Decision **DRAFT DECISION OF ALJ O'DONNELL** **(Mailed 10/21/2003)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Citizens Telecommunications Company of California, Inc. (U-1024-C) dba Frontier Communications of California to Review its New Regulatory Framework.	Application 03-04-002 (Filed April 1, 2003)

DECISION ADDRESSING NEW REGULATORY FRAMEWORK AUDIT, MONITORING REPORTS, AND REVIEW SCHEDULE

I. Summary

By this decision, we require Citizens Telecommunications Company of California, Inc. (Citizens) to reimburse the Commission for the cost of an audit required by Public Utilities Code § 314.5, and to be conducted by the Commission's Office of Ratepayer Advocates (ORA).[1] The results of the audit will be used in addressing Citizens' New Regulatory Framework (NRF). The audit will be performed by consultants hired and supervised by ORA. Citizens will be allowed to recover those costs through its NRF, provided it reasonably cooperates with the audit.

[1] All statutory references are to the Public Utilities Code, unless otherwise noted.

We will postpone review of Citizens' NRF, except for monitoring report requirements, until after a final decision in Rulemaking (R.) 01-09-001 and Investigation (I.) 01-09-002, the NRF reviews for Pacific Bell Telephone Company (Pacific) and Verizon California Incorporated (Verizon). As a result, we close this proceeding, require Citizens to reapply no later than 90 days after a final decision in R.01-09-001 and I.01-09-002, and require ORA to file a report on the results of the audit in the new proceeding.

Regarding monitoring report requirements, we adopt an all-party settlement that modifies the requirements, but does not diminish the amount of reported information.

II. Background

On April 1, 2003, Citizens filed its NRF review application. It asks for modification of various NRF monitoring report requirements, and elimination of the requirement to share with ratepayers 50% of its earnings between specified rates of return. On May 5, 2003, ORA filed a protest to the application. At a prehearing conference held on June 3, 2003, various issues were addressed. The parties agreed to postpone review of all issues, except monitoring report requirements, until after a final decision in R.01-09-001 and I.01-09-002. Citizens asked, and ORA agreed, to keep this proceeding open, rather than closing it and requiring the filing of another application when a final decision is reached in R.01-09-001 and I.01-09-002. ORA proposed to perform an audit of Citizens in connection with this proceeding. Citizens did not oppose the audit, but opposed ORA's proposal to have Citizens reimburse the Commission for ORA's consultant costs. Citizens contended that the Commission does not have the authority to order it to reimburse the costs of ORA's consultants. The assigned administrative law judge (ALJ) ordered the parties to brief the issue of whether

the Commission could require Citizens to reimburse the Commission for ORA's consultant costs.

III. Reimbursement-Positions of the Parties

ORA argues that requiring Citizens to reimburse the Commission for ORA's consultant costs is a proper exercise of the Commission's authority. ORA says that an Assigned Commissioner's Ruling (ACR), dated January 27, 1998, in Application (A.) 97-12-020 said that prior case law found no lack of such authority. The ACR observed that § 309.5(c) requires the Commission to provide ORA sufficient resources to ensure that ratepayer interests are fairly represented in all significant proceedings. Based on this determination, ORA says the Commission directed Pacific Gas and Electric Company (PG&E) to fund an outside contractor audit.

ORA contends that there is ample precedent for Commission orders directing utility-funded consultant services. It cites the following examples.

- In Decision (D.) 99-06-051, the Commission required Roseville Telephone Company (Roseville) to fund a verification/non-regulated operations audit, to be overseen by ORA, and allowed Roseville to apply for recovery of the costs as a Z-factor.
- In D.96-11-017, the Commission ordered an audit of PG&E's affiliate transactions in connection with a corporate reorganization proceeding. The cost was to be born by PG&E's shareholders.
- In D.99-02-013, ORA was ordered to retain an outside consultant to audit transactions between Pacific and Pacific Bell Communications (PBCom), regarding network services provided by Pacific, for compliance with the Commission's rules. The cost was to be born by PBCom.
- In R.01-09-001 and I.01-09-002, Verizon was ordered to pay for ORA's consultants to conduct an audit

> regarding, among other things, affiliate transactions, monitoring reports and cost allocation and accounting procedures.

ORA maintains that the audit is necessary because Citizens operates in 24 states, has subsidiaries operating in 48 states, and serves 130,000 access lines in California. ORA also says that Citizens is part of a holding company structure that allocates substantial corporate expenses to Citizens. In addition, ORA states that Citizens has not been audited by the Commission for 10 years, and an audit is needed to verify Citizen's earnings for sharing purposes. For these reasons, ORA represents that it needs to do an audit in order to adequately participate in this proceeding. It also says that it does not have the resources to perform the audit itself, or to pay consultants to do it. There are no other parties besides Citizens. As a result, ORA contends that, without funding for its consultants, the Commission will not be able to develop an adequate record in this proceeding.

Citizens argues that the Commission does not have the authority to require it to reimburse the Commission for ORA's consultant costs. It says that the Commission may exercise its authority only to the extent delegated by the California Constitution or the Legislature. It argues that nothing in the Constitution or the Public Utilities Code gives the Commission the authority to pass on such costs to the utilities it regulates. Citizens contends that where the Legislature intended to delegate such authority, it has explicitly provided such authority. As examples, it cites major utility merger applications, and environmental reviews pursuant to the California Environmental Quality Act. It also says that there is no explicit authorization by the Legislature to allow the Commission to recover ORA's consultant costs stemming from NRF audits. Citizens also argues that requiring it to pay such audit costs would circumvent the Legislature's oversight of the Commission through the state budget process.

In addition, it argues that by creation of the Ratepayer Advocate Account, the Legislature has determined the appropriate funding for ORA.

For the above reasons, Citizens argues that the Commission cannot require it to pay for the costs of ORA's consultants. It also says that allowing it to recover the costs from ratepayers does not alter its analysis.

Citizens asks that, if the Commission does require it to pay for ORA's consultants, it be allowed to recover those costs from its ratepayers. In addition it asks that it be allowed to recover any internal costs it may incur in connection with the audit. Citizens also asks that the scope of the audit be limited consistent with the oversight and advocacy functions ORA was created to perform, and that a cost cap be imposed.

IV. Discussion

The purpose of this application was to review Citizen's NRF. However, as discussed later in this decision, we have decided to close this proceeding, and address Citizens' NRF in an application to be filed at a later date (future NRF review).

Citizens' main point, regarding who pays for ORA's consultant costs, seems to be that there is no particular code section that specifically allows the Commission to require Citizens to reimburse it for the costs of ORA's consultants to perform the audit. However, there is also no statute that prohibits the Commission from doing so. Citizens claims that the lack of express authority is dispositive. This argument is incorrect. The Commission has plenary powers and broad authority to ensure that its regulatory duties and obligations are carried out and enforced.

The future NRF review will address the regulatory framework under which Citizens will operate. The services Citizens' customers will receive, and

the rates, charges and rules under which service will be provided, will be directly affected by the results of the future NRF review. Therefore, it will be a significant proceeding.

An important element of the future NRF review will be an assessment of Citizens' compliance with the Commission's requirements, including sharing. In this case, such an assessment cannot be performed without an audit. The Commission must enforce the provisions of the Public Utilities Act, including § 451, which requires utility rates, charges and rules to be just and reasonable. Utilities are also required to maintain adequate, efficient, just and reasonable service to their customers. Pursuant to § 454, if the Commission adopts rate changes it must determine that those changes are justified. In order to assure Citizens' compliance with § 451, and the Commission's own compliance with the statutory scheme, the future NRF review proceeding must develop an adequate record on which to base its decision.

Section 314.5 further requires the Commission to audit Citizens' books and records for regulatory purposes at least every three years. It has been more than ten years since such an audit has been performed. ORA is the only interested party in this proceeding, and may possibly be the only interested party in the future NRF review. ORA is an arm of this Commission, and its staff has the authority to examine and audit utility records. Therefore, ORA's review of Citizens' financial condition and its participation in the future NRF review will be necessary to comply with § 314.5, and for the development of a record sufficient to support the exercise of the Commission's ratemaking authority. As a result, we find that an audit is necessary, and that ORA is the appropriate entity to conduct it.

ORA proposes that it be allowed to hire consultants to perform the audit. The Commission would pay the consultants, and ORA further proposes that these costs be reimbursed by Citizens who would be allowed to apply for recovery of the reimbursement from its ratepayers. Citizens takes the position that ORA should perform the audit itself using its existing resources. ORA represents that it does not have the personnel and resources to perform the audit. We have no reason to disbelieve ORA's representations, and Citizens has offered no viable alternative to ORA's proposal. In order for the Commission to have an adequate record in the future NRF review, it is necessary to provide ORA with sufficient resources to hire consultants to do the audit.

The Commission is required by § 309.5(c) to provide ORA with sufficient resources and personnel to "ensure that customer and subscriber interests are fairly represented in all significant proceedings." The future NRF review will be a significant proceeding, and it is necessary for ORA to conduct an audit to represent ratepayer interests adequately, and for the Commission to have a sufficient record on which to base its decision. As a result, it is necessary to provide ORA with sufficient resources to hire consultants to do the audit in order to comply with § 309.5(c).

As pointed out by ORA, the Commission has taken this approach in the past, and it is by no means novel or unusual. We are mindful of our past decisions, and do not believe Citizens' arguments present a good reason to deviate from this longstanding practice, especially since the performance of the audit allows the Commission to comply with a number of statutory mandates. In this case, § 701 provides that the Commission "may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction." We believe this

means that the Commission should use its authority to ensure that its regulatory duties and obligations are carried out and enforced.

Contrary to Citizens' assertions, it is well established that the Commission's powers are not limited to those expressly conferred upon it. Section 701 grants the Commission authority to "do all things", including those "in addition" to those set forth in the Public Utilities Act, so long as it does not contravene an express legislative directive or take action that is not cognate or germane to utilities regulation. (Assembly v. Public Utilities Com. (1995) 12 Cal. 4th 87, 103; Morel v. Railroad Com. (1938) 11 Cal. 2d 488, 492.) This decision relates to the financial information the Commission will use in a future rate proceeding, and addresses the funding of an audit to be undertaken by Commission staff. CLAM v. Public Utilities Com. (1979), 25 Cal. 3d 891, which discussed whether the ability to award attorneys fees to outside parties was cognate and germane to utilities regulation is inapposite. ORA is not an outside party; it is an arm of the Commission. (§ 309.5.) Specific legislation addressing the way the Commission conducts certain public purpose programs, or reviews construction costs or environmental impacts, does not define the scope of the Commission's authority here.

Based on the above analysis, we will require Citizens to reimburse the Commission for the costs of consultants to be hired by ORA to perform the audit. We will allow Citizens to recover the amount it reimburses the Commission, provided it reasonably cooperates with the audit. The specific means for doing so will be determined in the future NRF review.

As to recovery of its internal costs related to the audit, we note that Citizens only makes this request in connection with the requirement that it pay for ORA's consultants. We do not see how payment for ORA's consultants

relates to the request. In addition, since periodic audits are required by § 314.5, Citizens' costs related to the audit are reasonably foreseeable, routine business expenses that are already covered in rates. Therefore, we will not allow separate recovery of such costs.

In order for the audit to begin as soon as possible, this decision should be effective immediately.

V. Closing the Application

Citizens requests that we keep this application open until such time as the audit can be completed. Consistent with the requirements of § 1701.5 (effective January 1, 2004), we must complete ratemaking proceedings within 18 months. Thus, we will close this application at this time, and require Citizens to file its future NRF review no later than 90 days after a final decision in R.01-09-001 and I.01-09-002. In addition, we will require ORA to file a report on the results of its audit therein.

Consistent with §§ 309.5, 314, 582, 583, 584, and 797 (among others), as well as D.01-08-062, we expect Citizens to fully cooperate with ORA and its consultants as they conduct the audit. Citizens is obligated to respond to ORA's data requests and those of its consultants. Citizens cannot refuse to respond to ORA's or its consultants' requests for information simply because Citizens considers these outside the scope of the audit. Pursuant to § 314, Citizens may not refuse to allow the Commission's staff or its consultants to inspect Citizens' records. Pursuant to § 309.5(e), ORA "may compel the production or disclosure of any information it deems necessary to perform its duties from the entities regulated by the commission provided that any objections to any request for information shall be decided in writing by the assigned commissioner or by the president of the commission if there is no assigned commissioner." With no

open proceeding, these matters will be decided by the President's office. In addition, ORA may request resolution of discovery issues by the Assigned Commissioner, or the President of the Commission if there is no Assigned Commissioner.

VI. Audit Scope and Cap

Our intent is to have the audit address the same types of issues addressed in other NRF audits. Therefore, the audit will address compliance with the Commission's rules, orders, decisions, policies, and data collection and reporting requirements. It will include, but not be limited to, affiliate transactions, cost allocations, employee pensions and benefits, and income taxes. It may also include compliance with the service quality data collection and reporting requirements. The focus will be on areas that pose the most risk to ratepayers. The audit should not include items beyond traditional audit parameters such as rate comparisons, analysis of benefits to customers, analysis of service quality, and management structuring.

The audit period is three years ended December 31, 2003. However, ORA may address records and information, related to the period subsequent to December 31, 2003, to the extent they are relevant. In addition, the cap on ORA's consultant costs will be $300,000, which is roughly the amount spent in connection with Application (A.) 99-03-025, the last NRF review for Roseville. For good cause shown, ORA may request a higher amount by filing a petition to modify this decision.

ORA will be required to submit to the Executive Director a detailed audit plan that conforms to the requirements set out in this decision, not less than 90 days after the effective date of this decision. The Executive Director shall review the audit plan for consistency with this order, and approve it if it complies. If it

does not comply, the Executive Director shall reject the plan and require ORA to submit a revised audit plan.

VII. Reporting Requirements Settlement

On August 21, 2003, Citizens and ORA filed an all-party settlement proposing changes to the monitoring requirements. When other aspects of NRF are addressed, ORA reserves the right to recommend reinstatement of the existing requirements, and/or new requirements. The proposed changes are as follows.

- Report C.A. 02-02, Notification of Major Service Interruption: The agreement clarifies how the report will be provided. The report will be provided by email to the Commission's Telecommunications Division (TD) and ORA, using the form currently approved by TD.
- Report C.A. 02-03, Major Service Interruption Summary: This is a summary of Report C.A. 02-02 for the latest three months. The agreement clarifies that the report will be provided quarterly using the form currently approved by TD.
- Report C.A. 02-05, Quality of Service Performance Report: The report conveys the results of customer surveys. However, there is no requirement that customer surveys be done. Currently, the report is made quarterly. The agreement provides that the report will be submitted with other quarterly reports whenever a survey is completed.
- Report C.D. XX-04, Interest During Construction: The agreement provides that the report will be provided with other quarterly reports when the applicable interest rate changes.
- Report C.F. 09-00, Complaints From Competitors, Number and Type: The agreement provides that this report will be eliminated. However, the information previously provided by the report will be provided as part of report C.A. 02-00, Informal Service Complaints Report.

VIII. Discussion

Rule 51.1(e) of the Commission's Rules of Practice and Procedure provides that the Commission will not approve settlements or stipulations, whether contested or not, unless they are reasonable in light of the whole record, consistent with law, and in the public interest.[2] As discussed below, the proposed settlement meets these criteria.

The settlement adopts revisions to the reporting requirements that clarify the means of providing the report, clarify the frequency, and consolidate reports. The settlement does not reduce the amount of information reported. In addition, the agreement is proposed by all parties to the proceeding, while reserving for ORA the right to revisit the requirements in the future NRF review. Therefore, the settlement is reasonable in light of the whole record.

The parties represent that the settlement does not contravene any statute or Commission decision. We agree. Therefore, the settlement is consistent with law.

The parties represent that there is strong public policy favoring settlements to avoid costly and protracted litigation. The settlement reduces Citizens' administrative costs, thereby making it more efficient. At the same time, it does not reduce the information received by the Commission. Therefore, the settlement is in the public interest.

In addition to the above, the following criteria are applicable to the settlement because it is an all-party settlement[3]:

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[2] All references to rules are references to the Commission's Rules of Practice and Procedure.

[3] D.92-12-019, 46 CPUC 2d 538, 550-551 (1992).

- The settlement must command the unanimous sponsorship of all active parties to the proceeding.
- The sponsoring parties must be fairly representative of the affected interests.
- No term of the settlement may contravene statutory provisions or prior Commission decisions.
- The settlement must convey to the Commission sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.

All parties propose the settlement. ORA represents the interests of all customers, and Citizens represents itself. Therefore, the affected customers and Citizens are fairly represented by the sponsoring parties. Nothing in the settlement contravenes statutory provisions or prior Commission decisions. In addition, the settlement sufficiently states the reporting requirements to enable the Commission to fulfill its future regulatory obligations with respect to the parties and their interests. Therefore, the settlement satisfies the above criteria applicable to all-party settlements.

As discussed above, the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Also, the additional criteria applicable to all-party settlements have been satisfied. Therefore, we will adopt the settlement.

IX. Comments on Draft Decision

The draft decision in this matter was mailed to the parties in accordance with § 311(g)(1), and Rule 77.7. In its comments, Citizens asserts that the draft decision is incomplete because it does not address allegations that the Commission is trying to avoid the financial controls contained in the appropriation and budget process. The ALJ's draft decision correctly chose to overlook these comments because they were based on incorrect assumptions,

they were mostly unsubstantiated, and because they were only designed to paint the Commission in a bad light.

Citizens, however, continues to make these claims, and so we address them briefly here. Citizens claims that its reimbursement for the audit will not be accounted for in the Commission's appropriated budget. Nothing in the record indicates that this will be the case, and Citizens in no way substantiates this claim. In fact, materials attached to Citizens' Opening Brief shows the Legislature included in the Commission's appropriated budget amounts to cover items that would be reimbursed. (Exhibit A to Opening Brief of Citizens Telecommunications Company, July 8, 2003.) Similarly, § 431, relied upon by Citizens, sets up a scheme under which the Commission's budget consists of items paid for from the "annual fee" and items "to be paid from special accounts or funds pursuant to § 402, reimbursement, federal funds, and any other revenues, and the amount of unencumbered funds from the preceding year." (§ 431 (emphasis added).) So Citizens does not continue to misunderstand the nature of our order, we will modify Ordering Paragraph 2 to make this point abundantly clear.

X. Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned ALJ in this proceeding.

Findings of Fact

1. Citizens has not been audited by the Commission for 10 years.
2. The future NRF review will address the regulatory framework under which Citizens will operate.

3. The services Citizens' customers will receive, and the rates, charges and rules under which service will be provided, will be directly affected by the results of the future NRF review.

4. An important element of the future NRF review will be an assessment of Citizens' compliance with the Commission's requirements, including sharing.

5. An assessment of Citizens' compliance with the Commission's requirements cannot be performed without an audit.

6. ORA is the only interested party in this proceeding, and may possibly be the only interested party in the future NRF review.

7. ORA does not have the personnel and resources to perform the audit, and Citizens has offered no viable alternative to ORA's proposal.

8. This decision relates to the financial information the Commission will use in a future rate proceeding, and addresses the funding of an audit to be undertaken by Commission staff.

9. The amount spent in connection with A. 99-03-025, the last NRF review for Roseville, was roughly $300,000.

10. The Legislature included in the Commission's appropriated budget amounts to cover items that would be reimbursed.

11. The settlement adopts revisions to the reporting requirements that clarify the means and frequency of providing the reports, and consolidates some reports.

12. The settlement does not reduce the amount of information reported.

13. The settlement reserves for ORA the right to revisit the reporting requirements in the future NRF review.

14. The settlement is proposed by all parties to the proceeding.

15. There is strong public policy favoring settlements to avoid costly and protracted litigation.

16. The settlement reduces Citizens' administrative costs, thereby making it more efficient, but does not reduce the information received by the Commission.

17. ORA represents the interests of all customers, and Citizens represents its shareholders.

18. Nothing in the settlement contravenes statutory provisions, or prior Commission decisions.

19. The settlement sufficiently states the reporting requirements to enable the Commission to fulfill its future regulatory obligations with respect to the parties and their interests.

Conclusions of Law

1. There is no statute that prohibits the Commission from requiring Citizens to reimburse it for the costs of ORA's consultants.

2. The Commission has plenary powers and broad authority to ensure that its regulatory duties and obligations are carried out and enforced.

3. The future NRF review will be a significant proceeding.

4. The Commission must enforce the provisions of the Public Utilities Act, including §451, which requires utility rates, charges and rules to be just and reasonable.

5. Section 451 requires utilities to maintain adequate, efficient, just and reasonable service to their customers.

6. Pursuant to § 454, if the Commission adopts rate changes it must determine that those changes are justified.

7. In order to assure Citizens' compliance with §451, and the Commission's own compliance with the statutory scheme, the future NRF review proceeding must develop an adequate record on which to base its decision.

8. Section 314.5 requires the Commission to audit Citizens' books and records for regulatory purposes at least every three years.

9. ORA is an arm of the Commission, and its staff has the authority to examine and audit utility records.

10. ORA's review of Citizens' financial condition and its participation in the future NRF review will be necessary to comply with §314.5, and for the development of a record sufficient to support the exercise of the Commission's ratemaking authority.

11. An audit is necessary, and ORA is the appropriate entity to conduct it.

12. In order for the Commission to have an adequate record in the future NRF review, it is necessary to provide ORA with sufficient resources to hire consultants to do the audit.

13. The Commission is required by § 309.5(c) to provide ORA with sufficient resources and personnel to "ensure that customer and subscriber interests are fairly represented in all significant proceedings."

14. The future NRF review will be a significant proceeding, and it is necessary for ORA to conduct an audit to represent ratepayer interests adequately, and for the Commission to have a sufficient record on which to base its decision.

15. It is necessary to provide ORA with sufficient resources to hire consultants to do the audit in order to comply with § 309.5(c).

16. It is by no means novel or unusual for the Commission to require a utility to reimburse it for the costs of consultants to do an audit.

17. Section 701 provides that the Commission "may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction."

18. The Commission should use its authority to ensure that its regulatory duties and obligations are carried out and enforced.

19. It is well established that the Commission's powers are not limited to those expressly conferred upon it.

20. Section 701 grants the Commission authority to "do all things", including those "in addition" to those set forth in the Public utilities Act, so long as it does not contravene an express legislative directive or take action that is not cognate or germane to utilities regulation.

21. ORA is not an outside party; it is an arm of the Commission.

22. Specific legislation addressing the way the Commission conducts certain public purpose programs, or reviews construction costs or environmental impacts, does not define the scope of the Commission's authority in this proceeding.

23. Citizens should be required to reimburse the Commission for the costs of consultants to be hired by ORA to perform the audit.

24. Citizens should be allowed to recover the amount it reimburses the Commission. The specific means for doing so should be determined in the future NRF review.

25. Since periodic audits are required by § 314.5, Citizens' costs related to the audit are reasonably foreseeable, routine business expenses that are already covered in rates.

26. Citizens should not be allowed separate recovery of its internal costs related to the audit.

27. In order for the audit to begin as soon as possible, this decision should be effective immediately.

28. Consistent with the requirements of § 1701.5 (effective January 1, 2004), the Commission must complete ratemaking proceedings within 18 months.

29. This application should be closed at this time, and Citizens should be required to file its future NRF review no later than 90 days after a final decision in R.01-09-001 and I.01-09-002.

30. ORA should be required to file a report on the results of its audit in the future NRF review.

31. Consistent with §§ 309.5, 314, 582, 583, 584, and 797 (among others), as well as D.01-08-062, Citizens should fully cooperate with ORA and its consultants as they conduct the audit.

32. Citizens is obligated to respond to ORA's data requests and those of its consultants.

33. Citizens cannot refuse to respond to ORA's or its consultants' requests for information simply because Citizens considers these outside the scope of the audit.

34. Pursuant to § 314, Citizens may not refuse to allow the Commission's staff or its consultants to inspect Citizens' records.

35. Pursuant to § 309.5(e), any objections to a data request or request for information should be "decided in writing by the assigned commissioner or by the president of the commission if there is no assigned commissioner." With no open proceeding, these matters should be decided by the President's office.

36. The audit should address compliance with the Commission's rules, orders, decisions, and policies.

37. The audit should include, but not be limited to, affiliate transactions, cost allocations, employee pensions and benefits, and income taxes.

38. The audit should focus on areas that pose the most risk to ratepayers.

39. The audit should not include items beyond traditional audit parameters such as rate comparisons, analysis of benefits to customers, service quality, and management structuring.

40. The audit period should be three years ended December 31, 2003. However, ORA should be allowed to address records and information, related to the period subsequent to December 31, 2003, to the extent they are relevant.

41. The cap on ORA's consultant costs should be $300,000.

42. ORA should be required to submit to the Executive Director a detailed audit plan that conforms to the requirements set out in this decision, not less than 90 days after the effective date of this decision.

43. The Executive Director should review the audit plan for consistency with this order, and approve it if it complies. If it does not comply, the Executive Director should reject the plan and require ORA to submit a revised audit plan.

44. Section 431 sets up a scheme under which the Commission's budget consists of items paid for from the "annual fee" and items "to be paid from special accounts or funds pursuant to § 402, reimbursement, federal funds, and any other revenues, and the amount of unencumbered funds from the preceding year."

45. In order that the audit begin as soon as possible, this decision should be effective immediately.

46. Citizens should be ordered to file its future NRF review no later than 90 days after a final decision in R.01-09-001 and I.01-09-002.

47. Rule 51.1(e) provides that the Commission will not approve settlements or stipulations, whether contested or not, unless they are reasonable in light of the whole record, consistent with law, and in the public interest.

48. The settlement commands the unanimous sponsorship of all active parties to the proceeding.

49. The sponsoring parties are fairly representative of the affected interests.

50. No term of the settlement contravenes statutory provisions or prior Commission decisions.

51. 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.

52. The settlement is reasonable in light of the whole record, consistent with law, in the public interest, and satisfies the additional criteria applicable to all-party settlements.

53. The settlement should be adopted.

O R D E R

IT IS ORDERED that:

1. The Commission's Office of Ratepayer Advocates (ORA) shall perform an audit of Citizens Telecommunications Company of California (Citizens).

2. Citizens shall reimburse the Commission for the costs of the consultants to be hired by ORA to perform the audit, with those reimbursements to be accounted for as part of the reimbursable portion of the Commission's budget.

3. Citizens shall be allowed to recover the amount it reimburses the Commission provided it reasonably cooperates with the audit. The specific means for recovering the authorized amount will be determined in the next New Regulatory Framework (NRF) review proceeding.

4. Citizens shall cooperate with ORA and its consultants in their performance of the audit.

5. ORA's audit shall address compliance with the Commission's rules, orders, decisions, and policies.

6. The audit period shall be three years ended December 31, 2003. However, ORA may address records and information, related to the period subsequent to December 31, 2003, to the extent they are relevant.

7. The cap on ORA's consultant costs shall be $300,000.

8. ORA shall to submit to the Executive Director a detailed audit plan that conforms to the requirements set out in this decision, not less than 90 days after the effective date of this decision. The Executive Director shall review the audit plan for consistency with this order, and approve it if it complies. If it does not comply, the Executive Director shall reject the plan and require ORA to submit a revised audit plan.

9. Citizens shall file an application for a review of its NRF no later than 90 days after a final decision in Rulemaking 01-09-001 and Investigation 01-09-002, or as specified in a further order of the Commission, and ORA shall file a report on the results of the audit therein.

10. The all-party settlement, included as Attachment A to this decision, is adopted.

11. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

Attachment A

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

In the Matter of the Application of Citizens Telecommunications Company of California Inc. (U-1024-C) dba Frontier Communications of California to review its New Regulatory Framework	)))))	A.03-04-002

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into as of July 29, 2003, by and among Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California ("Frontier") and the Office of Ratepayer Advocates ("ORA").

RECITALS

WHEREAS, on April 1, 2003, Frontier filed its application for triennial review of its new regulatory framework (“NRF”); and

WHEREAS, in its NRF review application, Frontier sought, among other things, modification of certain NRF monitoring report requirements; and

WHEREAS, Frontier and ORA have arrived at an interim agreement regarding the proposed modifications of Frontier’s NRF monitoring report requirements which is reasonable in light of the whole record, is consistent with the law of the State of California, and is in the public interest.

AGREEMENT

NOW, THEREFORE, based upon the mutual agreement reflected in this Settlement Agreement, Frontier and ORA agree to interim resolution of the NRF monitoring report portion of Frontier's NRF review application as follows:

1. Modification of Monitoring Reports. Tracking the NRF monitoring reports specified for modification by Frontier in Attachment A to its NRF review application, the parties agree to the following interim disposition of those reports.

A. NRF Monitoring Report Code C.A. 02-02 (Notification of Major Service Interruption): Upon occurrence of a major service interruption, Frontier shall provide the C.A. 02-02 report in the form currently approved by the Telecommunications Division by email to a Telecommunications Division designee and an ORA designee.

B. NRF Monitoring Report Code C.A. 02-03 (Major Service Interruption Summary): For each calendar quarter, Frontier shall submit the C.A. 02-03 report in the form currently approved by the Telecommunications Division to the Telecommunications Division and ORA.

C. NRF Monitoring Report Code C.A. 02-05 (Customer Surveys): Frontier shall provide the Telecommunications Division and ORA notice of the results of any customer survey with the group of quarterly NRF monitoring reports covering the month in which the survey results are acquired.

D. NRF Monitoring Report Code C.A. XX-01 (Customer Information Notices): The parties agree that there will be no change to this reporting requirement.

E. NRF Monitoring Report Code C.A. XX-08 (ULTS Claim Statement): The parties agree that there will be no change to this reporting requirement.

F. NRF Monitoring Report Codes C.D. 01-00 (G.O. 65-A Operating Report), C.D. 04-00 (Separated Results of Operations) and C.D. 04-01 (Separated Results of Operations –

Adjusted): The parties agree that there will be no change to these reporting requirements.

G. NRF Monitoring Report Code C.D. XX-04 (Interest During Construction): Frontier shall provide the Telecommunications Division and ORA notice of the change of the applicable interest rate with the group of quarterly NRF monitoring reports covering the month in which the change in interest rate occurs.

H. NRF Monitoring Report Code C.D. XX-10 (DEAF Trust – Monthly Expense and Annual Budget): The parties agree that there will be no change to this reporting requirement.

I. NRF Monitoring Report Code C.F. 09-00 (Informal Complaints from Competitors): This report shall be eliminated. However, Frontier shall include information previously required by this reporting requirement in its quarterly report of informal service complaints (NRF Monitoring Report Code C.A. 02-00).

2. No Waiver. The parties agree that ORA's consent to modification of reporting requirements in this Agreement shall not constitute a waiver of ORA's authority to recommend reinstatement of such reporting requirements or the addition of new reporting requirements. The fact that ORA has agreed to modification of NRF monitoring report requirements in this Agreement shall not be used as evidence against any subsequent ORA recommendations regarding NRF monitoring reports.

OFFICE OF RATEPAYER ADVOCATES

Dated:_____ By: _____

Darwin E. Farrar, Staff Attorney for
the Office of Ratepayer Advocates

CITIZENS TELECOMMUNICATIONS COMPANY OF CALIFORNIA INC. d/b/a
FRONTIER COMMUNICATIONS OF CALIFORNIA

Dated: _____ By: _____

Sean P. Beatty
Counsel to Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California

(END OF ATTACHMENT A)