BEFORE THE
NEW YORK PUBLIC SERVICE COMMISSION

Joint Petition of Altice N.V. and Cablevision Systems Corporation and Subsidiaries for Approval of a Holding Company Level Transfer of Control of Cablevision Lightpath, Inc. and Cablevision Cable Entities, and for Certain Financing Arrangements	Case No. 15-M-0647

REPLY COMMENTS

Maureen O. Helmer
BARCLAY DAMON, LLP
80 State Street
Albany, NY 12207
(518) 429-4220
MHelmer@barclaydamon.com

Paul D. Abbott
Tara M. Corvo
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO P.C.
701 Pennsylvania Avenue NW, Suite 900
Washington, DC 20004
(202) 434-7300
pdabbott@mintz.com
tmcorvo@mintz.com

Counsel for Cablevision Systems Corporation, Cablevision Lightpath, Inc. and Cablevision Cable Entities

Andrew M. Klein
Allen C. Zoracki
KLEIN LAW GROUP PLLC
90 State Street, Suite 700
Albany, NY 12207
(202) 289-6955
(518) 336-4300
AKlein@KleinLawpllc.com
AZoracki@KleinLawpllc.com

Yaron Dori
Michael Beder
Ani Gevorkian
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, N.W.
Washington, DC 20001
(202) 662-6000
YDori@cov.com
MBeder@cov.com
AGevorkian@cov.com

Counsel for Altice N.V.

Table of Contents

EXECUTIVE SUMMARY

The proposed merger of Altice and Cablevision will provide substantial benefits to New York residents by ensuring that Cablevision will continue to be a robust participant in the uniquely competitive Downstate New York market. Altice, which operates major cable and communications service providers in some of the world's most advanced and competitive markets, is well positioned to help Cablevision compete against its much larger rivals and navigate the ongoing and rapid changes that characterize the communications marketplace in New York and beyond.

The Commission has long recognized that competition is the most effective driver of product value, service quality and consumer choice. This is especially true in the New York Metropolitan market, where Cablevision competes head-to-head with some of the largest and best capitalized providers of broadband, voice and video in the country, including Verizon's FiOS service. Indeed, Verizon is franchised in 142 communities in Cablevision's service area, comprising [redacted] of Cablevision's homes passed in New York State. In marked contrast, FiOS is not available in any communities served by Charter Communications, and in just two Comcast communities and only 3 percent of Time Warner Cable communities, in New York State.

Accordingly, as it enters the New York market, Altice will make substantial investments, implement operational changes, and develop new product and services offerings—all intended to further enhance competition and improve the customer experience. In this regard, Altice commits to the following:

- Make new investments in upgrading and improving the Cablevision network sufficient to make available to all Cablevision customers broadband service of up to 300 Mbps.

- Help bridge the “digital divide” by making available to eligible households a low-income service offering of 30 Mbps for $14.99 per month.

- Introduce an all-in-one home center, which will allow subscribers to integrate cable video services, over-the-top video, online storage services, home media, and WiFi and Ethernet connected devices into a single hub, expanding customer choice and easing the ability to enjoy non-cable services on TVs, tablets, and game consoles.

- Launch a comprehensive, improved customer interface that will allow Cablevision subscribers to enjoy the same kind of modern, informative and user-friendly navigation and product portal that Altice has developed and deployed in other markets—integrating video on demand, online content, and advanced navigation and recommendation tools that increase the value of the consumer’s video and broadband package.

- Continue to invest in and support Cablevision’s extensive WiFi network, which, when deployed in regions with significant population density like Cablevision’s service territory, can be used to extend the reach of fixed broadband offerings, support new mobility services, and lead to consumer cost savings in connection with mobile broadband service usage.

The Joint Petitioners also recognize the importance of jobs and employment opportunities to the Commission and the New York communities that Cablevision serves. Cablevision has been proud to be a significant employer in the State of New York, and Altice looks forward to carrying on that role. Indeed, New York will serve as Altice’s U.S. headquarters for its existing and future operations, making Altice the only major U.S. cable provider headquartered in New York State. Both executive and operations management for Altice’s U.S. operations will be based in New York, reinforcing New York’s reputation as a home to the world’s most innovative companies.

As in other industries undergoing substantial change, Cablevision’s customer operations employee base has evolved significantly over the last several years, with traditional “customer facing” roles declining in favor of other roles for employees. The evolution of the employee base to other functions is improving the customer experience and allowing the redeployment of resources consistent with modernization of the network and operations. In order for Cablevision to be able to continue to compete effectively as the network continues to evolve in response to market forces, it must have the same workforce flexibility available to its technology sector and network provider rivals.

Having successfully managed this type of transition in each of its markets, Altice believes the absence of robust online support, ordering, and management tools in Cablevision's current service profile is a major opportunity for improvement. Consumers benefit from these developments, both because they get the type of service they prefer and because providers can deliver a higher-value product at a lower cost.

Altice's focus on investment and innovation will improve Cablevision's ability to compete against its much larger rivals. But Cablevision will be able to do so effectively only if it retains flexibility to respond quickly and aggressively to the product and service offerings of its competitors—precisely the flexibility those rivals enjoy when they compete with Cablevision. The Joint Applicants therefore believe that the Commission should embrace its precedent favoring competition by calculating the net benefits of the proposed transaction in a manner that accounts fully for the intense competition that Cablevision faces and refrain from imposing conditions that would inhibit the company's ability to compete, conditions that are not required of its competitor Verizon, which already enjoys advantages of size, scale, and scope over Cablevision.

As Commission Staff acknowledges, it is reasonable to assume that a substantial portion of synergy savings will be re-invested in network infrastructure and new technologies—including research and development associated with such investment—rather than returned directly to customers or shareholders. Further, Staff recognizes the uniquely competitive environment in which Cablevision operates. Staff's suggestion that the Commission nevertheless use the same 50/50 sharing criteria that was applied in the very different Charter/Time Warner proceeding would bind the company to a set of investments, business practices or product offerings over a three- to five-year period that actually exceed the conditions sought in Charter/Time Warner, but that do not account for the competition Cablevision faces, Altice's U.S. service footprint, or the business viability of computing savings over a ten-year time horizon in a highly competitive market characterized by nearly annual upheavals and realignments. Accordingly, the Joint Applicants believe that the Commission should instead adopt a 15/85 share target for the Transaction, and certainly no more than the 25/75 sharing target Staff has suggested could be considered. Such an alternative metric would better account for the competitive effects on sharing within the intensely competitive FiOS footprint.

Finally, the record reflects that the financing structure for the proposed transaction is sound and will provide Cablevision with all the financial benefits of being a part of a larger enterprise while insulating it from related risks. Consistent with Altice's experience in its other acquisitions, the proposed transaction will facilitate Cablevision's ability to invest in service, with attendant increases in both subscriber counts and associated revenue. At the same time, the transaction will result in a stand-alone, self-financing Cablevision capital structure within the broader family of Altice subsidiaries. The capital structure will be insulated from other indebtedness in the Altice structure since neither Cablevision nor any of its subsidiaries will provide credit support to any indebtedness of any other subsidiary of Altice.

The transaction's financing also has been endorsed by Altice's lenders and equity partners, which, after extensive due diligence, have determined that the financing structure for the transaction is sound. The foundation for the financing of the transaction, and the basis on which Altice obtained the fully committed, low cost, long-duration debt financing for the transaction, is Altice's plan to reduce costs, primarily by reducing historically high corporate expenses, eliminating unnecessary corporate functions, implementing improved operations and IT systems, optimizing processes and implementing operational re-organizations, and leveraging the scale of Altice's worldwide operations to obtain improved purchasing power for customer premises equipment, network components, IT systems and related inputs. All of these measures ultimately improve service quality and the customer experience—and enhance competition.

The proposed combination of Altice and Cablevision will provide substantial benefits to New York residents by enhancing competition, promoting network improvements and wider broadband penetration. The Joint Applicants therefore respectfully request that the transaction be approved promptly.

BEFORE THE
NEW YORK PUBLIC SERVICE COMMISSION

Joint Petition of Altice N.V. and Cablevision Systems Corporation and Subsidiaries for Approval of a Holding Company Level Transfer of Control of Cablevision Lightpath, Inc. and Cablevision Cable Entities, and for Certain Financing Arrangements	))))))))	Case No. 15-M-0647

Altice N.V. ("Altice") and Cablevision Systems Corporation ("Cablevision," and together with Altice, the "Joint Petitioners"), by counsel and pursuant to the Commission's *Notice Inviting Comment* in the captioned proceeding,[1] respectfully submit these reply comments in support of their Joint Petition seeking approval of the transfer control of Cablevision, Cablevision Lightpath, Inc., and the Cablevision Cable Entities to Altice, and of certain financing arrangements (the "Transaction").[2]

[1] Case No. 15-M-0647, Joint Petition of Altice N.V. and Cablevision Systems Corporation for Approval of a Holding Company Level Transfer of Control of Cablevision Lightpath, Inc. and Cablevision Cable Entities, and for Certain Financing Arrangements, Notice Inviting Comments (issued Nov. 23, 2015).

[2] Case No. 15-M-0647, Joint Petition of Altice N.V. and Cablevision Systems Corporation for Approval of a Holding Company Level Transfer of Control of Cablevision Lightpath, Inc. and Cablevision Cable Entities, and for Certain Financing Arrangements, Joint Petition (filed Nov. 4, 2015) ("Joint Petition").

INTRODUCTION

The communications industry is in the midst of a remarkable period of rapid, disruptive transformation. One leading industry regulator has referred to this period as "history's fourth great network revolution, following those of the printing press, the railroad, and electronic communications led by the telegraph."[3] Every provider—from the smallest company to the largest—faces unprecedented pressure to adjust and innovate in this constantly changing environment. Just last month, for instance, the *New York Times* profiled AT&T's efforts "to reinvent the company so it can compete more deftly," noting that "AT&T's competitors are not just Verizon and Sprint, but also tech giants like Amazon and Google."[4] The Comments of the New York State Department of Public Service Staff ("Staff Comments") indeed recognize that the "market in which Cablevision operates has the most competition in the country,"[5] a consequence of the Commission's innovative, pro-competition policies.

Altice, which operates major cable and communications service providers in some of the world's most advanced and competitive markets,[6] is well positioned to help Cablevision navigate the competitive landscape in New York and future market transformations. The Transaction will provide substantial benefits to Cablevision's New York customers by strengthening Cablevision

---

[3] Tom Wheeler, Chairman, Federal Communications Commission, Remarks at the Computer History Museum, Mountain View, CA (Jan. 9, 2014), *available at* https://www.fcc.gov/document/fcc-chairman-tom-wheeler-remarks-computer-history-museum.

[4] Quentin Hardy, *Gearing Up for the Cloud, AT&T Tells Its Workers: Adapt, or Else*, N.Y. Times, (Feb. 13, 2016), at BU5 ("NYT Article").

[5] Comments of N.Y. State Dep't of Pub. Service Staff, at 22 (Feb. 5, 2016) ("Staff Comments").

[6] The most recently published data by the Organisation for Economic Co-operation and Development shows that in France—Altice's largest market—there are 39.2 fixed broadband subscriptions per 100 inhabitants, with average advertised fixed broadband download speeds of 108.71 Mbps, compared to 31.4 subscriptions per 100 inhabitants and averaged advertised download speeds of 66.56 Mbps for fixed broadband providers in the United States. *See Fixed and wireless broadband subscriptions per 100 inhabitants*, OECD Broadband Portal (Dec. 2014), http://www.oecd.org/sti/broadband/oecdbroadbandportal.htm; *Average and median advertised download speeds, fixed broadband*, OECD Broadband Portal (Sept. 2014), http://www.oecd.org/sti/broadband/oecdbroadbandportal.htm.

in the competitive Downstate New York market. Altice will apply best practices it has developed as a global operator, bringing new technologies and resources to bear (including by transferring technology and innovation from Altice subsidiaries), and taking advantage of Altice's global scale. As the Staff Comments underscore, these benefits will be concentrated in the areas of network improvements, product offerings, operations, service quality, and other enhancements that will benefit customers. As a result of the intense competition in Downstate New York, all of these improvements will result in immediate and durable benefits to Cablevision's existing and new residential and business customers. Further, as the broadband revolution has repeatedly demonstrated, new network investment and enhancements of the type that Altice will bring to New York inevitably will generate growth opportunities in new products and services that will create value for consumers.

The Commission should take into account the unique character of the New York Metropolitan media, broadband, voice and video market in evaluating this Transaction. Cablevision competes head-to-head with some of the largest and best capitalized providers of broadband, voice and video in the country—and in fact globally—such as Verizon, AT&T and DISH. The great majority of Cablevision customers also have access to Verizon FiOS. Underscoring the reach and value of competition, Verizon FiOS introduced a highly competitive new offer under which New York customers can receive triple-play service consisting of Verizon's Custom TV video service, 100 Mbps symmetrical download/upload broadband, and unlimited voice for $69.99 for two years with a service contract (or for one year without a contract). No other cable operator in New York State faces this level of competition. Cablevision also faces competition in its key product segments from technology giants like Google, Netflix, Hulu, and Sling, which are making substantial inroads across all segments of video consumers, even as Cablevision adapts its products and offerings to accommodate the growing population of cord-cutters.[7]

The Commission has long recognized that competition, not burdensome regulation, is the best way to ensure that consumers are well served in the marketplace.[8] Altice's focus on investment and innovation will improve Cablevision's ability to compete against its much larger competitors. But Cablevision will be able to do so effectively only if it retains the flexibility it needs to respond quickly and aggressively to the product and service offerings of its rivals—the same flexibility those rivals enjoy when they compete so dynamically with Cablevision. The Commission therefore should embrace its precedent favoring competition by calculating the net benefits of the Transaction in a manner that accounts fully for the intense competition that Cablevision faces and refrain from imposing conditions that would inhibit the company's ability to compete—conditions that are not required of its competitor Verizon, which already enjoys advantages of size, scale, and scope over Cablevision.

Altice's proven track record and its plans for Cablevision, together with the competitive environment in which Cablevision operates, demonstrate that substantial benefits will inure to

---

[7] *See* Case 14-C-0370, *In the Matter of a Study on the State of Telecommunications in New York State*, Staff Assessment of Telecommunications Services, at 47 (Jun. 23, 2015) ("Staff Assessment") (discussing OTT providers who provide service over broadband connections to compete with traditional video and voice services).

[8] See Case 15-M-0388, Joint Petition of Charter Communications Charter Communications and Time Warner Cable for Approval of a Transfer of Control of Subsidiaries and Franchises, Pro Forma Reorganization, and Certain Financing Arrangements, Order Granting Joint Petition Subject to Conditions, at 18–19 (Jan. 8, 2016) ("Charter/TWC Order") (stating that Commission will enforce merger conditions only "when market forces may not ensure that customers received the full benefits that should be derived from the transaction[]. . . ."); Case 11-C-0425, Joint Petition of PAETEC Holding Corp., et. al., Order Authorizing Transfer, at 13 (Nov. 11, 2011) ("providing telecommunications services on a competitive basis does not require the degree of regulatory scrutiny that applies to monopoly public utilities"); Case 05-C-0616, Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings, at 6 (Apr. 11, 2006) ("Competition III Order") ("We have pursued competitive telecommunications markets because competition spurs innovation, promotes investment, encourages efficiency, and maximizes customer choice. Competition also disciplines providers' behavior, reducing the need for governmental regulation.").

consumers purely as a result of the Transaction. But, as set forth more fully herein, Altice and Cablevision also are making certain affirmative commitments in order to help the Commission ensure that consumers will benefit directly from the Transaction. Altice and Cablevision remain open to discussing these issues with the Commission further to maximize the value of the Transaction to consumers while at the same time making sure that the companies retain the flexibility they need to succeed in the 21st century marketplace.

I. THE TRANSACTION WILL PROVIDE SUBSTANTIAL BENEFITS TO NEW YORK RESIDENTS

New York residents will see substantial benefits as a result of the Transaction. Through greater scale, Altice can leverage investment in Cablevision's network infrastructure and in innovation. Altice will also invest in the customer experience and in Cablevision's employees and communities, and will ensure that these benefits accrue to all consumers in all parts of the State served by Cablevision.

A broad range of interests and constituencies have indicated their support for the Transaction. These include elected officials, school groups, non-profit agencies, community institutions, and business groups. For example:

- The Brooklyn Public Library describes the benefit of Cablevision's 101 Mbps broadband service and partnership with the company on several community programs, and it looks forward to continue partnering with Altice.[9]
- The Bronx Chamber of Commerce looks forward to the "enhanced competition and innovation that will result from the transaction."[10] Other similar business groups share a positive view of the transaction.[11]

---

[9] *See* Comments of Brooklyn Public Library (Feb. 11, 2016).

[10] *See, e.g.*, Comments of Bronx Chamber of Commerce (Jan. 27, 2016).

[11] *See, e.g.*, Comments of Warwick Valley Chamber of Commerce (Feb. 5, 2016); Comments of Dutchess County Regional Chamber of Commerce (Feb. 1, 2016).

- The Mayor of Yonkers,[12] together with a number of other elected officials,[13] support the transaction because of the increased competition and innovation Altice will bring as a new, stronger competitor to the New York communications market.
- Several school groups and related organizations share their support for the Transaction because of Cablevision's commitment to televising games through MSG Varsity and supporting students through charitable programs, and look forward to continuing these relationships with Altice.[14]

This wide ranging support from diverse commenters supports Joint Petitioners' view that the Transaction is in the public interest.

A. Altice Is Committed to Investing in New York State

The Transaction reflects not only a $17.7 billion commitment to Cablevision, but a multi-billion investment in New York State.[15] When the Transaction closes, Altice USA, composed of both Suddenlink's and Cablevision's operations, will become the fourth largest cable company in the country, serving 20 states. As Altice grows its business in the United States, New York will serve as the company's U.S. headquarters for existing and future operations, making Altice the only major U.S. cable provider based in New York State. Both executive and operations management for the business will be based in New York, reinforcing New York's reputation as a home to the world's most innovative companies.

Altice opted to enter the New York Metropolitan area, the most competitive in the country. Success in such a competitive market depends upon a commitment to invest, innovate,

---

[12] *See* Comments of Yonkers Mayor Mike Spano (Jan. 20, 2016).

[13] *See* Comments of Patchogue Mayor Paul Pontieri (Feb. 4, 2016); Comments of Assemblyman Michael Montesano (Feb. 4, 2016); Comments of Senator Terrence Murphy (Feb. 3, 2016); Comments of Senator Joseph Griffo (Jan. 22, 2016).

[14] *See* Comments of St. Anthony's High School (Feb. 2, 2016) ("St. Anthony's H.S. Comments"); Comments of Connetquot High School Habitat for Humanity Club (Feb. 2, 2016); Comments of Nassau County Public High School Athletic Association (Section VIII) (Jan. 28, 2016) ("Nassau County Public H.S. Athletic Association Comments").

[15] Taking into account the Suddenlink investment, which will be managed together with Cablevision out of New York, Altice is making a $26.8 billion commitment to its U.S. operations.

and continually improve and enhance the customer experience. This decision demonstrates that Altice's business plan is centered on building value by strengthening Cablevision, rather than depleting it, as some Transaction opponents contend.

Opponents of the Transaction suggest that after making a $17.7 billion investment in Cablevision, Altice will reduce service and cut costs in ways that will diminish Cablevision's value.[16] But in a highly competitive market like New York, failure to invest and improve the company would quickly lead to a loss of market share and revenue. Thus, if Altice were to cut the underlying inputs to excellent service, its $17.7 billion investment in Cablevision would be squandered. Success can only be attained through a commitment to Cablevision's enterprise—a commitment that is consistent with Altice's long and demonstrated track record of *investing* in its broadband, video and voice companies. Indeed, Altice as a group, as well as each of its main subsidiaries, invests more as a percentage of revenue than Cablevision does today. Upon approval of the Transaction, Altice will invest in the network to take advantage of future growth opportunities in areas such as (in addition to broadband) home security, home monitoring, health care, and other new products and services made possible by the advanced capabilities of the network. Simply stated, Altice has made a substantial investment to participate in this marketplace. It is fully committed to making the investments in infrastructure, operations, employees, and the surrounding community necessary to ensure its success.

---

[16] *See* Comments of New York City Public Advocate, at 14–16 (Feb. 5, 2016) (suggesting that Altice will engage in "aggressive cost-cutting" that will "not only cut[ ] out the fat, but also the meat and bones" of Cablevision) ("NYC Public Advocate Comments"); Comments of Communications Workers of America, District 1, at 14 (Feb. 5, 2016) ("CWA Comments").

B. Altice Will Invest in Network Infrastructure and Innovation and Help Close the "Digital Divide"

Altice focuses on building, upgrading, and operating advanced networks that offer best-in-class connectivity for all types of services to compete on the basis of the best fixed network in the market. Altice is committed to continuing and increasing the pace of network upgrades and improvements at Cablevision, including by deploying fiber more deeply into the network and removing active network components, which can be a source of service failures and customer frustration. Investments of this nature will enhance network performance, lower failure rates, and improve overall service—and thereby lead to a better customer experience.

As it enters the New York market, Altice expects to make substantial, near-term investments, implement changes in operations, and develop new offerings that will enhance competition, improve the customer experience, and help bridge the "digital divide." In these respects, Altice commits to:

- Make new investments in upgrading and improving the Cablevision network sufficient to make available customers broadband service of up to 300 Mbps.
- Help bridge the "digital divide" by making available to eligible subscribers a low-income service offering of 30 Mbps for $14.99 a month.
- Introduce the all-in-one home center,[17] which will allow subscribers to integrate cable video services, over-the-top ("OTT") video, online storage services, home media, and WiFi and Ethernet connected devices into a single hub, expanding customer choice and easing the ability to enjoy non-cable services on TVs, tablets, and game consoles.
- Launch a comprehensive, improved customer interface that will allow Cablevision customers to enjoy the same kind of modern, informative and user-friendly navigation and product portal that Altice has developed and deployed in other markets, integrating video on demand, online content, and advanced navigation and recommendation tools that increase the value of the consumer's video and broadband package.

[17] Subject to closing timeframes and technical adaptability assessments.

- Continue to invest in and support Cablevision's extensive WiFi network, which, when deployed in regions with significant population density like Cablevision's service territory, can be used to extend the reach of fixed broadband offerings, support new mobility services, and lead to consumer cost savings in connection with mobile broadband service usage. WiFi will drive new growth opportunities and serve as a critical differentiator and a platform for autonomous devices, machine to machine communications, smart homes, smart devices and wearables—both in- and out-of-home.

These are examples of the kind of actions that will improve the customer experience for New York subscribers and "would not have been made by Cablevision in the absence of the proposed merger."[18]

Altice's international scale and experience also will enable Cablevision to invest and innovate at a pace that Cablevision would be unable to achieve without the Transaction. Cablevision's relatively small customer base limits its ability to bear the costs of research, development, and deployment, and to drive innovation through its relationships with equipment manufacturers and other providers of network and service inputs. Projects that are prohibitively expensive or risky when undertaken by a company like Cablevision with its current 3.1 million subscribers, however, can become more feasible when undertaken by a company like Altice, with more than 35 million subscribers worldwide. This dynamic has been quite evident in the U.S. cable market, where larger MSOs are able to dedicate substantial development resources to new set tops, interfaces and online offerings while smaller MSOs are not. The Transaction will give Cablevision access to Altice's global resources to ensure that it benefits from the scale needed to effectively compete against much larger competitors.

---

[18] Staff Comments at 26.

C. Altice Will Invest in its Customers, Employees, and Communities

Altice invests for the long haul. Altice has never voluntarily divested any of its enterprises. It takes pride in committing to the companies that it runs by investing in the customer experience, in employees, and in the communities it serves.

Customer Service. From Altice's perspective, one of Cablevision's most attractive features is Cablevision's industry-leading customer service. Altice plans to build on this legacy by implementing measures to strengthen network performance and upgrade service quality. As customer service continues to improve, Altice will be able to focus increasingly on proactive measures to facilitate growth and performance rather than on reactive repairs. For example, Altice will invest in new IT and replace outdated legacy systems—including customer care, service provisioning, and billing systems—to improve processes and be even better positioned to serve customers in whatever way best suits their needs and preferred methods of communicating with the company. This customer service-oriented IT evolution has been a focus area for Altice, and the company has implemented such improvements in each of its major acquisitions.

Employees and jobs. Cablevision has focused on increasing the quality and skillset of its workforce with training and tools, resulting in direct improvements to the customer experience. Altice will continue that approach. Altice believes in flat hierarchies, which provide immediate direction and empower "on the ground" employees to succeed in their jobs. Altice also is committed to maintaining a skilled and career-driven workforce broadly representative of the communities it serves. Within the industry, Cablevision is known for the diversity of its work force. Altice will continue to build on Cablevision's success in attracting and retaining a diverse and capable workforce and providing employees meaningful opportunities for growth and advancement.

Community. Altice recognizes the importance of investing in the communities it serves, and it has focused its philanthropic commitments thus far on education. As Altice develops its presence in the United States, it intends to maintain this focus, and to build on the valuable relationships Cablevision has established with educational institutions and leaders in New York. The Public Hearing process organized by the Commission and the interaction Altice has had with local leaders since the Transaction announcement has deepened Altice's understanding of the strong community roots Cablevision enjoys in its service region. Altice will maintain and, where possible, deepen Cablevision's relationships with the communities it serves. In addition to continuing the partnerships Cablevision already has in place,[19] one new education-oriented philanthropic endeavor Altice and its controlling shareholder Patrick Drahi will pursue is the implementation of massive open online courses between New York academic institutions and top-tier universities in France, Portugal, and Israel.

Altice recognizes, as commenters in this case have pointed out, that Cablevision serves several of the areas of the state with high numbers of households that are below the median income.[20] Altice is committed to working to expand broadband to low-income and underserved areas where technology truly changes people's lives. Altice will demonstrate this commitment by offering a low income broadband product, and also work in partnership with community groups and public authorities to identify and address their technology needs.[21]

---

[19] *See, e.g.*, Comments of George Goess, Teacher/Advisor, Peekskill High School (Jan. 25, 2016); Comments of Beach School District (Jan. 25, 2016); Comments of David Leach, Superintendent of Warwick Valley Central School District (Jan. 26, 2016); Nassau County Public H.S. Athletic Association Comments; Comments of Bethpage School District (Jan. 29, 2016); Comments of Nassau Community College Foundation (Feb. 1, 2016); Comments of Dr. Frank Zangari, Teacher, Lawrence High School (Feb. 1, 2016); Comments of Babylon Union Free School District (Feb. 2, 2016); St. Anthony's H.S. Comments.

[20] *See* Comments of Digital Divide Partners, at 6 (Feb. 5, 2016) ("Digital Divide Comments"); Comments of Public Utility Law Project, at 6 (Feb. 5, 2016) ("PULP Comments").

[21] *See infra* at Section III.B.

D. Altice Has a Proven Track Record

Contrary to some commenters' claims, Altice has a long history of improving service after acquiring a business. When Altice acquired control of Numericable in France in 2005, Numericable's network had not been upgraded and was capable of delivering download speeds of only 1 Mbps. Today, approximately 98 percent of Numericable's network has been upgraded, and the network is capable of delivering download speeds to subscribers of between 100 Mbps to 1 Gbps. In 2015, Numericable-SFR announced its plans to extend its fiber network to 22 million homes passed by 2022, more than double its current number of homes passed and triple its fiber homes passed, ensuring its leading status as fiber broadband service provider in France. In parallel, Altice has invested approximately €1 billion in content to provide content-enriched broadband communications services in the French market by acquiring the leading independent media group Next BFM and exclusive Premier League soccer rights, among others.

In Belgium and Luxembourg, Altice has upgraded the entire BeLux Numericable network. In 2003, BeLux Numericable offered 4 Mbps, whereas today it offers 100-800 Mbps—speeds that are 10 to 200 times faster than those originally offered. Simultaneously, Altice has entered into a mobile virtual network operator agreement to also provide mobile services to its customers in Belgium.

When Altice acquired Hot in Israel in 2012, the network was capable of delivering download speeds of only 3-7 Mbps. Today, 100 percent of Hot's network has been upgraded and is capable of delivering download speeds of between 30-200 Mbps. In parallel, Altice invested into a brand new mobile network and now operates the most dynamic mobile operation in the market to the benefit of Israeli consumers.

And when Altice acquire Cabovisão in Portugal in 2012, the network had not been digitized. Today, Cabovisão subscribers have access to a network that is almost 100 percent upgraded to DOCSIS 3.0 and that offers download speeds of up to 360 Mbps. Subsequently, Altice acquired the national Portuguese incumbent Portugal Telecom and was required by the European Commission to divest Cabovisão. Since taking ownership of Portugal Telecom, Altice has announced and started to implement its plan to add three million additional fiber homes in Portugal to the existing 2.3 million fiber homes already passed by Portugal Telecom. This plan is unique in Europe and will provide Portuguese households with the ability to receive truly best-in-class multicultural services. At the same time, Altice decided to further strengthen the Portugal Telecom research and development department and make it the nucleus of Altice Labs, Altice's global research, development, and innovation unit.

In each of these markets, Altice is far ahead of its competitors in offering the highest speeds and the best quality service. When Altice enters a market, it *invests* in that market to make its service provider more competitive, thereby bringing the benefits of competition to consumers. Altice has demonstrated throughout this proceeding that it has every intention—and the financial, managerial and technical expertise and wherewithal—to do precisely the same with Cablevision.

II. THE COMMISSION'S PUBLIC INTEREST ANALYSIS SHOULD PROPERLY ACCOUNT FOR THE LEVEL OF COMPETITION THAT CABLEVISION FACES IN THE RELEVANT MARKET.

As discussed in Section III below, the public benefits identified by Staff as priorities in New York State closely match the benefits Altice and Cablevision will bring to residents throughout Cablevision's service area upon completion of Transaction. That service area constitutes the most competitive market for video, broadband and voice service not only in New York State, but also in the country. The Joint Applicants therefore believe that the Commission's assessment of the Transaction must take account of the competitiveness of Cablevision's service area. The pervasive availability of Verizon's FiOS, along with other competitive offerings from DBS operators, wireless providers and OTT services, obviates the need for commitments designed to serve as proxies for competition. To the extent the Commission believes any positive benefit adjustments are needed,[22] it would be appropriate to adapt Staff's analysis to the specific circumstances of the Transaction and the competitive circumstances in the Downstate market.

A. Pervasive Competition from Verizon FiOS and Other Providers in Cablevision's Service Area Obviates the Need for Transaction Conditions Designed to Function as Proxies for Competition.

In its recently completed analysis of the Charter/Time Warner Cable merger, the Commission recognized the critical role of competition in evaluating a transaction such as the Altice-Cablevision merger. Specifically, it stated that "[t]he Commission's regulatory response to a proposed merger should act as the next best substitute for competition when market forces may not ensure that consumers receive the full benefits that should be derived from transactions of this type."[23] Commission Staff "agrees with the Joint Petitioners that the Downstate markets in which Cablevision operates have the most competition in the country."[24] Cablevision faces vigorous facilities-based competition from providers such as Verizon, AT&T/DirecTV, and DISH, all of which are bigger companies with significant financial resources, as well as RCN Cable.[25]

---

[22] Joint Petitioners do not concede that the net benefits analysis proposed by Staff is necessary or appropriate for this transaction. *See* Section IV, infra.

[23] Charter/TWC Order at 18–19.

[24] Staff Comments at 22.

[25] *See id.* at 22–23. Cablevision's $17.85 billion enterprise value is dwarfed by Verizon, whose enterprise value is nearly 18 times larger at $3102 billion. AT&T/DirecTV's enterprise value is even larger, at $3469 billion, while DISH has enterprise value of $321.67 billion.

Staff's recognition that "Verizon is now competing for cable services in more than 130, or about 60%, of Cablevision's franchised areas"[26] actually understates the competitive impact of Verizon upon Cablevision's operations. Because Verizon serves many of the more densely populated communities in Cablevision's footprint, the percentage of Cablevision customers (or potential customers) who also have access to Verizon FiOS is higher than 60%. Verizon is franchised in 142 communities in Cablevision's service area comprising [redacted] of Cablevision's passings in New York State,[27] meaning the great majority of New York residents that can obtain service from Cablevision may also subscribe to Verizon's FiOS service.

The contrast between the competitive landscape faced by Cablevision as compared to other large cable operators in New York State is stark. Verizon FiOS is available in just two Comcast communities, 3% of Time Warner Cable communities, and zero Charter communities in the State.[28] Verizon, with its vast scale, resources, marketing power and reach, is an aggressive competitor that drives significant value in Cablevision's service area. For example, Verizon today aggressively markets a promotional "triple play" package including video, 100 Mbps download/100 Mbps upload broadband and voice service for $69.99 for two years with a contract, or for one year with no annual contract.[29] It also offers a similar package that includes

---

[26] *Id.* at 23.

[27] *See* Confidential Response to DPS-37(2). [redacted]

[28] Joint Petitioners estimate that Verizon FiOS service is available in 38 communities served by Time Warner Cable, consistent with Staff's finding that Verizon is "the third largest cable operator in the state, with more than 180 cable franchises." Staff Assessment at 55. The percentage is calculated using the total number of franchises reported by Time Warner Cable in connection with the Charter/Time Warner Cable transaction. See Case 15-M-0388, *Joint Petition of Charter Communications and Time Warner Cable for Approval of a Transfer of Control of Subsidiaries and Franchises, Pro Forma Reorganization, and Certain Financing Arrangements*, Joint Petition, at 9 (Jul. 2, 2015) (indicating that Time Warner Cable serves approximately 1,150 New York communities).

[29] The no-contract offering increases to $89.99 in the second year.

premium video channels and slower broadband speeds (50/50), as well as voice service, for $79.99 for one year, with no set-top box charges and a $400 Visa gift card, with a two-year contract agreement.[30] In addition, in 2015, Verizon spent $94 million on television, radio, and print advertising in Cablevision's service area.[31] To address this competition, Cablevision is continually improving its product, service, network, and pricing strategy to provide greater value than Verizon to its customers—all to the benefit of consumers.

Cablevision also faces competition for video service from OTT providers such as Netflix, Amazon Prime, Google, Hulu, and Sling, as well as voice competition from Vonage, Skype, and MagicJack.[32] OTT providers are transforming the video marketplace, providing any consumer with a broadband connection access to a vast array of video content choices that compete with Cablevision's video programming offerings. While cord-cutting and cord-shaving are seen as a threat to other, less competitive operators, Cablevision sees cord-shavers and cord-cutters as potentially loyal customers, and has embraced their interest in broadband-only and broadband-related offerings to support online viewing.[33] Altice will do the same.

Competition has proven effective in distributing consumer benefits Downstate. Staff notes that both "Cablevision and Verizon FiOS . . . advertise 100 Mbps or faster data service availability throughout their service footprints,"[34] while observing that "[o]nly half of the State's

---

[30] This package increases to $99.99 in the second year.

[31] In addition, DirecTV spent $18 million and DISH spent $5.6 million on advertising.

[32] *See* Staff Assessment at 2 ("Broadband service, which relies upon the same network as telephone, mobile, and cable television, facilitates competition in cable and telephone.")

[33] Cablevision offers a low-cost package geared to cord-cutters that includes broadband Internet, the Freewheel WiFi voice offering, access to all 1.5 million Optimum WiFi hotspots, and a free digital antenna for receiving over-the-air broadcast television stations, with an option to add HBO NOW at its standard rate.

[34] Staff Assessment at 52.

consumers have access to service at 100 Mbps or above now."[35] Notably, *all* Cablevision broadband customers are offered the same speeds, and most have similar offers from Verizon.[36]

The differentiated competitive environment for Cablevision is a result of the Commission's adoption of pro-competitive, deregulatory level playing field policies. In 2005, around the same time that Verizon began offering its FiOS service in New York State, the Commission completed a substantial revision of its cable rules.[37] Among the changes adopted were more streamlined rules concerning market entry and level-playing field rules[38] to ensure "that economic and regulatory burdens taken as a whole, shall not be greater for one company than another."[39] The Commission's policy of promoting a level playing field was designed to advance the public interest by ensuring that marketplace success was dictated by competitive forces and consumer preferences, rather than differences in regulatory costs and burdens.[40]

Commission policy counsels that regulatory mandates should be utilized only where there are clear market failures, and even then, imposed with restraint. Staff's proposed conditions, taken largely from the very different Charter/Time Warner Cable model, and which would not

---

[35] *Id.* at 51.

[36] In its comments, the New York City Public Advocate relies upon broadband maps that do not reflect any of Cablevision's or Verizon's broadband offerings in New York City. Both the map prepared by Staff, as well as New York State's broadband map (available at http://www.broadbandmap.ny.gov/), reflect that 100 Mbps service is ubiquitous not only throughout New York City, but also throughout Cablevision's service territory. The only exception to this, as noted in the response to DPS-1 and discussed, *infra*, are the small number of customers in the barrier island communities of Gilgo Beach and Oak Beach who receive video service only.

[37] *See* Case 01-V-0381, *In the Matter of Rules and Regulations of the Public Service Commission Regarding Cable Television*, Memorandum and Resolution Adopting 16 N.Y.C.R.R. Parts 890 through 899 (Apr. 4, 2005) ("2005 Commission Rules Order").

[38] *See* 16 N.Y.C.R.R. 894.0–894.9; 895.3.

[39] 2005 Commission Rules Order at 4.

[40] See Case 05-V-1263, Petition of Verizon New York Inc. for a Certificate of Confirmation for its Franchise with the Village of Massapequa Park, Nassau County, Order and Certificate of Confirmation of Petition of Verizon New York, Inc. for a Certificate of Confirmation, at 23 (Dec. 15, 2005) (Level playing field rule aimed at fostering comparable regulatory burdens among competing cable franchisees designed to ensure that "no cable operator enjoys a material competitive advantage" in any community).

apply to competitors such as Verizon, create tension with the State's pro-competitive, level-playing field policies and pose a risk to both post-Transaction Cablevision and its customers.

B. Staff Recognizes That The Measure of Positive Benefit Adjustments Must Be Adjusted to Account for The Highly Competitive Downstate Market.

Staff recognizes that the benefits posed by the Transaction are in the public interest. Staff also recognizes the uniquely competitive marketplace in which Cablevision operates. Nevertheless, in setting a target for committed public interest benefits, Staff suggests using the same 50/50 sharing criteria that was applied in the very different Charter/Time Warner proceeding. As a result, even as Staff accedes that a much lower sharing metric might be appropriate, Staff suggests that $1.174 billion in customer synergy savings should be shared by New York State customers. This requirement would bind the company to a set of investments, business practices or product offerings over a three- to five-year period that actually exceed the conditions sought in Charter/Time Warner, but does not account for the unique competitive environment Cablevision faces, the combined Altice USA service footprint, or the business viability of computing savings over a ten-year time horizon in a highly competitive market characterized by nearly annual upheavals and realignments. Adding these considerations to the calculation of target net benefits yields a target more in line with the Charter/Time Warner transaction and other precedents used to bracket the Commission's calculation.

Total AOCF improvements (or "synergies"). Staff bases its net positive benefit analysis on a $450 million target amount for annual improvements in Adjusted Operating Cash Flow (AOCF), recognizing that achieving these savings will require extraordinary investment on the part of Altice.[41]

---

[41] *See* Staff Comments at 21.

Competition and Customer Benefits. Staff proposes to require that half of all expected AOCF savings be mandated for customers, but recognizes that applying the 50% customer/50% shareholder "sharing mechanism" from the Charter/TWC transaction may be inappropriate here due to the breadth and intensity of competition faced by Cablevision in its footprint.[42] Competitive markets mitigate the need for government-imposed commitments, because, as Staff acknowledges, the "vast majority of [synergy] savings . . . would be passed through to the benefit of customers since they would be replicable by other market participants."[43] Accordingly, Staff suggests the Commission "should consider whether a more conservative . . . sharing mechanism should be applied." Joint Petitioners agree.

In capital intensive and technologically dynamic businesses such as cable, broadband and voice, it is reasonable to assume that a substantial portion of synergy savings will be re-invested in network infrastructure and new technologies—including research and development associated with such investment—rather than simply returned to customers or shareholders.[44] Staff acknowledges "that a significant portion of savings will be dedicated to Cablevision's operations in the form of reinvestment and debt service which should over time improve the Company's financial position."[45] The 50/50 "sharing mechanism" adopted in the Charter/Time Warner Cable transaction makes no adjustment to account for this. Accordingly, Staff has suggested that a 25/75 split could be considered in light of the competitive circumstances in Cablevision's

[42] *See id.* at 22–23.

[43] *Id.* at 22.

[44] *See* Staff Assessment at 75 (noting that New York communications companies "are reinvesting in their businesses at strong rates" and that "cable television companies have invested in modern network infrastructure, including head-end equipment, coaxial and fiber optic outside plant cabling; subscriber devices, such as energy efficient set-top boxes; and advanced software to provide consumers with the latest in technology and services").

[45] Staff Comments at 23.

service area.[46] The Joint Applicants believe that the Commission should instead adopt a 15/85 share target for the Transaction. A 15% metric [redacted].

Market Size. In calculating the percentage of benefits due to New York customers in the Charter/Time Warner Cable transaction, the Commission calculated the percentage of synergy savings to be realized by New York State customers by combining the number of existing Time Warner Cable and Charter customers in New York State, and determined what percentage of all "New Charter" customers this number represented.[47] In contrast, here, Staff has proposed analyzing New York's share of transaction-related savings based only upon Cablevision's existing operations in New York, New Jersey, and Connecticut.[48] The Commission should instead take into consideration Suddenlink's operations, which Altice acquired at the end of 2015, just as it took into account all of the U.S. entities comprising New Charter post-closing.

Suddenlink has 1.5 million customers in 17 states, but none in New York.[49] Post-transaction, Cablevision's New York operations will represent 41% of the total number of subscribers to Altice's combined operations in the United States. Because Suddenlink's operations will generate a portion of the synergies identified by Altice in the transaction,[50] they should be factored into the net benefit test analysis here. Indeed, throughout its comments Staff

---

[46] *See id.*

[47] *See* Charter/TWC Order at 29. "New Charter" is the term used by the Commission to refer to the post-transaction combination of existing Charter, Time Warner Cable, and Bright House Networks operations. *See id.* at 1.

[48] *See* Staff Comments at 21–22.

[49] Applications Filed by Altice N.V. and Cequel Corporation d/b/a Suddenlink Communications to Transfer Control of Authorizations from Suddenlink Communications to Altice N.V., Memorandum Opinion and Order, WC Docket No. 15-135, at ¶ 5 (rel. Dec. 18, 2015).

[50] *See* Confidential Response to DPS-12, Exhibit 12-E at 24.

makes clear that it considers Suddenlink's operations relevant to the evaluation of the Transaction.[51] The Commission should, therefore, evaluate net positive benefits from the Transaction based on Altice's combined U.S. operations, and not solely on the share of existing Cablevision subscribers based in New York.

Time Period. Intensive competition and volatility in the media and telecommunications market suggest that predicting, let alone benchmarking, ten-year time horizons is unreliable. By way of example, a little over ten years ago Verizon had no meaningful presence in the New York broadband and video market, while today it is Cablevision's primary (and substantial) rival. A ten-year "plan" in 2005 would have established a trajectory unachievable in the face of the new, competitive reality. Although the PSC looked at 10 years of synergy savings in the Charter transaction,[52] the Joint Applicants believe it is unrealistic to plan for or project meaningful synergy savings beyond a five-year period because Cablevision's market is much more competitive.[53] As demonstrated in the record, [redacted][54] [redacted][55] A ten-year time horizon also is inconsistent with Staff's observation that, in competitive markets, synergy savings inevitably redound to the benefit of consumers due to their ability to be replicated by other providers in the market.

---

[51] *See, e.g.*, Staff Comments at 37 (describing Suddenlink's JD Power ranking); *id.* at 38–39 (expressing concern about Altice's ability to consolidate customer service operations in other areas outside of New York State), and *id.* at 42–43 (analyzing Suddenlink broadband plans with data caps).

[52] *See* Charter/TWC Order at 29 n. 46.

[53] *See* Staff Comments at 22.

[54] *See* Response to DPS-20(3) ("Each year, Cablevision [redacted]

[55] *See* Confidential Response to DPS-20(7)(b).

Because such savings are more rapidly absorbed and internalized by the competitive process, it would be inappropriate to accord them a long shelf life.

Perhaps even more significantly, the entire market for video, broadband, and voice services is evolving at an accelerated pace. For example, in 2010, Netflix—which was a modest complement to cable video service and a niche player that still primarily delivered DVDs by U.S. mail—issued its 2010 Annual Report stating that it had 20 million total customers, many of whom did not stream any content via a broadband connection.[56] Last month, Netflix reported that it reached 75 million subscribers on January 1, 2016, nearly all of whom use their broadband connection to get real-time, on demand video that rivals cable, satellite, theaters and other entertainment.[57] Netflix is not the only player growing and succeeding in this space. Amazon, Hulu, Sling and others are providing a range of services that can substitute for Cablevision's own services, and in many cases their trajectories for growth far exceed those of the broadband service providers whose network infrastructure they use. Given this highly dynamic marketplace, a five year "run period" would better reflect the difficulty of foreseeing, and capturing, changes in the market over a longer run.

Recalculation of Annual and Total Benefits. In light of the foregoing considerations, the amount of any targeted mandate for shared, market-related efficiencies should be calculated based upon the factors described above. Properly calculated, the target shared savings are about $27.68 million annually, for a total target shared consumer benefit commitments of $96.88 million over a five-year time period.

---

[56] *See* Netflix 2010 Form 10-K Annual Report, at 1, *available at* http://ir.netflix.com/secfiling.cfm?filingID=1193125-11-40217&CIK=1065280.

[57] *See* Netflix Quarter 4 2015 Letter to Shareholders, *available at* http://files.shareholder.com/downloads/NFLX/1484262654x0x870685/C6213FF9-5498-4084-A0FF-74363CEE35A1/Q4_15_Letter_to_Shareholders_-_COMBINED.pdf.

Annual target net benefit		**Total target net benefit**	
Baseline	$450 M	Year 1 (25% ramp up)[58]	$6.92 M
New York subscribers as % of total Altice subscribers in U.S.	41%	Year 2 (50% ramp up)	$13.84 M
		Year 3 (75% ramp up)	$20.76 M
		Year 4	$27.68 M
"Sharing Mechanism"	15%	Year 5	$27.68 M
Total	$27.68 M	Total	$96.88 M

The commitments Altice and Cablevision are making in connection with network improvements, innovation and low income broadband clearly exceed the appropriate net benefit target.

Verification of Target Benefits by Comparison to Prior Transactions. The adjusted target net benefit is consistent with staff's analysis in Charter/Time Warner and prior utility cases. In analyzing the Charter/Time Warner Cable transaction, Staff utilized a benchmark to test whether the net positive benefits calculation was consistent with prior precedent. Specifically, Staff noted that in two recent proceedings, *Fortis*[59] and *Iberdrola*,[60] it sought public benefits adjustments of 10% and 5.7%, respectively, of the providers' assessable revenues and on that basis concluded that the Charter/Time Warner Cable net benefits target that it proposed was comparable and therefore reasonable.[61] Based on these percentages, a reasonable bracket for public benefits adjustments in a transaction involving non-competitive utility providers would be

---

58 Joint Petitioners accept the 25%, 50%, 75% "ramp up" period proposed by Staff. *See* Staff Comments at 23.

59 Case 12-M-0192, Joint Petition of Fortis Inc. et al. and CH Energy Group, Inc. et al. for Approval of the Acquisition of CH Energy Group, Inc. by Fortis Inc. and Related Transactions, Order Authorizing Acquisition Subject to Conditions (Jun. 26, 2013).

60 Case 07-M-0906, Joint Petition of Iberdrola, S.A., Energy East Corporation, RGS Energy Group, Inc., Green Acquisition Capital, Inc., New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation for Approval of the Acquisition of Energy East Corporation by Iberdrola, S.A., Order Authorizing Acquisition Subject to Conditions (Jan. 6, 2009).

61 See Case 15-M-0388, Joint Petition of Charter Communications and Time Warner Cable for Approval of a Transfer of Control of Subsidiaries and Franchises, Pro Forma Reorganization, and Certain Financing Arrangements, Redacted Comments of the New York State Department of Public Service Staff at 22–23 (Sep. 16, 2015).

between [redacted] and [redacted], representing 5.7% and 10%, respectively, of the most recently reported Cablevision Cable Entities' assessed cable revenue plus Lightpath's assessed telephone revenue in New York State. Cablevision's calculation above is reasonable when compared to the *Fortis* and *Iberdrola* benchmarks because those are on the high side of what should be the expected impact here, due to the significantly greater level of competition faced by Cablevision than the monopoly utilities at issue in those transactions.[62]

III. THE TRANSACTION SATISFIES THE NET BENEFITS ANALYSIS WITHOUT CONDITIONS

Altice's demonstrated track record and plans, together with the competitive environment in which Cablevision operates, will generate substantial benefits for consumers as a result of the Transaction. Altice and Cablevision are prepared to make certain commitments to provide direct and tangible benefits to New York consumers in the wake of the transaction and to engage in an open, constructive and cooperative dialogue with the Commission to advance shared goals.

A. The Transaction Will Result in Network Enhancements and Expansion.

Network Enhancements. Altice's commitment to enhancing the network and improving throughput is real. Altice recognizes that greater network investment and higher broadband speeds are important policy objectives of the Commission and ultimately bolster Cablevision's competitive position. To that end, Altice will make network upgrades so that Cablevision customers are able to receive broadband service of up to 300 Mbps. Altice anticipates that timing and sequencing of the upgrade necessary to achieve that goal will depend on resource allocation and market demand but will unfold at a reasonable pace based on market conditions.

[62] Indeed, against the Commission's own precedent in *Fortis* and *Iberdrola*, and as measured by Staff in its Comments in *Charter/Time Warner Cable*, the preliminary calculation of $1.174 billion in positive benefit adjustments reflects [redacted]. Staff's own benchmark test shows why the benefits analysis must be recalibrated from the proposed amounts in Staff's comments to avoid an unfair result to Joint Petitioners.

Altice's plan to offer increased broadband speeds statewide will require extensive engineering, planning, and upgrade activities, carefully tailored to the expected demands on the network, household density, penetration density, and product speed take rates. In this light, the proposal to impose a condition on network design, such as a compliance checklist on the elimination of amplifiers, is unnecessary and potentially counterproductive. Network design conditions pose a real risk of misallocating resources while providing no incremental benefit beyond what the competitive marketplace will drive Altice to do—which is to continue to invest and innovate. To the contrary, such a mandate could inhibit Altice from responding to a new, unforeseen growth opportunity or pull resources away from delay deployment of service innovations required to address those opportunities or keep pace with competition.[63] Level playing field considerations also counsel against applying fixed investment obligations on one competitor in a marketplace when its rivals face no constraints on repurposing investment, planning, and product mix.

Network Expansion. The conditions proposed by Staff relating to network and service expansion pose significant capital allocation risks.[64] Staff acknowledges that Cablevision's network already is substantially built out, that the company has demonstrated that it has "the requisite technical and resourcing capabilities to successfully accomplish line extension work on a large and sustained scale and timetable" and has aggressively extended plant to address new

[63] For example, with DOCSIS 3.1, existing hybrid fiber coaxial (HFC) cable network architectures are fully capable of achieving multi-gigabit broadband speeds. *See e.g.*, Jon Solit, *Multi-Gig Broadband Over Existing Networks? Absolutely!*, Platform (Oct. 27, 2015), https://www.ncta.com/platform/broadband-internet/multi-gig-broadband-over-existing-networks-absolutely/ . While Altice is committed to pushing fiber deeper into the network, it should not be precluded from having the flexibility to utilize alternative methods for increasing broadband speeds for a period of time, while redeploying capital to support currently unforeseen growth opportunities or changes in consumer demand.

[64] *See* Staff Comments at 51–53.

housing developments and opportunities, and that only a “very small raw number and percentage of homes” lack network access.[65] Staff proposes that Altice be obligated to build out to all remaining unserved homes, including homes outside the primary service area, within two years of closing and build a new fiber-based network to serve the barrier island communities of Oak Beach and Gilgo Beach within 18 months.[66]

Altice shares the goal of reaching and serving the highest possible number of households in its service area within the constraints of economic practicality, but a requirement to extend “universal service” footprint wide poses real challenges. As a general rule, the Commission’s own policies recognize that uneconomic service mandates deter smart investment. The Commission’s rules do not impose a universal service obligation on cable operators.[67] Similarly, requiring Altice to adhere to a mandate to build out to all remaining unserved homes within two years would deprive the company of the flexibility to invest and deploy resources in the manner of greatest benefit to all of its New York customers.

For example, [redacted]. Notwithstanding these concerns, Joint Petitioners would be willing to explore with Staff less costly solutions, with longer time windows, to address service to remaining unserved areas.

---

[65] *Id.* at 51.

[66] *See id.* at 52.

[67] Section 895.5 addresses the circumstances under which operators may seek contributions in aid of construction of extensions of cable plant to offset costs of certain line extensions. *See* 16 N.Y.C.R.R. 895.5.

Staff also recommends that Altice commit to an outreach program to potentially unserved or underserved schools and municipal buildings within the Cablevision footprint, and develop promotional programs to encourage subscriptions by interested schools and municipal facilities.[68] Altice agrees that such an outreach program would be beneficial and is interested in working with Commission Staff to initiate such a program.

B. The Transaction Will Promote Broadband Affordability

Several commenters have focused on the importance of making broadband available to low-income households.[69] Cablevision currently has a number of offers intended to address every segment of the market, including "cord cutter" packages, value packages, low-cost standalone broadband, and Wifi access.[70] Altice likewise has an interest in continuing to reach as much of the market as possible, and to remain competitive Altice needs to maintain flexibility to respond to market demands when considering what packages to develop and offer.

At the same time, Altice fully appreciates the crucial role broadband can play in keeping individuals, families, and businesses connected. As the Commission has recognized, broadband "represents not only a communications platform," but also "a platform for social relationships, health information, news, entertainment, education, medical diagnosis, the payment of bills, navigation, shopping, government business, document storage, and job applications."[71] The Commission has played a key leadership role in ensuring that affordable broadband is made available to as many New York consumers as possible. To help further that objective, Altice will

---

68 *See* Staff Comments at 53.

69 *See* Staff Comments at 42; Comments of the City of New York, at 4 (Feb. 5, 2016) ("NYC Comments"); PULP Comments at 5–6; Digital Divide Comments 1–6.

70 *See* Response to DPS-10 (describing low cost broadband and video offerings).

71 Staff Assessment at 2.

offer a low-income broadband package of 30 Mbps for $14.99 a month, subject to eligibility requirements. Notably, this same speed and price point for eligible low income consumers was identified by the Commission as the basis for its approval of the recent Charter/Time Warner Cable transaction. Altice and Cablevision will embrace this same speed and price point offering.

C. Cablevision Will Have Strong Incentives to Remain an Industry Leader in Customer Service

The concerns raised by Staff, as well as New York City and PULP, about Altice's ability to maintain Cablevision's strong customer service record are misplaced.[72] Staff recognizes that Cablevision enjoys one of the lowest customer service complaint rates in the State, experiences relatively few incidents of escalated complaints, and received a PSC Commendation for excellent phone service quality every year between 1998 and 2014.[73] Indeed, Cablevision currently has the cable industry's highest-rated customer service, as reflected by J.D. Power and by the metrics used in Staff's Comments, far better than comparable statistics for parties in recent transactions.[74]

Given Cablevision's strong performance, and the market-based incentives for maintaining this performance in the face of increasing competitive demands, setting rigid standards for customer service is neither necessary nor appropriate. Moreover, any service metric the Commission does adopt should not make Cablevision the victim of its own success. Altice is committed to maintaining and improving service to Cablevision's customers, but Cablevision's current rate of service quality complaints is so low as to render it inherently volatile; indeed, the standard to which Staff proposes to hold the company would have

---

[72] *See* Staff Comments at 37–38; NYC Comments at 4; PULP Comments at 8.

[73] *See* Staff Comments at 36–37.

[74] *See id.* at 36.

Cablevision face a multi-million dollar fine if it sees an increase of even one or two complaints. Accordingly, Altice and Cablevision would like to work with the Commission to determine reliable criteria against which Cablevision's future customer service performance can be effectively benchmarked, which in turn should apply only after a reasonable transition period beyond the Transaction's closing.

The consequences of falling short of customer service goals should trigger a requirement that Altice invest in customer service, rather than pay penalties to the Commission. Such fines would be counter-productive to the goal of improving customer service and would harm consumers by reducing the resources available for the company to continue improving service quality. Indeed, the Commission recognized as much in the Charter/Time Warner Cable transaction when it agreed to allow those companies to make service-oriented investments rather than pay fines.[75] At most, a similar remedial measure should be adopted here.

D. Cablevision's Workforce Should Be Allowed to Evolve Organically in Response to the Needs of Customers and the Company

Several commenters have raised concerns about post-Transaction job levels at Cablevision.[76] In particular, Staff has suggested that Altice will have an incentive to gain operational efficiencies by moving, consolidating, or eliminating customer-facing jobs in New York State, which Staff asserts would in turn lead to a decline in Cablevision's service quality.[77] Staff therefore has suggested that Altice commit to no loss of customer-facing jobs in New York for at least five years.[78]

---

[75] *See* Charter/TWC Order at 63 (establishing $2.5 million investment incentives for failures to meet service improvement metrics).

[76] *See* Staff Comments at 36–38; New York City Comments at 5; CWA Comments at 15–17.

[77] *See* Staff Comments at 44.

[78] *See id.*at 55–56.

Joint Petitioners recognize the importance of jobs and employment opportunities to the Commission and the communities that Cablevision serves. Cablevision has been proud to be a significant employer in the State of New York, and Altice looks forward to carrying on that role. A high quality, engaged, and well-trained work force is critical to the success of the company going forward.

Like other industries undergoing substantial change, Cablevision's customer operations employee base has evolved significantly over the last several years, with traditional "customer facing" roles[79] declining in favor of other roles for employees, including outside plant fiber technicians, network operations center positions, triage operations center support positions, and related non-customer facing, but critical network reliability, support and maintenance roles. The evolution of the employee base to other functions is improving the customer experience and allowing the redeployment of resources consistent with modernization of the network and operations. In this regard, Staff's assumption that service quality can be assured by maintaining or increasing customer service staffing levels is incorrect. In fact, the opposite is true (at least for Cablevision): improved service quality will organically reduce the need for customer facing jobs by reducing key measures of customer *dissatisfaction:* unnecessary or repeat truck rolls and home visits, repeat calls for technical and service support, and overall support demands to call centers and field service technicians.

Cablevision's competitors have recognized that workforce development and flexibility are critical to success in today's market. For instance, in a recent profile of AT&T's corporate

[79] Joint Petitioners note Staff's calculation of customer facing jobs and reliance on Exhibit 11-A to support the estimate. *See* Staff Comments at 38. The version of Exhibit 11-A that Staff relied upon was generated in response to a question about Cablevision facilities—its physical structures—and as such lists facilities by address, primary role, and total employment in that building. On February 24, 2016, the Joint Petitioners submitted an amended response to Staff Request DPS-11 and a revised Exhibit 11-A providing a more precise snapshot of customer-facing employee job numbers in New York State.

education programs for its employees, the *New York Times* reported that "[f]or the company to survive in this environment, [AT&T chairman and chief executive Randall] Stephenson needs to retrain its 280,000 employees so they can improve their coding skills, or learn them, and make quick business decisions based on a fire hose of data coming into the company."[80] Christopher Shelton, national head of the Communications Workers of America, told the paper that such changes are "inevitable," and that "[w]e realized a long time ago that you can't fight technology change and win."[81]

To be sure, Altice's efforts to effectuate network upgrades, implement new business plans, and otherwise put the company in the best possible position to compete in the modern connectivity marketplace, likely will require a significant number of technicians. But as the company meets these development goals, it must be able to deploy its workforce in other areas as needed in order to compete or grow. Staffing should reflect service level commitments, not static numbers, and as service improves—through the use of more Internet-based communications, more diagnostics for the home from the central office, or any other innovative improvements—the need for customer-facing jobs in some areas may decline, while the need for jobs in other areas may grow.

Cablevision's experience with its workforce—which, as discussed above, has produced customer service results Staff has lauded—serves as a useful illustration of the value and need for flexibility. Since at least 2011, Cablevision has engaged in a multi-faceted campaign to improve service experience and reduce unnecessary service impairments. This includes initiatives such as replacing coaxial connectors (on the drops and in the home) with superior

---

[80] NYT Article at BU5.

[81] *Id*.

fittings that eliminate ingress and egress and improve service reliability; implementing in the field and in the Network Operations Center (NOC) return path and node monitoring tools that detect early signs of network distress, allowing Cablevision to address issues before they impact customers; and implementing a proactive, regular plan of outside plant maintenance, tuning and certification that ensures high levels of network health and prevents service issues.

These programs, combined with general enhancements to the network, have reduced outages, service impairments and improved the customer experience. As service has improved, demand for "customer facing" roles has declined, as customers place fewer support calls and demand fewer home visits.[82] The call center representatives and field service technicians of 2016, though fewer than in years past, are better-compensated and supported, more highly-skilled, more capable, and more successful in each consumer interaction than at any time in the company's history.

These trends show that the public interest would be served by allowing marketplace incentives to continue to drive Joint Petitioners to minimize the need for service calls in the first place, rather than hinder these efforts by imposing fixed costs in the form of static numerical staffing requirements for particular positions. More significantly, in a fast changing world where developing new skills and adapting to market changes is critical, requiring large segments of the

---

[82] Total, system-wide call volume has declined from [redacted] calls annually in 2011 to [redacted] in 2015 and is expected to decline to around [redacted] in 2016. Repair and service related calls have declined from [redacted] in 2015, and are expected to drop further to [redacted] customer per year in 2016—a reduction [redacted]. As a result, call center "customer facing" roles (both in house and contracted system-wide, in New York, New Jersey and Connecticut) have migrated to diagnostics and back office support; the number of traditional "operators" has declined (in all three states) [redacted] even as outcomes dramatically improve.

Similarly, by reducing service-related truck rolls, including repeat truck rolls, overall demands on the field service technicians have declined. [redacted] work force to remain in telephone-era "customer facing" telephone answering and service roles is a real disservice to those employees by prohibiting role migration though the imposition of multi-year conditions, even as the world, the necessary skillset, and the demands of the modernized company continue to evolve.

In today's new world of network operations, and online products, sales and support, consumers are insisting on extensive self-help opportunities and online tools for ordering, troubleshooting, and managing their services.[83] As one study has explained, providing "high-quality [digital customer care] is a key component in . . . differentiated value propositions" and "implementing a dramatically faster and easier [customer service] experience" may "yield[] a significant competitive edge."[84] Addressing these needs means changing the way the company handles support, and adapting its workforce to meet the consumer. Ultimately, Altice's objective is for Cablevision to be the industry leader in delivering the best services, consumer experience and customer care in a fully digital world.

Altice has successfully managed this type of transition in each of its major acquisitions, and the relative absence of robust online support, ordering, and management tools in Cablevision's current service profile is a major opportunity for improvement. Consumers benefit from these developments, both because they get the type of service that they prefer and because providers can deliver a higher-value product at a lower cost.

While these changes can be disruptive in the short term as company objectives are aligned with current and future market realities, in the medium and longer run they support New

---

[83] *See, e.g.*, *Higher Satisfaction at Lower Costs: Digitizing Customer Care*, McKinsey & Co., at 11–12 (July 2013) http://www.mckinsey.com/~/media/mckinsey/dotcom/client_service/Telecoms/PDFs/Digitizing_customer_care.ashx.

[84] *Id*. at 12–13.

York's ambition to remain among the top destinations for the creators of technology and jobs. Around the world, successful firms are characterized by growth, investment, and technology that accelerate change, reward adaptable employees, encourage role fluidity, and improve the ability to address consumers' quickly changing demands. Altice has made clear that all of its U.S. operations will be headquartered in New York and that the company intends to remain in New York as it grows in the U.S. Although Altice has no immediate plans for additional acquisitions, it envisions branching out in the U.S. market over time, potentially by offering quad-play services, and such growth would create significant, high-skilled job opportunities in New York. These ambitions require the same workforce flexibility enjoyed by technology sector and network provider rivals, each of which is today busily transforming its existing workforce into the workforce of tomorrow.

E. There is Little Value in Compelling Cablevision to Seek ETC Designation and Offer Standalone Voice Service

Standalone Voice. Staff recommends that the Commission require Cablevision to offer standalone voice services. In a market characterized by robust competition, choice, and communications alternatives, Cablevision shapes its products and packages to provide value and attract customers. In this environment, there is little need for the Commission to adopt this recommendation, and such a mandate in the context of review of the cable Transaction is at odds with the law. [85] Everywhere Cablevision offers VoIP, it is just one of scores of alternatives to

[85] *See infra* at Section IV.A. To the extent Staff's ETC recommendation is directed at Lightpath, the Commission has never required a CLEC to offer a standalone local voice service to residential customers. Indeed, such a mandate would run counter to the deregulatory approach the Commission has taken in the telecommunications service market in order to foster competition between providers such as Lightpath and ILECs. *See Staff Assessment* at 4; *see also* Case 05-C-0616, *Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services*, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings (Apr. 11, 2006).

consumers, including Verizon's ubiquitous voice service, other VoIP alternatives and, increasingly, mobile services, which are rapidly displacing voice services generally. Where there is choice, there is no need for mandates, and Cablevision should enjoy the same product and packaging flexibility in the voice market as its competitors.

Lifeline ETC Mandate. As Staff has observed, consumers' preferences for Lifeline offerings has changed drastically in recent years. The number of wireline Lifeline customers has declined from a peak of 768,000 lines in 1996 to 137,000 lines as of year-end 2014, while there were more than 1 million wireless Lifeline customers in the State by the end of 2013.[86]

According to the Commission's consumer website, there are six wireless providers offering Lifeline service in New York State.[87] Given that "essentially all [New York residents] have access to multiple wireless service providers,"[88] and wireless voice service is ubiquitous throughout Cablevision's service footprint,[89] Lifeline-eligible individuals residing in Cablevision's territory have a wide range of attractive options—including options that require no out-of-pocket expense on the customer's part[90]—for Lifeline service.

---

[86] See Staff Assessment at 29.

[87] *See* New York State Public Service Commission, *NYS Lifeline Provider List*, *available at* http://www.askpsc.com/lifeline/PDFs/Lifeline-Providers.pdf (last visited Feb. 17, 2016). The wireless providers listed as providing service in New York State are Access Wireless, Assurance Wireless/Virgin Mobile-Sprint, Cricket Communication, Reachout Wireless/Nexus Communications, Safelink Wireless/Tracfone, and Verizon Wireless. Access Wireless is a d/b/a name for i-wireless, LLC. Staff references this latter entity in the *Staff Assessment*. *See Staff Assessment* at 29 ("Wireless companies, such as Cricket Communications, I-Wireless, Tracfone Wireless, and Virgin Mobile actively promote wireless Lifeline service.").

[88] Staff Assessment at 10.

[89] *See id.* at 10, Fig. 2.

[90] *See, e.g.*, Access Wireless, https://www.accesswireless.com/home (last visited Feb. 18, 2016) (offering free phone, 250 minutes, and unlimited text); Assurance Wireless, http://www.assurancewireless.com/Public/Welcome.aspx (last visited Feb. 18, 2016) (offering free phone, promotional 500 minute for 4 months (350 minutes thereafter) and unlimited texts); https://www.safelinkwireless.com/Enrollment/Safelink/en/NewPublic/index.html (same offering as Assurance Wireless).

Staff has previously concluded that even as the adoption of wired Lifeline service has collapsed, "the availability of Lifeline services to New Yorkers has grown significantly" and that this growth "has been driven extensively by adoption of wireless Lifeline over landline Lifeline services."[91] Thus even if the Commission were permitted to require Cablevision to seek Lifeline ETC status, [92] it is unclear how beneficial the addition of a second wireline Lifeline provider would be given the nearly 10-to-1 consumer preference for wireless Lifeline service in the State. Nonetheless, Altice and Cablevision remain open to discussing these issues further with the Commission.

F. The Post-Transaction Cablevision Will Remain on Sound Financial Footing

Contrary to comments by Staff and others concerning the debt levels associated with the Transaction,[93] the financing structure for the Transaction is sound and will in fact provide Cablevision with all the financial benefits of being a part of a larger entity while insulating it from related risks.

Joint Petitioners agree with Staff that $450 million is the appropriate baseline to use in assessing the benefits the Transaction will produce. These improvements will result from a combination of (1) <u>savings</u> due to the efficiencies of operating the combined operations of Altice USA and Altice N.V. (such as elimination of redundancy and increased scale); (2) <u>cost reductions</u> attributable to increased efficiency and productivity attributable to the implementation of Altice's proprietary operating processes and IT systems; and (3) <u>incremental subscriber</u>

---

[91] *Id.* at 30.

[92] Federal law limits the Commission's authority to require any competitive voice provider to obtain Lifeline ETC status as a condition of operating in the State. While the designation of an *initial* ETC in a service area in a state may be brought either upon request of the carrier or upon a state commission's own motion, *additional* ETC designations may only be made upon request of a carrier. *See* 47 U.S.C. § 214(e)(2); 47 U.S.C. § 214(e)(3).

[93] *See* Staff Comments at 33; NYC Comments at 2–3; NYC Public Advocate Comments at 19; CWA Comments at 17–19.

growth and reduced churn due to improved customer experience, product mix and service quality resulting from (1) and (2).[94] Based on Cablevision's operating performance, Altice believes that these [redacted] would not be achievable by Cablevision alone, in the absence of the Transaction. Thus contrary to Staff's concerns,[95] but consistent with Altice's experience in its other acquisitions, the Transaction will facilitate, not hamper, Cablevision's ability to invest in service and increase both customers and revenues. For instance, as Altice has made progress in optimizing Numericable-SFR's processes and operations—through measures such as negotiations with suppliers, simplification of IT systems, and in-sourcing—Altice has been able to accelerate the company's fiber buildout and deployment of 4G base stations.[96]

At the same time, as explained in Joint Petitioners' responses to other Staff information requests, the Transaction will result in a stand-alone, self-financing Cablevision capital structure within the broader group of subsidiaries of Altice N.V.[97] The capital structure will be insulated from other indebtedness in the Altice structure since neither Cablevision nor any of its subsidiaries provide credit support to any indebtedness of any other subsidiary of Altice N.V. In other words, Cablevision and its subsidiaries will not and cannot guarantee debt or pledge their assets for the benefit of entities outside the restricted group at Cablevision.

The Transaction's financing also has been endorsed by lenders and additional equity partners, who, through their investments, have demonstrated that the financing structure for the

---

[94] *See* Response to DPS-37.

[95] *See* Staff Comments at 45.

[96] Additional details are provided in Altice's November 12, 2015, presentation at the Morgan Stanley TMT Conference in Barcelona. The presentation is publicly available. *See* Altice, Morgan Stanley TMT Conference (Nov. 12, 2015), *available at* http://altice.net/wp-content/uploads/2015/11/20151112-MS-Barcelona-Conference.pdf.

[97] *See* Supplemental Response to DPS-12.

Transaction is sound. The foundation for the financing of the Transaction, and the basis on which Altice obtained the fully-committed, low-cost, long-duration debt financing for the Transaction, is Altice's plan for Cablevision—efficiencies, investments, innovations, best-practices—together with its extensive track record in previous acquisitions. This model is based on achieving incremental AOCF through reducing costs, primarily from reducing historically high corporate expenses, eliminating corporate functions no longer necessary in a combined (or private) company, implementing improved operations and IT systems, optimizing processes and implementing operational re-organizations and leveraging the scale of Altice's worldwide operations to obtain improved purchasing power for customer premises equipment ("CPE"), network components, IT systems and related inputs. All of these measures ultimately improve service quality and the customer experience. That sophisticated financing syndicates, including JP Morgan, Barclays, and BNP committed $10.6 billion to the Transaction, and that other sophisticated large-scale investors such as BC Partners and CPPIB committed an incremental $1 billion in Cablevision and $0.7 billion in Suddenlink after extensive due diligence, demonstrates the market's confidence in the viability of Altice's model.

In addition, Altice will have access to a revolving credit facility of $2 billion to provide substantial near term support to achieve increased AOCF in the near term. The debt incurred to finance the transaction has a long maturity (average life of 6.7 years) and low cost (7.5% rate), creating substantial benefit and flexibility for Altice. The initial leverage ratio of 7.4x EBITDA is expected to decline rapidly based on EBITDA growth and deleveraging to a range that is consistent with Cablevision's longer run leverage ratio. Cablevision will have additional flexibility because it will no longer pay regular dividends (currently amounting to about $140 million a year) after the Transaction closes.

Moreover, the terms of the Transactions already implement the financial measures Staff calls for in its comments. Specifically, in its comments Staff suggests the imposition of "a dividend restriction until key credit metrics thresholds can be attached."[98] Such a dividend restriction already exists. The indentures governing the Acquisition Financing[99] permit CSC Holdings LLC and its subsidiaries that are "restricted subsidiaries"[100] (collectively, the "CSC Holdings Restricted Group") to pay dividends *only if* the ratio of consolidated indebtedness (as defined in such indentures) to consolidated cash flow of the CSC Holdings Restricted Group for the most recent two quarters on an annualized basis is less than 5.5:1, a standard ratio for the industry. The fact that the Acquisition Financing has already considered and accounted for the key measure proposed by Staff is further evidence that the Transaction is financially sound.

G. Other Issues Raised in the Comments Pose No Transaction-Related Concerns.

1. Battery Back-Up

Presently, Cablevision makes available an eight-hour battery backup capability to customers who want to purchase it, and Altice will continue to do so. Joint Petitioners respectfully disagree with Staff's proposal to require adoption of a plan to "expand the number of devices with battery backup powering," [101] and to require provision of battery backup

---

[98] Staff Comments at 46.

[99] Acquisition Financing consists of senior notes due 2023 and 2025, respectively, senior guaranteed notes due 2025, in each case, issued by Neptune Finco Corp., borrowings under the new term loan facility and the new revolving credit facility entered into by Neptune Finco Corp., all of which will become indebtedness of CSC Holdings, LLC upon the merger of Neptune Finco Corp. into CSC Holdings, LLC in connection with the consummation of the Acquisition.

[100] Substantially all subsidiaries of Cablevision (other than Newsday Holdings LLC and its subsidiaries) are restricted subsidiaries under the existing Cablevision indebtedness.

[101] Staff Comments at 60.

capability to certain customers at no charge.[102] The Federal Communications Commission ("FCC") has established rules concerning backup power through a rulemaking process, taking into account the views of all stakeholders, including service providers, consumer advocates, elder and disability advocates, and members of the public safety community. Adopting Staff's conditions, which are not the result of a similar process, would impose burdensome and costly requirements on Cablevision that are inconsistent with FCC requirements. Moreover, adopting Staff's recommended requirements in this proceeding would impose economic and regulatory burdens on Cablevision that are not imposed upon Verizon FiOS's competitive VoIP offerings or any other VoIP provider in New York State, and are thus inconsistent with Commission policy.

The FCC's recently adopted rules are applicable uniformly to all providers that offer a non-line powered voice service, such as Cablevision and Verizon FiOS. While the FCC rules require operators to make backup power solutions available, the FCC expressly declined to mandate that providers install such solutions unless requested to do so by the subscriber (and at the subscriber's expense).[103]

In light of the FCC's comprehensive decision, the Commission should not adopt the recommended backup power conditions proposed by Staff.

---

[102] *See id.* Setting aside the questionable legality of such a mandate, the proposed requirement differs substantially from the rules recently adopted by the FCC concerning provision of backup power. *See Ensuring Continuity of 911 Communications*, Report and Order, 30 FCC Rcd. 8677 (2015).

[103] *See id.* at 8689 ("We emphasize that the requirements we adopt today do not place any obligation on the consumer to purchase backup power; the obligation is placed on the provider not providing line-powered service, to make backup power available to the consumer, and to install appropriate backup power upon initial installation of service if requested by the consumer."). *See also id.* at 8691–92 (noting that many customers decline backup power options, either because their phone equipment itself (*e.g.*, cordless phone) requires power or because they rely upon a mobile phone for backup in power outages). The FCC also rejected any regulation of pricing of backup power solutions. *See id.* at 8697.

2. Data Caps/Modem Fees

The Commission need not share Staff's concerns about potential changes to modem and router pricing and practices.[104] Cablevision's modem and router policies reflect the highly competitive marketplace in which it operates, and Altice's modem and router policies will continue to do so as well. Offering modems and other ancillary broadband equipment on an attractive basis will remain a key element of differentiation between Cablevision and Verizon, and New York customers will continue to benefit from such competition.

Staff also raised concerns about data caps, proposing to prohibit them as a condition of the Transaction.[105] While Staff notes concerns that data caps can be a "significant detriment,"[106] they also can, as the FCC has recognized, "benefit consumers by offering them more choices over a greater range of service options."[107] Accordingly, after closely examining the issue in its Open Internet proceeding, the FCC expressly declined to make blanket findings about usage allowance practices, and instead opted to address any potential concerns on a case-by-case basis in the event the FCC had reason to believe such practices were in fact unreasonably interfering with or unreasonably disadvantaging the ability of consumers to reach the Internet content, services, and applications of their choosing.[108]

The New York market is simply too dynamic to justify imposing operational limits on Altice at this juncture. The market will demand that Altice provide a range of service options that meet the needs of New York customers. Thus, even if Altice at some point determines that

---

[104] *See* Staff Comments at 44.

[105] *See* Staff comments at 43.

[106] *Id*.

[107] In the Matter of Protecting & Promoting the Open Internet, 30 FCC Rcd. 5601 (2015) ("Open Internet Order").

[108] See *id*.

there is consumer demand for plans that include data caps, Altice expects it would continue to offer plans without such caps, as well. To single out and constrain a provider for any period of time—especially when no concerns have surfaced relating to Cablevision in this area—would be inappropriate. Preemptive restraints would be particularly inequitable in light of the fact that Cablevision's competitors face no similar restrictions. Cablevision's competitors are launching aggressive service offers that Cablevision will have to match or beat—and if the company is subject to regulatory restrictions its competitors do not face, it will be handicapped in keeping up with market demands.

3. Local Review of the Transaction

Under New York law, the question of whether a transfer of a cable franchise is reviewable at the local level is determined by the terms of the applicable franchise agreement.[109] Joint Petitioners respectfully disagree with the interpretation of Cablevision's franchise agreements with New York City advanced by the Public Advocate for the City of New York ("Public Advocate"). In January 2016, Joint Petitioners provided New York City with a memorandum from Cablevision's outside counsel detailing the history of the franchises' transfer provision dating back to the now-expired 1998 agreement, and explaining how the current, operative franchise language does not require City approval of the transfer of control of the New York City cable franchises effectuated by the Transaction.

As noted in the memorandum, there are at least three separate grounds upon which the language of the Cablevision New York City franchises exempts the transfer of control from review and approval by the City. First, the transfer of control is exempt from review under the plain language of both the parent merger exclusion and the affiliate merger exclusion set forth in

[109] *See* 16 N.Y.C.R.R. § 895.1(s).

Section 13.7 of the New York City franchise agreements. Second, the transfer of control does not involve a cognizable change in ownership of the franchise holder in the City for purposes of Section 13.1, and therefore does not trigger review. And third, the transfer of control is exempt under Section 13.1 because it involves the exchange of publicly-traded Cablevision shares. [110]

The Public Advocate previously has acknowledged that similar transfer language in other New York City cable franchise agreements does not trigger City review of cable transfers effectuated by a merger.[111] Nonetheless, as discussed above, Altice is committed to maintaining and, where possible, further deepening Cablevision's relationships with the communities it serves, and accordingly Altice looks forward to continued engagement with officials in New York City and the other municipalities in Cablevision's service area.

IV. THE COMMISSION'S AUTHORITY TO IMPOSE CONDITIONS ON THE TRANSACTION IS CIRCUMSCRIBED BY FEDERAL AND STATE LAW

For the reasons described above, the benefits of the Transaction already match Staff's priorities, and the presence of competition obviates the need for additional conditions. Joint

---

110 The separate equity interests in Cablevision taken in conjunction with the merger by Canada Pension Plan Investment Board (11.8%) and BC Partners (18.2%), also do not trigger review under the franchise agreements. The New York City franchises make clear that the affiliate merger exclusion and the parent merger exclusion—both of which apply here—insulate "any action" which is the result of merger from review. Because the acquisition of the CPPIB and BC Partners interests are occurring contemporaneously with—and fully contingent upon—consummation of the merger (see Joint Petition at 7) they are actions that "result from the merger" and thus cannot trigger the agreement's review provisions. *See e.g.*, Cable Franchise Agreement by and between The City of New York and Cablevision Systems New York City Corporation for the Borough of Brooklyn, at § 13.7 (the franchise in effect in the Bronx contains an identical Section 13.7). Further, even if those interests were not exempted by the merger exclusions, they would still not trigger review because neither their acquisition, nor the transaction as a whole, constitutes a cognizable ownership change in the "Franchisee" reviewable under Section 13.1 of the New York City franchises.

111 See Letitia James, Public Advocate for the City of New York, Protecting Internet Service for All New Yorkers: The Comcast Time-Warner Cable Merger and the Role of New York City's Franchise Agreements, at 5 (March 2015), *available at* http://pubadvocate.nyc.gov/sites/advocate.nyc.gov/files/publicadvocate-comcastannualreport_2.pdf ("[H]istorically, New York City would have had an opportunity to review the merger pursuant to the franchise agreement with TWC. Unfortunately, this right was relinquished in 2008"); *id.* at 6 ("[T]he City lacks any say in the merger, a right that—until very recently—the City had the authority to exercise"). *See also* Joint Petition at 6 (noting the consummation of the transaction will be effectuated by the merger of an Altice subsidiary, Neptune Merger Sub Corp., "with and into Cablevision"); Joint Petition at Exhibit C, Exhibit 1 ("Agreement and Plan of Merger" between Altice and Cablevision).

Petitioners remain eager to maintain an open dialogue with the Commission and Staff, as Joint Petitioners view such dialogue as an important element to enable Cablevision to continue meeting the needs of New York residents after the Transaction closes. Nonetheless, any formal commitments the Commission may consider should reflect limits imposed by federal and state law.

A. Federal Law Constraints

Federal law requires the Commission to act within the constraints imposed by Title VI of the Cable Act,[112] and thereby limits the scope and type of permissible conditions in several respects. First, Section 617 of the Cable Act limits review of cable franchise transfers to issues related to a transferee's financial, legal and technical ability to operate the cable systems proposed to be transferred.[113] Second, the Cable Act precludes the Commission from exercising any of the powers afforded to it by Title VI of the Communications Act—including its transfer review authority—to regulate or condition the provision of non-cable services.[114] Third, while

---

[112] *See* 47 U.S.C. § 556(c); *Liberty Cablevision of Puerto Rico, Inc. v. Municipality of Caguas*, 417 F.3d 216, 221 (1st Cir. 2005) ("Congress has made it unmistakably clear that the Cable Act will preempt any inconsistent state or local law"); H. Rep. No. 98-934, 98th Cong., 2d Sess., (1984) at 19 (The Cable Act "defin[es] and limit[s] the authority that a franchising authority may exercise through the franchise process").

[113] *In the Matter of Implementation of Sections 11 and 13 of the Cable Television Consumer Protection & Competition Act of 1992*, 8 FCC Rcd. 6828, 6840 (1993) (noting that the Form 394 transfer form established in response to the enactment of Section 617 was designed to include "the information necessary to establish the legal, technical and financial qualifications of the proposed transferee" and to "ensure that the franchise authorities are provided with sufficient information to evaluate and render prompt decisions with respect to such transfer requests").

[114] *See* 47 U.S.C. § 541(b)(3)(D) ("A franchising authority may not require a cable operator to provide any telecommunications service or facilities, other than institutional networks, *as a condition of* the initial grant of a franchise, a franchise renewal, or a transfer of a franchise."). *See also* 47 U.S.C. § 541(b)(3)(B) ("A franchising authority may not impose any requirement under this title that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications services by a cable operator or affiliate thereof."); *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, Second Report and Order*, 22 FCC Rcd. 19633, 19641–42 (2007) (" . . . LFAs' jurisdiction under Title VI over incumbents applies only to the provision of cable services over cable systems . . . and . . . an LFA may not use its franchising authority to attempt to regulate non-cable services offered by incumbent video providers.").

Staff borrows its proposed net benefits test primarily from the standard under Section 70 of the Public Service Law, which pertains to mergers of electric and gas utilities,[115] federal law prohibits subjecting cable operators providing cable service to utility regulation.[116] Fourth, broadband-related conditions also would contravene the strictures of the FCC's *Open Internet Order*.[117] The FCC announced its "firm intention" to preempt state actions that are inconsistent with the Federal broadband policy framework,[118] and the prospect of 50 different state commissions regulating broadband service via transfer authority creates precisely the type of conflicting regulatory patchwork the FCC sought to avoid.[119]

Section 706 of the Communications Act does not authorize the Commission to use this proceeding to regulate the manner in which Altice provides broadband service post-close.[120] While the D.C. Circuit[121] has ruled that the FCC could rely upon Section 706 as a legal basis for net neutrality requirements, no court has determined that Section 706 grants such authority to state commissions.[122] The D.C. Circuit also made clear that whatever authority is imparted

---

[115] *See* Staff Comments at 15–16.

[116] *See* 47 U.S.C. § 541(c) ("Any cable system shall not be subject to regulation as a common carrier or utility by reason of providing any cable service").

[117] *See* Open Internet Order at 5803 (reiterating that broadband Internet access remains a jurisdictionally interstate service for regulatory purposes and that the Commission will preempt States that impose "obligations on broadband service that are inconsistent with the carefully tailored regulatory scheme").

[118] *See id.* at 5804. In addition, the FCC reiterated in the Open Internet Order that cable operators need not obtain any additional franchise or authorization in order to provide broadband Internet access service over their cable systems. *Id.* at n. 1285. Given that federal broadband policy precludes franchise regulation of broadband Internet access service provided by cable operators, the suggestion that the same policy permits regulation of that service via the transfer review process is implausible.

[119] The FCC expressly ruled that attempts by States to subject broadband service to any form of rate regulation would be preempted. See *id.* at 5804.

[120] *See* 47 U.S.C. § 1302(a); *cf.* Staff Comments at 9.

[121] See Verizon v. Federal Communications Commission, 740 F. 3d 623 (D.C. Cir. 2014).

[122] In *Verizon*, the D.C. Circuit did not actually rule on whether Section 706 constitutes a grant of authority over broadband to State Commissions because that issue was not at stake in the case. Instead, the Court simply held that

under Section 706(a) may not be exercised in a manner inconsistent with the Communications Act or its objectives—as would occur here if broadband conditions were imposed.[123]

Fifth, Federal law also circumscribes the authority of a state to impose requirements on cable operators related to the deployment of a particular kind of network "transmission technology."[124] Sixth, the asymmetric imposition of broadband service regulatory requirements not applicable to Verizon and other competitors would contravene the directive in Section 253 of the Communications Act that local regulation of telecommunications providers be "competitively neutral and non-discriminatory."[125] Such discriminatory treatment can "have the effect of prohibiting" an entity from providing service, in violation of Section 253, by inhibiting its ability "to compete in a fair and balanced legal and regulatory environment."[126]

B. State Law Constraints

State law does not authorize the Commission to impose broadband-related conditions or mandate other commitments unrelated to the provision of cable or telephone service. The New York cable law provisions set forth in Article 11 of the Public Service Law expressly require that the scope of their authority be construed in accordance with Federal law and, as noted above, Title VI of the Communications Act bars consideration of factors or imposition of conditions

---

the reference to State Commissions in Section 706(a) offered no support for Verizon's claim that the provision lacked a grant of authority to the FCC. *See id.* at 642–49.

[123] *See* 740 F.3d at 649–50.

[124] 47 U.S.C. § 544(e).

[125] 47 U.S.C. § 253(a) ("No State or local statute or regulation, or other State or local requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunication service"); *TCG v. White Plains*, 305 F.3d 67, 79–80 (2nd Cir. 2002), *cert. denied*, 123 S. Ct. 1582 (2003).

[126] *Id.* at 76 (agreeing that Section 253 prohibits imposition of local requirements that "materially inhibit[] or limit[] the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment").

unrelated to cable service.[127] Likewise, to this point, telephony-centric statutes and rules authorizing merger review have not been used by the Commission to justify the imposition of broadband conditions in a telephone transfer proceeding.[128]

The Commission "is possessed of only those powers expressly delegated by the legislature, together with those powers required by necessary implication."[129] Nothing in Article or elsewhere in the Public Service Law "expressly delegate[es]" to the Commission the authority to impose broadband-related commitments on cable company acquisitions or other conditions unrelated to the provision of cable service.[130]

Lastly, there is no authoritative support for Staff's claim that the amendment to Section 222 of the Public Service Law in 2014 was meant to apply a utility-type net public benefits test to reviews of cable transfers under Section 222. [131] The amendment to Section 222 did not alter the language of the public interest standard in Article 11. Rather, it clarified—by shifting the burden—only that the petitioner seeking approval of a proposed transfer must show that the

---

[127] *See e.g.* N.Y. Pub. Serv. Law § 211; *id.* § 215.

[128] For example, in the Verizon-MCI merger, which involved the acquisition by New York State's most dominant ILEC of one of the State's largest competitive providers, the Commission did not impose synergy-sharing or investment-related requirements derived from electric and gas utility mergers. *See* Case 05-C-0237, *Joint Petition of Verizon Communications Inc. and MCI, Inc.,* Order Asserting Jurisdiction and Approving Merger Subject to Conditions, at 56 (Nov. 22, 2005) .

[129] *Consolidated Edison Co. v. Public Serv. Comm'n,* 47 N.Y. 2d 94, 102 (1979) (citations omitted).

[130] New York Public Service Law Sections 99, 100 and 101 do not refer to conditions. *See* N.Y. Pub. Serv. Law § 99–101. While New York Public Service Law Section 202(4) states that the Commission "may approve the application [for approval of the transfer of cable television franchises or facilities] contingent upon compliance with standards, terms or conditions set by the commission which it determines would not have been met by the proposed transfer . . ." (N.Y. Pub. Serv. Law § 202(4)), Staff does not allude to that language in its argument. In any event, it is difficult to see how broadband deployment could constitute a "condition" that the Commission could determine "would not have been met" by the Transaction.

[131] As noted above in Section IV.A, Section 621(c) of the Cable Act prohibits subjecting cable operators providing cable service to utility regulation, and thereby casts further doubt on whether the Commission's cable transfer review authority can be read to permit the importation of a utility-based review standard to the consideration of the instant transaction. *See* 47 U.S.C. § 541(c).

transaction is in the public interest.[132] Further, the 2014 amendment expires in approximately one year. Staff offers no explanation as to why the legislature would adopt an entirely different review standard as a temporary matter until April 2017, before reverting to the pre-2014 standard. In any case, as noted above, Section 222 of the Public Service Law and the 2014 amendment—like all of Article 11—must be construed in accordance with Federal law, which does not permit the imposition of utility regulation on cable operators.

CONCLUSION

The Transaction will provide substantial benefits to New York residents, so long as the post-Transaction Cablevision retains the flexibility necessary to react quickly and creatively to changing customer demands and competitive offerings. The range of conditions proposed by Staff are not needed—and indeed would be counterproductive—for the Transaction to be in the public interest, and the specific commitments Altice and Cablevision are making with respect to network improvement, innovation and low income broadband sufficiently demonstrate how and why consumers will be better off if the Transaction is approved. Joint Applicants therefore respectfully submit that the Commission should approve the Transaction forthwith.

---

[132] *Compare* NY PSL § 222(3)(b) (effective until April 1, 2017) and NY PSL § 222(3) (effective April 1, 2017).

Respectfully submitted,

/s/ Maureen O. Helmer
Maureen O. Helmer
BARCLAY DAMON, LLP
80 State Street
Albany, NY 12207
(518) 429-4220
MHelmer@barclaydamon.com

Paul D. Abbott
Tara M. Corvo
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO P.C.
701 Pennsylvania Avenue NW, Suite 900
Washington, DC 20004
(202) 434-7300
pdabbott@mintz.com
tmcorvo@mintz.com

Counsel for Cablevision Systems Corporation, Cablevision Lightpath, Inc. and Cablevision Cable Entities

/s/ Andrew M. Klein
Andrew M. Klein
Allen C. Zoracki
KLEIN LAW GROUP PLLC
90 State Street, Suite 700
Albany, NY 12207
(202) 289-6955
(518) 336-4300
AKlein@KleinLawpllc.com
AZoracki@KleinLawpllc.com

Yaron Dori
Michael Beder
Ani Gevorkian
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, N.W.
Washington, DC 20001
(202) 662-6000
YDori@cov.com
MBeder@cov.com
AGevorkian@cov.com

Counsel for Altice N.V.