

Maureen O. Helmer
Partner

July 3, 2018

VIA ELECTRONIC MAIL

Hon. Kathleen H. Burgess
Secretary of 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: Request for Extension of Deadline to File a Revised Buildout Plan

Dear Secretary Burgess:

In its June 14, 2018 Order Denying Charter Communications, Inc.'s Response to Order to Show Cause, the Commission required that Charter Communications, Inc. ("Charter" or the "Company") revise its 145,000 Buildout Plan (the "Buildout Plan") within 21 days of the issuance of the Order.¹ In addition, the Order required that Charter: (a) remove 18,363 passings from its December 16, 2017 report; (b) remove 11,979 addresses from the Buildout Plan; and (c) file a report regarding the most up-to-date number of passings that the Company has completed and associated pole or conduit license applications; and (d) provide all relevant details regarding its plan to come into compliance with the discussion in the June 14th Order.²

Charter fundamentally disagrees that the Commission's June 14th Order accurately reflects the agreement that was reached with Charter with respect to the Merger Order.³ The

¹ Case 15-M-0388, *Joint Petition of Charter Communications and Time Warner Cable for Approval of a Transfer of Control of Subsidiaries and Franchises, Pro Forma Reorganization, and Certain Financing Arrangements*, Order Denying Charter Communications, Inc.'s Response To Order to Show Cause and Denying Good Cause Justifications Condition 4 at p. 79 (Issued and Effective June 14, 2018) ("June 14th Order").

² *See Id.*, June 14th Order, Conditions 2 through 5.

³ Certain subjects discussed in this filing pertain to non-jurisdictional products and services. Discussion of non-jurisdictional products and services is not intended as a waiver or concession of the Commission's jurisdiction beyond the scope of Charter's regulated telecommunications and cable video services. Charter respectfully reserves all rights relating to the inclusion of or reference to such information, including without limitation

Company intends to appeal the Order and any amendment to the Buildout Plan, therefore, is premature. Premature revision to the Buildout Plan as contemplated by the Order will require further updates to the consumer Portal, which would, in return, create substantial consumer confusion.

In order to avoid such consumer confusion, the Company respectfully requests that the Commission stay the revision of Charter's Buildout Plan and the other requirements contained in Ordering Clauses 2 through 5 until all of the Company's administrative and legal appeals have been exhausted.⁴ At that time, if it is determined that Charter must develop a revised plan in accordance with any of the aspects of the Commission's June 14th Order, such revised plan will be provided by the Company within a reasonable time thereafter and the Portal will likewise be updated.

Notwithstanding the foregoing, Charter finds that the task of revising the detailed Buildout Plan and the other requirements is far too large an undertaking to be accomplished with the necessary care and diligence required within the 21-day timeframe mandated in the Commission's June 14th Order. If the Commission rejects the Company's request to stay the mandated revision of the Buildout Plan until its administrative remedies are exhausted, the Company proposes a 60-day extension for the requested revision to the Buildout Plan until September 3, 2018.

Moreover, the Company has not as yet been given access to the 3,044 Upstate addresses that the Commission disqualified from Charter's original Buildout Plan. When this was not forthcoming the Company requested it by letter on June 29, 2018.⁵ Given that Charter does not have access to the 3,044 list of Upstate premises that the Commission found ineligible for inclusion in the 145,000 address benchmark, the Company is not in a position to eliminate the premises referred to in the Order nor similarly-situated premises at this time.⁶ Accordingly, in an

Charter's legal and equitable rights relating to jurisdiction, compliance, filing, disclosure, relevancy, due process, review, and appeal. The inclusion of or reference to non-jurisdictional information or to the ordering clauses or other requirements of the Order as obligations or commitments to provide non-jurisdictional services shall not be construed as a waiver of any rights or objections otherwise available to Charter in this or any other proceeding, and may not be deemed an admission of relevancy, materiality, or admissibility generally. The requests discussed herein should not be construed in any way as a waiver by Charter of any of its legal rights, including (without limitation) Charter's right to seek review of the June 14th Order or otherwise seek review of the Commission's interpretation and application of its January 8, 2016 Merger Order.

⁴ On July 9, 2018, Charter plans to file its actual passings for the six month period ending on June 18, 2018, in conformance with the Order Adopting Revised Build-Out Targets and Additional Terms of a Settlement Agreement, (Issued and Effective September 14, 2017).

⁵ Case 15-M-0388, Charter Letter to the Secretary Requesting 3,044 Upstate Addresses, (filed June 29, 2018).

⁶ The June 14th Order also required that Charter remove an additional 86 addresses located in Grafton, NY from its future 145,000 Buildout Plan years. *See* June 14th Order, pp. 60 through 61. According to the Commission, these 86 additional addresses were associated with Plan Year 3 Buildout, and should be removed because they were "interspersed between and among many of the 725 already-completed addresses that Charter has voluntarily removed in association with its BPO Connect New York funded expansion project." *Id.* at 61. However, the June 14th Order failed to provide a list of these 86 addresses. Accordingly, the Company hereby requests a full list of these addresses, as it is not in a position to evaluate the basis for disqualifying these passings or eliminate the

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effort to accurately revise Charter's Buildout Plan in a manner consistent with the Commission's June 14th Order, such addresses should be made immediately available to the Company and the Company should be provided adequate time to analyze these addresses.

We appreciate your Honor's attention to this matter. Please do not hesitate to contact the undersigned with questions or concerns regarding this correspondence.

Respectfully submitted,

/s/ Maureen O. Helmer

Maureen O. Helmer
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premises referred to in the Order from the Commission-ordered revised Buildout Report discussed in this letter.