Energy and Technology Committee

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Testimony Concerning:

LCO 3920, *An Act Concerning Emergency Response By Electric Distribution Companies And Revising The Regulation Of Other Public Utilities*

Mark D. Nielsen,

Executive Vice President and Chief Legal Officer, Frontier Communications

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Chairman Needleman, Chairman Arconti, Senator Formica, Representative Ferraro, and distinguished members of the committee, thank you for the opportunity to submit testimony concerning LCO 3920, *An Act Concerning Emergency Response By Electric Distribution Companies And Revising The Regulation Of Other Public Utilities.*

Frontier recognizes the impact the loss of commercial power as a result of Tropical Storm Isaias had on consumers. Frontier appreciates the challenges facing the Committee in addressing issues related to storm restoration and the desire to make reforms in the electric industry. As written, several provisions of the legislation would extend these electric-directed reforms to, and negatively affect, Frontier as the only telecommunications provider falling under the oversight of the Public Utilities Regulatory Authority ("PURA") in certain statutes amended by this proposed legislation.

The most glaring example of this is Connecticut General Statutes Section 16-47 (which is amended in Section 8 of this bill). Amongst other things, section 16-47 requires that only certain telecommunications companies (like Frontier) obtain PURA approval for mergers, acquisitions or changes of control of the company, while other telecommunications companies (like cable providers) are wholly exempted from this requirement. In fact, Frontier currently has a petition before PURA to approve changes to its parent company corporate structure necessary to effectuate its Plan of Reorganization—confirmed by the Bankruptcy Court for the Southern District of New York on August 27, 2020—that will enable the Company to eliminate over $10 billion of debt and nearly $1 billion in annual interest payments and thereby become a financially stronger service provider and competitor. The PURA approval process for the necessary corporate structure change is already protracted and it is expected to extend well beyond the statutory deadline and delay Frontier's emergence from Chapter 11 to the detriment of the public interest and Frontier.

The disproportional and negative impact of this regulation is undeniable. In recent years Connecticut consumers have experienced *multiple major* mergers and/or acquisitions of cable companies, such as the Comcast/NBC merger, the Charter/Time Warner merger, and the acquisition of CableVision by the French firm Altice without **any** review by PURA. Just last week, Atlantic Broadband informed PURA it had acquired Thames Valley Communications. This

means that hundreds of thousands of Connecticut voice, broadband, and television customers experienced service provider changes of control in which PURA played no role.

This creates an unlevel playing field in the telecommunications market.

If telecommunications companies, like Frontier, are not exempted from the proposed changes to Section 8, the legislation would further exacerbate the already unlevel playing field in Connecticut. Exemption of telecommunications companies is also appropriate because unlike the electric distribution companies, Frontier is not a monopoly.

- Voice service from AT&T Wireless, Verizon, T-Mobile/Sprint and other wireless providers is ubiquitous.
- In fact, 91.3% of Connecticut households have at least one cellphone, and only 6.6% of households depend on wireline (i.e. service from all non-wireless providers like Charter, Comcast and Frontier) as their only phone.
- Cable providers like Comcast and Charter provide voice service to hundreds of thousands of households and businesses across the state using Voice over Internet Protocol (VoIP), which is not regulated.
- These competitors collectively provide voice service to the **vast majority** (~92%) of the voice customers in the state but are not subject to Section 8.

As a voice provider to less than 8% of voice customers in Connecticut, Frontier should not be subject to Section 8 at all. If the General Assembly moves forward on this legislation, it should expressly exempt telecommunications companies from the Section 8 extension of the 120 day timeline.

In addition, Sections 6 and 7, which apply to the electric distribution companies, also capture Frontier uniquely (and not the other telecommunications providers) and extend timelines that unreasonably impact Frontier's operations.

Frontier respectfully requests that Sections 6, 7 and 8 be amended to exclude providers such as Frontier. Frontier has included language that would resolve this issue.

Proposed Language for Sections 6, 7 and 8

Explanation: These proposed changes would retain the current time frames for all entities covered by these statute sections (like Frontier) except that it lengthens the time frames for electric distribution companies as originally proposed in LCO 3920.

Sec. 6. Subsections (a) and (b) of section 16-19 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(a) No public service company may charge rates in excess of those previously approved by the Public Utilities Control Authority or the Public Utilities Regulatory Authority, except that any rate approved by the Public Utilities Commission, the Public Utilities Control Authority or the Public Utilities Regulatory Authority shall be permitted until amended by the Public Utilities Regulatory Authority, that rates not approved by the Public Utilities Regulatory Authority may be charged pursuant to subsection (b) of this section, and that the hearing requirements with respect to adjustment clauses are as set forth in section 16-19b. For water companies, existing rates shall include the amount of any adjustments approved pursuant to section 16-262w since the company's most recent general rate case, provided any adjustment amount shall be separately identified in any customer bill. Each public service company shall file any proposed amendment of its existing rates with the authority in such form and in accordance with such reasonable regulations as the authority may prescribe. Each electric distribution, gas or telephone company filing a proposed amendment shall also file with the authority an estimate of the effects of the amendment, for various levels of consumption, on the household budgets of high and moderate income customers and customers having household incomes not more than one hundred fifty per cent of the federal poverty level. Each electric distribution company shall also file such an estimate for space heating customers. Each water company, except a water company that provides water to its customers less than six consecutive months in a calendar year, filing a proposed amendment, shall also file with the authority a plan for promoting water conservation by customers in such form and in accordance with a memorandum of understanding entered into by the authority pursuant to section 4-67e. Each public service company shall notify each customer who would be affected by the proposed amendment, by mail, at least one week prior to the first public hearing thereon, but not earlier than six weeks prior to such first public hearing, that an amendment has been or will be requested. Such notice shall also indicate (1) the date, time and location of any scheduled public hearing, (2) a statement that customers may provide written comments regarding the proposed amendment to the Public Utilities Regulatory Authority or appear in person at any scheduled public hearing, (3) the Public Utilities Regulatory Authority telephone number for obtaining information concerning the schedule for public hearings on the proposed amendment, and (4) whether the proposed amendment would, in the company's best estimate, increase any rate or charge by twenty per cent or more, and, if so, describe in general terms any such rate or charge and the amount of the proposed increase, provided no such company shall be required to provide more than one form of the notice to each class of its customers. In the case of a proposed amendment to the rates of any public service company, the authority shall hold one or more public hearings thereon, except as

permitted with respect to interim rate amendments by subsections (d) and (g) of this section, and shall make such investigation of such proposed amendment of rates as is necessary to determine whether such rates conform to the principles and guidelines set forth in section 16-19e, or are unreasonably discriminatory or more or less than just, reasonable and adequate, or that the service furnished by such company is inadequate to or in excess of public necessity and convenience. The authority, if in its opinion such action appears necessary or suitable in the public interest may, and, upon written petition or complaint of the state, under direction of the Governor, shall, make the aforesaid investigation of any such proposed amendment which does not involve an alteration in rates. If the authority finds any proposed amendment of rates to not conform to the principles and guidelines set forth in section 16-19e, or to be unreasonably discriminatory or more or less than just, reasonable and adequate to enable such company to provide properly for the public convenience, necessity and welfare, or the service to be inadequate or excessive, it shall determine and prescribe, as appropriate, an adequate service to be furnished or just and reasonable maximum rates and charges to be made by such company. In the case of a proposed amendment filed by an electric distribution, gas or telephone company, the authority shall also adjust the estimate filed under this subsection of the effects of the amendment on the household budgets of the company's customers, in accordance with the rates and charges approved by the authority. The authority shall issue a final decision on each rate filing within one hundred fifty days from the proposed effective date thereof, except that for an electric distribution company the authority shall issue a final decision on each rate filing within three hundred fifty days from the proposed effective date thereof. **[**provided it may, before the end of such period and upon notifying all parties and intervenors to the proceedings, extend the period by thirty days.**]**

(b) If the authority has not made its finding respecting an amendment of any rate within one hundred fifty days from the proposed effective date of such amendment thereof, **[**or within one hundred eighty days if the authority extends the period in accordance with the provisions of subsection (a) of this section,**]** such amendment may become effective pending the authority's finding with respect to such amendment upon the filing by the company with the authority of assurance satisfactory to the authority, which may include a bond with surety, of the company's ability and willingness to refund to its customers with interest such amounts as the company may collect from them in excess of the rates fixed by the authority in its finding or fixed at the conclusion of any appeal taken as a result of a finding by the authority, except that for an electric distribution company, If the authority has not made its finding respecting an amendment of any rate within three hundred fifty days from the proposed effective date of such amendment thereof, such amendment may become effective pending the authority's finding with respect to such amendment upon the filing by the company with the authority of assurance satisfactory to the authority, which may include a bond with surety, of the company's ability and willingness to refund to its customers with interest such amounts as the company may collect from them in excess of the rates fixed by the authority in its finding or fixed at the conclusion of any appeal taken as a result of a finding by the authority.

Sec. 7. Subsection (b) of section 16-43 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(b) A public service company shall obtain the approval of the Public Utilities Regulatory Authority to (1) issue any notes, bonds or other evidences of indebtedness or securities of any nature, (2) lend or borrow any moneys for a period of more than one year for any purpose other than paying the expenses, including taxes, of conducting its business or for the payment of dividends, or (3) amend any provision of an indenture or similar financial instrument if such amendment would affect the issuance or terms of any such notes, bonds or other evidences of indebtedness or securities. The authority shall approve or disapprove each such issue or amendment within thirty days after the filing of a written application for such approval unless the applicant agrees to an extension of time, except that the authority shall approve or disapprove each such issue or amendment for an electric distribution company within ninety days after the filing of a written application for such approval unless the applicant agrees to an extension of time. If not disapproved within said thirty days or within such extension, such issue shall be deemed to be approved, except that for an electric distribution company if not disapproved within said ninety days or within such extension, such issue shall be deemed to be approved. The authority shall not require a company to issue its common stock under terms or conditions not required by the general statutes. The provisions of this subsection shall apply to a community antenna television company only with regard to any noncable communications services which the company may provide.

Sec. 8. Subsection (d) of section 16-47 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

d) The Public Utilities Regulatory Authority shall investigate and hold a public hearing on the question of granting its approval with respect to any application made under subsection (b) or (c) of this section and thereafter may approve or disapprove any such application in whole or in part and upon such terms and conditions as it deems necessary or appropriate. In connection with its investigation, the authority may request the views of the gas, electric distribution, water, telephone or community antenna television company or holding company which is the subject of the application with respect to the proposed acquisition. After the filing of an application satisfying the requirements of such regulations as the authority may adopt in accordance with the provisions of chapter 54, but not later than thirty business days after the filing of such application, the authority shall give prompt notice of the public hearing to the person required to file the application and to the subject company or holding company. Such hearing shall be commenced as promptly as practicable after the filing of the application, but not later than thirty business days after the filing, and the authority shall make its determination as soon as practicable, but not later than one

hundred twenty days after the filing of the application unless the person required to file the application agrees to an extension of time, except that for an electric distribution company such hearing shall be commenced as promptly as practicable after the filing of the application, but not later than ninety business days after the filing, and the authority shall make its determination as soon as practicable, but not later than three hundred fifty days after the filing of the application unless the person required to file the application agrees to an extension of time. The authority may, in its discretion, grant the subject company or holding company the opportunity to participate in the hearing by presenting evidence and oral and written argument. If the authority fails to give notice of its determination to hold a hearing, commence the hearing, or render its determination after the hearing within the time limits specified in this subdivision, the proposed acquisition shall be deemed approved. In each proceeding on a written application submitted under said subsection (b) or (c), the authority shall, in a manner which treats all parties to the proceeding on an equal basis, take into consideration (1) the financial, technological and managerial suitability and responsibility of the applicant, (2) the ability of the gas, electric distribution, water, telephone or community antenna television company or holding company which is the subject of the application to provide safe, adequate and reliable service to the public through the company's plant, equipment and manner of operation if the application were to be approved, and (3) for an application concerning a telephone company, the effect of approval on the location and accessibility of management and operations and on the proportion and number of state resident employees.