

Decision 19-03-017 March 28, 2019

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

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

**DECISION APPROVING SETTLEMENT**

**1. Procedural Background**

This proceeding began with a joint application by Frontier Communications Corporation, Frontier Communications of America, Inc. (collectively, Frontier) and various Verizon entities (collectively, Verizon) for approval of the sale of Verizon’s California land line business to Frontier. The application was approved in Decision (D.) 15-12-005, subject to certain conditions including the condition that Frontier abide by the terms of settlements and Memorandums of Understanding (MOUs) between itself and certain intervenors, including an MOU between Frontier and California Emerging Technology Fund (CETF) that is the subject of this proceeding. Frontier and CETF are sometimes hereafter referred to as the Parties.

On May 30, 2018, CETF filed a Petition to Modify D. 15-12-005, alleging that Frontier had not fulfilled its obligations under the CETF MOU. Verizon

denied the allegations. On October 25, 2018, the presiding Administrative Law Judge (ALJ) issued an Order to Show Cause (OSC) directing Frontier to appear and show cause why it should not be sanctioned for failing to abide by the conditions of the CETF MOU and setting the date for the OSC hearing on November 28, 2018.

At the OSC hearing, the Parties informed the ALJ that they had begun discussions aimed at settling their dispute and he suspended the hearing to give them additional time to attempt a settlement. On January 3, 2019 the parties informed the ALJ that they had reached a tentative settlement. The parties then informed the other intervenors of the settlement and noticed an all-party settlement conference pursuant to Commission Rule 12.1(b) on January 10, 2019. After the settlement conference, on January 15, 2019, the Parties filed the instant motion for approval of the settlement.

## **2. Terms of the Settlement Agreement**

As a result of their negotiations and mutual compromises, the Parties have resolved all the outstanding issues raised by the Petition to Modify and the OSC. As part of the Settlement Agreement, Frontier has committed to both extending and expanding on its commitments to low income broadband service and adoption as reflected in the MOU and a related Implementation Agreement. The Settlement Agreement contain numerous substantive conditions and extends the broadband adoption program in the Implementation Agreement, including additional commitments relating to the provision of Wi-Fi capable devices to low-income households, funding for an improved broadband service offer for low-income households, and broadband adoption and deployment reporting, as well as agreements to engage in further efforts to deploy public Wi-Fi to evaluate and plan for a potential California Advanced Service Fund (CASF) grant

application to reach unserved households in rural areas, and to collaborate on “best practices” for advertising and promoting Frontier’s low-income broadband services to low-income communities.

A copy of the Settlement Agreement is attached to this decision as Attachment 1.

### **3. The Settlement Agreement meets the Commission’s requirements for approval of settlements under Rule 12.1(d)**

The Settlement Agreement addresses all contested issues in this proceeding. Rule 12.1(d) requires that a settlement be “reasonable in light of the whole record, consistent with law, and in the public interest.”

The Settlement Agreement satisfies these standards for approving settlements for the reasons discussed below.

#### **3.1 The Settlement Agreement Is Reasonable in Light of the Whole Record**

The Settlement Agreement is reasonable in light of the whole record. As discussed above, the Settlement Agreement is fully supported by the Parties. Following settlement negotiations, the Parties reached a reasonable compromise on each of the issues in contention. The settlement negotiations were accomplished at arms’ length over the course of several days and there was no collusion.

#### **3.2 The Agreement Does Not Contravene Any Rules or Laws**

The Parties are aware of no statutory provision or prior Commission decision that would be contravened or compromised by the Settlement Agreement. The issues resolved in the Settlement Agreement are within the scope of the proceeding and will expand access to the Internet for low-income communities, potentially expand Internet availability in rural

communities, and produce the other tangible benefits detailed in the Settlement Agreement.

### **3.3 The Settlement Agreement Is in the Public Interest**

The Settlement Agreement is in the public interest. The Commission has explained that a settlement which “commands broad support among participants fairly reflective of the affected interests” and “does not contain terms which contravene statutory provisions or prior Commission decisions” well serves the public interest. *Re San Diego Gas & Elec.*, D.92-12-019, 46 CPUC 2d 538, 552.

Together, the Parties fairly represent the affected interests: Frontier provides telecommunications services to customers throughout California, and CETF is dedicated to eliminating the “digital divide” between low-income Californians and the rest of the state’s population. The primary public interest affected by this proceeding is to increase access to modern digital communications technology to under-represented groups.

The Settlement Agreement advances this interest because it significantly expands Frontier’s commitment to making Internet service and devices available to low-income residents throughout its service territory. In addition, Commission approval of the Settlement Agreement will provide speedy resolution of contested issues, which will avoid unnecessary litigation expense, and will conserve Commission resources. The Commission has acknowledged that “[t]here is a strong public policy favoring the settlement of disputes to avoid costly and protracted litigation.” *Re PG&E*, Decision (D.) 88-12-083, 30 CPUC 2d 189, 221.

#### **4. Comments on the Proposed Decision**

All parties have stipulated to waive the 30-day comment period pursuant to Rule 14.6(b).

#### **5. Assignment of Proceeding**

Liane Randolph is the assigned Commissioner for this proceeding and Karl J. Bemederfer is the assigned Administrative Law Judge.

#### **6. Findings of Fact**

1. Frontier and CETF negotiated in good faith and without collusion to resolve the issues raised by CETF's motion to compel and the Order to Show Cause.

2. Frontier and CETF fairly represent the interests of the entities affected by approval of the Settlement Agreement.

#### **7. Conclusions of Law**

1. The Settlement Agreement is reasonable in light of the whole record.

2. The Settlement Agreement does not violate any law or Commission decision.

3. The Settlement Agreement is in the public interest and should be approved.

**O R D E R**

**IT IS ORDERED** that the Settlement Agreement between Frontier Communications Corporation, Frontier Communications of America, Inc. and the California Emerging Technology Fund is approved.

This proceeding is closed.

This order is effective today.

Dated March 28, 2019, at San Francisco, California.

MICHAEL PICKER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners