UM1431

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF THE JOINT APPLICATION OF VERIZON CALIFORNIA, INC., VERIZON LONG DISTANCE, LLC, VERIZON ENTERPRISES SOLUTIONS, LLC, FRONTIER COMMUNICATIONS CORPORATION, NEW COMMUNICATIONS OF THE SOUTHWEST, INC., AND NEW COMMUNICATIONS ONLINE AND LONG DISTANCE, INC., FOR APPROVAL OF THE TRANSFER OF VERIZON'S LOCAL EXCHANGE AND LONG DISTANCE BUSINESS.

DOCKET NO. T-01846B-09-0274
DOCKET NO. T-03289A-09-0274
DOCKET NO. T-03198A-09-0274
DOCKET NO. T-20679A-09-0274
DOCKET NO. T-20680A-09-0274
DOCKET NO. T-20681A-09-0274

Decision No. 71486

OPINION AND ORDER

DATE OF HEARING: October 22, 2009 (Public Comment), October 26, 2009 (Evidentiary Hearing).

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Belinda A. Martin

APPEARANCES: Mr. Kevin Saville, Associate General Counsel (*admitted Pro Hac Vice*), and Mr. Jeffrey Crockett, SNELL & WILMER, LLP, on behalf of Applicants Frontier Communications Solutions, New Communications of the Southwest, Inc., and New Communications Online and Long Distance, Inc.;

Mr. Michael T. Hallam, LEWIS AND ROCA, LLP, on behalf of Applicants Verizon California, Inc., Verizon Long Distance, LLC, and Verizon Enterprises Solutions, LLC; and

Mr. Wesley C. Van Cleve, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

...

FINDINGS OF FACT

1. On May 29, 2009, Verizon California, Inc., Verizon Long Distance, LLC, Verizon Enterprises Solutions, LLC, Frontier Communications Corporation, New Communications of the Southwest, Inc., and New Communications Online and Long Distance, Inc. (collectively, the "Applicants"), filed with the Commission a joint application for approval of the transfer of Verizon Communications, Inc.'s local exchange carrier services, provided in Arizona by Verizon California, Inc., and its resold long distance services provided by Verizon Long Distance, LLC, and Verizon Enterprises Solutions, LLC, to companies to be owned and controlled by Frontier Communications Corporation ("Application").

2. On June 23, 2009, the Applicants filed a Request for Expedited Procedural Conference.

3. On June 26, 2009, a Procedural Order was issued setting a Procedural Conference in this matter for June 30, 2009.

4. On June 30, 2009, a Procedural Conference was held, during which the Applicants and the Commission's Utilities Division Staff ("Staff"), stated they would file a joint proposed procedural schedule for this matter.

5. On July 2, 2009, the Applicants and Staff filed a Joint Scheduling Proposal, setting forth a recommended timeline for the matter.

6. On July 15, 2009, a Procedural Order was issued setting a hearing for October 22, 2009, and establishing certain procedural deadlines.

7. On July 15, 2009, the Applicants filed the Direct Testimony of Daniel McCarthy, the Executive Vice President and Chief Operating Officer for Frontier Communications Corporation, and Timothy McCallion, President of the West Region for Verizon Communications, Inc.

8. On August 25, 2009, the Applicants filed their Request for a Protective Order.

9. On August 28, 2009, a Procedural Order was issued granting the Applicants' Request for a Protective Order.

10. On September 10, 2009, the Applicants filed an Affidavit of Publication and Certification of Mailing Notice of Hearing, averring that notice of the application and hearing was

published on August 5, 2009, in the *Parker Pioneer*, and that notice was mailed to Verizon California, Inc.'s, Verizon Long Distance, LLC's, and Verizon Enterprises Solutions, LLC's customers in the affected service areas on August 27, 2009.

11. In response to the notice, two customer comments were filed. One customer was in favor of the requested transfer. The second comment was filed by Granite Telecommunications, LLC, a non-facilities-based competitive telecommunications provider, expressing concern about the transfer and possible quality of service issues.

12. On September 15, 2009, Staff filed a Request for Extension of Time to File its Direct Testimony until September 21, 2009.

13. On September 15, 2009, a Procedural Order was issued granting Staff's extension request.

14. On September 21, 2009, Staff filed the Direct Testimony of Armando Fimbres, and filed a correction page to the Direct Testimony on September 22, 2009.

15. On September 24, 2009, the Applicants filed a Request for Extension of Time to File Rebuttal Testimony until October 5, 2009.

16. On September 25, 2009, a Procedural Order was issued granting the Applicants' extension request.

17. On October 5, 2009, the Applicants filed the Rebuttal Testimony of Mr. McCallion and Mr. McCarthy.

18. On October 9, 2009, a Procedural Order was issued rescheduling the hearing from October 22, 2009, to October 26, 2009, due to a scheduling conflict.

19. On October 19, 2009, Staff filed the Surrebuttal Testimony of Mr. Fimbres.

20. On October 22, 2009, the Applicants filed their Motion to Permit Kevin Saville to Appear *Pro Hac Vice* in this matter.

21. On October 22, 2009, public comment was taken in this matter. No members of the public appeared to provide comment.

22. On October 23, 2009, a Procedural Order was issued granting the *Pro Hac Vice* admission of Kevin Saville.

23. The hearing was held on October 26, 2009, as scheduled. At the hearing, both the Applicants and Staff were represented by counsel. At the conclusion of the hearing, the record was held open pending the filing of late-filed exhibits by the parties.

24. On November 6, 2009, the Applicants filed certain late-filed exhibits containing various requested transaction documents and information.

25. On November 9, 2009, Staff filed the updated Surrebuttal Testimony of Mr. Fimbres.

26. On December 2, 2009, the Applicants filed supplemental information regarding the status of the transaction in other states.

THE PARTIES

27. The following entities are involved in the transaction underlying the Application.

Verizon California, Inc. ("VCA")

28. VCA is an indirect, wholly-owned subsidiary of Verizon Communications, Inc. ("Verizon"). VCA holds a Certificate of Convenience and Necessity ("CC&N") to provide local exchange services in Arizona. According to the Application, VCA provides service to six exchanges in Arizona located in La Paz County, including Cibola, Ehrenberg, Bouse, Parker, Parker Dam, and Poston. VCA states that as an incumbent local exchange carrier ("ILEC") it has approximately 6,000 access lines in Arizona.

Verizon Long Distance, LLC ("VLD")

29. According to the Application, VLD holds a CC&N to provide competitive interLATA/intraLATA resold telecommunications in Arizona (except local exchange services) pursuant to Decision No. 61845 (July 21, 1999). VLD is an indirect, wholly-owned subsidiary of Verizon.[1]

Verizon Enterprises Solutions, LLC ("VES")

30. The Application states that VES was granted a CC&N by the Commission in Decision No. 61603 (April 1, 1999) to provide competitive interLATA/intraLATA resold telecommunications

[1] VLD, as a d/b/a of Bell Atlantic Communications, Inc., currently has an application pending before the Commission to discontinue the provision of long distance service in Arizona, Docket No. T-03289A-08-0593. VLD will not terminate service to its customers affected by the transfer until after the transaction has occurred. (Direct Testimony of Timothy McCallion, page 7.)

services in Arizona (except local exchange services). VES is an indirect, wholly-owned subsidiary of Verizon.[2]

Frontier Communications Corporation ("Frontier")[3]

31. Frontier is a publicly-traded Delaware corporation. Frontier owns and controls incumbent local exchange operations in 24 states.[4] Frontier does not conduct business directly in Arizona, but rather it owns and controls three ILECs: Citizens Utilities Rural Company, Inc., d/b/a Frontier Citizens Utilities Rural, Citizens Telecommunications Company of the White Mountains, Inc., d/b/a Frontier Communications of the White Mountains, and Navajo Communications Company, Inc. These three ILECs provide service to approximately 145,000 access lines in Arizona. Additionally, a subsidiary of Frontier, Frontier of America, Inc., is a reseller of interexchange service in Arizona.

New Communications of the Southwest, Inc. ("NewILEC")[5]

32. NewILEC is a Delaware corporation authorized on October 28, 2009, to do business in Arizona as a foreign corporation, and formed for the purposes of assuming VCA's ILEC services and service areas upon completion of the transaction.

New Communications Online and Long Distance, Inc. ("NewLD")

33. NewLD is a Delaware corporation authorized on October 28, 2009, to do business in Arizona as a foreign corporation, and formed for the purposes of assuming VLD's and VES' resold telecommunications services and service areas upon completion of the transaction.

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[2] VES, as a d/b/a of NYNEX Long Distance Company, currently has an application pending before the Commission to discontinue the provision of long distance service in Arizona, Docket No. T-03198A-08-0594. VES will not terminate service to its customers affected by the transfer until after the transaction has occurred (Direct Testimony of Timothy McCallion, page 7.)

[3] Page 1, Footnote 1, of the Application states as follows:

> Frontier Communications Corporation is not a public service corporation as defined in Article 15, Section 2 of the Arizona Constitution, and therefore, is not subject to the jurisdiction of the [Commission]. Frontier is a party to this application for the limited purpose of obtaining a waiver or approval of the transactions described herein, if required, under the Commission's Affiliated Interests Rule, A.A.C. R14-2-801 *et seq.*

[4] Alabama, Arizona, California, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, Ohio, Oregon, Pennsylvania, Tennessee, Utah, West Virginia, and Wisconsin.

[5] The Applicants state in the Application that, upon completion of the transaction, Frontier may elect to change the names of the NewILEC and NewLD. If so, Frontier, NewILEC and NewLD shall ensure that all necessary filings are made to lawfully accomplish the changes. (Application, page 8.)

New Communications Holdings, Inc. ("NCH"), and New Communications ILEC Holdings, Inc. ("NCIH")

34. The Applicants state that, although NCH and NCIH are not parties to the Application, they were formed for the purposes of facilitating the series of internal reorganizations contemplated by the terms of the transaction.

35. NCH has been established as a holding company for the local exchange, long distance and related businesses in Arizona and the other affected states that are being transferred to Frontier. After the transaction, NCH will merge into Frontier, with Frontier as the surviving entity.

36. NCH has two subsidiaries. One is NCIH, which will own the stock of NewILEC and the other operating ILECs in the affected states. The other subsidiary is NewLD, which will hold the accounts receivables, liabilities, and customer relationships related to long distance operations in the affected service areas.

37. An organization chart provided by the Applicants of the Verizon entities pre- and post-transaction, and of the Frontier entities pre- and post-transaction, is attached at Exhibit A.

OVERVIEW OF APPLICATION

38. In early 2009, Frontier approached Verizon and expressed an interest in acquiring certain of Verizon's access lines.[6] According to Frontier, it views "the proposed transaction with Verizon as an opportunity to build on its successful experience in providing communication services to a myriad of types of communities."[7] Frontier believes that acquiring the subject Verizon exchanges and certain long distance customers will increase Frontier's customer base and its revenues, improve its balance sheet, and free up additional cash.[8] Verizon believes consummation of the transaction will allow it to focus on its ILEC, global IP, and wireless operations in its remaining states, the majority of which exist in high-density urban and suburban service areas.[9]

39. VCA seeks Commission approval for the transfer of certain of its local exchange and long distance business to companies to be owned and controlled by Frontier and for such other

[6] Direct Testimony of Timothy McCallion, page 4.
[7] Direct Testimony of Daniel McCarthy, page 9.
[8] *Id.*
[9] Direct Testimony of Timothy McCallion, pages 4-5.

approvals necessary for the completion of the transaction, such as approval under the Affiliated Interest Rules, Arizona Administrative Code ("A.A.C.") R14-2-801, *et seq.* Additionally, the Applicants seek a waiver of the Commission's Slamming Rules, A.A.C. R14-2-1901, *et seq.* to allow for the transfer of certain long distance customers.

40. As stated by the Applicants:

> [T]he essence of the transaction as it relates to Arizona is that [VCA's] incumbent local exchange carrier...operations will be transferred in their entirety to NewILEC, which will be ultimately controlled by Frontier. Likewise, certain long distance customers of VLD and VES in Arizona will be transferred to New LD, which also will be ultimately controlled by Frontier. Upon closing, Frontier will own and control and its board of directors and management will manage both the Verizon assets transferred as part of this transaction as well as its current operations in Arizona. Upon completion of the transfer, NewILEC and NewLD will have the same tariffs and will offer substantially the same regulated retail and wholesale services under the same rates, terms, and conditions that exist today.[10]

41. The Applicants request that the Commission grant the following relief:

a) Because at the completion of the transaction VCA no longer will conduct business in Arizona, VCA desires the transfer of its CC&N to New ILEC, or in the alternative, the issuance of a new CC&N to NewILEC pursuant to A.R.S. § 40-281 *et seq.* Additionally, VCA requests that the Commission transfer its separate payphone CC&N to NewILEC, or alternatively, issue a new CC&N to NewILEC pursuant to A.R.S. § 40-281, *et seq.*

b) NewLD requests a CC&N to provide competitive interLATA/intra/LATA resold telecommunications (except local exchange services).

c) The Applicants request a waiver of A.A.C. R14-2-1901, *et seq.*, ("Slamming Rules").

d) NewILEC requests that the Commission allow it to adopt the existing tariffs of VCA, and NewLD requests that the Commission allow it to adopt the existing tariffs of VLD and VES.

e) NewILEC requests that it be designated as an Eligible Telecommunications Carrier ("ETC") under Section 214 of the Telecommunications Act of 1934, as amended.

f) The Applicants request that, if the Affiliated Interest Rules are implicated in the transaction, the Commission grant all necessary approvals or waivers under these rules.

g) The Applicants "further request that the Commission approve the transfer of assets under this transaction pursuant to A.R.S. § 40-285 and take such other measures and provide any additional approvals as the Commission may deem

[10] Application, page 2.

necessary to allow the parties to complete the transaction described in this Joint Application."[11]

THE TRANSACTION

Mechanics of the Transaction

42. On May 29, 2009, Verizon, Frontier and NCH entered into an Agreement and Plan of Merger ("Merger Agreement") and a Distribution Agreement. Under the terms of the Merger Agreement, Frontier will issue its stock in exchange for NCH stock held by Verizon shareholders and acquire control of approximately 4.8 million access lines, and other related assets, currently owned by Verizon subsidiaries in thirteen states.[12]

43. According to the Applicants, the transaction will occur through a series of intra-corporate stock transfers. The stock of the affected Verizon ILECs, including NewILEC, will be transferred to NCIH. VLD and VES will transfer their accounts receivables and customer relationships related to their long distance operations in Arizona and the other affected states to NewLD.

44. Verizon will then "spin-off" NCH's stock and be distributed to Verizon shareholders and will become a separate corporation from Verizon. Immediately upon the spin-off, NCH will be merged into Frontier, with Frontier as the surviving holding company. It will operate under its existing name and corporate structure, but will also own all of the stock of NCH's two subsidiaries, NCIH and NewLD.

45. Upon completion of the merger, NCH will cease to exist, leaving NCIH and NewLD as direct subsidiaries of Frontier, and NewILEC as an indirect subsidiary of Frontier through NCIH.

Technical Capabilities

46. Originally incorporated in 1935, Frontier currently offers telephone, television, and internet services, as well as bundled packages, wireless internet data access, data security solutions, and specialized bundles for businesses. Frontier serves mainly small-to-medium sized rural communities.[13]

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[11] Application, page 16.

[12] Arizona, Idaho, Illinois, Indiana, Michigan, Nevada, North Carolina, Ohio, Oregon, South Carolina, Washington, West Virginia, Wisconsin, in addition to a small number of access lines in California near the Arizona, Nevada, and Oregon borders.

[13] Direct Testimony of Daniel McCarthy, pages 3-4.

47. In its Application, Frontier notes that in the areas it serves, it is typically the incumbent carrier and carrier of last resort ("COLR"). Frontier's ILEC subsidiaries serve approximately 2.8 million voice and broadband connections, including 2.25 million telephone access lines. As of December 31, 2008, Frontier had 145,241 access lines in Arizona.[14] Frontier's key management personnel each have extensive experience in the telecommunications industry.[15] After completion of the transaction, the current Frontier management team will manage and control the day-to-day operations of Frontier and its subsidiaries.[16]

48. In his Direct Testimony, Mr. Fimbres stated that Staff does not have concerns with the scope of the proposed transfer, or the ability of Frontier to assimilate the approximate 6,000 access lines currently served by VCA in Arizona. Staff points out that Frontier has extensive experience in local exchange operations, with its main focus being on smaller and rural communities.[17]

49. Frontier asserts that it has successfully acquired, operated and invested in its telecommunications properties on a national level. According to Mr. McCarthy:

> [I]n 2000, Frontier acquired over 300,000 access lines in Minnesota, Illinois and Nebraska. In June 2001, Frontier purchased all of Global Crossing's local exchange carriers, which served approximately 1.1 million telephone access lines in [thirteen states]. More recently, Frontier acquired and successfully integrated Commonwealth Telephone Company in Pennsylvania and Global Valley Networks in California. The Commonwealth Telephone Company acquisition, which included over 320,000 ILEC lines and over 100,000 CLEC lines, was completed in March 2007. The Global Valley Networks Acquisition was completed in October 2007 and included over 12,000 access lines.[18]

50. In his Direct Testimony, Mr. Fimbres notes that "Staff is aware of two major cases brought before the Commission involving Frontier or companies now owned by Frontier that were approved by the Commission but never consummated by Frontier."[19] One matter concerned the local exchange areas involved in the instant matter from GTE California, now VCA, to Citizens Utilities Rural, now Frontier Citizens Utilities Rural.[20] The other matter involved a transfer of a number of

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[14] *Id.*, pages 4-5.
[15] *Id.*, pages 29-30.
[16] *Id.*, page 10.
[17] Direct Testimony of Armando Fimbres, page 10.
[18] Direct Testimony of Daniel McCarthy, page 24.
[19] Direct Testimony of Armando Fimbres, pages 18-19.
[20] Decision No. 62648 (June 6, 2000), Joint Application of Citizens Utilities Rural Company, Inc., d/b/a Citizens Communications Company of Arizona and GTE California Incorporated for Approval of the Sale of Assets and Transfer

U.S. West Communications', now Qwest Corporation, rural assets to Citizens Utilities Rural.[21] Neither transaction was successfully completed.

51. In response to inquiries from Staff as to why these two transactions failed to close, Frontier stated that for both transactions, each was part of a larger multi-state transaction, where it closed in several states, but failed to close in all involved states.[22] During his testimony at hearing, Mr. McCarthy stated that for the first referenced transaction, "there were issues around the complexity of all the states' approvals that caused the deal not to be consummated."[23] Regarding the second matter, Mr. McCarthy testified that further due diligence by Frontier uncovered issues regarding a single property and "found that the transaction was not necessarily what was represented to us. And we terminated the rest of that transaction."[24]

52. As far as its ability to close the instant transaction, Frontier asserted to Staff that its history of successful acquisitions demonstrates that it has the capability to follow through with this matter. Mr. McCarthy stated that Frontier and Verizon should have the necessary approvals from Nevada and California, which, coupled with the approval from the Commission, will allow this transaction to move forward successfully in Arizona.[25]

53. Upon review of the information submitted to Staff by the Applicants, Staff stated it "has no reason to believe at this time that the proposed transfer, once approved by the Commission, would not close or be consummated."[26]

54. The Applicants assert that the physical switch-over of the system from VCA to NewILEC will be seamless and they do not expect any issues to arise during the process. According to Mr. McCallion:

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of the Certificates of Convenience and Necessity of GTE California Incorporated to Citizens Utilities Rural Company, Inc.

[21] Decision No. 63268 (December 15, 2000), Application of U.S. West Communications, Inc., and Citizens Utilities Rural Company, Inc., d/b/a Citizens Communications Company of Arizona for Approval of the Transfer of Assets in Certain Telephone Wire Centers to Citizens Rural and the Deletions of Those Wire Centers from U.S. West's Service Territory.

[22] Direct Testimony of Armando Fimbres, pages 19-20, Frontier's response to Staff Data Request 1.46 and 1.47.

[23] Transcript from October 26, 2009, Evidentiary Hearing, at 75.

[24] Tr., at 74.

[25] Tr., at 75. We note that on December 2, 2009, the Applicants filed copies of Decision 09-10-056 from the Public Utilities Commission of the State of California, issued November 4, 2009, and the Order in Docket No. 09-06005 from the Public Utilities Commission of Nevada, dated November 16, 2009, granting the application of Verizon and Frontier. Nothing in these decisions is in conflict with the findings in this Decision.

[26] Direct Testimony of Armando Fimbres, page 20.

> Verizon and Frontier will work together to effectuate the smooth transition of all aspects of the transaction, including billing, customer account systems, and plant record systems. Importantly ... after the transaction, Frontier will use the same operational support systems used by Verizon prior to closing to serve its customers in Arizona. No system development is required in Arizona.[27]

55. In order to effectuate a smooth transfer, Verizon will replicate the systems currently used by Verizon to serve its Arizona customers that are being transferred to Frontier. Verizon will coordinate with Frontier as Verizon conducts this replication process. Additionally, Verizon must keep Frontier updated, "engage in ongoing discussions regarding the process, and grant Frontier reasonable rights of access. Moreover, Frontier will be able to validate and confirm that the principal operating systems have been replicated properly in advance of closing."[28]

56. Finally, Mr. McCallion testified that, in order to ensure a smooth transition, under the terms of a Software Licensing Agreement, Verizon will continue to provide Frontier with system support for up to five years after completion of the transition.[29]

57. In his Direct Testimony, Mr. McCallion related to Staff that during two other Verizon transactions the acquiring companies had post-transition operational problems associated with the use of newly developed systems and the associated cutover of operations from Verizon to the acquiring company.[30] One was related to Verizon's sale of control of its Hawaii operations to The Carlyle Group in 2005, and the other related to the "spin/merger" of its New England operations to FairPoint Communications, Inc., in 2008.[31]

58. According to Mr. McCallion, these two transactions are fundamentally different from the instant matter. "Each of those transactions involved the creation of entirely new operational and back-office systems, a lengthy post-closing 'transition' period in which Verizon continued to use its own systems to operate much of the buyer's business while the new systems were developed, and finally a complex cutover."[32] None of the issues in the cutover process that can arise in a newly

[27] Direct Testimony of Timothy McCallion, page 10.
[28] *Id.*, pages 10-11.
[29] Tr,. at 22-24.
[30] Direct Testimony of Timothy McCallion, page 13. These two problematical transitions were raised in the comment the Commission received from Granite Telecommunications, LLC, as a concern for the switch-over from Verizon to Frontier.
[31] *Id.*, page 13.
[32] *Id.*, pages 13-14. Mr. McCallion distinguished between a switch-over, which is occurring in this matter, and a cutover, which occurred in the transitions where problems arose. Regarding a cutover, he stated, "[I]n situations where the wireline assets to be transferred are operated with systems that remain with the transferor, it is often necessary to develop

developed system is present in this matter because Frontier will be using operational and back-office systems fully-replicated from Verizon's current systems and fully tested before switch-over.[33] Additionally, unlike the two entities involved in the Hawaii and New England transactions, Frontier is an experienced telecommunications company with a proven background of successful complex transitions.[34] Staff agrees with Mr. McCallion's assessment of the Frontier's ability to appropriately manage the switch-over process.[35]

59. Regarding the effect of the transaction on any Verizon employees, Mr. McCarthy made the following statement:

> Verizon employees whose primary duties relate to the Verizon businesses being acquired by Frontier, excluding certain employees designated by Verizon, will immediately after closing continue as employees of one of Frontier's subsidiaries. Approximately 11,000 current Verizon employees will transition over to Frontier as part of the proposed transaction. While Verizon and Frontier are still in the process of identifying some of the specific employees who will transition to Frontier, it is clear that the majority of the Verizon employees who are experienced and dedicated to the provision of local services in Arizona will become part of the Frontier team following the closing of the transaction... Frontier has also committed that during the first 18 months after the transaction closes, Frontier will not terminate the employment, other than for cause, of any of the current Verizon employees who are actively employed as installers or technicians or are on a leave of absence or other authorized absence with a right to reinstate. Employees generally will continue in their existing roles and locations, performing functions consistent with those they perform today, after the transaction is completed. The customer service, network and operations functions that are critical to Frontier's success in providing high quality service will continue to work and provide service in Arizona after the transaction is complete.[36]

60. After review of a confidential Employee Matters Agreement filed with Staff under seal pursuant to a Protective Order, and further information provided by, and discussions with, the Applicants, Staff made the following recommendations regarding employee matters:

> a) The Applicants shall stipulate that the number of VCA employees impacted by the proposed transfer will not exceed twenty-two (22) before a Decision is issued in this matter. The Applicants shall file with Docket Control, as a compliance item in this docket, within 60 days of the transaction's consummation, a final count of employees, along with a comprehensive explanation of the compensation and benefit treatment of impacted employees.

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new, or substantially modify existing, systems and the perform a complex cutover and have the acquirer assume responsibilities for operating the network using its new or modified systems."

[33] *Id.*

[34] *Id.*, pages 13-16.

[35] Direct Testimony of Armando Fimbres, page 25.

[36] Direct Testimony of Daniel McCarthy, pages 30-31.

b) For one year following the close of the proposed transfer, or until Verizon and Frontier inform the Commission by filing an affidavit with Docket Control, as a compliance item in this docket, that the proposed Transaction activities are completed, Frontier shall provide written notification with a compliance filing in Docket Control and to the individual members of the Commission 60 days prior to any planned transfer-related Arizona workforce layoffs, any planned transfer-related Arizona plant closings, and any planned transfer-related Arizona facility closings.

c) If any Frontier Arizona affiliate chooses to conduct layoffs or facility closings in Arizona that are attributable to the proposed transfer, it shall file a report, within two months of the effective date of the layoffs or closings, with the Commission. The report shall state why it was necessary to do so and what efforts Frontier made or is making to re-deploy those individuals elsewhere within Frontier. This report shall also state whether any savings associated with facility closings have been re-invested in Frontier's Arizona operations, and, if not, why not. This report shall be filed for one year following close of the proposed transfer or until Frontier informs the Commission by filing an affidavit with Docket Control that transfer-related activities are completed, whichever comes last.[37]

61. As for the transfer of long distance customers within VCA's service areas from VLD and VES to Frontier, Staff stated they do not have concerns. Staff noted that, because VLD and VES sent notices in December 2008 regarding their plan to discontinue long distance service in Arizona, there are not many customers remaining that will be affected by the transfer.[38]

62. Although the Applicants requested a transfer of payphone assets and associated CC&N of VCA, Staff and the Applicants agreed that the authority to operate payphone service is within the scope of an ILEC's CC&N. As such, Staff asserts "if the Commission approves the transfer of VCA's local exchange services CC&N and the associated assets to Frontier, the approval to transfer payphone assets and operate payphones will be included."[39]

63. One of Frontier's overarching objectives in its proposed acquisition is "achieving significantly higher broadband availability rates in its service areas. Nationally, Frontier has made broadband available to over 90% of the households in its service territory via network broadband investments made over the last eight years."[40] According to Frontier, it has made broadband

[37] Staff's Late-Filed Update to Surrebuttal Testimony of Armando Fimbres, pages 8-9.
[38] Direct Testimony of Armando Fimbres, pages 15-16.
[39] *Id.*, page 4.
[40] Direct Testimony of Daniel McCarthy, page 12.

available in approximately 87 percent of the Arizona households it serves, and Frontier plans to focus on and invest in broadband services in the acquired Verizon Arizona exchanges.[41]

64. In order carry out its broadband goals, Frontier plans to apply for federal Broadband Stimulus Funding Program under the American Reinvestment and Recovery Act of 2009 ("ARRA"). According to Frontier, the program provides a total of $7.2 billion in grants and loans for investments in infrastructure and in adoption programs in order to further the national goal of strengthening the country's broadband infrastructure and improving broadband utilization, particularly in rural areas.[42]

65. According to Mr. McCarthy's Direct Testimony, the next broadband ARRA application period should be some time in the second quarter of 2010.[43] During his testimony at hearing, Mr. McCarthy stated that, as of that date, he did not have a specific dollar amount or an idea for what projects Frontier might request ARRA funds for Arizona.[44] Additionally, Mr. McCarthy testified that he did not know whether Frontier would be eligible for funds since the overall transaction between Verizon and Frontier is not scheduled to close until April 30, 2010, at the earliest.[45]

Fitness and Properness to Provide Services

66. In his Direct Testimony, Mr. Fimbres indicated that the Verizon entities and the existing Frontier entities are in compliance with Commission rules and Decisions.[46]

67. NewILEC and NewLD do not currently hold CC&Ns to provide telecommunications services in Arizona.

68. In the Merger Agreement, both Verizon and Frontier attest that they are in compliance with all laws and regulations and there are no material investigations or pending reviews with respect to any entity or subsidiary of either Verizon or Frontier.[47] At hearing, both Mr. McCallion and Mr.

[41] *Id.*
[42] *Id.*, page 16.
[43] *Id.*
[44] Tr., at 61-62.
[45] Tr., at 70-71.
[46] Direct Testimony of Armando Fimbres, page 6.
[47] Merger Agreement, §§ 5.6, 5.7, 5.9 and §§ 6.6, 6.7 and 6.15(b).

McCarthy testified that the attestations in the Merger Agreement are still true to the best of their knowledge.[48]

69. Staff noted that there are a number of open or pending Dockets for the Applicants. Frontier has three pending access tariffs as of July 20, 2009, and also has a formal complaint pending.[49] Staff concludes that these pending dockets should have no bearing on the outcome of this Application.[50]

70. For the Verizon entities, Staff found several pending dockets. According to Staff, VCA is a party in an Underground Conversion Application involving the Hillcrest Bay Community near Lake Havasu.[51] Also, there are the pending dockets for VLD and VES, as noted in the footnotes to Findings of Fact Nos. 29 and 30.[52] Staff stated it has no concerns regarding the Verizon entities' pending dockets.[53]

71. Staff notes that they searched the Federal Communications Commission's ("FCC") website for any complaints against any of the Frontier entities. Between 2003 and 2006, Staff found seven complaint proceedings; two were dismissed, two were resolved, one was denied and two were granted. The two that were granted involved unauthorized changes in an end-user's telecommunications service provider. Staff states that the FCC did not fine Frontier or Citizens in either matter. Staff notes that from 2006 forward, Staff found no complaints filed with the FCC against the Frontier entities.[54]

72. For the period of January 1, 2008, to July 30, 2009, Staff found 37 complaint proceedings before the FCC against Verizon. Staff notes that all of the Verizon proceedings involved unauthorized changes in an end-user's telecommunications service provider or a competitor

[48] Tr., at 39-40, and at 82-83.
[49] Direct Testimony of Armando Fimbres, page 7. The pending formal complaint is Docket Nos. T-01954B-07-0247 and T-20526A-07-0247, In the Matter of the Application of Helix Telephone Company for Approval of a Formal Complaint Against Citizens Utilities Rural Company, Inc.
[50] *Id.*
[51] *Id.*, Docket Nos. E-01345A-07-0663 and T-01846B-07-0663, In the Matter of the Application of Arizona Public Service Company and Verizon California, Inc., for Approval of a Joint Petition for the Establishment of an Underground Service Area.
[52] In Staff's Direct Testimony, page 7, Staff also noted that there was a pending Plan E12 tariff, but stated Staff requested on July 27, 2009, that the Docket be administratively closed. On November 19, 2009, Decision No. 71364 was issued administratively closing the Docket.
[53] Direct Testimony of Armando Fimbres, page 7.
[54] *Id.*, page 9.

complaint. Staff stated, however, that they did not find any FCC complaints in 2008 or 2009 that pertained to VCA in Arizona.[55]

73. Staff found only one legal proceeding against Frontier and none against Verizon in 2008 or the first half of 2009. According to Staff, a lawsuit was filed against Frontier Citizens Utilities on May 6, 2009, in the Small Claims Division of the Mohave County Justice Court by a customer involving a billing and payment dispute.[56]

74. Both Verizon and Frontier assert that the transaction will have no adverse impact on the transferred customers. As noted earlier, the physical switch-over of services from Verizon to Frontier is expected to proceed smoothly. Additionally, as will be discussed later, Frontier expects to "offer the same terms, conditions and prices as listed in Verizon's tariffs and price lists, making the transaction transparent to Verizon's existing customers."[57]

75. As for services, "Frontier has no plans to make any changes to the services in Arizona at closing... Frontier will continue to provide local exchange and domestic interstate and international interexchange telecommunications and information services after the closing of the transaction without any material reduction, impairment, or discontinuance of service to any customer."[58]

76. Further, Frontier states that it will not seek to recover any of the associated transaction costs through an increase in rates.[59]

77. In order to ensure that the customers transferred from Verizon to Frontier, as well as Frontier's existing customers, experience no decrease in quality of service, Staff recommends that Frontier be required to comply with the following conditions:

> a) New ILEC shall maintain the Average Answer Time for the Residential Service Order Call Center attained by VCA between January 2008 and June 2009 of 69.1 seconds for four years following the effective date of the Decision in this matter. Evidence of compliance with this condition shall be provided annually as a confidential filing with the Compliance Section of the Utilities Division by April 15th of each year for the prior year.

[55] *Id.*
[56] *Id.*
[57] Direct Testimony of Daniel McCarthy, page 22.
[58] *Id.*, page 23.
[59] *Id.*

> b) For the four years following the effective date of the Decision in this matter, NewILEC should submit an annual confidential filing with the Compliance Section of the Utilities Division due by April 15th of each year. The filing shall provide monthly comparative service quality and operating information to ensure that the Frontier Arizona VCA local exchange areas are served comparably to the Frontier California VCA local exchange areas that Frontier has acquired in transactions related to this matter.
>
> c) For four years following the effective date of the Decision in this matter, Frontier's three Arizona ILECs shall not allow their monthly service quality and operating performance to decline below their average monthly performance for the period of January 2008 to June 2009. Evidence of such operating performance should be provided annually by April 15th of each year for the prior year in a confidential filing with the Compliance Section of the Utilities Division.[60]

78. Mr. Fimbres testified that it seeks the imposition of these conditions not to see an improvement by Frontier over Verizon's current performance, but rather it is Staff's desire that there not be deterioration in the customer service that the Verizon customers are accustomed to.[61]

79. Additionally, to ensure that Frontier commits to investing in its acquired service areas in Arizona, Staff recommends that the Commission adopt the following condition:

> That NewILEC commit to local exchange investment levels on a per access line basis that equals at least the average investment per access line of its three Frontier Arizona ILECs for the four years following the effective date of the Decision in this matter. Evidence of the local exchange investment levels should be provided annually by April 15th of each year for the prior year in a confidential filing with the Utilities Division's Compliance Section.[62]

Financial Capabilities

80. Because both NewILEC and NewLD are newly formed corporations, they will be relying on the financial resources of the parent corporation, Frontier.

81. Frontier states that in 2008, its revenue was $2.2 billion, with a net income of $182.7 million. For the first quarter of 2009, Frontier's revenue was $538 million, with a net income of $36.3 million.[63]

82. According to the Distribution Agreement, the purchase price will be approximately $3.3 billion. Frontier provided the following service and financial information for before and that anticipated after the transaction:

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[60] Staff's Late-Filed Update to Surrebuttal Testimony of Armando Fimbres, page 7.
[61] Tr., at 97.
[62] Staff's Late-Filed Update to Surrebuttal Testimony of Armando Fimbres, page 7.
[63] *Id.*, page 3.

Summary Financial Comparison

2008 Statistics	Frontier Standalone	Frontier *Pro Forma*
Access Lines	2,250K	7,050K
Revenue	$2,250K	$6,525M
EBITDA	$1,200M	$3,125M
CAPEX	$290M	$700M
Free Cash	$500M	$1,400M
Net Debt	$4,547M*	$8,005M
Net Leverage	3.8x	2.6x
Dividend/Share	$1.00	$.75
Dividend Payout Ratio	64.6%	43.0%

Note: Data *pro forma* for the year ended December 31, 2008, except as noted.
* As of March 31, 2009.[64]

83. As noted in the above Summary, Frontier will change its dividend policy from paying an annual cash dividend of $1.00 per share, to paying an annual cash dividend of $.75 per share. According to Frontier, it believes that the revised dividend policy "affords the combined company the financial flexibility to use the additional free cash flow to invest in the newly acquired Verizon territory, offer new products and services, and increase broadband capability in its markets over the next few years."[65]

84. Frontier also believes that, following the completion of the transaction, it will be able to attract additional capital, if needed, to provide quality service and continue to expand its broadband services.[66] Overall, Frontier expects that the financial benefits from the transaction will allow it to be able "to bring its product and service penetration in the acquired areas much closer in line to its performance in its current service areas, resulting in more services for customers and greater revenue."[67]

85. Mr. Fimbres testified that, although Staff reviewed the financial aspects of the transaction, Staff did not perform a full forensic analysis.[68]

Rates and Charges

86. As noted earlier, Frontier intends to adopt and honor the existing Verizon tariffs, price lists and contracts for the customers, both retail and wholesale, that Frontier will acquire as a result of

[64] Direct Testimony of Daniel McCarthy, page 19.
[65] *Id.*, page 20.
[66] *Id.*. Page 21.
[67] *Id.*, page 22.
[68] Tr., at 115-116.

the transaction. "This will ensure that the transaction will be transparent to current customers in Arizona, who generally will continue to receive the same services on the same terms."[69]

87. In its Direct Testimony, Staff noted that both NewILEC and NewLD will adopt the VCA, VLD and VES tariffs. Staff reviewed these entities' tariffs and did not take exception to any terms or rates within the tariffs.[70] Staff stated that a response from the Applicants to Staff's data request indicates that the tariffs will not remain exactly the same. Some modification will be necessary because, for example, Verizon has certain proprietary services that Frontier will not be able to offer.[71]

88. In response to Staff's comments, Frontier stated as follows:

> For the transferred VCA exchanges, most of the Verizon tariffs that currently apply to those retail customers before the transaction will be resubmitted with the name of Frontier Communications of the Southwest Inc. and will apply to those exchanges after the closing of the proposed transaction. Frontier will offer to the extent possible, the terms, conditions and prices of VCA's tariffs and price lists as of the closing, which will make the transaction transparent to VCA's existing customers. No regulated intrastate service existing at the time of closing will be discontinued, interrupted or have its rate increased. Frontier, in short, will initially offer the same regulated retail services that VCA's customers receive prior to the closing. The only significant change these customers will see is a change in the name of their service provider from VCA to Frontier. Over time, Frontier intends to offer customers new service choices that are currently available to Frontier's existing customers, as well as new products and services Frontier may make available in the future.[72]

89. As a condition to approval of the Application, Staff recommends that "NewILEC assume or honor all obligations under VCA's current interconnection agreements, tariffs, and other existing contractual arrangements of VCA.[73] Further, we believe it reasonable to require NewLD to assume or honor all obligations under VLD and VES' current tariffs or other existing contractual arrangements of VLD and VES.

[69] Direct Testimony of Daniel McCarthy, page 23.
[70] Direct Testimony of Armando Fimbres, page 21.
[71] *Id.*, page 24.
[72] Rebuttal Testimony of Daniel McCarthy, page 23.
[73] Staff's Late-Filed Update to Surrebuttal Testimony of Armando Fimbres, page 7.

90. Staff notes that VLD currently has a performance bond in the amount of $10,000. Because NewLD plans to adopt VLD's tariffs, Staff recommends that NewLD be required to file with the Commission a $10,000 performance bond or irrevocable sight draft letter of credit.[74]

91. Staff also notes that, "for providers seeking facilities-based local exchange telecommunications services authority, such as Competitive Local Exchange Carriers ("CLECs"), Staff would be [*sic*] typically recommend a bond of $100,000. Since NewILEC will become the ILEC, if approved by the Commission, it will also have the [COLR] responsibilities. Staff, therefore, does not recommend a bond for NewILEC."[75]

92. Staff also recommends that the existing rate moratorium provided for in Decision No. 68348 (December 9, 2005), for the VCA service territory remain in effect until the December 9, 2010 expiration date.[76]

STATUTORY AND REGULATORY REQUIREMENTS

Transfer of Assets

93. Under A.R.S. § 40-285(A), a public service corporation must obtain Commission approval before transferring its assets. Generally, the Commission will approve a transfer if the transaction is deemed to be in the public interest.

94. As demonstrated by the above discussion, Frontier has the managerial, financial, and technical ability to effect the operations contemplated by the transaction. Additionally, the transferred customers will be subject to the same rates, terms and conditions as they were prior to the transfer, thereby making the transaction transparent. Further, Frontier actively seeks deploy broadband services to more rural areas in Arizona.

95. After a review of the evidence presented by the Applicants, Staff determined that the transaction is in the public interest,[77] and recommends that the Commission approve the transfer of the assets pursuant to A.R.S § 40-285.[78] Staff's recommendation is reasonable.

[74] Direct Testimony of Armando Fimbres, page 21.
[75] *Id.*
[76] *Id.*, page 10.
[77] *Id.*, page 29.
[78] Staff's Late-Filed Update to Surrebuttal Testimony of Armando Fimbres, page 6.

Affiliated Interest Rules

96. The Commission's Affiliated Interest Rules, A.A.C. R14-2-801 through R14-2-806, require utilities with greater than $1 million in jurisdictional revenues to obtain Commission approval prior to a reorganization transaction. The Commission may reject reorganization if it determines that it "would impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service."

97. Based on the evidence presented by the Applicants to the Commission, we find that the proposed transaction does not impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.

98. Staff recommends that the Commission approve the transfer of assets pursuant to A.A.C. R14-2-801, *et seq.* Staff's recommendation is reasonable.

Notice Requirements

99. A.A.C. R14-2-1107(A) requires a competitive telecommunications provider that intends to discontinue service to file with the Commission an application for authorization that includes, among other things, verification that all affected customers have been notified of the proposed discontinuance of service.[79] A.A.C. R14-2-1107(B) further requires an applicant for discontinuance of service to publish legal notice of the application in all counties affected and provides any interested person 30 days thereafter to file an objection to the application, request a hearing, or submit a motion to intervene.

100. As to the possible application of A.A.C. R14-2-1107(A) to the instant matter, Staff notes that, although "VLD and VES are transferring customers within the VCA territories, they will still retain their state-wide authority so they may continue to serve customers outside of VCA's

[79] A.A.C. R14-2-1107(A)(2).

territories. The VLD and VES Resold Long Distance CC&Ns are not being cancelled in this Application."[80]

101. Although VLD and VES are not seeking to cancel their CC&Ns through this Application, the Applicants published in a newspaper of general circulation, and mailed to each customer in the affected service area, a copy of the notice of the Application, as required by Arizona law.

102. Additionally, in the Applicants' Late-Filed Exhibits and Information, the Applicants assert that, pursuant to 47 C.F.R. § 64.1120(e), they will provide notice to each affected customer prior to the transfer. At the minimum, and in compliance with 47 C.F.R. § 64.1120(e)(3), the Applicants' notice will include the following information:

> a) The date on which the acquiring carrier will become the subscriber's new provider of telecommunications service;
>
> b) The rates, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the subscriber's transfer to the acquiring carrier, and the means by which the acquiring carrier will notify the subscriber of any change(s) to these rates, terms, and conditions;
>
> c) The acquiring carrier will be responsible for any carrier change charges associated with the transfer;
>
> d) The subscriber's right to select a different preferred carrier for the telecommunications service(s) at issue, if an alternative carrier is available;
>
> e) All subscribers receiving the notice, even those who have arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the acquiring carrier, unless they have selected a different carrier before the transfer date; existing preferred carrier freezes on the service(s) involved in the transfer will be lifted; and the subscribers must contact their local service providers to arrange a new freeze;
>
> f) Whether the acquiring carrier will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer against the selling or transferring carrier; and
>
> g) The toll-free customer service telephone number of the acquiring carrier.[81]

[80] Staff's Late-Filed Update to Surrebuttal Testimony of Armando Fimbres, page 3. Although VLD and VES are not seeking to cancel their CC&Ns through this Application, as noted earlier, they are seeking to cancel them through previously filed applications. Notice of the cancellation to VLD and VES customers was sent in December 2008.

[81] Applicants' Late-Filed Exhibit and Information, page 2.

103. Accordingly, we believe that the affected customers have received adequate notice of the possible transfer, and will receive adequate additional notice prior to the transfer.

Slamming Rules

104. The Slamming Rules were adopted "to ensure that all Customers in this state are protected from an Unauthorized Change in their intraLATA, or interLATA long-distance Telecommunications Company [and are to] be interpreted to promote satisfactory service to the public...and to establish the rights and responsibilities of both company and Customer."[82] If enforced, the Slamming Rules would require VLD and VES to obtain either written or recorded verbal authorization from each of its customers before switching them to NewLD for long distance service.[83]

105. The Commission has in previous decisions granted waivers of the Slamming Rules when doing so served the public interest.[84] The Applicants request a waiver of the Slamming Rules, and Staff recommends approval of the request.[85]

106. As noted previously in relation to the notice that would be required by A.A.C. R14-2-1107, and/or FCC notice requirements, adequate notice of the proposed transaction has been, and further notice shall be, provided. Waiver of the Slamming Rules for the transition of VLD and VES' current customers to NewLD for long distance services is in the public interest and should be approved.

Eligible Telecommunications Carrier

107. The requirements for a designation as an ETC are set forth in 47 U.S.C. § 214(e)(1):

> A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall throughout the service area for which the designation is received—(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such services and the charges using media of general distribution.

[82] A.A.C. R14-2-1902.
[83] A.A.C. R14-2-1905(A).
[84] *See, e.g.*, Decision No. 70218 (March 27, 2008); Decision No. 70057 (December 4, 2007); Decision No. 69573 (May 21, 2007); Decision No. 67241 (September 15, 2004).
[85] Direct Testimony of Armando Fimbres, page 33.

108. According to Staff, "Frontier affirmed that it would provide each of the services required by the Federal universal support mechanisms under 47 C.F.R. § 54.101(a)..."[86] Frontier confirmed that it will advertise the availability of such services and charges using media of general distribution. Further, Frontier has committed to offering Lifeline and Link Up Service to all qualifying low-income consumers within its service area, pursuant to 47 C.F.R. §§ 54.405 and 54.411(a) using the rates contained in the existing VCA tariffs.[87]

109. Staff does not object to Frontier's request for an ETC designation. As noted by Staff in Mr. Fimbres' Direct Testimony, both VCA and all three of Frontier's ILECs currently hold ETC designations, and Frontier has provided the information required by Staff. Therefore, Staff recommends that Frontier be assigned an ETC designation for the VCA service area it is acquiring, pending approval by the Commission of the proposed transaction.[88]

Other Regulatory Requirements

110. Pursuant to A.A.C. R14-2-1308(A) and federal laws and rules, local exchange carriers must make number portability available to facilitate the ability of customers to switch between authorized local carriers with a given wire center without changing their telephone number and without impairment to quality, functionality, reliability or convenience of use.

111. Commission rules require NewLD to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. Under A.A.C. R14-2-1109(A), the minimum rate for a service must not be below the total service long-run incremental cost of providing the service. Any change to NewLD's effective price for a service must comply with A.A.C. R14-2-1109, and any change to the maximum rate for a service in the Company's tariff must comply with A.A.C. R14-2-1110.

112. A.A.C. R14-2-1204(A) requires all telecommunications service providers that interconnect to the public switched network to provide funding for the Arizona Universal Service Fund ("AUSF"). A.A.C. R14-2-1204(B)(3)(a) requires new telecommunications service providers

[86] *Id.*, page 22.
[87] *Id.*, page 23.
[88] *Id.*, page 18.

that begin providing toll service after April 26, 1996, to pay AUSF charges as provided under A.A.C. R14-2-1204(B)(2).

113. A.A.C. R14-2-2001 et seq. establish requirements to protect Arizona consumers from unauthorized carrier charges ("cramming") and apply to each public service corporation providing telecommunications services within the State of Arizona and over which the Commission has jurisdiction.

114. Pursuant to A.A.C. R14-2-1108, NewLD has requested that its telecommunications services in Arizona be classified as competitive. NewLD's proposed services should be classified as competitive because there are alternatives to its proposed services; ILECs and large facilities-based interexchange carriers hold a virtual monopoly in local exchange markets and in the interLATA interexchange market; NewLD will have to convince customers to purchase its services; NewLD has no ability to adversely affect the local exchange or interexchange market as several CLECs and ILECs provide local exchange and interexchange services; and NewLD therefore will have no market power in those local exchange markets or interexchange markets where alternative providers to telecommunications services exist.

STAFF'S RECOMMENDATIONS AND CONDITIONS

115. After the conclusion of the hearing, Staff filed its Late-filed Update to Surrebuttal Testimony of Armando Fimbres setting forth its final recommendations and conditions.

116. Staff makes the following recommendations:

a) The Commission should approve the transfer of VCA's local exchange services CC&N to NewILEC;

b) The Commission should approve the transfer and future operations of payphone assets from VCA to Frontier without the issuance of a COPT CC&N;

c) The Commission should approve the transfer of long distance customers from VLD and VES to NewLD within the local exchange service areas of VCA, grant a waiver of the Commission Slamming Rules in connection with the transfer, and grant a Long Distance Reseller CC&N to NewLD;

d) The Commission should allow New ILEC to adopt the tariffs of VCA and allow NewLD to adopt the tariffs of VLD and VES;

e) The Commission should designate NewILEC in the service areas proposed for transfer as an Eligible Telecommunications Carrier with the same status as VCA;

f) The Commission should approve the transfer of assets pursuant to A.R.S. § 40-285 and A.A.C. R14-2-801, *et seq.*, and take such other measures and provide any additional approvals as the Commission may deem necessary to allow the parties to complete the transaction; and

g) The Commission should order compliance with Staff's conditions stated below.

117. Staff recommends that the Applicants be required to comply with the following conditions.

a) NewILEC shall assume or honor all obligations under VCA's current interconnection agreements, tariffs, and other existing contractual arrangements of VCA;

b) At the conclusion of all pending dockets, NewILEC shall comply with all previous Commission orders and all future Commission orders;

c) New ILEC shall maintain the Average Answer Time for the Residential Service Order Call Center attained by VCA between January 2008 and June 2009 of 69.1 seconds for four years following the effective date of the Decision in this matter. Evidence of compliance with this condition shall be provided annually as a confidential filing with the Compliance Section of the Utilities Division by April 15th of each year for the prior year;

d) For four years following the effective date of the Decision in the matter, NewILEC shall file with Docket Control, as a compliance item in this docket, any California or Nevada Commission Order related to this matter that bears on Frontier's management and operations located in Arizona, within 30 days of such Order's issuance;

e) That for the four years following the effective date of an Order in this matter NewILEC should submit an annual confidential filing with the Compliance Section of the Utilities Division due by April 15th of each year. The filing shall provide monthly comparative service quality and operating information to ensure that the Frontier Arizona VCA local exchange areas are served comparably to the Frontier California VCA local exchange areas that Frontier has acquired in transactions related to this matter;

f) For four years following the effective date of the Decision in this matter, Frontier's three Arizona ILECs shall not allow their monthly service quality and operating performance to decline below their average monthly performance for the period of January 2008 to June 2009. Evidence of such operating performance should be provided annually by April 15th of each year for the prior year in a confidential filing with the Compliance Section of the Utilities Division;

g) The existing rate moratorium for the VCA service territory shall remain in effect until the December 9, 2010 expiration date, as ordered by Decision No. 68348;

h) NewILEC shall commit to local exchange investment levels on a per access line basis that at least equals the average investment per access line of it three Frontier Arizona ILECs for the four years following the effective date of the Decision in this matter. Evidence of local exchange investment levels should be provided annually by April 15th of each year for the prior year in a confidential filing with the Compliance Section of the Utilities Division;

i) For four years following the effective date of the Decision in this matter, Frontier shall report to the Commission (1) the number of VoIP lines served by any Frontier affiliate within the New ILEC service area and by Frontier's three Arizona ILECs by April 15th of each year for the prior year, and (2) Frontier shall attest that the Arizona State assessments for VoIP services provided by an Frontier affiliate or ILEC have been properly paid. Such attestation should be made as an addendum to Frontier's Annual Report due by April 15th of each year for the prior year in a confidential filing with the Compliance Section of the Utilities Division;

j) For four years following the effective date of the Decision in the matter, Verizon shall attest that Arizona State Assessments for any VoIP services provided by Verizon affiliates holding CC&Ns in Arizona as an addendum to Annual Reports due by April 15th of each year. The attestation should be provided annually by April 15th of each year for the prior year in a confidential filing with the Compliance Section of the Utilities Division;

k) The Applicants shall stipulate that the number of VCA employees impacted by the proposed transfer will not exceed twenty-two before a Decision is issued in this matter. The Applicants shall file with Docket Control, as a compliance item in this docket, within 60 days of the Transaction's consummation, a final count of employees, along with a comprehensive explanation of the compensation and benefit treatment of impacted employees;

l) For one year following the close of the proposed transfer, or until Verizon and Frontier inform the Commission by filing an affidavit with Docket Control, as a compliance item in this docket, that the proposed Transaction activities are completed, Frontier shall provide written notification with a compliance filing in Docket Control and to the individual members of the Commission 60 days prior to any planned transfer-related Arizona workforce layoffs, any planned transfer-related Arizona plant closings, and any planned transfer-related Arizona facility closings;

m) If any Frontier Arizona affiliate chooses to conduct layoffs or facility closings in Arizona that are attributable to the proposed transfer, it shall file a report, within two months of the effective date of the layoffs or closings, with the Commission, stating why it was necessary to do so and what efforts Frontier made or is making to re-deploy those individuals elsewhere within Frontier. This report shall also state whether any savings associated with facility closings have been re-invested in Frontier's Arizona operations, and, if not, why not. This report shall be filed for one year following close of the proposed transfer or until Frontier informs the Commission by filing an affidavit with Docket Control that transfer-related activities are completed, whichever comes last; and

n) Frontier and Verizon shall file with Docket Control, as a compliance item in this docket, within 60 days of the Transaction's completion, a Notice of Completion notifying the Commission that all transactions contemplated under the Transaction Documents, as related to the transaction activities in Arizona, are complete.

118. Additionally, we find it reasonable to require NewLD to assume or honor all obligations under VLD's and VES' current tariffs or other existing contractual arrangements of VLD and VES. Consistent with past Decisions,[89] the notice advising customers of VLD's and VES'

[89] See, for example, Decision No. 70057 (December 4, 2007).

transfer to NewLD, and of NewLD's assumption of VLD's and VES' tariffs, shall also advise customers that they have the option of selecting a new service provider if they do not wish to become a NewLD customer.

119. After review of the Application for the transfer of VCA's CC&N, Staff concluded that, based on its evaluation of NewILEC's technical and financial capabilities to provide facilities-based local exchange services, Staff recommends approval of the transfer, subject to the following conditions.

a) NewILEC shall comply with all Commission rules, order, and other requirements applicable to an Incumbent Local Exchange Carrier;

b) NewILEC shall maintain its accounts and records as required by the Commission;

c) New ILEC shall submit through a filing with Docket Control, all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;

d) NewILEC shall maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;

e) NewILEC shall comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between NewILEC's tariffs and the Commission's rules;

f) NewILEC shall participate in and contribute to the AUSF, as required by the Commission;

g) NewILEC shall notify the Commission immediately upon changes to its name, address, or telephone number through a filing with Docket Control;

h) NewILEC shall take on all COLR responsibilities in connection with the provision of facilities-based local exchange service within the current service area of VCA; and

i) NewILEC shall file conforming tariffs reflecting the existing rates, terms, and conditions listed in VCA's tariffs.

120. After review of the Application for the issuance of a CC&N to NewLD for the provision of competitive interexchange long distance services, Staff concluded that, based on its evaluation of NewLD's technical and financial capabilities to provide competitive interexchange long distance services, Staff recommends approval of the issuance of the CC&N to NewLD, subject to the following conditions.

a) NewLD shall comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;

b) NewLD shall maintain its accounts and records as required by the Commission;

c) NewLD shall submit through a filing with Docket Control all financial and other reports that the Commission may require, and in the form and at such times as the Commission may designate;

d) NewLD shall maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;

e) NewLD shall comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between NewLD's tariffs and Commission rules;

f) NewLD shall cooperate with Commission investigations including, but not limited to, customer complaints;

g) NewLD shall participate in and contribute to the AUSF, as required by the Commission;

h) NewLD shall notify the Commission immediately upon changes to its name, address, and/or telephone number through a filing with Docket Control;

i) NewLD's intrastate interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

j) NewLD shall file conforming tariffs reflecting the existing rates, terms, and conditions in VES's and VLD's tariffs;

k) The maximum rates for NewLD's services shall be the maximum rates contained in VES's and VLD's tariffs until further order of the Commission;

l) The minimum rates for NewLD's competitive services shall be its total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109, and as set forth in VES's and VLD's tariffs until NewLD complies with any and all Commission rules and orders applicable to changes in minimum rates;

m) In the event that NewLD states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate. Such rate shall reflect the current rate now charged by VLD or VES until such time as NewLD complies with any and all applicable rules and orders of the Commission with respect to any change in rates and obtains Commission approval as necessary;

n) NewLD's fair value rate base is zero;

o) In the event that NewLD requests to discontinue and/or abandon its service area, it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107; and

p) NewLD's CC&N shall be considered null and void, after due process, if it fails to comply with the following conditions:

i. NewLD shall file conforming tariffs through a compliance filing with Docket Control within 30 days from the effective date of the Decision in this matter;

ii. NewLD shall procure either a performance bond or an irrevocable sight draft letter of credit equal to $10,000;

iii. NewLD shall docket the original performance bond or irrevocable sight draft letter of credit with the Commission's Business Office and copies of the performance bond or irrevocable sight draft letter of credit with Docket Control, as a compliance item in this docket, within 90 days of the effective date of a Decision in this matter or 10 days before the first customer is served, whichever comes earlier. NewLD shall notify the Commission when its first customer is served. The performance bond or irrevocable sight draft letter of credit must remain in effect until further order of the Commission. The Commission may draw on the performance bond or irrevocable sight draft letter of credit, on behalf of, and for the sole benefit of, NewLD's customers, if the Commission finds, in its discretion, that NewLD is in default of its obligations arising from its Certificate. The Commission may use the performance bond or irrevocable sight draft letter of credit funds, as appropriate, to protect NewLD's customers and public interest and take any and all actions the Commission deems necessary, in its discretion, including, but not limited to, returning prepayments or deposits collected from NewLD's customers; and

iv. NewLD shall notify the Commission through a compliance filing with Docket Control within 30 days of serving its first customer.

121. We note that the Applicants did not file any objections to Staff's final recommendations and conditions. We find that Staff's recommendations and conditions are reasonable and shall be adopted.

CONCLUSIONS OF LAW

1. VCA, VES, VLD, NewILEC and NewLD are public service corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §40-281 and 40-282.

2. The Commission has jurisdiction over the Applicants and the subject matter of the Application.

3. Notice of the Application was given in accordance with the law.

4. A.R.S §§ 40-282 allows a telecommunications company to file an application for a CC&N to provide competitive telecommunications services.

5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised Statutes, it is in the public interest for NewILEC and NewLD to provide the telecommunications services set forth in the Application.

6. Pursuant to A.R.S. § 40-285, the transfer of assets from VCA to NewILEC and from

VLD and VES to NewLD is in the public interest.

7. Pursuant to A.A.C. R14-2-801 *et seq.*, the transfer of assets from VCA to NewILEC and from VLD and VES to NewLD will not impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.

8. NewILEC is a fit and proper entity to receive a CC&N as an incumbent local exchange carrier of telecommunications services in Arizona, subject to Staff's recommendations and conditions set forth herein.

9. NewILEC is a fit and proper entity to receive an ETC designation.

10. NewLD is a fit and proper entity to receive a CC&N to provide resold long distance telecommunications services in Arizona, subject to Staff's recommendations and conditions set forth herein.

11. The telecommunications services that NewLD intends to provide are competitive within Arizona.

12. Staff's recommendations, as set forth in Findings of Fact No. 116, and Staff's conditions as set forth in Findings of Fact No. 117, 119 and 120, as well as the conditions in Findings of Fact No. 118, are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the Application of Verizon California, Inc., Verizon Long Distance, LLC, Verizon Enterprises Solutions, LLC, Frontier Communications Corporation, New Communications of the Southwest, Inc., and New Communications Online and Long Distance, Inc., for approval of the transfer of Verizon California, Inc.'s, local exchange carrier services to New Communications of the Southwest, Inc., and the transfer of Verizon Long Distance, LLC's, and Verizon Enterprises Solutions' competitive interLATA/intraLATA resold telecommunications services (except local exchange services) to New Communications Online and Long Distance, Inc., is hereby granted subject to the recommendations, as set forth in Findings of Fact No. 119, and Staff's conditions as set forth in Findings of Fact No. 116, and Staff's conditions as set forth in Findings of Fact No. 117, 119 and 120, as well as the conditions in Findings of Fact No. 118.

IT IS FURTHER ORDERED that if New Communications Online and Long Distance, Inc., fails to comply with the timeframes stated in Findings of Fact No. 120(p), the Certificate of Convenience and Necessity granted herein shall be considered null and void, after due process.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER

COMMISSIONER COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 23rd day of February, 2010.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

SERVICE LIST FOR: VERIZON CALIFORNIA, INC., VERIZON LONG DISTANCE, LLC, VERIZON ENTERPRISES SOLUTIONS, LLC, FRONTIER COMMUNICATIONS CORPORATION, NEW COMMUNICATIONS OF THE SOUTHWEST, INC. AND NEW COMMUNICATIONS ONLINE and LONG DISTANCE, INC.

DOCKET NOS.: T-01846B-09-0274; T-03289A-09-0274; T-03198A-09-0274; T-20679A-09-0274; T-20680A-09-0274; and T-20681A-09-0274

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EXHIBIT A

Corporate Structure Pre- and Post-Merger

The following slides illustrate the Frontier Communications Corporation and Verizon Communications Inc. corporate structure for the affected incumbent local exchange companies (ILECs) and long distance service companies pre- and post-merger.

Slide 1 (page 2 of 5) shows the current Verizon structure for the Verizon entities involved in this transaction. All the affected Verizon ILECs (except Verizon West Virginia Inc.) are subsidiaries of GTE Corporation, which is a subsidiary of Verizon Communications Inc. Verizon West Virginia Inc. is a direct subsidiary of Verizon Communications Inc. New Communications Holdings Inc. (NCH) is a newly created Delaware corporation, formed for purposes of this transaction, and that currently is a direct subsidiary of Verizon Communications Inc.

Slide 2 (page 3 of 5) shows the Verizon structure after the ILECs are transferred to NCH. NCH has two subsidiaries: New Communications ILEC Holdings Inc., and New Communications Online and Long Distance Inc. The affected Verizon ILECs will be moved from GTE Corporation (or, in the case of Verizon West Virginia Inc., from Verizon Communications Inc.) to New Communications ILEC Holdings Inc. Certain non-ILEC assets, including the accounts receivables, liabilities, and customer relationships related to the long distance operations being transferred to Frontier, will be moved to New Communications Online and Long Distance Inc.

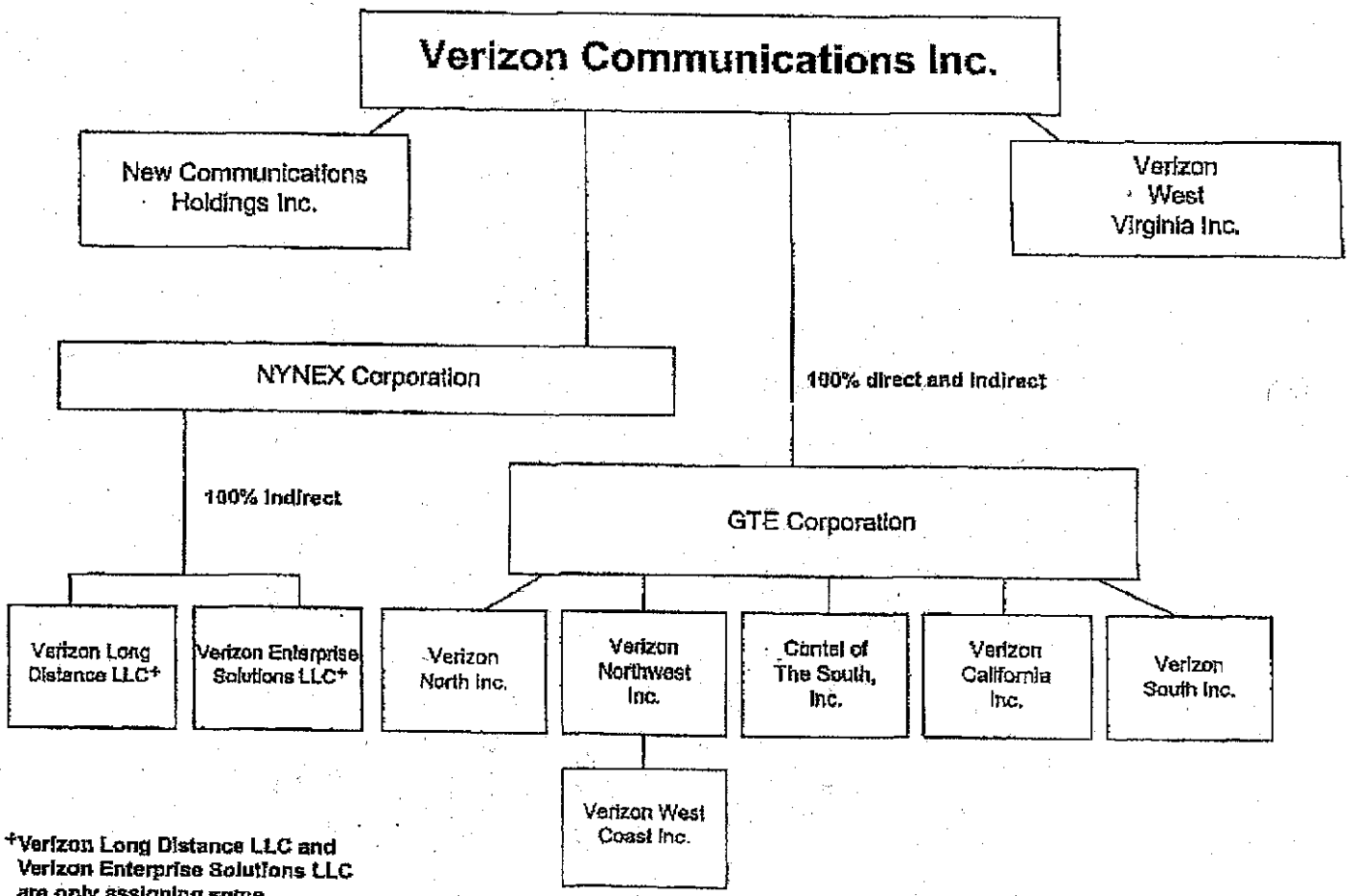
Slide 2 also shows two newly created ILEC subsidiaries of New Communications ILEC Holdings Inc.: New Communications of the Southwest Inc., and New Communications of the Carolinas Inc. New Communications of the Southwest Inc. will hold the assets of Verizon California Inc. that serve Arizona, Nevada, and those portions of California bordering Arizona and Nevada that are being transferred to Frontier. New Communications of the Carolinas Inc. will hold the assets of Verizon South Inc. that serve North Carolina, South Carolina, and a portion of Illinois. (Verizon California Inc. and Verizon South Inc. serve other areas not included in the transaction, and therefore Verizon will retain these companies.)

Slide 2 also shows a new ILEC subsidiary of GTE Corporation: Verizon North Retain Co. When created, this company will hold the assets of Verizon North Inc. that currently serve portions of Pennsylvania. These Pennsylvania assets will not be transferred to Frontier; Verizon will retain them.

Slide 3 (page 4 of 5) shows the distribution of NCH to Verizon's shareholders.

Slide 4 (page 5 of 5) shows Frontier Communications' corporate structure after NCH has been merged into it. Ownership and control of the existing Frontier ILECs and Frontier Communications of America, Inc. will not change as a result of the transaction.

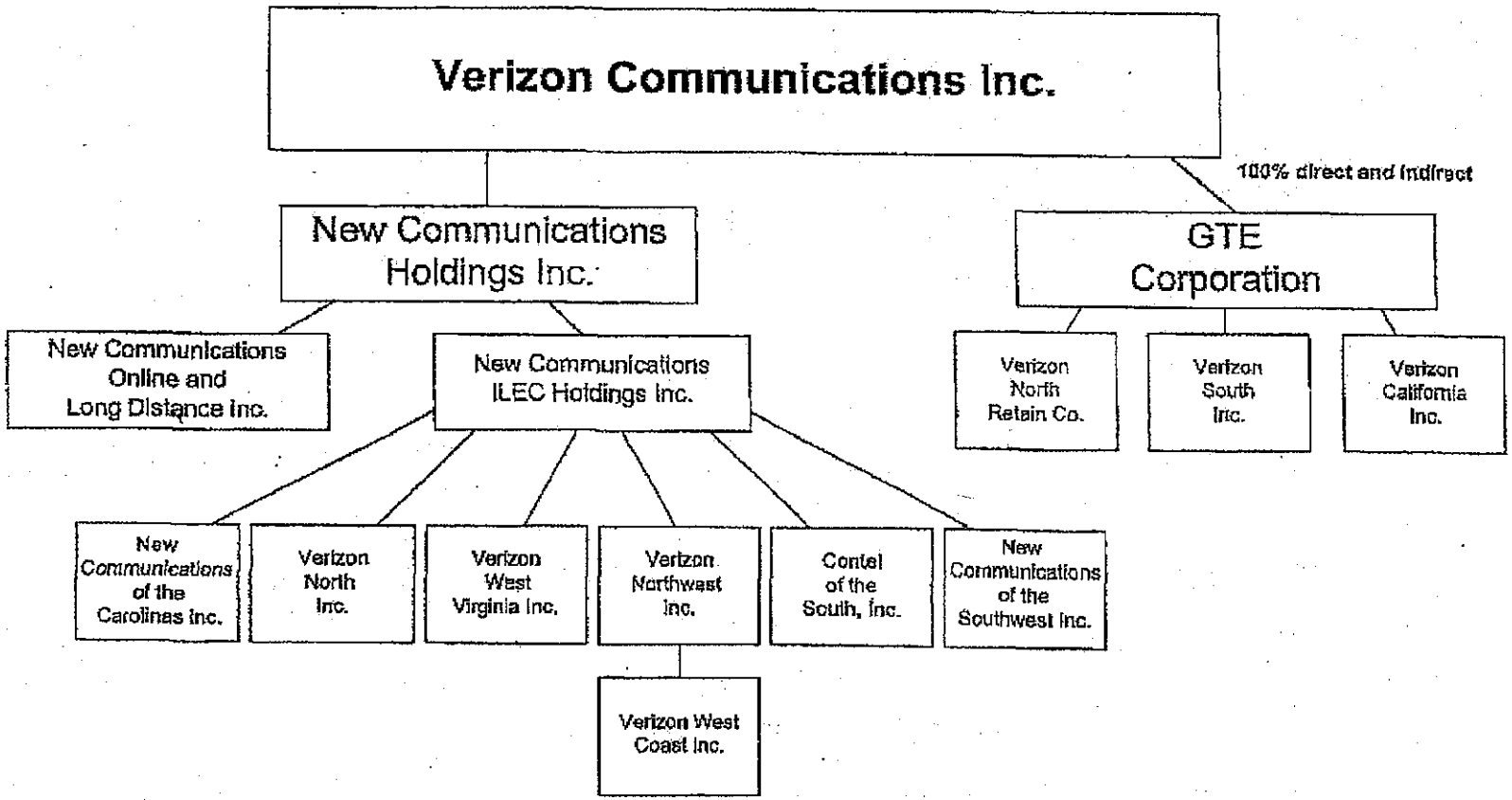
Current Verizon Structure



+Verizon Long Distance LLC and Verizon Enterprise Solutions LLC are only assigning some customer relationships.

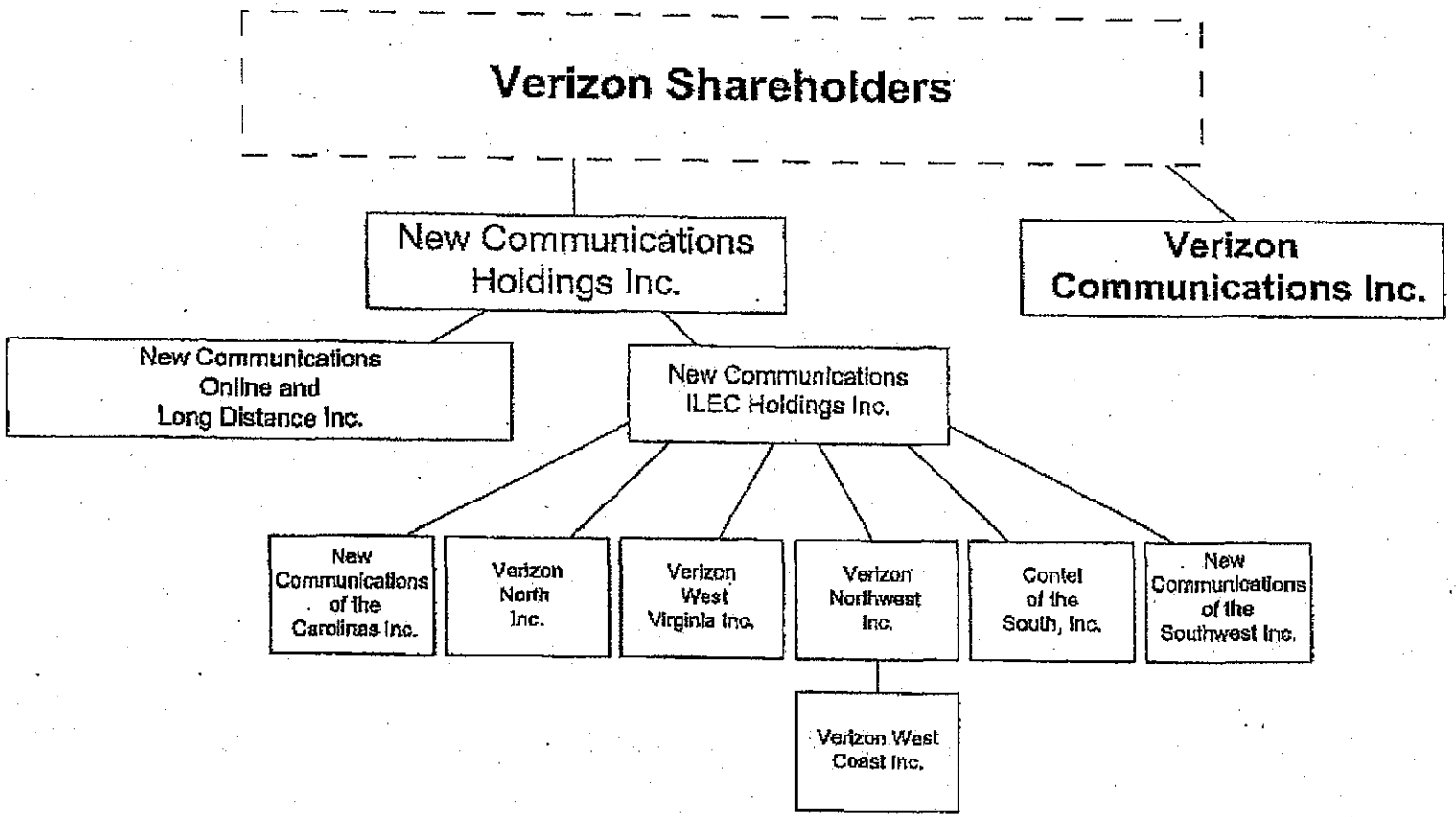
*All interests are direct 100% interests unless otherwise indicated.

Verizon Structure After Internal Reorganization



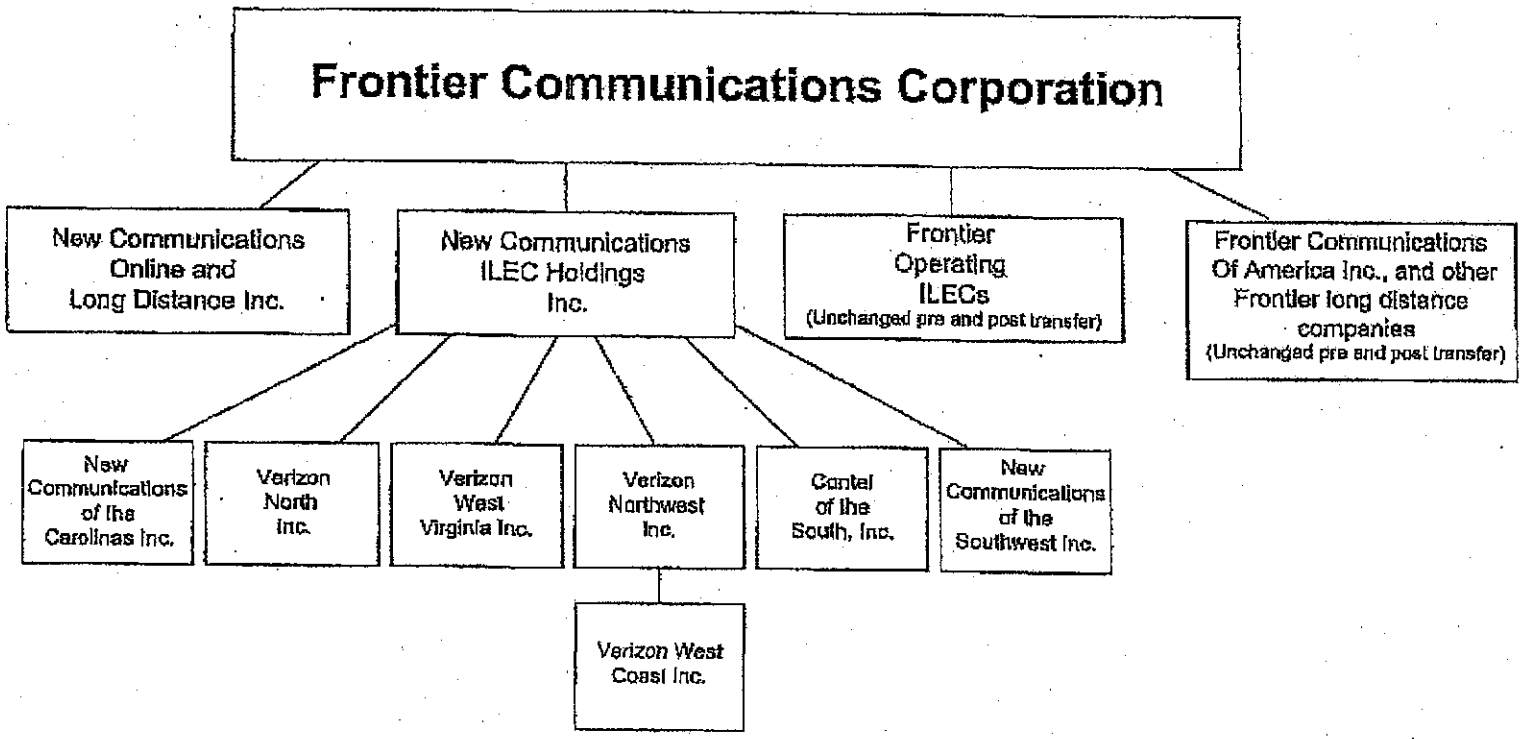
*All interests are direct 100% interests unless otherwise indicated.

Spin-off to Verizon Shareowners



*All interests are direct 100% interests unless otherwise indicated.

Frontier Structure After Transaction



*All interests are direct 100% interests unless otherwise indicated.