

February 28, 2019

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BY ELECTRONIC DELIVERY

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20054

**Re: Notice of Ex Parte Presentation**

**Petition of Charter Communications, Inc., for a Determination of Effective  
Competition in 32 Massachusetts Communities and Kauai, HI**

**MB Docket No. 18-283; CSR No. 8965-E**

Dear Ms. Dortch:

On February 25, 2019, Maureen O’Connell of Charter Communications, Inc. (“Charter”) and the undersigned on behalf of Charter met with Michael Scurato of Commissioner Starks’s office regarding the above-captioned matter.

During the meeting, we summarized the legal and policy arguments in support of a determination that DIRECTV NOW satisfies the LEC Test. As detailed in Charter’s Petition and Reply to Oppositions in this proceeding, we explained that DIRECTV NOW meets the LEC Test because it is a comparable video programming service that is offered directly to subscribers “by...means” other than direct-to-home satellite. We explained that the requirement that a LEC affiliate offer service “directly to subscribers” is nothing more than a requirement that the LEC affiliate must have (or offer to have) a direct customer relationship with consumers in the franchise area.<sup>1</sup> We also explained that, contrary to respondents’ contention, the LEC Test is not limited to

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<sup>1</sup> See Charter Communications, Inc. Reply to Oppositions, MB Docket No. 18-283, CSR-8965-E, at 14 (Nov. 19, 2018) (“Charter Reply”).

video programming services delivered over LEC facilities.<sup>2</sup> Finally, we reiterated that the need for a broadband connection to receive DIRECTV NOW is not an impediment to the offering of DIRECTV NOW in light of the fact that more than 80 percent of households in Massachusetts and Hawaii subscribed to broadband in 2016, a number that has likely risen since then.<sup>3</sup>

In response to a question Mr. Scurato raised at the meeting,<sup>4</sup> we note that the monthly charge for the basic service tier in the affected franchise areas will be Charter's national rate of \$23.89 if the Commission grants Charter's Petition in this matter. The regulated monthly rates in Massachusetts for the basic tier currently range from \$12.49-\$23.99; the regulated monthly rate in Kauai is \$18.49.<sup>5</sup> The lowest price DIRECTV NOW package is \$40 per month.<sup>6</sup>

Please contact the undersigned if you have any questions about this matter.

Sincerely,

*/s/ Howard J. Symons*

Howard J. Symons

cc: Michael Scurato

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<sup>2</sup> See Charter Reply at 3-4; Letter from Howard J. Symons, Counsel to Charter Communications, Inc. to Marlene H. Dortch, Secretary, FCC, MB Docket No. 18-283, CSR-8965-E, at 1-4 (Feb. 1, 2019) ("February 1 Ex Parte").

<sup>3</sup> Charter Reply at 18-19; February 1 Ex Parte at 6-7.

<sup>4</sup> The filing of this notice was delayed by one day in order to collect the data to respond to Mr. Scurato's question. We therefore request a waiver of the filing deadline in § 1.1206(b)(2)(iii) of the Commission's rules so that this notice can serve as a comprehensive record of Charter's discussion with Mr. Scurato.

<sup>5</sup> All Charter cable subscribers also pay a Broadcast TV Surcharge, a pass-through fee reflecting charges assessed to Charter by the owners of local broadcast or local "network-affiliated" TV stations. See <https://www.spectrum.net/support/my-account/broadcast-tv-surcharge/> ("What is the Broadcast TV Surcharge on my statement?"). The national rate for this surcharge will be \$11.99 starting with March 2019 bills. The regulated rate for this surcharge in Massachusetts ranges from \$8.50-\$9.95; the regulated rate in Kauai is \$8.85.

<sup>6</sup> See <https://www.directvnow.com/tv-packages> (last visited Feb. 28, 2019).