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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. (U 5429C), Verizon California Inc. (U 1002 C), Verizon Long Distance, LLC (U 5732 C), and Newco West Holdings LLC for Approval of Transfer of Control Over Verizon California Inc. and Related Approval of Transfer of Assets and Certifications.	Application 15-03-005 (Filed March 18, 2015)

OPENING BRIEF OF FRONTIER COMMUNICATIONS CORPORATION AND FRONTIER COMMUNICATIONS OF AMERICA, INC. (U 5429 C)

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October 5, 2015

TABLE OF CONTENTS

Page

COOPER, WHITE & COOPER LLP
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COOPER, WHITE
& COOPER LLP
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201 CALIFORNIA STREET
SAN FRANCISCO, CA 94111-5002

TABLE OF AUTHORITIES

Page(s)

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201 CALIFORNIA STREET
SAN FRANCISCO, CA 94111-5002

FCC Decisions

Federal Statutes

I. INTRODUCTION

Pursuant to Rule 13.11 of the Rules of Practice and Procedure ("Rules") of the California Public Utilities Commission ("Commission"), Frontier Communications Corporation and Frontier Communications of America, Inc. (U 5429 C) (collectively, "Frontier") hereby submit this opening brief. Frontier's acquisition of Verizon California Inc. (U 1002 C) ("Verizon California") (the "Transaction") satisfies all of the criteria set forth in Public Utilities Code Section 854. The Commission should approve it expeditiously and without conditions.

The record demonstrates that the Transaction will yield many benefits. *First*, Frontier has committed to expanding or improving broadband service to more than 427,000 households in California. In California, using CAF II support in the amount of $192 million, Frontier will deploy broadband to more than 77,000 households, principally in rural and tribal areas. On top of this commitment, Frontier will deploy broadband to an additional 100,000 California households and it will increase broadband speeds for 250,000 California households that currently have broadband service.

Second, Frontier has committed to a 100% United States-based workforce, and adding 175 new jobs in California, which will contribute more than $10 million annually to the California economy. Frontier has a strong relationship with – and has reached an agreement with – the Communications Workers of America ("CWA"). CWA fully supports the Transaction.

Third, Frontier is committed to being a wireline service provider and will bring its local engagement model to the Verizon California service area, which is highly successful in areas where it has been deployed. This will further benefit ratepayers and local communities, providing economic benefits and enhanced customer service.

Fourth, Frontier has committed to maintaining or improving service quality; indeed, Frontier's current service quality performance in California regarding trouble reports, call answer times and out-of-service ("OOS") repair times are better than Verizon California's performance. Frontier has also committed to specifically dedicating 50 new employees (of the 175 new jobs to be added) to identifying and addressing network and service quality issues.

Fifth, Frontier has committed to a rate cap for one year for Basic Primary Residential

Service, Single Line Business Service and other ancillary services, following closing of the Transaction.

Sixth, Frontier has addressed the principal issues raised by competitive local exchange carriers ("CLECs") by entering into settlements with the California Association of Competitive Telecommunication Companies ("CALTEL") and Cox California Telcom, LLC dba Cox Communications ("Cox") that protect CLECs' interests. In fact, Frontier has agreed to extend certain wholesale arrangements and not to adjust rates for certain wholesale services until at least January 1, 2019, a benefit that would not exist but for this Transaction.

Seventh, Frontier has agreed to numerous community engagement as well as supplier and employment diversity initiatives, including initiatives to ensure services are available to low-income and minority consumers. This is reflected in separate Memoranda of Understanding with the Greenlining Institute ("Greenlining") and the Joint Minority Parties.

On September 2, 2015, the Federal Communications Commission ("FCC") found that the Transaction was in the public interest and approved it unconditionally. The FCC found, for example, that "Frontier is more likely to improve service quality and invest in infrastructure improvements, including for voice services, than Verizon would be absent the transaction;" that "Frontier is more likely to accelerate broadband service in the transaction market areas than Verizon would be absent the transaction, and that this potential for acceleration represents a tangible public interest benefit," and that Frontier's business strategy "is predicated on investing in wireline networks and providing advanced broadband capabilities and high-quality service."[1] The FCC also found that the Transaction did not present any public interest harms that required mitigation measures or conditions. Moreover, the FCC found that the Transaction is unlikely to have adverse competitive effects and that there was no evidence of any concern about Frontier's financial ability to complete the Transaction or to maintain and improve its networks. *Id*. at ¶¶ 15-20. Other than the Commission's approval, all regulatory requirements necessary to consummate the Transaction have been satisfied.

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[1] *In the Matter of Applications filed by Frontier and Verizon*, WC Docket No. 15-44, *Memorandum Opinion and Order* at ¶¶ 23, 34, 36.

The record in this proceeding compels a similar outcome to the conclusion reached by the FCC. The Commission's review of the Transaction is governed by the specific standards in Public Utilities Code Section 854, which have been satisfied. Under Section 854, the Commission should approve this transfer of control if the transfer: (1) "provides short-term and long-term economic benefits to ratepayers" (Pub. Util. Code § 854(b)(1)); (2) does not "adversely affect competition" (Pub. Util. Code § 854(b)(3)); and (3) is, "on balance," in the public interest, as measured with reference to eight statutory factors (Pub. Util. Code § 854(c)).[2] These statutory requirements have undoubtedly been met based on a fully-developed evidentiary record and a thorough examination of the issues by this Commission.

Joint Applicants have made a compelling showing that the Transaction fulfills all the necessary approval criteria. The central touchstone of the statute is the public interest and incremental benefits for California, and Frontier has demonstrated that its acquisition of Verizon California will advance the public interest in numerous material respects and that consumers in California will receive incrementally better service and benefits as a result of Frontier's ownership and operation of Verizon California. Frontier will continue to provide the same services customers receive today, using the existing Verizon California network and employees that provide service to customers today. However, Frontier has also committed to invest significantly in the Verizon California network and to add additional employees, which will bring immediate and ongoing service enhancements and economic benefits to hundreds of thousands of Californians. Along with its own investment commitments related to broadband, Frontier has confirmed that it will fulfill all the requirements under the CAF program to maximize federal support for broadband in rural areas of Verizon California's footprint. This alone will bring broadband infrastructure of at least 10 Mbps download and 1 Mbps upload to rural, high-cost

[2] Public Utilities Code Section 854(b)(2) generally requires that proposed transfers of control result in an "equitable allocat[ion]" of the economic benefits of the transfer to ratepayers. However, Commission precedent confirms that this provision has only been interpreted to require a specific allocation of benefits to the extent Commission exercises ratemaking authority over the utility to be transferred. Even where specific allocations of economic benefits have been mandated, they have been limited to the rate-regulated operations of the transferred utility. This Commission has determined that Verizon California has full pricing flexibility under the Uniform Regulatory Framework, and thus is not subject to rate regulation as to its voice services. Moreover, the Commission has never "rate regulated" VoIP, broadband, video and other services that comprise more than 70% of the Verizon California revenues.

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areas that have not had access to broadband for years and might otherwise remain unserved and underserved indefinitely. Frontier will also bring its local engagement model and its strong and undistracted focus on wireline service to the Verizon California service area, further benefitting ratepayers and local communities and providing economic benefits and enhanced customer service.

The other statutory factors are equally met. Frontier's acquisition will have no detrimental effect on competition, as Frontier and Verizon operate in different markets today, and the Transaction will facilitate a more robust and wireline-focused competitor in the Verizon California territories. This robust competitive marketplace will ensure that the benefits from the transaction are shared with consumers. Frontier's commitments to enhance the Verizon California network to provide expanded broadband services and to hire and focus additional employees on service issues, will not only undoubtedly maintain, but will undisputedly *improve* the quality of service provided to consumers. No valid concerns exist regarding the financial condition of Frontier. Frontier has arranged for all necessary financing to complete the Transaction, and the Company will continue to have a strong balance sheet and liquidity to maintain a healthy operational platform in California following the acquisition. Frontier will continue compensation and benefits for the Verizon employees transferring to Frontier, and the Company has reached a collective bargaining agreement with the CWA that demonstrates the fairness of the Transaction to employees. Frontier has a strong and community-focused management team. Nothing about the Transaction will upset or reduce the Commission's jurisdiction as Verizon California under Frontier's ownership will continue to be subject to the same regulatory requirements, including network and service quality obligations that are in place today.

Despite the unambiguous benefits of the Transaction, intervenors have recommended that the Commission condition its approval of the Transaction on the imposition of a wide variety of far-reaching onerous conditions, several of which would financially and operationally cripple Frontier or most significantly, cause the Transaction to fail in California. Frontier has made substantial financial and operating commitments on the record that will protect and provide benefits to California and consumers. No further conditions are needed to mitigate an adverse effect of the Transaction, as there are no adverse effects. The Commission should reject all of the recommended conditions from intervenors so that California and its consumers can move from the status quo and reap the benefits Frontier plans to provide.

The intervenors' numerous proposed conditions can be grouped into four general categories. First, the Office of Ratepayers Advocates ("ORA") and The Utility Reform Network ("TURN") ask the Commission to impose massive financial obligations on Frontier. ORA recommends that the Commission compel Frontier to affirmatively share economic benefits of $735.75 million, while TURN's proposed figure is $242 million. Exh. TURN – 1, *Baldwin Reply Testimony* at 11:17-18; Exh. ORA – 9, *Selwyn Supplemental Testimony* at 32:17 and 37:15-17; Exh. ORA – 5, *Selwyn Reply Testimony* at 119:15. The Commission should reject these anachronistic suggestions, which are contrary to decades of Commission precedent. The Commission has never deviated from the principle that economic benefits associated with services that are not rate regulated will be allocated by operation of competitive market forces rather than a regulatory mandate. In the 2006 Uniform Regulatory Framework ("URF") decision, the Commission determined that Verizon California faces sufficient competition to warrant the removal of rate regulation. The URF Decision cannot be collaterally attacked in this proceeding, and there is no public policy basis supporting ORA's and TURN's attempt to apply the economic benefit allocation mechanism to a utility operating in the robust competitive communications market today.

Second, ORA and TURN both seek to impose broadband buildout commitments on Frontier that are not viable and would require excessive additional expenditures for broadband deployment, beyond the ordinary and substantial costs associated with operating and maintaining the network, in excess of $1 billion and $2 billion for TURN's and ORA's proposals to achieve 95% and 98% broadband availability, respectively. Frontier is prepared to and has made substantial financial and operational commitments to expand and enhance broadband availability, but TURN's and ORA's proposals are financially irrational and unachievable.

Third, ORA and TURN recommend that the Commission impose an exit tax on Verizon or an entry tax on Frontier, in the form of an escrow account to fund network investment. This condition is unnecessary as Frontier has testified that it understands the condition of the Verizon California network, accounted for it in the purchase price and is prepared to make the necessary investment in the network to provide safe and reliable service. Moreover, this recommendation for an escrow account is misplaced, as the Transaction will not produce any negative effects on the network that would justify such a condition. To the contrary, the Transaction will bring positive benefits to the State and to customers. There is no evidence of specific network deficiencies to be targeted and the Commission has ordered a network infrastructure review that will proceed in the ordinary course after the Transaction closes. D.15-08-041 (ordering network infrastructure review in service quality proceeding). Any network issues identified in that review will be addressed by Frontier post-closing. Indeed, Frontier's entire business plan is premised on upgrading and maintaining the network in order to provide enhanced broadband services which will simultaneously also improve the network delivery of high-quality voice services. Any escrow account would be required to be funded by Frontier under the Securities Purchase Agreement ("SPA") and would only create inefficiencies and delay Frontier’s efforts to improve and expand services in California.

Fourth, intervenors propose a variety of performance and reporting requirements that would be imposed only on Frontier, not on any other incumbent local exchange carriers or more importantly, any of its competitors with whom Frontier must compete. Many of these proposals are outside the Commission's jurisdiction, and none has any nexus to an incremental effect of the Transaction. The Commission can consider these issues, as appropriate, in industry-wide proceedings, such as the pending service quality docket, and the Transaction in no way impairs the Commission’s jurisdiction to do so.

The Commission should reject all of the intervenors' recommendations, which improperly seek to extract yet more value from the Applicants and thereby invite the Commission to commit legal error and risk depriving consumers of the benefits the Transaction would produce. If the conditions recommended by intervenors are adopted and the Transaction in California consequently does not proceed, consumers in California will not receive the benefits that Frontier will otherwise provide. The Commission should reject all of the intervenors' recommended conditions, so that California and its consumers can move from the status quo and reap the tangible and immediate public benefits Frontier proposes to provide.

II. FACTUAL AND PROCEDURAL BACKGROUND.

A. The Parties and the Transaction.

The principal parties involved in the Transaction are Verizon California, Frontier Communications Corporation, and Verizon Communications Inc. Verizon California is an Incumbent Local Exchange Carrier ("ILEC") operating company providing regulated and unregulated telecommunications services in various parts of California. Frontier Communications Corporation is a public utility holding company whose subsidiaries serve more than 3.5 million residential and business local exchange customers nationwide. *Joint Application* at 5; Exh. FTR – 1, *Abernathy Opening Testimony* at 12:19-21. These subsidiaries include two ILECs currently serving in California: Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California ("Frontier California") and Frontier Communications of the Southwest Inc. ("Frontier Southwest"). Verizon Communications Inc. is the current indirect owner of Verizon California. Upon closing of the Transaction, ownership of Verizon California will transfer from Verizon Communications Inc. to Frontier Communications Corporation. In addition, after the Transaction closes, Verizon Long Distance, LLC (U 5732 C) will transfer to Frontier Communications of America, Inc. (U 5429 C) (Frontier's long distance operating company) those long distance accounts whose originating switched long-distance traffic is initiated from Verizon California exchanges.

Verizon California's service territory includes approximately 3 million households and Verizon California serves approximately 2 million access lines in 266 exchanges in California. *Joint Application* at 8; Exh. FTR – 10, *Gregg Rebuttal Testimony* at 3:12-13 and Exh. BJG-I. These exchanges include urban areas, such as Long Beach, suburban areas such as Thousand Oaks and Los Gatos, and rural areas, such as Garberville and Hoopa. Verizon California provides traditional voice service throughout its service territory, and also provides a variety of unregulated services to the vast majority of customer locations in this area, including Internet access service, Voice over Internet Protocol ("VoIP") service, and other broadband-based applications. Pursuant to a state-issued video franchise and a series of local video franchises, Verizon California also provides video services in certain areas. Verizon Long Distance, LLC provides long distance services to customers throughout the Verizon California service territory. *Joint Application* at 10.

Frontier is the fourth largest local telecommunications carrier in the U.S. Through its ILEC subsidiaries, Frontier Communications Corporation serves a wide variety of local exchange markets in 28 states nationwide. Frontier has historically focused on rural and suburban markets, but Frontier's acquisitions over the past decade have added many urban areas to its service territory. Frontier's strategic focus is squarely on wireline operations, with an emphasis on broadband deployment and community-focused customer service. Exh. FTR – 3, *Jureller Opening Testimony* at 29:9-21; Exh. FTR – 6, *White Rebuttal Testimony* at 12:18-27. Frontier offers a full range of residential and business local exchange services, including enhanced services, access services, and wholesale services. *Joint Application* at 7-8; Exh. FTR – 1, *Abernathy Opening Testimony* at 11:8-21. On an unregulated basis, Frontier also offers a variety of broadband, video and consumer and business computer security services. Frontier Communications of America, Inc. offers long distance services throughout Frontier's service territories, including in California.

Frontier is an experienced acquirer of telecommunications operations, and has successfully transitioned and integrated millions of customers to its service platform through a series of acquisitions over the past two decades. These transactions included the addition of 4.8 million access lines in 14 states, including California, in a 2010 transaction with Verizon. *Joint Application* at 33; Exh. FTR – 4, *Golob Opening Testimony* at 9:15-10:19. Most recently, in a 2014 transaction, Frontier acquired AT&T's SNET operations, which included approximately 900,000 customers in Connecticut. Exh. FTR – 4, *Golob Opening Testimony* at 10:14-19. As a result, Frontier has extensive experience in integrating its customer service, billing, repair and maintenance, and wholesale systems with operations from acquired entities and has prepared and is implementing a detailed cutover plan in preparation for closing of the Transaction. Exh. FTR – 4, *Golob Opening Testimony* at 5:9-20, 9:15-11:9; Exh. FTR – 7, *Jureller Rebuttal Testimony* at 36:2-16; Exh. FTR – 6, *White Rebuttal Testimony* at 46:26-48:3.

The Transaction that is the subject of this proceeding was memorialized in the SPA, dated February 5, 2015. The SPA is attached as Exhibit 1 to the Joint Application. While the focus of this proceeding is the California portion of the Transaction involving Verizon California, the Transaction also involves a transfer of operations in Texas and Florida. The operations to be transferred as part of the Transaction are specifically defined in the definition of "Transferred Business" in Section 1.1 of the SPA. Exhibit 1 to *Joint Application* at 20-21. The assets to be transferred as part of the Transaction are also identified in the definition of "Transferred Assets" in Section 1.1. *Id*. at 19-20. Other key details regarding the nature of the transfer are included in Section 1.1 under the definitions of "Transferred Books and Records" and "Transferred IP Licenses." *Id.* at 20-21.

To facilitate the completion of the Transaction, Verizon created a new wholly-owned subsidiary, Newco West Holdings LLC ("Newco"). Prior to closing, Verizon will transfer the ownership of Verizon California to Newco, and upon completion of the Transaction, Newco would become a wholly-owned direct subsidiary of Frontier Communications Corporation. Before and after the transfer, Verizon California will remain a distinct corporate entity, but its ultimate ownership will change from Verizon to Frontier. *See* Exhibit 2 to *Joint Application* (organizational charts depicting the Transaction). The parties expect the closing to take place in the first quarter of 2016 provided that regulatory approvals have been obtained by the end of 2015, consistent with the schedule in this proceeding. *See* Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 34:11-12.

As part of the transfer, all regulatory certifications and contractual rights and obligations associated with Verizon California would remain with that entity upon its transfer to Frontier. The regulatory certifications include Verizon California's certification as an ILEC, Verizon California's certification to operate as a CLEC in Pacific Bell's territory pursuant to D.95-12-057, Verizon California's status as an "Eligible Telecommunications Carrier" under federal law and a "Carrier of Last Resort" under state law. Verizon California's video certifications would also remain with Verizon California upon transfer to Frontier pursuant to the Digital Infrastructure and Video Competition Act ("DIVCA") and applicable local franchise agreements. All tariffs, customer contracts, and operating agreements would remain with Verizon California and continue in effect upon closing. *Exhibit 1 to Joint Application* at pp. 19-20; FTR – 2, *Abernathy Opening Testimony* at 10:20-11:2.

B. The Procedural History of This Proceeding.

This proceeding was initiated through the Joint Application filed on March 18, 2015 by Frontier and Verizon. The Joint Application appeared in the Daily Calendar on March 26, 2015. Protests and responses were submitted on April 27, 2015 by the following parties: ORA, TURN, Greenlining, CWA, CALTEL, Center for Accessible Technology ("CforAT"), Cox, and O1. Joint Applicants provided a reply to the timely-received protests on May 7, 2015.

PAETEC, CETF, XO Communications Services, LLC ("XO") and the Joint Minority Parties filed late requests for intervention prior to the submission of Intervenor testimony. Joint Applicants did not oppose these requests, and these parties were granted party status. Entravision submitted a motion for party status on September 9, 2015. Entravision was granted party status through an ALJ Ruling issued on September 10, 2015.

A Pre-Hearing Conference ("PHC") took place in this proceeding on June 10, 2015. Following the PHC, an initial Scoping Ruling was issued on June 24, 2015. That Scoping Ruling defined the scope of the issues in the proceeding with reference to the statutory standard in Public Utilities Code Section 854. On July 2, 2015, an Amended Scoping Ruling was issued. The Amended Scoping Ruling retained the overall scope of this inquiry, but adjusted the wording of certain statements in the initial Scoping Ruling, and added several items to the list of sub-topics to be addressed in the proceeding. Before and after the PHC, the ALJ issued a series of rulings setting schedules for PPHs and workshops in this proceeding.

From July 6, 2015 to August 21, 2015, transcribed PPHs took place at 11 different locations in or near Verizon California's service territory, ranging from rural areas in the far north and far east areas of the state, to urban areas in the greater Los Angeles area, to suburban areas and mid-sized communities. The 11 locations were as follows, in chronological order: Garberville, Hoopa, Weitchpec, Orleans, Rancho Mirage, Claremont, Santa Clara, Long Beach, Santa Barbara, Ridgecrest, and Mammoth Lakes. At ten of these locations, there were associated site visits, during which the parties viewed specific portions of Verizon's network, including central offices, remote terminals, and other facilities. At these ten locations, there were also transcribed workshops devoted to describing what the parties saw during the site visits, and addressing other designated topics or general observations related to the issues in the Amended Scoping Memo.

Parties submitted a total of 54 sets of testimony in this case, in five non-concurrent, alternating rounds. Joint Applicants submitted Opening Testimony on May 11, 2015.[3] Intervenors submitted reply testimony on July 28, 2015. Joint Applicants submitted rebuttal testimony on August 24, 2015.[4] Intervenors then submitted supplemental testimony on September 11, 2015, and Joint Applicants concluded with supplemental reply testimony on September 22, 2015.[5] In all, Joint Applicants submitted 28 sets of testimony from 14 different witnesses. *See* Appendix A attached hereto. Intervenors collectively submitted 27 sets of testimony from 19 different witnesses. *Id.*

On August 20, 2015, ALJ Bemesderfer issued an ALJ Ruling directing Verizon to prepare "a comprehensive report on the current condition" of the Verizon network. *August 20, 2015 Ruling* at 1-2. That same ruling set evidentiary hearings devoted to addressing the condition of Verizon's network. Verizon served the network report on the parties on September 18, 2015. It was sponsored by four witnesses: Mr. Creager, Mr. Poteete, Mr. Stinson, and Mr. Maguire, all of whom are Verizon executives and managers with intimate knowledge of Verizon's network. The hearing to address the state of Verizon's network took place on September 24, 2015. Frontier representatives attended the hearing and Mr. Michael Golob of Frontier responded to specific questions raised by Commissioner Sandoval. Confidential Reporter's Transcript dated September 24, 2015 at 1150:3-1155:9.

The remainder of the procedural schedule calls for opening briefs to be filed on October 5, 2015, with reply briefs to follow on October 15, 2015. A Proposed Decision is expected to be

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[3] Frontier's testimony included Opening Testimony of Kathleen Quinn Abernathy, Michael P. Golob, John M. Jureller and Melinda White on Behalf of Frontier Communications Corporation.

[4] Frontier's testimony included Rebuttal Testimony of Abernathy, Kim L. Czak, Golob, Billy Jack Gregg, Jureller, Dr. David J. Teece and White on Behalf of Frontier Communications Corporation.

[5] Frontier's testimony included Supplemental Reply Testimony of Abernathy, Michael J. Balhoff, Czak, Golob, Gregg, Jureller, Teece and White on Behalf of Frontier Communications Corporation.

issued by November 3, 2015, with a final Decision targeted for December 3, 2015. As Frontier has emphasized throughout this proceeding, it is important that regulatory approval for the Transaction be completed by the end of 2015 to ensure that Frontier receives the $192 million in CAF II funding in the Verizon California service territory. *See* PHC Transcript dated June 10, 2015 at 54:24-55:28; Exh. FTR – 12, *Abernathy Supplemental Reply* at 19:20-20:2; Exhibit D (Verizon CAF II acceptance letter) ("Verizon's acceptance is thus expressly conditioned upon issuance and acceptance of Regulatory Approvals for the Transaction by December 31, 2015."); Exhs. E-F (FCC Press Release and Public Notice).

C. The Regulatory and Competitive Environment In Which Verizon California Operates.

In recognition of the significant competition that Verizon California and other large and mid-sized ILECs, including Frontier, were facing, the Commission adopted D.06-08-030 (the "URF Decision"). The function of URF was to provide pricing flexibility for the URF ILECs, remove asymmetric regulation, and eliminate vestiges of rate-of-return regulation. *Id.* at 280 (O.P. 5) (adopting pricing flexibility), 2 ("we grant carriers broad pricing freedoms"), 282 (O.P. 21) (eliminating asymmetric marketing, disclosure, and administrative processes), 282 (O.P. 22) (removing "residual elements of rate-of-return regulation"). In the URF Decision, the Commission immediately removed all price regulation over retail business services and all non-basic residential retail services. *Id.* at 280 (O.P. 5). The Commission also began a phase-out of pricing restrictions on basic residential rates, and those pricing restrictions have now been removed with limited exceptions. *Id.* at 280 (O.P. 3) (announcing intent to lift price caps on basic residential services not supported by the California High Cost Fund B ("CHCF-B") as of January 1, 2009); D.08-09-042, at 55 (O.P. 4) (permitting increases in basic rates following January 1, 2009 and providing for full pricing flexibility on unsubsidized lines as of January 1, 2011).[6]

The URF reforms completed Verizon California's transition away from rate-of-return regulation and moved Verizon California closer to regulatory parity with its unregulated

[6] Basic rates in areas supported by the CHCF-B for a given carrier are limited to 150% of the highest standalone rates in other portions of that carrier's territory. D.08-09-042 at 53 (O.P. 30).

competitors. The evidentiary backbone of the URF Decision was a series of conclusive findings regarding the fierce state of competition in Verizon California's service territory. *See* Exh. FTR – 1, *Abernathy Opening Testimony* at 36:3-26; D.06-08-030. The Commission found that "[t]he demonstrated presence of competitors throughout Verizon's service territory makes it reasonable to conclude that Verizon lacks market power." D.06-08-030 (FOF 31) at 263. The Commission noted the "extensive presence of competitors in Verizon's service territory and the ease of expanding service by both wireless and VoIP carriers." *Id.* at 121. The Commission also observed that "the federal program to open local markets to competition has resulted in the presence of competing carriers through its service territory" and further found that "the threat of market entry by a CLEC checks the market power throughout the entire ILEC service territories." *Id.* at 263, 163. The Commission has not revoked or modified these competitive findings since they were reached in the URF Decision. Indeed, the Commission has affirmed the competitive findings of URF in numerous decisions since 2006. *See, e.g.* D.07-09-020 at 2, 129 (COL 9) (affirming competitiveness of voice market, noting "dramatic changes in the competitive landscape" and acknowledging that COLRs are "subject to competitive market forces"); D.08-09-042 at 22 (confirming Commission's "preference to rely upon market forces . . . wherever feasible"); D.09-07-019 at 4 (ordering lessened G.O. 133-B reporting for URF carriers because "these carriers operate in more competitive environments").

D. The FCC and All Other Necessary Approval for the Transaction Have Been Received.

The Transaction has already been approved by the FCC, the Department of Justice ("DOJ"), the Federal Trade Commission ("FTC"), and the relevant state commissions. On September 2, 2015, the FCC approved the Transaction without imposing any conditions beyond the commitments Frontier has voluntarily made, specifically finding that it "serves the public interest." *In the Matter of Applications Filed by Frontier Communications Corporation and Verizon California Inc. for the Partial Assignment or Transfer of Control of Certain Assets in California, Florida, and Texas*, WC Docket No. 15-44, *Memorandum Opinion and Order*, DA 15-987 (rel. Sept. 2, 2015) ("*FCC Approval Order*") at ¶ 41. The FCC found that the Transaction is unlikely to result in any significant public interest harms and that "the proposed transaction is likely to result in public interest benefits of increased investment in local network facilities and broadband service in the transferring service territories and some cost savings." *Id.* The FCC concluded that approval of the Transaction "is unlikely to result in any potential public interest harms outweighing any potential public interest benefits." *Id.* at ¶4.

The FCC further found that "Frontier is more likely to improve service quality and invest in infrastructure improvements, including for voice services, than Verizon would be absent the transaction," disagreeing with "commenter assertions that service quality concerns should function as a reason to deny or condition the transaction." *Id.* at ¶ 23.

The FCC concluded that Frontier's deployment of broadband was a public benefit:

> For several reasons, we conclude that Frontier is more likely to accelerate broadband service in the transaction market areas than Verizon would be absent the transaction, and that this potential for acceleration represents a tangible public interest benefit. First, Frontier's history of deploying broadband supports its assertion that it intends to expand broadband services in the transaction areas above Verizon's existing 73 percent availability rate. In particular, Frontier's 92 percent broadband availability rate demonstrates a steady and significant improvement above the approximately 62 percent availability rate that existed at the time Frontier acquired mostly rural incumbent LEC operations in 14 states from Verizon in 2010, and the record demonstrates that Frontier intends to accomplish similar results with the proposed transaction.

Id. at ¶ 34(footnotes omitted) (emphasis added).

The FCC also recognized Frontier's voluntary commitment to deliver, by the end of 2020, broadband to an additional 750,000 households at speeds of 25 Mbps/2-3Mbps across its entire footprint, including in the Transaction areas in California, Florida, and Texas, while noting that Verizon did not have any specific plans to expand FiOS or to improve broadband service and speeds in the Transaction areas beyond satisfying any pre-existing obligations. *Id.* at ¶ 35.

The FCC further stated:

> We find it persuasive that, while Verizon has not demonstrated plans to invest further in the transaction areas, Frontier's business strategy is predicated on "investing in wireline networks and providing advanced broadband capabilities and high-quality service." Frontier states that all of its capital and human resources are concentrated on wireline services to assure optimal use of its high speed broadband infrastructure, and that it intends to focus its business plan on local engagement in the transaction areas in order to expand and improve service. We find Frontier's statements to be credible in this respect. We note that, in conjunction with its 2010 transaction, Frontier states that it has met its commitment to increase broadband

access in the rural areas it acquired from Verizon.

Id. at ¶ 36 (footnotes omitted).

In the FCC proceeding, the Greenlining Institute ("Greenlining") filed a petition to deny the FCC Application. In addition, CALTEL and COMPTEL separately filed comments expressing concerns about the Transaction and proposing conditions, and TURN and the Center for Accessible Technology filed comments jointly with the National Association of State Utility Consumer Advocates (collectively, "Advocates") also expressing concerns and proposing conditions. The California Emerging Technology Fund ("CETF") submitted late-filed comments proposing conditions on approval of the Transaction, although it did not take a position on whether the FCC should approve the Transaction. The FCC declined Greenlining's petition to deny the Application and the FCC did not impose conditions on its approval of the Transaction, rejecting the multiple conditions proposed by the parties mentioned above. The FCC emphasized that issues raised in comments that are not transaction-specific are outside the scope of its review, and that as it has repeatedly held, the FCC "will generally not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction at issue." FCC Approval Order at ¶¶ 14, 23. Because the multi-faceted public interest standard and balancing test employed by the FCC in the FCC Approval Order is similar to the standard of review to be applied by the Commission under California Public Utilities Code Section 854(a), the FCC Approval Order should guide the Commission in its analysis of the Section 854 factors here.

Likewise, on September 18, 2015, Frontier received the required approval from the Public Utility Commission of Texas related to the amendment of Verizon's certificate of operating authority in Texas. In Florida, the Public Service Commission is not required to approve the Transaction,[7] so all other applicable regulatory approvals, beyond this pending approval by the Commission, have been received.

[7] The Transaction is not subject to a formal approval process in Florida. However, Frontier and Verizon will provide the required notice of the closing of the Transaction to the Florida Public Service Commission and comply with applicable regulatory requirements and formalities in Florida once the Transaction is completed.

III. THE COMMISSION MUST REVIEW THE TRANSACTION IN ACCORDANCE WITH THE STATUTORY STANDARD OF REVIEW AND CONSISTENT WITH ITS JURISDICTIONAL AUTHORITY.

A. The Statutory Requirements and Standard of Review

The Commission's review of the Transaction is governed by a specific set of statutory standards outlined in Public Utilities Code Section 854. This inquiry is limited to determining whether the Transaction meets the prescribed statutory standards.

Section 854 of the Public Utilities Code provides that no person or entity shall merge or acquire a public utility without first securing authorization to do so from the Commission. Cal. Pub. Util. Code § 854(a). Before authorizing any merger or acquisition where any of the utilities that are parties to the Transaction has gross annual California revenues exceeding $500,000,000, the Commission shall find that the proposed Transaction does all of the following:

> (1) Provides short-term and long-term economic benefits to ratepayers.
>
> (2) Equitably allocates, where the commission has ratemaking authority, the total short-term and long-term forecasted economic benefits, as determined by the commission, of the proposed merger, acquisition, or control, between shareholders and ratepayers. Ratepayers shall receive not less than 50 percent of those benefit.
>
> (3) Not adversely affect competition. In making this finding, the commission shall request an advisory opinion from the Attorney General regarding whether competition will be adversely affected and what mitigation measures could be adopted to avoid this result.

Cal. Pub. Util. Code § 854(b)

Because the Transaction involves a utility that has gross annual California revenues exceeding $500 million, the specific criteria in Public Utilities Code Sections 854(b) and 854(c) generally apply. As discussed further herein, however, no regulatory mandated sharing under 854(b)(2) is required because the Commission in its prior URF decision in 2006 (D.06-08-030), eliminated all price regulation from Verizon California and Commission precedent has held that competitive market forces will equitably allocate the economic benefits of the Transaction.

In light of the Commission's precedent with respect to Section 854(b)(2), the Commission must make three basic findings to approve the Transaction:

1. The Transaction provides short-term and long-term economic benefits to ratepayers. Pub. Util. Code § 854(b)(1);

2. The Transaction does not adversely affect competition. Pub. Util. Code § 854(b)(3); and

3. The Transaction is in the public interest. Pub. Util. Code § 854(c).

If the evidence supports these findings, the Transaction must be approved.

In determining whether the Transaction is in the public interest, eight statutory factors should guide the Commission's analysis. However, none of these "factors" is dispositive, and each factor need not be met to find that the Transaction is in the public interest. As the Commission has recognized, it "need not find that each criterion is independently satisfied, but [it] must find, on balance, that the merger . . . is in the public interest." *In Re GTE Corp.*, D. 98-12-005, 2000 WL 34447619 (March 2, 2000) (as modified *In Re GTE Corp.*, D. 01-06-025, 2001 WL 1034581 (June 14, 2001). The factors address whether the Transaction will: (1) maintain or improve the financial condition of the resulting public utility; (2) maintain or improve the quality of service to public utility ratepayers in the state; (3) maintain or improve the quality of management of the resulting public utility; (4) be fair and reasonable to affected public utility employees; (5) be fair and reasonable to the majority of all affected public utility shareholders; (6) be beneficial on an overall basis to state and local economies, and to the communities in the area served by the resulting public utility; (7) preserve the jurisdiction of the commission and the commission's capacity to effectively regulate utility operations in the state; (8) provide mitigation measures to prevent significant adverse consequences which may result from the Transaction. Pub. Util. Code § 854(c)(1-8).

B. The Commission's Review of The Transaction Must Be Limited to the Incremental Effects of the Transaction on the Public.

As noted above, Public Utilities Code Sections 854(b) and 854(c) provide the Commission with a list of statutory factors, which comprise the scope of the Commission's inquiry into whether to authorize the Transaction. Section 854(c) "further instructs the Commission to review eight enumerated factors and to determine if 'on balance, that the merger, acquisition, or control proposal is in the public interest.'" *In re SBC Commc'ns, Inc.*, 05-02-027, 2005 WL 3354926 (Nov. 18, 2005). These subsections lay out a statutory framework requiring the Commission to analyze the incremental effects of the Transaction on the public interest. Indeed, the impact of the Transaction as measured by the enumerated factors is the singular basis for the Commission's mandate to review and authorize public utility transfer of control transactions under Section 854(a). As the Commission has acknowledged in defining the scope of Section 854 inquiries, the Commission's task is to make a judgment about the proposed [transaction] by assessing the overall incremental effects of the [transaction]." *February 16, 1999 Scoping Memo*, (GTE-Bell Atlantic); D. 00-03-021, 2000 WL 34447619 (Mar. 2, 2000) ("Before authorizing a merger, § 854(c) requires that we consider several public interest criteria. In doing so, we need not find that each criterion is independently satisfied, but we must 'find, on balance, that the merger . . . is in the public interest.'").

In fact, the standard of review pursuant to Section 854 is so widely understood that TURN, an Intervenor in this proceeding, relied on the same propositions of law in a prior proceeding before this Commission. In *GTE Corp*., TURN argued in favor of the exclusion of material it alleged was outside the scope of a Section 854 review for a proposed merger, relying on the "core principle...that only the incremental effects of the [transaction] are to be considered." *In Re GTE Corp*., D. 00-03-021, 2000 WL 34447619 (Mar. 2, 2000). Specifically, in *GTE Corp*., TURN argued that the Commission should not consider applicants' references to their already-ongoing support of community-based organizations in the context of analyzing costs and savings flowing from the proposed merger, because applicants would support such organizations regardless of the Transaction. *In Re GTE Corp.*, D. 00-03-021, 2000 WL 34447619 (Mar. 2, 2000).

> TURN asserts that a core principle of determining merger-related costs and savings is that only incremental effects of the merger are to be considered. TURN contends that applicants will undertake all, or nearly all, of the activities [in support of community-based organizations]…without the merger.

The Commission agreed with TURN's accurate assertion that the "core principle" of the Section 854 standard of review is the incremental effects of the Transaction on the public. *Id.*

In light of the statutory framework that is focused on the specific, incremental effects of the Transaction, any references to alleged general, industry-wide conditions are irrelevant and well-outside the proper scope of inquiry pursuant to Section 854. Commission precedent also affirms that gratuitous industry-wide allegations and other generic matters unrelated to the specific statutory criteria should not be considered. In a decision approving the merger between Pacific Telesis Group and SBC Communications, Inc., the Commission expressly excluded consideration of certain intervenors' arguments, because they lacked any specific connection to the Transaction. *In Re Pac. Telesis Grp.*, D. 97-03-067, 71 CPUC 2d 351 (Mar. 31, 1997). The Commission asserted that, contrary to intervenors' misplaced preoccupation with general regulatory concerns, the "scope of its analysis is to examine whether…[to] permit this merger to occur." *Id.* Intervenors attempted to raise issues superfluous to the incremental effects of the Transaction on the public interest, such as the amount of competition in telecommunications markets, and when applicants should be able to provide certain services. The Commission explained that it was "not engaged here in a broader inquiry into the appropriate framework for regulating local exchange [or]…markets, or into when [the applicants] should be able to offer [a particular] service." *Id.* To sum up the scope of its review, the Commission explained that conditions which "would exist with or without" the Transaction, are irrelevant to its analysis of whether to authorize the Transaction. D. 97-03-067, *In Re Pac. Telesis Grp.*, D. 97-03-067, 71 CPUC 2d 351 (Mar. 31, 1997) (emphasis added):

> Thus, whatever market power Pacific possesses in the various relevant markets discussed below, *our inquiry focuses on specific evidence as to whether this merger increases or otherwise enhances that market power*. Several of intervenors' arguments regarding alleged barriers to entry…*would exist with or without the merger*….[W]e do not find, in the absence of specific evidence, that a merger in itself adversely affects competition simply by making a large and strong company larger and stronger.

Accordingly, pursuant to Section 854 and related Commission decisional law applying the enumerated factors, intervenors' proposed conditions that impact the industry as a whole or do not address an issue resulting from or incrementally changing because of the Transaction must be excluded from the Commission's review.

C. In Its Review of This Transaction, The Commission Cannot Enact Regulations Or Impose Conditions That Exceed Its Jurisdiction

Like the Commission's other activities, the Commission's review of this Transaction is limited by the boundaries of its jurisdiction. Under well-established principles of dual federalism, state public utilities commissions only have authority to regulate operations and services that are jurisdictionally intrastate. *See, e.g., Louisiana Public Serv. Comm'n v. FCC* (1996) 476 U.S. 355, 360. The FCC has regulatory authority over services and operations that are designated as interstate. Indeed, the Public Utilities Code recognizes this limitation in the Legislature's recognition that "[n]either this part nor any provision thereof . . . shall apply to interstate commerce." Pub. Util. Code § 202.

Nothing in Public Utilities Code Section 854 suggests that the Commission's jurisdiction is augmented when it reviews proposed transfers of control. Rather, the Commission's jurisdiction remains focused on "electric, gas, or telephone utility[ies] organized and doing business in this state." Pub. Util. Code §§ 854(b), 854(c). By definition, the "public utilities" that are subject to review under Public Utilities Code Section 854 are those companies and operations that are within the Commission's intrastate jurisdictional authority.

The Commission does not have authority to regulate interstate or unregulated operations or services in its disposition of this transfer of control application. *See, e.g.* Public Util. Code §§ 202, 710; *In Re GTE Corp*., D.00-03-021, 2000 WL 34447619 at *21-22, fn. 25 (Mar. 2, 2000) (rejecting arguments by TURN, ORA and others to include several unregulated and/or interstate services in the allocation calculation). Internet access, VoIP, and other IP-enabled services are squarely interstate services and it would exceed the Commission's jurisdiction to regulate or impose conditions upon these services as part of this proceeding. The FCC's *Open Internet Order* confirms the FCC's "longstanding conclusion that broadband Internet access service is jurisdictionally interstate for regulatory purposes." *In the Matter of Protecting and Promoting the Open Internet*, GN Docket No. 14-28, *Report and Order on Remand*, FCC 15-24 (rel. March 12, 2015), at ¶ 431. The FCC has also enunciated its "firm intention to exercise [its] preemption authority to preclude states from imposing obligations on broadband service that are inconsistent with the carefully tailored regulatory scheme" that the FCC has created for broadband services. *Id.* at ¶ 433. As an example, the FCC notes that it would preempt any attempted state regulation of "the rates of broadband Internet access service through tariffs or otherwise." *Id.* These jurisdictional limitations on broadband regulation are echoed in state law, which provides that "[t]he commission shall not exercise regulatory jurisdiction or control over . . . Internet Protocol enabled services except as expressly delegated by federal law or expressly directed to do so by statute." Pub. Util. Code § 710.

The Commission's jurisdiction is similarly limited as applied to VoIP services. Since the FCC preempted the Minnesota state commission's regulation of Vonage's interconnected VoIP service, it has been well established that "[the FCC], not the state commissions, has the responsibility and obligation [as to] whether certain regulations apply to . . . IP-enabled services . . . ." *In the Matter of Vonage Holdings Corporation*, WC Docket No. 03-0211, *Memorandum Opinion and Order*, FCC 04-267 (rel. Nov. 12, 2004) at ¶ 1. Public Utilities Code Section 710 further confirms that "[t]he commission shall not exercise regulatory jurisdiction or control over Voice over Internet Protocol and Internet Protocol enabled services except as expressly delegated by federal law or expressly directed to do by statute," subject to limited exceptions in subsection (c) not applicable here. Pub. Util. Code § 710(a).

Finally, the Commission lacks jurisdiction over programming or rates for video service. *See* Section 612 of the Communications Act of 1934, as amended, 47 U.S.C. § 532; 47 C.F.R. §§ 76.970 through 76.977 (FCC's leased access rules); 47 U.S.C. § 544 (confirming limitations on content regulation and restrictions on state and federal agency action relating to content regulation).

To the extent that intervenors in this proceeding have asked the Commission to impose conditions on or regulate interstate or unregulated services, those proposals are categorically unlawful. If the Commission were to adopt any such conditions, it would contravene the jurisdictional limitations imposed by federal and state law, and constitute an action "without, or in excess of, its powers or jurisdiction," in violation of the Public Utilities Code Section 1757(a)(1).

IV. THE TRANSACTION SATISFIES EACH OF THE STATUTORY STANDARDS AND PUBLIC INTEREST FACTORS IN PUBLIC UTILITIES CODE SECTION 854(b), INCLUDING PROVIDING SHORT-TERM AND LONG TERM ECONOMIC BENEFITS.

Frontier has made a compelling showing that the Transaction fulfills all the necessary approval criteria. The central touchstone of the statute is the public interest and whether consumers will be incrementally better served as a result of the Transaction, and Frontier has demonstrated that its acquisition of Verizon California will advance the public interest and provide significant consumer benefits to California including, but not limited to, the following benefits:

- Frontier is a dedicated wireline communications provider and its focus and priorities will be on the wireline network used to provide consumers with high quality voice, broadband and video services. Frontier does not own or operate a wireless network that would also compete for capital and other resources. FTR – 2, *White Opening Testimony* at 11:2-9; Exh. FTR – 6, *White Rebuttal Testimony* at 12:18-27; Exh. FTR – 14, *Jureller Supplemental Reply Testimony* at 10:12-22.

- Frontier will bring its local engagement model to the Verizon California service area, further benefitting ratepayers and local communities and providing economic benefits and enhanced customer service. As part of this local engagement commitment, Frontier will actively recruit and seek to hire a General or Local Manager who will live and be located in the Hoopa/Weitchpec/Orleans area. It will be critical that this Manager understands and appreciates the tribal history, customs and organizational structure in those native American communities and Frontier will ensure that Hoopa, Karuk and Yurok tribal representatives are aware of the available position and will solicit recommendations for potential candidates. Exh. FTR – 6, *White Rebuttal Testimony* at 10:22-11:14; Exh. FTR – 13, *White Supplemental Reply Testimony* at 16:22-17:6.

- Frontier has committed to a 100% U.S.-based workforce to serve California consumers. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 45:13-15; Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 13:14-22.

- Frontier has reached an agreement with the CWA in which Frontier has agreed to employee job security for the Verizon California CWA employees transferring to Frontier and guaranteed workforce size to ensure employee levels remain in place and capable of providing services to Verizon California's customers. The terms of the CWA agreement, also includes commitments by Frontier to hire 150 additional employees to support the Verizon California service area, and will facilitate a good working relationship between the Company and its employees that is critical to providing quality customer service. Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 13:14-22; Exh. FTR – 13, *White Supplemental Reply Testimony* at 35:17-28.

- In addition to maintaining services offered by Verizon California, Frontier plans to offer new services to California customers, including Frontier Secure. Exh. FTR – 2, *White Opening Testimony* at 10:13-22.

- Verizon California is an URF regulated company and has flexibility to increase the rates for its services. However, Frontier has agreed to a one year rate cap for Basic Primary Residential Service, Caller ID, Call Waiting, Single Line Business Service, Directory Assistance, Non-Published Service and Inside Wire Maintenance, subject to a request for recovery for the impact of exogenous events that materially impact the operations of Verizon California, including but not limited to, orders of the FCC and this Commission. Exh. FTR – 1, *Abernathy Opening Testimony* at 34:12-27.

- Frontier has committed to support and implement the FCC's subsidy program for broadband products and services for low income consumers, which the Company expects the FCC to implement in early 2016. Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 33:6-34:8; Exh. FTR – 6; *see also* Exh. FTR – 6, *White Rebuttal Testimony*, Exhibit D (Memorandum of Understanding with Joint Minority Parties) at 4; *MOU with*

Greenlining at 4-5.

- Frontier has committed to identifying and addressing any service quality issues in the network it is acquiring from Verizon, including fulfilling the requirements associated with the infrastructure study ordered by the Commission in D.15-08-041.

- In addition to adding another 150 employees to the Verizon California workforce, Frontier plans to add another 25 employees for a net increase of 175 positions beyond the existing Verizon California employee base that transfers to Frontier. These additional 175 positions will contribute more than $10 million a year to the California economy. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 45:14-18; Exh. FTR – 13, *White Supplemental Reply Testimony* at 35:17-28.

- Frontier will dedicate 50 of the 175 newly hired employees to identifying and remedying network infrastructure and service quality issues. This dedicated team of employees will be focused on improving the quality of service provided to California consumers. Exh. FTR – 6, *White Rebuttal Testimony* at 4:16-5:3; Exh. FTR – 13, *White Supplemental Reply Testimony* at 35:17-28.

- Frontier has expertise and experience if deploying broadband networks under the FCC Connect America Fund (CAF) program and is prepared to accept the obligations associated with receiving $192 million in Connect America Fund ("CAF") federal support to deploy 10 Mbps download and 1 Mbps upload broadband to 77,402 households in unserved and underserved (predominately rural) areas of Verizon California's footprint. The build out obligations and potential costs for Frontier, including additional capital contributions if the CAF II funding is insufficient to meet the broadband buildout requirements, is a substantial commitment by Frontier and a demonstrable benefit to California consumers arising from the Transaction. In the absence of the closing of this Transaction in California, these 77,402 California households might otherwise remain unserved and underserved for many years. Exh. FTR – 6, *White Rebuttal Testimony* at 9-13; Exh. FTR – 13, *White Supplemental Reply Testimony* at 13:3-10.

- Frontier will prioritize CAF II build out in the Hoopa, Weitchpec and Orleans exchanges and has agreed to coordinate efforts with the tribal representatives in the Hoopa, Karuk and Yurok tribes to target the deployment of broadband and the construction/delivery of data transport facilities into those communities as quickly as possible, but no later than the end of 2017 (subject to any limitations or delays in securing federal/state permits and easements or required electrical power placement). Exh. FTR – 6, *White Rebuttal Testimony* at 9:24-11:14; Exh. FTR – 13, *White Supplemental Reply Testimony* at 16:14-17:6.

- Frontier will deploy broadband to an additional 100,000 California households that currently do not access to broadband with Verizon California at speeds of 10 Mbps down and 1 Mbps up. Exh. FTR – 6, *White Rebuttal Testimony* at 3:25-4:7; Exh. FTR – 13, *White Supplemental Reply Testimony* at 24.

- Frontier will deploy increased broadband speeds of 25 Mbps downstream and 2 Mbps upstream to an additional 250,000 households in the Verizon California service area. Exh. FTR – 6, *White Rebuttal Testimony* at 3:22-3:26; Exh. FTR – 13, *White Supplemental Reply Testimony* at 24.

- Frontier has worked with the Commission and received (7) seven separate CASF grants since 2009, including the most recent grant for the Petrolia area. To date, Verizon California has taken little advantage of the available CASF funds for broadband deployment. Frontier has committed to utilize CASF grants, which will require capital contributions from Frontier, to further deploy broadband services in high cost areas across Verizon California's service area. Exh. FTR – 6, *White Rebuttal Testimony* at 10:6-21; Exh. FTR – 13, *White Supplemental Reply Testimony* at 8:22-9:2.

- Within 180 days after closing, Frontier will complete the necessary engineering analysis and deliver to the Commission a broadband deployment and adoption plan identifying the expected milestones for completing the commitments identified above, including CAF II deployment, increased speed deployment to 250,000 households and expanded broadband deployment to 100,000 households in the Verizon California service area. Frontier will also identify and prioritize the other projects it has identified and plans to implement as part of its California broadband expansion and enhancement initiatives. As part of this effort, Frontier will identify low income areas that will be targeted for broadband service adoption. Exh. FTR – 6, *White Rebuttal Testimony* at 12:7-15; Exh. FTR – 13, *White Supplemental Reply Testimony* at 24:26-25:9.

In addition, Frontier has reached a Memorandum of Understanding ("MOU") with the Joint Minority Parties, pursuant to which Frontier will:

- establish a "Consumer Advisory Board" comprised of key community leaders designed to advance the interest and concerns of consumers, particularly minority and underserved community consumers. *MOU with Joint Minority Parties* at 1-2;
- fulfill a series of reporting commitments in the area of supplier diversity. *Id.* at 2-3;
- host annual meetings with the Joint Minority Parties to discuss opportunities for smaller suppliers. *Id.* at 3;
- support technical assistance programs for minority-owned businesses. *Id.* at 3;
- commit to attract minority candidates for employment within Frontier. *Id.* at 3-4;
- engage in additional outreach and training aimed at low-income, minority, and underserved. *Id.* at 4;
- fully support the Lifeline program in California. *Id.*;
- work to inform customers about how they can block or minimize unwanted or fraudulent phone calls. *Id.*;
- work with faith-based communities in outreach to underserved communities. *Id.*;
- work with the Joint Minority Parties to develop locations to establish consumer service centers in key community locations. *Id.* at 5;
- work with the Joint Minority Parties to develop programming that promotes "more diverse, more accurate, and more positive portrayals of the minority community's aspirations and achievements." *Id.* at 6; and
- look for opportunities to expand its multi-lingual support mechanisms. *Id.*

Exh. FTR – 6, *White Rebuttal Testimony* at 21:15-23:8.

Frontier has further executed a MOU with Greenlining pursuant to which:

- Frontier will regularly meet with Greenlining and its representatives to discuss initiatives that will be mutually beneficial to consumers that Greenlining and Frontier serve. *MOU with Greenlining* at 1;
- Frontier will ensure that supplier diversity is a business priority. *Id.* at 2;
- Frontier will ensure that ethnic press is utilized as part of its promotional media efforts. *Id.*;
- Frontier will work to collect information regarding its philanthropic and local engagement contributions in California. *Id.* at 3;
- As employment opportunities are available, the parties will work on a wide range of efforts intended to attract minority candidates. *Id.* at 3-4;
- The parties recognize that Frontier's acceptance of the Connect America Fund obligations and funding in California is the foundation for investment in rural communities and that this will benefit suppliers, employees, customers, including businesses, and overall economic development within those communities. *Id.* at 4; and
- Frontier and Greenlining will work together to advance the Federal Communication Commission Lifeline broadband program. *Id.* at 4-5.

Exh. FTR – 13, *White Supplemental Reply Testimony* at 42:11-43:6.

Frontier and the Joint CLECs submitted a motion for acceptance of a settlement on September 4, 2015 addressing the vast majority of the issues between the parties. (the "Joint CLEC Settlement Agreement"). *See also* Exh. CALTEL – 3, *DeYoung Supplemental Testimony* at 3. Specifically, the Joint CLEC Settlement Agreement provides that, with the exception of specified discrete issues, including issues relating to the physical condition of the Verizon network also raised by the other intervenors, the Joint CLECs will not oppose, seek to delay, or seek to impose conditions on the proposed transaction regarding Frontier's acquisition of the Verizon California operations in California in any federal, state or local regulatory or legislative proceeding, including in this proceeding. *Joint CLEC Settlement Agreement* at ¶ 22 (submitted by Motion on September 4, 2015). The two CLEC-specific outstanding issues concern copper retirement and whether Frontier should be required to file existing IP-to-IP interconnection agreements that it is assuming from Verizon and make them available for opt-in. Exh. CALTEL – 3, *DeYoung Supplemental Testimony* at 3-4. Pursuant to the Joint CLEC Settlement Agreement, Frontier will, among other commitments:

- honor existing ICAs through the later of their expiration dates or January 1, 2019—the "Extended Term," not seek to amend existing ICAs during this Extended Term, other than for changes in controlling law, and agree to use a CLEC's existing ICA as the starting draft for negotiating a new or replacement ICA in California. Joint CLEC Settlement Agreement at ¶¶ 1-3.

- provide industry standard e-bonded OSS access that will allow for industry standard flow-through of CLEC orders. *Id.* at ¶ 9.

- establish and permit CLECs that have submitted orders to Verizon California within one year prior to closing to use a testing environment on the Frontier Systems to test wholesale orders, including orders for interconnection facilities and trunks and LNP and DL orders. *Id.* at ¶ 10.

- continue to report performance metrics under G.O. 133-C and provide comparable or better performance as Verizon provided in the year prior to closing. *Id.* at ¶ 13.

- assign a single point of contact or account manager ("SPOC") for the CLECs with the authority to address ordering, provisioning, billing and Frontier System maintenance issues. *Id.* at ¶ 15.

- work in good faith with CLECs to resolve any billing disputes that are not resolved with Verizon California prior to closing. *Id.* at ¶ 20.

Finally, Frontier and Cox submitted a motion for acceptance of a settlement between them on September 8, 2015. (the "Cox Settlement Agreement"). The Cox Settlement Agreement builds upon the same provisions included in the Joint CLEC Settlement Agreement to ensure continuity of service to Cox. In addition, the Agreement includes two additional ICA commitments that Frontier will make available to all CLECs. First, it provides that the "Extended Term" through which Frontier will honor ICAs will be extended one fiscal quarter beyond January 1, 2019, for each fiscal quarter that the closing is delayed beyond March 31, 2016. Cox Settlement Agreement at ¶ 1. Second, the Cox Settlement Agreement provides that if Frontier extends a Verizon ILEC ICA beyond the Extended Term (whether by agreement or order), Frontier will make such longer ICA term available to Cox. *Id.* at ¶ 4. The Agreement further provides that the parties will undertake good faith negotiations for a stand-alone conduit occupancy agreement. *Id.* at ¶ 6. Alternatively, if mutually agreed, the parties will negotiate a combined pole attachment and conduit occupancy agreement. *Id.* at ¶ 8. Frontier also agreed to participate in discussions with Cox and Verizon Business concerning the transition of Ethernet services offered under the existing agreements Cox has with Verizon affiliated entities and address Cox's ordering of Ethernet facilities that currently are provided by Verizon California either directly or indirectly by Verizon affiliated entities. *Id.* at ¶ 10.

These short term and long term benefits can be grouped into four categories: 1) a dedicated wireline service provider; 2) continuation of service and rate stability and 3) improved quality of service; and 4) expanded and enhanced broadband services.

A. Frontier is a Dedicated Wireline Service Provider

Frontier is strategically focused solely on wireline telecommunications and has a long and successful history providing those services. Unlike Verizon and other large telecommunications carriers that have multiple business divisions—such as wireless and international—that compete for capital resources and management attention, all of Frontier's capital and human resources are concentrated on wireline communications services. Exh. FTR – 19, *Jureller Opening Testimony* at 29:9-21; Exh. FTR – 6, *White Rebuttal Testimony* at 12:18-27. Frontier's local operating subsidiaries enjoy the benefit of being part of the country's fourth largest ILEC, and the California operations would be the largest of the Company's subsidiaries. Exh. FTR – 1, *Abernathy Opening Testimony* at 41:3-5. As such, Frontier will have a significant business interest in assuring that its California customers are satisfied with the Company's service offerings and benefit from a high quality of service. Exh. FTR – 1, *Abernathy Opening Testimony* at 41:5-9. Frontier's management resources and capital will be intently focused on maintaining and improving the investment, including enhancing the existing outside plant by expanding fiber-based infrastructure, increasing transport, and growing the capability of Frontier's middle-mile and data backbone. Exh. FTR – 1, *Abernathy Opening Testimony* at 16:1-4. In executing the proposed Transaction, Frontier's management team will not be entering a new line of business or industry segment, but will be applying skills and expertise developed over many years in serving wireline telecommunications customers across the United States after completing similar acquisitions. Exh. FTR – 1, *Abernathy Opening Testimony* at 13:7-10.

In addition, Frontier plans to implement in California its community-oriented management model of intense local engagement. Exh. FTR – 1, *Abernathy Opening Testimony* at 26:23-25. Company-wide Frontier's local engagement model has resulted in an improved customer experience and simplified products and services in acquired properties. Exh. FTR – 1, *Abernathy*

Opening Testimony at 27:8-10. The model is effective because the local general managers are empowered to make decisions responsive to local needs. Exh. FTR – 1, *Abernathy Opening Testimony* at 27:10-11. This approach allows the Company to remain flexible, more competitive, and innovative in meeting the communications needs of its customers. Customers gain the advantages of service from a large company, while retaining the close working relationships that might be expected of a locally-owned and operated company. Exh. FTR – 1, *Abernathy Opening Testimony* at 27:14-16. Frontier's local engagement model also encourages employees to be active and supportive in their local communities, a measurement in the Company's annual employee review process. Exh. FTR – 2, *White Opening Testimony* at 24:3-5. Managers, employees and customers benefit both in the short term and long term from a model that is focused on service and the local community. Exh. FTR – 1, *Abernathy Opening Testimony* at 27:13-14.

B. Frontier will Provide Customers the Same Services and Rate Stability.

Verizon's services include voice telephony, software-based features, data services, and video. Upon consummation of the Transaction, Frontier will continue to support and maintain the services that Verizon California provides, with similar terms, conditions and rates found in their existing Verizon contracts and tariffs. Exh. FTR-1, *Abernathy Opening* Testimony, at 10:20-11:2; Exh. FTR – 2, *White Opening Testimony* at 10:1-11. Frontier will adopt existing tariffs and honor existing contracts to make the transition transparent for all customers Exh. FTR – 9, *Czak Rebuttal Testimony* at 5:4-7. Frontier will continue to provide the fiber-to-the-home (FiOS) and video products that Verizon California provides. Exh. FTR – 2, *White Opening Testimony* at 22:4-11. Frontier will also continue to provide the same wholesale services to carrier and CLEC customers. Frontier will continue to provide the existing Verizon services to California customers following the closing of the proposed Transaction and Frontier anticipates offering new services to California customers, including Frontier Secure, and plans to prioritize improving broadband services. Exh. FTR – 2, *White Opening Testimony* at 10:13-22.

1. Frontier has Committed to Rate Stability.

Frontier recognizes that continuity of services and rates is important during the period of transition from one carrier to another and understands the importance of a seamless transition. Immediately following consummation of the transaction, Frontier will provide customers with substantially the same services at the same rates that they received prior to the acquisition. Existing customer services will not be discontinued or interrupted as a result of the Transaction and Frontier will integrate the acquired operations with Frontier's systems and operations.

To provide the Commission and consumers with further certainty regarding the rates for service, Frontier has agreed to a rate cap for one year following the closing of the Transaction. Consistent with the settlement Frontier entered into with the Office of Ratepayer Advocates (the "Division of Ratepayers Advocates" at the time) and The Utility Reform Network (TURN) on August 20, 2009, as part of Frontier's acquisition of California lines and operations in 2010, which the Commission approved,[8] Frontier has agreed to the following one year commitment regarding rates:

> 1) Basic Residential Service Rate Caps. For one year following closing of the proposed Transaction, the basic primary residential rate for the Verizon California service areas will be capped at their current levels as of the date of the closing of this Transaction;
>
> 2) Rates for Other Services. For one year following closing of the proposed Transaction, the rate for the following services for Verizon California will be capped at their current levels as of the date of the closing of the proposed Transaction: Caller ID, Call Waiting, Single Line Business Service, Directory Assistance, Non-Published Service and Inside Wire Maintenance.
>
> 3) Exogenous Events. Notwithstanding the limitations included in paragraphs 1 and 2, Frontier will be permitted to request reasonable recovery for the impact of exogenous events that materially impact the operations of Verizon California, including but not limited to, orders of the Federal Communications Commission ("FCC") and this Commission ….

Exh. FTR – 1, *Abernathy Opening Testimony* at 34:12-27.

2. The Cutover Plan Ensures Customers Will Not Face Service Disruptions.

Frontier has a proven ability to successfully transition customers to its network, as demonstrated by the 2010 acquisition of certain Verizon operations. Exh. FTR – 4, *Golob Opening Testimony* at 14:1-19. California customers should not experience any disruption in

[8] D. 09-10-056, 2009 Cal. PUC Lexis 546 (Nov. 4, 2009).

service. Exh. FTR – 4, *Golob Opening Testimony* at 14:21-15:8.

Frontier has established approximately 140 working teams to plan for the integration of Verizon operations into Frontier. Exh. FTR – 4, *Golob Opening Testimony* at 16:19-18:1. Verizon and Frontier have also developed a 300+ page Cutover Plan pursuant to which the parties will transfer Verizon systems, including billing, ordering, monitoring, maintenance, and customer support, to Frontier's network and information technology systems. Exh. FTR – 4, *Golob Opening Testimony* at 18:2-19:11; Exh. VZ – 1, *Brophy Opening Testimony* at 1:18-2:8.

The Cutover Plan describes in detail how data will be extracted from Verizon's systems and transferred to Frontier's systems. Exh. FTR – 4, *Golob Opening Testimony* at 19:13-20:12; Confidential Exhibit JMB-2 to Exh. VZ – 1C, *Brophy Opening Testimony*. Frontier and Verizon are working collaboratively to complete the cutover. Exh. FTR – 4, *Golob Opening Testimony* at 20:14-21:5; Exh. VZ – 1, *Brophy Opening Testimony* at 4:14-5:2. Frontier will train current Verizon employees on Frontier's systems to ensure a seamless transition for customers. Exh. VZ – 1, *Brophy Opening Testimony* at 5:4-11. Verizon and Frontier have a clear path forward to transition customers to Frontier.

3. **There Will Be No Disruption of 911 Services.**

The Transaction will not have any adverse impact on 911 services in California. Exh. FTR – 4, *Golob Opening Testimony* at 24:7-17; Exh. FTR – 2, *White Opening Testimony* at 22:13-17. Frontier has experience providing reliable 911 services and is capable of doing so here. Exh. FTR – 2, *White Opening Testimony* at 22:13-17. The Cutover Plan referenced above has specific provisions for the transfer of 911 data, and Verizon and Frontier have successfully transitioned 911 services in the past. Exh. VZ – 1, *Brophy Opening Testimony* at 5:13-6:5. Frontier had a meeting with Cal OES 911 Branch Staff, which addressed questions regarding 911 transition, Frontier's experience in other transactions, and Frontier's plans for Next Generation E911 services. Frontier adequately addressed their questions. Exh. FTR – 8, *Golob Rebuttal Testimony* at 7:21-8:19.

After the Transaction closes, Frontier will submit a compliance letter to the Commission representing that its E911 functionality is not impaired and remains fully operational. Exh. FTR –

8, *Golob Rebuttal Testimony* at 7:14-16. Frontier will also, within 30 days of close, conduct tests in accordance with Frontier's and industry standards to measure the proper function of Automatic Number Identification and Automatic Location Identification systems in various locations and report the results to the Commission. Exh. FTR – 8, *Golob Rebuttal Testimony* at 7:16-20.

4. **Wholesale Carriers Will Continue to Receive the Same Services.**

Frontier will maintain existing services to its wholesale customers by honoring all of Verizon's contractual obligations, by entering into settlement agreements that protect CLECs' interests. Frontier will honor all obligations under Verizon California's current Interconnection Agreements. Exh. FTR – 1, *Abernathy Opening Testimony* at 29:12-30:2. Because this is a stock transaction, none of the contractual terms and conditions of Verizon California's existing agreements with wholesale purchases will be changed or impacted. Exh. FTR – 9, *Czak Rebuttal Testimony* at 5:2-7; 6:21-7:5. Thus, interconnection agreements with CLECs will not change. Exh. FTR – 9, *Czak Rebuttal Testimony* at 6:21-7:5. Frontier will continue to provide the same wholesale and interconnection services that Verizon California was providing. Exh. FTR – 1, *Abernathy Opening Testimony* at 30:4-9.

In addition to honoring Verizon's obligations, Frontier has further entered into settlement agreements with the Joint CLECs and with Cox to ensure that wholesale service is maintained or improved. The settlement agreements provide that Frontier will honor Verizon California's existing ICAs through the later of their respective remaining terms or January 1, 2019, whichever is later (the "Extended Term"). Exh. FTR – 9, *Czak Rebuttal Testimony* at 5:8-17; 6:21-7:5; 9:18-10:3; 12:7-20. The only modifications that may be made during the Extended Term are change of law amendments. Exh. FTR – 9, *Czak Rebuttal Testimony* at 6:21-7:5. Also, pursuant to the Joint CLEC settlement agreement, Frontier will grandfather and continue to provide any Verizon California ICA services provided to particular CLECs as of Closing, and wholesale services included in Verizon California intrastate carrier service tariffs and regulated by the Commission through the Extended Term, and will not terminate or increase wholesale tariff rates during the Extended Term. Exh. FTR – 9, *Czak Rebuttal Testimony* at 5:18-28. Frontier will also adjust revenue commitments and volume thresholds for carrier customers with volume and term agreements so that customers retain the same contractual rights after the Transaction closes. Exh. FTR – 9, *Czak Rebuttal Testimony* at 6:1-8. Frontier will also continue to offer UNEs pursuant to Section 251/252 interconnection agreements filed with and approved by the Commission. The settlement agreements also provide that Frontier cannot increase UNE rates during the Extended Term. Exh. FTR – 9, *Czak Rebuttal Testimony* at 6:9-20.

Pursuant to the Cox settlement agreement, Frontier will undertake good faith negotiations for a stand-alone conduit occupancy agreements, and will participate in discussions concerning the transition of Ethernet services. Exh. FTR – 9, *Czak Rebuttal Testimony* at 12:21-13:13.

Frontier is experienced in transitioning wholesale carriers and interconnection services to from Verizon and AT&T to Frontier. Exh. FTR – 4, *Golob Opening Testimony* at 25:6-12. Kim Czak, Vice President Network Operations of Frontier, successfully led the wholesale integration efforts during the 2010 acquisition of Verizon properties and will be responsible for successful migration of wholesale services here if the Transaction is approved. Exh. FTR – 9, *Czak Rebuttal Testimony* at 1:15-21. Frontier is prepared to serve the carrier and wholesale customers after the closing of the proposed transaction.

C. Frontier will Deliver Improved Quality of Services

Frontier is a wireline focused communications service provider, and is making significant commitments to its wired infrastructure and employee resources that is fundamental to success in the telecommunications industry today and for the foreseeable future. Exh. FTR – 1, *Abernathy Opening Testimony* at 40:14-17. Frontier's commitment to expanded broadband deployment and enhanced speeds of available data services, and expanding the California employee workforce are compelling indications that the Frontier is committed to "improving the quality of service to ratepayers." Exh. FTR – 1, *Abernathy Opening Testimony* at 40:17-21. Frontier is aware of the concerns raised by intervenors regarding the condition of the Verizon California network and the concerns raised during the Public Participation Hearings, site visits, and workshops in this proceeding. Exh. ORA – 5, *Selwyn Reply Testimony* at 97:17-99:4, 121:8-125:16; Exh. TURN – 1, *Baldwin Reply Testimony* at 109:13-110:5; PPH Tr. (Orleans) at 197:3-198:5 (Moorehead); PPH Tr. (Orleans) at 182:6-189:9 (Croagliotti); PPH Tr. (Orleans) at 173-174; PPH Tr. (Orleans) at 198:8-199:4 (Johnson); PPH Tr. (Orleans) at 217:3-220:5 (Hostler). Frontier has completed substantial due diligence prior to executing the SPA and has engaged in ongoing review and assessment of the Verizon California network since the SPA was executed. Exh. FTR – 4, *Golob Opening Testimony* at 13:3-23; Exh. FTR – 8, *Golob Rebuttal Testimony* at 18:7-21; Exh. FTR – 15, *Golob Supplemental Reply Testimony* at 2:10-5:8; Exh. FTR – 7, *Jureller Rebuttal Testimony* at 5:3-10; 6:7-7:20. Prior to executing the SPA, Frontier reviewed pre-Transaction information including, among other data, wire center and local access and transport area ("LATA") data and maps, network hub information, interoffice facility data, equipment used for VoIP services, Video Services Switch Ethernet Services ("SES"), Network configuration data, switch data, digital subscriber line ("DSL") network data and architecture information, loop and distribution facility data, FTTP network configuration information, Signaling System 7 ("SS7") information, E911 data, information regarding leased circuits and facilities, trunk data, cable mileage, pole data, central office information, and supplier and equipment manufacturer data and specifications. Exh. FTR – 4, *Golob Opening Testimony* at 13:3-23; Exh. FTR – 8, *Golob Rebuttal Testimony* at 3 n.8. Verizon provided detailed information and data regarding its actual capital expenditures; configuration of the central offices and locations where FiOS, DSL and other services have been deployed; operating and maintenance expenses and other data which informed Frontier's understanding regarding the level of investment, expenditures and operating expenses by Verizon; and the location of facilities where FiOS, broadband and other services were deployed and were not deployed. In addition, subject matter experts from Verizon and Frontier met numerous times, in person and by telephone, to discuss network and engineering issues. Exh. FTR – 4, *Golob Opening Testimony* at 13:15-23.

These network assessment efforts have continued and Frontier witnesses have described in detail the ongoing review Frontier has completed including the facility visits and inspections in California. Exh. FTR – 8, *Golob Rebuttal Testimony* at 2:26-4:6. Physical facility inspections in the southern part of California included touring the Ontario central office, reviewing middle mile and access network, inspection of FiOS and copper network in the Rancho Cucamonga areas, visiting the Etiwanda central office, and inspecting the Pomona Video Headend Office ("VHO").

In addition, facilities reviews were conducted in the Lytle Creek, San Bernardino, Banning and Beaumont areas. The Frontier team also visited Verizon's Monrovia Technical Training Center. Exh. FTR – 8, *Golob Rebuttal Testimony* at 3:17-18. Similar facility inspections and visits were held in at the Santa Monica, Long Beach, Bundy, University, Westwood, Mar Vista and Bel Air locations. Field inspections, including review of digital loop carrier units and aerial cable, also occurred in the wire centers for these areas. In addition, some of Frontier's ongoing activities were described during the following exchange at the Public Participation Hearing in Long Beach:

> Commissioner Sandoval: And, Mr. Golob, you mentioned earlier during the tour that you'd been spending some time in this area actually going into vaults and looking at the condition of the network. So I was wondering if you could expand a little bit on that.
>
> Mr. Golob: Sure. I think for Long Beach up to Palisades and I think every place in between, we hit just about every central office and a number of vaults. That's actually in Palisades, right, where we went down in a CUD, which is an underground vault that's built that serves aesthetics of the community that someone had mentioned.
>
> And there's certainly people that have brought up issues here that we need to address. But, in general, when we looked at the plant in those areas from the central office out to serving the homes and in the vaults that I crawled around in, the conditions were – the copper conditions – the plant was in good repair in those areas.
>
> Commissioner Sandoval: Well, and I saw you nearly jumped into a vault in Orleans. So I know you have enthusiasm for vaults and for looking at the condition in there. So we do appreciate your attention to the inspection. So thank you.

PPH Tr.(Long Beach) at 575:4-576:4.

Frontier is an experienced acquirer of telecommunications systems; it has reviewed the reports and statistics about the Verizon California network, and it has conducted site visits and meetings to discuss a wide range of network and infrastructure issues with knowledgeable Verizon representatives. Exh. FTR – 8, *Golob Rebuttal Testimony* at 2:26-4:6. Mr. Golob has testified that these review initiatives are like audits that accountants render for companies. Not every accounting item, liability, or business practice is assessed, but the audit is a thorough sampling that provides the experienced auditor with a good representation of the financial condition of a company. Exh. FTR – 8, *Golob Rebuttal Testimony* at 18:8-12. In a transaction such as this one, it is not possible or necessary to look at and assess every digital switch or each fiber run or each remote terminal. Exh. FTR – 8, *Golob Rebuttal Testimony* at 18:12-13. However, Frontier has engaged in enough transactions that it can review the approximate age of the network plant, the trouble reports, and the services provided, coupled with certain physical inspections, to get a good sense of the network. Exh. FTR – 8, *Golob Rebuttal Testimony* at 18:13-16. Frontier has considerable experience in handling similar transactions over the years and it has found that these reviews provide a reliable, effective, and accurate perspective regarding the network condition. Exh. FTR – 8, *Golob Rebuttal Testimony* at 18:16-18. Based on these prior experiences and proven transactional processes, Frontier has a good understanding of the Verizon network in California. Exh. FTR – 8, *Golob Rebuttal Testimony* at 18:18-19. Like any network, Verizon's network has areas that are in need of upgrades and repairs, but none of these issues identified during Frontier's ongoing examination of Verizon California's network assets and facilities has uncovered any significant issues or problems that would result in the Company altering its assessment of the Transaction or raises a concern regarding the Company's ability to effectively operate the network. Exh. FTR – 8, *Golob Rebuttal Testimony* at 19:1-3.

Frontier is an experienced acquirer of telecommunications operations and is prepared to identify and resolve any network or service issues that may arise.Exh. FTR – 8, *Golob Rebuttal Testimony* at 18:7-8, 19:20-20:5. Frontier relies upon its employees to enable the Company to provide high quality service and to maintain a safe, reliable and robust network. Exh. FTR – 6, *White Rebuttal Testimony* at 14:8-9. Union employees are approximately 80% of Frontier's total workforce, and these employees are critical to Frontier's success. Exh. FTR – 6, *White Rebuttal Testimony* at 14:9-11.

On July 27, 2015, Frontier entered into an agreement with the CWA and that CWA supports the Transaction and Frontier's acquisition of the Verizon California operations. Exh. FTR – 6, *White Rebuttal Testimony* at 4:11-16 & Exh. A. In that agreement, Frontier extended its current collective bargaining agreements, ensured employee job security and guaranteed workforce size to ensure employee levels remain in place and capable of providing services to Verizon California's customers, provided operational flexibility to enhance the service experience for customers, guaranteed wage increases in each year of the contract, and granted all union employees 100 shares of Frontier restricted stock upon the closing of the Transaction to demonstrate Frontier's commitment to its newest employees and their ownership in the Company's success. Exh. FTR – 6, *White Rebuttal Testimony* at 14:15-15:18 & Exh. A. Frontier has also committed to a 100% U.S.-based workforce which means that Frontier will replace all non U.S. based operations and employees utilized by Verizon with a U.S. based workforce. Exh. FTR – 6, *White Rebuttal Testimony* at 15:7 & Exh. A. The CWA agreement reflects a substantial commitment by Frontier and will also add at least 150 union jobs within six months of the closing that will enhance Frontier's ability to provide improved customer service and will provide economic benefits to California in excess of $10 million per year related to additional jobs and compensation. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 21:17-22. Frontier's believes that its commitment to and relationship with the CWA and their employees, will enable the Company to effectively respond to any network challenges and customer service issues. Exh. FTR – 6, *White Rebuttal Testimony* at 14:5-11.

In addition, Frontier specifically intends to identify 50 employees[9] who will be dedicated to identify and resolve Verizon California network-related or facilities issues, including any G.O. 95 deficiencies. Exh. FTR – 6, *White Rebuttal Testimony* at 16:4-6. These specialized and focused technicians will inspect cable plant and copper facilities, pedestals, remote cabinets and other facilities in the field. These teams, which will be disbursed across the State on a methodical, area by area basis, will identify and implement specific field repairs to address identified deficiencies. Exh. FTR – 6, *White Rebuttal Testimony* at 16:8-9. To the extent that larger, more complicated, network issues are identified, Frontier will track the issues and prioritize further resources to complete the network rehabilitation. This dedicated team approach is the same approach Frontier has utilized following other transactions to quickly and effectively evaluate and repair network deficiencies. Exh. FTR – 6, *White Rebuttal Testimony* at 16:11-13.

As part of its service initiatives after closing, Frontier management will also collaborate with employees ranging from the State Vice President, to the Area General Managers to the

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[9] Twenty-five of these new employee hires are in addition to the employees that Frontier has already committed to hire based on its agreement with the CWA, provided that the Transaction is approved.

technicians in the field in order to ensure any network and infrastructure issues are identified and remedied. *White Rebuttal Testimony* at 16:22-25. After closing of the proposed Transaction, the California team, including approximately 4,000 Verizon employees that transfer to Frontier, will be directed to identify service and network concerns and deficiencies. The Frontier California management team will review the information provided by employees to set priorities for capital deployment and network rehabilitation, and operational improvements. Exh. FTR – 6, *White Rebuttal Testimony* at 17:11-13. At the PPH in Long Beach, Michael Golob aptly described how Frontier will work on network issues that need rehabilitation by using an analogy:

> It's a matter of focus and where you're focusing. And what we try to do is we try to come up with things that encourage the employees out there to take the initiative to see something.
>
> It reminds me of those of you have ever been to Disney World or Disneyland, you don't see any trash on the ground. The reason you don't see trash on the ground is because every employee that works for them, if they see it, they pick it up. That's the same attitude we have with our technicians.
>
> If you see something wrong on the side of the road [for example] a pedestal or something that's broken off, stop and fix it. [T]ry to fix it as quickly as you can. If you don't have the tools with you, then try to come back and fix it in the next day.
>
> We have incentives to encourage our employees with who can find the worst issue out there in the network? And then fix it. And how did you fix it? Will you share those lessons learned? So it becomes very, very creative how they knew this worked.[10]

In short, Frontier is prepared for and will execute on its plan to identify and respond to any network issues that it determines need attention or rehabilitation. While improvements in the network will not occur overnight, Frontier and the California team will be committed to a methodical and comprehensive assessment and improvement of the acquired network. Exh. FTR – 6, *White Rebuttal Testimony* at 18:1-3. Frontier intends to dedicate the necessary resources to ensure that its network is competitive. The Company will upgrade network that is in need of remediation, and establish an aggressive plan to deploy more reliable voice services. Exh. FTR – 6, *White Rebuttal Testimony* at 18:4-5. It is important to note that Frontier investment to deploy broadband, including the CAF II funding, will also have positive effects on the voice network, as the Company is able to improve the telephony infrastructure and better assure reliability of service

[10] PPH Tr. (Long Beach) at 504-505.

as it expands broadband availability. Exh. FTR – 6, *White Rebuttal Testimony* at 18:7-10.

D. Frontier Will Provide Expanded and Enhanced Broadband Services.

Frontier has a long history of investing in services and networks for the benefit of customers, and the same will be true for the operations to be acquired through this Transaction. Following Frontier's acquisition of more than 4 million lines from Verizon in 14 states in 2010, Frontier substantially increased broadband availability in the acquired territories. Exh. FTR – 1, *Abernathy Opening Testimony* at 32:20-33:3. Frontier has now increased broadband availability so that companywide broadband availability has risen to 92 percent, as of December 2014. Exh. FTR – 3, *Jureller Opening Testimony* at 7:18-21. The table below provides more detail on Frontier's investment in its advanced network and its progress over the last three years in making broadband available at higher throughput speeds to households across the Company's service areas.[11]

Table 1: Frontier Annual Broadband Statistics

	2014	2013	2012
Broadband availability	92%	90%	88%
(Throughput in excess of)			
6 Mbps	83%	76%	74%
12 Mbps	74%	61%	51%
20 Mbps	55%	48%	40%

Source: Frontier SEC Form 10K 2014, 2013, 2012.

Exh. FTR – 3, *Jureller Opening Testimony* at 8. As Ms. White explained, Frontier has deployed broadband to 96 percent of the households in its existing California service territory. Exh. FTR – 2, *White Opening Testimony* at 16:6-10. Frontier's broadband deployment initiatives in California related to the 2010 transaction with Verizon further evidences a strong commitment to enhanced quality of services. As part of the 2010 transaction with Verizon, Frontier acquired 12 exchanges located in northern California and near the Nevada and Arizona state line. Exh. FTR – 2, *White Opening Testimony* at 12:11-13. At the time Frontier acquired the 12 Verizon exchanges serving approximately 17,700 households, broadband had only been deployed to one of the 12 exchanges.

[11] The table reports broadband service and throughput availability rather than the percentages of enrolled customers who may subscribe to any given service.

Exh. FTR – 2, *White Opening Testimony* at 12:13-15. Through December 2014 Frontier has deployed broadband to over 14,700 additional households, or 82% of the households in these 12 exchanges. Exh. FTR – 2, *White Opening Testimony* at 12:15-17. The network enhancements related to expanded deployment of broadband such as deploying fiber distribution facilities closer to the premises and augmented interoffice capacity have also favorably improved Frontier's voice services. Exh. FTR – 2, *White Opening Testimony* at 12:15-17. As a result of these strategic investments, customers in the California service territory Frontier acquired from Verizon in 2010 have seen improved and enhanced services. It is as important to acknowledge that Frontier achieved this level of broadband deployment and availability took years of concentrated effort and investment but was achieved without any mandated conditions or requirements. Exh. FTR – 2, *White Opening Testimony* at 12:17-20. Frontier knows how and will deploy broadband services to California consumers and improve the quality and scope of services for California consumers without the imposition of costly and broad-based conditions.

Frontier's strategic commitment in California is to prioritize network investment to deliver increased broadband speeds, more extensive geographic coverage, and improved service to Frontier's customers. Frontier will utilize funding from federal and state programs to augment its investment to provide broadband services to unserved and underserved areas. Frontier's ongoing commitment to network investment and the introduction of innovative advanced services that rely upon the capabilities of the network are compelling demonstrations of the short-term and long-term benefits, including the opportunity for enhanced economic development that California can expect as a result of the proposed Transaction. Frontier's focus on wireline communications will strengthen the Verizon California operations, better assure job opportunities, support customers, and drive economic growth.

Frontier plans to utilize available funding sources, including the FCC's CAF program and the California Advanced Services Fund ("CASF"), to expand broadband availability and increase broadband speeds in California. Exh. FTR – 1, *Abernathy Opening Testimony* at 17:20-18:2. CAF and CASF support is essential to bring broadband services to high cost remote areas and Frontier has broad experience with CAF and CASF building broadband network under the CAF regulatory framework. Exh. FTR – 1, *Abernathy Opening Testimony* at 17:10-16; Exh. FTR – 6, *White Rebuttal Testimony* at 10:6-21. Frontier has been one of the most active participants in the deployment of broadband under the CAF program. Out of a total of approximately $115 million accepted by all price cap carriers in CAF Phase I Round 1, Frontier accepted $72 million to serve 93,000 locations that previously lacked a high-speed broadband connection, and that initiative is to be completed by July 2015. Exh. FTR – 1, *Abernathy Opening Testimony* at 19:6-9. For the second round of CAF Phase I, of the $324 million of funding accepted in total, Frontier received $61 million to provide broadband service to approximately 103,000 previously unserved or underserved locations by March 2017. Exh. FTR – 1, *Abernathy Opening Testimony* at 19:11-13. Frontier has used these funds to deploy or upgrade broadband service for 164,000 households across is service territory. Exh. FTR – 1, *Abernathy Opening Testimony* at 19:3-20:5; *see also* Exh. FTR – 4, *Golob Opening Testimony* at 6:19-7:10.

Frontier has accepted CAF Phase II support in the amount of $283.4 million. Exh. FTR – 1, *Abernathy Opening Testimony* at 211:1-23:8. Frontier has aggressively pursued CAF II funds in the Verizon California service areas so that it can use the approximately $192 million in available funds over six years to expand broadband to approximately 77,000 households in the Verizon California areas eligible for support. As a result of the pendency of this Transaction and the mandatory August 27, 2015 acceptance date for CAF II funding, Frontier and Verizon worked closely together, and with the FCC, to facilitate Frontier's ability to receive the CAF II funds in the Verizon California service territory after closing. Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 17:16-19. On August 26, 2015, Verizon notified the FCC that it was accepting the CAF II funds that are available beginning with the 2015 calendar year. Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 17:19-21. This acceptance was expressly conditioned upon issuance and acceptance by December 31, 2015, of the regulatory approvals required to consummate the Transaction between Verizon and Frontier in accordance with its terms. *Abernathy Supplemental Reply Testimony* at 17:22-24. The FCC has recognized the conditional acceptance for Verizon California. See FCC News Release: *Carriers Accept Over $1.5 Billion in Annual Support from Connect America Fund to Expand and Support Broadband for Nearly 7.3*

Million Rural Consumers in 45 States and One Territory and FCC Public Notice*, Verizon Communications Inc. Conditionally Accepts over $48.5 Million in Connect America Phase II Support in California and Texas, WC Docket No. 10-90*, attached as Exhibits E-F to *Abernathy Supplemental Reply Testimony*. If Frontier is able to obtain acceptable regulatory approvals from the Commission by December 31, 2015, and if the Transaction closes, Frontier will receive the 2015 and year-to-date CAF II support immediately after closing of the Transaction and the remaining portion of the approximately $192 million in CAF II support through 2020. This funding will enable approximately 77,000 locations in high-cost Verizon California service territories to obtain 10 Mbps downstream / 1 Mbps upstream broadband service. Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 18:24-26.

Frontier has identified 74 Verizon California central offices where no broadband has been deployed. Exh. FTR – 2, *White Opening Testimony* at 13:3-15; Exh. FTR – 13, *White Supplemental Reply Testimony* at 15:6-16:10. These include communities like Colfax, McFarland, Taft, and Kernville. CAF eligible households are located in 67 of these 74 communities, and thus Frontier will be bringing broadband these unserved areas across the state. Exh. FTR – 13, *White Supplemental Reply Testimony* at 15:23-16:10. In addition, the Morongo Reservation and residents served by the Garberville exchange will receive CAF support. Exh. FTR – 13, *White Supplemental Testimony* at 14:18-23. Frontier has committed to prioritize its CAF II broadband deployment to the Hoopa, Weitchpec and Orleans exchanges, where there currently is no broadband service. Frontier agrees to coordinate efforts with tribal authorities to target the deployment of broadband as quickly as possible, but no later than the end of 2017, subject, of course, to any limitations or delays outside of Frontier's control, such as delays in securing permits, easements or required electrical power. Exh. FTR – 6, *White Rebuttal Testimony* at 10:21-11:14.

Frontier's acceptance of the CAF funding and the accompanying obligations is a substantial and ongoing commitment by the Company. FCC rules require that recipients of CAF Phase II support provide broadband that is reasonably comparable to broadband available in urban areas in terms of speed (minimum 10 Mbps download and 1 Mbps upload), usage (usage caps cannot be less than 100 gigabytes), latency (95% of peak period latency measurements must be at or below 100 milliseconds), and pricing (comparable to price in urban areas). Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 34:1-36:12. Frontier is also required to meet defined buildout milestones, including a requirement that 40% of the households have broadband deployed by the end of 2017. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 34:1-36:12.[12]

As a recipient of CAF Phase II support, Frontier will also be subject to various reporting and certification requirements. For example, Frontier will annually report a list of anchor institutions receiving broadband; Phase II support used for capital expenditures; that it has bid on service requests by schools and libraries; and that it has achieved the build-out milestones. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 35:14-36:2. Additionally, for all locations (that is, not just CAF II locations), Frontier will be required to annually report detailed outage information; detailed service request information; number of complaints; that it is in compliance with service quality and consumer protection rules; functionality during emergencies; price offerings; corporate affiliates; and that its pricing does not exceed FCC benchmarks. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 36:3-22. Frontier will also be required to file a five-year service quality improvement plan. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 36:23-37:12. In addition, to these obligations, Frontier is absorbing the risk and obligations that the CAF funding may not be sufficient to enable the Company to deploy broadband to the identified 77,000 households. By accepting the CAF obligations, however, Frontier is required to deliver the required broadband service to these 77,000 households at 10 Mbps down and 1 Mbps up even if it requires additional investment and funding by the Company. *See, e.g.*, *Connect America Fund*, Report and Order, 29 FCC Rcd 15644 ¶ 22 n.48 (2014) ("*CAF Phase II Order*") (explaining that CAF II funding levels may not fully cover carrier costs). Frontier's failure to do so would result in substantial penalties and a forfeiture and return of the CAF II funds received based on the degree of Frontier's shortfall. *See* 47 C.F.R. § 54.320; *CAF Phase II Order* ¶¶ 139-54.

As both Frontier and Verizon have made clear, absent this Transaction and Frontier's

[12] The buildout milestone increases 20% each year thereafter; 60% by year-end 2018; 80% by year-end 2019; and 100% by year-end 2020. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 34:21-27.

commitment to fulfill the CAF II requirements if this Transaction is approved and closes, Verizon would not have accepted the CAF II funds for California, and California would not benefit from the $192 million in CAF II funds available for broadband deployment and over 77,000 households would not receive broadband services. Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 18:16-20. Absent Frontier accepting the CAF II broadband build out obligations, there will be a multiple-year delay in CAF II funds for California as the state waits for final FCC rules to implement a reverse auction. Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 18:26-28. The Commission otherwise has no assurance that an equivalent number of locations would be served under the reverse auction framework or that broadband services would be deployed prior to the current CAF II build-out deadline of 2020. Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 18:28-19:2.

The record in this proceeding is also clear that Verizon has no plans to expand broadband service and speeds. Exh. VZ – 9, *McCallion Supplemental Reply Testimony* at 18; Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 15:1-17.

As summarized above, Frontier has made specific commitments related to enhanced broadband services so that at least 427,402 California households will receive the benefit of new broadband services or increased speeds that will not otherwise be available:

	Verizon	Frontier
CA HHs Benefitting from CAF at 10Mbps/1Mbps	0	77,402
CA HHs Benefitting from Increased broadband speeds of 25Mbps/2Mbps	0	250,000
CA HHs Benefiting from Additional Broadband Deployment at 10Mbps/1 Mbps	0	100,000

Total	**0**	**427,402**

Exh. FTR – 13, *White Supplemental Testimony* at 24:11-18. These 427,402 households will not receive these benefits if the Transaction is not consummated. Frontier's investment, coupled with CAF and CASF support, constitutes a substantial short and long term economic benefits to consumers in California and the communities in which broadband is deployed.

In summary, the record demonstrates that the Transaction will yield many benefits. Frontier's focus as a wireline service provider will bring its local engagement model to the Verizon California service area and benefit ratepayers and local communities, providing economic benefits and enhanced customer service. Frontier has agreed to numerous community engagement and supplier and employment diversity initiatives. This is reflected in its MOUs with the Greenlining Institute and the Joint Minority Parties.

Retail and wholesale customers will continue to receive the services they receive from Verizon California. Frontier has committed to a rate cap for one year for Basic Primary Residential Service, Single Line Business Service and other ancillary services, along with commitments on rates and other terms with wholesale customers, following closing. Frontier has solidified its good working relationship in an extended collective bargaining agreement with Communications Workers of America, which fully supports the Transaction. Frontier has committed to a 100% United States-based workforce, and to adding 175 new jobs in California, which will contribute more than $10 million per year to the California economy. The Company has committed to maintaining or improving service quality and to specifically dedicating 50 new employees (of the 175 new jobs to be added) to identifying and addressing network and service quality issues. Frontier has committed to expanding or improving broadband service to more than 427,000 households in California and the state will benefit from $192 million in CAF II support, principally in rural and tribal areas. The network enhancements associated with this broadband expansion will also have the effect of improving the voice services available to California customer.

In summary, Frontier has demonstrated that its acquisition of Verizon California will advance the public interest and provide significant short term and long term benefits to California that will not otherwise be available in the absence of closing of the proposed Transaction in California and Frontier taking ownership and control of Verizon California.

V. COMPETITIVE FORCES WILL EQUITABLY ALLOCATE THESE ECONOMIC BENEFITS OF THE TRANSACTION TO CONSUMERS.

Section 854(b)(2) states that the Transaction should equitably allocate between ratepayers and shareholders the forecasted short-term and long-term economic benefits of the Transaction. However, the Commission's analysis of this allocation must be consistent with the extent of the ratemaking authority that it exercises over the affected utilities. Under settled Commission precedent, the economic benefits allocable to competitive services occurs by operation of market forces. For example, the Commission explained in its SBC-Pacific Telesis Decision that, "[f]rom the outset we recognize, as we did in previous merger cases, that where market forces exist, we prefer that competition, instead of regulatory fiat, drive realized benefits to consumers through reduced prices and improved services." *See* D. 97-03-067, 1997 Cal. PUC Lexis 629, at *28. Verizon California's services are competitive and are not rate-regulated. Therefore, market forces will deliver the benefits of the Transaction to California customers.

In the 1997 SBC-Pacific Telesis Decision, the Commission ruled that synergies allocable to fully-competitive services should be excluded from the computation of explicit rate adjustments. *Id*. at *34 The Commission reasoned that competition will establish prices. The decision followed a series of efforts by both the Commission and the FCC—"[t]he removal of regulatory barriers to competition," the "pricing of monopoly services for resale," and the "unbundling of bottleneck functions"—"intended to create a competitive market that produces benefits to consumers through market pressures instead of the traditional ratemaking process." *Id*. at *29-*30. As the Commission explained, "[c]ompetitive markets and the resulting competitive market prices and services, where they exist, are the most efficient means of ensuring that customers receive short- and long-term benefits." *Id*. at *30.

Subsequent Commission rulings have reinforced the principle articulated in SBC-Pacific Telesis. In the GTE-Bell Atlantic merger, approved in 2000, all parties accepted that benefits allocable to fully competitive services did not need to be allocated to ratepayers through an "explicit flow-through mechanism."[13] The decision, moreover, assessed the timeframe over which to calculate the benefits of other services with reference to when those particular services would become fully competitive, reducing the time-frame to account for forecasts of greater competition.[14] Likewise, in the 2005 AT&T-SBC and Verizon-MCI transactions, the Commission exercised its discretion not to apply Section 854(b) because: (1) none of the parties to the merger were subject to traditional rate regulation under the "New Regulatory Framework;" and (2) the Commission found the market "more competitive now than ever before," such that the merger would have no consequential effects on pricing or output levels.[15]

The Commission's Unified Regulatory Framework Decision ("URF Decision") in 2006 recognized that all telecommunications services had become sufficiently competitive that price regulation was no longer appropriate, except for certain services receiving social program subsidies.[16] Given the unbundling of network elements, the advance of substitutes to wireline services, and the breakdown of market segmentation through bundled services, carriers had come to "lack the market power needed to sustain prices above the levels that a competitive market would produce." *Id*. at *174. This decision did not rest on a finding that the market was "perfectly competitive"—it was sufficient that the market was "disciplined by threats of entry and the availability of close substitutes, which check the pricing power of market participants." *Id*. at *197. As the Commission explained: "[t]he extensive presence of competitors in [the utilities'] service territory and the expanding service by both wireless and VoIP carriers make it clear that [the utilities] could not limit the supply of telecommunications provided in any part of [their] California service territories and thereby cannot sustain above market prices." *Id.* at *180.

Under these precedents, the competitive market will drive the allocation of economic benefits from this transaction and the Commission should not mandate an allocation through an

[13] D. 00-03-021, 5 CPUC 3d at 163.

[14] *Id.* at 175. The Commission relied on the SBC-Pacific Telesis decision for the proposition that "the level of competition is among the principal factors in defining the long term." *Id.*. It also noted that the applicants in that merger "face the likelihood of robust competition in California markets." *Id.*

[15] D. 05-11-028, 2005 Cal. PUC Lexis 516, at *36; D. 05-11-029, 2005 Cal. PUC Lexis 517, at *32.

[16] D. 06-08-030, 2006 Cal. PUC Lexis 367, at *2.

explicit rate order. Since the URF Decision in 2006, the market has only grown more competitive with a variety of options for both voice and broadband services in the market. It is even truer today that “wireless and VoIP communications are competitors to wireline services” and that there is a “growing willingness to ‘cut the cord.’” *See id.* at *177. And even more than in 2006, consumers today “are increasingly communicating in ways that bypass traditional telephone networks entirely,” for instance through voice and text messages via cell phones and computers, social media or “over the top” providers.[17] In short, the competitive market has been and remains the most efficient way to set prices for these utilities, and it remains the most efficient mechanism to pass on transaction cost efficiencies to customers.

A required allocation of economic benefits is contrary to Commission precedent that uniformly relies on market forces to ensure that ratepayers receive these benefits. Verizon California provides service in a competitive market. The Transaction affirmatively strengthens Frontier as a financially-sound provider and the increased efficiencies are expected to benefit customers who will rely on Frontier, a stronger and more capable operator, over the long-term, and allows it to continue to focus on expanding and enhancing services in California.

A. ORA's and TURN's Recommendations For A Mandated Allocation of Benefits is Inconsistent with Commission Precedent.

Relying on incorrect applications of Public Utilities Code Section 854(b)(2), TURN and ORA both make recommendations that the Commission specifically compute the economic benefits of the Transaction to Frontier and distribute those benefits to ratepayers. TURN proposes that the Commission allocate $242 million and ORA proposes that the Commission allocate $735.75 million based on alleged total operating cost savings. Exh. TURN – 1, *Baldwin Reply Testimony* at 11:17-18; Exh. ORA – 9, *Selwyn Supplemental Testimony* at 32:17 and 37:15-17; Exh. ORA – 5, *Selwyn Reply Testimony* at 119:15.[18] ORA and TURN then identify specific

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[17] *See* R. 05-04-005, (*mimeo*) at 2 (noting developments that led to the deregulatory reforms in the URF proceeding).

[18] Dr. Selwyn creates a table in which he estimates five years of operating cost savings arising from the Transaction and states that Frontier should be required to commit not less than $927.75 million to California ratepayers. Exh. ORA-5, *Selwyn Reply Testimony* at 119: 1-19. To arrive at this figure, he allocates 54% of the savings to California based on the California estimated access lines as a percentage of the total. He then computes a 50%-allocated ratepayer subtotal of $735.75 million for five years, to which he adds $192 million in anticipated CAF funding. It is

monetary conditions to impose on Frontier to recover their savings calculations. Whether as a function of a direct credit to ratepayers, or in the form of commitments that act as a proxy for such a figure, such an allocation of benefits would be inconsistent with Commission precedent in interpreting Public Utilities Code Section 854(b)(2) in the context of an acquisition of a competitive utility like Verizon California.

Commission precedent forecloses ORA's and TURN's recommendation that the Commission mandate a specific allocation of the corporate benefits of the Transaction to ratepayers as a condition of approving the Transaction. As the Commission has observed in prior merger cases and should observe in this case, "where market forces exist, we prefer that competition, instead of regulatory fiat, drive realized benefits to consumers through reduced prices and improved services." *In Re Pac. Telesis Grp.,* D. 97-03-067, 71 CPUC 2d 351 (March 1, 1997); *see also* D. 05-11-029 at 27 ("Any attempt to use traditional cost-based rate of return mechanisms to mandate distribution of merger benefits would be detrimental to the operation of market forces and contrary to the main thrust of the 1996 Telecommunications Act, state telecommunications policy, and this Commission's stated policies under NRF."). In addition, even if it were permissible to mandate an allocation in this proceeding, the alleged synergies identified by ORA and TURN are grossly inflated and inaccurately calculated.

1. Public Utilities Code Section 854(b)(2) Does Not Require an Allocation of Economic Benefits in This Case.

The stated basis of ORA's and TURN's recommendations regarding the allocation of economic benefits is 854 of the Public Utilities Code, which provides in part:

> (b) Before authorizing the merger, acquisition, or control of any electric, gas, or telephone utility organized and doing business in this state, where any of the utilities that are parties to the proposed transaction has gross annual California revenues exceeding five hundred million dollars ($500,000,000), the commission shall find that the proposal does all of the following:
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> ****
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> (2) Equitably allocates, where the commission has ratemaking authority, the total short-term and long-term forecasted economic benefits, as determined by the commission, of the proposed merger, acquisition, or control, between shareholders and ratepayers. Ratepayers shall receive not less than 50 percent of those benefits.

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completely improper for Dr. Selwyn to add incremental CAF federal support dollars that cannot remotely be categorized as a Frontier "savings" associated with the Transaction.

Pub. Util. Code § 854(b).

The Commission has recognized that market forces will equitably allocate the economic benefits associated with services it does not rate regulate. Any mandated sharing of transaction-related benefits to ratepayers in this proceeding would be contrary to that precedent and public policy. As Ms. Abernathy testified, a mandated sharing of benefits assumes a lack of competition and rate regulation. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 5:12-14. Those considerations do not apply to Verizon California, as the Commission found when it decided in URF to remove rate regulation. ORA's and TURN's recommendations that the Commission mandate a particular sharing of the benefits of the Transaction is inconsistent with the Commission's decision to cease rate regulating Verizon California, as well as with its multiple decisions holding that the Commission will not mandate a specific allocation of benefits associated with services that the Commission has chosen not to rate regulate.

The witnesses for ORA and TURN have not adequately addressed the Commission's consistent rulings in past telecommunications proceedings that market forces, rather than Commission dictates, should be relied upon to allocate the economic benefits for services that are not rate regulated. Further, the ORA and TURN witnesses have not rebutted the indisputable fact that the Commission does not exercise its ratemaking authority for any telecommunications services that it previously regulated based on its determination that competition disciplines the behaviors of the companies providing telecommunications services. Uniform Regulatory Framework Decision, D. 06-08-030; *see also* Exh. FTR – 1, *Abernathy Opening Testimony* at 36:3-26. Because it does not exercise ratemaking authority over these services, sound public policy and precedent requires that there be no mandated obligation to "share" economic benefits. There is no basis to support the recommendations of the ORA and TURN witnesses for mandated sharing of the economic benefits of the Transaction and their recommendations may not be lawfully adopted.

Indeed, their testimony is inconsistent with their past positions. In the GTE/Bell Atlantic merger proceeding, ORA proposed to end any sharing of supposed economic benefits for services which were recategorized under NRF to Category III upon a showing of effective competition.

See GTE Bell/Atlantic D. 00-03-021 at 41. This determination of effective competition for all the regulated services offered by Frontier and Verizon California was the very underpinning of the URF Decision. Therefore, even ORA would not call for sharing of any economic benefits for these services under the view it espoused in the GTE/Bell Atlantic case, the case its witness, Dr. Selwyn, now relies upon as the basis for his recommendations. ORA – 5, *Selwyn Reply Testimony* at 140:10-15.

In addition to the Commission's longstanding precedent against mandating an allocation of benefits for services it does not regulate, the Commission has never mandated any sharing of benefits associated with interstate and non-regulated services, including broadband, VoIP and video services. ORA and TURN witnesses have failed to identify any basis for the Commission to mandate sharing of savings attributed to these interstate and other nonregulated services that the Commission has never exercised ratemaking authority.

There is no way to accept ORA's and TURN's recommendations without reversing years of precedent holding that the Commission will not mandate an allocation of economic benefits associated with services it does not rate regulate. Such a reversal would be unjustified and unlawful, ORA's and TURN's recommendations for mandated sharing are incompatible with the Commission's policy to facilitate competition and ensure the consistent and reasonable application of its rules and precedent.

2. **Impact of the URF Decision on the Application of Section 854(b)(2).**

In the URF Decision, the Commission reasoned that: "[w]e have reviewed the entire record and conclude that Verizon, SBC, SureWest, and Frontier lack market power in their service territories. We, therefore, conclude that <u>price regulation is no longer needed to ensure that prices are just and reasonable.</u> " D. 06-08-030 at 132 (emphasis added). The Commission continued by noting the "loss of significant market share to competitors," including wireless and VoIP alternatives. *Id.*; *see also id.,* at 133. The Commission reached these conclusions based on an exhaustive examination of competition, a full record tested through evidentiary hearings, and voluminous comments and briefs. The URF Decision clearly articulated and implemented the

Commission's intent to withdraw rate regulation of Verizon California. TURN and ORA do not agree with the URF Decision and they seek every opportunity to mount a collateral attack on it. Nevertheless, it is the law from which the Commission may not depart in this proceeding.

There is no way to harmonize ORA's and TURN's recommendations with URF, as any requirement to share benefits in a particular manner is inconsistent with URF's holding that competition, rather than regulation, should determine how carriers invest, what services they provide, and the process they charge. TURN's witness, Susan M. Baldwin, recommends that the Commission reflect an allocation to ratepayers of the economic benefits of the synergies anticipated to accrue from the Transaction in the form of some combination of bill credits, rate reductions, subsidies to customers, and rate freezes for both voice and broadband services and specific operational requirements such as the establishment of more customer service offices. Exh. TURN – 1, *Baldwin Reply Testimony* at 53:15-54:6. ORA witness, Dr. Lee Selwyn, proposes that the Commission mandate the use of "ratepayer shares" of short-term and long-term economic benefits for broadband investment. Exh. ORA – 5, *Selwyn Reply Testimony* at 119:21-120:7. Those recommendations are directly contrary to URF. This transfer application proceeding is not the proper place to consider a complete change to the regulatory framework applicable to Frontier and Verizon California. No public policy justifies changing course in this case, ten years later, when the competitive marketplace is even more robust, and after Verizon California has lost more than half of its customers to competitors. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 10:4-6. As Ms. Abernathy explained, the inconsistent application of precedent and regulatory rationale proposed by ORA and TURN is contrary to sound public policy and the predictability of a regulatory environment that is necessary to spur investment, innovation and competition. *Id.* at 7:1-3. As she concluded: "To put it succinctly, Ms. Baldwin encourages the Commission to follow her down the wrong path." *Id.* at 7:3-4.

The Commission cannot legally depart from its own procedures and precedent in the absence of circumstances warranting such a change, none of which exist in this case. To do so would constitute an arbitrary and capricious agency action and an abuse of discretion in violation of Public Utilities Code 1757(a)(5). Further, as explained below, the unsupported and unpersuasive testimony of TURN and ORA does not constitute sufficient evidence to justify such an action. *See* Public Utilities Code §§ 1757(a)(3), 1757(a)(4).

3. **In the Interest of Customers, the Commission Should Rely on Market Forces Rather than Mandated Allocations to Drive the Merger Benefits to Consumers.**

The Commission here should rely on the market, rather than allocations, to move merger benefits to consumers. As Ms. Abernathy explained:

> TURN's and ORA's proposals would divert capital that could be used to improve the Verizon California network and deploy broadband-capable infrastructure to additional households. Competition is undeniably fierce in California and far more intense than at the time of the earlier decisions when the Commission declined to mandate allocations to consumers. Between 2010 and 2014, Verizon California lost 42% of its access lines. Applying a multi-million dollar "entry fee" to acquire operations that are in decline in the form of a mandated allocation of economic benefits would competitively harm Frontier to the detriment of consumers. It would hamper Frontier's ability to invest in California and compete from the outset in the highly dynamic and robust California market. For this reason, even if the Commission entertains a mandated ratepayer allocation despite applicable precedent, it should not be done as a matter of sound public policy.

Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 12:3-13.

Indeed, light of today's competitive market, it would be both unreasonable and poor public policy for the Commission to depart from past precedent. As the Commission has observed and should observe in this case, ". . . we recognize, as we did in previous merger cases, that where market forces exist, we prefer that competition, instead of regulatory fiat, drive realized benefits to consumers through reduced prices and improved services." D. 97-03-067, 1997 Cal. PUC Lexis 629, at *28 (March 1, 1997); see also D. 05-11-029 at 27 ("[a]ny attempt to use traditional cost-based rate of return mechanisms to mandate distribution of merger benefits would be detrimental to the operation of market forces and contrary to the main thrust of the 1996 Telecommunications Act, state telecommunications policy, and this Commission's stated policies under NRF."). Specifically, the Commission should conclude that savings attributable to the services provided by Verizon California will be equitably allocated by market forces and should not be subject to mandated allocations to ratepayers as proposed by ORA and TURN.

B. ORA's and TURN's Recommendations For A Mandated Allocation of Benefits Would Violate Section 253 of the Telecommunications Act.

Section 253 of the Telecommunications Act provides that no state regulation "may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services."[19] A Commission order that Frontier be subject to mandated allocations to ratepayers as proposed to ORA and TURN would be contrary to the proscription of Section 253 of the Telecommunications Act against such a barrier to entry.[20] As Ms. Abernathy testified, such a requirement would constitute a multi-million dollar "entry fee" on Frontier to acquire the Verizon California assets.[21] Such an "entry fee" would clearly constitute a barrier to entering the California telecommunications market, as carriers considering entry by similar acquisitions would necessarily anticipate facing comparable fees. The federal courts, applying FCC guidance, have routinely struck down such anticompetitive regulatory fees on this basis.[22] Therefore the Commission should reject the mandated allocations proposed by ORA and TURN to avoid violating Section 253 of the Telecommunications Act.

C. ORA's and TURN's Recommendations For A Mandated Allocation of Benefits Would Violate Frontier's Rights under the Impairment of Contracts Clauses of the State and Federal Constitutions.

A Commission order that Frontier be subject to mandated allocations to ratepayers as proposed to ORA and TURN would violate the Impairment of Contracts Clauses of the United States and California Constitutions.[23] The proposed mandatory allocations to ratepayers would amount to a plain and "substantial impairment of the contractual relationship" between Verizon and Frontier.[24] For the reasons explained above, such mandatory allocations would not be

[19] 47 U.S.C. § 253(a).

[20] *See* D. 97-04-090 (describing Section 253(a) as removing "barriers to competitive entry").

[21] Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 12:3-13.

[22] *See, e.g., Puerto Rico Tel. Co. v. Municipality Of Guayanilla*, 450 F.3d 9, 18 (1st Cir. 2006); *New Jersey Payphone Assn Inc. v. Town of West York*, 130 F. Supp. 2d 631, 638 (D.N.J. 2001).

[23] The same Contracts Clause analysis applies under the federal and California constitutions. *Katzman v. Los Angeles Cnty. Metro. Transp. Auth.*, 72 F. Supp. 3d 1091, 1109 (N.D. Cal. 2014)

[24] *Robertson v. Kulongoski*, 466 F.3d 1114, 1117 (9th Cir. 2006); *see also id.* (the Contracts Clause analysis looks to whether there was a "contractual agreement *regarding the specific … terms allegedly at issue*").

"reasonable and necessary to serve an important public purpose."[25] Again, as Ms. Abernathy testified, such mandatory allocations would be contrary to the public interest, as it would competitively harm Frontier to the detriment of consumers, hamper Frontier's ability to invest in California, and hinder Frontier's ability to compete. Therefore, the Commission should not adopt the mandatory allocations proposed by ORA and TURN to avoid infringement of the applicants' rights under the Impairment of Contracts Clauses of the state and federal constitutions.

D. ORA's and TURN's Recommendations For A Mandated Allocation of Benefits Would Constitute an Unlawful Taking of Private Property

A Commission order that Frontier be subject to mandated allocations to ratepayers as proposed to ORA and TURN would constitute an unlawful taking of private property, in violation of the United States and California constitutions. ORA's and TURN's recommendation for mandatory allocations amounts to nothing more than a request that the Commission seize shareholder money and assign it to ratepayers. Such an order would constitute "an illegal appropriation of [the company's] property."[26] Perhaps such an order would be permissible if there were a record showing that such a mandatory allocation is needed to mitigate an adverse effect of the Transaction; here, however, the record evidence clearly shows that the opposite is the case.[27] Therefore, the Commission should not adopt the mandatory allocations proposed by ORA and TURN to avoid the unlawful taking of private property in violation of the state and federal constitutions.

VI. THE TRANSACTION WILL NOT ADVERSELY AFFECT COMPETITION.

The standard of review in California in Section 854(b) includes an assessment whether the Transaction *adversely affects* competition. The standard does not require proof or evidence that the Transaction will "materially change" or "improve" competition. The Transaction will not

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[25] See *San Diego Police Officers' Ass'n v. San Diego City Employees' Ret. Sys.*, 568 F.3d 725, 737 (9th Cir. 2009).

[26] *Ponderosa Tel. Co. v. Public Utilities Comm'n*, 197 Cal. App. 4th 48, 59 (2011) (citing *Brown v. Legal Foundation of Wash.*, 538 U.S. 216, 233, 235-236 (2003) and *Webb's Fabulous Pharmacies, Inc. v. Beckwith*, 449 U.S. 155, 163-164 (1980)).

[27] *Nollan v. California Coastal Comm'n*, 483 U.S. 825, 837 (1987) (government may not impose a condition on the exercise of a constitutional right unless the condition "is related both in nature and extent to the impact" of the proposed action).

adversely affect competition for the simple reason that the territories of Frontier and Verizon California do not overlap and therefore the Transaction will not result in the reduction of competitors in any market. Exh. FTR – 1, *Abernathy Opening Testimony* at 39:5-6. Additionally, California markets remain intensely competitive. Exh. FTR – 1, *Abernathy Opening Testimony* at 39:3-40:9; Exh. FTR – 2, *White Opening Testimony* at 23:4-13. The Transaction does not include a non-compete agreement from Verizon, which opens up the possibility of competition between Frontier and Verizon's wireless services. Exh. FTR – 11, *Teece Rebuttal Testimony* at 18:19-19:8. Intervenors agree that the Transaction will not adversely affect competition. Exh. ORA – 5, *Selwyn Reply Testimony* at 9:12-16; Exh. ORA – 1, *Johnson Reply Testimony* at 18:7-9; Exh. TURN – 1, *Baldwin Reply Testimony* at 37:17. There are no facts suggesting that the Transaction will result in less competition.

This conclusion has been affirmed by federal regulators. On April 29, 2015, Frontier and Verizon made their Hart Scott Rodino filings with the Department of Justice (DOJ) and Federal Trade Commission (FTC). On May 8, 2015, less than two weeks after the filing had been made, Frontier and Verizon were notified that the parties had been granted early termination, indicating the Transaction does not present a competitive issue. Exh. FTR – 12, *Abernathy Supplemental Testimony* at 26:18-20.

On September 2, 2015, the FCC also approved the Transaction. The FCC found that because Verizon and Frontier do not currently compete against each other in the affected exchanges, the Transaction does not reduce the number of service providers in local markets. FCC Approval Order at ¶ 14. The FCC's competitive analysis, which forms an important part of the public interest evaluation, is informed by, but not limited to, traditional antitrust principles. The FCC Approval Order noted that the DOJ reviews telecommunications mergers pursuant to section 7 of the Clayton Act, and acknowledged that for this Transaction, the DOJ had issued the HSR Termination Notice. *Id.* at ¶ 3 n. 13, ¶ 10. The FCC's competitive analysis under the public interest standard is broader than the DOJ's analysis. For example, the FCC considers whether a transaction will enhance, rather than merely preserve, existing competition, and it takes a more extensive view of potential and future competition and its impact on the relevant market. *Id*. at ¶

10. The FCC found that, based on its review of the record, the Transaction is unlikely to result in any reduction in competition. The FCC concluded that the proposed Transaction actually would result in increased competition by creating a stronger competitor to national telecommunications and cable companies, and that Verizon will retain all of its wireless operations in the affected states. *Id*. at ¶ 16. These determinations further indicate that there will be no adverse impact on competition as a result of this transaction.

VII. THE TRANSACTION SATISFIES EACH OF THE STATUTORY STANDARDS AND PUBLIC INTEREST FACTORS IN PUBLIC UTILITIES CODE SECTION 854(c).

Section 854(c) of the Code also provides that before authorizing any merger or acquisition where any of the parties to the Transaction has gross annual California revenues exceeding $500,000,000, the Commission shall consider the eight criteria described above and find, on balance, that the Transaction is in the public interest. Cal. Pub. Util. Code 854(c). The eight criteria address whether the Transaction will: (1) maintain or improve the financial condition of the resulting public utility; (2) maintain or improve the quality of service to public utility ratepayers in the state; (3) maintain or improve the quality of management of the resulting public utility; (4) be fair and reasonable to affected public utility employees; (5) be fair and reasonable to the majority of all affected public utility shareholders; (6) be beneficial on an overall basis to state and local economies, and to the communities in the area served by the resulting public utility; (7) preserve the jurisdiction of the commission and the commission's capacity to effectively regulate utility operations in the state; (8) provide mitigation measures to prevent significant adverse consequences which may result from the Transaction. Pub. Util. Code § 854(c)(1-8).

The evidence in the record shows that these eight criteria are each satisfied. An application of these factors to the record evidence leaves no doubt that the Transaction is in the public interest.

A. The Transaction Will Maintain or Improve the Financial Condition of the Utility.

The Transaction will maintain and improve the financial condition of Frontier and its California operations. Frontier has a long history in which it has proven to be a financially and operationally responsible corporate citizen in the 28 states in which it currently operates. Frontier is the fourth largest local telecommunications carrier in the U.S., and the largest primarily focused on customers in rural and suburban service areas. Exh. FTR – 3, *Jureller Opening Testimony* at 5:19-21. The Company is financially sound, with a mix of publicly-traded debt and equity securities. Exh. FTR – 3, *Jureller Opening Testimony* at 5:22-23. In 2014, Frontier reported annual revenues of approximately $4.8 billion, adjusted earnings before interest, taxes, depreciation and amortization ("EBITDA") of approximately $2.1 billion, and approximately $793 million in free cash flow. Exh. FTR – 3, *Jureller Opening Testimony* at 4:13-5:17. The Company's total debt at December 31, 2014, was $9.8 billion, with $1.4 billion in available cash and credit that provide ample liquidity. Since the second quarter of 2010, Frontier has reduced its net debt-to-adjusted-EBITDA ratio (or leverage ratio) from 4.04x to 3.72x and the Transaction is not expected to significantly alter this ratio. Exh. FTR – 3, *Jureller Opening Testimony* at 5:19-6:16. Frontier's financial strength compares favorably with other major LECs. Exh. FTR – 3, *Jureller Opening Testimony* at 21:19-23:8. In short, Frontier is financially sound.

The Transaction is expected to strengthen Frontier by improving its cash flow, improving its dividend payout ratio, and providing flexibility in terms of capital investment. Projections also show that the Transaction will significantly increase Frontier's revenues while having virtually no impact on its level of leverage. Exh. FTR – 3, *Jureller Opening Testimony* at 12:8-13:10, and Table 2. Frontier estimates that, on a pro forma basis, the Verizon operations (in California, Texas, and Florida) will generate approximately $5.8 billion in revenues and approximately $2.3 billion in adjusted EBITDA. Frontier expects to realize $175 million in annualized cost savings from shared service efficiencies by the end of the third year following closing, resulting in total annualized corporate consolidated operating costs savings of $700 million across Frontier's entire 29-state territory. Exh. FTR – 3, *Jureller Opening Testimony* at 11:9-12:6. The major credit rating agencies also view the Transaction as favorable. Exh. FTR – 3, *Jureller Opening Testimony* at 24:16-26:2. Specifically, Moody's stated that it expects Frontier's free cash flow profile to meaningfully improve following this transaction. Exh. FTR – 3, *Jureller Opening Testimony* at 25:2-3.

On Friday, September 11, 2015, Frontier reported that it had priced its previously announced private offering of $6.6 billion aggregate principal amount of unsecured Senior Notes, which completes the capital raise for the Transaction. Exh. FTR – 14, *Jureller Supplemental Reply Testimony* at 2:4-6. Including the previously announced $1.5 billion secured Term Loan A, the Frontier's weighted average cost of debt for the total Transaction-related debt financing of $8.1 billion is estimated to be approximately 9.1%, which is in line with the assumptions Frontier used in its analysis evaluating the transaction before it was announced in February 2015. Exh. FTR – 14, *Jureller Supplemental Reply Testimony* at 2:1-17; 3:6-4:4. As a result, Frontier has successfully secured all of the equity and long term debt financing necessary to complete the acquisition of the Verizon operations in California, Texas and Florida. Exh. FTR – 14, *Jureller Supplemental Testimony* at 2:6-17.

On September 16, 2015, following the issuance of the final component of the Transaction financing, Frontier reaffirmed its positive financial expectations for the Company following the completion of the Transaction. Exh. FTR – 14, *Jureller Supplemental Testimony* at 3:8-10. Frontier's 9.1% estimated weighted average cost of debt for the Transaction financing is in line with the originally-modeled assumptions that were used for the Transaction analysis in January and February 2015. Exh. FTR – 14, *Jureller Supplemental Testimony* at 3:10-13. Factoring in the terms of the equity raise in June, Frontier has reiterated its estimate that Leveraged Free Cash Flow per share will improve by more than 30% in Year 1 as compared with the status quo. Exh. FTR – 14, *Jureller Supplemental Testimony* at 3:13-15. In addition, Frontier now estimates more than a 10-percentage point improvement in the Company's Dividend Payout Ratio as compared with the status quo, which represents a further improvement. Exh. FTR – 14, *Jureller Supplemental Testimony* at 3:15-18. Finally, Frontier anticipates the potential to reduce the ratio of net debt to adjusted EBITDA to a ratio in the low 3's over the long term, given the previously disclosed potential to reduce leverage by between 0.1 and 0.2 times per year following the closing of the Transaction. Exh. FTR – 14, *Jureller Supplemental Testimony* at 3:18-4:1. Thus, with all of the Transaction-related financing in place, Frontier continues to expect the Transaction to result in a financially stronger company. Exh. FTR – 14, *Jureller Supplemental Reply Testimony* at 3:6-4:4.

Even before Frontier had finalized the financing for the Transaction and reaffirmed its positive financial expectations for the Company following the completion of the Transaction, the FCC had concluded that Frontier has the requisite financial qualifications to undertake the Transaction, rejecting a variety of arguments from commenters that are similar to arguments made in this proceeding. *FCC Approval Order* at ¶¶ 14, 18, 20, 23. For example, commenters expressed concern that Frontier might not be qualified to maintain and invest in the networks it is seeking to acquire in the Transaction; objected to Frontier's use of earnings before interest, taxes, depreciation, and amortization ("EBITDA") as a measure of improved financial capacity; and expressed concern about Frontier underinvesting in its network, claiming that, in each of the years 2011 through 2014, Frontier's capital expenditures were less than network depreciation.[28] *FCC Approval Order* at ¶¶ 14, 18, 20, 23.

The FCC stated that, and as it found in prior Frontier transactions, the general assessment of the financial community and Frontier's statements regarding its financial viability were reasonable. Other than ordinary market risks that accompany any business transaction, the FCC found no evidence in the record indicating that this Transaction will be likely to result in financial harms that would compromise Frontier's ability to maintain and improve its networks. *FCC Approval Order*, at ¶ 20.

In summary, Frontier has the financial capacity and other resources to acquire Verizon California and to serve the interests of the State of California. The net effect of Frontier's solid financial base and the favorable financing arrangements the Company has secured for completing the Transaction is that Frontier will have more financial flexibility and discretionary funds to invest and strengthen its operations going forward. FTR – 3, *Jureller Opening Testimony* at 28:21-24. Frontier also has a singular strategic and operational focus on the wireline telecommunications industry. As such, there are no other operational alternatives competing for capital allocations and the Company is able to apply all of its capital investment toward improving and enhancing its advanced wireline network. Exh. FTR – 3, *Jureller Opening Testimony* at 24:5-

[28] Commenters raising such concerns included: The Utility Reform Network, The National Association of State Utility Consumer Advocates; and the Center for Accessible Technology. *See FCC Approval Order* at ¶ 18.

8. Frontier will bring this same strategic emphasis on wireline investment to the Verizon California operations upon consummation of the Transaction, to the benefit of California customers. Accordingly the public interest test with respect to Frontier's ability to maintain or improve the financial condition of the Verizon California operations is clearly met.

B. The Transaction Will Maintain or Improve the Quality of Service.

Verizon's existing network facilities and infrastructure will be used to continue to provide services after the Transaction closes. The Verizon California employees responsible for those facilities will become Frontier employees. Exh. FTR – 4, *Golob Opening Testimony* at 15:13-18. Frontier has teams of employees dedicated to plan for and execute the transition. Exh. FTR – 4, *Golob Opening Testimony* at 15:13-16:17.

Frontier is strategically focused solely on wireline and has a long and successful history of providing those services. Exh. FTR – 1, *Abernathy Opening Testimony* at 40:11-41:9. For example as of 2014: gigabit services is offered in six states; 40 percent of broadband activations were above 6 Mbps; almost 55% of households in Frontier service areas are capable of at least 20 Mbps downstream speeds; and more than 74% of Frontier's households are capable of 12 Mbps downstream speeds. Exh. FTR – 4, *Golob Opening Testimony* at 12:8-20. Moreover, when Frontier acquired Verizon assets in California in 2010, broadband had been deployed in only one of the 12 acquired exchanges. Exh. FTR – 2, *White Opening Testimony* at 11:20-12:21; 16:12-17:4. As of December 2014, Frontier has deployed broadband to over 82% of the households in those exchanges. Exh. FTR – 2, *White Opening Testimony* at 11:20-12:21. The broadband deployment also favorably improved voice services. Exh. FTR – 2, *White Opening Testimony* at 11:20-12:21.

Frontier has improved the quality of service in territories it acquired from Verizon in 2010 by making significant capital investments. For example, Frontier has built over 1,200 miles of next generation DWDM and ROADM technologies, which improve redundancy, reliability, and quality of service. For another example, Frontier has built fiber to over 3,000 cell towers in its footprint. Frontier anticipates undertaking similar initiatives for the Verizon California properties. Exh. FTR – 4, *Golob Opening Testimony* at 22:19-23:17.

1. Frontier Will Expand Broadband, Which Will Also Improve Voice Services.

Expanded broadband deployment has the benefit of improving the network infrastructure used for voice services as copper facilities and other network infrastructure are augmented and improved. Exh. FTR – 4, *Golob Opening Testimony* at 26:15-18; Exh. FTR – 13, *White Supplemental Reply Testimony* at 26:13-16. As demonstrated extensively in section IV(D), above, Frontier is committed to deploying broadband in California, especially in rural areas, which will result in improved voice services to customers.

2. Frontier's Service Quality Performance in California Has Been Better than Verizon's.

That Frontier will maintain or improve service is shown by the fact that Frontier's service quality performance in existing California territories has been as good or better than Verizon's. Exh. FTR – 13, *White Supplemental Reply Testimony* at 26:21-30:26. Frontier's percentage of business and residential repair calls answered within 60 seconds is higher than Verizon's. Exh. FTR – 13, *White Supplemental Reply Testimony* at 27:4-14. Frontier's percentage of out of service troubles cleared in less than 24 hours is generally higher than Verizon's in California. Exh. FTR – 13, *White Supplemental Reply Testimony* at 27:16-25. Frontier's customer trouble rate for offices with 3,000 or more lines is significantly lower than Verizon's. Exh. FTR – 13, *White Supplemental Reply Testimony* at 28:3-13.

3. Frontier Will Dedicate Resources to the Verizon California Network.

As discussed in section IV(D), above, Frontier, using its own investment and CAF and CASF support will make capital investments in the California network. Frontier will also deploy human resources and labor to the California network. In addition to the Verizon work force that will transfer to Frontier, the Company will add 175 new jobs in California. Exh. FTR – 13, *White Supplemental Reply Testimony* at 35:17-28. Frontier will identify 50 employees who will be dedicated to identifying and resolving Verizon California network-related or facilities issues, including any G.O. 95 deficiencies. These employees will inspect cable plant and copper facilities, pedestals, remote cabinets and other facilities in the field. Exh. FTR – 6, *White Rebuttal Testimony* at 15:26-16. Frontier used a similar approach in West Virginia with great success, resulting in dramatically fewer network troubles and service quality complaints. Exh. FTR – 10, *Gregg Rebuttal Testimony* at 19:7-22:1.

There is no evidence that has been presented by any party that Frontier's acquisition of Verizon California will result in a degradation of network reliability, or that Frontier's acquisition will result in customers receiving a lower level or quality of service. This is the paramount and singular consideration because the service quality standard under Section 854(c)(2) is to "maintain or improve" service quality – it does not require the parties to a transaction address every existing service quality issue or perceived network deficiency that may exist. Instead, the statutory criterion with respect to service quality is truly a "do no harm" standard by its plain language. Frontier and the Transaction will more than satisfy the statutory requirement.

C. The Transaction Will Maintain or Improve the Quality of Management.

Frontier's management team has a proven track record that demonstrates that the quality of management of the utility will be maintained or improved. Exh. FTR – 2, *White Opening Testimony* at 30:1-16. Intervenors do not contend that the Transaction fails to meet this criterion. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 44:19-45:20. In fact, Dr. Selwyn suggests that Frontier's management may be superior to Verizon's. Exh. ORA – 5, *Selwyn Reply Testimony* at 14:12-15 ("A change of control from Verizon to Frontier offers the prospect of shifting the stewardship of these wireline assets away from a company that appears to have lost interest in this line of business over to one that has been making large commitments toward expanding its wireline footprint.") Frontier's core business is wireline local telecommunications and therefore Frontier has relevant management skill and expertise developed over many years. Exh. FTR – 1, *Abernathy Opening Testimony* at 13:3-18.

Frontier plans to implement in California its community-oriented management model of intense local engagement. Exh. FTR – 1, *Abernathy Opening Testimony* at 26:23-27:16; Exh. FTR – 2, *White Opening Testimony* at 19:13-20:3. The local engagement model involves installing a number of local managers across its service areas that are community focused and responsive to customer needs. Exh. FTR – 2, *White Opening Testimony* at 20:5-21. Frontier will maintain or improve the management of Verizon California.

D. The Transaction Is Fair and Reasonable to Affected Employees.

Frontier is committed to the fair and reasonable treatment of its employees as the Company recognizes and supports the value of its employee base—union and non-union. In the proposed Transaction, Frontier has affirmed that all agreements and related obligations with respect to employees will be unchanged. Exh. FTR – 1, *Abernathy Opening Testimony* at 8:15-17. The pension and other OPEB obligations to affected Verizon California employees will be assumed by Frontier. Exh. FTR – 1, *Abernathy Opening Testimony* at 8:12-15. For one year following closing, Frontier will provide non-union transferring employees with compensation and benefits comparable to those they had prior to closing. Exh. FTR – 1, *Abernathy Opening Testimony* at 42:4-43:4; *White Testimony* at 27:21-28:8; Exh. VZ – 2, *McCallion Opening Testimony* at 3. Frontier believes that the transferred employees—union and non-union—will enjoy a stable work environment and have a greater potential for advancement. Frontier will embrace Verizon California's diversity program. Exh. FTR – 2, *White Opening Testimony* at 24:1-25:5. Frontier has made a series of commitments in MOUs with both the Joint Minority Parties and Greenlining Institute to collaborate on proactive initiatives to further enhance Frontier's diversity efforts. Exh. FTR – 13, *White Supplemental Reply Testimony* at 42:11-43:3; Exh. FTR 6, *White Rebuttal Testimony* at 21:15-23:8. Frontier relies heavily on veterans as employees and has implemented a series of programs dedicated to attracting, honoring, and hiring military personnel. Exh. FTR – 2, *White Opening Testimony* at 24:1-25:5. There is nothing to suggest that the proposed Transaction would not be fair and reasonable to affected employees, and intervenors do not contend that the Transaction does not meet this criterion.

On July 27, 2015, Frontier announced an agreement with the CWA to extend current collective bargaining agreements; add 150 new union jobs in California; ensure employee job security through guarantees regarding the workforce size; and commit to a 100% U.S.-based workforce.[29] Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 45:13-20. Tom Runnion, Vice President of CWA District 9, described the CWA's relationship as a partnership with Frontier, and pointed to the Company's commitment to its employees as a positive indicator of its commitment to quality service in California. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 41:19-22. Higher employment levels, as well as employment-related guarantees, including wage increases included in the Agreement with CWA, represent a tangible benefit for the Company's employees and a clear economic value arising from the proposed Transaction. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 41:22-42:2.

E. The Transaction Is Fair and Reasonable to the Majority of Shareholders.

No intervenor contends that this criterion is not met, and Dr. Selwyn affirms that it is in fact met. Exh. ORA – 5, *Selwyn Reply Testimony* at 9:21-10:2. The purchase price is fair to Frontier and its shareholders from a financial point of view. Frontier is paying an enterprise value ("EV") to an estimated Day 1 EBITDA purchase price multiple that is 3.7 times. Based on comparable multiples, this EV is a favorable price.[30] Exh. FTR – 3, *Jureller Opening Testimony* at 14:1-15:7. As explained above, this Transaction is expected to generate an estimated pro forma 30% leveraged free cash flow accretion per share in the first year of operations as compared to its estimated current business, and, by the third year after closing. The Company estimates $700 million in annualized corporate consolidated synergies for the pro forma combined company primarily through costs that do not transfer to Frontier at the closing of the transaction. Exh. FTR – 3, *Jureller Opening Testimony* at 11:21-12:6. Shareholders also will assess the larger scale and scope of the pro forma business and recognize that the Company is stronger in terms of the investments that can be made and the products that can be introduced. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 42:17-13. The expected result is that Frontier will be a more formidable competitor after the close of the proposed Transaction. All of these factors support a

[29] Frontier Communications Corporation, "Frontier Communications and Communications Workers of America Reach Agreement in California," (Corrected Version), July 27, 2015; *see* Exh. FTR – 6, *White Rebuttal Testimony*, Exhibit C.

[30] The use of EBITDA to evaluate the purchase price in no way suggests that Frontier will not invest in the Verizon California network. Exh. FTR – 3, *Jureller Opening Testimony* at 16:3-15.

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determination that the Transaction is fair and reasonable to shareholders.

F. The Transaction Is Beneficial to State and Local Economies and the Communities Served.

Frontier will be focused on providing improved quality of service and wireline broadband products that will be beneficial to the state and local economies, and will challenge competitors to provide more effective broadband and other telecommunications services. Frontier's demonstrated dedication to improving its infrastructure, and specifically its commitment to deploy broadband in California (*see* section IV(D), above), will bring immediate and tangible benefits to state and local economies. Exh. FTR – 3, *Jureller Opening Testimony* at 31:1-15; Exh. FTR – 2, *White Opening Testimony* at 30:18-31:17. Indeed, if the Transaction is consummated, more than 427,000 households in the Verizon California service territory will have broadband for the first time or benefit from increased broadband speeds. Exh. FTR – 13, *White Supplemental Reply Testimony* at 17:13-17; 23:21-24:23. Commission approval of the Transaction would advance federal objectives to bring broadband to rural areas served through the CAF II program. *Id.* at 22:7-24. As noted above, Frontier is committed to expending $192 million in CAF funding in California to deploy broadband and fulfill its CAF obligations. In 2014, the Legislature enacted SB 1364 (Fuller), which added Public Utilities Code § 270(c) to the statutory framework underlying the Commission's public policy programs. This sub-section states:

> The commission, . . . in administering state participation in federal universal service programs, is encouraged, consistent with the state's universal service policies and goals, to maximize the amount of federal funding to California participants in the federal programs.

Pub. Util. Code § 270(c). The Legislative framework supports adoption of the Transaction as presented with Frontier accepting the CAF II build out obligations and the $192 million in CAF funding, as it would "maximize the amount of federal funding" available to Californians.

The Transaction will also, as described above, provide ongoing job security for CWA employees and bring 175 new jobs, representing more than $10 million in compensation per year, to the state economy. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 45:14-18. There is no question that if the Transaction closes, Frontier commitments will improve and benefit state and local economies.

G. The Transaction Will Preserve the Jurisdiction of the Commission.

Verizon California will continue to operate as a separate legal entity in California under the ownership of Frontier. Exh. FTR – 1, *Abernathy Opening Testimony* at 10:17-20. The Transaction will not affect the regulatory framework or jurisdiction of the Commission to regulate Verizon California or the operations Frontier will acquire. Exh. FTR – 1, *Abernathy Opening Testimony* at 43:4-9; Exh. VZ – 2, *McCallion Opening Testimony* at 4. To the extent intervenors are concerned about service quality, this Commission has the jurisdiction to address any such concerns after the Transaction is consummated.

H. No Mitigation Measures Are Necessary to Prevent Adverse Consequences.

No mitigation measures are necessary because there are no significant adverse consequences that will occur because of the Transaction. While intervenors point to an assemblage of industry-wide and existing Verizon California issues they would like to address given the opportunity presented by this Transaction review, they fail, however, to identify "significant adverse conditions" that necessitate mitigation measures. Notwithstanding this fact, as noted in section IV, above, Frontier has voluntarily agreed to numerous commitments that will ensure that the Transaction is in the public interest.

VIII. NONE OF THE CONDITIONS PROPOSED BY INTERVENORS ARE NECESSARY FOR THE TRANSACTION TO BE IN THE PUBLIC INTEREST, AND MANY WILL HARM CONSUMERS AND CAUSE THE TRANSACTION TO FAIL.

A. Summary of Proposed Conditions

The proposed conditions presented by intervenors would impose tremendous financial, pricing, investment, operational, and reporting burdens on Frontier that threaten the viability of the Transaction. As set forth in the Rebuttal Testimony of Ms. Abernathy, the following chart summarizes the number and type of conditions proposed by intervenors in their Reply Testimony:

Type of Condition	Number of Conditions	Parties Proposing Conditions
Financial Commitments	5	ORA, CETF, Greenlining[31]
Pricing Commitments	7	TURN, CETF
Investment Requirements	4	ORA, TURN, CETF
New Operational Requirements	19	ORA, TURN, C for AT
New Reporting Requirements	18	ORA, TURN, C for AT, CETF
Total:	**53**	

Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 22:11-20. In total, intervenors proposed more than 50 different new conditions targeted at Frontier.

Moreover, intervenors proposed even more conditions in their supplemental testimony. In particular, ORA proposed several additional conditions relating to backup power for remote terminals in Verizon's wireline network. Exh. ORA – 8, *Gallardo Supplemental Testimony* at 1-2:5-15; 1-17:3-33. TURN also proposed new conditions relating to financial commitments (Exh. TURN – 3, *Brevitz Supplemental Testimony* at 14:13-19) and new reporting requirements. Exh. TURN – 4, *Baldwin Supplemental Testimony* at 37:15-38:3. Entravision also submitted supplemental testimony on September 11, 2015 proposing several new conditions relating to operational and reporting requirements, including conditions that would require Frontier to target new broadband services to minority neighborhoods and increase the availability of diverse programming. Exh. ENTRA – 1, *Gaete- Supplemental Testimony* at 7, 9.

These proposed conditions would apply only to Frontier and no other communications providers in California, which would adversely impact Frontier's ability to operate competitively. The Intervenors also argue for specific pricing commitments and capital expenditures that could constrain Frontier's ability to react to market dynamics. ORA, TURN, and other intervenors

[31] As described below and in the Supplemental Reply Testimony of Melinda White, Frontier has settled outstanding issues with Greenlining.

pursue extreme broadband deployment requirements that would cost more than $2 billion to fulfill. Compounding these difficulties, the intervenors seek the adoption of nearly 40 additional reporting and operational requirements, including new broadband service quality reporting, new voice and broadband performance metrics and backup battery requirements. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 22:24-23:6. Accordingly, for the reasons explained above in Section V. B., C., and D of this brief, the conditions proposed by intervenors would violate Section 253 of the Telecommunications Act, the Impairment of Contracts Clauses of the United States and California Constitutions, and constitute an unlawful taking of private property.

B. Frontier's Settlement Agreements With Multiple Intervenors Eliminate the Need for the Commission to Consider the Majority of the Conditions Initially Proposed By Certain Parties.

The conditions initially proposed by Cox, the Joint Minority Parties and Greenlining have been resolved through agreements with these parties that fully resolve the issues raised by them. Frontier has also reached a partial settlement agreement with CALTEL and the Joint CLECs that resolves the majority of the issues raised by the Joint CLECs.[32] The two outstanding issues with CALTEL and the Joint CLECs are addressed in more detail below and concern copper retirement and whether Frontier should be required to file existing IP-to-IP interconnection agreements and make them available for opt-in. Exh. CALTEL – 3, *DeYoung Supplemental Testimony* at 3-4.

C. The Proposed ORA and TURN Conditions Requiring 98% and 95% then 100% Broadband Deployment At Specified Speeds Exceed the Commission's Jurisdiction and Are Unnecessary, Unsupported and Cost Prohibitive.

ORA and TURN request that the Commission impose the following broadband deployment conditions:

1. <u>ORA</u>: Frontier should expand broadband services at speeds of no less than the FCC’s minimum definition of broadband speeds, currently 25 Mbps download and 3 Mbps upload, to 98% of households in its new service territory (Frontier existing ILEC and Verizon California wireline service areas combined) by no later than December 31, 2020. The Commission should require that 98% of households in rural areas, tribal lands and low income areas have access to broadband speeds of 25 Mbps download and 3 Mbps upload, by no later than December 31, 2020. Exh. ORA – 5, *Selwyn Reply Testimony* at 136-137; Exh. ORA – 9, *Selwyn Supplemental Testimony* at vii and 7:12-18.

[32] On September 4, 2015, Frontier and the Joint CLECs submitted a motion for acceptance of their settlement agreement.

2. TURN: Frontier should commit to the following by year-end 2017: 95% coverage at speeds of at least 6 Mbps download; 85% coverage at speeds of at least 15 Mbps; and 75% coverage at speeds of at least 25 Mbps. Exh. TURN – 1, *Baldwin Reply Testimony* at 173:18-174:1. Frontier should deploy broadband to an additional 110,000 households each year until **all** houses are served (in addition to the CAF II related deployment. Exh. TURN – 1, *Baldwin Reply Testimony* at 174:11-14 (emphasis added).

These proposed conditions must be rejected for several reasons.

First, the Commission does not have jurisdictional authority over broadband deployment to order such a condition. Congress established a shared jurisdictional system to govern the telecommunications industry. Under this system, state Commissions regulate intrastate telecommunications services and the Federal Communications Commission regulates interstate services. Broadband is strictly an interstate services and the FCC has plenary authority over interstate telecommunications services. *See* 47 U.S.C. §§ 151-152; *see also Ivy Broad. Co. v. AT&T Co.*, 391 F.2d 486, 490 (2d Cir. 1968) ("this broad scheme for the regulation of interstate service by communications carriers indicates an intent on the part of Congress to occupy the field to the exclusion of state law"). The FCC's *Open Internet Order* released earlier this year did not change the interstate nature of broadband or the FCC's exclusive jurisdiction over it. *In the Matter of Protecting and Promoting the Open Internet*, FCC 15-24, *Report and Order on Remand, Declaratory Ruling, and Order*, GN Docket No. 14-28 (rel. March 12, 2015), at ¶¶ 431, 433. Although the FCC changed the classification of certain aspects of broadband from information services to telecommunications services, it unequivocally affirmed "the Commission's longstanding conclusion that broadband Internet access service is jurisdictionally interstate for regulatory purposes." *Id.* at ¶ 431. Moreover, the FCC explained that "although broadband Internet access service traffic may include an intrastate component . . . broadband Internet access service is properly classified as jurisdictionally interstate for regulatory purposes." *Id.* The FCC also announced its "firm intention to exercise [its] preemption authority to preclude states from imposing obligations on broadband service that are inconsistent with the carefully tailored regulatory scheme" that the FCC has adopted for broadband services. *Id.* at ¶ 433. Thus, if the Commission were to adopt the broadband deployment conditions proposed by TURN and ORA, it would affirmatively intrude on services under the sole jurisdictional purview of federal regulators.

Further, there are no state statutes that authorize the Commission to exercise jurisdiction over interstate broadband services. In fact, California law confirms the fundamental limitations on the Commission's authority. For example, Public Utilities Code Section 202 reflects the Legislature's recognition that "[n]either this part nor any provision thereof . . . shall apply to interstate commerce." Public Utilities Code Section 710 applies this limitation explicitly to Internet access and VoIP service, mandating that "[t]he commission shall not exercise regulatory jurisdiction or control over Voice over Internet Protocol and Internet Protocol enabled services except as expressly delegated by federal law or expressly directed to do so by statute," subject to limited exceptions identified in sub-section (c) of Section 710, which do not apply here.[33]

The Legislature overwhelmingly approved the adoption of this statute in 2012 despite strong opposition by TURN and other organizations. TURN, for example, opposed the legislation because it would not allow the Commission to have jurisdiction on broadband providers' VoIP service to the same extent it has jurisdiction over traditional phone service, including jurisdiction over service quality, customer complaints, universal service and carrier of last resort obligations and the provision of service to low-income consumers, among other things. *See, e.g.*, S.B. 1161 Assembly Committee Bill Analysis at 4 (Aug. 7, 2012) ("[o]pponents, which include The Utility Reform Network (TURN)," argue that 'lack of regulatory jurisdiction … will result in less consumer protection.'"). The Legislature, however, rejected these arguments, finding that a de-regulatory approach to broadband is best for California: "[t]he continued vitality and success of California's technology and innovation sector of the economy is dependent on a business climate that supports the national and international nature of the Internet." SB 1161, Chaptered version, Section 1(a) (Sept. 28, 2012). The Legislature further explained that the "[i]t is the intent of this act to reaffirm California's current policy of regulating Internet-based services only as specified by the Legislature and thereby … [e]nsure a vibrant and competitive open Internet that allows California's technology businesses to continue to flourish and contribute to economic development

[33] Section 710(c)(6) is an exception that retains the commission's authority "to enforce existing requirements regarding backup power systems established in D. 10-01-026, adopted pursuant to Section 2892.1." The Legislature made clear that any exception it grants "does not expand the commission's jurisdiction beyond the scope of that [exception]" Public Util. Code § 710(a).

throughout the state." *Id.* at § 1(b). In short, the Legislature found that it was in the public interest *not* to regulate broadband, and therefore the proposals to do so in this proceeding are contrary to the public interest and directly conflict with the law of California.

In addition, notwithstanding this insurmountable jurisdictional limitation, the proposed conditions that the network should be upgraded ubiquitously to 25/3 Mbps or similar speeds by the year 2020 or that Frontier achieve 95% availability by 2020 and 100% broadband availability thereafter is simply not economically feasible or in the best interests of California consumers. Unlike ORA and TURN and their consultants, Frontier has extensive experience deploying broadband services in rural areas across the country and in California. Exh. 1, FTR – 1, *Abernathy Opening Testimony* at 11:4-12:23; Exh. FTR – 4, *Golob Opening Testimony* at 6:12-721; 9:15-10:19; Exh. FTR – 2, *White Opening Testimony* at 6:3-8:24. In many of the rural areas where Frontier proposes to purchase Verizon California's operations, the households are widely disbursed and the difficulty in providing service is significantly greater than in urban areas. As Michael Golob testified on behalf of Frontier, broadband deployment and the speeds that can be provided are largely dependent on the distance from the central office or remote digital subscriber access multiplexer ("DSLAM") to the customer premise. Exh. FTR – 8, *Golob Rebuttal Testimony* at 13:16-14:1. The distance from the customer to the DSLAM is inversely related to broadband speeds. Exh. FTR – 8, *Golob Rebuttal Testimony* at 15:12-13. This point is reinforced by the fact that the FCC CAF II program requires and supports broadband deployment at 10/1 Mbps and not the higher speeds advocated by ORA, TURN and others. As Frontier has explained in its testimony, in numerous discovery responses and at the Public Participation Hearings ("PPHs") and workshops in this docket, Frontier believes it can only reasonably determine the costs for broadband after it has had an opportunity to undertake a detailed engineering and operational review. Exh. FTR – 8, *Golob Rebuttal Testimony* at 14:17-16:13. As Michael Golob has testified constructing and deploying high quality and high-capacity broadband to communities, including rural communities, requires a detailed analysis of myriad factors, including the location and distribution of customer households as well as the location of network assets including remote terminals. Exh. FTR – 8, *Golob Rebuttal Testimony* at 16:18-28. The availability of electrical power is also a concern in deploying service. Illustrating some of the challenges of rural deployments, even if broadband were deployed in the Hoopa, Weitchpec and Orleans markets, there are currently insufficient transport facilities available to connect to the Internet backbone and offer robust high speed data service. Exh. FTR – 6, *White Rebuttal Testimony* at 8:7-13. Challenges related to rights of way and other permits from the U.S. Forest Service and the State further complicate and delay the process of extending broadband to those communities and will impact cost estimates. Exh. FTR – 6, *White Rebuttal Testimony* at 8:7-13

Notwithstanding these limitations, Frontier has undertaken an estimate of the cost to comply with the ORA and TURN recommendations. Mr. Golob testified that deployment to achieve 98% availability at 25 Mbps and 3 Mbps would require an incremental $2 billion in capital investment above and beyond the capital expenditures required to operate the Verizon California business as usual. Exh. FTR – 8, *Golob Rebuttal Testimony* at 11:21-14:12; Exh. FTR – 15, *Golob Supplemental Reply Testimony* at 6-7; *see also* Exh. FTR – 7, *Jureller Rebuttal Testimony* at 23:1-12. The chart detailing the cost estimate was included in Michael Golob's Supplemental Reply testimony, along with the Frontier engineering assumptions and logic supporting these cost estimates which was included as a confidential attachment to his testimony. Exh. FTR – 15, *Golob Supplemental Reply Testimony* at 7. While Frontier was able to develop a high-level estimate of the cost to build a broadband connection to a specific area at specific speeds, Frontier cannot fully determine the estimated costs until after Frontier owns the system that serves the area. This is because engineering such a project requires review of very detailed outside plant records as well as extensive physical inspection to determine what plant is available, where it is located, what condition it is in, the miles to reach the main Internet connection, and other detailed data. Exh. FTR – 15, *Golob Supplemental Reply Testimony* at 7:27-8:4. As a result, the cost to complete the 25/3 Mbps service deployment to 98% of the households could be higher than Frontier's estimates above.

Moreover, this estimate does not reflect the incremental capital expenditure costs for Frontier's existing ILEC service areas, which are not within the scope of this proceeding, largely rural in nature and would be impractical and prohibitively expensive to serve at 25 Mbps/ 3 Mbps.

Exh. FTR – 8, *Golob Rebuttal Testimony* at 12:16-13:3. Mr. Golob also testified that the incremental cost to comply with the TURN recommended broadband deployment just for the 95% availability (not the full 100% broadband availability recommended by TURN) would exceed $1 billion.[34] *Golob Rebuttal Testimony* at 13:9-12; *Golob Supplemental Reply Testimony* at 8:7-21. Neither ORA nor TURN offer any evidence to counter these estimated costs. The costs to fulfill the ORA and TURN proposed conditions for broadband deployment may in fact turn out to be even higher after Frontier is able to complete a detailed engineering review and are unprecedented in its geographic scope and financial impact. Exh. FTR – 8, *Golob Rebuttal Testimony* at 12:1-4. The ORA proposed condition would require incremental capital expenditures of $400+ million per year for five years beyond the business as usual capital expenditures that are necessary to operate the business. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 23:5-7. In fact, the incremental capital cost of this condition alone would exceed Verizon California 2014 total capex expenditures for voice, broadband, and other services. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 23:7-9. If these broadband deployment targets were imposed as a condition to approving the Transaction other parts of Frontier's California business operations, including the voice network, would be deprived of capital that would impair the business. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 23:9-12. Frontier should not be obligated to dedicate its capital resources in a way that is not consistent with the overall financial well-being of the Company and that might not be in the best interests of its many customers. Such a condition would not be in the long-term financial best interests of the Company and, in weakening Frontier's future financial prospects, will undermine the benefits of the Transaction for California customers, employees, communities and the State as a whole. If such a condition were required, as Mr. Jureller and Ms. Abernathy have testified, Frontier could not comply due to the extraordinary cost of deploying broadband at these speeds and such a condition, if adopted, would likely result in the failure of this Transaction in California. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 24:13-18; Exh. FTR – 5, *Abernathy Rebuttal*

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[34] As the cost data reflected in Mr. Golob's testimony show, Frontier estimated that the cost to deploy just the first aspect of Ms. Baldwin's recommendation – to deploy broadband to 75% of the households at 25 Mbps – would be approximately $749 million. Exh. FTR – 8, *Golob Rebuttal Testimony* at 13:9-12.

Testimony at 20:4-8.

Frontier will provide the fastest and most reliable speeds that are economically feasible across its network, but objects to and urges the Commission to reject the ORA and TURN unreasonable and unsupported broadband deployment requirements. Frontier has made several substantial commitments related to broadband deployment and expansion outlined above that will bring enhanced broadband service to more than 427,000 households across the Verizon California footprint that will provide certain guaranteed benefits to California consumers. As part of this commitment, Frontier is accepting and agreeing to a substantial financial commitment and obligations, including the ongoing obligations under the CAF II program. After closing of the proposed Transaction, Frontier is committed to complete the engineering and operational work required to identify and prioritize the deployment of broadband services in the Verizon California service territory. Exh. FTR – 6, *White Rebuttal Testimony* at 12:12-13. As part of this planning effort, Frontier will also rely on the input and expertise of the Verizon California engineers and technicians that operate the Verizon California network today. Frontier will utilize hundreds, if not thousands, of these employees, to assess where and how best to deploy broadband facilities. Exh. FTR - 8, *Golob Rebuttal Testimony* at 17:8-13. It will take time and resources, but Frontier will complete the necessary review and develop a plan for broadband deployment in the Verizon California service area after closing. At this time, before such detailed review and analysis can be completed, however, Frontier is unwilling to make more expansive broadband commitments than what it can realistically achieve and that could jeopardize the financial well-being of the Company and its customers. Exh. FTR – 6. *White Rebuttal Testimony* at 27:14-28:3. For Frontier to agree or the Commission to require more extensive deployment levels and speeds prior to Frontier having the opportunity to complete a detailed assessment and complete the requisite engineering work, would quite simply be irresponsible. To protect California consumers and ensure that the 427,000 households receive the enhanced broadband services Frontier has committed to provide if the Transaction closes in California, the Commission must reject the ORA and TURN proposed conditions for broadband deployment.

D. TURN's and CETF's Recommended Conditions that Frontier Subsidize Broadband Rates for Low Income Households and Fund Other Deployment and Adoption Programs Exceed the Commission's Jurisdiction and Would Harm Frontier's Ability to Fairly Compete and Provide Transaction-Related Benefits to Consumers.

TURN and CETF propose that Frontier should subsidize broadband Internet access for income-eligible households, and CETF further proposes that Frontier implement costly broadband deployment and adoption programs to achieve targeted broadband goals in unserved and underserved areas and affordable broadband. *Baldwin Reply Testimony* at 173:12-17; *McPeak Reply Testimony* at 3:17-5:10, 6:11-16, 7:7-9, 7:15-8:8; *McLaughlin Reply Testimony* at 2:13-3:26, 4:5-16. For all the reasons that the Commission cannot mandate specific broadband deployment and adoption commitments, it cannot regulate Internet access offerings by forcing carriers to offer these services at a rate discount. As part of broadly preempting state regulatory authority over broadband service, the FCC emphasized that "there will be no rate regulation" of broadband. *FCC Approval Order* at ¶ 382. Any expanded broadband rate conditions, such as TURN's and CETF's proposals that Frontier offer discounted broadband Internet services to low income consumers are beyond the scope of this Commission's jurisdiction.

Notwithstanding this jurisdictional limitation, Frontier has committed and reached an agreement with both the Joint Minority Parties and Greenlining to support the FCC's broadband LifeLine proceeding and Frontier will adopt the FCC's Lifeline Broadband Offer once it is available. Exh. FTR – 12, *Abernathy Supplemental Reply Testimony* at 34:3-35:8, 42:13-43:6; Exh. FTR 6, *White Rebuttal Testimony* at 21:15-23:8; Exh. FTR – 13, *White Supplemental Reply Testimony* at 42:11-43:6. Specifically, in the MOU with the Joint Minority Parties, Frontier committed to:

> . . . continue to discuss how Frontier will participate in the FCC's lifeline program that is being revised to provide an affordable, basic speed, stand-alone broadband internet service to low income customers. Frontier will publicize the availability of the program and implement processes to offer the service to all qualifying customers because it is committed to help bridge the 'digital divide' by ensuring that affordable internet access is available for all at useable speeds.

MOU at 4; Exh. FTR - 6, *White Rebuttal Testimony* at 21:15-23:8 & Exh. D.

In addition, the MOU between Frontier and Greenlining specifically provides:

7. Affordable Broadband

> a. Frontier and Greenlining will work together to ensure that the Federal Communication Commission implements a Lifeline broadband program that provides an affordable, basic speed, stand-alone broadband internet service to low income customers and makes Frontier's participation in that program commercially viable.
>
> b. If a federal and/or California Lifeline broadband program is commercially viable, Frontier will participate in that program. Frontier's participation in the federal program, and in any available state program, will include publicizing of the availability of the federal and/or California Lifeline broadband program and implementing the necessary processes to offer the service to all qualifying customers because it is committed to help bridge the "digital divide" by ensuring that affordable internet access is available. . . .

Exh. FTR – 13, *White Supplemental Reply Testimony* at 42:11-43:6, Exhibit D (Greenlining MOU).

As evidenced by the MOUs with the Joint Minority Parties and Greenlining, Frontier is committed to fully advancing the broadband Lifeline program adopted by the FCC so that low income consumers have access to affordable broadband services and will undertake efforts to ensure qualifying customers benefit from the program. The proposals by TURN and CETF prejudge and may ultimately duplicate or be inconsistent with the pending industry wide FCC proceeding to subsidize broadband products and services for low income consumers. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 38:15-20; Exh. FTR – 6, *White Rebuttal Testimony* at 25:9-26:13. It would be unreasonable and is unnecessary for the Commission to impose a new set of obligations solely on Frontier in the highly-competitive market for broadband services.

Moreover, there is no legitimate need for CETF's proposal that Frontier capitalize an independent fund at a cost of $275 per household to increase broadband adoption. Exh. CETF – 1, *McPeak Reply Testimony* at 7:15-8:8. This condition, which would potentially result in the redirection of approximately $18.9 million to CETF versus the expansion and improvement of broadband services, limits the flexibility that Frontier must have in a competitive marketplace. Exh. FTR – 6, *White Rebuttal Testimony* at 26:19-21. If adopted, this proposal would limit Frontier's use of capital that could otherwise be directed to customer service, job creation and infrastructure projects that more directly benefit California consumers. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 24:22-25:2; Exh. FTR – 6, *White Rebuttal Testimony* at 26:17-19. As a benchmark, assuming an average cost of $1000 per household to deploy broadband services, funds directed to the CETF would be in lieu of potentially deploying broadband to approximately 20,000 additional households in California. Exh. FTR – 6, *White Rebuttal Testimony* at 26:21-24.

Finally, the proposed discounted broadband conditions would be imposed only on Frontier and entirely inapplicable to its competitors, which heavily tips the scales against its ability to effectively compete for customers against them. Similarly a condition to supply potentially $19 million or more to support CETF's proposed independent fund would also disadvantage Frontier relative to its competitors. While organizations such as CETF provide benefits to Californians, in a competitive market, the costs of those benefits should not be shouldered by one provider. Any proposals regarding contributions to third-party, industry wide broadband deployment or adoption efforts should be pursued, if at all, on an industry wide basis in a manner that treats all competitors and third party organizations equally.

E. TURN's Recommendations Regarding A Network Review and Escrow Fund Are Unnecessary and Will Delay Network Improvements.

TURN proposes that the Commission conduct an independent examination of Verizon California's network and require Frontier to implement the recommendations of this examination within a reasonable timeframe. TURN initially proposed that the Commission require Verizon to fund an escrow account in the amount of at least $235 million for Frontier to timely implement the recommendations from the network assessment. Exh. TURN – 1, *Baldwin Reply Testimony* at 5:16-6:7. Subsequently, in its September 11, 2015 testimony, TURN proposes that if the Commission does not adopt its recommendation that Verizon fund the escrow account, the Commission should require Frontier to fund the escrow account. Exh. TURN – 4, *Baldwin Supplemental Testimony* at 48, fn. 120. TURN further increased the requested amount of the escrow fund it in its supplemental testimony based on its purported new comparison of the number of households in Verizon's California territory with the number of households in West Virginia. Exh. TURN – 4, *Baldwin Supplemental Testimony* at 46, fn. 114.

There is no Transaction-related reason or Commission precedent to impose the TURN proposed conditions on Frontier. In fact, any issues relating to a service quality examination or audit are already being addressed in the Commission's "Rulemaking to Evaluate Telecommunications Corporation Service Quality Performance and Consider Modification to Service Quality Rules." The Commission has ordered an infrastructure study in D.15-08-041 and it is therefore unnecessary to require an additional study as a condition of the Transaction. This study will objectively assess Verizon California's network infrastructure, facilities, policies, and practices, including the concerns that have been raised by the Interveners concerning the quality and condition of Verizon's network. In D.15-08-041, the Commission explained:

> [The study is] intended to be 'foundational' because it would provide empirical data on the condition of network infrastructure, as well as on carrier infrastructure policies and procedures. This would facilitate an examination of the quality of existing communications services, and potentially inform the development of new and improved metrics to measure service quality.

D.15-08-041 at 11. Thus, TURN's proposal would be premature and would be counter-productive. The appropriate time to any address network or service issues is after completion of the audit in Rulemaking 11-12-001. *See also* Exh. FTR – 13, *White Supplemental Reply Testimony* at 34:14-35:14.

Any requirement for an escrow fund should also be rejected. TURN's original and revised escrow funds are based on calculations derived from the West Virginia escrow fund ordered by the West Virginia PSC in 2010. *Verizon West Virginia Inc.*, WVPSC Case No. 08-0761-T-GI, "Commission Order" (May 10, 2010). TURN's original escrow estimate was based on a dollar per access line derived from the 2010 West Virginia escrow fund, which was then applied to the number of Verizon access lines in California. Exh. TURN – 1, *Baldwin Reply Testimony* at 129, fn. 198. Instead of dollars per access line, the revised escrow fund is based on dollars per household derived from the West Virginia escrow fund which is then applied to the number of households in Verizon's California service area. Exh. TURN – 4, *Baldwin Supplemental Testimony* at 46, n. 114. Both recommendations are based on average costs derived from the West Virginia escrow fund after the fact, and have nothing to do with how the West Virginia escrow fund was actually sized. Exh. FTR – 17, *Gregg Supplemental Reply Testimony* at 3:14-4:6. As Billy Jack Gregg, the former Consumer Advocate for West Virginia, testified, the West Virginia

PSC began the general investigation into Verizon's West Virginia service quality in June 2008, and in December 2008 ordered Verizon to comply with a Retail Service Quality Plan ("RSQP") which included requirements for additional service quality investment and the placement of additional technicians. Following a series of hearings to review Verizon's performance under the RSQP, the West Virginia PSC required creation of the escrow fund in May 2010. The West Virginia PSC clearly explained the sizing of the West Virginia escrow fund in its May 10, 2010, Order after previously making findings that Verizon was not in compliance with the PSC's prior service quality order and requirements:

> It is not acceptable that service quality problems remain nearly as high after the expenditure of $12 million as when we opened this proceeding nearly two years ago in 2008. …
>
> Considering all of the evidence, the Commission determines that the annual level of expenditures made by Verizon since the implementation of the Retail Service Quality Plan should be at least double the $8.5 million to $9.6 million annual level expended under the Plan in the first 10 months of 2009 or throughout the first 15 months under the Plan. Thus, we determine that between $17.0 million and $19.2 million must be committed for a more aggressive plant improvement program. Furthermore, it is not reasonable or sufficient to look at simply a one-year commitment of funds dedicated to service quality improvement projects; instead, this additional $17.0 million to $19.2 million per year must be committed for an extended period of time.
>
> Based on the length of time during which service quality has declined, these additional expenditures must be dedicated for at least four years to have any realistic hope of restoring service quality to an acceptable level. Therefore, the Commission determines that the amount that must be committed to be spent over the next four years must be between $68 million and $76.5 million. The mid-point of this range is $72.4 million, which the Commission determines must be committed for service quality related expenditures over that period of time.

Verizon West Virginia Inc., WVPSC Case No. 08-0761-T-GI, "Commission Order" at 6, 9 (May 10, 2010).[35] The West Virginia PSC decision to size the escrow fund at $72.4 million had nothing to do with the number of access lines served by Verizon or the number of households in the Verizon service area in West Virginia. *Id.* at 9-11; Exh. FTR – 17, *Gregg Supplemental Reply Testimony* at 4:26-28. The size of the escrow fund was based on the record developed by the West Virginia PSC over two years of formal proceedings, and represented the West Virginia PSC's

[35] The West Virginia Public Service Commission Order referenced is available at the following link: http://www.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=295970&NotType='WebDocket'

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judgment as to the amount of funding which would be necessary to restore service quality in West Virginia to an acceptable level. *Id.* at 1-5; Exh. FTR – 17, *Gregg Supplemental Reply Testimony* at 4:28-:5:6.

No similar findings have been made in this proceeding specifically related to the service quality provided by Verizon in California. As noted above, D. 15-08-041 in Rulemaking 11-12-001 reflects the Commission's foundational step in assessing the condition of Verizon's network infrastructure; however, it is not a requirement for specific remedial action. It is entirely improper to require a remedy in this proceeding before there is any finding of a violation or that a remedy is warranted based on the Commission's actions in Rulemaking 11-12-001.

Even if an escrow fund were warranted, which it is not, TURN fails to account for the fact that all of West Virginia is served by a copper-based network, whereas over half of Verizon's California access lines and households are served by a fiber-based network, FiOS. At page 54 of her Supplemental Testimony, Ms. Baldwin acknowledges the superior service quality provided by FiOS, and states: "Of course the approximate half of California's households that lack the FiOS option do not benefit from this improved network reliability." Exh. TURN – 4, *Baldwin Supplemental Testimony* at 54:14-16. Nevertheless, she includes <u>all</u> Verizon California access lines and households - even those with FiOS - in her calculations for both of her proposals. Ms. Baldwin also fails to calibrate her recommended escrow fund to cover only those areas that she claims reflect "…the need for targeted repair of outside plant." *Id.* at 56:12-13. As a result, TURN's estimates for the size of an escrow fund are grossly overstated.

Frontier has described its plan to employ new service personnel and upgrade the network in California. In addition to network enhancements for broadband that will improve the voice network, Frontier is hiring 175 new California employees and dedicating at least 50 to the teams with responsibility for identifying and repairing infrastructure. As it has done in every transaction before, Frontier will make the appropriate and necessary investment to maintain and enhance the networks it is acquiring. Ms. Baldwin assumes that earmarking funds and putting them in escrow will reduce the risk that the Company may fail in its efforts in California and is essentially speculating about solutions to problems that may occur and for which Frontier has a specific plan based on its experience. TURN's recommendation would add unnecessary complexity by limiting access to capital that could be used to enhance services and investment versus sitting in an escrow fund. As Frontier has learned from past transactions, money in an escrow fund adds an additional administrative burden and timing issues that are actually counterproductive and delay future investment. Exh. FTR – 7, *Jureller Supplemental Reply Testimony* at 20:19-22:10. Frontier has the financial resources to invest in and judiciously manage its investment in the network to be acquired in California. The Commission should reject the TURN's request to require any type of escrow fund as a condition of approving this transaction.

F. ORA's and TURN's Operational Requirements Relating to Battery Backup Are Unnecessary and Unlawful as Applied to Services the Commission Does Not Regulate.

ORA and TURN have asked the Commission to impose conditions on Frontier related to the provision of battery backup power for 911 Emergency calls during a power outage and undertake expanded customer communications related to back up power as a condition of approval of the Transaction. Exh. TURN – 1, *Baldwin Reply Testimony* at 171:20-172:14; Exh. ORA – 3, *Gallardo Reply Testimony* at 3-12- 3-13.

These conditions are unnecessary in light of existing rules. The Commission already has rules regarding emergency power backup for the new voice technologies that are not line-powered. Specifically, the Commission requires customer education and notification. California Public Utilities Commission, *Rulemaking 07-04-015, Order Instituting Rulemaking on the Commission's Own Motion into Reliability Standards for Telecommunications Emergency Backup Power Systems and Emergency Notification Systems Pursuant to Assembly Bill 2393*, D. 10-01-026 (January 21, 2010). Recently, the FCC adopted rules that set basic standards for battery backup power. Federal Communications Commission, *In the Matter of Ensuring Continuity of 911 Communications*, PS Docket No. 14-174, *Report and Order* FCC 15-98 (Released August 7, 2015). Frontier has complied—and will continue to comply—with the Commission's and the FCC's rules. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 25:18-22; *see also* Exh. FTR – 6, *White Rebuttal Testimony* at 30:21-31:15. If the Commission determines new rules are warranted relating to backup battery power, it should do so as part of an industrywide rulemaking procedure, rather than imposing asymmetric rules on Frontier.

Moreover, ORA's and TURN's numerous recommendations go far beyond the Commission and FCC rules. In particular, they recommend that Frontier: (1) provide VoIP customers with backup power with a minimum standby time of 8 hours (Exh. ORA – 1, *Johnson Reply Testimony* at 16:12-17; Exh. TURN – 1, *Baldwin Reply Testimony* at 10:7-16); (2) provide a backup battery at no cost (*Id.*); (3) provide customers with replacement batteries at "reasonable cost," which ORA defines as "at cost" with no markup (and in addition to "at cost," TURN specifies they should be offered to both present and future customers (Exh. TURN – 1, *Baldwin Reply Testimony* at 164:4-19; Exh. ORA – 3, *Gallardo Reply Testimony* at 3-8:11 3-9:12); (4) potentially be required to offer a costly "optional battery maintenance service" (Exh. ORA – 3, *Gallardo Reply Testimony* at 3-9:19 - 3-10:14); (5) ensure its VoIP customer premises equipment can "accommodate rechargeable, lithium ion batteries and be capable of using longer lasting batteries as they are developed." (Exh. TURN – 1, *Baldwin Reply Testimony* at 164:16-19); (6) advise all customers of the necessity for using backup batteries in connection with a VoIP-based telephone system and the risks associated with power outages in multiple languages and Braille no later than 180 days following the effective date of the Transaction (Exh. ORA – 1, *Johnson Reply Testimony* at 16:19-17:2); (7) provide the Commission with its customer educational materials regarding backup power systems for review and approval, and implement approved materials for customers it acquires from Verizon (Exh. TURN – 1, *Baldwin Reply Testimony* at 10:17-11:3); (8) provide backup power for all remote terminals and backup power for microwave that is used for any middle mile facilities or local distribution (Exh. TURN – 1, *Baldwin Reply Testimony* at 11:4-8);[36] and (9) inspect (and service if required) any batteries serving remote terminals if they have not been inspected within one year or if the batteries have components installed before 2006, and thereafter conduct annual inspection on all its remote terminals' batteries, with more frequent inspections for any remote terminals that are critical components of the network. Exh. ORA – 8,

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[36] *See also* Exh. ORA – 8, *Gallardo Supplemental Testimony* at 1-2:12-15; 1-17:27-33 ("Within 180 days of the effective date of the transaction, Frontier shall provide backup power for at least eight hours at all of its remote terminals in California, through any combination of batteries, generators or other resources. Remote terminals considered critical should be provided with backup power of at least 24 hour duration.").

Gallardo Supplemental Testimony at 1-2:8-11, 1-17:3-18. It would be unfair to impose these costly conditions solely on Frontier in a competitive market where significantly larger VoIP providers, including the incumbent cable companies, are not likewise subject to the same requirements. And, it is unnecessary and unwarranted to impose them as a condition of approval of the Transaction because there is nothing about the Transaction that will change, let alone adversely affect battery backup power for California consumers.

As explained in Ms. White's Rebuttal Testimony, Frontier provides an initial battery for backup power at no incremental charge to customers when new service is installed. While the FCC rules state providers are entitled to compensation for all aspects of providing backup power including installation, equipment and labor costs (*Report and Order* FCC 15-98, *supra*, ¶ 45), Frontier does not charge customers for these costs on service initiation. Frontier's batteries have an average standby life of 8 hours (in compliance with the new FCC Rules) and the average useful life of these batteries is 3 to 5 years. Frontier also offers replacement and/or extra backup batteries to customers at cost of $25.00 per battery. Frontier will continue to provide both customer notifications and backup batteries to all of its existing customers as well as all new Verizon customers. Exh. FTR – 6, *White Rebuttal Testimony* at 31:5-15; Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 26:21-27:2, 28:10-25.

None of the battery-related conditions proposed by ORA or TURN are warranted by the Transaction, and many of the conditions were in fact, rejected by the FCC on a comprehensive record devoted to battery backup. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 27:5-19. In addition, the proposed conditions that would require Frontier to provide VoIP customers with back-up power supplies at no cost and with replacement batteries at a "reasonable" cost are unlawful. Public Utilities Code Section (c)(6) retains the Commission's authority "to enforce existing requirements regarding backup power systems established in D. 10-01-026, adopted pursuant to Section 2892.1." Pub. Util. Code § 710(c)(6). While this exception is applicable as to the decision mentioned, the Legislature also made clear that this exception "does not expand the commission's jurisdiction beyond the scope of that [exception]" Pub. Util. Code § 710(a). Moreover, D.10-01-026 was limited to specific customer education requirements adopted following the development of a full record and a consideration of the jurisdictional limitations on the Commission's authority to adopt requirements as to VoIP services. In D.10-01-026, the Commission explicitly stated that it was "not revisiting the decision made in D.06-06-010 to refrain from applying traditional telephone regulation to VoIP." D.10-01-026, at 35 (COL 42). Neither Public Utilities Code 710 nor the Commission's previous precedent regarding the restrictions on VoIP regulation in D.10-01-026 suggest that the backup power conditions advocated by intervenors could be lawful as applied to VoIP service.

G. TURN's Operational, Financial and Pricing Requirements Would Undermine the Transaction and Frontier's Ability to Fairly Compete.

TURN proposes onerous and cost-prohibitive operational, financial and pricing requirements on Frontier without any identification in the record to suggest there is a Transaction-related harm that requires resolution. These conditions instead are merely generic regulatory requirements TURN would like to see imposed upon Frontier. These include proposed requirements for Frontier to:

- Freeze monthly and nonrecurring rates for basic local residential voice service, residential features, and stand-alone residential broadband Internet access for five years. *Baldwin Reply Testimony* at 170:13-15;
- Provide uniform rates for broadband Internet access services across all geographic areas served by Frontier in California. *Id.* at 170:16-17;
- For five years, offer broadband Internet access as a standalone service, regardless of whether the service is FiOS or DSL. *Id.* at 170:19-171:1;
- Permit consumers who currently have a double or triple play to switch, without penalty, to stand-alone broadband Internet. *Id.* at 171:2-3;
- Permit residential customers to modify the packages, bundles, and features that they subscribe to, without penalty, for at least six months after closing. *Id.* at 171:4-6;
- Improve customer service, such as the establishment of customer service offices in remote areas so that consumers can easily pay bills and ask questions about their services. *Id.* at 171:7-11;
- Adopt and enforce a policy prohibiting sales and repair representatives from using customer contacts regarding service problems as an opportunity to up-sell to FiOS; Frontier should provide the scripts and the details of any sales compensation plans for such employees to Commission for review. *Id.* at 171:15-19;
- Commit to provide backup power for all remote terminals and back-up power for

microwave that is used for any middle mile facilities or local distribution. The back-up power should be available and in place before batteries run out. *Id.* at 172:15-19;[37]

- Repair the outside plant in the communities where Voice Link customers reside and provide these customers with the option to return to the copper network. *Id.* at 172:20-173:1;

- Limit dividends from California operations to the parent company to free cash flow after capital expenditures required to meet service quality standards and plant repair/rehabilitation/replacement. Once these objectives have been attained, Frontier may provide for dividends from California operations at its discretion. Exh. TURN – 2, *Brevitz Reply Testimony* at 74:9-13 and Exh. TURN – 3, *Brevitz Supplemental Testimony* at 20:17-21:2; and

- Commit to a capital expenditure level in California which is equivalent to that embedded in its financial modeling. Exh. TURN – 3, *Brevitz Supplemental Testimony* at 14:13-19.

- As noted above, the Commission has no authority to require the conditions relating to broadband, VoIP and video services and the FCC has clearly provided that it would preempt any efforts by a state to regulate or restrict rates for broadband and VoIP services. The Commission has no jurisdiction with respect to video service rates.

As noted above, the Commission has no authority to require the conditions relating to broadband, VoIP and video services and the FCC has clearly provided that it would preempt any efforts by a state to regulate or restrict rates for broadband and VoIP services. The Commission has no jurisdiction with respect to video service rates. Many of the recommended restrictions identified by TURN improperly attempt to interfere with Frontier's existing contracts with its customers and would result in reduced revenues and increased expenses for Frontier. The legal error that would be presented in interfering with these contractual rights is outlined more fully in Section V(C), above. As Frontier has testified, the Transaction involves the acquisition of the stock of Verizon California and Frontier will honor and continue to provide the services Verizon California is providing to customers at closing in accordance with the existing applicable tariffs and contractual terms and conditions. Exh. FTR – 1, *Abernathy Opening Testimony* at 10:20-11:2; Exh. FTR – 2, *White Opening Testimony* at 10:1-11.

In addition, these proposed financial and pricing conditions pose operating and financial

[37] ORA has also made recommendation in Supplemental Testimony on September 11 that Verizon California should be required to inspect and service is necessary batteries serving remote terminals if those batteries have not been inspected within one year or were installed prior to 2006. Exh. ORA – 8; *Gallardo Supplemental Testimony* at 1-2.

risks and would impair Frontier's flexibility, business judgment and opportunities to change the prices of its products and services to respond to the competitive market pressure. These limitations do not apply to Verizon California today and TURN has failed to identify any Transaction related harm associated with Frontier's ownership of Verizon California that would warrant imposing these restrictions on Frontier.

TURN has also failed to provide any Transaction related harm that would support the additional conditions for backup power for all remote terminals and back-up power for microwave that is used by Verizon California. Verizon has testified that it has a program in place to inspecting, maintaining and replacing the back-up batteries it has in its remote offices and other locations. Exh. VZ – 10, *Verizon Network Report*, at 17-18. Verizon California annually inspects batteries and follows preventative maintenance protocols to ensure back power is available. *Id.* The Verizon California back up powers and batteries in place today will remain in place following the closing and Frontier and the Verizon California employees transferring to Frontier following closing will continue its preventative maintenance and repair initiatives on an as needed basis. Exh. FTR – 6, *White Rebuttal Testimony* at 16:22-17:3. There is no evidence to suggest that the proposed Transaction will create or result in any harm and therefore TURN's recommended condition should be rejected. The Company would rather undertake the work to make network improvements itself, in the ways that are consistent with how Frontier operates its business, rather than by having the Commission mandate specific operational obligations that may or may not actually address any network problems. Rather than substitute its judgment for that of Frontier, the Commission should rely upon an experienced operator of telecommunications equipment and network.

The Commission should likewise reject the dividend restriction proposed by TURN. As Mr. Jureller testified, dividend restrictions are risk-creators rather than risk-reducers. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 27:19-28:6; *see also* Exh. FTR – 14, *Jureller Supplemental Reply Testimony* at 6:4-15. As Mr. Jureller explained, when Verizon California requires capital resources, in almost all cases, those resources can be better and more cost-effectively supplied by its parent company because equity-holders and credit rating agencies and providers of debt capital look to a diversified and large company that, through size and scope, is able to manage cash flows, focus on critical operations, and commit flexibly to strategic initiatives. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 27:22-28:6. If the dividend restriction condition is adopted, the result is a potential reduction in flexibility and diversification of operations as a result of the perception of greater risk, which would have the effect of raising the cost of capital and limiting access to capital for the operating company in California. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 27:22-28:6. Moreover, and a most important component, any restrictions on the movement of cash among the Company's operating units materially impact Frontier's ability to operate as a unified telecommunications company, and would likely conflict with the terms and conditions of its financing agreements. Thus, the dividend limitations proposed by TURN would be more likely to create financial risk rather than reduce it and should be rejected.

The last proposed TURN condition mandating a specific level of capital expenditures is also not reasonable. The California ILEC business is dependent on operations and services outside California. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 27:1-2. In turn, the Company's operations in other states are expected to rely on California personnel and operations such as the call centers located in California. Exh. FTR – 7, *Jureller Rebuttal Testimony* at 27:2-4. The Transaction will require management to allocate capital expenses and resources (*e.g.,* national Internet backbone) that benefit customers across multiple states, including California. Frontier has demonstrated that it is a responsible provider of services and should be accorded the flexibility that other carriers —whether ILECs or cable operators or wireless carriers—are able to employ, including those in California.

H. ORA's and TURN's Reporting and Performance Requirements Exceed the Commission's Jurisdiction and Would Harm Frontier's Ability to Fairly Compete and Provide Transaction-Related Benefits to Consumers.

ORA and TURN propose extensive reporting and performance requirements on Frontier as a condition of the Transaction to which other California carriers are not subject. Many of the reporting and performance requirements cover issues over which the Commission lacks jurisdiction such as broadband deployment milestones, broadband and VoIP performance metrics, specific plans to improve broadband services in certain counties, the sufficiency of CAF funds to fulfill broadband obligations (Exh. ORA – 1, *Johnson Reply Testimony* at 7:2-11, 13:4-14:36, 15:2-11; Exh. TURN – 1, *Baldwin Reply Testimony* at 174:15-175:12; Exh. ORA – 2, *Clark Reply Testimony* at V-I – V-2; Exh. TURN – 4, *Baldwin Supplemental Testimony* at 37:15-38:3), specific plans to address outages pertaining to wireline and VoIP services on specified FCC categories (Exh. ORA – 1, *Johnson Reply Testimony* at 9:1-7), service quality, complaint and performance metrics for VoIP services (*Id.* at 9:28-11:13 & 12:14-13:10), and outages that do not meet the FCC NORS reporting requirement. *Id.* at 11:9-12:12[38]. Moreover, certain reporting and performance

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[38] ORA's conditions include the following:

- On July 1, 2016, and every year thereafter until July 1, 2020, a progress report shall be submitted to the Commission and ORA identifying the progress made for deployment of broadband and the work completed to meet the interim deployment milestones set forth above. The report shall identify the number of households with access to the FCC's minimum broadband speeds (currently 25 Mbps download and 3 Mbps upload), including a list of census blocks where the households are located. On December 31, 2018, and every year thereafter until December 31, 2020, Frontier shall submit a progress report certifying that it is meeting the percentage of households identified in the deployment milestones set forth above. *Johnson Reply Testimony* at 7:2-11.
- Frontier should submit to the Commission and the ORA a multi-year Strategic Plan by no later than October 31, 2015 with the specific plans for improving broadband service quality, reliability, and availability throughout its new California service area. More specifically, the Strategic Plan is to include the following:
  - Specific plans, including the specific types of network upgrades needed, to improve reliable and safe voice services in the following counties: Los Angeles County, San Bernardino County and Riverside County
  - Specific plans, including the specific types of network upgrades needed, to improve broadband services in the following counties: Los Angeles County, San Bernardino County and Riverside County. *Clark Supplemental Testimony* at IV-6:4-10 and VI-I:5-7; *Clark Reply Testimony* at V-I.
  - The Strategic Plan shall include at minimum the following components: (i) Goals: general goal articulating the desired outcome; and (ii) Objectives: for each goal identify specific objectives that meet the S.M.A.R.T criteria: Specific, Measurable, Achievable, Realistic and Time-bound.
  - Specific goals and objectives to address outages (including, impacts user-minutes/DS3-minutes, durations, and affected users) pertaining to VoIP services in California on the following FCC's categories: (i) 1350 DS3-minutes outages; (ii) E-911 outage; (iii) 900,000 user-minutes/VoIP-minute outages; and (iv) Blocked Calls. *Johnson Reply Testimony* at 8:4-9:7.
- For a period of five years, with one due one year from the date of CPUC approval of the Transaction, Frontier should provide the Commission with an annual report detailing: (a) Frontier's capital expenditures related to planned actions above. Frontier should include in the report a comparison of the amount of planned California capital expenditures as a percentage of total system expenditures and a comparison of the amount of capital expenditures per California access line; and (b) performance metrics quantifying the desired outcome of each objective. *Johnson Reply Testimony* at 9:12-21.

conditions concern strategic plans, specific network upgrades, detailed capital expenditures, extensive and detailed service quality and complaint metrics well beyond those required under G.O. 133-C, require improvement on Verizon's current voice service performance metrics, and sensitive personnel decisions. Exh. ORA – 1, *Johnson Reply Testimony* at 8:4-16:10; *see also* Exh. TURN – 1, *Baldwin Reply Testimony* at 169:19-170:9 (proposing the Frontier: (i) meet the

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- For a period of five years, Frontier should provide to the Commission and ORA, on a quarterly basis the service quality metrics for VoIP services. Exh. ORA – 1, *Johnson Reply Testimony* at 9:28-10:8.
- For a period of five years, Frontier should meet the specified complaint performance metric and provide to the Commission and ORA, on a quarterly basis customer complaints for VoIP. Exh. ORA – 1, *Johnson Reply Testimony* at 10:10-11:3.
- For a period of five years, Frontier should report to the Commission and ORA certain VoIP performance metrics and outages that do not meet the FCC NORS outage reporting requirement for VoIP. Exh. ORA – 1, *Johnson Reply Testimony* at 11:9-12:12.
- For a period of five years, Frontier should report to the Commission and ORA detailed information concerning the below voice service metrics, as well as improve on Verizon's current voice service performance metrics for VoIP. Exh. ORA – 1, *Johnson Reply Testimony* at 12:14-13:10..
- For a period of five years, Frontier should provide an annual report, with year one due on one year from the date of CPUC approval of the Transaction, on detailed broadband performance metrics. Exh. ORA – 1, *Johnson Reply Testimony* at 613:12-14:26.
- Frontier should adopt specified broadband performance metrics and practices. Exh. ORA – 1, *Johnson Reply Testimony* at 15:2-11.

TURN's conditions include requiring Frontier to:

- Prepare a report to the Commission, within 12 months of closing that enables the Commission to detect the presence, if any, of redlining of broadband deployment in the network that Frontier has acquired. The report design should be informed by discussions with Commission Staff and should include geographically disaggregated information that maps broadband deployment and speed to average community income.
- Coordinate with the Commission's broadband mapping efforts in order to focus Frontier's investment in the communities that are the least served.
- Verizon should provide Frontier with comprehensive and complete geocoded data about its broadband network and services to facilitate Frontier's coordination with state and federal policy makers in achieving ubiquitous, globally competitive broadband services. See also No. 9 below, which Baldwin suggests should be combined with this initial recommendation.
- Report broadband quality (separately for FiOS-based broadband and DSL) and broadband outages to the Commission on an ongoing basis. So that markets can work efficiently with consumers making informed purchasing decisions, this information should be public and available on the Commission's web site.

TURN (Baldwin), at 174:15-175:12.

- Frontier must report to the commission within 90 days of the close of the transaction whether, based on Frontier's assessment, the CAF funds are sufficient to fulfill broadband obligations in those census blocks associated with the CAF II monies, and to provide supporting documentation regarding its assessment. Exh. TURN – 4, *Baldwin Supplemental Testimony* at 37:15-38:3.

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Commission's OOS standards and repair office answer time standards within six months of closing and sustain performance at least as good as those standards for five years; and (ii) provide credits to customers who experience prolonged delays in having service restored).

Both ORA and TURN also propose that the Commission require Frontier and/or Verizon to fund and Frontier to undergo costly and time-consuming surveys and studies for which Intervenors have failed to show any compelling need resulting from the Transaction. First, ORA proposes that Frontier pay for the cost of an independent consultant, selected, directed, and managed by ORA, to design and conduct a multi-lingual customer satisfaction survey. The survey would be conducted over a 36 month period, and designed to measure customer satisfaction for broadband and voice services (including VoIP), and to measure the effectiveness of efforts to educate customers on the limitations of VoIP during power outages and the necessity for maintaining battery back-up. The independent consultant (with ORA) would then issue quarterly reports to the CPUC detailing the survey results. Exh. ORA – 1, *Johnson Reply Testimony* at 7:17-8:2; Exh. ORA – 7, *Clark Supplemental Testimony* at VI-1:7-9. ORA also proposes that the Commission conduct a performance and financial audit on Frontier within 3 and 5 years from approval of the Transaction relating to ratepayer allocation from the Transaction. Exh. ORA – 1, *Johnson Reply Testimony* at 17:8-11.

ORA and TURN's fail to identify any nexus between the proposed Transaction and the material adverse consequences of the Transaction that they are purporting to address with their recommended conditions. There is no Transaction-related reason or Commission precedent that could justify imposing any of these conditions on Frontier. Accordingly, the Commission should unquestionably reject each of these conditions.

If the Commission determines that the reporting, performance requirements, surveys or audits are needed, these issues should be appropriately noticed and considered for all other participants in the California communications industry, including cable companies, VoIP providers, wireless providers, and CLECs. Any new requirements should be based on a record developed during a general rulemaking and applied equally to all carriers. Otherwise these conditions would create asymmetric obligations that would cause financial and competitive challenges for Frontier, and harm customers who rely on a financially-strong and market-responsive telecommunications carrier.

I. The Outstanding Conditions Requested by the Joint CLECs Are Beyond the Scope of the Proceeding and Unnecessary.

First, the Joint CLECs propose that Verizon California's existing commercial agreements for IP-based exchange of traffic should be treated as Section 251/252 agreements, and subject to filing with and approval by the Commission pursuant to Section 252(e). Exh. CALTEL – 2, *Gillian Supplemental Testimony* at 2. This proposal is in no way related to the Transaction or intended to mitigate a material adverse condition from the Transaction; if the Commission decides that commercial agreements for IP-related exchange of traffic must be treated as Section 251/252 agreements, it would necessarily apply to all ILECs operating in California, including AT&T. As noted in the Supplemental Reply Testimony of Ms. Czak, this global issue should be appropriately noticed, and considered, if at all, in an industry-wide generic proceeding, including cable companies and CLECs which are often parties to commercial agreements for the IP-based exchange of traffic. Exh. FTR – 16, *Czak Supplemental Reply Testimony* at 3:21-4:9. Contrary to the Joint CLEC's claim, no justification exists for singling out Frontier. Although Verizon's commercial agreements for IP-based exchange of traffic were produced in response to discovery in this proceeding, a wide range of carriers, including ILECs, CLECs and cable companies, undoubtedly have similar IP-based commercial agreements. These agreements have not been filed, however, because the industry has treated them as commercial agreements involving unregulated services that are not subject to the Commission's jurisdiction. *Id.* at 4:14-5:7. Moreover, neither the FCC nor the Commission has held that IP-based commercial agreements are subject to Section 251/252 obligations.

Second, the copper retirement conditions proposed by the Joint CLECs are unwarranted. As the Joint CLECs acknowledge, Frontier has no plans to retire Verizon's copper facilities and plans to dedicate its capital expenditures to utilizing the underlying copper wireline infrastructure. Exh. FTR – 9, *Czak Rebuttal Testimony* at 19:1-12; Exh. CALTEL – 3, *DeYoung Supplemental Testimony* at 14. Frontier has committed to dedicate 50 employees to focus on repairing and improving copper infrastructure. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 45:16-18. As a result, the copper retirement conditions are unwarranted. Even if Frontier later decided to retire Verizon's copper facilities, identical copper management and retirement conditions proposed by the Joint CLECs have already been rejected by the FCC as burdensome and unwarranted based on a complete record devoted to copper retirement issues . Exh. CALTEL – 3, *DeYoung Supplemental Testimony.* at 16-17; *See In the Matter of Technology Transitions, et al.,* GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593, *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking*, FCC 115-97 (August 6, 2015) at ¶¶ 29, 36-37, 97; *see also* Exh. FTR – 9, *Czak Rebuttal Testimony* at 19:15-21:23. The FCC's order comprehensively addressed a number of issues related to copper retirement, including an increase in the notice period from 90 days to 180 days, and Frontier will comply with the FCC's order. There is no further need for the Commission to consider copper retirement issues as part of its approval of the Transaction.

J. The Center for Accessible Technology's Proposed Conditions Are Not Transaction-Specific and Should Be Addressed, If at All, on An Industry Wide Basis.

The Center for Accessible Technology ("CforAT") proposed conditions relating to the accessibility of Frontier's customer communications (Exh. CforAT – 1, *Belser Reply Testimony* at 6, 7, 15) and Frontier's battery backup systems and customer education process. *Id.* at 10-11. For the reasons stated in section VIII(F), the battery backup conditions are unnecessary. Similar to the conditions presented by the other Intervenors, these conditions are not Transaction-specific in terms of Frontier's ownership of Verizon California changing the status quo or exacerbating issus or concerns, and should be considered in an all-industry rulemaking proceeding so that they apply to all participants in the competitive market.

If the Transaction is consummated, California ratepayers, including those with disabilities, will benefit. As described in Ms. White's Rebuttal Testimony, Frontier has established procedures to ensure the accessibility of its communications with customers. Exh. FTR – 6, *White Rebuttal Testimony* at 31:19-32:21. When customers sign up for service, they may identify themselves as requiring special services as a result of a disability. If a customer does not identify themselves at the time of initiating service, all customer representatives are trained to identify anyone with a disability who may need special accommodations. Exh. FTR – 6, *White Rebuttal Testimony* at 31:19-32:6. All customers self-identifying and those identified by Frontier are referred to the "Frontier Center for Customers with Disabilities" (FCCD), which handles all the customers' interactions with Frontier. Exh. FTR – 6, *White Rebuttal Testimony* at 31:19-32:6. The FCCD provides services specially adapted for customers with disabilities, including communication options for the deaf or hearing impaired, accommodations for those with impaired vision as well as those with cognitive, speech or mobility impairments. *White Rebuttal Testimony* at 31:19-32:21.

Frontier has processes in place to make its services more accessible to customers with disabilities and there has been no evidence entered into the record suggesting that consumers with disabilities will be harmed or receive lesser service as a result of Frontier's acquisition of the Verizon California operation. To the extent general industry accessibility issues or concerns exist, they should be addressed in an industry wide rulemaking proceeding. There is no need to impose additional conditions in the context of this Transaction.

K. XO's Proposed Conditions Relating to Its Billing Disputes Are Unnecessary.

As a condition to approval of the Transaction, XO requests that the Commission require Verizon and Frontier to resolve all outstanding billing issues with it. Exh., XO – 2, *Jackson Supplemental Testimony* at 8:19-20. As an alternative, XO proposes that the Commission consider imposing a broad range of costly and restrictive conditions on Frontier that would provide XO with an unfair advantage in its billing disputes with Frontier and Verizon. *See, e.g.,* Exh., XO – 1, *Jackson Reply Testimony* at 11:12-14:7 (proposing among other possible conditions, that the Commission toll XO's late charges retroactive to the date the Transaction was announced and impose significant monetary penalties on Frontier for any billing mistakes). As XO acknowledges, Frontier has been working with XO to understand and address its billing dispute issues prior to closing and has scheduled meetings with XO every two weeks. Exh. FTR – 16, *Czak Supplemental Reply Testimony* at 2:10-14; Exh., XO – 2, *Jackson Supplemental Testimony* at 8:2-12. Frontier has also committed to work in good faith with XO after closing of the

Transaction to resolve any billing disputes that remain open. Exh. FTR – 16, *Czak Supplemental Reply Testimony* at 3:1-2. As support for its condition, XO misleadingly relies on alleged unresolved billing disputes with Frontier. Exh., XO – 2, *Jackson Supplemental Testimony* at 8:12-14. XO neglects to mention, however, that only a very small amount of its billing disputes with Frontier is attributable to California—less than 2%. Exh. FTR – 16, *Czak Supplemental Reply Testimony* at 3:6-8. The amount in controversy in California could not warrant the conditions XO seeks, and XO has failed to identify any other Transaction-specific reason that would warrant the condition it seeks. *Id.* at 32:8-10. This proceeding is not the appropriate venue to advance individual disputes and particularized interests unrelated to the Transaction.

L. The Commission Does Not Have Authority to Impose Entravision's Unnecessary Proposed Conditions.

Entravision's proposed conditions would require Frontier to (1) perform an analysis of unserved and underserved Californians in Verizon's service area to determine those areas with the highest concentrations of minority residents, by racial category; (2) target its committed broadband expansion efforts to reflect the minority composition of the unserved and underserved areas in Verizon's service area; (3) commit to carry programing on its broadband network and video franchises from Latino-owned or controlled content providers, such as Entravision; (4) carry audio programming services from Latino-owned or controlled content providers on its music channel service offering; (5) serve portions of the diverse Latino community that are otherwise not well served by currently available Latino video and audio program services, such as younger Latinos, female Latinas, English-dominant Latinos and bilingual Latinos; and (6) report to the Commission annually regarding the effectiveness of these commitments. Exh. ENTRA – 1, *Gaete-Tapia Supplemental Testimony* at 7-9.

These proposals significantly broaden the scope of the proceeding, and are contrary to law. Any requirement that a specific minority group be favored over another would not meet the public interest standard under Section 854. Similarly, the proposal that Frontier be required to carry programming from Latino-owned or controlled content providers, like Entravision, is contrary to the existing supplier diversity rules in California. These rules expressly reject any mandate or goal that would benefit one specific minority group over others. General Order 156, Section 1.1.1, specifically describes the purpose of the rules as providing for "increasing women-owned, minority-owned, disabled veteran-owned and LGBT-owned business enterprises' (WMDVLGBTBEs) procurement in all categories." (Emphasis added).

As noted above, the Commission does not have authority to direct broadband deployment and doing so based on racial criteria would be inconsistent with public policy and legal requirements. Exh. FTR – 5, *Abernathy Rebuttal Testimony* at 14-17.

Entravision's proposed condition that Frontier increase the availability of diverse programming is also contrary to federal law. The federal "must-carry" and retransmission consent rules address television broadcast channels. Video programming other than over-the-air broadcasting are covered by Section 612 of the Communications Act of 1934, as amended, 47 U.S.C. § 532, and the Commission's leased access rules, 47 C.F.R. §§ 76.970 through 76.977. The FCC has exclusive jurisdiction to resolve disputes regarding leased access claims. The statutory purpose of the leased access rules for access to video systems already include "the promotion of competition in the delivery of diverse sources of video programming," and the FCC was provided with expanded authority to establish procedures for the expedited resolution of leased access disputes. Entravision's proposed conditions are at odds with and preempted by the federal law. *See* 47 U.S.C. § 544 (confirming limitations on content regulation and restrictions on state and federal agency action relating to content regulation). Likewise, the Commission does not have authority over content programming for video services. DIVCA makes clear that "[t]he holder of a state franchise shall not be deemed a public utility as a result of providing video service" and that it "shall not be construed as granting authority to the commission to regulate the rates, terms, and conditions of video services" except as explicitly provided in DIVCA. Pub. Util. Code § 5820(c).

In addition, Entravision's proposed conditions are unnecessary. The Latino community has been very well represented in this proceeding by members of the Joint Minority Parties; specifically those from the Jesse Miranda Center for Hispanic Leadership and the National Hispanic Christian Leadership Conference. Exh. FTR – 13, *White Supplemental Reply Testimony* at 38:10-14. Frontier already reached a MOU with the Joint Minority Parties to extend broadband service to minority communities. Exh. FTR – 6, *White Rebuttal Testimony* at 21:16-22:8 & Exh. D; Exh. FTR – 13, *White Supplemental Reply Testimony* at 38:17-20. Frontier specifically committed "to attempt to provide the most effective updated technology with competitive pricing…including rural areas." Frontier also committed to discussing "how to ensure that affordable services are available, particularly in the low-income and minority communities." The MOU with Greenlining is attached as Exhibit D to Melinda White's Supplemental Rebuttal testimony and with respect to "Broadband Deployment" provides:

> Both parties agree that investment will benefit suppliers, employees, customers, including businesses, and overall economic development within those communities. Frontier agrees to use its best efforts to ensure that these benefits are distributed equitably among the diverse California communities it serves.
>
> Frontier shall make its best efforts to provide the most effective updated technology with competitive pricing throughout its service area, including rural and low income areas.

Exh. FTR – 13, *White Supplemental Reply Testimony* at 32:14-17; *MOU with Greenlining* at 4. Accordingly, Frontier has committed to ensuring broadband service is deployment to the diverse communities and low income area that it serves.

The transcripts of the PPHs show that Latinos overwhelmingly support Frontier and the Transaction. Latino stakeholders and community leaders believe the Transaction will bring much-needed capital, network expansion, and other improvements in access to high quality telecommunications services to chronically underserved populations. Exh. FTR – 13, *White Supplemental Reply Testimony* at 38:24-39:4. Mr. Jose Perez, publisher of the Latino Journal, attended five separate PPHs to express his support, and at the Santa Barbara PPH stated:

> Latinos are really…very happy about some of the things that we're hearing, some of the staffing that they've done initially. And so we think that the direction and everything seems to be moving in the right way. And so because of that the Latino Journal is convinced that this would be a very good transaction. It would help California. And so we want to encourage and support the commissioner's approval of this transaction.

PPH Tr. (Santa Barbara) 653:26-654:8 (Perez); *see also* Exh. FTR – 13, *White Supplemental Reply Testimony* at 39:5-12.

In summary, Entravision's belated proposals should be rejected by the Commission because they are unnecessary and contrary to law.

M. The Conditions Intervenors Propose On Verizon Are Unnecessary and Imperil the Transaction.

For the reasons stated more fully in Verizon's brief, the intervenors have failed to identify any Transaction-specific concerns that would justify the imposition of the conditions they ask the Commission to impose on Verizon.

Verizon California has nonetheless voluntarily agreed to comply with some of the conditions. For example, Verizon California has agreed to replace the cable footage that it indicated needs to be replaced and complete the work orders in progress or pending engineering pricing prior to closing. Exh. TURN – 1, *Baldwin Reply Testimony* at 6:8-11; *Stinson Rebuttal Testimony* at 11-12 (explaining that Verizon will complete cable repairs before the end of 2015, and the 71 work orders are 60% complete and are expected to be finished by early 2016). In addition, Verizon has already repaired company related facilities that were subject to complaints reported during the PPHs and Workshops. Exh. ORA – 1, *Johnson Reply Testimony* at 5:3-8; Confidential Reporter's Transcript dated September 24, 2015 at 970:10-14.

In addition, many of the financial commitments that intervenors seek from Verizon would unduly interfere with the bargained-for agreement Frontier and Verizon negotiated. For example, the Verizon-related recommendations include that Verizon be held financially responsible for (1) repairing any of its network assets that are not operational prior to closing of the Transaction (Exh. ORA – 1, *Johnson Reply Testimony* at 5:3-8); (2) the expenses associated with implementing an examination's recommendations regarding Verizon California's network, including funding an Escrow Fund; (3) funding $235 million in an escrow account overseen by the Commission to repair, upgrade rehabilitate and service the Verizon California plant that Frontier is acquiring (Exh. TURN – 2, *Brevitz Reply Testimony* at 73:21-74:3);[39] and (4) all costs imposed by regulators as a condition for approval of the Transaction in contradiction of the express terms of the SPA.

[39] It is unclear whether this escrow fund proposed by Mr. Brevitz is identical to the escrow fund Ms. Baldwin recommends in her initial and supplemental testimony. Unlike Ms. Baldwin's proposed escrow fund, Mr. Brevitz's proposal does not appear to be specifically tied to the results of examination of Verizon California's network.

Exh. ORA – 1, *Johnson Reply Testimony* at 6:4-8; Exh. TURN – 2, *Brevitz Reply Testimony* at 73:8-13.

This proposed condition to re-write the SPA would require a material revision to a key substantive financial term in the agreement negotiated by the two companies with significant experience in transactions of this type. As Frontier has testified, the Company is very experienced in negotiating and completing transactions to acquire wireline businesses. Frontier undertook detailed due diligence and extensive negotiations prior to executing the SPA. *See* Exh. FTR – 10, *Jureller Rebuttal Testimony* at 4: 3-20. The Transaction purchase price was established based on an arms-length assessment of value and taking into consideration all of the material provisions of the SPA. *Id.* This condition as proposed by ORA and TURN would change a substantive economic term of the negotiated deal, and would require a change in the purchase price. Frontier is unwilling to increase the purchase price beyond what is contemplated in the SPA, as all of Frontier's projections, the committed financing, and the substantial amount of equity that has been raised are all based on the agreed-upon $10.54 billion purchase price. *Id.* If the proposed condition related to the Required Payment Amount provision in the SPA is imposed, the Transaction may fail, with the resulting loss of benefits for California customers. *Id.*

As explained above, the Commission should also reject any type of escrow fund as a condition for approval of this Transaction because it is unnecessary and cost-prohibitive, and would delay Frontier's ability to invest in Verizon California's network. Similarly, TURN's proposed condition that Verizon subsidize Frontier's financing for the Transaction inappropriately interferes with and upsets the arms-length deal. Moreover, this condition is now moot. In particular, TURN proposed that Verizon fund the cost differential between Frontier's estimated 9% cost of permanent debt financing and the estimated higher cost of any bridge financing until Frontier is able to replace that bridge financing. *Brevitz Supplemental Testimony* at 20:17-21:2. Frontier, however, has successfully completed its debt financing for the Transaction; the actual weighted average interest rate of approximately 9.1% on the Transaction-related debt is substantially the same as the rate assumed in its transactional model (9.1%). Exh. FTR – 14, *Jureller Supplemental Reply Testimony* at 8:21-9:4.

In addition, as Frontier has consistently testified, including through Mr. Golob's testimony at the recent evidentiary hearing in this proceeding, the purchase price Frontier agreed to reflects the condition of Verizon's network based on Frontier's analysis, including any anticipated need for repairs. *See* Exh. FTR – 10, *Jureller Rebuttal Testimony* at 5; Exh. FTR – 8; *Abernathy Rebuttal Testimony* at 13; Exh. FTR – 15, *Golob Rebuttal Testimony* at 2-4, 18; Exh. FTR – 15, *Golob Supplemental Reply Testimony* at 3-4. Confidential Reporter's Transcript dated September 24, 2015 at 1151:7-11; 1154:8-17. Therefore, the proposed conditions that are directed at Verizon and which would result in either a modification of the SPA or an increase in the purchase price are unnecessary and interferes with the bargained-for contract between Frontier and Verizon.

The overall scope and volume of the intervenor witnesses' proposed conditions are excessive and jeopardize the Transaction. If Frontier is required to comply with the conditions proposed by the intervenors or is required to pay an increased purchase price under the SPA as a result of conditions imposed on Verizon, the Transaction will make much less economic sense for Frontier to complete. Frontier has every desire and intention to provide reliable and enhanced service in the short term and long term, and will be responsive to negotiated settlements, Commission oversight, and reasonable protections for customers. At the same time, Frontier urges the Commission to apply a discipline to the intervenors who have proposed conditions that would undermine and potentially jeopardize the proposed Transaction and thereby result in the loss to the State of California of the benefits Frontier would otherwise provide if the Transaction does go forward. Frontier requests that the Commission follow the lead of the FCC in approving this Transaction and not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction at issue.[40] Frontier's acquisition of the Verizon operations in California is good for consumers and the community and the Company deserves the opportunity to compete flexibly and responsively in the highly-competitive telecommunications marketplace, without oppressive conditions that undermine the benefits for consumers, employees and all other stakeholders.

[40] *In the Matter of Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for the Partial Assignment or Transfer of Control of Certain Assets in California, Florida, and Texas*, WC Docket No. 15-44, released September 2, 2015, para. 23.

IX. CONCLUSION

This Transaction will bring tangible and immediate benefits to California ratepayers, California communities, and the California economy. All statutory standards have been satisfied, and Frontier has made significant commitments to ensure that the Transaction is in the public interest. The Transaction should be approved without the imposition of any additional conditions.

Dated this 5th day of October, 2015.

Respectfully submitted,

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APPENDIX A

A.15-03-005
EXHIBIT LIST (by Party)

Exhibit Number	Exhibit Name
CETF – 1	McPeak Reply Testimony
CETF – 2	Evans Reply Testimony
CETF – 3	Hernandez Reply Testimony
CETF – 4	Bunger Reply Testimony
CETF – 5	Stimpfel Reply Testimony
CETF – 6	McLaughlin Reply Testimony
CETF – 7	CETF Supplemental Testimony

Exhibit Number	Exhibit Name
CforAT – 1	Belser Reply Testimony

Exhibit Number	Exhibit Name
CALTEL– 1	DeYoung Direct Testimony [PUBLIC]
CALTEL– 1C	DeYoung Direct Testimony [CONFIDENTIAL]
CALTEL– 2	Gillian Direct Testimony [PUBLIC]
CALTEL– 2C	Gillian Direct Testimony [CONFIDENTIAL]
CALTEL– 3	DeYoung Supplemental Testimony
CALTEL– 4	Gillian Supplemental Testimony

Exhibit Number	Exhibit Name
COX – 1	Burton Reply Testimony
COX – 2	Cabral Reply Testimony
COX – 3	Sigmund Reply Testimony

Exhibit Number	Exhibit Name
ENTRA – 1	Gaete-Tapia Supplemental Testimony

Exhibit Number	Exhibit Name
FTR – 1	Abernathy Opening Testimony
FTR – 2	White Opening Testimony
FTR – 3	Jureller Opening Testimony

FTR – 4	Golob Opening Testimony
FTR – 5	Abernathy Rebuttal Testimony
FTR – 6	White Rebuttal Testimony [PUBLIC]
FTR – 6C	White Rebuttal Testimony [CONFIDENTIAL]
FTR – 7	Jureller Rebuttal Testimony
FTR – 8	Golob Rebuttal Testimony
FTR – 9	Czak Rebuttal Testimony
FTR – 10	Gregg Rebuttal Testimony
FTR – 11	Teece Rebuttal Testimony [PUBLIC]
FTR – 11C	Teece Rebuttal Testimony [CONFIDENTIAL]
FTR – 12	Abernathy Supplemental Reply Testimony [PUBLIC]
FTR – 12C	Abernathy Supplemental Reply Testimony [CONFIDENTIAL]
FTR – 13	White Supplemental Reply Testimony [PUBLIC]
FTR – 13C	White Supplemental Reply Testimony [CONFIDENTIAL]
FTR – 14	Jureller Supplemental Reply Testimony
FTR – 15	Golob Supplemental Reply Testimony [PUBLIC]
FTR – 15C	Golob Supplemental Reply Testimony [CONFIDENTIAL]
FTR – 16	Czak Supplemental Reply Testimony
FTR – 17	Gregg Supplemental Reply Testimony [PUBLIC]
FTR – 17C	Gregg Supplemental Reply Testimony [CONFIDENTIAL]
FTR – 18	Balhoff Supplemental Reply Testimony
FTR – 19	Teece Supplemental Reply Testimony [PUBLIC]
FTR – 19C	Teece Supplemental Reply Testimony [CONFIDENTIAL]

Exhibit Number	Exhibit Name
GI – 1	Chen Reply Testimony

Exhibit Number	Exhibit Name
JMP – 1	Joint Minority Parties Reply Testimony

Exhibit Number	Exhibit Name
ORA – 1	Johnson Reply Testimony [PUBLIC]
ORA – 1-C	Johnson Reply Testimony [CONFIDENTIAL]
ORA – 2	Clark Reply Testimony [PUBLIC]
ORA – 2C	Clark Reply Testimony [CONFIDENTIAL]
ORA – 3	Gallardo Reply Testimony [PUBLIC]
ORA – 3C	Gallardo Reply Testimony [CONFIDENTIAL]
ORA – 4	Osman Reply Testimony [PUBLIC]
ORA – 4C	Osman Reply Testimony [CONFIDENTIAL]
ORA – 5	Selwyn Reply Testimony [PUBLIC]

ORA – 5C	Selwyn Reply Testimony [CONFIDENTIAL]
ORA – 5LO	Selwyn Reply Testimony [LAWYERS' ONLY]
ORA – 6	Osman Supplemental Testimony [PUBLIC]
ORA – 6C	Osman Supplemental Testimony [CONFIDENTIAL]
ORA – 7	Clark Supplemental Testimony [PUBLIC]
ORA – 7C	Clark Supplemental Testimony [CONFIDENTIAL]
ORA – 8	Gallardo Supplemental Testimony [PUBLIC]
ORA – 8C	Gallardo Supplemental Testimony [CONFIDENTIAL]
ORA – 9	Selwyn Supplemental Testimony [PUBLIC]
ORA – 9C	Selwyn Supplemental Testimony [CONFIDENTIAL]
ORA – 9LO	Selwyn Supplemental Testimony [LAWYERS' ONLY]

Exhibit Number	Exhibit Name
TURN – 1	Baldwin Reply Testimony [PUBLIC]
TURN – 1C	Baldwin Reply Testimony [CONFIDENTIAL]
TURN – 1LO	Baldwin Reply Testimony [LAWYERS' ONLY]
TURN – 2	Brevitz Reply Testimony [PUBLIC]
TURN – 2C	Brevitz Reply Testimony [CONFIDENTIAL]
TURN – 2LO	Brevitz Reply Testimony [LAWYERS' ONLY]
TURN – 3	Brevitz Supplemental Testimony [PUBLIC]
TURN – 3C	Brevitz Supplemental Testimony [CONFIDENTIAL]
TURN – 3LO	Brevitz Supplemental Testimony [LAWYERS' ONLY]
TURN – 4	Baldwin Supplemental Testimony [PUBLIC]
TURN – 4C	Baldwin Supplemental Testimony [CONFIDENTIAL]

Exhibit Number	Exhibit Name
VZ – 1	Brophy Opening Testimony [PUBLIC]
VZ – 1C	Brophy Opening Testimony [CONFIDENTIAL]
VZ – 2	McCallion Opening Testimony
VZ – 3	Maguire Rebuttal Testimony [PUBLIC]
VZ – 3C	Maguire Rebuttal Testimony [CONFIDENTIAL]
VZ – 4	Aron Rebuttal Testimony [PUBLIC]
VZ – 4C	Aron Rebuttal Testimony [CONFIDENTIAL]
VZ – 5	Brophy Rebuttal Testimony [PUBLIC]
VZ – 5C	Brophy Rebuttal Testimony [CONFIDENTIAL]
VZ – 6	Eisenach Rebuttal Testimony [PUBLIC]
VZ – 6C	Eisenach Rebuttal Testimony [CONFIDENTIAL]
VZ – 7	McCallion Rebuttal Testimony [PUBLIC]
VZ – 7C	McCallion Rebuttal Testimony [CONFIDENTIAL]
VZ – 8	Stinson Rebuttal Testimony
VZ – 9	McCallion Supplemental Reply Testimony
VZ – 10	Network Report dated 9/23/15 [PUBLIC]

VZ – 10C	Network Report dated 9/23/15 [CONFIDENTIAL]
VZ – 11	Photographs of Copper Network
VZ – 12	Photographs of FiOS Network
VZ – 13	Maguire Whiteboard Drawing
VZ – 14	Not used
VZ – 15C*	Checklist for Clean, Neat, Safe & Reliable audits
VZ – 16*	Statement of Qualifications for Verizon Witnesses September 18, 2015 Network Report

*On September 29, 2015, Verizon submitted a motion to accept Exhibits 15-16 into the record, and to file Exhibit 15 under seal.

Exhibit Number	Exhibit Name
XO – 1	Jackson Reply Testimony
XO – 2	Jackson Supplemental Testimony