

**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. (U
5429 C), Verizon California Inc. (U 1002 C),
Verizon Long Distance, LLC (U 5732 C), 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

**PROTEST OF THE
COMMUNICATIONS WORKERS OF AMERICA**

April 27, 2015

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**PROTEST OF THE
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Pursuant to Rule 2.6 of the Commission’s Rule of Practice and Procedure, the Communications Workers of America (“CWA”) hereby protests the proposed acquisition of Verizon California, Inc. (“Verizon CA”) by Frontier Communications Corporation (“Frontier”). In support of this protest, CWA provides the following information about its interest in this proceeding, the potential harm to thousands of its members in California, and the numerous unanswered questions and issues to be explored about the proposed transaction.

I. IDENTIFICATION OF CWA AND ITS INTEREST IN THIS PROCEEDING

CWA is a labor organization, representing 700,000 workers in communications, media, airlines, manufacturing and public service throughout the United States. Approximately 55,000 of those members reside or work in California, including approximately 3,400 employees of Verizon CA.

In addition, CWA represents approximately 5,900 employees at Frontier in many locations across the country.

CWA is vitally concerned with the outcome of this proceeding because its members and their families will be affected by the transaction as workers, consumers, and residents. Indeed, this transaction will impact the economic health of millions of households, businesses, schools, health care facilities, government agencies, and other institutions in California.

In addition, CWA maintains 37 offices in California, of which several are located within Verizon CA's service territory where CWA is a retail customer of Verizon CA. Thus, in addition to protecting the interests of its members, as customers and employees of Verizon CA, CWA also will be directly affected by the proposed transaction at those locations where it is a direct customer of Verizon CA.

II. TRANSACTION OVERVIEW

On February 5, 2015, Verizon Communications, Inc. ("Verizon"), and Frontier announced a \$10.5 billion stock transaction through which Frontier would acquire Verizon's landline business in three states (California, Florida, and Texas). On that same day, Verizon and Frontier made public a portion of the Securities Purchase Agreement ("Agreement") that sets forth the terms and conditions of the transaction. Specifically, the parties provided the body of the Agreement, but none of the schedules and exhibits that are appended to that Agreement. The Agreement itself, however, makes clear that their actual agreement consists of the "Securities Purchase Agreement, together with the Annexes, Exhibits and Schedules hereto, as

the same may be amended or supplemented from time to time in accordance with the terms hereof.”¹

To the best of CWA’s knowledge, as of the date of this Protest, neither Verizon nor Frontier has made public the entirety of their Agreement. Consequently, it is not yet possible for CWA, this Commission, or anyone else to know the full extent of the parties’ undertakings. In its Application before this Commission, Verizon CA and Frontier provided (as Attachment 1 to the Application) only the body of the Agreement with none of the Annexes, Exhibits, and Schedules that are an integral part of the parties’ agreement.

As just one example of the importance of those Annexes, Exhibits, and Schedules to understanding the parties’ actual agreement, the Application states that “Frontier will honor all existing collective bargaining agreements and pension benefits will be transferred from the applicable Verizon pension plans to new plans at Frontier that are identical in all material aspects to the existing Verizon plans.”² Yet there is nothing in the body of the Agreement that supports this contention. Instead, the Agreement refers to an “Employee Matters Agreement” (Exhibit B to the Agreement) which is not part of the Application or otherwise publicly available. Specifically, Section 6.6 of the Agreement states:

Employee Matters. Seller and Buyer agree that throughout the Pre-Closing Reorganization contemplated by this Agreement, the Listed Employees shall maintain uninterrupted continuity of employment, compensation and benefits, and, additionally for union-represented employees, uninterrupted continuity of representation for purposes of

¹ Agreement, p. 2 (definition of “Agreement”).

² Application, p. 5.

collective bargaining and uninterrupted continuity of coverage under their collective bargaining agreements, in each case ***as contemplated by and provided in the Employee Matters Agreement. Buyer's obligations and responsibilities in respect of the Business Employees shall be as set forth in the Employee Matters Agreement.*** (Emphasis added)

III. ISSUES REQUIRED TO BE ADDRESSED BY THE COMMISSION

The threshold issues that must be part of this proceeding are set forth in the Public Utilities Code. Section 854 of the Public Utilities Code requires the Commission to make the following findings:

[T]he commission shall find that the proposal does all of the following:

- (1) Provides short-term and long-term economic benefits to ratepayers.
- (2) Equitably allocates, where the commission has ratemaking authority, the total short-term and long-term forecasted economic benefits, as determined by the commission, of the proposed merger, acquisition, or control, between shareholders and ratepayers. Ratepayers shall receive not less than 50 percent of those benefits.
- (3) Not adversely affect competition. In making this finding, the commission shall request an advisory opinion from the Attorney General regarding whether competition will be adversely affected and what mitigation measures could be adopted to avoid this result.³

In addition, the Commission is required to “consider” each of the following criteria and “find, on balance, that the merger, acquisition, or control proposal is in the public interest”:

³ Cal. Pub. Util. Code § 854(b).

- (1) Maintain or improve the financial condition of the resulting public utility doing business in the state.
- (2) Maintain or improve the quality of service to public utility ratepayers in the state.
- (3) Maintain or improve the quality of management of the resulting public utility doing business in the state.
- (4) Be fair and reasonable to affected public utility employees, including both union and nonunion employees.
- (5) Be fair and reasonable to the majority of all affected public utility shareholders.
- (6) Be beneficial on an overall basis to state and local economies, and to the communities in the area served by the resulting public utility.
- (7) Preserve the jurisdiction of the commission and the capacity of the commission to effectively regulate and audit public utility operations in the state.
- (8) Provide mitigation measures to prevent significant adverse consequences which may result.⁴

The law also requires the Commission to “consider reasonable options to the proposal recommended by other parties, including no merger, acquisition, or control, to determine whether comparable short-term and long-term economic savings can be achieved through other means while avoiding the possible adverse consequences of the proposal.”⁵ Each of the items listed in Section 854 should be included in the Scoping Memo as issues within the scope of this proceeding.

⁴ Cal. Pub. Util. Code § 854(c).

⁵ Cal. Pub. Util. Code § 854(d).

Finally, because the proposed transaction involves the proposed transfer of Verizon CA’s state video franchise, the law also requires that Frontier “agrees that any collective bargaining agreement entered into by a video service provider [Verizon CA] shall continue to be honored, paid, or performed to the same extent as would be required if the video service provider continued to operate under its franchise for the duration of that franchise unless the duration of that agreement is limited by its terms or by federal or state law.”⁶

IV. SPECIFIC ISSUES THAT SHOULD BE ADDRESSED BY THE COMMISSION

A. Employee Issues

As noted above, Section 854(c)(4) requires the Commission to consider and make findings on whether the transaction will be “fair and reasonable to affected public utility employees, including both union and nonunion employees.” There is good reason for CWA to be concerned about Frontier’s plans for employees.

In public statements elsewhere, Frontier has stated that it intends to provide various services associated with its proposed acquisition of Verizon CA with employees outside of California. For example, in its application to the Federal Communications Commission (“FCC”) requesting approval of this same transaction, Frontier stated:

Finally, customer service is a core component part of Frontier’s business strategy, and Frontier intends to bring this focus on the customer – and its proven track record of success – to the acquired territories in California, Florida, and Texas. Specifically, Frontier

⁶ Cal. Pub. Util. Code § 5970(b).

expects to leverage its major customer contact centers in Florida and Texas to bring transferring customers the customer service enhancements it has implemented in other markets, like expanded customer service hours, shorter scheduling windows for in-home appointments, and call reminders and follow-up calls for service appointments.⁷

Nowhere in its filing with the FCC do Frontier and Verizon acknowledge that Verizon CA has customer service centers in Long Beach, Oxnard, Ontario, Pomona, Camarillo, Monrovia, and Victorville, California that are staffed with highly experienced, CWA-represented Verizon CA employees. The fate of those customer service centers, as well as the resulting impact on quality of service to customers, is currently unknown to CWA in light of Frontier's statement to the FCC that enhanced customer support to California customers apparently will be provided out of call centers in Florida and Texas.

Similarly, within the past week, Frontier announced that it would be adding 350 jobs over the next three years in its Rochester, New York call center to provide support to Verizon CA consumers who need assistance with their Internet service.⁸ This announcement raises further questions about the potential effects of the proposed transaction on California's workforce and economy, as well as the quality of service that would be received by California consumers.

⁷ *In the Matter of Verizon Communications Inc. and Frontier Communications Corporation: Application for Consent to Partially Assign and Transfer Control of Domestic and International Authorizations Pursuant to Section 214 of the Communications Act of 1934, As Amended*, WC Docket No. 15-44, Application dated Feb. 24, 2015, pp. 14-15.

⁸ Frontier's Verizon Buy Brings 350 Jobs to Rochester, *Rochester Democrat and Chronicle* (Apr. 21, 2015), available at <http://www.democratandchronicle.com/story/news/2015/04/21/frontiers-verizon-buy-brings-jobs-rochester/26132597/>.

B. Service Quality Issues

Section 854(c)(2) requires the Commission to consider and make findings on whether the transaction would “[m]aintain or improve the quality of service.” This is a serious issue in this case. Some of Frontier’s representations in the Application concerning post-acquisition service quality are seriously misleading. For example, on page 30 of the Application, Frontier touts its experience in West Virginia after acquiring Verizon’s landline business there in 2010. What Frontier fails to disclose, however, is that the West Virginia Public Service Commission imposed numerous conditions that required Frontier to make substantial investments in West Virginia, placed limits on Frontier’s ability to pay dividends from West Virginia to its parent company, and required substantial increases in broadband availability. In addition, that commission required Verizon to place money in an escrow account to be used to correct existing service quality deficiencies. Specifically, the West Virginia commission included the following among the 30 conditions contained in its order approving that transaction:

2. Frontier shall make capital investments in Verizon WV of \$30 million during the 2nd half of 2010, \$75 million in 2011 (including \$12 million targeted to service quality), \$63 million in 2012, \$63 million in 2013.
3. Frontier shall make an additional capital investment of at least \$48 million beyond the investments set forth in condition 2 above to increase broadband deployment and subscription in the Verizon WV service area. Any federal stimulus funding that Frontier obtains for

broadband services in Verizon WV service areas shall not be used to meet or offset this capital investment requirement.⁹

4. Frontier shall expand broadband availability in Verizon WV service areas. Frontier shall develop and implement a West Virginia Broadband Program for the deployment of broadband facilities such that by no later than end of the fourth year following closing, access to broadband service shall be available to no less than 85% of the households within the Verizon WV service areas.

* * *

7. Verizon shall comply with the escrow account requirement contained in the May 10, 2010 Commission Order in Case No. 08-0761-T-GI, before closing of the Transaction. These funds shall complete the obligations of Verizon under the retail service quality case.

* * *

23. No Frontier entity subject to the jurisdiction of this Commission, including the entities that are now Verizon WV, NOLD nor Citizens, shall for a period of four years pay dividends to Frontier in excess of 100% of the net earnings of that entity. Frontier may petition for relief from this condition for good cause shown.¹⁰

In other words, Frontier's operations in West Virginia were able to achieve the "positive results" touted on page 30 of its Application only when faced with stringent regulatory requirements, including required levels of investment in

⁹ In addition, Frontier received funding for middle-mile broadband expansion under contract with the state of West Virginia as part of West Virginia's \$126 million federal stimulus Broadband Technology Opportunity Program grant. See <http://www.recovery.wv.gov/Documents/Frontier%20MOU.pdf>.

¹⁰ *Joint Petition for consent and approval of the transfer of Verizon's local exchange and long distance business in West Virginia to companies to be owned and controlled by Frontier Communications*, Case No. 09-0871-T-PC (W.V. Pub. Svc. Comm'n, May 13, 2010), 2010 W. Va. PUC LEXIS 1158, Appendix A.

network and service quality (some of which were funded by Verizon immediately prior to closing), specific broadband deployment targets, and restrictions on removing cash from the business to pay dividends to the parent company.

Similarly, while Frontier notes the financial performance of its recent acquisition in Connecticut,¹¹ it fails to disclose that customers experienced significant service quality problems with the cut-over, particularly regarding video and Internet services. Those problems required the Connecticut Public Utilities Regulatory Authority to hold further hearings post-closing and require additional reporting by Frontier.¹²

Additionally, when evaluating this Application, the Commission should coordinate with Rulemaking 11-12-001, the Service Quality proceeding. Decision 13-02-023, issued in that Rulemaking, found that “[i]n order to maintain acceptable levels of service quality for California customers, it is necessary to ensure that carriers have access to an adequate network of infrastructure” and “evaluation of carrier network infrastructure, facilities, and related policies and procedures is a necessary foundational activity” for that proceeding.¹³ However, the evaluation of

¹¹ Application, p. 16.

¹² See Motion of Office of Consumer Counsel, by and through Consumer Counsel Elin Swanson Katz, and George Jepsen, Attorney General for the State of Connecticut, for a Technical Meeting Regarding the Frontier Transition Process, Docket No. 14-01-46 (Ct. Pub. Util. Regulatory Auth., Nov. 13, 2014), *available at* [http://www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/5ede907ea98035dd85257d8f006ed30b/\\$FILE/Mo_Tech_Meeting_111314%20Final.pdf](http://www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/5ede907ea98035dd85257d8f006ed30b/$FILE/Mo_Tech_Meeting_111314%20Final.pdf); See also Cara Rosner, “840 Consumers File Complaints against Frontier,” CT News Junkie, Nov. 21, 2014, *available at* http://www.ctnewsjunkie.com/archives/entry/consumers_file_840_complaints_against_frontier/; Mara Lee, “Frontier to Regulators: We Gussed Wrong on Call Volumes,” Dec. 22, 2014, *available at* <http://www.courant.com/business/hc-frontier-service-hearing-20141222-story.html>.

¹³ D.13-02-023, pp. 2-3.

Verizon CA's infrastructure and facilities has not yet occurred even though the record contains extensive evidence that Verizon CA is allowing its facilities to deteriorate and Verizon CA continually fails to meet service quality standards.¹⁴

Given this Application's proposed transfer of control, it is absolutely paramount to the condition of the physical network to determine whether Verizon bears responsibility for the neglect of the network before the transfer is approved, such as ordered in the West Virginia transfer discussed above.

C. Financial Issues

CWA is also concerned about Frontier's ability to invest adequately in necessary maintenance, repairs and improvements in Verizon CA's network. As an example, in 2014 Frontier dedicated 14.4% of its revenues to capital expenditures. This is consistent with other major telecommunications companies' capital intensity which ranged from 13.5% to 16.7% in 2014.¹⁵ One respected financial analyst following the telecommunications sector, however, projects that after the Verizon deal closes, Frontier will only invest 12.9% of its revenues in maintenance and expansion of its network in the years immediately following the proposed acquisition.¹⁶

As of this date, Frontier has not projected its post-acquisition capital spending plans. Such information is vitally important to ensure that Frontier will

¹⁴ R.11-12-001; CWA Post Workshop Comments, February 28, 2012; Communications Division Staff Report, October 6, 2014.

¹⁵ BofA/Merrill Lynch, Frontier doubles its size by buying VZ wireline assets, David Barden, 2/12/2015, various SEC 10K filings for 2014.

¹⁶ *Id.*

have both the intention and the financial capability to make the investments necessary to enhance the safety, quality, and reliability of the Verizon CA network.

V. UNANSWERED QUESTIONS IN THE VERIZON CA / FRONTIER APPLICATION

As discussed above, it is not possible for CWA to develop a position concerning the proposed transaction based on the information included with the Application or otherwise available at the present time. The entire Agreement between Frontier and Verizon, and substantial additional information, must be provided to the Commission, CWA, and other parties to this proceeding in order to make an informed judgment about the actual effect of the proposed transaction on all aspects of the public interest (including customers, employees, affected communities, and on the financial health of Frontier itself). Without much more information, the Commission will not be able to make the findings required by Section 854.

VI. CWA'S REQUEST FOR FULL PARTY STATUS AND INTENT TO ACTIVELY PARTICIPATE IN THE PROCEEDING

CWA requests full party status in this proceeding. No other party can adequately represent the interests of CWA and its members as customers and employees of Verizon CA. Those interests will be directly affected by the proposed transaction. Indeed, no one is more directly affected by a proposed merger or acquisition than the employees of the companies involved in the transaction.

CWA intends to participate actively on those issues that would have a direct effect on CWA and its members. Initially, CWA believes this would include the

issues identified in Public Utilities Code sections 854(b)(1), 854(c)(1)-(4), 854(d), and 5970(b), as set forth above. In addition, as discussed above, the review of section 854(c)(2) issues (quality of service) may also require coordination with an ongoing proceeding in which CWA is an active party.

As CWA obtains more information about the proposed transaction, including but not limited to the full agreement between Verizon and Frontier, the support for Frontier's financial projections, Frontier's plans for continuing or enhancing employment in California, among others, CWA may modify the specific issues on which it will focus its attention.

VII. PROCEDURAL MATTERS

A. Proceeding Categorization and Need for Hearings

On March 26, 2015, the Commission preliminarily categorized this proceeding as "ratesetting."¹⁷ CWA agrees with this categorization.

The Application argues that evidentiary hearings as allowed under a "ratesetting" proceeding are unnecessary. CWA disagrees, as there are many potential factual issues, including but not limited to the evidence the Commission will be required to have in order to make findings on the issues discussed in this Protest. As the Application's proposed procedural schedule did not provide for evidentiary hearings, CWA offers an alternate proposed schedule.

B. Proposed Schedule

March 18, 2015 – Application Filed

March 26, 2015 – Application in Daily Calendar

¹⁷ Resolution ALJ 176-3354.

April 27, 2015 – Protest deadline

May 4, 2015 – Applicant’s Reply to Protests

May 4, 2015 - Applicant’s Direct Testimony

May 13, 2015 – Prehearing Conference

May 20, 2015 – Scoping Memo

July 8, 2015 – Intervenor Testimony

August 17, 2015 – Applicant Rebuttal Testimony

August 31 to September 4, 2015 – Evidentiary Hearings

September 18, 2015 – Opening Briefs

October 2, 2014 – Reply Briefs

December 2, 2015 – Proposed Decision Issued

December 12, 2015 – Comments on Proposed Decision

December 17, 2015 – Reply Comments on Proposed Decision

February 2016 – Final Decision Adopted

Dated April 27, 2015

Respectfully submitted,

/s/

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