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15-M-0388 - 9-24-2015 3:00 p.m.

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

15-M-0388 - CHARTER COMMUNICATIONS, INC. AND TIME WARNER
CABLE INC. - APPROVAL OF REORGANIZATION AND
FINANCE ARRANGEMENTS

PUBLIC STATEMENT HEARING

Thursday, September 24, 2015
3:00 p.m.
Amherst Municipal Building
5583 Main Street
Williamsville, New York

A.L.J. BEN WILES
Administrative Law Judge
Three Empire State Plaza
Albany, New York 12223-1350

COMMISSIONER GREGG SAYRE

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2 (The hearing commenced at 2:30 p.m.)

3 A.L.J. WILES: My name is Ben Wiles.

4 This is case number 15-M-0388. It's entitled Joint Petition
5 of Charter Communications, Inc., and Time Warner Cable, Inc.,
6 for approval of a transfer of controlled subsidiaries and
7 franchises, for approval of a pro forma reorganization, and
8 for approval of certain financing arrangements.

9 As I said, my name is Ben Wiles. I'm
10 the administrative law judge with the New York State
11 Department -- State Department of Public Service and I will
12 be conducting this public statement hearing.

13 I think -- I think I'm going to save the
14 rest of the introductory remarks for three o'clock because
15 there may be more people who show up then, who would want --
16 it would be a better benefit to them.

17 But I do have some cards from
18 individuals who want to provide a comment. I will call your
19 name. You can come to the microphone now, or you can say no,
20 I'd rather wait until three o'clock. And that's okay; we'll
21 just call it again at three o'clock. It's up -- it's up to
22 the speaker.

23 The first person on my list -- the first
24 -- the first card I'm calling from is Leonard Pero. And the
25 next person will be Brian Barnas.

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2 MR. PERO: Thank you, Commissioner,
3 Administrative Law Judge, gentlemen. My name is Leonard
4 Pero. I'm the supervisor of the Town of Brandt, New York,
5 which is in the southwest corner of Erie County. We're a
6 rural farming community and I -- we have a situation in our
7 community where people don't have any Internet or cable,
8 whatsoever. About less than half of the community does have
9 Time Warner. And that was due to the Enact New York where we
10 did get a -- a grant to put some cable into our community.

11 We've been having problems. A couple of
12 businesses, trucking firms that are in our community that
13 wanted to leave because of the communication billing, working
14 with -- because we're so close to Canada, with the customs
15 that they have to go online. So, they were having to go to,
16 let's say, neighboring communities where -- and have a -- a
17 small office. And they were going to leave the community,
18 which would have been devastating, losing two or three
19 businesses when we are a small community.

20 Because of Enact New York, we were able
21 to get cable to them in the last year -- year and a half, and
22 they remained in our community.

23 I've had other businesses that were --
24 wanted to come into our community, due to the fact our taxes
25 are low and everything, but they also need cable. They

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2 needed -- and they weren't going to rely on the -- on the
3 Internet -- the -- what do you call it --

4 UNIDENTIFIED SPEAKER: DSL?

5 MR. PERO: Yeah.

6 So, my feeling is with the businesses, it's
7 very, very important. And our residents, I probably receive
8 one or two calls a -- a week, asking if we're going to try to
9 get more cable into town, get Time Warner, at this point,
10 into our community. And in fact, at the last board meeting,
11 two Tuesdays ago, I read a couple letters from residents.

12 One was from a young girl, thirteen
13 years old, that asked if it was possible to get cable down
14 her road. There was cable, let's say, a half a mile north of
15 her, on Cain Road (phonetic spelling) and she was up a ways
16 on Versailles Plank. And when they did ask as a family, they
17 were talking about if they'd have to pay four or five
18 thousand dollars or something, which was -- you know, they're
19 not going to do that.

20 There are a number of homes up that road and
21 that was my next thing I was going to try to do with Enact
22 New York if it was possible, to try to service that road,
23 Versailles Plank, which then goes to -- there's cable on each
24 end of it. That's -- okay.

25 But -- and her problem, what she

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2 basically said was she's thirteen years old, she goes to
3 school and a lot of times, there's school research program --
4 programs that she needed and she couldn't get access the way
5 she wanted it, with the -- what -- what they had.

6 Her mom also had a business, a nursery,
7 which was, like I said, about a half a mile north. And to do
8 her work, she had to leave the home to go there because there
9 wasn't cable there.

10 So, it's -- it's -- it's a problem in
11 rural areas that's very important. It needs to be addressed.
12 I think all rural areas need to have the opportunity to have
13 cable. I mean, we are in the 21st Century. And it's been
14 very hard for people -- they see it -- down the road there's
15 a neighbor that has cable and they don't and it -- it causes
16 a problem.

17 So I'm -- I'm definitely very, you know,
18 supportive of the merger. I do believe that it would be a --
19 a great asset for all, with Charter coming in with Time
20 Warner and they're talking about the extra lines they're
21 going to put in, which is very important.

22 And I would do anything that I could to
23 have them come into our community and make us fully a cable
24 community, which then -- of course, it would be advantageous
25 to, I think everyone, business, residents and -- and all.

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2 So I ask that you look in favor of this
3 -- this merger. And that's it, I guess.

4 A.L.J. WILES: Okay. Good.

5 MR. PERO: I thank you very much.

6 A.L.J. WILES: Thank you.

7 MR. PERO: All right.

8 A.L.J. WILES: I'm sorry. The next speaker
9 is Mayor Frawley of the Village of Angola.

10 MAYOR FRAWLEY: Good afternoon.

11 I'm glad that everyone loves Buffalo and the
12 weather and everything else that we have to offer to you.
13 I'm assuming you still have that same weather in Rochester.

14 COMMISSIONER SAYRE: We do.

15 MAYOR FRAWLEY: Anyway, I'm in support of the
16 merger on this particular situation. And the question that I
17 asked the gentleman that was giving his presentation,
18 certainly everybody would like to lower the cost on any
19 particular service, but especially in cable. It seems like
20 when residents come into my meetings and that stuff, not
21 necessarily talking about cable all the time, but everything
22 keeps going up. So it certainly would be a plus-plus and I'm
23 certainly in favor of the merger.

24 So I -- most of my community has cable,
25 but I do have some rural areas and that stuff, like on Gowens

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2 Road, near where Mr. Pero is, the Supervisor of Brandt that
3 just spoke, all right, that does not have cable. And of
4 course, we do get a few calls. Not as many as he does, but
5 if the merger happens, that would be great even though we
6 certainly didn't want to wait four years for it. But
7 certainly, you know, four years is better than -- than not
8 having it at all.

9 So, but besides that, I want to thank you
10 very much, you know, for having us. And hopefully things
11 will happen for everyone.

12 A.L.J. WILES: Okay.

13 MAYOR FRAWLEY: Thank you.

14 A.L.J. WILES: Thank you.

15 The next speaker among the cards is Grant
16 Lewis -- oh, no, sorry -- Grant Loomis.

17 MR. LOOMIS: Gentlemen, good afternoon. My
18 name is Grant Loomis, Vice President for Government Affairs
19 for the Buffalo Niagara Partnership. The partnership is the
20 region's private sector economic development organization and
21 regional chamber of commerce.

22 On behalf of our members and their
23 quarter of a million employees in the Buffalo Niagara region,
24 I urge the PSC to approve the proposed merger between Time
25 Warner Cable and Charter Communications. If approved, these

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2 companies will join together as New Charter, an advanced
3 growth-oriented broadband cable company, that will combine
4 the best of these companies for the benefit of New York
5 consumers.

6 To remain a globally -- a global business
7 capital, New York must aggressively encourage both public-
8 and private-sector investment in a first-class infrastructure
9 that provides greater connectivity and accessibility. We
10 believe this merger will do just that.

11 New Charter has promised to bring a better
12 experience and cost-effective service to 17 million customers
13 around the country, including more than 3.2 million customers
14 in New York.

15 Under the merger, New Charter will provide
16 consumers with the latest cloud-based technology and faster
17 download speeds, while committing to lower prices, including
18 no modem and early-termination fees, no extra charges for
19 heavy Internet usage and a policy of not passing universal
20 service-fund fees on to customers.

21 New Charter has pledged to return call center
22 jobs to the United States and will hire and train thousands
23 of new employees for its customer service centers and field
24 technician operations, including here in New York.

25 In the new future our -- near future,

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2 our state will benefit from a 2.5-billion-dollar expansion in
3 the buildout of networks into commercial sectors. This will
4 create additional and much-needed competition in the
5 commercial sector, hopefully lowering business costs here in
6 New York.

7 This merger is an exciting opportunity that
8 will support efforts to maintain New York as a center of
9 innovation. While the state has many important
10 infrastructure needs, the continued development of robust and
11 abundant broadband and wireless connectivity is paramount for
12 the growth sector economy.

13 Again, we urge the Commission to approve this
14 merger. And I thank you for your time today.

15 A.L.J. WILES: Thank you.

16 And now the next speaker is Brian Barnas.

17 MR. BARNAS: Good afternoon. Thank you for
18 the opportunity to speak here today.

19 My name is Brian Barnas. I'm appearing here
20 on behalf of Chris Trapp, the village attorney for the
21 Village of Alden. Mr. Trapp couldn't be here today. He's at
22 a municipal law meeting out of town and he asked me to be
23 here to ensure that the village's comments and his comments
24 make their way onto the record.

25 We have sent in a letter, dated September

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2 22nd, 2015, to the Commission, already offering the Village
3 of Alden's comments on this merger. I brought additional
4 copies today, if anyone would like one for the record. The
5 letter is seven pages long, single spaced. I will not be
6 reading that to you today, but I'd just like to make a few
7 points.

8 The Village of Alden is here to express their
9 objection to the potential merger between Time Warner Cable
10 and Charter Communications. And there are just a couple
11 reasons why.

12 Similar to what previous question asked by
13 the gentleman from Penfield, Time Warner Cable has failed to
14 negotiate a new franchise agreement with the Village of
15 Alden. The franchise agreement between Time Warner Cable and
16 the Village of Alden expired back on September 15th, 2010.
17 Since that time, the Village has made repeated, concerted
18 efforts to give that franchise agreement -- to get
19 negotiations going on extending that franchise agreement.

20 Time Warner has refused to engage in
21 meaningful talks with the Village over that time.
22 Communications have either not been answered or they've been
23 met with delay. There's still no franchise agreement to
24 date. Time Warner Cable hasn't been in respond -- hasn't
25 responded to any correspondence from the Village within the

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2 last eleven months. However, the rates continue to increase.

3 Second point that I'd like to address is the
4 willingness to expand cable and broadband services into rural
5 areas. This has already been discussed multiple times today.

6 The Village of Alden has been in contact with
7 a number of other local municipalities in the area and they
8 have expressed to us similar concerns about the availability
9 of cable and broadband services in rural communities. I know
10 we've heard some of that here today. Time Warner Cable at
11 this point has been unwilling to cooperate in this
12 initiative.

13 The Village of Alden's position is that
14 larger will not necessarily be better in this case. Joining
15 Time Warner and Charter, will just increase the size of their
16 corporate enterprise. It won't make them more likely to
17 respond to the concerns of smaller municipalities like the
18 Village of Alden.

19 On this note, at a previous meeting of this
20 Commission on August 5th, 2015, about telecommunications in
21 New York State, Attorney Trapp appeared at that meeting and
22 submitted some of his concerns about the expansion of
23 broadband services into rural areas. And many of those, we
24 would echo today.

25 In a village like Alden, other providers

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2 besides Time Warner Cable and Charter, like Verizon FiOS,
3 they won't go into small areas like Alden. There's a lack of
4 competition. We have heard from Verizon FiOS that they have
5 no plans to expand into the Village of Alden.

6 The situation with the lack of expansion
7 into rural areas right now leaves a large segment of people
8 unconnected. Although the coverage for broadband services
9 has been expanding in the major areas of the state, Buffalo,
10 Syracuse, New York City, there is still a large segment of
11 the rural population that's left without.

12 So based on these concerns and the others
13 already expressed in our letter but not stated here today,
14 the Village of Alden would object to the petition for a
15 merger.

16 And Mr. Trapp has asked me to state that he
17 would be happy to speak to anyone about the Village of
18 Alden's position on this matter.

19 That's all I have to say. Thank you.
20 Appreciate it.

21 A.L.J. WILES: Thank you.

22 Okay. And the next -- next speaker is Chris
23 Wiest.

24 Do I have it wrong? W-I-E-S-T? Well, I'll
25 just hold this until three o'clock.

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2 I have another card I just received from
3 David Renner, Town of Glenfield. Is David Renner here? Oh,
4 there we go.

5 MR. RENNER: Thank you.

6 I -- I submitted my comments in writing in
7 regards to some of the issues that we're having with,
8 currently, Time Warner. I just wanted to highlight a couple
9 of those points formally.

10 And that is that moving forward with Time
11 Warner, from a PEG access side, our communities rely heavily
12 on the transparency in government and also the accessibility
13 that the PEG channels offer for the purpose of serving the
14 community for those -- excuse me -- who are unable to attend
15 due to physical ailment or other challenges that they may be
16 faced with.

17 The transparency in government for us is
18 important. Our members of our community are actually able to
19 call in and submit electronic comments to be part of the
20 record during the live meetings. The aspect of the
21 digitalization to what Time Warner has done to our channels
22 has fractured our ability to communicate. We were not part
23 of that discussion process when those channels were
24 realigned.

25 PEG channels previously were located at

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2 channel alignments for our community at 4, 12, and 15. That
3 has changed with the aspect that now, if you have a digital
4 television, it's 5.4, 5.12, or 5.15, and 98.3, 98.4, or 98.5.
5 If you use a cable television decoder, that is promptly
6 mapped back to 4, 12, and 15, but yet, if you have a cable
7 television box, it's 1301, 1302, and 1303.

8 And to just add yet some more confusion to it
9 is that, as part of this, if you have a DV -- digital
10 television and you turn that on at 4.2, you find a shopping
11 channel. At -- at 12.1, you find CNN. And then yet again,
12 at 15.1, you find yourself with a black screen.

13 So, for the LFAs to communicate to the public
14 and try to announce public meetings and provide these
15 services, it is fractured. It is ineffective. This needs to
16 be repaired. We ask that it would be reinstated back to its
17 original channels because this has been the way it's been for
18 28 years.

19 We are in our 30th year of operating a PEG
20 facility and we have records dating back from then that we
21 use for archival and historic purposes. Our community has
22 become heavily reliant upon them.

23 Moving forward, we would like to suggest that
24 as the PSC recommends that PEG channels are considered local
25 and be treated no different than any other local feed and

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2 that have access to HD, have access to cable channel guides,
3 and be able to take and inform our viewers of the programming
4 and the programming schedule.

5 We're not opposed to working with Time Warner
6 or Charter in accomplishing this. We're just asking that --
7 let's have the dialogue and let's find an effective plan for
8 everyone.

9 Looking at IP, that's the wave of the future.
10 We are actually working towards an IP system ourselves for
11 distribution. In that process we would like to look at doing
12 an I.P. handoff over the cable plant and having those
13 opportunities.

14 If IP handoffs are not available for our
15 encoders, then we ask that the cable company provide an IP
16 encoder so that way we can reduce the use of 1973 cable
17 modulators that are modulating, demodulating, remod, demod,
18 moving it through a hub site, moving it back out to central
19 control, and then back to the consumer.

20 That's only opposed to a significant delay in
21 the video signal, so when we do have live meetings, those
22 various elements have built in nearly 30 seconds of delay to
23 a program, which is not successful to us when we are hosting
24 a live meeting and for encouraging individuals to call in.

25 So we'd like to say that IP would improve the

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2 quality of the signals. We need to be able to allow for
3 metamorphic changes between SD and HD programming because, as
4 a PEG facility, we do have a host of both types of products
5 that are coming through our facilities, and then provide for
6 embedding of the programming guide, correctly map the PEG
7 channels, and then unblock the cable channels to places of
8 multi-dwelling.

9 Our senior living facilities have -- have
10 their own video broadcast systems within house. The cable
11 company installed soft -- hardware that blocks out the PEG
12 channels from the residents. Now, these are voting
13 residents; they are taxpayers as well. They live in a -- a
14 multi-dwelling facility, but yet, they no longer have access
15 to their local government or their public education channels.
16 We need -- request that that be repaired as part of this.

17 And then continue to work with the LFAs to
18 bring franchise agreements into current standards, as well as
19 up to date. As I said in my Q and A earlier, that we're a
20 little over 12 years without a franchise. Our neighboring
21 communities are also seeing these high level of year expire -
22 - expirations. In fact, we've stopped receiving letters from
23 the Public Service Commission with the automatic 6-month
24 update.

25 And we would request that -- even today, our

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2 -- our supervisors from many towns are meeting about
3 consolidation and these efforts are important to us to reduce
4 cost and overhead. And the consolidation of PEG facilities,
5 we foresee as an opportunity for the cable company, as well,
6 to reduce cost.

7 And as part of that, we would like to work
8 with Time Warner and Charter to consolidate appropriately
9 from our franchise, what our community needs, but also
10 consolidate the PEG facilities so that it's more cost
11 effective for everyone.

12 Just to give you a sense of the types of
13 programming, we do a little over 700 hours of live
14 programming annually and that is done in HD. Additionally,
15 we do an additional replay of 150 hours' worth of original
16 meeting content that is coming from county, state, as well as
17 the school district elected bodies. And beyond that, we're
18 doing a little over 1200 pieces of community media that is
19 being submitted by our constituents.

20 So any process moving forward, we definitely
21 ask for the consideration that these items be addressed
22 before granting any approval.

23 Thank you.

24 MR. MCGOWAN: Excuse me. Dave -- Dave,
25 can I ask you a question?

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2 MR. RENNER: Yes, sir.

3 MR. MCGOWAN: Do you know whether -- the
4 kinds of problems that you're talking about, do you know if
5 there are other municipalities who share those problems?

6 MR. RENNER: I can tell you from the
7 aspect of Monroe County. I work closely with 5
8 municipalities and we are all experiencing the same issue.
9 As far as the state goes, I'm also a member of the State
10 Alliance for Community Media. and I cannot speak statewide,
11 but what we do see is there is a fracture across the state as
12 how each distribution network is managed, as well as the
13 technicians and how they handle that.

14 But in Monroe County, yes, it is quite
15 common.

16 MR. MCGOWAN: All right. Thank you.

17 MR. RENNER: You're welcome.

18 A.L.J. WILES: All right. I think we've been
19 here for almost an hour. We would normally start the public
20 statement hearing at three o'clock.

21 So I have 2 more speakers here -- or 3, if
22 Mr. Wiest -- Wiest still -- or Wiest wants to continue --
23 wants to speak. So, we're going to take a five-minute break,
24 come back at three o'clock, or close to three o'clock and go
25 on with the public statement hearing.

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2 So at this point, we're adjourned until then.

3 (Off the record)

4 A.L.J. WILES: The next speaker for which I
5 have a card is Michael Marcy. Is he here?

6 MR. MARCY: Good afternoon. My name is Mike
7 Marcy. I'm Director of Policy and Urban Affairs for the City
8 of Buffalo. Unfortunately, Mayor Brown wasn't able to attend
9 the event, but I have a prepared statement from him he'd like
10 -- asked me to read into the record.

11 Board members of the Public Service
12 Commission, thank you for the opportunity to speak at this
13 hearing regarding the possible merger of Time Warner Cable
14 and Charter Communications and its impact on New York State's
15 second largest City, Buffalo, New York.

16 One of my primary duties as mayor is to
17 ensure that the best interests of our city are realized, a
18 responsibility I take seriously. I'm not opposed to the
19 merger of Charter Communications and Time Warner Cable, but I
20 need to guarantee this is good for our community. In order
21 to make that call, I request that Charter Communications make
22 several assurances.

23 First, Charter needs to commit to negotiating
24 a new and fair franchise agreement with the City of Buffalo,
25 as the current one -- current agreement expired at the end of

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2 2005.

3 Second, Charter must ensure that public
4 education and government PEG channels remain intact. These
5 channels serve as a virtual public square where local
6 citizens see and hear what's happening in their community.
7 Charter Communications must ensure that these T.V. channels
8 are supported so that our community will still continue to
9 benefit from their presence.

10 Charter Communications needs to treat PEG
11 channels as they do broadcast channels, including onscreen
12 menus and provide PEG programming information, protection of
13 PEG channel placement, provide HD availability and on-demand
14 capabilities for PEG channels. They shouldn't require any
15 special equipment for subscribers to receive PEG channels.

16 Third, considering the lack of competitive
17 choices for Internet and video services, Charter
18 Communications should consider a public or public/private
19 broadband network, in order to increase competition and bring
20 advanced communication services to our community.

21 Fourth, Charter Communications must ensure
22 they take our community's economy into consideration.
23 Nationwide, only 45 percent of families, earning under 30
24 thousand, currently have broadband services in their home.
25 And according to a recent survey of Buffalo Public School

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2 children, 50 to 60 percent do not have Internet or computers
3 in their home.

4 This puts those parents and their children at
5 a huge disadvantage when it comes to finding and applying for
6 jobs, communicating with doctors and teachers, completing
7 homework and other, everyday tasks that more affluent
8 families take for granted.

9 Charter Communications should commit to
10 investing in communities they serve and bring low-cost
11 internet programs to Buffalo, to help low-income families
12 gain access to internet, as well as assisting not-for-profits
13 and local community-based organizations.

14 In June of 2013, Time Warner Cable created
15 150 jobs at a multi-million-dollar call center at the former
16 Sheehan Hospital site on Michigan Avenue. The call center
17 was designed to serve as Time Warner Cable's expanding
18 business class service. Charter Communications needs to
19 continue this growth in Buffalo and ensure a diverse local
20 workforce.

21 Charter Communications must make a commitment
22 to the principles of net neutrality, including no blocking or
23 throttling of traffic, no paid prioritization. My
24 constituents have a valid concern that if access to higher
25 speed networks are only made available to the highest bidder,

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2 it will limit entrepreneurship and lead to higher prices for
3 consumers in accessing content.

4 And finally, a commitment to better customer
5 service must be made. A story in Bloomberg Business News
6 that appeared on May 26th, 2015 states, the 15 million Time
7 Warner Cable users from New York to Los Angeles are probable
8 keenly aware of the low marks their provider gets when it
9 comes to customer service. Charter, which agreed to buy the
10 company Tuesday, doesn't fare much better. Time Warner Cable
11 subscribers are going to see a new parent that has it's
12 fairly -- its own fairly long history with lackluster
13 customer service, said David VanAmburg, Managing Director of
14 American Consumer Satisfaction Index, or ACSI.

15 Time Warner Cable ranks at the bottom of a
16 most recent survey of ACSI, which measures customer
17 satisfaction for 43 industries. Charter shares the next to
18 last positon with Comcast Corp., which dropped its plan to
19 buy Time Warner Cable last month.

20 Charter and Comcast are virtually
21 indistinguishable as far as pricing, reliability, and
22 customer service, VanAmburg said. So, in that regard, Time
23 Warner Cable users wouldn't have been better off with the
24 provider's former suitor. Charter Communications must do a
25 better job of providing customer serve -- serve -- customers

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2 with higher level of service, with state-of-the-art customer
3 services and technical support, fair and understandable
4 billing procedures, and accessible and responsive local
5 representatives.

6 If approved, this deal would be the largest
7 merger in the cable broadband industry's history, impacting
8 millions in our community. I urge Charter Communications to
9 work honestly and fairly with our region. The new company
10 has a great opportunity to carry on the best practices and
11 correct the shortcomings of Time Warner Cable.

12 Again, thank you for the opportunity to voice
13 my concerns on this potential merger of Time Warner Cable and
14 Charter Communications.

15 Thank you.

16 A.L.J. WILES: Do you have a copy of the
17 statement you just read?

18 MR. MARCY: I do, yeah.

19 A.L.J. WILES: Can we give it to the reporter
20 so that he will be able to compare it to his notes?

21 Thank you.

22 The next speaker on my list is Sarah Graham.

23 MS. GRAHAM: Hello. My name is Sarah Graham.
24 I'm the Director of Corporate and Foundation Relations at
25 Canisius College.

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2 Canisius has been happy to count Time Warner
3 Cable as a dedicated longtime community partner with a lot of
4 our programs at the school. Specifically, the company has
5 assisted for a number of years with the success of our summer
6 science camp, which is a week-long camp for local middle
7 school students in the areas of science, technology,
8 engineering, and mathematics.

9 Time Warner has been fantastic in that
10 they've provided a number of scholarships each year for
11 students from low-income families so that those students can
12 attend the camp for free and have the same kind of access to
13 extracurricular activities that their peers do.

14 A couple of years, Time Warner has sent
15 volunteers from their local office to assist with the camp.
16 And they've sent teachers from their local office to teach
17 the students about technology. So, it's been a really great
18 partnership for Canisius. It's been really great for the
19 students that attend the camp. It's been really great for
20 the community as a whole.

21 As an institution, we're a Jesuit institution
22 that truly values service to the community. Canisius would
23 like to express their support of the merger between Time
24 Warner and Charter Communications.

25 I am aware that Charter has a very strong

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2 community influence in the areas where they operate. I know
3 about their Charter Community Initiative, which helps provide
4 safe and energy-efficient housing for families in the areas
5 where they operate. And Canisius thinks that with Time
6 Warner being such a supportive community member here in
7 Buffalo for such a long time, that Charter's own community
8 outreach efforts would be a complement to what Time Warner
9 has already implemented in the area.

10 Thank you.

11 A.L.J. WILES: Thank you.

12 The -- pardon me. The next speaker is Korey
13 Schuler.

14 MR. SCHULER: Good afternoon. My name is
15 Korey Schuler. I'm the Director of Government Affairs for
16 the Niagara USA Chamber of Commerce.

17 The Niagara USA Chamber of Commerce is
18 Niagara County's largest business organization and a leader
19 in business advocacy throughout Western New York. On behalf
20 of our membership and the tens of thousands of employees they
21 represent, we are asking support for the merger of Time
22 Warner Cable and Charter Communications. This new merger
23 will form New Charter Communications, serving over 3.2
24 million customers in New York.

25 Being a business group that covers both urban

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2 and rural communities, we feel this merger will greatly
3 benefit the people and businesses that we represent. One of
4 the many positive outcomes of creating New Charter
5 Communications, several of -- several of those will benefit
6 Niagara County directly.

7 The build-out of nearly one million line
8 extensions will help provide reliable internet service to
9 rural communications and underserved areas like those
10 throughout Niagara County. Coupled with access to low-income
11 broadband and a commitment to community service, such as our
12 Charter Community Program, dedicating to rehabilitating and
13 rebuilding 25 thousand homes by 2020, we find New Charter
14 Communications is addressing the needs of communities it
15 seeks to represent throughout our county.

16 New Charter has also committed to net
17 neutrality. They have stated that they will not block nor
18 slow down internet traffic or support paid prioritization.
19 New Charter will also refrain from imposing data caps or
20 usage-based billing.

21 These are all integral parts of making them a
22 good partner with the businesses and schools that use their
23 services throughout our county. On a larger scale, Charter
24 will be returning call center jobs back to the United States
25 and will continue to create thousands of USA-based jobs by

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2 hiring for customer service call centers and field technician
3 operations positions.

4 New Charter will also invest at least 2.5
5 billion dollars in the build-out of networks in commercial
6 areas. This is important to the growth of our community, as
7 you have seen many important structures such as the air base
8 continuing to grow in Niagara County. These expanded
9 networks will increase competition in New York and the New
10 Charter footprint and will, in turn, lower business costs for
11 companies.

12 This merger will improve service to New York
13 customers, offer better products and more affordable prices
14 and increase service in underserved communities. The Niagara
15 USA Chamber stands by this merger and strongly recommends its
16 approval.

17 Thank you.

18 A.L.J. WILES: Thank you.

19 Do you have a copy of your statement? You
20 can just give it to the reporter. That's what you just read;
21 right?

22 MR. SCHULER: Yes.

23 A.L.J. WILES: Good.

24 The next speaker would be Lisabeth Jorgensen.

25 MS. JORGENSEN: Good afternoon. Thank you,

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2 Commissioner Wiles -- Commission -- or I'm sorry --
3 Administrative Law Judge Wiles, Commissioner Sayre, and the
4 DPS Staff.

5 My name is Lisabeth Jorgensen and I'm a staff
6 attorney representing the Public Utility Law Project of New
7 York. It's a 30-year-old nonprofit that advocates on the
8 behalf of low income and fixed rate utility customers across
9 New York.

10 I appreciate the opportunity to offer
11 comments on the record today, concerning the proposed
12 transaction. The purpose of my testimony today is not to
13 persuade you on the merits of the proposed merger. I am here
14 to offer recommendations that, if adopted, we believe would
15 be several steps toward the goal of best protecting the
16 public interest, should the Commission decide to approve the
17 merger. These suggestions are addressed at length in our
18 filed comments and will be supplemented by our reply
19 comments.

20 By being here today, I hope to raise
21 awareness about the implications of this merger and, also, to
22 persuade the Commission to require Petitioners, as a
23 condition of approving this merger, if that's what the
24 Commission decides to do, to commit to several agreements and
25 goals that would create a greater likelihood that this

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2 business transaction, if it should go forward, is truly in
3 the public's best interest.

4 The Utility Project recommends that if the
5 Commission determines to approve the proposed merger, it
6 condition approval on the following requirements.

7 Number one, Petitioners should be required to
8 supplement the record in detail on how they will increase
9 benefits for low-income and fixed-income consumers.
10 Petitioners do not, in their PSC or FCC proposals, explain
11 specific -- specifically how their various separate entities,
12 existing low-income programs, and other applicable programs,
13 will be initiated or reformed in New York to ensure that
14 benefits for low-income and fixed-rate consumers will be
15 increased as a result of merger approval.

16 Petitioner's proposal offers some promises in
17 this regard, but the record needs to be supplemented with
18 specific goals so that the Commission can hold Petitioners
19 accountable in this regard.

20 Number two, as a condition of approval of the
21 proposed merger, the Commission should require Petitioners to
22 commit to reforming and upgrading Time Warner's existing
23 standalone broadband services with a firm commitment to
24 expand construction, reform and upgrade fiber deployment,
25 specifically through the rural areas of the state served by

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2 the Petitioners.

3 This is important because in New York State,
4 only New York City receives minimum broadband download speeds
5 above 100. In other parts of the state, including Buffalo,
6 broadband download speeds currently test much lower. The
7 Petitioners need to supplement the record to explain exactly
8 how the proposed merger will enable consumers across all
9 parts of New York State to be able to purchase fast and
10 reliable broadband service, affordably within the timeline
11 proposed by Petitioners.

12 Number three, Commission approval of the
13 proposed merger transaction should also be conditioned on
14 Charter seeking and/or maintaining its status as an eligible
15 telecommunications carrier, otherwise known as an ETC. The
16 result of obtaining ETC status is that the telephone provider
17 becomes eligible for a subsidy for the provision of Lifeline
18 service and the low-income customers of such provider become
19 eligible for Lifeline rate-reduced telephone service.

20 Time Warner was granted ETC status and
21 currently offers Lifeline service. However, it's the Utility
22 Project's understanding that Charter's existing 16 franchises
23 do not provide Lifeline service and that Charter has not been
24 designated as an ETC by the Commission. What this means is
25 that Charter's existing customers in New York do not have

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2 access to discounted wireline telephone service that was
3 designed for and directly benefits low-income and vulnerable
4 customers.

5 This is especially critical since Charter's
6 current service areas in New York are in communities with
7 some of the highest poverty rates. And by taking over Time
8 Warner's existing franchises, Charter will gain many
9 additional low-income and fixed-income customers.
10 Consequently, the Utility Project recommends that the
11 Commission condition approval of the merger on Charter file -
12 - on Charter filing for ETC status.

13 Number four, the Commission should condition
14 approval of a merger on Petitioners agreeing to a buildout of
15 retail accessible broadband, that commits to extending
16 broadband in rural, high-cost, unserved, and underserved
17 areas of New York. The expanded build-out in New York's
18 rural areas has been recognized as an extremely important
19 issue in this state.

20 Almost 30 percent of New Yorkers, 6 million
21 New Yorkers, do not use broadband at home because of issues
22 including affordability and lack of access, or perception of
23 need. Therefore, expanding broadband across the state would
24 do these New Yorkers no good, unless money and resources are
25 dedicated to rural communities.

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2 Charter has stated that within 4 years of the
3 completion of the merger, it would invest 2.5 billion into
4 commercial areas within its footprint. It would build one
5 million extensions in its service area, to either wire new
6 customers in unserved areas or to create competition with
7 existing providers, and that it would deploy over 300
8 thousand out-of-home, WiFi access point.

9 The Utility Project supports these goals, but
10 they do not ensure that the roll-out of broadband will truly
11 impact rural parts of this state because Petitioners have not
12 clarified where this money will be spent and where these
13 lines will be built.

14 The Commission should condition approval of
15 the merger on the Petitioners agreeing to direct a
16 significant portion of Charter's proposed commercial
17 infrastructure investment towards distressed census tracks
18 and to agree to construct 50 percent of the portion of the
19 one million new lines dedicated to New York State in rural
20 and distressed census tracts outside of New York City.

21 And finally, that the proposed WiFi
22 deployment specifically include areas of this state where
23 cellular broadband and voice are known to lack reliable
24 coverage.

25 Five, the Commission should condition

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2 approval of the merger on Petitioners agreeing to implement a
3 public, accessible, transparent, and accountable service
4 quality measures relating to its provision of telephone
5 service. Failure in one telephone service directly
6 undermines the public health and welfare and public safety.

7 Time Warner, as an ETC, files service-quality
8 reports with the Commission, but these reports are protected
9 by claims of trade secrecy. As a consequence, it's difficult
10 to determine how much of Time Warner's consumer complaints
11 are directly attributable to telephone service quality.

12 The Utility Project, therefore, requests that
13 the Commission condition any approval of the proposed merger
14 upon a service quality improvement plan with a negative
15 revenue adjustment similar to those applicable over time to
16 the other dominant New York telephone corporations such as
17 Verizon and Frontier.

18 The Utility Project believes these service-
19 quality report should be made available to the public so that
20 the individual consumers can see patterns of bad service
21 quality and that the state's consumer protection entities can
22 advocate for better quality service and infrastructure
23 investment, based on objective and transparent factual data.

24 Finally, the Utility Law Project recommends
25 that the Commission require Petitioners to implement what's

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2 called a new social contract as a condition of this merger.
3 Time Warner was subject to an order by the FCC, binding the
4 company to a social contract in a 1995 case, called FCC 95-
5 478.

6 The social contract achieved many great
7 things. For example, the social contract resolved more than
8 900 disputed rate increases, refunded more than 4.7 million
9 plus interest to subscribers, and committed the company to a
10 5-year program under which it invested in excess of 4 billion
11 into its cable systems to increase fiber optic deployment,
12 system reliability, channel bandwidth, and signal quality.

13 But the achievements Time Warner implemented
14 under the 1995 FCC social contract have grown stale as they
15 have been superseded or made less relevant as technology has
16 changed. Arguably, given Time Warner's record-low consumer
17 approval statistics over the past several years and other
18 objective documentation of poor service quality and customer
19 satisfaction, the time is right for Petitioners to enter into
20 a new social contract within New York's municipal franchises.

21 Under this new social contract, the
22 Commission should order Petitioners to develop a plan that
23 would be reasonably calculated to aid in the economic
24 development of New York's lowest income, rural, and most
25 economically-challenged census tracts within the company's

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2 service territories and to make high-speed, low-cost
3 broadband services as universally available on a retail basis
4 to New Yorkers and particularly to places of education.

5 All of these recommended -- recommendations
6 are explained in depth in the Utility Law Project's filed
7 comments online. This list is not meant to be exclusive or
8 exhaustive and we anticipate adding to these proposed
9 recommendations in our reply comments.

10 The Utility Law Project believes that in
11 order to ensure that the merger, if approved, truly does
12 further the public interest, these conditions or similar
13 ones, at a minimum, must be made a part of the Commissioner's
14 order.

15 Thank you for listening me -- listening to me
16 speak today and for taking the Utility Law Project's
17 recommendations under further consideration.

18 Thank you.

19 A.L.J. WILES: Thank you. Do you have a copy
20 of what you just read?

21 MS. JORGENSEN: Yes.

22 A.L.J. WILES: Thanks.

23 All right. The -- oh, no. There's another.
24 Right. Chris Wiest? Is it Wiest or Wiest?

25 MR. WIEST: Wiest. It's Wiest.

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2 A.L.J. WILES: Wiest.

3 MR. WIEST: You're right. Thank you, sir.

4 Well, good afternoon. My name is Chris
5 Wiest. I'm with the Rochester Business Alliance. Rochester
6 Business Alliance is the regional chamber of commerce,
7 serving the 9-county Rochester and Finger Lakes Region. And
8 we thank the Public Service Commission and staff for allowing
9 us to speak today on the proposed merger between Charter and
10 Time Warner Cable.

11 We strongly support this merger. We believe
12 that this combination offers attractive benefits to
13 businesses and residential customers and will help create
14 much needed jobs for the region.

15 Some of these benefits include a 2.5-billion-
16 dollar investment in the build-out of networks into
17 commercial areas to create additional competition in the
18 commercial sector, as well as one million network line
19 extensions to provide high-speed service to rural and other
20 underserved areas.

21 This will be of particular benefit to small
22 businesses in rural locations that currently have limited
23 wireless access. This will also -- this merger also offers
24 the opportunity to create thousands of US-based jobs by
25 hiring employees for customer service call centers and field

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2 technician operations located throughout the country and
3 returning Time Warner Cable call center jobs to the US.

4 Straightforward nationally uniform
5 pricing with no data caps, no usage-based pricing, no modem
6 fees, or early termination fees, and no federal or state
7 universal service fund fees and a commitment to net-
8 neutrality also offers attractive benefit to this merger.
9 Increased access for low-income consumers to broadband by
10 raising speeds and expanding eligibility, while still
11 offering a discounted price.

12 So, in total, we believe that the economic
13 benefits of this merger will be substantial, particularly to
14 underserved rural businesses and residential customers. With
15 expanded coverage, lower costs, job creation and improved
16 service, this merge will help foster connectivity and
17 commerce in Rochester and the Finger Lakes Region. We,
18 therefore, urge the PSC to approve this proposal and help
19 expedite any final approvals required for the merger to
20 proceed.

21 Thank you very much for your time tonight.

22 A.L.J. WILES: Thank you.

23 MR. WIEST: That's my testimony.

24 A.L.J. WILES: Do you have a copy for the
25 reporter?

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2 MR. WIEST: Thank you.

3 A.L.J. WILES: Thank you.

4 That's the end of the people for whom I have
5 cards and who -- and who have indicated they would like to
6 speak. Is there anybody here now who does want to speak that
7 hasn't yet?

8 In the notice, we indicated that we would be
9 here for at least an hour and so that means at least the
10 reporter and I have to stay here until 4 o'clock. But that -
11 - and the only purpose of staying would be to take an
12 additional state -- comment if somebody wanted to provide
13 one.

14 Okay. So, that's where we are. We'll call -
15 - I'm not adjourning this hearing. I am simply holding it in
16 recess, I guess, until a few minutes before 4 o'clock.

17 Thank you very much.

18 (Off the record)

19 A.L.J. WILES: So, we'll go back on the
20 record. It's 4 o'clock. We have had no additional -- or no
21 other people who have come to the public statement hearing in
22 order to provide a comment. We've taken and heard all the
23 comments of the people who intended to provide one and were
24 here.

25 Consequently, we're going to -- we're going

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2 to adjourn this public statement hearing and it -- yeah, and
3 we will reassemble at 6 o'clock for the second public
4 statement hearing for today.

5 Thank you very much. It's adjourned.

6 (The hearing adjourned 4:00 p.m.)

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3 STATE OF NEW YORK

4 I, G. Michael France, do hereby certify that the foregoing
5 was reported by me, in the cause, at the time and place,
6 as stated in the caption hereto, at Page 1 hereof; that
7 the foregoing typewritten transcription consisting of
8 pages 1 through 39, is a true record of all proceedings
9 had at the hearing.

10 IN WITNESS WHEREOF, I have hereunto
11 subscribed my name, this the 1st day of October, 2015.

12

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14 G. Michael France, Reporter

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