



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JUL 16 2018

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7016 1370 0001 3671 3631**

Daniel McCarthy  
Chief Executive Officer  
Frontier Communications of America, Inc  
3441 West Henrietta Road  
Rochester, NY 14623

Re: Underground Storage Tank (UST) Compliance Inspection of:

Frontier Communications of America, Inc., d.b.a.  
Frontier Telephone of Rochester Operations Center  
3441 West Henrietta Road  
Rochester, NY 14623  
NYS DEC PBS #: 8-038245

Final Expedited Settlement  
Docket No. RCRA-02-2018-7707

Dear Mr. McCarthy:

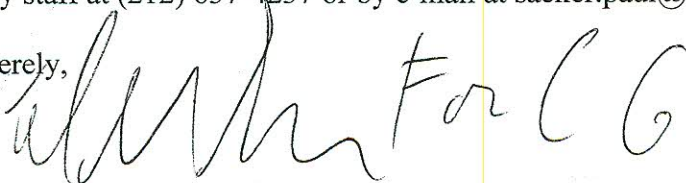
The U.S. Environmental Protection Agency (EPA) Region 2 is in receipt of Frontier Communication of America, Inc.'s penalty payment of \$4,680, the signed Expedited Settlement Agreement, and the documentation that the USTs at the above referenced facilities are now in compliance. By signing the Expedited Settlement Agreement, you have agreed to the terms of the Expedited Settlement Agreement and Final Order and have certified that all violations cited in the proposed Expedited Settlement Agreement were corrected.

Enclosed you will find a copy of the Expedited Settlement Agreement and Final Order issued by EPA. EPA has approved the Expedited Settlement Agreement based on your signed certification and supporting compliance documentation. EPA will take no further civil action against you for the violations listed in Proposed Expedited Settlement Agreement provided that all listed violations were timely corrected. EPA may choose to re-inspect the USTs located at Frontier Communication of America, Inc.'s facilities and if EPA identifies any violations of federal UST regulations during the re-inspection or from any other information obtained by EPA, such findings would be Frontier Communication of America, Inc.'s second violation of federal underground storage tank (UST) regulations. A second offense may result in a civil or judicial action which can include seeking penalties of up to \$23,426 per UST system per day of violation.

U.S. Environmental  
Protection Agency-Region 2  
2018 JUL 17 AM 7:01  
RECEIVED MAIL ROOM  
CLERK

If you have any questions regarding this letter or any other related matter, please contact Paul Sacker of my staff at (212) 637-4237 or by e-mail at [sacker.paul@epa.gov](mailto:sacker.paul@epa.gov). Thank you for your cooperation.

Sincerely,

Handwritten signature of Claudia Gutierrez in black ink, appearing to read 'Claudia Gutierrez'.

Claudia Gutierrez, Team Leader  
UST Team

Enclosure

cc: Russ Brauksieck  
NYSDEC  
Chief – Facility Compliance Section  
Division of Environmental Remediation  
625 Broadway 11th Floor  
Albany, NY 12233-7020

James D. McElman, PG  
Manager – Environmental Health & Safety  
Frontier Communications  
610 Morgan St.  
Tampa, FL 33602

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION II

U.S. Environmental  
Protection Agency Region 2  
2018 JUL 17 AM 7:01  
REGIONAL HEARING  
CLERK

IN THE MATTER OF: )  
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Frontier Communications of America, Inc. d.b.a. )  
Frontier Telephone of Rochester Operations Center )  
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Respondent )  
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Docket No. RCRA-02-2018-7707  
  
**EXPEDITED SETTLEMENT  
AGREEMENT AND  
FINAL ORDER**

**EXPEDITED SETTLEMENT AGREEMENT**

1. The U.S. Environmental Protection Agency ("EPA") has determined that Frontier Communications of America, Inc. (henceforth "Respondent"), owner of the Underground Storage Tank ("UST") at the facility located at 3441 West Henrietta Road, Rochester, NY (the "Facility") failed to comply with the following requirement(s) of Subtitle I of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6991 *et seq.*, and its implementing regulations at 40 C.F.R. Part 280 as follows:
  - a. 40 C.F.R. § 280.31(b) requires owner/operators of UST systems which rely on cathodic corrosion protection to test corrosion protection systems every three years and maintain the results of the last two tests. During a June 26, 2017 UST inspection of the Facility, the inspector was not provided any cathodic corrosion tests for the one UST located at the Facility. On July 17, 2017, Respondent provided the results of a cathodic corrosion protection test conducted on July 11, 2017. Respondent's November 7, 2017 IRL-NOV response did not provide any earlier test results over the previous six-years and Respondent's representative, Floyd Sick, Fleet Manager of East Region, confirmed in a November 21, 2017 e-mail that the July 11, 2017 test was the first known test conducted. Therefore, Respondent's failure to conduct cathodic corrosion tests on the UST at the Facility from at least June 26, 2011 through July 11, 2017 constitutes a violation of 40 C.F.R. § 280.31(b).
  - b. 40 C.F.R. § 280.41(b)(1)(i)(B) requires owner/operators of UST systems which rely on pressurized piping to conduct monthly release detection monitoring on its piping or, in the alternative, to conduct an annual line tightness test. During the June 26, 2017 UST inspection, the inspector did not observe any form of monthly monitoring on the pressurized piping located at the Facility nor was he provided the results of a line tightness test. Respondent's November 7, 2017 IRL-NOV response failed to provide any release detection method or line tightness test for the pressurized line. On December 21, 2017, Mr. Sacker contacted Mr. Sick by e-mail to confirm Respondent could not identify a monthly release detection method for the line or produce a line tightness test result. In e-mail responses that followed, Mr. Sick was unable to produce any evidence of release detection on the line and appeared unaware of this requirement until March 13, 2018 when he forwarded to EPA a line

tightness test dated March 1, 2018. Therefore, Respondent's failure to conduct monthly release detection monitoring or an annual line tightness test on the underground pressurized line associated with the UST at the Facility from at least June 26, 2016 through March 1, 2018, constitutes a violation of 40 C.F.R. § 280.41(b)(1)(i)(B).

- c. 40 C.F.R. § 280.44(a) requires owner/operators of UST systems which rely on pressurized piping to have installed an automatic line leak detector (ALLD) which must be tested on an annual basis. During the June 26, 2017 UST inspection, the inspector was not provided any ALLD test results for the one UST located at the Facility. On July 17, 2017, Respondent provided the contract inspector results of an ALLD test conducted on July 11, 2017. Respondent's November 7, 2017 IRL-NOV response only provided the July 11, 2017 results again and on November 21, 2017, Mr. Sick confirmed there were no test results prior to the July 11, 2017 one. Therefore, Respondent's failure to conduct an annual ALLD test on the piping for the UST at the Facility from at least June 26, 2016 through July 11, 2017 constitutes a violation of 40 C.F.R. § 280.44(a).
2. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$4,680** without further proceedings is in the public interest.
3. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order ("Agreement") pursuant to section 9006 of RCRA and 40 C.F.R. § 22.13(b) and § 22.18(b)(2).
4. In signing this Agreement, the Respondent: (1) admits that the Respondent is subject to requirements listed above in Paragraph 1, (2) admits that the EPA has jurisdiction over the Respondent and the Respondent's conduct as described herein, (3) neither admits nor denies the factual determinations contained herein, (4) consents to the assessment of the penalty in paragraph (2) above, and (5) waives any right to contest the determinations contained herein.
5. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has: (1) corrected the violations described above, (2) submitted true and accurate documentation of those corrections, (3) provided a deposit for full payment of the civil penalty in Paragraph 2 above in accordance with the EPA penalty collection procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for full payment of the civil penalty with this Agreement, and (5) agreed to release the deposit for full payment to the EPA upon entry of this Order.
6. Full payment of the penalty in Paragraph 2 shall only resolve Respondent's liability for federal civil penalties for the violation(s) and facts described in Paragraph 1, above. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
7. Upon signing and returning this Agreement to the EPA, the Respondent waives the opportunity for a hearing or appeal pursuant to Section 9006(b) of RCRA or 40 C.F.R. Part 22.
8. Each party shall bear its own costs and fees, if any.

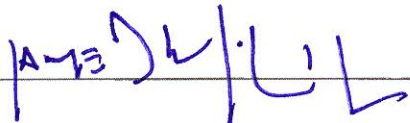
9. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York.

IT IS SO AGREED,

RESPONDENT:

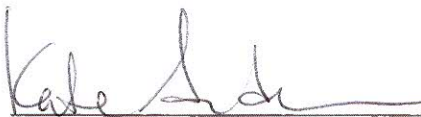
Name of individual signing (print): JAMES D. McLELLAN

Title: MANAGER - EHS  
Frontier Communications of America, Inc

Signature: 

Date: 6/28/18

APPROVED BY EPA:

  
\_\_\_\_\_  
Dore F. LaPosta, Director  
Division of Enforcement and Compliance Assistance

Date JUL 11 2018

Frontier Communications of America, Inc  
Docket No. RCRA-02-2018-7707

**FINAL ORDER**

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Expedited Settlement Agreement ("Agreement"). This Agreement, entered into by the parties to this matter, is hereby approved, incorporated herein, and issued as an Order pursuant to Section 9006 of the Act and 40 C.F.R. § 22.18(b)(3). The Effective Date of this Order shall be the date of its filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 2, New York, New York. 40 C.F.R. § 22.31(b).

BY: Helen Ferrara  
Helen Ferrara  
Regional Judicial Officer  
U.S. Environmental Protection Agency - Region 2  
290 Broadway  
New York, New York 10007-1866

DATE: July 12, 2018

JUL 11 2018

Frontier Communications of America, Inc. d.b.a.  
Frontier Telephone of Rochester Operations Center  
Docket No, RCRA-02-2018-7707

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed Expedited Settlement Agreement and Final Order bearing docket number RCRA-02-2018-7707, in the following manner to the respective addressees listed below:

Original and Copy  
By Hand Delivery:

Office of the Regional Hearing Clerk  
U.S. Environmental Protection  
Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866

Copy by Certified Mail/#: 7016 1370 001 3671 3631  
Return Receipt Requested:

Daniel McCarthy  
Chief Executive Officer  
Frontier Communications of America, Inc  
3441 West Henrietta Road  
Rochester, NY 14623

Dated: 07/16, 2018

Aline Razafimanjandra