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September 21, 2009

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Application of Contel of the South, Inc. d/b/a Verizon Mid-States, Verizon Communications Inc. and Frontier Communications Corporations for Consent to Transfer Control of Domestic Section 214 Authority
WC Docket No. 09-95

Dear Secretary Dortch:

Please file these comments in the above-referenced matter which involves Verizon's proposed transfer of its wireline business to Frontier Communications. This letter expresses concerns of the Attorney General of the State of West Virginia with regard to the Application.

The following appear to be genuine issues for the Commission's consideration:

1. Service issues have been a recent problem for Verizon and are unlikely to be remedied by Frontier without significant inputs of cash.

2. Frontier may be undercapitalized.

3. The merger will likely result in increased unemployment.

4. The proposed transfer creates an unacceptable risk of labor issues.

5. Traditional antitrust analysis warrants extreme caution in considering the Application.

1. Service Issues May Go Unremedied

In West Virginia, Frontier would inherit a Retail Service Quality Plan (the Plan) agreed to by Verizon, yet there does not appear to be a formal mechanism in these proceedings or the West Virginia Public Service Commission proceedings, to require Frontier to adhere to the terms of the

Plan. The Plan was the result of a proceeding against Verizon by the West Virginia Public Service Commission based on numerous complaints of poor service. Should Frontier decide to comply with the Plan using its own strategies and approaches, as it has indicated it would in its filings with the West Virginia Public Service Commission, without some guaranteed oversight, consumers will bear the brunt of any non-compliance. This is unacceptable. Consumers in West Virginia have borne the brunt of questionable telephone service for years, and reportedly Verizon is having a difficult time honoring the Plan, especially since dozens of employees have retired or otherwise left the company following the announcement of the proposed transfer to Frontier. To the extent of the Commission's authority, transfers of licenses should be held up until Frontier agrees to be subject to specific consequences if it does not adhere to the terms of the Plan. Moreover, if Verizon is required to guarantee such compliance, the chances of the Plan being fulfilled are much greater.

During the past four years, this office has received approximately 300 complaints against Verizon and approximately 100 against Frontier, a ratio of 3-1 notwithstanding the fact that Verizon has over 4 times as many access lines as Frontier – 617,000 for Verizon compared to 144,000 for Frontier. Our understanding is that complaints against Verizon filed with the State's Public Service Commission resulted in the West Virginia Public Service Commission's adoption of the Plan.

As part of any approval process, Frontier should be required to guarantee the Commission (and the West Virginia Public Service Commission) that it will comply with the terms of the Plan and Verizon should be required to guarantee Frontier's performance.

2. Frontier's Capitalization And Credit Rating.

Service issues can frequently be remedied by applying resources, specifically, people and money, to the underlying problem. A strong credit rating enables a company to borrow money at favorable rates. Standard & Poor's gives Frontier a BB credit rating while giving Verizon an A. Moody's and Fitch's also have similar ratings for Verizon and Frontier (A3 v. Ba2 and A v. BB, respectively). The cost of credit for Frontier is likely to be higher than the cost for Verizon would be, which will affect all of Frontier's operations.

This proposed transfer will encumber Frontier with significantly more debt – at least $3 billion in additional debt. While Frontier's debt load is increasing, it will be expected to spend more money on infrastructure and compliance with Verizon's Retail Service Quality Plan. It will be extremely difficult for Frontier to implement its goals without additional money.

This additional money for infrastructure and compliance projects may not be easily found. Industry analysts expect access line erosion to continue which means lost income. Verizon has lost about one third of its access line customers in West Virginia in the past few years. If the line loss trend continues as expected, Frontier will likely need to increase prices to help service the debt burden that it is assuming as part of this deal. Consumers are likely to shoulder this burden.

Frontier's strategy for stemming access line loss is to engage in more bundling of services and to expand the penetration of broadband availability in Verizon's current territory. Bundling of services can cause consumer prices to rise as they are essentially forced to pay for goods or services they do not want or need. Bundling certainly impacts competition. Many companies use bundling to prevent consumers from purchasing a less expensive or superior product or service from a competitor. As Frontier admits, bundling also helps retain customers.

In its West Virginia Public Service Commission filings, Frontier said it would continue the free PC give-away program it has had in place for the past few years. Giving away computers costs money. Expanding broadband capabilities costs money. According to Standard & Poor's, Frontier's capital spending declined 9% in 2008, and Standard & Poor's expects a similar decline through 2009. Frontier is planning on funding the broadband expansion, in part by cutting its dividend rate by twenty-five cents a share and by having greater access to credit markets. Even if Frontier's balance sheet improves with the closing of the merger, it is unreasonable to expect its credit rating to improve to Verizon's level. Thus, Frontier's promise to expand broadband services to 90 percent of Verizon's service area from its current levels has a significant chance of being unattained.

Additionally, the proposed transaction is structured as a Reverse Morris Trust, which makes the deal tax free for Verizon. As the Commission is aware, Verizon consummated three other Reverse Morris Trust sales and all have had problems. Verizon spun off access lines in New England to FairPoint Communications in 2008; spun off access lines to Hawaiian Telcom (actually purchased by Carlyle Group) in 2005; and spun off its yellow pages unit to Idearc in 2006. Hawaiian Telcom and Idearc are in bankruptcy and FairPoint Communications is close behind. FairPoint's stock traded at $9.44 per share in September of 2008. As of September 21, 2009, it was trading at 73 cents per share, up from 45 cents per share in August 2009.

Frontier believes that its situation is different and that it will not have the same problems as FairPoint or Hawaiian Telcom as stated in prepared testimony submitted in the West Virginia Public Service Commission proceeding. Frontier will use its current systems (customer support, financial systems, operations) to take on the Verizon customers, in contrast to FairPoint and Hawaiian, which tried to develop new systems from scratch. Although Frontier emphasizes in its application that it is a rural-focused company acquiring lines serving rural areas and small cities, it is also acquiring access lines in Seattle, Washington and Portland, Oregon, two large cities that are very different from Frontier's customary markets. We could have a bankrupt wireline telephone system serving almost all of West Virginia, and several other states, should Frontier suffer a fate similar to that of other Verizon spinoffs.

We ask this Commission to take great care in analyzing Frontier's financial ability to adequately serve the needs of the public.

3. The Merger Will Likely Result In Increased Unemployment

When companies merge, they typically reduce the total number of employees as they seek to exploit the efficiencies of the combined operations. Frontier, as the surviving company, will be no different. Frontier has a fiduciary duty to its shareholders to take advantage of all possible costs savings that it can. Unfortunately, this will create more unemployment. Many of the West Virginians that may find themselves unemployed live in rural parts of the state. Ironically, then, although they may eventually have access to broadband Internet, they may not be able to afford it.

While Frontier has agreed not to fire represented technicians and installers for a period of 18 months, there is no similar guarantee of employment of other represented employees or unrepresented employees. For unrepresented employees, Frontier is only guaranteeing to pay them the same base salary for a period of 12 months and provide similar bonus opportunities and benefits for the duration of the calendar year in which the deal closes (probably 2010). Thus, surviving employees can expect an impact on their compensation and benefits within one year of the merger.

In summary, West Virginia can expect to have its unemployment rolls increase immediately after the merger and then increase again 18 months later. There is no provision in the Application for any plan for out-placement or retraining services. Those burdens will fall on the affected individuals and the taxpayers of West Virginia. The Commission should ensure that these issues are addressed now rather than after the deal is closed.

4. The Merger May Cause Labor Problems

Verizon and Frontier currently have collective bargaining agreements in place with some of their employees. Frontier pays its represented employees less than Verizon pays its represented employees, Verizon being a much bigger company and better capitalized.

To its credit, Frontier has agreed to be bound by the collective bargaining agreements in place with Verizon. However, given all the circumstances, no one should be surprised if Frontier attempts to immediately renegotiate the agreements or does not renew the agreements when they expire. Frontier currently is engaged in such behavior. This past July, Frontier imposed a mandatory 12-day, unpaid furlough for all its represented employees. Unrepresented employees had already been furloughed. Because the Communication Workers of America contend that the furlough is in violation of the collective bargaining agreements, the CWA commenced a proceeding before the National Labor Relations Board, Case No. 11-CA-22352, to challenge Frontier's action. This proceeding continues.

Two other complaints have been lodged against Frontier with the NLRB by the Communications Workers of America, District 13. The CWA accuses Frontier of engaging in direct dealing and bypassing the union. Those complaints are under investigation as well.

Frontier exhibits similar behavior in other labor negotiations. If Frontier is successful in extracting concessions from labor in its Pennsylvania negotiations, many expenses will shift to the workforce that were previously the responsibility of Frontier. Covered employees will pay more for healthcare benefits; the pension plan will be frozen in favor of a 401(k) plan; and wages will be frozen in favor of a performance plan with Frontier judging the performance. Frontier also seeks to expand the use of non-represented contract labor while eliminating represented positions in its Pennsylvania negotiations.

None of this bodes well for Frontier employees in West Virginia and other states. Covered employees from Verizon will likely be performing similar duties and have similar responsibilities as employees from Frontier, yet Frontier employees will be earning less money than the former Verizon employees. If labor issues manifest themselves, there is likely to be an impact on Frontier's ability to deliver services and perform obligations under the Verizon Retail Service Quality Plan.

Skilled Verizon employees already are leaving the company in numbers sufficient to adversely affect the Plan. This very issue is currently before the West Virginia Public Service Commission.

None of the documents filed in West Virginia or with the Commission address how Frontier is going to integrate the represented work forces while complying with the Plan. The Commission should review this issue with utmost scrutiny.

5. Antitrust Analysis

If not for the exemption contained in the West Virginia Antitrust Act, W. Va. Code § 47-18-5, this merger would be subject to criticism under traditional antitrust principles and would be highly suspect, since there will be essentially no competition in wireline service in West Virginia. W. Va. Code §§ 47-18-3 and -4. Although Verizon has more than four times the number of access lines in West Virginia, Frontier could have been a serious competitor to Verizon if the public convenience and necessity warranted the additional service in Verizon's operating areas and Frontier had a desire to expand its business. The benefits of competition to consumers usually include lower prices, better service and more variety of goods and services. Frontier could have competed in Verizon territory, offering high speed Internet access which would have forced Verizon to compete.

The antitrust laws generally seek to preserve and enhance competition or potential competition. W. Va. Code § 47-18-4. Thus, Frontier's statement that no competitors will be eliminated in the proposed merger areas of West Virginia is technically correct but not the whole picture. Verizon and Frontier have no current overlap of local exchanges; however, any potential competition to Verizon from Frontier will be lost. This is one of the traditional concerns of antitrust law.

In conclusion, the Commission is urged to give this proposed merger heightened scrutiny since most of the population of West Virginia will feel the impact if the deal closes.

Respectfully,

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