

Decision 12-06-004 June 7, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of Consolidated Communications Holdings, Inc., Consolidated Communications Inc. and WH Acquisition II Corp. and SureWest Communications, SureWest Telephone (U1015C), SureWest Long Distance (U5817C), and SureWest TeleVideo (U6324C) To Authorize the Acquisition of Control of SureWest Telephone (U1015C), SureWest Long Distance (U5817C), and SureWest TeleVideo (U6324C).

Application 12-02-011
(Filed February 10, 2012)

**DECISION APPROVING SETTLEMENT AND ACQUISITION OF
SUREWEST COMMUNICATIONS, SUREWEST TELEPHONE,
SUREWEST LONG DISTANCE AND SUREWEST TELEVIDEO BY
CONSOLIDATED COMMUNICATIONS HOLDINGS, INC.**

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**DECISION APPROVING SETTLEMENT AND ACQUISITION OF
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CONSOLIDATED COMMUNICATIONS HOLDINGS, INC.**

1. Summary

Pursuant to Sections 851-854 of the Pub. Util. Code,¹ we approve the proposed transaction whereby SureWest Communications, SureWest Telephone, SureWest Long Distance, and SureWest TeleVideo are acquired and directly controlled by WH Acquisition II Corporation and are thereby acquired and subject to the indirect control of Consolidated Communications Holdings and Consolidated Communications, Inc. (Consolidated). In connection with the transaction, we approve the repayment of the existing debt of SureWest Communications and the re-encumbrance of these assets to secure new financing, which is an integral part of this transaction.

In addition, we approve the Settlement Agreement² and the Amendment to Settlement Agreement³ entered into by Consolidated Communications Holdings, Inc., Consolidated Communications Inc., WH Acquisition II Corp., SureWest Communications, SureWest Telephone, SureWest Long Distance, SureWest TeleVideo, the Division of Ratepayer Advocates, The Utility Reform Network and Citizens Telecommunications Company of California, Inc. d/b/a

¹ All statutory references in this decision are to the Pub. Util. Code unless stated otherwise.

² The Settlement Agreement is included as Attachment A to this decision.

³ The Amendment to Settlement Agreement is included as Attachment B to this decision.

Frontier Communications of California that adopts additional terms to be executed as part of the implementation of the change of control.

This Settlement Agreement resolves all contested issues in this proceeding and assures that the proposed acquisition of the SureWest Companies by Consolidated, with the additional terms adopted in the Settlement Agreement, is in the public interest.

With the filing of this “all party” Settlement Agreement, this becomes an uncontested matter in which we are granting the relief sought.

This proceeding is closed.

2. Factual Background

On February 10, 2012, Consolidated Communications Holdings, Inc. (CCHI), Consolidated Communications, Inc. (CCI) (CCHI and CCI, together Consolidated), WH Acquisition II Corp. (Merger Sub II), SureWest Communications, SureWest Telephone, SureWest Long Distance, and SureWest TeleVideo (collectively the SureWest Companies) (Applicants) jointly filed Application (A.) 12-02-011 (Application) requesting Commission approval for Merger Sub II to acquire direct control and for Consolidated to acquire indirect control of the SureWest Companies pursuant to a merger agreement “by which Consolidated proposes to acquire all of the assets of SureWest Communications, the parent of the SureWest California Utilities, through a series of mergers.”⁴ The Applicants also seek Commission approval to modify the encumbrance of SureWest’s assets:

⁴ Application at 2.

In addition, Applicants seek approval for SureWest Telephone to encumber its assets. In connection with the Transactions, SureWest Communications' existing debt of approximately \$204 million, for which the SureWest California Utilities have already encumbered their assets, will be repaid and redeemed in full, but the SureWest Companies will be required to encumber their assets, along with all of Consolidated's other subsidiaries, to secure existing financing arrangements of Consolidated.⁵

On March 8, 2012, Resolution ALJ 176-3290 reached a preliminary determination that this proceeding was ratesetting and that hearings would be necessary.

On March 19, 2012, the Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN), filing jointly,⁶ and Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications (Frontier), filed protests to the Application.

On March 29, 2012, the Applicants filed a reply to the protests.⁷

On March 30, 2012, a prehearing conference (PHC) was held in San Francisco to address issues concerning the management of this proceeding, including proposals concerning the scheduling of the proceeding.

On April 6, 2012, Commissioner Peevey issued an Assigned Commissioner's Ruling and Scoping Memo. This memo set the scope and

⁵ *Id.* at 2.

⁶ Joint Protest of the Division of Ratepayer Advocates and The Utility Reform Network (DRA/TURN Protest), March 19, 2012.

⁷ Reply to Joint Protest of the Division of Ratepayer Advocates and The Utility Reform Network and to the Protest of Citizens Telecommunications Company of California, Inc. d/b/a/Frontier Communications of California (Applicants Reply to Protests), March 29, 2012.

procedural schedule for this proceeding. The memo confirmed the preliminary determination that the proceeding should be categorized as ratesetting, but the memo envisioned two procedural paths: one in which a settlement was reached by all parties that led to a possible Commission decision in early June without hearings, and one in which issues were contested and hearings were possible that led to a possible Commission decision in August, 2012. In addition, the memo established that the parties to the proceeding include only the Applicants, TURN, DRA, and Frontier.

On April 9, 2012, by express permission of Administrative Law Judge (ALJ) Sullivan granted at the PHC, Frontier filed a Response to the Applicants' Reply to Protests.⁸

Pursuant to Rule 12.1(b), on April 13, 2012, the Applicants served an e-mail notice of a settlement conference. On April 25, 2012, the Settling Parties, which included all parties to this proceeding, held a settlement conference. No additional party claiming or seeking party status has come forward at this time.

On April 30, 2012, Consolidated, the SureWest Companies, TURN, DRA and Frontier filed a Joint Motion for adoption of an all party Settlement Agreement,⁹ along with a copy of the Settlement Agreement itself.¹⁰

⁸ Response to Reply to Joint Protest of Division of Ratepayer Advocates and The Utility Return Network and to Protest of Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California, April 9, 2012.

⁹ Joint Motion for Adoption of All Party Settlement Agreement Pursuant to Article 12.1 of the Commission's Rules of Practice and Procedure (Joint Motion), April 30, 2012.

¹⁰ The Joint Motion identifies the Settlement Agreement as Appendix A. We refer to it throughout this decision as the Settlement Agreement. The Settlement Agreement is Attachment A to this decision.

On May 10, 2012, all parties filed an Amendment to Settlement Agreement (Amendment). The Amendment corrects a typographical error in the Settlement Agreement:

The final paragraph of Item 8 on page 6 of the Settlement Agreement should have stated, and now states, "Frontier agrees to not use Consolidated's name in their marketing communications to the SureWest Companies' business customers before or during the 60-day waiver period."¹¹

Since the Settlement Agreement and the Amendment are the products of all five parties in the proceeding, they constitute a single "all party" settlement for the purposes of the Commission's rules for reviewing settlements.

3. The Transaction

The transaction is a complicated financial transaction commonly associated with changes in control of telecommunications corporations. We first describe the parties to the transaction, including their current business operations, and then the terms of the transaction itself.

3.1. Parties to the Transaction

The parties to the financial transaction resulting in the change of control are CCHI, CCI, and Merger Sub II on the one side, and SureWest Communications, SureWest Telephone, SureWest Long Distance, and SureWest TeleVideo, on the other. We describe each entity briefly.

CCHI is a corporation organized under the laws of Delaware. CCHI is:

... a publicly traded company (NASDAQ: CNSL) that through its operating subsidiaries provides a wide range of

¹¹ Amendment at 1. The word "use" was not present in this sentence in the Settlement Agreement. The Amendment is Attachment B to this decision.

telecommunications services to residential and business customers in Illinois, Texas and Pennsylvania, including: local and long-distance telephone service, high-speed broadband Internet access, standard and high-definition digital television, and digital telephone service, custom calling features, private line services, carrier access services, network capacity services over regional fiber optic networks, directory publishing. CCHI's operating subsidiaries include both incumbent and competitive local exchange carriers. As of December 31, 2010, CCHI's operating subsidiaries had 237,141 local access lines, 106,387 broadband lines, 29,236 digital television subscribers, and an estimated 81,090 CLEC access line equivalents.¹²

For the purposes of this transaction there are three entities associated with CCHI. They are:

- CCHI - the holding company described above.
- CCI - a corporation organized under the laws of Illinois. CCI is a holding company and wholly owned direct subsidiary of CCHI.
- WH Acquisition II Corp. or Merger Sub II - a corporation organized under the laws of California. This is a holding company and wholly owned direct subsidiary of CCI. This company was created for the purposes of the transaction and will assume SureWest Communications operations upon completion of the mergers.

The SureWest companies consist of:

- SureWest Communications - a corporation organized under the laws of California. SureWest Communications "currently owns all the stock of SureWest Telephone, SureWest Long Distance, and SureWest TeleVideo and other unregulated

¹² Joint Application at 9-10.

businesses and assets.”¹³ SureWest Communications is the parent holding company for all the SureWest Companies.

- SureWest Telephone – a corporation organized under the laws of California (U1015C). SureWest Telephone is an “incumbent local exchange carrier regulated by the Commission which provides local exchange service in Sacramento and Placer Counties, California.”¹⁴
- SureWest Long Distance – a corporation organized under the laws of California (U5817C). SureWest Long Distance is a “non-dominant interexchange carrier regulated by the Commission which provides resold long distance services throughout California.”¹⁵
- SureWest TeleVideo – a corporation organized under the laws of California (U6324C). SureWest TeleVideo is “a limited facilities-based and resale provider of interexchange and competitive local exchange carrier regulated by the Commission.”¹⁶ It provides competitive local telephone service and cable television service.

3.2. Terms of the Transaction

The end result of this transfer of control transaction is that CCHI will become the ultimate parent company of the SureWest Companies.

The steps to achieving this result are complicated. First, SureWest Communications will merge into WH Acquisition I Corp., which will then cease to exist. The surviving SureWest Communications will then merge into Merger Sub II, and SureWest Communications will cease to exist. The surviving Merger Sub II will be a subsidiary of CCI, which will then be the parent holding

¹³ Joint Application at 10.

¹⁴ *Id.*

¹⁵ *Id.* at 11.

¹⁶ *Id.* at 11.

company for the SureWest Telephone, SureWest Long Distance and SureWest TeleVideo companies, which will have the same structure as independent subsidiaries of a holding company.

In addition, the SureWest Companies will encumber assets to secure the financing arrangements of CCHI and CCI. As part of this transaction “SureWest Communications’ existing debt of approximately \$204 million, for which the SureWest California Utilities have already encumbered their assets, will be repaid and redeemed in full.”¹⁷

The Applicants assert that this transaction “advances the public interest.”¹⁸ They claim that the transaction will produce long-term benefits: The SureWest California Utilities will enjoy enhanced access to capital on account of the transaction, which will be an immediately available benefit upon closing of the transaction. The long-term benefits to customers arise from the opportunity that access to such capital affords the SureWest California Utilities to upgrade, replace and expand infrastructure and to provide advanced telecommunications services to customers. In addition, the deployment of advanced telecommunications technologies such as SHDSL (Symmetric High Speed Digital Subscriber Line) for copper-based Metro Ethernet and copper-based pair bonding would drive affordable, higher bandwidth applications deeper into the network and close the speed gap between fiber and traditional copper solutions. These advanced telecommunications services include, but are not limited to: local and long-distance service; high-speed broadband Internet access; standard

¹⁷ *Id.* at 13.

¹⁸ *Id.* at 18.

and high-definition digital television (IPTV); digital telephone service (VOIP); custom calling features; private line services; carrier access services; and network capacity services over regional fiber optic network.¹⁹

In addition, the Applicants assert that the transaction will speed the introduction of certain practices that will improve the performance and quality of a customer's Internet experience and that the transaction will result in a stronger company better able to "offer new products and services and consumer choice for telecommunications and broadband services ..." and that "the quality of service ... will improve."²⁰

4. The Settlement Agreement

As noted in the Factual Background above, the Application was protested, and all the parties to the proceeding were able to reach a settlement modifying the transaction to include certain guarantees for customers, workers, and the local community. In the Joint Motion, the settling parties summarize the key terms and commitments in the Settlement Agreement as follows:

1. Maintenance of walk-in service centers in Roseville, Sacramento and Elk Grove for at least two years.²¹
2. A two-year rate freeze for specified services, with limited exceptions for exogenous events.²²
3. A two-year commitment to invest \$3 million per year in capital expenditures on the SureWest network, along with an annual report to DRA and TURN.²³

¹⁹ *Id.* at 18-19.

²⁰ *Id.* at 19.

²¹ Settlement Agreement at 3.

²² *Id.*

4. Quarterly service quality reports and a commitment to meet or exceed specified General Order 133-C service quality standards. Failure to meet quality standards will, depending on the number of failures, result in a continuation of the rate freeze for one or two additional quarters.²⁴
5. A commitment to the SureWest Foundation and its work for at least one year.²⁵
6. A continuing of SureWest's commitment to broadband services of high quality at reasonable prices.²⁶
7. A commitment to continuing current benefit arrangements for continuing employees for at least one year from the closing date of the transaction, as well as specified provisions concerning retirement health benefits, the defined pension plan and the retirement service benefit award.²⁷
8. A waiver of early termination fees for business customers in the Frontier incumbent local exchange carrier study area with any contract bundle of services (as specified) for 60-day period following notification. Frontier agrees to not use Consolidated's name in marketing to SureWest customers before or during the 60-day waiver period.²⁸

All parties agree that the Settlement Agreement:

... represents a compromise of the disputed positions of the Protesters and the Joint Applicants and is fundamentally fair,

²³ *Id.*

²⁴ *Id.* at 4.

²⁵ *Id.*

²⁶ *Id.* at 5.

²⁷ *Id.*

²⁸ *Id.* at 6.

reasonable in the light of the whole record, consistent with the law, and in the public interest.²⁹

Parties continue to disagree on the acceptability of the original application and on how certain criteria in §§ 854(a) and (b) should be utilized in the public interest assessment conducted pursuant to § 854. Nevertheless, “Joint Applicants and the Protesters agree ... , that irrespective of the disputed legal issues, Joint Applicants have provided enough information and the Transaction, subject to the conditions specified in the Settlement Agreement, provides enough customer benefit to ensure it is in the public interest, consistent with Section 854, and is fair and reasonable in light of the whole record.”³⁰

5. Jurisdiction and Relevant Precedent

Sections 851-854 require that a public utility “shall not sell, lease, ... any part of its ... system ... without first having ... secured an order from the commission authorizing it to do so for qualified transactions valued above five million dollars.”³¹

In particular Section 854 (a) states:

(a) No person or corporation, whether or not organized under the laws of this state, shall merge, acquire, or control either directly or indirectly any public utility organized and doing business in this state without first securing authorization to do so from the commission.³²

²⁹ *Id.*

³⁰ *Id.* at 6.

³¹ § 851.

³² § 854(a).

In administering these sections of the Pub. Util. Code, the Commission seeks “to ensure that a proposed transfer is not adverse to the public interest.”³³

At times, the Commission has sought to determine whether a transaction *serves* the public interest. D.07-05-031 reports:

The primary standard used by the Commission to determine if a transaction should be authorized under § 854(a) is whether the transaction will adversely affect the public interest. The Commission may also consider if the transaction will serve the public interest.³⁴

Logically, if a transaction *serves* the public interest, it is also *not adverse* to the public interest.

In addition, the Commission has established that

Where a company that does not possess a Certificate of Public Convenience and Necessity (CPCN) desires to acquire control of a company or companies that do possess a CPCN, the Commission will apply the same requirements to the acquiring company as would be applied to an initial applicant seeking a CPCN. The Commission has established two major criteria for determining whether a CPCN should be granted, or transferred. An applicant who desires to operate as a provider of facilities-based local exchange and interexchange services must demonstrate that it has a minimum of \$100,000 in cash or cash equivalent for operations of the company plus the costs of deposits to be paid to other carriers. In addition, the applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.³⁵

³³ Decision (D.) 10-10-017 at 15.

³⁴ D.07-05-031 at 3.

³⁵ D.11-11-017 at 4.

Furthermore, since authorizing a change of control is an exercise of discretionary approval by the Commission, Public Resource Code Section 21080 requires that the Commission consider the environmental consequences of approval.

In addition, the terms of the settlement require review by the Commission. For a settlement, the Commission's Rules of Practice and Procedure set a standard for review:

12.1 (d) The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

In addition, in a general rate case for San Diego Gas & Electric Company, the Commission amended the standard to adopt a policy on "all party" settlements.³⁶ As a "precondition" to approval of all party settlements, the Commission must be satisfied that:

- a. the settlement commands the unanimous sponsorship of all active parties to the proceeding;
- b. the sponsoring parties are fairly representative of the affected interests;
- c. no term of the settlement contravenes statutory provisions or prior Commission decisions; and
- d. the settlement conveys to the Commission sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.

We will therefore examine the proposed transaction, as modified by the Settlement Agreement, to determine whether it meets these requirements.

³⁶ D.92-12-019 (46 CPUC2d 538, 550-551).

6. Issues Before the Commission

The major issue in this proceeding is whether the Commission should approve the transaction, including the Settlement Agreement that leads to the requested change in control of the SureWest Companies.

To reach this result, the Commission must first determine whether the Settlement Agreement meets the conditions for the approval of a settlement, and then determine whether the proposed financial transaction, as modified by the Settlement Agreement, is in the public interest.

In light of the all-party Settlement Agreement, the Commission must ensure that this Settlement Agreement meets the “preconditions” of D.92-12-019 and must determine whether the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest. If this is the case, then the Commission can adopt the terms of the settlement.

The Application seeks “approval pursuant to §§ 851-854 for certain Consolidated Companies to acquire control of the SureWest Companies, and for additional approvals as may be necessary to complete the proposed transaction in this proceeding, including authorization for SureWest Telephone to encumber its assets to secure debt.”³⁷

If the transaction, as modified by the Settlement Agreement, serves the public interest and meets the criteria for a change of control, then the Commission can approve the transaction.

³⁷ Joint Motion at 3.

7. Discussion of Settlement and Transaction, as Modified by the Settlement

We first discuss the Settlement Agreement, then review whether the Settlement Agreement meets the “preconditions” of D.92-12-019. Finally, we review the entire transaction, as modified by the Settlement Agreement, and the terms of the Settlement Agreement in the larger context of the financial transaction.

7.1. Settlement Meets D.92-12-019 Preconditions of an “All Party” Settlement

As noted above, there are four preconditions that an all party Settlement Agreement must meet.

The Settlement Agreement meets the first precondition of an “all party” settlement – it has the unanimous sponsorship of all active parties in the proceeding. Consolidated, the SureWest Companies, TURN, DRA and Frontier are the only parties in this proceeding.

The Settlement Agreement meets the second “precondition” set in D.92-12-019, namely that sponsoring parties represent the full range of affected interests. TURN and DRA represent the interests of ratepayers. Consolidated and the SureWest Companies represent the interests of the corporations and owners directly affected by the transaction. Frontier represents the interests of the major competitor affected by the transaction. There are no other affected interests.

Our review of the Settlement Agreement indicates that it meets the third “precondition” set in D.92-12-019, that no term of the settlement contravenes any statutory provision or prior Commission decision.

Finally, the Settlement Agreement meets the last precondition because it provides the Commission with sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests. In particular, the terms of the Settlement Agreement are simple and require no complex ratemaking. The parties themselves should be able to enforce the terms of the agreement. Thus, the Settlement Agreement provides all information needed to execute its terms and sets a blueprint that ensures unambiguous implementation.

7.2. The Transaction, as Modified by the Settlement Should Be Authorized; the Settlement Agreement, when Conjoined to the Transaction, Meets Rule 12.1(d)

In reviewing the transaction, as modified by the Settlement Agreement, we need both to determine whether the transaction meets the standards for a change of control, and whether the transaction, as modified by the Settlement Agreement, meets the public interest standard of § 854(a). Finally, we must also consider whether the Settlement Agreement, when conjoined to the transaction, meets Rule 12.1(d), a requirement that all settlements must meet.

Since this transaction involves a change of control to a company that does not possess a California CPCN from a company or companies that do possess a CPCN, the Commission applies the same requirements to the acquiring company as would be applied to an initial applicant seeking a CPCN. As noted above, the Commission has established two major criteria for determining whether a CPCN should be granted, or transferred. These include financial and technological fitness.

First, an applicant who desires to operate as a provider of facilities-based local exchange and interexchange services must demonstrate that it has a

minimum of \$100,000 in cash or cash equivalent for operations of the company plus the costs of deposits to be paid to other carriers. The instant application includes a copy of Consolidated's most recent financial statements from its Securities and Exchange Commission Form 10-K filing for the year ended December 31, 2010 which demonstrate that Consolidated has sufficient resources to meet the Commission's financial requirements.

Second, the applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business. In this case, Consolidated provides a wide range of telecommunications services to residential and business customers in Illinois, Texas and Pennsylvania, including: local and long-distance telephone service, high-speed broadband Internet access, standard and high-definition digital television, digital telephone service, custom calling features, private line services, carrier access services, network capacity services over regional fiber optic networks, and directory publishing. In addition, the SureWest Companies hold CPCNs in California and will retain much of their personnel and technical expertise. Thus, Consolidated and the SureWest Companies have each demonstrated through their ownership and operations that they possess the level of technical expertise necessary to qualify for a CPCN in California.

Next, in reviewing the specifics of this transaction, the Commission, in reviewing a change of owners and the encumbrance of assets, must determine whether the proposed transaction complies with the provisions of § 854. As noted above, all parties agree that the transaction, when subject to the conditions specified in the Settlement Agreement, "provides enough customer benefits to ensure it is in the public interest."

In reviewing the Settlement Agreement, it is clear that it provides many benefits to customers and workers. Specifically, the Settlement Agreement maintains walk-in service centers, freezes rates, and sets infrastructure investment minimums for two years following the transaction. These terms clearly benefit customers.

The Settlement Agreement's provisions concerning service quality ensure that during the period following the change of control, service quality will remain a priority.

The provisions of the Settlement Agreement that commit the new owners to maintaining broadband facilities will benefit both residential and business customers.

The provisions of the Settlement Agreement pertaining to employee benefits ensure that existing benefits will continue for a set period into the transition.

Furthermore, the provisions that waive the early-termination fee for certain business customers during a 60-day period provide business customers with the ability to exercise choice in the face of the changing ownership.

The parties state that the settlement represents a "compromise of the disputed positions of the Protesters and the Joint Applicants and is fundamentally fair, reasonable in the light of the whole record, consistent with the law, and in the public interest."³⁸ Based on our review of the filings, we concur.

³⁸ Joint Motion at 7.

The terms of the proposed transaction are specified in Exhibit A of A.12-02-011, "Agreement and Plan of Merger," and are included as Attachment A to this decision.

Based on the terms of the Settlement Agreement and a consideration of the terms of the proposed transaction, including the encumbrance of assets and the terms of the settlement, we find that approving this transaction, including the terms of the Settlement Agreement, is in the public interest. Since the transaction, including the terms of the settlement, is in the public interest, it is also not adverse to the public interest. Thus, the proposed transaction, as described in the application and as modified by the terms of the Settlement Agreement, which is Attachment A to this decision, and as further modified by the Amendment, which is Attachment B to this decision, fulfills the requirements of § 854 and it is reasonable for the Commission to approve this transaction, as modified by the settlement agreement.

Finally, we note that all settlements must meet Rule 12.1(d), which states:

12.1.(d) The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

This Settlement Agreement permits a change of control that is in the public interest to proceed expeditiously. In addition, the terms of the Settlement Agreement enhance the benefits provided to California consumers and the public in general. Each term of the Settlement Agreement, and the transaction as a whole, is consistent with the law and reasonable in light of the record of this proceeding. Thus, our review of the terms of the Settlement Agreement and the modifications and additions that it makes to the transaction, and of the record in

this proceeding, makes clear that the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

8. California Environmental Quality Act (CEQA) Considerations

As noted above, Public Resources Code Section 21080 requires that we consider the environmental consequences of projects that are subject to our discretionary approval. The nature of the transaction, combined with assertions of the Applicants, assure us that “the proposed transaction is entirely a ‘paper’ transaction.”³⁹ No authority for new construction is requested in the application.

We conclude that under these circumstances, the proposed project qualifies for an exemption from CEQA pursuant to § 15061(b)(3) of the CEQA guidelines, inasmuch as it can be seen with certainty that the project will have no significant impact upon the environment. Accordingly, the Commission need perform no further environmental review for this application.

9. Categorization and Need for Hearing

In Resolution ALJ 176-3290, dated March 8, 2012, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. With the filing of the Joint Motion and the Settlement Agreement, the proposed transaction, as modified by the settlement, is unopposed. Given these developments, a public hearing is not necessary.

³⁹ Joint Application at 16.

10. Conclusion

As a result of the above considerations, we find that the Settlement Agreement is (1) reasonable in light of the record; (2) consistent with the law; and (3) in the public interest. The settlement also meets the preconditions to the approval of all party settlements set forth in D.92-12-019 because it commands the unanimous sponsorship of all active parties, the parties are fairly representative of the affected interests, no term of the settlement contravenes statutory provision or prior Commission decisions and the settlement conveys to the Commission sufficient information to discharge its future regulatory obligations with respect to the parties and their interests.

We note that the Joint Motion did not ask that any testimony be moved into the record of this proceeding. As such, the record of this proceeding consists principally of the Application, the Joint Protest of TURN and DRA, the Protest of Frontier, the Reply of the Joint Applicants, the Response of Frontier, and the Joint Motion. We find that a record based on these filed materials is adequate to enable us to determine that the settlement meets the Commission's standards for approval of "all party" settlements and of settlements in general, and that the transaction, as modified by the settlement, is in the public interest. Therefore, the Application, subject to the conditions contained in the Settlement Agreement, is granted.

In addition, we have reviewed the transaction. CCHI possesses both the financial resources and technical competence that a change of control requires. Thus, the transaction, as amended by the Settlement Agreement, meets all Commission criteria and is in the public interest.

Finally, since there are no other outstanding issues, this proceeding should be closed.

11. Waiver of Comment Period

Since all outstanding issues are resolved through the adoption of the Settlement Agreement, the matter before the Commission is uncontested. Moreover, this decision grants the Applicants the relief requested. Therefore, this is now an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to § 311(g)(2) and Rule 14.6(c)(2) of the Commission's Rules, the otherwise applicable 30-day period for public review and comment is being waived.

12. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Timothy J. Sullivan is the assigned ALJ in this proceeding.

Findings of Fact

1. CCHI is a Delaware corporation.
2. CCI is an Illinois corporation and a wholly owned direct subsidiary of CCHI.
3. Merger Sub II is a California corporation and wholly owned subsidiary of CCI created for purposes of the acquisition of the SureWest companies.
4. The SureWest Companies are California corporations.
5. The SureWest Companies who are applying for the change of control include SureWest Communications, SureWest Telephone, SureWest Long Distance and SureWest TeleVideo.
6. SureWest Communications is a holding company that owns SureWest Telephone, SureWest Long Distance, and SureWest TeleVideo.
7. SureWest Telephone, SureWest Long Distance and SureWest TeleVideo each have a California CPCN.

8. SureWest Telephone is a corporation organized under the laws of California (U1015C). SureWest Telephone is an incumbent local exchange carrier regulated by the Commission which provides local exchange service in Sacramento and Placer Counties, California.

9. SureWest Long Distance is a corporation organized under the laws of California (U5817C). SureWest Long Distance is a non-dominant interexchange carrier regulated by the Commission which provides resold long distance services throughout California.

10. SureWest TeleVideo is a corporation organized under the laws of California (U6324C). SureWest TeleVideo is a limited facilities-based and resale provider of interexchange and competitive local exchange carrier regulated by the Commission. It provides competitive local telephone service and cable television service.

11. As a result of the transaction, CCHI will become the ultimate parent of the SureWest Companies.

12. SureWest Telephone, SureWest Long Distance and SureWest TeleVideo will become wholly-owned subsidiaries of Merger Sub II.

13. SureWest Telephone, SureWest Long Distance and SureWest TeleVideo will continue as subsidiaries holding CPCNs and providing services to their customers.

14. The change in ultimate control will not involve a transfer of customers of the subsidiaries of the SureWest Companies.

15. As part of the transaction, SureWest Telephone will encumber its assets to secure the financing arrangements of CCHI and CCI.

16. SureWest Telephone, SureWest Long Distance and SureWest TeleVideo provide telecommunications services in California and have sufficient experience and expertise for their continued operations, post transfer of control.

17. CCHI, through its subsidiaries, provides telecommunications services in Illinois, Texas and Pennsylvania. CCHI has sufficient experience and expertise to continue the telecommunications operations of the SureWest Companies post transfer of control.

18. Applicants have provided financial statements that demonstrate the CCHI has access to well over \$100,000 in cash or cash equivalent, which is reasonably liquid and available and which is sufficient to cover operating expenses and any deposits third-party carriers may require.

19. In light of the parties' settlement and given the completeness of the Application, the Settlement Agreement and the Joint Motion seeking its approval, the ALJ held no hearings.

20. This Settlement Agreement is an "all party" settlement that commands the unanimous sponsorship of all active parties.

21. The parties to this Settlement Agreement are fairly representative of the affected interests.

22. No term of the Settlement Agreement contravenes statutory provisions or prior Commission decisions.

23. The Settlement Agreement conveys to the Commission sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

24. The Settlement Agreement is (1) reasonable in light of the record; (2) consistent with the law; (3) in the public interest; and (4) an acceptable

outcome to a pending proceeding that avoids the time, expense and uncertainty of litigation on the issues raised in this application.

25. The proposed transaction, as described in the Joint Application and as modified by the terms of the Settlement Agreement, produces benefits for ratepayers, company employees, small businesses, the local community, and the states communications infrastructure.

26. The proposed transaction, as described in the Joint Application and as modified by the terms of the Settlement Agreement is in the public interest.

27. Approving the proposed transaction, as described in the Joint Application and as modified by the terms of the Settlement Agreement is the relief requested by the Joint Applicants and this relief is not opposed by any party in this proceeding.

Conclusions of Law

1. Where a company that does not possess a California CPCN desires to acquire control of a company or companies that do not possess a California CPCN, the Commission will apply the same requirements, to the acquiring company, as would be applies to an initial applicant seeking a CPCN.

2. CCHI will be the ultimate owner of SureWest Communications and its subsidiaries. CCHI has the financial resources and the technical capabilities that the issuance of a CPCN would require.

3. The settlement between Consolidated, the SureWest Companies, TURN, DRA and Frontier is an all-party settlement and meets the “preconditions” established in D.92-12-019.

4. The transaction, as modified by the Settlement Agreement, is in the public interest, meets the criteria of Section 854(a) of the Pub. Util. Code, and it should be approved.

5. With the filing of the Settlement Agreement, this proceeding becomes an uncontested matter. In approving the transaction and accepting the Settlement Agreement, which modifies the terms of the transaction, we are granting the relief requested.

6. No hearings are necessary.

7. In order to provide timely direction to the parties and any interested persons or entities, this order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The April 30, 2012 Joint Motion for Adoption of All Party Settlement Agreement Pursuant to Article 12.1 of the Commission's Rules of Practice and Procedure is granted and the Settlement Agreement, Attachment A to this decision, as modified by the May 10, 2012 Amendment to Settlement Agreement found in Attachment B to this decision, is approved.

2. Pursuant to Pub. Util. Code §§ 851-854, the transaction, as described in the joint application of Consolidated Communications Holdings, Inc., Consolidated Communications Inc. and WH Acquisition II Corporation, and SureWest Communications, SureWest Telephone, SureWest Long Distance, and SureWest TeleVideo To Authorize the Acquisition of Control of SureWest Telephone, SureWest Long Distance, and SureWest TeleVideo, is granted subject to the conditions contained in the Settlement Agreement.

3. Within 30 days of the closing of the transaction, the surviving entities shall notify the Communications Division, by letter, of the consummation of the transaction.

4. Application 12-02-011 is closed.

This order is effective today.

Dated June 7, 2012, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners