

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Frontier Communications Corporation,)	
<i>Transferor</i>)	
)	
and)	WC Docket No. 19-188
)	
Northwest Fiber, LLC,)	
<i>Transferee</i>)	
)	
Applications Filed for the Transfer of Control)	
of Certain Subsidiaries of Frontier)	
Communications Corporation to Northwest)	
Fiber, LLC)	

**REPLY COMMENTS OF FRONTIER COMMUNICATIONS
CORPORATION AND NORTHWEST FIBER, LLC**

Frontier Communications Corporation (“Frontier” or “Transferor”) and Northwest Fiber, LLC (“Northwest Fiber” or “Transferee”) (collectively, the “Applicants”) reply to comments filed on August 8, 2019 regarding the proposed sale of Frontier’s local wireline, video and related long-distance operations in four states—Idaho, Montana, Oregon and Washington (collectively, the “Territory”)—to Northwest Fiber (the “Transaction”).¹

¹ The Transaction comprises the transfer of control of Commission licenses and authorizations held by (i) Citizens Telecommunications Company of Idaho, (ii) Citizens Telecommunications Company of Montana (“Frontier Montana”), (iii) Citizens Telecommunications Company of Oregon and (iv) Frontier Communications Northwest Inc. (collectively, the “Transferring Companies”) and the assignment of certain related long-distance customer relationships from Frontier Communications of America, Inc. and Frontier Communications Online and Long Distance Inc. to Northwest Fiber.

No parties filed petitions to deny the Transaction, and only two parties filed comments—Montana Sky Networks, Inc. and MontanaSky West LLC (“Montana Sky”), and Montana State Representative Steve Gunderson (“Mr. Gunderson”) (collectively, the “Commenters”).² The Commenters make unsubstantiated claims regarding Frontier’s current business practices in the limited geographic area in which Montana Sky competes with Frontier in Montana and propose various conditions that are unrelated to and outside the scope of the Transaction. Neither Commenter denies or even attempts to refute that the Transaction will result in significant public interest benefits nor claims that the Transaction will harm the public interest.

The Commission should approve the Transaction promptly. Consistent with longstanding Commission policy and precedent, the non-transaction-specific and industry-wide policy issues raised by the Commenters should not be addressed in the context of this Transaction, and rather should be addressed, if at all, in another proceeding.

I. THE APPLICATION SATISFIES THE COMMISSION’S STANDARD OF REVIEW

The Commission reviews proposed transfers of control and assignments of licenses and authorizations to determine whether they are consistent with the public interest, convenience and necessity. Under its public interest analysis, the Commission first considers whether the proposed transaction would result in a violation of the Communications Act (the “Act”) or any Commission rule, which no party alleges in this case.³ Then the Commission considers “whether

² Comments of Montana Sky Networks, Inc. and MontanaSky West LLC, WC Docket No. 19-188 (Aug. 8, 2019) (“Montana Sky Comments”); Letter of Montana State Representative Steve Gunderson, WC Docket No. 19-188 (Aug. 8, 2019) (“Gunderson Letter”).

³ Section 310(d) of the Act also requires the Commission to determine whether the Applicants are qualified to hold and transfer wireless radio licenses. *See, e.g., Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 32 FCC Rcd 9581, ¶ 12 (2017) (“L3-CenturyLink Order”). No party questions the basic qualifications of Frontier or Northwest Fiber to undertake the Transaction. Indeed, Frontier is a leading provider of communications services

the transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.”⁴ Commenters make no such claims of transaction-specific harms. The Commission does not, however, evaluate and weigh harms that are not specific to a transaction, and it leaves to other proceedings the resolution of industry-wide policy issues and also allegations of past violations of the Act.⁵ The Commission also considers the public interest benefits of the transaction. Those benefits are manifest here and the Commenters do not challenge them.

II. THE TRANSACTION WILL PRODUCE SUBSTANTIAL PUBLIC INTEREST BENEFITS WITH NO PUBLIC INTEREST HARMS.

As described in the Application and unchallenged by Commenters, the Transaction will significantly benefit consumers.⁶ Northwest Fiber intends to invest hundreds of millions of dollars to upgrade and/or improve various aspects of the Transferring Companies’ businesses. This includes, among other things, expanding fiber-based communications services, enabling faster broadband speeds and improving customer experience and service. This investment is in addition to the Transferring Companies’ participation in the Connect America Fund (“CAF”)

to urban, suburban and rural communities and has previously been found by the Commission to be qualified to hold FCC authorizations and licenses. *See, e.g., 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*, Memorandum Opinion and Order, 30 FCC Rcd 9812, ¶ 20 (WCB, IB, WTB 2015). The owners and managers of Northwest Fiber have deep experience in the communications space as investors, owners and operators of successful telecommunications and broadband companies. *See Applications Filed for the Transfer of Control of Certain Subsidiaries of Frontier Communications Corporation to Northwest Fiber, LLC*, WC Docket No. 19-188, Exhibit 1 at 6–7, 12–13 (filed June 28, 2019) (the “Application”).

⁴ *L3-CenturyLink Order*, 32 FCC Rcd at ¶ 9.

⁵ *See, e.g., id.* at ¶ 9; *AT&T Inc. and BellSouth Corporation, Application for Transfer of Control*, Memorandum Opinion and Order, 22 FCC Rcd 5662, ¶¶ 120 n.342, 194 (2007) (“*AT&T-BellSouth Order*”).

⁶ *See Application*, Exhibit 1 at 11–14.

Phase II program, which will continue post-closing. These investments will benefit all customers, including retail, business and wholesale customers. The Transferring Companies also will be well financed and emerge from the Transaction as a stronger, more stable competitor with a financial structure and substantial cash flow that will support Northwest Fiber's plans post-closing.

In addition, the Transferring Companies will be managed by an experienced team based in the Northwest and committed to expanding fiber-optic infrastructure and services within the region. The management team, led by Steve Weed, has many decades of experience in the industry and successfully built and grew the Kirkland, Washington-based competitive broadband company Wave Broadband. Northwest Fiber also plans to retain the existing Frontier employees associated with the Transferring Companies that currently work in the Territory. Northwest Fiber will thus be a true local company, with management and leadership that have a deep understanding of these markets and the unique challenges presented by providing services to the Transferring Companies' communities.

Furthermore, the Transaction will not result in any public interest harms. And, importantly, the Commenters fail to describe any.⁷ The Transaction will not reduce the number of competitors in any region and will not result in any competitive harm. Indeed, cable operators, wireless carriers, long-distance carriers, competitive local exchange carriers ("CLECs"), satellite video and broadband providers, and other service providers will continue to compete vigorously with Northwest Fiber post-closing. And the investments Northwest Fiber intends to make in new facilities and new and innovative services and packages will encourage competitors to do the same, strengthening competition in the Territory.

⁷ See *id.* at 14–19.

Frontier and Northwest Fiber also have a comprehensive plan to ensure a smooth transition for both retail and wholesale customers.⁸ Northwest Fiber will honor and assume the Transferring Companies' obligations to its customers, including wholesale customers such as CLECs. Interconnection agreements also will not change as a result of the Transaction. Immediately following the closing, existing retail and wholesale customers will continue to receive substantially the same services on the same terms and conditions under their existing contracts, price lists and tariffs.⁹

III. THE COMMENTERS MAKE UNSUBSTANTIATED CLAIMS THAT ARE NOT SPECIFIC TO THIS TRANSACTION AND PROPOSE CONDITIONS THAT ARE OUTSIDE THE SCOPE OF THIS PROCEEDING.

The Commenters make various unsubstantiated claims about Frontier's current practices that are unrelated to and outside the scope of the Transaction.¹⁰ The Commission should reject Commenters' claims and all the conditions they propose. The Commenters do not question the benefits that will result from the Transaction, nor Northwest Fiber's commitment to its planned investments in the Transferring Companies. Moreover, the Commenters do not suggest that the Transaction will result in any public interest harms.

⁸ *See id.* at 16–17.

⁹ Frontier's current operations support systems ("OSS") for both retail and wholesale customers will be replicated for Northwest Fiber so that, at closing, there will not be a flash cut to a totally new system. Wholesale customers, including competitors, will not have to process orders in a different manner or have their existing OSS arrangements disrupted. Frontier will continue to provide system support for not less than six months after closing.

¹⁰ Mr. Gunderson's claims are generalized in nature and, among other things, do not provide any facts or information to support his assertion that Frontier has not improved services for which it had received federal funds. *See* Gunderson Letter, at 1. As noted in the Application, as of April 30, 2019, Frontier had enabled 69 percent (28,019 locations) of CAF locations in the Territory and expects to satisfy the 80 percent completion milestone as of December 31, 2019. To date, Frontier has enabled 73 percent (1,688 locations) of CAF locations in Montana. Frontier will continue this work up until the closing, and Northwest Fiber has contractually agreed to complete any remaining buildout required to complete the 100 percent (40,570 locations) in the Territory as of December 31, 2020. *See* Application at 4 n.5.

Contrary to Montana Sky's assertions,¹¹ Frontier and the Transferring Companies comply with all statutory and Commission requirements applicable to incumbent local exchange carriers ("ILECs"), including those under Sections 251 and 252 of the Act. Montana Sky (f/k/a Mooseweb) has been a long-time customer of Frontier Montana, as an internet service provider and as a CLEC. Frontier Montana provides Montana Sky with services consistent with applicable law, and Montana Sky currently interconnects with Frontier Montana pursuant to an interconnection agreement approved by the Montana Public Service Commission.¹² Allegations that a party to a transaction previously violated the Act, a Commission rule, or some other binding obligation "are more appropriately addressed via the Commission's complaint process," rather than as part of the review of the Transaction.¹³ Transfer of control proceedings are ill-suited for resolving detailed factual disputes about past actions.

Out of the multiple CLECs that interconnect with the Transferring Companies across the Territory, Montana Sky is the only one to file comments in this proceeding. Montana Sky's speculative claims appear to boil down to a private dispute between the parties and Montana Sky's dissatisfaction as a competitor that Frontier Montana is complying with applicable laws in a way with which Montana Sky disagrees.¹⁴ These matters are unrelated to and outside the scope of the Transaction. Under the Commission's standard of review, it will not address or

¹¹ Montana Sky Comments, at 2–3.

¹² *See Application of Citizens Telecommunications Company of Montana and Montana Sky West, LLC, Pursuant to Section 252(e) of the Telecommunications Act of 1996 for Approval of their Interconnection Agreement*, Final Order, Docket No. D2014.6.56, Order No. 7368 (Sept. 9, 2014).

¹³ *AT&T-BellSouth Order*, 22 FCC Rcd at ¶ 120 n.342; *see also Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Rcd 18433, ¶ 191 & n.517 (2005).

¹⁴ Montana Sky Comments, at 2-3; *see also* Gunderson Letter, at 1.

weigh harms unless they are transaction-specific. To be a proper subject of consideration on review of a transaction, an alleged harm must directly “arise from the transaction.”¹⁵ This is not the case here. The Commission will not “impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction.”¹⁶ Nor will it “single Applicants out for special treatment unwarranted by any likely adverse consequences of the transaction.”¹⁷

Montana Sky fails to identify any specific injury it would sustain resulting from Northwest Fiber’s acquisition of the Transferring Companies.¹⁸ In fact, Montana Sky appears to welcome the new ownership of the Transferring Companies and only seeks to use the Transaction to gain advantages—through non-transaction-specific conditions—that go beyond what is required by the Act and the Commission and do not address any transaction-specific

¹⁵ *SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Rcd 18290, ¶ 19 (2005) (“*SBC-AT&T Order*”); *see also L3-CenturyLink Order*, 32 FCC Rcd at ¶ 9; *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 19 FCC Rcd 21522, ¶ 43 (2004); *Time Warner Inc. and Time Warner Cable Inc. Applications for Consent to the Assignment and/or Transfer of Control of Licenses*, Memorandum Opinion and Order, 24 FCC Rcd 879, ¶ 13 (MB, WCB, WTB, IB 2009).

¹⁶ *SBC-AT&T Order*, 20 FCC Rcd at ¶ 19; *see also Softbank, Starburst II, Sprint Nextel Corporation, and Clearwire Corporation for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, Declaratory Ruling and Order on Reconsideration, 28 FCC Rcd 9642, ¶ 85 (2013) (“*Sprint-SoftBank Order*”); *Applications of AT&T Mobility Spectrum LLC, New Cingular Wireless PCS, LLC, Comcast Corporation, Horizon Wi-Com, LLC, NextWave Wireless, Inc., and San Diego Gas & Electric Company For Consent To Assign and Transfer Licenses*, Memorandum Opinion and Order, 27 FCC Rcd 16459, ¶ 39 (2012).

¹⁷ *General Motors Corporation and Hughes Electronics Corporation and The News Corporation Limited for Authority to Transfer Control*, Memorandum Opinion and Order, 19 FCC Rcd 473, ¶ 131 (2004) (“*GM-Hughes Order*”).

¹⁸ To the extent Montana Sky believes Frontier’s actions have been unlawful, the proper forum for such claims would be a complaint proceeding, not an unrelated transfer of control proceeding.

harm. Similarly, Mr. Gunderson’s support for Montana Sky’s position and his criticism of the services provided by Frontier Montana are unrelated to the Transaction.¹⁹

Imposing the requested conditions on the Transaction as Montana Sky suggests would be unprecedented, unnecessary and contrary to the Commission’s longstanding policy that it will not mediate private disputes between parties as part of the transfer application approval process²⁰ or attempt to adjudicate non-transaction-specific claims.

Montana Sky also proposes that the Commission impose a “dig once” notification process on Northwest Fiber and the Transferring Companies post-closing.²¹ Trenching is typically within the purview of state and local jurisdictions. Independent of the Transaction, the Commission also has been actively considering ways to facilitate infrastructure deployment, including wireline broadband facilities (e.g., in WT Docket No. 17-84). Transaction proceedings are not the proper forum for resolution of industry-wide policy issues.²² “An application for a transfer of control of Commission licenses is not an opportunity to correct any and all perceived imbalances in the industry. Those issues are best left to broader industry-wide proceedings.”²³ Montana Sky otherwise does not contend that the Transferring Companies are somehow out of

¹⁹ See Gunderson Letter, at 1.

²⁰ See, e.g., *Margaret Jackson (Transferor) and Ray Webb (Transferee)*, Memorandum Opinion and Order, 18 FCC Rcd 26403, ¶ 6 (2003) (“It is well established under Commission precedent that the Commission is not the proper forum for resolving private contractual disputes, and that the Commission will not defer action on pending transfer applications pending state court litigation of contractual disputes.”); Letter from Peter H. Doyle, Chief of the Audio Div., Media Bur., FCC, to Cumulus Licensing LLC, 21 FCC Rcd 2998, 3006 (MB 2006); *Listeners’ Guild, Inc. v. FCC*, 813 F.2d 465, 469 (D.C. Cir. 1987).

²¹ Montana Sky Comments, at 2.

²² *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Southern New England Telecommunications Corporation to SBC Communications, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd 21292, ¶ 29 (1998); see also *AT&T-BellSouth Order*, 22 FCC Rcd at ¶ 194.

²³ *GM-Hughes Order*, 19 FCC Rcd at ¶ 131.

compliance with any trenching requirements or explain how its proposal is related to the Transaction.

Montana Sky's third request, regarding access to Frontier Montana's backbone and middle mile fiber lines,²⁴ similarly has nothing to do with the Transaction. The Commission should deny this attempt to leverage the Application approval process to obtain a bargaining advantage that is not otherwise provided for or required by law.

The Commission's consideration of transactions such as this one is based on whether it will produce public interest benefits and not cause public harm, not whether there are additional obligations that would be "good" based on a competitor's view of the public interest.²⁵ Similarly, the Commission does not impose conditions to remedy issues that are either pre-existing, industry-wide, or unrelated to the transaction.²⁶ Accordingly, the Commission should reject the Commenters' suggestions to require Northwest Fiber to make any additional commitments as a condition to approval of the Transaction.

²⁴ Montana Sky Comments, at 2–3.

²⁵ See, e.g., *GM-Hughes Order*, 19 FCC Rcd at ¶ 131 (declining to adopt conditions "intended to remedy situations unrelated to this transaction," single out the applicants "for special treatment unwarranted by any likely adverse consequences of the transaction," or would leave the applicants "in a worse position following the transaction than they are today").

²⁶ See *Sprint-SoftBank Order*, 28 FCC Rcd at ¶ 85; *AT&T-BellSouth Order*, 22 FCC Rcd at ¶ 194.

V. CONCLUSION

The Commission should approve the Transaction promptly, without conditions. The Transaction will benefit the public interest, and Commenters have not demonstrated that the Transaction will result in any public interest harm.

Respectfully submitted,

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