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WIRELINE COMPETITION BUREAU APPROVES FRONTIER COMMUNICATIONS COMPLIANCE PLAN

WC Docket Nos. 12-61, 07-204, 07-21

On May 17, 2013, the Commission conditionally granted forbearance to price cap carriers from the "Cost Assignment Rules" that generally require carriers to assign costs to build and maintain the network, and revenues from services provided, to specific categories.[1] The grant of forbearance from these rules for a particular price cap carrier was conditioned on the Wireline Competition Bureau (Bureau) approving a compliance plan to be filed by such carrier electing to take advantage of the forbearance, and the approval of the related information collection under the Paperwork Reduction Act (PRA).[2] In the same order, the Commission conditioned the grant of forbearance from the filing requirement of Automated Reporting Management Information System (ARMIS) Report 43-01, the "Annual Summary Report," on Bureau approval of the compliance plan.[3]

[1] *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations,* WC Docket No. 12-61*,* Memorandum Opinion and Order, 28 FCC Rcd 7627, 7646-54, paras. 31-51 (2013) (*USTelecom Forbearance Long Order*), *pet. for rev. denied sub nom. Verizon v. FCC,* 770 F.3d 961 (D.C. Cir. 2014). The Commission granted this conditional forbearance to price cap carriers other than AT&T, Qwest, and Verizon, which were granted forbearance from the Cost Assignment Rules previously. *See id.* at 7647-48, para. 35.

[2] *Id*. at 7651-52, paras. 42-46. These conditions require: Bureau approval of a compliance plan describing how the carrier will continue to fulfill statutory and regulatory obligations and meet the forbearance conditions; the maintenance of part 32 Uniform System of Accounts (USOA) rules and data; annual certification of compliance with section 254(k) of the Communications Act of 1934, as amended (Act); and the filing of an access imputation plan if the price cap carrier plans to provide in-region long distance service without the separate affiliate required by section 64.1903 of the Commission's rules. *See id; see also* 47 C.F.R. § 64.1903. The Commission obtained PRA approval from the Office of Management and Budget on March 24, 2014 for the information collection associated with the conditions of forbearance from the Cost Assignment Rules, to enable the forbearance to take effect. *See* Notice of Office of Management and Budget Action for OMB Control No. 3060-1195 (Mar. 24, 2014).

[3] *USTelecom Forbearance Long Order,* 28 FCC Rcd at 7676, para. 108. Forbearance for a price cap carrier from this ARMIS report is also conditioned on the carrier's continued annual public filing with the Commission of pole attachment data currently submitted in ARMIS Report 43-01. *Id.* We remind Frontier that the Commission has not granted forbearance to any carrier with respect to ARMIS Report 43-08, Table III, Columns FC, FD, and FE (line count information) and Column FI (growth in access line information).

On March 15, 2015, Frontier Communications (Frontier) filed its Compliance Plan with respect to three of the four conditions for forbearance from the Cost Assignment Rules.[4] Frontier states that its plan is applicable to all of its local exchange carrier affiliates, with the exception of former Verizon and A&T subsidiaries that have already received approval of their forbearance plans.[5] Frontier asserts that its plan resembles those previously filed by AT&T, Verizon, Qwest, CenturyLink, and Windstream, all of which have been approved.[6] No comments were filed regarding Frontier's Compliance Plan.[7]

After review of Frontier's Compliance Plan, the Bureau finds that Frontier appropriately addresses in its Compliance Plan the conditions that are required for the requested forbearance, as discussed below, and the Bureau therefore approves the plan. Frontier's plan is similar to other price cap carrier plans that have been approved as sufficient to support requested forbearance relief.[8] First, Frontier's plan describes in detail how it will continue to fulfill its statutory and regulatory obligations and the conditions of forbearance through a new framework in the absence of the Cost Assignment Rules.[9] In addressing the second forbearance condition, which requires Frontier to continue complying with part 32 USOA rules, Frontier's plan provides a five-part explanation of how the carrier intends to satisfy this requirement.[10] Frontier explains that it "will continue to maintain USOA books of account that include account-specific investment, expense and revenue data for Part 32 accounts," and that these data will remain available for inspection by the Commission.[11] Further, Frontier describes how it plans to provide cost allocation information if the Commission requests it in the future.[12]

Next, Frontier explains how it will fulfill a third condition of the forbearance, which requires that it certify, on an annual basis, that it complies with section 254(k) of the Act, and will maintain and

[4] Letter from AJ Burton, Director, Federal Regulatory Affairs, Frontier Communications, to Julie Veach, Chief, Wireline Competition Bureau, FCC, WC Docket Nos. 12-61, 07-204, 07-21 (filed Mar. 15, 2015) (Compliance Plan).

[5] *Id.* at 1. Frontier notes that Verizon and AT&T, each on behalf of itself and its affiliates, previously filed compliance plans in connection with similar forbearance relief granted to AT&T and Verizon in 2008. The Commission approved these compliance plans on December 31, 2008. *See Wireline Competition Bureau Approves Compliance Plans*, WC Docket Nos. 07-21, 07-204, 07-273, Public Notice, 23 FCC Rcd 18417 (Wireline Comp. Bur. 2008).

[6] Compliance Plan at 1.

[7] *See Comment Dates Set on Frontier Communications Compliance Plan for Forbearance Relief from Cost Assignment Rules*, WC Docket Nos. 12-61, 07-204, 07-21, Public Notice, 30 FCC Rcd 3771 (Wireline Comp. Bur. 2015).

[8] *See, e.g.*, *Wireline Competition Bureau Approves CBT Compliance Plan,* WC Docket Nos. 12-61, 07-204, 07-21, Public Notice, 30 FCC Rcd 2323 (Wireline Comp. Bur. 2015)*; Wireline Competition Bureau Approves Windstream Compliance Plan,* WC Docket Nos. 12-61, 07-204, 07-21, Public Notice, 29 FCC Rcd 10093 (Wireline Comp. Bur. 2014); *Wireline Competition Bureau Approves CenturyLink Compliance Plan,* WC Docket Nos. 12-61, 07-204, 07-21, Public Notice, 29 FCC Rcd 3158 (Wireline Comp. Bur. 2014).

[9] *See* Compliance Plan *passim*; *see also USTelecom Forbearance Long Order,* 28 FCC Rcd at 7652, para. 46.

[10] *See* Compliance Plan at 3-5; *see also USTelecom Forbearance Long Order,* 28 FCC Rcd at 7651, para. 43.

[11] Compliance Plan at 3.

[12] *See id.* at 3-5 (also noting how Frontier will handle affiliate transactions under section 32.27 of the Commission's rules, 47 C.F.R. § 32.27, which was included in the grant of forbearance from the Cost Assignment Rules).

provide any requested cost accounting information necessary to prove such compliance.[13] In support of this condition, Frontier includes its first annual certification with its Compliance Plan.[14]

Lastly, Frontier explains that its Compliance Plan does not contain commitments concerning the fourth condition because it is not seeking to take advantage of forbearance from section 64.1903 of the Commission's rules.[15] Section 64.1903 requires that an independent incumbent LEC providing in-region long distance services do so through the use of a separate affiliate. This rule reduces the need to allocate costs between long distance and other services, although it does not eliminate the need for cost allocation entirely. For example, section 64.1903 bars the joint ownership of facilities by the long distance affiliate and other operations, but permits sharing of personnel.[16] Frontier's Compliance Plan explains how it will handle cost allocation and affiliate transaction issues in the absence of the Cost Assignment Rules, and how its plan addresses those issues with regard to the separate affiliate rule.[17] Should Frontier later decide it wishes to take advantage of forbearance from this rule and provide in-region long distance service without a section 64.1903 separate affiliate, Frontier must, as it proposes, file a separate compliance plan then, subject to Bureau approval, addressing the conditions to that relief, including the requirement that it describe the imputation methodology it will use, similar to access imputation plans previously filed by the Bell Operating Companies related to section 272 of the Act.[18]

Accordingly, the Bureau finds that Frontier's Compliance Plan satisfies the necessary conditions associated with forbearance from the Cost Assignment Rules, with the exception of the condition involving the affiliate transaction rule, as discussed above. Thus, we approve this Compliance Plan, and Frontier will have forbearance relief from all the Cost Assignment Rules effective immediately.[19] Should Frontier later wish to take advantage of forbearance relief from the affiliate transaction rule in section 64.1903, Frontier must submit a compliance plan explaining compliance with that condition in accordance with the terms of the *USTelecom Forbearance Long Order*.[20]

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[13] *See id.* at 5-6; *USTelecom Forbearance Long Order,* 28 FCC Rcd at 7652, para. 45 ("This condition is necessary to ensure compliance with the language of the Act that prohibits a telecommunications provider from 'us[ing] services that are not competitive to subsidize services that are subject to competition.'") (citing 47 U.S.C. § 254(k)).

[14] Compliance Plan at 8.

[15] *Id.* at 2 n.8. The condition required for forbearance from section 64.1903 is that independent price cap carriers seeking to take advantage of forbearance from the Cost Assignment Rules "file access imputation plans similar to those previously filed by the BOCs [Bell Operating Companies] if the independent price cap carriers plan to provide in-region long distance service without a section 64.1903 separate affiliate." *USTelecom Forbearance Long Order,* 28 FCC Rcd at 7651, para. 44. The fourth condition is thus applicable only if an independent price cap carrier seeks to take advantage of forbearance from both the Cost Assignment Rules and section 64.1903. In order to be able to provide long distance service without a separate affiliate, Frontier would have to satisfy certain requirements established in the *USTelecom Forbearance Long Order* for forbearance from section 64.1903, including filing imputation access charge plans. *Id.* at 7651, para. 44, 7691, para. 142. But since Frontier is not presently proposing to avail itself of this forbearance relief, we agree with Frontier that it need not at this time satisfy the fourth condition.

[16] 47 C.F.R. § 64.1903(a)(2).

[17] Compliance Plan at 2 n.8.

[18] *See id*. (citing *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7691, para. 142); *see also* 47 U.S.C. § 272 (separate affiliate requirements for certain Bell Operating Company activities).

[19] *See USTelecom Forbearance Long Order,* 28 FCC Rcd at 7652, para. 46, 7747, Appx. B (listing all the Cost Assignment Rules for which conditional forbearance was granted).

[20] *See id.* at 7651, para. 44, 7691, para. 142.