

Decision 21-04-008 April 15, 2021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Frontier
Communications Corporation,
Frontier California Inc. (U1002C),
Citizens Telecommunications
Company of California Inc. (U1024C),
Frontier Communications of the
Southwest Inc. (U1026C), Frontier
Communications Online and Long
Distance Inc. (U7167C), Frontier
Communications of America, Inc.
(U5429C) for Determination that
Corporate Restructuring is Exempt
from or Compliant with Public
Utilities Code Section 854.

Application 20-05-010

DECISION APPROVING CORPORATE RESTRUCTURING WITH CONDITIONS

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Attachment 1 – Cal Advocates/TURN/CWA Settlement Agreement

Attachment 2– CETF Settlement Agreement

Attachment 3- Yurok Settlement Agreement

DECISION APPROVING CORPORATE RESTRUCTURING WITH CONDITIONS

Summary

This decision approves the corporate restructuring (Restructuring) of applicants Frontier Communications Corporation, Frontier California Inc. (U1002C), Citizens Telecommunications Company of California Inc. (U1024C), Frontier Communications of the Southwest Inc. (U1026C), Frontier Communications Online and Long Distance Inc. (U7167C), and Frontier Communications of America, Inc. (U5429C) (collectively Frontier) described in the Application, with conditions. The Restructuring, as supplemented by the three settlement agreements (Settlement Agreements) by Frontier and intervenors (1) Public Advocates Office at the California Public Utilities Commission, The Utility Reform Network, and the Communications Workers of America, District 9, (2) California Emerging Technology Fund, and (3) Yurok Tribe, and the additional conditions set forth in this decision, is in the public interest and therefore satisfies the requirements for approval of a corporate transfer of control under Public Utilities Code Section 854. The Settlement Agreements, which impose requirements on Frontier regarding capital expenditures, service performance, workforce commitments, broadband deployment, customer price maintenance, financial reporting, local and tribal communities, WiFi community access and device distribution to low-income students, and commitments by Frontier to the Yurok Tribe, are reasonable in light of the whole record, consistent with law, and in the public interest and therefore satisfy the requirements of Commission Rule of Practice and Procedure 12.1(d).

This proceeding is closed.

1. Bankruptcy-Related Background

Frontier Communications Corporation and its subsidiaries (collectively Frontier U.S.) are telecommunications services providers and the fourth largest incumbent local exchange carrier in the U.S.¹ Frontier U.S. grew exponentially through a series of transactions from 2010 through 2016. By a February 2015 agreement that closed in April 2016, Frontier U.S. doubled in size for the second time in six years through the \$10.54 billion purchase of the landline voice, broadband, and video operations of Verizon Communications Inc. and subsidiaries (collectively Verizon) in California, Texas, and Florida. Frontier U.S. financed the purchase through a private debt offering of \$6.6 billion, a \$1.5 billion senior secured loan facility, and a registered offering of \$2.75 billion of preferred and common stock.²

In Application (A.) 15-03-005, Frontier Communications Corporation and Frontier Communications of America, Inc. (collectively Frontier Communications) sought approval from the California Public Utilities Commission (Commission) for the purchase of Verizon's California operations (Verizon Acquisition). In Decision (D.) 15-12-005, the Commission approved that application with conditions and approved related settlement agreements with A.15-03-005 protestors.³ In addition, Frontier Communications entered into memoranda of understanding (MOUs) with various parties to A.15-03-005

¹ Exhibit FTR-1 Appendix 1 (*June 29, 2020 Disclosure Statement Relating to the Third Amended Joint Plan of Reorganization of Frontier Communications Corporation and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code*) (Disclosure Statement) at 1. As of May 1, 2020, Frontier Communications Corporation and its operating subsidiaries had a presence in 25 states. Exhibit FTR-2 at 5.

² Disclosure Statement at 37-38, 54-55.

³ D.15-12-005 at 2.

related to the Verizon Acquisition. The MOUs are enforceable contracts that the Commission determined to be necessary to find the approval of the application in A.15-03-005 to be in the public interest.⁴ Among other commitments reflected in D.15-12-005, the MOU with California Emerging Technology Fund (CETF) requires Frontier Communications to offer LifeLine customers broadband speeds of 7 megabits per second (Mbps) downstream where available and the highest available upstream speed for \$13.99 per month, and Frontier Communication's settlement with joint protestors requires the deployment of broadband speeds of (1) 25 Mbps downstream and 2-3 Mbps upstream (25/2-3 Mbps)⁵ to an additional 400,000 California households by December 31, 2022, (2) 10/1 Mbps to an additional 100,000 unserved California households beyond its Connect America Fund (CAF) II commitments by December 31, 2020, and (3) 6/1-1.5 Mbps to an additional 250,000 California households.⁶ As a result of the Verizon Acquisition, about 2.2 million Verizon customers became customers of Frontier Communications Corporation's California subsidiaries.⁷

Pursuant to a settlement agreement between Frontier Communications and CETF approved by the Commission in D.19-03-017, Frontier Communications agreed to provide an additional 43,474 WiFi devices to community-based organizations (CBOs), advance additional funds to CETF

⁴ *Id.* at 64.

⁵ This decision adopts the shorthand convention of referring first to the downstream speed, followed by a "/", followed by the upstream speed.

⁶ D.15-12-005 at 56-58.

⁷ *Id.* at 2.

based upon CBO-initiated adoptions of broadband service plans by low-income households, and install public WiFi locations.⁸

Serving California and the other areas covered by its acquisitions proved more difficult and expensive than Frontier U.S. anticipated, and integration issues made it more difficult to retain customers. Fierce competition in the telecommunications sector, shifting consumer preferences, and accelerating bandwidth and performance demands resulted in the unsustainability of Frontier U.S.' outstanding debt obligations, which totaled about \$17.5 billion in April 2020. Nationally, Frontier U.S.' customers decreased from a high of 5.4 million after the close of the Verizon Acquisition in 2016 to 4.1 million in March 2020. Frontier U.S.' shares, which traded on the New York Stock Exchange, dropped from \$125.70 per share in 2015 to \$0.37 per share in April 2020, reflecting an \$8.4 billion decrease in market value.⁹

By 2019, Frontier U.S. had concluded that debt-oriented transactions would not improve its capital structure. Frontier U.S. formed a finance committee to evaluate various strategic restructuring alternatives, including addressing the upcoming 2021 and 2022 debt maturities and mounting pressure from various constituents, some of whom favored out-of-court deleveraging transactions while others sought in-court bankruptcy reorganization. After a review of the relevant factors, including what Frontier U.S. determined to be the general headwinds prevalent in the telecommunications industry, in March and April 2019 Frontier U.S. issued \$1.65 billion in first lien secured notes due 2027 to

⁸ D.19-03-017 Order and January 14, 2019 Amendment between Frontier Communications and CETF filed with Joint Motion of Frontier Communications and CETF for Adoption of Settlement Agreement in A.15-03-005.

⁹ Disclosure Statement at 37-38.

repay indebtedness scheduled to mature in 2021 and extended the maturity date of \$850 million of revolving loans from 2022 to 2024. In May 2019, Frontier U.S. entered into an agreement to sell its Pacific Northwest operations and assets for \$1.35 billion, a transaction that closed on May 1, 2020. Although Frontier U.S. identified investment opportunities in the summer of 2019 to expand its fiber network to increase competitiveness and market share, it could not pursue these opportunities or other strategic transactions because of its inability to access cash and limitations caused by its massive debt overhang.¹⁰

In the fall of 2019, Frontier U.S. began discussions with groups of its senior bond noteholders. On April 14, 2020, Frontier U.S. executed a Restructuring Support Agreement (RSA) with senior unsecured noteholders holding more than 75 percent of Frontier U.S.' \$10.95 billion in senior unsecured notes (Consenting Noteholders). The Consenting Noteholders are about 200 of the senior noteholders and are primarily financial investment funds.¹¹ Under the RSA, about \$10 billion of the senior unsecured notes would be converted to equity, effectively eliminating the ownership interests of the existing Frontier shareholders. The RSA anticipated Frontier U.S.' filing for Chapter 11 bankruptcy reorganization, with Frontier U.S.' debt obligations expected to be reduced to about \$6.565 billion and its annual interest obligations to decrease from about \$1.5 billion to about \$500 million at emergence from bankruptcy. As a result, Frontier U.S. believed that the RSA's implementation would free up substantial capital for operating its businesses.¹²

¹⁰ *Id.* at 38-40.

¹¹ Exhibit FTR-1 at 5, 9, and 10.

¹² *Id.* at 14.

On April 14, 2020, Frontier U.S. filed a joint plan of reorganization (Plan) under Chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of New York, Case No. 20-22476. Under the Plan, (1) holders of general unsecured claims will be paid in full, (2) holders of secured debt will be paid in full on the effective date (Effective Date) of the Plan, (3) holders of Senior Notes will receive a pro rata share of the common stock of the reorganized companies (Reorganized Frontier), \$750 million of takeback debt, and cash of the Reorganized Frontier in excess of \$150 million as of the Effective Date, (4) holders of certain secured and unsecured notes held by Frontier Communications Corporation subsidiaries will be reinstated or paid in full on the Effective Date, and (5) the previous equity owners will no longer have any ownership stake in Reorganized Frontier (the Plan and the actions proposed under it the Restructuring).¹³ The Effective Date of the Plan is the first business day after the Plan's confirmation by the Bankruptcy Court in which all specified conditions have been satisfied or waived and Reorganized Frontier declares the Plan effective. The Plan's Effective Date is contingent on the Commission's approval of the Application in this proceeding.¹⁴

Under the Bankruptcy Code, Frontier U.S. is required to prepare a disclosure statement (Disclosure Statement) containing adequate information to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of the Plan. On June 29, 2020, the Bankruptcy Court approved Frontier U.S.' Disclosure Statement. Frontier U.S. then solicited and tabulated the votes of the senior noteholders regarding the Plan, with

¹³ *Id.* at 16-17.

¹⁴ *Id.* at fn. 2.

91.03 percent of the voting senior noteholders representing 97.23 percent of the outstanding dollar amount of the senior notes voting in favor of the Plan, exceeding the Bankruptcy Code requirements of acceptance by at least one-half in number and two-thirds in dollar amount of the senior noteholders.¹⁵ The Plan was confirmed by the Bankruptcy Court on August 27, 2020.¹⁶ Frontier U.S. intends to emerge from Chapter 11 as soon as it obtains the necessary regulatory approvals, including the approval of the Commission.¹⁷

2. Procedural Background

On May 22, 2020, Frontier Communications Corporation, its three California incumbent local exchange carrier subsidiaries Frontier California Inc., Citizens Telecommunications Company of California Inc., and Frontier Communications of the Southwest Inc. (the three incumbent local exchange carrier subsidiaries collectively the California ILECs), and its two California long distance subsidiaries Frontier Communications Online and Long Distance Inc. and Frontier Communications of America, Inc. (the six entities collectively Frontier and the five California subsidiaries collectively the California Subsidiaries) filed an Application (Application) for a determination that the Restructuring is exempt from or compliant with Public Utilities (Pub. Util.) Code Section 854. On May 22, 2020, Frontier also filed a Motion for Leave to File Confidential Portions of Application (Exhibit G) under Seal.

By Resolution ALJ 176-3462 filed on May 28, 2020, the Commission preliminarily determined that this proceeding was ratesetting and that hearings were necessary. On June 29, 2020, the Public Advocates Office at the

¹⁵ *Id.* at 19-20.

¹⁶ Exhibit FTR-3 at 2.

¹⁷ Exhibit FTR-1 at 21.

Commission (Cal Advocates) filed a protest to the Application and The Utility Reform Network (TURN), the Communications Workers of America, District 9 (CWA), The Greenlining Institute (Greenlining), and the Center for Accessible Technology (CforAT) filed a joint protest to the Application (all intervenors collectively Intervenors). A prehearing conference (PHC) was held on July 24, 2020. A Scoping Memo and Ruling of Assigned Commissioner (Scoping Memo) filed on August 5, 2020 affirmed the Commission's preliminary categorization of this proceeding as ratesetting and the necessity for hearings, set forth the issues, and adopted a procedural schedule. A ruling filed on August 27, 2020 modified the procedural schedule. On September 30, 2020, a ruling granted the motion for party status of Rural County Representatives of California (RCRC).

A workshop and public participation hearing were conducted on October 7, 2020. The day-long workshop featured presentations by Frontier and the Commission's Communications Division, panel discussions on Community Experiences and Needs by local governmental and tribal representatives and on Conditions, Monitoring, and Enforcement by telecommunications and academic authorities, intervenor presentations from Cal Advocates, TURN, and CWA, and a transcribed public comment session. A total of 16 members of the public commented on the Restructuring at the transcribed evening public participation hearing. As of March 29, 2021, 32 written comments were also submitted by the public and posted on the Commission's Public Comments page in this proceeding's online Docket Card.

On October 14, 2020, a ruling was issued taking the evidentiary hearings scheduled for October 26-28, 2020 off-calendar. That ruling allowed the parties to file motions by October 19, 2020 to reset the evidentiary hearings pursuant to

the requirements set forth in the ruling. No party filed a motion to reset the evidentiary hearings, and no evidentiary hearings were conducted.

On October 15, 2020, a ruling was issued granting the motion for party status of CETF. On November 18, 2020, Frontier, Cal Advocates, TURN, CETF, and CWA filed Opening Briefs. On December 10, 2020, Frontier, Cal Advocates, TURN, and CWA filed Reply Briefs, and a ruling was issued granting the motion for party status of the Yurok Tribe. On December 24, 2020, Frontier, Cal Advocates, TURN, and CWA entered into a settlement agreement attached to this decision as Attachment 1 (Attachment 1 Settlement Agreement) and filed a Joint Motion for Adoption of Settlement Agreement. The Yurok Tribe filed an Opening Brief on December 28, 2020. On December 12, 2020, Frontier and CETF entered into a settlement agreement attached to this decision as Attachment 2 (Attachment 2 Settlement Agreement) and on December 29, 2020 filed a Joint Motion for Adoption of Settlement Agreement. On January 19, 2021, Frontier and the Yurok Tribe entered into a settlement agreement attached to this decision as Attachment 3 (Attachment 3 Settlement Agreement) and filed a Joint Motion for Adoption of Settlement Agreement (the Attachment 1 Settlement Agreement, Attachment 2 Settlement Agreement, and Attachment 3 Settlement Agreement collectively the Settlement Agreements). On January 20, 2021, the Yurok Tribe filed comments regarding the Attachment 1 Settlement Agreement and the Attachment 2 Settlement Agreement, and Greenlining and CforAT filed comments regarding the Attachment 1 Settlement Agreement. On January 27, 2021, Frontier, Cal Advocates, TURN, and CWA filed joint reply comments regarding the Attachment 1 Settlement Agreement, and CETF filed comments regarding the Attachment 3 Settlement Agreement.

A proposed decision was issued on February 12, 2021, in accordance with Pub. Util. Code Section 311, and comments were allowed under Commission Rule of Practice and Procedure (Rule) 14.3. Frontier, Cal Advocates, TURN, CWA, CETF, the Yurok Tribe, and RCRC filed opening comments on March 4, 2021. Frontier, Cal Advocates, and TURN filed reply comments on March 9, 2021. The Commission approved D. 21-03-043 on March 18, 2021.¹⁸ Ordering Paragraph 6 of D. 21-03-043 provides that the decision is effective upon the election of all parties to the Attachment 1 Settlement Agreement to accept the provisions of Ordering Paragraph 4(o) of that decision. On March 18, 2021, all parties to the Attachment 1 Settlement Agreement filed a Joint Notice of Rejection of Ordering Paragraph 4(o) of Decision Approving Corporate Restructuring with Conditions (Joint Notice of Rejection) rejecting the provisions of Ordering Paragraph 4(o) of D. 21-03-043. As a result, D. 21-03-043 is not in effect.

Testimony and documents were admitted into evidence pursuant to rulings granting motions for the admission of testimony and documents into evidence and for the admission of confidential testimony and documents into evidence under seal.¹⁹

¹⁸ The Commission issued D. 21-03-043 on March 19, 2021.

¹⁹ As reflected in the applicable motions and rulings listed in the Docket Card for this proceeding and the testimony and documents admitted into evidence that were electronically submitted as Supporting Documents using the Commission's electronic filing system, Frontier's exhibits in evidence were identified as Exhibits FTR-1 through FTR-8 and FTR-2C through FTR-4C, Cal Advocates' exhibits in evidence were identified as Exhibits CAL-01 through CAL-05, CAL-07, CAL-08, CAL-01C through CAL-06C, CAL-09C, CAL-02E through CAL-05E, CAL-02EC through CAL-05EC, and CAL-03Errata, TURN's exhibits in evidence were identified as Exhibits TRN-001, TRN-002, TRN-001C, and TRN-002C, CWA's exhibits in evidence were identified as Exhibits CWA-001 through CWA-006, CETF's exhibit in evidence was identified as Exhibit CTF-001, and the Yurok Tribe's exhibits in evidence were identified as Exhibits YUR-001, YUR-001A through YUR-001I, and YUR-002.

3. Issues

As set forth in the Scoping Memo, the primary issue in this proceeding is whether, under Pub. Util. Code Sections 853 and 854, the Restructuring is in California's public interest, including whether, after full consideration of its present and future effects, the Restructuring:

1. Provides short-term and long-term economic benefits to ratepayers (Section 854(b)(1)).
2. Maintains or improves Applicants' financial condition (Section 854(c)(1)).
3. Maintains or improves Applicants' quality of service (Section 854(c)(2)).
4. Maintains or improves Applicants' quality of management (Section 854(c)(3)).
5. Is fair and reasonable to affected Applicants' employees, including both union and nonunion employees (Section 854(c)(4)).
6. Is beneficial on an overall basis to state and local economies, and to the communities in the area served by Applicants (Section 854(c)(6)).
7. Preserves the jurisdiction of the Commission and the capacity of the Commission to effectively regulate and audit Applicants (Section 854(c)(7)).
8. Provides mitigation measures to prevent significant adverse consequences that may result (Section 854(c)(8)).
9. Raises any safety or health considerations, including any effects on 911 service.
10. Provides economic and noneconomic benefits to the tribal communities in the area served by Applicants.
11. Will result in the transfer or disposal in any form of Applicants' assets, and whether the Commission should require that local or tribal governments have a right of first offer or a right of first refusal regarding any transfer or disposal of Applicants' assets.
12. Affects the performance of Applicants' obligations under and compliance with the terms and conditions of laws and Commission decisions, rules, orders, and resolutions.

13. Affects the performance of Applicants' obligations and compliance with the terms and conditions relating to Applicants' status as a Carrier of Last Resort and an Eligible Telecommunications Carrier.
14. Affects the rate or price charged to a ratepayer or customer.
15. Affects Applicants' performance or compliance with the terms and conditions of service to a ratepayer or customer.
16. Affects Applicants' network infrastructure.
17. Affects Applicants' broadband deployment.
18. Affects the performance of Applicants' obligations under, compliance with the terms and conditions of, and future participation in universal service and public purpose programs, including the California Advances Services Fund, the California High Cost Fund-B, California LifeLine Services, the California Teleconnect Fund, the Connect America Fund, and the Deaf and Disabled Telecommunications Program.
19. Has any potential environmental impact requiring consideration under the California Environmental Quality Act.
20. Affects Applicants' provision of special access services, including backhaul services.
21. Will increase, modify, or affect the Commission's responsibilities regarding the regulation of Applicants.²⁰

4. Discussion

4.1. Pub. Util. Code Section 854 and Scoping Memo Factors

4.1.1. Overview

Under Pub. Util. Code Section 854(a), Frontier's proposed Restructuring is a change of control that requires Commission approval. Under Pub. Util. Code Section 854(b)(1) and (c), Commission approval requires a showing that the Restructuring provides short-term and long-term economic benefits to ratepayers

²⁰ Scoping Memo at 4-6.

and is in the public interest.²¹ Frontier has the burden of proving by a preponderance of the evidence that the requirements of Pub Util. Code Section 854 have been met.²²

Pub. Util. Code Section 854(c) directs the Commission to consider specific public interest factors, but it does not require proof of each factor and does not bar consideration of other criteria. The Scoping Memo lists the applicable Pub. Util. Code Section 854(c) factors and other factors raised by the pleadings that are relevant to our consideration of the public interest, and we analyze each of those public interest criteria in the following sections.

Throughout this proceeding, Frontier has argued that the Application under Pub. Util. Code Section 854 is a “straightforward ... restructuring transaction by which a new set of equity owners will be substituted for Frontier’s current public shareholders” and that “Frontier’s debt will be reduced from approximately \$17.5 billion to approximately \$6.5 billion.” As a result, Frontier claims, “The core issue that brings this matter before the Commission is not operational, managerial, or regulatory in nature. It is organizational only ... The only question presented by this proceeding is whether the public interest is better served by authorizing the transfer of control in which the Senior Noteholders are the only party impaired as opposed to Frontier’s California Operating Subsidiaries remaining in bankruptcy and deepening their financial distress.”²³

²¹ In the Scoping Memo, we determined that Pub. Util. Code Section 854(b)(2) and (3) do not apply to this proceeding.

²² Pub. Util. Code Section 854(f).

²³ Frontier Opening Brief at 1-3.

We reject Frontier’s spin on the applicable standards under Pub. Util. Code Section 854. First, as much as Frontier would prefer that the public interest is framed by an “only question” not referenced in the statute, we prefer to follow the law and determine whether approval is in the public interest based upon the actual language of Pub. Util. Code Section 854 and the actual issues that derive from the statute as set forth in the Scoping Memo. Second, Pub. Util. Code Section 854 does not limit us to consider only “organizational” issues but rather explicitly directs us to consider multiple factors, including “operational” and “managerial” criteria such as quality of service, quality of management, and fairness to employees.²⁴ Third, Frontier’s argument, by focusing on the transactional aspect of the Restructuring, implicitly directs the Commission to consider only whether the proposed Restructuring is in the public interest at its Effective Date. However, our inquiry is not so narrow-minded. Pub. Util. Code Section 854(b)(1) requires us to consider both the short-term and the long-term economic benefits of the Restructuring on ratepayers. Under Pub. Util. Code Section 854(c), we must consider whether the Restructuring improves Frontier’s financial condition, service quality, and quality of management and is fair to employees,²⁵ and those evaluations must take account of the Restructuring’s future effects. In addition, the Scoping Memo guides us to determine whether the Restructuring is in the public interest after full consideration of its present and future effects. Therefore, we will take a broad temporal view of the public interest and not be tethered by time tunnel vision.

²⁴ Pub. Util. Code Section 854(c)(2), (3), (4).

²⁵ Pub. Util. Code Section 854(c)(1), (2), (3), (4).

The Commission's authority to impose reasonable conditions for approval of the Restructuring is well-settled. Under Pub. Util. Code Section 854, the Commission shall consider reasonable options from other parties,²⁶ and it is directed to consider "mitigation measures to prevent significant adverse consequences that may result."²⁷ The Commission has a fundamental responsibility to thoroughly consider the evidentiary record, determine the applicable facts and law, and then exercise its reasonable discretion to craft appropriate remedies.²⁸ Further, the California Court of Appeal has recognized that the Commission has the authority under Pub. Util. Code Section 854 to fashion its own conditions.²⁹

Before the Settlement Agreements,³⁰ Frontier asserted that the "Intervenors' proposed conditions are unnecessary and, in most cases, harmful because they would constrain the strategic discernment and management of a

²⁶ Pub. Util. Code Section 854(e).

²⁷ Pub. Util. Code Section 854(c)(8).

²⁸ D.20-08-011 at 48.

²⁹ *PG&E Corp. v. Pub. Utilities Com.* 118 Cal.App.4th 1174, 1196 (2004).

³⁰ The Attachment 1 Settlement Agreement contains provisions with information regarding subjects for which Frontier had previously asserted claims of confidentiality in documents admitted into evidence. In the Attachment 1 Settlement Agreement, however, Frontier made no assertions of confidentiality regarding any information in the agreement itself or information for which it had previously claimed confidentiality. As a result, Frontier has waived any confidentiality claim regarding information for which Frontier had previously asserted confidentiality that relates to the same subject in the Attachment 1 Settlement Agreement. Even if waiver did not apply, the recent Commission decision in D.20-12-021 supports disclosure. That decision, in which Frontier was a party, holds that information provided by telephone corporations to the Commission should be made public with certain limited exceptions, such as public safety, that are inapplicable here, and that a trade secret privilege is not appropriate where its assertion would, as in this proceeding, limit the ability of the public to review and understand information essential to a fair resolution of the matter. We reference certain information in this decision for which Frontier had asserted confidentiality based upon Frontier's waiver of its confidentiality claim and the holding in D.20-12-021.

telecommunications carrier.”³¹ Frontier stated that “saddling Frontier with company-specific regulations in a dynamic industry would only impair Frontier’s ability to compete and distort the competitive market to the public’s detriment and would undermine its ability to help achieve the Commission’s public policy goals.”³² Frontier changed course by entering into the Settlement Agreements, which contain extensive conditions that were not part of the Restructuring. Both the authorities cited above and Frontier’s willingness to accept numerous additional conditions in the Settlement Agreements support our view that the Commission has broad discretion to impose conditions on approval of the Application. In the following sections, we consider whether the conditions contained in the Settlement Agreements and additional conditions are required for the Restructuring to be in the public interest.

4.1.2. Short-Term and Long-Term Economic Benefits to Ratepayers

Under Pub. Util. Code Section 854(b)(1), Commission authorization for the Restructuring requires a finding of short-term and long-term economic benefits to ratepayers. Frontier asserts that the Restructuring satisfies this requirement because the anticipated debt reduction and corporate reorganization will position the California Subsidiaries to be stronger providers of voice and broadband services, preserve competitive options for consumers, and enhance Frontier’s ability to meet customers’ forward-looking telecommunications needs.³³

³¹ Exhibit FTR-3 at 14.

³² Exhibit FTR-4 at 3.

³³ Exhibit FTR-2 at 18.

In the bankruptcy proceeding, Frontier presented three possible national post-Restructuring investment paths: the Base Case plan, the Reinvestment Case plan, and the Alternative Reinvestment Case plan. The Base Case plan contains final projections that reflect the impact of COVID-19 and information regarding Frontier's major wholesale customers. Capital investment under the Base Case plan is limited to approved or existing capital projects.³⁴ The Base Case plan does not include descriptions of new California broadband deployment after the Restructuring. Cal Advocates concludes that the Base Case plan does not support Frontier's claim that the Restructuring will have significant short-term and long-term economic benefits to California customers.³⁵ The Reinvestment Case and Alternative Reinvestment Case plans provide for investments identified by Frontier as Brownfield Overbuild, Tower/Small Cell, RDOF, and Future Densification/Edge Out. Cal Advocates concludes that Frontier would prioritize fiber deployment in California to only 455,000 locations under the Reinvestment Case and Alternative Reinvestment Case.³⁶ Cal Advocates also asserts that Frontier has not identified but should identify California-specific investments.³⁷

Before the Settlement Agreements, Frontier argued that the Restructuring's debt reduction and corporate reorganization will make the California Subsidiaries "stronger" and "enhance" its ability to meet customer telecommunications needs.³⁸ Those general arguments do not tie the

³⁴ Disclosure Statement, Exhibit E.

³⁵ Exhibit CAL-05 at 10.

³⁶ *Id.* at 13.

³⁷ *Id.* at 15.

³⁸ Exhibit FTR-02 at 18.

Restructuring to particular economic benefits flowing to California customers. However, the Settlement Agreements, with provisions for voice and broadband rate stability for residential customers for one year and the maintenance of broadband rates for three years for low-income customers, do provide tangible economic benefits to Frontier customers. Frontier's Attachment 1 Settlement Agreement commitment not to decrease total employee technician staffing for three years will provide welcome reassurance of job stability that translates to a measure of economic security. Frontier's commitment to deploy 25/3 Mbps to 4,000 tribal lands locations will likely result in economic gains for those new broadband beneficiaries. Although less easily shown to have specific economic benefits to particular ratepayers, Frontier's Attachment 1 Settlement Agreement commitments of \$1.75 billion in capital expenditures over four years and fiber to the premises (FTTP) to 350,000 locations within six years will logically result in telecommunications services to new customers and service improvements to existing customers that will generate monetary benefits to those customers over time. As a result, we find that the Restructuring, as supplemented by the Settlement Agreements, does provide short-term and long-term economic benefits to Frontier's ratepayers.

4.1.3. Effect on Frontier's Financial Condition

Pub. Util. Code Section 854(c)(1) directs the Commission to consider whether the Restructuring maintains or improves Frontier's financial condition in California. Frontier's bankruptcy plan will reduce the debt of parent Frontier Communications Corporation by over \$10 billion and reduce interest payments by about \$1 billion annually. Frontier asserts that the debt reduction will

significantly strengthen its financial condition and liquidity, and the balance sheet improvements will also improve Frontier's access to capital.³⁹

Cal Advocates proposes that no California Subsidiary be responsible for any debt obligations of Reorganized Frontier.⁴⁰ Frontier states that no California Subsidiary will assume any incremental debt as a result of the Restructuring.⁴¹ However, Frontier also states, "There is no reasonable basis to suggest that the California Operating Subsidiaries should expect a direct allocation of 'savings' that arise from obligations that were held solely by the parent company. These parent-level Restructuring "savings" -again bankruptcy-related relief from debt obligations- will be used to support Frontier's operations nationwide, including obligations such as pension and benefits expense, investments in systems/process improvements, and other company wide enhancements."⁴² Thus, while Frontier extols the benefits to its Delaware parent company of the Restructuring's debt and interest reductions, it is entirely unwilling to commit to any specific financial benefits to its California Subsidiaries.

As TURN points out, the objectives of Frontier's proposed new owners are not clear, including whether they will press to extract cash through dividends and whether they will support reinvestment to provide for significant fiber expansion.⁴³ In addition, the length of time that the new owners will hold their shares in Reorganized Frontier is not known.⁴⁴ Before the Attachment 1

³⁹ *Id.* at 22.

⁴⁰ Exhibit CAL-01 at 7; Exhibit CAL-05 at 29.

⁴¹ Exhibit FTR-3 at 50, 55.

⁴² *Id.* at 50.

⁴³ Exhibit TRN-001 at 56.

⁴⁴ *Id.* at 57.

Settlement Agreement, TURN proposed Commission consideration of dividend notifications and limitations,⁴⁵ including a recommendation that Frontier dividends be limited to an unspecified percentage of net income and possibly tied to the amount of debt assumed by its California Subsidiaries or the parent company.⁴⁶ TURN also proposed that the Commission limit upstream dividends from the California Subsidiaries until the Commission has certified that all conditions imposed by this decision have been met and the financial variance reports described below have been provided.⁴⁷ TURN requested that Frontier be required to notify the Commission of the dividend policy adopted by Frontier's new board of directors and any changes to the policy in the next three years.⁴⁸ TURN would also have required Frontier to file reports tracking variances between Frontier's California Base Case projections versus actual results,⁴⁹ and TURN proposed that the Commission require Frontier to provide detailed comparative financial statements showing before and after balances for each California Subsidiary.⁵⁰

Before the Attachment 1 Settlement Agreement, Frontier objected to any Commission limitations on capital flows between the parent company and its operating subsidiaries because they are likely to elevate the perceptions of risk and raise Frontier's cost of capital.⁵¹ The Attachment 1 Settlement Agreement

⁴⁵ *Ibid.*

⁴⁶ TURN Opening Brief at 31.

⁴⁷ Exhibit TRN-001 at 68.

⁴⁸ *Ibid.*

⁴⁹ *Id.* at 67.

⁵⁰ *Ibid.*; TURN Opening Brief at 29.

⁵¹ Exhibit FTR-3 at 57.

does not limit the amount or manner of distribution of dividends. The Attachment 1 Settlement Agreement does require Frontier to provide information and reports regarding dividends of Frontier Communications Corporation and Frontier's California ILECs.

Although the Attachment 1 Settlement Agreement has several financial reporting requirements that will allow the Commission to have a more transparent view of Frontier's finances, those reports by themselves do not necessarily establish that the Restructuring will benefit or even maintain the financial condition of Frontier's California operations. Given Frontier's unwillingness to commit to California-specific benefits from the Restructuring's debt reduction and the lack of clarity regarding future financial decisions, the evidence fails to show that the Restructuring either maintains or improves Frontier's financial condition.

4.1.4. Effect on Frontier's Quality of Service

Under Pub. Util. Code Section 854(c)(2), the Commission must consider whether the Restructuring maintains or improves the quality of service to Frontier's California ratepayers. Frontier states that the Restructuring will not alter its day-to-day operations and that service quality will at least be maintained. Frontier also states that no service will be discontinued or interrupted as a result of the Restructuring.⁵²

The Out of Service (OOS) Repair Interval Standard measures the time it takes to restore service after an OOS trouble report or outage. OOS is an important service quality metric that relates to service reliability and public

⁵² Exhibit FTR-2 at 23.

safety.⁵³ General Order (GO) 133-D requires that telephone companies restore service for at least 90 percent of all OOS reports within 24 hours each month. Frontier acknowledges that it has regularly failed to meet the GO 133-D OOS Repair Interval Standard, but it argues that service quality issues are not properly addressed in this proceeding because Frontier is actively addressing those issues in other Commission proceedings.⁵⁴ Nevertheless, before the Settlement Agreements, Frontier promised to submit a detailed plan and quarterly updates to the Commission describing the actions its California ILECs have taken and will take to meet the OOS Standard and improve service performance. Frontier also promised that, for three years starting with its emergence from Chapter 11, its California ILECs would agree to (1) double the monetary sanction or service quality improvement calculated under D.16-08-021 and reflected in GO 133-D in effect on November 1, 2020, and (2) provide a customer credit of \$5 per day for services subject to the GO 133-D standard that remain out of service for longer than 24 hours.⁵⁵

Before the Attachment 1 Settlement Agreement, TURN asserted that Frontier has not made substantive commitments regarding service quality.⁵⁶ TURN proposed that Frontier file a plan for each California Subsidiary regarding how it will meet all applicable GO 133-D service quality requirements.⁵⁷

⁵³ Exhibit CAL-04 at 11.

⁵⁴ Exhibit FTR-4 at 19-20.

⁵⁵ Frontier Opening Brief at 5.

⁵⁶ Exhibit TRN-001 at 39. Although not part of the evidentiary record, we note that a Frontier cable splicer expressed his concern at the October 7, 2020 public participation hearing about the alleged deterioration of Frontier's network and asked that the Commission ensure that Frontier makes specific and enforceable commitments to invest in service in California. October 7, 2020 Public Participation Hearing Transcript at 22-23.

⁵⁷ Exhibit TRN-001 at 67.

According to Cal Advocates, Frontier spent about \$322 million from 2016 through 2019 on network investments and projects to improve service quality and reliability.⁵⁸ Cal Advocates found that Frontier has regularly met GO 133-D's Customer Trouble Reports standard.⁵⁹ However, Frontier regularly failed to meet GO 133-D's OOS Repair Interval Standard, reflecting poor service quality from July 2016 through March 2020.⁶⁰ Cal Advocates found that the cause of Frontier's poor OOS record was deteriorating network infrastructure, as shown by the large number of repairs for bad cable pairs and corrosion.⁶¹ In addition, the Commission's Consumer Affairs Branch record of informal customer complaints from July 2016 through December 2019 shows that a substantial percentage of those complaints related to service issues, including outages, and that informal complaints regarding Frontier's service made up a larger percentage of overall complaints than for Frontier's competitors.⁶² Frontier has acknowledged that its service is poor in comparison to its competitors.⁶³

Before the Attachment 1 Settlement Agreement, CWA proposed that the Commission require Frontier to design and implement an enforceable service quality improvement plan for every California service region.⁶⁴ Cal Advocates proposed to require Frontier to retain a consultant to perform quarterly Frontier customer satisfaction surveys beginning 180 days after approval of the

⁵⁸ Exhibit CAL-04 at 18.

⁵⁹ *Id.* at 9-10.

⁶⁰ *Id.* at 5.

⁶¹ *Id.* at 15-16.

⁶² *Id.* at 26-28.

⁶³ *Id.* at 29.

⁶⁴ CWA Opening Brief at 9.

Application.⁶⁵ Frontier objected to that requirement because it creates unnecessary expense and does not mitigate any Restructuring transaction risk in that Frontier is not acquiring properties from another entity.⁶⁶

The Attachment 1 Settlement Agreement expands on Frontier's previous service quality commitments by (1) providing a \$10 per day credit to tribal lands customers for OOS outages of over 24 hours and (2) setting specific percentage mandates regarding GO 133-D's OOS standards and significant penalties for failure to meet those standards that will be in addition to those already imposed by GO 133-D. We believe that those additional commitments make it more likely that Frontier's service quality will improve after the Restructuring. However, we note that Frontier had also committed to meeting GO 133-C service quality standards as part of a Verizon Acquisition settlement agreement approved by the Commission in D.15-12-005. Frontier failed to meet that commitment, and we remain concerned that Frontier's service quality promises will not be realized even with the penalties set forth in the Attachment 1 Settlement Agreement. Therefore, we conclude that the strong public interest in having Frontier comply with its post-Restructuring commitments regarding service quality also requires the additional service quality reporting requirements described in Ordering Paragraph 4. In addition, we will appoint a compliance monitor (Compliance Monitor) as described in Ordering Paragraph 4 to be paid by Frontier to monitor Frontier's compliance with all terms, requirements, and conditions of Ordering Paragraph 4 and pursue enforcement of all such requirements and conditions, including Frontier's commitments regarding service quality.

⁶⁵ Exhibit CAL-01 at 8; Exhibit CAL-03 at 4; Cal Advocates Confidential Opening Brief at 4-5.

⁶⁶ Exhibit FTR-4 at 25.

4.1.5. Effect on Frontier's Quality of Management

Pub. Util. Code Section 854(c)(3) directs the Commission to consider whether the Restructuring will maintain or improve the quality of Frontier's management. Frontier states that the composition of the parent company's board of directors may change upon its emergence from Chapter 11, but no changes to Frontier's current management are anticipated that would impact day-to-day operations in California.⁶⁷ TURN notes that Frontier Communications Corporation's new board of directors has not yet been installed because the Effective Date of the Plan has not yet occurred. TURN states that no strategic direction decisions have been made, and the Commission has no information about what Frontier's direction will be. Therefore, TURN believes that the Commission cannot make a conclusive decision whether Reorganized Frontier will be in California's public interest.⁶⁸

Although Frontier asserts that no day-to-day operational management changes are anticipated, we do not know the identity, quality, or length of service of Frontier's post-Restructuring boards of directors, who typically set a corporation's strategic direction and select senior management. Given that uncertainty, the evidence fails to show that the Restructuring will maintain or improve the quality of Frontier's management.

4.1.6. Fairness and Reasonableness to Affected Frontier Employees

Under Pub. Util. Code Section 854(c)(4), the Commission shall consider whether the Restructuring is fair and reasonable to affected employees, including both union and nonunion employees. From 2017 to 2020, when Frontier's

⁶⁷ Exhibit FTR-2 at 24.

⁶⁸ Exhibit TRN-001 at 45.

customers decreased by 15 percent in California and 25 percent nationally, its workforce decreased by 23 percent in California and 28 percent nationally, including a 30 percent decline in California residential customer support functions.⁶⁹ In 2020, Frontier's national customer to employee ratio was 221:1 and its California ratio was 318:1.⁷⁰

Before the Attachment 1 Settlement Agreement, Cal Advocates had proposed that the disparity between Frontier's national and California workforces be addressed by requiring Frontier's customer to employee ratio in California to at least equal its national customer to employee ratio within three years of Commission approval of the Restructuring.⁷¹ Cal Advocates also proposed that the Commission require Frontier to submit an annual report of national and California customer and employee totals for three years after approval of the Restructuring.⁷²

CWA had proposed that Frontier be required to reduce its reliance on outside contractors and maintain a workforce adequate to fix the network and address widespread service quality issues, with the workforce no less than the current California employment level.⁷³

Before the Attachment 1 Settlement Agreement, Frontier had argued that it has national functions, such as finance, legal, and human resources, that are

⁶⁹ Exhibit CAL-03 at 6-7. Although not part of the evidentiary record, we note that a Frontier customer service technician stated at the October 7, 2020 public participation hearing that staffing levels for technicians and call centers had dropped significantly and requested the Commission to require Frontier to maintain a work force large enough to provide good service and build out its fiber network. October 7, 2020 Public Participation Hearing Transcript at 14-15.

⁷⁰ Exhibit CAL-03 at 7.

⁷¹ *Id.* at 4; Exhibit CAL-01 at 8; Cal Advocates Confidential Opening Brief at 5.

⁷² Exhibit CAL-01 at 8.

⁷³ CWA Opening Brief at 6; Exhibit CWA-001 at 9.

outside of California but support all states in which it operates and are reflected in the national customer to employee ratio but not the California ratio even though those functions support California.⁷⁴ In addition, Frontier stated that the number of California field technicians is consistent with the revenue generated by and customers served in California.⁷⁵ Frontier also disagreed with CWA's proposal that Frontier reduce its use of outside contractors and at least maintain its current California internal workforce level, asserting that there is no reason to create new constraints on how Frontier manages its workforce.⁷⁶ Frontier claimed that contractors give it the flexibility to meet changing circumstances.⁷⁷ Frontier expected all employee compensation and benefit programs and collective bargaining agreements to remain in place on the Effective Date.⁷⁸

The Attachment 1 Settlement Agreement reflects employment-related compromises by Frontier, Cal Advocates, and CWA. Frontier agreed to maintain its total employee technician staffing through December 31, 2023 but not its entire workforce. CWA and Cal Advocates dropped requirements regarding the customer to employee ratio and a reduction in the use of outside contractors. On balance, we find that providing technician staffing stability will result in a Restructuring that is fair and reasonable to Frontier's employees.

⁷⁴ Exhibit FTR-3 at 50-51.

⁷⁵ *Id.* at 52.

⁷⁶ *Id.* at 53.

⁷⁷ *Id.* at 54.

⁷⁸ Exhibit FTR-2 at 25.

4.1.7. Benefit to State and Local Economies and Communities Served by Frontier

Pub. Util. Code Section 854(c)(6) provides for Commission consideration whether the Restructuring will be beneficial on an overall basis to state and local economies and to the communities served by Frontier. Frontier states that it is committed to maintain its California networks and operations, thereby directly benefiting state and local economies.⁷⁹

Cal Advocates calculated that 50 percent of Frontier's rural households but only 34 percent of its urban households have broadband speeds of less than 25 Mbps. In addition, Cal Advocates determined that 87 percent of Frontier's rural households but only 42 percent of its urban households do not have fiber services.⁸⁰ Although those numbers may reflect the detrimental effect on rural customers of past Frontier decisions, they do not necessarily provide significant insight into how the Restructuring itself would affect state and local economies and communities.

The Attachment 1 Settlement Agreement Motion recites that Frontier's commitments regarding capital expenditures, service quality, and broadband deployment will benefit state and local economies and communities, but the motion fails to provide specifics regarding particular local or community benefits.⁸¹ In contrast, the Attachment 2 Settlement Agreement sets forth identifiable and time-specific community-level requirements that Frontier (1) purchase over 20,000 WiFi-capable devices for low-income students, including at least 4,000 devices to tribal communities, (2) expand the locations

⁷⁹ *Id.* at 26.

⁸⁰ Exhibit CAL-05 at 21.

⁸¹ Attachment 1 Settlement Agreement Motion at 12.

eligible for public WiFi and prioritize tribal locations for WiFi hotspot deployments, and (3) complete its WiFi community access commitment to 31 locations. Those provisions are sufficient to establish that the Restructuring, as supplemented by the Attachment 2 Settlement Agreement, will provide some benefits to state and local economies and communities. As described in Section 4.1.11 below, the Attachment 3 Settlement Agreement provides specific benefits to the Yurok Tribe regarding the development of a middle-mile fiber and FTTP project, cost reimbursement, the designation of a Frontier tribal liaison, and a feasibility study regarding a potential acquisition of Frontier assets. In Section 4.1.11 below, we also analyze in detail whether the Restructuring will benefit California tribal communities, and in Section 4.1.12 we address whether local governments and tribal communities should have a right of first offer or first refusal regarding proposed sales of property by Frontier within their jurisdiction.

4.1.8. Preservation of Commission Jurisdiction and Commission Capacity to Effectively Regulate and Audit Frontier

Under Pub. Util. Code Section 854(c)(7), the Commission is directed to consider whether the Restructuring preserves its jurisdiction and capacity to effectively regulate and audit Frontier. Frontier states that the Restructuring will not alter the Commission's jurisdiction over its California subsidiaries.⁸² We agree and therefore find that the Restructuring will preserve the Commission's jurisdiction and capacity to effectively regulate and audit Frontier.

4.1.9. Mitigation Measures to Prevent Significant Adverse Consequences

Pub. Util. Code Section 854(c)(8) provides that a determination whether the Restructuring is in the public interest requires consideration of mitigation

⁸² Exhibit FTR-2 at 26.

measures to prevent significant adverse consequences. Elsewhere in this decision, we approve the conditions set forth in the Settlement Agreements and the additional conditions enumerated in this decision as being in the public interest. In the absence of those conditions, we believe that the Restructuring could have significant adverse consequences because of its failure to identify sufficient California-specific benefits, its vagueness regarding Frontier's post-Restructuring business plans, and its uncertainty concerning the Restructuring's future effects. Therefore, the conditions we impose in this decision are necessary mitigation measures.

The list of conditions required by this decision is extensive, including operational, financial, service, pricing, and employment matters, and therefore the scope of the effort to monitor Frontier's compliance will be extremely challenging. Given the size of the task, the Commission's capable but not unlimited resources, and the importance of the public interest in ensuring that Frontier fully meets all requirements and conditions of this decision, we conclude that it is necessary to appoint an independent Compliance Monitor to assist the Commission with enforcement. As a result, we will proceed with the hiring of a Compliance Monitor to be funded by Frontier and with the duties described in Ordering Paragraph 4.

We also note the large number of Frontier requirements in the Settlement Agreements and as additional conditions in this decision. We conclude that those requirements and conditions are necessary in the public interest and that it is imperative that an effective enforcement mechanism be developed to ensure Frontier's compliance with those requirements and conditions. Therefore, we set forth in Ordering Paragraph 4 the additional condition of the development of an enforcement program to enforce Frontier's compliance with this decision.

4.1.10. Safety and Health Considerations, Including Effect on 911 Service

Scoping Memo Issue 9 asks whether the Restructuring raises any safety or health considerations, including any effects on 911 service. The California Office of Emergency Services (CalOES) is constructing a Next Generation 911 (NG911) network in California. Frontier does not intend to be a NG911 carrier and did not bid for CalOES' contracts to provide NG911 service. Frontier owns and operates selective routers in California that provide legacy 911 service to Public Safety Answering Points. Although Frontier states that it will continue to provide 911 service to customers in the future, CalOES plans to retire the legacy 911 service in 2022.⁸³

When the public dials 911, they rely on the call going through to an emergency call center 100 percent of the time. Reliable access to 911 services is a critical aspect of public safety. Two elements of a reliable 911 network are redundancy and route diversity. Redundant networks have extra components such as additional switching equipment, cable strands, and microwave radios that can carry traffic in the event the primary components fail. Route diverse networks are configured with redundant network equipment in different physical locations so that a cable cut, fire, or other destructive event does not disable all redundant network components at once. Reliable telecommunications services are important for people trying to communicate with emergency responders and for emergency responders trying to communicate with customers and each other.⁸⁴

⁸³ Exhibit CAL-04 at 6.

⁸⁴ *Id.* at 33.

No intervenor presented evidence or made any argument that the Restructuring raises any adverse health or safety considerations that would be a basis for disapproval of the Application or the imposition of particular conditions. Given Frontier's statement that it intends to provide the same 911 service post-Restructuring, we do not find that the Restructuring presents any health or safety considerations that merit Commission action in this decision.

4.1.11. Benefits to Tribal Communities Served by Frontier

Scoping Memo Issue 10 asks whether the Restructuring provides economic and noneconomic benefits to the tribal communities in the area served by Frontier. Frontier estimates that there are about 55,000 people in 24,000 households on tribal lands in Frontier's California service territory.⁸⁵ According to the Yurok Tribe, at least 43 federally recognized tribes are within Frontier's California service area, including the entire Yurok Tribe Reservation and the Yurok village of Orick.⁸⁶ The Yurok Tribe Reservation is in a rural area with limited available emergency services and with many communities having limited or no cell phone service.⁸⁷

Yurok Connect, a wireless internet service provider created by the Yurok Tribe, purchases bandwidth from Frontier to provide internet service to Yurok Tribe community customers, businesses, offices, and employees through a virtual private network. Yurok Connect customers have been without internet services from Frontier outages that on occasion have lasted for long periods of time. A service disruption for three days in December 2020 impacted the Yurok Tribal

⁸⁵ Attachment 1 Settlement Agreement at 14.

⁸⁶ Exhibit YUR-001 at 5.

⁸⁷ *Id.* at 2.

government's ability to perform its regular functions, the community's access to the internet for employment and school purposes, and access to police, fire, and health care services.⁸⁸

There is an ongoing and significant disparity in bandwidth between tribal communities and Frontier's other customers. In 2019, average broadband download speeds in tribal areas were slower than in non-tribal areas by 3.5 Mbps.⁸⁹ According to Cal Advocates, Frontier has fallen behind its previous broadband deployment commitments in tribal areas.⁹⁰ Cal Advocates would require Frontier to meet its broadband deployment obligations pursuant to the settlement in D.15-12-005, including a requirement to deploy broadband at a minimum of 25/3 Mbps to 5,800 households in tribal areas.⁹¹ Cal Advocates determined the recommended number of broadband deployments to tribal areas based upon the total number of remaining broadband deployments required under the settlement in D.15-12-005 multiplied by the percentage of actual broadband deployments made in tribal areas to date under the settlement.⁹²

Frontier asserts that it has worked to improve service and reliability in rural and tribal communities and references the challenge posed by high investment costs in providing broadband to low-density rural areas. Frontier claims that Cal Advocates' proposed requirements regarding tribal communities go beyond Frontier's settlement agreement in the Verizon Acquisition, which

⁸⁸ *Id.* at 2-8.

⁸⁹ Exhibit CAL-04 at 17.

⁹⁰ Cal Advocates Opening Brief at 32.

⁹¹ Exhibit CAL-01 at 9; Exhibit CAL-02 at 5-6; Cal Advocates Confidential Opening Brief at 5.

⁹² Exhibit CAL-02 at 12.

does not require broadband commitments to a set number of tribal households at specific speeds.⁹³

The Restructuring proposed by Frontier is noticeably deficient in providing specific benefits to tribal communities. However, the Attachment 1 Settlement Agreement provides for a \$10 per day credit for customers in tribal lands for OOS outages beyond 24 hours, the hiring of two Frontier tribal liaisons to improve customer service on tribal lands, and \$11.6 million in capital expenditures over four years to deploy broadband with minimum speeds of 25/2-3 Mbps to at least 4,000 locations in tribal lands. Under the Attachment 2 Settlement Agreement, Frontier will purchase at least 4,000 WiFi-capable devices for distribution to tribal communities and prioritize tribal locations for WiFi hotspot deployments. In the Attachment 3 Settlement Agreement, Frontier agrees to contribute up to \$5 million to collaborate with the Yurok Tribe on a middle-mile fiber and FTTP project, provide at least \$400,000 in costs reimbursement, designate a tribal liaison to provide OOS response, customer service, and information sharing, and assist in a feasibility study regarding the Yurok Tribe's potential acquisition of Frontier facilities.⁹⁴ These specific Frontier commitments will benefit tribal communities and are in the public interest. However, they are not sufficient.

In the following subsection, we recognize and grant to each tribal community a right of first offer regarding a proposed sale by Frontier of assets located in the tribal community's jurisdiction. In addition, the public interest supports the following conditions that will benefit all tribal communities in

⁹³ Exhibit FTR-4 at 9-11.

⁹⁴ Attachment 3 Settlement Agreement at 4-7.

California: (1) Frontier shall work with the Native American Heritage Commission to identify all tribes within its California service territory that have either a reservation or land in trust; (2) Frontier shall provide all identified tribes within its California service territory with existing local maps of, and information on, Frontier's owned, leased, and operated facilities in and around the tribes' ancestral territory and any existing maps of adjacent areas that identify points of integration of those facilities with the remainder of Frontier's system; and (3) In every California county that Frontier serves, Frontier will appoint a high-level employee as a tribal liaison to provide OOS response, customer service, and information sharing. Each tribe shall have direct access to the tribal liaison via phone and email, and the tribal liaison shall have the availability, access, and authority to respond to the tribes and address their concerns.

4.1.12. Transfer of Frontier's Assets

Scoping Memo Issue 11 inquires whether the Restructuring will result in the transfer or disposal of Frontier's assets and whether Commission approval should require that local or tribal governments have a right of first offer or a right of first refusal regarding any transfer or disposal of Frontier's assets. Frontier states that it is assessing the costs to pursue a physical network separation, IT systems separation, and disaggregation of shared services as part of a divestiture of certain operations.⁹⁵ Although Frontier states that it has no current plans to divest any of its operations,⁹⁶ the cost assessment reflects the possibility of a sale of some of its assets.

⁹⁵ Exhibit FTR-3 at 22.

⁹⁶ *Id.* at 23.

In Sections 4.1.7 and 4.1.11 above, we describe the critical importance of Frontier's asset commitments to communities. The Attachment 2 Settlement Agreement exemplifies both the magnitude and significance of Frontier's role in bridging the digital divide at a local level. Without Frontier's commitments in that agreement, thousands of low-income students would not have devices for accessing the internet and localities would not have WiFi hotspots and community access. Similarly, Frontier's telecommunications facilities provide essential voice and broadband services to localities, often in rural areas. Given the importance of Frontier's facilities to local communities, the Commission should consider whether local governments, as the representatives of those communities, should have a right of first offer or a right of first refusal when Frontier proposes to transfer or dispose of those assets.

The Yurok Tribe had proposed that Frontier provide a right of first refusal regarding a future transfer or disposal of Frontier assets.⁹⁷ In the Attachment 3 Settlement Agreement, Frontier agreed to work with the Yurok Tribe regarding a feasibility study for a potential acquisition of Frontier facilities.⁹⁸ As set forth in Section 4.2.2 below, we find the terms of the Attachment 3 Settlement Agreement, including the feasibility study provision, to be reasonable and in the public interest. However, the issue of the transfer of Frontier's assets is not limited to those assets of relevance to the Yurok Tribe but must consider all Frontier assets and the possible recognition of rights of first offer or rights of first refusal in all tribal and local governments.

⁹⁷ Yurok Tribe Opening Brief at 30.

⁹⁸ Attachment 3 Settlement Agreement at 7.

Commission approval under Pub. Util. Code Section 851 is required for sales or disposals of property by Frontier, and the Commission would have the opportunity in a proceeding under Pub. Util. Code Section 851 to consider the rights of an entity, including a tribe or local government, regarding a proposed Frontier sale to a third party. However, local and tribal communities are more likely to face elevated risks from a loss of telecommunications services due to their location in rural and remote areas, the lack of alternative service providers, and their lower income levels. The fundamental necessity of telecommunications services to the economic and social well-being of tribal and local communities merits Commission recognition of a tangible, defined purchase right that is not merely transactional.

In Resolution E-5076 issued on January 20, 2021, the Commission provided guidelines to implement the Commission's Tribal Lands Transfer Policy (TLTP). The TLTP establishes a Commission preference for the transfer of real property to tribes when an investor-owned utility plans to dispose of the real property within a tribe's ancestral territory.⁹⁹ The Resolution guidelines are mandatory for electrical, gas, and water corporations but are not mandatory for other public utilities, including Frontier.¹⁰⁰ In addition, the guidelines apply to transfers of fee-owned real property under Pub. Util. Code Section 851 but not to easements.¹⁰¹ We note that Pub. Util. Code Section 851 covers sales of a "line, plant, system, or other property necessary or useful in the performance of its duties to the public,"¹⁰² and the feasibility study in the Attachment 3 Settlement

⁹⁹ Resolution E-5076 at 5.

¹⁰⁰ *Id.* at 1.

¹⁰¹ *Id.* at 36-37.

¹⁰² Pub. Util. Code Section 851(a).

Agreement concerns a potential acquisition of “infrastructure, staffing, equipment, assets, licenses and authorizations related to Frontier’s seven (7) wire centers/exchanges.”¹⁰³ Moreover, it may be that a purchase rights holder will want to acquire an easement as part of the same transaction in which it purchases infrastructure or other assets that are not fee-owned real property. Therefore, the potential purchases covered by a right of first offer or first refusal in this proceeding will be broader in scope than in the Resolution guidelines.

A right of first offer requires the property seller to engage in good faith sales discussions with the holder of the right and determine whether or not a sales agreement can be reached before the seller attempts to sell to someone else. A right of first refusal gives the rights holder a priority to purchase property on the same terms as an agreement between the seller and a third-party potential purchaser. In Resolution E-5076, the Commission adopted a right of first offer and not a right of first refusal because third parties are less likely to be willing to negotiate for the acquisition of property before a tribe confirms it has no interest in that property.¹⁰⁴ Similarly, a right of first offer is preferable to a right of first refusal regarding possible Frontier asset transfers.

For the reasons set forth above, we conclude that a right of first offer regarding a proposed Frontier property sale or disposal that is subject to Commission approval under Pub. Util. Code Section 851 should extend to tribes and local governments. Although not all of its provisions apply here, we find that Resolution E-5076 provides useful guidance to identify which tribe or tribes have a right of first offer to particular Frontier assets for sale and to resolve

¹⁰³ Attachment 3 Settlement Agreement at 7.

¹⁰⁴ Resolution E-5076 at 9.

competing asset claims. After review of the parties' comments to the February 12, 2021 proposed decision and further consideration when a tribe and a local government have a competing claim for the same property, we believe it is appropriate to reflect the TLTP's established preference for tribes by clarifying that a tribe will have a priority over a local government regarding a competing claim to the same property. Therefore, as set forth in Ordering Paragraph 4, we condition Commission approval of the Restructuring on the recognition of a right of first offer to tribes and local governments regarding a proposed sale or disposal of property by Frontier under Pub. Util. Code Section 851.

4.1.13. Effect on Performance of Frontier's Legal Obligations and Obligations as Carrier of Last Resort and Eligible Telecommunications Carrier

Scoping Memo Issue 12 asks whether the Restructuring affects the performance of Frontier's obligations under and compliance with the terms and conditions of laws and Commission decisions, rules, orders, and resolutions, and Scoping Memo Issue 13 inquires whether the Restructuring affects the performance of Frontier's obligations relating to its status as a Carrier of Last Resort and an Eligible Telecommunications Carrier. Frontier states that it will continue to operate in accordance with the Commission's decisions, policies, rules, and regulations.¹⁰⁵ Frontier also states that it intends to act in accordance with the remaining applicable terms of the October 23, 2015 Memorandum of Understanding with CETF, the July 22, 2016 Implementation Agreement between Frontier and CETF, and the January 14, 2019 Settlement Agreement approved in D.19-03-017.¹⁰⁶ In addition, the Plan confirmed by the Bankruptcy Court on

¹⁰⁵ Exhibit FTR-2 at 27.

¹⁰⁶ Exhibit CTF-001 at 2.

August 27, 2020 provides for Frontier's assumption of all executory contracts as of the Effective Date of the Restructuring.¹⁰⁷ Frontier has also stated that it intends to fulfill its remaining applicable broadband-related commitments reflected in D.15-12-005, the decision approving the settlements in the Verizon Acquisition proceeding.¹⁰⁸

Frontier recognizes the following commitments made pursuant to a settlement agreement regarding the Verizon Acquisition: (1) acceptance of CAF II funding to upgrade 90,000 locations in California; (2) broadband deployment to an additional 100,000 households at 10/1 Mbps by 2020; (3) broadband speed augmentation for 250,000 households to 6/1 Mbps by 2022; and (4) broadband speed augmentation for an additional 400,000 households up to 25/2 Mbps by 2022. Frontier states that it has met or is on track to complete these commitments.¹⁰⁹ However, Frontier does not believe it is proper to revise the issues and commitments made in the Verizon Acquisition.¹¹⁰

The evidentiary record does not reflect that the Restructuring will adversely affect Frontier's performance of its legal obligations, including its obligations as a Carrier of Last Resort and an Eligible Telecommunications Carrier.

4.1.14. Effect on Rates and Prices Charged to Ratepayers and Customers

Scoping Memo Issue 14 asks whether the Restructuring affects the rate or price charged to Frontier ratepayers or customers. Before the Settlement

¹⁰⁷ *Id.* at 2-3.

¹⁰⁸ *Id.* at 4; Attachment 1 Settlement Agreement at 14.

¹⁰⁹ Exhibit FTR-4 at 4-5.

¹¹⁰ *Id.* at 25.

Agreements, Cal Advocates proposed that Frontier be required to maintain its current rates for its low-income broadband plans¹¹¹ for at least three years after Commission approval of the Restructuring while ensuring Internet speeds at or greater than the Federal Communications Commission (FCC) Lifeline program.¹¹² Cal Advocates also proposed that Frontier maintain its current rates for broadband only and bundled voice and broadband basic services for at least one year after Commission approval of the Restructuring.¹¹³

Before the Settlement Agreements, TURN supported Cal Advocates' proposed price freeze on Frontier's current low-income plans at the same or better speeds and performance. TURN also proposed a one-year price freeze on all Frontier voice and broadband plans in California.¹¹⁴ TURN proposed that Frontier be required to continue its commitment to its low-income broadband programs developed as part of the Verizon Acquisition.¹¹⁵

Before the Settlement Agreements, Frontier objected to any requirement to maintain its broadband only, bundled service, and low-income broadband rates for a set period after Commission approval, arguing that fixing rates jeopardized Frontier's ability to respond in a highly competitive marketplace. Frontier also argued that freezing prices somehow impeded the introduction of new products.¹¹⁶ Frontier asserted that a price freeze on video products is

¹¹¹ Frontier's two low-income broadband plans are Fundamental Internet and Affordable Broadband. Exhibit CAL-03 at 13.

¹¹² Exhibit CAL-01 at 8-9; Exhibit CAL-03 at 5.

¹¹³ Exhibit CAL-01 at 8; Exhibit CAL-03 at 5; Cal Advocates Confidential Opening Brief at 5.

¹¹⁴ TURN Opening Brief at 30.

¹¹⁵ *Ibid.*

¹¹⁶ Exhibit FTR-4 at 17.

unreasonable given the rising costs and intense competition in the video market.¹¹⁷

In the Attachment 1 Settlement Agreement, Frontier, Cal Advocates, TURN, and CWA agreed that Frontier would continue to offer its two existing low-income broadband plans at the current rates or lower and at the same or higher speeds as required under the FCC's Lifeline program through December 31, 2023.¹¹⁸ The parties to the Attachment 1 Settlement Agreement also agreed that Frontier would maintain its current residential rates for copper-based standalone voice, fiber-based standalone basic primary voice, copper-based broadband, and copper-based voice/broadband bundles through December 31, 2021.¹¹⁹ In the Attachment 2 Settlement Agreement, Frontier and CETF agreed that Frontier will continue to offer its low-income broadband plans at rates equal to or lower than current rates through December 31, 2023.¹²⁰

We find the customer rate stability provisions of the Settlement Agreements to be a significant benefit to Frontier's low-income and residential customers, especially in this period of economic and employment uncertainty. Contrary to Frontier's argument before the Settlement Agreements that fixing prices would somehow jeopardize its competitive position, we believe that providing rate assurance will enhance Frontier's ability to retain current customers and attract new customers for its various telecommunications service offerings, particularly low-income customers who are more likely to need and gravitate toward services in which the risk of price shocks has been mitigated.

¹¹⁷ *Id.* at 18.

¹¹⁸ Attachment 1 Settlement Agreement at 17.

¹¹⁹ *Id.* at 18.

¹²⁰ Attachment 2 Settlement Agreement at 3.

To monitor Frontier's commitments to maintain residential rates and prices on its low-income broadband plans, we require Frontier to submit annual subscriber information reports to the Commission as set forth in Ordering Paragraph 4.

4.1.15. Effect on Frontier's Performance of Terms and Conditions of Service to Ratepayers and Customers

Scoping Memo Issue 15 asks whether the Restructuring affects Frontier's performance or compliance with its terms and conditions of service to ratepayers and customers. Frontier has stated unequivocally that its California Subsidiaries "will continue to provide service to their existing customers pursuant to existing rates, terms, and conditions, and the Restructuring will be, for all practical purposes, imperceptible to customers."¹²¹ No evidence was presented that would suggest that the Restructuring would cause Frontier to breach its terms and conditions of service to ratepayers and customers.

4.1.16. Effect on Frontier's Network Infrastructure and Broadband Deployment

Scoping Memo Issue 16 asks whether the Restructuring affects Frontier's network infrastructure, and Scoping Memo Issue 17 inquires whether the Restructuring affects Frontier's broadband deployment.

Before the Settlement Agreements, Cal Advocates proposed that Frontier be required to commit to annual capital expenditures of \$486 million from 2021 through 2024, excluding any winning bids from the FCC's Rural Development Opportunity Fund (RDOF) auction but including a minimum of \$279 million¹²²

¹²¹ Exhibit FTR-2 at 23.

¹²² A minimum service quality investment amount was referenced in Cal Advocates' Exhibit CAL-05 prepared testimony but was adjusted downward as described in Cal Advocates Opening Brief at fn. 14.

in service quality investments over those four years.¹²³ Cal Advocates recommended that the Commission require Frontier to allocate at least \$337 million per year, or 25 percent of Frontier's annual savings from the Restructuring, to support capital expenditures, broadband deployment, and service quality for Frontier's California Subsidiaries.¹²⁴ TURN supported the capital commitments proposed by Cal Advocates. TURN asserted that Frontier's capital commitments should be in addition to any public funding Frontier may receive and proposed that Frontier be required to demonstrate that its public support funding is spent over and above Frontier's California baseline capital expenditure projections.¹²⁵ Although Frontier described various reinvestment scenarios, TURN claimed that Frontier did not make clear the division between California and other Frontier states.¹²⁶ TURN asserted that Frontier has not stated the level of California capital expenditures that California consumers and the Commission can expect.¹²⁷

Before the Settlement Agreements, Frontier objected to capital expenditure requirements because it asserted the need to retain flexibility regarding its operating and capital allocation plans.¹²⁸ Frontier contended that capital allocation decisions should be driven by market forces that will result in a reasonable allocation of capital to improve the customer experience.¹²⁹ Frontier

¹²³ Exhibit CAL-01 at 6; Exhibit CAL-05 at 6-7.

¹²⁴ Exhibit CAL-05 at 7; Cal Advocates Opening Brief at 3-4.

¹²⁵ TURN Opening Brief at 27; Exhibit TRN-001 at 32, 67.

¹²⁶ Exhibit TRN-001 at 33.

¹²⁷ *Id.* at 37.

¹²⁸ Exhibit FTR-3 at 42.

¹²⁹ *Id.* at 31.

also claimed that Cal Advocates inappropriately included prior operating expenses as a future capital expenditure obligation and that Cal Advocates has included duplicative amounts in its proposed capital expenditure obligation.¹³⁰ In addition, Frontier did not agree that RDOF funding should be excluded from any capital commitment, in part because the RDOF program requires significant risk regarding capital expenditures, ongoing buildout, and regulatory requirements.¹³¹

Before the Settlement Agreements, Cal Advocates stated that Frontier failed to include detailed plans regarding its broadband deployment activities in California.¹³² Cal Advocates found that 421,000 of the 455,000 copper locations Frontier identified as having an internal rate of return (IRR) of 20 percent or greater are in the Los Angeles-Long Beach-Anaheim, Santa Maria-Santa Barbara, and Riverside-San Bernardino-Ontario metro areas, and therefore about 92.5 percent of Frontier's investment will likely be in those three metro areas.¹³³ Cal Advocates proposed that Frontier be required to deploy fiber to at least 150,000 California copper locations with an IRR of less than 20 percent and at least 455,000 California copper locations with an IRR of greater than 20 percent from 2021 through 2031, with Frontier being allowed to use the debt reduction savings from the Restructuring to meet those requirements.¹³⁴

Cal Advocates also proposed that Frontier provide minimum Internet and data speeds of 25/3 Mbps "for all remaining 2015 unmet broadband deployment

¹³⁰ *Id.* at 44-45.

¹³¹ *Id.* at 48.

¹³² Exhibit CAL-02 at 15.

¹³³ Exhibit CAL-04 at 5.

¹³⁴ Exhibit CAL-01 at 6; Exhibit CAL-05 at 6; Cal Advocates Confidential Opening Brief at 4.

conditions” and no less than the speeds required by the FCC’s Lifeline program.¹³⁵ In addition, Cal Advocates proposed to require Frontier to meet its broadband deployment obligations pursuant to the settlement in D.15-12-005, including a requirement to deploy broadband to 5,800 households in tribal areas.¹³⁶

TURN supported Cal Advocates’ proposal that Frontier increase the speed and performance of planned projects from the 2016 Verizon Acquisition commitments to 25/3 Mbps.¹³⁷ TURN proposed a Commission requirement that Frontier reaffirm its commitments from the Verizon Acquisition and “extend them.”¹³⁸

Before the Settlement Agreements, Frontier stated that it intends to expand fiber deployments in California,¹³⁹ but it admitted that its prospective fiber deployments in California are still being defined.¹⁴⁰ Although Frontier’s RSA reflects a possible division of Frontier territories between those with fiber deployment for broadband expansion identified as InvestCo and those limited to broadband upgrades and operational improvements identified as ImproveCo,¹⁴¹ Frontier had not identified the California areas that fall within InvestCo and ImproveCo. TURN asserted that Frontier should be transparent about which

¹³⁵ Exhibit CAL-01 at 8-9; Exhibit CAL-02 at 5; Cal Advocates Confidential Opening Brief at 5.

¹³⁶ Exhibit CAL-01 at 9; Exhibit CAL-02 at 5-6; Cal Advocates Confidential Opening Brief at 5.

¹³⁷ TURN Opening Brief at 42.

¹³⁸ Exhibit TRN-001 at 67.

¹³⁹ Exhibit FTR-3 at 25.

¹⁴⁰ *Id.* at 38.

¹⁴¹ Exhibit TRN-001 at 49-50.

areas will have fiber deployment and which will not.¹⁴² TURN would also require Frontier to prepare a full virtual separation report upon its emergence from bankruptcy, including a clear description of each location to be included in InvestCo and ImproveCo.¹⁴³ In addition, TURN asks the Commission to require each Frontier California ILEC to provide quarterly broadband improvement reports.¹⁴⁴ TURN also proposes that Frontier report the specific California locations in which it had placed RDOF bids and the bid amounts¹⁴⁵ and each California-specific modernization item in Frontier's modernization report.¹⁴⁶

Before the Settlement Agreements, Frontier did not agree with Cal Advocates' proposal to require the deployment of fiber to the home (FTTH) to a specific number of additional California locations served by copper facilities between 2021 and 2031. Frontier stated that it has not yet planned or identified the specific number of locations to which it will deploy FTTH in 2021 or over the 10 years through 2031. Before pursuing the deployments recommended by Cal Advocates, Frontier asserted that it will need to undertake a rigorous network engineering and capital expenditure budgeting process to determine its investment. As a result, Frontier argued that a requirement to commit to future levels of FTTH deployment, particularly a 10-year commitment, is not appropriate.¹⁴⁷ In addition, Frontier contended that it is not reasonable to pick an arbitrary number of households to which fiber should be deployed without

¹⁴² *Id.* at 50.

¹⁴³ *Id.* at 67; TURN Opening Brief at 39.

¹⁴⁴ Exhibit TRN-001 at 68.

¹⁴⁵ *Id.* at 67.

¹⁴⁶ *Ibid.*

¹⁴⁷ Exhibit FTR-3 at 35-37.

considering how difficult or costly it would be to achieve broadband deployment.¹⁴⁸

Frontier also did not agree with Cal Advocates' proposal to require broadband speeds of 25/3 Mbps for all remaining unmet deployment commitments from the Verizon Acquisition. Frontier asserted that it is working diligently to complete its broadband commitments at 10/1 Mbps by the end of 2020 and that it is not in the public interest for Cal Advocates to retroactively propose the imposition of a new speed obligation five years after a settlement agreement.¹⁴⁹ Further, the FCC required broadband speeds of 10/1 Mbps for the CAF II buildout, and Frontier stated that there is no basis for the Commission to change that requirement to 25/3 Mbps as proposed by Cal Advocates.¹⁵⁰ Frontier estimated that it would cost 21 times more to reach all remaining CAF II locations with 25/3 Mbps service versus the FCC program requirement of 10/1 Mbps.¹⁵¹ Frontier also argued that it is unlikely that there will be widespread adoption in rural areas of broadband service at 25/3 Mbps.¹⁵²

Frontier also referenced California Executive Order N-73-20 directing California state agencies and local governments to pursue a minimum download broadband speed of 100 Mbps and the Commission's rulemaking proceeding R.20-09-001 to accelerate deployment of reliable, fast, and affordable broadband internet access for all Californians. Frontier asserted, "Because California policymakers are in the process of assessing a comprehensive approach to more

¹⁴⁸ Exhibit FTR-4 at 4.

¹⁴⁹ *Id.* at 6-7.

¹⁵⁰ *Id.* at 7.

¹⁵¹ *Id.* at 8.

¹⁵² *Id.* at 17.

ubiquitous broadband services, it is premature and counterproductive to require Frontier, as part of this proceeding, to commit to specific new policy-based network upgrades.”¹⁵³

Frontier objected to TURN’s proposed virtual separation reporting requirements because its virtual separation report is not expected to be provided in an initial report until Frontier’s emergence from Chapter 11. Frontier will agree to provide the virtual separation report when finalized and information related to RDOF when FCC rules permit its disclosure.¹⁵⁴ Frontier objected to any new Commission requirement that it provide financial statements for its California Subsidiaries to show before and after virtual separation because it will create unnecessary costs.¹⁵⁵ Frontier will agree to provide a report summarizing its quarterly broadband deployment information.¹⁵⁶

In its Opening Brief, Frontier retreated from some of the positions it had taken in its prepared testimony. Frontier committed to expand and enhance broadband service to 840,000 households by the end of 2022 pursuant to the 2016 Verizon settlement approved in D.15-12-005. In addition, Frontier committed to bring FTTP to at least 150,000 additional California households within four years after Commission approval of the Restructuring.¹⁵⁷

CETF does not support Cal Advocates’ proposal to require Frontier to provide minimum speeds of 25/3 Mbps for all remaining unmet conditions from

¹⁵³ *Id.* at 15.

¹⁵⁴ Exhibit FTR-3 at 58-59.

¹⁵⁵ *Id.* at 60.

¹⁵⁶ *Id.* at 63.

¹⁵⁷ Frontier Opening Brief at 3-4.

the Verizon settlement, stating that it is not simple for Frontier to increase speeds.¹⁵⁸

The Attachment 1 Settlement Agreement reflects compromises by all settling parties regarding the above-described issues. Under that agreement, Frontier (1) commits to capital expenditures of \$1.75 billion from 2021 through 2024, with a maximum of \$175 million from RDOF or the California Advanced Services Fund (CASF),¹⁵⁹ (2) will classify all California operations as InvestCo,¹⁶⁰ (3) commits to FTTP to at least 350,000 locations by December 31, 2026, with at least 150,000 having an IRR of 20 percent or less,¹⁶¹ and (4) will fulfill its remaining broadband commitments under the 2015 Verizon settlement as a separate obligation from the 350,000 location commitment, except that FTTP upgrades from the previous 6/1 Mbps and 10/1 Mbps deployments under the 2015 Verizon settlements will count toward the 350,000 location commitment.¹⁶² In addition, the Attachment 3 Settlement Agreement proposes a collaboration between Frontier and the Yurok Tribe on the development of a middle-mile fiber and FTTP project in which Frontier will contribute one-half of the costs up to \$5 million.¹⁶³ On balance, we conclude that the provisions of the Attachment 1 Settlement Agreement and the Attachment 3 Settlement Agreement regarding Frontier's capital expenditures and broadband deployment are reasonable, in the public interest, and should be adopted as conditions for approval of the

¹⁵⁸ CETF Opening Brief at 8.

¹⁵⁹ Attachment 1 Settlement Agreement at 5.

¹⁶⁰ *Id.* at 15.

¹⁶¹ *Ibid.*

¹⁶² *Ibid.*

¹⁶³ Attachment 3 Settlement Agreement at 4-5.

Application. We also conclude that the following additional requirements are in the public interest and should be imposed as conditions for approval of the Application: (1) Within 60 days of the effective date of this decision, Frontier shall open consultations with the Commission's Digital Infrastructure and Video Competition Act (DIVCA) staff to refine and improve the Commission's DIVCA map; (2) Within 60 days of the effective date of this decision, Frontier shall open consultations with the Commission's Communications Division staff for the purpose of providing more granular voice, video, and broadband availability and subscribership data; and (3) At least 10 percent of Frontier's planned fiber buildout to the 150,000 locations with an IRR of 20 percent or less shall be in locations in which Frontier is the only service provider.¹⁶⁴ Frontier shall use the California Interactive Broadband Map¹⁶⁵ to identify areas with only one service provider, unless it is able to show that the Map is inaccurate. At least 10 percent of the funds Frontier allocates to the fiber buildout to the 150,000 locations shall go to locations outside of Urbanized Areas, as defined by the U.S. Census Bureau as areas with fewer than 50,000 people.¹⁶⁶

¹⁶⁴ Meaning in this case the provision of fixed broadband Internet access service.

¹⁶⁵ As of this writing located at <https://www.broadbandmap.ca.gov/>

¹⁶⁶ See U.S. Census Bureau, "Urban and Rural," as of this writing located at <https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html>. All parties to the Attachment 1 Settlement Agreement proposed the additional requirements in (3) regarding Frontier's fiber buildout to the 150,000 locations with an IRR of 20 percent or less in locations in which Frontier is the only service provider and to locations outside of Urbanized Areas. Joint Notice of Rejection at 4. The additional requirements in (3) also take into account the parties' comments to the February 12, 2021 proposed decision regarding Frontier's fiber buildout to the 150,000 locations with an IRR of 20 percent or less that are analyzed in Section 5 of D. 21-03-043.

4.1.17. Effect on Frontier's Performance of Obligations Under and Future Participation in Universal Service and Public Service Programs

Scoping Memo Issue 18 asks whether the Restructuring affects the performance of Frontier's obligations under, compliance with the terms and conditions of, and future participation in universal service and public purpose programs. Frontier states that the Restructuring will not change its participation in California's public purpose and universal service programs.¹⁶⁷ Frontier participates in the CASF program and filed applications for 10 additional grants on May 1, 2020.¹⁶⁸ In the Attachment 1 Settlement Agreement, Frontier committed to continue to actively participate in the CASF program¹⁶⁹ and will fulfill its remaining CAF II obligations.¹⁷⁰

The evidence does not reflect that the Restructuring will have an adverse effect on Frontier's performance of its obligations under, compliance with the terms and conditions of, and future participation in universal service and public purpose programs. However, we find that the public interest does require additional Frontier broadband commitments for specific CASF projects to further bridge the "digital divide" in unserved and underserved areas. In addition, California's public interest benefits from a requirement to allow independent service providers non-discriminatory access to identified Frontier CASF project infrastructure provided that the terms of access are fair. Therefore, we identify specific Frontier CASF projects in Ordering Paragraph 4 with those requirements. With those additional commitments and Frontier's promise of

¹⁶⁷ Exhibit FTR-2 at 26.

¹⁶⁸ *Id.* at 42.

¹⁶⁹ Attachment 1 Settlement Agreement at 17.

¹⁷⁰ *Id.* at 14.

continued CASF program participation, we find this criterion to be in the public interest.

4.1.18. Potential Environmental Impact

Scoping Memo Issue 19 inquires whether the Restructuring has any potential environmental impact requiring consideration under the California Environmental Quality Act (CEQA). Under Commission Rule of Practice and Procedure (Rule) 2.4(a), applications for authority to undertake a project are subject to CEQA review. However, this Application seeks Commission approval of a corporate reorganization, not authority to undertake a particular project. No party offered evidence or argued that the Restructuring itself has any environmental impact requiring CEQA consideration. Therefore, we conclude that the Restructuring does not raise any environmental impact triggering a CEQA review.

4.1.19. Effect on Applicants' Provision of Special Access Services, Including Backhaul Service.

Scoping Memo Issue 20 asks whether the Restructuring affects Frontier's provision of special access services, including backhaul services. Frontier's network provides backhaul to cell towers, which enables wireless carriers to deliver service in the areas served by Frontier's California Subsidiaries.¹⁷¹ Frontier states that the Restructuring will not have any adverse impact on wholesale services or the purchasers of such services in California,¹⁷² and no evidence was presented to the contrary. We conclude that the Restructuring will not have a negative effect on Frontier's provision of special access services, including backhaul service.

¹⁷¹ Exhibit FTR-2 at 6.

¹⁷² *Id.* at 23.

4.1.20. Effect on Commission Responsibilities Regarding Regulation of Frontier

Scoping Memo Issue 21 asks whether the Restructuring will increase, modify, or affect the Commission's responsibilities regarding the regulation of Frontier. The Restructuring does not involve any fundamental change in Frontier's business as a telecommunications provider that would alter the Commission's regulatory duties. Some conditions for approval of the Restructuring set forth in this decision will result in additional Commission oversight of Frontier. As a result, the Commission will appoint a Compliance Monitor to assist with the enforcement of this decision. With that assistance, we conclude that the Restructuring will not have a harmful effect on the Commission's responsibilities regarding the regulation of Frontier.

4.1.21. Summary of Section 4.1 Factors

The preceding analysis establishes that, without consideration of the Settlement Agreements and without the imposition of additional conditions, the Restructuring is not in California's public interest. The Restructuring either benefits or does not adversely affect the public interest for just nine of the 21 criteria listed in the Scoping Memo. The evidentiary record is deficient in three principal ways. First, before the Settlement Agreements, Frontier did not sufficiently identify the Restructuring's California-specific benefits. The bankruptcy court Plan does not focus on Frontier's compliance with its California public utility obligations or its long-term investments and commitment to its customers and communities.¹⁷³ Although Frontier asserts that the California Subsidiaries "will be much stronger communications providers in California because Frontier will shed over \$10 billion in debt and nearly \$1 billion in annual

¹⁷³ Exhibit TRN-001 at 18.

interest payments,”¹⁷⁴ it contradicts that assertion by maintaining that the California Subsidiaries will not directly benefit from the reduction of debt held solely by Frontier’s Delaware-incorporated parent.¹⁷⁵ As Cal Advocates has stated, releasing debt and lowering interest payments is not automatically in the public interest unless specific, concrete benefits accrue to customers.¹⁷⁶

Second, before the Settlement Agreements, Frontier failed to sufficiently address the Restructuring’s future effects, including short-term and long-term economic benefits, financial condition, service quality, and benefits to local and tribal communities. In addition, Frontier had argued that the Restructuring would be overwhelmingly positive for customers but had stated elsewhere that the Restructuring would have no material impact on its California day-to-day operations or consumers, thereby creating more uncertainty regarding the Restructuring’s future effects.

Third, Frontier did not sufficiently specify its future business plans regarding the Restructuring before it entered into the Settlement Agreements. It failed to clarify whether California operations would be classified as InvestCo or ImproveCo. Frontier acknowledged that its future business case scenarios presented to the Bankruptcy Court and its latest network modernization plan had not been tested, and it admits it would likely modify its plans even if it could identify them.

The Settlement Agreements remedy some of the numerous public interest deficiencies of the Restructuring. For example, the terms of the Attachment 1 Settlement Agreement regarding rate maintenance and technician staffing

¹⁷⁴ Frontier Opening Brief at 1.

¹⁷⁵ Exhibit FTR-3 at 50.

¹⁷⁶ Exhibit CAL-04 at 7.

provide short-term and long-term economic benefits to ratepayers and fairness to Frontier employees, and its capital expenditure, broadband deployment, and tribal liaison hiring requirements benefit Frontier's network infrastructure and local and tribal communities. The Attachment 1 Settlement Agreement removes uncertainty by stating that all Frontier California operations will be classified as InvestCo. The Attachment 2 Settlement Agreement's provisions for WiFi device purchases, WiFi community access, and broadband rate maintenance provide benefits to low-income households and local and tribal communities that were not part of Frontier's Restructuring. The Attachment 3 Settlement Agreement contains middle-mile and FTTP project development, tribal liaison, and asset acquisition study provisions that provide specific benefits to the Yurok Tribe.

In Section 4.2.2 below, we find that the Settlement Agreements are in the public interest. However, the Settlement Agreements are insufficient to establish that approval of this Application is in the public interest. To address those remaining deficiencies, we describe in the previous subsections of Section 4.1 and identify in Ordering Paragraph 4 the additional conditions that we find necessary for this Application to be in the public interest. In particular, we note the necessity of appointing a Compliance Monitor to ensure that Frontier strictly complies with the numerous requirements and conditions of the Settlement Agreements and the additional mandates of this decision, and we reference the compelling public interest in recognizing the value to local governments and tribal communities in having a measure of control over the future ownership of telecommunications property in their jurisdiction through a right of first offer.

After review of the factors set forth in Pub. Util. Code Section 854 and the Scoping Memo, we find that the Restructuring, as supplemented with the

requirements and conditions of the Settlement Agreements and Ordering Paragraph 4, is in the public interest and should be approved.

4.2. Motions

4.2.1. Motion for Leave to File Confidential Portions of Application under Seal

Frontier's May 22, 2020 Motion for Leave to File Confidential Portions of Application under Seal seeks to keep confidential and file under seal Exhibit G of the Application. Exhibit G contains financial information, including balance sheets and income statements, relating to Frontier's California Subsidiaries that are not released as part of Frontier's public financial reports. As a result, Exhibit G falls within the definition of a protected trade secret under Civil Code Section 3426.1(d) because it derives independent economic value from not being generally known to the public and Frontier has made reasonable efforts to maintain its secrecy. No response or other objection to the motion was filed by any party. Therefore, we grant the motion and direct that Exhibit G to the Application be filed under seal pursuant to the terms and provisions set forth in Ordering Paragraph 4.

4.2.2. Joint Motions for Adoption of Settlement Agreements

Frontier, Cal Advocates, TURN, and CWA have filed a joint motion seeking the Commission's approval of the Attachment 1 Settlement Agreement. The Attachment 1 Settlement Agreement contains numerous California-specific Frontier requirements addressing Restructuring issues raised by the settling parties, including (1) capital expenditures of \$1.75 billion from 2021 through 2024,¹⁷⁷ (2) for three years after Frontier's emergence from bankruptcy, a credit of

¹⁷⁷ Attachment 1 Settlement Agreement at 5.

\$5 per day for all customers and \$10 per day for customers in tribal lands for any OOS outage of more than 24 hours,¹⁷⁸ (3) meeting 80 percent of the GO 133-D OOS standard for each California ILEC in 2022 and 90 percent in 2023 and 2024, with monthly penalties in addition to those in GO 133-D,¹⁷⁹ (4) no decrease in total employee technician staffing through December 31, 2023,¹⁸⁰ (5) specified call center operations to be kept open through December 31, 2023,¹⁸¹ (6) hiring two tribal liaisons to improve customer service on tribal lands,¹⁸² (7) \$11.6 million in capital expenditures for broadband deployment over four years at a minimum 25/3 Mbps to at least 4,000 tribal lands locations,¹⁸³ (8) FTTP to at least 350,000 locations within six years,¹⁸⁴ (9) offering its low-income broadband plans at current rates or lower through December 31, 2023 and no residential rate increases for specified copper- and fiber-based voice and broadband services through December 31, 2021,¹⁸⁵ and (10) providing specified financial reports.¹⁸⁶

Frontier has also filed a joint motion with CETF for Commission approval of their Attachment 2 Settlement Agreement. The Attachment 2 Settlement Agreement builds on the previous agreements between Frontier and CETF related to the Verizon Acquisition, including provisions that require Frontier to (1) purchase by September 1, 2021 over 20,000 WiFi-capable devices for

¹⁷⁸ *Id.* at 7-8.

¹⁷⁹ *Id.* at 8.

¹⁸⁰ *Id.* at 9.

¹⁸¹ *Id.* at 9-10.

¹⁸² *Id.* at 13.

¹⁸³ *Id.* at 14.

¹⁸⁴ *Id.* at 15.

¹⁸⁵ *Id.* at 17-18.

¹⁸⁶ *Id.* at 18-21.

distribution to low-income students, including at least 4,000 devices to tribal communities,¹⁸⁷ (2) continue to offer low-income broadband plans at rates equal to or lower than current rates through December 31, 2023,¹⁸⁸ (3) expand the locations eligible for public WiFi and prioritize tribal locations for WiFi hotspot deployments,¹⁸⁹ and (4) work in good faith to complete its WiFi community access commitment to 31 locations by December 31, 2021.¹⁹⁰

In addition, Frontier has filed a joint motion with the Yurok Tribe for approval of the Attachment 3 Settlement Agreement. That settlement agreement provides for the parties' evaluation and potential deployment of a middle-mile fiber and FTTP project in which Frontier would contribute one-half of the costs up to a maximum of \$5 million. Upon completion, the Yurok Tribe would have ownership and use of the constructed fiber capacity proportionate to its financial contribution to the project.¹⁹¹ In addition to Frontier's reimbursement of at least \$400,000 in Yurok Tribe costs,¹⁹² the Attachment 3 Settlement Agreement provides for Frontier to hire a tribal liaison to respond to OOS, customer service, and information sharing matters¹⁹³ and a feasibility study to evaluate a potential acquisition of Frontier facilities.¹⁹⁴

¹⁸⁷ Attachment 2 Settlement Agreement Attachment at 3.

¹⁸⁸ *Ibid.*

¹⁸⁹ *Id.* at 4.

¹⁹⁰ *Ibid.*

¹⁹¹ Attachment 3 Settlement Agreement at 4-5.

¹⁹² *Id.* at 6.

¹⁹³ *Ibid.*

¹⁹⁴ *Id.* at 7.

Under Rule 12.1(d), the Commission will not approve a settlement unless it is reasonable in light of the whole record, consistent with law, and in the public interest. California has a strong public policy favoring settlements because they reduce litigation expenses, conserve scarce resources of parties and the Commission, and allow parties to reduce the risk that litigation will produce unacceptable results.¹⁹⁵ Settlements benefit the Commission, the parties, and the public at large by reducing the amount of Commission time and resources dedicated to the proceeding, thereby allowing the Commission to focus on other matters. Settlement can also serve as a model for earlier resolution of other proceedings by demonstrating the tangible benefits of effective communication and a practical mindset.

Under Rule 12.4, the Commission may reject a proposed settlement whenever it determines that the settlement is not in the public interest. Under Rule 12.4(c), the Commission may reject a settlement and propose alternative terms to the settling parties that are acceptable to the Commission and allow the parties reasonable time to accept those terms or request other relief.

The Attachment 1 Settlement Agreement reflects reasonable compromises of the settling parties' positions set forth in their briefs, and the settlement terms are soundly based in the evidentiary record. Frontier's \$1.75 billion capital expenditure commitment is 90 percent of the \$1.944 billion proposed by Cal Advocates.¹⁹⁶ Frontier had initially argued against any employee staffing mandates,¹⁹⁷ while CWA had proposed maintenance of Frontier's entire

¹⁹⁵ D. 05-11-005 at 16.

¹⁹⁶ Exhibit CAL-01 at 6; Exhibit CAL-05 at 6-7.

¹⁹⁷ Exhibit FTR-3 at 53.

California workforce;¹⁹⁸ the parties agreed that Frontier would not decrease technician staffing for three years. Cal Advocates had proposed tribal lands broadband deployment of 25/3 Mbps to 5,800 locations,¹⁹⁹ and Frontier agreed to deploy to 4,000 locations. The evidentiary record cited in Section 4.1 above fully supports those provisions as well as the Attachment 1 Settlement Agreement's terms regarding service quality standards, price maintenance, tribal liaison hiring, call center operations continuity, and financial reporting. In Ordering Paragraph 4, our clarification of several references in the Attachment 1 Settlement Agreement furthers our conclusion that the agreement's terms are reasonable and soundly based. On balance, after taking into consideration the admitted evidence and the parties' positions taken in their briefs, the evidence supports the conclusion that the terms of the Attachment 1 Settlement Agreement are reasonable in light of the whole record.

In determining whether the Attachment 2 Settlement Agreement is reasonable in light of the entire record, we note that the record cited in Sections 4.1.7 and 4.1.11 above reflects an ongoing need to address the substantial "digital divide" that exists in California, particularly the lack of robust, reliable, and affordable telecommunications services to low-income customers, rural areas, tribal lands, and other local communities. The Attachment 2 Settlement Agreement specifically benefits those groups with Frontier requirements regarding the purchase or installation of WiFi-capable devices and WiFi access. Therefore, we find that the Attachment 2 Settlement Agreement is reasonable in light of the whole record.

¹⁹⁸ Exhibit CWA-001 at 9.

¹⁹⁹ Exhibit CAL-01 at 9; Exhibit CAL-02 at 5-6.

In its Opening Brief, the Yurok Tribe had proposed numerous Frontier commitments, including a middle-mile fiber and FTTP buildout, local tribal liaisons within each service hub, and a right of first refusal regarding any transfer or disposal of Frontier's local assets. The Yurok Tribe agreed to drop many of its proposed Frontier commitments to reach a settlement, and the Attachment 3 Settlement Agreement reflects compromises in which Frontier will pay 50 percent of the costs of a middle-mile fiber and FTTP buildout up to \$5 million, one designated tribal liaison, and a feasibility study regarding a potential acquisition of Frontier facilities. As with the Attachment 2 Settlement Agreement, the evidentiary record supports the need for the improvements in bandwidth, reliability, and service reflected in the Attachment 3 Settlement Agreement. As a result, the Attachment 3 Settlement Agreement is reasonable in light of the whole record.

Rule 12.1(d) also requires that the Settlement Agreements be consistent with law. Frontier's Settlement Agreements commitments comply with all applicable laws and Commission decisions, and the evidentiary record does not show that any settlement terms violate any corporate or contractual limitations on Frontier's authority.

Under Rule 12.1(d), the Settlement Agreements must also be in the public interest, the same standard analyzed in Section 4.1 above under Pub. Util. Code Section 854. The Attachment 1 Settlement Agreement's broadband deployment, service quality, price maintenance, and financial reporting terms provide significant, tangible benefits to the customers and communities served by Frontier. The Attachment 2 Settlement Agreement benefits the public interest by its inclusion of Frontier WiFi device and access requirements targeting low-income students and tribal and other local communities. In addition, the

Attachment 2 Settlement Agreement's price maintenance provision for low-income broadband plans addresses the important public interest consideration of the Restructuring's effect on prices charged to customers. The Attachment 3 Settlement Agreement provides broadband deployment and service benefits and the possibility of ownership of telecommunications facilities by the Yurok Tribe that we found to be in the public interest in Section 4.1.11 above.

The Yurok Tribe filed comments that support the Commission's approval of the Attachment 1 Settlement Agreement and the Attachment 2 Settlement Agreement. Greenlining and CforAT filed comments that were generally supportive of the Attachment 1 Settlement Agreement except that it did not contain specific requirements to ensure that consumers of color and consumers with disabilities will benefit.²⁰⁰ However, Greenlining and CforAT (1) did not provide specific proposed language to modify the Attachment 1 Settlement Agreement, (2) did not submit any motion to admit evidence, (3) did not submit any opening or reply brief, and (4) did not assert that there are disputed material facts that would require a hearing regarding the Attachment 1 Settlement Agreement. Although the Commission shares their concerns regarding consumers of color and consumers with disabilities, Greenlining and CforAT have not made a sufficient showing that the Attachment 1 Settlement Agreement must be modified to be in the public interest.²⁰¹ CETF filed comments to support the Commission's approval of the Attachment 3 Settlement Agreement.

²⁰⁰ Opening Comments of Greenlining and CforAT on Joint Motion for Adoption of Attachment 1 Settlement Agreement at 4.

²⁰¹ The Commission has no objection to the offer of the parties to the Attachment 1 Settlement Agreement to allow Greenlining and CforAT to receive information and participate in

In Section 4.1 above, we conclude that the public interest requires the imposition of additional conditions that are not found in either the Restructuring or the three Settlement Agreements. Those additional conditions, which are set forth in Ordering Paragraph 4, supplement and extend the provisions of the Settlement Agreements. Under Rule 12.4, a settlement agreement may be rejected if it is not in the public interest. The additional conditions we impose in this decision are not inconsistent with and do not constitute a rejection of the terms of the Settlement Agreements. To the contrary, the Settlement Agreements and the additional conditions are in the public interest and essential for approval of the Application. Therefore, the three Settlement Agreements are reasonable in light of the record, consistent with law, in the public interest, and should be approved.

5. Comments on Proposed Decision

The proposed decision of Administrative Law Judge Peter Wercinski was mailed to the parties in accordance with Pub. Util. Code Section 311. Pursuant to Rule 14.6(b), all parties agreed to reduce the 30-day public review and comment period required by Pub. Util. Code Section 311. Frontier, Cal Advocates, TURN, CWA, and CETF filed opening comments on April 5, 2021. No party filed reply comments. We decline to incorporate the parties' recommended changes because the issues raised in the opening comments have been adequately addressed in the proposed decision.

6. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Peter Wercinski is the assigned Administrative Law Judge in this proceeding.

discussions pursuant to that agreement. Joint Reply Comments in Support of December 24, 2020 Joint Motion for Adoption of Settlement Agreement at 2.

Findings of Fact

1. The Restructuring, as supplemented by the Settlement Agreements and the additional terms, requirements, and conditions in Ordering Paragraph 4, provides short-term and long-term economic benefits to ratepayers.

2. Exhibit G to the Application contains financial information, including balance sheets and income statements, relating to Frontier's California Subsidiaries that is not generally known to the public.

3. Frontier has made reasonable efforts to maintain the secrecy of the financial information in Exhibit G to the Application.

Conclusions of Law

1. The Settlement Agreements are reasonable in light of the whole record, consistent with law, in the public interest, and should be approved.

2. The Settlement Agreements and the additional terms, requirements, and conditions in Ordering Paragraph 4 are necessary to find that the Restructuring is in the public interest.

3. The Restructuring, as supplemented by the Settlement Agreements and the additional terms, requirements, and conditions in Ordering Paragraph 4, is in the public interest and should be approved.

4. Exhibit G to the Application contains protected trade secrets and should be kept confidential, and Frontier's Motion for Leave to File Confidential Portions of Application under Seal should be granted pursuant to the terms and provisions of Ordering Paragraph 4.

O R D E R

IT IS ORDERED that:

1. The December 24, 2020 Joint Motion for Adoption of Settlement Agreement by Frontier Communications Corporation, Frontier California Inc., Citizens Telecommunications Company of California Inc., Frontier Communications of the Southwest Inc., Frontier Communications Online and Long Distance Inc., Frontier Communications of America, Inc., the Public Advocates Office at the California Public Utilities Commission, The Utility Reform Network, and the Communications Workers of America, District 9 is granted, and the December 24, 2020 Settlement Agreement attached to this decision as Attachment 1 is approved in its entirety.

2. The December 29, 2020 Joint Motion of Frontier Communications Corporation, Frontier California Inc., Citizens Telecommunications Company of California Inc., Frontier Communications of the Southwest Inc., Frontier Communications Online and Long Distance Inc., Frontier Communications of America, Inc., and the California Emerging Technology Fund for Adoption of Settlement Agreement is granted, and the December 12, 2020 Settlement Agreement attached to this decision as Attachment 2 is approved in its entirety.

3. The January 19, 2021 Joint Motion of Frontier Communications Corporation, Frontier California Inc., Citizens Telecommunications Company of California Inc., Frontier Communications of the Southwest Inc., Frontier Communications Online and Long Distance Inc., Frontier Communications of America, Inc., and the Yurok Tribe for Adoption of Settlement Agreement is granted, and the January 19, 2021 Settlement Agreement attached to this decision as Attachment 3 is approved in its entirety.

4. The corporate restructuring of Frontier Communications Corporation, Frontier California Inc., Citizens Telecommunications Company of California Inc., Frontier Communications of the Southwest Inc., Frontier Communications Online and Long Distance Inc., and Frontier Communications of America, Inc. (collectively Frontier) described in the Application is approved subject to the following terms, requirements, and conditions:

- (a) The parties to the December 24, 2020 Settlement Agreement attached to this decision as Attachment 1 (Attachment 1 Settlement Agreement) shall fully comply with all terms, requirements, and conditions of the Attachment 1 Settlement Agreement whether or not the Attachment 1 Settlement Agreement terminates for any reason. The California Public Utilities Commission (Commission) shall have all rights and benefits of a party under the Attachment 1 Settlement Agreement and all authority vested in the Commission to enforce the terms, requirements, and conditions of and otherwise take action regarding the Attachment 1 Settlement Agreement.
- (b) The following clarifications apply to the Attachment 1 Settlement Agreement:
 - (i) The penalty set forth in paragraph 6 shall be calculated using the framework in the Attachment 1 Settlement Agreement augmenting the standard set forth by General Order (GO) 133-D and using data from Frontier's reports of its level of compliance with the Out of Service (OOS) standard as required under GO 133-D and any successor OOS standard adopted by the Commission.
 - (ii) All references to the Commission's Communications Division shall be construed to refer to the Commission's Communications Division and any designee or successor.
 - (iii) In paragraph 35, "Frontier will file a Tier 2 Advice Letter with the Commission describing" is clarified to state, "Frontier will submit to the Commission's Communications Division, Cal Advocates, TURN, and CWA separate reports describing the material change and."

- (iv) The notification by Frontier to the Commission's Communications Division in Paragraph 36 shall be by email to cdcompliance@cpuc.ca.gov.
- (v) All documents that Frontier intends the Commission to treat as confidential shall be submitted to the Commission website <https://cpucftp.cpuc.ca.gov>.
- (c) The parties to the December 12, 2020 Settlement Agreement attached to this decision as Attachment 2 (Attachment 2 Settlement Agreement) shall fully comply with all terms, requirements, and conditions of the Attachment 2 Settlement Agreement whether or not the Attachment 2 Settlement Agreement terminates for any reason. The Commission shall have all rights and benefits of a party under the Attachment 2 Settlement Agreement and all authority vested in the Commission to enforce the terms, requirements, and conditions of and otherwise take action regarding the Attachment 2 Settlement Agreement.
- (d) The parties to the January 19, 2021 Settlement Agreement attached to this decision as Attachment 3 (Attachment 3 Settlement Agreement) (the Attachment 1 Settlement Agreement, Attachment 2 Settlement Agreement, and Attachment 3 Settlement Agreement collectively the Settlement Agreements) shall fully comply with all terms, requirements, and conditions of the Attachment 3 Settlement Agreement whether or not the Attachment 3 Settlement Agreement terminates for any reason. The Commission shall have all rights and benefits of a party under the Attachment 3 Settlement Agreement and all authority vested in the Commission to enforce the terms, requirements, and conditions of and otherwise take action regarding the Attachment 3 Settlement Agreement.
- (e) Compliance Monitor. At the expense of Frontier, the Commission shall hire an independent monitor (Compliance Monitor) to review Frontier's compliance with the terms, requirements, and conditions of this Ordering Paragraph. Within 15 days after receipt of notice from the Commission's Communications Division (CD) staff, Frontier shall deposit into a reimbursable account (A.20-05-010 General Reimbursable Account) the amounts specified by CD staff reflecting the fees and expenses of the Compliance Monitor. Within 45 days after the end of each calendar quarter, Frontier shall submit to the Compliance Monitor and to cdcompliance@cpuc.ca.gov a compliance

report in a format designed by CD staff that will be treated as public information. The Compliance Monitor shall meet with Commission CD staff at least four times per year and at other times as requested by CD staff to report on Frontier's compliance with the terms, requirements, and conditions of this Ordering Paragraph and shall submit semi-annual reports to CD staff and reports at other times as requested by CD staff regarding Frontier's compliance with the requirements and conditions of this Ordering Paragraph. If and when the Compliance Monitor concludes that Frontier is not in compliance with any requirement or condition of this Ordering Paragraph, the Compliance Monitor may recommend a penalty to bring Frontier into compliance and forward findings and a recommendation to the Commission's CD Director at cdcompliance@cpuc.ca.gov. Any recommended penalty shall be addressed consistent with the procedures and maximum penalty established under subparagraph (f). The Commission may request the Attorney General to enforce this Order either pursuant to Public Utilities Code Sections 702 and 2101, or under its independent authority, and such enforcement actions would not interfere with the Commission's authority but would be complementary.

- (f) Enforcement Program. The Commission's CD shall draft a Resolution reflecting an enforcement program that covers compliance with the terms of this Ordering Paragraph, including, without limitation, Frontier's reporting requirements, service quality requirements, infrastructure investment requirements, and the terms of the Settlement Agreements. The proposed enforcement program will specify a citation amount for each term and proposed remedies for lack of compliance and shall be put before the Commission for consideration. The Commission's CD shall explore penalty mechanisms, including monetary fines and community investment mechanisms. Enforcement program appeals will be pursuant to Resolution ALJ-377 or its successor.
- (g) Right of First Offer to Tribes and Local Governments. Every tribe and local government shall have a right of first offer (ROFO) to purchase property that Frontier proposes to sell or dispose of and for which Commission approval is required under Public Utilities (Pub. Util.) Code Section 851 pursuant to the provisions of this subparagraph. To the maximum possible extent that is not inconsistent with this

subparagraph, the “Guidelines to Implement the CPUC Tribal Land Policy” identified as Attachment A to Resolution E-5076 (Guidelines) shall apply to the ROFO, provided that (i) in addition to its application to tribes, the Guidelines shall also apply to a local government wherever possible by construing a Guidelines reference to “Tribe” to refer to the local government and a Guidelines reference to “ancestral territory” or “Indian country” to refer to the legally recognized jurisdiction of the local government, (ii) “disposition” shall mean all sales or disposals of property under Pub. Util. Code Section 851 and not have the meaning set forth in Section 1.3.d of the Guidelines, (iii) “investor-owned utility (IOU)” shall mean Frontier and not have the meaning set forth in Section 1.3.f of the Guidelines, and (iv) if a tribe and a local government have a ROFO under this subparagraph to the same property, the tribe’s ROFO shall precede and be preferred to the local government’s ROFO. This subparagraph shall not interfere with the terms of the Attachment 3 Settlement Agreement, including the potential acquisition described in Section 7 of the Attachment 3 Settlement Agreement.

- (h) By no later than February 1 of each year, Frontier shall submit to cdcompliance@cpuc.ca.gov via the Commission’s website <https://cpucftp.cpuc.ca.gov> a report as of December 31 of the preceding year in a format designed by CD staff that includes, for each ROFO notice issued by Frontier, the notice date, tribe or local government recipient, individual contact, recipient address, property location, and result of the notice.
- (i) Frontier shall work with the Native American Heritage Commission to identify all tribes within its California service territory that have either a reservation or land in trust.
- (j) Upon request, and subject to execution of a reasonable non-disclosure agreement with Frontier, Frontier shall provide any identified tribe within its California service territory with existing local maps of, and information on, Frontier’s owned, leased, and operated facilities in and around the tribe’s ancestral territory and any existing maps of adjacent areas that identify points of integration of those facilities with the remainder of Frontier’s system.
- (k) In every California county that Frontier serves, Frontier must appoint a high-level employee as a tribal liaison to provide OOS response,

customer service, and information sharing. Each tribe shall have direct access to the tribal liaison via phone and email, and the tribal liaison shall have the availability, access, and authority to respond to the tribes and address their concerns.

- (l) By no later than February 1 of each year, Frontier shall submit to cdcompliance@cpuc.ca.gov via the Commission's website <https://cpucftp.cpuc.ca.gov> a subscriber information report as of December 31 of the preceding year in a format designed by CD staff that will be treated as confidential information.
- (m) For the period from the effective date of this decision through February 14, 2025, Frontier shall submit quarterly reports within 45 days after the end of the reporting quarter to the Commission's CD at telcoservicequality@cpuc.ca.gov in a format designed by CD staff that includes the following information:
 - (i) The name and city, county, and zip code of each wire center.
 - (ii) Each wire center's number of plain old telephone service customers, Voice over Internet Protocol customers, and customers served with fiber to the premises.
 - (iii) Each wire center's monthly OOS repair rate for the previous two years.
 - (iv) The Common Language Location Identifier codes for mapping purposes for each wire center.
 - (v) Detailed plans for each project that attempts to improve service quality performance, including major milestones, task-level project details, test plans, and results.
 - (vi) A justification for each project that attempts to improve service quality performance.
 - (vii) The pre- and post-OOS repair rate and closeout package containing pre- and post-test result screenshots and pictures clearly showing changes made to improve service quality for all applicable wire center areas.
 - (viii) All formulas used by Frontier to calculate a wire center's OOS repair rate, including the start time and date of each outage, time and date of service restoration, total outage duration, and the

actual formula (not pasted in values) used to calculate the outage duration.

- (ix) A detailed inventory of major equipment used to repair or upgrade the network, including the equipment manufacturer's end of life information.
- (x) All supporting financial documentation to demonstrate the extent to which all investment plan projects were funded in excess of Frontier's business as usual funding levels.
- (n) Within 60 days of the effective date of this decision, Frontier shall open consultations with the Commission's Digital Infrastructure and Video Competition Act (DIVCA) staff to refine and improve the Commission's DIVCA map.
- (o) At least 10 percent of Frontier's planned fiber buildout to the 150,000 locations with an Internal Rate of Return of 20 percent or less set forth in Paragraph 19 of the Attachment 1 Settlement Agreement shall be in locations in which Frontier is the only fixed broadband Internet access service provider. Frontier shall use the California Interactive Broadband Map (Map) to identify areas with only one service provider, unless it is able to show that the Map is inaccurate. At least 10 percent of the funds Frontier allocates to the fiber buildout to the 150,000 locations shall go to locations outside of Urbanized Areas, as defined by the U.S. Census Bureau as areas with fewer than 50,000 people.
- (p) Within 60 days of the effective date of this decision, Frontier shall open consultations with the Commission's CD staff for the purpose of providing more granular voice, video, and broadband availability and subscribership data.
- (q) Frontier shall deploy either Fiber To The Home or a minimum 25/3 megabits per second to all households in the approved California Advanced Services Fund (CASF) projects in areas from Resolutions T-17660 Weimar, T-17668 Taft Cluster, and T-17671 Northeast Phase I. The completion deadlines for the Weimar and Taft Cluster projects shall be extended to one year from the effective date of this decision. The completion deadline for the Northeast Phase I project shall remain unchanged. By no later than March 1 and September 1 of each year, Frontier shall submit a report to CD staff describing its compliance with

this subparagraph, including, without limitation, project accomplishments, project milestones (including major construction milestones) with completion percentage and completion dates, problems encountered and actions taken to resolve problems, upcoming milestones, subscribership information to date including households, businesses, and anchor institutions, payments received to date, and payment amounts currently being requested.

- (r) All middle mile infrastructure owned by Frontier for which the Commission has approved CASF grant funding in Resolutions T-17671 Northeast Phase I and T-17613 Lytle Creek shall be open access, with non-discriminatory access to independent service providers or other entities on reasonable and equal terms. All completion deadlines for projects referenced in this subparagraph shall remain unchanged. By no later than January 15 of each year for the life of the infrastructure of each project referenced in this subparagraph, Frontier shall submit a confidential report to CD staff describing its compliance with this subparagraph, including, without limitation, the number of interconnection requests and executed service agreements and, for each interconnection request, the date, requesting party, location, service requested, outcome, pricing, applicable tariffs, and terms and conditions.

5. The May 22, 2020 Motion of Frontier Communications Corporation, Frontier California Inc., Citizens Telecommunications Company of California Inc., Frontier Communications of the Southwest Inc., Frontier Communications Online and Long Distance Inc., and Frontier Communications of America, Inc. (collectively Frontier) for Leave to File Confidential Portions of Application (Exhibit G) under Seal is granted, and the confidential information identified as Exhibit G to the Application shall be filed and kept under seal for a period of three years after the date of this decision. During this three-year period, the sealed information shall not be publicly disclosed except by further California Public Utilities Commission order or Administrative Law Judge ruling. If Frontier believes that it is necessary for the sealed information to remain under

seal for longer than three years, Frontier may file a new motion showing good cause for extending this period by no later than 30 days before the expiration of the three-year period.

6. This decision is effective immediately.
7. Application 20-05-010 is closed.

This order is effective today.

Dated April 15, 2021 at San Francisco, California.

MARYBEL BATJER

President

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE HOUCK

Commissioners