

ORDER NO. 12 307

ENTERED AUG 08 2012

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1431

In the Matter of

FRONTIER COMMUNICATIONS
NORTHWEST, INC.

Petition to Release Funds from Broadband
Escrow Account.

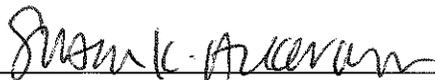
ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

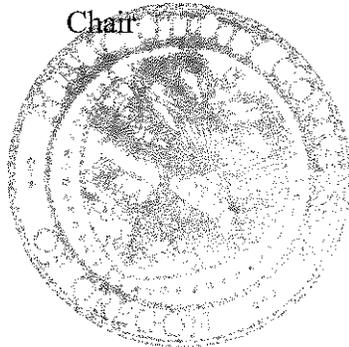
At its Public Meeting on July 31, 2012, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter, attached as Appendix A.

This order memorializes the decision of the Public Utility Commission of Oregon made and effective at a public meeting held on July 31, 2012.

Dated this 8 day of August, 2012, at Salem, Oregon.



Susan K. Ackerman
Chair





John Savage
Commissioner



Stephen M. Bloom
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: July 31, 2012

REGULAR X CONSENT _____ EFFECTIVE DATE _____ NA _____

DATE: July 19, 2012

TO: Public Utility Commission

FROM: Irvin Emmons *JEC*

THROUGH: Jason Eisdorfer *J*, Bryan Conway *BC*, and Marc Hellman *MH*

SUBJECT: FRONTIER COMMUNICATIONS NORTHWEST INC: (Docket No. UM 1431) Third Petition to Release Funds from Broadband Escrow Account – Order No. 10-067.

STAFF RECOMMENDATION:

Staff recommends that the Commission deny Frontier Communications Northwest Inc's (Frontier) petition to release the remainder of the funds held in the broadband escrow account (Account). Instead, Staff recommends the Commission authorize the release of \$8,310,773, thus leaving a balance of \$400,000 plus interest in the Account. Staff also recommends that the Commission deny Frontier's request that the Commission find that Condition No. 14 has been met but grant Frontier's request to end the associated quarterly reporting requirement, except for a requirement to continue to submit the quarterly reports for the remaining six wire centers (Clatskanie, Detroit, Grand Island, Imnaha, Langlois, and Provolt) until all commitments for these wire centers have been fulfilled. Staff understands that Frontier does not oppose its recommendation.

DISCUSSION:

On May 31, 2012, Frontier petitioned the Commission for approval to release funds held in the Account that was established to fulfill its broadband commitment. See Order No. 10-067 at 15-16. Detailed expenditure information provided with the petition is considered confidential by Frontier and the company requested that it be treated as such.

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Background

Pursuant to Commission Order, on July 1, 2010, indirect control of Verizon Northwest Inc. was transferred to Frontier Communications Corporation. In the Order, the Commission required Frontier to expend a total of \$25 million on broadband deployment in Frontier's service territory in Oregon (Broadband Commitment). As required by the Order No. 10-067, Frontier was to prudently expend \$10 million on broadband improvements before July 1, 2011, and to also deposit an additional \$15 million in an Account, approved by the Commission, to fulfill the Broadband Commitment.

Order No. 10-067 requires that within two years of the transaction closing date, Frontier will deploy broadband service in not less than 95 percent of the Frontier Oregon wire centers, make broadband service available to 50 percent of the households in Frontier's 15 new wire centers and available to 75 percent of the households in 10 of the 15 new wire centers and ensure that in aggregate, no less than 60 percent of households in the 15 new wire centers will have broadband available at no less than 1.5 Mbps download speed. Order No. 10-067, App. A, pp 3-4. Order No. 10-067 also requires that within three years of the close of the transaction, no less than 60 percent of all households in each of the 22 non-served wire centers and the Scholls, Dayton and Banks wire centers will have broadband available at a download speed of no less than 3 Mbps.

The \$15 million held in the Account must be spent by July 1, 2013. Frontier is allowed to request, no more frequently than on a quarterly basis, the release of funds from the Account to the full control of Frontier. The Commission, at its discretion, may approve any part or all of a request by the company for a release of funds from the Account.

Frontier completed the initial \$10 million broadband expenditure as confirmed in the submitted quarterly report presented on July 27, 2011. The July 2011 report detailed the broadband deployment through June 30, 2011. Frontier represents that the actual amount spent by June 30, 2011 was \$10,878,648.

On November 22, 2011, Frontier petitioned the Commission for approval to release funds held in the Account. Funds were released on December 30, 2011 from the Escrow Funds and disbursed to Frontier in the amount of \$4,372,761 as authorized by Commission Order No. 11-525 (UM 1431) and based upon Frontier's work on broadband projects through September 2011 (3Q11).

Frontier made a second request for the release of escrow funds from the Account on February 22, 2012, in the amount of \$1,916,466. This release of funds was based upon Frontier's work on broadband projects through December 2011 (4Q11).and the funds

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were released on March 27, 2012, as authorized by Commission Order No. 12-104 (UM1431).

Frontier is now asking the Commission to release the remaining balance of \$8,710,773 plus accumulated interest in the Account based upon Frontier's work on broadband projects through March 2012 (1Q12). The amount of interest would be determined at the time of the release of funds. The company states that this is the company's third and final request for the release of funds from the Account and requests that the Account be closed.

Additionally, Frontier requests that the Commission find that Frontier met or exceeded each of the commitments within Condition No. 14, as supported in confidential Exhibit B of the Petition. With the fulfillment of the broadband conditions Frontier also asks that the three year quarterly reporting requirement end.

Findings

Staff reviewed the projects listed in the 1Q12 Quarterly Report, and found that the work was appropriate for the broadband deployment in the Frontier Northwest territory in Oregon. Associated costs submitted by Frontier seem reasonable. Staff finds that Frontier satisfied this part of Condition No. 14, based on the submitted data. All jobs selected for the broadband deployment were chosen by Frontier.

As noted above, Frontier made specific commitments in Condition No. 14 relating to overall wire center capability, broadband household availability and speed thresholds in certain wire centers. Staff finds that in addition to meeting the requirement that 95 percent of all wire centers be broadband capable within two years, the Company has met the requirement that 15 of the new wire centers have broadband available to at least 50 percent of the households within two years, and ten of the new centers have 75 percent of the households within two years. Additionally, Frontier met the requirement that in aggregate, no less than 60 percent of the households in 15 new wire centers have no less than 1.5 Mbps download capability within two years.

Frontier has not satisfied the requirement, that within three years, no less than 60 percent of the households in each of the 22 originally non-serviced wire centers (one wire center with broadband services was inadvertently added to the original list, therefore there are only 21 non-served wire centers) and the Scholls, Dayton, and Banks wire centers have broadband available at a download speed of no less than 3 Mbps. Only 18 of the 24 wire centers meet this requirement.

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Since this specific commitment was not met, Frontier should continue to work towards meeting the Condition No. 14 requirements in the six wire centers. Accordingly, Staff recommends that the Commission not release all the funds in the Account. This recommendation is based on the statement in the Condition: "As noted above, the Account set aside to fulfill all of the broadband commitments detailed above shall remain in place until such time that Frontier has met and completed, to the reasonable satisfaction of the Commission, the broadband commitment in this condition."

Staff and Frontier determined that \$400,000 plus accumulated interest should remain in the Account even though Frontier has demonstrated that they have spent the full amount set aside in the Account. Staff therefore recommends that the Commission only release \$8,310,773 of the requested \$8,710,773 and accumulated interest. Notably, if the requirements in Condition No. 14 are not met by Frontier within three years of the transaction closing date, any funds that are not yet disbursed by the three-year deadline are to remain in the Account.

Conclusion

Staff has reviewed the detailed Frontier Broadband Infrastructure Improvements quarterly reports. Requirements as set forth in Condition 14 were verified. Since Frontier has made significant progress toward the applicable requirements of Condition 14, and the amount of money requested is properly documented, Staff recommends the release of the escrow funds from the Account in the amount of \$8,310,773. Since six of the 58 wire centers did not meet all of the specific commitments in Condition No. 14, Staff finds that Condition No. 14 has not been fully satisfied. Staff recommends that the Commission retain \$400,000 plus accumulated interest in the Account until Frontier has fully satisfied Condition No. 14. Further, Staff recommends that the Commission grant Frontier's request to suspend the reporting requirement except for a requirement to continue to submit the quarterly reports for the remaining six wire centers (Clatskanie, Detroit, Grand Island, Imnaha, Langlois, and Provolt) until all commitments on these wire centers have been fulfilled.

PROPOSED COMMISSION MOTION:

- 1) Frontier's petition to release the remainder of the funds in the amount of \$8,710,773 plus accumulated interest from the broadband escrow account and close the account be denied because Condition No. 14 has not been fully satisfied.

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- 2) The Commission release \$8,310,773 of the Account, leaving a balance of \$400,000 plus accumulated interest in the Account until Condition No. 14 is fulfilled.
- 3) Frontier's request to discontinue the reporting required in Condition No. 14 be granted except for a requirement to continue reporting broadband deployments in the Clatskanie, Detroit, Grand Island, Imnaha, Langlois, and Provolt wire centers in order to meet the broadband deployment thresholds.

FrontierUM1431FundRelease3