

Stop the Cap!

Promoting Better Broadband, Fighting Data Caps, Usage-Based Billing, & Other Internet Overcharging Schemes



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June 16, 2016

Hon. Kathleen H. Burgess
Secretary, Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Dear Ms. Burgess,

Today, we confirmed that Charter Communications has ordered an indefinite suspension of the Time Warner Cable Maxx broadband upgrade program pending a review that seems to carry no specific timeline for completion.¹

We are deeply concerned about the implications of this decision, particularly as Time Warner Cable has been performing broadband upgrades this spring and summer in the Hudson Valley² and Syracuse/Central New York³ regions that deliver important speed upgrades to customers in New York State. We have good information that Rochester was the next city scheduled for these upgrades, followed by Buffalo. These upgrades would have provided customers with up to 300Mbps broadband service as soon as late this year across a significant section of upstate New York, with the western New York/Buffalo region upgraded in 2017.

It is clear the only reason these upgrades have been suspended relates to the recent ownership change of Time Warner Cable, approved by the N.Y. Public Service Commission.

As you know, Stop the Cap! argued our concerns about approving the merger transaction between Charter Communications and Time Warner Cable, in part because

¹ Text of a company memo obtained by *Stop the Cap!* originally sent to Time Warner Cable's engineering/customer support team: "The Maxx Internet Speed Increase Program is currently undergoing review by our leadership team. As a result, all speed increases and customer communications were placed on a temporary hold beginning Thursday, May 26. Once the updated launch schedule is determined, updated hub schedules will be posted to KEY and area management will be notified. Customers will continue to receive notification when the new speeds are available in their hubs." (<http://stopthecap.com/2016/06/16/charter-indefinitely-suspends-time-warner-cable-maxx-upgrades-pending-review/>)

² <http://www.timewarnercable.com/en/about-us/press/twc-increases-internet-speed-hudson-valley.html>

³ <http://www.timewarnercable.com/en/about-us/press/twc-to-transform-tv-internet-experience-central-northern-ny.html>

Time Warner Cable's Maxx upgrade program offered more compelling broadband upgrades, at a lower price, and introduced faster than Charter's own offer.⁴

The alarming development of an indefinite nationwide suspension of the Maxx upgrade program has profound implications on large sections of upstate New York waiting for urgently needed broadband speed upgrades. The announcement also suggests large sections of New York will be waiting much longer to reach speed parity with cities, mostly downstate, that already enjoy up to 300Mbps service on an upgraded, less trouble-prone network.

Once again, New Yorkers are being divided into those with reasonably fast speeds, and those without. Should Charter adopt the slowest possible upgrade schedule permitted by the Commission, several upstate cities will be waiting until the end of 2018 – almost two years, to receive 100Mbps broadband.⁵ I'd remind the Commission other major cable companies are offering residential customers speeds up to 2Gbps today⁶, and many already offer tiers that well exceed Charter's promised maximum speed.

Charter's corporate decisions also impact New Yorkers more profoundly than other states because of the absence of significant competition. Outside of limited deployments of Verizon FiOS, DSL continues to predominate from New York telephone companies, including Verizon, Frontier, TDS, Windstream, and others. In most cases, these speeds do not come close to achieving the minimum 25Mbps speed that the FCC defines as "broadband."

In states to our west, AT&T is already offering gigabit Internet service to residential customers, and Google Fiber (which has bypassed the entire northeastern U.S. for fiber deployment) continues its own expansion.

We urge the Commission to obtain definitive information about the current Maxx upgrade delay, the reasons for it, the timetable to resume upgrades (if ever), and an assurance that Charter Communications will resume a comparably rapid Maxx-equivalent upgrade for New Yorkers that Time Warner Cable was well on its way to complete within the next two years. We also hope the Commission will share its findings with the general public.

Yours very truly,

Phillip M. Dampier
Director

⁴ <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={FCB40F67-B91F-4F65-8CCD-66D8C22AF6B1}>

⁵ <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={DEE1823A-AADD-48D4-94BD-B96BAC096DAA}>

⁶ <http://www.xfinity.com/multi-gig-offers.html>