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October 25, 2018

**VIA ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: *Petition of Charter Communications, Inc., on Behalf of Its Subsidiaries and Affiliates for a Determination of Effective Competition in Massachusetts Communities Listed in Appendix A and Kauai, HI (HI0011), MB Docket No. 18-283*

Dear Secretary Dortch:

Pursuant to 47 C.F.R. § 76.7(b)(1), the Office of the Attorney General for the Commonwealth of Massachusetts (“Massachusetts AGO”) hereby files comments responding to the Petition for Determination of Effective Competition (“Petition”) filed by Charter Communications, Inc. (“Charter”) on September 14, 2018. As the Commonwealth’s ratepayer advocate and enforcer of the state’s consumer protection statutes, the Massachusetts AGO files these comments to support the concerns raised by the Massachusetts Department of Telecommunications and Cable (“Massachusetts DTC”) in its own opposition to the Petition.

The basis for Charter’s petition is that its cable television services face competition from AT&T’s streaming video service, DIRECTV NOW. Petition, at ii, 1. Charter recognizes that the DIRECTV NOW service requires an Internet connection. *Id.*, at 7. Consequently, DIRECTV NOW’s competitiveness with Charter’s cable television services depends entirely on the means through which Charter’s customers obtain broadband Internet service in their homes.

In support of its claim that AT&T is “technically and actually able to provide” DIRECTV NOW in Charter’s Massachusetts rate-regulated communities, Charter discusses how its own fixed broadband Internet service will be the method by which customers within the 32 Massachusetts communities at issue (“Franchise Areas”) will be able to access DIRECTV NOW:

Because broadband Internet with download speeds of at least 25 megabits per second (“Mbps”) is available to virtually 100 percent of Charter’s customers in the Franchise Areas, AT&T’s offer of

DIRECTV NOW substantially overlaps Charter's cable systems in the Franchise Areas. In fact, Charter provides speeds of at least 100 Mbps in all of the Franchise Areas, well in excess of the speed necessary to view DIRECTV NOW. Accordingly, DIRECTV NOW's offering substantially overlaps with Charter's cable service.

*Id.*, at 7–8. Charter does not identify in its Petition any fixed broadband Internet service provider other than Charter in the Franchise Areas.

The fact that the availability of DIRECTV NOW in the Franchise Areas appears dependent on Charter's fixed broadband Internet services raises serious legal questions about whether DIRECTV NOW can be the basis for a determination of "effective competition" as Congress intended in 47 U.S.C. § 543. When resolving these legal questions, the Commission also should investigate Charter's claim that AT&T is, in fact, "technically and actually able to provide" DIRECTV NOW to customers in the Franchise Area.

The Massachusetts AGO has received a number of complaints over the years concerning the quality of Charter's fixed broadband Internet services. *See* Declaration of Timothy J. Reppucci ("Reppucci Decl."), at ¶¶ 5, 7 (attached). Some of these complaints specifically reference concerns about "throttling" and whether Charter is providing the data speeds that it promises its customers. *Id.* Charter's customers in Massachusetts' Berkshire County have lodged repeated complaints about Charter's fixed broadband Internet services.<sup>1</sup> *Id.*, at ¶¶ 4, 7. As part of its investigation, the Commission should explore whether customers in the Franchise Areas would in fact be able to take advantage of DIRECTV NOW when using Charter's fixed broadband Internet network.

Specifically, pursuant to 47 C.F.R. § 76.7(e)(2) and (f), the Massachusetts AGO asks the Commission to issue discovery requests and require Charter to submit additional information to determine:

- (1) the extent to which Charter is the only fixed broadband Internet service provider in the Franchise Areas;
- (2) the download-speed packages available to each of Charter's fixed broadband Internet service customers in the Franchise Areas;
- (3) whether Charter's fixed broadband Internet service customers are receiving the download speeds promised to them as part of Charter's fixed broadband Internet service packages;
- (4) whether Charter engages in throttling the speeds of its fixed broadband Internet customers that do not take Charter's cable television services; and,
- (5) the differences in rates offered for Charter's unbundled fixed broadband Internet services and those same services bundled with cable television services or

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<sup>1</sup> The Massachusetts AGO has received even more complaints about Charter's cable television services, including Charter's abrupt and disappointing decision to discontinue airing Boston-based news programming in the Berkshire region.

telephone services.

Given the seriousness of Charter's Petition to avoid rate regulation in 32 Massachusetts communities, and in support of the Massachusetts DTC's position in opposition, the Massachusetts AGO also requests that the Commission consider, pursuant to 47 C.F.R. § 76.7(e)(1) and (g), holding an evidentiary hearing or referring the Petition to an administrative law judge.

Respectfully submitted,

MAURA HEALEY  
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Massachusetts Communities Listed in Appendix A and  
Kauai, HI (HI0011)


002573

1. I am an Assistant Attorney General in the Energy and Telecommunications Division of the Office of the Attorney General for the Commonwealth of Massachusetts (“Massachusetts AGO”). I state the facts herein on behalf of the Massachusetts AGO.
2. The facts stated herein are true and accurate to the best of my personal knowledge.
3. I have reviewed a list of more than 150 complaints against Charter Communications, Inc., and its affiliates (“Charter”) that was compiled at my direction from the Massachusetts AGO’s internal consumer complaints database.
4. These complaints generally relate to Charter’s provision of cable television, fixed broadband Internet, and telephone services within the Commonwealth.
5. Of these complaints, approximately 18 complaints appear to concern service quality issues with Charter’s fixed broadband Internet services. Some of these complaints specifically reference concerns with data speeds or “throttling.”
6. In addition to these approximately 18 complaints, one customer lodged a complaint alleging that Charter raised the rate of his fixed broadband Internet service from \$39.99 to

\$76.00 per month after he canceled Charter's cable television services and sought fixed broadband Internet on an unbundled basis.

7. I also have reviewed information provided to me by our office's community liaison serving the Berkshire region, who has received a number of in-person, verbal complaints regarding Charter's services. A number of customers allege that they purchased Charter's 100 Mbps broadband Internet package but consistently receive much slower download speeds.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 19, 2018.

  
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Timothy J. Reppucci  
Assistant Attorney General  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
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Petition of Charter Communications, Inc.	)	MB Docket No. 18-283
on behalf of its subsidiaries and affiliates	)	
	)	
For a Determination of Effective Competition in:	)	CSR No. CSR-8965-E
	)	PSID Nos. 003051
	)	003621
Massachusetts Communities Listed in Appendix A and	)	007064
Kauai, HI (HI0011)	)	002573
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**CERTIFICATE OF SERVICE**

I, Timothy J. Reppucci, hereby certify that on this 25th day of October, 2018, a copy of the foregoing comments was filed electronically with the Commission through the ECFS system and that a copy of the foregoing was served by first-class mail, postage prepaid, to the following:

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