STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 14-M-0183 JOINT PETITION OF TIME WARNER CABLE INC. AND COMCAST CORPORATION FOR APPROVAL OF A HOLDING COMPANY LEVEL TRANSFER OF CONTROL

INFORMATIONAL FORUM

Monday, June 16, 2014
6:00 p.m.
SUNY Buffalo, Student Union Theater
106 Student Union
Buffalo, New York

DAVID L. PRESTEMON
Administrative Law Judge
Three Empire State Plaza
Albany, New York 12223-1350

COMMISSIONER DIANE X. BURMAN
COMMISSIONER GREGG C. SAYRE

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(The hearing commenced at 6:00 p.m.)

A.L.J. PRESTEMON: All right. It's six o'clock, so let's get started.

Good evening, ladies and gentlemen, and welcome to the proceedings in Public Service Commission case number 14-M-0183.

This case involves the petition -- the joint petition of Comcast Corporation and Time Warner Cable, Inc. The petition seeks the approval of the Public Service Commission for the transfer of certain Time Warner Cable telephone systems, cable systems, franchises, and assets, to Comcast.

My name is David Prestemon. I'm an administrative law judge with the Department of Public Service. With me tonight are Diane Burman and Gregg Sayre, two of the Commissioners, who will ultimately be deciding this petition.

Also, here at the dais, is Chad Hume. He's the director of our Office of Telecommunications, and Graham Jesmer is an attorney with our Office of General Counsel.

The -- the meeting tonight is

organized into two parts. The first part is an informational forum.

First, we'll have a presentation made by Comcast, which will explain their proposal. After that, we will have presentations by three speakers, each of which is concerned with particular public interest issues that may be involved in this proposed merger.

For Comcast tonight, we have four representatives of Comcast Cable, Dave Kowolenko, who's the Division Vice President of Engineering Operations in the Northeast; Mark Reilly, Senior Vice President for Government and Regulatory Relations; Jeff Cardoso, Vice President of Business Initiatives in the Northeast; and Don A. Laub, Senior Director of Government and Regulatory Affairs in the Northeast Division.

And our -- our three speakers on public interest issues are Aaron Bartley. Aaron Bartley is the co-founder of People United for Sustainable Housing, Buffalo -- PUSH Buffalo, which I'm sure you've heard of. PUSH Buffalo mobilizes residents to create sustainable neighborhoods, with quality, affordable housing, green jobs, and next-generation infrastructure.

Mr. Bartley is a lifetime resident of the Buffalo area, and in 2011, he was appointed by Governor Andrew Cuomo to the Western New York Regional Economic Development Council.

Second speaker is Kristine Carr, the Executive Director of Computers for Children, Inc. Kristine Carr is also a native Western New Yorker. She has experience in -- in marketing and public relations with corporations and charities. And in 1999, she took a position with a newly formed charity called Computers for Children, whose mission was focused on at-risk youth to improve education through technology.

Computers for Children has contributed more than thirty thousand computers to needy schools and agencies and community, and has developed programs that have trained thousands of at -- at-risk youth, in digital literacy.

And we have Phillip Dampier, of Stop the Cap!. Phillip Dampier is a life-long resident of Rochester, who first took an interest in two-way online communications, before most of us knew that there were -- was such a concept. He has

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been interested in it ever since. And in response to proposals by Frontier Communications and Time Warner Cable, in the late 2000 -- 2008-2009 range, proposals to cap Internet usage, he founded Stop the Cap!, a consumer -- a consumer group to fight that trend. He will be speaking about that tonight.

Following these -- the informational forum, we will have a public statement hearing. A public statement hearing is an opportunity for members of the public to give their comments on the record, for inclusion in the -- in the record of this case. The comments will all be transcribed and will be before the Commission when it reaches its decision.

You do not have to have prepared comments. If you want to speak, just see Scott over here, fill out a card, give -- give him your -- give him your name, and we'll call the speakers in the order the cards were handed in.

You do not have to speak at this public statement hearing in order to have your comments heard. The Commission provides for comments to be received by the Internet, directly

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through filing in the case or through the Public Commission -- Service Commission website, or by email, or mail, or telephone. The way -- the means of leaving these comments is spelled out in a handout that Scott has, if you're interested in that. Or if you know of somebody who couldn't be here, who might be interested in submitting comments, you can get that information from him.

So, without further ado, we'll begin with the presentation from Comcast -- well, I should say, first of all, we are -- the presentations are going to be about forty-five minutes, if everybody sticks to their time limits. After which, there may be some questions asked by the Commissioners, or the -- or the Public Service -- or Department of Public Service staff.

We'll begin the public statement hearing at seven thirty. If it's after seven thirty already, we'll just continue right on into it. If not, we'll may -- we may take a short break.

So, now let's begin with the presentation from Comcast.

MR. REILLY: Thank you, Judge

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Prestemon, Commissioners Burman and Sayre, as well as Mr. Humes -- Mr. Hume and Mr. Jesmer.

My name is Mark Reilly. I'm the --

A.L.J. PRESTEMON: I don't --

MR. REILLY: -- senior vice --

A.L.J. PRESTEMON: -- I don't think --

MR. REILLY: -- president --.

A.L.J. PRESTEMON: -- that's -- it's either not on, or --.

(Off-the-record discussion)

MR. REILLY: All right. Thank you again, not only to the Commissioners and Staff, Judge Prestemon, as well as members of the public, for being here this evening. My name is Mark Reilly and I am Senior Vice President of Government Affairs for the Northeast Division of Comcast.

We appreciate this opportunity to appear before you and the people of New York to discuss the proposed transaction between Comcast and Time Warner Cable. The transaction will create a new world class communications media technology company, which will deliver real benefits to consumers, businesses, and public institutions, in the State of New York.

Comcast is already a good corporate citizen in New York. Since acquiring N.B.C. Universal in 2011, Comcast has added more than one thousand new jobs and invested more than four hundred million dollars in the state. N.B.C. Universal moved The Tonight Show and production studios for Sprout, America's Got Talent and other popular N.B.C. Network shows, back to New York.

Comcast Ventures, the innovation arm of Comcast, has opened centers in Silicon Valley and here in New York. This is where we partner with and invest in start-ups, to launch new businesses that will develop new technology, products and services, and create jobs. And Comcast offers competitive voice, video, and Internet services to residential and business customers in ten New York communities, within Duchess, Putnam, Washington, and Westchester Counties.

Through the transaction with Time Warner Cable, Comcast will significantly expand its presence and investment in the state, making next generation video, voice, and broadband services available to millions of New Yorkers. As a recognized industry leader with solid financial capabilities and technological expertise, Comcast will deliver better, more reliable services that improve the quality of life of New Yorkers. We will also continue to work with the Commission and Department of Public Service staff to help ensure that the transition is seamless.

Let me briefly describe some of the significant benefits of the transaction. Although I recognize that the Commission's jurisdiction is primarily over video and voice matters, I will also touch on other benefits the transaction will bring to New Yorkers, including faster and more reliable broadband and Comcast binding commitment to an open Internet.

For residential customers, Comcast will invest heavily to upgrade Time Warner Cable systems across New York and transition them to all digital, more quickly than Time Warner Cable could do so on its own. Comcast has already transitioned its own systems to all digital and has the expertise and financial resources to do it here.

All digital systems will allow Comcast to deliver next generation advanced video and voice services, more programming choices, faster Internet speeds, and significantly improve network performance, reliability, and security. We will improve the customer experience for Time Warner Cable video subscribers in several ways.

First, Comcast Revolutionary X1 Operating Platform provides unmatched, interactive T.V. functionality. Our live T.V. streaming feature allows X1 customers to stream practically their entire cable channel lineup, including must-carry and PEG channels, to computers and mobile devices throughout the home.

XFINITY on Demand includes approximately fifty thousand programming choices, more than double that of Time Warner Cable. It features most current T.V. shows and movies. These selections are accessible on multiple devices and over eighty percent are free of charge.

We also offer an industry leading T.V. Everywhere experience, with access to more than three hundred thousand streaming choices, including over fifty live T.V. channels. And our recently launched XFINITY T.V. Online Store allows customers to access new movies and T.V. shows, often weeks before they are available on Blu-ray or D.V.D.

The transaction will also combine the best aspects of the two companies' existing voice products, creating best-in-class voice services. For example, Comcast offers its XFINITY voice customers several innovative features, such as caller I.D. over the television, or laptop, or mobile devices, readable voice mail, and unlimited text messaging.

Our new Voice 2go service uses advanced I.P. network architecture that allows customers to place calls over a Wi-Fi or data connection, from their Comcast assigned telephone numbers, via an app -- an app downloaded to your mobile device. You can also receive calls from multiple locations and on multiple devices. And we've implemented eight different international calling options, so customers can reach more countries at competitive rates.

The transaction will make these

best-in-class voice services available to millions of residential customers in New York, while enhancing intermodal competition in the voice market place.

Comcast is also deeply committed to providing accessible solutions to consumers with disabilities. Our goal is a smart home for everyone, where accessibility is enabled across products and services, regardless of platform.

For example, we are leveraging our X1 cloud-based platform, to deliver the first talking guide in the industry. The X1 remote -- remote control includes soft keys that disabled customers can configure for quick and easy access to the talking guide, as well as closed-caption -- captioning, video description, and other features.

We've also deployed a readable voicemail service, so deaf and hearing impaired customers can access voicemail and convert voicemail audio into texts. And our XFINITY Connect mobile app is screen-reader enabled, so blind and low-vision users can access email, texts, and other online services on tablets and smartphones. Comcast also has a dedicated customer

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support team, in our new Comcast Accessibility Center of Excellence. We are committed to extending the very best accessibility features and support features, including those developed by Time Warner Cable across the combined company's footprint.

Comcast recognizes that improving customer services is another critical issue. Comcast has invested billions of dollars in its network infrastructure, which has greatly improved reliability and reducing trouble calls. We will do the same here.

We are also deploying innovative products and features, to make it easier and more convenient for customers to interact with us. We offer one- to two-hour service appointment windows, including evenings and weekends. And we are meeting these appointments, ninety-seven percent of the time.

We offer more self-installation and more self-service options, so customers can install and activate services without a service call, on their own schedule. And we've given customer access to the same diagnostic tools used

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by our customer care agents, to the public. More than forty percent of our customers are now using these options.

We've also given our customers the ability to manage their accounts online, on their mobile devices, and even on their T.V. screens. These tools have proven highly popular and we expect more than half of our customers will be using them to directly manage their accounts, by the end of this year.

And we've made our billing practices more transparent and customer friendly. Although there is still progress to be made, these efforts are making a positive difference and beginning to change some of the lagging perceptions in the marketplace. Since 2010, Comcast has improved its J.D. Power overall satisfaction score by more than any other video or broadband provider in the industry. We will bring this same commitment to improve customer service to consumers here in New York.

And for business customers, the combination of Comcast and Time Warner Cable will create a stronger, more efficient provider for New

York businesses of all sizes. Comcast has helped thousands of mom-and-pop businesses, from barber shops to delis, lower their monthly voice and data costs. This has enabled these small businesses to grow and add employees. And where Comcast has made in-roads in the business market, other providers have responded by lowering their prices and improving their services.

The transaction will enable Comcast to combine the best of its business offerings with those of Time Warner Cable, better positioning the combined company to serve more small businesses in New York, including some additional New York communities, where Comcast will be acquiring systems, from charter cable, in related transactions.

In addition, by expanding our geographic reach and bringing these operations under the management of one company, we will be able to offer regional and larger businesses one-stop shopping for seamless lower-cost voice and data services. For example, this will allow us to compete more effectively for business customers that are headquartered in New York, with locations in adjacent states served by Comcast.

Rather than having to deal with two companies with different products and offerings, these New York businesses will now be able to receive best-in-class services from a single provider, at highly competitive rates. This will bring greater competition to a market, still heavily dominated by other providers and help drive small and medium business growth and economic development throughout New York.

The greater geographic region economies of scale, resulting from the transaction, will also enable Comcast to offer expanded wholesale services to cellular operators in the state, helping them provide greater bandwidth for their customer and lower cost services for their customers in New York.

Greater competition for these various business services, along with the substantial improvements to video and voice services for residential customers that I previously described will enhance economic welfare and benefit for New York consumers.

Beyond improvement to performance

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and reliability for video and voice services, the transaction will also significantly improve the customer experience for broadband services. In existing Comcast systems, we've increased Internet speeds, thirteen times over the last twelve years, offering residential broad speed -- broadband speeds of up to five hundred and five megabytes per second.

By contrast, Time Warner Cable has not yet transitioned the majority of its systems in New York to all digital. And by contrast, Time Warner Cable offers speeds of up to one hundred megabytes per second, in limited areas.

To meet consumer demand for greater mobile broadband access, Comcast also has deployed approximately eight million advanced Wi-Fi gateways in homes across the United States, giving our customers the nation's fastest wireless speeds and excellent performance over their residential wireless networks. And we now how over one million public Wi-Fi hotspots across our current footprint, with plans to reach eight million hotspots, by year's end. That will allow our customers to use their XFINITY Internet service on the go, in millions of locations across the United States.

Time Warner Cable only recently began deploying advance Wi-Fi gateways in its customers' homes. And compared to Comcast's one million public Wi-Fi hotspots today, Time Warner Cable has deployed approximately twenty-nine thousand.

In short, approval of the transaction will not only bring improved, more reliable Internet services at home, but also expanded Internet access on the go. And because Comcast is the only I.S.P. in the United States that has agreed to be legally bound by the F.C.C.'s original open Internet rules, the transaction will also extend those protections to Time Warner Cable customers in New York and across the country.

In addition, through our highly acclaimed Internet Essentials Program, Comcast has made important progress in closing the broadband adoption gap. With a special focus on school-age children, Internet Essentials provides low-income house -- households, with low-cost broadband for nine ninety-five a month, the option to purchase an Internet-ready computer for under a hundred and fifty dollars, and multiple options for accessing free, digital literacy training in print, online, an in person.

Comcast has already connected over one point two million low-income Americans to the Internet, more than any other program of its kind. The transaction will expand that program to low-income students and families throughout the current Time Warner Cable footprint, across the country.

The transaction offers other important public benefits, too. For example, Comcast will extend its industry-leading diversity programs and unique external joint diversity advisory council to the acquired Time Warner Cable systems, bringing greater diversity in our governance, our employment, our suppliers, our programming, and our community investment. Comcast will similarly extend public interest commitments, such as making local, diverse, and children's programming available on various platforms, such as video-on-demand and T.V. Everywhere.

Comcast also has a proven commitment to local communities and organizations.

Since 2001, Comcast has invested over three point two billion dollars in cash and in-kind contributions, supporting local non-profit organizations and other charitable partners.

Beyond financial gifts, Comcast shares its greatest resource, its people, in giving back to local communities. Last year alone, our employees and their families, as part of Comcast Cares Day, contributed more than a half a million hours of service, to improve schools, parks, senior centers, and other vital local community sites.

In closing, upon approval of this transaction, New Yorkers can expect to benefit from next-generation video technologies, with more programming choices, at home and on the go, best-in-class voice products, enhanced competition for advanced business services, and cellular backhaul services, faster, more reliable, and more secure Internet services, a commitment to greater broadband adoption, diversity, accessibility, and investment in local communities, and a laser-like focus on improving customer service.

As Comcast's record from prior transactions demonstrates, we are a company that not only keeps, but often over-delivers on our promises.

Thank you.

A.L.J. PRESTEMON: Thank you, Mr. Reilly.

We're going to hear from all the presentations before we open to questions from Staff and the Commissioners here. So, let me next bring up Mr. Bartley.

MR. BARTLEY: Sure.

A.L.J. PRESTEMON: Oh, you're there already?

MR. BARTLEY: Yeah. Yeah.

A.L.J. PRESTEMON: Okay.

MR. BARTLEY: Here I am.

So, thank you Judge and Commissioners for the opportunity -- opportunity to speak on this merger.

My name is Aaron Bartley. I'm the Executive Director of PUSH Buffalo, which is a community-based organization in the City of Buffalo, representing primarily low-income and working-class people, as they struggle to -- to meet the -- the -- the high cost of living and with problems such as joblessness and -- and disinvestment in low-income neighborhoods.

So, I'm going to speak from the perspective of families that I work with every day, that struggle to pay their bills, often have to make choices between paying their gas bill, their electric bill, their rent, or their cable -- cable bill, and -- you know, which really define a -- a -- a -- a big part of the culture of Buffalo because Buffalo's lost so much of its industry. Due to corporate disinvestment over the past forty years, we are now the third poorest city in the country. And we struggle, struggle on the daily, to -- to meet the needs of our families.

So, from our perspective, a -- a -- a critical concern of this merger is -- is whether it exacerbates the digital divide. The digital divide being recognizing that access to broadband services is a critical part of life in -- in this economy. It's the way that families access jobs, housing, services, culture.

And we want hard and fast commitments from the P.S.C. and from Comcast, if this were to ever go through, that programs like

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Internet Essentials would be extended to all customers. And we -- we need to see the numbers. You know, what -- what are the numbers of customers who would qualify for that program? What is the pricing scheme of that program? What is the access -- access point?

Another concern, when it comes to the digital divide, is that existing programming, for example Time Warner offers, for working-class customers, a broadband stand-alone offering of fourteen dollars and ninety-five a month -- ninety-five cents a month. Comcast, in most of its markets, does not have such a -- a -- a broadband offering, a stand-alone offering. And in fact, in most of its markets, the minimal offering is forty dollars a month.

We -- we need to see whether that will -- that fourteen dollar and ninety-five cent program will disappear, what the future of that program is for stand-alone broadband access. Obviously, that is the lifeline, as I said, for people living in poverty, people working, you know, to pay their bills. It is the way that people learn about jobs. It's the way that they learn about housing options. It's a critical source of economic and equality on the digital divide.

Next is just a -- a general concern about service quality. And -- and I don't think this is unique to Comcast. I think both Time Warner and Comcast, you know, they rate poorly on J.D. Power surveys. They -- customer satisfaction ratings, in -- in many forms, are low. We have not heard today what will be done to enhance service quality for all customers.

And I now want to take a step back and -- and say a little bit more broadly about, you know, how this perspective merger would affect our democracy, our culture, our economy. And just to -- to -- to look at it in perspective, we're talking about creating a company that would encompass, essentially, two-thirds of the United States. It would have coverage in -- in one of its markets -- or one of its market areas, in two-thirds of the United States, which inherently that sort of consolidation leads to less consumer choice. It would control thirty percent of the paid T.V. market and half of the high-speed broadband market. It would be the sole provider of next-generation broadband service, in nearly forty percent of U.S. households.

And we know that that kind of consolidation, over critical information, over the -- over the forces that shape our culture, has an implication when it comes to our democracy. It shapes the power structure. It shapes what we hear in our elections. It shapes the -- the extent to which voices -- independent voices can be heard in our media. And there's been some specific aspects of this that I think are especially disconcerting in this prospective merger.

One is that it's a merger of not only channels of communication and -- and media, but also content. So, we're merging a company that owns N.B.C. Universal with the ability to -- to distribute that content over broadband and over other media. And that combination of content and distribution is something that we haven't seen on this scale, in this country.

I mean, you can just imagine the prospects of what it means when a company is controlling not only the content creating that culture, but also distributing that culture. It

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means a much higher barrier to entry for independent voices who are seeking to access that distribution -- those distribution channels. It means that, inherently, those producers, that culture that's -- that content that's produced by Comcast will have a leg up when it comes to distribution on the channels that it -- that it owns.

And then, you know, a -- a -- one or two other specific concerns, we know that this is the age of -- when that neutrality is -- is facing really grave threats, we've heard some commitments on that score tonight already from Comcast, but by creating a consolidated virtual monopoly, in many markets, regionally across this country, we are clearly creating incentives to reshape the structure of the Internet, to reshape how information is distributed on that Internet. And I believe that's fundamentally anti-American.

I believe that consolidated power, consolidated corporations controlling that type of scale of our -- our information is -- is anti-American and monopolistic.

And then just lastly, a few

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points on billing systems. We know that in certain parts of its markets, Comcast has -- has shifted and is now using data caps for billing for broadband services, rolled out a new billing system with monthly data caps. At this point, Time Warner, as far as I could tell, has no such billing structures, so that people are not penalized or -- or, you know, contained when it comes to their use of the Internet and that they have free access to the content that they want. So, that to me, also, is a way of limiting choice and it -- it is a way that -- you know, that we need to be concerned about.

And then, you know, since Comcast currently faces little or no competition on the broadband market, simple economics would tell you that it -- it has the potential to impose higher prices over time. Virtual monopolies, as they grow and take on new markets, simply face no competition. If we believe that competition is fundamental to efficient markets and to efficient pricing, this is -- this is a -- a merger that I think we should all be concerned about.

So, I'll leave it at that. Thank

you for allowing me to have this opportunity. And thank you.

A.L.J. PRESTEMON: Thank you, Mr. Bartley.

Next, we have Ms. Kristine Carr.

MS. CARR: Hi.

A.L.J. PRESTEMON: Hi. You can speak there, there or --

MS. CARR: Here's fine.

A.L.J. PRESTEMON: -- take a seat.

MS. CARR: Thank you for giving us the opportunity. My name is Kristine Carr and I'm the executive director of a non-profit organization called Computers for Children. My colleague sits in the corner there. And what we do is we try and change Buffalo, change Buffalo from a poverty environment to a well-educated, well-communicating environment that knows what to do and how to use the tools of the twenty-first century.

We, at Computers for Children, have been in existence since 1997. Part of what our -- we first starting doing was taking in second-generation computers, donated by corporations, retooling then and outfitting schools. As the first in New York State and the second in the nation to help solve the digital divide, part of what we -- we realized early on was that schools came up with solutions through titled monies, however youth in poverty and homes who could not afford connectivity was -- was still a problem. And it still continues to be a problem with -- for low-cost solutions.

We, as part of our programs, through digital literacy and access, provide youth a computer to take home with them. That computer is a stand-alone unit that if it does -- if the family can't afford the connectivity, then it becomes a -- you know, a choice, what bill to pay.

But more importantly, I think that, you know, as we look at the education field, and that's part of what we are -- we are representing, is that education is going online. And everything is moving faster, from digital books, to access of homework, to attendance records and families needing how -- know -- to know how to use the Internet properly, to be able to look at how students are attending school. And we have -- we have a problem in Buffalo, with our schools and so truancy is a big thing.

And we -- we -- our goal is to not only provide the tools -- the computers into the homes, but the digital literacy to the parents and the students, so that when we -- we deliver the units, they also know what to do.

But the third component of it is the connectivity. We need choices. We need choices to be able to tell what -- the families to do. We need the -- give them the opportunities to -- to access these. And we are looking forward to Comcast, if they're bringing a low-cost solution and will stay true to their word, over the length of time.

We not only represent the Western New York area here, but we also have affiliates throughout New York State and working closely with the homes and bringing schools and homes closer together. Computers for Children, my -- myself in particular, sits on the Governor's New York State Task Force, to look at digital adoption and literacy opportunities. And we see this as a --

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a -- a big opportunity to that last piece of it.

We -- we appreciate that the Public Service Department is asking all the questions, because it is -- it's important to changing the economic status here in -- in our -- our environment and not only here, but all the large population cities and in the rural environment. That -- as we look at education and all the axes, it is -- it is streamlining towards all online. And we have a gap.

About sixty percent of our homes do not have Internet connectivity. They use cell phones as their -- their ways to -- and means to check the Internet. However, that does not help people to do resumes, job searches, homework. And it's just a -- it's -- it's a gap that we look to solve.

And we'd like to know more about the -- the Comcast and their Essentials Tools, as we're making recommendations in this committee, to the Governor for New York State, as to solutions for a -- a New York program. So we appreciate that.

But more importantly, we

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appreciate the fact that if in -- if, in fact, Comcast is -- is part of our communities that they do stay true to the word, because the low-cost solution has been a problem for a very, very long time and moving our economies up is the answer.

Thank you.

A.L.J. PRESTEMON: Thank you, Ms. Carr.

Okay. Now, we have Mr. Phillip Dampier.

MR. DAMPIER: I'm over here.

A.L.J. PRESTEMON: Oh. You're up. Okay.

MR. DAMPIER: Good evening. My name is Phillip Dampier and I represent Stop the Cap!, a Rochester-based all-volunteer consumer group, fighting for better broadband service and against Internet usage caps. And I confess, I'm in a remarkable position tonight, because I'm here to defend Time Warner Cable.

This is really a critical moment for the State of New York. The Internet has become a necessity for most of us and the future is largely in the hands of one company, capable of

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delivering twenty-first century broadband, to the majority of Upstate New York. And that company isn't Verizon, which has ended FiOS fiber expansion while abandoning most of its upstate customers with slow-speed D.S.L.

Indeed, as their market-share will attest, our broadband future is held in the hands of Time Warner Cable. Comcast could have been a big player in New York, had it chosen to compete head to head with Time Warner, but large cable operators avoid that kind of competition, preferring comfortable fiefdoms that only change hands at the whims of the companies involved.

As local officials from across New York have already discovered, no major cable operator will compete for an expiring franchise, currently held by another major cable operator. Ironically, Comcast is using that fact in its favor, noting that since neither company competes directly with the other, making Comcast larger has no impact on competition. But that should hardly be the only test.

At issue is whether this merger is in the public interest. This year, for the first time in a long time, the rules have changed in New York. In the past, the Commission had to prove the merger was not in the best interest of New Yorkers. Now, the onus is on Comcast to prove it is. It has fallen far short of meeting that burden.

Let's start with Comcast's dysfunctional relationship with its customers. With more than seventy-five citizen comments filed with the Commission so far, Comcast's reputation clearly precedes it here in New York. The consensus view is perhaps best represented by one exasperated Clinton area resident, who wrote, I quote, no, no, no, no, hell no.

That kind of reaction is unsurprising considering Consumer Reports ranks Comcast fifteenth out of seventeen large cable companies and call their Internet service and customer relations mediocre.

Every year, since 2007, Comcast C.E.O. acknowledges the problems with customer service and promises to do better. Seven years later, the American Customer Satisfaction Index reports absolutely no measurable improvement. In

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fact, A.C.S.I. has concluded Comcast had the worst customer satisfaction rating of any company or government agency in the country, including the I.R.S.

In order to sell this forty-five-billion-dollar boondoggle to a skeptical public, Comcast has hired seventy-six lobbyists from twenty-four different firms, and will reportedly spend millions trying to convince regulators and our elected leaders this deal is good for New York. If the deal gets done, Comcast's biggest spending spree won't be on behalf of its new customers. Instead, Comcast has announced a seventeen billion dollar share buy-back, to benefit their shareholders. Imagine if this money was, instead, spent on improving customer service and selling a better product at a lower price.

The only suitable response to this merger deal is its outright rejection. Some may recommend imposing a handful of temporary conditions in return for approval, like the kind Senator Al Franken accused Comcast of reneging on, after its earlier merger with N.B.C. Universal.

But this is one of those cases where you can't -- you just can't fit a round peg into a square deal for consumers, no matter how hard you try.

With respect to television, volume discounts have a huge impact on cable programming costs and competition. The biggest players get the best discounts. The smaller ones are stunned by programming rate hikes. And new competitors think twice about getting into the business.

AT&T, just last week, said its five point seven million customer U-verse television service was too small to get the kind of discounts its cable and satellite competitors received. AT&T's solution is to buy DirecTV, which might be good for AT&T, but is sure bad for competition.

Frontier Communications, which happens to be my phone company in Rochester, has also felt the volume discount sting, after adopting several Verizon FiOS franchises. When it lost Verizon's volume discounts, Frontier began a relentless marketing effort to convince its customers to abandon its own FiOS T.V. and switch to technically inferior satellite television.

Combining Comcast and Time Warner Cable will, indeed, help Comcast secure better deals from major programmers and that includes Comcast, themselves. But Comcast is already on record, warning those savings won't be shared with customers. Comcast Executive Vice President, David Cohen, summed it up best, and I quote, we are certainly not promising that customer bills will go down or increase less rapidly.

Is that in the public interest? Comcast suggests this merger will make its cable television market share no larger than it had in 2002, when it bought the assets of AT&T Cable. But this is 2014 and cable television is increasingly no longer the industry's biggest breadwinner. Broadband is. And post-merger Comcast will control forty to fifty percent of the Internet access market, nationwide.

So, what do Time Warner Cable customers get, if Comcast takes over? A higher bill and worse service.

Several months before Comcast sought this merger, Time Warner announced a series

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of major upgrades, under an initiative they call T.W.C. Max. Over the next two years, Time Warner Cable plans to more than triple the Internet speeds customers get now, at no additional cost. Those upgrades are already available today, in parts of New York City, Los Angeles, and Austin.

A Time Warner Cable customer in Queens, that used to pay fifty-seven ninety-nine, for fifteen megabit broadband, as of last month, for the same price, gets fifty megabytes. In contrast, Comcast Internet Plus plan delivers just twenty-five megabytes and costs sixty-nine ninety-five a month. That's nearly twelve dollars more, for half the speed.

And all these numbers, by the way, come off of Comcast's website and Time Warner Cable's own rate schedule. So, who has the better broadband at a better price? Time Warner Cable.

New York State's digital economy depends on Internet innovation, which means some customers need faster speeds than others. Time Warner Cable's Max Initiative already delivers far superior speeds than what Comcast offers, despite claims that -- from Comcast this merger would deliver New York a broadband upgrade.

Time Warner's new topline Internet service, Ultimate Three Hundred, delivers three hundred megabit service for seventy-four dollars and ninety-nine cents a month. Comcast's top cable broadband offer -- and I make that statement because the gentleman from Comcast mentions that they offer five hundred and five megabytes, they do, but that is over a metro-Ethernet or fiber network, which, as far as I can tell, is limited to Chicago, Miami, and perhaps one other city. The vast majority of Comcast customers have no access to that.

So, the cable broadband that Comcast offers, the top speed is Extreme One O Five, which offers one hundred -- one hundred and five megabit speeds, at prices ranging from ninety-nine ninety-five to one hundred fourteen ninety-five.

So, is the public interest better served with three hundred megabytes for seventy-four ninety-nine from Time Warner Cable or paying almost forty dollars more for one-third of that speed from Comcast? Again, Time Warner Cable

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has the better deal for customers.

But the charges keep on coming. At least ninety percent of cable customers lease their cable modem from the cable company and Comcast charges one of the highest lease rates in the industry, eight dollars a month. Time Warner Cable charges just under six dollars.

So, I ask again, is this merger really in the public interest, when broadband customers will be expected to pay more for less service?

Then there is the issue of usage caps, one that is near and dear to my heart. It is a creative way to put a toll on innovation. Usage caps make high bandwidth applications of the future untenable, while also protecting cable television, revenue, and profits.

If the P.S.C. approves the transaction, the vast majority of New York will live under Comcast's returning usage cap regime. There is simply no justification for usage limits on residential broadband service, particularly from a company as profitable as Comcast. Verizon FiOS does not have caps. Neither does Cable Vision.

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And they're the two other dominant providers in this state, but the majority of upstate New Yorkers, can't choose either one.

In 2009, Time Warner Cable lived through a two-week public relations nightmare, when they attempted an experiment with compulsory usage caps on customers in Rochester. After Stop the Cap! pushed back, then C.E.O. Glenn Britt shelved the idea. Britt would later emphasize repeatedly he now believed Time Warner should always have an unlimited use tier available for customers who want it.

Whether intended or not, Time Warner actually proved that was the right idea. In early 2012, the company introduced optional usage caps in return for discounts. They quickly discovered customers have no interest in having their Internet usage measured and limited, even for a discount. Out of eleven million Time Warner Cable broadband customers, only a few thousand have been convinced to enroll.

Comcast doesn't give customers a choice. In 2008, a strict two hundred and fifty gigabyte usage cap was imposed on all residential customers, with disconnect threats for violators.

Since announcing it would re-evaluate that cap, in May 2012, it now appears Comcast has settled on a new residential three hundred gigabyte usage allowance, gradually being reintroduced in Comcast service areas, starting in southern U.S. markets. Comcast Executive Vice President, David Cohen, cutely calls them usage thresholds. Well, at Stop the Cap!, we call it Internet overcharging.

Cohen predicts Comcast will have broadband usage thresholds imposed on every city they serve, within five years. Whether you call it a cap or a threshold, it is, in fact, a limit on how much Internet service you can consume, without risking the all-new over-limit fee of ten dollars for each fifty gigabyte increment over your allowance.

Unlike Time Warner Cable, Comcast isn't offering a discount with its usage cap, so those who use less will still pay the same they always have. And that busts the myth that, once again, usage caps don't save customers money.

At the end of May, I had this

interesting experience of watching C.N.B.C. interview Comcast C.E.O., Brian Roberts, who implied, during a discussion about Comcast's usage caps, that usage growth was impinging on the viability of its broadband business. Moments later, Time Warner Cable ran an ad, emphasizing its broadband service has no usage caps. Both companies are making plenty of money from broadband.

This merger is bad news for customers faced with Comcast's legendary bad service, its forthcoming usage caps, or the higher prices it charges.

Even promised innovations, like the much touted X1 set-top platform we heard about tonight, comes with a gotcha Comcast routinely mentions to forget (sic). Customers have to pay a ninety-nine dollar installation fee. And that also is on Comcast's website.

We've heard about Internet Essentials tonight, as well, a discount Internet program. But what you didn't hear about is the fine print. That nine ninety-five offer is only available to those who qualify for the federal food

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stamp -- or the school lunch program, rather, and it does not apply to customers who have had a past-due balance with Comcast, or to any current Comcast broadband customer.

So, if you're a hard working family, that has paid your broadband bill and didn't look for a handout or discounts, you can't enroll in Internet Essentials, because you've already subscribed to their service. Internet Essentials is a way to offer a nine ninety-five plan to a -- a number of customers, while leaving out many more, and -- and not allowing them to subscribe to this service at all. And it's more of a public relations exercise than anything else.

Time Warner Cable's fourteen ninety-nine offer was created, basically, as a way to compete with D.S.L., but it has also proved -- and they didn't realize it at the time, it has proved very successful for low-income consumers, who can sign up for Internet service from Time Warner Cable, without signing a contract, without meeting any pre-conditions, can come and go as they please, and have a service that at least gets them online to do things like job applications and filling out other things that are necessary in today's digital economy.

Stop the Cap! will submit a more comprehensive filing with the P.S.C., outlining all of our objections to this merger. And there are several more I didn't have time to present tonight. We'd invite anyone in the audience to visit Stop the Cap dot com, for this and other matters related to cable television and broadband.

I don't earn income from doing this. I'm not reimbursed. I don't have any industry connections. I simply am a consumer that is looking for better broadband service from the companies that serve our area.

We appreciate being invited to share our views with the Commission and we hope to bring a consumer perspective to this important development in our shared telecommunications future. And I'd be happy to answer any questions you might have.

Thank you.

A.L.J. PRESTEMON: Thank you, Mr. Dampier.

As much as it may seem to cry out

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for it, we are not going to have a debate tonight among the speakers. We -- they were invited here to give their view, so that you could hear them, so that the Commissioners and the Commission Staff could hear them. And I'm now going to open the floor to any question Commissioners or Staff may have.

COMMISSIONER SAYRE: I have a -- a question for Mr. Reilly of Comcast.

If you were to replace Time Warner's current pricing in New York with Comcast's schedule of prices, would, on average, prices go up or go down?

MR. REILLY: So we've been through many mergers in the past. And the approach with any merger, but this one I think a little more challenging because of a very different environment -- a very different environment in several ways. So as a company between 1996 and the end of last year, we invested eighty-five billion dollars in the network. So, with -- as customers are demanding greater and greater speeds, there is larger and larger investment that's needed for that.

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Similarly, for customer care, it is a very complex business to run, as there are enhancements and changes to all product lines, literally throughout the course of the year. And that requires huge capital investment, as well. You balance that investment that's needed, in order to provide better products, better service, and a better customer experience, against a very competitive environment, where you want to retain the customers that you have, as well as win back any customers that may have been lost to a competitor, and attract new customers.

Going through all of that, there is a -- a need for a lot of information. Some of the information, we can assume what New Yorkers might think or what consumers here might want, might like. But there's a lot of information that we don't have yet. We're not operating, certainly in this part of the state, and not operating as a cable company, in a significant portion of the state.

So, we would look to balance all of that, as well as gain the information that Time Warner has about its customers and about -- for

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example, the product that's been described tonight, the fourteen ninety-five product. We would look to gain whatever intelligence that Time Warner has about customer satisfaction, with respect to that product and weigh the competitive environment, as well as the customer satisfaction with that service.

So, we aren't at liberty, at this point, to predict what are the -- regardless of whether we're talking about broadband, competitive voice, video product for residential or business, we don't have all of the information in front of us at this point and are precluded, due to gun-jumping rules, from gaining access to all of that intelligence. So, we'll need to balance all of what I've just described in making those decisions.

None of those decisions would be made right out of the gate. There are network improvements that would need to be made, I think, right out of the gate, to fulfill some of the commitments that we've talking about making here in New York. And that would be mission one. Later, would be a more thorough evaluation of product, service, packaging, et cetera.

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COMMISSIONER SAYRE: I'd like to follow up --.

A.L.J. PRESTEMON: Is that on?

COMMISSIONER SAYRE: I think I -- is it on?

A.L.J. PRESTEMON: Yeah.

COMMISSIONER SAYRE: Yeah.

I'd like to follow up. I -- I didn't mean to ask you what Comcast is going to do. I'm -- I certainly understand that you can't predict that now or jump the gun.

My question was a lot simpler. I was trying to get at -- under the current pricing structures of the two companies, is Comcast's higher or lower, on average, in New York?

MR. REILLY: You know, I -- I don't know that they -- that we've gone through that kind of comparative analysis. I don't have that data with respect to apples to apples. I think one of the -- even if we were to set out to try to do it, what I do know is that, to my knowledge, there is no identical product or service package. So I would -- I would not be able to comment at this time about exact comparison between product and packaging.

COMMISSIONER SAYRE: Should I keep going or do you want to go?

COMMISSIONER BURMAN: I just have a question for Ms. Carr.

You stated that the New York State Taskforce that you sit on is going to be making recommendations to the Governor on the digital -- digital literacy. Could you tell me a little bit about when you expect to make those recommendations?

MS. CARR: Sure.

COMMISSIONER BURMAN: Thank you.

MS. CARR: The Taskforce has been put together earlier this year. There's a sub-committee that's looking to take back best practices that have been into place throughout other states, and just doing a comparison analysis as to what we can provide in New York and what the -- who the providers are.

If they're ready in areas to -- for delivery, again access and adoption is -- is limited to the last mile. You know, and do we have connectivity and -- and how do people get it.

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So, in our -- in our urban populations, we have connectivity. But when you look in our rural, there's still this gap. So there's -- there's certain things that as we, as a task force, is looking at the money that was invested in New York State and how it's being used, who are the providers that are here, that are ready to come to the table with low-cost solutions, and then -- and then make those -- those recommendations, based on connectivity, about program delivery on the ground -- task force boots on the ground to deliver digital literacy programs, and then certainly how they obtain equipment.

So, it's -- it's pretty comprehensive and we look to do this with -- over the next several months.

COMMISSIONER BURMAN: Okay. Thank you.

COMMISSIONER SAYRE: I -- I'd like to ask Ms. Carr and Mr. Bartley a question.

Are you currently getting any support for your programs from Time Warner?

MS. CARR: We have in the past. I'm -- I'm sorry. I apologize for jumping.

We have, in the past, gotten small grants from Time Warner. We've also partnered with Verizon. And so we -- we look at everyone as an opportunity to help the youth of -- of our communities. But at the same time, we are very appreciative of those -- of all of the things that are offered, such as Verizon's Pioneers, which are the senior retired, to Time Warner Cable's interest in STEM. And then I have also worked with Connect to Compete on the national level, which Comcast is a part of delivering this Essentials package. And it's not available in New York State right now.

So, there's this -- there's a -- you know, the -- the -- what's best for our community. And everyone seems to bring -- bring something to the table, but we are always looking for the best solutions for the clients we serve, which is the at-risk populations.

Thank you.

MR. BARTLEY: And no, sir, we've never received a dime from Time Warner or any other communications related corporation.

A.L.J. PRESTEMON: Anyone else?

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COMMISSIONER SAYRE: I'll -- I'll have some more, but if you've got some, go ahead.

A.L.J. PRESTEMON: No. Go ahead.

COMMISSIONER SAYRE: All right. I'm not sure that the number is proprietary or not, but -- but Comcast has given a very large number about the savings and synergies that -- that this merger is likely to produce, over the course of the next five years.

And my question is -- is -- is it fair to assume that -- that a fairly large percentage of that, given the -- the relative size of Time Warner and Comcast, would be in New York State? And would I be correct if I were to assume that -- that some reasonable percentage of that -- that savings would be invested by the company, into assets in this state?

MR. REILLY: So, one of the things that we have said is that there will be huge investment. So, the natural question is, well, give me some perspective, what kind of investment?

And part of what we are limited in really understanding is what is the condition of the network? Like really, really, what is the condition of the network? How far are the homes from fiber? How many homes per fiber node are there? What sort of network monitoring exists today and what's the quality of the network experience? What's the data packet loss?

So, there are all -- as -- as you go through these sort of transactions, you know, what I think of as mission one, I brought my friends from engineering here tonight. They're the ones who go in first. So this is the one -- these are the individuals who go in and look at all of the data regarding health of the network, quality of the network, capability of the network.

So, to really answer your question, we have to first find out what's the condition of the network. So, looking to provide some context and provide you with some kind of perspective, we can make assumptions that there's a lot of work that's going to need to be done, if you're going to be able to bring the kind of speeds, like five hundred and five megabytes.

So, that is a service that we offer in many parts of the country. If you look just next door, that service is available in

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Vermont. That's available Mass -- in western Mass and available in Connecticut. There's a huge investment that's needed in order to deliver those kind of speeds.

Also, if you had an opportunity to look at the demonstration of the X1 service, as you walked in this evening, you have to have an Internet protocol base network, an I.P. base network, all digital network, in order to launch that. There's a lot of investment that's required to make the network capable of doing that.

And then, if you're looking to provide an experience that over your television set at home, there is a unique set-top box that's required, in order to have that experience. And that's an investment on our part, up front. So, huge investment.

I can't tell you what's the specific dollar amount that will be invested in the state. I can tell you, as we said, both in our filing at the state level, as well as our filings at the federal level, that our plan is to bring these advanced services to all of the Time Warner systems across the country. And that will require significant investment. We don't know yet what's the specific dollar, even on a percentage basis, what that investment will be.

COMMISSIONER SAYRE: Can you even put a lower bound on what you would expect that investment to be?

MR. REILLY: I appreciate the desire for a number or for some sort of range. I guess, you know, here's -- just so I'm not leaving you without any kind of perspective, let's take a look at some of the prior deals that we've been in.

So, when we did the Adelphia merger, back in 2006, we thought that it was going to be a hundred and fifty million dollars for us to be able to launch the -- the advanced services that we launched everywhere else. We said we would spend a hundred and fifty million dollars to upgrade the Adelphia systems. In reality, the condition of the systems was far worse than we guesstimated. And we ended up spending six hundred and sixty million dollars to bring advanced services to the Adelphia systems.

Same kind of story when we went through the acquisition of AT&T broadband. We had

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no idea that it would be almost seven billion dollars to bring those systems up to snuff with the rest of the Comcast systems. But it was a commitment on our part to deliver the services and to deliver the services with the same sort of quality of what we're providing our customers elsewhere. So, we made that investment.

So, while we anticipate there will be a large investment that we're going to need to make to roll out those product -- same products and services in the Time Warner footprint across the country, as well as in New York, we -- we haven't gone in and had the engineering people go in yet, nor are we allowed to yet go in and do that analysis. That will be the first objective after the close.

COMMISSIONER SAYRE: On the question of caps, where does Comcast currently impose data caps on residential broadband?

MR. REILLY: So contrary to what has been described as this dark data cap cloud that Comcast has lowered on all of its customers across the country, we have a few trials that we have done, about half a dozen I think, in -- in and around the country. And the trials are along the following lines.

Trying a few different things, to gain customer feedback, as to whether they like what we're offering as a trial, or they don't. And we're looking for that feedback, through three different kinds of trials. One of the trials is if you're a low user, you get a discount off of the service. Another trial is if you are using more than three hundred -- three hundred gigabits per month, then there would be a charge of ten dollars per incremental bucket of fifty gigabits.

So, to put this in perspective, three hundred gigabits a month, what's your average user? So, if you look at Comcast across the country, median usage is seventeen gigabits a month. So, then what does that mean as far as having a threshold of three hundred gigabits? Less than two percent of the customers in that trial -- in those trials are going over three hundred gigabits.

And so then, you know, there's this perception by some, that this is a gotcha moment, that we're looking for this new revenue stream from this two percent of the customer base, when, in reality, what our practice is that we communicate to the customers, as part of this trial, there are -- over a twelve-month period, if you go over the three hundred gigabit threshold, there's a courtesy notice, no charge. If you go over, in a twelve-month period, for a fourth month, then there would be that ten dollar charge per fifty gigabit.

The third kind of trial is having -- dependent upon the speed tier that you have, there is a data threshold that's tied to that speed tier. So, the thinking behind this is, for those who are ordering and paying for that faster speed, one would think that they're downloading more. They want that faster speed, so they're using more data and there would be, as part of that trial, an examination as to whether that resonates with consumers.

So, this is not across the country. This is not a practice that we're doing everywhere, but they are trials where we are looking for that feedback from customers.

COMMISSIONER SAYRE: That's it.

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A.L.J. PRESTEMON: Okay. All right. It appears we have no further questions. It is -- let's see -- it's eight minutes after seven. We said that we were going to start the public statement hearings at seven thirty, but I don't think it makes sense to have all of you sit around for twenty-two minutes. We will stay here, so that if there is anyone who does come, it's -- at seven thirty and wants to speak, we will still be here. In fact, we may not have gotten through the speakers who have already signed up.

So, with that, let's go ahead and begin the public statement hearing. We have, with us tonight, two county legislators, who have asked for time to speak and so we will begin with them. The first is Mr. David Godfrey of the Niagara County Legislature.

(The proceeding concluded)

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STATE OF NEW YORK

I, G. Michael France, do hereby certify that the foregoing was reported by me, in the cause, at the time and place, as stated in the caption hereto, at Page 1 hereof; that the foregoing typewritten transcription consisting of pages 1 through 60, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 19th day of June, 2014.

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G. Michael France, Reporter