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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Revisions to the California High Cost Fund B Program.	Rulemaking 09-06-019 (Filed June 18, 2009)

COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON ADMINISTRATIVE LAW JUDGE'S RULING FOR FURTHER COMMENTS ON COST PROXY REVISIONS

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I. INTRODUCTION

Pursuant to the schedule established in the Administrative Law Judge's Ruling For Further Comments On Cost Proxy Revisions (Ruling) issued July 18, 2013, the Division of Ratepayer Advocates (DRA) submits these comments on the issues delineated in the Ruling.

II. NO FURTHER COST STUDIES ARE WARRANTED PRIOR TO IMPLEMENTING THE COST PROXY UPDATES

DRA agrees with other participants at the July 10, 2013 technical workshop for developing a methodology for updating Census Block Group (CBG) mapping data to reflect 2010 federal census data in order to produce acceptable updated cost proxies that there would be little benefit from developing entirely new cost studies. The current high cost CBGs were developed by using the Cost Proxy Model (CPM) adopted by the California Public Utilities Commission (Commission) in 1996 based on 1994 data.

The CPM did not directly compute the cost of service, but rather used variables regarded to be major cost drivers to estimate the cost for each area. It generated proxy costs for each CBG as well as a statewide average, which the Commission then used to determine which CBGs were considered high cost. Many questions have been raised about the overall validity of the CPM.[1] Advances in technology have rendered the CPM obsolete, the model is no longer supported, and it is unavailable to perform even minimal updates. While the existing data is out of date, DRA agrees that the time, expense, and resources required to conduct new cost studies or cost updating outweigh the benefits that could be derived from doing so. DRA therefore supports a Commission finding that no further cost studies are warranted for the purpose of updating California High-Cost Fund-B (B-Fund) subsidy amounts.

While DRA is not in favor of conducting new cost studies, or rerunning the now defunct CPM model, DRA does support adjusting the output or results of the model to better reflect conditions today or using the cost proxies as only one of several factors in determining eligibility and levels of B-fund subsidies. For example, the single biggest cost driver in providing basic phone service is population density. Population density is explicitly linked to the CBG mapping process. If a CBG, which was designated a high cost area in 1996, now has a significantly higher population density, by definition the cost of service should be much lower than it was previously, and this should be taken into account when determining the eligibility of that CBG for B-fund subsidies.

Likewise, if the URF carriers have made infrastructure improvements in formerly high cost areas, those areas may also no longer be high cost.[2]

As noted above, DRA is well aware of the limitations of the 1996 CPM.[3] Given those limitations, the consensus agreement among the parties is to not do further cost

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[1] In 2004 DRA (then "ORA") analyzed the validity of the CPM and found potential problems such as high cost CBGs located in wire centers with lower loop costs, and the fact that the model cannot be updated. Furthermore, the CPM was based on several other complex models, and relied upon AT&T (Pacific's) unverifiable data. *See* "The Office of Ratepayer Advocates' Review of the California High Cost Fund B", March 22, 2004. See report online at the following link: *www.teletruth.org/docs/**HighcostfundB**analysis35084.doc*

[2] While the factor input costs may have changed since 1994, the ratio of costs per CBG should be constant, *i.e.*, an area that was in the 80 percentile bracket in 1994 should be in the 80 percentile bracket in 2013.

[3] *Ibid.*

studies or cost updating in an attempt to create more meaningful inputs to a now-defunct model. DRA recommends that the cost proxies should be only one component in determining whether a CBG is high cost and eligible to collect B-Fund support. As noted above, other factors such as population density, technological advancement and innovation must be considered in addition to cost.

III. THE COMMISSION SHOULD NOT EXPEND ANY MORE EFFORT ON A REVERSE AUCTION

DRA supports the consensus position developed by parties in the July 18, 2013 workshop that a reverse action to determine B-Fund support levels is no longer needed. DRA has consistently opposed trying to design and implement a reverse auction for carrier of last resort (COLR) responsibilities in California.[4] DRA's position has not changed. Therefore, DRA supports a Commission finding that no further efforts will be expended to design or implement a reverse auction for purposes of determining B-Fund support levels.

IV. Frontier's Proposed Methodology to Develop Proxy Costs for the B-Fund Program in Areas Not Yet Modeled

A. Background

DRA addresses here Citizens Telecommunications Company of California Inc., dba Frontier Communications of California's (Frontier) proposal to develop proxy costs for the B-Fund in areas not yet modeled that Frontier presented at the July 18, 2013 workshop. In the event that Frontier modifies its proposal in its comments filed on August 9, 2013, DRA will address any differences in its Reply Comments.

In 2008 and in 2012, Frontier merged several of its small incumbent local exchange carrier (ILEC) territories into the uniform regulatory framework (URF) entity, Citizens Telecommunications Company California, Inc. (CTC).[5] Frontier asserts that

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[4] *See* DRA comments in R.06-06-028.

[5] In 2008 Frontier merged into CTC California the following small GRC LECs: Golden State, Tuolumne, Global Valley Networks. In 2012 Frontier merged West Coast into CTC. Frontier already designates CTC –CA and Southwest as CHCF-B CBGs.

these newly merged ILEC territories may be eligible for B-Fund treatment.[6] In order to resolve how to treat the new areas of Frontier's territory, Frontier proposed a methodology to develop CBG proxy costs for these areas without new comprehensive cost studies. Frontier's approach would use, when available, 2010 proxy costs developed by GeoLytics. For new wire centers that do not have these costs developed, Frontier proposes to estimate these costs with a combination of the Federal Communication Commission's (FCC) Hybrid Cost Proxy Model[7] and a disaggregation of wire center costs to individual CBGs.

B. The Frontier Merger Decisions Do Not Allow High Cost B Treatment until After a Review of HCF-B in R.06-06-028/R.09-06-019

Commission Decision (D.) 08-10-010 and D.13-05-028 (Frontier Merger Decisions)[8] do not permit the new service territories of the merged entities to obtain B-Fund support.[9] DRA signed settlements with Frontier in both cases and both decisions stating that the new service territories of the newly merged entities[10] cannot participate in the B-Fund claims process until the Commission has concluded its review of the B-Fund

[6] The July 18, 2013 ALJ Ruling for Further Comments on Cost Proxy Revisions also states: "The Commission has approved the treatment of new areas of Frontier's territory as 'URF' territory and therefore eligible for B-Fund support if the costs for the CBGs in those areas meet the threshold." (ALJ Ruling, p. 2.) DRA does not believe that the new areas of Frontier's territory meet the threshold.

[7] *See* http://transition.fcc.gov/ccb/apd/hcpm/

[8] Prior to the merger these companies operated as separate legal entities but were owned by Frontier-California.

[9] D.08-10-010, Finding of Fact 3, p. 20; D.13-05-028, Finding of Fact 6(a), p. 12.

[10] These newly merged ILECs are Citizens Telecommunications Company of Tuolumne dba Frontier Communications of Tuolumne (Frontier-Tuolumne); Citizens Telecommunications Company of the Golden State dba Frontier Communications of the Golden State (Frontier-Golden State); Global Valley Networks, Inc. dba Frontier Communications of Global Valley (Frontier-Global Valley); Frontier Communications West Coast Inc., (Frontier-West Coast)

in this docket.[11] At this point, none of the service territories in the newly merged Frontier entities may get money from the B Fund.

DRA notes that Frontier did not choose to undergo the Commission review (namely the filing of a General Rate Case) necessary to obtain High-Cost Fund-A subsidies. While Frontier has presented a method to designate high cost areas for purposes of the B-Fund, it is questionable whether the new areas Frontier proposes to designate for high cost treatment are actually in need of subsidy funding. Because none of the four smaller Frontier ILECs[12] chose to apply for A-Fund subsidies before the merger, it is not reasonable to permit them to draw B-Fund subsidy funds now. If Frontier did not believe these small carriers needed High Cost support before the merger, the need for support in those areas should be even less now because today the smaller entities are now able to share in the economies of scale enjoyed by that larger company.

Further, in the merger applications, referenced above, Frontier provided evidence of pre-merger intermodal competition.[13] DRA does not accept alleged intermodal competition as a meaningful substitute for basic service. However, if Frontier's

[11] D.08-10-010, Finding of Fact 3, p. 20 provides: "To address DRA's concerns, the Parties negotiated a Settlement Agreement attached to this decision as Attachment A. Under the Settlement Agreement, Frontier-California will not include the three merged service areas in its Fund-B draw until the Commission has concluded its review of the B-Fund as ordered in D.07-09-020."; D.13-05-028, Finding of Fact 6(a), p. 12 provides: "Frontier-California will continue to participate in the High Cost Fund-B program on a stand-alone basis, but the territory of Frontier-West Coast will not be included in the High Cost Fund B claims process until the Commission concludes its review of the B-Fund as ordered in D.07-09-020, specifically the resolution of the remaining issues contained in Ordering Paragraph 13. If the High Cost Fund-B docket (R.06-06-028, R.09-06-019) remains open upon conclusion of the completed review of the B-Fund, Frontier-West Coast will be allowed to participate in the B-Fund claims process."

[12] The four smaller merged ILECs are Frontier-Tuolumne, Frontier-Golden State, Frontier-Global Valley and Frontier-West Coast.

[13] *See* D.08-10-010 at 5-6, and A.12-18-12 at Exhibit 9.

assertions are true and these markets do face competition, then CHCF-B subsidies to the incumbent would distort competition and disadvantage CTC's competitors.[14]

DRA's position is "consistent with the Commission's stated objective of reducing the size of the B-Fund."[15] In sum, DRA believes that the Commission should not allow Frontier to include the newly service territories of the merged entities when calculating its B-Fund draw.

V. CONCLUSION

DRA agrees with other parties to this proceeding that no further cost studies are needed to develop acceptable updated cost proxy data. However, the Commission must do some amount of adjustment to the current proxy costs in order to determine whether a CBG is high cost and should be eligible to collect B-Fund support. DRA recommends that the Commission cease any further efforts to design a reverse auction mechanism, and instead rely on updated cost proxies as one of several components in determining which CBGs are high cost in order to calculate B-Fund support and disbursements to qualifying carriers. Consistent with prior Commission decisions, DRA does not believe that Frontier's former small ILECs are eligible for B-Fund subsidies until the Commission has completed its review of the B-Fund.

[14] When the High Cost Fund B was initiated, the recipients were "NRF" carriers as opposed to their current designation as URF carriers. One of the principal differences is that under URF carriers have pricing flexibility that they did not have under NRF. There is no requirement that URF carriers charge a statewide average rate. URF allows these carriers to adjust their rates such that they could charge more in higher cost areas and charge less in lower cost urban areas, all without review by the CPUC.

[15] D.08-10-010, p. 9.

Respectfully submitted,

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