

August 1, 2017

VIA ECFS

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: Settlement-Free Interconnection Reporting (Docket No. WC 16-197)

Dear Ms. Dortch:

Charter Communications, Inc. (“Charter”) seeks clarification of a reporting requirement in the Federal Communications Commission’s (“FCC”) Memorandum Opinion and Order in MB Docket No. 15-149.¹ The settlement-free interconnection condition requires “the Company to submit annually . . . a report from the *Independent* Compliance Officer addressing whether the Company has complied with this Condition.”² This appears to be a scrivener’s error. We believe Section III(3)(d) was intended to call for a report from the *Company* [not Independent] Compliance Officer. We have consulted with the Independent Compliance Officer (“ICO”), who agrees.

First, it is not sensible for Charter—the monitored party—to submit a report from the ICO to the FCC. The ICO submits all of her other reports directly to the FCC, consistent with typical monitoring procedure. It would make sense, however, for Charter to submit a report from the Company Compliance Officer to the FCC, making it likely that the FCC meant “Company” rather than “Independent” in Section III(3)(d).

Second, as currently written, Charter’s reporting on its interconnection compliance would be incomplete. For every other significant condition, Charter submits its own report on its substantive compliance with the relevant condition. The only other interconnection reporting requirement (involving quarterly supplemental data) does *not* require Charter to demonstrate

¹ *In the Matter of Applications of Charter Communications, Inc. Time Warner Cable Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations*, Order, 31 FCC Rcd 6327 (May 10, 2016) (“Order”).

² See Order, App’x B, § III(3)(d) (emphasis added). These quarterly reports provide certain data on traffic readings for all interconnection parties at the FCC’s request.

substantive compliance with the condition.³ If the overall interconnection compliance report is not from the Company Compliance Officer, then, the interconnection condition would be the only significant condition to lack a substantive compliance report from the Company. It is unlikely the FCC intended this result.

Third, Section III(3)(d) as drafted circumvents important protections for Charter. In every other instance, Charter first files a report, and the ICO then comments on that report.⁴ As part of that process, Charter has an express mechanism to request confidential treatment of elements of the ICO's report and to respond to it in the record.⁵ No such protections currently exist in Section III(3)(d), and the FCC could not have meant to deny these protections for one particular report.

Fourth, having the ICO prepare the first substantive report for interconnection compliance would be inconsistent with all the other conditions, none of which call for an ICO report in the first instance (as opposed to one assessing Charter's reports).⁶ The Company files substantive, condition-specific reports for all other significant conditions and, in the case of low-income broadband, the report is expressly from the Company Compliance Officer.⁷ A consistent approach therefore calls for the Company Compliance Officer to prepare the report.

Therefore, unless the FCC directs Charter to do otherwise, Charter will file a report under Section III(3)(d) from the Company Compliance Officer. The ICO will then submit her Compliance Report 60 days from that date, consistent with general procedure applicable to all Company reports. The substantive requirements of the condition remain unchanged.

³ See Order, App'x B, §§ III(3)(a), (b) and (c).

⁴ See Order, App'x B, § IX(3)(e).

⁵ *Id.*

⁶ See Order, App'x B, § IV (Data Caps and Usage-Based Pricing), § V (Residential Buildout), § VI (Discounted Broadband Services Offer), § VII (Continued Support of Consumer-Owned Devices), § VIII (Cybersecurity Security Plans Commitment).

⁷ See Order, App'x B, § IV(3) (Data Caps and Usage-Based Pricing), § V(3) (Residential Buildout), § VI(2)(h) (Discounted Broadband Services Offer). Sections VII (Continued Support of Consumer-Owned Devices) and VIII (Cybersecurity Security Plans Commitment) contain no ongoing reporting requirements.

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Please let me know if you have any questions regarding the above.

Sincerely,

/s/ John L. Flynn

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