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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding
Broadband Infrastructure Deployment and to
Support Service Providers in the State of
California.

R. 20-09-001
(Filed September 10, 2020)

REPLY COMMENTS OF

**FRONTIER CALIFORNIA INC. (U 1002 C)
CITIZENS TELECOMMUNICATIONS COMPANY OF CALIFORNIA INC. DBA
FRONTIER COMMUNICATIONS OF CALIFORNIA (U 1024 C)
FRONTIER COMMUNICATIONS OF THE SOUTHWEST INC. (U 1026 C)
("FRONTIER")**

ON AUGUST 6, 2021 ASSIGNED COMMISSIONER'S RULING

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I. INTRODUCTION

Pursuant to the Assigned Commissioner's Ruling issued on August 6, 2021 ("ACR"), Frontier California Inc. (U 1002 C), Citizens Telecommunications Company of California Inc. dba Frontier Communications of California (U 1024 C), and Frontier Communications of the Southwest Inc. (U 1026 C) (collectively, "Frontier") submit these reply comments as specified in the ACR. On August 20, 2021, the assigned Administrative Law Judge extended the deadline for reply comments until September 21, 2021.

In its opening comments, Frontier recommended that the Commission strive to: 1) base its determinations on the best data available; 2) coordinate its middle mile priorities with last mile projects that will deliver enhanced services to end users on the shortest possible timeframe; 3) prioritize the deployment of technologies that deliver high speed symmetrical performance and future scalability; 4) address public safety needs in those areas of the state increasingly impacted by wildfires and that lack sufficient diversity of routes; and 5) deploy the funding in a fiscally responsible manner so that it has the broadest impact. Many of the parties filing opening comments concurred in these principles.

In these reply comments, Frontier addresses the matter of prioritizing the buildout of the middle mile network. Though there are a wide variety of opinions regarding prioritization, the consensus of opening comments does not favor the ACR's proposal to prioritize buildout on a county-by-county basis depending upon whether half the households in a county have access to 100 Mbps download speed. Frontier recommends that the Commission adhere to its statutory obligations in this phase of the rulemaking. These reply comments also address the Public Advocates Office's ("Cal Advocates") apparent proposal to have the Commission impose excessive last-mile regulatory obligations on carriers that avail themselves of the state-owned middle mile network in order to expand and improve service offerings, which could lead to lower than desired utilization of the middle mile networks. Finally, Frontier opposes the recommendation to issue industry-wide data requests related to rates and terms on which access to existing middle mile infrastructure occurs as such a request is outside the scope of the Commission's inquiry.

II. PRIORITIZATION OF MIDDLE MILE BUILDOUT SHOULD NOT BE BASED ON THE PD'S 100 MBPS STANDARD, BUT INSTEAD ON THE FACTORS IDENTIFIED IN OPENING COMMENTS.

Although opening comments provided no clear consensus approach on where to prioritize the state-owned middle mile network construction, there was consensus that the Commission should not prioritize construction based on the ACR's proposal to focus on counties where 50% or less of households do not have access to download speeds of 100 Mbps.¹ Defining "unserved" as those areas without 100 Mbps download speeds contradicts statutory directives² and will diminish the benefits of the SB 156 funding. Such an approach will result in a significant overbuild of existing infrastructure, thereby leading to little, if any, incremental benefit associated with the newly developed network.

Consistent with Frontier's opening comments, many parties support construction of middle mile in areas that will result in the deployment of new last-mile connections³ and/or enhance safety⁴ (*e.g.*, prioritize middle mile network construction in high fire threat districts). The Commission should emphasize these factors when developing its recommendations to the Office of Broadband and Digital Literacy ("OBDL").

Further, Frontier supports public middle mile investment where, because of deployment expense and other challenges, deployment of facilities is not feasible through private investment alone and where service expansion would not otherwise occur. To that end, Frontier identified selected routes in its opening comments that would further the state's interests in bringing service to currently unserved households.⁵ However, to successfully achieve that goal, the state

¹ See Opening Comments of AT&T at pp. 7-9; Opening Comments of California Cable and Telecommunications Association ("CCTA") at pp. 4-5; Opening Comments of Charter Fiberlink CA-COO, LLC and Time Warner Cable Information Services (California), LLC ("Charter") at p. 18; Opening Comments of California Emerging Technology Fund ("CETF") at p. 8-9; Opening Comments of the Utility Consumers' Action Network ("UCAN") at pp. 4-5.

² See Cal. Gov. Code § 11549.54(d).

³ See Opening Comments of Corporation for Education Network Initiatives in California ("CENIC") at p. 2; Opening Comments of Charter at p. 4; Opening Comments of AT&T at pp. 6-7

⁴ See Opening Comments of Cal Advocates at pp. 3-4.

⁵ See Opening Comments of Frontier at pp. 7-8.

must ensure that its public network is truly accessible, open and affordable to carriers willing to meet the last-mile needs of those who are currently unserved.

III. THE COMMISSION SHOULD ADHERE TO STATUTORY DIRECTIVES IN ITS RECOMMENDATIONS FOR THE MIDDLE MILE NETWORK.

The ACR poses a series of questions presumably intended to help the Commission prepare its report to the OBDL recommending areas where the state should develop its middle mile network. However, many of those questions go beyond the parameters of the task that SB 156 set for the Commission in connection with the middle mile network. The applicable Government Code section specifies that the Commission should solicit information regarding current locations, routes and commercial sources of supply of middle mile services and similar information that would increase the attractiveness and usefulness of the state's middle mile network.⁶ Given the extremely short timeframe allocated to the Commission to prepare its report, Frontier recommends that the Commission focus on its most critical task at hand—proposing locations for the state's middle mile network. With that perspective in mind, the Commission need not make recommendations, for example, regarding the licensing of existing facilities and whether they should be incorporated into the state's middle mile network or identifying locations using a 100 Mbps threshold when the statute specifically delineates a 25/3 Mbps standard.

IV. THE COMMISSION SHOULD NOT RECOMMEND EXCESSIVE REGULATION OF ACCESS TO THE MIDDLE MILE NETWORK.

In its opening comments, Cal Advocates urges the Commission to adopt a series of recommendations regarding the manner in which the state's middle mile network should be managed. For example, Cal Advocates suggests that the Commission include a recommendation that any last-mile provider which accesses the state's network must provide a broadband connection of at least 100 Mbps.⁷

⁶ Cal. Gov. Code § 11549.54(f).

⁷ See Opening Comments of Cal Advocates at pp. 12-13.

While Frontier does not oppose applying some conditions on carriers' ability to access the state-owned middle mile network, such as a requirement to offer a low-income rate plan with its commitment to last mile connections, the state should ensure such conditions do not erect barriers that dissuade carriers from using the state's network to increase broadband penetration. For example, conditioning access to the state's middle mile network on delivery of a minimum download speed of 100 Mbps may backfire, leading a carrier that might be able to provide robust connectivity to a wholly unserved area using the state's middle mile network to abandon the endeavor. Speed capabilities are an appropriate consideration in the California Advanced Services Fund award process, and Frontier supports affording higher weight to applications that deliver high-speed, symmetrical service. However, it is not clear that this is the proper venue in which to identify conditions that the state may want to attach to use of its middle mile network; SB 156 does not clearly place this consideration within the Commission's role. Regardless, the Commission should not incorporate into its report any of the more excessive recommendations proffered by Cal Advocates.

V. THE COMMISSION SHOULD NOT ISSUE ADDITIONAL DATA REQUESTS.

Several parties recommend that the Commission issue industry-wide data requests seeking information on rates and terms for access to middle mile facilities.⁸ Frontier opposes another round of data requests focused on rates and terms related to middle mile facilities. As discussed above, the pricing and terms on which transport of broadband traffic occurs is not within the scope of the Commission's inquiry under SB 156. The Communications Division has already issued a data request to every facilities-based carrier seeking the location of existing middle mile facilities and pricing for access to those facilities. Instead of collecting potentially competitively-sensitive information that is irrelevant to the Commission's task at hand, the Commission should rescind those portions of the recently issued data request unrelated to the locations of existing or planned middle mile network facilities.

⁸ See Opening Comments of The Utility Reform Network ("TURN") at p. 4; Opening Comments of UCAN at p. 3.

VI. CONCLUSION.

Frontier supports the objectives behind SB 156, which are to bring broadband service to currently unserved households. SB 156 establishes a framework for state agencies to work toward this shared goal. To ensure a proper functioning of that framework, the Commission should adhere to the statute, and focus on recommending to ODBL locations for construction of the state's middle mile network that will deliver the maximum benefit from the public investment. The Commission's recommendations should focus on existing and planned last-mile projects and safety concerns and not the availability of 100 Mbps download speeds. Frontier looks forward to working with the Commission, the ODBL, and the third-party administrator to maximize the benefit of the funds allocated to the state's middle mile network.

Respectfully submitted on September 21, 2021, at Oakland, California.

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