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Via E-Mail

October 9, 2018

Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
3 Empire State Plaza
Albany, New York 12223

Re: Case 15-M-0588 – Joint Petition of Charter Communications, Inc. and Time Warner Cable Inc. for Approval of a Transfer of Control of Subsidiaries and Franchises; for Approval of a Pro Forma Reorganization; and for Approval of Certain Financing Arrangements.

Dear Secretary Burgess:

On October 9, 2018, Charter Communications, Inc. (Charter) filed a Request for Extension of Time to File Applications for Rehearing and Extension of the Deadline in Ordering Clause No. 4 of the July 27, 2018 Order,¹ seeking 60-day extensions of (1) the deadline to file a Six-Month Exit plan with the Secretary (in connection with the Commission's July 27, 2018 Order Denying Petitions for Rehearing and Reconsideration and Revoking Approval (Revocation Order)), and (2) the period to file petitions for rehearing of both the Revocation Order and the Commission's Order Confirming Missed June 2018 Compliance Obligation and Denying Good Cause Justification (Compliance Order) pursuant to Public Service Law (PSL) §22.

For the reasons stated herein, Department of Public Service Staff (DPS Staff) recommends that the Commission grant a limited extension of 45 days to allow settlement discussions between Charter and DPS Staff to continue and conclude.

¹ Case 15-M-0388, Request for Extension of Time to File Applications for Rehearing and Extension of the Deadline in Ordering Clause No. 4 of the July 27, 2018 Order (filed October 9, 2018)

The Commission has previously granted two extensions of each of these dates. These extensions have allowed for several discussions between DPS Staff and Charter regarding the potential settlement of the issues raised by the Revocation Order and the Compliance Order, as well as the Special Proceeding in Supreme Court, Albany County commenced by Counsel to the Commission as directed in the Compliance Order. As stated, these discussions have been productive and should continue. However, DPS Staff believes that the Commission should direct that any request granted in response to Charter's most recent filing be final in form and that any additional time allowed must either result in a settlement agreement being presented to the Commission or the cessation of settlement talks and a resumption of the processes outlined in the Revocation and Compliance Orders, unless good cause is shown by both parties. This will ensure that progress is made or that in the event a settlement is not reached, that there is certainty as to the expectations on the parties going forward.

DPS Staff also seeks to provide the Commission, through this letter, with a statement of principles that have guided and will continue to guide Staff in the development of any settlement agreement; the overarching principle is that such an agreement further New York State's objective of creating near universal deployment of communications networks and addressing regulatory concerns related to Charter's past violations of the Commission's January 8, 2016 Order in this case. Within this framework, there are nine principles that are guiding DPS Staff:

- All addresses that are counted toward Charter's obligations must further the Commission's statements that service be provided to those in less densely populated areas (i.e., Upstate NY).
- Addresses counted toward Charter's obligations must not have had network previously passing the address or high speed broadband service available from a competitor. As the Commission has previously noted, New York City is one of the most wired cities in America, with much of the City served by multiple providers. Thus, the focus of the buildout should be in Upstate NY.
- Overlap between Charter's proposed buildout Upstate and those areas awarded by the Broadband Program Office should be minimized or eliminated to the maximum extent practicable.
- The goal of DPS Staff and New York State is to ensure that the maximum number of New York State residents have wireline cable and broadband networks available to them.
- Charter's violations of the January 8, 2016 order and September 2017 Settlement Agreement must be addressed.
- Going forward, the scope of changes allowed to be made to the buildout plan should be limited in order to provide certainty to New Yorkers as to when Charter's network will pass their homes and businesses.
- Safety is of paramount importance to New York State and that, regardless of any targets agreed to, all work must be done safely.
- Company representations regarding the buildout and compliance with PSC orders must be truthful.

- The buildout schedule must establish concrete and enforceable consequences should Charter fail to meet its obligations.

In sum, DPS Staff recommends that the Commission consider limiting the extension requested by Charter to 45 days on the condition that no further extensions should be granted without good cause shown by both Staff and the Company. The principles discussed here will guide DPS Staff in presenting any settlement to the Commission for its consideration.

Sincerely,

s/ John J. Sipos

John J. Sipos
Acting General Counsel