PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 18th day of June 2019.

CASE NO. 18-0291-T-P

FRONTIER WEST VIRGINIA, INC., and CITIZENS TELECOMMUNICATIONS COMPANY OF WEST VIRGINIA, dba FRONTIER COMMUNICATIONS OF WEST VIRGINIA

Petition to initiate a general investigation into the current status of Frontier's copper network in West Virginia and the service quality problems related to the network.

COMMISSION ORDER

The Commission does not approve the choice of auditor selected by Frontier West Virginia, Inc., and Citizens Telecommunications Company of West Virginia, dba Frontier Communications of West Virginia, and describes further options available in this matter.

INTRODUCTION

This Commission and the large multi-county and regional public utilities in this State are all too familiar with the burdens, barriers and barricades that West Virginia geography and small population impose on public utilities rendering service in this State. In West Virginia-American Water Company, Case No. 08-0900-W-42T, we sympathized and wrestled with those problems, particularly for water utilities. West Virginia-American Water Company, Case No. 08-0900-W-42T (March 25, 2009 at 4-5).

Water utilities are a particularly capital-intensive industry when compared with the dollars of revenue generated by their capital expenditures. The problems described for water utilities (few large municipal population centers, utility customers spread thinly over rocky, mountainous and sparsely populated terrain, and the capital-intensive nature of utility services) are, of course, also true for telephone, sewer, gas, and electric customers. Telephone service is further complicated by the fact that, among these communication service providers, customers in many locations have alternatives to landline service, e.g., cellular phone service or internet service. As a result, landline service has declined and wireless and VoIP (Voice over Internet Protocol) service has increased for the better part of the last decade. The result is a decrease in the number of landline customers and a decrease in revenues necessary to maintain the existing statewide telecommunications infrastructure.
Frontier West Virginia, Inc., and Citizens Telecommunications Company of West Virginia, dba Frontier Communications of West Virginia (Frontier), understood this situation when it acquired the West Virginia landline system of Verizon, but had plans to forestall or reverse that trend.

A brief overview of the systemic problems and previous efforts to address the challenges facing Frontier is helpful in assessing our responsibility in this case.

Historic Background of Related Cases

In 2006, the Commission dismissed a petition to investigate service quality provided by Verizon West Virginia Inc. (Verizon), then the primary landline telephone service provider in West Virginia. In dismissing the case, the Commission advised that a general investigation might be later instituted if the Verizon service quality levels deteriorated. Case No. 06-1284-T-PC (January 29, 2007). That occurred.

In 2008, the Commission opened a general investigation into the quality of service provided by Verizon. Case No. 08-0761-T-GI (June 30, 2008). Later that same year the Commission established a Retail Service Quality Plan (RSQP) requiring Verizon to implement changes to meet the improved customer service standards described in the RSQP. Case No. 08-0761-T-GI (December 19, 2008).

In a May 10, 2010 Order issued in Case No. 08-0761-T-GI, the Commission noted that Verizon had spent $11.9 million through the RSQP but also noted that more informal complaints related to quality of service had been filed during the first three months of 2010 than were filed in all of 2009. That increase in complaints occurred in the face of a decrease in landline customers during the same time period. The Commission determined that performance as measured by service quality metrics had been inconsistent and mostly unacceptable. Case No. 08-0761-T-GI (May 10, 2010) at 6.

After determining that efforts during that time had not been sufficient, the Commission directed Verizon to commit $72.4 million to service quality related expenditures over a four-year period. Id. An escrow agreement was approved by an Order issued in Case No. 08-0761-T-GI (May 21, 2010).

On May 13, 2010, the Commission entered an Order in Case No. 09-0871-T-PC that approved the transfer of control of Verizon’s West Virginia operations to Frontier, effective July 1, 2010. As part of the Order, the Commission required Frontier to comply with all of the requirements of the RSQP and other conditions imposed by the Commission in Case No. 08-0761-T-PC, including the requirement to make service quality expenditures in West Virginia from the $72.4 million escrow fund established by Verizon. Case No. 08-0761-T-GI Notice of Termination of Retail Service Quality Plan (March 2, 2017).
The acquisition also was conditioned on requirements to expend money for investment in property, plant and equipment. The Commission required Frontier to expend $30 million during the second half of 2010, $75 million in 2011 (including $12 million targeted to service quality), $63 million in 2012, and $63 million in 2013. May 13, 2010 Commission Order at Appendix A. An additional condition required making broadband facilities available to no less than 85 percent of households within the Verizon service areas. Case No. 09-0871-T-PC (May 13, 2010).\(^1\)

In Case No. 09-0871-T-PC, the Commission noted the differences between the Verizon business plan to de-emphasize landline service and the Frontier business plan to focus on reducing the losses in landline subscribers. Because of the importance of adequate landline service in many rural areas of West Virginia, the Frontier plan to focus on that service was one of the reasons for approving the Frontier acquisition of the Verizon West Virginia local exchange operations. In its order approving that acquisition, the Commission stated:

Frontier has indicated that it views the Verizon business plan (to reduce its involvement in landlines and to focus on high speed broadband and cellular service in more densely populated areas) as presenting an opportunity for Frontier to arrest the downward slide in the number of landlines in this and other states by coupling its landline service with a commitment, after the acquisition, to extend broadband internet service into areas where Verizon is not willing to make the capital commitment for new or enhanced broadband service in this State.

This [Frontier] business plan substantially contrasts with the apparent reticence of Verizon to invest in West Virginia and provides some incentive to approve the Transaction. The Commission believes that Frontier has shown that its business plan works in its existing territories and has produced smaller line losses than the current losses in Verizon WV territories.

Case No. 09-0871-T-PC Commission Order May 13, 2010, at 3 and 16.

In a 2017 customer complaint case, Adams v. Frontier West Virginia Inc., Case No. 17-1200-T-C, the Commission reviewed Frontier’s customer service metrics, finding that Frontier telecommunications service metrics measuring its response time to repair (i) outages and (ii) service affecting network troubles declined during the summer of 2017. Case No. 17-1200-T-C (Recommended Decision March 14, 2018; Final Order April 3, 2018).

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The Commission continues to have concerns with the quality of landline service. Despite the movement to cell service, many state residents, because of economics, geography or terrain, rely on landline service.

Relevant Procedural Background of the Present Case

On March 2, 2018, Communications Workers of America, AFL-CIO (CWA) filed a petition requesting a general investigation of Frontier. CWA asked that the Commission initiate the general investigation to review the condition of the Frontier copper network in this state.

On August 30, 2018, the Commission initiated a focused management audit requiring Frontier, with the assistance of Commission Staff, to develop and file a proposed Request for Proposal (RFP) for a focused management audit.

On October 1, 2018, Frontier filed its draft RFP and proposed timeline for use in evaluating the audit firm candidates.

On January 4, 2019, the Commission issued an Order making minor adjustments to the proposed timeline. Those adjustments provided the Commission with additional time to review a written summary of the proposals, an overview of the selection criteria used by Frontier, a summary of the scoring/assessments of the proposals submitted by each audit firm responding to the RFP, and the auditing firm recommended for selection by Frontier, prior to beginning the audit.

On April 17, 2019, Staff and Frontier filed an Agreed Joint Motion to Take Further Action. In the Joint Motion, Frontier asked that the Commission extend the timeline by thirty days to allow for the submission of the recommendation to the Commission.

On April 25, 2019, the Commission issued an Order granting that motion and giving Frontier an additional thirty days to submit its written summary of the audit proposals, an overview of the selection criteria used by Frontier, a summary of the scoring/assessments of the proposals submitted by each audit firm responding to the RFP, and the auditing firm recommended for selection by Frontier.

On May 24, 2019, Frontier filed, under seal, a written summary of the proposals, an overview of its selection criteria, a summary of the scoring/assessments of the proposals submitted by each audit firm responding to the RFP, and the auditing firm recommended for selection. Frontier also filed the full RFP submissions by the auditor firm candidates.

On May 31, 2019, Staff filed a response stating its concerns regarding the Frontier auditor recommendation.
On June 7, 2019, the Commission issued an Order stating that its decision regarding the Frontier choice of an auditor to perform the focused management audit would occur on or about June 18, 2019.

On June 10, 2019, Frontier filed a letter stating that it had carefully considered the proposals in making its recommendations.

**DISCUSSION**

In acquiring the Verizon system, Frontier not only accepted the challenges of a declining landline customer base, it presented to the Commission a picture of how it could prosper and build that service. Unfortunately, the historic application of significant capital to a declining landline customer base has not seemed to ameliorate the adverse impact of that decline on customer service. In particular, the metrics presented in Case No. 17-1200-T-C, the allegations by CWA in this case, and our August 30, 2018 observations regarding reopened complaint cases and letters from the Hampshire and Kanawha County Commissions describing regional outages, seem to paint a picture of ongoing and persistent problems with customer service.

The focused management audit presents a vehicle and an opportunity to identify the challenges facing Frontier, develop well-reasoned recommendations for service improvements, and ultimately develop an action plan to address the recommendations of the focused management audit in the most reasonable and cost-effective manner possible. Rule 5.5.f.4 of the Commission Rules for the Government of Telephone Utilities, 150 C.S.R. 6.

The Commission plays a role in the conduct of the focused management audit. In the Matter of the Scope, Frequency and Application of Management Audits and Investigations, General Order No. 225 (Telephone) (March 20, 1986) the Commission promulgated rules governing audits and provided various alternatives to selecting the audit firm:

The Commission finds that the audit process should not be rigid but should be tailored to the particular utility. There may be some cases in which it will be appropriate for the utility to prepare the request for proposals and select the auditor subject to Commission approval and other cases in which the Commission should prepare the request for proposal and select the auditor. Section (4)A has been amended to allow flexibility in the selection process on a case-by-case basis.

General Order No. 225 at 7.

In discussing the selection of the auditor in this case, the Commission in the Order establishing the focused management audit stated that (i) it would review the selection by
Frontier and (ii) other parties would not be permitted to participate in choosing the auditor.

The draft RFP provides that the “selection of the winning proposal will be subject to the approval of the PSC.” Draft RFP at 10. In that regard, the Commission intends to review a summary of the proposals, an overview of the selection criteria used by Frontier, the scoring/assessments of the proposals, and the auditing firm recommended for selection by Frontier, prior to authorizing Frontier to award the winning proposal and commence the focused management audit.

January 4, 2019 Order at 2.

This is a selection process designed to be managed by Frontier. In fact, neither Staff nor CWA were made “parties” in the selection process:

On a substantive basis, CWA is requesting permission to participate in the evaluation process. To be clear, although Staff observed the selection process, neither Staff nor any other party has been permitted to participate in the evaluation of the candidates; Frontier alone is charged with evaluating the candidates and making its recommendation to the Commission as to selection of a candidate to conduct the focused management audit.

April 25, 2019 Order at 4.

The Commission indicated that it would allow all parties to view documentation received from Frontier, but also indicated that it would not open the selection process to parties’ recommendations or seek advice and assistance from parties regarding the selection of an auditing firm. May 20, 2019 Order at 4.

We stated:

The initiation of a management audit, the decision whether to direct Staff to perform the audit or to contract with an outside auditing firm, the establishment of the process for Requests for Proposals from outside auditing firms, and the selection of an outside auditing firm are all administrative decisions of the Commission that are not subject to input from, or oversight of, CAD or other parties interested in the management of the utility that will be the subject of the audit.

May 20, 2019 Order at 4.

The Commission Orders in this proceeding required Frontier to provide summaries of the audit firm proposals, selection criteria, and assessments, along with its
recommendation as to which audit firm should conduct the focused management audit for Commission review and approval. Frontier also submitted, under seal, flash drives containing the entire RFP written presentations by the auditor firms.

The review of the information submitted by Frontier has been enlightening. The not-to-exceed bid price of the three audit firms submitting responses to the RFP covered a range of approximately $250,000. Based on the Commission review of the detailed responses to the RFP, the variance in the proposed costs of the audit is driven primarily by the number of hours dedicated to the audit by each firm.

In the May 24, 2019 bid assessment provided by Frontier, project cost was afforded a significant weighting of thirty percent of the overall assessment. Notably, it was not until after proposals were submitted to the Commission that the Commission was aware of the chosen weighting factors. Although the Commission appreciates Frontier's concern for the bottom line cost of the audit, the significant weighting applied to project cost in the Frontier assessment does not appear to account for, or provide an adequate explanation or discussion about, the adequacy of vendors hours dedicated to the project to assure compliance with the audit scope established by the Commission. The disproportionate weighting on price causes the overall rating to mask shortfalls or problems in other areas of the assessment that are critical to achieving a successful and meaningful review of the focused areas of the Frontier operations. Cost is always a factor in assessing or rating multiple responders to an RFP, but in this case cost is not the most important factor.²

The estimated cost by the bidders to perform the focused management audit must be evaluated in the context of the magnitude of services rendered and the audit approach and expertise of the bidders to successfully complete the audit. Given the magnitude of this situation, price should be a deciding factor only in instances where the services offered by candidates in their proposals provide a demonstration of sufficient resources, planning, audit processes, auditing standards, data tracking, report writing ability and relevant experience to fulfill equally the stated objectives for the areas of focus for the management audit ordered by the Commission.

The Commission finds other areas and weighting factors of the assessment score sheet submitted by Frontier to be problematic as well. Frontier applied no weight greater than ten percent and no weight less than five percent to any category other than price. That weighting approach puts excessive emphasis on price and, based on the Commission’s review of the detailed responses to the RFP, too little weight on Resources, Experience, Audit Planning, Audit Methodology, Audit Standards, and Report Writing Ability.

As specific examples, Frontier weighted “Experience on projects of similar subject matter,” “Experience on projects of similar size,” and “Project Planning and

² The magnitude of the capital commitment made in entering into the Frontier/Verizon acquisition transaction dwarfs the concern about the dollar disparity between the bids.
Methodology” at weighting factors of only 5 or 10 percent. These criteria are critical to successfully completing a management audit that is informative, usable, and focused. In the type of audit contemplated by the Commission, these factors should receive greater weight in rating and eventually selecting the audit firm.

In evaluating the proposal submitted by Frontier and to enlighten the Commission about the category weighting used by Frontier, the Commission reviewed case files of other Commission-ordered focused management audits. The focused management audit of GTE South, Incorporated (GTE South) in 1988 addressed issues similar to the concerns of the Commission in this case. In the 1988 GTE South case, the Commission modified the proposed scoring criteria to apply appropriate weights to the categories that the Commission determined would have a bearing on ranking the audit candidates in their ability to conduct a successful focused management audit.

The Commission amended the GTE South RFP to include the weighting criteria to be used in selecting a vendor to perform the management audit. In the GTE South case, the finalist was selected based on categories and weighting of: (i) experience and expertise of the audit personnel weighted at 40 percent; (ii) past performance in similar studies weighted at 15 percent; (iii) quality of approach, methods, and project management weighted at 25 percent; (iv) total audit cost weighted at 10 percent; and, (v) report writing ability weighted at 10 percent.

From our review of the Frontier vendor scoring attached to the Frontier filing of May 24, 2019, the scoring assessment provided by Frontier does not appear to reflect a fair or reasonable evaluation of the capabilities of the three vendors to successfully complete the Frontier focused management audit.

The Commission also examined the detailed responses of the vendors to the RFP. Based on that examination, it appears that the audit firms do not all possess the same level of experience in focused management audits of major utilities, including telecommunication companies.

As contained in the August 30, 2018 Order, the Commission detailed eight specific areas of inquiry for the focused management audit:

1. current status of the copper network,
2. adequacy of staffing levels dedicated to the copper network,
3. adequacy of capital investment in the copper network since 2010,
4. adequacy of policies and procedures impacting the quality of service,
5. adequacy of metrics currently in place to measure quality of service,

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6. impact of the declining customer base on internal cash flow from operations relative to historic and current copper infrastructure maintenance and capital investment,
7. impact of the current bargaining agreement and ongoing relations between management and labor on customer service quality and response timing, and
8. appropriate recommendations for addressing areas needing improvement.

August 30, 2018 Order at 5.

These eight areas identified by the Commission in the August 30, 2018 Order require a broad range of experience and expertise, and require strong management audit methodology, management auditing standards, project management and control skills, document management skills and report writing skills.

The Commission particularly has focused on the detailed response to the RFP provided by the audit firm recommended by Frontier. That auditor candidate proposed by Frontier presented a range of expertise, but not, in the opinion of the Commission, the expertise that coincides with the needs of the Frontier focused management audit. The review of that proposal reflects a significant history of expertise in the telecommunications field. That experience and expertise, however, appears heavily oriented toward cost of service/tariff type engagements, with some experience demonstrated regarding service level metric type engagements. Certainly that experience would be beneficial in addressing Commission area of inquiry numbers 3 and 6, but the RFP response of that bidder shows little, if any, experience in performing focused management audits of the type required by the Commission that address utility operations, management practices, and union and human resource relations.

The Project Plan and Methodology section of the Response of the audit firm recommended by Frontier did not adequately identify detailed audit steps and did not adequately address several of the eight audit areas of inquiry outlined by the Commission. That proposal reflected little operations experience and expertise that would be a critical requirement in conducting interviews with operations employees or assessing the condition of the copper wire network.

The RFP response submitted by the Frontier-recommended auditor did not reflect the significant experience or expertise necessary to perform the type of focused management audit envisioned by the Commission.

CONCLUSION

The Frontier-selected auditor may have the experience and personnel to perform the audit. Our concern, however, is that no such showing was made to address the items key to the audit. Based on its detailed review and evaluation of the scoring assessment,
the responses to the RFP and recommendation of Frontier, the Commission cannot approve Frontier’s selection of the auditor to perform the focused management audit.

In a perfect world, the best bid and the low bid would be the same. This RFP was issued by Frontier, with Frontier administering the RFP process, but with the understanding that the successful bidder must receive the approval of the Commission. At this stage, the Commission is not willing to approve the auditor selected by Frontier for the reasons stated above. The Commission, however, did not structure the selection process to provide for the Commission to substitute its judgment and select a different auditor. The Commission continues to believe that a focused management audit of all of the factors described in our earlier orders is necessary and appropriate. We, therefore, will direct Frontier, within thirty days of this Order, to do one of the following:

(i) Provide another Request for Proposals for submission to qualified bidders under an accelerated approval process that provides more detailed information on the types of procedural steps and substantive evaluations of the bidders that will be involved and considered in that RFP; or

(ii) Suggest some other reasonable and proper approach to analyze and select the most qualified current bidder that can best accomplish the specific areas of inquiry to be addressed by the focused management audit.

If Frontier opts to move forward with the new RFP, the RFP should provide for Commission approval of weighting/scoring factors prior to submission of bids. Any bidders who participated in this current bid will continue to be eligible to participate in the revised RFP, if Frontier chooses to rebid the RFP.

FINDINGS OF FACT

1. The not-to-exceed bid price of the three audit firms submitting responses to the RFP covered a range of approximately $250,000. May 24, 2019 Frontier filing.

2. Frontier afforded project cost a weighting of thirty percent in the overall assessment of the three bidders. May 24, 2019 Frontier filing.

3. Frontier applied no weight greater than ten percent and no weight less than five percent to any category other than price. May 24, 2019 Frontier filing.

4. The RFP response of the bidder selected by Frontier shows little, if any, experience in performing focused management audits of the type required by the Commission that address utility operations, management practices, and union and human resource relations. May 24, 2019 Frontier filing.

5. The Project Plan and Methodology section of the Response of the audit firm recommended by Frontier did not adequately identify detailed audit steps and did
not adequately address several of the eight audit scope objectives outlined by the Commission. May 24, 2019 Frontier filing.

CONCLUSIONS OF LAW

1. The Frontier disproportionate weighting on price causes the overall rating to mask shortfalls or problems in other areas of the assessment that are critical to achieving a successful and meaningful review of the focused areas of the Frontier operations.

2. The estimated cost by the bidders to perform the focused management audit must be evaluated in the context of the magnitude of services rendered and the audit approach and expertise of the bidders to successfully complete the audit.

3. Price should be a deciding factor only in instances where the services offered by candidates in their proposals provide a demonstration of sufficient resources, planning, audit processes, auditing standards, data tracking, report writing ability and relevant experience to equally fulfill the stated objectives for the areas of focus for the management audit.

4. The Frontier decision to apply no weight greater than ten percent and no weight less than five percent to any category other than price put excessive emphasis on price and too little weight on Resources, Experience, Audit Planning, Audit Methodology, Audit Standards, and Report Writing Ability.

5. The scoring assessment provided by Frontier does not appear to reflect a fair or reasonable evaluation of the capabilities of the three vendors to successfully complete the Frontier focused management audit.

6. The audit firms do not all possess the same level of experience in focused management audits of major utilities, including telecommunication companies.

7. The eight areas of inquiry identified in the August 30, 2018 Order require a broad range of experience and expertise, and require strong management audit methodology, management auditing standards, project management and control skills, document management skills and report writing skills.

8. The auditor candidate selected by Frontier presented a range of expertise, but not expertise that coincides with the needs of the Frontier focused management audit.

9. The proposal submitted by the Frontier-recommended auditor reflected little operations experience and expertise that would be a critical requirement in conducting interviews with operations employees or assessing the condition of the copper wire network.
10. The proposal submitted by the Frontier-recommended auditor did not reflect the significant experience or expertise necessary to perform the type of focused management audit envisioned by the Commission.

11. Based on its detailed review and evaluation of the scoring assessment, the responses to the RFP and recommendation of Frontier, the Commission cannot approve Frontier's selection of the auditor to perform the focused management audit.

12. A focused management audit of all of the factors described in our earlier orders is necessary and appropriate.

ORDER

IT IS THEREFORE ORDERED that the audit firm selected by Frontier West Virginia, Inc., and Citizens Telecommunications Company of West Virginia, dba Frontier Communications of West Virginia, to conduct the focused management audit is not approved.

IT IS FURTHER ORDERED that within thirty days of the date of this Order, Frontier West Virginia, Inc., and Citizens Telecommunications Company of West Virginia, dba Frontier Communications of West Virginia, shall:

(i) Provide another Request for Proposals for submission to qualified bidders under an accelerated approval process that provides more detailed information on the types of procedural steps and substantive evaluations of the bidders that will be involved and considered in that RFP; or

(ii) Suggest some other reasonable and proper approach to analyze and select the most qualified current bidder that can best accomplish the specific areas of inquiry to be addressed by the focused management audit.

IT IS FURTHER ORDERED that if Frontier West Virginia, Inc., and Citizens Telecommunications Company of West Virginia, dba Frontier Communications of West Virginia, opts to move forward with the new Request for Proposals, the revised RFP should provide for Commission approval of weighting/scoring factors prior to submission of bids. Any bidders who participated in this current bid will continue to be eligible to participate in the revised RFP, if Frontier chooses to rebid the RFP.
IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order by electronic service on all parties of record who have filed an e-service agreement, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand delivery.

A True Copy, Teste,

Ingrid Ferrell
Executive Secretary

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