

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs Branch**

**RESOLUTION T-17547
September 14, 2017**

R E S O L U T I O N

Resolution T-17547 Approves the Temporary Support Service Agreement for Internet Protocol (IP) Interconnection Submitted by Frontier Communications of America, Inc. (U-5429-C) in Advice Letter No. 119 as an Interconnection Agreement

SUMMARY

This resolution approves the Temporary Support Service Agreement for Internet Protocol (IP) Interconnection filed by Frontier Communications of America, Inc. in Advice Letter No. 119 as an Interconnection Agreement pursuant to §§ 251 and 252 of the Federal Telecommunications Act.

The Commission determines that the Temporary Support Service Agreement for Internet Protocol (IP) Interconnection is an interconnection agreement subject to §§ 251 and 252 of the Federal Telecommunications Act.

BACKGROUND

The Commission, in Decision (D.) 15-12-005, approved the joint application of Frontier Communications Corporation, Frontier Communications of America, Inc., Verizon California Inc., Verizon Long Distance, LLC., and Newco West Holdings, LLC., for approval of the sale and transfer of Verizon California, Inc. together with certain assets held by it and the customer accounts of Verizon Long Distance, LLC., in the service territory of Verizon California, Inc., to Frontier Communications Corporation.

The Commission, however, imposed certain conditions on the sale and transfer of the described property and also approved various related settlements between Frontier Communications Corporation and protesters. The Decision, in Ordering Paragraph No. 7, required Frontier to file with the Commission a Tier I Advice Letter (AL) disclosing the terms of its recently signed interconnection agreement with Verizon Business, including a fully executed copy of the agreement as an exhibit, which the Commission shall review to determine whether or not it is an interconnection agreement subject to the filing, approval and opt-in requirements of § 252 of the Federal Telecommunications Act.

On February 26, 2016, Frontier Communications of America, Inc. (Frontier), on behalf of Citizens Telecom Services Company L.L.C. (CTS), filed a Tier 3 AL No. 119¹ submitting a confidential Temporary Support Service Agreement for Internet Protocol (IP) Interconnection (Support Agreement) by and between CTS and MCI Communications Services Inc. d/b/a Verizon Business (Verizon Business) that was executed by the parties on February 17, 2016.

In its filing, Frontier indicated that the Support Service Agreement is not an interconnection agreement pursuant to which Frontier, through Verizon California Inc. or any other affiliate, will be providing a service to or exchange traffic with other carriers. Frontier represented that the Support Service Agreement is a temporary support services contract involving Frontier's purchase of Session Initiation Protocol (SIP) carrier transiting and interconnect services from Verizon Business to facilitate the exchange of certain SIP traffic with five parties that had previously established arrangements to exchange SIP voice traffic pursuant to an Internet Protocol Interconnection Agreement for Certain Voice Traffic with Verizon Services Corp. on behalf of itself and its Incumbent Local Exchange Carrier (ILEC) subsidiaries and affiliates. Frontier asserted that the Support Service Agreement will ensure a continuation of existing service arrangements for exchanging SIP voice traffic that is unique and specific to Frontier as the recipient of commercial services from Verizon Business. The agreement will only remain in effect on a temporary basis for approximately one year or until the traffic for these five parties is transitioned directly to Frontier's network and systems. Thus, Frontier requested that the Commission consider the Support Service Agreement as not an interconnection agreement subject to the filing, approval, and opt-in requirements of § 252 of the Federal Telecommunications Act.

On March 3, 2016, the Communications Division (CD) sent an email to Frontier asking Frontier to submit a supplement to the AL attaching a proposed protective order that already declared such information to be confidential, or attach a proposed protective order with their AL filing. In addition, CD advised Frontier that the supplemental filing should follow the steps outlined in § 9.3 of GO 96-B "Procedure for Establishing Confidentiality".

On March 7, 2016, Frontier filed AL No. 119A, as a supplement to AL No. 119, in accordance with CD's instructions. In its supplemental filing, Frontier also requested that the fully un-redacted copy of the Support Service Agreement filed with the

¹ Although OP 7 required Frontier to submit a Tier 1 AL, Frontier submitted a Tier 3 AL. Under General Order 96-B industry Rules 7.3 and 8.1, interconnection agreements are to be filed as Tier 3 ALs. Frontier consulted the Communication Division (CD) and CD confirmed that the filing be submitted as a Tier 3 AL.

Commission on February 26, 2016, be held under seal in the Commission's files for at least three years.²

Frontier's AL No. 119 and AL 119A were noticed on the Commission's Daily Calendar on March 7 and March 11, 2016, respectively. There were no protests filed on AL No. 119 and AL 119A.

DISCUSSION

CD finds that the agreement concerns an ongoing obligation to provide one or more of the services or network elements enumerated in 47 U.S.C. § 251(a)(1)³ namely: resale, number portability, dialing parity, and reciprocal compensation; accordingly, CD disagrees with Frontier's assertion that this is not an interconnection agreement. Rather, CD determines that the agreement submitted by Frontier in its AL filing is an interconnection agreement as it is consistent with §§ 251 and 252 of the Federal Telecommunications Act's definition of interconnection agreement.

The sections in the agreement addressing these obligations are:

- **Resale and Reciprocal Compensation – Section 8 of the Temporary Support Services for IP Interconnection Attachment**
 - 8. Billing Records
Verizon Business shall make available to Frontier Call Detail Records (CDRs) for SIP Voice Calls delivered to Frontier from Verizon Business's SCIP. Frontier shall be responsible for any billing to Interconnected Third Parties pursuant to IP Interconnection Agreements, tariffs or otherwise. Frontier may obtain its CDRs by accessing Verizon Business's secure web portal Portfolio™ at no charge.
- **Number Portability – Section 2.1 of the Temporary Support Services for IP Interconnection Attachment**
 - 2.1 SCIP Interconnection Plan. The Parties shall develop a mutually agreed upon SCIP Interconnection Plan that defines operational procedures required to perform the Services set forth herein. The SCIP Interconnection Plan shall be developed for processes that include, but are not limited to: signaling and media support; routing updates to the SIP Routing Table; repair; maintenance; porting processes; ordering processes; and SCIP NNI design, setup and reconfiguration.
- **Dialing Parity – Section 5.2 of the Temporary Support Services for IP Interconnection Attachment**
 - 5.2 Queries and Responses. Frontier may submit queries to Verizon Business's ENUM Database only for calls originated by Frontier's Customers served by

² According to Frontier the disclosure of the redacted information would subject the signatories to an unfair business disadvantage, in contravention of General Order 66-C, Section 2.2(b).

³ We note that nothing in 47 U.S.C. §§ 251, 252 requires an interconnection agreement to address all of the elements listed in § 251(a)(1), and carriers are free to negotiate an agreement without regard to the standards set forth in §251(b) and (c). 47 U.S.C. § 252(a)(1). The salient factor, as we note below, is that this agreement is necessary for Frontier to facilitate interconnection and the exchange of voice traffic in SIP format.

Interconnected VoIP Service within the State of California and only where the dialed number is a ten-digit telephone number in NANP format that is associated with a Rate Center within the United States. If Frontier's query is for a Permitted SIP Voice Call to an Interconnected Third Party, EDQS will return to Frontier, in response to Frontier's query, call routing information to be used by Frontier for purposes of routing the Voice Call to Verizon Business's SCIP. If Frontier's query is not for a Permitted SIP Voice Call to an Interconnected Third Party, EDQS will return to Frontier, in response to Frontier's query, a 488 SIP response, which will enable Frontier to route the call over another network. Frontier shall not submit queries to Verizon Business's ENUM Database for any other calls, including but not limited to, 9-1-1, emergency services, TTY, toll-free, 8-1-1, 5-1-1, 3-1-1, directory assistance, and operator services.

The Communications Division further notes that Part 20 of the Agreement states:

"20.1 The Parties agree that this Agreement is not subject to Sections 251, 252, or 271 of the Act, including without limitation, any requirement to negotiate, mediate, or arbitrate this Agreement pursuant to Section 252 of the Act, or to file this Agreement with any state utility commission, the FCC or elsewhere, except as provide for in Section 5.11.1, above.

20.2. In the event the Parties are required to file this Agreement pursuant to Section 252 of the Act and Commission rejects (or will not approve) this Agreement, either Party may: (a) terminate this Agreement on five (5) Business Days written notice; or (b) If not terminated, request renegotiation of an amendment to cure any deficiencies identified by the Commission."

However, Part 20 of the Agreement cannot supersede §§ 251 and 252 (e) of the Federal Telecommunications Act, or the jurisdiction of the Commission to approve interconnection agreements.

RECOMMENDATION

Based on the above discussion, CD recommends that the Commission approve the Temporary Support Agreement as an interconnection agreement as defined in §§ 251 and 252 of the Federal Telecommunications Act.

COMMENTS

In compliance with Public Utilities Code § 311(g), a notice of availability was e-mailed on to July 11, 2017, informing all parties on AL No. 119 service list of the availability of the draft of this resolution for public comment at the Commission's website at <http://www.cpuc.ca.gov/documents/>. This notice also informed parties that the final conformed Resolution adopted by the Commission will be posted and be available at this same website.

On July 31, 2017, Frontier, the California Association of Competitive Telecommunications Companies (CALTEL), and Verizon Business submitted comments on the Draft Resolution.

Frontier and Verizon disagree with the Draft Resolution's conclusion that the Support Agreement is an interconnection agreement subject to the Commission's review and approval under § 252 of the Act. Frontier and Verizon lists three reasons for this disagreement:

1. The Support Agreement did not arise from a request that Frontier perform duties under § 251(b)(1)-(5) and (c). According to Frontier, under the Act, a telecommunications carrier may request that an incumbent local exchange carrier perform § 251(b)(1)-(5) and (c) duties, but in this case Verizon Business did not ask Frontier to perform any duties. Instead, Frontier requested Verizon Business to perform the services described in the agreement relating to Frontier's exchange of SIP traffic with third parties. The Support Agreement only concerns services provided by Verizon Business to Frontier, not services provided by Frontier to Verizon Business. Because the agreement does not concern services requested of or provided by an ILEC, it is not an interconnection agreement under §§ 251 and 252.
2. None of the services performed by Verizon Business are services described in § 251(b) and (c). The Draft Resolution accordingly errs when it concludes that the Support Agreement is an interconnection agreement subject to §§ 251 and 252 "in so far as it concerns an ongoing obligation to provide resale, number portability, dialing parity, access to rights of way, and reciprocal compensation." According to Frontier, the Support Agreement does not concern those services and therefore does not constitute an interconnection agreement.
3. The Support Agreement concerns the provision of IP VoIP services, which are information services that are not subject to §§251 and 252, for the same reasons stated in Frontier's Comments and MCImetro Access Transmission Services Corp.'s Comments on Draft Resolution T-17546, and Verizon California Inc.'s Comments submitted on Advice Letter 12725. Frontier and Verizon adopt those comments herein by reference.

CALTEL states that the Draft Resolution correctly finds that the executed Support Agreement is an interconnection agreement subject to the approval, filing and opt-in requirements of § 252 of the Act (though it admittedly has not seen the Agreement). However, CALTEL recommends that the Draft Resolution be modified to document that, in approving the agreement and finding that it is a § 252 interconnection agreement, federal law requires that the Commission ensure

that the agreement is “available for public inspection and copying within 10 days after the agreement...is approved.” (CALTEL Comments, p. 2, citing 47 U.S.C. § 252(h).) CALTEL requests that the Commission accordingly reject Frontier’s request to hold the agreement under seal, and require Frontier to file a supplemental AL that includes an unredacted copy of the agreement.

As to Frontier and Verizon’s first point, we note that *all* telecommunications carriers, not just ILECs, have a duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers. (47 U.S.C. § 251(a)(1). Presumably, the terms and conditions of such interconnection will be forth in an agreement between the carriers, regardless of which carrier requests the interconnection. The Act also sets out obligations of *all* local exchange carriers with regard to resale, number portability, dialing parity, access to rights of way, and reciprocal compensation. (47 U.S.C. § 251(b).) While the Act imposes additional obligations on ILECs, including the duty to negotiate an interconnection agreement in good faith, and provide interconnection upon request, there is no language in the statute limiting the definition of an interconnection agreement in the manner suggested by Frontier and Verizon.

We respond to Frontier and Verizon’s second point by inserting additional analysis and support above. Further, while we acknowledge that the Temporary Support Service Agreement submitted does not follow the conventional or standard format filed with the Commission, the Temporary Support Agreement is necessary for Frontier to facilitate interconnection and the exchange of SIP Voice Calls in SIP format between : (i) Interconnected Third Parties and (ii) Frontier’s incumbent local exchange carrier Affiliates operating in California. Also, in submitting AL 119, Frontier states “The Support Agreement will ensure a continuation of existing service arrangements for exchanging SIP voice traffic that is unique and specific to Frontier as the recipient of commercial services from Verizon Business and will only remain in effect on a temporary basis for approximately one year or until the traffic for these five parties is transitioned directly to Frontier’s network and systems.”⁴ To date, Frontier has not transitioned traffic for these parties to its work network and systems.

Finally, we find Verizon and Frontier’s third point unavailing, for the same reasons we articulated in Resolution T-17546, which we incorporate herein by reference. As we noted there, neither the 1996 Federal Telecommunications Act nor the FCC has classified VoIP as either an information or a telecommunications service. The carriers’ insistence that VoIP is classified as an information service is tired hyperbole.

CALTEL is correct that the Act requires the Commission to make approved interconnection agreements available for public inspection. For this reason, we deny

⁴ The five parties are: Bandwidth.com, Inc., Broadvox-CLEC LLC, Comcast IP Phone, LLC, Sprint Spectrum, L.P. and Vonage Holdings Corporation.

Frontier's request to treat the agreement as confidential and its request to submit the agreement under seal. We direct Frontier to submit a supplemental Advice Letter that contains an unredacted copy of the agreement within 10 days of the issuance of this Resolution.

FINDINGS

1. The Commission, in Decision (D.) 15-12-005 approved the joint application of Frontier Communications Corporation, Frontier Communications of America, Inc., Verizon California Inc., Verizon Long Distance, LLC., and Newco West Holdings, LLC., for approval of the sale and transfer of Verizon California, Inc. together with certain assets held by it and the customer accounts of Verizon Long Distance, LLC., in the service territory of Verizon California, Inc., to Frontier Communications Corporation. The Commission, however, imposed certain conditions on the sale and transfer of the described property and also approved various related settlements between Frontier Communications Corporation and protesters.
2. Ordering Paragraph No. 7 of D. 15-12-005 required Frontier to file a Tier I Advice Letter (AL) disclosing the terms of its recently signed interconnection agreement with Verizon Business, including a fully executed copy of the agreement as an exhibit, which the Commission shall review to determine whether or not it is an interconnection agreement subject to the filing, approval and opt-in requirements of § 252 of the Federal Telecommunications Act.
3. On February 26, 2016, Frontier Communications of America, Inc. filed Tier 3 AL No. 119 submitting a confidential Temporary Support Service Agreement for Internet Protocol (IP) Interconnection (Support Agreement) by and between Citizens Telecom Services Company L.L.C. (CTS) and MCI Communications Services Inc. d/b/a Verizon Business (Verizon Business) that was executed by the parties on February 17, 2016.
4. Frontier Communications of America requested that the Commission consider the Support Service Agreement as not an interconnection Agreement subject to the filing, approval, and opt-in requirements of § 252 of the Federal Telecommunications Act for the following reasons:
 - Frontier Communications of America, through Verizon California Inc. or any other affiliate, will be purchasing Session Initiation Protocol (SIP) carrier transiting and interconnect services from Verizon Business to facilitate the exchange of certain SIP traffic with five parties that had previously established arrangements to exchange SIP voice traffic pursuant to an Internet Protocol Interconnection Agreement for Certain Voice Traffic with Verizon Services Corp. on behalf of itself and its ILEC subsidiaries and affiliates.

- The Support Service Agreement will only remain in effect on a temporary basis for approximately one year or until the traffic for the five parties is transitioned directly to Frontier's network and systems.
5. On March 7, 2016, Frontier Communications of America, Inc. filed a supplement to AL No. 119 attaching a proposed protective order and further requested that the fully un-redacted copy of the Support Agreement filed on February 26, 2016 be held under seal in the Commission's files for at least three years.
 6. The Communications Division reviewed the Agreement submitted and determined that the Temporary Support Service Agreement submitted by Frontier Communications of America, Inc. is an interconnection agreement as defined in §§ 251 and 252 of the Federal Telecommunications Act.
 7. The inclusion of part 20 of the Temporary Support Service Agreement stating that it is not subject to §§ 251, 252, or 271 of the Act, cannot supersede §§ 251 and 252 (e) of the Federal Telecommunications Act.
 8. The Commission should approve the Temporary Support Service Agreement as an interconnection agreement as defined in §§ 251 and 252 of the Federal Telecommunications Act.
 9. Pursuant to 47 U.S.C. § 252(h), "[a] State commission shall make a copy of each agreement approved under subsection (e) and each statement approved under subsection (f) available for public inspection and copying within 10 days after the agreement or statement is approved."

THEREFORE, IT IS ORDERED that:

1. The Commission approves the Temporary Support Service Agreement filed by Frontier Communications of America, Inc. in Advice Letter No. 119 as an Interconnection Agreement pursuant to §§ 251 and 252 of the Federal Telecommunications Act.
2. Frontier's request to submit the Temporary Support Service Agreement under seal is denied.
3. Frontier is directed, within 10 days from the effective date of this Resolution, to submit via advice letter a fully unredacted copy of the Temporary Support Service Agreement.

This resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 14, 2017. The following Commissioners approved it:

TIMOTHY J. SULLIVAN
Executive Director