

**Exhibit No. ___ HCT (JYR-1HCT)
Docket UT-090842
Witness: Jing Y. Roth
REDACTED VERSION**

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Application of

DOCKET UT-090842

**FRONTIER COMMUNICATION
CORPORATION AND VERIZON
COMMUNICATIONS, INC.**

**for Approval of Indirect Transfer of
Control of Verizon Northwest, Inc.**

TESTIMONY

OF

JING Y. ROTH

STAFF OF

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

November 3, 2009

REDACTED VERSION

HIGHLY CONFIDENTIAL PER PROTECTIVE ORDER

EXHIBIT LIST

- Exhibit No. ____ (JYR-2) Professional Information
- Exhibit No. ____ (JYR-3) Verizon/Frontier Response to UTC Staff Data Request No. 72
- Exhibit No. ____ (JYR-4) Verizon and Frontier Response to Public Counsel Data Request No. 248
- Exhibit No. ____ (JYR-5) TR's State NewsWire with TRINSIGHT®
NEW YORK -- Frontier ordered to refund early termination fees
- Exhibit No. ____ HC (JYR-6HC) HSR Document 4(c)(52), page 1 of 6, Reports the Results of a Verizon Evaluation of Frontier Residential Pricing Strategies

1 **Q. Please state your name and business address.**

2 A. My name is Jing Y. Roth, and my business address is 1300 South Evergreen Park

3 Drive Southwest, Olympia, Washington 98504-7250.

4 My business e-mail address is vroth@utc.wa.gov.

5

6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by the Washington Utilities and Transportation Commission

8 (Commission) as an Industry Expert. My participation in this case is on behalf of the

9 Commission's Staff (Staff).

10

11 **Q. Have you prepared a statement of your qualifications?**

12 A. Yes. A summary of my education and experience is provided as Exhibit No. ____

13 (JYR-2).

14

15 **Q. What is the purpose of your testimony in this case?**

16 A. Staff's fundamental position, presented by Staff policy witness William Weinman, is

17 that the Applicants have not presented sufficient evidence to carry their burden to

18 show the proposed transaction will not harm the public interest. Staff recognizes,

19 however, that the Commission may choose to approve the transfer of control of

20 Verizon's operating companies in Washington with conditions designed to mitigate

21 harms to the public interest or to provide benefits to offset harms that cannot be

22 mitigated. Therefore, I review the limited evidence presented by the Applicants and

23 make several specific recommendations for conditions the Commission should

1 impose if it elects to approve this transaction. My recommended conditions focus
2 specifically on protecting consumers who currently take services from Verizon
3 Northwest. In general, the conditions I recommend would require Frontier
4 Northwest (which is to be the new name of Verizon Northwest at the close of the
5 transaction¹), to continue to offer for a reasonable period of time the same services
6 with the same rates, terms, and conditions that Verizon is currently offering to
7 consumers in Washington. The conditions to which I testify are important to protect
8 the public interest in the context of a transaction that poses significant risks for
9 customers and the broader public interest.

10
11 **Q. Please explain your understanding of the Public Interest standard.**

12 A. In order to approve the proposed transaction, the Commission must determine, as a
13 matter of statute and rule, that it is consistent with the public interest. Specifically,
14 the merger application must be reviewed in light of the public interest standard set
15 forth in WAC 480-143-170:

16 If, upon examination of an application and accompanying exhibits,
17 or upon a hearing concerning the same, the Commission finds that
18 the proposed transaction is not consistent with the public interest, it
19 shall deny the application.
20

21 The challenges of applying the public interest standard in this context are evident in
22 prior merger cases. In Docket UT-991358, the U S West, Inc. and Qwest
23 Communications International, Inc. merger, the Commission said:”There is no bright
24 line against which to measure whether a particular transaction meets the public
25 interest standard. As we observed in another recent merger case, ‘the approach for

¹ Direct Testimony of Timothy McCallion at p. 2.

1 determining what is in the public interest varies with the form of the transaction and
2 the attending circumstances.” (Ninth Supplemental Order, para. 26 (citing *In Re*
3 *PacifiCorp and Scottish Power PLC*, Docket No. UE-981627, Third Supplemental
4 Order on Prehearing Conference, p. 3 (April 2, 1999)). Quite recently, in the final
5 order approving and adopting a settlement agreement subject to conditions in the
6 Embarq and CenturyTel merger case (Order No. 05 in Docket UT-082119), the
7 Commission emphasized that while it necessarily considers the broader public
8 interest when considering a proposed merger, “the question of *potential harm to*
9 *customers . . . is central to our consideration of the proposed transaction.*” (Para. 43
10 on page 13).

11 Thus, when considering this proposed transaction, as in prior merger cases, the
12 Commission should review the merger proposal in the broader context by examining,
13 among other things, any immediate and potential future effects on competition and
14 market behavior. Taking a more focused view, the Commission should also evaluate
15 any claimed or potential merger savings and determine if there are any real benefits
16 to consumers in terms of, for example, service availability and delivery, and service
17 quality and reliability.

18

19 **Q. Would you briefly summarize your recommendations?**

20 A. Yes. Staff recommends the Commission impose specific conditions for retail
21 services that are necessary to mitigate potential harm in the post merger
22 environment. The recommended conditions would require Frontier Northwest to:

- 1 • Cap the rates for Retail Flat and Measured Rate Residential Services (1FR
2 and 1MR) at current levels for a reasonable period of time, at minimum three
3 (3) years, after the close of the transaction;
- 4 • Continue to provide the so called “grandfathered” services that some existing
5 Verizon customers were transitioned into when Verizon discontinued these
6 services for new customers, for a minimum of six (6) months after
7 completion of the transaction or until the company obtains Commission
8 approval of similar services in the tariff, whichever occurs later;
- 9 • Offer customers of Verizon intrastate long distance services and packages the
10 option to change long distance carriers without incurring a Primary
11 Interexchange Carrier (“PIC”) change charge for a minimum period of
12 ninety (90) days after the completion of the transaction;
- 13 • Waive early termination charges for any existing Verizon customers who
14 choose to use other alternatives for their bundled and/or high-speed service
15 for a minimum period of twelve (12) months after the close of the
16 transaction; and
- 17 • Continue to offer and provide bundled Services as offered by Verizon today
18 for a reasonable period of time, at minimum twelve (12) months, following
19 the close of the transaction.

20 I will discuss each of these in more detail after first providing relevant background
21 concerning Staff’s understanding of the retail service offerings in the proposed
22 transaction.

23

1 **Q. What does Frontier state as to the services it will provide in Washington after**
2 **the transaction is approved and completed?**

3 A. In the Joint Petition, it states: “at the completion of the Transaction, Verizon will be
4 a wholly-owned indirect subsidiary of Frontier and will continue to provide local
5 exchange service in the territory it serves today. Frontier also will own and control
6 New LD, which will provide long distance services in Washington.”(Petition at page
7 7.) Specifically, in Washington, Frontier will own and control Verizon Northwest
8 and two long distance companies. According to the Joint Applicants, after the
9 transaction is completed, there will be no change from the way the Commission
10 regulates Verizon Northwest and its regulated subsidiaries today. According to
11 Verizon witness Timothy McCallion, “Frontier Northwest will have the same tariffs
12 and will offer *substantially* [emphasis added] the same regulated retail and wholesale
13 services under the same rates, terms and conditions that are offered by Verizon
14 Northwest at the time of closing. As Frontier Northwest will simply be taking over
15 Verizon Northwest’s tariff and the catalogs of Verizon Long Distance (VLD) and
16 Verizon Enterprise Services (VES) any change it would make to service offerings
17 would have to follow Washington laws and Commission rules.”²

18
19 **Q. Please discuss Staff’s recommendation to cap retail residential local service**
20 **rates at current rates for a period of three years after the completion of this**
21 **transaction.**

² Direct Testimony of Timothy McCallion at pp. 10 &11.

1 A. If the Commission approves this transaction, Staff recommends that the Commission
2 require Frontier Northwest to cap its rates for local residential services at the levels
3 that were set in Verizon’s last rate case (Docket No. UT-040788). During the
4 effective period of the rate cap, the company could propose to reduce its local service
5 rates.

6

7 **Q. Is there a specific dollar amount from the claimed merger savings tied to this**
8 **recommendation?**

9 A. No. It is premature to calculate the revenue impact of this particular condition and to
10 tie it to the merger savings. Staff understands from the Company’s testimony that
11 the merger savings/synergies will not be realized immediately after the completion of
12 this transaction. As in other merger cases, it appears the savings will not occur for
13 three to four years after the transaction is completed. Until Frontier realizes the
14 actual savings as a result of this transaction and such savings are identifiable
15 specifically for Washington, it will be impossible for the Commission to have a
16 reasonable basis upon which to evaluate the Company’s revenue requirement and set
17 meaningful rates on a prospective basis. There is a substantial risk that the Company
18 would file for rates based on a test year that produces a high revenue requirement,
19 only to have the merger synergies kick in shortly after rates are increased. This
20 could dramatically increase the Company’s net operating income and result in
21 significant overearnings. The Company, of course, would have no incentive to file
22 another rate case to correct the imbalance. Staff recommends this condition of
23 capped retail residential local service rates for a period of three years in order to

1 provide a benefit to consumers by giving them rate stability during a time period
2 when the costs and savings from this transaction are unknown.

3
4 **Q. Why do you propose that Frontier Northwest not be permitted to eliminate**
5 **certain grandfathered services to existing customers until it files for**
6 **Commission approval for similar services for these customers?**

7 A. Verizon currently has several service categories³ that are listed as “services limited
8 to existing customers” in its current intrastate tariff WN U-17. These services are
9 generally referred to as “grandfathered” services. Staff is concerned that when new
10 replacement services are proposed and filed with the Commission, the grandfathered
11 customers will not have adequate time and notice to react concerning changes to
12 their services and the rates they pay since any proposed new service could take effect
13 less than thirty (30) days after the tariff is filed.⁴ This condition also provides a
14 benefit to the current Verizon customers by ensuring that their services will not be
15 eliminated, at least for a reasonable period of time after the completion of this
16 transaction. These customers should have sufficient time to shop for another service
17 provider if an alternative service provider exists. A reasonable time period before
18 eliminating these grandfathered services will also provide time for Staff and the
19 Company to work out certain issues in advance of any proposed filings. These issues
20 include customer notice requirements and issues related to a cost study that will be
21 new to Staff and this Commission, as I discuss below. Staff recommends that the

³ In Verizon’s current intrastate tariff, WN U-17, Verizon Northwest is offering the following categories of grandfathered services: custom calling services, Fractional T1 (FT1) services, ISDN, Packet Switching Network Services, Digital Data Service, and Fire Reporting Service.

⁴ See WAC 480-80-123 3(b) for new service offerings, WAC 480-80-126 for promotional offering, and WAC 480-80-122 for less than statutory notice.

1 Commission adopt a reasonable time period for existing grandfathered services to be
2 eliminated, six months at minimum or until the company files and receives approval
3 for a replacement service to transfer the existing customers, whichever is later.
4

5 **Q. Is there a new cost model and study that Frontier Northwest will use for future**
6 **filings before this Commission?**

7 A. Yes. Staff learned from the Company's initial presentation of this transaction to
8 Staff and a response to a Staff data request, Exhibit No. ___ (JYR- 3), that Frontier
9 will use a cost model and cost study results that are different from the cost support
10 Verizon Northwest uses for its filings in Washington. This cost model and study
11 have not been reviewed by Staff or approved by this Commission for use in
12 developing cost-based rates. Any future filings with new rates, terms and conditions
13 and/or any proposed rate changes for existing services, including any replacement
14 services for existing grandfathered services, must be supported by cost studies. The
15 proposed rates, terms and conditions must be consistent with the policy objectives set
16 out in RCW 80.36.300. That is, the rate design must consider affordability, promote
17 just and reasonable rates that reflect underlying costs and create efficiency.

18 Although the cost study is not presented as an issue to be resolved in this proceeding,
19 it is an important issue for the Commission to recognize in the context of Staff's
20 proposed conditions.
21

1 **Q. Based on the Joint Applicants’ petition and the evidence presented so far, do**
2 **you believe that this transaction could result in potential harm to existing**
3 **Verizon customers by limiting their choices for service providers?**

4 A. Yes. The impact of the merger on consumers (i.e., current and potential future
5 customers) should be a critical factor in evaluating the proposed merger and
6 determining whether the merger is in the public interest. The Joint Applicants state
7 that this transaction will not adversely affect competition in any market and they
8 emphasize the availability of competitive alternatives. Although this transaction
9 does not decrease the number of suppliers in certain segments of the market, the
10 ability of Verizon’s current customers to choose other service providers for
11 competing services such as service bundles and long distance will be limited because
12 they would pay a PIC change charge for long distance and/or an early termination
13 fee for service bundles if they were to switch to another service provider. Frontier
14 Northwest will compete for the existing customers who have choices and may
15 choose to switch to another service provider because of branding and prices. The
16 Commission should consider and adopt conditions that will mitigate the potential for
17 harm to existing customers and other competitors that could stem from Frontier’s
18 efforts to keep existing customers from switching to its competitors by imposing
19 switching costs such as PIC change charge and early termination fees.

20
21 **Q. Why should the Commission adopt a condition requiring Frontier Northwest to**
22 **waive its PIC change charge for a reasonable period of time, at minimum ninety**
23 **(90) days after the transaction is completed?**

1 A. While it is important for the Commission to establish conditions that will maintain
2 the stability of rates, terms, and conditions in the tariff, the Commission also should
3 be concerned about the intrastate long distance services that have been classified as
4 competitive. If the Commission approves this transaction, current Verizon long
5 distance customers will be switched to a new long distance provider without their
6 consent. Even though Frontier Northwest has stated that it will offer the same long
7 distance service and packages as Verizon Northwest is currently providing after the
8 transaction is completed, it is also likely that Frontier will introduce new service
9 packages and possible price changes for existing long distance services and packages
10 without any advance notice to the commission or to the customers. This condition is
11 intended to ensure that current Verizon long distance customers who want to switch
12 to another competitive provider because of brand name or price changes are able to
13 do so easily and without incurring a charge.

14

15 **Q. Do you recommend that the Commission require Frontier to inform current**
16 **Verizon customers about the waiver of the PIC change charge and any other**
17 **waived charges if the Commission adopts your proposed conditions?**

18 A. Yes. The Company should explain to their customers in plain English in bill inserts
19 or bill messages that the PIC change charge is waived during the ninety (90) day
20 period if the customer chooses to switch to another service provider.

21

1 **Q. What is Staff’s recommendation with respect to waiver of early termination**
2 **charges?**

3 A. Frontier Northwest should be required to waive early termination charges for any
4 existing Verizon customers who choose to use other alternatives for their bundled
5 and/or high-speed service for a reasonable period of time after the close of the
6 transaction. I recommend a minimum twelve (12) month period.

7
8 **Q. How much does Verizon currently charge for early termination of service**
9 **bundles that include high-speed services?**

10 A. The early termination charge is at least \$120, according to Verizon’s catalog and a
11 response provided by Verizon to a Public Counsel data request, Exhibit No. ____
12 (JYR-4). When residential customers sign up for a minimum twelve (12) month
13 term for any Verizon discounted bundle, such as Regional Value or Regional
14 Essentials, they are subject to such a charge. In the bundles just mentioned, if a
15 customer chooses to cancel either the voice or broadband service portion of either
16 bundle prior the end of the twelve (12) month term, they will be charged \$120 or
17 more depending on the service bundle and terms of the customer’s commitment.

18
19 **Q. Does Frontier charge any early termination fees?**

20 A. Yes. Frontier charges a range of early termination fees, from \$50 to \$400,⁵
21 depending on the specific terms of its service agreements with its current customers
22 in its existing service territory.

⁵ TR State NewsWire October 7, 2009. Exhibit No. ____ (JYR-5).

1 **Q. What did Frontier state as its plan to compete for bundled services that include**
2 **high speed services?**

3 A. Frontier plans to provide an additional competitive broadband service option to
4 consumers in those markets that either do not have access to broadband or that only
5 have access through cable TV or other competitive providers. Frontier witness, Mr.
6 Daniel McCarthy, states that “the proposed transaction will create a range of benefits
7 for Verizon’s existing customers. These benefits include more locally focused
8 customer service and competitive pricing of new bundled service offerings tailored
9 to the desires of new Frontier customers. Frontier plans to expand significantly the
10 availability of competitively priced communications services bundles, providing
11 greater choice in the marketplace for communications services.”⁶ It is important to
12 note that “competitively priced” service does not necessarily mean lower prices for
13 similar service bundles.

14
15 **Q. Is Staff concerned that Frontier Northwest may replace existing Verizon service**
16 **bundles with higher priced bundles?**

17 A. Yes. The Joint Applicants have clearly stated in their petition and through their
18 prefiled direct testimony that the offering of new bundled services is a key market
19 strategy of Frontier in order to gain revenue and to compete. It is the Company’s
20 intention to offer its existing bundled services to its newly acquired Verizon
21 customers. However, the service bundles that are currently offered by Frontier in
22 other states contain higher prices for similar services in comparison with Verizon’s

⁶ McCarthy Direct Testimony, pp. 26 and 27.

1 current bundled services offerings in Washington. In a market study completed by
 2 Verizon that is included in the Joint Applicants' HSR filing⁷, it states that [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]

6 The table below compares the prices for similar service bundles including
 7 local, long distance, calling features, and/or High Speed Internet (HSI) and/or Video
 8 TV that are offered by Frontier in its east region and Verizon offers in its current
 9 service territory including Washington:
 10

<i>Verizon</i>	<i>Monthly Charge</i>	<i>Frontier</i>	<i>Monthly Charge</i>
<i>Freedom Unlimited</i>	\$44.99	<i>Digital Phone Unlimited</i>	\$49.99 to \$59.99
<i>Freedom Value +HSI</i>	\$49.99	<i>Connection Advantage (HSI or Dish Video)</i>	\$84.99 to 104.99
<i>Freedom Unlimited + HSI and DTV</i>	\$99.99	<i>Connection Premium (HSI and dish video)</i>	\$119.99 to \$134.99

11
 12
 13

⁷ HSR Document 4(c) (52), page 1 of 6, reports the results of a Verizon evaluation of Frontier residential pricing strategies. In the document the code names "East" and "West" are utilized to denote, respectively, Frontier and the Verizon Spinco properties. See Highly Confidential Exhibit No. ___ HC (JYR-6HC).

1 **Q. What other service bundles is Verizon offering to residential customers in**
 2 **Washington?**

3 A. The service bundles⁸ are shown in the table below (listed across the top row with
 4 prices and included services indicted in the column beneath the name of each
 5 bundle):

Bundled Services	Regional Value	Value Bundle A	Regional Essential ⁹	Essential Bundle A	Essential Bundled B
Monthly Rate	\$27.04	\$22.04 (\$5 discount)	\$25.04	\$70.00 (DSL)	\$99.99 (high speed fiber)
Local Access Line	x	x	x	X	x
Caller ID			x	x	x
Call Waiting			x	x	x
Voice Mail			x	x	x
Unlimited Toll (IntraLATA)	x	x		x	x
LD calling plan				x	x
HSI				x	x (Fios)
Wireless one bill		x		x	
DTV				x	X (Fios)

6
 7 **Q. What does Staff recommend to address the possibility that Verizon bundled**
 8 **service customers may be moved to higher priced bundles with Frontier?**

9 A. The Commission should require Frontier Northwest to continue to offer existing
 10 Verizon bundled services for a reasonable period of time after the completion of the
 11 transaction, at minimum twelve (12) months. There are two main reasons for this

⁸ As stated in Verizon Northwest’s catalog for bundled services, Regional Value bundle A and Regional Essential bundle A are no longer available for purchase, but remain valid for existing customers.

⁹ The total Prices for Regional Essential Bundles (A and B) are not listed in Verizon Northwest’s catalog for bundled services. The prices listed above are from Verizon Northwest’s Web site for bundled services, and these prices are subject to change due to the promotions that Verizon offers from time to time.

1 proposed condition. One is that Frontier Northwest will introduce new bundles that
2 offer a similar mix of services, but with higher prices, as illustrated above. The
3 second is that even if Frontier allows some time for continuation of Verizon's current
4 service bundles, current customers may not have sufficient time to compare existing
5 and newly offered service bundles that have various characteristics and prices and to
6 make informed decisions. Therefore, current customers should be given a reasonable
7 amount of time after the transaction to evaluate and decide what services best suit
8 their individual needs.

9
10 **Q. Has the Commission adopted similar conditions for retail services in past**
11 **proceedings?**

12 A. Yes. In the Verizon/ MCI merger (Docket UT – 050814), the Commission approved
13 conditions in the partial settlement that:

- 14 • Verizon Northwest would not raise its basic residential or business service
15 rates above the levels set by the rate case settlement in Docket UT-040788
16 before June 30, 2009. This condition provided Verizon customers with rate
17 stability for an additional two years and also would have sheltered them from
18 shouldering the merger costs if Verizon decided to file another rate case.
- 19 • Verizon Northwest also agreed to file a promotional intrastate tariff under
20 which Verizon would issue a credit equal to the applicable local PIC change
21 charge in its intrastate tariff for those current residential customers who had
22 Verizon NW local service and local toll service provided by an MCI
23 subsidiary and who chose a non-MCI local toll provider during a promotional

1 period, which was 60 days in length. The credit was available to customers
2 who changed their local toll provider during the specified promotional period.
3 Verizon was required give readily understandable notice of this term to its
4 residential customers via bill inserts or bill messages.

5 Furthermore, in a more recent merger in Docket UT-082119 (Embarq/CenturyTel),
6 the Commission approved the following similar conditions:

- 7 • None of the merged company ILECs would file tariff revisions that would
8 seek to increase the stand alone residential local exchange service access
9 line rate for one (1) year from the merger close date.
- 10 • The merged company would send notice to customers, if any, that experience
11 a change in their long distance carrier as result of the merger. The notice
12 would be sent to customers a minimum thirty (30) days before transfer and
13 the Company would commit to waiving any PIC change charges for a period
14 of ninety (90) days should the customers decide to change to a different long
15 distance carrier.

16 (Order number 05, Conditions No. 4 and 7).

17

18 **Q. Why should the Commission adopt the conditions for the retail services as staff**
19 **has proposed if the Commission is to approve this transaction?**

20 A. The recommended conditions are necessary to prevent or mitigate potential harm to
21 consumers if the transaction is approved by the Commission. The conditions protect
22 ratepayers from immediate rate increases for basic local services until such time as
23 the newly merged company presents to the Commission its overall earnings

1 including the cost savings from this transaction. The proposed conditions also are
2 designed to retain existing services for existing customers for a reasonable period of
3 time after the transaction is completed. If some customers elect to change service
4 providers, the conditions relieve them from the burden of paying switching and
5 termination charges during a reasonable period following completion of the
6 transaction. The conditions for retail services in my testimony are designed to assist
7 the Commission in its review and consideration of whether this transaction creates
8 any potential for harm to consumers, particularly existing customers, and to provide
9 options to eliminate the potential for harm or mitigate its effects.

10

11 **Q. Does this conclude your direct testimony?**

12 A. Yes, it does.

13