 7. Should we modify, relax, or eliminate performance-based standards in competitive markets?**

²⁷ *Vonage Holdings Corp. v. NY State Public Service. Comm'n*, 04 Civ. 4306 (CFE) (S.D.N.Y. July 6, 2004) (order of Magistrate Judge Eaton entering a preliminary injunction).

²⁸ WC Docket No. 03-211, *Vonage Holding Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, Memorandum Opinion and Order, 19 FCC Rcd 22404 (2004), appeal pending, *National Ass'n of State Util. Consumer Advocates v. FCC*, No. 05-71238 (9th Cir. Filed Feb. 22, 2005).

²⁹ 47 U.S.C. §332(c)(3).

Frontier's response: Yes. See responses to items 3 and 5 above. As discussed above, detailed performance standards established by a regulator, particularly when applied to only a subset of competitors in a market, can only serve to damage competition. Consumers will let providers know what performance is required by voting with their pocketbooks and their feet.

8. Are performance standards essential to ensure that consumers have access to a reliable, seamless network of networks and, if so, should they be changed?

Frontier's response: No. See responses to items 3 and 5 above. The market will establish not only price but also the level of performance. For example, there is no need for regulators to determine how clear a television picture should be, or how effectively a lawnmower cuts grass. Companies providing insufficient service will naturally fall by the wayside as the market evolves. Companies with a good reputation for telecommunications quality, as in the television and lawnmower businesses, will tend to succeed.

9. Is reporting based on size still relevant? Should we focus our reporting requirements on less competitive markets or geographic areas?

Frontier's response: No. Differential reporting requirements based on the size of the ILEC make no sense when the greatest level of competition by unregulated providers is taking place in the service territory of the largest ILECs. Reporting requirements should be limited to the Commission complaint rate.

10. Should we continue to allow an exception for carriers that provide service solely by repackaging or reselling another carrier's service?

Frontier's response: Yes, the exemption for resellers should remain in place. There is no reason to increase regulatory requirements applicable to any carrier.

11. Should all carriers be held to a threshold standard for service?

Frontier's response: No, there should be no threshold service requirements. The Commission does not have the jurisdiction to impose them on the entire marketplace, and imposing such requirements on only ILECs only serves to damage competition and tend to make ILECs economically nonviable. See also responses to items 2, 3, 5 and 6 above.

12. Are the customer trouble report rate ("CTRR") measures still reflective of the quality of service provided to consumers?

Frontier's response: See Frontier's response to #15, below.

13. Are there other more relevant measures than the CTRR?

Frontier's response: See Frontier's response to #15, below.

14. Should a periodic survey of customer satisfaction be used?

Frontier's response: See Frontier's response to #15, below.

15. Is our Public Service Commission (“PSC”) Complaint Rate Level still relevant?

Frontier’s response: [Response to 12 – 15] The Commission should discontinue the CTRR and customer satisfaction surveys along with the other service standard measures but retain the PSC Complaint Rate Level (modified to track “justified” complaints). The CTRR and other similar technical measures are meaningless to help consumers choose their carriers when most intermodal competitors do not report them. Customer satisfaction surveys are expensive, fraught with the possibility of error, and again do not apply to unregulated service providers. See also response to item 5 above.

16. Should we maintain and expand our Commendation Program for excellent service?

Frontier’s response: Frontier supports the continuation of a Commendation Program provided that it is based solely on the Commission complaint rate, not on other service standards measures.

17. Parts 602 (Consumer Relations and Operations Management) and 603 (Service Standards) were streamlined in 2000 to better reflect the competitive environment; should these regulations be re-examined in light of the changing market? Is additional streamlining needed?

Frontier’s response: Yes. Part 602 (Consumer Relations and Operations Management) should be repealed except for basic single line unfeatured residential dial tone service. ILECs’ intermodal competitors do not follow these rules. Part 603 should be repealed and replaced by a single Commission complaint measurement. See also responses to items 3 and 5 above.

18. **In 1996, we emphasized our duty to know how the state’s telecommunication infrastructure varies by region, how that infrastructure compares with the rest of the world’s, and how effective competition is in providing services demanded by consumers. The primary vehicle for gathering this information is our requirement for local exchange carriers (LECs) to submit annual construction budgets. Is this information still needed? If so, should it be modified in some fashion? Are there more relevant indicators that we should monitor? Are capital dollars still relevant or should we only consider benchmarks and outputs? Should intermodal competitors contribute data in order for us to gauge the robustness of telecommunication infrastructure in the state?**

Frontier’s response: The monitoring of construction budgets is a form of “input” regulation that should be terminated. In a competitive marketplace, such regulation has no place. Reports of the amounts being invested in regulated services by ILECs are becoming meaningless, because they do not capture data regarding the unregulated services of the ILECs or their unregulated intermodal competitors that are fully substitutable for Plain Old Telephone Service. ILEC construction budget filings do not measure the robustness of the State’s telecommunications infrastructure. This information is no longer needed.

Level Playing Field

1. **Recognizing that federal law plays a significant role in numbering administration, should the numbering principles referred to above be equally applicable to new, IP-based numbering solutions?**

Frontier’s response: Numbering administration should continue to be administered federally, to ensure a seamless network of networks. Frontier anticipates that the

Commission will continue to play an important role in number conservation and the institution of new area codes. It is too soon to attempt to make determinations about how IP-based numbers may work or should be administered.

2. Do we need to implement additional number optimization measures in light of the potential demand for numbers by new competitors?

Frontier's response: Frontier urges the Commission to "stay the course" with respect to number conservation and to be prepared to be flexible if additional numbers are required. To the extent that "follow me, find me" services become widespread, the need for unique telephone numbers for every telephone device and location may actually decline.

3. Are the numbers and listing information of IP-based subscribers available generally at reasonable terms, or is this a new bottleneck?

Frontier's response: Frontier is unaware of any bottlenecks with respect to telephone numbers or listings of IP-based subscribers.

4. Are IP-enabled providers able to access the information they require from telephone, cable, and wireless sources to support efficient management of their operations?

Frontier's response: Frontier is unaware of significant problems experienced by such providers in obtaining necessary information.

5. Do gaps in the availability of number portability represent an impediment to choice?

Frontier's response: Number portability is not a bottleneck. All of Frontier's New York exchanges are already portability-capable. If there are any non-portable local exchange

carrier or CMRS numbers anywhere else in the State, any telecommunications carrier may require the exchange to become portable on six months' notice.³⁰

6. Are routing and rating information routinely exchanged, or are carriers exerting dominance to obscure the information necessary to ensure appropriate compensation and efficient network management?

Frontier's response: Unbillable "phantom traffic" is a serious problem for New York State ILECs. It is not a result of "dominance" but instead a result of traffic routing through multiple carriers in such a way that intentionally or unintentionally the terminating ILEC is receiving large quantities of terminating traffic for which it is difficult or impossible to identify and bill, where appropriate, the originating carrier. This issue has little to do with increasing competition, except to the extent that unscrupulous carriers may have an economic motivation to hide their responsibility for paying terminating access or reciprocal compensation charges.

7. Have the FCC's recent rule changes restored an appropriate balance for facilities-based provision or is there more we should and could do?

Frontier's response: The playing field is still tilted against the ILECs and there is not yet an appropriate balance between competitors and ILECs. The FCC's rules on intercarrier compensation, including reciprocal compensation payable to and by facilities-based local competitors, require significant reform, as the FCC has recognized in its current

³⁰ 47 CFR §§52.23(c), 52.31(a).

rulemaking on this subject³¹. The FCC's rules on Unbundled Network Elements continue to tilt the playing field against ILECs with respect to carriers that are partially but not wholly facilities-based. Frontier at this time has no specific suggestions for the Commission to remedy these situations except to take what steps it can within its own jurisdiction to level the playing field.

- 8. How has the playing field leveled for the state's smaller incumbent carriers? In our original order, we implemented a modified version of the "joint proposal" originally offered by the New York State Telephone Association. That proposal envisioned a gradual change in the relationship among local carriers, under which the incumbents would all gradually transition to a common basis for exchange of traffic and intercarrier compensation that would be symmetrical with the state's competitive local exchange carriers. How is the transition proceeding?**

Frontier's response: In the past several years, steps have been taken to eliminate EAS settlements between Verizon and the Independents and, for the few remaining carriers receiving the payments, the settlements will be phased-out in the near term. In addition, the Independents all exchange traffic with CLECs and compensate each other on a symmetrical basis. Specifically, traffic exchanged between an Independent and a CLEC operating in a Verizon exchange which is EAS to the Independent's exchange is accomplished as it is done between the Independent and Verizon directly. The only differences that arise are when virtual NXX codes are used by the CLEC or the billing records have been altered by another provider (phantom traffic). In these cases, the traffic

³¹ CC Docket No. 01-92, *Developing a Unified Carrier Compensation Regime*, Further Notice of Proposed Rulemaking, ¶¶5-28 (released Mar. 3, 2005).

is exchanged, but any problems with compensation are due to the incompleteness or alteration of the billing records.

9. Where market dominance persists or emerges for bottleneck facilities or functions that are critical for fair competition, active government oversight must exist. Are the Commission's processes adequate to remedy potential bottleneck issues?

Frontier's response: Under Frontier's proposal, the Commission will retain its oversight over the interconnection of carriers pursuant to Public Service Law §97(3) and the Telecommunications Act of 1996. These statutes provide adequate remedies for any remaining potential bottlenecks of facilities or functions. There should be no bottlenecks as long as traffic flows seamlessly among carriers.

VI. CONCLUSIONS.

Accelerating intermodal competition has developed in the telecommunications industry in ways unforeseen by either the participants in the marketplace or the regulators as recently as 5 years ago. The increasing capability and decreasing costs of telecommunications technology guarantee that competition will only increase for the foreseeable future. Most of the new service providers competing with ILECs are not regulated and cannot be regulated by the Commission unless there are sweeping changes in federal and state law. Regulation must adapt to these new realities. It no longer protects consumers to regulate ILECs in the current manner. It hurts consumers to hamstring ILECs with outdated economic, technical and reporting requirements that only serve to make ILECs less agile and more costly.

With great foresight the Commission allowed for the possibility of this situation in 1996, when it adopted its fourth competitive principle: “Providers in like circumstances should be subject to like regulation.” Now that a significant portion of the market is wholly unregulated, it is time to significantly relax regulation of the ILECs. Frontier submits that its regulatory reform proposal strikes a balance between the total lack of regulation enjoyed by its major competitors and the need to ensure adequate and reasonably priced basic service for all New York consumers. Frontier has tailored its proposal to steps the Commission may take without changes in state or federal statutes or in FCC regulation.

Frontier views these measures as only the first appropriate steps. Even if the Commission implements all of Frontier’s recommendations, the playing field will still be tilted alarmingly against the ILECs, due to the remaining layers of state and federal regulation and inequities of taxation. Frontier therefore respectfully requests the Commission adopt the

regulatory reforms set forth in these Comments immediately, and that the Commission subsequently examine what additional reforms are appropriate as competition accelerates into the future.

Respectfully submitted,



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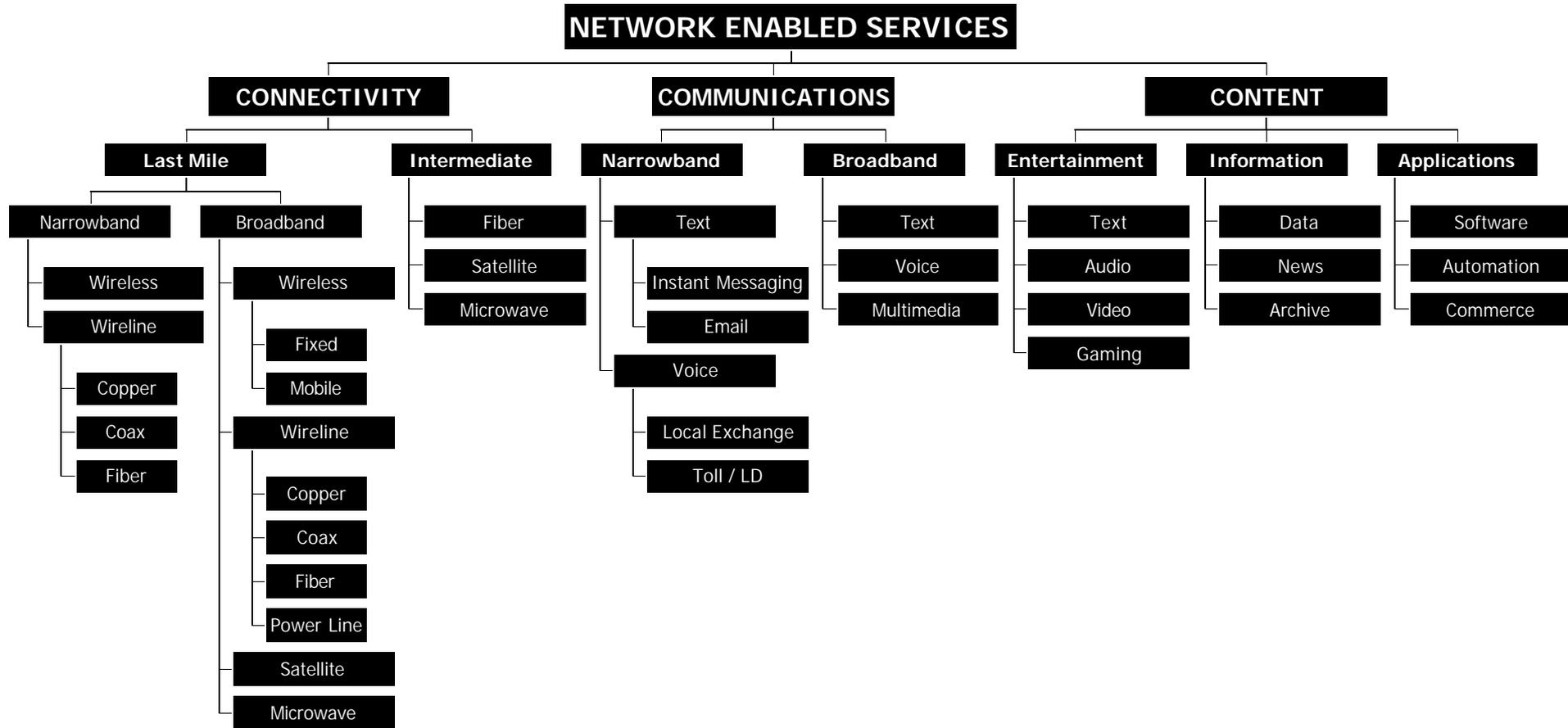
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DATE: August 15, 2005

Exhibit: Network Enabled Services



Local Exchange is just one small component of Network Enabled Services

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BY OVERNIGHT MESSENGER

August 12, 2005

Honorable Jaclyn A. Brillling
Secretary
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Three Empire State Plaza
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RE: Case 05-C-0616: Transition to Intermodal Competition in the Provision of Telecommunications Services:
Comments of Frontier Communications

Dear Secretary Brillling:

Enclosed for filing please find the Comments of Frontier Communications in the above-referenced case.

Very truly yours,



Gregg C. Sayre
Associate General Counsel

GCS/hmj
Encl. (original and 15 copies)

cc: All parties on the attached service list (via e-mails to be sent 8/15/05)

**CASE 05-C-0616
ACTIVE PARTY LIST
(As of August 3, 2005)**

PRESIDING

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