

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 27, 2005

IN RE:

PETITION OF FRONTIER COMMUNICATIONS, INC.
FOR A DECLARATORY RULING

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DOCKET NO.
04-00379

ORDER GRANTING PETITION TO INTERVENE

This matter is before the Hearing Officer upon the *Petition for Leave to Intervene of West Kentucky Rural Telephone Cooperative Corporation* ("Petition to Intervene") filed by West Kentucky Rural Telephone Cooperative Corporation ("West Kentucky") on May 24, 2005.

BACKGROUND

On October 26, 2004, Frontier Communications, Inc. ("Frontier") filed the *Petition of Frontier Communications, Inc. for Declaratory Ruling that It Can Provide Competing Services in Territory Currently Served by Ben Lomand Rural Telephone Cooperative, Inc.* ("Petition"). On December 8, 2004, Ben Lomand Rural Telephone Cooperative, Inc. ("Ben Lomand") filed the *Answer and Motion to Dismiss of Ben Lomand Rural Telephone Cooperative, Inc.* At a regularly scheduled Authority Conference held on December 13, 2004, the panel assigned to this docket voted unanimously to convene a contested case to determine the issues set forth in the *Petition* and to appoint General Counsel or his designee to prepare the case for a hearing before the panel.¹ On May 24, 2005, West Kentucky filed its *Petition to Intervene*.

¹ See Transcript of Authority Conference, p. 24 (December 13, 2004).

CRITERIA FOR PERMITTING INTERVENTION

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria for granting petitions to intervene:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:

- (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
- (2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and
- (3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.²

DISCUSSION

In its *Petition to Intervene*, West Kentucky states that it is a Kentucky telephone cooperative authorized and organized under Kentucky law and that it provides a range of telecommunications services in its service area in the State of Tennessee pursuant to Tenn. Code Ann. § 65-29-128 (2004). West Kentucky further states that Frontier alleges in its *Petition* that the Authority has granted Frontier a statewide certificate of convenience and necessity as a competing telecommunications provider and that there is no prohibition on Frontier operating within the boundaries of a Tennessee telephone cooperative. West Kentucky also states that Frontier alleges in its *Petition* that Ben Lomand has taken the position that Frontier is statutorily prohibited from competing in Ben Lomand's territory. Therefore, West Kentucky asserts that, as

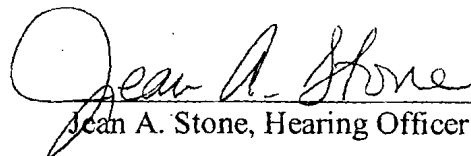
² Tenn Code Ann. § 4-5-310(a) (1998)

a telephone cooperative serving in Tennessee, the subject of this proceeding may affect its operations in the State of Tennessee and that its legal rights, duties, privileges, immunities or other legal interests may be determined in this proceeding.

The Hearing Officer finds the *Petition to Intervene* filed by West Kentucky was timely filed and served and substantiated that the legal rights, duties, privileges, immunities or other legal interests of the intervenor may be determined in this matter. The Hearing Officer further finds that the orderly and prompt conduct of this proceeding will not be impaired by granting the *Petition to Intervene*. No person or party has filed an objection to the *Petition to Intervene*.³ Upon applying the standards set forth in Tenn. Code Ann. § 4-5-310(a) (1998) and Tenn. Comp. R. & Regs. 1220-1-2-.08, the Hearing Officer grants the *Petition for Leave to Intervene of West Kentucky Rural Telephone Cooperative Corporation*.

IT IS THEREFORE ORDERED THAT:

The *Petition for Leave to Intervene of West Kentucky Rural Telephone Cooperative Corporation* filed by West Kentucky Rural Telephone Cooperative Corporation is hereby granted. West Kentucky may participate in this proceeding as its interests require and receive copies of any notices, orders or other documents filed herein.


Jean A. Stone, Hearing Officer

³ In addition, at a status conference held on April 27, 2005, counsel indicated that Frontier would have no objection to subsequent petitions for intervention by telephone cooperatives. See Transcript of Proceedings, p. 24 (April 27, 2005).