

Maureen O. Helmer
Partner

August 2, 2018

VIA ELECTRONIC MAIL

Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

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.
Case: 15-M-0388

RE: Charter's Request for the Addresses and Details of the Alleged Safety Incidents Identified in the Order Confirming Missed Compliance Obligation and Denying Good Cause Justification

Dear Secretary Burgess:

On July 27, 2018, the Commission issued an Order Confirming Missed June 2018 Compliance Obligation and Denying Good Cause Justification (the "July Compliance Order") finding, *inter alia*, that (i) Charter Communications, Inc. ("Charter") had included passings in its July 9, 2018 Bulk Address Update ineligible for inclusion under the Network Expansion Condition to the Commission's January 8, 2016 Merger Order,¹ as amended by the Settlement Agreement;² and (ii) that Good Cause Shown did not exist with respect to the June 18, 2018 buildout target based on, *inter alia*, safety issues with certain unspecified Charter construction projects.

We are diligently reviewing the July Compliance Order and its findings. However, in order to respond, Charter needs access to information identifying (1) the addresses deemed ineligible and (2) the safety issues upon which the Commission based its decision.

Specifically, on page 16 of the July Compliance Order, the Commission states the following with respect to addresses Charter had reported as completed:

¹ See Case 15-M-0388, Charter Communications and Time Warner cable – Transfer of Control, Order Granting Joint Petition Subject to Conditions (issued January 8, 2016).

² *Id.*, Order Adopting Revised Build-Out Targets and additional Terms of a Settlement Agreement (filed on June 19, 2017 and adopted by the Commission on September 14, 2017).

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374 addresses within the six Upstate cities previously identified by the Commission as disqualified; . . . 236 addresses identified as Negative Space addresses; [and] 1,163 addresses identified by DPS Staff as disqualified through the audit processes.

In addition, on page 17 of the July Compliance Order, the Commission states the following with respect to addresses Charter had reported as not yet completed:

174 addresses are identified as Negative Space addresses, and 57 addresses are identified as BPO Phase 3 award area passings.

Although these categories describe generally the addresses the Commission has designated as ineligible, Charter has frequently encountered difficulties in attempting to map the Commission's descriptions of disqualified addresses in its orders onto specific addresses in Charter's reports, and wishes to ensure that there is no confusion regarding the specific addresses at issue.

In addition, on page 23 of the July Compliance Order, the Commission states that "DPS Staff has informed the Commission of numerous incidents in which Charter (or its contractors) have completed work that is not compliant with the National Electric Safety Code or [sic] otherwise unsafe." The Order, however, does not identify the specific incidents referenced. Although Charter has on occasion been informed by pole owners of specific concerns related to construction activities and has promptly addressed those identified issues, Charter does not have a comprehensive list of the claimed incidents on which the Order rests.

Accordingly, we request delivery of the following by close of business on August 3, 2018, or (if impracticable) as soon as possible thereafter: (i) a list of the 2,004 addresses (1,773 completed passings and 231 not-yet-completed passings) referenced in the July Compliance Order excerpts quoted above; and (ii) a list identifying the precise dates, locations and details of the alleged safety incidents referenced in the July Compliance Order excerpt quoted above.

Charter believes these addresses and the list of alleged incidents are essential for a full and complete review the July Compliance Order.³ If you have any questions with regards to this request, please do not hesitate to contact the undersigned. We appreciate Your Honor's attention to this matter.

Very truly yours,

/s/ Maureen O. Helmer

Maureen O. Helmer

Counsel for Charter Communications, Inc.

³ This letter should not be construed in any way as a waiver by Charter of any legal rights, including (without limitation) Charter's right to seek review of the July Compliance Order or otherwise seek review of the Commission's interpretation and application of its January 8, 2016 Merger Order and the Settlement Agreement.