

August 14, 2019

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BY ELECTRONIC DELIVERY

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

Re: 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:

Charter Communications, Inc. (“Charter”), by its attorneys, hereby replies to the “Supplement to Motion for Abeyance” filed by the Massachusetts Department of Telecommunications and Cable (“MDTC”) on August 4, 2019.¹

MDTC’s Supplement simply rehashes its baseless claim² that DIRECTV NOW’s decline in subscribership somehow warrants holding this proceeding in abeyance. As Charter previously explained, fluctuations in DIRECTV NOW’s subscribership do not constitute grounds for delaying action on Charter’s Petition in this proceeding. Changes in subscriber numbers are a common occurrence for video providers offering service in today’s competitive video marketplace, particularly after a price increase and a reduction in promotions, as was the case with DIRECTV NOW.³ Such fluctuations do not portend the cessation of service, especially for a provider owned

¹ Massachusetts Department of Telecommunications and Cable, Supplement to Motion for Abeyance, MB Docket 18-283, CSR-8965-E (Aug. 5, 2019) (“MDTC Supplement”).

² Massachusetts Department of Telecommunications and Cable, Motion for Abeyance, MB Docket 18-283, CSR-8965-E (June 17, 2019) (“MDTC Motion”).

³ See Jon Brodtkin, *AT&T Loses Nearly 1 Million TV Customers After Raising DirecTV Prices*, ARSTechnica (July 25, 2019), <https://arstechnica.com/information-technology/2019/07/att-loses-nearly-1-million-tv-customers-after-raising-directv-prices/> (noting that DIRECTV NOW lost subscribers “due to higher prices and less promotional activity,” according to AT&T).

by a local exchange carrier like AT&T. MDTC's continuing focus on DIRECTV NOW's subscribership is in effect an attempt to read into the LEC Test a penetration requirement that Congress and the Commission explicitly rejected.⁴

MDTC also erroneously characterizes AT&T's plans for DIRECTV NOW. Contrary to MDTC's assertion that DIRECTV NOW "would be *eliminated* in favor of AT&T Now,"⁵ AT&T simply *rebranded* DIRECTV NOW as AT&T TV NOW: It remains the same service that offers both live TV and on-demand programming to the same subscribers, albeit with a different name.⁶ Indeed, MDTC itself cites AT&T's press release explaining this change.⁷ As Charter has explained, if Charter's Petition is granted and DIRECTV NOW in fact ceases to compete in Massachusetts in the future, MDTC's remedy would be to seek certification to again regulate Charter's basic service tier and associated equipment.⁸

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

Sincerely,

/s/ Howard J. Symons

Howard J. Symons

cc: Martha Heller

⁴ See Charter's Opposition to Motion for Abeyance, MB Docket No. 18-283, CSR-8965-E, at 4-6 (June 27, 2019) ("Charter Opposition").

⁵ MDTC Supplement at 2 (emphasis added).

⁶ See Press Release, AT&T, DIRECTV NOW Rebrands Under AT&T TV Family (July 30, 2019), https://about.att.com/newsroom/2019/directv_now_rebrands_under_att_tv.html ("Our DIRECTV NOW subscribers will simply need to re-accept the terms of service and their streaming will continue as usual without interruption"); see also Chris Gates, *AT&T TV vs. AT&T TV NOW vs. HBO Max and More: AT&T Streaming Services Explained*, DIGITAL TRENDS (Aug. 7, 2019), <https://www.digitaltrends.com/home-theater/att-tv-vs-att-tv-now-vs-hbo-max-vs-hbo-now-vs-hbo-go-vs-dc-universe/> (explaining that AT&T TV NOW is a Live TV service "formerly known as DIRECTV NOW").

⁷ See MDTC Supplement at 2 n.6.

⁸ See Charter Opposition at 6.