

Exhibit No. ___ T (WHW-6T)
Docket No. UT-090842
Witness: William H. Weinman

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Application of

**Frontier Communications, Inc. and
Verizon Communications, Inc.**

For approval of Transfer of Control

DOCKET NO. UT-090842

**TESTIMONY IN SUPPORT OF
SETTLEMENT AGREEMENT
OF
WILLIAM H. WEINMAN
STAFF
OF
THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION**

December 24, 2009

1 **Q. What is the purpose of this testimony?**

2 A. My testimony describes and supports the settlement agreement between Commission
3 Staff and the Joint Applicants, Verizon Communications, Inc. (Verizon) and Frontier
4 Communications Corporation (Frontier). That settlement resolves all disputed issues
5 between Staff and the Joint Applicants in this proceeding.

6
7 **Q. Does this agreement include any other parties besides Staff and the Joint**
8 **Applicants?**

9 A. No, it does not. Public Counsel and the Department of Defense and other Federal
10 Executive Agencies have not joined in the settlement. I am not certain whether the
11 International Brotherhood of Electrical Workers or the Broadband Communications
12 Association of Washington will take any position with respect to the settlement. The
13 Joint Applicants have reached separate agreements with all of the various Competitive
14 Local Exchange Carrier (CLEC) interveners. Staff believes that those CLEC agreements
15 are consistent with the agreement between Staff and the Joint Applicants, and that the
16 conditions set out in those agreements should also be adopted by the Commission.

17
18 **Q. In your prefiled direct testimony, did you recommend that the Commission deny the**
19 **transfer of control of Verizon Northwest, Inc. (Verizon NW) from Verizon to**
20 **Frontier?**

21 A. Yes. In my direct testimony, filed on November 3, 2009, I recommended the
22 Commission deny the transfer of control from Verizon to Frontier. My recommendation,
23 which has since changed, was based on my conclusion that the Joint Applicants had not

1 provided enough information in their direct testimony and in response to data requests
2 from Staff and Public Counsel to meet the burden of showing that the proposed
3 transaction would be consistent with the public interest and would result in no harm to
4 Washington consumers.

5 The additional information the Joint Applicants subsequently provided in their
6 rebuttal testimony, together with the conditions that the Joint Applicants have agreed to
7 in their settlement with Staff, provide the necessary assurance that the transaction is
8 consistent with the public interest and will result in no harm to Washington consumers.
9 Therefore, I now recommend that the proposed transaction be approved, subject to the
10 conditions outlined in the settlement agreement

11
12 **Q. Would you give a brief explanation of the change in Staff's position?**

13 A. Staff had two primary areas of concern with the proposed transaction. Those were
14 financing issues outlined in my direct testimony and the transition of operations support
15 systems (OSS) described in Mr. Robert Williamson's direct testimony.

16 The Joint Applicants, Staff, and other parties have discussed the OSS issues
17 throughout the pendency of the case, and the Joint Applicants have given workshops
18 addressing the migration of OSS from Verizon to Frontier. Verizon has made a
19 considerable effort to define and scrutinize the replication of its computer systems and
20 the migration of those systems to Frontier.

21 Staff and the Joint Applicants have also discussed the financial issues. As with
22 the OSS, we have come to agreement to resolve the financial issues.

1 **Q. How is the settlement structured?**

2 A. Attachment 1 to the settlement agreement sets out 35 separate conditions that Staff and
3 the Joint Applicant are asking the Commission to adopt as its conditions of approval of
4 the transaction, along with the conditions contained in the separate CLEC settlement
5 agreements. There are six broad categories in the settlement. They are as follows:

- 6 ▪ Financial Conditions – 1 through 12
- 7 ▪ DSL/Broadband Deployment – 13 through 18
- 8 ▪ Retail service Quality – 19 through 22
- 9 ▪ Retail Service Rates – 23 through 26
- 10 ▪ Operations Support Systems – 27 through 31
- 11 ▪ Washington Telephone Assistance Program (WTAP) – 32 through 35

12
13 **I. FINANCIAL CONDITIONS**

14
15 **Q. On page 3 of your direct testimony, you provided Staff’s primary recommendation**
16 **of denial and then you stated that “there may not be any way for Frontier to provide**
17 **benefits to Washington customers that offset the financial harm and operational**
18 **risks.” Why do you now recommend approval subject to the conditions that Staff**
19 **has negotiated with the Joint Applicants?**

20 A. In their response to Staff and Public Counsel’s testimony, the Joint Applicant witnesses’
21 rebuttal testimony presents compelling evidence that Frontier will have the financial

1 fitness to complete the transaction and to integrate Company operations without falling
2 into financial distress.

3 Frontier rebuttal witnesses Mr. McCarthy and Mr. Whitehouse have provided
4 detail in response to and that addresses the issues raised in Staff's testimony.. The pro
5 forma leverage ratio (Net Debt ÷ Earnings Before Interest Taxes Depreciation and
6 Amortization of the combined Frontier entity will compare favorably to other Rural Local
7 Exchange Carriers (RLEC). With the synergy savings included in the pro forma data,
8 Frontier expects to have a leverage ratio of 2.2, which is equal to the "investment grade"
9 performance of CenturyTel, Inc. (pre merger year ended 2008). Assuming Frontier does
10 not receive expected synergy savings, it will still perform better than the other
11 comparable RLECs, with the exception of CenturyTel.¹

12
13 **Q. Your testimony stated the lower debt ratings of Frontier's debt versus Verizon's**
14 **debt will cause harm to the Washington customers. Has your concern been**
15 **addressed?**

16 A. Yes. That concern was and is associated with customer rates and ratekaking. That is
17 why the settlement agreement has a provision that "investment grade debt and equity"
18 will be used to determine the cost of capital for revenue requirement purposes when the
19 Company files results of operations along with an alternative form of regulation petition
20 to the Commission. This filing will take place within five years from the date of close of
21 the proposed transaction. This provision eliminates the cost of capital issue.

22

¹ Rebuttal Testimony of David R. Whitehouse, p. 19.

1 **Q. You have criticized Frontier for not defining the interest rate of the \$3.3 billion debt**
2 **needed to be issued with this transaction. Has the rebuttal testimony removed this**
3 **issue?**

4 A. The issue has been removed because Staff has concluded that the Company will retain
5 strong cash flows even if debt is issued at 9.5 percent. Thus, Staff believes Frontier's
6 ability to issue the debt is no longer an issue.

7
8 **Q. You have testified to other issues such as a lack of response to data requests and the**
9 **risk factors expressed in the Securities and Exchange Commission (SEC) Form S-4**
10 **filing. Has the additional information present in the Applicants' rebuttal testimony**
11 **and otherwise gathered by Staff eliminated those concerns you had in your direct**
12 **testimony?**

13 A. With regards to the data requests, Staff is satisfied that the Joint Applicants have
14 provided relevant information that addresses the concerns expressed in my direct
15 testimony. Staff would not have entered into this settlement agreement if those issues
16 were still outstanding.

17 As for the S-4 filing, the SEC requires full disclosure of all risks attendant to
18 merger transactions from all companies. The risks disclosure has pertinent information
19 that Staff needs in order to perform a thorough review of a merger filing. The primary
20 Staff issues were financing and replication of Verizon's OSS for Frontier. Those issues
21 have been resolved with the settlement agreement.

22

1 **Q. Please give a brief description of financial conditions contained in the settlement**
2 **agreement.**

3 A. The settlement contains the following financial conditions:

4 1. Frontier will file quarterly reports listing intercompany receivables and payables
5 balances and activity between Frontier and Frontier NW. Dividends declared by
6 Frontier NW to the parent will also be included in this report.

7 2. Frontier Northwest (Frontier NW – the name to be given the local operating
8 company now known as Verizon Northwest) will file results of operations, an
9 alternative form or regulation (AFOR) proposal and cost of capital will be based
10 upon “investment grade” debt and equity.

11 3. Frontier will provide bi-annual reports of synergy savings.

12 4. Frontier will not seek to recover branding and transition costs from the
13 Washington customers.

14 5. Frontier will not encumber Frontier NW assets.

15 6. Frontier will furnish Staff with post-transaction financial data.

16 7. The Company will report the annual expenditures between Verizon and Frontier
17 for transitional services (such as Verizon provision of OSS maintenance services
18 on behalf of Frontier).

19 8. Frontier will comply with affiliated interest transaction filings under WAC 480-
20 120-375.

- 1 9. The Joint Applicants will notify the Commission of any material change to the
2 transaction terms and conditions between the approval of the merger and the close
3 date.
- 4 10. Frontier NW will maintain its books and records to enable the Company to report
5 Washington-specific financial data.
- 6 11. Frontier NW will hold retail and wholesale customers harmless for increases in
7 overall management costs that result from the transaction.
- 8 12. Frontier will submit a multi-year strategic plan identifying the expected remaining
9 life and replacement of Washington host and remote central offices.

10

11 **II. DSL/BROADBAND DEPLOYMENT**

12

13 **Q. Would you explain the settlement of the broadband deployment portion of the**
14 **settlement agreement?**

15 A. Staff and Frontier have reached an agreement for increased the deployment of broadband
16 throughout the state, including in currently unserved and underserved wire centers. The
17 Company will reach 50 percent availability in the unserved and underserved wire centers
18 by the end of 2011 and will increase the availability to 85 percent by the end of 2014.
19 The other wire centers will increase broadband availability to 90 percent by the end of
20 2014.

21 This portion of the settlement agreement requires a significant financial
22 commitment from Frontier. Within 30 days of the close of the transaction, Frontier will

1 deposit in an escrow account \$40 million dollars for the DSL deployment. The Company
2 can petition the Commission quarterly for reimbursement of broadband equipment placed
3 into service during the preceding quarter. The \$40 million dollar estimate is based upon
4 Frontier's cost estimate but the settlement agreement requires that the percentages of
5 availability will be met even if the Company's deployment costs exceed \$40 million.
6 The definition of broadband services with respect to the \$40 million commitment
7 specifically excludes fiber to the home construction commitments Frontier has with local
8 franchising authorities.

9
10 **Q. Would you briefly explain each condition?**

11 **A.** The DSL/Broadband deployment conditions are as follows:

- 12 1. Frontier will fund a \$40 million dollar escrow account for broadband deployment.
- 13 2. If Frontier NW determines that it is technically infeasible to fulfill one or more of
14 the objectives in conditions 15 through 18, it will submit a detailed report to the
15 Commission describing the problems and propose a plan that provides at least a
16 similar level of public benefit.
- 17 3. Frontier NW must deploy broadband service in not less than 95 percent of the
18 wire centers within two years and make broadband available to approximately 89
19 percent of the households by December 31, 2014.
- 20 4. Frontier must achieve specified upload and download speeds for the broadband
21 service it deploys.

1 5. Frontier NW must submit an initial plan for broadband deployment within 90
2 days of the transaction closing date.

3 6. Frontier NW must make stand-alone DSL available to consumers for 12 months
4 after the closing of the transaction

5
6 **Q. Other than the fact that it is a negotiated amount, is there anything that the
7 Commission should be aware of with regard to the 95% wire center deployment and
8 the overall broadband availability commitment level?**

9 A. The broadband commitments included in the settlement represent a significant expansion
10 of broadband service availability in Verizon's service territory. At this time, Verizon has
11 not deployed broadband services in several wire centers. Frontier is committing to
12 expand broadband availability to 95% of the wire centers in the Settlement. Frontier is
13 also committing to make broadband service available to almost 90% of the households in
14 its service territory over time. With this commitment customers in Washington that
15 currently do not have access to broadband service will have a broadband service option
16 from Frontier. In addition, the Federal Communications Commission (FCC) approved
17 the CenturyTel, Inc. and Embarq, Inc. merger with the condition that the applicants must
18 provide 100 percent broadband capability to their customers. The final 10 percent of the
19 broadband service deployment could be offered using alternative technologies such as
20 satellite broadband service. Staff believes that the FCC may require a similar broadband
21 deployment for this transaction.
22

1 III. RETAIL SERVICE QUALITY

2
3 **Q. The retail service quality sections contain four conditions (19 through 22). Please**
4 **briefly explain these conditions.**

5 A. The retail service quality provisions provide assurance that the local exchange
6 Company's basic service quality metrics will not deteriorate following the transaction.
7 Specifically, Frontier NW will adopt Verizon's Service Performance Guarantee (SPG)
8 standards and has agreed to increase the amount for the residential missed commitment
9 credit from \$25.00 to \$35.00 for missed appointments. Frontier will also provide an out
10 of service credit of \$5.00 for service outages lasting more than two days.

11 Frontier has also agreed to a service quality program, based on six service
12 metrics, which would distribute customer credits each month up to an annual amount of
13 \$100,000 (\$100,000/12) for each missed metric. This provision also contains an
14 escalator providing an additional credit of \$100,000 for the second year of a missed
15 metric and another \$200,000 escalator if a metric is missed in all three years. The
16 Company will also provide an annual report card of these metrics to their customers and
17 to the Commission.

18 The Company has also agreed to the imputation associated with the spin-off of Verizon's
19 yellow page business in Docket UT-06177.

20
21 **Q. Does Staff have any wholesale quality of service conditions?**

22 A. Staff has reviewed the CLEC settlement agreements reached with all of the CLECs that
23 have intervened in this proceeding. Staff's issues were addressed in those settlement

1 agreements eliminating the need for wholesale quality of service conditions in this
2 agreement.

3
4 **IV. RETAIL SERVICE RATES**

5
6 **Q. Would you briefly discuss the retail service rate conditions?**

7 A. Conditions pertaining to retail service rates are contained in conditions 23 through 26 of
8 the settlement agreement. They are as follows:

- 9 1. Frontier NW may not increase its residential flat and measured rate for a period of
10 three years. The Company may petition the Commission to seek a rate increase if
11 such an increase is made necessary by exogenous factors.
- 12 2. The Company will continue to provide “grandfathered” services to existing
13 Verizon customers for at least six months from the transaction close date.
- 14 3. Frontier must waive the Primary Interexchange Carrier non-recurring charge for
15 any transitioned Verizon NW intrastate long distance customer requesting a
16 change to another long distance service provider for a period of 90 days after the
17 transaction close date.
- 18 4. Frontier will continue to offer bundled services for a minimum of 12 months
19 following the date of close.
- 20

1 c. Repair – Percent of Out-of-Service troubles per 100 access lines

2 d. Billing Error complaints

3 The settlement agreement affirms that Frontier may not proceed with closing the
4 proposed transaction until it has validated that the OSS are fully functional and
5 operational, and Verizon must also complete system testing and issue a report to the
6 Commission validating that the OSS replicated systems are operational.

7 Within three years of closing, the settlement agreement also requires Frontier NW
8 to submit any transition plans to move any Verizon support system element to Frontier's
9 legacy systems. The settlement agreement also requires advanced notification of changes
10 to transition wholesale services.

11
12 **Q. Would you describe the OSS conditions by settlement number?**

13 A. The settlement OSS conditions are as follows:

- 14 1. Verizon must replicate the existing Verizon OSS for both retail and wholesale
15 operations. Verizon must put into production the replicated systems at least 60
16 days prior to the transaction close date. Verizon will engage a neutral third party
17 reviewer acceptable to Verizon and Commission Staff.
- 18 2. The Joint Applicants may not proceed with closing until each company has
19 validated that OSS systems are fully functional.
- 20 3. For three years after closing, Frontier NW will report any plans to transition
21 Verizon OSS to Frontier legacy systems.

1 4. Frontier will give notice at least 180 days before it transitions any replicated OSS
2 systems supporting wholesale operations.

3 5. Frontier NW must maintain functionality performance and e-bonding at a level
4 that is at least equal to Verizon's current performance.

5
6 **VI. WTAP**
7

8 **Q. Has Frontier NW agreed to WTAP conditions in the settlement agreement?**

9 A. Yes. The settlement agreement conditions numbers 32 through 35 apply to WTAP issues
10 raised by Ms. Stillwell's direct testimony.

11 1. Frontier NW will provide a one-time \$75 credit to any WTAP-qualified customer
12 that fails to receive the appropriate discount or credit in the first possible billing
13 cycle after a verified application.

14 2. Frontier NW will make monthly reports containing agreed upon WTAP data to
15 Commission Staff.

16 3. Frontier NW will provide clear scripts to its customer service and sales
17 representatives so that customers are aware that WTAP rates are not available on
18 bundled services.

19 4. Frontier NW will verify customer eligibility for WTAP by a three-way call to
20 DSHS during the agency's business hours.

21

1
2
3 **VII. PUBLIC INTEREST**

4 **Q. Is Staff convinced that this merger is in the public interest and should be approved**
5 **by the Commission?**

6 A. Yes. With the settlement conditions reached with the Joint Applicants, Staff recommends
7 the Commission approve the transfer of control from Verizon to Frontier.

8 **Q. Would you briefly summarize why you conclude the proposed transfer is in the**
9 **public interest?**

10 A. The basic question becomes who will do the better job of serving the Washington
11 customers—a local exchange company that is part of a Verizon organization, or one that
12 is part of a Frontier organization. This question involves predictions about the future and
13 is not one that can be definitively determined on this or any other record. The change
14 occurring within this industry guarantees that a company that is not willing to bring new
15 services to its customers will experience a steady or accelerated decline in its customer
16 base. The newly formed Frontier organization may not have as favorable a financial
17 rating as the Verizon companies but the settlement agreement shields customers from any
18 rate impact due to that difference. Verizon NW is currently part of a larger, more
19 diversified company, but it is a company that lacks focus on its smaller rural wire centers.
20 Frontier makes a strong case that it has a better rural strategic plan and is willing to invest
21 in landline operations, including broadband expansion, when compared with the
22 relatively low priority that these objectives have, or are likely to have, within a Verizon
23 organization. The financial conditions to which Frontier has agreed will help to ensure

1 that Washington consumers do not suffer negative rate or service quality impacts and that
2 the promise of increased investment in broadband will be realized in Washington.
3 Staff believes the Company has resolved the issues raised in its direct testimony by
4 providing additional information to Staff, providing additional details regarding the
5 conversion processes, and making a significant financial commitment to broadband
6 deployment. Staff is satisfied that the primary concerns expressed in direct testimony
7 such as financing and OSS conversions have been addressed and are either no longer
8 applicable or are subject to safeguards negotiated to resolve the issue.

9 Frontier has furnished additional information and has made a number of
10 commitments through the settlement agreement that has convinced Staff the transfer of
11 control to Frontier is in the public interest. Frontier has provided testimony illustrating
12 that the Company does have capable management, understands the RLEC business, and
13 is focused on providing service to rural customers.

14 For the reasons discussed in this testimony, the settlement is in the public interest
15 for the Washington customers and should be approved by the Commission.
16

17 **Q. Does this conclude your testimony?**

18 **A.** Yes, it does.
19
20