

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 17, 2015  
7:00 p.m.  
Bethlehem Town Hall  
Delmar, New York

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

COMMISSIONER DIANE BURMAN

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015

2 A.L.J. WILES: Very good. Before I start  
3 calling the speakers the first -- and the first speaker will  
4 be Ralph Signoracci, I'm going to state for the record that I  
5 have a two-page statement which is typewritten and supplied  
6 by Bonnie -- I think it's Bladder (sic).

7 MS. BLADDER: Bladder.

8 A.L.J. WILES: Bladder? Okay. Thanks.  
9 Sorry. And I have received -- she provided -- I received it.  
10 I will file it in DMM tomorrow at -- among the other public  
11 comments. Is that fine.

12 MS. BLADDER: I thank you.

13 A.L.J. WILES: All right. The first -- now  
14 that we're on the record. I have to again acknowledge that  
15 we're joined by the -- one of our Commissioners, Commissioner  
16 Diane Burman and I think she wants to make a statement.

17 COMMISSIONER BURMAN: First of all, I want to  
18 thank everyone for being here. It's very important for me to  
19 be at as many public statement hearings as I can be at. I'm  
20 one of five commissioners. Currently four commissioners are  
21 sitting, and I'm a lifelong New Yorker, and I really take my  
22 job, as all the Commissioners do, very seriously. And  
23 tonight for me this is really listening. Listening to the  
24 public and hearing your thoughts and concerns and bringing  
25 them back to the other commissioners and to staff that

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 weren't able to be here and sharing what I've learned  
3 tonight.

4 So, again, I just really want to thank  
5 everyone, and please feel comfortable to make your comments.  
6 And if you don't feel comfortable tonight, we do have an  
7 opportunity to -- for folks to submit them via letters or e-  
8 mail. And that information is in the back and up here on the  
9 slide. So, again, thank you very much.

10 A.L.J. WILES: As the Commissioner noted, the  
11 purpose of this public statement hearing is to obtain  
12 comments from the public on this proposed merger, and this  
13 public statement hearing is one of several being conducted  
14 around the State for this purpose.

15 I note that in the July 22nd secretary's  
16 notice concerning this case, it has been established that  
17 this is a notice and comment case. This means that the  
18 record on which the Commission will act is made up of the  
19 written petitions of Charter and Time Warner, the written  
20 comments by Staff and others filed a few days ago and the  
21 reply comments which will be filed on September 30.

22 In addition, the record in a notice and  
23 comment case will include the public comments we receive at  
24 the Commission by regular mail or by e-mail or through the  
25 toll-free opinion line.

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015

2 It will also include the statements made at  
3 the public statement hearings. Since this is a notice and  
4 comment proceeding, the public statement hearing that we will  
5 conduct is not an evidentiary or a trial type hearing. There  
6 is no prefiled written testimony presented. The witnesses  
7 will not be sworn, and there will be no cross examination of  
8 witnesses. However, it is the normal practice at the PSC for  
9 a transcript to be taken of all of the statements made at the  
10 public statement hearing and this will be done here.

11 The stenographer present today is present to  
12 record the proceedings. So when you come to comment, please  
13 speak loudly and clearly so that the statements will be  
14 recorded accurately. And please introduce yourself and begin  
15 -- as you begin your comment, you may even choose to spell  
16 your last name.

17 In conducting the public statement hearing I  
18 will call the speakers in the order I have received the  
19 registration cards. The only exception to this one we make -  
20 - no, the only exception to this is one we make for an  
21 appearance by elected officials who will be permitted to  
22 provide their statement at the beginning of the hearing.

23 These speakers will be expected to adhere to  
24 the same time limits by which all other speakers will be  
25 constrained, and tonight there really are no time limits. I

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 think we'll be -- we'll be fine.

3 Written statements if offered will be  
4 received during this hearing. If you provide a written  
5 statement there is no need to read that statement into the  
6 record, and if time is short, you will not be permitted to do  
7 so. Generally I will try to call one speaker and to call the  
8 next speaker to come to the front of the room and to be  
9 prepared to make their statement as soon as the first speaker  
10 has finished.

11 So first speaker is Mr. Signoracci. And he  
12 will be followed by Carrie Sullivan. Is she here? Come on  
13 up to the front.

14 MR. SIGNORACCI: First, Judge, Commissioner,  
15 thank you. My name is Ralph Signoracci. I'm the president  
16 of the Common Council in Cohoes. Spelling of the last name  
17 is S-I-G-N-O-R-A-C-C-I. As president of the Common Council  
18 in the City of Cohoes, New York I work with other government  
19 leaders and businesses and residences to determine the best  
20 ways to promote economic growth and general prosperity, not  
21 only in my city but in my region.

22 I extend my support to the merger of Charter  
23 Communications, Time Warner Cable and Bright House Networks  
24 because I believe it would bring high quality, affordable  
25 broadband width to my community, and I urge that the merger

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 be approved. After the merger, Charter would prioritize  
3 innovation through various investment plans. The commitment  
4 would -- would include efforts to bring full digitization to  
5 all customers, work that Charter has already begun in  
6 earnest.

7 The combined company would continue in  
8 Charter's footsteps so that all new customers could benefit  
9 from advanced technology like Cloud-based technology. The  
10 company would also invest in fiber optics and commercial as  
11 well in -- as well as residential networks. Specifically it  
12 would put two point five billion dollars towards commercial  
13 networks and would build out one million residential line  
14 extensions. I know that fiber optics provide customers with  
15 the fastest and most reliable connection, and I am pleased to  
16 see Charter's heavy investment in this area.

17 My community would greatly benefit from  
18 Charter's pro-consumer pricing system. Charter would  
19 continue to prioritize affordability, understanding that  
20 broadband is a necessity. For many, too often, this comes at  
21 too big of a cost. Time Warner Cable and Bright House  
22 Network customers would be introduced to Charter's national  
23 uniform pricing system which does not include data caps,  
24 modems or early termination fees.

25 Again, I do support this merger and I thank

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 you so much for the time that you allotted me. Thank you.

3 A.L.J. WILES: Thank you. Next speaker is  
4 Carrie Sullivan and she'll be followed by Thomas O'Connor.

5 MS. SULLIVAN: Good evening. My name is  
6 Carrie Sullivan, S-U-L-L-I-V-A-N. I'm here tonight to read a  
7 statement from the Adirondack Regional Chamber of Commerce  
8 which offers its strong support of Charter's proposed merger  
9 with Time Warner Cable and Bright House networks.

10 The Adirondack Regional Chamber of Commerce  
11 representing over one thousand businesses in Warren and  
12 Washington Counties in upstate New York has demonstrated a  
13 long history of advocating for enterprise in our region which  
14 creates new opportunities, employment and enhanced quality of  
15 life for businesses, residents and visitors alike.

16 The proposed merger of these companies would  
17 provide for a new entity, Charter. Charter has committed to  
18 invest heavily in our region's infrastructure. In addition,  
19 Charter has committed to building out one million line  
20 extensions of its networks into regional areas within its  
21 footprint and beyond where it currently operates, included in  
22 our region in upstate New York.

23 These new facilities would help provide high  
24 speed internet service to rural and other underserved areas.  
25 Charter plans to also invest at least two point five billion

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 in the building-out of networks into commercial areas  
3 creating much needed competition and vital to our continued  
4 economic growth in the region.

5 Charter also offers a minimum broadband speed  
6 of sixty megabytes per second. This will be offered at a  
7 lower cost than comparable offerings with straightforward  
8 uniform pricing across its service area and without any data  
9 caps, usage-based pricing, modem fees or early termination  
10 fees. They have committed to offering this fast broadband to  
11 existing Time Warner Cable and Bright House Network customers  
12 regardless of location. This will benefit our residential  
13 and commercial sectors and help to improve our local economy.

14 To that end, it is the sincere hope of the  
15 Adirondack Regional Chamber of Commerce that this proposed  
16 merger is given all possible consideration and a favorable  
17 finding. We recommend your approval of this merger. Thank  
18 you for your attention and have a good evening.

19 A.L.J. WILES: Thank you. The next speaker  
20 is Thomas O'Connor, and he'll be followed by Ted Potrikus.

21 MR. O'CONNOR: Good evening. I'm Tom  
22 O'Connor. I'm with the Capital Region Chamber of Commerce.  
23 Our chamber is the largest chamber in the Capital Region. We  
24 have two hundred -- two thousand eight hundred members,  
25 employing a hundred and fifty thousand employees locally. We

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 represent both small and large corporations, not-for-profits  
3 as well as for-profits.

4 The Chamber is fully supportive of this  
5 proposed merger. We believe that this merger is in the  
6 public interest and will benefit the entire region. Our  
7 support is based on three key factors; investment,  
8 improvement and commitment. First, investment in the region.  
9 New Charter will invest heavily in our region. They will  
10 invest in building-out their network into regional areas  
11 beyond where they currently serve.

12 This is particularly important to our rural  
13 as well as underserved customers. They will also invest in a  
14 buildout of networks into commercial areas. This will create  
15 well-needed competition amongst our commercial sector.

16 Second, the merger will be an improvement for  
17 this region. It will improve both the quality and the  
18 capacity of broadband in our area. And overall it will be an  
19 improvement in the customer experience in this region.

20 New Charter will further invest and improve  
21 their capacity for broadband allowing their slowest broadband  
22 to be less expensive than what Time Warner can currently  
23 provide under their base tier. This will greatly benefit our  
24 area's small businesses and startups.

25 And finally, this merger represents a

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 commitment to our region. The Chamber places a high value on  
3 good, corporate citizens, and we believe New Charter will be  
4 a good corporate citizen. They are committed to promoting  
5 diversity and inclusion and are committed to partnering with  
6 this region's educational institutions and not-for-profits as  
7 well as businesses owned by minority, women, veterans and  
8 disabled.

9 In short, this is the essence of being a good  
10 corporate citizen. The Chamber believes that New Charter  
11 will be a positive for our region, our businesses and for the  
12 public at large and is, in fact, in the public interest. So  
13 we fully support this merger and we respectfully request that  
14 the Commission acts upon it favorably. Thank you.

15 A.L.J. WILES: Thank you. The next speaker  
16 is Ted Potrikus and he'll be followed by Richard Cicero.

17 MR. POTRIKUS: Good evening, Judge Wiles,  
18 Commissioner Burman. Thank you for the opportunity to be  
19 here tonight.

20 My name is Ted Potrikus, and that's P-O-T-R-  
21 I-K-U-S. I am president and C.E.O. of the Retail Council of  
22 New York State. Based here in Albany, we are the leading  
23 trade association representing the interests of retailers  
24 small and large throughout New York State.

25 I appreciate the opportunity to speak briefly

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 tonight in full support of the proposed merger of Charter,  
3 Time Warner and Bright House. Only a few years ago our  
4 members may have had little if any interest in a merger of  
5 their cable provider other than a possible concern that they  
6 might have to learn a new channel lineup. But think about  
7 your last trip to the store, whether it was a shop small or  
8 large, there's an excellent chance that you saw fellow  
9 shoppers carrying their phones or tablets.

10 And they probably weren't just texting. They  
11 want to comparison shop while they're in the store. They  
12 want to know immediately where they can get the best deals on  
13 the items they want. They want reliable WiFi signals, speedy  
14 downloads and convenience, and they want that at home too so  
15 they can shop in their pajamas. For New York's main street  
16 merchants whom we represent to compete in this ever evolving  
17 marketplace, we need the same fundamentals our customers  
18 demand. A reliable, affordable high-speed internet bolstered  
19 by a strong local presence and a commitment to the latest  
20 technologies. Hence our support for the merger you consider  
21 tonight.

22 We're enthusiastic about those improved  
23 fundamentals and the improved opportunity for expanded  
24 service that adopts new technology as it develops. We can  
25 take advantage of those advances and have a better chance to

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 attract shoppers into our stores right here in New York. The  
3 New Charter proposal speaks directly to so many things that  
4 New York State's merchant community needs as we strive to  
5 navigate the always turbulent waters of competition in  
6 today's retail industry.

7 We see in the proposal new investment,  
8 innovation and an enhanced commitment to customer service,  
9 all of the building blocks of success for merchants and those  
10 to whom we turn for the services that we need today. Thank  
11 you for the opportunity to be here tonight to express our  
12 support for this merger, and I appreciate the opportunity to  
13 make this brief statement. Thank you.

14 A.L.J. WILES: The next speaker is Richard  
15 Cicero, and he will be followed by -- I have Ashley -- Ashley  
16 Jeffrey Bouck.

17 MR. CICERO: Good evening. My name is  
18 Richard Cicero, C-I-C-E-R-O and I am a cable customer in the  
19 Capital District, and I speak for the benefit of all cable  
20 customers and ask that this merger not be allowed unless  
21 Charter agrees to implement full compatibility with customer-  
22 owned equipment, namely -- particularly, DVRs and cable  
23 boxes.

24 Presently and Time Warner and I believe and  
25 Charter as well, the equipment that they rent is different

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 than what a customer could privately buy as far as the  
3 features available. Thus forcing customers to rent cable  
4 equipment if they want all of the features available.

5 Particularly the feature that I'm speaking of  
6 that I'm familiar with from the equipment that I own is On  
7 Demand services. This is a significant feature, and in the  
8 presentation we just heard from the Charter representative,  
9 he touted on several occasions how this feature is being  
10 expanded, because it is a feature that customers truly enjoy  
11 and use frequently.

12 However, and -- and I speak personally  
13 because I own a TiVo DVR, the TiVo brand, but all DVRs that  
14 are available to private -- privately owned, like myself. I  
15 privately own my DVR, I cannot access On Demand services, and  
16 I don't believe that there are any privately owned DVRs that  
17 can access the On Demand services from either of these cable  
18 companies.

19 And that is not because the technology is not  
20 out there. The cable companies I believe do not want to  
21 implement this because they will lose business. And this is  
22 a serious lack of competition and in essence a monopoly. I  
23 believe there are other cable companies. To my knowledge, I  
24 understand Comcast has compatibility with the TiVo equipment  
25 and allows On Demand capability. So when the representative

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 stated just a short while ago that there are technological  
3 hurdles, yes, there are. But they have been overcome and  
4 they can be overcome.

5 It's a matter of will. And I don't believe  
6 the cable companies have the will because they will lose  
7 business. This is not fair to the customer. The customer  
8 has no choice essentially if you want equipment that has On  
9 Demand services. And this is probably why the vast majority  
10 -- I would estimate over 99 percent of cable customers rent  
11 their DVR and their cable box equipment.

12 Bottom line, you need to rent these equipment  
13 -- the equipment from the cable companies, if you want access  
14 to this significant feature, the On Demand feature. That is  
15 not fair competition. This should not be allowed. The  
16 merger should not go forward unless Charter agrees to work  
17 with DVR manufacturers out there and develop technology that  
18 will allow privately owned equipment to access these  
19 services.

20 And we just heard the representative talk  
21 about how the Charter is -- has the ability to work with  
22 different manufacturers of equipment. And so that they can  
23 lower their costs by not having to buy from just say Sysco or  
24 -- or Motorola. They can -- they can pick and choose and  
25 they have the ability to decide which manufacturers and he

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 said, in fact, multiple manufacturers of equipment can be  
3 used with -- with their system. But that's the equipment  
4 that they are buying and they are renting, not the equipment  
5 that a customer can buy.

6 You'll have to excuse me. I'm not -- I just  
7 have some notes here. I don't have a prewritten statement.  
8 Now, yes, there are some abilities of On Demand services  
9 available through your computer. But this shouldn't bypass  
10 or forgive the inability to access those services through  
11 your cable box or your DVR

12 First of all, you would have to have  
13 broadband to do that. You'd have to watch TV through your  
14 computer or have a separate cable hooked up to your TV. This  
15 is not compatible. And I'd -- I'd hope that the cable  
16 companies wouldn't try to say that in some way having the  
17 ability to access On Demand services, and I'm not even sure  
18 all of them are -- are available through the computer, but  
19 even if they are, it's -- it's not compatible.

20 Now my experience with the TiVo DVR, that  
21 particular manufacturer is, it is in many ways -- many of the  
22 features are superior to the features on the cable company's  
23 rental equipment. However, it is inferior in that the cable  
24 companies are not allowing it to access the On Demand  
25 services.

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015

2 So me as a customer, I am suffering because  
3 of that incompatibility. And essentially all the other  
4 customers are suffering too because they have a cable box  
5 which possibly, if there was true competition, the cable  
6 company would strive to have the improved features that the  
7 TiVo has.

8 But there is no competition. So I think all  
9 customers in essence are suffering in one way or another  
10 because of this inability to access the On Demand services  
11 from privately-owned equipment. So just to sum, this  
12 technology is out there. It's used by other companies. It  
13 is available. These -- I believe that the cable companies in  
14 -- in this case, in Time Warner and -- and Charter just do  
15 not want to implement it because they have a monopoly on the  
16 equipment that they rent. They want you to rent.

17 They don't want the true competition, and I  
18 ask that this merger not be allowed unless Charter agrees to  
19 provide customer-owned DVRs the capability to access On  
20 Demand services and any other services that are available  
21 through their rented equipment. Thank you very much.

22 A.L.J. WILES: Thank you. Yes, the next  
23 speaker is Ashley, right? Ashley Jeffrey Bouck. She will be  
24 followed by Kevin Bronner.

25 MS. BOUCK: Good evening, Judge Wiles and

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 Commissioner Burman. I am Ashley Jeffrey Bouck. I'm the  
3 executive director of Girls, Inc. of the Greater Capital  
4 Region.

5 At Girls, Inc. we inspire all girls to be  
6 strong, smart and bold. We work with more than two hundred  
7 girls per day in the cities of Albany and Schenectady to help  
8 build the skills and capabilities they need to grow into  
9 empowered and achieving young women.

10 We reach over twelve hundred girls per year  
11 through our workshops, our after-school programs, our summer  
12 camps and outreach activities throughout the greater Capital  
13 Region. Today we are writing in support of the proposed  
14 cable broadband company New Charter which we believe will  
15 serve as a strong partner to our efforts to improve the lives  
16 of children in New York.

17 New Charter would combine Charter  
18 Communications, Time Warner Cable and Bright House Networks.  
19 We have worked closely with Time Warner Cable for many years  
20 and understand the benefit of a close alliance with a major  
21 broadband provider. We believe New Charter will contribute  
22 new benefits to our organization and our community through an  
23 expanded national reach and a renewed commitment to local  
24 programs.

25 We are particularly pleased by New Charter's

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 plans to reach out to the underserved communities. The  
3 Company would adopt Bright House Network's successful low-  
4 income, broadband program to -- in order to bring online  
5 households and students that have become priced out of the  
6 market. The program would bring high quality broadband to  
7 families and children at a reduced rate allowing students to  
8 use the Internet as a study tool and gain valuable,  
9 technological skills.

10 This is especially important to us at Girls,  
11 Inc. as more than seventy percent of our girls come from low-  
12 income families.

13 We look forward to working with New Charter  
14 and are particularly impressed with its commitment to low-  
15 income consumers. We ask that you consider the impact of the  
16 Company and approve this merger. Thank you very much.

17 A.L.J. WILES: Thank you. Kevin Bronner  
18 followed by Richard Berkley.

19 MR. BRONNER: Good evening. My name is Kevin  
20 Bronner and I am the director of policy and research at the  
21 Business Council of New York State, Incorporated, and I'm  
22 here to express our support for the proposed Charter  
23 Communications, Incorporated, Time Warner Cable, Incorporated  
24 and Advanced New House Partnership merger.

25 The Business Council is the leading employer

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 organization in New York State representing the interest of  
3 large and small businesses throughout the State. Its  
4 membership is made up of about twenty-four hundred member  
5 businesses as well as the local Chambers of Commerce and  
6 professional trade associations. Overall our members employ  
7 more than one point two million New Yorkers. This includes  
8 Time Warner Cable, a valued and longstanding member of the  
9 Business Council who employs close to ten thousand people  
10 across New York.

11 The primary function of the Business Council  
12 is to serve as an advocate for employers in the State  
13 political and policy-making arena, working for a more  
14 competitive business climate, economic growth and jobs.  
15 Based on the available information in public record to date,  
16 we strongly believe this proposed merger will benefit the  
17 approximate three point two million consumers and many  
18 business enterprises across the eleven hundred communities in  
19 the State of New York within their combined service  
20 territory.

21 New Yorkers should especially be interested  
22 in the commitment Charter Communications has made in their  
23 efforts to acquire Time Warner and Advanced New House. The  
24 commitments that are most significant to us include investing  
25 at least two point five billion in the build-out of networks

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 into commercial areas which will provide businesses with  
3 better service, faster Internet speeds and more competition.

4 Building out one million line extensions of  
5 their networks into residential areas within Charter's  
6 footprint, which will provide high speed service to rural and  
7 other underserved areas. Continuing Time Warner Cables award  
8 winning diversity and -- and includes in initiatives in  
9 hiring, purchasing, programming and community investment  
10 across the combined Company. Increased engagement with  
11 minority, women, veteran and disabled-owned businesses with  
12 the commitment to supply these businesses with the high-  
13 quality materials and programming their customers demand.

14 The full digitization of the Time Warner  
15 Cable systems in New York within thirty months. Significant  
16 investments in both in home and out of home WiFi which  
17 includes deploying over three hundred thousand out of home  
18 WiFi access points across its footprint including in New  
19 York. And investing in customer services and returning Time  
20 Warner Cable's call center jobs to the United States which  
21 will result in the hiring and training of thousands of new  
22 employees for customer service call centers and field  
23 technician operations including in New York and provide  
24 faster Internet speeds for low prices, which include offering  
25 a minimum broadband speed of sixty megabytes per second to

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 all Time Warner Cable customers in New York regardless of  
3 location.

4 It is our belief that the commitments being  
5 made will provide a major net benefit to businesses and  
6 consumers across the State of New York. New York businesses  
7 are becoming more reliant on information technology to meet  
8 their everyday needs. This merger will provide a unique  
9 opportunity to spur efforts to offer business communication  
10 services, connect to all sizes particularly small and medium  
11 sized businesses for which competitive options are often  
12 lacking.

13 And as Charter Communications rolls out its  
14 upgrades to the existing Time Warner Cable networks, it will  
15 boost job growth and construction and related downstream  
16 employment especially in upstate and rural areas in desperate  
17 need of economic growth. For all these reasons, we urge the  
18 Commission to approve the Charter Communications,  
19 Incorporated, Time Warner Cable, Incorporated and Advanced  
20 New House Partnership merger. Thank you.

21 A.L.J. WILES: The next speaker is Richard  
22 Berkley. This is the last card I have. If anyone else in  
23 the room wants to be a speaker, please pull a card from the  
24 back.

25 MR. BERKLEY: Good evening, Commissioner

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 Burman, Judge Wiles, members of the audience, fellow  
3 speakers. Thank you for giving me the opportunity to speak  
4 tonight. My name is Richard Berkley. I am the executive  
5 director of the Public Utility Law Project of New York. We  
6 are New York's independent consumer advocate and a public  
7 interest law firm.

8 Let me begin by saying that the Utility  
9 Project, which is how we are often referred to, neither  
10 opposes the proposed merger nor supports it at this time.  
11 There are in our opinion a number of significant commitments  
12 that would need to be negotiated and information requests to  
13 be sought and scrutinized before such an action, in our  
14 opinion, would be prudent.

15 There are three areas of concern and one area  
16 of potential promise that I'd like to cover briefly tonight.  
17 They are covered in more detail in the Utility Projects  
18 comments that we submitted yesterday in the proceeding to  
19 scrutinize and determine the public interest in the proposed  
20 transaction.

21 The areas of concern are low-income customer  
22 needs, general broadband concerns, service quality. The area  
23 of potential opportunity is what I'll call a new social  
24 contract, and I'll come back to that later at the end.

25 There are few sub areas within the topic of

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 low-income customer needs. First there is the issue that  
3 low-income household's distress census tracks, need a high  
4 speed, low cost, lifeline broadband product.

5 In 2015 in parts of the State, social  
6 services benefits are signed up for over the Internet, not by  
7 coming in in person largely, and very -- very rarely by  
8 telephone.

9 Children's homework is done over the  
10 Internet. Assignments are given over the Internet. Parents  
11 meet with their teachers over the Internet. Low-income  
12 families that are working two or three jobs frequently attend  
13 college over the Internet.

14 Importantly, in addition to those concerns,  
15 government provides many of its services and the ability to  
16 take part not in the franchise yet, but in other areas of  
17 concern such as in providing comments to proceedings like  
18 this, which is very difficult if not impossible without  
19 reasonable speed broadband.

20 Similarly, entrepreneurial activity is  
21 increased and supported by broadband. But broadband has to  
22 be affordable for the households in our distressed census  
23 tracts in New York, our low-income households to be able to  
24 take advantage of that opportunity. So we put in our  
25 comments and I repeat tonight that we believe that it would

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 be in the public interest for the merged entity to provide  
3 high speed, low cost broadband across its entire footprint in  
4 the State of New York.

5 Bright House Networks has such a product  
6 which was referred to by the speaker, two speakers previous  
7 to me. Time Warner does not officially have such a product,  
8 although it has advertised a 14.99 slow product. But its  
9 Gateway product is in the 35 dollar range for broadband.  
10 Charter has low cost products, but it also, to my knowledge,  
11 does not have a specifically identified low cost, high speed  
12 lifeline broadband product.

13 It does have, as one of the other speakers  
14 noted and as Charter noted, both in its filing with the  
15 Public Service Commission and in its public interest filing  
16 at the FCC in Washington that its minimum speeds are higher  
17 than most of its competitors. But for this to be a value to  
18 the low-income New Yorkers, it still needs to be affordable.

19 And so we will be asking in the proceeding  
20 for a low-income broadband product to be priced somewhere  
21 around 9.95 or ten dollars, and we would like to see  
22 something like 25 megabits down and three to five up.

23 We also believe it is vitally important for  
24 the merged entity to continue the lifeline telephone service  
25 which is currently offered by Time Warner Cable through its

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 communication side. So unlike cable vision, the other large  
3 cable company in the State of New York, Time Warner  
4 specifically sought out the opportunity to become an eligible  
5 telecommunications carrier and to be able to offer a  
6 discounted lifeline telephone product to low-income  
7 households.

8 We think that the offering of such a service  
9 is in the public interest. We believe that the merged  
10 company should continue that service, and we believe also  
11 that that should be a condition of an approval if such an  
12 approval is forthcoming in this case. And I will talk about  
13 other things that we believe should be conditions of an  
14 approval if such an approval were to take place at some  
15 point.

16 We have concerns that we didn't put in our  
17 comments but we'll be talking about primarily in -- in New  
18 York City when we provide comments at the public statement  
19 hearing there that the absolute number of people signed up  
20 with a high quality lifeline phone product has declined in  
21 New York State.

22 They have switched over to primarily cellular  
23 lifeline products which are quite frankly in the Utility  
24 Project's opinion, inferior to wireline products.

25 One simple example, if the lifeline phone,

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 wireless phone goes out the door of the house and the  
3 children or the other spouses or significant others are  
4 there, they have no way to call out to get to any kind of  
5 first responders. And that's a significant problem.

6 Our second area of concern are what we call  
7 general broadband concerns, and as two of the speakers before  
8 me noted in its filing in New York, Charter has asserted that  
9 it will wire one million new customers. It will spend four  
10 billion dollars in the State of New York.

11 The one million customers are not ascribed  
12 entirely to the State of New York in the filings. We believe  
13 it's important for the analysis of whether or not the  
14 proposed transaction is in the public interest to get with  
15 granularity a listing of where those lines are proposed to be  
16 built and under what schedule.

17 Additionally, we believe that it is  
18 unfortunately too common for people building new broadband  
19 products in the State of New York to focus on New York City  
20 which can eat up tremendous amounts of capital, time, effort  
21 and financing from Wall Street without actually dealing with  
22 the problems that we face in large measure in upstate New  
23 York's rural and urban areas. And so we would suggest having  
24 looked at such a granular build-out plan that the Commission  
25 negotiate that at least half of such a buildout plan in New

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 York be done outside of the City of New York and outside of  
3 its immediate suburbs.

4 It is often said that there are two problems  
5 with broadband in the State of New York, and this is a  
6 complete oversimplification. But I don't think this is  
7 unfamiliar to the Commission and -- and to D.P.S. staff.  
8 First there is the issue of physical access. It has been  
9 common in the broadband industry, in the cable industry, in  
10 the cellular telephone industry to say in essence homes  
11 passed by wires. Ninety-six percent, ninety-eight percent of  
12 households in New York State are passed by broadband.

13 Well, that does not equal having retail  
14 access to broadband. A wire that goes down the middle of the  
15 street in front of your house that you cannot connect to  
16 counts as broadband serving your neighborhood and passing  
17 your house. If you can't buy that broadband though it is  
18 irrelevant how many lines go down the middle of the street or  
19 -- or within a hundred yards of your household.

20 The second issue in the broadband conundrum  
21 is the issue of social access, and that is quite simply to  
22 return to the issue that I began with which is broadband has  
23 to be affordable. This is something that Bright House has  
24 done. It is something that has been done in other states in  
25 the country. From time to time cable companies offer in

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 essence lifeline broadband products. And, in fact, the  
3 Utility Project commented with forty other states and the  
4 FCC's lifeline broadband proceeding, the Utility Project will  
5 be taking the lead in writing the comments for NASUCA which  
6 is the National Association of State Utility Commissioners  
7 will be taking the lead and writing the comments for those  
8 forty states in the merger proceeding at the FCC. And we'll  
9 be talking about this issue in some detail on that.

10 But social access is a continuing problem in  
11 New York State. As we pointed out in our comments and as the  
12 Governor acknowledged in his press release in 2014, there are  
13 large areas of the State of New York that are not served by  
14 broadband. And so we suggest and respectfully request that  
15 this issue also be looked into in some detail by the  
16 Commission as it analyzes this proposed transaction.

17 As far as standalone service, which is our  
18 second sub issue of the general broadband concerns that we  
19 have, after the issue of build-out of retail access  
20 broadband, standalone service is simply what it sounds like,  
21 which is we believe that it is important for the merged  
22 entity to provide a simple standalone high-speed broadband  
23 service that you will not need to get television to get.  
24 That you will not need to get telephony to get, and that will  
25 not have additional fees layered on top of it such as modem

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 rental fees and things like that. And we, of course, made  
3 this point also in our comments.

4 Turning to the issue of service quality,  
5 since Time Warner operates as a telephone corporation in the  
6 State of New York, it is subject to the P.S.C.'s rules,  
7 Sixteen NYCRR 600 et seq that deal with the issue of service  
8 quality requirements for telephone corporations. Time  
9 Warner, unfortunately, believes and has asserted in the past  
10 that the results of its annual service quality reports to the  
11 Commission should be kept secret as trade secrets.

12 And that the simple issue of whether people  
13 are receiving quality telephone service or not, which is  
14 actually part of the mission of the Public Service  
15 Commission. That the issue of the quality of telephone  
16 service they provide should be kept secret from the public.

17 We have litigated that issue in the past and  
18 won. However, we think that it should be quite clear that in  
19 this opportunity in this proposed transaction, the Commission  
20 should work with the company first to come up with a set of  
21 service quality metrics that apply with more specificity to  
22 the product served. And, second, that there should be a  
23 strong focus on coming up with service quality reports that  
24 will be made public.

25 Transparency and accountability are a key

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 part of providing quality service. For those people who rely  
3 upon wireline telephone to call first responders, to interact  
4 with government, that's important. This is a clear public  
5 safety health and welfare issue in the State of New York.

6 Turning to the idea where -- which I say I  
7 hope is an area of promise, I'd like to talk about something  
8 that we are calling a new social contract. In 1995 in a case  
9 before the FCC, the FCC issued an order binding Time Warner  
10 Cable to what was then called the social contract.

11 The social contract resolved more than 900  
12 disputed rate increases around the country, refunded more  
13 than four million dollars plus interest to subscribers from  
14 those excess rates, and committed the company to a five-year  
15 build-out program under which it would invest in excess of  
16 four billion dollars into its cable systems to deploy fiber  
17 optics, which it had not done to that point.

18 To invest in system reliability which it was  
19 famous for not having invested in. To increase channel  
20 bandwidth, so there would be more channels in the -- in the  
21 service to municipalities and to increase the quality of the  
22 signal.

23 At least 60 percent of all of that money was  
24 to be focused upon basic service tier upgrades. And the  
25 basic service tier is in essence the area of the cable system

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 that provides cable versions of broadcast channels, plus  
3 public television, plus a few extra channels.

4 So, for example, WGN, PBS used to be in the  
5 basic tier all the time. That is an area where the public  
6 interest focuses very strongly upon protecting that offering  
7 of the basic service tier, because the basic service tier is  
8 the cheapest offering from the cable companies and is  
9 generally subscribed by low-income households and seniors.  
10 People who want the quality of cable systems for their  
11 broadcast channels but cannot afford the up to two hundred  
12 and fifty dollars a month that the average household pays for  
13 cable bundles now.

14 In addition to the focus of that capital into  
15 the basic service tier which, again, is serving primarily  
16 seniors and low-income households, the company was required  
17 to create a lifeline basic tier that is a -- a further  
18 discounted tier of programming for its low-income customers  
19 across enough systems that 85 percent of its subscribers  
20 would have the ability to access this low-income product.

21 Time Warner was additionally as part of the  
22 social contract required to provide a free cable connection  
23 to all public schools within its service -- service  
24 territories that were passed by its systems and to provide a  
25 free cable connection to all private secondary schools whose

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 students received Title One funding.

3 Finally, Time Warner was also ordered by the  
4 FCC to provide access to cable modem services and a free  
5 modem to schools when such service was created. And the  
6 social contract dates back to 1995. Cable modems were not  
7 ubiquitous until 1997 or 1998, so this was actually quite  
8 forward looking.

9 And I would argue, in fact, that Time Warner  
10 benefited greatly from the social contract because it built  
11 the system that was able to deploy cable modems as fast as  
12 any system in the country.

13 I suggest here and in our comments that we  
14 should think about creating a new social contract as part of  
15 this proceeding in New York and once again lead the way for  
16 the rest of the country on obtaining better and newer cable  
17 products, better telephony, better broadband services. Such  
18 a new formulation and new arrangement I think would go a long  
19 way towards demonstrating that the proposed merger is in the  
20 public interest.

21 I want to finish by reciting a few of the  
22 conditions or items the final approval by the Commission  
23 could have that would move the proposed transaction toward  
24 furthering the public interest.

25 In order to have a reasonable argument that

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 the proposed transaction is in the public interest, the  
3 Utility Project believes it would be necessary to be able to  
4 point to, one, savings refunded to consumers or reinvested in  
5 the network or in new construction.

6 Two, service quality metrics and negative  
7 revenue adjustments that are reasonably calculated to  
8 incentivize, improve service quality both in the television  
9 product and in the telephony product.

10 Third, a specific and granular commitment  
11 with clear deliverables to construct, extend and upgrade  
12 network in unserved and underserved areas of New York State  
13 within its service territories.

14 Next a broad reform of an investment in its  
15 infrastructure and to think about the new products that are  
16 possible. And finally as sort of an overall conception which  
17 is what we always think about when we think about cable  
18 companies and broadband which is a commitment to a -- a broad  
19 and deep investment in retaining and bringing new jobs into  
20 the state, to support entrepreneurial businesses, both in  
21 existing commercial areas but also helping to build new  
22 commercial areas in our distressed census tracts and rural  
23 areas in the state. In the cities that are suffering in  
24 upstate New York.

25 And finally to eliminating the digital

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 divide. I think all of these things could be provided in a  
3 new social contract. While it is not unreasonable to assume  
4 that such factors may be demonstrated or conditioned upon  
5 approval later in this proceeding, such in our opinion is not  
6 the case now and is why among other reasons the Utility  
7 Project reserves its final opinion on the proposed merger  
8 until later in this proceeding. Thank you for this  
9 opportunity to provide comments.

10 A.L.J. WILES: Thank you. We do have  
11 actually one more speaker. Dan Irizarry.

12 MR. IRIZARRY: Thank you. Good evening,  
13 Commissioner Burman and Judge Wiles and my fellow  
14 commentators if that's what we refer to them as. My name is  
15 Dan Irizarry and I feel privileged to serve as the Board  
16 chairman of Capital District Latinos. We are a not-for-  
17 profit 501(c)(3) corporation dedicated to creating the  
18 conditions for success for the Latino community in the  
19 Capital District in areas of health, housing and economic  
20 empowerment.

21 CDL is an affiliate of the Acacia Network  
22 which is New York State's largest and the nation's second  
23 largest Latino led nonprofit corporation with assets worth  
24 over two hundred million dollars. I welcome the opportunity  
25 to represent the concerns of one of the fastest growing

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 segments of the population in this region.

3 It's no secret that the Hispanic community is  
4 experiencing unprecedented growth both nationally and  
5 locally. The latest census underscored the fact that  
6 proportionally the Capital District experienced a greater  
7 rate of growth in the Hispanic population than any other  
8 metropolitan area in the country.

9 If we take the Capital District planning  
10 commission September 2015 statistical report findings at face  
11 value, just since the 2010 census, the region's Latino  
12 population has grown by a staggering 18.9 percent. If we  
13 project this rate forward, the 2020 census might well find  
14 our community's growth closer to fifty percent.

15 It is kind of fitting that this hearing  
16 should fall on the inaugural week of Hispanic Heritage Month  
17 simply because Hispanics are consuming digital media at an  
18 exceptionally high rate.

19 According to the Nielsen Company, 79 percent  
20 of Hispanics own a Smart Phone -- Smart Phone versus 71 in  
21 the U.S. average.

22 Hispanics spend 13 percent more time than the  
23 overall population using an App or browsing every month, and  
24 they're spending 39 percent more time than the overall  
25 population watching video on their Smart Phone. Regarding

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 their TV viewing habits, Nielsen tell us while 70 percent of  
3 the Hispanics -- of Hispanics speak English well, 61 percent  
4 tell Nielsen they prefer to speak Spanish in their homes  
5 versus 17 percent who say they speak only English.

6 Spanish language dominant homes view 78  
7 percent of TV in Spanish while multi-lingual homes view it  
8 about 50 percent Spanish language TV Spanish language  
9 broadcast TV reaches four times as many Spanish language  
10 dominant households than its English language counterpart.

11 When you take these facts into account from a  
12 local consumer perspective, it's easy to see why the Latino  
13 or Hispanic community would be keenly interested in what Time  
14 Warner Cable and Charter Communications merger might mean.  
15 If you factor in additional data on low educational  
16 achievement and poverty rates in our community, it makes the  
17 potential for lower cost product with faster broadband  
18 service, not to mention a variety of Spanish language  
19 programming options that much more appealing.

20 And when you add Charter Communications  
21 stated policy in favor of net neutrality to the mix, the  
22 appeal is even greater.

23 We are concerned, however, about what type of  
24 corporate citizen New Charter would prove to be in this  
25 specific market. If we are to believe what Charter is saying

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 about New Charter -- about how New Charter will behave  
3 regarding diversity, our support would be vigorous provided  
4 that clear metrics in these areas are established.

5 Speaking as a customer myself, I don't think  
6 that existing cable and internet service could get much  
7 worse. Sorry, Time Warner. The idea that we could have a  
8 better product at a lower cost seems almost unimaginable.

9 The thought that this merger might achieve  
10 these two goals and bring greater diversity and local hiring,  
11 more corporate involvement in the betterment of the region's  
12 Latino community and more than one Hispanic channel viewing  
13 option, seems like an impossible dream. Let's hope it's not  
14 quixotic on our part. Thank you.

15 A.L.J. WILES: So the speaker is Judy Abbott.  
16 Come on up. If there's anybody else, please go to the back  
17 and fill out the card.

18 MS. ABBOTT: Well, I just wanted to come down  
19 here to just -- my name's Judy Abbott. I'm just a citizen,  
20 but I -- we have cable and there's not any other competition  
21 where I am. I only have cable, and I really -- it's just --  
22 it -- it's very expensive. And my kids need to use the  
23 Internet for almost everything they do at school now. And  
24 it's -- I'm just concerned that massive merger of this scale  
25 is going to just reduce our -- my competition, which I don't

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 have any now, but a lot of people do. And make my costs go  
3 up and effect a lot of other people.

4 And I also do support net neutrality. I know  
5 that's not the topic of this, but I think all data ought to  
6 be treated equally. And really that's all I want to say I  
7 guess, is just that I -- I don't really have any substance or  
8 evidence or anything like that. But I really feel like, you  
9 know, we've got to be careful. We have -- with deregulation  
10 we have less and less competition and more mergers. And it's  
11 just not good for the consumer and the person that needs --  
12 the people that need it. Because we're not turning back  
13 time. I don't see us not using internet anymore. See, Smart  
14 Phone. That's all I have to say.

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

16 MS. ABBOTT: Thank you.

17 A.L.J. WILES: Pardon me, is there anyone  
18 else? There being no more speakers, I think I can at this  
19 point close the hearing. Thank you very much everyone.

20 Oh, right. I -- this is actually adjourning  
21 the hearing. We're going to wait till eight o'clock to make  
22 sure there's nobody else who wants to speak. Thank you.

23 (Off the record)

24 A.L.J. WILES: Okay. It's eight o'clock.

25 There's no one else who's come forward and wishes to speak,

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015  
2 so at this point I can close this hearing and thank everyone  
3 for their participation.

4 (Off the record 8:00 p.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Case 15-M-0388 Charter Communications and Time Warner 9-17-2015

2 STATE OF NEW YORK

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

9 IN WITNESS WHEREOF, I have hereunto  
10 subscribed my name, this the 24th day of September, 2015.

11

12

13 Kirsten Lemire, Reporter

14

15

16

17

18

19

20

21

22

23

24

25