

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 16th day of August 2010.

CASE NO. 09-0871-T-PC

FRONTIER COMMUNICATIONS CORPORATION, CITIZENS TELECOMMUNICATIONS COMPANY OF WEST VIRGINIA dba FRONTIER COMMUNICATIONS OF WEST VIRGINIA, NEW COMMUNICATIONS HOLDINGS, INC., NEW COMMUNICATIONS ILEC HOLDINGS, INC., NEW COMMUNICATIONS ONLINE and LONG DISTANCE, INC., VERIZON WEST VIRGINIA INC., VERIZON LONG DISTANCE, LLC, and VERIZON ENTERPRISE SOLUTIONS, LLC.

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.

COMMISSION ORDER

The Commission (i) denies a request to reopen this matter, (ii) transfers the substance of the Petition to Reopen to a new casefile and (iii) affords FiberNet, LLC, (FiberNet) and Frontier West Virginia Inc., (Frontier WV) an opportunity to mediate their dispute.

BACKGROUND

On May 29, 2009, Frontier Communications Corporation, New Communications Holdings, Inc., New Communications ILEC Holdings, Inc., New Communications Online and Long Distance, Inc., Verizon West Virginia Inc. (Verizon WV), Verizon Long Distance, LLC and Verizon Enterprise Solutions, LLC (together Applicants) jointly applied for approval of transactions to spin off substantially all Verizon wireline business in West Virginia and merge those entities with Frontier (Transaction). Joint Application.

The Commission subsequently received and granted requests to intervene from the Consumer Advocate Division (CAD), competing carriers including FiberNet, the Communications Workers of America (CWA) and the federal government.

On May 13, 2010, the Commission issued an Order approving the Transaction requested in the Joint Application, subject to a series of conditions designed to remediate concerns raised by the parties at hearing. The Commission also adopted two settlements between the Applicants and competing carriers that were attached and incorporated into the conditions listed in Appendix A to the Order.

On July 21, 2010, FiberNet filed a Petition to Reopen this matter citing a number of problems it experienced when attempting to obtain wholesale services through the Frontier WV operational support system (OSS). FiberNet asserted that the various problems have created delays in providing service to FiberNet customers and increased costs for FiberNet. FiberNet requested that the Commission reopen this matter and direct Frontier WV to provide an OSS that is functionally equivalent to the system provided by Verizon WV.

On July 23, 2010, the Commission directed Frontier WV to file a response to the FiberNet request to reopen this matter within ten days.

On July 29, 2010, CAD filed a letter in support of the FiberNet reopening request.

On July 30, 2010, Frontier WV filed an answer to the Petition to Reopen under seal. Frontier WV acknowledged some problems arising from the implementation of the OSS, but asserted that it has corrected most of the problems FiberNet listed in the Petition to Reopen. Having resolved the flaws listed by FiberNet, Frontier WV requested that the Commission deny the Petition to Reopen. Alternatively, Frontier WV recommended that the Commission transfer the Petition to Reopen to a separate proceeding because the sale closing has already occurred and establish a framework for an alternative dispute resolution including mediation.

On August 2, 2010, the CWA filed a letter supporting the FiberNet Petition to Reopen.

On August 4, 2010, Frontier WV filed a redacted version of its response. The redacted version only deleted the FiberNet specific statistical data contained in the original filing.

DISCUSSION

After review of the FiberNet petition and the Frontier WV response, the Commission concludes that the FiberNet allegations concern technical difficulties that appear to have developed after closing of the Verizon WV sale. Most of those difficulties appear to be specific to FiberNet and are best handled in a complaint proceeding. Additionally, as Frontier WV noted, the Verizon WV sale has now closed, and Verizon no longer owns its former operating subsidiary. Thus, the Commission will sever the allegations from the July 21, 2010 Petition to Reopen, transfer them to a separate complaint proceeding for further processing and deny the Petition to Reopen this matter.

In consideration of the FiberNet desire for swift resolution of this matter and the request from Frontier WV for an opportunity to mediate the dispute, the Commission will afford the parties an opportunity for mediation. Thus, the parties shall contact the Chief Administrative Law Judge (ALJ) at the earliest opportunity and no later than ten days from the entry of this Order to arrange for mediation if they are both willing to enter mediation. In the event that mediation resolves this dispute, the parties shall file a request to dismiss the new complaint. If the dispute remains unresolved, the Chief ALJ shall file a letter in the complaint proceeding informing the Commission that mediation was unsuccessful, and the Commission will continue to process the matter as a separate complaint proceeding. The parties are strongly encouraged to engage in earnest mediation in order to resolve their dispute. Commission Staff may participate in the mediation of this matter if they indicate a desire to do so to the Chief ALJ.

The Commission notes that a portion of the July 30, 2010 Frontier WV response remains under seal without a motion for a protective order from the Commission. The Commission will not seal the redacted material without a properly supported request for protective treatment. Thus, the Commission will release that material into the public file unless FiberNet files a properly supported protective treatment request within seven days of the entry of this Order.

FINDINGS OF FACT

1. FiberNet filed a Petition to Reopen this matter asserting numerous problems with the Frontier WV OSS that are allegedly harming its business and customers. Petition to Reopen.
2. The difficulties FiberNet alleged with the Frontier WV OSS appear to be specific to FiberNet. Id.
3. Frontier WV filed a response asserting that it has addressed most of the OSS problems FiberNet cited. July 30, 2010 Frontier WV Response.
4. Frontier WV filed a portion of its response under seal without a motion for a protective order. Id.

CONCLUSIONS OF LAW

1. It is reasonable to sever the substantive complaints in the FiberNet Petition to Reopen from this proceeding and transfer them to a new complaint case.
2. The Commission should offer mediation to the parties because FiberNet seeks an expeditious resolution and Frontier WV requested mediation.

3. It is reasonable to unseal the redacted portions of the July 30, 2010 Frontier WV response unless FiberNet files for protective treatment in seven days.

ORDER

IT IS THEREFORE ORDERED that the request to reopen this matter is denied.

IT IS FURTHER ORDERED that the substantive complaints contained in the Petition to Reopen are transferred to a new complaint case file. The Executive Secretary shall file copies of the July 21, 2010 Petition to Reopen, the July 30, 2010 Frontier WV response and a copy of this Order in the new case file.

IT IS FURTHER ORDERED that the Executive Secretary shall unseal the redacted portions of the July 30, 2010 Frontier WV response unless FiberNet files a properly supported request for a protective order within seven days of the entry of this Order.

IT IS FURTHER ORDERED that FiberNet and Frontier WV are afforded an opportunity to mediate their dispute regarding the Frontier OSS and should contact the Chief ALJ within ten days of the entry of this Order concerning their willingness to enter into mediation. The Chief ALJ shall advise the Commission by letter filed in the complaint proceeding in the event that mediation is unsuccessful or if the parties indicate that they are not willing to mediate this matter.

IT IS FURTHER ORDERED that on entry of this Order this matter shall be removed from the active docket of Commission cases.

IT IS FURTHER ORDERED that the Commission Executive Secretary shall serve a copy of this Order by electronic service on all parties requesting that service, on all other parties by First Class Mail and on both the Chief ALJ and Staff by hand delivery.

A True Copy. Teste:


Sandra Squire
Executive Secretary

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