

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

April 27, 2022

TO PARTIES OF RECORD IN INVESTIGATION 19-12-009,
DECISION 22-04-059:

On March 3, 2022, a Presiding Officer's Decision in this proceeding was mailed to all parties. Public Utilities Code Section 1701.2 and Rule 15.5(a) of the Commission's Rules of Practice and Procedure provide that the Presiding Officer's Decision becomes the decision of the Commission if no appeal or request for review has been filed within 30 days of the mailing of the Presiding Officer's Decision.

No timely appeals to the Commission or requests for review have been filed. Therefore, the Presiding Officer's Decision is now the decision of the Commission.

The decision number is shown above.

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:liI

Decision 22-04-059

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations, Practices, and Conduct of Frontier Communications Corporation, Frontier of America, Inc., (U5429C), and Frontier California, Inc., (U1002C) to Determine Whether Frontier Violated the Laws, Rules, and Regulations of this State through Service Outages and Interruptions and Disclosing and Publishing Customer Addresses.

Investigation 19-12-009

Sarah J. Banola, Patrick M. Rosvall, BRB Law LLP,
Attorneys at Law, for Frontier Communications
Corporation, Frontier Communications of America,
Inc., and Frontier California Inc, Complainant.

Peter V. Allen, Attorney at Law, for Consumer
Protection and Enforcement Division, Defendant.

**DECISION APPROVING WITH MODIFICATIONS THE PROPOSED
SETTLEMENT OF FRONTIER COMMUNICATIONS CORPORATION,
FRONTIER COMMUNICATIONS OF AMERICA, INC., FRONTIER
CALIFORNIA, INC., AND THE CONSUMER PROTECTION
AND ENFORCEMENT DIVISION OF THE CALIFORNIA
PUBLIC UTILITIES COMMISSION**

TABLE OF CONTENTS

Title	Page
DECISION APPROVING WITH MODIFICATIONS THE PROPOSED SETTLEMENT OF FRONTIER COMMUNICATIONS CORPORATION, FRONTIER COMMUNICATIONS OF AMERICA, INC., FRONTIER CALIFORNIA, INC., AND THE CONSUMER PROTECTION AND ENFORCEMENT DIVISION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION	1
Summary	2
1. Jurisdiction	3
2. Background and Procedural History	4
3. The Proposed Settlement Agreement.....	7
3.1. Summary of the Proposed Settlement	7
3.2. The \$996,000 is Not Part of the Proposed Settlement.....	8
3.3. Modifications to the Proposed Settlement Regarding the Potentially Affected Customers of Address Disclosures	9
4. Penalty Factors.....	12
4.1. The Penalty in the Proposed Settlement is Reasonable in Light of the Whole Record, Consistent with the Law, and in the Public Interest	12
4.2. The Penalty is Reasonable and Proportionate to the Violation	13
4.2.1. Severity of the Offense	13
4.2.2. Conduct of the Utility	15
4.2.3. Financial Resources of the Utility	17
4.2.4. Totality of the Circumstances.....	17
4.2.5. Role of Precedent.....	18
5. Election to Accept Modifications to the Proposed Settlement	22
6. Categorization and Evidentiary Hearing	22
7. Assignment of Proceeding	23
Findings of Fact.....	23
Conclusions of Law	25
ORDER	27

Appendix A – Proposed Settlement

**DECISION APPROVING WITH MODIFICATIONS THE PROPOSED
SETTLEMENT OF FRONTIER COMMUNICATIONS CORPORATION,
FRONTIER COMMUNICATIONS OF AMERICA, INC., FRONTIER
CALIFORNIA, INC., AND THE CONSUMER PROTECTION
AND ENFORCEMENT DIVISION OF THE CALIFORNIA
PUBLIC UTILITIES COMMISSION**

Summary

This decision approves with modifications the proposed settlement agreement filed on November 4, 2021 between Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission.

This Investigation sought to determine whether Frontier Communications Corporation, Frontier Communications of America, Inc., and Frontier California, Inc. violated laws, rules, and regulations associated with outages and service interruptions in 2016.¹ This Investigation also ordered Frontier Communications Corporation, Frontier Communications of America, Inc., and Frontier California, Inc. to show cause why they should not pay a fine of \$2,500,000 for disclosing and publishing the addresses of residential customers who elected to have their addresses suppressed from 4-1-1 and directory assistance.²

With modifications to the proposed settlement, this decision imposes penalties totaling \$2,504,000, which consist of:

¹ Order Instituting Investigation on the Commission's Own Motion into the Operations, Practices, and Conduct of Frontier Communications Corporation, Frontier of America, Inc., (U5429C), and Frontier California, Inc., (U1002C) to Determine Whether Frontier Violated the Laws, Rules, and Regulations of this State through Service Outages and Interruptions and Disclosing and Publishing Customer Addresses, December 19, 2019, I.19-12-009 at 3 – 4, 13 [hereinafter OII].

² OII at 1, 10-12, 13.

- \$1,050,000 penalty for the release of customer address information; and
- \$1,454,000 penalty for the outages and service interruptions during the cutover from Verizon.

In addition, this decision orders Frontier to give a one-time six-dollar bill credit to all customers who did not receive bill credits in 2016, but were potentially affected by the address disclosure in 2016. This decision orders Frontier to send letters to the customers who received the one-time six-dollar bill credit, advising them of the option to enroll in non-publish service and/or Caller ID free of charge for one year. The modifications to the proposed settlement are appropriate given that requests to keep residential addresses confidential need to be protected and honored.

The November 4, 2021 proposed settlement with modifications will serve as an effective deterrent to further offenses and is reasonable in light of the entire record, consistent with the law, and in the public interest.

This decision resolves all issues before this Commission in this Investigation. This proceeding is closed. The proposed settlement is attached as Appendix A.

1. Jurisdiction

The Commission's Rules of Practice and Procedure (Rules), 5.1, authorize the Commission to institute an investigation on its own motion.³ On December 19, 2019, the Commission filed Investigation (I.) 19-12-009 to determine whether Frontier Communications Corporation, Frontier Communications of America, Inc., and Frontier California, Inc. (collectively, Frontier) violated laws, rules, and regulations associated with outages and

³ California Code of Regulations, Title 20, Division 1, Chapter 1; hereinafter, Rule or Rules.

service interruptions in 2016 and whether Frontier should pay a \$2,500,000 penalty for allegedly disclosing and publishing the addresses of residential customers who had elected to have their addresses suppressed from Frontier's 4-1-1 and directory assistance.⁴

2. Background and Procedural History

After receiving approval from the Commission, Verizon California Inc. (U1002C), Verizon Long Distance, LLC., (U5732C), and Newco West Holdings, LLC., together with certain assets held by it and the customer accounts of Verizon Long Distance, LLC in the service territory of Verizon California, Inc. transferred assets and customers to Frontier Communications Corporation and Frontier Communications of America, Inc.⁵

Starting April 1, 2016, Verizon transferred its California voice,⁶ internet, and video services to Frontier Communications Corporation and Frontier Communications of America, Inc. The change over from the Verizon to the Frontier network caused customers to experience outages or interruptions from April to June of 2016. During the same period, addresses of residential customers who had elected to have their addresses suppressed from 4-1-1 and directory assistance were published as well.

Subsequently, the Commission ordered the Consumer Protection and Enforcement Division (CPED) to investigate the outages and the unauthorized publication of customers' address records in the service areas of Frontier.⁷ CPED completed its investigation and authored a Staff Report. On December 19, 2019,

⁴ Order Instituting Investigation (OII) at 1, 10-12.

⁵ Decision (D.) 15-12-005.

⁶ The term "voice" refers to all voice technologies including Voice Over Internet Protocol and copper-wire systems.

⁷ D.16-12-066.

the Commission filed this instant OII.⁸ The purpose of the OII is twofold: 1) to determine whether Frontier violated laws, rules, and regulations associated with outages and service interruptions, and 2) whether Frontier should pay a \$2,500,000 penalty for allegedly disclosing and publishing of the addresses of residential customers who had elected to have their addresses suppressed from Frontier's 4-1-1 and directory assistance.⁹ Before making the Staff Report public, the OII instructed Frontier to propose redactions with supporting objections and declarations, after which the parties will meet to come to an agreement regarding the redactions.¹⁰

On January 15, 2020, Frontier filed a response regarding redactions to CPED's Staff Report.¹¹ On February 28, 2020, Frontier responded to the OII.¹²

A prehearing conference (PHC) was held on March 3, 2020, to discuss the issues of law and fact, determine the need for an evidentiary hearing, and discuss the proceeding schedule. At the PHC, the assigned Administrative Law Judge (ALJ) ordered Frontier to file new proposed redactions to CPED's Staff Report, with more specific legal and factual explanations for each individual proposed redaction.¹³

⁸ OII at 2.

⁹ *Id.* at 1, 10-12.

¹⁰ *Id.* at 14.

¹¹ Response of Frontier Communications Corporation, Frontier Communications of America, Inc. (U5429C), and Frontier California Inc. (U1002C) (Collectively, "Frontier") Regarding Proposed Redactions to Staff Report, January 15, 2020.

¹² Response of Frontier Communications Corporation, Frontier Communications of America, Inc. (U5429C), and Frontier California Inc. (U1002C) (Collectively, "Frontier") to OII 19-12-009, February 28, 2020.

¹³ March 3, 2020 Prehearing Conference Transcript at 40:14-16.

On March 10, 2020, the parties notified the assigned ALJ that they were engaged in settlement discussions pursuant to Rule 12.1(b) and requested that the schedule of the proceeding be stayed. On March 23, 2020, Frontier notified the service list that settlement was delayed by COVID-19, nevertheless, it anticipated submitting a motion for approval of the settlement agreement by March 27, 2020. Also on March 23, 2020, Frontier filed a new response with proposed redactions to the Staff Report, with a matrix setting forth the legal and factual basis.¹⁴ Frontier moved to file under seal the matrix.¹⁵

On April 13, 2020, the Commission issued the *Assigned Commissioner's Scoping Memo and Ruling*.

On April 14, 2020, the parties filed a joint motion for adoption of settlement with an attached settlement agreement (2020 Proposed Settlement).¹⁶ On January 4, 2021, the assigned ALJ issued the Presiding Officer's decision which approved the 2020 Proposed Settlement. On February 3, 2021, President Batjer filed a Request for Review, stating that it was questionable whether the reinvestment projects to improve service quality in lieu of penalties were in the public interest. On February 18, 2021, the Parties filed a joint response to the Request for Review. On September 29, 2021, the modified Presiding Officer's

¹⁴ Response of Frontier Communications Corporation, Frontier Communications of America, Inc. (U5429C), and Frontier California Inc. (U1002C) (Collectively "Frontier") to Assigned ALJ Ruling on March 3, 2020 PHC [Public Version], March 23, 2020.

¹⁵ Motion of Frontier Communications Corporation, Frontier Communications of America, Inc. (U5429C), and Frontier California Inc. (U1002C) (Collectively "Frontier") to File Under Seal Confidentiality Chart in Response to March 3, 2020 ALJ Ruling, March 23, 2020.

¹⁶ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption Settlement Agreement, April 14, 2020.

decision found that reinvestment in lieu of penalties would not serve the public interest and rejected the 2020 Proposed Settlement.

On October 6, 2021, the assigned ALJ held a status conference. On October 18, 2021, the assigned ALJ set the schedule for the remainder of the proceeding while encouraging the parties to continue to discuss settlement. On November 4, 2021, the Parties submitted a joint motion for adoption of their proposed settlement (Proposed Settlement). On November 10, 2021, the assigned ALJ issued a ruling staying the schedule to give the Commission time to consider the Proposed Settlement.

On December 1, 2021, the assigned ALJ issued a ruling directing the parties to provide additional information regarding the 2016 customer bill credits. On December 15, 2021, Frontier responded.

3. The Proposed Settlement Agreement

3.1. Summary of the Proposed Settlement

The Settlement Agreement states that the total settlement amount of \$3.5 million is composed of:

- \$996,000 in customer bill credits that Frontier has paid out to customers for service outages or other service-related issues from April 1 through mid-June 2016.
- \$1,050,000 penalty to be paid to the State's General Fund for the release of customer address information.
- \$1,454,000 penalty to be paid to the State's General Fund for the outages and service interruptions.¹⁷

¹⁷ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Ex bit 1 at 12 - 13.

3.2. The \$996,000 is Not Part of the Proposed Settlement

By including the \$996,000 bill credits issued in 2016 as part of the Proposed Settlement, Frontier and CPED “agree that a disgorgement in the amount of \$3,500,000 is appropriate to deter future violations and demand accountability for Frontier’s outages and service interruption and the release of customer address information resulting from the cutover from Verizon to Frontier.”¹⁸ Not only should the \$996,000 be excluded from the Proposed Settlement, the characterization of \$3,500,000 as disgorgement is incorrect.

The Proposed Settlement is the agreement that reflects a compromise between the parties to resolve the issues of this Investigation. The \$996,000 bill credits were issued in 2016, before this Investigation was initiated. Activities before the initiation of this Investigation does not represent any compromises the parties might have made, or made, to avoid further litigation.

Also, the \$3,500,000 is not disgorgement. Black’s Law Dictionary defines disgorgement as “[t]he loss of a right, privilege, or property because of a crime, breach of obligation, or neglect of duty.”¹⁹ The underlying goal of disgorgement is to render illegal behavior unprofitable by confiscation of proceeds an actor gained because of a breach of obligation or neglect of duty. In contrast penalty is defined as “[p]unishment imposed on a wrongdoer, in the form of imprisonment or fine; a sum of money exacted as punishment”²⁰

The \$996,000 reflects the financial benefit Frontier correctly returned to the customers in the form of bill credits. The total penalty of \$2,504,000 serves to

¹⁸ *Id.* at 12.

¹⁹ Disgorgement, Black’s Law Dictionary (10th ed. 2014).

²⁰ Penalty, Black’s Law Dictionary (10th ed. 2014).

punish Frontier for service outages, poor customer support, and the release of address records online and in print directories without authorization from residential customers. As discussed in more detail in Sections 4.2.4 and 4.2.5 of this decision, the bill credits can be a mitigating factor in analyzing the penalty, but it should not be included in the Proposed Settlement to artificially increase the value of the compromise. In short, the \$2,504,000 penalty is the total monetary value of the Proposed Settlement, not \$3,500,000.

3.3. Modifications to the Proposed Settlement Regarding the Potentially Affected Customers of Address Disclosures

This decision modifies the Proposed Settlement by requiring Frontier to give a one-time six-dollar bill credit to all customers who did not receive bill credits in 2016, but were potentially affected by the address disclosure in 2016. This decision orders Frontier to send letters to the customers who received the one-time six-dollar bill credit, advising the customers of the option to enroll in non-publish service and/or Caller ID free of charge for one year. These modifications to the Proposed Settlement are appropriate given that Frontier should have offered additional mitigation measures because the customers' requests to keep residential addresses confidential need to be protected and enforced.

For the period on or about April 4, 2016, through July 18, 2016, 282,149 customers who requested that their addresses be suppressed were instead included Frontier's directory assistance database.²¹ According to Frontier,

²¹ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 4.

because the database can only be accessed by directory assistance vendors upon request, the number of actual disclosures was likely less than the number of directory assistance inquiries. There was a total of 14,289 directory assistance inquiries from April 4, 2016 through July 28, 2016.²² In addition to the directory assistance database accessible only by directory assistance vendors, residential customer addresses that should have been suppressed were available in printed directories and online directories.²³

After the release of residential customer addresses of customers who requested that their house/apartment number and street address be suppressed, Frontier sent letters to all potentially affected customers.²⁴ The letters provided a toll-free number for customers with questions. Of the customers who wanted more information about the release of their residential addresses, 174 requested to speak to a supervisor. Frontier issued \$1,019 in credits and some customers received non-publish service and Caller ID free of charge.²⁵

The requests of residential customers to keep their home addresses suppressed from telephone directories needs to be protected and enforced. A customer's home address should be kept confidential for a variety of reasons, personal and unique to each customer. As explained in more detail in Section 4.2.5. of this decision, the Commission finds the disclosure of personal information to be a serious offense, one deserving of severe penalties.²⁶

²² *Id.*

²³ Response of Frontier Communications Parent, Inc., Frontier Communications of America, Inc., Frontier California, Inc. to December 1, 2021 ALJ E-Mail Ruling Directing Parties to Provide Further Information Concerning Customer Bill Credits, December 15, 2021, at 5.

²⁴ *Id.* at 6.

²⁵ *Id.*

²⁶ See D.01-11-062 and D.15-09-009.

Providing a toll-free phone number for customers to call with questions is inadequate to remedy the potential publication of residential customer addresses. The 2016 letters to the potentially affected customers should have informed them of additional options to protect their information. For example, by enrolling as a “nonpublished” customer, a customer’s name and phone number would not be included in directories.²⁷ In 2016, some of the potentially affected customers requested and received enrollment as a “nonpublished” customer and Caller ID free of charge.²⁸

In 2016, Frontier issued a total of \$1,019 in bill credits to potentially affected customers. Beyond the 174 customers who requested to speak to supervisors, it is unclear how many customers received bill credits.²⁹ If all 174 customers received bill credits, the average received by each customer was \$5.86, approximately six dollars. Due to the seriousness of having one’s home address being made available to the public for a resident who specifically requested the opposite, it is reasonable to offer the potentially affected customers the opportunity to receive additional remedies.

We will require Frontier to give the same mitigation measures that it already provided selective customers in 2016. Frontier should give a one-time six-dollar bill credit to all customers who did not receive bill credits in 2016, but were potentially affected by the address disclosure in 2016. Via letter, Frontier should inform the customers that they have received a one-time six-dollar bill

²⁷ Response of Frontier Communications Parent, Inc., Frontier Communications of America, Inc., Frontier California, Inc. to December 1, 2021 ALJ E-Mail Ruling Directing Parties to Provide Further Information Concerning Customer Bill Credits, December 15, 2021, at 4.

²⁸ *Id.*

²⁹ *Id.* at 6.

credit due to the potential disclosures in 2016 and the customers have the option to enroll “nonpublished” service and/or Caller ID free of charge for one year. Although Frontier’s remedy is six years after the event, it gives the potentially affected customers the opportunity to access remedies that they did not have in 2016. Lastly, any services provided to customers free of charge for one year will not automatically renew for payment subsequently.

4. Penalty Factors

The Commission will not approve the settlement unless it is reasonable in light of the whole record, consistent with the law, and in the public interest.³⁰ When evaluating a penalty, the Commission set out the necessary analysis in D.98-12-075. The factors consist of the following: the gravity of the offense, the conduct of the utility, the financial resources of the utility, the totality of the circumstances, and the role of precedent.

4.1. The Penalty in the Proposed Settlement is Reasonable in Light of the Whole Record, Consistent with the Law, and in the Public Interest

The Proposed Settlement states that Frontier will pay a \$2,504,000 penalty to the State General Fund, consisting of

- \$1,050,000 penalty for the release of customer address information; and
- \$1,454,000 penalty for the outages and service interruptions during the cutover from Verizon.

The Commission has historically favored settlements as an efficient means of resolving contested issues and avoiding the time and expenses associated with litigation. The penalty in the Proposed Settlement is reasonable in light of the

³⁰ Rule 12.1(d).

record as the Parties have set forth extensive recitals of facts. Furthermore, the Parties have provided additional details in their responses to the ALJ's questions. The parties appropriately created a compromise with the cash penalty.

The Proposed Settlement is consistent with the law. Frontier acknowledges the service outages and inadvertent disclosure of suppressed customer addresses related to the transition of assets from Verizon to Frontier in 2016. Due to these acknowledgments, Frontier agrees to pay the State of California General Fund \$1,050,000 penalty for the release of customer address information and \$1,454,000 penalty for the outages and service interruptions. Therefore, the Proposed Settlement is consistent with and enforces applicable law.

The Proposed Settlement is in the public interest because it reflects a reasonable compromise between the Parties' positions and will avoid the time, expense and uncertainty of evidentiary hearings and further litigation.

4.2. The Penalty is Reasonable and Proportionate to the Violation

To determine if a penalty is appropriate, the Commission examines specific factors set forth in D.98-12-075, including the severity of the offense, the conduct of the utility, the financial resources of the utility, the totality of the circumstances, and the role of precedent.³¹ The purpose of a fine is to effectively deter further violations by this perpetrator or others.³²

4.2.1. Severity of the Offense

When analyzing the severity of the offense, the Commission considers whether the offence caused economic harm, physical harm or harm to the

³¹ 84 CPUC2d at 182.

³² *Id.*

regulatory process.³³ This Investigation involves harm experienced by Frontier's customers.

The severity of the offense by Frontier is significant. Frontier acknowledges that despite planning, the transition of Verizon's assets to Frontier resulted in outages between April 1, 2016 and July 31, 2016.³⁴ Frontier received 11,675 out-of-service trouble tickets for voice service.³⁵ The transition resulted in numerous customer complaints, include complaints through Frontier's offshore customer service center.³⁶ Some customers had no access to 911 emergency services. Between April 1, 2016 and at least December 31, 2016, Frontier failed to meet a service quality standard to repair 90 percent of all outages within 24 hours.³⁷

Frontier also disclosed customer addresses in violation of the customers' requests. A total of 282,149 customers who had requested that their addresses be suppressed from directories instead had their addresses made available in online directories, print directories, and to directory assistance vendors from April 4, 2016 to July 28, 2016.³⁸ Frontier argues that the actual disclosure of the addresses was likely lower because from April 4, 2016 to July 28, 2016, Frontier only received 14,289 directory assistance inquiries and these inquiries did not

³³ 84 CPUC2d at 183.

³⁴ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 2.

³⁵ *Id.*

³⁶ *Id.* at 2 - 3.

³⁷ *Id.* at 3.

³⁸ *Id.* at 4.

always include requests for customer addresses.³⁹ However, Frontier distributed 134 printed residential directories with the suppressed addresses between July 5, 2016 and July 12, 2016. 111 of the 134 directories were recovered.⁴⁰ With the service outages and disclosure of customer addresses, Frontier's customers experienced substantial harm during the 2016 transition period.

4.2.2. Conduct of the Utility

When considering the conduct of the utility, it is important to consider the utility's role in 1) preventing the violation, 2) detecting the violation, and 3) disclosing and rectifying the violation.⁴¹

More than a year prior to transitioning Verizon customers to Frontier's service platform, Frontier conducted mock transfers of customer information.⁴² It was not until the actual transfer in 2016 that Frontier discovered that Frontier's system could not process a percentage of the data within the Verizon system, after the data was transferred to Frontier's network.⁴³ Due to the data transfer problems, customers experienced interruptions for voice, broadband, and video services, as well as a lack of customer support to complaints. Offshore customer

³⁹ *Id.*

⁴⁰ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 5.

⁴¹ 84 CPUC2d at 183.

⁴² Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 2.

⁴³ *Id.* at 2 – 3.

service representative did not effectively handle the spike in customer complaints.⁴⁴

Similarly, the transition of Verizon's customer directory listings to Frontier's system was problematic. Verizon's customer directory listings had a data field indicating whether the street address should be suppressed; however, Verizon's data field was not carried over to the Frontier system. This resulted in addresses being available online, in print, and to directory assistance vendors that customers had requested be suppressed.⁴⁵

Frontier took numerous steps to rectify the problems, including creating a team of software and network engineers to conduct quality assurance tests, conducting user tests, clearing the backlog of service trouble tickets, and increasing the number of technical customer service representatives.⁴⁶

Overall, Frontier's conduct shows that Frontier attempted to prevent the violations. When the violations occurred, Frontier rectified the violations. Additionally, during and after the transition, Frontier reported the violations, made its activities transparent to the Commission, and cooperated with Commission staff.

⁴⁴ *Id.* at 3.

⁴⁵ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 4; Response of Frontier Communications Parent, Inc., Frontier Communications of America, Inc., Frontier California, Inc. to December 1, 2021 ALJ E-Mail Ruling Directing Parties to Provide Further Information Concerning Customer Bill Credits, December 15, 2021, at 5.

⁴⁶ Joint Response of Frontier Communications Corporation, Frontier Communications of America, Inc. (U5429C), Frontier California, Inc. (U1002C), and the Consumer Protection and Enforcement Division of the California Public Utilities Commission to Administrative Law Judge's Ruling Requesting More Information Regarding Proposed Settlement, May 22, 2020, at 4.

4.2.3. Financial Resources of the Utility

Frontier faces financial challenges due to decreasing revenues, network investment demands, and high levels of debt. Frontier's holding company, Frontier Communications Corporation filed for Chapter 11 bankruptcy.⁴⁷ On April 20, 2021, the Commission approved Frontier's corporate restructuring with conditions.⁴⁸ After Frontier emerged from bankruptcy protection, Frontier Communications Corporation was dissolved and a new holding company, Frontier Communications Parent, Inc., was formed.⁴⁹ Despite its current financial difficulties, Frontier and CPED have reached a reasonable compromise with a payment of \$2,504,000 to the State of California General Fund. The monetary payment will serve as an effective deterrent.⁵⁰

4.2.4. Totality of the Circumstances

To ensure that a fine is tailored to the unique facts of a case and the specific circumstances of an investigation, the Commission will review the facts which tend to mitigate the degree of wrongdoing as well as any facts which exacerbate the wrongdoing. In all cases, the harm will be evaluated from the perspective of the public interest.⁵¹

⁴⁷ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc., and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 7.

⁴⁸ D.21-04-008.

⁴⁹ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc., and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 7 - 8.

⁵⁰ *Id.* at 5, 6.

⁵¹ 1998 Cal. PUC Lexis 1016, 76.

Although Frontier attempted to prepare in advance and detect potential problems, certain issues did not present themselves until the actual transition. Frontier notified the Commission promptly regarding the outages and the release of customer addresses. Frontier cooperated with the Commission to address the problems with the 2016 transition in I.14-05-012. Frontier responded to comments at public participation hearings and workshops in I.14-05-012.⁵² Frontier also cooperated with CPED in this instant Investigation. The Proposed Settlement indicates that Frontier acknowledges its errors and agrees to a penalty that serves as a deterrent to future violations. From the discovery of the violations described in the Proposed Settlement, Frontier has mitigated the degree of wrongdoing by its transparency and cooperation with the Commission. It is in the public interest to approve the Proposed Settlement given the totality of circumstances.

4.2.5. Role of Precedent

When considering a penalty, the Commission will address previous decisions that involve reasonably comparable factual circumstances and explain any substantial differences in outcome.⁵³

This Investigation seeks to determine 1) whether Frontier violated laws, rules, and regulations associated with outages, service interruptions, and 2) why Frontier should not pay a fine of \$2,500,000 for disclosing and publishing the addresses of residential customers who elected to have their addresses

⁵² Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc., and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 6.

⁵³ 84 CPUC2d at 184.

suppressed from 4-1-1 and directory assistance.⁵⁴ In acknowledging its offenses and to resolve the issues of this Investigation, Frontier agrees to pay \$2,504,000 to the State's General Fund, composed of

- A \$1,050,000 penalty for the release of customer address information; and
- A \$1,454,000 penalty for the outages and service interruptions during the cutover from Verizon.⁵⁵

Additionally, as a mitigating factor, Frontier had already issued almost \$1,000,000 in customer credits related to service outages.⁵⁶

Two cases are instructive in evaluating the penalty for the release of address information. First, D.01-11-062 involved the inadvertent release of 11,478 customers' non-published listings, which was not discovered for nine months. Over 100,000 phone books with the customers' non-published listings were distributed. The Commission did not impose a penalty because the utility already incurred over \$13,000,000 to reclaim tainted telephone books, which was a substantial deterrent.⁵⁷ Here, Frontier agrees to pay \$1,050,000 as a penalty to the State of California General Fund. Frontier's penalty is appropriate in comparison to D.01-11-062 because the customers were impacted for a shorter period of time. For the period on or about April 4, 2016, through July 18, 2016, 282,149 customers who requested that their addresses be suppressed were instead included in online directories, print directories and in Frontier's directory

⁵⁴ OII at 1, 10 – 12, 13.

⁵⁵ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 13.

⁵⁶ *Id.*

⁵⁷ D.01-11-062 at 19.

assistance database.⁵⁸ According to Frontier, it only received 14,289 directory assistance inquiries and these inquiries did not always include requests for customer addresses.⁵⁹ Frontier distributed only 134 residential directories with the suppressed addresses, not 100,000.⁶⁰

Second, D.15-09-009 involved the inadvertent disclosure of unlisted residential numbers and addresses in directory assistance and in an online directory. The Commission approved a settlement that included a penalty of \$25,000,000.⁶¹ Again, Frontier's penalty is reasonably lower because D.15-09-009 involved 75,000 customers,⁶² whose information remained inadvertently published for more than two years.⁶³ Frontier reported the violation earlier than the utility in D.15-09-009. Frontier reported the violation a little more than a week after becoming aware of the problem, whereas the utility in D.15-09-009 did not report the violation until three months after it discovered the problem.

Arguably, the issuance of \$1,019 in bill credits and the fact that some customers received non-publish service and Caller ID at no cost might mitigate

⁵⁸ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 4; Response of Frontier Communications Parent, Inc., Frontier Communications of America, Inc., Frontier California, Inc. to December 1, 2021 ALJ E-Mail Ruling Directing Parties to Provide Further Information Concerning Customer Bill Credits, December 15, 2021, at 5.

⁵⁹ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 4.

⁶⁰ *Id.* at 5.

⁶¹ D.15-00-009 at 12.

⁶² *Id.* at 2.

⁶³ *Id.*

the penalty. However, given the release of 282,149 residential customer addresses of customers who requested that their house/apartment number and street address be suppressed, the \$1,019 received via bill credits by no more than 174 customers, is wholly inadequate. Frontier customer residential addresses were released in multiple forms: online, in print, and in directory assistance databases. The penalty of \$1,050,000 for the release of customer address information is adequate if Frontier offers additional remedies to the customers, as explained in Section 3.3 of this decision.

Regarding the service quality issues, Frontier agrees to pay \$1,454,000 penalty for the outages and service interruptions during the cutover from Verizon.⁶⁴ Additionally, as a mitigating factor, Frontier had already issued almost \$1,000,000 in customer credits related to service outages.⁶⁵ This is in-line with the range of penalties the Commission has assessed against Frontier: \$64,540 as a result of substandard service quality performance in 2017,⁶⁶ \$1,310,310 as a result of substandard service quality performance in 2018,⁶⁷ and \$1,227,856 for failure to meet service quality performance standards in 2019.⁶⁸

Based on precedent and the recitations of the Proposed Settlement, we conclude that the penalty is reasonable. The penalty is appropriate considering Frontier's offense and conduct. The penalty is an amount that should act as an

⁶⁴ Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement, November 4, 2021, Exhibit 1 at 13.

⁶⁵ *Id.*

⁶⁶ Resolution T-17629.

⁶⁷ Resolution T-17652.

⁶⁸ Resolution T-17731.

effective deterrent to Frontier and others but should not negatively impact Frontier's ability to provide service. The Proposed Settlement should be approved.

5. Election to Accept Modifications to the Proposed Settlement

The Commission may propose alternative terms to the Proposed Settlement and allow the parties reasonable time within which to elect to accept such terms or request other relief.⁶⁹ The parties have 15 days from the issuance of the Presiding Officer's Decision to file and serve a motion accepting the modifications to the Proposed Settlement or requesting other relief.

The motion accepting the modifications or requesting other relief does not change the application of Rule 14.4 and Rule 15.5(a). In other words, regardless of the motion regarding the modifications to the Proposed Settlement, if no appeal or request for review is filed within 30 days from the issuance of the Presiding Officer's Decision, then the decision of the presiding officer shall become the decision of the Commission. If any changes to the Presiding Officer's Decision are requested by the parties, then an appeal must also be filed pursuant to Rule 14.4.

6. Categorization and Evidentiary Hearing

The Commission determined that this is an adjudicatory proceeding and hearings might be required. Given the filing of the joint Proposed Settlement, we find that no hearings are needed to resolve this proceeding. No hearings have been held.

⁶⁹ Rule 12.4(c).

7. Assignment of Proceeding

President Alice Reynolds is the assigned Commissioner and Zhen Zhang is the assigned ALJ.

Findings of Fact

1. The failures in the network of Frontier Communications Corporation, Frontier Communications of America, Inc., and Frontier California, Inc. caused customers to experience voice outages or interruptions between April 1, 2016 and July 31, 2016.

2. Between April 1, 2016 and July 31, 2016, Frontier Communications Corporation, Frontier Communications of America, Inc., and Frontier California, Inc. received numerous out-of-service tickets and customer complaints.

3. Customer complaints were received through the offshore customer service center, but the offshore customer service center could not provide satisfactory support.

4. Files sent to directory assistance vendors did not correctly indicate the address information that should be suppressed.

5. From April 4, 2016 to July 28, 2016, 282,149 customers who had requested suppression of their addresses were included in online directories, print directories, and the directory assistance database accessible by directory assistance vendors.

6. Frontier Communications Corporation, Frontier Communications of America, Inc., and Frontier California, Inc. investigated the disclosure of customer addresses starting on July 1, 2016.

7. Frontier sent a letter to all potentially affected customers advising them of the address disclosure.

8. 174 customers requested to speak to a supervisor about the address disclosure.

9. Frontier issued \$1,019 in bill credits to potentially affected customers of the address disclosure.

10. Some customers requested and received non-publish service and Caller ID free of charge.

11. Between July 5, 2016 and July 12, 2016, Frontier Communications Corporation, Frontier Communications of America, Inc., and Frontier California, Inc. distributed 134 printed residential directories with the addresses that should have been suppressed.

12. 111 of the 134 printed residential directories were recovered.

13. Frontier Communications Corporation, Frontier Communications of America, Inc., and Frontier California, Inc. have mitigated the degree of wrongdoing with transparency and cooperation with the Commission.

14. After emerging from Chapter 11 bankruptcy restructuring, Frontier Communications Corporation was dissolved and a new holding company, Frontier Communications Parent, Inc. was formed and was indirectly transferred the equity and controls the operations of all Frontier operating companies in California.

15. In order to resolve the legal issues raised by I.19-12-009, Frontier Communications Parent, Inc. (replacing Frontier Communications Corporation), Frontier Communications of America, Inc., and Frontier California, Inc. agree to pay \$2,504,000 to the State of California General Fund within 30 days of the date on which the Commission approves the Proposed Settlement.

16. The Proposed Settlement is unopposed.

17. No hearing is necessary on the Proposed Settlement or the resolution of I.19-12-009.

18. The record of this proceeding was submitted on December 15, 2021, the date on which Frontier Communications Parent, Inc. (replacing Frontier Communications Corporation), Frontier Communications of America, Inc., and Frontier California, Inc. responded to the assigned Administrative Law Judge's December 1, 2021 ruling requesting more information.

Conclusions of Law

1. The Proposed Settlement is an uncontested agreement as defined in Rule 12.1(d) and satisfies the requirements of Rule 12.1(d).

2. Frontier Communications Parent, Inc. (replacing Frontier Communications Corporation), Frontier Communications of America, Inc., Frontier California, Inc. and the CPED have arrived at an agreement that resolves all issues relating to I.19-12-009.

3. The \$2,504,000 penalty is appropriate in light of the offense and conduct of Frontier Communications Corporation, Frontier Communications of America, Inc., and Frontier California, Inc.

4. The \$2,405,000 penalty should act as an effective deterrent to Frontier Communications Parent, Inc. (replacing Frontier Communications Corporation), Frontier Communications of America, Inc., and Frontier California, Inc., but should not impact their ability to continue to provide service to their customers.

5. The \$2,405, 000 penalty is reasonable and should be approved.

6. With the following modifications, the Proposed Settlement is consistent with public interest:

- Within 30 days of Commission approval of the Proposed Settlement, Frontier will give a one-time six-dollar bill credit to all customers who did not receive bill credits in

2016, but were potentially affected by the address disclosure in 2016,

- Via letter, Frontier will inform the customers that a one-time six-dollar bill credit has been applied to their account, advising the customers of the option to enroll in non-publish service and/or Caller ID free of charge for one year, noting that any services provided to the customers free of charge for one year will not automatically renew for payment subsequently.

7. The factual recitations of the Proposed Settlement and supplemental information provided by Frontier support the penalty and the modifications.

8. The Proposed Settlement, as modified by this decision, is reasonable in light of the whole record.

9. The Proposed Settlement, as modified by this decision, is consistent with the law.

10. The Proposed Settlement, as modified by this decision, is in the public interest.

11. The Proposed Settlement, as modified by this decision, should be approved.

12. *The Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement* should be granted with modifications.

13. All outstanding motions and/or requests other than the motion for adoption of the Settlement Agreement should be denied.

14. This decision should be effective immediately to provide certainty regarding resolution of I.19-12-009.

15. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. The *Joint Motion of Frontier Communications Corporation, Frontier Communications of America, Inc., Frontier California, Inc. and the Consumer Protection and Enforcement Division of the California Public Utilities Commission for Adoption of Settlement Agreement*, attached to this decision as Appendix A, is approved with the following modifications:

- Within 30 days of Commission approval of the Proposed Settlement, Frontier will give a one-time six-dollar bill credit to all customers who did not receive bill credits in 2016, but were potentially affected by the address disclosure in 2016,
- Via letter, Frontier will inform the customers that a one-time six-dollar bill credit has been applied to their account, advising the customers of the option to enroll in non-publish service and/or Caller ID free of charge for one year, noting that any services provided to the customers free of charge for one year will not automatically renew for payment subsequently.

2. The parties have 15 days from the service of this Presiding Officer's Decision to file and serve a motion accepting the modifications to the Proposed Settlement or requesting other relief.

3. The parties must comply with all provisions of the agreement, including the modifications.

4. Frontier Communications Parent, Inc. (replacing Frontier Communications Corporation), Frontier Communications of America, Inc., and Frontier California, Inc. must pay a \$2,504,000 penalty to the State of California General Fund, within 30 days of the effective date of this decision. Payment shall be made by check or money order payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000,

San Francisco, CA 94102. The check or money order shall state “For deposit to the General Fund per Decision 22-04-059.”

5. Within 30 days of the effective date of this decision, Frontier Communications Parent, Inc. (replacing Frontier Communications Corporation), Frontier Communications of America, Inc., and Frontier California, Inc. must

- Apply a one-time six-dollar bill credit to the accounts of all customers who did not receive bill credits in 2016, but were potentially affected by the address disclosure in 2016,
- Communicate with the customers via letter, informing the customers that a one-time six-dollar bill credit has been applied to their account, advising the customers of the option to enroll in non-publish service and/or Caller ID free of charge for one year, noting that any services provided to the customers free of charge for one year will not automatically renew for payment subsequently.

6. No hearings are needed to resolve this proceeding.

7. All outstanding motions and/or requests other than the motion for adoption of the Proposed Settlement are denied.

8. Investigation 19-12-009 is closed.

This decision is effective immediately.

Date April 27, 2022, at San Francisco, California.