



90 State Street Suite 601  
Albany, New York 12207-1715

Voice: (518) 449-3375

Fax: (518) 449-1769

E-Mail: [info@pulp.tc](mailto:info@pulp.tc)

Internet: [www.pulp.tc](http://www.pulp.tc)

Gerald A. Norlander  
Executive Director

Midge De Chiro  
Administrator

Charles J. Brennan  
Attorney

Ben Wiles  
Sen. Attorney

## Public Utility Law Project

*Johanna*

November 20, 2000

Hon. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W. Room TW-B204  
Washington, D.C. 20554

VIA UPS OVERNIGHT (original and four copies)

Re: Global Crossing Ltd. and Citizens Communications Company  
Application pursuant to Section 214 of the Communications Act  
of 1934 Requesting Commission Approval to Transfer Control of  
International and Domestic Authorizations:

DA 00-2366,  
File No. ITC-T/C-20000828-00530,  
File number CCBPol No. 00-1;  
File number 20001005AD-09

Dear Secretary Salas:

The Public Utility Law Project ("PULP" or "Project") is a not-for-profit corporation representing the interests of low-income residential customers in utility, telecommunications and energy matters. The Project is concerned in the above-captioned matter with the seriously inadequate efforts by some of the merger participants for enrolling customers in their telephone Lifeline programs. The Project filed with the New York State Public Service Commission comments on the proposed merger and raised this and related issues, and a copy of these comments is enclosed. As we note in these comments, if the merging companies had achieved the Lifeline enrollment levels that

have already been achieved in New York statewide, over 24,000 additional customers would be receiving Lifeline service in their service territories. In providing this information to you, we request that it be placed in and considered part of the public record for this matter as a pleading in response to the application or, alternatively, as an es parte submission.

Based on this information, we urge that measures be taken as part of the federal approval process so that the merging companies would be required to address this problem. In connection with the approvals sought from the Federal Communications Commission, the merger applicants should assure that measures to increase the Lifeline enrollment to a level at or above the statewide average, including the implementation of automatic enrollment programs, if necessary, will be taken.

Very truly yours,



Ben Wiles

Cc: (by UPS overnight)  
Johanna Mikes  
Justin Connor  
Wayne Mckee  
ITS



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Sen. Attorney

## Public Utility Law Project of New York, Inc.

October 11, 2000

Hon. Janet Hand Deixler  
Secretary  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223-1350

Re: Case 00-C-1415 Joint Petition of Global Crossing and Citizens Communications Company for approval of the transfer of capital stock of their New York ILECs (Frontier of Rochester, Ausable Valley, Sylvan Lake, and Seneca Gorham) and Frontier Subsidiary, Telco Inc. to Citizens communications, and for Other Authorization Needed.

Dear Secretary Deixler:

The Public Utility Law Project ("PULP" or "Project") is a not-for-profit corporation representing the interests of low income residential customers in utility, telecommunications and energy matters. The Project submits these comments in the above-captioned matter in response to the September 13, 2000 Notice Requesting Comments and the subsequent October 2, 2000 Notice Extending Filing Deadline.

These comments address two issues of particular concern for low income consumers. First, we comment on the relative lack of success of some of the participants in the proposed merger to effectively implement a Lifeline telephone rate for low income

customers. Second, these comments question the adequacy of the companies' current efforts to deploy advanced telecommunications capabilities available to all communities and customers.

#### Lifeline

*Discount inconsistency.* Each of the companies involved in the proposed transactions includes within their residential tariffs a Lifeline tariff by which qualifying low income customers can receive basic dial tone telephone service at a reduced price. The discounts for the Lifeline service come, in part, from a federal program which provides, for low income customers, a waiver of the Subscriber Line Charge and additional support of \$1.75 per customer to reduce the price of intrastate service. In addition, local exchange carriers may provide an additional discount in the price of intrastate service and, to the extent this is done, the federal program will match 50% of this additional discount up to \$1.75.

The Lifeline discount is available for customers taking flat rate service and for customers who elect to take a measured or "basic" service. For the latter, each of the companies involved in this proceeding provide a Lifeline rate on measured service of \$1 per month. There is no similar consistency among these carriers, however, for the charges to Lifeline customers for flat rate service. For Frontier of Rochester, the discount is \$4.11 per month. For Citizens customers, the discount is \$3.50 per month. For Lifeline customers served by Frontier Ausable Valley, Sylvan Lake, or Seneca Gorham, or by the subsidiary, Telco, Inc., the discount is only \$1.75. Each of these amounts includes the \$1.75 per month in additional federal support which is provided irrespective of state matching funds. Therefore, the amount of non-federal support for the Lifeline

rate is \$2.36 for Frontier of Rochester and \$1.75 for Citizens. There is no non-federal support for Lifeline in the Ausable Valley, Sylvan Lake or Seneca Gorham rates.

None of these discounts are as aggressive as the federal structure contemplates.

As the commission explained in its December 24, 1997 Order:

In order to provide a greater incentive for states to participate in the Lifeline program, the Federal Communications Commission's (FCC's) Universal Service Order provides for additional federal Lifeline support, which will become available on January 1, 1998. Under the revised program, waiver of the full \$3.50 interstate [subscriber line charge or "SLC"] for Lifeline subscribers will occur without any matching intrastate subsidies. In addition, federal funding of intrastate Lifeline services of an additional \$1.75 per access line per month (for a total of \$5.25 per month in federal funding) will be available in states which simply flow this amount through, without any matching contributions from other intrastate services, to Lifeline customers in the form of reduced intrastate rates. Furthermore, the new federal program will match half of up to \$3.50 per month in intrastate Lifeline rate support which is derived from other intrastate sources. Therefore, under the revised federal program, if a state subsidizes its Lifeline rates by \$3.50 per month, the total cost benefit a Lifeline customer will receive is \$10.50 per month (waiver of the \$3.50 SLC, another \$3.50 in federal offsets to intrastate rates, and \$3.50 of direct intrastate discounts).

*Case 94-C-009, Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market, Order Directing Local Exchange Companies To Apply Deferred Accounting To Certain Interstate Revenues (Issued December 24, 1997) (emphasis supplied).*<sup>1</sup>

This substantial variation between local exchange companies as to the extent of the Lifeline discount should not be continued. The difference between the Frontier of Rochester and the other Frontier companies (Ausable Valley, Sylvan Lake, Seneca

<sup>1</sup> Nor do these discounts approach the level of discount achieved by the dominant carrier in New York, Verizon, which provides a discount of \$4.60 per month. Moreover, it is anticipated that, in the

Gorham and Telco, Inc.) has existed only since the implementation in May 2000 of the settlement proposal for the extension of Frontier of Rochester's continuation of its Open Market Plan in Case 93-C-0103 ("*May 2000 Frontier OMP Settlement*"). Prior to that date, Frontier of Rochester's Lifeline discount was limited to \$1.75 per month just as the discount for the other Frontier companies is still limited. This petition is the first opportunity to bring all of the Frontier discounts into alignment.

Similarly, the Citizens Lifeline discounts should also be brought into alignment with the Frontier of Rochester discount. In large part, the premise of the proposed transaction is to provide a larger entity more capable of supplying telecommunications services to all customers. The petition itself states that

The service territories of Citizens and the Frontier ILECs tend to fit together well. The concentrated serving territory should simplify the delivery of all new services. In addition, the increased size and depth of expertise of the new companies will provide the resources needed to reduce the time to market of new service offerings. The two companies in combination will thereby enhance the range of telecommunications services and choices available to their customers more rapidly than either company could do independently.

*Joint Petition of Global Crossing Ltd., Global Crossing North America, Inc., and Citizens Communications Company* ("*Joint Petition*"), August 17, 2000 at 14 (emphasis added). Presumably, this enhanced ability to serve customers extends to Lifeline customers as well as to the other groups of customers served by these companies. The establishment of a consistent Lifeline discount will be an obvious realization of the capacity to enhance services to customers to which the *Joint Petition* refers<sup>2</sup> and to

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implementation of the Bell Atlantic-GTE merger, the level of this discount will increase, both for the flat rate Lifeline customer and for the measured service Lifeline customer.

<sup>2</sup> The *Joint Petition* makes several attempts to characterize commitments made by or obligations assumed by Frontier and to state that, after the transaction, the acquiring company, Citizens Communications, would honor these commitments and obligations. *Joint Petition* at 8-13. PULP is aware of no authority and none is cited in the *Joint Petition* under which Frontier's customers could lose the benefits of these commitments

advance the universal service policies of Congress, the Federal Communications Commission, and the Public Service Commission.

*Lifeline enrollment.* In response to an information request from the Project, the petitioners report that the enrollment in the Lifeline program was as follows:

	TOTAL RES. LINES	LIFELINE LINES	PER CENT
Fron/Sylvan Lake	17,139	90	0.53%
Fron/Seneca-Gorham	8,327	113	1.35%
Fron/Rochester	360,000	22,500	6.25%
Fron/AuSable	5,345	319	5.96%
Fron of New York	56,116	1,025	1.82%
Citizens Comm	<u>226,121</u>	<u>5,228</u>	2.31%
Total	673,048	29,275	

Joint Petitioner's Responses to PULP Questions #1, 2 and 3 (dated October 5, 2000) at Response #2. From this response, it is clear that, in comparison to the other ILECs which are the subject of the *Joint Petition*, Frontier of Rochester has the least objectionable participation rate for its Lifeline program. However, it is already conceded by Frontier that its level of enrollment should be increased and measures to do that are in place. Specifically, Frontier of Rochester has agreed in the *May 2000 Frontier OMP Settlement* to enhance the enrollment of Frontier's Lifeline program through the establishment of a

routine automatic verification program using a tape-to-tape match process with a county's Department of Social Services (or a corresponding state agency if the county so desires). The purpose of the program is to verify eligibility of Lifeline customers, identify additional eligible individuals, and connect or convert these individuals to Lifeline service

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and obligations by virtue of the stock transaction proposed in the petition. In addition, while the *Joint Petition* attempts to summarize these commitments and obligations, PULP relies on the underlying documents to define the scope and nature of the Frontier commitments.

Case 93-C-0103, *Petition of Rochester Telephone Corporation for Approval of Proposed Restructuring Plan, Joint Proposal for Open Market Plan Continuation and Modification* (filed January 20, 2000).

Since the Frontier of Rochester participation rate has already been identified as inadequate and a remedy to improve participation identified and implemented, the even lower participation rates of the other ILECs involved in this transaction must also be seen as problematic. In connection with the consideration of this petition, the Commission should extend the scope of the outreach and computer matching program now being implemented by Frontier of Rochester to include the service territories of the other ILECs.

As noted above, the petitioners have already asked the Commission to rely on their assertion that the “service territories of Citizens and the Frontier ILECs fit together very well.” *Joint Petition* at 14. The expertise that Frontier of Rochester is now acquiring in computer matching for Lifeline enrollment should be immediately put to use to increase the seriously deficient enrollment of the other ILECs in this petition.<sup>3</sup>

#### Advanced Telecommunications Deployment

The *Joint Petition* argues as an important premise of the proposed transaction that it will “... Enhance the Availability of Advanced Services.” *Joint Petition* at 13 (capitals in original). In response to the *Joint Petition*, PULP sought information from the petitioners concerning their implementation of broadband capability. The petitioners’ response is attached as Exhibit A to these comments. The information obtained indicates

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<sup>3</sup> By way of comparison, the comparable figures statewide show a Lifeline enrollment of approximately 658,531 and a total of approximately 8,266,511 residential access lines or an enrollment of approximately 7.96%. If petitioners had already attained this level, over 24,000 additional customers would be receiving Lifeline service in their service territories.

that the petitioners' plans for broadband deployment are highly inconsistent across the several systems. In particular, it appears that broadband deployment in the smaller Frontier systems is behind that of Frontier of Rochester and Citizens, and in some cases, there are no plans to fully implement broadband deployment in these systems.

With respect to Frontier of Rochester, the information supplied indicates that there are currently no plans to implement full deployment. However, the *May 2000 Frontier OMP Settlement* provides extensive direction to the company to assure that the current plans include reasonable efforts to assure that investments in broadband capability include facilities for low income and rural communities. The *Settlement* provides that

In addition to FTR's planned commercial rollout of ADSL in a number of FTR wire centers (disclosed to Staff and CPB), FTR will provide ADSL service (including at least one DSLAM) in ten (10) additional wire centers by December 31, 2000. FTR will also provide ADSL service in an additional ten (10) wire centers by December 31, 2001, and an additional ten (10) wire centers by December 31, 2002. A list of FTR's thirty (30) wire centers is appended . . . .

*May 2000 Frontier OMP Settlement* at 23 (emphasis supplied). In the *Settlement*, the specific list of 30 additional wire centers was established in cooperation with the parties to the *Settlement*, and the list was developed to assure that low income and rural communities were receiving appropriate broadband investments.

In contrast to the Frontier of Rochester plan, the implementation of broadband deployment for Citizens contains no assurance whatsoever that low income and rural communities will obtain these services. However, as the *Joint Petition* observes, Citizens has determined to "emphasize its focus on telecommunications services in rural and

suburban communities, a market which it believes has been underserved in the current telecommunications market.” *Joint Petition* at 13 (emphasis supplied).

As recognized in the *May 2000 Frontier OMP Settlement*, the availability of broadband services are not always evenly distributed among all customers when implementation plans are solely based on market demands. In short, the most economic plan for the ILEC may be to focus the capital expenditures needed for broadband on those geographic areas where competitive suppliers have already determined to invest themselves in broadband. Where competition places less priority on broadband investment, so too does the ILEC. Increasingly, rural and low income communities cannot command the attention of competitive suppliers who see more lucrative markets elsewhere. In these circumstances, the availability of broadband service is limited.<sup>4</sup>

To implement Citizens’ “emphasis” and to make good on the rhetorical argument advanced in the *Joint Petition* that the proposed transaction will “enhance the availability of advanced services,” approval of the petition should be conditioned on the adoption for the Citizens Communications and other non-Frontier of Rochester service territories of implementation plans similar to those defined for Frontier of Rochester in the *May 2000 Frontier OMP Settlement*.<sup>5</sup>

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<sup>4</sup> The unavailability of broadband services in a low income or rural community is particularly pernicious in as much as it not only limits the choices for residents, but also limits the ability of these communities to attract and retain needed community services and employers. As noted in the Federal Communications Commission’s recent report on advanced telecommunications deployment, “businesses, hospitals, schools, libraries and museums may choose to locate in low-income neighborhoods only if they can transmit as well as receive data at high speeds.” *Deployment of Advanced Telecommunications Capability: Second Report*, Federal Communications Commission, August 2000.

<sup>5</sup> Broadband deployment is generally regarded as a ‘digital divide’ issue inasmuch as the principal value of broadband service is presently for high speed or improved internet access. While PULP does not consider internet access over a conventional telephone line to be an adequate response to the lack of broadband deployment, PULP notes that New York lags behind the nation in households with home internet access. *Falling through the Net: Defining the Digital Divide*, National Telecommunications and Information Administration, November 1999. In fact, while New York ranks 18<sup>th</sup> among all states for the per cent of households having telephone service, it ranks 35<sup>th</sup> among the states for the per cent of households having

Conclusion

As the *Joint Petition* appears to concede, the proposed transactions should not be approved by the Commission unless they are in the public interest. In this instance, the public interest is represented at least in part by the implementation of measures by all of the petitioners to assure that the existing programs to provide low income consumers with Lifeline telephone rates and by the development of concrete commitments to assure that broadband services are available in rural and low income communities. For this reason, the Public Utility Law Project urges the Commission to withhold approval of the proposed transaction until suitable commitments can be obtained from the petitioners to ensure that that these public interests are protected. To facilitate the development of these commitments and to address any other issues that may be raised by other comments in this case, PULP urges the Commission to begin a collaborative process among the parties by which these matters may be addressed.

Very truly yours,



Ben Wiles

Cc (by email and USPS):

Gregg C. Sayre  
Angelo F. Rella  
L. Russell Mitten  
John Sutphen  
Frank J. Miller  
Dennis Taratus

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home internet access. *Id.* at Tables I-1, I-3. For largely rural service territories such as those served by the petitioners, a significant barrier to internet service is the lack of access to an internet service provider through a local call. The *May 2000 Frontier OMP Settlement* included some provisions for the extension of "Rochester Unlimited" service which addressed, in part, this problem. Similar measures should be instituted to assist customers in the other petitioners' service territories.

## **Exhibit A**

Case 00-C-1415  
Citizens Communications/Global Crossing  
Requested by: Ben Wiles, PULP  
Date of Request: September 22, 2000  
Respondent: L. Maffett, J. Janson  
John Sutphen

PULP-3.	With respect to broadband service, for each of the above systems: a. the total number of central offices currently equipped to supply broadband service, b. the portion of the service territory served by those offices, and c. to the extent you can identify it for us, the date on which it is anticipated that all central offices will be equipped to supply this service and any interim points or anticipated milestones in the build out schedule for this type of service.
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**RESPONSE #3:**

Frontier Telephone of Rochester, Inc.

Number of central offices equipped for DSL: 21

Portion of territory served by those offices (% of total access lines): 82%

Plans for future deployment: It may not be the case that all central offices, including rural central offices, will be equipped to supply DSL service. Therefore the date on which it is anticipated that all central offices will be equipped to supply this service has not been determined.

Frontier Communications of AuSable Valley, Inc.

Central Offices Currently providing Broadband: 0

Portion of territory served by those offices (% of total access lines): 0

Central Offices by 12/2000 that will be providing Broadband: 0

Current plans for broadband rollout not defined.

Frontier Communications of Sylvan Lake, Inc.

Central Offices Currently providing Broadband: 1

Portion of territory served by those offices (% of total access lines): 11,912 (58% of total)

Central Offices by 12/2000 that will be providing Broadband: 3

Frontier Communications of Seneca-Gorham, Inc.

Central Offices Currently providing Broadband: 2

Portion of territory served by those offices (% of total access lines): 3,900 (38% of total)

Central Offices by 12/2000 that will be providing Broadband: 2

Current plans for broadband rollout not defined.

Frontier Communications of New York, Inc.

Central Offices Currently providing Broadband: 8

Portion of territory served by those offices (% of total access lines): 53,799 (69% of total)

Central Offices by 12/2000 that will be providing Broadband: 12

Citizens Telecommunications Company of New York, Inc.

Total number of central offices currently equipped to supply broadband service: 33

Portion of service territory served by those offices: 140,230 access lines (40.8% of total)

Date on which it is anticipated that all central offices will be equipped: Unknown

Anticipated Milestones:

40 additional exchanges equipped to provide DSC by mid year 2001 – 85,966 access lines

5 additional exchanges equipped to provide DSL by end of third quarter 2001 – 30,995 access lines

8 additional exchanges equipped to provide DSL by year-end 2001 – 15,968 access lines

Therefore, if all plans are executed on time, by yearend 2001, 86 exchanges will be equipped to provide DSL. This represents 273,159 access lines, or 79.5% of the total access lines in NY.