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May 17, 2010

Ex Parte

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

The Honorable Michael J. Copps
Commissioner
445 12th Street, SW
Washington, DC 20554

The Honorable Robert M. McDowell
Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

The Honorable Mignon Clyburn
Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

The Honorable Meredith Atwell Baker
Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Application of Verizon Communications Inc. and Frontier Communications Corporation for Consent to Transfer Control of Domestic Section 214 Authority, WC Docket No. 09-95

Dear Chairman and Commissioners:

I am writing on behalf of the Communications Workers of America, AFL-CIO and in response to the May 12, 2010 correspondence from Counsel to Frontier Communications Corporation.¹ In that correspondence counsel discusses the Applicants use of the Reverse Morris Trust tax-free mechanism (RMT) for this proposed transaction. Frontier contends that RMT is fully lawful, has been used in other situations and is in some way in the public interest.

It is telling that Frontier fails to note that as a provision of H.R. 4849 on March 24, 2010, the United States House of Representatives voted 246-178 to repeal the RMT. In coming to this vote the House stated,

The Committee is concerned about the levels of debt incurred in divisive transactions in which one corporation is relieved of debt while the other subsequently separate corporation is heavily burdened. In recent years, Congress has sought to limit a distributing corporation's ability to cause a controlled corporation to distribute cash or assume the distributing corporation's debt prior to a tax-free spin-off. (House Report 111-447)

¹ The name of the counsel is blocked out on the copy of the correspondence contained on the FCC's web docket.

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The Committee concluded that, "The change more closely conforms the treatment of securities received in other corporate organizations and reorganizations." That is, in comparison to the arguments of Frontier, the United States House of Representatives is saying that the determination that the tax-free nature of transactions such as the instant matter does not make sense. Rather, much like the CWA, the Congress is concerned with the high levels of debt that entities, such as Frontier, take on as a result of the RMT and that such transactions should not be subsidized by taxpayers. H.R. 4849 is currently pending before the United States Senate.

Frontier also appears to be arguing that apparently by lowering the price of the sale through the use of the RMT Frontier will be able to expand broadband into the to-be acquired areas in a manner similar to a tax credit. It would be equally logical to argue that the need for a major tax concession indicates the lack of viability of the transaction and that, at a higher price the deal simply would not have been reached. Thus, the fact that tax subsidies of this magnitude are required should be a clear warning sign to the Commission that this deal is deeply flawed.

Lastly, I would note that the RMT nature of the transaction means that Verizon is required to sell to a smaller company to realize the RMT benefit. By only considering a purchaser in the context of tax-avoidance, other financially stronger purchasers were not considered.

CWA appreciates the Commission's willingness to consider the issues it has raised. If you have any questions or concerns please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Vincent Trivelli", with a long horizontal line extending to the right.

Vincent Trivelli

Cc: Edward Lazarus
Jennifer Schneider
Angela Giancarlo
Angela Kronenberg
Christy Shewman
Sharon Gillett
Paul De Sa
Zachary Katz
Donald Stockdale
Nicholas Alexander
Carol Simpson
Alexis Johns