

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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In the Matter of the Joint Application of Frontier Communications Corporation, Frontier Communications of America, Inc. (U5429C), Verizon California, Inc. (U1002C), Verizon Long Distance LLC (U5732C), and Newco West Holdings LLC for Approval of Transfer of Control Over Verizon California, Inc. and Related Approval of Transfer of Assets and Certifications

Application 15-03-005
(Filed March 18, 2015)

RESPONSE OF THE OFFICE OF RATEPAYER ADVOCATES, THE UTILITY REFORM NETWORK AND THE CENTER FOR ACCESSIBLE TECHNOLOGY ON THE PETITION FOR MODIFICATION OF THE CALIFORNIA EMERGING TECHNOLOGY FUND

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I. INTRODUCTION

Pursuant to Rule 16.4(f) of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, the Office of Ratepayer Advocates (“ORA”), The Utility Reform Network (“TURN”), and the Center for Accessible Technology (collectively “Consumer Advocates”) hereby file this response to the Petition for Modification of Decision (D.) 15-12-005 (“Petition”), submitted May 29, 2018, by the California Emerging Technology Fund (“CETF”). In D.15-12-005, the Commission approved an application by Frontier Communications Corporation (“Frontier”), its subsidiaries, and Verizon California for a transfer of control. As part of that Decision, the Commission adopted related settlement agreements between Frontier and various intervenors, including a Memorandum of Understanding (“MOU”) between Frontier and CETF. In its Petition, CETF seeks modification of the Commission’s Decision in order to enforce the MOU entered into between CETF and Frontier pursuant to the provisions of the Decision that gave any settling party the right to return to the Commission to enforce the settlements entered into in support of the merger.¹ CETF alleges that Frontier has failed to comply with the terms of their MOU and requests that the Commission order Frontier to comply with all broadband-related obligations immediately.²

II. DISCUSSION

Consumer Advocates have reviewed the Petition, Commission Decision, and relevant settlement documents and have spoken to CETF regarding the Petition. At this time, Consumer Advocates have no independent information and, therefore, take no position regarding CETF’s allegations of Frontier’s non-compliance, the description of the MOU implementation

¹ CETF Petition at p. 2-3.

² CETF Petition at p. 31.

discussions and events, or CETF's request for Commission action. However, as advocates for California's public utility customers, Consumer Advocates are committed to holding all parties, and the Commission, accountable to the commitments and orders set forth in Commission decisions. As such, Consumer Advocates urge the Commission to investigate the allegations in the Petition and take steps to enforce the MOU as required by its 2015 Decision.

As part of its Application process, Frontier agreed to multiple public interest obligations that were formalized through several Memoranda of Understanding and Settlement Agreements that were subsequently adopted by the Commission. This includes agreements between Frontier and various intervenors, including CETF, Greenlining, ORA, TURN and the Center for Accessible Technology. At issue here are commitments made in the agreement between Frontier and CETF, including a commitment to develop a low income broadband program and to work towards "the aspiration[al] goals of achieving as much of the 200,000 low-income adoptions in the shortest-possible timeframe with the aspirational goal being no longer than three years."³ In the Decision, the Commission found that these commitments, among many others, were required to satisfy the statutory mandate that transfers of control must be in the public interest.⁴

Consumer Advocates strongly urge the Commission to further investigate the allegations and factual assertions in the Petition to determine if Frontier has failed to cooperate with CETF or comply with the MOU. In its Decision, the Commission specifically found that the MOUs and Settlement Agreements entered into between Frontier and the intervenors and adopted by this Commission are "enforceable contracts" and "commit Frontier to courses of action that we determine to be necessary in order to render the granting of the application in the public

³ CETF Petition at p. 4; Memorandum of Understanding and Agreement Between Frontier Communications Corporation and California Emerging Technology Fund, Covenant 19.

⁴ D.15-12-005, p. 64, COL 5, 6; Pub. Util. Code §854.

interest.”⁵ Further the Commission agreed to assist the parties to enforce the terms of these contracts.⁶ Therefore, to uphold the sanctity of the Commission’s processes, decisions, and commitments, it is critical that the Commission work with CETF and Frontier to investigate and ensure that both parties are working in good faith and in a timely manner to satisfy the obligations under this MOU and the Commission’s Decision approving the Application.

Consumer Advocates have been working with Frontier to implement their own Settlement Agreement that the Commission also approved in the merger Decision. Because some of the provisions of the two agreements are similar, decisions made in response to the Petition could affect Frontier’s compliance with the conditions in the Consumer Advocate settlement.⁷ Recognizing that the Commission approved a package of public interest obligations when it approved the Application, Consumer Advocates propose that the Commission hold a workshop to review the implementation process of the CETF/Frontier MOU and issues raised by CETF, including the status of Frontier’s Affordable Broadband Offer and the broadband adoption commitments set forth in the CETF/Frontier MOU. If it is the case, as CETF alleges, that two years into the program the parties have only met 5% of its broadband adoption target,⁸ it would be appropriate and necessary to hold a workshop with all relevant stakeholders to allow the Commission to: 1) evaluate the current status of the Affordable Broadband Offer; 2) identify existing barriers to increasing broadband adoption in low-income households; and 3) establish a

⁵ D.15-12-005, p. 63, Ordering Paragraph 13.

⁶ D.15-12-005, p. 64.

⁷ For example, paragraph 2 and related paragraph 21 of the Settlement Agreement between Consumer Advocates and Frontier commits Frontier to building out infrastructure to a target number of underserved and unserved households that should also be included in the outreach and marketing of Frontier’s Affordable Broadband Offer and prohibits Frontier from redlining their deployment practices to exclude low income households; paragraph 20 also requires Frontier to offer a low income broadband offer, but only until Frontier begins participating in the federal Lifeline broadband program. The workshop should determine if Frontier is maintaining two, separate low income broadband programs and, if so, how the commitments are related.

⁸ CETF Petition at p. 5.

mechanism that will advance the obligations of Frontier, working in conjunction with CETF and the CBOs, to work towards the mutual goal of satisfying the MOU commitments and increasing broadband adoption by 200,000 low-income households.

Public utilities, like Frontier, have a statutory obligation to comply with every “order, decision, direction or rule” prescribed by the Commission⁹ and the Commission has the statutory authority to investigate and enforce its decisions,¹⁰ as well as the authority to “do all things” necessary to exercise its powers and jurisdiction.¹¹ As active intervenors before the Commission and strong advocates for utility customers, Consumer Advocates have a direct interest in ensuring that parties to agreements approved by the Commission uphold their commitments and that the Commission vigorously fulfills its duty to investigate and enforce these decisions.

III. CONCLUSION

The Commission must ensure that companies follow through on their commitments to serve the public interest. Consumer Advocates urge the Commission to investigate the allegations in this Petition and the implementation progress of the CETF/Frontier Petition, including holding a workshop, to ensure that Frontier customers are receiving the public interest benefits ordered by the Commission in D.15-12-005.

Dated: June 28, 2018

Respectfully submitted,

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⁹ Pub. Util. Code §702

¹⁰ Pub. Util. Code §§ 2106, 2113

¹¹ Pub Util. Code §701