

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

In the Matter of	)	
	)	
Applications Filed for the Transfer of Control of	)	WC Docket No. 20-197
Authorizations Held by Frontier Communications	)	
Corporation, Debtor-in-Possession and its Wholly-	)	
Owned Subsidiaries	)	
	)	
The Rural Digital Opportunity Fund Auction	)	AU Docket No. 20-34
(Auction 904)	)	

**MEMORANDUM OPINION AND ORDER AND DECLARATORY RULING**

**Adopted: January 14, 2021**

**Released: January 14, 2021**

By the Chief, Wireline Competition Bureau; Chief, International Bureau; Chief, Wireless Telecommunications Bureau; Chief, Office of Economics and Analytics:

**I. INTRODUCTION**

1. Frontier Communications Corporation, Debtor-in-Possession (Frontier) and its wholly-owned operating subsidiaries (Operating Subsidiaries) (collectively, Applicants) filed a series of applications<sup>1</sup> pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended (Act),<sup>2</sup> and sections 1.948, 63.03-04, 63.18, and 63.24 of the Federal Communications Commission’s (Commission or FCC) rules<sup>3</sup> seeking to “effectuate a pre-arranged plan of reorganization (the Plan, and the transactions contemplated thereunder, the Restructuring) under Chapter 11 (Chapter 11) of the United States Code” to transfer control of the authorizations held by the Operating Subsidiaries from Frontier as debtor-in-possession to a newly formed parent company, Frontier Communications Parent (Reorganized Frontier).<sup>4</sup> Frontier filed a petition for declaratory ruling (Petition) on behalf of the Operating

<sup>1</sup> See Joint Application of Frontier Communications Corporation, Debtor-in-Possession and its Wholly- Owned Operating Subsidiaries for Consent to Assign and Transfer Control of Domestic and International Section 214 Authorizations Holders, WC Docket No. 20-197 (filed June 24, 2020) (Lead Application, and together with the applications listed in Attachment A, Applications).

<sup>2</sup> 47 U.S.C. §§ 214, 310(d).

<sup>3</sup> 47 CFR §§ 1.948, 63.03-04, 63.18, 63.24. The Commission licenses and authorizations subject to the applications are listed in Attachment A and include existing domestic and international section 214 authorizations and wireless licenses.

<sup>4</sup> Lead Application at 1-2. On April 14, 2020, Frontier and all of its direct and indirect subsidiaries, including the Operating Subsidiaries, filed voluntary petitions with the Bankruptcy Court for the Southern District of New York to comprehensively restructure Frontier under Chapter 11. Lead Application at 1 n.3 (citing *In re Frontier Communications Corporation, et al.*, Case No. 20-22476 (RDD) (Bankr. SDNY 2020) (Bankruptcy Court Decision)). On May 15, 2020, Applicants filed the Plan with the Bankruptcy Court to implement the terms of a Restructuring Support Agreement (RSA) with Frontier’s senior unsecured noteholders holding more than 75% of its unsecured bonds (such noteholders, the Consenting Noteholders, and all holders of Frontier’s unsecured senior notes, the Senior Noteholders). Lead Application at n.3; Exh. 1 (Description of the Parties, Description of the Transaction, Public Interest Statement (Public Interest Statement)) at 1-2, 9-13, and Attach. B (Restructuring Plan).

Subsidiaries holding common carrier wireless licenses to permit post-emergence foreign ownership above the 25% benchmark in section 310(b)(4) of the Act and section 1.5000(a)(1) of the Commission's rules.<sup>5</sup> Also, in connection with its participation in the Rural Digital Opportunity Fund Phase I Auction (Auction 904), Frontier separately requested a waiver of section 1.21001 of the Commission's rules, which prohibits major modifications to auction short-form applications, and sections 1.21004 and 54.804 of the Commission's rules, which require an auction winning bidder to submit a long-form application, in order to permit its successor(s) to replace it in the auction and/or post-auction process.<sup>6</sup>

2. On July 23, 2020, the Wireline Competition Bureau, International Bureau, and Wireless Telecommunications Bureau released a Public Notice accepting the Applications for filing and establishing a pleading cycle for public comments.<sup>7</sup> Communications Workers of America (CWA) and The Utility Reform Network (TURN) (together, CWA/TURN) timely filed joint comments in response to the Public Notice.<sup>8</sup> No party filed a petition to deny. The Applicants timely filed reply comments, and CWA also filed reply comments.<sup>9</sup> Another party, USTelecom, filed an *Ex Parte* Letter in support of the Applications.<sup>10</sup> The Applicants filed additional information to supplement the Applications on August 31, 2020,<sup>11</sup> and then on October 30, 2020, after the public comment period closed.<sup>12</sup>

3. On August 3, 2020, the Department of Justice (DOJ) informed the Commission that the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) was requesting that the Commission defer action on the Applications while it reviewed them for any national security and law enforcement concerns.<sup>13</sup> Then, on September 21, 2020,

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<sup>5</sup> Frontier Communications Corporation, Debtor-in-Possession and Its Licensee Subsidiaries, Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as amended, IBFS File No. ISP-PDR-20200624-00005 (filed June 24, 2020) (Petition) (citing 47 U.S.C. § 310(b)(4); 47 CFR § 1.5000(a)(1)).

<sup>6</sup> 47 CFR §§ 1.21001, 1.21004, 54.804; Frontier Communications Corporation, Debtor-in-Possession, Petition for Waiver, AU Docket No. 20-34 (filed July 15, 2020) (Auction 904 Petition); Frontier Communications Corporation, Debtor-in-Possession, Supplement to Petition for Waiver, AU Docket No. 20-34 (filed Dec. 18, 2020) (Auction 904 Supplement). Applications to participate in Auction 904 were due July 15, 2020. Frontier Communications Corporation, Debtor-in-Possession was the entity that applied to participate in the auction. *Rural Digital Opportunity Fund Phase I Auction Scheduled For October 29, 2020; Notice and Filing Requirements and Other Procedures For Auction 904*, Public Notice, 35 FCC Rcd 6077, 6082, para. 12 (2020) (*Auction 904 Procedures Public Notice*).

<sup>7</sup> *Applications Filed for the Assignment and Transfer of Control of Authorizations Held by Frontier Communications Corporation, Debtor-in-Possession and its Wholly-Owned Subsidiaries*, WC Docket No. 20-197, Public Notice, 35 FCC Rcd 7352 (WCB, IB, WTB 2020) (Public Notice).

<sup>8</sup> See Communications Workers of America & The Utility Reform Network Comments, WC Docket No. 20-197 (rec. Aug. 20, 2020) (CWA/TURN Comments).

<sup>9</sup> See Communications Workers of America & The Utility Reform Network Reply, WC Docket No. 20-197 (rec. Sept. 8, 2020) (CWA/TURN Reply); Frontier Communications Corporation Reply, WC Docket No. 20-197 (rec. Sept. 8, 2020) (Frontier Reply).

<sup>10</sup> See Letter from Jonathan Spalter, CEO, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-197 (filed Sept. 8, 2020) (USTelecom *Ex Parte*).

<sup>11</sup> See Letter from William F. Maher & Jennifer L. Kostyu, Counsel, Frontier, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-197 (filed Aug. 31, 2020) (Frontier Aug. 31 Letter).

<sup>12</sup> See Letter from William F. Maher & Jennifer L. Kostyu, Counsel, Frontier, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-197, at 1 (filed Oct. 30, 2020) (Frontier Oct. 30 Letter).

<sup>13</sup> Letter from Alice Suh Jou, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-197, File Nos. ISP-PDR-20200624-00005 *et al.* (filed Aug. 3, 2020). The Committee was established in Executive Order 13913, 85 Fed. Reg. 19643 (Apr. 8, 2020), to, among other things, review FCC applications and petitions with foreign ownership for risks to national security and law enforcement interests. The Department of

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DOJ notified the Commission that the Committee was “conducting a [120-day] initial review to assess whether granting the Applications will pose a risk to national security or law enforcement interests of the United States.”<sup>14</sup> On December 28, 2020, the National Telecommunications and Information Administration (NTIA) filed a Petition to Adopt Conditions to Authorizations and Licenses on behalf of the Committee stating that the Committee “has no objection to the Commission approving the [transaction], provided that the Commission conditions its approval on the assurance of [Frontier] to abide by the commitments and undertakings set forth in the December 17, 2020 Letter of Agreement (LOA).”<sup>15</sup>

4. While the Applications were pending, Frontier participated in Auction 904 to bid for Rural Digital Opportunity Fund Phase I support. On October 13, 2020, Commission staff released a public notice announcing that Frontier was among the applicants that had been qualified to bid in Auction 904.<sup>16</sup> On December 7, Commission staff released a public notice announcing that Frontier was a winning bidder in Auction 904.<sup>17</sup>

5. We have thoroughly reviewed the record, including the supplemental information submitted by the Applicants, and we conclude that the transaction serves the public interest, convenience, and necessity and meets the requirements of the Act.<sup>18</sup> Accordingly, we grant the Applications, subject to the conditions set forth below. We also grant a conditional waiver of sections 1.21004 and 54.804 as needed with respect to any Auction 904 long-form application filed by Frontier or its successors-in-interest, in order to help achieve the public interest benefit of facilitating Frontier’s prompt emergence from the bankruptcy process and to support broadband deployment to unserved areas of the country. Grant of the waiver will allow Frontier to complete a transaction that amounts to a transfer of control prior to the authorization of Rural Digital Opportunity Fund Phase I support.

## II. BACKGROUND

### A. Description of the Applicants

6. Frontier, a Delaware corporation, is the fourth largest local telecommunications company in the United States, serving approximately 4.1 million customers in 29 states.<sup>19</sup> Frontier currently owns and operates more than 50 incumbent local exchange carriers (LECs) located in 25 states.<sup>20</sup> Through its

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Justice, the Department of Homeland Security, and the Department of Defense are members of the Committee. *Id.* at Sec. 3(b).

<sup>14</sup> Letter from Alice Suh Jou, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-197, File Nos. ISP-PDR-20200624-00005 *et al.* (filed Sept. 21, 2020).

<sup>15</sup> National Telecommunications and Information Administration, Petition to Adopt Conditions to Authorizations and Licenses, WC Docket No. 20-197, File Nos. ISP-PDR-20200624-00005 *et al.*, at 1-2 (filed Dec. 28, 2020) (NTIA Petition) (citing the Letter of Agreement from Mark D. Nielson, Executive Vice President and Chief Legal Officer, Frontier, to the Chief, Foreign Investment Review Section (FIRS), Deputy Chief, Compliance and Enforcement (FIRS) on Behalf of the Assistant Attorney General for National Security, United States Department of Justice National Security Division (dated Dec. 17, 2020)). A copy of the LOA is attached to the NTIA Petition.

<sup>16</sup> *386 Applicants Qualified to Bid in the Rural Digital Opportunity Fund Phase I Auction (Auction 904)*, 35 FCC Rcd 11356, 11374 (OEA/WCB 2020) (*Auction 904 Qualified Bidders Public Notice*).

<sup>17</sup> *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, 35 FCC Rcd 13888, 13914-15 (OEA/WCB 2020) (*Auction 904 Closing Public Notice*).

<sup>18</sup> 47 U.S.C. §§ 214, 310(d).

<sup>19</sup> Public Interest Statement at 4 (numbers as of December 31, 2019).

<sup>20</sup> *Id.* Frontier’s current service territories are located in Alabama, Arizona, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Utah, West Virginia, and Wisconsin. Frontier also serves a de minimis number of customers in Virginia. *Id.* at 4 n.6.

interexchange carrier subsidiaries, it also provides intrastate, interstate, and international long distance service on a resale basis in each of the states where Frontier operates as an incumbent LEC.<sup>21</sup> Applicants state that Frontier and the Operating Subsidiaries provide local and long distance services, data and Internet services, video services, Voice-over-Internet Protocol, and other services throughout their operating territories.<sup>22</sup>

## B. Description of the Transaction

7. The Bankruptcy Court approved the Plan on August 21, 2020, and issued a confirmation order on August 27, 2020.<sup>23</sup> The Plan, as described by Applicants, proposes to pay in full all non-funded debt owed to Frontier's employees, contractors, vendors, suppliers, carriers, and other third parties and provides for the conversion of more than \$10 billion of Frontier's unsecured notes into equity in Reorganized Frontier.<sup>24</sup> Under the Plan, upon emergence from Chapter 11, holders of Frontier's unsecured senior notes (Senior Noteholders), which are primarily controlled by U.S.-based investment funds, will initially own, in the aggregate, 100% of the new common stock of Reorganized Frontier, although they do not anticipate that any single Senior Noteholder would hold a 10% or greater direct or indirect interest in Reorganized Frontier.<sup>25</sup> Applicants intend that the new common stock of Reorganized Frontier will be publicly traded and listed on a recognized U.S. stock exchange.<sup>26</sup> They explain that the proposed transition will not create any new majority shareholders of Frontier, and the Senior Noteholders will not exercise day-to-day control over the company.<sup>27</sup>

8. Further pursuant to the Plan, the Operating Subsidiaries will be held through a new corporate structure consisting of three newly-formed holding companies, all Delaware entities: Reorganized Frontier, Frontier Communications Intermediate (Frontier Intermediate), and Frontier Communications Holdings (Frontier Holdings).<sup>28</sup> These three companies will replace Frontier (the current publicly-traded parent holding company) in the ownership structure.<sup>29</sup> As part of the Chapter 11

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<sup>21</sup> *Id.* at 4.

<sup>22</sup> *Id.* at 4-5. According to Frontier it generated full-year 2019 revenue of approximately \$8.1 billion and a net income loss attributable to common shareholders of approximately \$5.9 billion. *Id.* at 5. It has a significant amount of funded indebtedness, which amounted to approximately \$17.5 billion as of the date it filed its bankruptcy petitions, of which \$5.7 billion was secured. *Id.* As a result of its financial challenges, Frontier's stock price dropped from \$125.70 per share in 2015 to \$0.37 per share prior to its bankruptcy petitions, reflecting an \$8.4 billion decrease in market capitalization. *Id.* It reports that did not pay any dividends to its shareholders in 2018 or 2019. *Id.*

<sup>23</sup> Frontier Aug. 31 Letter at 1 and Attach. 1 (Confirmation Order and Plan). The *Bankruptcy Court Approval Order* contains a timeline of the proceedings. Frontier Communications Corporation, et al., Finding of Fact, Conclusions of Law, and Order Confirming the Fifth Amended Joint Plan of Reorganization of Frontier Communications Corporation and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code, Case No. 20-22476 (RDD), at 1-4 (Bankr. SDNY 2020) (*Bankruptcy Court Approval Order*).

<sup>24</sup> Public Interest Statement at 10.

<sup>25</sup> Lead Application at 3-4; Public Interest Statement at 2-3, 9-12. Applicants state that some of the Senior Noteholders that will obtain a pro rata share of the equity in Reorganized Frontier are domiciled in foreign jurisdictions or have entities in their control chains that are domiciled in foreign jurisdictions. Public Interest Statement at 19; Petition at 3.

<sup>26</sup> Lead Application at 3; Public Interest Statement at 3, 12.

<sup>27</sup> Public Interest Statement at 12.

<sup>28</sup> Lead Application at 3; Public Interest Statement at 1 n.2, 12-13 and Attach. C (Pre- and Post-Restructuring Corporate Structure); Petition at 2-3. The stockholders of Reorganized Frontier will be the Senior Noteholders; however, the specific holding company structure and names of the holding company entities may be modified during the course of the bankruptcy proceeding.

<sup>29</sup> Public Interest Statement at 12; Petition at 2-3.

emergence process, Frontier will transfer all of the stock of its direct first-tier subsidiaries and any other assets held by Frontier to Frontier Holdings.<sup>30</sup> All outstanding and issued stock of Frontier will be cancelled, and the legal entity will dissolve.<sup>31</sup> According to Applicants, upon emergence, all existing direct, first-tier subsidiaries will be directly owned by Frontier Holdings, and Frontier's indirect subsidiaries will continue to be held by the existing intermediate holding company entities.<sup>32</sup> Through the new holding company corporate structure at the parent company level, Reorganized Frontier will continue to indirectly own the stock of the Operating Subsidiaries.<sup>33</sup> Under the Plan, the FCC licenses held by each Operating Subsidiary will continue to be held by those same entities upon emerging from bankruptcy.<sup>34</sup> Further, the FCC licenses held by Frontier will be assigned to and held by the newly formed Frontier Holdings.<sup>35</sup>

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

9. Pursuant to sections 214(a) and 310(d) of the Act,<sup>36</sup> the Commission must determine whether the proposed transaction would serve the public interest, convenience, and necessity.<sup>37</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>38</sup>

10. 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>39</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>40</sup> DOJ has independent authority to examine the competitive impacts of proposed mergers and transactions involving transfers of Commission licenses,

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<sup>30</sup> Public Interest Statement at 12-13.

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

<sup>32</sup> *Id.*, Attach. C.

<sup>33</sup> *Id.*

<sup>34</sup> Public Interest Statement. at 13.

<sup>35</sup> *Id.*

<sup>36</sup> 47 U.S.C. §§ 214(a), 310(d).

<sup>37</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., 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, 34 FCC Rcd 10578, 10595, para. 39 (2019) (*T-Mobile-Sprint Order*); *Applications of Link-Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 32 FCC Rcd 9581, 9585, para. 8 (2017) (*CenturyLink-Level 3 Order*); *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 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> *T-Mobile-Sprint Order*, 34 FCC Rcd at 10595, para. 39; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 8; *CenturyLink-Qwest Order*, 26 FCC Rcd at 4199, para. 7.

<sup>39</sup> *See, e.g., T-Mobile-Sprint Order*, 34 FCC Rcd at 10595, para. 40; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9.

<sup>40</sup> *See, e.g., T-Mobile-Sprint Order*, 34 FCC Rcd at 10595, 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").

but the Commission's competitive analysis under the public interest standard is somewhat broader.<sup>41</sup> Notably, the Commission has determined it may impose and enforce narrowly tailored, transaction-specific conditions that address the potential harms of a transaction.<sup>42</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 that are "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>43</sup>

11. 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.<sup>44</sup> 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>

12. 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

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<sup>41</sup> *T-Mobile-Sprint Order*, 34 FCC Rcd at 10595-96, para. 40; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9.

<sup>42</sup> *See, e.g., T-Mobile-Sprint Order*, 34 FCC Rcd at 10596, para. 40; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585-86, para. 9.

<sup>43</sup> *See, e.g., T-Mobile-Sprint Order*, 34 FCC Rcd at 10596, para. 40; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 9.

<sup>44</sup> *See, e.g., T-Mobile-Sprint Order*, 34 FCC Rcd at 10596, para. 41; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 10.

<sup>45</sup> *See, e.g., T-Mobile-Sprint Order*, 34 FCC Rcd at 10596, 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*, 34 FCC Rcd at 10596, para. 41; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 10.

<sup>47</sup> *See, e.g., T-Mobile-Sprint Order*, 34 FCC Rcd at 10596, para. 41; *Applications of GCI Communication Corp., ACS Wireless 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*, 34 FCC Rcd at 10596, 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*, 34 FCC Rcd at 10596, 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*, 34 FCC Rcd at 10596, 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.

**COMMUNICATIONS ACT AND FCC RULES AND POLICIES**

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

14. 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 the Applicants under the Act or our rules, regulations, and policies. Indeed, no party has raised an issue with respect to the basic qualifications of the Applicants. Although, CWA/TURN’s filings reflect concerns regarding the Plan, they do not take issue with the basic qualifications of the Applicants under the Act, our rule, regulations, or policies.<sup>54</sup> Accordingly, we find that the Applicants have the requisite citizenship, character, financial, technical, and other basic qualifications under the Act and our rules, regulations, and policies.

15. 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>55</sup> We find that the proposed transaction will not violate any statutory provision or Commission rule.

**V. POTENTIAL PUBLIC INTEREST HARMS**

16. At the outset, we find that Frontier’s emergence from bankruptcy through the Restructuring process will not eliminate a competitor in any market in which it operates, and no commenter has raised this issue as a potential harm. We next review any other potential harms raised in the record and decline the request of CWA/TURN that we delay making a determination on the Applications until we have received more information on the impact of Frontier’s approved Reorganization Plan on its workforce and other issues.<sup>56</sup> We also decline the request of CWA/TURN that we delay our action until we review the findings of all state regulatory authorities that are conducting separate proceedings.<sup>57</sup>

17. Although CWA and TURN “do not take a position on the relief requested by Frontier,” they argue that the Commission needs more information to determine whether the proposed transaction is in the public interest.<sup>58</sup> Specifically, these commenters request that we delay granting the Applications

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<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 CWA/TURN Comments* at 2-10; *CWA/TURN Reply* at 2-4.

<sup>55</sup> *See T-Mobile-Sprint Order* at 21, para. 47; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9587, para. 14.

<sup>56</sup> *CWA/TURN Comments* at 3.

<sup>57</sup> *Id.* at 10.

<sup>58</sup> *Id.* at 3. CWA and TURN request that we issue a data request to gather information addressing the impact of the Plan on Frontier’s workforce, net cash flows, post-emergence cash position, competitiveness, service quality,

(continued....)

until we have more information to determine the impact of the transaction on financing details, service quality, Frontier's competitiveness, and workforce, including CWA's members, and operations.<sup>59</sup>

18. We find compelling the Applicants' response to CWA and TURN's argument that we need more information before proceeding.<sup>60</sup> The Applicants maintain that the Restructuring "will be seamless for customers and will not adversely affect service, operations, management, or employees in Frontier's service territories."<sup>61</sup> They contend that "customers will continue to receive services at the same rates, terms, and conditions as they did prior to the Restructuring" and will not experience any interruption in services.<sup>62</sup> According to the Applicants, post-Restructuring Frontier "will remain bound by [its] existing tariffs and contracts with customers, and existing facilities and arrangements will remain undisturbed."<sup>63</sup>

19. As the Applicants further explain, the Restructuring "will provide the Applicants with greater financial stability and flexibility, including the ability to support continuing operations, meet financial obligations, and focus on enhancing service offerings and improving service to customers." They assure that Restructuring "will not change the terms and conditions of, or alter the rights and obligations set forth in, any agreements or arrangements Frontier has with other service providers [and wholesale customers]."<sup>64</sup> The Applicants also emphasize post-transaction Frontier's commitment to comply with existing regulatory requirements under the Act and the Commission rules, including "its broadband deployment obligations through its participation in the Commission's Connect America Fund Phase II program."<sup>65</sup>

20. In addition, the Applicants assure that "all employee wages, compensation, benefit programs, and collective bargaining agreements in effect as of the Plan's effective date will remain in place" to "help ensure that Frontier maintains sufficient resources and a workforce to support and improve Frontier's continued operations."<sup>66</sup> Further, they represent that "[a]ll non-funded debt to employees, contractors, vendors, suppliers, carriers, and other third parties will be paid in full."<sup>67</sup>

21. Based on the record, we find no merit to CWA's and TURN's concerns regarding service quality, competitiveness, workforce, including CWA's members, and operations. Indeed, we expect that Frontier is more likely to improve service quality and invest in infrastructure than it would be absent its prompt emergence from bankruptcy. In addition, Applicants have confirmed that they remain subject to specific service quality requirements in all states, including in West Virginia, Minnesota, and

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financing, compromises among the debtors involved in the bankruptcy, consent rights, creditor settlements, cancellation or reinstatement of notes, as well as copies of analyses or timelines that the Applicants have provided to agents of the Consenting Noteholders, and issues raised in their initial comments relating to "virtual separation." CWA/TURN Reply at 2.

<sup>59</sup> CWA/TURN Comments at 3, 6-10; CWA/TURN Reply at 2.

<sup>60</sup> CWA/TURN Comments at 3.

<sup>61</sup> Public Interest Statement at 17.

<sup>62</sup> *Id.* at 18; *see also* USTelecom *Ex Parte* at 2 (quoting the Application).

<sup>63</sup> Public Interest Statement at 18.

<sup>64</sup> Frontier Reply at 4; Public Interest Statement at 18-19.

<sup>65</sup> Public Interest Statement at 17; Frontier Reply at 4.

<sup>66</sup> Frontier Reply at 4; *see also* Letter from William F. Maher & Jennifer L. Kostyu, Counsel to Applicants, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-197, Attach. at 6 (filed Dec. 2, 2020) (Frontier Dec. 2 Letter) (pointing out that the Bankruptcy Court confirmed, days after CWA and TURN filed their comments, that the Plan did not affect CWA's collective bargaining agreement and the rights of its members").

<sup>67</sup> Frontier Reply at 5.

Ohio where the state commissions are conducting service quality reviews, and in New York where Frontier has committed to a three-year service quality improvement plan as part of the state commission's approval of the bankruptcy reorganization.<sup>68</sup> As the Commission has found, claims regarding past practices associated with service quality, failing infrastructure and any other matters that existed prior to the proposed transaction, 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>69</sup>

22. Moreover, as Frontier acknowledges, it remains subject to all Commission rules and requirements addressing competition and service rates, terms, and conditions under the Act.<sup>70</sup> Further Frontier has specifically committed that it will comply, post-Restructuring, with all Universal Service Administrative Company (USAC) audit requirements associated with its provision of Lifeline service.<sup>71</sup> In order to support our continuing monitoring to prevent waste, fraud, and abuse in the Commission's universal service programs, we accept Frontier's audit compliance commitment and make it an enforceable condition of the approval of the Applications.<sup>72</sup>

23. We also find unavailing, concerns that CWA and TURN express about the Plan and particularly about the term "virtual separation" under the terms of the Plan and about the structure and position of Senior Noteholders of the Plan.<sup>73</sup> The Plan has already been approved by the Bankruptcy Court and facilitating the successful resolution of a bankruptcy proceeding is an important factor in our public interest analysis.<sup>74</sup> It is the Commission's policy to support bankruptcy laws, and where possible

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<sup>68</sup> Frontier October 30 Letter at 2 (citing Frontier Communications Corporation Notice of Filing of Chapter 11 for Financial Restructuring, Order Approving Joint Petition with Conditions, Case 20-C-0267 at 3 (NY PSC, Oct. 16, 2020)).

<sup>69</sup> *Frontier-Northwest Fiber Order*, 34 FCC Rcd at 12351, para.18; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9601, para. 42.

<sup>70</sup> 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 Rcd 5972, 5989, n.121 (2010) (stating that, in the absence of any basis for concluding that Frontier is likely to engage in anti-competitive behavior post-merger, specific competitive requirements are more appropriately addressed in enforcement proceedings or rulemakings of general applicability).

<sup>71</sup> See Letter from William F. Maher & Jennifer L. Kostyu, Counsel to Applicants, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-197 (filed Jan. 6, 2021) (agreeing to cooperate fully with the completion of any pending audits associated with the Lifeline Program being conducted by the Universal Service Administrative Company and with the recovery of any sums that may be determined to be owed to the Universal Service Fund pursuant to the completion of such audits).

<sup>72</sup> *Id.*; 47 CFR §§ 54.702, 54.707. The Commission has stated that service providers are subject to audits and investigations to determine compliance with Lifeline program rules and requirements and that it requires USAC to recover funds that were not used properly. See *Bridging the Digital Divide for Low-Income Consumers et al.*, WC Docket Nos. 17-287, 11-42, 09-197, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 34 FCC Rcd 10886 (2019) (describing audit and program review requirements).

<sup>73</sup> CWA/TURN Comments at 7-10.

<sup>74</sup> *Stanford Springel as Chapter 11 Trustee for the Bankruptcy Estate of Innovative Communication Corporation, Transferor and Assignor, and National Rural Utilities Cooperative Finance Corporation and its Subsidiaries, Transferees and Assignees, Applications for Consent to Assign and Transfer Control*, WC Docket No. 09-82, Order, 24 FCC Rcd 14360, 14369, para. 19 (2009) (*Vitelco Order*); *Applications for Consent to the Assignment and/or Transfer of Control of Licenses; Adelphia Communications Corporation, Assignors, to Time Warner Cable, Inc Assignees; Adelphia Communications Corporation, Assignors and Transferors, to Comcast Corporation, Assignees and Transferees; Comcast Corporation, Transferor, to Time Warner, Inc., Transferee; Time Warner, Inc., Transferor, to Comcast Corporation, Transferee*, MB Docket No. 05-192, Memorandum Opinion and Order, 21

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to accommodate them in a manner that is consistent with the Act.<sup>75</sup> As the Commission has explained, facilitating a telecommunications service provider's successful emergency from bankruptcy "advances the public interest by providing economic and social benefits, especially the compensation of innocent creditors."<sup>76</sup> Moreover, as the Applicants explain "the virtual separation review is an internal financial tracking and reporting exercise only for its state-level financial revenue and not a physical or organizational separation, and it is irrelevant to the Commission's consideration of the Applications."<sup>77</sup>

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FCC Rcd 8203, 8323, para. 282 (2006) (*Adelphia Order*) (citing *WorldCom, Inc. and its Subsidiaries (debtor-in possession), Transferor, and MCI, Inc., Transferee, Applications to Transfer and/or Assign Section 214 Authorizations, Section 310 Licenses, and Submarine Cable Landing Licenses*, WC Docket No. 02-215, Memorandum Opinion and Order, 18 FCC Rcd 26484, 26503, para. 29 (2003) (*WorldCom Order*)).

<sup>75</sup> *Domestic Section 214 Applications of FairPoint Communications, Inc., Debtor-In-Possession, and FairPoint Communications, Inc. for Transfer of Control and Assignment of Section 214 Authority*, WC Docket No. 10-126, Public Notice, 25 FCC Rcd 17551, 17553 (2010) (*FairPoint Public Notice*); *Vitelco Order*, 24 FCC Rcd at 14369, para. 19; *WorldCom Order*, 18 FCC Rcd at 26503, para. 29 (citing *Mobilemedia Corporation, et al., Applicant for Authorizations and Licenses of Certain Stations in Various Services*, WT Docket No. 97-115, Memorandum Opinion and Order, 14 FCC Rcd 8017, 8018, para. 4 (1999)); *Applications of Space Station System Licensee, Inc., Motorola Satellite Communications, Inc. and Wireless SP, Inc., Assignors, and Iridium Constellation LLC, Iridium Carrier Services, LLC and Iridium Satellite LLC, Assignees, for Consent to Assignment of License Pursuant to Sections 214 and 310(d) of the Communications Act*, Memorandum Opinion and Order, 17 FCC Rcd 2271, 2286-87, para. 34 (Int'l Bur. 2002) ("Because this transaction permits the Iridium system to emerge from bankruptcy and continue operations, the competitive impact is likely to be beneficial."); *Application of Orbital Communications Corporation and ORBCOMM Global, L.P., Assignors, and ORBCOMM License Corp. and ORBCOMM LLC, Assignees, for Consent to Assign Non-Common Carrier Earth and Space Station Authorizations, Experimental Licenses, and VSAT Network*, Order and Authorization, 17 FCC Rcd 4496, 4504, para. 15 (Int'l Bur. 2002) ("Because this transaction permits the [licensee] to emerge from bankruptcy and continue operations, the competitive impact will be beneficial .... Successful emergence from bankruptcy is critical to the continued operation and expansion of the ORBCOMM system.").

<sup>76</sup> *Applications Granted for the Transfer of Control of Windstream Holdings, Inc., Debtor-In-Possession, and Subsidiaries*, WC Docket No. 20-151; AU Docket No. 19-244, Public Notice, 35 FCC Rcd 10076, 10081(2020) (*Windstream Public Notice*) ("[F]acilitating successful and timely emergence from bankruptcy advances the public interest by providing economic and social benefits, especially including the compensation of innocent creditors."); *Applications Granted for the Transfer of Control of Fusion Connect, Inc., Debtor-In-Possession, and Subsidiaries*, WC Docket No. 19-262, Public Notice, 35 FCC Rcd 409, 413 (2020) (*Fusion Public Notice*) ("[F]acilitating successful and timely emergence from bankruptcy 'advances the public interest by providing economic and social benefits, especially including the compensation of innocent creditors.'"); *Applications of LightSquared Subsidiary LLC, Debtor-in-Possession, and LightSquared Subsidiary LLC For Consent to Assign and Transfer Licenses and Other Authorizations and Request for Declaratory Ruling on Foreign Ownership*, IB Docket No. 15-126, Memorandum Opinion and Order and Declaratory Ruling, 30 FCC Rcd 13988, 13995, para. 15 (2015) (*LightSquared Order*) (finding that grant of the application serves the public interest by enabling LightSquared to emerge from bankruptcy with access to significant new capital to further the viability of their services, and rejecting certain claims against the transaction because "we also must consider the potential impact of such a delay in our action on the financial viability of LightSquared and the pendency of the bankruptcy proceeding. In considering such a bankruptcy situation, 'in recognition of the public interest in protecting innocent creditors, the Commission will approve the sale and assignment of the bankrupt's license when the transaction will not unduly interfere with the FCC mandate to ensure that [Commission] licenses are used and transferred consistently with the Communications Act.'"); *FairPoint Public Notice*, 25 FCC Rcd at 17553; *Vitelco Order*, 24 FCC Rcd at 14369, para. 19; *WorldCom Order*, 18 FCC Rcd at 26503, para. 29; *LaRose v. FCC*, 494 F.2d 1145, 1146, n.2 (D.C. Cir. 1974) (stating that, in applying its policies where an application arises from bankruptcy, the Commission should consider "the public interest in the protection of innocent creditors.").

<sup>77</sup> Frontier Reply at 8; see also Frontier Dec. 2 Letter at Attach. at 10. The Plan as approved by the Bankruptcy Court refers to Frontier developing a "detailed report regarding a virtual separation under the same ownership structure of select state operations where the Reorganized Debtors will conduct fiber deployments from those states' operations where the Reorganized Debtors will perform broadband upgrades and operational improvements."

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We agree with the Applicants contention that concerns about the structure and position of Senior Noteholders of the Plan<sup>78</sup> are misguided, because of them will exercise day-to-day management of the company or have special voting or other rights,<sup>79</sup> and that “there is no sinister arrangement of Senior Noteholders that would control post-transaction Frontier.”<sup>80</sup> We also find compelling the findings of the Bankruptcy Court that the Plan “is consistent with the interests of the debtors and equity security holders and with public policy”<sup>81</sup> and “was proposed with the legitimate and honest purpose of maximizing the value of the Debtors’ Estates and to effectuate a successful restructuring of the Debtors.”<sup>82</sup> The Court also specified that the Plan “satisf[ies] all of the requirements for Confirmation set forth in section 1129(b) of the Bankruptcy Code.”<sup>83</sup> We recognize the Bankruptcy Court’s determination, and we do not question its findings here.

24. We are also not persuaded by CWA’s and TURN’s contention that we “should not make a final determination until [we have] had the opportunity to review the findings of state regulators.”<sup>84</sup> Our review of the Applications does not affect the states’ independent proceedings, nor do we intend any finding in this Memorandum Opinion and Order to have a bearing on the states’ independent consideration of matters before them under applicable state law or precedent, which may differ from our standard of review.<sup>85</sup>

## VI. POTENTIAL PUBLIC INTEREST BENEFITS

25. Having determined that there are no material harms associated with the transaction, we next review the claimed public interest benefits, beyond fostering the free transferability of licenses and authorizations.<sup>86</sup> The Commission finds a claimed benefit to be cognizable only if it is transaction-

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*Bankruptcy Court Approval Order* at Exh. 1 (Plan) at 79. As we stated above, findings in this Memorandum Opinion and Order do not have a bearing on the states’ independent consideration of matters before them under applicable state law or precedent. *See supra* note 31.

<sup>78</sup> CWA/TURN Comments at 9-10.

<sup>79</sup> Frontier Dec. 2 Letter at Attach. at 7.

<sup>80</sup> Frontier Reply at 8-9; *see also* Frontier Dec. 2 Letter at 9. The Applicants emphasize that “no individual or entity will hold, directly or indirectly, 10 percent or more of the new common stock of, or otherwise control, Reorganized Frontier” and “[n]one of the Senior Noteholders will exercise day-to-day management of Reorganized Frontier or have any special voting or other rights—each Senior Noteholder will be on equal footing with all others that hold common stock of Reorganized Frontier.” *Id.*

<sup>81</sup> Bankruptcy Court Decision at 12.

<sup>82</sup> *Id.* at 13.

<sup>83</sup> *Id.* at 18.

<sup>84</sup> CWA/TURN Comments at 10. Frontier states that it has received the required regulatory approvals regarding the proposed transaction, or favorable determinations, from 12 state public service commissions: Arizona, Georgia, Illinois, Minnesota, Mississippi, Nebraska, Nevada, New York, South Carolina, Texas, Utah, and Virginia. Frontier Oct. 30 Letter at 1; Letter from William F. Maher & Jennifer L. Kostyu, Counsel, Frontier, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-197, at 1 (filed Jan. 11, 2020) (Frontier Jan. 11 Letter). Applications remain pending in California, Connecticut, Pennsylvania, and West Virginia. *Id.* Frontier has reached settlement agreements from other parties in West Virginia and California, and it anticipates that the remaining state public service commission approvals will be received in the near future. *Id.*

<sup>85</sup> *See Applications Filed for the Transfer of Control of Certain Subsidiaries of Frontier Communications Corporation to Northwest Fiber, LLC*, WC Docket No. 19-188, Memorandum Opinion and Order and Declaratory Ruling, 34 FCC Rcd 12344, 12348 n.34 (WCB, IB, WTB 2019) (*Frontier-Northwest Fiber Order*).

<sup>86</sup> *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50.

specific—meaning it naturally arises as a result of the transaction<sup>87</sup>—and is verifiable, and is likely to flow through to consumers and not inure solely to the benefit of the company.<sup>88</sup>

26. According to the Applicants, the Restructuring will “ensure that Frontier will emerge from Chapter 11 as a financially stronger service provider and competitor” and allow it to “reduce its debt by approximately \$10 billion, with a correspondingly significant decrease in Frontier’s annual interest expense of approximately \$1 billion.”<sup>89</sup> As a result, the Applicants contend that Frontier will be able to focus on improvements to services, and such “higher quality and more robust” offerings will encourage other service providers to improve their services and prices, precipitating greater marketplace competition.<sup>90</sup> USTelecom agrees with the Applicants that the Restructuring “is in the public interest” because an “improved financial position will . . . better position Frontier to focus on improvements to services for its customers.”<sup>91</sup> The Applicants maintain that consumers will benefit from Frontier “continu[ing] to provide a competitive alternative to wireless, VoIP, and cable competitors that are not subject to the same regulations and, as a result, have lower cost structures and greater operational flexibility,”<sup>92</sup> as well as from increased choices among telecommunications services.<sup>93</sup>

27. Further, according to the Applicants, the Restructuring will serve the public interest “by promoting job preservation and creation.”<sup>94</sup> They contend that, in addition to retaining employees and abiding by its collective bargaining agreements, Frontier’s improved financial condition post-Restructuring may provide it with the capacity to create new jobs.<sup>95</sup>

28. While the Applicants have offered several claimed benefits, they have not provided tangible and verifiable evidence in support of such claims, and we are thus unable to quantify any potential benefits that may flow to consumers. However, we do find that Frontier’s emergence from bankruptcy, as approved by the Bankruptcy Court, will ameliorate the uncertainties faced by Frontier’s customers when Frontier filed for bankruptcy in April 2020,<sup>96</sup> and that Frontier’s successful emergence from bankruptcy hinges on the grant of their Applications as soon as possible.<sup>97</sup> We also find that Frontier’s emergence from bankruptcy intact with new ownership will benefit its customers through its strengthened capital position, avoid disruption of service, and better position it to offer improved services. Further, maintaining and, in this case, restoring, a viable telecommunications provider that can invest and innovate benefits the public interest and serves the competitive goals of the Act.

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

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<sup>87</sup> See *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214. 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>88</sup> See *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, 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); *AT&T-DIRECTV Order*, 30 FCC Rcd at 9237, para. 275.

<sup>89</sup> Public Interest Statement at 15.

<sup>90</sup> *Id.* at 16.

<sup>91</sup> USTelecom *Ex Parte* at 2.

<sup>92</sup> Frontier Reply at 3.

<sup>93</sup> Public Interest Statement at 16.

<sup>94</sup> *Id.* at 20.

<sup>95</sup> *Id.*

<sup>96</sup> Lead Application at 2 n.3 (citing Bankruptcy Court Decision at 1).

<sup>97</sup> See Public Interest Statement at 2.

29. When analyzing a transfer of control or assignment application that includes foreign investment, we also consider public interest issues related to national security, law enforcement, foreign policy, and trade policy concerns.<sup>98</sup> As part of our public interest analysis, the Commission coordinates with the relevant Executive Branch agencies that have expertise in these particular issues.<sup>99</sup> The Commission accords deference to the expertise of these Executive Branch agencies in identifying issues related to national security, law enforcement, foreign policy, or trade policy concerns raised by the relevant Executive Branch agencies.<sup>100</sup> Ultimately, the Commission, however, makes an independent decision on the application based on the record in the proceedings.<sup>101</sup>

30. According to the Applicants, the transaction “raises no significant U.S. national security, law enforcement, foreign policy, or trade policy concerns because foreign individuals and entities will not have any meaningful rights to control [] business decisions and operations.”<sup>102</sup> Applicants maintain that “although some of the Senior Noteholders that will obtain a pro rata share of the equity in Reorganized Frontier are domiciled in foreign jurisdictions, or have entities in their control chains that are domiciled in foreign jurisdictions, these Senior Noteholders will not have an active role in the day-to-day management of Frontier.”<sup>103</sup> Further, the Applicants assure that “Frontier will continue to be managed from within the United States by U.S. citizens.”<sup>104</sup> They add that “none of the Senior Noteholders will have a 10 percent or greater direct or indirect equity interest” post-Restructuring and “these Senior Noteholders are primarily controlled by large, U.S.-based financial investment funds with experience in investing in U.S. telecommunications and technology companies.”<sup>105</sup>

31. Pursuant to Commission practice, the Applications were referred to the relevant

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<sup>98</sup> See *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927 (2020) (setting rules and procedures for referring applications for Executive Branch review consistent with Executive Order No. 13913) (*Executive Branch Review Order*); *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). See also *T-Mobile-Sprint Order*, 34 FCC Rcd at 10732, para. 349.

<sup>99</sup> See *Executive Branch Review Order*, 35 FCC Rcd at 10935-36, paras. 17, 24.

<sup>100</sup> *Id.* at 10930, para 7 (citing *Foreign Participation Order*, 12 FCC Rcd at 23920-21, paras. 65-66; *Amendment of the Commission’s Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States; Amendment of Section 25.131 of the Commission’s Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations*, IB Docket No. 96-111, CC Docket No. 93-23, RM-7931, Report and Order, 12 FCC Rcd 24094, 24171-72, paras. 179, 182 (1997)). See also *T-Mobile-Sprint Order*, 34 FCC Rcd at 10733, 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 11271, 11277, para. 6 (2016) (*2016 Foreign Ownership Order*), *pet. for recon. dismissed*, 32 FCC Rcd 4780 (2017).

<sup>101</sup> 47 CFR § 1.40001(b) (“The Commission will consider any recommendations from the [E]xecutive [B]ranch on pending application(s) . . . that may affect national security, law enforcement, foreign policy, and/or trade policy as part of its public interest analysis. The Commission will evaluate concerns raised by the [E]xecutive [B]ranch and will make an independent decision concerning the pending matter.”).

<sup>102</sup> Public Interest Statement at 19-20.

<sup>103</sup> *Id.* at 19.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

Executive Branch agencies for their views on any national security, law enforcement, foreign policy or trade policy concerns related to the foreign ownership of the Applicants.<sup>106</sup> On December 22, 2020, NTIA, on behalf of the Committee, advised that the Committee has no objection to the Commission's granting the applications and the section 310(b)(4) petition, provided that the Commission conditions its approval on the assurances of Frontier to abide by the commitments and undertakings set forth in the LOA.<sup>107</sup> In accordance with the request of NTIA and the Committee, and in absence of any objection from the Applicants, we grant the NTIA Petition and condition grant of the applications and section 310(b)(4) petition on compliance by Frontier with the commitments and undertakings set forth in the LOA.

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

32. 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 U.S. common carrier wireless and satellite service licensees.<sup>108</sup> This section of 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>109</sup> The Commission's public interest analysis under section 310(b)(4) also considers national security, law enforcement, foreign policy, or trade issues that may be raised by the foreign ownership.<sup>110</sup>

33. Frontier (Petitioner) requests a declaratory ruling, pursuant to section 310(b)(4) of the Act and section 1.5000(a)(1) of the Commission's rules,<sup>111</sup> to permit foreign ownership of the Operating Subsidiaries' proposed, controlling U.S. parent, Frontier Intermediate, to exceed the 25% benchmark specified in section 310(b)(4) of the Act. Petitioner asserts that the proposed foreign interest of the Operating Subsidiaries' proposed, controlling U.S. parent, Frontier Intermediate, would serve the public interest.<sup>112</sup>

34. According to the Petition, Reorganized Frontier, Frontier Intermediate, and Frontier Holdings, all Delaware entities that are anticipated to be corporations, will be formed to replace Frontier, the current publicly traded parent company.<sup>113</sup> Upon emergence from bankruptcy, Reorganized Frontier

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<sup>106</sup> See *Executive Branch Review Order*, 35 FCC Rcd at 10935-36, paras. 17, 24; *Foreign Participation Order*, 12 FCC Rcd 23891, 23919, paras. 61-63.

<sup>107</sup> NTIA Petition.

<sup>108</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 representatives 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>109</sup> 47 U.S.C. § 310(b)(4). Under the Commission's secondary market rules, spectrum lessees (and spectrum 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), 19030(d)(2)(ii), 1.9035(e)(1).

<sup>110</sup> *T-Mobile-Spring Order*, 34 FCC Rcd at 10736, para. 355; *Foreign Participation Order*, 12 FCC Rcd at 23918-21.

<sup>111</sup> 47 U.S.C. § 310(b)(4); 47 CFR § 1.5000(a)(1).

<sup>112</sup> Petition at 6-8.

<sup>113</sup> Petition, Exh. 2 at 5.

will own directly 100% of the equity and voting interests of Frontier Intermediate.<sup>114</sup> In turn, Frontier Intermediate will own directly 100% of the equity and voting interests of Frontier Holdings, which will directly or indirectly hold 100% of the equity and voting interests of the Operating Subsidiaries.<sup>115</sup> The licenses and authorization held by each Subsidiary will continue to be held by the same entities upon emerging from bankruptcy.

35. Petitioner estimates that, upon emergence from bankruptcy, approximately 80% of the voting and 78% of the equity interests in Reorganized Frontier will be held directly or indirectly by foreign individuals or entities.<sup>116</sup> The Petition states that, under the plan of reorganization, the Senior Noteholders would collectively hold the new common stock of Reorganized Frontier.<sup>117</sup> Petitioner claims that no single Senior Noteholder is anticipated to hold a 10% or greater direct or indirect equity or voting interest in Reorganized Frontier.<sup>118</sup> In addition, at emergence from bankruptcy, only four Senior Noteholders are expected to hold more than a 5%, but less than a 10%, equity and voting interest directly or indirectly in Reorganized Frontier, none of which will exercise day-to-day management of Reorganized Frontier.<sup>119</sup> The Petition states that only one of these four Senior Noteholders is a foreign entity or foreign-owned or -controlled.<sup>120</sup> In addition, Petitioner asserts that Reorganized Frontier is intended to become a publicly traded company as promptly as reasonably practicable after Frontier's emergence from Chapter 11 bankruptcy.<sup>121</sup>

36. Specifically, Petitioner seeks Commission authorization for foreign investors to hold, in the aggregate, directly and/or indirectly, 100% of Frontier Intermediate's equity and/or voting interests subject to the specific approval requirements in section 1.5004 of the Commission's rules.<sup>122</sup> Pursuant to section 1.5001(i) of the rules,<sup>123</sup> Petitioner requests specific approval for HG Vora Special Opportunities Master Fund, Ltd. (Cayman Islands) to hold 5.5% equity and voting interests in Reorganized Frontier, and thus indirectly in Frontier Intermediate, upon emergence from Chapter 11 bankruptcy.<sup>124</sup>

37. Petitioner also requests advance approval, pursuant to section 1.5001(k),<sup>125</sup> for HG Vora Special Opportunities Master Fund, Ltd. to increase its direct or indirect equity and/or voting interests in Reorganized Frontier, and thus indirectly in Frontier Intermediate, up to and including a 49.99% non-controlling interest.

38. We received no comments regarding foreign ownership, and, as discussed above, NTIA, on behalf of the Committee, has advised the Commission that it had no objection to the Commission

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<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> Petition at 3 Exh. 2 at 5 (stating that "Frontier estimates that approximately 42 percent of the voting and 40 percent of the equity interests of Reorganized Frontier will be held directly or indirectly by foreign individuals or entities. Under a cautious assumption that all other unknown ownership interests of the Senior Noteholders are foreign, an additional 38 percent of the voting and equity interests of Reorganized Frontier may be held directly or indirectly by foreign individuals or entities.").

<sup>117</sup> Petition at 3.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.* at 3-4.

<sup>120</sup> *Id.* at 3.

<sup>121</sup> *Id.* at 4.

<sup>122</sup> 47 CFR § 1.5004.

<sup>123</sup> 47 CFR § 1.5001(i).

<sup>124</sup> Petition, Exh. 2 at 6-7.

<sup>125</sup> 47 CFR § 1.5001(k).

approving the authority sought, provided that the Commission conditions its approval on the assurance of Frontier to abide by the commitment and undertakings set forth in the LOA.

39. 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 foreign ownership of Frontier Intermediate, the controlling U.S. parent, in excess of the 25% benchmark in section 310(b)(4) of the Act. We, therefore, grant the Petition subject to the conditions set out herein. This ruling authorizes, first, 100% aggregate foreign ownership of Frontier Intermediate, as the controlling U.S. parent of Operating Subsidiaries, subject to the terms and conditions set forth in the section 1.5004 of the Commission's rules.<sup>126</sup>

40. In addition, pursuant to section 1.5001(i) of the rules, we approve the foreign 5.5% equity and voting interests that would be held indirectly in Frontier Intermediate by HG Vora Special Opportunities Master Fund, Ltd., upon emergence from Chapter 11 bankruptcy. We also approve Petitioner's request for advance approval, pursuant to section 1.5001(k), permitting HG Vora Special Opportunities Master Fund, Ltd. to increase its indirect equity and voting interest in Frontier Intermediate up to and including a 49.99% non-controlling interest.

41. Finally, under this ruling, Petitioner has an affirmative duty to monitor its foreign equity and voting interest, calculate its 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>127</sup> and otherwise ensure continuing compliance with the provisions of section 310(b) of the Act.<sup>128</sup> A failure to comply 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.

## **IX. RURAL DIGITAL OPPORTUNITY FUND PHASE I AUCTION (AUCTION 904)**

42. In connection with its timely-filed short-form application to participate in Auction 904,<sup>129</sup> Frontier sought a waiver of section 1.21001(d)(4) of the Commission's rules, which prohibits major modifications of applications to participate in competitive bidding for universal service support, in the event that Frontier would emerge from bankruptcy while its application was pending.<sup>130</sup> Bidding in Auction 904 began on October 29, 2020, and concluded on November 25, 2020.<sup>131</sup> Frontier was one of

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<sup>126</sup> 47 CFR § 1.5004. A few of the terms and conditions set forth in section 1.5004 of the Commission's rules are as follows: (1) where a previously unapproved foreign-organized entity is inserted into the vertical ownership chain of a licensee, or its controlling U.S.-organized parent, without prior Commission approval, the licensee shall file a letter to the attention of the Chief, International Bureau, within 30 days after the insertion of the new, foreign-organized entity; (2) a licensee that has received a foreign ownership ruling, including a U.S.-organized successor-in-interest to such licensee as part of a pro forma reorganization, or any subsidiary or affiliate relying on such licensee's ruling, shall file a new petition for declaratory ruling under § 1.5000 to obtain Commission approval before its foreign ownership exceeds the routine terms and conditions of this section, and/or any specific terms or conditions of its rulings; and (3) if at any time the licensee, including any successor-in-interest and any subsidiary or affiliate knows, or has reason to know, that it is no longer in compliance with its foreign ownership rulings or the Commission's rules relating to foreign ownership, it shall file a statement with the Commission explaining the circumstances within 30 days of the date it knew, or had reason to know, that it was no longer in compliance.

<sup>127</sup> 47 CFR §§ 1.5002-1.5003.

<sup>128</sup> 47 CFR § 1.5004, note to paragraph (a).

<sup>129</sup> *Auction 904 Qualified Bidders Public Notice*, 35 FCC Red at 11374.

<sup>130</sup> Auction 904 Petition at 1. The window to file applications to participate in Auction 904 (commonly referred to as short-form applications) opened on July 1, 2020, and closed on July 15, 2020. *Auction 904 Procedures Public Notice*, 35 FCC Red at 6082, para. 12.

<sup>131</sup> *See Auction 904 Closing Public Notice*, 35 FCC Red at 13888, para 1.

the 180 winning bidders in the auction.<sup>132</sup> The *Auction 904 Closing Public Notice* established the deadline of January 29, 2021, for winning bidders to submit a long-form application for support.<sup>133</sup> The public notice also noted that, with release of the notice, winning bidders were no longer required to maintain the accuracy and completeness of information furnished in their short-form applications.<sup>134</sup>

43. On December 18, 2020, Frontier supplemented its Auction 904 Petition to also request a waiver of the rules prohibiting major modifications to a long-form application.<sup>135</sup> Frontier also requested a waiver of the default provision of section 1.21004 of the Commission's rules.<sup>136</sup> In its Auction 904 Supplement, Frontier states that it anticipates that it will complete the restructuring and emerge from bankruptcy in the first quarter of 2021.<sup>137</sup> Frontier notes that completing the restructuring would involve a change in ownership that would constitute an assignment or transfer of control of Frontier, which would preclude the winning bidder from filing a long-form application as required under section 1.21004.

44. According to Frontier, grant of the request to waive sections 1.21001 and 1.21004 of the Commission's rules is in the public interest because absent a waiver Frontier would have to choose between (1) emerging from bankruptcy, thereby risking disqualification from the auction, and default on its auction bids, and (2) delaying its emergence from bankruptcy and postponing the benefits of restructuring to Frontier and its customers.<sup>138</sup>

45. Generally, the Commission's rules may be waived for good cause shown.<sup>139</sup> Waiver of the Commission's rules is appropriate only if special circumstances warrant a deviation from the rule and such deviation will serve the public interest.<sup>140</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>141</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of policy on an overall basis.<sup>142</sup> We conclude that there is good cause for granting a conditional waiver of the relevant requirements of sections 1.21004 and 54.804 as needed to facilitate the participation of Reorganized Frontier and/or its Operating Subsidiaries in the post-auction application process for any bids won by Frontier in Auction 904.<sup>143</sup> We condition the waiver upon consummation of

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<sup>132</sup> See *id.* Attach. A. In its Auction 904 Supplement, Frontier states that, as a winning bidder, it is eligible for more than \$370 million in support over 10 years covering 127,000 locations in eight states. Auction 904 Supplement at 2, citing *Auction 904 Closing Public Notice*.

<sup>133</sup> *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13891-92, para. 16.

<sup>134</sup> *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13898, para. 25.

<sup>135</sup> Auction 904 Supplement at 1, citing 47 CFR § 1.21001(d)(4), 54.804(b)(6)(iv).

<sup>136</sup> Auction 904 Supplement at 1.

<sup>137</sup> Auction 904 Supplement at 2.

<sup>138</sup> Auction 904 Petition at 7; Auction 904 Supplement at 2.

<sup>139</sup> 47 CFR § 1.3.

<sup>140</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Network IP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008).

<sup>141</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>142</sup> *WAIT Radio v. FCC*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

<sup>143</sup> 47 CFR §§ 1.21004(a) (winning bidder must file an application for support); 54.804(b)(1) and (b)(2) (winning bidders or their assignees must file an application for RDOF support); 54.804(b)(6)(iv) (applications to which major modifications are made after the deadline shall be denied; major modifications include changes in ownership of the applicant that constitute an assignment or change of control). We conclude that waiver of section 1.21001 is not necessary at this point because applicants in Auction 904 are no longer required to maintain their short-form applications following the release of the Public Notice announcing winning bidders in that auction. *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13898, para. 25

the transaction and Reorganized Frontier and/or its Operating Subsidiaries meeting all of Frontier's auction-related obligations and all qualifications to become authorized for Rural Digital Opportunity Fund Phase I support.

46. We find that this waiver is appropriate in the particular circumstances of this court-approved bankruptcy proceeding which had commenced long before the deadline for filing a short-form application to participate in Auction 904.<sup>144</sup> In its short-form application, Frontier adequately disclosed its ownership structure and disclosed, in an attachment to its auction application, that it had filed for bankruptcy, citing the Bankruptcy Court docket number for the pending proceeding.<sup>145</sup>

47. Granting the requested waiver will not undermine the purposes of the rule requiring the winning bidder (or its assignees) to file the long-form application(s), or the rule prohibiting major modifications of a pending long-form application. Those rules promote the same policy objectives as those underlying the prohibition against major modifications to Auction 904 short-form applications: “including, but not limited to, assuring that an auction applicant’s ownership structure, financial condition, and real parties-in-interest are fully disclosed and can be assessed prior to the auction; the representations and certifications in the application remain effective and enforceable while the application is pending; the pre-auction process is transparent; and the Commission, auction participants, and other applicants have consistent and transparent information about the identity of other applicants, which enhances auction competition by leveling the informational playing field.”<sup>146</sup> Section 54.804’s requirement that the long-form application be submitted by the same entity (or its assignees) that is the winning bidder and its prohibition on transfer of control of a long-form applicant also safeguard against speculative bidding by those that might seek to “shop” winning bids to undisclosed third parties.<sup>147</sup> None of those concerns are implicated here. Frontier disclosed its current and future real parties-in-interest in its short-form application as well as the Section 214 Application.<sup>148</sup> Frontier has also confirmed the continuing effectiveness of the representations in its short-form application.<sup>149</sup> Moreover, Frontier has indicated that, upon consummation of the proposed transaction, the parties in the long-form application will continue to be bound by Frontier’s actions in Auction 904 and will fulfill its Rural Digital Opportunity Fund Phase I obligations.<sup>150</sup> Thus, we conclude that the rule’s purpose of safeguarding the integrity of the Auction 904 long-form application review and qualification process does not require strict application of the rule requiring the winning bidder to file the long-form application or the rule prohibiting major amendments of a long-form application in these special circumstances, and that

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<sup>144</sup> Applications Granted for the Transfer of Control of Windstream Holdings, Inc., Debtor-in-Possession, and Subsidiaries, Public Notice, 35 FCC Rcd 10067 (WCB/IB/WTB/OEA 2020) (*Windstream Public Notice*).

<sup>145</sup> Frontier Communications Corporation, DIP, File No. 0009149589, “Additional Applicant and Ownership Information” attachment. Frontier also included a copy of its Auction 904 Petition with its auction application. Frontier was found to be qualified to bid in Auction 904. See *Auction 904 Qualified Bidders Public Notice*, 35 FCC Rcd at 11374.

<sup>146</sup> *Connect America Fund; Petition of Hawaiian Telcom, Inc. and Cincinnati Bell Inc. for Expedited Waiver of Section 1.21001(d)(4) of the Commission’s Rules; Request of Horizon Telcom Inc. for Expedited Waiver of Section 1.21001(d)(4) of the Commission’s Rules*, Order, 33 FCC Rcd at 6211, para. 9 (WTB/WCB 2018) (*Hawaiian Telecom Order*); *Connect America Fund; Petition of Sunset Digital Communications, Inc. Waiver of Section 54.315(b)(6)(iv) of the Commission’s Rules*, Order, 34 FCC Rcd 7010, 7015, para. 13 (WCB/OEA 2019) (*Sunset Digital Order*).

<sup>147</sup> *Windstream Public Notice*, 35 FCC Rcd at 10082.

<sup>148</sup> Auction 904 Petition at 8.

<sup>149</sup> Auction 904 Petition at 8; Auction 904 Supplement at 3.

<sup>150</sup> Auction 904 Supplement at 3.

deviation from the general rule is warranted.<sup>151</sup>

48. Granting this waiver also offers potential public interest benefits that would not be realized through strict application of the rule. The purpose of Auction 904—identifying qualified applicants that are willing and able to compete to provide a specified level of service in eligible unserved areas in exchange for the lowest possible subsidy—will be promoted by encouraging participation and avoiding unnecessary disqualification.<sup>152</sup> We find that granting this waiver and facilitating Frontier to emerge from bankruptcy will result in a long-form applicant that is better able to meet the Rural Digital Opportunity Fund Phase I public interest obligations, and will be better able to obtain letters of credit required for authorization of Rural Digital Opportunity Fund Phase I support.<sup>153</sup> We also find that waiver of these rules will help to ensure that Frontier does not default on its auction obligations, which would undermine an objective of the Rural Digital Opportunity Fund Phase I auction process by leaving areas won by Frontier unserved. Instead, allowing Reorganized Frontier, which is in a stronger financial position than Frontier, will accelerate deployment of fixed broadband service in areas won by Frontier in Auction 904.

## X. CONCLUSION

49. After a thorough review of the Applications and the record in this proceeding, we find that the Applicants are fully qualified and conclude that the grant of the Applications, as conditioned, would serve the public interest. We also find the public interest would not be served by prohibiting the foreign ownership that would be held in the Operating Subsidiaries' proposed controlling U.S. parent, Frontier Intermediate, upon emergence from Chapter 11 bankruptcy. We also find the public interest would not be served by prohibiting the foreign ownership that would be held in the Operating Subsidiaries' proposed controlling U.S. parent, Frontier Intermediate, upon emergence from Chapter 11 bankruptcy, or by strictly applying the prohibition on major changes to a Rural Digital Opportunity Fund long-form application in these particular circumstances. We therefore grant the Applications, Petition, and waiver request.

## XI. ORDERING CLAUSES

50. 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 authorizations listed in Appendix A **ARE GRANTED**, as conditioned in this Memorandum Opinion and Order and Declaratory Ruling.

51. **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 Petitioner **IS GRANTED**, as conditioned in this Memorandum Opinion and Order and Declaratory Ruling.

52. **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**.

53. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i)-(j), 214, 303(r), 309,

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<sup>151</sup> See *Hawaiian Telecom Order*, 33 FCC Rcd at 6211, para. 10; *Sunset Digital Order*, 34 FCC Rcd at 7015, para. 13.

<sup>152</sup> *Hawaiian Telecom Order*, 33 FCC Rcd at 6211, para. 9; *Sunset Digital Order*, 34 FCC Rcd at 7015; para. 13.

<sup>153</sup> Auction 904 Supplement at 3-4; see also *Sunset Digital Order*, 34 FCC Rcd at 7015, para.14.

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 Frontier Communications Corporation with the Letter of Agreement from Mark D. Nielsen, Executive Vice President and Chief Legal Officer, Frontier Communications Corporation, to the Chief, Foreign Investment Review Section (FIRS), Deputy Chief, Compliance and Enforcement (FIRS) on Behalf of the Assistant Attorney General for National Security, United States Department of Justice National Security Division, dated December 17, 2020. 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.

54. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), the conditional waiver of sections 1.21004 and 54.804(b)(1), (2)(vii), (6)(ii) and (6)(iv), 47 C.F.R. §§ 1.21004 and 54.804(b)(1), (2)(vii), (6)(ii) and (6)(iv), as needed with respect to any Auction 904 long-form application filed by Frontier or its successors-in-interest, **IS GRANTED** to the extent provided in this Memorandum Opinion and Order and Declaratory Ruling.

55. **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 P. Sullivan  
Chief, International Bureau

Donald K. Stockdale, Jr.  
Chief, Wireless Telecommunications Bureau

Giulia McHenry  
Chief, Office of Economics and Analytics

ATTACHMENT A**SECTION 214 AUTHORIZATIONS****A. International**

The International Bureau grants the following applications for consent to the assignment of certain international section 214 authorizations:

<u>File Number</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-ASG-20200625-00095	Citizens Telecommunications Company of California Inc., Debtor-in-Possession	ITC-214-20080219-00078
ITC-ASG-20200625-00096	Commonwealth Telephone Enterprises, LLC, Debtor-in-Possession	ITC-214-19960726-00343
ITC-ASG-20200625-00097	Frontier California Inc., Debtor-in-Possession	ITC-214-20080219-00063
ITC-ASG-20200625-00098	SNET America, Inc., Debtor-in-Possession	ITC-214-19930716-00119, ITC-214-19950215-00064, ITC-MOD-20041129-00487
ITC-ASG-20200625-00099	Frontier West Virginia Inc., Debtor-in-Possession	ITC-214-20080219-00071
ITC-ASG-20200625-00100	GVN Services, Debtor-in-Possession	ITC-214-20020225-00113
ITC-ASG-20200625-00102	Frontier Communications of America, Inc., Debtor-in-Possession	ITC-214-19971202-00753, ITC-214-20001121-00680
ITC-ASG-20200625-00103	Frontier Communications of the Carolinas LLC, Debtor-in-Possession	ITC-214-20090528-00564
ITC-ASG-20200625-00104	Frontier Communications Online and Long Distance Inc., Debtor-in-Possession	ITC-214-20090528-00565
ITC-ASG-20200625-00105	Frontier Florida LLC, Debtor-in-Possession	ITC-214-20080219-00064
ITC-ASG-20200625-00106	Frontier Communications of the Southwest Inc., Debtor-in-Possession	ITC-214-20090528-00563
ITC-ASG-20200625-00107	Frontier Southwest Incorporated, Debtor-in-Possession	ITC-214-20080219-00077
ITC-ASG-20200625-00108	Frontier Midstates Inc., Debtor-in-Possession	ITC-214-20080219-00081
ITC-ASG-20200625-00109	Frontier North Inc., Debtor-in-Possession	ITC-214-20080219-00082

**B. Domestic**

The Wireline Competition Bureau grants the application filed by Frontier Communications Corporation, Debtor-in-Possession (Frontier) and its wholly-owned operating subsidiaries to transfer control of domestic section 214 authority in WC Docket No. 20-197.<sup>154</sup>

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<sup>154</sup> 47 CFR § 63.03.

**SECTION 310(d) APPLICATIONS**

The Wireless Telecommunications Bureau grants the following applications for consent to the assignment and transfer of control of licenses:

**WIRELESS LICENSES**

<u>ULS File Number</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0009091707	Citizens Telecommunications Company of California Inc., Debtor-in-Possession	KLR825
0009093123	Citizens Telecommunications of Nevada, Debtor-in-Possession	KYJ80
0009093138	Citizens Telecommunications Company of New York, Inc., Debtor-in-Possession	KEH87
0009093193	Citizens Telecommunications Company of Tennessee L.L.C., Debtor-in-Possession	WAU236
0009093219	Citizens Telecommunications Company of the White Mountains, Inc., Debtor-in-Possession	KPR50
0009093247	Citizens Telecommunications Company of Utah, Debtor-in-Possession	KFI82
0009093259	Citizens Utilities Rural Company, Inc., Debtor-in-Possession	KNLW337
0009093314	Frontier California Inc., Debtor-in-Possession	KF5881
0009094735	Frontier Communications Corporation, Debtor-in-Possession	WQKA212
0009093324	Frontier Communications of the Carolinas LLC, Debtor-in-Possession	KCG60
0009093343	Frontier Communications of the Southwest Inc., Debtor-in-Possession	KNB36
0009097212	Frontier Communications of Wisconsin LLC, Debtor-in-Possession	WXS416
0009097218	Frontier Florida LLC, Debtor-in-Possession	WQIX281
0009097222	Frontier North Inc., Debtor-in-Possession	KGH31
0009097224	Frontier Southwest Incorporated, Debtor-in-Possession	KG4012
0009097236	Frontier West Virginia Inc., Debtor-in-Possession	WREH823
0009097245	Navajo Communications Company, Inc., Debtor-in-Possession	KNKL556
0009097254	NCC Systems, Inc., Debtor-in-Possession	WPRB360
0009097259	Southern New England Telephone Company, Debtor-in-Possession	KCB95

**Petition for Declaratory Ruling Under Section 310(b)(4)**

The International Bureau grants the Petition, File No. ISP-PDR-20200624-00005.