

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of Northwest Fiber, LLC, Frontier Communications Corporation and Frontier Communications ILEC Holdings LLC for an Order Declining to Assert Jurisdiction Over, or, in the Alternative, Approving the Transfer of Control of Frontier Communications Northwest Inc. to Northwest Fiber, LLC.

Docket No. UT-190574

**JOINT TESTIMONY IN SUPPORT OF SETTLEMENT**

**BY THE PARTIES TO THE SETTLEMENT**

**NORTHWEST FIBER, LLC;  
FRONTIER COMMUNICATIONS CORPORATION;  
FRONTIER COMMUNICATIONS ILEC HOLDINGS, LLC;  
STAFF OF THE WASHINGTON UTC;  
PUBLIC COUNSEL UNIT OF THE ATTORNEY GENERAL'S OFFICE**

**December 19, 2019**

1 **I. Introduction**

2 **Q. Who is sponsoring this testimony?**

3 A. This Joint Testimony is jointly sponsored by Northwest Fiber, LLC (“Northwest  
4 Fiber”), Frontier Communications Corporation and Frontier Communications  
5 ILEC Holdings LLC (collectively, “Frontier,” with Northwest Fiber and Frontier  
6 being, collectively, the “Joint Applicants”), the Staff of the Washington Utilities  
7 and Transportation Commission (“Staff”), and the Public Counsel Unit of the  
8 Attorney General’s Office (“Public Counsel”) (each a “Party,” and collectively,  
9 the “Parties”).

10 **Q. Please state your names and qualifications.**

11 A. Our names are: Steve Weed, Chairman, Northwest Fiber; Allison M. Ellis, Senior  
12 Vice President, Frontier; Timothy (Tim) W. Zawislak, Senior Regulatory Analyst,  
13 UTC Staff; and Sarah Laycock, Regulatory Analyst, Public Counsel.

14 Mr. Weed, the Chairman of Northwest Fiber, has over 38 years of  
15 experience in telecommunications. Since 1988, Mr. Weed has been involved in  
16 building, operating and managing network-based businesses in Washington and  
17 Oregon, including Electric Lightwave, Inc., the first major fiber network build in  
18 the Northwest; Summit Communications, the first broadband business over a  
19 cable network in the Northwest; and Wave Broadband, which, based in Kirkland,  
20 Washington, grew to be one of the largest broadband fiber companies on the West  
21 Coast during his tenure as Chief Executive Officer. During his long career, Mr.

1 Weed has worked in many roles in the telecommunications industry including as  
2 an investor, operator, and consolidator of telecommunication businesses.

3 Ms. Ellis is Senior Vice President, Regulatory Affairs, for Frontier  
4 Communications Corporation. She has a Juris Doctor degree from Loyola  
5 University Chicago School of Law and a Bachelor of Arts degree in political  
6 science from the University of Florida. She has 20 years of experience in the  
7 telecommunications industry working in private practice, for telecommunications  
8 providers, and for a telecommunications equipment manufacturer. Since joining  
9 Frontier in 2010, she has held positions of increasing responsibility, in both the  
10 legal and regulatory functions. As Senior Vice President, Regulatory Affairs, Ms.  
11 Ellis is responsible for Frontier's regulatory compliance function, and she  
12 oversees regulatory and governmental affairs in Washington, and 19 other states.

13 Mr. Zawislak has 30 years of experience as a Regulatory Analyst with the  
14 UTC. He graduated from Saint Martin's College (now University) in December  
15 1989 with a Bachelor of Arts Degree in Accounting and began his career in  
16 January 1990 with the UTC. Mr. Zawislak has provided testimony on behalf of  
17 Commission Staff in the following dockets: UT-950200 (U S WEST  
18 Communications, general rate case accounting issues), UT-940701 (U S WEST  
19 Communications, sale of rural exchanges), UT-921259 (Toledo Telephone  
20 Company, EAS), UT-970658 (U S WEST Communications and GTE Northwest  
21 Inc., Payphone Deregulation), UT-980311(a) (Telecommunications General,  
22 Universal Service); UT-990672 (GTE Northwest Inc., Access Charges), UT-

1 020406 (Verizon Northwest Inc., Access Charges, Universal Service, and Toll  
2 Imputation); UT-031472 (WECA, VoIP, and ICC), UT-040788 (rate design in the  
3 interim rate relief phase, revenue requirement adjustments in the revenue  
4 requirement phase, and Interim Terminating Access Charge in the permanent rate  
5 design phase), UG-080546 (Staff lead witness in the Northwest Natural Gas  
6 Company general rate case), and UE-130043 (Investor-Supplied Working Capital  
7 in the PacifiCorp general rate case).

8 He has also participated on the Staff teams for Telecommunications  
9 Generic Cost proceedings, including Dockets UT-960369, et al., UT-003013, UT-  
10 023003, and UT-033034. Additionally, Mr. Zawislak was the Staff lead in Docket  
11 UT-970325, which was a rulemaking that established WAC 480-120-540,  
12 Terminating Access Charges. Also, as the Staff lead (case manager) for Docket  
13 UT-130477 CenturyLink Alternative Form of Regulation (AFOR), Docket UT-  
14 170042 CenturyLink and Level 3 Merger, and Docket UT-190547 Frontier  
15 Acquisition by Northwest Fiber. He was also a team member on the  
16 Telecommunications LEAN Rulemaking in Docket UT-140680.

17 Ms. Laycock is a Regulatory Analyst for the Public Counsel Unit of the  
18 Washington State Office of the Attorney General (Public Counsel). Public  
19 Counsel is a statutory party to proceedings before the Washington Utilities and  
20 Transportation Commission (Commission) under RCW 80.01.100, RCW  
21 80.04.510, and RCW 81.04.500. Ms. Laycock earned a Bachelor of Arts degree in  
22 English Literature from Sewanee: The University of the South, as well as a

1 Master of Arts degree in International Relations from Webster University.  
2 Additionally, she completed The Basics Practical Regulatory Training for the  
3 Electric Industry in May 2018 through the Center for Public Utilities at New  
4 Mexico State University, and completed the Public Utilities Reports Guide  
5 Principles of Public Utilities Operations and Management course in May 2018.  
6 Her current employment as a Regulatory Analyst with Public Counsel began in  
7 November 2017. Since joining the Public Counsel, she has worked on a variety of  
8 energy, conservation, and telecommunications matters.

9 **Q. What is the purpose of your testimony?**

10 A. The purpose of our Joint Testimony is to describe and support the provisions of  
11 the Settlement Agreement reached and signed by the Parties (the “Settlement”).  
12 The Parties provide this testimony in support of the Settlement, provide an  
13 overview of the principal aspects of the Settlement, as well as demonstrate why  
14 the Settlement and transaction that is the subject of Joint Applicants’ pending  
15 application described below (the “Transaction”) satisfies the “no harm” standard  
16 for approval applied by the Commission and is consistent with the public interest  
17 and the interests of the Joint Applicants. The “no harm” standard is discussed in  
18 detail in Section IV, *infra*.

19 **Q. What is the recommendation of the Parties concerning this docket?**

20 A. The Parties recommend that the Commission issue an order approving the  
21 Settlement and the Transaction (“Joint Application”) in this docket subject to the  
22 terms and conditions agreed to in the Settlement. The basis for this

1 recommendation is that the Settlement resolves all four of these Parties' concerns  
2 with respect to the Transaction and ensures that the Commission's "no harm"  
3 standard is satisfied. Indeed, the Settlement ensures that not only will "no harm"  
4 result from the Transaction, but also the Transaction will confer specific and  
5 material benefits compared to the status quo. First, the Settlement commits  
6 Northwest Fiber to ensure that \$50 million is spent within five years to improve  
7 and expand fiber-based broadband infrastructure in Washington, in order to  
8 deliver approximately 1 gigabit symmetrical service to customers, with at least  
9 \$10 million expended outside the Seattle/Everett Metropolitan Area. Second, the  
10 Settlement ensures continuity, committing Northwest Fiber to honor all existing  
11 agreements between Frontier and wholesale and retail customers and to continue  
12 to abide by existing regulatory requirements. Third, the Settlement contains robust  
13 reporting requirements, encompassing financials, network investment, and service  
14 quality. In addition, the Settlement provides additional assurance to the  
15 Commission by containing a "Most Favored Nation" clause that allows for  
16 incorporation of certain conditions if adopted in other state commission  
17 proceedings.

18 **Q. Have all parties joined in this particular Settlement?**

19 A. No, but the Joint Applicants have also entered into two additional and separate  
20 Settlements with Charter Fiberlink WA-CCVII, LLC ("Charter"), and the United  
21 States Department of Defense and all federal executive agencies ("DoD/FEA")  
22 that have been filed with the Commission, along with supporting testimony.

1 Those settlements resolve other matters associated with the Transaction. Thus, the  
2 Commission has before it three separate Settlements for consideration: (1) the  
3 Settlement; (2) the Charter Settlement; and (3) the DoD/FEA Settlement.

4 **II. Background**

5 **Q. Please provide a brief background on the Transaction.**

6 A. Northwest Fiber will acquire from Frontier all of the issued and outstanding  
7 equity interests of Frontier Communications Northwest Inc. (“Frontier NW” or  
8 the “ILEC”), as well as three ILECs that operate only in Idaho, Oregon, and  
9 Montana (collectively, with Frontier NW, the “Transferring Companies”) for  
10 approximately \$1.352 billion in an all-cash Transaction. As illustrated in pre- and  
11 post-Closing diagrams attached as Exhibit 1 to the Joint Application, Frontier NW  
12 and the other Transferring Companies will become Delaware LLCs and will be  
13 100% owned by Northwest Fiber. The Transaction is further detailed in the  
14 Purchase Agreement referenced in the Joint Application.<sup>1</sup>

15 In acquiring the Transferring Companies, Northwest Fiber will also  
16 acquire the network and assets that the Transferring Companies own and use to  
17 serve ILEC customers in Washington, and other states. Upon completion of the  
18 Transaction (“Closing”), each Transferring Company will continue to operate as  
19 an ILEC in its respective territory.

20 Following the Closing, the Commission will maintain the same regulatory  
21 authority over Frontier NW that it had prior to the completion of the Transaction.

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<sup>1</sup> As described in the Joint Application, the Purchase Agreement filed with the Securities and Exchange Commission (SEC) is available for review online at <https://www.sec.gov/Archives/edgar/data/20520/000095015719000673/ex2-1.htm>

1 Frontier NW will continue to operate as an ILEC in Washington, subject to the  
2 same regulations post-Closing as pre-Closing. Northwest Fiber plans to rebrand  
3 Frontier NW and its service offerings after Closing.

4 The Joint Applicants have committed to notify Staff of any material  
5 changes to the Transaction that may occur between the filing of this joint  
6 testimony and Closing.

7 **Q. Please provide a brief history of this proceeding.**

8 A. On June 28, 2019, Northwest Fiber and Frontier filed the Joint Application,  
9 seeking an order from the Commission declining jurisdiction, or, in the  
10 alternative, approving the indirect transfer of control of Frontier NW pursuant to  
11 Chapter 80.12 of the Revised Code of Washington (“RCW”) and Chapter 480-143  
12 of the Washington Administrative Code (“WAC”) and any other authority as may  
13 be deemed necessary to effectuate the Transaction. Public Counsel filed a Notice  
14 of Appearance on July 16, 2019; one competitive local exchange carrier  
15 (“CLEC”), Charter, filed a Petition to Intervene on July 18, 2019; and DoD/FEA  
16 sought intervention at the prehearing conference. The Charter and DoD/FEA  
17 interventions were granted on July 30, 2019. Northwest Fiber and Frontier filed  
18 direct testimony and exhibits in support of the Joint Application on July 31, 2019.  
19 The Joint Applicants have also responded to discovery requests by Staff, Public  
20 Counsel, and Charter.

21 The Parties engaged in numerous settlement discussions from August  
22 2019 through November 2019. Specifically, the Parties participated in two in-



1 person settlement conferences on August 28th and October 24th, in addition to  
2 telephonic settlement conferences on September 20th, November 1st, and  
3 November 4th. The Parties also engaged in additional settlement communications,  
4 including the exchange of drafts, during and after this period, culminating in the  
5 execution on December 19, 2019, of the Settlement that is now before the  
6 Commission.

7 **Q. Please summarize the Settlement agreed to by these four Parties.**

8 A. The Settlement resolves all of the four Parties' concerns with respect to the  
9 Transaction and ensures that the Commission's "no harm" standard is satisfied.  
10 Indeed, the Settlement ensures that not only will "no harm" result from the  
11 Transaction, but the Transaction will confer specific and material benefits  
12 compared to the status quo. First, the Settlement commits Northwest Fiber to  
13 ensure \$50 million in spending within five years to improve and expand fiber-  
14 based broadband infrastructure in Washington, in order to deliver approximately 1  
15 gigabit symmetrical service to customers, with a commitment that at least \$10  
16 million of the \$50 million will be expended outside the Seattle/Everett  
17 metropolitan area. Second, the Settlement ensures continuity, committing  
18 Northwest Fiber to honor all existing agreements between Frontier and wholesale  
19 customers and to continue to abide by existing regulatory requirements. Third, the  
20 Settlement commits Northwest Fiber to comply with certain financial reporting  
21 commitments, thereby providing the Commission with visibility into Northwest  
22 Fiber's financial stability and accountability as it delivers planned upgrades to the

1 aging Frontier network in Washington. In addition, the Settlement contains a  
2 “Most Favored Nation” clause that allows for incorporation of certain conditions  
3 if adopted in other state commission proceedings.

4 The Settlement includes nine enumerated conditions, some of which have  
5 additional sub-conditions. These conditions are described below in categories that  
6 assure the Commission that key customer-facing and service-related protections  
7 are implemented:

- 8 • Financial Reporting
- 9 • Federal Universal Service Fund Reporting
- 10 • Capital Expenditures and Additional Broadband Investment Commitment
- 11 • Major Outage Reporting
- 12 • Statewide 911 Transition
- 13 • Interconnection Agreement and Wholesale Transparency
- 14 • Operations Support Systems
- 15 • Service Quality Reporting
- 16 • Most Favored Nation Condition

17 **Q. How is the rest of your testimony organized?**

18 A. Section III provides a summary of the conditions in Attachment A to the  
19 Settlement and the purpose underlying those conditions. Section IV summarizes  
20 why the Settlement meets the “no harm” public interest standard through the  
21 individual statements of each Party in support of the Settlement. Section V  
22 contains our conclusion.

1 **III. Settlement Conditions**

2 **Financial Reporting (Condition 1)**

3 **Q. Please describe Condition 1.**

4 A. Condition 1 requires Northwest Fiber to provide two annual compliance reports to  
5 the Commission. Subpart (a) states that Northwest Fiber will annually file a  
6 compliance report containing audited financial statements for three years  
7 following the Closing of the Transaction. For a period of five years following the  
8 Closing date, Northwest Fiber will also annually file a compliance report showing  
9 the number of Washington locations passed with fiber and copper, the amount of  
10 capital expenditures invested in expansion and improvement of broadband  
11 infrastructure, and the total capital investments in specific operational and  
12 maintenance categories (subpart (b)).

13 **Q. What is the purpose of these financial reports?**

14 A. These reports permit the Commission to monitor several aspects of Northwest  
15 Fiber's financial fitness. The Joint Applicants assert that Northwest Fiber has the  
16 financial capability to operate successfully and make the planned investments in  
17 network infrastructure. Because Condition 1 provides transparency with respect to  
18 Northwest Fiber's financial well-being to ensure continuity of services and  
19 improved infrastructure and services to customers, it demonstrates that the  
20 Transaction meets the "no harm" standard.

21 **Federal Universal Service Fund Reporting (Condition 2)**

22 **Q. Please describe Condition 2.**

1 A. This condition obligates Northwest Fiber to provide annual reports on the capital  
2 and expenses incurred by Northwest Fiber in its buildout activities in connection  
3 with the CAF II program and all other federal high-cost universal service  
4 (“FUSF”) programs during the previous calendar year, beginning on July 15,  
5 2020, and ending in 2024.

6 **Q. How is Condition 2 designed to ensure that Washington consumers are not**  
7 **harmed by the Transaction?**

8 A. Condition 2 is designed to ensure that customers will continue to benefit from  
9 broadband deployment per Frontier NW’s previous commitments under the CAF  
10 II program, demonstrating that the Transaction results in “no harm” to consumers.

11 **Capital Expenditures and Additional Broadband Investment Commitment**  
12 **(Condition 3)**

13 **Q. Please describe Condition 3 subpart (a).**

14 A. Condition 3 (a) obligates Northwest Fiber to continue to honor the broadband  
15 deployment obligations of Frontier NW through participation in the CAF II  
16 program to ensure that at least 19,713 locations within the eligible census of its  
17 service area have access to 10/1 Mbps broadband service by the end of 2020.

18 **Q. Please summarize the other specific broadband commitments made by**  
19 **Northwest Fiber in the Settlement.**

20 A. Condition 3 (b) requires Northwest Fiber to make the adequate investments  
21 necessary to maintain the full functionality of Frontier NW’s legacy network to  
22 the extent not replaced by any upgraded network. Northwest Fiber will report

1 upgrades to the legacy network, if any, in the annual compliance report required  
2 by Condition 1 (b). Northwest Fiber will ensure that the ILEC will expend at  
3 least \$50 million on improving and expanding fiber-based broadband  
4 infrastructure throughout its Washington service territories, capable of delivering  
5 approximately 1 gigabit symmetrical service to those locations and customers,  
6 within five years of Closing (Condition 3 (c)).

7 Northwest Fiber will ensure that at least \$10 million of the \$50 million  
8 will be invested in improving and expanding fiber-based infrastructure outside of  
9 the Seattle/Everett Metropolitan Area (Condition 3 (c)). Northwest Fiber also  
10 commits to make investments that will result in no less than 33 percent of  
11 locations within the ILEC's Washington service territories having access to fiber-  
12 based broadband capable of delivering approximately 1 gigabit per second  
13 symmetrical service (Condition 3 (d)).

14 **Q. Will the broadband investment terms and commitments contained in the**  
15 **stipulation the Joint Applicants have entered with the parties to Oregon**  
16 **Public Utility Commission (“OPUC”) docket UM 2028 delay or otherwise**  
17 **negatively impact the broadband capital expenditure commitments set forth**  
18 **in Condition 3 of the Settlement?**

19 A. No. In OPUC docket UM 2028, in which the OPUC is reviewing the Transaction,  
20 the parties have entered into a stipulation that includes broadband investment  
21 commitments similar to those in Condition 3 of the Settlement. Condition 62 of  
22 the stipulation in the OPUC proceeding obligates Northwest Fiber to expend at

1 least \$50 million on improving and expanding fiber-based broadband  
2 infrastructure to locations and customers in the Frontier ILEC Oregon territories  
3 within five years of the Transaction. Condition 62 also provides that \$20 million  
4 of this amount will be expended in the first three years after Closing. Northwest  
5 Fiber has assured Staff that this commitment in Oregon will not delay or  
6 otherwise negatively impact the broadband capital expenditure commitments set  
7 forth in Condition 3 of the Settlement.

8 **Q. What is the purpose of Condition 3?**

9 A. The purpose of Condition 3 is to capture for Washington consumers the benefits  
10 of broadband infrastructure improvements that the Transaction promises to  
11 deliver. These commitments will ensure that customers will benefit from  
12 broadband deployment in excess of what could be achieved if the ILEC were not  
13 transferred to Northwest Fiber. As a result, this Transaction will improve both the  
14 level of service available to customers and the state of competition in the  
15 Washington marketplace, both of which ensure that the Transaction not only  
16 results in “no harm” to consumers in accordance with that standard, but also  
17 delivers significant benefits.

18 **Major Outage Reporting (Condition 4)**

19 **Q. Please discuss the conditions ensuring that Northwest Fiber will timely notify**  
20 **the commission of major outages.**

21 A. Condition 4 (a) requires Northwest Fiber for a period ending on December 31,  
22 2023 to use best efforts to provide notice to a designated Commission Staff

1 person within 30 minutes after a determination that a major outage, as defined in  
2 WAC 480-120-021, has occurred. In the event that Northwest Fiber is required to  
3 file a Network Outage Reporting System (“NORS”) report with the FCC,  
4 Northwest Fiber will simultaneously provide that report, appropriately designated  
5 as confidential, to the Commission via a specified email address (Condition 4 (b)).

6 **Q. How do these conditions demonstrate that the Transaction meets the “no**  
7 **harm” standard?**

8 A. Per the above discussion, these conditions ensure that the Commission will have  
9 timely notice of major outages. This condition provides a benefit to customers by  
10 having informed Commission Staff, and therefore satisfies the “no harm”  
11 standard.

12 **Statewide 911 Transition (Condition 5)**

13 **Q. Please describe how Northwest Fiber commits to cooperate with applicable**  
14 **parties during ESINet 911 transition and to keep its customers informed of**  
15 **alternative providers of PS/ALI database services.**

16 A. Under Condition 5 (a), Northwest Fiber and the ILEC will make all reasonable  
17 efforts to cooperate with all applicable parties in the ESINet 911 Transition in the  
18 state of Washington. Also, prior to TeleCommunications Systems, Inc. providing  
19 Frontier NW PBX and MLTS customers in Washington access to the PS/ALI  
20 database management services (“dbms”), Northwest Fiber will provide customers  
21 information on its publicly available website regarding alternative providers of  
22 dbms (Condition 5 (b)).

1 **Q. What is the rationale for this condition?**

2 A. Condition 5 is designed to ensure that Northwest Fiber and the ILEC act to protect  
3 customers throughout the ESINet 911 transition so that customers in Washington  
4 will not suffer from unreasonable delays during this process. The Parties believe  
5 that this level of diligence demonstrates that the “no harm” standard is satisfied  
6 with respect to the Transaction.

7 **Interconnection Agreements and Wholesale Transparency (Condition 6)**

8 **Q. Please describe Condition 6.**

9 A. Condition 6 (a) requires the ILEC to continue to offer wholesale services and to  
10 negotiate in good faith for Interconnection Agreements. The ILEC will continue  
11 to honor existing Interconnection Agreements that have been entered between  
12 legacy Frontier NW and other carriers (Condition 6 (a)). Northwest Fiber also  
13 commits that, as long as Frontier and Northwest Fiber subsidiaries interconnect  
14 with each other, it will file the agreements (and amendments, if any) as required  
15 under Section 252 of the Telecommunications Act of 1996 (Condition 6 (b)).

16 **Q. How does this condition concerning wholesale services satisfy the “no harm”  
17 standard?**

18 A. Condition 6 ensures that Frontier NW will continue to honor its interconnection  
19 obligations post-closing and will treat any potential interconnection arrangements  
20 with Frontier subsidiaries as interconnection agreements subject to Commission  
21 review and approval. Because the status quo is preserved with respect to



1 wholesale services, the Parties believe the Transaction meets the “no harm”  
2 standard.

3 **Interconnection Agreement and Wholesale Transparency (Condition 7)**

4 **Q. Please describe the condition relating to the transition of operational support**  
5 **systems from Frontier to Northwest Fiber.**

6 A. Condition 7 ensures that the systems being transferred to Northwest Fiber are  
7 functioning both before and after the Closing, with specific commitments to  
8 ensure continuity and avoid disruptions with respect to Frontier NW’s Operational  
9 Support Systems (“OSS”). Prior to Closing, Frontier is required to replicate the  
10 existing OSS, both retail and wholesale, share the testing strategy and pre-  
11 production testing results with the Commission, and then use the replicated  
12 systems for up to 60 days prior to the Closing (Condition 7 (a)-(b)). Frontier must  
13 also provide retail service quality reports at least five days prior to Closing, which  
14 demonstrate that the replicated OSS show no material degradation for previous  
15 benchmarks (Condition 7 (d)). A third party reviewer of these results will be  
16 selected by the Joint Applicants (Condition 7 (c)). Northwest Fiber will not close  
17 the Transaction until it has validated that the OSS are fully functioning and  
18 operational (Condition 7 (d)).

19 **Q. How does this condition satisfy the “no harm” standard?**

20 A. Condition 7 satisfies the “no harm” standard because the Joint Applicants will  
21 ensure, both prior to Closing, and for two years after Closing, that there will be  
22 continuity with respect to the OSS. As a result, the Parties believe that the

1 transition of systems from Frontier to Northwest Fiber will ensure continuous  
2 service and protect customers from interruptions to their service, demonstrating  
3 that the Transaction meets the “no harm” standard.

4 **Service Quality Reporting (Condition 8)**

5 **Q. Please describe Condition 8 in the Settlement.**

6 A. Condition 8 requires the Joint Applicants to provide service quality reports to the  
7 Commission. Five days after the Closing of the Transaction, Frontier will provide  
8 a retail service quality report to Commission Staff describing its most recent data  
9 regarding the percentage of calls answered within 30 seconds at its business office  
10 and the percentage of calls answered within that same duration with respect to its  
11 repair line (Condition 8 (a)). At that time, Frontier will also provide a retail  
12 service quality report containing data on a wire-center level for at least the last  
13 three months regarding network trouble and repeat trouble per 100 Access Lines  
14 per wire-center (Condition 8 (b)). Following the Closing, Northwest Fiber will  
15 provide Commission staff with these same reports on a quarterly basis within 45  
16 days from the end of the quarter for a period of three years (Condition 8 (c)-(d)).

17 **Q. How does Condition 8 meet the “no harm” standard?**

18 A. Condition 8 provides the Commission with a “snap-shot” of Frontier NW’s  
19 service quality performance immediately prior to Closing and continued service  
20 quality performance reporting post-closing. This allows the Commission to  
21 monitor service quality performance going forward compared with current service

1 quality performance to ensure there is “no harm” to customers as a result of the  
2 Transaction.

3 **Most Favored Nation Clause (Condition 9)**

4 **Q. What is the Parties’ proposed Condition 9?**

5 A. Condition 9, the “Most Favored Nation” (“MFN”) clause, permits the  
6 Commission to consider and adopt any condition to which the Applicants have  
7 stipulated or otherwise agreed in the proceedings before other jurisdiction that is  
8 or will be more favorable than those in the Settlement. The MFN clause provides  
9 that the Commission shall receive the benefit of the more favorable terms via  
10 regular Commission procedures, effecting an amendment and modification of the  
11 Settlement, subject to petition for reconsideration or other appropriate relief  
12 pursuant to Washington law. The Commission is also able to elect to not accept  
13 the benefit of any such amended or modified condition, provided that it gives  
14 written notice to the Joint Applicants. Overall, the MFN clause represents a  
15 reasonable compromise that allows the Parties to benefit from reaching an early  
16 settlement, while still allowing Washington consumers to benefit from pending  
17 proceedings in other states.

18 **IV. The Public Interest and the Parties’ Statements in Support of the Settlement.**

19 **Q. Please explain the Parties’ Statements in Support of the Settlement.**

20 A. All four Parties to this Settlement believe that the agreement meets the public  
21 interest standard, but differ in their rationale. The following statements are  
22 provided from the perspective of each of the Parties in support of the agreement,

1 and represent their views only. As such, no other party shall be deemed to have  
2 agreed to the statements of a particular party.

3 **Statement of Northwest Fiber**

4 **Q: Please describe the “no harm” standard.**

5 A: The no harm standard stems from WAC 480-143-170, which states, “If upon the  
6 examination of any application and accompanying exhibits, or upon a hearing  
7 concerning the same, the commission finds the proposed Transaction is not  
8 consistent with the public interest, it shall deny the application.” Essentially, there  
9 must be no harm to the public interest. The standard requires that ratepayers not  
10 be harmed by a transfer of property, but does not go as far as the net benefit  
11 standard, which requires that the transfer of property leave ratepayers better off as  
12 a result of the Transaction.

13 **Q. Please summarize how the Transaction will meet the “no harm” standard.**

14 A. As the Joint Applicants explained in their Application and direct testimony of Mr.  
15 Weed and Ms. Ellis, the Transaction satisfies the “no harm” standard because the  
16 Joint Applicants will act to preserve the continuity of service to Washington  
17 consumers. To maintain the status quo and ensure no harm takes place as a result  
18 of the Transaction, Northwest Fiber will maintain the full range of traditional  
19 residential, business, and related telecommunications services and functionalities  
20 currently provided to consumers and businesses in the ILEC’s service area,  
21 subject to the Commission’s consumer protection requirements and service  
22 quality standards set forth in WAC 480-120. Northwest Fiber will continue to

1 operate the business as an ILEC with substantially the same regulated retail and  
2 wholesale telecommunications services under the same rates, terms, and  
3 conditions that exist at Closing.

4 In addition, unlike the status quo, post-Closing Northwest Fiber will be  
5 positioned to invest in the ILEC, improving the infrastructure and services  
6 provided by the ILEC and consequently increasing the level of effective  
7 competition in the Washington marketplace. The Transaction will allow  
8 Northwest Fiber to improve voice, data, and video services in Washington and  
9 further enable advanced services such as the Internet of Things, smart homes,  
10 smart cities, and autonomous systems, for example. These improvements will  
11 benefit more than a hundred thousand Washington residents.

12 Specifically, after Closing, Northwest Fiber will begin to implement its  
13 business plan to expand and upgrade the ILEC's network to improve customer  
14 service and offer faster broadband speeds, in many instances approximately 1  
15 gigabit per second, to both residential and commercial customers. In addition to  
16 the commitments set forth in the Settlement, Northwest Fiber currently plans to  
17 upgrade the fiber network in Washington that it receives from Frontier such that  
18 those customers who received fiber-based services as of Closing of the  
19 Transaction will have symmetrical speed of approximately 1 Gigabit per second  
20 available to them within one year of the Closing of the Transaction.

21 These improvements compare favorably to what Frontier plans to deliver.  
22 Unlike Northwest Fiber, Frontier is not currently positioned to make comparable

1 substantial investments in additional bandwidth and network capacity. Because  
2 the Transaction will result in a more robust network and improved services to  
3 customers, the Transaction substantially exceeds the required “no harm” standard  
4 and is expected to bring net benefits to the public.

5 By improving its network and expanding fiber-based broadband in  
6 Washington, Northwest Fiber will boost competition for telecommunications and  
7 broadband services in this state to the benefit of wholesale and retail consumers.  
8 This will also provide a public benefit over and above that required for approval  
9 under the “no harm” standard.

10 These conditions, taken together, ensure that the Transaction meets the no  
11 harm standard and provides for net benefits.

12 **Q. Describe how the planned upgrades to the ILEC’s infrastructure relate to the**  
13 **“no harm” standard.**

14 A. While maintaining the functionality of the ILEC’s current network, Northwest  
15 Fiber plans to invest in the ILEC’s facilities by upgrading the core network and  
16 extending fiber to thousands of residential and business premises currently served  
17 by legacy copper infrastructure. In addition to these fiber deployment and core  
18 network upgrades, Northwest Fiber also plans to make additional capital  
19 expenditures across the other Transferring Companies, which will benefit the  
20 ILEC. This investment will enable Northwest Fiber to offer faster broadband,  
21 improve service, and expand to retail and wholesale customers throughout the  
22 state and the region. The more robust network will ensure that many more retail

1 and business customers will benefit from broadband speeds of approximately 1  
2 gigabit per second, among other enhanced services.

3 **Q. Will Northwest Fiber continue the ILEC’s investments under the federal**  
4 **Connect America Fund Phase II program?**

5 A. Yes. Northwest Fiber will continue to honor the broadband deployment  
6 obligations of the ILEC through ongoing participation in the Connect America  
7 Fund Phase II (“CAF II”) program to ensure that by the end of 2020, at least  
8 19,713 locations in the eligible census blocks in the ILEC’s service area have  
9 been upgraded to a minimum of 10/1Mbps broadband service (the minimum  
10 performance target set by the FCC in the CAF II program). Northwest Fiber’s  
11 commitment to the CAF II deployment is consistent with the “no harm” standard,  
12 as there will be no reduction in deployment as a result in the Transaction.  
13 Moreover, under the Settlement, Northwest Fiber will provide annual reports on  
14 the capital and expenses incurred in connection with its CAF II buildout activities.

15 **Q. Why does Northwest Fiber support the Settlement?**

16 A. As discussed at length above, Northwest Fiber believes that this set of conditions  
17 resolves all of the Parties’ concerns with respect to the Transaction, demonstrating  
18 that the “no harm” standard is satisfied. Northwest Fiber also believes that the  
19 terms of the Settlement confer benefits compared to the status quo.

20 The set of compromises embodied in the Settlement enables Northwest  
21 Fiber to expediently resolve these issues and close the Transaction, allowing it,  
22 the other parties, and Washington consumers the additional benefit of an early

1 resolution. In the course of this docket and the settlement negotiations, the Parties  
2 have thoroughly discussed the benefits of this Transaction, and the Parties have  
3 agreed to appropriate conditions that both ensure no harm and positive benefits to  
4 consumers. Although the Joint Applicants contend that the Commission lacks  
5 jurisdiction to review the Transaction, Northwest Fiber is willing to support the  
6 Commission's review and approval of the Joint Application subject to the terms  
7 and conditions agreed to in the Settlement in order to expedite this proceeding,  
8 and without waiving any right to raise jurisdictional arguments if the Commission  
9 declines to adopt the Settlement.

10 Beyond that, the "Most Favored Nation" clause allows this proceeding to  
11 be resolved now, rather than delaying resolution until proceedings in other states  
12 are concluded. Northwest Fiber, along with the other parties, recognizes that time  
13 is of the essence with respect to the Transaction, and that all Parties (and  
14 customers) benefit from defining the conditions of the Settlement now, rather than  
15 waiting for other state commissions to complete their review.

16 **Q. Have the Joint Applicants addressed the concerns raised by the other**  
17 **intervenors?**

18 A. Yes. As noted above, the Joint Applicants have entered into separate Settlements  
19 with Charter and DoD/FEA: (1) the Charter Settlement; and (2) the DoD/FEA  
20 Settlement. These Settlements will address the interconnection and continuity of  
21 service concerns raised by these intervenors and therefore Charter's and  
22 DoD/FEA's respective concerns with regard to these issues have been addressed.



1 **Statement of Frontier**

2 **Q. Why does Frontier support the Settlement?**

3 A. Frontier concurs that the Settlement and associated conditions further confirm the  
4 conclusion that the Transaction both satisfies the “no harm” standard of review  
5 and confers positive benefits on consumers. In particular, the Settlement further  
6 supports Northwest Fiber’s commitment to continuity of service for consumers  
7 and paves the way for Northwest Fiber’s significant investment in enhanced  
8 facilities and services, including expanded and improved broadband  
9 infrastructure. These are investments that likely would not occur but for the  
10 conclusion of the Transaction. Accordingly, the Settlement and Transaction are in  
11 the public interest.

12 **Statement of Commission Staff**

13 **Q. What is the purpose of your testimony?**

14 A. The purpose of Mr. Zawislak’s testimony is to present Staff’s recommendation to  
15 the Washington UTC (Commission) that the Transaction filed in this docket  
16 should be approved subject to the commitments entered into in the proposed  
17 Settlement Agreement in this case.

18 **Q. How did Staff arrive at its recommendation?**

19 A. We reviewed the Joint Applicants’ application, petition, and pre-filed direct  
20 testimony; conducted research and discovery; held internal meetings to discuss  
21 strategy and issues; and participated in negotiations among the parties. Staff also  
22 considered the Commission’s prior decisions regarding similar transactions in

1 light of the current landscape of the telecommunications industry in Washington  
2 and nationally. Staff’s goal was to ensure that any settlement agreement would  
3 strike an appropriate balance of interests considering the Commission’s regulatory  
4 responsibilities, the evolving competitive environment, and the public interest.

5 **Q. Please summarize the details of Staff’s recommendation.**

6 A. Staff recommends that the Commission approve the proposed Settlement  
7 Agreement, but only with conditions that Staff believes are necessary to enhance  
8 the Commission’s ability to protect consumers in the post-Transaction  
9 environment. Pursuant to the proposed Settlement Agreement, Northwest Fiber  
10 has committed to file reports, make investments and improvements that Staff  
11 believes to be consistent with the public interest.

12 **Q. Please explain your understanding of the public interest standard.**

13 A. In order to approve the proposed merger, the Commission must determine that the  
14 Transaction is consistent with the public interest. Should the Commission  
15 determine the Transaction to be inconsistent with the public interest, the  
16 Commission will not approve it, *as provided by* WAC 480-143-170, which  
17 provides: “If, upon examination of an application and accompanying exhibits, or  
18 upon a hearing concerning the same, the Commission finds that the proposed  
19 Transaction is not consistent with the public interest, it shall deny the  
20 application.” As with prior applications for approval of mergers, the Commission  
21 should review the proposal by examining the effect the merger will have given the  
22 circumstances currently presented.

1           The Commission discussed the situational complexity of applying the  
2           public interest standard in orders approving several telecommunications mergers,  
3           saying:

4                   *“There is no bright line against which to measure whether*  
5                   *a particular transaction meets the public interest standard.*  
6                   *As we observed in another recent merger case, “the*  
7                   *approach for determining what is in the public interest*  
8                   *varies with the form of the transaction and the attending*  
9                   *circumstances.”<sup>2</sup>*

10  
11       **Q.    Has the Commission applied the public interest standard in past merger**  
12       **proceedings?**

13       A.    Yes, this is the standard that the Commission has applied in merger and transfer  
14       of control proceedings, including, for example, the following proceedings: Qwest  
15       Communications and CenturyTel, Inc., Docket UT-100820; Verizon  
16       Communications Inc. and Frontier Communications Corporation, Docket UT-  
17       090842; Verizon and MCI, Docket UT-050814; U S West, Inc., and Qwest  
18       Communications International, Docket UT-991358; and GTE/Bell Atlantic,  
19       Docket UT-991367. In each of these cases, the Commission at the time approved  
20       the proposed transfer of control by adopting settlement proposals that included  
21       negotiated conditions designed to protect the public interest.

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<sup>2</sup> See *In re Joint Application of Qwest Commc'n Inc. and CenturyTel, Inc. for Approval of Indirect Transfer of Control of Qwest Corp., Qwest Commc'n Co. LLC, and Qwest LD Corp.*, Docket UT-100820, Order 14, 54, ¶ 89 (Mar. 14, 2011); see also *In re Joint Application of Verizon Commc'n Inc. and MCI, Inc., for Approval of Agreement and Plan of Merger*, Docket UT-050814, Order 07, 25, ¶ 57 (Dec. 23, 2005); *In re Application of US WEST Inc. and Qwest Commc'n Int'l, Inc.*, Docket No. UT-991358, 9th Supp. Order, 8-9, ¶¶ 26-27 (June 19, 2000); *In Re PacifiCorp and Scottish Power PLC*, Docket UE-981627, 3rd Supp. Order, 3, ¶ 7 (April 2, 1999).

1 **Q. Please discuss the specific commitments in the Settlement that are most**  
2 **important to Staff.**

3 A. Staff supports the Settlement in its entirety, including all conditions, along with  
4 the two attachments representing the sample reporting templates. However,  
5 because other parties also address some of these conditions, I will discuss in detail  
6 only select conditions for the purposes of my testimony.

7 **Q. What are the conditions that are most important to Staff?**

8 A. The conditions are meant to mitigate the potential or perceived risks of the  
9 Transaction, so they are all important. However, for purposes of this discussion  
10 The Financial Reporting condition (Condition 1) is important because Northwest  
11 Fiber's new four-state<sup>3</sup> regional company will be privately held and will not file  
12 publicly available financial information via the Security and Exchange  
13 Commission's (SEC's) Edgar database.<sup>4</sup> The Federal Universal Service Fund  
14 (FUSF) Reporting condition (Condition 2) will allow the commission to monitor  
15 and adequately identify the capital expenditures and operating expenses  
16 associated with the CAF-II program (along with locations by exchange) for the  
17 purpose of accountability and transparency of the use of funds. The Capital  
18 Expenditures and Additional Broadband Investment Commitment reporting  
19 condition (Condition 3b) along with Condition 1b (which includes both capital

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<sup>3</sup> See Exh. JT-2 for a map of the Northwest four state operations' study area boundaries (based on FCC website mapping data).

<sup>4</sup> See Exh. JT-3C for the December 31, 2018, Confidential Financial Statements of the Frontier Northwest four-state operations (for baseline data that these new reports will be predicated upon).

1 expenditures as well as locations passed) both enable the commission to ensure  
2 that the promise of fiber investment and legacy maintenance are achieved.

3 The Major Outage Reporting condition (Condition 4) ensures Staff  
4 receives timely notice of a major outage and creates a foundation for good  
5 communication with the new company's management.

6 The Service Quality Reporting condition (Condition 8) will be discussed  
7 in more detail by Public Counsel's witness, Sarah Laycock.

8 The Most Favored Nation Clause condition (Condition 9) speaks for itself  
9 and is important to Staff not only for this case, but also for setting expectations in  
10 future cases.

11 **Q. Please explain the CAF-II program and how Frontier Communications**  
12 **Northwest, LLC<sup>5</sup> / Northwest Fiber, LLC will be held accountable under**  
13 **Condition 2.**

14 A. The FUSF Reporting condition is meant as a tool for Staff to monitor how the  
15 new company will continue to be accountable for the obligations it has including  
16 its role as an Eligible Telecommunications Carrier (ETC) in Washington state and  
17 as part of the FCC's CAF-II program in order to make sure that Washington  
18 customers receive the appropriate benefits (especially in the areas that are less  
19 likely to receive the attention and focus in a competitive market). It also provides  
20 a template for the new company to comply with rules it may not already be

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<sup>5</sup> This is the presumed name of the Washington state entity at closing, subject to confirmation. *See Joint Applicant Initial Filing, Exh. 1 (filed June 28, 2019).*

1 familiar with. Exhibit 2 to the Settlement Agreement Conditions (Attachment A)  
2 provides the reporting format the parties agreed to.

3 **Q. What is CAF-II and how is Frontier Northwest involved?**

4 A. In 2010, the FCC began the process of reforming the FUSF, which supported only  
5 voice telephony services at the time, to include support for broadband services.  
6 One of the purposes of the FCC’s FUSF program, now also known as CAF-II, is  
7 to establish broadband support for price-cap companies. The price-cap companies  
8 in the state of Washington are CenturyLink, Frontier, and FairPoint. The FCC  
9 provided the price-cap companies a “Right of First Refusal” to accept the CAF-II  
10 broadband support offer that began in 2015 and will continue for six years until  
11 2020. Frontier Northwest accepted the FCC’s CAF-II offer in the state of  
12 Washington on behalf of its two study areas (SACs 522416 and 522449). The  
13 CAF-II program is currently in the fifth year of the six-year program. Because of  
14 the deployment requirements over this time frame, the FCC established interim  
15 obligations for Frontier Northwest to complete its deployment. Therefore, by the  
16 end of 2019, 80 percent of the supported locations must be completed with  
17 broadband speeds of 10Mbps downstream and 1Mbps upstream. It is anticipated  
18 that Frontier Northwest will meet 100 percent of its obligations in Washington  
19 State by December 31, 2020. The FCC may choose to fund a seventh year as a  
20 bridge as it prepares for the next phase of the FUSF (*i.e.*, CAF-3, or what is now  
21 being advertised as the Rural Digital Opportunity Fund, or “RDOF,” that will be

1 rolled out as a true reverse auction<sup>6</sup> e.g. *without the right of first refusal for*  
2 *ILECs*).

3 **Q. How much money does Frontier Northwest receive from the FCC's CAF-II**  
4 **program in Washington every year until the next phase occurs?**

5 A. In the state of Washington, Frontier now receives \$8.6 million per year (for each  
6 of the CAF-II program funded years).

7 **Q. Doesn't the Commission already have FUSF reporting rules?**

8 A. Yes, those rules can be found in WAC 480-123-060, -070, and -080.

9 **Q. Why is this condition necessary?**

10 A. In addition to compliance with existing Commission rules, Northwest Fiber has  
11 agreed to this condition in order to facilitate broadband deployment under the  
12 CAF-II program to ensure that prior commitments are met (Condition No. 2), as  
13 well as additional broadband investment and location deployment under new  
14 commitments being made in another condition (Condition No. 3) that will be  
15 explained next.

16 **Q. Please explain the Capital Expenditures and Additional Broadband**  
17 **Investment Commitment (Condition 3).**

18 A. Generally, Northwest Fiber is committing to expend at least \$50 million on  
19 improving and expanding fiber-based broadband infrastructure, to locations and  
20 customers in Washington, within five years of the close of this Transaction. This  
21 is above and beyond the CAF-II program and in addition to maintaining Frontier

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<sup>6</sup> *In the Matter of Rural Digital Opportunity Fund et al*, WC Docket No. 19-126 et al., Notice of Proposed Rulemaking, 34 FCC Rcd 6778 (8), para. 19 (2019), (“*RDOF NPRM*”), available at [https://docs.fcc.gov/public/attachments/FCC-19-77A1\\_Rcd.pdf](https://docs.fcc.gov/public/attachments/FCC-19-77A1_Rcd.pdf).

1 Northwest's legacy network. Exhibit 1 to the Settlement Agreement Conditions  
2 (Attachment A of the Settlement Stipulation) provides the reporting format the  
3 parties agreed to in support of both Condition 1b, as well as Condition 3b, as  
4 described above. These conditions will enable Staff to monitor Northwest Fiber's  
5 progress.

6 **Q. Please explain the Major Outage Reporting condition (Condition 4).**

7 A. Generally, the parties agreed to this condition in order to ensure and assist Staff in  
8 carrying out the UTC's mission regarding public safety with respect to the  
9 telecommunications industry. The condition essentially requests the  
10 Commission's approval of the same type of waiver that was granted to  
11 CenturyLink in Docket UT-170042, in order to facilitate better, quicker, and more  
12 complete communication between the companies and the regulators.

13 **Q. Please explain the Statewide 911 condition (Condition 5).**

14 A. The Washington Military Department in coordination with Telecommunication  
15 Systems Inc. and CenturyLink are in the midst of a statewide 911 transition.  
16 Northwest Fiber's cooperation (continuing on from Frontier Northwest's) is very  
17 much appreciated and critical to a successful transition.

18 **Q. Why are Conditions 6 and 7 important?**

19 A. These two conditions exemplify Northwest Fiber's commitment not only to retail  
20 service excellence, but also wholesale service continuity. Wholesale services are  
21 important to retaining a competitive market in Washington State and, as can be  
22 seen by Charter Fiberlink LLC's participation, should be sufficient to continue the



1 status quo. Condition 7 is modeled after past successful transitions of Operations  
2 Support Systems.

3 **Q. What about Condition 8?**

4 A. Public Counsel's witness Sarah Laycock will provide more detail on Condition 8.

5 **Q. Why does staff believe this agreement will meet the public interest standard  
6 in WAC 480-143-170?**

7 A. Staff believes that the Settlement Agreement's nine conditions, which are meant  
8 to mitigate potential or perceived risks of the Transaction, strike an appropriate  
9 balance of interests in consideration of the Commission's regulatory  
10 responsibilities and the evolving competitive telecommunications environment in  
11 Washington state.

12 **Q. Please summarize Staff's Recommendation.**

13 A. Staff supports the proposed Settlement Agreement including the conditions  
14 discussed above. The Settlement Agreement will enhance the Commission's  
15 ability to protect Washington consumers from harms that could result from this  
16 Transaction. The Settlement Agreement ensures that the Transaction will be  
17 consistent with the public interest, and Staff recommends approval of both the  
18 Settlement Agreement and the Transaction as a whole. Staff wishes to thank  
19 Frontier Northwest for its past service to customers in our state and we look  
20 forward to working with Northwest Fiber in the near future and to the benefit of  
21 customers in our state, as well.

22

1 **Statement of Public Counsel**

2 **Q. Ms. Laycock, what is the purpose of your testimony in this proceeding?**

3 A. I am testifying in support of the Settlement, filed in this docket on December 19,  
4 2019. My testimony will describe why Public Counsel believes the Settlement is  
5 in the Public Interest.

6 **Q. Please generally describe why Public Counsel believes the Settlement  
7 Stipulation is in the public interest.**

8 A. This Settlement is the result of negotiations between Public Counsel, Staff, and  
9 the Joint Applicants, and represents a reasonable compromise among the Parties'  
10 positions. Public Counsel believes that the resulting terms of the Settlement,  
11 which include provisions such as financial reporting, service quality reporting,  
12 and a commitment to spend at least \$50 million on improving and expanding  
13 fiber-based broadband infrastructure meet the "no harm" standard, and is  
14 therefore, in the public interest.

15 **Q. Does Public Counsel believe that the no harm standard has been met in this  
16 case?**

17 A. Yes. Public Counsel believes the Settlement mitigates transactional risk and is  
18 sufficient to meet the no harm standard. Public Counsel's main concerns when  
19 evaluating the Joint Applicant's initial filing was that, by allowing a new  
20 company to take over Frontier's system, service quality might degrade,  
21 investments in the system may not be made, and Frontier's legacy network may

1 not be maintained. Our concerns have been addressed through the Settlement, and  
2 as such, Public Counsel believes that the settlement meets the no harm standard.

3 **Q. Are there any commitments Public Counsel would like to emphasize?**

4 A. Yes. Public Counsel supports all of the terms, and believes that the terms, taken  
5 together, create a robust settlement; however, Public Counsel takes particular  
6 interest in certain provisions. In particular, the following terms were important to  
7 Public Counsel in meeting the no harm standard:

- 8 • Financial Reporting;
- 9 • Service Quality Reporting;
- 10 • Capital Expenditures and Additional Broadband Investment; and
- 11 • Most Favored Nation Clause.

12 **Q. Please discuss the financial reporting provisions included in the Settlement.**

13 A. Northwest Fiber will file a compliance report, including audited financial  
14 statements, annually with the Commission for the next three years. They will also  
15 file a compliance report each year for the next five years showing, for the prior  
16 calendar year, the number of locations passed with fiber and copper on a  
17 Washington state basis, the amount of capital expenditures invested to improve  
18 and expand broadband infrastructure, and total capital investments.<sup>7</sup>

19 Frontier Northwest has an aging network, but is not in a position to invest  
20 the necessary capital to upgrade network operations and services due to their

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<sup>7</sup> Joint Settlement Agreement, Attachment A - Conditions, at 1.

1 financial position.<sup>8</sup> Frontier Northwest's parent company has in excess of \$16  
2 billion in debt and outstanding debt payments in excess of \$2 billion due over the  
3 next three years.<sup>9</sup> In contrast, Northwest Fiber is in a financial position to begin  
4 making improvements and upgrading the aging network. While Northwest Fiber  
5 does seem to have the capacity to begin investing in the Washington territory,  
6 Public Counsel believes financial reports are important so that the Commission is  
7 able to ensure Northwest Fiber is indeed investing in the Washington territory.  
8 Having this transparency is important to monitor Northwest Fiber's performance  
9 and ensure they are making appropriate investments. Lack of investments in the  
10 state would provide notice to the Commission of potential problems, which could  
11 prompt a deeper assessment of service quality and customer complaints.

12 **Q. Please discuss the service quality reporting provisions included in the**  
13 **Settlement.**

14 A. The Settlement includes several service quality reporting provisions, which Public  
15 Counsel believes play a fundamental role in ensuring there is no harm done to  
16 Washington customers as a result of this Transaction. The provisions include a  
17 retail service quality report to be filed with the Commission within five days of  
18 closing. This report would include metrics for Frontier Northwest's service  
19 territory in Washington on the their business office answer performance and  
20 repair line answer performance, indicating the percentage of calls answered

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<sup>8</sup> Direct Testimony of Steve Weed, Exh. SW-1T at 5.

<sup>9</sup> Direct Testimony of Allison Ellis, Exh. AE-1T at 8.

1 within 30 seconds.<sup>10</sup> The report will also include metrics at a wire center level for,  
2 at a minimum, the most recent three months on network trouble and repeat  
3 troubles.<sup>11</sup> Public Counsel believes these requirements are necessary in order to  
4 ensure customers are not harmed by degraded service quality after the Transaction  
5 is completed.

6 Northwest Fiber will provide a quarterly service quality report to the  
7 Commission within 45 days of the end of the quarter, for the next three years after  
8 closing, which will include metrics shown on a monthly basis of business office  
9 answer performance, repair line answer performance, network trouble, and repeat  
10 troubles.

11 Having Frontier Northwest file reports based on their current system, and  
12 having Northwest Fiber report later for the next few years, will allow the  
13 Commission to compare where the ILEC was at the onset of the purchase, and  
14 how the Northwest Fiber has maintained, improved, or degenerated the ILEC's  
15 system since then. Currently, these metrics are not required to be filed with the  
16 UTC in a report. These reports will give the UTC the information it needs to  
17 determine whether or not Northwest Fiber is maintaining its systems. The detail  
18 the reports require will provide the Commission with enough granular information  
19 to identify service in rural areas, which are most likely to be harmed first in the  
20 event that the ILEC does not maintain its systems.

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<sup>10</sup> *Id.* at 4.

<sup>11</sup> *Id.*

1 **Q. Please discuss the capital expenditures and additional broadband investment**  
2 **provisions included in the settlement.**

3 A. Post-closing of the Transaction, Northwest Fiber will make adequate investments  
4 necessary to maintain full functionality of Frontier Northwest's legacy network to  
5 the extent it is not replaced by any upgraded network. Any upgrades to the legacy  
6 network will be included in the narrative of the compliance report that is filed by  
7 May 15th of each year.<sup>12</sup>

8 This term will ensure that Northwest Fiber will not neglect the legacy  
9 copper network. Legacy copper networks tend to be located in more rural, harder  
10 to maintain areas, and are generally less profitable. Because of those factors,  
11 telecommunications providers may not want to maintain those networks. Public  
12 Counsel believes this is an important term as it ensures the new owners will not  
13 allow the older segments of the network to degrade, which could result in harm to  
14 customers who rely on those networks.

15 Northwest Fiber also agreed to spend at least \$50 million on improving  
16 and expanding fiber-based broadband infrastructure to locations and customers in  
17 the incumbent local exchange carrier's (ILEC) Washington territory capable of  
18 delivering approximately 1 gigabit symmetrical service to those locations and  
19 customers within five years. Northwest Fiber will ensure that Frontier Northwest  
20 will invest so that no less than 33 percent of locations in Frontier Northwest's  
21 territory in Washington will have access to fiber-based broadband infrastructure

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<sup>12</sup> *Id.* at 1.

1 capable of delivering approximately 1 gigabit symmetrical service. Of the \$50  
2 million, Northwest Fiber will ensure that Frontier Northwest expends at least \$10  
3 million outside of the Seattle/Everett Metropolitan Area.<sup>13</sup>

4 Public Counsel supports this term as it provides a dollar amount for  
5 improving and expanding fiber based broadband infrastructure. In particular,  
6 Public Counsel supports the commitment to spend a certain amount on capital  
7 investments outside of the Seattle/Everett metro areas. In general, rural areas tend  
8 to be overlooked and neglected by telecommunications providers. This term  
9 ensures Northwest Fiber will focus at least some of its investments on rural areas,  
10 as opposed to the more lucrative, urban areas.

11 **Q. Please discuss the most favored nation (MFN) clause included in the**  
12 **Settlement.**

13 If the Joint Applications agree to terms in another state that are more favorable  
14 than the Washington terms, the Joint Applications will apply the more favorable  
15 terms to the Transaction in Washington.<sup>14</sup> This provision ensures that Washington  
16 customers will receive as many benefits as possible, insulating them from risks  
17 this Transaction poses.

18 **Q. What is Public Counsel's overall recommendation?**

19 A. Public Counsel recommends that the Commission approve the Settlement. Public  
20 Counsel believes that the proposed settlement meets the statutory threshold and is  
21 in the public interest.

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<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.* at 4.

1 V. **Conclusion**

2 Q. **Please summarize your testimony.**

3 A. For the reasons discussed above, the Settlement is in the public interest and in the  
4 interest of the Parties. Accordingly, the Parties respectfully recommend that the  
5 Commission adopt the Settlement in its entirety and expediently approve the  
6 Transaction.

7 Q. **Does this conclude the Parties' testimony in support of the Settlement?**

8 A. Yes, thank you.