

ORIGINAL

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December 2, 2002

RECEIVED FPSC  
02 DEC -2 AM 8:00  
COMMISSION CLERK

Blanca S. Bayo  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 021061-TP  
Petition of CNM Network, Inc., for Declaratory Statement Regarding  
Florida Public Service Commission Jurisdiction

Dear Ms. Bayo:

Enclosed please find the original and 15 copies of Frontier Communications of the South, Inc.'s Response in Opposition to CNM Network, Inc.'s Motion to Dismiss the Petitions for Intervention, or, in the Alternative, to Conduct a Generic Proceeding or Rulemaking or to Stay Pending FCC Action, which we ask that you file in the captioned docket.

Copies have been served to those parties shown on the attached Certificate of Service.

Sincerely,



David B. Erwin

Cc: All Parties of Record  
Chris Burke

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
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**13060 DEC-2 02**  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: In Re Petition of CNM Network, Inc.  
for Declaratory Statement Regarding Florida  
Public Service Commission Jurisdiction

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DOCKET NO. 021061-TP  
FILED: December 2, 2002

**FRONTIER COMMUNICATIONS OF THE SOUTH, INC.'S RESPONSE  
IN OPPOSITION TO CNM NETWORK, INC.'S  
MOTION TO DISMISS THE PETITIONS FOR INTERVENTION, OR, IN  
THE ALTERNATIVE, TO CONDUCT A GENERIC PROCEEDING  
OR RULEMAKING OR TO STAY PENDING FCC ACTION**

FRONTIER COMMUNICATIONS OF THE SOUTH, INC. ("Frontier" or the "Company"), pursuant to Rule 28-106.204, Florida Administrative Code, Uniform Rules of Procedure, responds in opposition to CNM Network, Inc.'s ("CNM") Motion to Dismiss the Petitions for Intervention, or, in the Alternative, to Conduct a Generic Proceeding or Rulemaking or to Stay Pending FCC Action ("Motion to Dismiss"), stating as follows:

1. On October 18, 2002, CNM filed its petition requesting that the Commission issue a declaratory statement "determining that phone-to-phone Internet protocol ("IP") telephony is not telecommunications under Florida law." CNM further seeks a declaratory statement from the Commission that "CNM is not a telecommunications company subject to the Commission's certification and tariffing requirements."

2. Frontier's Petition to Intervene alleges that any decision made in the proceeding will necessarily affect the substantial interests of Frontier. CNM has responded in its motion to dismiss the petition of Frontier that Frontier has not demonstrated how CNM's "phone-to-phone telephony" constitutes "telecommunications." Frontier would remind the Commission that the core business of Frontier is "phone-to-

phone telephony," which is how CNM has characterized its business activity. (Only the method of transport from phone-to-phone appears to differ between the two companies.) If the activities of CNM do turn out to be "telecommunications," then Frontier stands to receive compensation. Clearly, Frontier has a substantial interest in the matter to be decided by the Commission.

3. Frontier adopts the response of NEFTC, filed December 2, 2002, and incorporates that response herein by reference.

WHEREFORE, having demonstrated that its "substantial interests" will be determined or affected through CNM's Petition for Declaratory Statement, CNM's Motion to Dismiss should be denied and Frontier's Petition to Intervene should be granted. Further, CNM's request for alternative relief should also be denied.

DATED this 2nd day of December, 2002.

Respectfully submitted,



David B. Erwin  
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ATTORNEY FOR FRONTIER  
COMMUNICATIONS OF THE SOUTH, INC.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail, or hand delivery this 2nd day of December, 2002, to the following:

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