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May 19, 2010

VIA ECFS

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: *Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control, WC Dkt. No. 09-95*

Dear Ms. Dortch:

Integra Telecom, Inc. (“Integra”), tw telecom inc., Cbeyond, Inc., and One Communications Corp. (collectively, the “Joint Commenters”), through their undersigned counsel, submit this letter in the above-referenced proceeding. On May 18, 2010, Thomas Jones, representing the Joint Commenters, spoke with Angie Kronenberg of Commissioner Clyburn’s Office and also with Nick Alexander of the Wireline Competition Bureau and Zac Katz of the Office of Strategic Planning and Policy Analysis regarding the proposed transaction between Frontier and Verizon (the “Applicants”). The substance of these conversations is discussed herein.

I. *Integra Continues To Experience Significant Problems With Verizon’s Wholesale Service Performance Using The “Replicated Systems” That Will Be Transferred To Frontier Post-Transaction.*

Verizon’s recent wholesale service performance using the Replicated Systems has improved in certain respects. Nevertheless, Integra continues to experience a number of significant problems with Verizon’s wholesale systems and processes in the Oregon and Washington markets. Integra describes these problems and responds to the statements made by Verizon in the Applicants’ May 14th Letter¹ below.

First, Verizon suggests that while there were “minor delays” with respect to order confirmation timeliness “during a short period of time immediately after realignment,” this problem has been

¹ See generally Letter from John T. Nakahata, Counsel for Frontier Communications Corporation, and Karen Zacharia, Counsel for Verizon, to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 09-95 (filed May 14, 2010) (“Applicants’ May 14th Letter”).

Marlene H. Dortch
May 19, 2010
Page 2

resolved.² However, the timeliness of Verizon's order confirmations continues to be substandard. Specifically, between May 10, 2010 and May 14, 2010, Verizon timely responded to only 7 out of 11, or approximately 64%, of the Access Service Requests ("ASRs") submitted by Integra.³ In addition, Verizon timely responded to only 1 out of 3, or approximately 33%, of the ASRs with installation activity submitted by Integra during that time period. These percentages are well below the 95% benchmark for FOC/LSC Notice Timeliness (Order Confirmation Timeliness) under Joint Partial Settlement Agreement ("JPSA") metric OR-1.⁴ Based on Integra's review of a sample of Local Service Requests ("LSRs") submitted during the same period, Verizon timely responded to 88 out of 99, or approximately 89%, of the Integra LSRs in the sample. This percentage is still below the 95% benchmark for order confirmation timeliness under the JPSA. Moreover, the fact that "[Verizon's] 13-states centers have averaged nearly 95% on-time performance for FOCs for special access"⁵ is irrelevant. The vast majority of Integra's wholesale orders from Verizon are for unbundled network elements, not special access.

Second, although Verizon states that it "provided timely completion notices to Integra for Local Service Requests more than 95% of the time in April 2010,"⁶ Verizon's more recent performance has been substandard. Specifically, between May 10, 2010 and May 14, 2010, in Integra's Oregon market, Integra received 55 out of 66, or approximately 83%, of completion notices from Verizon within 24 hours. This is less than even the 90% within-24-hours benchmark for manual processes under the JPSA (*i.e.*, JPSA metric OR-4-18 for Completion Notice Interval).

Third, Verizon's actual performance in the area of timely order completion is obscured in part by the fact that Verizon has been increasingly sending Service Activation Reports ("SARs") without actually completing the work requested on an order. This was true for orders NM-2556620-DS1, SM-2560987-BDSL, SM-2497851-BDSL, CL-2568000-BDSL, DS-2502748-WASA, and JT-2566473-CHG. This practice negatively impacts Integra's ability to serve its end-user customers. For example, if Verizon sends Integra a completion notice but has not performed the requested installation, Integra is forced to conduct multiple technician dispatches for a single end-user customer, and delivery of service to that customer is delayed. In addition, if Integra receives an SAR from Verizon, Verizon begins

² *See id.* at 2.

³ Verizon's poor performance on such a small set of ASRs does not bode well for a much higher volume of requests that would result if Integra or another competitor were to launch an aggressive marketing effort in the future.

⁴ Although 2 of the 11 ASRs submitted by Integra were for special access and the 95% JPSA benchmark does not apply to ASRs for special access, Verizon's percentages for timely ASR responses during the May 10, 2010 to May 14, 2010 period are nevertheless inadequate.

⁵ *Id.*

⁶ *Id.* at 3.

Marlene H. Dortch
May 19, 2010
Page 3

billing Integra, and Integra may mistakenly begin billing its end-user customer before service is actually delivered to the customer.

Integra has also found that Verizon has increasingly performed the requested work on orders without sending Integra completion notices. This was the case for orders NM-2524155-FDIS, NM-2573201-DIS, HS-2528012-DIS, and HS-2552278-DS1. This practice also negatively affects Integra's ability to serve its end-user customers. For instance, if Verizon fails to update the completion of the requested work in its systems, Verizon could inadvertently disconnect the service of a customer migrating from Verizon to Integra because it has no supporting records for the service in its systems. In addition, without a completion notice from Verizon, Integra's delivery of service to its end-user customer is delayed.

Fourth, Verizon states that it "has reduced the time it takes to resolve PSCC trouble tickets for Integra by an average of 7 days following the realignment."⁷ However, tickets for certain types of systems issues are staying open for longer periods of time since the transition to the Replicated Systems. For example, some of the PSCC tickets for Verizon's failure to update its Connecting Facility Assignment and Cross Connect Equipment Assignment databases to reflect the disconnects requested by Integra and completed by Verizon have been open for more than 3 weeks. These include PSCC ticket numbers S0928372, S0928373, S0928374, S0928461, S0928505, S0928507, S0928543, and S0928546.

Fifth, Verizon states that "between April 23 and present, Verizon completed all of Integra's hot cuts on time."⁸ However, the rate at which Verizon completes hot cuts on time does not, by itself, provide a sufficiently comprehensive assessment of Verizon's performance in this area. For example, since the transition to the Replicated Systems, when Integra has submitted supplemental LSRs for coordinated conversions (*i.e.*, hot cuts), Verizon has been increasingly disconnecting the end-user customers' Verizon retail service before conversions to Integra are completed. Such premature disconnection causes unnecessary service outages for customers seeking to migrate from Verizon to Integra. This was true of orders JT-2565579-CHG and AB-2459369-LLNP. In an effort to fix this problem, Integra has been forced to add to its internal process for coordinated conversions the manual step of calling Verizon to ensure that Verizon does not disconnect an order before the conversion to Integra is completed.

Similarly, since the transition to the Replicated Systems, Integra has increasingly experienced problems with Verizon's processing of supplements to LSRs. For example, when Integra supplements LSRs to postpone the requested due date, Verizon's technicians continue to process the orders using the original requested due dates, resulting in service outages for customers migrating from Verizon to Integra. This was true of orders SS-2468866-PRT and SS-2468866-LLNP. Again, in an effort to fix

⁷ *Id.*

⁸ *Id.*

Marlene H. Dortch
May 19, 2010
Page 4

this problem, Integra has been forced to add to its internal processes the manual step of calling Verizon to ensure that Verizon processes the supplement properly.⁹

Sixth, while hold times for calls to Verizon's call centers have improved, Integra has found that some of the Verizon representatives answering these calls are inexperienced or have been inadequately trained. Integra employees have sometimes found themselves educating Verizon's representatives on Verizon's internal processes and the requirements of the CLEC-facing Verizon systems. In some cases, Verizon representatives operating the Replicated Systems have also indicated to Integra that they do not know the appropriate workarounds to resolve specific types of problems. For instance, when Integra has submitted ASRs for DS1 EELs that use DS3 transport rather than DS1 transport, Verizon's systems have been increasingly rejecting these orders on the basis that Integra has exceeded the regulatory cap on DS1 transport. This was true for orders CA-2484208-VGT, CA-2484208-VGT2, and SE-2542970-EEL. When Integra has contacted Verizon to resolve this type of error, the Verizon representatives have not always understood the nature of the problem, and Integra has had to educate them on the fact that the DS1 transport cap does not apply to individual channels on DS3 transport. Even where the Verizon representatives have understood the problem, they have had to consult with their manager to learn the relevant workaround, thereby causing further delays in the delivery of service to Integra end-user customers.

Finally, in response to Integra's concern that the Applicants are effectively asking Integra to agree to an amendment of its Wholesale Advantage Services Agreement with Verizon (*i.e.*, by requesting that Integra sign the "Adoption Agreement" attached to the Applicants' January 21, 2010 letter to Integra),¹⁰ Frontier states that "Frontier will comply with all terms and requirements in the Washington and Oregon settlements."¹¹ Accordingly, as indicated by Integra in its letter to Frontier dated May 18, 2010,¹² Integra assumes that it is no longer being asked to sign the aforementioned "Adoption Agreement."

⁹ Another area in which Integra has been forced to add manual validation to its internal processes is vendor "meets" (otherwise known as coordinated dispatches). Because Verizon had been increasingly missing vendor meets, Integra added the manual step of calling Verizon after it electronically submits a vendor meet ticket to Verizon to ensure that Verizon properly distinguishes the vendor meet ticket from other trouble tickets that are handled by Verizon dispatchers on an ad-hoc basis.

¹⁰ See Attachments A & B to Letter from Thomas Jones, Counsel for Integra Telecom, Inc., tw telecom inc., Cbeyond, Inc., and One Communications Corp., to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 09-95 (filed May 13, 2010) ("Joint Commenters' May 13th Letter").

¹¹ See Letter from Kevin Saville, Associate General Counsel, Frontier Communications Corp., to Dennis D. Ahlers, Associate General Counsel, Integra Telecom, Inc. et al., at 1 (dated May 14, 2010), attached as Attachment 1 to Applicants' May 14th Letter.

¹² See Letter from Dennis D. Ahlers, Associate General Counsel, Integra Telecom, Inc., to Kevin Saville, Associate General Counsel, Frontier Communications Corp., at 2 (dated May 18, 2010) (attached hereto as "Attachment A").

Marlene H. Dortch
May 19, 2010
Page 5

II. The Commission Should Require Frontier To Meet The Performance Benchmarks Proposed By The Joint Commenters.

In light of the problems that Integra has experienced with Verizon's wholesale service performance using the Replicated Systems, as well as similar problems described in the record by PAETEC,¹³ there is a substantial risk that these problems will continue after the Commission approves the merger. Accordingly, as the Joint Commenters have explained throughout this proceeding, the Commission should adopt robust conditions to ensure close FCC oversight of the relevant wholesale operations. Among other things, the FCC should require that an independent third-party OSS expert review and assess the sufficiency of the relevant OSS. To the extent that the Commission requires Frontier to report on defined performance measures, it should require Frontier to meet or exceed Verizon's average monthly performance for 2008 for: (1) each of the metrics listed in Frontier's Voluntary Commitment # 12; and (2) the ten JPSA metrics listed in the Joint Commenters' May 13th Letter.¹⁴ At the very least, as a condition of its merger approval, the Commission should require Frontier to meet or exceed Verizon's average monthly performance for these metrics for the twelve months preceding the transition to the Replicated Systems.

Respectfully submitted,

/s/ Thomas Jones

Thomas Jones

Nirali Patel

*Counsel for Integra Telecom, Inc., tw telecom inc.,
Cbeyond, Inc., and One Communications Corp.*

Attachment

cc (via e-mail): Nicholas Alexander
Alexis Johns
Carol Simpson
Zachary Katz
Angela Giancarlo
Angela Kronenberg
Jennifer Schneider
Christi Shewman

¹³ Letter from Mark C. Del Bianco, Counsel for PAETEC Communications, Inc., to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 09-95, Attachment A, at 6-7 (filed May 17, 2010).

¹⁴ See Joint Commenters' May 13th Letter at 4-6.

ATTACHMENT A



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May 18, 2010

Kevin Saville
Associate General Counsel
Frontier Communications
2378 Wilshire Blvd.
Mound, MN 55364

Via UPS Overnight Delivery

Re: Verizon Communications Inc. and Frontier Communications Corporation Joint Application, or, in the alternative, to Approve the Indirect Transfer of Control of Verizon Northwest, Inc.
OR Docket No.: UM 1431

Verizon Communications Inc., and Frontier Communications Corporation for an Order Declining to Assert Jurisdiction Over, or, in the Alternative, Approving the Indirect Transfer of Control of Verizon Northwest, Inc.
WA Docket No.: UT-090842

Dear Kevin:

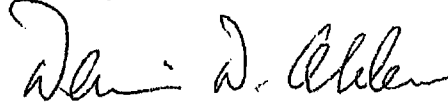
I am writing in response to your letter of May 14, 2010, responding to my letter of May 10, 2010, in which I raised Integra's concern that the "Adoption Agreement" proposed by Frontier and Verizon did not comply with the orders of the Washington and Oregon utility commissions and the settlements upon which those orders were based. In your letter you imply that Integra should have raised its concerns earlier. To the contrary, Integra believes that it was premature and presumptuous of Frontier and Verizon to expect Integra and other CLECs to review and agree to "Adoption Agreements" prior to review and approval of the transaction by the state commissions and the Federal Communication Commission. The Washington Commission approved the transaction, with conditions, on April 16, 2010 and as of the date of your letter, FCC approval of the transaction was still pending.

As you know, subsequent to the distribution of the "Adoption Agreement," Verizon and Frontier entered into settlements with several CLECs in Oregon and Washington that addressed the assumption of Verizon agreements by Frontier. Later, both Commissions adopted those settlements and made them part of their orders. At that point, Integra expected Frontier to rescind its request that Integra sign the "Adoption Agreement" and instead indicate that Frontier would comply with the Oregon and Washington orders and settlements. When no further correspondence was forthcoming, Integra felt that it had to make it clear that it did not consider the "Adoption Agreement" to be consistent with the settlements or the orders, and thus would not be signing it.

Kevin Saville
May 18, 2010
Page 2

In your letter, you confirm that “Frontier has agreed and will honor its commitment in the Washington and Oregon settlement agreements, including to assume and take assignment of all obligations of Verizon Northwest’s current interconnection agreements and other existing wholesale arrangements with Integra (and its affiliates).” Integra is encouraged by that response and assumes that that will be self-effectuating and that it is no longer being asked to sign the previously provided “Adoption Agreement.” Please confirm that that assumption is correct.

Sincerely,



Dennis D. Ahlers
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cc: Jeff Oxley
Thomas Jones & Nirali Patel—Willkie, Farr & Gallagher