

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Applications Filed for the Transfer of Control of	)	WC Docket No. 19-188
Certain Subsidiaries of	)	
Frontier Communications Corporation to	)	
Northwest Fiber, LLC	)	

**MEMORANDUM OPINION AND ORDER AND DECLARATORY RULING**

**Adopted: December 19, 2019**

**Released: December 19, 2019**

By the Chief, Wireline Competition Bureau; Chief, International Bureau; and Chief, Wireless Telecommunications Bureau:

**I. INTRODUCTION**

1. Frontier Communications Corporation (Frontier) and its subsidiaries<sup>1</sup> filed a series of applications pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended (Act), and sections 1.948, 63.03-04, 63.18, and 63.24 of the Federal Communications Commission's (Commission) rules<sup>2</sup> seeking consent for the transfer of control of the Transferring Companies and the partial assignment of long distance customers from Frontier Communications of America, Inc. (Frontier America) and Frontier Communications Online and Long Distance Inc. (Frontier LD) to Northwest Fiber (the Transaction). Frontier Idaho, Frontier Montana, Frontier Northwest, and Northwest Fiber also filed a petition for declaratory ruling (Petition) to permit foreign investment above the 25% benchmark in section 310(b)(4) of the Act and section 1.5000(a)(1) of the Commission's rules.<sup>3</sup>

2. On July 25, 2019, the Wireline Competition Bureau (WCB), International Bureau (IB), and Wireless Telecommunications Bureau (WTB) released a Public Notice accepting the Applications for filing and establishing a pleading cycle for public comments.<sup>4</sup> Two parties timely filed comments in response to the Public Notice, and no party filed a petition to deny or comments in opposition to a grant

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<sup>1</sup> Citizens Telecommunications Company of Idaho (Frontier Idaho), Citizens Telecommunications Company of Montana (Frontier Montana), Citizens Telecommunications Company of Oregon (Frontier Oregon), and Frontier Communications Northwest Inc. (Frontier Northwest) (those specified Frontier subsidiaries, together, Transferring Companies), and Northwest Fiber, LLC (Northwest Fiber) (Frontier, Transferring Companies, and Northwest Fiber, collectively, Applicants).

<sup>2</sup> 47 U.S.C. §§ 214, 310(d); 47 CFR §§ 1.948, 63.03-04, 63.18, 63.24; Application for Consent to Partially Assign and Transfer Control of Domestic and International Authorizations Pursuant to Section 214 of the Communications Act of 1934, as Amended, and Sections 63.04, 63.18 and 63.24 of the Commission's Rules, WC Docket No. 19-188 (filed June 28, 2019) (Lead Application) (collectively with applications listed in Appendix A to this Order, Applications). Applicants filed a supplement to the Lead Application on July 10, 2019. Supplement to the Consolidated Application for the Partial Assignment and Transfer of Control of Domestic and International Section 214 Authorizations, WC Docket No. 19-188 (filed July 10, 2019) (Applicants' Supplement).

<sup>3</sup> 47 U.S.C. § 310(b)(4); 47 CFR § 1.5000(a)(1); Petition for Declaratory Ruling, File No. ISP-PDR-20190708-00006 (filed July 8, 2019); Supplement to Joint Petition for Declaratory Ruling, ISP-PDR-20190708-00006 (filed Nov. 8, 2019) (November Supplement); Supplement to Joint Petition for Declaratory Ruling, ISP-PDR-20190708-00006 (filed Dec. 5, 2019) (December Supplement).

<sup>4</sup> *Applications Filed for the Transfer of Control of Certain Subsidiaries of Frontier Communications Corporation to Northwest Fiber, LLC*, Public Notice, DA 19-710 (WCB, IB, WTB 2019).

of the Applications.<sup>5</sup> In response, Applicants timely filed reply comments.<sup>6</sup> On September 17, 2019, after the public comment period closed, the Applicants filed additional information to supplement the Applications.<sup>7</sup> In addition, the Department of Justice (DOJ), with the concurrence of the Department of Defense (DOD) and the Department of Homeland Security (DHS), requested that the Commission defer action on the Transaction while they reviewed potential national security, law enforcement, and public safety concerns.<sup>8</sup> On November 22, 2019, DOJ filed a Petition to Adopt Conditions to Authorizations and Licenses (DOJ Petition).<sup>9</sup> DOJ advises that it has no objection to the Commission granting the Applications and the section 310(b)(4) petition provided that the Commission conditions its consent on compliance by Northwest Fiber with the commitments and undertakings set forth in the November 21, 2019 Letter of Agreement with DOJ (LOA).<sup>10</sup>

3. We have thoroughly reviewed the record and conclude that the Transaction serves the public interest and meets the requirements of the Act.<sup>11</sup> Accordingly, we grant the Applications, the Petition, and the DOJ Petition, subject to the conditions set forth below, including Northwest Fiber's compliance with the LOA.

## II. BACKGROUND

### A. Description of the Applicants

#### 1. Frontier Communications

4. Frontier, a publicly-traded Delaware corporation, which wholly owns the Transferring Companies, provides services over its fiber optic and copper networks, including incumbent local exchange service, long-distance service, broadband, and video service in 29 states.<sup>12</sup> The Transferring Companies currently provide these same services in Idaho, Montana, Oregon, and Washington (Transaction Territory), passing 1.7 million residential and business locations,<sup>13</sup> of which approximately 500,000 are currently fiber-to-the-premises capable.<sup>14</sup> According to the Applicants, within the Transaction Territory, Frontier has deployed high-speed Internet service, with download speeds ranging from 1 Megabit per second (Mbps) to 1 Gigabit per second (Gbps), to approximately 1.6 million or 88%

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<sup>5</sup> See Montana Sky Networks, Inc. and MontanaSky West LLC (Montana Sky) Comments; Representative Steve Gunderson, Montana House of Representatives (Rep. Gunderson) Comments.

<sup>6</sup> See Frontier and Northwest Fiber Reply Comments (Applicants' Reply).

<sup>7</sup> See Letter from William F. Maher and Patrick S. Campbell, Counsel to Applicants, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 19-188 (filed Sept. 17, 2019) (Applicants' Additional Responses).

<sup>8</sup> Letter from Lee Licata, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 19-188, File Nos. ITC-T/C- 20190628-00128 *et al.* (filed July 29, 2019) (NSD Letter).

<sup>9</sup> DOJ, Petition to Adopt Conditions to Authorizations and Licenses, WC Docket No. 19-188, File Nos. ITC-T/C-20190628-00128 *et al.* (filed Nov. 22, 2019).

<sup>10</sup> *Id.* at 1; Letter from Timothy B. Austin, Vice President and Secretary, Northwest Fiber, LLC, to Assistant Attorney General for National Security, Department of Justice, WC Docket No. 19-188, File Nos. ITC-T/C-20190628-00128 *et al.* (dated Nov. 21, 2019).

<sup>11</sup> 47 U.S.C. § 214.

<sup>12</sup> Lead Application at Exh. 1 (Description of the Parties; Description of the Transaction; Public Interest Statement; Administrative Matters) at 7-8.

<sup>13</sup> Applicants define the term "location" as "residential, small businesses, and enterprise customers." Applicants' Additional Responses at 4.

<sup>14</sup> Lead Application at Exh. 1 at 8.

of households,<sup>15</sup> and download speeds of 25 Mbps or more to approximately 775,000 or 48% of households.<sup>16</sup> Frontier America and Frontier LD, both Delaware corporations, provide interstate and international long-distance services.<sup>17</sup> As of March 31, 2019, Frontier served more than 350,000 residential and commercial customers<sup>18</sup> and 315,524 access lines<sup>19</sup> in the four states covered by the proposed Transaction.<sup>20</sup>

## 2. Northwest Fiber, LLC

5. Northwest Fiber is an indirect, wholly owned subsidiary of Northwest Fiber Holdco, LLC (Holdco), a Delaware limited liability company that Applicants formed for the purpose of implementing the proposed Transaction.<sup>21</sup> Upon completion of the Transaction, Northwest Fiber will be jointly owned by WaveDivision Capital VII, LLC (WDC) (an approximate 10% interest), a Washington limited liability company,<sup>22</sup> and Searchlight II OPT, L.P. (Searchlight Aggregator LP) (an approximate 90% interest), a Delaware limited partnership and aggregator of an investor group led by U.S. and foreign-based funds affiliated with Searchlight Capital Partners, L.P. (collectively, Searchlight).<sup>23</sup> Searchlight Capital Partners, L.P. will elect a majority of Northwest Fiber's board of directors.<sup>24</sup> Some of the Searchlight entities are domiciled in the Cayman Islands and two of the three founders of Searchlight are non-U.S. citizens.<sup>25</sup> Searchlight is ultimately controlled by its three founding partners: Eric Zinterhofer, a U.S. citizen; Erol Uzumeri, a Canadian citizen; and Oliver Haarmann, a German citizen.<sup>26</sup> WDC has one member, Steve Weed, a U.S. citizen, who will serve as chairman of Northwest Fiber's board of directors.<sup>27</sup> Applicants state that WDC will manage the day-to-day operations of Northwest Fiber.<sup>28</sup>

### B. Description of the Transaction

6. Northwest Fiber and Frontier entered into an Agreement and Plan of Merger (Agreement) pursuant to which Northwest Fiber would acquire all of the issued and outstanding equity interests of the Transferring Companies in an all-cash transaction valued at approximately \$1.352 billion.<sup>29</sup> Upon completion of the Transaction, the Transferring Companies, with their local exchange, broadband, and

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<sup>15</sup> According to Applicants, they refer to "household" to mean customer residence locations. Applicants' Additional Responses at 7.

<sup>16</sup> *Id.* at 5-6.

<sup>17</sup> Lead Application at Exh. 1 at 7-8.

<sup>18</sup> These customers use a variety of Frontier services, including local exchange, broadband, and video services. Applicants' Additional Responses at 5.

<sup>19</sup> According to Applicants, this number is based on "traditional 'access lines' as defined in Frontier's tariffs, e.g., 'communications facilities between a customer's premises and the serving central office that provides access to and from the telecommunications network.'" *Id.*

<sup>20</sup> Lead Application at Exh. 1 at 7-8; Applicants' Supplement at 5; Applicants' Additional Responses at 5.

<sup>21</sup> The Applicants provide a detailed post-consummation ownership structure in the Lead Application. Lead Application at 9-18 and Exh. 1 at Attach. B (Pre- and Post-Closing Ownership Structure).

<sup>22</sup> WDC has invested in various telecommunications entities in the United States and Canada, including Hargray Communications, MetroNet, RCN Telecom Services/Grande Communications/Wave Broadband, and Xplornet Communications. Applicants state that there will be an approximate 9% overlap between the networks of RCN/Grande/Wave and Northwest Fiber. Applicants further state that other than RCN/Grande/Wave, there are no overlaps between any of WDC's affiliates and Northwest Fiber. *Id.* at 3, n.4 and Exh. 2 (Investor Investments in Entities Subject to FCC Jurisdiction) at 6-7.

<sup>23</sup> *Id.* at Exh. 1 at 6. Searchlight Capital Partners, L.P. is controlled by Searchlight Capital Partners, LLC, a Delaware limited liability company and the ultimate controlling entity for the Searchlight Funds. Searchlight Capital Partners, L.P. and Searchlight Capital Partners, LLC, which are fund managers, will have no equity or voting interests in Northwest Fiber. *Id.* at 13, 16.

video subscribers, would become wholly owned, direct subsidiaries of Northwest Fiber.<sup>30</sup> In addition, long-distance voice customers of Frontier America and Frontier LD in the Transferring Companies' four states would be assigned to Northwest Fiber.<sup>31</sup> Following consummation of the Transaction, Frontier would continue to operate in the other 25 states in which it currently provides services.<sup>32</sup> In connection with the Transaction, the Applicants made filings or notifications with the DOJ pursuant to the Hart-Scott-Rodino Antitrust Improvements Act (HSR),<sup>33</sup> various state public utility commissions, and relevant local governments and municipalities.<sup>34</sup>

7. As part of the Transaction, prior to closing, Frontier is required to “replicate its [operations support systems] (OSS)” and make necessary updates, changes, and improvements.<sup>35</sup> Applicants assure that, post-closing, Frontier “will provide Northwest Fiber with at least six months of information technology and other OSS support [for up to three years] . . . to further minimize the possibility of retail or wholesale customers experiencing service, ordering, or billing disruptions.”<sup>36</sup>

### III. STANDARD OF REVIEW AND PUBLIC INTEREST FRAMEWORK

8. Pursuant to sections 214(a) and 310(d) of the Act,<sup>37</sup> the Commission must determine whether the proposed transfer of control of certain licenses and authorizations held and controlled by the Transferring Companies to Northwest Fiber would serve the public interest, convenience, and necessity.<sup>38</sup> In making this determination, the Commission first assesses whether the proposed transaction complies with the specific provisions of the Act, other applicable statutes, and the Commission's rules.<sup>39</sup>

9. If the proposed transaction does not violate a statute or rule, the Commission then considers whether the transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.<sup>40</sup> The Commission's competitive analysis, which forms an important part of the public interest evaluation, is informed by, but not limited to, traditional antitrust principles.<sup>41</sup> The DOJ has independent authority to examine the competitive impacts of proposed mergers and transactions involving transfers of Commission licenses, but the Commission's competitive analysis under the public interest standard is somewhat broader.<sup>42</sup>

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<sup>24</sup> *Id.* at 2.

<sup>25</sup> Petition at 5.

<sup>26</sup> The following Canadian pension funds will hold a 10% or greater interest in Searchlight through co-investments in certain Searchlight funds: Canada Pension Plan Investment Board (19% indirect equity and 30% voting interest); British Columbia Investment Management Corporation (18% indirect equity and 29% voting interest); and Public Sector Pension Investment Board (30% indirect equity and 47% voting interest). Petition at 11-12; Lead Application at 17. Each of the pension funds will have the right to appoint one member of Northwest Fiber's board of directors, and they will not exercise control over the Transferring Companies. Lead Application at 3-4, 17-18. Applicants state that Searchlight-affiliated funds and certain of these pension funds invest in several U.S.-based telecommunication entities, none of which provide service in the areas that Northwest Fiber seeks to acquire from Frontier. *Id.* at Exh. 2 at 1-7. Applicants further state that the Board would have a total of nine members, with Searchlight Capital Partners II GP, L.P., the entity that controls the Searchlight funds, holding the right to appoint five directors, two of whom must be independent directors. WDC would have the right to name the remaining director. Applicants' Supplement at 3-4.

<sup>27</sup> Lead Application at Exh. 1 at 6. Mr. Weed holds less than a 2% interest in RCN/Grande/Wave, and he does not hold a management position and has resigned from the board of directors of RCN Corporation. Mr. Weed has less than a 10% interest in Hargray Communications and is a member of the board of directors. *Id.* at Exh. 1 at 6, n.10.

<sup>28</sup> *Id.* at Exh. 1 at 2.

<sup>29</sup> *Id.* at Exh. 1 at 8. The Transaction Territory covers assets that Frontier acquired from Verizon Communications, Inc. in 2010 in Washington, Oregon, and Idaho, as well as other Frontier assets in Oregon, Idaho, and Montana that Frontier owned prior to the Verizon transaction. Applicants' Supplement at 4. *See Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control*, WC Docket No. 09-95, Memorandum Opinion and Order, 25 FCC Red 5972 (2010).

Notably, the Commission has determined it may impose and enforce narrowly tailored, transaction-specific conditions that address the potential harms of a transaction.<sup>43</sup> Specifically, the Commission has repeatedly held that it will impose conditions “only to remedy harms that arise from the transaction (*i.e.*, transaction-specific harms)” and “related to the Commission’s responsibilities under the Communications Act and related statutes,” and that it “will not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction.”<sup>44</sup>

10. If the Commission determines that a transaction raises no public interest harms or that any such harms would be ameliorated by narrowly tailored conditions, it next considers a transaction’s public interest benefits. Notably, the Commission has long recognized the clear public interest benefits in a license or authorization holder being able to assign or transfer control of its license or authorization freely.<sup>45</sup> The Commission will also review other claimed public interest benefits of a transaction, with the applicants bearing the burden of proving those benefits by a preponderance of the evidence.<sup>46</sup> As part of its public interest authority, the Commission may impose narrowly-tailored conditions to ensure for the public the transaction-specific benefits claimed by the Applicants.<sup>47</sup>

11. Finally, if the Commission finds that narrowly tailored, transaction-specific conditions are able to ameliorate any public interest harms and the transaction is in the public interest, it may approve the transaction as so conditioned.<sup>48</sup> In contrast, if the Commission does not find that a proposed transaction even with such conditions serves the public interest or if the record presents a substantial and material question of fact, then it must designate the application for hearing.<sup>49</sup>

#### IV. QUALIFICATIONS OF APPLICANTS AND COMPLIANCE WITH COMMUNICATIONS ACT AND FCC RULES AND POLICIES

12. Section 310(d) of the Act requires that the Commission make a determination as to whether the Applicants have the requisite qualifications to hold Commission licenses.<sup>50</sup> Among the factors the Commission considers in its public interest review is whether the applicant for a license has

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<sup>30</sup> Lead Application at Exh. 1 at 9.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at Exh. 1 at 1.

<sup>33</sup> On June 21, 2019, the DOJ granted early termination of its pre-merger HSR review. Early Termination Notice, <https://www.ftc.gov/enforcement/premerger-notification-program/early-termination-notices/20191497>.

<sup>34</sup> Applicants filed transfer of control applications with the public service commissions of Washington, Oregon, and Montana on June 28, 2019. Applicants’ Additional Responses at 2-3. On June 22, 2019, Applicants also filed applications with the necessary local franchise authorities in Washington and Oregon. *Id.* Our review of applications filed with the Commission does not affect the states’ independent proceedings on the proposed transaction, nor do we intend any finding in this Memorandum Opinion and Order to pre-judge the states’ independent consideration of matters before them under applicable state law or precedent, which may differ from our standard of review.

<sup>35</sup> *Id.* Within 120 days prior to closing, Frontier states that it will provide Northwest Fiber with at minimum weekly updates and jointly develop with Northwest Fiber detailed testing procedures and criteria, as well as notify Northwest Fiber, within 60 days prior to closing, that it has completed the OSS replication and separation. *Id.* at 3-4.

<sup>36</sup> *Id.*

<sup>37</sup> 47 U.S.C. § 214(a), 310(d). Section 310(d) requires that the Commission consider the applications for transfer of Title III licenses under the same standard as if the proposed transferee were applying for licenses directly under section 308 of the Act, 47 U.S.C. § 308. See, e.g., *Applications of T-Mobile US, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations, et al.*, WT Docket 18-197, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, FCC 19-103, at 18, para. 39 (Nov. 5, 2019) (*T-Mobile-Sprint Order*); *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer*

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the requisite “citizenship, character, financial, technical, and other qualifications.”<sup>51</sup> Therefore, as a threshold matter, the Commission must determine whether the applicants to a proposed transaction meet the requisite qualification requirements to hold and transfer licenses under section 310(d) of the Act and the Commission’s rules.<sup>52</sup>

13. No party has raised an issue with respect to the basic qualifications of either Frontier or Northwest Fiber. The Commission generally does not reevaluate the qualifications of transferors unless issues related to basic qualifications have been sufficiently raised in petitions to warrant designation for hearing.<sup>53</sup> We find that there is no reason to reevaluate the requisite citizenship, character, financial, technical, or other basic qualifications of Frontier under the Act or our rules, regulations, and policies. In addition, no parties have alleged that Northwest Fiber lacks the requisite qualifications, and there is no evidence in the record to support such a finding. Accordingly, we find that Northwest Fiber has the requisite citizenship, character, financial, technical, and other basic qualifications under the Act and our rules, regulations, and policies.

14. The proposed transaction must comply with the Act, other applicable statutes, and the Commission’s rules before we can find that it is in the public interest.<sup>54</sup> We find that the proposed Transaction will not violate any statutory provision or Commission rule.

## V. POTENTIAL PUBLIC INTEREST HARMS AND BENEFITS

### A. Potential Harms

15. Based on our evaluation of the record, we find that the proposed Transaction is unlikely to result in any material public interest harm in the Transaction Territory. Because the Transferring Companies and Northwest Fiber do not currently compete with each other, the Transaction would not reduce the number of service providers in the Transaction Territory. We also review and reject the

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*Control of Licenses and Authorizations*, Memorandum Opinion and Order, 32 FCC Rcd 9581, 9585, para. 8 (2017) (*CenturyLink-Level 3 Order*); *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5672, para. 19 (2007) (*AT&T-BellSouth Order*).

<sup>38</sup> 47 CFR § 63.03(c)(1)(v) (noting that an analysis under section 214(a) includes a determination of “whether a proposed transfer of control would serve the public interest”); *see also, e.g., T-Mobile-Sprint Order* at 18, para. 39; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 8; *Applications filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer Control*, WC Docket No. 10-110, Memorandum Opinion and Order, 26 FCC Rcd 4194, 4198-99, para. 7 (2011) (*CenturyLink-Qwest Order*); *AT&T-BellSouth Order*, 22 FCC Rcd at 5672, para. 19.

<sup>39</sup> *T-Mobile-Sprint Order* at 18, para. 39; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 8; *CenturyLink-Qwest Order*, 26 FCC Rcd at 4199, para. 7.

<sup>40</sup> *See, e.g., T-Mobile-Sprint Order* at 18, para. 40; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9.

<sup>41</sup> *See, e.g., T-Mobile-Sprint Order* at 18, para. 40; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9; *see also Northeast Utils. Serv. Co. v. FERC*, 993 F.2d 937, 947 (1st Cir. 1993) (public interest standard does not require agencies “to analyze proposed mergers under the same standards that the Department of Justice . . . must apply”).

<sup>42</sup> *T-Mobile-Sprint Order* at 18, para. 40; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9.

<sup>43</sup> *See, e.g., T-Mobile-Sprint Order* at 18, para. 40; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585-86, para. 9.

<sup>44</sup> *See, e.g., T-Mobile-Sprint Order* at 18, para. 40; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 9.

<sup>45</sup> *See, e.g., T-Mobile-Sprint Order* at 19, para. 41; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 10.

<sup>46</sup> 47 U.S.C. § 309(e); *T-Mobile-Sprint Order* at 19, para. 41; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 10.

<sup>47</sup> *See, e.g., T-Mobile-Sprint Order* at 19, para. 41; *Applications of GCI Communication Corp., ACS Wireless*

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commenters' claims concerning Frontier's interconnection and business practices in Montana as not specific to this Transaction. We find it unnecessary to impose proposed conditions on the approval of the Transaction that would require Northwest Fiber to commit to specific arrangements for competitive local exchange carriers (LECs) or that address prior conduct by Frontier.<sup>55</sup> At the same time, we acknowledge Northwest Fiber's record statements that it will take steps to improve service in areas of Montana that the commenters identify as having existing service quality issues.<sup>56</sup>

16. *Competition.* Northwest Fiber and Frontier do not currently compete to provide service for customers in any geographic areas within the Transaction Territory.<sup>57</sup> Instead, they maintain that by upgrading Frontier's existing network and expanding fiber and service options, Northwest Fiber will primarily increase competition for broadband service currently offered by cable companies.<sup>58</sup> Post-closing, Northwest Fiber anticipates that it "will continue to face intense competition from other service providers, such as cable operators, wireless carriers, long-distance carriers, and other providers for both retail and business customers."<sup>59</sup> We agree. No commenter raises claims to the contrary. We therefore find that there are no adverse competitive effects that would arise from the Transaction.

17. *Interconnection Practices.* We decline to adopt the requests made by Montana Sky Networks to use this proceeding to address the "dysfunction that Montana Sky has endured to this point" with Frontier.<sup>60</sup> Citing past dealings with Frontier that it argues have impacted its business, including disputes over pricing for unbundled network elements that occurred "some years ago," Montana Sky asks that the Commission require that Northwest Fiber "commit to commercially reasonable practices in its interconnection and resale negotiations" with competitive LECs in the Montana markets,<sup>61</sup> a "dig once" notification process to give competitors access to trenches Northwest Fiber opens to install network infrastructure,<sup>62</sup> and access "on commercially reasonable terms" to "backbone and middle mile fiber lines" in a specific location, Libby, Montana.<sup>63</sup> We similarly decline the request of Representative Steve Gunderson of the Montana House of Representatives, in support of Montana Sky, to require Northwest Fiber to commit "up front to pro-competitive practices and address poor service in communities in Libby,

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*License Sub, Inc., ACS of Anchorage License Sub, Inc., and Unicom, Inc. for Consent to Assign Licenses to the Alaska Wireless Network, LLC*, Memorandum Opinion and Order and Declaratory Ruling, 28 FCC Rcd at 10433, 10443-44, para. 26 (2013) (*Alaska Wireless-GCI Order*).

<sup>48</sup> See, e.g., *T-Mobile-Sprint Order* at 19, para. 42; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 11.

<sup>49</sup> 47 U.S.C. § 309(e); *T-Mobile-Sprint Order* at 19, para. 42; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586-87, para. 11. Section 309(e)'s requirement applies only to those applications to which Title III of the Act applies. *T-Mobile-Sprint Order* at 19, para. 42, n.131 (citing *ITT World Communications, Inc. v. FCC*, 595 F.2d 897, 901 (2d Cir. 1979) (*ITT World v. FCC*); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586-87, para. 11 & n.37). The Commission is not required to designate for hearing applications for the transfer or assignment of Title II authorizations when it is unable to find that the public interest would be served by granting the applications, see *ITT World v. FCC*, 595 F.2d 897 at 901, but may do so if it finds that a hearing would be in the public interest. *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586-87, para. 11 & n.37.

<sup>50</sup> 47 U.S.C. § 310(d).

<sup>51</sup> 47 U.S.C. §§ 308, 310(d); see also *T-Mobile-Sprint Order* at 19, para. 43; *Applications of AT&T, Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9142, para. 24 (2015) (*AT&T-DIRECTV Order*); *CenturyLink-Qwest Order*, 26 FCC Rcd at 4201, para.11; *AT&T-BellSouth Order*, 22 FCC Rcd at 5756, para. 19.

<sup>52</sup> See *T-Mobile-Sprint Order* at 19, para. 43; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9142, para. 24; *CenturyLink-Qwest Order*, 26 FCC Rcd at 4201, para.11; *AT&T-BellSouth Order*, 22 FCC Rcd at 5756, para. 191.

<sup>53</sup> See *T-Mobile-Sprint Order* at 20, para. 45; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9142, para. 25.

<sup>54</sup> See *T-Mobile-Sprint Order* at 21, para. 47; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9587, para. 14.

<sup>55</sup> Montana Sky Comments at 2; Rep. Gunderson Comments at 1.

Troy, and the Bull River Valley in Montana.”<sup>64</sup>

18. We agree with Applicants that the commenters describe frustration with pre-existing business practices of Frontier, rather than specific harms that arise from the Transaction.<sup>65</sup> The Commission has long held that it will not mediate private contractual disputes<sup>66</sup> or impose conditions to remedy pre-existing harms or harms that are unrelated to the proposed transaction.<sup>67</sup> Indeed, we find that requests about prior conduct, poor service quality, access to specific infrastructure, or future potential business practices are more appropriately addressed through normal dispute resolution processes, such as the complaint processes of the Commission or applicable state public utility commissions, litigation or arbitration, where specified, or by participating in appropriate Commission or state proceedings rather than as part of the review of the instant Transaction.<sup>68</sup>

19. At the same time, while not specific to this Transaction, Rep. Gunderson raises important issues regarding Frontier’s service quality in portions of the Transaction Territory in Montana that Applicants acknowledge.<sup>69</sup> Specifically, the current Frontier network does not connect Libby, Troy, and the Bull River Valley in Montana to “robust, nearby, or redundant core networks.”<sup>70</sup> Northwest Fiber pledges within one year of the closing date “to connect the Montana areas to its enhanced and upgraded core network, which will enable redundant connectivity.”<sup>71</sup> Northwest Fiber states that it anticipates these upgrades will improve the communications services provided to its Montana customers in the specified areas, while “[t]he planned redundancy in the core network and the connectivity of the facilities to the core network will reduce both the number and severity of outages due to fiber cuts.”<sup>72</sup> These planned post-transaction upgrades and enhancements should alleviate Rep. Gunderson’s service-related concerns in these geographic areas.

## **B. Potential Benefits**

20. Having determined that there are no material harms, indeed no harms of any type, associated with the Transaction, we next review the claimed public interest benefits, beyond fostering the

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<sup>56</sup> Lead Application at Exh. 1 at 11-12; Applicants’ Additional Responses at 7-8.

<sup>57</sup> Lead Application at Exh. 1 at 5, 14. Prior to this Transaction, Northwest Fiber did not operate in the Transaction Territory, nor did it plan to initiate operations in these geographic areas. *Id.* at Exh. 1 at 14.

<sup>58</sup> *Id.* at Exh. 1 at 5, 14.

<sup>59</sup> *Id.*

<sup>60</sup> Montana Sky Comments at 3.

<sup>61</sup> *Id.* at 2. Applicants state that competitive LECs purchase unbundled network elements from Frontier in Washington, Oregon, and Idaho, and that they purchase and resell Frontier services in those three states and in Montana. Applicants’ Supplement at 5. They affirm that Northwest Fiber will retain existing wholesale customer arrangements in the Transaction Territory on substantially the same terms and conditions. Lead Application at Exh. 1 at 16-17.

<sup>62</sup> Montana Sky Comments at 2-3.

<sup>63</sup> *Id.* at 3.

<sup>64</sup> Rep. Gunderson Comments at 1.

<sup>65</sup> See *T-Mobile-Sprint Order* at 19, para. 40; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9601, para. 42.

<sup>66</sup> See, e.g., *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9601, para. 42 (denying claims that arise from a pre-existing dispute that were not related to the transaction and would not be grounds for a condition on the parties).

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> Applicants’ Additional Responses at 7.

free transferability of licenses and authorizations.<sup>73</sup> The Commission finds a claimed benefit to be cognizable only if it is transaction-specific—meaning it naturally arises as a result of the transaction<sup>74</sup>—and is verifiable.<sup>75</sup>

21. We find that the record indicates the Transaction may result in public interest benefits. Applicants contend that the Transaction will bolster competition<sup>76</sup> and result in Transaction-specific public interest benefits by: (1) upgrading the networks, product capabilities, and operations of the Transferring companies;<sup>77</sup> and (2) enhancing the combined company’s ability to compete against larger and better capitalized competitors.<sup>78</sup>

22. Northwest Fiber pledges to invest “hundreds of millions of dollars” in the Transferring Companies to upgrade the core network, expand the fiber-based network, and improve product capabilities and operations.<sup>79</sup> Specifically, within 18 months of the closing date, Northwest Fiber states its plans to expand the availability of fiber-to-the-premises to at least 250,000 additional locations, and within five years, to “at least 65% of the remaining locations in the current footprint.”<sup>80</sup> Within one year of the closing date, Northwest Fiber intends to upgrade download speeds to up to 1 Gbps for households with fiber-based services.<sup>81</sup> Based on these specific and tangible commitments, we find that the Transaction is likely to result in public interest benefits through the availability of improved services in the Transaction Territory.

## VI. NATIONAL SECURITY, LAW ENFORCEMENT, FOREIGN POLICY, AND TRADE CONCERNS

23. When analyzing a transfer of control or assignment application which includes foreign investment, we also consider public interest issues related to national security, law enforcement, foreign policy, or trade policy concerns.<sup>82</sup> The Commission has recognized its public interest analysis would benefit from input by the Executive Branch agencies that have expertise in these issues. The Commission

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<sup>70</sup> *Id.*

<sup>71</sup> Applicants’ Supplement at 7-8.

<sup>72</sup> *Id.* at 8. The Montana Public Service Commission (Montana PSC) proceeding addressing the Transaction includes a review of core network issues and service quality in Libby and Troy, Montana. On December 3, 2019, Northwest Fiber and the Montana Consumer Counsel sought approval from the Montana PSC of their joint stipulation proposing conditions on the Transaction that require Northwest Fiber to commit to broadband network and service deployment obligations in those areas. *Joint Application of Northwest Fiber, LLC and Frontier Communications Corporation for an Order Approving the Transfer of Control of Citizens Telecommunications Company of Montana to Northwest Fiber, LLC*, Utility Division, Docket No. D2019.6.39, Stipulation of Joint Applicants and the Montana Consumer Counsel, Exh. 1 (Conditions) at 1 (Montana PSC, Dec. 3, 2019).

<sup>73</sup> See *T-Mobile-Sprint Order* at 94, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50.

<sup>74</sup> See *T-Mobile-Sprint Order* at 94, para. 214. Or as the Commission has previously put it, “likely to be accomplished as a result of the merger but unlikely to be realized by other means that entail fewer anticompetitive effects.” *AT&T/BellSouth Order*, 22 FCC Rcd. at 5761, para. 202.

<sup>75</sup> See *T-Mobile-Sprint Order* at 94, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50 (citing *AT&T-BellSouth Order*, 22 FCC Rcd. at 5761, para. 202).

<sup>76</sup> Lead Application at 4-5 and Exh. 1 at 14-15; Applicants’ Reply at 4.

<sup>77</sup> Lead Application at Exh. 1 at 5.

<sup>78</sup> *Id.* at Exh. 1 at 12 (“[T]he Transferring Companies will be well financed and emerge from this transaction as a stronger, more stable competitor with a financial structure and substantial cash flow that will enable it to make the planned investments, including in broadband, and to provide even more efficient service in these areas.”).

<sup>79</sup> This investment is in addition to the Transferring Companies’ participation in the Connect America Fund (CAF) Phase II program, which will continue post-merger. Lead Application at Exh. 1 at 3-4, 12; Applicants’ Reply at 3-4;

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accords deference to the expertise of the Executive Branch agencies in identifying and interpreting issues of concern related to national security, law enforcement, foreign policy, or trade policy concerns raised by the relevant Executive Branch agencies.<sup>83</sup> The Commission, however, makes an independent decision on the applications based on the record in the proceeding.<sup>84</sup>

24. The Team Telecom agencies requested that the Commission defer action on the Transaction while they reviewed for any potential national security, law enforcement, and public safety concerns.<sup>85</sup> On November 22, 2019, in the DOJ Petition, DOJ advises that it has no objection to the Commission granting the Applications and the section 310(b)(4) petition provided that the Commission conditions its consent on compliance by Northwest Fiber with the commitments and undertakings set forth in the LOA.<sup>86</sup>

25. In assessing the public interest, we take into account the record developed in each particular case and accord appropriate deference to the expertise of the Executive Branch agencies on national security and law enforcement, and other concerns related to foreign ownership of Commission licensees.<sup>87</sup> As the Commission stated in the *Foreign Participation Order*, foreign participation in the U.S. telecommunications market may implicate significant national security or law enforcement issues uniquely within the expertise of the Executive Branch.<sup>88</sup> In accordance with the request of the DOJ and in the absence of any objection from the Applicants, we grant the DOJ Petition and condition our grant of the Applications on Northwest Fiber's compliance with the commitments and undertakings set forth in the LOA.<sup>89</sup>

## VII. SECTION 310(B) FOREIGN OWNERSHIP REVIEW AND PETITION FOR DECLARATORY RULING

26. Section 310(b)(4) of the Act establishes a 25% benchmark for investment by foreign individuals, governments, and corporations in U.S.-organized entities that directly or indirectly control

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Applicants' Additional Responses at 6. The Applicants assert that Northwest Fiber "will be well capitalized at Closing, with approximately \$300 million of cash and over \$500 million in total available liquidity" and "prudently leveraged, having been capitalized with roughly equal parts debt and equity." Lead Application at Exh. 1 at 12.

<sup>80</sup> Applicants' Additional Responses at 6.

<sup>81</sup> *Id.* at 6, 7.

<sup>82</sup> *T-Mobile-Sprint Order* at 112, para. 349; *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-21, paras. 59-66 (1997) (*Foreign Participation Order*), *recon. denied*, 15 FCC Rcd 18158 (2000) (in opening the U.S. telecommunications market to foreign entry in 1997, the Commission affirmed that it would consider national security, law enforcement, foreign policy, and trade policy concerns related to reportable foreign ownership as part of its overall public interest review of applications for international section 214 authority, submarine cable landing licenses, and declaratory rulings to exceed the foreign ownership benchmarks of section 310(b) of the Act).

<sup>83</sup> *T-Mobile-Sprint Order* at 112, para. 349; *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Report and Order, 31 FCC Rcd 11272, 11277, para. 6 (2016) (*2016 Foreign Ownership Order*), *pet. for recon. dismissed*, 32 FCC Rcd 4780 (2017); *Foreign Participation Order*, 12 FCC Rcd at 23919, para. 62.

<sup>84</sup> *T-Mobile-Sprint Order* at 112, para. 349; *Foreign Participation Order*, 12 FCC Rcd at 23921, para. 66; *see also Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Second Report and Order, 28 FCC Rcd 5741, 5762, para. 34 (2013) (*2013 Foreign Ownership Order*) ("While the Commission has exercised its discretion to rely substantially on the views of Executive Branch agencies for their expertise on matters of national security, law enforcement, foreign policy and trade policy in cases involving foreign investment in U.S. common carrier and

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U.S. common carrier wireless and satellite service licensees.<sup>90</sup> This section of the Act also grants the Commission discretion to allow higher levels of foreign ownership in a licensee’s controlling U.S.-organized parent unless the Commission finds that the public interest would be served by refusing to permit such foreign ownership.<sup>91</sup> The Commission’s public interest analysis under section 310(b)(4) also considers national security, law enforcement, foreign policy, or trade policy issues that may be raised by the foreign ownership.<sup>92</sup>

27. Frontier Idaho, Frontier Montana, and Frontier Northwest (collectively, the Licensees) and Northwest Fiber (Licensees and Northwest Fiber, collectively, the Petitioners), jointly request a declaratory ruling, pursuant to section 310(b)(4) of the Act and section 1.5000(a)(1) of the Commission’s rules,<sup>93</sup> to permit foreign ownership of the Licensees’ proposed, controlling U.S. parent (Northwest Fiber), to exceed the 25% benchmark specified in section 310(b)(4) of the Act.<sup>94</sup> Petitioners assert that the proposed foreign ownership of the Licensees’ controlling U.S. parent, Northwest Fiber, would serve the public interest.

28. The Petition states that, upon completion of the proposed transaction, Northwest Fiber would have aggregate direct and/or indirect foreign equity and voting interests of approximately 85% and 90%, respectively.<sup>95</sup> As discussed in Section II.A.2., approximately 90% of the equity and voting interests in Northwest Fiber will be held by Searchlight II OPT, L.P. (Searchlight Aggregator LP), a Delaware limited partnership and master aggregator of an investor group led by U.S. and foreign-based funds affiliated with Searchlight Capital Partners, L.P., a Delaware limited partnership (collectively, Searchlight). Searchlight is a private equity investment company that is ultimately owned and controlled in equal shares by its three founding partners, two of whom are non-U.S. citizens, Erol Uzumeri, a Canadian citizen, and Oliver Haarmann, a German citizen.<sup>96</sup> The Petition states that the limited partners of Searchlight are passive economic investors, including a mix of public pension plans, family offices,

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aeronautical licensees, we do not believe it would be appropriate for us essentially to delegate this statutory responsibility to such agencies.”).

<sup>85</sup> NSD Letter. The Commission referred the application to the following Executive Branch agencies: DHS, DOJ (including the Federal Bureau of Investigation), DOD, the Department of State, the Department of Commerce and the National Telecommunications and Information Administration (NTIA), the United States Trade Representative, and the Office of Science and Technology Policy. Of these, the national security agencies—DHS, DOJ, and DOD—which are known as “Team Telecom,” requested that the Commission defer action on the Transaction.

<sup>86</sup> DOJ Petition at 1; LOA.

<sup>87</sup> *T-Mobile-Sprint Order* at 113, para. 353; *2016 Foreign Ownership Order*, 31 FCC Rcd at 11277, para. 6; *Foreign Participation Order*, 12 FCC Rcd at 23919, paras. 61-62.

<sup>88</sup> *Foreign Participation Order*, 12 FCC Rcd at 23919, para. 62.

<sup>89</sup> The DOJ Petition and LOA are publicly available on the Commission’s website at [https://licensing.fcc.gov/myibfs/download.do?attachment\\_key=2044045](https://licensing.fcc.gov/myibfs/download.do?attachment_key=2044045) (DOJ Petition) and [https://licensing.fcc.gov/myibfs/download.do?attachment\\_key=2044046](https://licensing.fcc.gov/myibfs/download.do?attachment_key=2044046) (LOA).

<sup>90</sup> 47 U.S.C. § 310(b)(4) (“No broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by . . . any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.”).

<sup>91</sup> 47 U.S.C. § 310(b)(4). Under the Commission’s secondary market rules, spectrum lessees (and spectrum

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university endowments and corporate pension plans<sup>97</sup> Some of the Searchlight entities participating in the proposed acquisition are domiciled in the Cayman Islands. In addition, three Canadian pension funds will hold a non-controlling 10% or greater interest in Northwest Fiber through co-investments in certain Searchlight funds: (1) Canada Pension Plan Investment Board, through its wholly-owned subsidiary, CPP Investment Board Private Holdings, Inc.; (2) British Columbia Investment Management Corporation, through its wholly-owned subsidiary, IMCPE 2019 Inc.; and (3) Public Sector Pension Investment Board, through its wholly-owned subsidiary, Port-aux-Choix Private Investments Inc.

29. Pursuant to section 1.5001(i) of the rules,<sup>98</sup> Petitioners request that the Commission specifically approve the direct and/or indirect foreign equity and/or voting interests that would be held in Northwest Fiber upon completion of the proposed transaction by foreign-organized entities and foreign individuals as follows:

Searchlight Capital Partners II GP, L.P. (1% equity, 90% voting) (Cayman Islands);  
 Searchlight Capital II, L.P. (10% equity, 11% voting) (Cayman Islands);  
 Searchlight Capital II OPT Feeder, LP (13% equity, 14% voting) (Cayman Islands);  
 Canada Pension Plan Investment Board (19% equity, 30% voting) (Canada);  
 CPP Investment Board Private Holdings, Inc. (19% equity, 30% voting) (Canada);  
 British Colombia Investment Management Corporation (18% equity, 29% voting) (Canada);  
 IMCPE 2019 Inc. (18% equity, 29% voting) (Canada);  
 Public Sector Pension Investment Board (30% equity, 47% voting) (Canada);  
 Port-aux-Choix Private Investments Inc. (30% equity, 47% voting) (Canada);  
 Erol Uzumeri (0% equity, 33.33% voting) (Canada); and  
 Oliver Haarmann (0% equity, 33.33% voting) (Germany).

30. Petitioners request advance approval, pursuant to section 1.5001(k),<sup>99</sup> for each above-identified foreign investor (collectively, Identified Foreign Investors) to increase its direct or indirect equity and/or voting interests in Northwest Fiber up to a 49.99% non-controlling interest, provided the investor is not already deemed to have a controlling interest. Petitioners also request approval for the Identified Foreign Investors to own collectively, directly or indirectly, equity and/or voting interests of up to 100% in Northwest Fiber so long as no single Identified Foreign Investor that is not currently deemed to have a controlling interest owns more than a 49.99% interest or a controlling interest. Petitioners further request advance approval to have additional foreign ownership of up to 100% of the equity and/or

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 sublessees) providing common carrier service are subject to the same foreign ownership requirements that apply to common carrier licensees under sections 310(a) and (b) of the Act. 47 CFR §§ 1.9020(d)(2)(ii), 1.9030(d)(2)(ii), 1.9035(e)(1).

<sup>92</sup> *T-Mobile-Sprint Order* at 114, para. 355; *Foreign Participation Order*, 12 FCC Rcd at 23918-21, paras. 59-66.

<sup>93</sup> 47 U.S.C. § 310(b)(4); 47 CFR § 1.5000(a)(1). *See generally 2016 Foreign Ownership Order*, 31 FCC Rcd 11272 (codifying the Commission's foreign ownership rules for broadcast, common carrier, aeronautical en route and aeronautical fixed radio station licenses).

<sup>94</sup> The Licensees collectively hold 56 common carrier fixed point-to-point microwave licenses that are subject to the foreign ownership restrictions in section 310(b) of the Act, including section 310(b)(4). Petition at 4 and Exh. C.

<sup>95</sup> Petition at 2.

<sup>96</sup> *Id.* at 5. Searchlight will have the right to elect a majority of Northwest Fiber's board of directors. *Id.* at 7.

<sup>97</sup> *Id.* at 7; December Supplement.

<sup>98</sup> 47 CFR § 1.5001(i).

<sup>99</sup> 47 CFR § 1.5001(k).

voting interests not held by the above-identified foreign investors provided that they seek approval of any new individual foreign investor that would own 5% or more.

31. We received no comments regarding foreign ownership, and the DOJ has advised the Commission that it has no objection to the Commission approving the authority sought, provided that the Commission conditions its approval on the compliance by Northwest Fiber with the provisions of the LOA between Northwest Fiber and the U.S. Department of Justice dated November 21, 2019. Based on our review of the record, under section 310(b)(4) of the Act and the Commission's foreign ownership rules and policies, we find that the public interest would not be served by prohibiting the foreign ownership that would be held in Northwest Fiber post-closing. We therefore grant the Petition subject to the conditions set out herein. This ruling authorizes, first, 100% aggregate foreign ownership of Northwest Fiber, as the controlling U.S. parent of the subject common carrier Licensees, subject to the terms and conditions set forth in section 1.5004 of the Commission's rules,<sup>100</sup> including the requirement to obtain Commission approval before foreign ownership of the Licensees exceeds the terms and conditions of this ruling.

32. In addition, pursuant to section 1.5001(i) of the rules, we approve the foreign equity and voting interests that would be held directly or indirectly in Northwest Fiber by each of the Identified Foreign Investors in the amounts specified above. We also approve Petitioners' requests for advance approval, pursuant to section 1.5001(k), permitting: (1) each Identified Foreign Investor to increase its direct or indirect equity and/or voting interests in Northwest Fiber up to a 49.99% non-controlling interest, provided the investor is not already deemed to have a controlling interest;<sup>101</sup> and (2) the Identified Foreign Investors to own collectively, directly or indirectly, equity and/or voting interests of up to 100% in Northwest Fiber so long as no single Identified Foreign Investor that is not currently deemed to have a controlling interest owns more than a 49.99% interest or a controlling interest. Under this ruling, Northwest Fiber is also authorized to have, post-closing, additional aggregate foreign ownership of up to 100% of the equity and/or voting interests not held by the Identified Foreign Investors provided that the subject Licensees seek and obtain Commission approval for any foreign individual, entity, or "group" not previously approved to acquire, directly and/or indirectly, a non-controlling greater-than-5% interest or, in the circumstances specified in section 1.5001(i)(3), a greater-than-10% interest, in Northwest Fiber.<sup>102</sup>

33. Finally, under this ruling, Petitioners have an affirmative duty to monitor their foreign equity and voting interests, calculate these interests consistent with the principles enunciated by the Commission, including the standards and criteria set forth in sections 1.5002 through 1.5003 of the rules,<sup>103</sup> and otherwise ensure continuing compliance with the provisions of section 310(b) of the Act.<sup>104</sup> A failure to comply and/or remain in compliance with a condition of this authorization shall constitute grounds for declaring it terminated without further action on the part of the Commission. Failure to meet a condition of this ruling may also result in monetary sanctions or other enforcement action by the Commission.

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<sup>100</sup> 47 CFR § 1.5004.

<sup>101</sup> For advance approval purposes, we find that only Searchlight Capital Partners II GP, L.P. is deemed to have a controlling interest.

<sup>102</sup> In determining whether additional, previously unapproved interests would exceed the terms and conditions of this ruling, it is important to first determine whether a previously unidentified limited partner or member of a limited liability company (LLC) is properly insulated pursuant to section 1.5003. If not, the limited partner or LLC member will be deemed to hold indirectly the same voting interest in Northwest Fiber as is held or is deemed to be held, under the rules, by the limited partnership or LLC. Thus, to the extent the limited partnership or LLC holds or is deemed to hold a voting interest in Northwest Fiber that requires specific approval, the entity's uninsulated foreign partners/members would also require specific approval.

<sup>103</sup> 47 CFR §§ 1.5002-1.5003.

<sup>104</sup> 47 CFR § 1.5004, Note to paragraph (a).

## VIII. CONCLUSION

34. After a thorough review of the proposed Transaction and the record in this proceeding, we conclude that the Applicants are fully qualified to transfer the authorizations and licenses in Appendix A and that the proposed Transaction will serve the public interest. We also find that the public interest would not be served by prohibiting the foreign ownership that would be held in Northwest Fiber post-closing. We therefore grant the Petition subject to the conditions set out herein.

## IX. ORDERING CLAUSES

35. Accordingly, having reviewed the record in this matter, **IT IS ORDERED**, pursuant to sections 4(i) and (j), 5(c), 214(a), 214(c), 303(r), 309, and 310(d) of the Act, 47 U.S.C. §§ 154(i), 154(j), 155(c), 214(a), 214(c), 303(r), 309, 310(d), and sections 1.948, 63.04, and 63.24 of the Commission's rules, 47 C.F.R. §§ 1.948, 63.04, 63.24, and pursuant to the authority delegated under sections 0.51, 0.91, 0.131, 0.261, 0.291, and 0.331 of the Commission's rules, 47 CFR §§ 0.51, 0.91, 0.131, 0.261, 0.291, 0.331, that the Applications to transfer control of the licenses and authorizations listed in Appendix A **ARE GRANTED**, as conditioned in this Memorandum Opinion and Order and Declaratory Ruling.

36. **IT IS FURTHER ORDERED** that, pursuant to Sections 4(i)-(j) and 310(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 310(b), and sections 1.5001-04 of the Commission's rules, 47 C.F.R. §§ 1.5001-04, the Petition for Declaratory Ruling filed by Petitioners **IS GRANTED**, as conditioned in this Memorandum Opinion and Order and Declaratory Ruling.

37. **IT IS FURTHER ORDERED** that, pursuant to Sections 4(i)-(j) and 310(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 310(b), and §§ 1.5001-04 of the Commission's rules, 47 C.F.R. § 1.5001-04, the Petition to Adopt Conditions of the U.S. Department of Justice **IS GRANTED**.

38. **IT IS FURTHER ORDERED** that, pursuant to Sections 4(i)-(j), 214, 303(r), 309, 310(b), and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 214, 303(r), 309, 310(b), 310(d), grant of the Applications and Petition for Declaratory Ruling **IS CONDITIONED UPON** compliance by Northwest Fiber with the Letter of Agreement from Timothy B. Austin, Vice President and Secretary, Northwest Fiber, LLC, to Assistant Attorney General for National Security, Department of Justice, dated November 21, 2019. Any failure to comply and/or remain in compliance with any of these commitments and undertakings shall constitute a failure to meet a condition of the underlying authorizations and licenses and thus grounds for declaring the authorizations and licenses terminated without any further action on the part of the Commission. Failure to meet a condition of the license may also result in monetary sanctions or other enforcement action by the Commission.

39. **IT IS FURTHER ORDERED** that this Memorandum Opinion and Order and Declaratory Ruling **SHALL BE EFFECTIVE** upon release, in accordance with section 1.102 of the Commission's rules, 47 CFR § 1.102. Petitions for reconsideration under section 1.106 of the Commission's Rules, 47 CFR § 1.106, may be filed within thirty days of the release date of this Memorandum Opinion and Order and Declaratory Ruling.

## FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Chief, Wireline Competition Bureau

Thomas Sullivan  
Chief, International Bureau

Donald Stockdale  
Chief, Wireless Telecommunications Bureau

## APPENDIX A

## Applications to Transfer Control of Licenses and Authorizations Held by Frontier

## SECTION 214 AUTHORIZATIONS

## A. International

<u>File Number</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-T/C-20190628-00128	Frontier Communications NW Inc.	ITC-214-20080219-00079
ITC-ASG-20190628-00129	Frontier Communications of America, Inc.	ITC-214-19971202-00753 ITC-214-20001121-00680
ITC-ASG-20190628-00130	Frontier Communications Online and Long Distance, Inc.	ITC-214-19981214-00867

## B. Domestic

The Wireline Competition Bureau grants the application to transfer control of domestic section 214 authority in connection with the Northwest Fiber-Frontier Transaction.

## SECTION 310(d) WIRELESS AUTHORIZATIONS

<u>ULS File Number</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0008706469	Citizens Telecommunications Company of Idaho	KPQ36
0008706476	Citizens Telecommunications Company of Montana	KOY43
0008706478	Frontier Communications Northwest Inc.	KOT44