

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint and	:	
Investigation of Staff of the Public	:	Case No. 19-1582-TP-COC
Utilities Commission of Ohio,	:	
	:	
Complainant,	:	
v.	:	
	:	
Frontier North Inc.,	:	
	:	
Respondent	:	

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**MEMORANDUM CONTRA OF FRONTIER NORTH INC. TO THE MOTION OF THE  
COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO/CLC TO INTERVENE**

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Pursuant to Ohio Adm. Code 4901-1-12(B), Respondent Frontier North Inc. (“Frontier”), files its memorandum contra to the Communications Workers of America, AFL-CIO (“CWA” or “Union”) Motion to Intervene.

**INTRODUCTION**

On August 14, 2019, Commission Staff (“Staff”) filed a Complaint against Frontier alleging violations of the Ohio Revised Code and the Ohio Administrative Code regarding the basic local exchange service (“BLES”) being provided to Frontier’s customers in Ohio. Frontier filed its answer to the Complaint on September 9, 2019.

CWA has been aware of the Staff’s Complaint for many months. In fact, CWA filed a public comment in this very docket, making essentially the same substantive arguments, on October 21, 2019 – nearly four (4) months ago. *See* Exhibit A (October 21, 2019 letter of all CWA Local Presidents to Chairman Randazzo) and Exhibit B (November 1, 2019 response of Frontier’s Robert E. Stewart). CWA could have – but did not – seek intervention at that time.

By contrast, over five (5) months ago, the Office of the Ohio Consumers' Counsel ("OCC") actually *did* timely move to intervene in this matter. Thereafter, Frontier and Staff included the OCC on several meetings and correspondence, designed to find a mutually acceptable plan and proposal, with the goal of submitting a stipulation for the Commission's review and determination. Staff, OCC and Frontier are near the final stages of those negotiations.

The scheduling order required motions to intervene to be filed by January 27, 2020. CWA did not file its motion to intervene until February 4, 2020. Not only did CWA do nothing since filing its public comment, but CWA also did not comply with the scheduling order. No extraordinary circumstances justify CWA's late motion. Absent such circumstances, the Commission's rules require that CWA's motion be denied.

In addition, CWA's thinly disguised motive for intervention is to further labor and employment agenda with Frontier in a manner that it has not achieved in collective bargaining. If CWA is permitted to intervene as a party, undue delay and prejudice will certainly follow. The Commission should not allow CWA's delay to further prolong these proceedings for what really amounts to CWA's interest in furthering its labor relations agenda with Frontier.

### **ARGUMENT**

**A. CWA's motion to intervene should be denied as CWA has not shown extraordinary circumstances and good cause warranting intervention.**

Ohio Revised Code § 4903.221 provides that the Commission, in its discretion, may grant motions to intervene for "good cause" shown. (R.C. § 4903.221.) The Commission has set a high bar for untimely motions to Intervene: "A motion to intervene which is not

timely will be granted *only under extraordinary circumstances.*” (O.A.C. Rule 4901-1-11(F) (emphasis added).)

CWA’s only argument that “extraordinary circumstances” exist is CWA’s assertion that it was not in a position by January 27, 2020 to identify witnesses with pertinent, first-hand knowledge of issues under review in this matter. (Motion, at 3.) However, CWA’s own public comment, filed in October 2019, belies CWA’s contention that it could not have complied with the scheduling order.

CWA’s public comment was signed by eight individuals, all of whom represented that they were Presidents of Local CWA chapters in Ohio. CWA local Presidents indicated that they represented “Frontier technicians and other titles in the state of Ohio.” (CWA Public Comment, at 1.) In the public comment, CWA local Presidents also stated that “[a]s elected representatives and Frontier employees, we have day-to-day experience with the company’s business decisions and how they impact our communities.” (*Id.*) Hence, nearly four (4) months ago, CWA had, by its own assertions, at least eight individuals with purported knowledge of the issues under review in this matter. Those individuals, in turn, claimed to represent the interests of Frontier technicians and employees – who allegedly would support their claims. CWA could have, but failed to, intervene then. It does not state extraordinary circumstances that would justify its late attempt to do so now. CWA’s untimely motion therefore should be denied.

**B. CWA’s late intervention will result in undue delay and prejudice.**

Frontier and Staff have worked productively on a concrete and specific plan to improve service. Over the past several months, OCC has participated in those discussions. Frontier

believes that these efforts are likely to result in a stipulation to be presented to the Commission in the near future.

CWA's interest in intervention is to further its labor and employment agenda with Frontier in a manner in which it has not achieved in collective bargaining. If the CWA is permitted to intervene, undue delay and prejudice will certainly follow. The CWA has every interest to hold any settlement hostage in order to achieve ends that it did not achieve in appropriate forums. If it wanted to intervene, it should and could have done so long ago. The Commission should not allow CWA's late filing to jeopardize the very real possibility of an agreed-upon settlement and resolution that will benefit the public interest now. Accordingly, the Commission should deny CWA's late motion to intervene.

### **CONCLUSION**

For the above reasons, CWA has failed to show extraordinary circumstances justifying its late motion to intervene. Moreover, granting the CWA's motion would cause undue delay in a prompt resolution of this matter. Therefore, the CWA's motion should be denied

Respectfully submitted,

/s/ Michele Noble

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*Counsel for Frontier North Inc.*

Dated: February 18, 2020

## **CERTIFICATE OF SERVICE**

Pursuant to the Commission's Rules the undersigned hereby certifies that a copy of the foregoing was filed electronically on February 18, 2020. A copy of the same was submitted to the following via email the same day.

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Summary: Memorandum Contra to CWA's Motion to Intervene electronically filed by Michele L Noble on behalf of Frontier North Inc.