

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 4, 2013

REGULAR _____ CONSENT X EFFECTIVE DATE _____ NA _____

DATE: May 17, 2013

TO: Public Utility Commission

FROM: Irvin Emmons 

THROUGH: Jason Eisdorfer and Bryan Conway 

SUBJECT: FRONTIER COMMUNICATIONS NORTHWEST INC.: (Docket No. UM 1431) Petition for Release of Remaining Funds and Closing of Broadband Escrow Account – Order No. 10-067.

STAFF RECOMMENDATION:

Staff recommends that Frontier Communications Northwest Inc's (Frontier) petition for the release of the remaining funds and closing of the Broadband Escrow Account (Account) be granted. Staff concurs, with the data provided, that Frontier's has met Condition No. 14.

DISCUSSION:

On April 29, 2013, Frontier provided its quarterly report detailing broadband deployment through March 31, 2013 (1Q13). On May 2, 2013, Frontier submitted a petition for reimbursement and closure of the Broadband Escrow Account established in UM 1431. The detailed expenditure information provided in the quarterly report is considered confidential by Frontier and the company requested that it be treated as such.

Background

Pursuant to Commission Order No. 10-067 (UM 1430) (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, 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. The Order also requires that within three years of the close of the transaction, no less than 60 percent of all households in each of the 21 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 (2Q11). 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 Account 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 were released on March 27, 2012, as authorized by Commission Order No. 12-104 (UM1431).

Frontier made a third request for the release of the remaining escrow funds of \$8,710,773 plus accumulated interest based upon Frontier's work on broadband projects through March 2012 (1Q12). A partial approval for the release of the requested funds was made on August 9, 2012 in the amount of \$8,310,773 as authorized by Commission Order No. 12-307 (UM1431). The Commission withheld the remaining

\$400,000 plus interest in the Account until six wire centers met requirements of Condition No. 14. These six wire centers did not have 60% household availability at 3Mbps: Clatskanie, Detroit, Grand Island, Imnaha, Langlois and Provolt.

In July 2012, Frontier announced a partnership with HughesNet to provide broadband services at speeds ranging from 5MB-15MB. The HughesNet contract is a 5 year contract with renewal options. Frontier began offering the service in Oregon in November of 2012 and the service is available to residential and commercial customers in unserved and underserved areas of the state. Frontier owns the end-to-end relationship with the customer. Orders are taken and processed in the Frontier call centers and installation and maintenance is performed by trained Frontier technicians. Technical support is also provided by Frontier.

On May 6, 2013, Frontier petitioned the Commission for the release of the remaining escrow funds of \$400,000 plus the accumulated interest. Frontier asserted in the submitted petition that it met the remaining broadband conditions through broadband projects and its partnership with HughesNet Satellite to provide Frontier Broadband at speeds greater than 3Mbps to at least 60 percent of households in the remaining wire centers of Clatskanie, Detroit, Imnaha and Provolt. Frontier also met Condition No. 14 in Grand Island and Langlois through additional projects that have been completed since the last petition for reimbursement.

Findings

Staff reviewed the projects listed in the 1Q13 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. The partnership Frontier made with HughesNet to reach customers that are demographically difficult or impossible to serve, was a reasonable solution. This technology brought service to very rural customers that would not have been able to be served by conventional DSL.

Frontier has satisfied the requirement, that within three years, no less than 60 percent of the households in each of the 21 non-serviced wire centers and the Scholls, Dayton, and Banks wire centers have broadband available at a download speed of no less than 3 Mbps. All of the targeted wire centers now meet this requirement. Staff finds that Frontier has satisfied Condition No. 14, based on the submitted data.

It is also noted that Frontier spent over \$38 million on broadband deployment in Oregon, fulfilling the \$25 million commitment. This equates to an additional 52% in broadband spending above the Condition No. 14 commitment.

Conclusion

Staff has reviewed the detailed Frontier Broadband Infrastructure Improvements quarterly reports. All requirements as set forth in Condition No. 14 were completed. Since Frontier has met the applicable requirements of Condition No. 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 \$437,690.84, as documented on the 04/01/2013 through 04/30/2013 statement and any other accumulated interest at the time of the closing of the account.

PROPOSED COMMISSION MOTION:

Frontier's petition to release the remainder of the funds in the amount of \$437,690.84 plus any other accumulated interest from the broadband escrow account and close the account be granted. The Commission concurs that based on the submitted Frontier data, Condition No. 14 has been satisfied.