

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

In the Matter of the Joint Application of	)	
Frontier Communications Corporation,	)	
Frontier Communications of America, Inc.	)	
(U5429C), Verizon California Inc. (U1002C),	)	Application 15-03-005
Verizon Long Distance LLC (U5732C), and Newco	)	(Filed March 18, 2015)
West Holdings LLC for Approval of Transfer of	)	
Control Over Verizon California, Inc. and Related	)	
Approval of Transfer of Assets and Certifications.	)	
_____	)	

**CALIFORNIA EMERGING TECHNOLOGY FUND  
VERIFIED RESPONSE TO  
FRONTIER COMMUNICATIONS CORP. AND  
FRONTIER COMMUNICATIONS OF AMERICA, INC.  
RESPONSE TO ORDER TO SHOW CAUSE**

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Dated: November 9, 2018

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Pursuant to the “E-mail Ruling Directing California Emerging Technology Fund to Reply to Frontier Response to the Order to Show Cause in A15-03-005,” filed on October 31, 2018, the California Emerging Technology Fund (“CETF”), a non-profit organization, hereby timely files its verified response to the “Verified Response of Frontier Communications Corporation and Frontier Communications of America, Inc. (U 5429 C) to the Order to Show Cause” (“Frontier Verified Response”), filed November 2, 2018.

This phase of the proceeding began with CETF filing “CETF’s Petition to Modify Decision No. 15-12-005 to Compel Frontier Communications to Comply with Memoranda of Understanding” on May 30, 2018 (“Petition to Modify”). On October 25, 2018, an “Administrative Law Judge’s Ruling An Order to Show Cause” was issued by the Assigned Administrative Law Judge (ALJ), ordering Frontier Communications Corporation and Frontier Communications of America, Inc. (collectively referred to hereinafter as “Frontier”) to appear at an Order to Show Cause Evidentiary Hearing, and to show cause why Frontier should not be found in contempt of Decision No. (D.) 15-12-005, fined, penalized or have other sanctions imposed for failing to comply with D.15-12-005, found in contempt for failing to comply with

Rule 1.1; and/or fined penalized or have other sanctions imposed for failing to comply with Rule 1.1. In the Order to Show Cause (OSC), an OSC hearing was ordered for November 14, 2018, Frontier was ordered to file a verified statement responding to the allegations in the OSC, and on November 9, 2018, the California Public Advocates Office was ordered to file a verified reply statement. The OSC portion of the proceeding was categorized as adjudicatory and *ex parte* contacts are prohibited. Attached to the OSC was a copy of a letter from eight Community-Based Organizations (“CBOs”) who are non-profit grantees<sup>1</sup> helping implement the public benefit commitments by Frontier in the MOU with CETF, to the Commissioners, dated October 8, 2018 (“CBO Letter”). The CBO letter concurs in the CETF Petition to Modify and requests the Commission ensure that Frontier complies with the substance of the public benefit obligations in the MOU.

On October 31, 2018, by an emailed ruling, the ALJ ordered CETF to file a verified response to the Frontier Verified Response to the OSC. A Notice of Evidentiary Hearing was issued on November 2, 2018 by the Commission’s Chief ALJ ordering an evidentiary hearing for November 14, 2018.

### **I. Frontier Improperly Attempts to Limit the Scope of the OSC Issues**

Frontier again is evading its obligations under the Memorandum of Understanding and Agreement between Frontier Communications Corporation and California Emerging Technology Fund, dated October 23, 2015 (hereinafter “MOU”). On page 1 of the Frontier Response, Frontier asserts, “The OSC appears to be based on a letter from Community Based Organizations (“CBOs”) that have partnered with CETF, who erroneously claim Frontier violated the” MOU. In this way, Frontier attempts to argue that the scope of the “Administrative Law Judge’s Ruling an Order to Show Cause” only covers the complaints in the CBO Letter. Frontier then proceeds to spend most of its response arguing that in the MOU, there is no guarantee of \$3 million in unrestricted cash paid to CETF or the CBOs, and whether 50,000 WiFi capable devices were

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<sup>1</sup> The CBOs signing the letter were American GI Forum Education Foundation of Santa Maria, Great Harvest Community Center, Partners in Education, Southeast Community Development Corp. (SCDC), California Foundation for Independent Living Centers, human I-T, San Joaquin Valley Regional Broadband Consortium, and United Ways of California. They are not parties to this proceeding.

required to go to CETF and/or its CBO partners under the MOU. (Frontier Verified Response, at 3-7).

This is a blatant attempt to misdirect the Commission from the core issues of CETF's Petition to Modify. In its Petition to Modify, CETF set forth the history of the MOU, its implementation over the last three years, and chronicled Frontier's efforts to avoid compliance with the MOU. In the Petition to Modify, CETF has a long list of grievances of how Frontier has failed to comply in good faith with the MOU.

In Ordering Paragraph 1 of the OSC at page 4, the scope of the OSC clearly covers any issue where Frontier has failed to comply with the Commission's orders in Decision 15-12-005 and/or for failing to comply with Rule 1.1 (ethics) of the Commission's Rules of Practice and Procedure. As noted in CETF's Petition to Modify at page 13, CETF's MOU was an attachment to D.15-12-005, and Frontier was specifically ordered by the Commission to perform in a faithful and timely manner all agreements made by it in the settlements and the MOU. (D.15-12-005, at pp. 71, 74-75). Further, the Commission specifically instructed any party to a settlement or MOU to apply for an order from the Commission should Frontier fail to perform one or more agreements contained in the Settlements or the MOU. *Id.*

The Petition to Modify includes verified statements by CETF's two senior executives and provides copies of correspondence between the parties showing how Frontier has attempted to evade many of its MOU obligations, not just the CBO program. Thus, it is inaccurate for Frontier to try and limit the scope of the OSC to allegations contained in the CBO Letter.

## **II. Frontier Continues to Be in Breach of the CETF MOU**

Frontier and CETF entered into the MOU to ensure "tangible public benefits" and intentionally set forth a sincere commitment to working together to achieve those specified public benefits in the Recitals which provides the essential context for interpretation of the MOU (see Recitals on pages 1-2 of the MOU, Exhibit C to CETF's Petition to Modify). Recital #4 (MOU page 2) in particular was intended to articulate an overall abiding obligation by Frontier to achieve the quantified public benefits for broadband deployment and adoption, with the last sentence memorializing that CETF relied on the "true spirit of a public-private partnership" to defer to Frontier to try their preferred approach to achieve the public benefits but with an

assurance that Frontier would revise their strategies if necessary to achieve the quantified goals, especially the 200,000 broadband adoptions through a viable affordable offer and commitments to CBOs for \$3 million and 50,000 Internet-enabled devices. During the negotiations of the MOU, CETF informed and warned Frontier that it questioned Frontier’s approach to achieving the adoption goals, but would defer to Frontier’s judgment provided that there was an overriding agreement to achieving the public benefits. The MOU Recitals were carefully crafted to be the foundation for compelling Frontier to strive in good faith to achieve the specific and quantified public benefits instead of betraying the essence of the MOU by running out the clock on arbitrary target timeframes which were aspirational consistent with Recital #4.

Under the MOU, Frontier was obligated to collaborate with CETF to bring broadband service to low-income households in California (see first Covenant of MOU on page 3). To that end, it agreed to offer an affordable broadband plan (now called the “Frontier Affordable Broadband” offer) at \$13.99/month (with a free modem, speeds of up to 7 Mbps download where available, with eligibility restricted to wireline customers who were on a Lifeline telephone plan) described in Covenant 4 on page 3 of the CETF MOU. Frontier agreed to “broadly market” the affordable broadband plan and the FCC’s Lifeline plan, which is agreed to make available.<sup>2</sup>

The MOU also provided that “Frontier agrees that over a period of three (3) years, the target of 200,000 enrolled Lifeline broadband customers is an aspirational target CETF and Frontier will endeavor with sincere commitment and in good faith to achieve.”<sup>3</sup> Thus Frontier was to have worked with CETF and its partner CBOs to achieve 200,000 low-income broadband home adoptions over three years in the Frontier footprint. It is now over three years since the October 23, 2015 MOU was inked. Instead of **200,000** low-income broadband home adoptions, there are only **11,038**, which means *the shortfall is a staggering 188,962 households*. This is prima facie evidence that Frontier’s approach was in need of revision to fulfill its obligations.

At page 4 of its Verified Response, Frontier objects that the 200,000 broadband adoption figure was only an “aspirational goal” and did not mandate the enrollment of a certain percentage of customers. CETF finds this statement disingenuous and a betrayal of the Recitals. Clearly, this

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<sup>2</sup> MOU, at p. 7, at para. 17.

<sup>3</sup> MOU, at p. 7, para. 17.

figure in the Covenants established a specific goal that both Frontier and CETF would in good faith pursue to come as close as possible. Otherwise no specific goal would have been set forth in the MOU. Further, the goal of 200,000 adoptions was identified through an analysis of market share and number of low-income households in the new service territory which were documented in the CETF filings with the Commission and the basis of the reference to “appropriate, fair and comparable” public benefits in Recital #6. The concept of “appropriate, fair and comparable” was first set forth by CETF in filings on the Comcast proposed acquisition of Time Warner Cable (A.14-03-013) and recognized by the Administrative Law Judge in the related Proposed Decision, thus establishing an objective and reliable framework for determining the magnitude of public benefits that should be derived from any corporate consolidations. In looking at compliance with the MOU, the current efforts of Frontier after three years has brought only 11,038 adoptions, well short of the 200,000 goal. CETF urges this Commission to not give Frontier a pass but require it to continue to strive to achieve 200,000 adoptions and come close to the MOU goal.

CETF went to great lengths to explain in its Petition to Modify at pages 14-26 how it become apparent after just eight months of marketing the MOU’s affordable broadband offer<sup>4</sup> that it was a flawed, non-viable offer, primarily due to the Lifeline telephone requirement. Frontier could have done many things to immediately change this non-viable offer in order to ensure it met the MOU 200,000 adoption goal, but it instead chose to stall and delay a replacement affordable offer until July 2018. In retrospect, CETF now suspects that Frontier’s motive in stalling the roll-out of the replacement offer was to “run out the clock” on the CETF MOU agreement. This allowed Frontier to avoid paying the CBOs for adoptions and providing devices to low-income customers under the MOU.

In its Petition to Modify, CETF provided evidence that after about five months of negotiation over the terms of a new non-Lifeline affordable offer between Frontier and CETF, on or about October 16, 2017, Frontier’s Vice President of State Regulatory Affairs – California attempted to pressure CETF into signing an “Amendment No. 1 to the Implementation Agreement Between Frontier Communications Corp. and the California Emerging Technology

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<sup>4</sup> Frontier now calls what was referred to in the MOU (see para. 17 for example) as the “Frontier Interim Low-Income Broadband Program” the “Frontier Affordable Broadband” offer. This offer requires a wireline Lifeline telephone subscription to be eligible. See June 30, 2018 Letter, Exhibit 1 hereto.

Fund” (See CETF Petition to Modify, pages 21 and 22, and Exhibit 6). This Amendment No. 1 sought (1) to relieve Frontier of its obligations to provide all 50,000 devices to CBOs and instead proposing that Frontier distribute 22,500 devices to its customers through Frontier’s own sales channels, and (2) sought to change the original Frontier Affordable Broadband offer (with the Lifeline requirement) to the new Frontier Fundamental Internet offer (no Lifeline requirement but at a higher monthly rate and a new \$5 charge for a WiFi router). In addition, as noted in Exhibit 6, page 2 to the Petition to Modify, Frontier sought to end both affordable offer programs in just eight months (by June 2018). After months of negotiations, CETF’s executives came to the unfortunate realization that CETF had been “slow rolled” by Frontier’s senior executives and that they had no intention of giving the new offer enough time to reach the 200,000 goal. CETF found it had finally reached an agreement with Frontier on an acceptable, viable new broadband offer only to have Frontier threaten to pull both the new and old affordable offers *in just eight months*. CETF had reasonable expectations that Frontier would have provided the new Frontier Fundamental Internet offer for at least two years in order for the CBO grantees to have time to sign up its goal of 50,000 adoptions.<sup>5</sup> Further, Amendment No. 1 showed that Frontier was pulling back on its MOU device commitment and trying to divert a large number of devices (22,500) to its own sales channel to ensure those devices went to their customers and not to customers of other broadband companies with affordable offers.<sup>6</sup>

When CETF’s executives flat out refused to sign the Amendment, more stalling by Frontier ensued as to starting the new Frontier Fundamental offer. This was to the detriment of CETF who had gone to great effort to line up dozen CBO grantees to perform the adoption work under the new broadband affordable offer, and entered grant agreements with them. As recounted in CETF’s Petition to Modify at 25, CETF’s President and CEO directly wrote the

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<sup>5</sup> Please note that the CETF grantee CBOs have responsibility to achieve 50,000 verified broadband adoptions and Frontier has the responsibility to achieve 150,000 verified adoptions. CETF’s current numbers show that the CBO’s provided 4,336 adoptions and Frontier provided 6,700 adoptions to date.

<sup>6</sup> As explained in CETF’s Petition to Modify, the CBOs in doing their broadband adoption work with low-income residents do not favor one company or one technology over another. The CBOs educate the prospective customer on all low-income offers available in that service area so that the customer can pick the one that works best for his or her needs. This technology neutral and company neutral approach is always the way the CETF adoption grants are conducted, including as to broadband adoption programs for AT&T, Verizon and Charter. See page 22, para. 1, of the CETF Petition to Modify. In its June 30, 2018 letter, Frontier now prevents its devices going to low-income households where it is not the service provider. This creates a disincentive to take other providers’ affordable offers if the potential customer lacks a device at home or cannot afford one. This is contrary to the MOU where the CBOs could not only sign up a customer on an affordable plan but also provide a free device if the customer lacked one.

Frontier CEO (copied to all Frontier Directors), and the CETF General Counsel wrote Frontier's EVP, General Counsel at its corporate headquarters, to seek resolution. Settlement discussions with corporate executives ensued on May 10, 2018 and May 24, 2018 with no resolution.

On June 30, 2018, Frontier's representative sent CETF a letter (Exhibit 1 hereto) outlining the three affordable broadband offers that would be available as of July 1, 2018, and extending the offer of the initial Frontier Affordable Broadband (with Lifeline requirement) to June 30, 2019. Until June 30, 2019, Frontier stated it would provide \$60 for any new adoption for customers who subscribe to either Frontier's Affordable Broadband offer, the new Frontier Fundamental Internet offer (new offer with no Lifeline requirement), or any other provider's low-income service in the Frontier footprint. Finally, Frontier stated as to the WiFi capable devices, effective June 30, 2018, it intended to provide a free device for new adoptions for *Frontier* customers subscribing to Frontier Affordable Broadband or Frontier Fundamental service, but will no longer provide a free device to customers of *other providers'* affordable offers.

CETF objects to Frontier's new requirements in the June 30, 2018 letter. First, given the problems with the initial affordable broadband offer and in light of only 11,038 adoptions so far (well short of the 200,000 goal), CETF urges the Commission to require Frontier to extend the new Frontier Fundamental Internet offer for two full years from July 1, 2018 (date of first offer), or until the 200,000 goal is reached. On the new device restriction to only Frontier customers, CETF contends that this is an unreasonable restriction, given that Frontier has said that so far it has only provided 4,774 devices to CBOs (out of a maximum of 50,000 devices). The device giveaway has been low due to the non-viable Frontier initial offer; now that the viable Frontier Fundamental offer is available, in good faith, Frontier should allow CBOs to provide the devices to low-income customers to sign up from any provider for either two years or until the maximum devices is reached.

The new Frontier Fundamental Internet offer did not become available until mid-July 2018, only after CETF filed its Petition to Modify at the Commission asking for its intervention on May 30, 2018. CETF recounts this example of Frontier's behavior as just one example of Frontier's evasion of its MOU obligations. Far from the "good faith" efforts Frontier claims on page 10 of its Verified Response, it exemplifies the difficult working relationship that has



characterized the last 18 months of MOU work. If CETF were a teacher, it would grade Frontier's efforts with a D.

CETF's Petition to Modify included the following items where Frontier has failed to perform its obligations under the MOU, not just the two areas (\$3 million in grant payments and 50,000 devices for CBOs) on which Frontier focused its response. These Frontier breaches continue as of the date of this filing:

- Frontier has failed to submit a detailed implementation plan to CETF and the Commission to (1) inform eligible and prospective customers about all affordable broadband offers in the Frontier service area, including the content of the communications and information materials, and (2) show how Frontier plans "with sincere commitment and good faith" to achieve its aspirational goal of 200,000 home broadband subscriptions. CETF has asked for this detailed plan on numerous occasions for over a year to no avail.

- Lack of good faith and reasonable efforts to achieve the 200,000 broadband adoptions by low-income households in its service area due to unreasonable stalling and delay in providing a viable and competitive affordable broadband offer without the Lifeline requirement. Even through as of April 2017 it knew the first Frontier Affordable Broadband offer with the Lifeline requirement was not viable or competitive compared to other affordable offers in the marketplace, Frontier stalled until mid-July 2018 to introduce the new plan, in an effort to avoid its MOU obligations involving payment of up to \$3 million to CBOs for adoption and attempting to divert 22,500 of 50,000 devices to its own sales channel.

- Failure to provide 50,000 WiFi capable devices for distribution by the CBOs to achieve 50,000 of the 200,000 adoptions by low-income households.

- Failure to timely provide \$25,000 to CETF for the second grantee learning workshop which was due on July 1, 2017 under the Implementation Agreement (Exhibit 1 to the Petition to Modify, at page 2, para. 3), and just received today, November 9, 2018 on the date of this filing.

- Failure to install the 50 promised WiFi public locations so that users may access the Internet for free.<sup>7</sup> As of this date, Frontier has installed only 17 (34%) of the 50 public WiFi

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<sup>7</sup> Petition to Modify, at pp. 12, 28. See MOU at p. 5, para. 9.

locations that it committed to in its MOU.<sup>8</sup> Frontier committed to identify 50 public locations by April 2017 to CETF. It identified 20 more sites in October 2017 and has yet to provide confirmation about the installation of these 20 sites to CETF, so 40% of the sites are yet to be identified and 80% of the sites remain to be installed.

- In two places in the MOU, Frontier committed to provide CETF plans as to how it intended to reach unserved and underserved households. The first commitment is in paragraph 10 on page 5 of the MOU and in it, Frontier agrees to present the framework of a plan relating to six Northeast Counties (Modoc, Shasta, Lassen, Plumas Siskiyou and Tehama, referenced in para. 8 of the MOU). In paragraph 11 of the MOU on pages 5-6, Frontier agrees to communicate with CETF, Regional Consortia, elected county and city officials, and community stakeholders in their service area the framework of a plan no later than October 1, 2016 to upgrade the 77,402 locations, augment the broadband speed for 250,000 households, and deploy broadband to an additional 100,000 homes. A “more detailed plan will be shared on or before December 1, 2016.” These two plans have not been received as to the entire obligation for all service areas.<sup>9</sup>

Frontier has failed to respond and address these MOU breaches in its Verified Reply, and it should be held in contempt for not answering these allegations.

### **III. CETF Clarifies Its Stewardship of Frontier Funds and Devices On Behalf of CBOs Grantees Performing the Adoption Work**

At page 7 of the Frontier Verified Response, Frontier claims that CETF is holding \$714,720 of unused CBO funds, and says it could have required CETF to return these funds to Frontier on July 30, 2018. This is incorrect. Frontier errors as to the amount of Frontier funds CETF is holding in trust to provide for verified adoptions for CBO’s participating in the Frontier

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<sup>8</sup> See Exhibit 5 to the Petition to Modify, where Jesus Torres of Frontier states that as of November 30, 2017, he anticipates six or seven total hotspots by end of 2017, bringing the total hotspots to 16 or 17. To CETF’s knowledge no further progress has been made on the installed hotspots.

<sup>9</sup> Frontier released a public version of its plans that projects households to be reached over a period of years with a list of communities with no details about the number of households for each location. CETF received a plan subject to a Non-Disclosure Agreement only for 2017 which contained insufficient detail to constitute any common definition of “detailed.” It contains only a county name, a service area name, and then the total number of households planned to be built out. Absent street names, neighborhood names, or a map, CETF and local stakeholders lack information to understand what households or areas Frontier plans to serve. Moreover, Frontier was not willing to share the 2017 Plan with local stakeholders.

program. To date, CETF has received \$1 million in payments from Frontier to be paid to CBOs at the rate of \$60 per verified adoption. CETF has made payments of \$705,875 to grantee CBOs, and it is currently holding \$294,125 to pay CBOs for adoptions this coming year now that Frontier has three affordable broadband offers as of July 2018.

To explain, the CETF CBO Grant Agreements for the Frontier Partnership are performance-based, with the total amount of the grant based on the agreed-upon number of adoptions at \$60 per adoption. This is how CETF traditionally writes and administers grants to its CBO partners doing broadband adoption work. As with all grants, CETF wrote the Grant Agreements to provide for the two first grant payments based on a work plan and completion of activities to provide for cash flow for the CBO to get started. Thereafter, grant payments are made pursuant to adoptions and are reconciled to the adoptions within a certain timeframe. In order to receive payment, CBOs must provide evidence of verified adoptions to CETF. CETF has administered all its broadband grants – about \$48 million in the past decade -- to CBOs this way.

In the case of the Frontier Partnership, some grantees have a need for additional cash flow or a large number of devices up front to organize its activities, such as hiring new staff, or development of channels of communications for distribution of information for a large area. Therefore, CETF often gives additional grant payments to CBOs in the early phase of the grant to support various start-up activities essential to prepare for the adoption work. CETF has extensive experience to assess the need and relative risk of these early grant payments. In the case of the Frontier Partnership, the grantees that have received early grant payments are past grantees of CETF who have fully delivered on past adoption grants. Therefore, the grant payment was judged as prudent by CETF.

Frontier also promised to pay CETF \$50,000 in the Implementation Agreement to conduct workshops and meetings for the CBO grantees. CETF has only received \$25,000 of the promised \$50,000 to conduct two Learning Communities meetings for the CBOs.<sup>10</sup> The second \$25,000 payment was due July 1, 2017, and was just received today, November 9, 2018 (sixteen months late).

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<sup>10</sup> One CETF Learning Community event for the partner CBOs was already held and a second one is scheduled for early December 2018.

As to Frontier's claims in its Verified Response about devices, Frontier asserts that it began its device program in August 2016, and as of October 30, 2018, Frontier gave 4,774 devices to CBOs collectively. Frontier states that CBOs have only provided 2,360 devices to low-income subscribers thus far, and estimates that CBOs have 2,414 devices on hand. CETF rebuts inferences that the CBOs are inappropriately stockpiling the devices. As a practical matter, the number of devices on hand that a CBO needs depends on the types of activities that particular CBO has upcoming. For example, one CBO is the Los Angeles Unified School District ("LAUSD"). LAUSD held a back-to-school night event involving thousands of persons in the fall and thus required hundreds of devices to be readily available for low-income families who signed up for an affordable offer at that large event. Therefore, there are good reasons for the CBOs to have devices available for various events, depending on their needs.

CETF emphasizes that although CETF agreed to administer the grant program for CBOs on behalf of Frontier to assist the corporation in meeting its MOU public interest obligations, CETF receives no fees or additional operational funding from Frontier and thus, has no economic stake beyond seeking compliance with the public benefit obligations in the MOU. CETF finds it ridiculous that Frontier is implying that CETF is somehow inappropriately holding its funds or extra devices.<sup>11</sup>

#### **IV. The Goals While Aspirational Should Still Be A Measure of the Effort and Attention of Frontier to its Legal Obligations to CETF**

CETF is particularly aggrieved by the cavalier attitude that Frontier takes as to the 200,000 broadband adoption goal contained in the MOU. Yes, the goal was "aspirational" but that specific adoption number was mutually agreed upon as a measure of success that both Frontier and CETF signed up for in the MOU. While CETF never intended to arbitrarily hold Frontier to the exact number, this aspirational goal defines what types of efforts (i.e. marketing, advertising, staffing, community engagement, etc.) should be expended by Frontier. It also serves as a measure of Frontier's efforts and success to date. To summarize, Frontier's current

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<sup>11</sup> CETF is a non-profit organization formed by the Commission a decade ago in order to work exclusively on the state's broadband infrastructure and adoption efforts. CETF operates independently from the Commission, and reports yearly to the Commission on the scope of its activities. CETF is using its own funding to pursue this Petition to Modify to ensure that companies that enter into settlement agreements with non-profit organizations comply with their public interest obligations.

implementation, marketing and advertising efforts<sup>12</sup> on its affordable broadband offer have resulted in a paltry 11,038 adoptions of the 200,000 goal. This constitutes 5.5% of the goal. Thus the goal is an important marker and should properly serve as a measure of the Frontier effort so far.

On the WiFi hotspots, there is no “aspirational” language around that firm commitment. Yet to date, Frontier only has put up 17 of the 50 WiFi hotspots locations, constituting 34% of the commitment. In addition, Frontier has failed to provide its infrastructure deployment reports and plans. Yet Frontier would have the Commission believe it fully complied with its MOU commitments. CETF cannot agree.

#### **V. Frontier Should Be Fined for Its Noncompliance Under PU Code 2107**

CETF deeply appreciates the issuance of the OSC by the ALJ to investigate Frontier’s actions as to the MOU. Grantee CBOs and other consumer groups that also executed settlement agreements and MOUs with Frontier (Public Advocates Office formerly Office of Ratepayer Advocates, TURN and CforAT) support an investigation and evidentiary hearing on these allegations. CETF’s MOU with Frontier contains important public interest benefits which were an explicit condition of the approval of the transaction. Frontier has exhibited behavior that shows it was attempting to evade its MOU commitments, failed to act in good faith, and has utterly failed to deliver the public interest benefits that were required by Commission order for consumers. This behavior was intentional and condoned by the Frontier senior executives at its headquarters. Further, Frontier is unfairly casting aspersions on the non-profit organizations (CETF and its partner CBOs) that are trying to obtain the promised public benefits of the MOU for low-income, disadvantaged and rural communities. In light of all the above, CETF requests penalties be levied against Frontier under Public Utilities Code Section 2107.

At page 33 of its Petition to Modify, CETF requested a daily fine of \$50,000 a day since July 1, 2016 be imposed on Frontier for failing to comply with its MOU obligations. Further,

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<sup>12</sup> As to advertising, CETF notes that most of the Frontier advertising for the initial Frontier Affordable Offer occurred in 2016 and early 2017. CETF expected the advertising would include community media that serves low-income and disadvantaged communities but instead, Frontier has used other methods that have not had strong results.

CETF requested its attorneys' fees. As a non-profit organization, CETF has had to retain outside regulatory counsel to bring the Petition to Modify against Frontier before the Commission.

## **VI. Rule 1.1 Violations Have Occurred**

Finally, Frontier has taken the position that no Rule 1.1 misrepresentations to the Commission have taken place as to this matter. CETF disagrees. In its Petition to Modify, CETF carefully listed all the obligations and breaches with specificity and citations to the underlying MOU. CETF attached documents and correspondence between the parties, and sworn declarations of its two most senior executives as evidence of how Frontier was attempting to evade its obligations. In the last eighteen months, Frontier has stonewalled, evaded, and been anything but honest and forthright with CETF's senior executives. CETF went all the way up the corporate chain to ensure that this behavior was intentional and condoned by its senior leadership. It is. Now, Frontier continues to baldly assert to the Commission that it fully complied with the MOU, despite the copious evidence in the Petition to Modify to the contrary. This chicanery should not be allowed.

WHEREFORE, CETF respectfully requests that the Commission hold an OSC evidentiary hearing to order Frontier to fully comply with every provision of the CETF MOU, order monetary fines from Frontier under Public Utilities Code Section 2107 for non-compliance with the MOU, provide attorneys' fees to CETF, and ensure delivery of all the public benefits that were promised to the people of California in the MOU and all settlement agreements relating to D.15-12-005.

Respectfully submitted,

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