



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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DA 20-652

Released: June 22, 2020

## PETITION BY CHARTER COMMUNICATIONS, INC. TO SUNSET MERGER CONDITIONS

### PLEADING CYCLE ESTABLISHED

### WC DOCKET 16-197

**Comments Due: July 22, 2020**

**Reply Comments Due: August 6, 2020**

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on a Petition filed by Charter Communications, Inc. for consent to sunset on May 18, 2021 two conditions related to its merger with Time Warner Cable Inc. and Bright House Networks, LLC: (1) the prohibition on Charter imposing data caps and usage-based pricing mechanisms; and (2) the requirement for Charter to offer to connect its Internet protocol (IP) network to any qualifying entity free of charge and on standardized terms.<sup>1</sup>

On May 10, 2016, the Commission released an order approving the applications for the transfer of control of licenses and authorizations from Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership, the parent of Bright House Networks, LLC, to a new company, also named Charter Communications.<sup>2</sup> As part of its approval, the Commission imposed a number of conditions, including requiring Charter to offer broadband service at a discounted rate for low-income individuals, requiring Charter to expand its broadband network to two million new customer locations, and prohibiting Charter from imposing data caps or usage-based billing on its customers.<sup>3</sup> The Commission established that

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<sup>1</sup> See Petition of Charter Communications, Inc., WC Docket No. 16-197, at 8-9 (filed June 18, 2020) (Petition).

<sup>2</sup> *Applications of Charter Communications, Inc., Time Warner Cable, Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 15-149, Memorandum Opinion and Order, 31 FCC Rcd 6327 (2016) (*Charter Merger Order*).

<sup>3</sup> *Charter Merger Order*, 31 FCC Rcd at 6543-49, Appx. B, Conditions. The Commission eliminated the overbuild condition in April 2017. *Applications of Charter Communications, Inc., Time Warner Cable, Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 15-149, Order on Reconsideration, 32 FCC Rcd 3238 (2017). The Commission also required the appointment of an independent compliance monitor and the filing of periodic reports to help ensure that the conditions were fulfilled. *Charter Merger Order*, 31 FCC Rcd at 6543-49, Appx. B. On June 16, 2016, the Commission established a separate docket for monitoring conditions imposed by the *Charter Merger Order*. See *Docket Established For Monitoring Compliance With The Conditions Imposed In The Charter Communications-*

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the merger conditions would remain in effect for seven years after the closing date of the transaction, but set up a process for Charter to petition for relief of the interconnection and data caps/usage-based pricing conditions as of the five-year anniversary of the closing (i.e., as of May 18, 2021).<sup>4</sup>

### General Information

Interested parties may file petitions or comments on the Charter Petition **on or before July 22, 2020**, and reply comments or oppositions to petitions **on or before August 6, 2020**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by paper. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- **Electronic Filers:** Comments may be filed electronically by accessing ECFS at <http://apps.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. Paper filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.<sup>5</sup>
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

**People with Disabilities:** To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 1-888-835-5322 (tty).

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*Time Warner Cable-Bright House Networks Order*, WC Docket No. 16-197, Public Notice, 31 FCC Rcd 6987 (June 16, 2016).

<sup>4</sup> *Charter Merger Order*, 31 FCC Rcd at 6558, Appx. B (“If, during the three (3) months after the fourth anniversary of the Closing Date, the Company petitions to shorten the term of the Conditions contained in Section III (Settlement-Free Interconnection) or Section IV (Data Caps and Usage-Based Pricing Condition) to five (5) or more years, then the Wireline Competition Bureau shall, nine (9) months prior to the fifth anniversary of the Closing Date, seek public comment on whether the Company has demonstrated that those Conditions are no longer in the public interest and will rule on the Company’s petition on or before the fifth anniversary of the Closing Date.”).

<sup>5</sup> In response to the COVID-19 pandemic, the Commission has closed its current hand-delivery filing location at FCC Headquarters. We encourage outside parties to take full advantage of the Commission’s electronic filing system. Any party that is unable to meet the filing deadline due to the building closure may request a waiver of the comment or reply comment deadline, to the extent permitted by law. *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, DA 20-304 (rel. Mar. 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

**In addition, please provide one copy of each pleading to each of the following:**

- (1) Mike Ray, Wireline Competition Bureau, [michael.ray@fcc.gov](mailto:michael.ray@fcc.gov); and
- (2) Joel Rabinovitz, Office of the General Counsel, [joel.rabinovitz@fcc.gov](mailto:joel.rabinovitz@fcc.gov).

This proceeding will be treated as a permit-but-disclose proceeding in accordance with the Commission's *ex parte* rules.<sup>6</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, then the presenter may provide citations to such data or arguments in the prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's Rules.<sup>7</sup> Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the applications in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.<sup>8</sup> A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

For further information, please contact Mike Ray, Wireline Competition Bureau, (202) 418-0357.

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<sup>6</sup> 47 CFR §§ 1.1200 *et seq.*

<sup>7</sup> 47 CFR § 1.1206(b).

<sup>8</sup> 47 CFR § 1.45(c).