STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. G-40, SUB 160

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Joint Application of Frontier Natural Gas Company and Ullico Infrastructure Hearthstone Holdco, LLC, for Approval of the Sale and Transfer of Stock	)))))	JOINT PROPOSED ORDER OF APPLICANTS AND PUBLIC STAFF APPROVING MERGER SUBJECT TO REGULATORY CONDITIONS

HEARD: Wednesday, June 23, 2021, at 10:00 a.m., via WebEx Videoconference

BEFORE: Chair Charlotte A. Mitchell, Presiding; and Commissioners ToNola D. Brown-Bland, Lyons Gray, Daniel G. Clodfelter, Kimberly W. Duffley, Jeffrey A. Hughes, and Floyd B. McKissick, Jr.

APPEARANCES:

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BY THE COMMISSION: On January 27, 2021, pursuant to N.C. Gen. Stat. § 62-111, Frontier Natural Gas Company (Frontier) and Ullico Infrastructure Hearthstone Holdco, LLC (UIHH) (collectively referred to hereinafter as the Applicants), filed an application (Application) for approval of a transaction whereby GEP Bison Holdings, Inc. (GBH) and its subsidiaries, including Frontier, will become wholly owned subsidiaries of UIHH, and for authorization and/or waiver as is necessary and appropriate to effect the proposed business combination transaction (the Merger). UIHH is a wholly-owned subsidiary of Ullico Infrastructure Master Fund, L.P., which, along with its general partner UIF GP, LLC (UIF GP), are referred to as Ullico Infrastructure Fund (UIF).

The Application included a copy of the Stock Purchase and Sales Agreement between GBH and UIHH (SPSA), a cost-benefit analysis (Cost-Benefit Analysis), Frontier's financial statements as of September 30, 2020, and a chart showing the new corporate organization following the proposed transaction. In support of the Application, the Applicants also filed the testimony of Fred A. Steele, President/General Manager of Frontier; Kevin J. Degenstein, Chief Operating Officer and Chief Compliance Officer of Hearthstone Utilities Inc. (HUI); and Sonia Axter, Vice President of UIF GP and Vice President of UIHH.

In the Application, the Applicants requested a waiver of the requirement, set out in the Commission's Order Requiring Filing of Analyses issued November 2, 2000, in Docket No. M-100, Sub 129 (M-100, Sub 129 Order), to provide a market power analysis in conjunction with the proposed Merger. The Applicants stated that, given the relatively small size of Frontier's North Carolina operations and the lack of any other of UIF's relevant ownership interests served by or in proximity to Frontier's service territory, there is no possibility that the merger will enhance or increase either Frontier's or UIF's market power in any relevant retail or wholesale market.

The Public Staff presented this matter at the Commission's Regular Staff Conference on March 29, 2021, and recommended that an order be issued setting the Application for hearing, establishing deadlines for petitions to intervene and the filing of testimony, establishing appropriate discovery rules, and requiring public notice. The Public Staff further recommended that the order grant the waiver of the requirement to file a market power analysis, and state that the Application satisfies the requirements of the M-100, Sub 129 Order.

On March 31, 2021, the Commission issued its Order Scheduling Hearing, Establishing Procedural Deadlines and Requiring Public Notice (Order Scheduling Hearing). This order, among other things, established a remote public witness hearing date of June 22, 2021, and a remote expert witness hearing date of June 23, 2021, set prefiled testimony dates, and required the Applicants to give notice to Frontier's customers of the hearing on this matter. Further, in the Order Scheduling Hearing, the Commission granted a waiver of the requirement to file a market power analysis, and found and concluded that the Application satisfies the requirements of the M-100, Sub 129 Order.

On May 25, 2021, Frontier filed an Affidavit of Publication verifying publication of the Notice of Hearing prescribed by the Order Scheduling Hearing.

On June 7, 2021, Frontier filed confirmation that it had notified customers of the scheduled public hearing on the Application by bill insert, as required by the Order Scheduling Hearing.

On June 8, 2021, the Public Staff filed the joint testimony of Julie G. Perry, Accounting Manager of the Natural Gas and Transportation Section of the Accounting Division of the Public Staff; Neha Patel, Manager of the Natural Gas Section of the Energy Division of the Public Staff; and John R. Hinton, Director of the Economic Research Division of the Public Staff (Public Staff Joint Testimony). The Public Staff Joint Testimony included, as an exhibit, proposed regulatory conditions for the Merger (the Regulatory Conditions).

On June 15, 2021, in response to a motion filed by the Public Staff, the Commission issued an order finding good cause to cancel the public witness hearing scheduled for June 22, 2021.

On June 15, 2021, the Applicants filed the Rebuttal Testimony of Sonia Axter and the Rebuttal Testimony of Fred A. Steele. This testimony acknowledged the Applicants' support of, and agreement with, the Regulatory Conditions, and urged approval of the proposed Merger as justified by the public convenience and necessity.

On June 21, 2021, the Public Staff filed revised Attachment A to Exhibit 1 to the Public Staff Joint Testimony.

No other party intervened.

The matter came on for remote expert witness hearing on June 23, 2021, as scheduled. The prefiled testimony and exhibits of the Applicants and the Public

Staff were admitted into the record and received into evidence without objection. In addition, the Application and exhibits thereto were entered into the record without objection.

Based on the testimony and exhibits presented at the hearing of this matter, and the record as a whole, the Commission makes the following:

FINDINGS OF FACT

I. Jurisdiction and Procedure

1. Frontier is a North Carolina corporation headquartered in Elkin, North Carolina, and is engaged in the business of transporting and selling natural gas as a local distribution company (LDC), pursuant to Certificates of Public Convenience and Necessity previously issued by the Commission for service to customers in Yadkin, Surry, Wilkes, Warren, Watauga and Ashe Counties.

2. Frontier is a public utility under the laws of the State of North Carolina and, as of January 27, 2021, provided natural gas redelivery or sales service to approximately 4,400 customers in the State of North Carolina.

3. Frontier, as well as several other regulated natural gas utilities in other states, is owned by PHC Utilities, Inc., a wholly owned subsidiary of HUI. HUI is owned by GEP Bison Holdings, Inc. (GBH), which is owned by an infrastructure fund managed by an investment management subsidiary of BlackRock, Inc.

4. UIHH is a wholly-owned subsidiary of Ullico Infrastructure Master Fund, L.P. The general partner owner of Ullico Infrastructure Master Fund, L.P. is UIF GP, LLC (UIF GP). Ullico Infrastructure Master Fund, L.P. and UIF GP are hereinafter collectively referred to as Ullico Infrastructure Fund (UIF).

5. UIF's investment vehicle was created by and is managed under the Ullico affiliated group, which has grown out of the original founding of the Union Labor Life Insurance Company.

6. UIF's infrastructure investment vehicle is structured as an open-ended fund and, as such, does not have a defined term of existence. At the time of the Application, UIF had secured more than $3 billion in commitments from third-party investors and continues to pursue and raise new capital on a daily basis.

7. The Applicants are lawfully and properly before this Commission pursuant to N.C.G.S. § 62-111(a) with respect to the relief sought in the Application and are in compliance with the requirements of the M-100, Sub 129 Order with respect to a market power analysis and a cost-benefit analysis related to the proposed transaction.

8. The Application, testimony, exhibits, affidavits of publication, and public notices submitted by the Applicants are in compliance with the procedural requirements of the North Carolina General Statutes and the Rules and Regulations of the Commission.

II. Nature of Proposed Transaction

9. At closing, UIHH will acquire ownership of GBH and its subsidiaries, including HUI and Frontier, from its ultimate parent BlackRock, Inc.

10. Following the closing, HUI shall continue to operate Frontier and HUI's other subsidiary natural gas utilities and non-regulated entities.

11. Following the closing, HUI will maintain its current corporate structure.

III. Post-Closing Operations and Commitments

12. Following the closing, the management and operations of Frontier will not be modified, and Frontier will continue to be operated as a North Carolina public utility providing natural gas sales and redelivery service to the public in compliance with and subject to all existing obligations of Frontier under applicable statutes, rules and regulations, and prior Commission orders.

13. The Merger will not diminish the Commission's jurisdiction over Frontier, and the Commission will continue to exercise the oversight authority and all powers granted to it by Chapter 62 of the North Carolina General Statutes and the Commission's Rules and Regulations.

14. Following the closing, Frontier will continue to provide natural gas utility service to the public under its approved rates, terms, and conditions of service. Any future proposed changes to the rates, terms, or conditions of service of Frontier will be subject to Commission review and approval.

15. The Merger will not diminish any existing obligation of Frontier to its customers or to the Commission under existing regulations, rules, regulatory conditions, or previous Commission orders.

16. The proposed Merger will not lead to the concentration or creation of additional market power by HUI, Frontier, or UIF, and will not result in an anti-competitive impact on markets subject to the Commission's jurisdiction.

17. The Regulatory Conditions agreed to by UIHH, GBH, HUI, PHC Utilities, Inc., and Frontier (including the Applicants), on the one hand, and the Public Staff, on the other, and acknowledged and consented to by UIF, will ensure

that Frontier and HUI will continue to be operated in a manner consistent with the public interest following close of the Merger.

IV. Benefits

18. Known and potential benefits of the Merger are both quantifiable and non-quantifiable in nature.

19. Known and potential quantifiable benefits of the Merger, agreed to by the Applicants and supported by the record, include a total credit of $200,000 to Frontier's North Carolina customers, distributed through two bill credits in the amount of $100,000 each. The first $100,000 shall be refunded through a one-time bill credit to be completed by January 1, 2022, or as soon as practicable after the transaction is consummated. The second $100,000 shall be refunded through a one-time bill credit to be completed by January 1, 2023. Within 30 days after each respective bill credit is completed, Frontier shall file a report with the Commission detailing the amount of the bill credit by rate schedule.

20. Known and potential non-quantifiable benefits of the Merger identified by the Applicants, and supported by the record, include:

(i) Retention of Frontier's operational management team, employees, corporate presence, and business operations in North Carolina;

(ii) Alignment of interests between ratepayers and utility investors;

(iii) Expanded opportunities for growth within Frontier's existing service territory and potential expansion of service in the future;

(iv) Continued access to capital to fund pipeline safety-related investments as required by federal or state regulations;

V. Mitigation of Potential Costs and Risks

21. The Merger may result in costs to Frontier's customers; however any known and potential costs of the Merger are eliminated or mitigated to the fullest extent reasonably possible by the commitments of the Applicants and by the agreed upon Regulatory Conditions.

22. The Application and testimony of the Applicants waive any potential claim for recovery of the acquisition premium from Frontier's North Carolina ratepayers with the elimination of possible future proposed adjustments to Frontier's rate base to recapture (a) any past negative acquisition adjustments or asset impairment write downs from prior Frontier mergers, or (b) any portion of the acquisition premium resulting from this proceeding or past mergers.

23. The Application and testimony of the Applicants waive any potential claim for recovery of transaction fees associated with the Merger from Frontier customers.

24. The agreed upon Regulatory Conditions remove the impact of all direct and indirect Merger-related costs from Frontier's rates and charges.

25. The agreed upon Regulatory Conditions provide for continued transparency and monitoring of capital budgets, operational and financial conditions, pipeline safety, accounting procedures, internal management restructuring, legal proceedings, and other service-related activities of Frontier.

26. The agreed upon Regulatory Conditions provide for a commitment to provide annual audited financial statements of HUI to the Public Staff on an ongoing basis.

27. The agreed upon Regulatory Conditions also provide reasonable and adequate safeguards from potential costs and risks associated with the Merger, such as

continued oversight of Frontier by the Public Staff and the Commission consistent with the public interest. Regulatory Conditions 9, 10, 11, and 15 relate to ring fencing Conditions that include a hold harmless commitment to prevent any potential negative impacts to Frontier's ratepayers in the future, including a commitment not to pay distributions to HUI that exceed 100% of Frontier's net income calculated on a two-year rolling average basis; a condition that protects ratepayers to the extent the interest rates of any of HUI's or Frontier's long-term debt financing are adversely affected as a result of the Merger; and a commitment that Frontier maintains a common equity capital at levels equal to or greater than 45% of total adjusted capital.

Public Convenience and Necessity

28. The proposed Merger, as described and conditioned by the Application, the testimony of the witnesses, and the agreed upon Regulatory Conditions, is justified by the public convenience and necessity, serves the public interest, and should be approved.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-8
(Jurisdiction and Procedure)

The evidence supporting these findings of fact is set forth in the Application, the SPSA, the Cost-Benefit Analysis, the testimony of the Applicants' witnesses, and the Commission's records in this and other proceedings. These findings are essentially informational, procedural, and jurisdictional in nature and are not contested by any party.

According to the Application and SPSA, as well as the testimony of Applicants' witnesses Axter and Degenstein, UIHH and GBH intend to engage in a transaction pursuant to which UIHH will become the owner of GBH through the purchase of all the outstanding stock of GBH from GBH's existing shareholders.

There is no dispute that such a transaction requires the approval of this Commission under N.C.G.S. § 62-111(a) and the Application seeks such approval.

In addition, the M-100, Sub 129 Order requires the Applicants to file both a market power analysis and a cost-benefit analysis in conjunction with an application for Commission approval of a proposed merger. The purpose of these required filings is to assist the Commission in making the public convenience and necessity determination required under N.C.G.S. § 62-111(a).

Consistent with the requirements of the M-100, Sub 129 Order, the Application included, as Exhibit D, a Cost-Benefit Analysis that enumerated identified costs and benefits associated with the proposed Merger. The Application also requested a waiver of the market power study requirement in light of the absence of any affiliates' presence in or near the service territory in which Frontier operates. The Public Staff reviewed the Application and other information provided by the Applicants, and performed research on the market power issue. After conducting that research, the Public Staff determined that it was reasonable for the market power analysis requirement to be waived in this proceeding and recommended that the Commission issue an order granting a waiver of the requirement to file a market power analysis and stating that the Application satisfies the requirements of the M-100, Sub 129 Order. In its Order Scheduling Hearing, the Commission found good cause to grant the Applicants' waiver request as to the filing of a market power analysis.

Finally, a review of the record in this proceeding indicates that the Applicants have complied with all procedural and notice requirements established by the Commission in the Order Scheduling Hearing.

Based upon the foregoing, the Commission finds and concludes that Frontier and UIHH are properly before the Commission with respect to the relief sought in the Application and are in compliance with all transaction filing requirements.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9-11
(Nature of Proposed Merger)

The evidence supporting these findings of fact is set forth in the Application, the SPSA, and the testimony of Applicants' witnesses Axter and Degenstein, and is uncontested.

Through the Application and supporting testimony, the Applicants described the process for accomplishing the Merger and the resulting corporate and fund structure that will exist upon closing. GBH's current controlling owner, GEPIF II ECHO AIV, L.P.,[1] entered into the SPSA with UIHH, whereby UIHH will acquire all of the common stock of GBH. GEPIF II ECHO AIV, L.P. is an infrastructure fund managed by an investment management subsidiary of BlackRock, Inc. UIHH is a wholly-owned subsidiary of Ullico Infrastructure Master Fund, L.P. and is a special purpose entity established for the purpose of acquiring GBH and its subsidiaries, including HUI and Frontier, from GEPIF II ECHO AIV, L.P.

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[1] Formerly "FREIF II Echo AIV, L.P." *See* Order Approving Merger Subject to Regulatory Conditions, Docket No. G-40, Sub 136 (Aug. 1, 2017), at 3.

The Application and testimony of the Applicants' witnesses also explain how the proposed Merger will not change the corporate structure of HUI or Frontier. Applicants' witness Degenstein testified that following the Merger, HUI will continue to hold the sole interest in PHC Utilities, Inc., which in turn, holds the interests of Frontier as well as other operating public utilities in Maine, Montana, and Ohio. (T. p. 20).

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12-17
(Post-Closing Operations and Commitments)

The evidence for these findings of fact is set forth in the Application, the Cost-Benefit Analysis, the agreed upon Regulatory Conditions, and the testimony of various witnesses for the Applicants and the Public Staff, and is uncontested.

According to Applicants' witnesses Axter and Steele, the management and operations of Frontier will remain the same and Frontier will continue to be operated as a Commission-regulated North Carolina natural gas public utility. Applicants' witness Degenstein's testimony noted that following the Merger, this Commission will continue to have jurisdiction over Frontier, and thus will retain appropriate regulatory oversight over Frontier's utility operations. (T. p. 22).

The Application notes that no changes to Frontier's rates, terms, and conditions of service are proposed in conjunction with the proposed Merger, and that after closing of the Merger, Frontier will continue to provide utility service under its approved rates, terms, and conditions of service. Consistent with the Application, Applicants' witness Steele testified that there is no proposal to change rates as part of the Merger, but should any changes to rates be proposed in the future, Frontier will seek Commission review and approval. (T. pp. 71, 72).

The Application and testimony demonstrate that after closing of the Merger, the Commission will retain appropriate regulatory oversight over HUI and Frontier, and that HUI, GBH, UIHH, and UIF are committed to ensuring that Frontier complies with all applicable rules and regulations, and all applicable orders of the Commission. Applicants' witness Steele testified that following the Merger, Frontier will still be bound by all applicable Commission orders, as well as existing obligations under North Carolina laws, regulations, rules, and regulatory conditions. (T. p. 34).

The Regulatory Conditions agreed upon by the Applicants and the Public Staff note that HUI and Frontier will meet annually with the Public Staff to discuss Frontier's financial condition and results, service quality initiatives and results, customer service changes, pipeline safety, and potential new tariffs.

In addition, for the reasons articulated in its Order Scheduling Hearing, the Commission concludes that the proposed Merger will not result in materially increased market power of any of the parties to the detriment of customers. Frontier is a relatively small LDC, and no other HUI affiliate has substantial operations in Frontier's service territory.

Finally, the Regulatory Conditions agreed to by the Applicants and the Public Staff provide significant benefits for Frontier's ratepayers, as discussed in more detail below. The Commission finds these commitments by the Applicants sufficient to ensure that Frontier and HUI will continue to be operated in a manner consistent with the public interest following closing of the Merger.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 18-20
(Benefits)

The evidence for these findings of fact is set forth in the Application, the Cost-Benefit Analysis, the agreed upon Regulatory Conditions, and the testimony of various witnesses for the Applicants and the Public Staff, and is uncontested.

The Application lists a number of quantifiable and non-quantifiable benefits associated with the proposed Merger. These benefits include: (1) aligning the interests of ratepayers and utility investors; (2) providing financial stability and continued access to capital to Frontier to enable Frontier to continue to expand the availability of natural gas service into unserved areas; (3) sustaining the experienced and stable management of Frontier; and (4) reducing fixed costs per ratepayer as Frontier's customers and volumes grow.

In the Cost-Benefit Analysis, the Applicants also identified a number of benefits attendant to the proposed Merger. These benefits include: (1) UIF's open-ended fund structure, which better aligns with the long-term capital needs of the utility (Cost-Benefit Analysis at p. 3); (2) increased financial stability and continued ability of HUI and Frontier to access capital (Cost-Benefit Analysis at p. 3); (3) long-term planning, enhanced customer service, improved safety and reliability, and better coordination of investments to serve existing customers and unserved areas (Cost-Benefit Analysis at p. 4); (4) a reduction in fixed costs per ratepayer as Frontier's fixed costs are spread over a larger customer base over time (Cost-Benefit Analysis at p. 5); (5) preservation of Frontier's management presence in North Carolina, resulting in the realization of local taxes, rents, and payroll (Cost-Benefit Analysis at p. 5); (6) sustained ability to facilitate infrastructure expansion for natural gas customers (Cost-Benefit Analysis at p. 5); and (7) maintenance of existing service by Frontier at existing rates, terms, and conditions of service (Cost-Benefit Analysis at p. 6). The Applicants also agreed to waive any right to seek recovery of the acquisition premium or transaction fees associated with the proposed Merger (Cost-Benefit Analysis at p. 6).

The testimony of the Applicants' witnesses also identified a number of benefits of the proposed transaction. These identified benefits include the following items: (1) continued access to capital will allow HUI to provide its utility subsidiaries with ongoing organic growth opportunities; (2) UIF's investment vehicle is an "open ended" investment fund that hold investments indefinitely, which offers greater stability and long-term-focused capital investments (as opposed to decisions based on maximizing short-term returns); and (3) UIF has engaged Morgan O'Brien, a seasoned utility executive with more than 30 years of experience in the regulated public utility industry, to assist with the management of HUI and its subsidiaries (T. pp. 21, 82, 84).

In addition, the Public Staff's Joint Testimony stated that the agreed upon Regulatory Conditions and Cost-Benefit Analysis provide assurances that: (1) the Merger will result in Frontier having access to long-term and consistent capital needed to meet economically feasible customer growth opportunities and ongoing system requirements; (2) there will be no adverse impact on Frontier's rates or service, and customers will receive two bill credits; (3) ratepayers will be protected from potential costs and risks associated with the Merger; and (4) the Public Staff will receive annual audited financial statements of HUI. (T. pp. 136, 139-41; *see* Regulatory Condition No. 6).

Finally, the commitments by the Applicants in the Regulatory Conditions are significant in ensuring the realization of the benefits identified and discussed by the witnesses and the protection to ratepayers from possible costs and risks. These benefits include a requirement that Frontier provide a total of $200,000 to its North Carolina customers, through two bill credits in the amount of $100,000 each, and the continuation of monitoring and enforcement mechanisms.

The Commission has carefully reviewed and considered all of the evidence set forth above describing the known and potential benefits of the proposed Merger and finds it to be credible and undisputed. Many of these benefits have been enhanced and guaranteed as a result of the agreed upon Regulatory Conditions. The Commission, therefore, finds and concludes that the proposed Merger will result in a significant number of known and potential benefits, both quantifiable and non-quantifiable, as set forth in the Application, the Cost-Benefit Analysis, the consistent and undisputed testimony of all witnesses, and the agreed upon Regulatory Conditions.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 21-26
(Mitigation of Potential Costs and Risks)

The evidence supporting these findings of fact is contained in prior proceedings regarding approval of utility merger applications under N.C.G.S. § 62-111(a), the Application, the agreed upon Regulatory Conditions, the testimony of witnesses for the Applicants and the Public Staff, and the Commission's supervisory authority under Chapter 62 of the General Statutes over the rates, terms and conditions of service provided to the public by Frontier.

The legal standard applicable to this proceeding is set forth in N.C.G.S. § 62-111(a) and requires the Commission to find that the proposed Merger is "justified by the public convenience and necessity." Upon such finding, that statute instructs that approval of the proposed Merger "shall be given." In prior merger proceedings the Commission has established a three-part test for determining whether a proposed utility merger is justified by the public convenience and necessity. That three-part test is as follows: (1) whether the merger would have an adverse impact on the rates and services provided by the merging utilities; (2) whether ratepayers would be protected as much as possible from potential costs and risks of the merger; and (3) whether the merger would result in sufficient benefits to offset potential costs and risks. *See* Order Approving Merger Subject to Regulatory Conditions and Code of Conduct, Docket Nos. E-2, Sub 998 and E-7, Sub 986 (June 29, 2012) (Duke-Progress Merger Order), *aff'd*, *In re Duke Energy Corp.*, 232 N.C. App. 573, 755 S.E.2d 382 (2014).

These questions are related to one another and together establish a reasoned framework upon which utility mergers may be evaluated. In making these assessments, the Commission has also examined factors such as whether service quality will be maintained or improved, the extent to which costs can be lowered and rates can be maintained or reduced, and whether effective regulation of the merging utilities will be maintained. *See* Order Approving Merger and Issuance of Securities, Docket No. E-7, Sub 596 (Apr. 22, 1997).

Regarding the first question of the three-part test—whether the transaction would have an adverse impact on the rates and services provided by the merging utilities—the Commission concludes, for the reasons explained below, that the Merger will not have an adverse impact on the rates and services provided by Frontier.

At the outset, the Commission notes that, as stated in the Application, "Frontier will continue to provide service to the public under its approved rates, terms and conditions of service and no changes to such rates, terms and conditions of service are proposed in conjunction with this application or the underlying Transaction." (Application, para. 18). This representation is also confirmed by Regulatory Condition Nos. 5-9, 11, 15, and 24, which specifically are aimed at ensuring that the Merger will have no adverse impact on Frontier's rates and services. Finally, the Cost-Benefit Analysis filed with the Application indicates that ratepayers will not be charged for direct or indirect transaction costs such as the acquisition premium and transaction fees, which, instead, will be absorbed by UIF (Cost-Benefit Analysis p. 6).

The Public Staff Joint Testimony (a) recites the standard for approval of utility mergers under N.C.G.S. § 62-111 and Commission precedent, (b) describes, in some detail, the provisions of the agreed upon Regulatory Conditions that are designed to prevent any adverse consequences to customers, and (c) ultimately recommends approval of the Merger subject to the restrictions and requirements of the agreed upon Regulatory Conditions (T. pp. 129-42).

Significantly, the evidence on these matters presented by the Applicants and the Public Staff, and set forth in the various documents and testimony discussed above, is uncontested. No other party submitted evidence suggesting that the proposed Merger will result in adverse consequences to the rates and services of Frontier.

Furthermore, as a matter of law, Frontier will remain subject to full regulation by the Commission. (*See* Application, para. 18). It is agreed by all parties that the Merger in no way diminishes the authority of the Commission to regulate service quality and rates for Frontier and, therefore, effective state regulatory oversight of Frontier will continue. The agreed upon Regulatory Conditions also contain provisions designed to ensure transparency and oversight and that the Commission's regulatory jurisdiction over Frontier is not diminished as a result of the Merger.

In this regard, the Commission notes that the provisions of Chapter 62 of the General Statutes provide the Commission with broad supervisory authority over Frontier including the authority to establish (and modify if necessary) the rates, terms, and conditions of service for Frontier. As such, and given the absence of any proposal in this docket to actually change Frontier's margin rates or services (other than the commitment by Frontier to credit its ratepayers a total of $200,000, through two bill credits in the amount of $100,000 — which is an immediate benefit to those ratepayers), the Commission finds no evidence that the Merger will increase rates or diminish services, or that the Commission's jurisdiction over Frontier as a regulated public utility will be adversely impacted in any way.

Additionally, any currently unknown risks to customers arising out of the proposed Merger are sufficiently mitigated through the protections contained in the agreed upon Regulatory Conditions and the Commission's continuing regulatory jurisdiction over Frontier.

Based on the foregoing, the Commission finds and concludes that there is little probability that the proposed Merger would pose risk of any real or potential adverse impact on the rates and services provided by Frontier to its customers.

Regarding the second question of the three-part test—whether ratepayers would be protected as much as possible from potential costs and risks of the merger—the Commission concludes, for the reasons explained below, that the ratepayers of Frontier will be protected from potential costs and risks of the Merger.

Under N.C.G.S. § 62-30, the Commission has general power and authority to supervise and control public utilities of North Carolina as may be necessary to carry out the laws providing for their regulation. N.C.G.S. § 62-32 grants the Commission supervisory power over public utility rates and service, including the power to compel reasonable service and set reasonable rates. As noted above, paragraph 18 of the Application provides that

> Frontier will continue to provide natural gas service as a regulated utility pursuant to its Certificates of Public Convenience and Necessity and will remain under the jurisdiction of the Commission. The Transaction will not affect the Commission's regulatory jurisdiction over Frontier, and Frontier will continue to comply with all applicable regulations, rules, orders, and regulatory conditions issued by the Commission.

This continuing and undiminished regulatory oversight will serve to protect ratepayers from any adverse consequences of the Merger.

Separate and apart from the Commission's inherent and continuing supervisory function, there is substantial evidence in this proceeding that ratepayers are and will be protected as much as possible from potential costs and risks of the Merger.

First, the Application and the Cost-Benefit Analysis appended thereto as Exhibit D commit the Applicants not to seek recovery of several categories of acquisition-related costs. Specifically, the Applicants have expressly waived, in both the Application and Cost-Benefit Analysis, any right to seek recovery of the acquisition premium or any transaction fees or change-of-control payments associated with the Merger. (*See* Cost-Benefit Analysis at p. 6; T. p. 137). This commitment is not insignificant inasmuch as the transaction fees identified in the Cost-Benefit Analysis, which consist of payments to investment bankers, accountants, lawyers, and consultants, are estimated at $9 million. These commitments by the Applicants act to insulate ratepayers from the major costs of the Merger itself.

Second, the agreed upon Regulatory Conditions also safeguard customers from potential adverse impacts on rates and services as a result of the Merger.

The Commission notes that several provisions of the General Statutes also serve to protect customers from potential negative consequences of the proposed Merger. These include: (i) N.C.G.S. § 62-130 – Commission supervision over rates; (ii) N.C.G.S. § 62-138 – requirement to obtain Commission approval over service contracts; (iii) N.C.G.S. § 62-139 – prohibition of service at other than Commission approved rates; (iv) N.C.G.S. § 62-140 – prohibition of discrimination;

and (v) N.C.G.S. § 62-153 – requirement to file affiliated contracts and to obtain approval for affiliated service contracts and payments to affiliates. Each of these statutory provisions either prohibits or mandates utility conduct for the purpose of assuring that rates charged to customers for utility services are just and reasonable.

Finally, the Public Staff Joint Testimony and the testimony of Applicants' witness Axter support the conclusion that ratepayers are protected from potentially adverse impacts on rates, as well as the direct and indirect costs associated with the Merger, including (1) estimated transaction fees (such as investment banker and legal fees for transaction structuring, financial market analysis, and fairness opinions based on formal agreements with investment bankers) of $9.0 million associated with this Merger; and (2) the estimated change-of-control payments (such as merger–related bonuses and/or other severance or personnel type arrangements) that are attributable to the Merger. The Public Staff further testified on the recovery of several categories of acquisition-related costs that prohibits the recapture of (1) any past negative acquisition adjustments or asset impairment write downs from prior Frontier mergers, or (2) any portion of the acquisition premium resulting from this proceeding or from past mergers. The Public Staff Joint Testimony discusses the various Regulatory Conditions and concludes that the Merger is consistent with the public interest and should be approved subject to the protections afforded customers provided by the Regulatory Conditions. (T. pp. 135-42). In the rebuttal testimony of Applicants' witness Axter, she describes the process that was undertaken by the Applicants and the Public Staff in formulating the Regulatory Conditions and indicates UIHH's agreement with the Regulatory Conditions. (T. pp. 95-96). Witness Axter specifically testifies that UIHH agrees that "the Regulatory Conditions are balanced and adequate to protect the interests of ratepayers and the Commission with respect to the proposed acquisition and to ensure that it will meet the Commission's enunciated standards for approval of proposed utility transactions." (T. p. 96).

Based on the foregoing, the Commission finds and concludes that potential risks of the Merger to ratepayers have been effectively mitigated by the commitments of the Applicants in the Application and Cost-Benefit Analysis, as well as the testimony of Applicants' witnesses and the agreed upon Regulatory Conditions. Further, the Commission retains full power and authority to address any potential impact from the Merger on Frontier's ratepayers and to enforce the Regulatory Conditions.

Regarding the third question of the three-part test—whether the merger would result in sufficient benefits to offset potential costs and risks—the Commission concludes that the Merger will result in sufficient benefits to offset potential costs and risks resulting from the Merger. The evidence explaining these benefits is found in the Application, the testimony of the witnesses for the Applicants and the Public Staff, and the Regulatory Conditions, and is discussed in the evidence and conclusions above regarding Findings of Fact Nos. 18-20.

The Commission has carefully reviewed and considered all of the evidence in this docket describing the known and potential benefits of the proposed Merger and finds it to be credible and undisputed. Frontier will have continued access to capital at the same or at a lower cost of capital than otherwise would be available without the Merger to support opportunities to expand service to unserved customers and new service territories where extensions are economically feasible, pursue necessary system upgrades, address any infrastructure replacement, and make enhancements to customer service. The Commission also concludes that the Regulatory Conditions agreed to by the Applicants and the Public Staff provide a number of benefits and safeguards to Frontier's ratepayers. These benefits include, but are not limited to: (1) a total credit of $200,000 to Frontier's North Carolina customers, through two bill credits in the amount of $100,000; (2) reporting requirements to ensure appropriate accounting and allocation of costs; (3) assurances of continuing levels of service quality; (4) a requirement that Merger-related direct and indirect expenses and any acquisition premium be excluded from recovery through customer rates; and (5) the elimination of any possible future proposed adjustment to Frontier's rate base to recapture any past negative acquisition adjustments or asset impairment write downs from prior Frontier mergers.

Based upon this evidence, and the lack of any countervailing evidence, the Commission finds and concludes that Applicants have satisfied the third and final prong in the Commission's merger approval analysis and that benefits from the proposed Merger outweigh the potential costs and risks of the Merger.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 27
(Public Convenience and Necessity)

The evidence for this finding of fact is contained throughout the record in this docket, and is identified in many of the preceding findings of fact and discussed in the evidence and conclusions for those findings of fact. This evidence, which is uncontested, supports the conclusion that the proposed Merger is justified by the public convenience and necessity.

The evidence in this proceeding, as reflected in the findings set forth above, establishes that there are a significant number of actual and potential benefits that will accrue to the State of North Carolina, to Frontier, and most importantly, to the ratepayers of Frontier as a result of the proposed Merger.

These benefits more than offset any potential risks or costs attendant to the proposed Merger, which are amply mitigated in any event by the Applicants' commitments concerning absorption of Merger costs and acquisition premiums, by the restrictions imposed on the Applicants' conduct by the agreed upon Regulatory Conditions, and by this Commission's continuing jurisdiction and authority over the rates, terms and conditions of service provided by Frontier. In addition, the Commission also concludes that service quality for Frontier will be maintained, that rates for Frontier ratepayers will not change because of the Merger, and that effective regulation will be maintained for Frontier.

Accordingly, the Commission concludes that the Applicants' commitments in their Application, testimony, and the agreed upon Regulatory Conditions are sufficient to ensure that: (1) the Merger will have no adverse impact on the rates and service provided to Frontier's ratepayers; (2) Frontier's ratepayers are protected as much as reasonably possible from potential costs and risks resulting from the Merger; and (3) the known and potential benefits from the Merger are sufficient to offset the potential costs and risks.

Therefore, based on all of the evidence presented in this proceeding, the Commission finds that approval of the proposed Merger is justified by the public convenience and necessity and should be granted, subject to all of the terms, conditions, and provisions of this Order, as well as the Regulatory Conditions.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of UIHH and Frontier pursuant to N.C.G.S. § 62-111(a) to engage in a business combination transaction shall be, and is hereby, approved subject to compliance with the provisions of this Order and the Regulatory Conditions attached hereto as Appendix A and incorporated herein.

2. That Frontier shall credit a total of $200,000 to its North Carolina customers, through two bill credits in the amount of $100,000 each. The first $100,000 shall be refunded through a one-time bill credit to be completed by January 1, 2022, or as soon as practicable after the transaction is consummated. The second $100,000 shall be refunded through a one-time bill credit to be completed by January 1, 2023. Within 30 days after each respective bill credit is completed, Frontier shall file a report with the Commission detailing the amount of the bill credit.

3. That Merger and Merger-related direct and indirect expenses associated with the Merger, including change-in-control payments made to terminated executives, merger-related bonuses, severance payments, regulatory process costs, and transaction fees, such as investment banker and legal fees for transaction structuring, financial market analysis, and fairness opinions based on

formal agreements with investment bankers, shall be excluded from the regulated expenses of Frontier for Commission financial reporting and ratemaking purposes.

4. That the Applicants are precluded from recovering (1) any past negative acquisition adjustments or asset impairment write downs from prior Frontier mergers or (2) any portion of the acquisition premium resulting from this Merger.

5. That Frontier shall file a summary report of its final accounting for Merger-related direct expenses within 120 days after the close of the Merger, and supplemental reports within 60 days after each quarter until such expenses cease.

6. That the Applicants are authorized to take such other and further actions as are reasonable and necessary to consummate the Merger set forth in the SPSA subject to the terms hereof.

7. That Frontier shall file with the Commission copies of all orders from the state commissions in Montana, Ohio, and Maine related to the Merger within ten (10) days of issuance.

8. That the Applicants shall file a written notice in this docket within ten (10) days of the consummation of the Merger approved herein.

9. That this docket shall remain open pending the filing of such notice, and such other actions by the Commission that may be required.

ISSUED BY ORDER OF THE COMMISSION.

This the ___ day of _______________, 2021.

NORTH CAROLINA UTILITIES COMMISSION

APPENDIX A

DOCKET NO. G-40, SUB 160
REGULATORY CONDITIONS

These Regulatory Conditions set forth commitments made by Ullico Infrastructure Hearthstone Holdco, LLC (UIHH), GEP Bison Holdings, Inc. (GBH), Hearthstone Utilities, Inc. (HUI), PHC Utilities, Inc. (PHC), and Frontier Natural Gas Company (Frontier), as a precondition of approval of the application by Frontier and UIHH pursuant to N.C. Gen. Stat. § 62-111(a) for authority to engage in their proposed business combination transaction (Merger). These Regulatory Conditions, which become effective only upon closing of the Merger, shall apply jointly and severally to UIHH, GBH, HUI, PHC, and Frontier (as well as any successor entities), and shall be interpreted in the manner that ensures Frontier's customers (a) are protected from any known adverse effects from the Merger, (b) are protected as much as possible from potential costs and risks resulting from the Merger, and (c) receive sufficient known and expected benefits to offset any potential costs and risks resulting from the Merger.

UIF GP, LLC (UIF GP), and Ullico Infrastructure Master Fund, L.P. (UIF), as well as any additional or successor entities with control over UIHH, GBH, HUI, PHC, or Frontier (collectively the Parent Entities), do hereby acknowledge and consent to these Regulatory Conditions agreed and entered into by UIHH, GBH, HUI, PHC, and Frontier (collectively the Subsidiary Entities). The Parent Entities further commit not to cause the Subsidiary Entities to violate such Regulatory Conditions, nor to prevent the Subsidiary Entities from taking action to comply with the Regulatory Conditions, for so long as such Regulatory Conditions remain in effect and applicable to the Subsidiary Entities. The consent and acknowledgment of the Parent Entities set forth above does not constitute a general consent to expansion of the North Carolina Utilities Commission's jurisdiction over the Parent Entities beyond that established by Chapter 62 of the North Carolina General Statutes.

For purposes of these Regulatory Conditions, the North Carolina Utilities Commission is referred to as "the Commission," and the Public Staff – North Carolina Utilities Commission is referred to as "the Public Staff." "Affiliate" shall mean UIHH and any business entity of which ten percent (10%) or more is owned or controlled, directly or indirectly, by UIHH, including, but not limited to, Frontier, PHC, HUI, and GBH.

1. **Compliance with Sub 124 Stipulation.** Frontier shall continue to remain bound by the terms and conditions of the Stipulation entered into with the Public Staff on June 27, 2014, as amended on September 14, 2015 (collectively, the Sub 124 Stipulation), and filed in Docket No. G-40, Sub 124, to the extent that those terms and conditions are ongoing and are not clearly superseded by these Regulatory Conditions. The Sub 124 Stipulation is incorporated herein by reference.

2. **Compliance with Sub 133 Regulatory Conditions.** Frontier shall continue to remain bound by the Regulatory Conditions attached to the Commission's Order Granting Conditional Approvals issued August 2, 2016, in Docket No. G-40, Sub 133 (Sub 133 Regulatory Conditions), to the extent that those conditions are ongoing and are not clearly superseded by these Regulatory Conditions. The Sub 133 Regulatory Conditions, with the exception of Attachment A thereto, are incorporated herein by reference. Attachment A to the Sub 133 Regulatory Conditions is superseded by Attachment A hereto.

3. **Compliance with Sub 142 Stipulation.** Frontier shall continue to remain bound by the terms and conditions of the Agreement and Stipulation of Settlement entered into with the Commission Staff, which was approved by Commission Order Approving Agreement and Stipulation of Settlement issued October 31, 2017, and the Amended Stipulation of Settlement, which was approved by Commission Order Approving Modification to Agreement and Stipulation of Settlement issued September 11, 2018, in Docket No. G-40, Sub 142 (collectively, the Sub 142 Stipulation). The Sub 142 Stipulation is incorporated herein by reference.

4. **Measurement of Frontier Rate Base.** For North Carolina regulatory accounting, reporting, and ratemaking purposes, Frontier's rate base as of the Merger closing date shall be set at its net book value as of December 31, 2020, as reported in its financial statements and incorporated into the NCUC Form G.S.-1 Quarterly Financial and Operational Data Reports (NCUC G.S.-1 Reports) provided to the Public Staff and the Commission, plus charges and credits incurred in the normal course of utility business between December 31, 2020 and the Merger closing date.

5. **Merger-related Direct Expenses.** Direct expenses associated with the Merger will be excluded from the regulated expenses of Frontier for Commission financial reporting and ratemaking purposes. Direct merger expenses are change-in-control payments made to terminated executives, merger-related bonuses, severance payments, regulatory process costs, and transaction fees (such as investment banker and legal fees for transaction structuring, financial market analysis, and fairness opinions based on formal agreements with investment bankers). Frontier will file a summary report of its final accounting for Merger-related direct expenses

within 120 days after the close of the Merger, and supplemental reports within 60 days after each quarter until such expenses cease.

6. **Merger Transition Costs.** Frontier shall report the actual transition costs as identified by category in the Cost-Benefit Analysis, Exhibit D to the Merger application, on its NCUC G.S.-1 Report in accordance with generally accepted accounting principles and identify the North Carolina portions of these costs beginning with the first quarter after the Merger closes.

7. **Non-Consummation of Merger.** If the Merger is not consummated, neither the cost, nor the receipt, of any termination payment shall be allocated to Frontier or included in regulated expenses of Frontier for Commission financial reporting and ratemaking purposes. Frontier's customers shall not otherwise bear any direct expenses or costs associated with a failed merger.

8. **Inclusion of Cost Savings in Future Rate Proceedings.** For purposes of future general rate case proceedings for Frontier, Frontier and the Public Staff shall not be limited to or constrained by the provisions of these Regulatory Conditions in asserting or sustaining arguments regarding the proper treatment of merger cost savings in setting just and reasonable rates for Frontier.

9. **Hold Harmless Commitment.** The Merger shall be effectuated in a manner designed to prevent harm to Frontier's ratepayers, although it is recognized that it is possible that matters not currently foreseeable could have the potential to negatively impact Frontier ratepayers in the future. Notwithstanding this, Frontier, UIHH, GBH, HUI, and PHC (as well as any successor entities exercising control over Frontier) shall take all such actions as may be reasonably necessary and appropriate to hold Frontier's customers harmless from the effects of the Merger.[2]

10. **Distributions to HUI and PHC.** Frontier shall not pay to HUI (directly or through PHC) any distribution exceeding 100% of Frontier's net income calculated on a two-year rolling average basis. In addition, Frontier shall limit cumulative distributions paid to HUI (directly or through PHC) subsequent to closure of the Merger to (i) the amount of its retained earnings on the day prior to the closure of the Merger, plus (ii) any future earnings recorded by Frontier subsequent to closure of the Merger. Frontier shall not make any distributions to any Affiliates other than PHC and HUI, unless approved by the Commission. The Commission retains the right to impose future limitations on distributions of Frontier if the public interest

[2] Frontier and UIHH reserve the right to dispute future assertions by the Public Staff that any particular future action or event may cause or represent harm to Frontier's ratepayers attributable to the Merger for which relief should be granted under this Condition.

requires, as provided pursuant to applicable law and prior Commission orders.

11. **Protection Against Debt Downgrade.** To the extent the cost rates of any of HUI's or Frontier's long-term debt (more than one year) are or have been adversely affected as a result of the Merger through a ratings downgrade below BBB rating by any one of the three credit rating agencies[3] or an indicative credit rating associated with a private placement of debt, a replacement cost rate to remove the effect shall be used for all purposes affecting any of Frontier's North Carolina rates and charges. This replacement cost rate shall be applicable to all financings, refundings, and refinancings taking place following the change in ratings. If a downgrade has occurred and is continuing, a replacement cost calculation will be determined, as part of Frontier's future general rate cases. The replacement rate should be commensurate with a BBB rating and no greater than the prime rate plus 200 basis points. This Regulatory Condition will continue for five years after the consummation of the Merger.

12. **Notice of Certain Investments.** Whenever one of the Parent Entities or UIHH makes any new or increased direct or indirect investment in a business entity where: (a) such investment appears or will appear on the books of UIHH, GBH, PHC, or HUI, or will otherwise have an effect on the books, costs, rates, revenues, charges, obligations, services, capitalization, or indebtedness of Frontier, and (b) the amount of such investment is equal to ten percent (10%) or more of HUI's book capitalization, the investing entity shall file or cause to be filed, as soon as practicable following Board or other approval of the subject transaction and any public announcement thereof (if one is made), a notice of the investment with the Commission. The notice shall include a full description of the investment and an explanation of how it will be accounted for in the investing entity's books and records.

13. **Notice of Certain PHC and HUI Investments.** Frontier shall file a notice with the Commission, subsequent to PHC Board or HUI Board approval and as soon as practicable following any public announcement (if one is made), of any new investment in a regulated utility.

14. **Notice by Frontier of Default or Bankruptcy of Affiliate.** If an Affiliate or Parent Entity of Frontier experiences a default on an obligation that is material to HUI or UIHH or files for bankruptcy, and such bankruptcy is material to HUI or UIHH, Frontier shall notify the Commission of the event in advance, if possible, or, if not, as soon as possible but not later than ten (10) days after such event. For purposes of this section, materiality shall be any default or bankruptcy that would be required to be disclosed in the

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[3] The three rating agencies are Moody's Investors Service, S&P Global Ratings, and Fitch Ratings.

audited financial statements of HUI.

15. **Common Equity Capital.** Until the final order is issued in Frontier's next general rate case, Frontier will maintain common equity capital at levels equal to or greater than 45% of total adjusted capital (including common equity, long-term debt, long-term capital leases, and current maturities of long-term debt). No equity distributions, whether by dividend or other form, will be allowed that would result in equity capital falling below this minimum level during the specified period, without prior approval of the Commission. Notwithstanding the foregoing, Frontier shall maintain the right to petition the Commission for an exception to this Regulatory Condition.

16. **Post-Closing Financial Information.** Frontier shall file pre- and post-Merger closing balance sheets and the closing journal entries, including relevant descriptions and disclosures for the transactions recorded, for HUI, PHC, and itself, as soon as practicable but not later than the end of the second full quarter following the close of the Merger.

17. **Meetings with Public Staff.** HUI and Frontier shall meet annually with the Public Staff to discuss Frontier's financial condition and results, service quality initiatives and results, customer service changes, pipeline safety, and potential new tariffs.

18. **Service Company Formation.** Frontier shall notify the Commission of any plans of any Affiliate to form a service company that, to the best knowledge of UIHH, the Affiliate, or Frontier, could potentially cause federal preemption of the Commission's jurisdiction over Frontier or would affect, take services from, or provide services to Frontier at least sixty (60) days prior to the formation of such service company. Frontier will take all such actions as the Commission finds necessary and appropriate to hold North Carolina ratepayers harmless from any federal preemption that may be triggered by the formation of a service company.

19. **Access to Books and Records.** In accordance with and to the extent provided by North Carolina law, the Commission and the Public Staff shall continue to have access to the books and records of Frontier and its Affiliates.

20. **Changes to Board of Directors or Management.** Frontier shall notify the Commission within ten (10) days of any changes to the Board of Directors or management of UIHH, GBH, HUI, PHC, or Frontier.

21. **Notice and Consultation with Public Staff Regarding Proposed Structural and Organizational Changes.** Upon request, UIHH, HUI, and Frontier shall meet and consult with, and provide requested relevant data to, the Public Staff regarding plans for significant changes in Frontier's or any of its Affiliates' organization, structure, and activities

which are reasonably anticipated to affect Frontier; the expected or potential impact of such changes on Frontier's rates, operations and service; and proposals for assuring that such plans do not adversely affect Frontier's customers. Frontier shall inform the Public Staff promptly of any such events and changes.

22. **Mergers and Acquisitions.** For any proposed merger or other business combination[4] that would affect Frontier, Frontier shall file an application for approval pursuant to N.C.G.S. § 62-111(a) at least 180 days before the proposed closing date for such merger or other business combination.

23. **Audited Financial Statements.** By the end of the first quarter of each calendar year, Frontier will provide to the Public Staff audited financial statements of HUI for the preceding calendar year.

24. **Merger-related Cost Savings.** In order to ensure that the Commission's three-part test for determining whether a proposed utility merger is justified by the public convenience and necessity is met,[5] Frontier shall credit a total of $200,000 to its North Carolina customers in recognition of Frontier's share of the estimated merger-related savings associated with a reduction in HUI's normalized executive management cost (post 2022), through two bill credits in the amount of $100,000. The first $100,000 shall be refunded through a one-time bill credit to be completed by January 1, 2022, or as soon as practicable after the transaction is consummated. The second $100,000 shall be refunded through a one-time bill credit to be completed by January 1, 2023.

    The bill credits shall be allocated to the rate schedules by the non-gas cost margin of each rate schedule. The total allocated credits in each rate class will be divided by the total volume of gas from the latest 12 calendar months of usage prior to the date of closing that is available to arrive at a unit credit rate for each rate schedule. Customers within each rate class will be credited an amount equal to the class unit credit rate times each individual customer's volume from the latest 12 calendar months available. Within 30 days after each bill credit is completed, Frontier shall file a report with the Commission detailing the amount of the bill credit by rate schedule.

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[4] For purposes of these Regulatory Conditions, a "merger or other business combination" is defined as not simply an investment in a business entity, but as a transaction or other event in which either (1) an acquirer obtains control of one or more business entities, or (2) two or more previously separate business entities merge into one with newly defined or established control authority.

[5] See Order Approving Merger Subject to Regulatory Conditions and Code of Conduct issued June 29, 2012, in Docket Nos. E-2, Sub 998 and E-7, Sub 986, aff'd, In re Duke Energy Corp., 232 N.C. App. 573, 755 S.E.2d 382 (2014)

25. **Obligations with Affiliates**. Frontier will not make a loan to any Affiliate, issue a guarantee for an obligation of any Affiliate, or otherwise assume any obligation of any Affiliate without prior Commission approval.

26. **Capital Budgets.** Frontier shall maintain a level of capital and operational support in North Carolina necessary to provide safe, efficient, and reliable service at reasonable rates. Frontier shall continue to provide to the Public Staff, on a confidential basis and for informational purposes, its five year projected capital budget for new, expanded, or upgraded natural gas facilities in North Carolina by June 30 of every year until relieved of this requirement by future Commission order.

27. **Pipeline Safety.** Frontier shall maintain compliance with all federal gas pipeline safety laws and regulations. Pursuant to the Sub 142 Stipulation, Frontier is required to file with the Commission, within three months after completion of construction of system enhancements contemplated in the Sub 142 Stipulation, a report in Sub 142 providing the details of the work completed and an itemized accounting of all monies spent once all required work is completed. Frontier shall provide a copy of the report to the Public Staff at the time it is filed with the Commission.

28. **Regulatory Reporting Requirements.** Frontier shall comply with all regulatory reporting requirements shown on Attachment A hereto.

29**.** **Regulatory Staffing.** Frontier shall maintain sufficient, adequately trained personnel to ensure that regulatory reporting requirements are complied with in a timely and accurate manner, including the reporting requirements listed on Attachment A hereto. Frontier shall notify the Public Staff when there is any change in regulatory or operational personnel at the management/supervisor level. Each year by June 30, Frontier shall provide the Public Staff with an updated directory of regulatory and operational personnel, including phone numbers and e-mail addresses.

30. **Operating and Maintenance Manual.** Frontier shall provide a current copy of its Operating and Maintenance Manual to the Public Staff, and promptly notify the Public Staff in writing of any substantive changes.

31. **Right-of-Way Maintenance Expenditures.** Frontier shall budget and expend sufficient funds to maintain its pipeline rights-of-way so as to allow ready access by personnel and vehicles for the purpose of responding to pipeline damage, conducting leak and corrosion surveys, performing maintenance activities, and ensuring system integrity, safety, and reliability.

32. **Customer Access to Service Representatives and Other Services.** Frontier shall continue to utilize a third-party service for after-hours calls related to service outages and leaks. Frontier on-call personnel, who respond to calls 24 hours a day, are contacted by the third-party service when a call is received. Additionally, Frontier will continue to provide knowledgeable and experienced customer service representatives during normal business hours to handle all types of customer inquiries. Frontier shall also maintain up-to-date and user-friendly online services and automated telephone service 24 hours a day to perform routine customer interactions and to provide general billing and customer information.

33. **Customer Surveys.** Frontier shall continue to informally survey its customers regarding their satisfaction with Frontier's public utility service and shall incorporate this information into its processes, programs, and services

34. **Overall Service Quality.** Upon consummation of the Merger, Frontier shall continue its commitment to provide safe, reliable, and affordable natural gas service.

35. **Charges for and Allocations of the Costs of Affiliate Transactions.** Frontier shall keep on file with the Commission a cost allocation manual (CAM) with respect to goods or services provided between and among Frontier and its Affiliates. Affiliate transactions will be directly charged where practicable. The CAM shall encompass transactions, allocations, and the bases for the allocations occurring (a) at the UIHH level and below, and (b) with any Affiliate with which Frontier has a frequent or continuing cost allocation or transaction relationship, either directly or indirectly through UIHH or a direct or indirect subsidiary of UIHH. The CAM shall be updated annually, and the revised CAM shall be filed with the Commission no later than March 31 of the year that the CAM is to be in effect.

36. **Affiliated Agreements.** Frontier shall file pursuant to N.C.G.S. § 62-153 agreements for the provision and receipt of goods or services between and among Frontier and its Affiliates. All such agreements that involve payment of fees or other compensation by Frontier shall require acceptance and authorization by the Commission, and shall be subject to any other Commission action required or authorized by North Carolina law and the Rules and orders of the Commission. Prior to making any changes to existing agreements, Frontier shall file such changes with the Commission.

37. **Transfer Pricing Between Affiliates.** For untariffed goods and services provided by Frontier to a non-utility Affiliate, the transfer price paid to Frontier shall be set at the higher of market value or Frontier's cost(s). For untariffed goods and services provided to Frontier by a non-utility Affiliate,

the transfer price(s) charged by a non-utility Affiliate to Frontier shall be set at the lower of market value or the non-utility Affiliate’s cost(s). Services provided by Frontier to utility Affiliates or by utility Affiliates to Frontier shall be transferred at the supplier's cost, unless otherwise directed by order of the Commission.

Attachment A

Item #	Description	Frequency	Deadline	Requirement	Docket/Statute/Rule Reference
1.	FERC Form 2 Report	Annually	April 30	One copy filed with PS Acctng. Div. Copies provided to PS Energy Div. and NCUC Fiscal Management Div.	Rule R6-5(9)
2.	Financial & Operating Report	Monthly	45 days	Provided to PS Acctng. Div.	G.S. 62-36. Official NCUC Request.
3.	Deferred Account Report	Monthly	45 days	Filed w/Chief Clerk. Detailed workpapers provided to PS Acctng. Div.	Rule R1-17(k)(5)(c)
4.	Annual Review Of Gas Costs Filing	Annually	December 1	Filed w/Chief Clerk	G.S. 62-133.4(c) and Rule R1-17(k)
5.	Daily Dispatch Report for last day of month	Monthly	3 days	Filed with Chief Clerk and provided to PS Energy Div.	Rule R6-5(7)
6.	Source of Supply, Sales, Customers and Transportation	Monthly	45 days	Filed w/Chief Clerk	G-100, Sub 24A
7.	Customer Bill Format	Each Time Changed		Filed w/Chief Clerk and provided to PS Energy Div.	Rule R6-5(3)
8.	Natural Gas Bond Fund Economic Feasibility Report	Biennially	November 30	Filed w/Chief Clerk	Rule R6-93

Item #	Description	Frequency	Deadline	Requirement	Docket/Statute/Rule Reference
9.	Meter Report	Monthly	30 days	Filed w/Chief Clerk and provided to PS Energy Div.	Rule R6-5(7)b
10.	Contracts with Customers	Each Occurrence	Prior to effective date	If term > 1 year, then filed w/ Chief Clerk for approval. If term < 1 year, then provide to PS Acctng. Div. in Annual Review.	Rule R6-5(2)
11.	Incentive Plans	Each Program	Prior to Offer	Filed w/Chief Clerk. Approval required.	G.S 62-140(c), Rule R6-95
12.	Regulatory Fee Report	Quarterly	45 days	Filed w/NCUC Fiscal Management Div.	Rule R15-1
13.	Notice of Supplier Refunds Received	Each Occurrence	1 week	Filed w/Chief Clerk	G-100, Sub 57
14.	Construction Budget	Annually		Filed w/Chief Clerk	Rule R6-5(6)
15.	GS-1 Report	Quarterly	60 days	Filed w/Chief Clerk	G.S. 62-36, Rule R15-1, M-100, Sub 157
16.	Gas Pipeline Safety Reports	Various	Various	Filed w/Chief Clerk, otherwise contact the NCUC Pipeline Safety Div.	G.S. 62-50, Rules Chapter 6, G-100, Sub 92, and G-40, Sub 142
17.	Annual Affiliated Transactions Report	Annually	March 31	Filed w/Chief Clerk	NCUC Final Order Docket No. G-40, Sub 133

Item #	Description	Frequency	Deadline	Requirement	Docket/Statute/Rule Reference
18.	Annual Financing Forecast	Annually	March 31	Provided to PS Economic Research Div. and Acctng. Div.	NCUC Final Order Docket No. G-40, Sub 133
19.	Audited Financial Statement of Hearthstone Utilities, Inc.	Annually	March 31	Provided to PS Acctng. Div.	NCUC Final Order Docket No. G-40, Sub 160
20.	Cost Allocation Manual (CAM)	Annually	March 31	Filed w/Chief Clerk	NCUC Final Order Docket No. G-40, Sub 160
21.	Projected Capital Budget	Annually	June 30	Provided to PS Acctng. Div.	NCUC Final Order Docket No. G-40, Sub 160
22.	G-2 Report -- Planned construction of high pressure (>100 psi) pipeline	Each occurrence	30 days prior	Filed w/Chief Clerk	Docket No. G-100, Sub 92
23.	G-3 Report – Certifies construction of high pressure (>100 psi) pipeline	Each occurrence	60 days from completion	Filed w/Chief Clerk	Docket No. G-100, Sub 92
24.	Residential Disconnection for Non-payment	Monthly	2 weeks from end of month	Filed w/Chief Clerk	Docket No. M-100, Sub 61A