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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION and
THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiffs,

v.

FRONTIER COMMUNICATIONS
CORPORATION, *et al.*,

Defendants.

Case No. 2:21-cv-4155 RGK-MAA

STIPULATION AS TO ENTRY
OF ORDER FOR
PERMANENT INJUNCTION,
MONETARY JUDGMENT, AND
OTHER RELIEF

Plaintiffs, the Federal Trade Commission (“Commission” or “FTC”) and the

1 People of the State of California (“California,” or the “People”), by and through the
2 District Attorneys of Los Angeles County and Riverside County (collectively,
3 “Plaintiffs”) filed their Complaint for Preliminary Injunction, Permanent Injunction,
4 Monetary Relief and Other Relief (“Complaint”), in this matter, pursuant to Section
5 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and
6 California Unfair Competition Law (“UCL”), Bus. & Prof. Code § 17200 *et seq.*, and the
7 California False Advertising Law (“FAL”), Bus. & Prof. Code § 17500, *et seq.* On or
8 about April 30, 2021, Defendant Frontier Communications Corp. dissolved and
9 substantially all of its assets vested in Defendant Frontier Communications Holdings,
10 LLC, which in turn is wholly owned by Defendant Frontier Communications
11 Intermediate, LLC, which in turn is wholly owned by Frontier Communications Parent,
12 Inc. (hereinafter collectively referred to as “Defendants”). Plaintiffs and Defendants
13 stipulate to the entry of a Stipulated Order for Permanent Injunction, Monetary
14 Judgment, and Other Relief (“Stipulated Order”) to resolve all matters in dispute in this
15 action between them.

16 Plaintiffs and Defendants have agreed to entry of the Stipulated Order (lodged
17 concurrently with this Stipulation) to resolve all claims against Defendants in this action.
18 Plaintiffs and Defendants have consented to entry of the Stipulated Order without trial or
19 adjudication of any issue of law or fact herein.

20 Plaintiffs and Defendants hereby stipulate to entry of a Stipulated Order for
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1 Permanent Injunction, Monetary Judgment, and Other Relief with the following terms:

2 **FINDINGS**

3 1. This Court has subject matter jurisdiction over this matter.

4
5 2. The Complaint charges that Defendants participated in deceptive and unfair acts
6 or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and Sections 17500
7 and 17200 of California Business and Professions Code, Cal. Bus. & Prof. Code
8 §§ 17500, 17200, in connection with the marketing and sale of residential digital
9 subscriber line (“DSL”) Internet service and the billing, charging, or collecting for that
10 DSL Internet service.
11

12
13 3. Defendants neither admit nor deny any of the claims or allegations in the
14 Complaint, except as specifically stated in this Order. Only for purposes of this action,
15 Defendants admit the facts necessary to establish personal jurisdiction.
16

17 4. Defendants waive any claim that they may have under the Equal Access to Justice
18 Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this
19 Order, and agrees to bear its own costs and attorney fees.
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21 5. Defendants and Plaintiffs waive all rights to appeal or otherwise challenge or
22 contest the validity of this Order.
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DEFINITIONS

For the purpose of this Order, the following definitions apply:

A. **“Advertised Speed”** means the download speed advertised or offered, including at point of sale, in association with a specific Internet Service Plan, such as “18 Mbps,” “As Fast As 18 Mbps,” “Max Speeds As Fast As 18 Mbps,” or “9 to 18 Mbps.”

B. **“Clear(ly) and Conspicuous(ly)”** means that a required disclosure is difficult to miss (*i.e.*, easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be made visually or audibly.

2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.

4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.

1 5. The disclosure must use diction and syntax understandable to ordinary
2 consumers and must appear in each language in which the representation that
3 requires the disclosure appears.
4

5 6. The disclosure must comply with these requirements in each medium
6 through which it is received, including all electronic devices and face-to-face
7 communications.
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9 7. The disclosure must not be contradicted or mitigated by, or inconsistent
10 with, anything else in the communication.
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12 8. When the representation or sales practice targets a specific audience, such
13 as children, the elderly, or the terminally ill, “ordinary consumers” includes
14 reasonable members of that group.
15

16 C. **“Close Proximity”** means that the disclosure is very near the triggering
17 representation. For example, a disclosure made through a hyperlink, pop-up, interstitial,
18 or other similar technique is not in close proximity to the triggering representation.
19

20 D. **“Congestion Report”** means Frontier’s “Monthly DSLAM Congestion Report,”
21 which provides congestion information for all DSLAM uplinks and the circuits that
22 affect more than one DSLAM, including Host, Aggregator, and BRAS uplinks.
23

24 E. **“Customer”** means a consumer who subscribes to an Internet Service Plan with
25 an Advertised Speed.
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