

FILE

IN THE PUBLIC UTILITIES COMMISSION OF OHIO

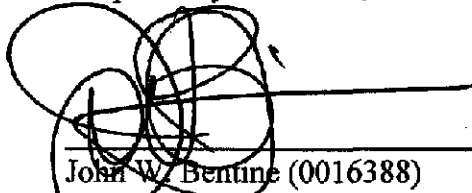
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In the Matter of the Application of : TRF Docket No. 90-5023-TP-TRF
Frontier North, Inc. to add a New : Case No. 10-1419-TP-ZTA
Service to its Tariff. :

**COMMENTS AND OBJECTIONS
OF THE VILLAGE OF MINSTER, OHIO**

On September 23, 2010, Frontier North Inc. (hereinafter "Frontier"), a public utility, telephone company and local exchange carrier under section 4905.02 of the Ohio Revised Code and chapter 4901:1-7-01 of the Ohio Administrative Code filed to add a new service to its tariff, PUCO No. 7. Now comes the Village of Minster, Ohio, by and through counsel and hereby submits its comments and objections to the application. The Memorandum in Support of Minster's comments and objections are incorporated herein by reference as if fully set forth.


Respectfully submitted,



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MEMORANDUM IN SUPPORT

Applicant, Frontier is a public utility, telephone company and local exchange carrier under section 4905.02 of the Ohio Revised Code and chapter 4901:1-7-01 of the Ohio Administrative Code. Objector, the Village of Minster, Ohio is a municipal corporation, organized and operating pursuant to the constitution and laws of the State of Ohio and located primarily in Auglaize County, Ohio. Minster is governed locally by a Mayor and Village Council, and has a population of approximately 2,800.

Recently, the Village Council has decided to proceed with a major street reconstruction of Fourth Street in Minster. Fourth Street is a major thoroughfare in Minster and is heavily travelled. As noted in Ohio Revised Code section 2744.02(B)(3), political subdivisions are liable for injury, death, or loss to person or property caused by their negligent failure to keep public roads in repair and other negligent failure to remove obstructions from public roads. Additionally, Revised Code section 4939.03(C) (1) provides that "[n]o person shall use or occupy a public way without first obtaining any requisite consent of the municipal corporation owning or controlling the public way."

In connection with the Fourth Street reconstruction, Minster has advised all utilities that currently have facilities located in the Fourth Street right of way, that in order to maintain those facilities within the right of way, such facilities must be relocated underground at the expense of the utility. Of course, all utility providers within the right of way have the option of instead placing their facilities upon private property, assuming those utility providers obtain appropriate easements and otherwise comply with applicable laws, rules and regulations.

Minster has requested that Frontier replace utility lines in approximately a six block area of Fourth Street in order to better provide for the safety of vehicular and pedestrian traffic, promote economic development and provide for the general public health, safety and welfare. Frontier has indicated to Minster that it is not willing to relocate those facilities underground at Frontier's expense, as required by Minster. Rather, Frontier believes that the taxpayers of Minster should be required to bear the expense of relocating Frontier's facilities in the right of way. Thereafter, on June 4, 2010 Minster filed a complaint for a Declaratory Judgment in the Court of Common Pleas for Auglaize County, Ohio, case number 2010 CV 0200, requesting that the Court issue an Order declaring that in order to maintain their private facilities in a public

right of way, Frontier should be required to place its facilities underground, along with all other utilities occupying the right of way, and consistent with the plan to reconstruct Fourth Street.

Nearly four months later, in response to this complaint, on September 23, 2010, without notice to the Village of Minster, Frontier filed the above referenced zero day tariff application at the Public Utilities Commission of Ohio ("Commission"), and then six (6) days later filed a motion to dismiss Minster's complaint for declaratory judgment in Common Pleas Court asserting that the court lacked jurisdiction over the matter because Frontier's tariff has established a rate, fee or charge for relocating utility lines.

Frontier has attempted to change its rates, fees and charges through a zero day tariff application, which is inappropriate. Frontier alleges in its application that the application is for a "new service, expanded local calling area, correction of textual error." However, Frontier has stated in the Court of Common Pleas, that the application "established a rate, fee or charge" which is not properly filed as a zero day tariff application. Further, Frontier's application is faulty in that Frontier did not file or attach the required Exhibit D, a copy of the notice provided to customers, along with an affidavit that the notice was provided according to the applicable rules. Frontier's failure to notify any customer, municipal or otherwise, is a fatal flaw in the application. Without notice, no customer has a reasonable opportunity to object to this significant change in rates, fees and charges. Frontier even failed to notify Minster of its tariff filing, in spite of the fact that Frontier was actively engaged in a dispute over the responsibility for relocation costs. Further, Frontier failed to notify the Commission that it was filing the tariff in a clear attempt to "create" a defense to the declaratory judgment action. These faults and omissions should be corrected, and if the application is to proceed at all, it should not proceed as a zero day tariff application. The Commission should reject the application, since to allow the application as filed would allow Frontier to alter its tariff in a manner which under the circumstances presented is unreasonable, illegal, unjust and unjustly discriminatory.

For the foregoing reasons, Minster objects to Frontier's tariff application, and is entitled to, and requests:

An order declaring that Item 2.10 of Frontier's tariff is rejected or is otherwise not effective;

An order declaring that Item 2.10 of Frontier's tariff is unjust, unreasonable, unjustly discriminatory, unjustly preferential, and/or in violation of law;

An order striking the application as filed or directing that the tariff provision as amended applies only prospectively, and directing Frontier to file an appropriate case at the Commission to set a rate, fee or charge, and directing Frontier to appropriately notify interested parties of any intent to file a docket to set a rate, fee or charge or to modify Frontier's tariff and any other relief, as are deemed proper and just.

To the extent necessary, the Commission should consider these comments and objections as an application for rehearing under R.C. §4903.10 and O.A.C. 4901-1-35 and set the case for a hearing.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'John W. Bentine', is written over a horizontal line.

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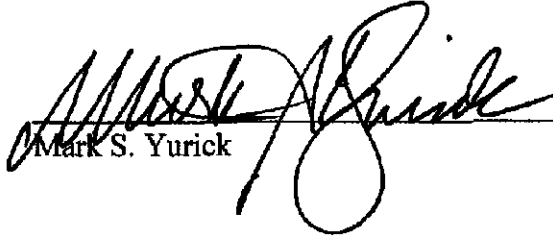
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing *Comments and Objections of the Village of Minster, Ohio* was served this 21st day of October, 2010 upon the following via electronic mail and U.S. regular mail, postage prepaid.

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