

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

In the Matter of )
)
Applications Filed by Frontier Communications ) WC Docket No. 14-22
Corporation and AT&T Inc. for the Assignment or )
Transfer of Control of the Southern New England )
Telephone Company and SNET America, Inc. )

MEMORANDUM OPINION AND ORDER

Adopted: July 25, 2014

Released: July 25, 2014

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

I. INTRODUCTION

1. Frontier Communications Corp. (Frontier) and AT&T Inc. (AT&T, and together with Frontier, the Applicants) filed a series of applications pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended (the Act). The Applicants seek approval to assign and transfer to Frontier licenses and authorizations held by AT&T’s wholly owned subsidiaries, The Southern New England Telephone Company (SNET) and SNET America, Inc. (SNET America).1 The proposed transaction would result in the transfer to Frontier of approximately 900,000 local access lines, 415,000 broadband customers, and 180,000 video customers in Connecticut from AT&T, which currently serves the entire state except for two exchange areas.2

2. We are required to review the record evidence submitted by Applicants to determine if the proposed transaction would serve “the public interest, convenience, and necessity” as mandated by the Act.3 We assess several important criteria to make this determination, including (1) whether the Applicants are qualified to hold Commission licenses, (2) whether the proposed transaction would result in public interest harms by, for example, diminishing competition or degrading service for consumers, and (3) whether there are potential benefits attributable to the transaction.4 The State of Connecticut is

1 47 U.S.C. §§ 214, 310(d). See AT&T Inc. and Frontier Communications Corporation Applications for Consent to Transfer Control of Authority to Provide Global Facilities-Based and Global Resale International Telecommunications Services, and to Assign and Transfer Control of Domestic Common Carrier Transmission Lines, Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 14-22 (filed Feb. 3, 2014) (Domestic 214 Application); File No. ITC-T/C-20140131-00027 (filed Jan. 31, 2014). On February 11, 2014, the Wireline Competition Bureau, International Bureau, and Wireless Telecommunications Bureau (collectively, Bureaus) released a consolidated public notice accepting the applications for non-streamlined processing and announcing a pleading cycle. Applications Filed by Frontier Communications Corporation and AT&T Inc. for the Assignment or Transfer of Control of the Southern New England Telephone Company and SNET America, Inc., WC Docket No. 14-22, Public Notice, 29 FCC Rcd 1296 (WCB/IB/WTB 2014).

2 Domestic 214 Application Exh. 1 (Description of the Parties, Description of the Transaction, Public Interest Statement and Administrative Matters) (Public Interest Statement) at 7.

3 47 U.S.C. §§ 214(a), 310(d).

4 See infra paras. 8-28.

also conducting a detailed review to ensure that the transaction is in the public interest.<sup>5</sup>

3. The only commenter, the Communications Workers of America (CWA), did not petition to deny the proposed transaction, but raised concerns that the Applicants did not provide sufficiently detailed information to support a finding that it is in the public interest.<sup>6</sup> We discuss CWA's comments as part of our analysis below.

4. We have carefully reviewed the record and requested and analyzed additional data from the Applicants. Based on our analysis, we find that the transaction is not likely to harm competition or consumers and likely will result in public interest benefits. Accordingly, we find that the transaction serves the public interest and consent to the transfer.

## II. BACKGROUND

### A. Description of the Applicants

#### 1. Frontier Communications Corp.

5. Frontier, a publicly-traded Delaware corporation, is the fourth largest incumbent local exchange carrier (LEC) in the United States and serves primarily rural areas and smaller cities.<sup>7</sup> Through its wholly owned operating companies, Frontier provides residential and business customers with telecommunications and other services, including local and long distance voice services, broadband Internet service, and multichannel video service.<sup>8</sup> Frontier currently has approximately 3.1 million customers and 1.8 million broadband customers in 27 states.<sup>9</sup>

#### 2. AT&T Inc.

6. AT&T provides nationwide wireless, broadband Internet, local and long distance voice, mobile broadband, and advanced multichannel video programming distributor (MVPD) services, as well as IP-based communications services.<sup>10</sup> Its subsidiaries, SNET, a Connecticut corporation, and SNET America, a Delaware corporation, hold domestic and international section 214 authorizations and certain radio licenses, serving all of Connecticut with such services except for two exchanges served by Verizon Communications Inc. in the southwest corner of the state.

### B. Description of the Transaction

7. On December 16, 2013, Frontier and AT&T entered into a Stock Purchase Agreement (the Agreement). Pursuant to the terms of the Agreement, SNET and SNET America will become wholly owned subsidiaries of Frontier. Applicants state that the proposed transaction does not include the other AT&T operations in Connecticut, such as those of AT&T Mobility, which will continue to provide wireless services in Connecticut, and AT&T Corp., which will continue to serve enterprise customers in

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<sup>5</sup> *Joint Application of Frontier Communications Corporation and AT&T Inc. for Approval of a Change of Control*, Docket No. 14-01-46 (Conn. Pub. Util. Reg. Auth., filed Jan. 31, 2014). Our review of applications filed with the Commission does not impact the state's independent proceeding on the proposed transaction.

<sup>6</sup> Comments of CWA, WC Docket No. 14-22, at 2-3, 8-12 (filed Mar. 13, 2014) (CWA Comments). CWA did not file reply comments.

<sup>7</sup> Frontier Communications Corp., Form 10-Q for the Quarterly Period Ended March 31, 2014 at 23 (May 8, 2014), available at <http://www.sec.gov/Archives/edgar/data/20520/000002052014000037/fr-20140331x10q.htm>.

<sup>8</sup> Public Interest Statement at 4-5.

<sup>9</sup> *Id.* at n.6. Frontier currently serves Alabama, Arizona, California, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Washington, West Virginia, and Wisconsin.

<sup>10</sup> *Id.* at 5.

the state as a competitive LEC.<sup>11</sup>

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

8. *Public Interest Review.* Pursuant to sections 214(a) and 310(d) of the Act, the Commission must determine whether the proposed transfer of control of certain licenses and authorizations held and controlled by AT&T to Frontier will serve the public interest, convenience, and necessity.<sup>12</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>13</sup> If the proposed transaction would not violate a statute or rule, the Commission considers whether it could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.<sup>14</sup> The Commission then employs a balancing test weighing any potential public interest harms of the proposed transaction against the proposed public interest benefits.<sup>15</sup> The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.<sup>16</sup> If the Commission is unable to find that the proposed transaction serves the public interest, or if the record presents a substantial and material question of fact, section 309(e) of the Act requires the Commission to designate the applications for hearing.<sup>17</sup>

9. The public interest evaluation necessarily encompasses the "broad aims of the Communications Act," which include, among other things, a deeply rooted preference to protect and promote competition in relevant markets, accelerating private-sector deployment of advanced services, ensuring a diversity of license holdings, and generally managing spectrum in the public interest.<sup>18</sup> The public interest analysis may also entail assessing whether the transaction will affect the quality of

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<sup>11</sup> *Id.* at 6-8; Letter from Michael D. Saperstein, Jr., Vice President, Frontier, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 14-22, at 9 and Attach. 3 (filed Apr. 15, 2014) (Frontier Apr. 15 *Ex Parte* Letter) (listing specific assets that will be transferred).

<sup>12</sup> 47 U.S.C. §§ 214(a), 310(d). Section 310(d) of the Act requires that we consider applications for transfer of Title III licenses under the same standard as if the proposed transferee were applying for licenses directly under section 308 of the Act, 47 U.S.C. § 308. *See, e.g., 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>13</sup> *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, 4199, para. 7 (2011).

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

<sup>15</sup> *See, e.g., AT&T/BellSouth Order*, 22 FCC Rcd at 5672, para. 19.

<sup>16</sup> *See, e.g., id.*

<sup>17</sup> 47 U.S.C. § 309(e); *see, e.g., Application of Echostar Communications Corp., General Motors Corp., and Hughes Electronics Corp., Transferors, and Echostar Communications Corp., Transferee*, CS Docket No. 01-348, Hearing Designation Order, 17 FCC Rcd 20559, 20574, para. 25 (2002) (*EchoStar/DirecTV Order*); *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation for Consent to Transfer Control of Licenses and Authorizations et al.*, WT Docket No. 04-70 et al., Memorandum Opinion & Order, 19 FCC Rcd 21522, 21542-44, para. 40 (2004) (*Cingular/AT&T Wireless Order*).

<sup>18</sup> *See, e.g., Applications of Softbank Corp., Starburst II, Inc., Sprint Nextel Corporation, and Clearwire Corporation for Consent to Transfer Control of Licenses and Authorizations; Petitions for Reconsideration of Applications of Clearwire Corporation for Pro Forma Transfer of Control*, IB Docket No. 12-343, Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, 28 FCC Rcd 9642, 9651, para. 24 (2013) (*Softbank/Sprint Order*); *Application of AT&T Inc. and Qualcomm Incorporated for Consent to Assign Licenses and Authorizations*, WT Docket No. 11-18, Order, 26 FCC Rcd 17589, 17603, para. 32 (2011) (*AT&T/Qualcomm Order*).

communications services or will result in the provision of new or additional services to consumers.<sup>19</sup> In conducting this analysis, the Commission may consider technological and market changes, as well as trends within the communications industry, including the nature and rate of change.<sup>20</sup>

10. 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>21</sup> The Department of Justice (DOJ) reviews telecommunications mergers pursuant to section 7 of the Clayton Act, and if it wishes to block a merger, it must demonstrate to a court that the merger may substantially lessen competition or tend to create a monopoly.<sup>22</sup> DOJ's review is also limited solely to an examination of the competitive effects of the acquisition, without reference to other public interest considerations.<sup>23</sup> The Commission's competitive analysis under the public interest standard is somewhat broader—for example, it considers whether a transaction will enhance, rather than merely preserve, existing competition, and takes a more extensive view of potential and future competition and its impact on the relevant market.<sup>24</sup>

11. The Commission has recognized that a proposed transaction may lead to both beneficial and harmful consequences,<sup>25</sup> and the Commission's public interest authority enables it, where appropriate, to impose and enforce narrowly tailored, transaction-specific conditions to ensure that the public interest is served.<sup>26</sup> Section 303(r) of the Act authorizes the Commission to prescribe restrictions or conditions not inconsistent with law that may be necessary to carry out the provisions of the Act.<sup>27</sup> Similarly, section 214(c) of the Act authorizes the Commission to impose “such terms and conditions as in its judgment the public convenience and necessity may require.”<sup>28</sup> Unlike the role of antitrust enforcement agencies, the Commission's public interest authority enables it to rely upon extensive regulatory and enforcement

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<sup>19</sup> See, e.g., *Softbank/Sprint Order*, 28 FCC Rcd at 9651, para. 24; *AT&T/BellSouth Order*, 22 FCC Rcd at 5673, para. 20.

<sup>20</sup> See, e.g., *Softbank/Sprint Order*, 28 FCC Rcd at 9651, para. 24; *AT&T/Qualcomm Order*, 26 FCC Rcd at 17599, para. 24.

<sup>21</sup> See, e.g., *Softbank/Sprint Order*, 28 FCC Rcd at 9651, para. 25; *AT&T/BellSouth Order*, 22 FCC Rcd at 5673, para. 21.

<sup>22</sup> 15 U.S.C. § 18. On February 19, 2014, the Federal Trade Commission (FTC) issued a public notice stating that both the FTC and the DOJ's Antitrust Division had completed their review and determined not to take any enforcement action during the Hart Scott Rodino waiting period. See FTC, *Transaction Granted: Early Termination* (Feb. 19, 2014), available at <http://www.ftc.gov/enforcement/premerger-notification-program/early-termination-notices/20140523>.

<sup>23</sup> 15 U.S.C. § 18.

<sup>24</sup> See, e.g., *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements and Petition for Declaratory Ruling that the Transaction Is Consistent with Section 310(b)(4) of the Communications Act*, WT Docket No. 08-95, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17444, 17462, para. 28 (2008) (*Verizon Wireless/Alltel Order*); *Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings, Inc. to Sirius Satellite Radio Inc.*, MB Docket No. 07-57, Memorandum Opinion and Order and Report and Order, 23 FCC Rcd 12348, 12366, para. 32 (2008) (*XM/Sirius Order*).

<sup>25</sup> See, e.g., *AT&T/BellSouth Order*, 22 FCC Rcd at 5674, para. 21.

<sup>26</sup> See, e.g., *Verizon Wireless/Alltel Order*, 23 FCC Rcd at 17462, para. 29; *XM/Sirius Order*, 23 FCC Rcd at 12366, para. 33; *AT&T/BellSouth Order*, 22 FCC Rcd at 5674, para. 22.

<sup>27</sup> 47 U.S.C. § 303(r); see also *Verizon Wireless/Alltel Order*, 23 FCC Rcd at 17463, para. 29; *XM/Sirius Order*, 23 FCC Rcd at 12366, para. 33; *AT&T/BellSouth Order*, 22 FCC Rcd at 5674, para. 22.

<sup>28</sup> 47 U.S.C. § 214(c); see also *Verizon Wireless/Alltel Order*, 23 FCC Rcd at 17463, para. 29; *XM/Sirius Order*, 23 FCC Rcd at 12366, para. 33; *AT&T/BellSouth Order*, 22 FCC Rcd at 5674, para. 22.

experience to impose and enforce conditions to ensure that the transaction will yield overall public interest benefits.<sup>29</sup> In using this broad authority, the Commission has generally imposed conditions to remedy specific harms likely to arise from transactions and that are related to the Commission's responsibilities under the Act and related statutes.<sup>30</sup>

#### IV. APPLICANTS' QUALIFICATIONS TO HOLD LICENSES

12. As a threshold matter, we must determine whether the Applicants meet the requisite qualifications to hold and assign and transfer licenses under section 310(d) of the Act and the Commission's rules. In general, when evaluating assignments under section 310(d), we do not re-evaluate the qualifications of the transferor.<sup>31</sup> Exceptions to this rule occur where, for example, issues related to basic qualifications have been designated for hearing by the Commission or have been sufficiently raised in petitions to warrant the designation of a hearing.<sup>32</sup> This is not the case here. Thus, we need not evaluate AT&T's basic qualifications.

13. Section 310(d) also requires that the Commission consider the qualifications of the proposed transferee as if the transferee were applying for the license directly under section 308 of the Act. Among the factors that the Commission considers in its public interest inquiry is whether the applicant for a license or license transfer has the requisite "citizenship, character, and financial, technical, and other qualifications."<sup>33</sup> CWA commented that Frontier should explain how it has the financial and management resources to maintain and expand services, including broadband and video services, in Connecticut.<sup>34</sup> We address Frontier's qualifications in section V.B, below.

#### V. POTENTIAL PUBLIC INTEREST HARMS

##### A. Horizontal Competitive Effects

14. Based on the record evidence, we conclude that this transaction is unlikely to have

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<sup>29</sup> See, e.g., *Verizon Wireless/Alltel Order*, 23 FCC Rcd at 17463, para. 29; *XM/Sirius Order*, 23 FCC Rcd at 12366, para. 33; *AT&T/BellSouth Order*, 22 FCC Rcd at 5674, para. 22; see also *Schurz Communications, Inc. v. FCC*, 982 F.2d 1043, 1049 (7th Cir. 1992) (discussing Commission's authority to trade off reduction in competition for increase in diversity in enforcing public interest standard).

<sup>30</sup> See, e.g., *Verizon Wireless/Alltel Order*, 23 FCC Rcd at 17463, para. 29; *XM/Sirius Order*, 23 FCC Rcd at 12366, para. 33; *AT&T/BellSouth Order*, 22 FCC Rcd at 5674, para. 22.

<sup>31</sup> See, e.g., *Applications of Sprint Nextel Corporation and Clearwire Corporation for Consent to Transfer Control of Licenses, Leases and Authorizations*, WT Docket No. 08-94, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17570, 17582-83, para. 23 (2008) (*Sprint Nextel/Clearwire Order*); *Verizon Wireless/Alltel Order*, 23 FCC Rcd at 17464, para. 31.

<sup>32</sup> See, e.g., *Sprint Nextel/Clearwire Order*, 23 FCC Rcd at 17582-83, para. 23; *Verizon Wireless/Alltel Order*, 23 FCC Rcd at 17464, para. 31.

<sup>33</sup> 47 U.S.C. §§ 308(b) ("All applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station..."), 310(d); 47 C.F.R. § 63.03(c)(1)(v) (stating that the Commission, acting through the Chief of the Wireline Competition Bureau, may determine that an application "requires further analysis to determine whether a proposed transfer of control would serve the public interest"). See *AT&T/BellSouth Order*, 22 FCC Rcd at 5756, para. 191; *Applications of SBC Communications Inc. and BellSouth Corporation for Consent to Transfer of Control or Assignment of Licenses and Authorizations*, WT Docket No. 00-81, Memorandum Opinion and Order, 15 FCC Rcd 25459, 25465, para. 14 (WTB/IB 2000).

<sup>34</sup> CWA Comments at 2. See *Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control*, WC Docket 09-95, Memorandum Opinion and Order, 25 FCC Rcd 5972, 5979-83, paras. 13-14, 18-25 (2010) (*Frontier/Verizon Order*).



adverse horizontal effects in the transaction market area.<sup>35</sup> For there to be horizontal effects, the parties must currently provide, or be very likely to provide, similar services within the same relevant geographic market.<sup>36</sup> Applicants assert that they do not compete for customers in the transaction market area because Frontier operates neither local exchange nor mobile facilities in any of the affected exchanges.<sup>37</sup> Because AT&T and Frontier do not currently compete against each other in the transaction market area, the transaction does not reduce the number of service providers and, therefore, is unlikely to have adverse effects on existing competition. According to the Applicants, the proposed transaction actually would result in increased competition in Connecticut. AT&T will retain all of its wireless and competitive LEC operations in the state and will continue to serve some large enterprise customers. Applicants assert that the transaction will introduce Frontier as a competitor in Connecticut for both consumer and enterprise customers.<sup>38</sup> We find that competition may, in fact, increase post-merger to the extent that AT&T offers service as a competitive LEC in the transaction market area in addition to the services that will be provided by Frontier.

### **B. Frontier's Financial Condition Post-Transaction and Managerial Qualifications**

15. As part of its public interest inquiry, the Commission must consider whether the applicant for a license transfer has the “requisite . . . financial, technical, and other qualifications.”<sup>39</sup> Although the Commission has a responsibility to consider the financial qualifications of the transferee, it is not the Commission’s role to substitute its business judgment for that of the applicants or the market; rather, the relevant question here is whether Frontier has the requisite financial qualifications to hold and use these Commission licenses and authorizations in the public interest.

16. CWA commented that Frontier did not provide enough information in its application to support a finding that the transaction would improve Frontier’s financial strength.<sup>40</sup> CWA did not argue that the Commission should disapprove the proposed transaction, and the Wireline Competition Bureau subsequently requested, and Frontier provided, a supplement in response to CWA’s concerns.<sup>41</sup> Frontier acknowledges that the transaction would require it to assume higher levels of debt in the short term, but it asserts that by increasing its scale and geographic footprint, the transaction will result in a stronger company with increased cash flow and a stronger credit profile in the long run.<sup>42</sup> Frontier maintains that the transaction will not trigger problems with its revolving credit facility, and that it will remain in

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<sup>35</sup> *Id.* at 5980, paras. 15-16 (concluding that there were no horizontal effects in the transaction where Applicants did not compete for customers).

<sup>36</sup> A transaction is said to be horizontal when the parties to the transaction sell products that are in the same relevant product and geographic markets. *See, e.g., AT&T/BellSouth Order*, 22 FCC Rcd at 5675, para. 23 & n.82. Firms not currently selling in the market that have committed to enter in the near future, or that would very likely sell in the market rapidly with direct competitive impact in the event of a small increase in the market price, would also be considered market participants for this purpose.

<sup>37</sup> Public Interest Statement at 14-15; Frontier Apr. 15 *Ex Parte* Letter at 5.

<sup>38</sup> Frontier Apr. 15 *Ex Parte* Letter at 5-6.

<sup>39</sup> 47 U.S.C. § 308; *AT&T/BellSouth Order*, 22 FCC Rcd at 5756, para. 190. *See Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee*, CC Docket No. 98-141, Memorandum Opinion and Order, 14 FCC Rcd 14712, 14947-48, para. 568 (1999); *see* 47 U.S.C. § 310(d).

<sup>40</sup> CWA Comments at 2.

<sup>41</sup> Frontier Apr. 15 *Ex Parte* Letter at 6.

<sup>42</sup> *Id.* at 6 (citing FitchRatings); Reply of Frontier Communications Corporation, WC Docket No. 14-22, Exh. 3 (Testimony of Robert W. Starr) (Starr Testimony) at 12 (filed Mar. 28, 2014) (Frontier Reply). Frontier states that, to the best of its knowledge, no financial analyst who covers Frontier’s stock downgraded its equity rating as a result of the transaction. Rather, Frontier provides that “virtually all of the analysts highlighted that the acquisition likely will generate positive results for Frontier’s pro forma operations...” *Id.* at 17.

compliance with its financial covenants.<sup>43</sup> Overall, Frontier states that the transaction will strengthen the company financially by providing greater scale and geographic diversity of operations.<sup>44</sup>

17. Frontier has submitted evidence demonstrating its current financial condition, the effect of the transaction on its balance sheet and liquidity, and additional detail on its financial expectations and cost reduction plans.<sup>45</sup> In particular, Frontier submitted testimony from its Senior Vice President and Treasurer stating that, based on Frontier's prior experience in acquiring and operating significant telephone operations, Frontier will be able to provide high quality service to consumers in Connecticut.<sup>46</sup> Frontier asserts that it compares favorably with similar telecommunications carriers in terms of financial strength both before and after the proposed transaction.<sup>47</sup> In reviewing Frontier's financial qualifications to purchase the SNET territory, we examined the Applicants' financial data and requested additional information and clarification as necessary.<sup>48</sup> Beyond the ordinary market risks that accompany any business transaction, we find no specific reason indicating that this transaction would render Frontier financially unsound.

18. While we cannot know with certainty whether Frontier will be free of financial difficulties after closing, we find that the general assessment of the financial community and Frontier's statements regarding its financial viability are reasonable. We find no persuasive evidence that this transaction is unduly risky, or that Frontier is an underfunded or an irresponsible buyer unlikely to fulfill its obligations. Based on the record before us, we therefore conclude that Frontier has shown that it has the requisite financial qualifications to undertake the proposed transaction.<sup>49</sup>

19. CWA also commented that Frontier should explain how it will have the managerial resources to maintain and expand its acquisition of AT&T's U-verse service because of its limited experience in the video market.<sup>50</sup> Frontier acknowledges that it is acquiring the U-verse video product as a new technology but states that it is operating a similar video product in the 14-state region it acquired from Verizon, and that it intends to leverage this operational experience to support U-verse.<sup>51</sup> Frontier provided the following supplementary information to explain its plans to manage the U-verse video product in Connecticut. First, Frontier plans to transition the current SNET employees that install and operate U-verse to Frontier, thereby allowing Frontier to retain some of that expertise in-house.<sup>52</sup> Second, Frontier has contracted with AT&T to provide certain operational support functions and has entered into a contract with the primary software vendor for U-verse.<sup>53</sup> Third, as part of the deal between Frontier and AT&T, AT&T will provide transport networks to support the service.<sup>54</sup> Based on the record as a whole, including this supplementary information, we conclude that Frontier has demonstrated that it has the managerial qualifications to undertake the proposed transaction.

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<sup>43</sup> Frontier Apr. 15 *Ex Parte* Letter at 6.

<sup>44</sup> Starr Testimony at 8.

<sup>45</sup> *Id.* at 11-12.

<sup>46</sup> *Id.* at 6-8.

<sup>47</sup> *Id.* at 13-14.

<sup>48</sup> See Frontier Apr. 15 *Ex Parte* Letter at 4-6.

<sup>49</sup> *Id.*

<sup>50</sup> CWA Comments at 2.

<sup>51</sup> Frontier Apr. 15 *Ex Parte* Letter at 8.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> Public Interest Statement at 17.

### C. Operations Support Systems and Wholesale Customer Service

20. After closing, the Applicants will transfer current SNET customers onto Frontier's existing operational support systems (OSS). Frontier acknowledges that other buyers involved in prior acquisitions of incumbent LEC networks experienced OSS issues, which led to service disruptions for both retail and wholesale customers.<sup>55</sup> Frontier maintains that other buyers experienced those OSS problems because the acquiring carrier had to build entirely new software systems for billing, provisioning, and maintaining customer services.<sup>56</sup> In contrast, Frontier states that it will migrate SNET customers to Frontier's existing OSS, which already have the capacity and functionality to accommodate these customers without disruption to their services.<sup>57</sup> Frontier states that, because of its regional operations, it already has relationships with many of the wholesale customers that do business in Connecticut and that AT&T is providing significant transparency into the SNET systems to facilitate the transition for all customers.<sup>58</sup> In addition, Frontier maintains that it is an experienced provider, having converted the OSS for the 14-state Verizon transaction involving four million voice connections one year ahead of schedule, and that system-wide, it has successfully integrated seven different billing systems into one over the past seven years.<sup>59</sup> Nothing in the record indicates that SNET's wholesale or retail customers are particularly likely to experience any loss in functionality. Further, Frontier pledges to invest more than \$225 million into the integration process to ensure a seamless transition.<sup>60</sup> Applicants are currently undergoing a joint nine-month preparatory and testing phase to convert SNET's Connecticut operations to Frontier's systems and expect to address any problems before the projected October 1, 2014 full conversion date.<sup>61</sup> Therefore, we find that it is unlikely that the proposed transaction will result in public interest harms related to OSS.

### D. Employment

21. CWA contends that the Application did not sufficiently describe the SNET staff and assets that were included in the transaction, which could impact adequate employment and customer support post-merger.<sup>62</sup> We requested, and Frontier provided, a detailed list of assets that are included in the transfer.<sup>63</sup> Frontier states that it reached an agreement with CWA that, among other things, ". . . . guarantees existing jobs, and [provides that] Frontier will also add an additional 85 CWA-represented

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<sup>55</sup> Frontier Reply, Exh. 2 (Testimony of Ken Mason) (Mason Testimony) at 11-13; Frontier Apr. 15 *Ex Parte* Letter at 7-8.

<sup>56</sup> Mason Testimony at 11-13.

<sup>57</sup> Domestic 214 Application at 3; Mason Testimony at 11-12; Frontier Apr. 15 *Ex Parte* Letter at 7 (stating the companies are currently planning for and testing data transfer and integration processes for the listed services, and providing a conversion schedule).

<sup>58</sup> Frontier Apr. 15 *Ex Parte* Letter at 7-9.

<sup>59</sup> Public Interest Statement at 5, 12, 16-17; Mason Testimony at 11. Although Frontier initially experienced trouble transitioning service to customers in West Virginia after its 2010 acquisition of Verizon territories, the West Virginia Public Service Commission later determined that Frontier's service quality is adequate. Frontier has stated that the West Virginia conversion required major upgrades to its systems, which is not the case in Connecticut. Frontier Apr. 15 *Ex Parte* Letter at 8-9 (citing *Frontier West Virginia Inc., General Investigation to Review Cutover Progress and Future Plans to Improve Retail Service Quality*, Public Service Commission of West Virginia, Case No. 10-1663-T-GI (Jan. 25, 2011)).

<sup>60</sup> Public Interest Statement at 12.

<sup>61</sup> *Id.* at 3; Frontier Reply Exh. 1 (Testimony of Kathleen Q. Abernathy) (Abernathy Testimony) at 18; Frontier Apr. 15 *Ex Parte* Letter at 7-9 and Exhs. 1, 2 (containing information technology conversion schedules).

<sup>62</sup> CWA Comments at 9.

<sup>63</sup> Frontier Apr. 15 *Ex Parte* Letter at Exh. 3.



positions in the state.”<sup>64</sup> Further, Frontier affirms that it will honor all collective bargaining agreements, will give SNET employees credit for the purposes of eligibility, vesting, and benefit levels under the company’s employee benefit plans, and that it agreed to give non-union SNET employees compensation, incentives, and benefits comparable to those they had prior to closing, for a period of one year.<sup>65</sup> Frontier also notes that it already employs 200 people in its headquarters in Stamford, Connecticut.<sup>66</sup> Based on Frontier’s commitment to existing SNET employees and commitment to local services and management in Connecticut,<sup>67</sup> we find that Frontier has provided sufficient assurance that the transaction is unlikely to result in public interest harms related to loss of employment.<sup>68</sup>

## VI. POTENTIAL PUBLIC INTEREST BENEFITS

22. We now consider whether the proposed assignment of the licenses is likely to generate verifiable, transaction-specific public interest benefits. We recognize that it is difficult to quantify precisely either the magnitude of the benefits or the exact time period in which they will be realized.<sup>69</sup> Nevertheless, as discussed below, we find that the proposed transaction is likely to generate some transaction-specific public interest benefits.

### A. Analytical Framework

23. The Commission applies several criteria in deciding whether a claimed benefit should be considered in assessing a proposed transaction.<sup>70</sup> First, the benefit must be transaction-specific. Second, the benefit must be verifiable. Because much of the information relating to the potential benefits of a transaction is in the sole possession of the applicants, they are required to provide sufficient evidence supporting each claimed benefit so that the Commission can verify its likelihood and magnitude. Third, “the magnitude of benefits must be calculated net of the cost of achieving them.”<sup>71</sup> Finally, the

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<sup>64</sup> Letter from Maggie Wilderotter, Chairman & CEO, Frontier, to The Honorable Tom Wheeler, Chairman, FCC, WC Docket No. 14-22 (filed June 26, 2014) (Frontier June 26 *Ex Parte* Letter).

<sup>65</sup> Abernathy Testimony at 16-19.

<sup>66</sup> Frontier states that it anticipates adding dispatch and other professional positions in Connecticut. *Id.* at 15.

<sup>67</sup> *Id.* at 20.

<sup>68</sup> See *Applications Filed for the Transfer of Certain Spectrum Licenses and Section 214 Authorizations in the States of Maine, New Hampshire, and Vermont from Verizon Communications Inc. and its Subsidiaries to FairPoint Communications, Inc.*, WC Docket No. 07-22, Memorandum Opinion and Order, 23 FCC Rcd 514, 537, para. 38 (2008) (finding that FairPoint’s plan to retain all employees and additional positions supported a conclusion that the transaction was not likely to result in the loss of employment). The State of Connecticut is also reviewing the employment impact associated with the transaction. See Abernathy Testimony at 14-16.

<sup>69</sup> See, e.g., *Applications of AT&T Mobility Spectrum LLC, New Cingular Wireless PCS, LLC, Comcast Corporation, Horizon Wi-Com, LLC, NextWave Wireless, Inc., and San Diego Gas & Electric Company for Consent to Assign and Transfer Licenses*, WT Docket No. 12-240, Memorandum Opinion and Order, 27 FCC Rcd 16459, 16474, para. 40 (2012) (*AT&T/WCS Order*); *AT&T/Qualcomm Order*, 26 FCC Rcd at 17623, para. 82; *Applications of AT&T Inc. and Cellco Partnership d/b/a Verizon Wireless for Consent to Assign or Transfer Control of Licenses and Authorizations and Modify a Spectrum Leasing Arrangement*, WT Docket No. 09-104, Memorandum Opinion and Order, 25 FCC Rcd 8704, 8736, para. 73 (2010).

<sup>70</sup> See, e.g., *AT&T/WCS Order*, 27 FCC Rcd at 16475, para. 42; *Applications of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo LLC and Cox TMI, LLC For Consent To Assign AWS-1 Licenses et al.*, WT Docket No. 12-4 et al., Memorandum Opinion and Order and Declaratory Ruling, 27 FCC Rcd 10698, 10734, para. 97 (2012) (*Verizon Wireless/SpectrumCo Order*); *AT&T/Qualcomm Order*, 26 FCC Rcd at 17623, para. 84; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21600, para. 205.

<sup>71</sup> See, e.g., *AT&T/WCS Order*, 27 FCC Rcd at 16475, para. 42; *Verizon Wireless/SpectrumCo Order*, 27 FCC Rcd at 10735, para. 97; *AT&T/Qualcomm Order*, 26 FCC Rcd at 17624, para. 84; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21600, paras. 205-06.

Commission applies a “sliding scale approach” to evaluating benefit claims.<sup>72</sup> Under this sliding scale approach, where potential harms appear “both substantial and likely, a demonstration of claimed benefits also must reveal a higher degree of magnitude and likelihood than we would otherwise demand.”<sup>73</sup> Conversely, where potential harms appear unlikely or less likely and less substantial, we will accept a lesser showing.

### **B. Asserted Benefits**

24. The Applicants claim that the transaction will result in public interest benefits in three primary areas: improved wireline and broadband services; increased competition (as discussed above); and synergies of approximately \$200 million by consolidating operations and increasing economies of scale. Based on the record before us, we find that the transaction is likely to result in benefits to consumers.

25. *Improved Wireline and Broadband Services.* Applicants claim that Frontier will maintain and strengthen core wireline and broadband services in Connecticut through a management model based on local customer and community engagement.<sup>74</sup> Frontier states that its management model of intense local engagement has resulted in improved service and improved customer retention rates.<sup>75</sup> Frontier asserts that its existing wireline presence in the northeastern U.S. (Pennsylvania and New York) will enable it to extend its local business model to Connecticut and notes that, in contrast, AT&T’s SNET operations are geographically isolated from the majority of AT&T’s wireline operations and its Texas headquarters.<sup>76</sup> Frontier claims that this regional presence and focus on local services is also significant because Frontier does not face conflicting demands for capital resources or management attention.<sup>77</sup> It states that the SNET territory would become a key piece of its holdings and a focal point of future operations and investment.<sup>78</sup> Further, Frontier has been headquartered in Connecticut for more than 65 years and asserts that it is committed to improving wireline service in the state.<sup>79</sup>

26. Currently, AT&T offers DSL or IP broadband services to 97 percent of living units in SNET’s territory.<sup>80</sup> Frontier states that it plans to add broadband subscribers year over year, to increase

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<sup>72</sup> See, e.g., *AT&T/WCS Order*, 27 FCC Rcd at 16475, para. 42; *Verizon Wireless/SpectrumCo Order*, 27 FCC Rcd at 10735, para. 98; *AT&T/Qualcomm Order*, 26 FCC Rcd at 17624, para. 85; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21600, para. 206.

<sup>73</sup> See, e.g., *AT&T/WCS Order*, 27 FCC Rcd at 16475, para. 42; *Verizon Wireless/SpectrumCo Order*, 27 FCC Rcd at 10735, para. 98; *AT&T/Qualcomm Order*, 26 FCC Rcd at 17624, para. 85; *Cingular/AT&T Wireless Order*, 19 FCC Rcd at 21600, para. 206; cf. 2010 Department of Justice/Federal Trade Commission Horizontal Merger Guidelines, § 10 (2010) (“The greater the potential adverse competitive effect of a merger . . . the greater must be cognizable efficiencies in order for the Agency to conclude that the merger will not have an anticompetitive effect in the relevant market. When the potential adverse competitive effect of a merger is likely to be particularly large, extraordinarily great cognizable efficiencies would be necessary to prevent the merger from being anticompetitive.”).

<sup>74</sup> Public Interest Statement at 11.

<sup>75</sup> Frontier Apr. 15 *Ex Parte* Letter at 2.

<sup>76</sup> Frontier states that, post-consummation, Frontier’s President of the Company’s Northeast Region (New York, Connecticut and Pennsylvania) will be located in New Haven, Connecticut. Frontier asserts that its increased presence in the region will provide strategic benefits and efficiencies that will benefit the State of Connecticut, employees, and consumers. Mason Testimony at 5-6.

<sup>77</sup> *Id.* at 5, 8; Frontier Apr. 15 *Ex Parte* Letter at 4.

<sup>78</sup> Abernathy Testimony at 20.

<sup>79</sup> Domestic 214 Application at 1.

<sup>80</sup> Frontier Apr. 15 *Ex Parte* Letter at 3.

capital broadband investment over AT&T's investment, and to upgrade and expand available broadband services, including low price bundles and standalone broadband products.<sup>81</sup> After consummation, Frontier states that it plans to continue to offer the same services that AT&T currently offers in the transaction market area, including U-verse, while introducing new Frontier-branded products.<sup>82</sup> Frontier states that it also plans to offer in Connecticut its low price bundled and standalone broadband services, which require no long term contracts.<sup>83</sup> Among its current offerings, Frontier provides basic level broadband service in its territory for \$19.99 per month when bundled with voice service.<sup>84</sup> Applicants state that operating savings from the transaction will strengthen Frontier's ability to invest in its broadband network by adding fiber and expanding middle mile and data backbones.<sup>85</sup> Frontier states that rural areas and unserved and underserved institutions, such as hospitals, schools, and government buildings, will benefit from these improvements.<sup>86</sup> Specifically, Frontier pledges that, within three years, it will expand 10 Mbps broadband services to an additional 100,000 homes in Connecticut that lack 10 Mbps service today.<sup>87</sup> In order to support improvements to this last mile bandwidth, Frontier will construct a new middle mile fiber network connecting certain central offices across Connecticut. Frontier asserts that this expansion will increase network capacity ten-fold and will allow it to provide 10 Gigabit broadband services to customers from the expanded central offices.<sup>88</sup>

27. We also take into account the fact that Frontier has a 90 percent broadband availability rate throughout its existing territory.<sup>89</sup> While Applicants state that Connecticut already has 97 percent broadband availability, Frontier has committed both to maintain existing AT&T offerings and make 10 Mbps broadband service available to 100,000 homes that currently do not have such service available. Thus, we are convinced that the proposed transaction will preserve high levels of broadband availability in the state and will increase the availability of service at the 10 Mbps level. Connecticut will become Frontier's single largest market, representing almost 20 percent of its post-merger customer base,<sup>90</sup> and it

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<sup>81</sup> *Id.* at 2; Abernathy Testimony at 9-10, 17. Frontier states that it provides broadband with a basic download speed of 6 Mbps to its existing customer base, and that its broadband speeds continue to increase, with download speeds of 20 Mbps or more available to 45% of households in its existing service area, and download speeds of 12 Mbps available to almost 60% of those households. Domestic 214 Application at 12, 14; Abernathy Testimony at 9-10; Mason Testimony at 10.

<sup>82</sup> Frontier anticipates tailoring U-verse content and offerings to the demand of local customers in Connecticut. This tailoring may result in some new content, while other channels with low demand may be cancelled. Frontier Apr. 15 *Ex Parte* Letter at 4. Frontier states that it also plans to make its Frontier Secure security product available to customers in Connecticut and is experimenting with Pay-As-You-Go Internet. *Id.* at 3.

<sup>83</sup> Domestic 214 Application at 12.

<sup>84</sup> Frontier Apr. 15 *Ex Parte* Letter at 3.

<sup>85</sup> *Id.* at 2-3.

<sup>86</sup> *Id.* at 3.

<sup>87</sup> Frontier June 26 *Ex Parte* Letter at 1; Letter from Michael D. Saperstein, Jr., Vice President, Frontier, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 14-22, at 1 (filed July 16, 2014).

<sup>88</sup> Frontier June 26 *Ex Parte* Letter at 1.

<sup>89</sup> Abernathy Testimony at 9-10, 12-13 (depicting Frontier broadband availability rates in its territory and stating that Frontier improved the broadband availability rate from 60 % pre-merger to 88% post-merger in West Virginia after acquiring the territory from Verizon). See Starr Testimony at Attach. RWS-3, pp. 3, 8 (Frontier Form 10-K Annual Report). Frontier states that it is committed to upgrading networks and understanding alternative architectures to achieve higher broadband availability rates in rural areas. Mason Testimony at 9-10 (citing a survey by the Independent Telephone and Telecommunications Alliance which found that Frontier's 92% broadband availability level was above the average broadband availability rate (85%) of surveyed mid-sized carriers that also serve small/lower density markets and suburban areas).

<sup>90</sup> Abernathy Testimony at 19-20.

is reasonable to take into account Frontier's stated intention to invest in and expand broadband service in order to add subscribers year over year.<sup>91</sup>

28. *Synergies.* Frontier anticipates achieving a cost savings of \$200 million after closing.<sup>92</sup> CWA commented that Frontier's claimed benefits in the Application were vague and not based on sufficient information.<sup>93</sup> The Commission requested additional information from the Applicants, and they provided further details about Frontier's anticipated cost savings.<sup>94</sup> In particular, Applicants responded that they were able to identify \$75 million in annual AT&T allocated costs that are not transferring to Frontier and that will be eliminated immediately.<sup>95</sup> Frontier also states it expects to achieve an additional \$125 million in annualized cost savings by the end of the third year of operation from consolidating administrative functions, network systems, and finance and accounting processes; reducing corporate overhead; and increasing Frontier's purchasing power and economies of scale.<sup>96</sup> In total, Frontier anticipates total annualized cost savings of \$200 million by the end of a 3-year period.<sup>97</sup> Frontier states that it exceeded its projected cost savings by 30 percent in its most recent large transaction in which it purchased Verizon access lines in 14 states.<sup>98</sup> We find that, based on the record before us, it is likely that Frontier will achieve some cost savings that will enable it to increase its infrastructure investment, including infrastructure supporting broadband services.<sup>99</sup>

## VII. CONCLUSION

29. As discussed above, based on our review of the record, we find that the transaction is unlikely to result in any significant public interest harms and that it is likely to result in some public interest benefits. Accordingly, we conclude that granting the applications would serve the public interest.

## VIII. ORDERING CLAUSES

30. Accordingly, having reviewed the applications and the record in this matter, IT IS ORDERED that, pursuant to sections 4(i)–(j), 5(c), 214, 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)–(j), 155(c), 214, 309, 310(d), and sections 0.51, 0.91, 0.131, 0.261, 0.291, and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.51, 0.91, 0.131, 0.261, 0.291, 0.331, the Applications to transfer control of domestic and international section 214 authorizations and wireless licenses ARE GRANTED.

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<sup>91</sup> Frontier Apr. 15 *Ex Parte* Letter at 2-3.

<sup>92</sup> Public Interest Statement at 13; Frontier Apr. 15 *Ex Parte* Letter at 4-5.

<sup>93</sup> CWA Comments at 2, 11.

<sup>94</sup> Frontier Apr. 15 *Ex Parte* Letter at 4-5.

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

<sup>96</sup> Starr Testimony at 13.

<sup>97</sup> *Id.* at 9; Frontier Apr. 15 *Ex Parte* Letter at 4.

<sup>98</sup> Starr Testimony at 7-8.

<sup>99</sup> See *Frontier/Verizon Order*, 25 FCC Rcd at 5995, para. 57 (finding that transaction synergies were a potential transaction benefit, but relying on other merger benefits to support a determination that the transaction was in the public interest).

31. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), that this Memorandum Opinion and Order IS EFFECTIVE upon release. Petitions for reconsideration under section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. § 1.115, may be filed within thirty days of the date of public notice of this Memorandum Opinion and Order.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey  
Acting Chief, Wireline Competition Bureau

Mindel De La Torre  
Chief, International Bureau

Roger C. Sherman  
Chief, Wireless Telecommunications Bureau



## APPENDIX

## Section 214 Authorizations

## A. International

The application for consent to the transfer of control of certain international section 214 authorizations from AT&T to Frontier is granted.

<u>File Number</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-T/C-20140131-00027	SNET America, Inc.	ITC-214-19930716-00119 ITC-214-19950215-00064 ITC-214-19960223-00083

## B. Domestic

The domestic section 214 application for consent to transfer control of SNET and SNET America to Frontier is granted.

## SECTION 310(d) APPLICATION

The application for consent to the assignment of a license under section 310(d) of the Act is granted.

<u>File Number</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0006117728	The Southern New England Telephone Company	KCB95