

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

|                                       |   |                     |
|---------------------------------------|---|---------------------|
| In the Matter of                      | ) |                     |
|                                       | ) |                     |
| Applications of Comcast Corporation,  | ) | MB Docket No. 14-57 |
| Time Warner Cable Inc., Charter       | ) |                     |
| Communications, Inc., and GreatLand   | ) |                     |
| To Assign and Transfer Control of     | ) |                     |
| FCC Licenses and Other Authorizations | ) |                     |

**REPLY COMMENTS OF  
THE ALLIANCE FOR COMMUNITY MEDIA AND  
THE ALLIANCE FOR COMMUNICATIONS DEMOCRACY**

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**REPLY COMMENTS OF  
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THE ALLIANCE FOR COMMUNICATIONS DEMOCRACY**

**I. INTRODUCTION AND SUMMARY**

The Alliance for Community Media (“ACM”) and the Alliance for Communications Democracy (“ACD”) submit these reply comments in response to the Opposition to Petitions to Deny and Response to Comments (“Opposition”) filed on September 23 by Comcast and Time Warner Cable (“Comcast/TWC”), and in response to the Reply to Comments and Opposition to Petitions to Deny filed on September 24 by Charter Communications and Midwest Cable (“Charter Reply”). In our opening comments filed on August 25 (“ACM Comments”), we proposed specific conditions that the Commission should place on any consent it gives to the transactions in order to preserve and protect the uniquely local programming provided by public, educational and governmental (“PEG”) access programming on the post-transaction Comcast, Charter and GreatLand cable systems. The transactions, and the consequent increase in nationwide cable market concentration they would create, amalgamated with Comcast’s existing ownership of the NBC broadcasting network and NBC’s large cable programming content library, pose a threat to all independent programming and content. But that risk is particularly acute with respect to PEG access, the last true bastion of diversity and localism in today’s increasingly nationalized and commercialized video programming marketplace.

The Opposition’s and Charter Reply’s efforts to claim otherwise fail. The Opposition’s primary defense (at 295-96) is that our proposed PEG-related conditions “have nothing to do with the Transaction.” And in a similar vein, Charter claims (Charter Reply at 4) that “efforts to secure conditions relating to PEG channels . . . have nothing to do with the Divestiture Transactions.” But these claims, like much of the Opposition’s and the Charter Reply’s

discussion of other issues, turn a blind eye to the obvious consequences of the proposed transactions: It would permit Comcast to acquire TWC. Comcast is already the owner of a major television broadcast network and a large library of cable programmers, the largest MVPD in the nation by a considerable margin,<sup>1</sup> and also the nation's largest cable operator. TWC is the fourth-largest MVPD, the third-largest cable operator, and the third-largest broadband provider in the nation.<sup>2</sup> In addition, the transactions would greatly enlarge the cable system footprint of Charter, while creating new interrelationships between the enlarged Charter, the enlarged Comcast, and their new offspring, GreatLand.<sup>3</sup>

According to the Opposition and the Charter Reply, this does not matter because, due to longstanding and tacitly understood geographic market divisions, Comcast, TWC and Charter do not compete with one another in the cable, MVPD or broadband markets.<sup>4</sup> Whether or not this defense has any merit in assessing the transaction's impact on the horizontal MVPD competition market,<sup>5</sup> it is no response to the unique PEG-related localism and vertical concerns arising from the transactions that we pointed out in our Comments (at 1, 2, 5-7).

The larger and more nationalized and vertically integrated the cable industry becomes, the greater the incentive each remaining cable operator has to engage in practices designed to reduce PEG access support and viewership. This is so far at least two reasons.

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<sup>1</sup> Federal Communications Commission, *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 61-62, Fifteenth Report (July 22, 2013), available at [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-13-99A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-13-99A1.pdf).

<sup>2</sup> Joint Petition to Deny of Future of Music Coalition and Writers Guild of America West, Inc., 15, Aug. 25, 2014 ("FOM/WGA Petition").

<sup>3</sup> Charter and Comcast Agree to Transactions That Will Benefit Shareholders, Industry and Consumers, 10 (Apr. 28, 2014), available at <http://files.shareholder.com/downloads/CMCSA/0x0x747845/e572c896-c3f2-496e-9241-0c98c9f18b16/Investor%20Presentation.pdf>.

<sup>4</sup> See Opposition at 144; Charter Reply at 6.

<sup>5</sup> As several commenters note, the answer to that question is far from clear. See, e.g., FOM/WGA Petition at 17-18; Free Press Petition at 20; Public Knowledge Petition at 18-20.

*First*, practices that would reduce PEG access financial support and viewership would hold the potential for freeing-up system capacity for the cable operator's preferred uses: (1) commercial programming owned by or affiliated with the operator; (2) unaffiliated commercial cable programming from which, unlike PEG access programming, the operator derives advertising revenue; and (3) additional broadband capacity.

*Second*, starving PEG, in terms of channel capacity, functionality, financial support and viewer accessibility, would damage PEG viewership and thereby competitively advantage Comcast's NBC owned-and-operated ("O&O") stations and its other local NBC broadcast affiliate partners. Because, as noted in our Comments (at 3-4), PEG channels offer uniquely local programming, often more of it than local broadcasters, PEG channels compete with Comcast's local NBC stations (both O&Os and affiliates) for viewers interested in local programming. Because the transaction would substantially expand Comcast's cable footprint, and because there is either an NBC O&O or an NBC affiliate throughout the greatly expanded Comcast cable footprint the transactions would create, the transactions would naturally increase Comcast's incentive and ability to favor its NBC affiliates' programming, as well as its other cable programming content library, over PEG programming.

Comcast and Charter/GreatLand, perhaps intentionally, miss these points. The transactions would increase the incentive and ability of each to engage in practices designed to reduce PEG access support and viewership. Comcast concedes as much when (Opposition at 298), it points to its DBS industry competitors that have no PEG access obligations. That the transactions may not be the source of all of the challenges that PEG operations centers face (Opposition at 295-96; Charter Reply at 16-17) does not change the fact that, absent the FCC-

imposed PEG access-related conditions that ACM and ACD propose, the transactions would exacerbate the current problems faced by PEG access centers.

Comcast also tries to sidestep our arguments with the assertion that the transactions would benefit PEG access by extending the PEG-related *Comcast-NBCU*<sup>6</sup> conditions to the TWC systems Comcast will acquire. Opposition at 300. But this claim is likewise flawed. As an initial matter, Comcast ignores our argument (Comments at 8) that the PEG-related *Comcast-NBCU* conditions are themselves inadequate to protect PEG access against the incentive and ability to discriminate against PEG access that arises from Comcast's ownership of both the NBC broadcast network and several other cable programmers. For instance, the *Comcast-NBCU Order*'s PEG-related conditions have not prevented Comcast from refusing to permit individual PEG programming to be listed on its video programming guides ("VPGs"). Those conditions have likewise not prevented Comcast from refusing to provide capacity for PEG HD programming, and they have not prevented Comcast from refusing to provide adequate support to PEG centers.

Moreover, even assuming for the sake of argument that the *Comcast-NBCU Order* conditions were adequate, Comcast overlooks that, unless the Commission extends the PEG-related *Comcast-NBCU* PEG-related conditions to the Charter/GreatLand systems that Comcast is spinning off, as we urge the Commission to do (Comments at 10-11), but which Charter/Midwest Cable strongly opposes (Charter Reply at 17), then even the meager benefits of those conditions will be lost in all of the systems, and the approximately 6 million subscribers they serve, that Comcast is proposing to divest to Charter and GreatLand in the proposed transactions.

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<sup>6</sup> *In re Applications of Comcast Corp., General Elec. Co. & NBC Universal, Inc. for Consent to Assign Licenses & Transfer Control of Licensees*, 26 FCC Rcd. 4238 (Jan. 20, 2011) ("*Comcast-NBCU Order*").

For these and the other reasons set forth below and in our opening comments, the Commission should deny its consent to the transactions unless, at a minimum, the PEG-related conditions proposed in our opening comments are imposed on Comcast, Charter and GreatLand.

**II. CONTRARY TO THE ASSERTIONS OF COMCAST/TWC AND CHARTER/MIDWEST CABLE, ACM/ACD'S PROPOSED TRANSACTION CONDITIONS ARE DIRECTLY RELATED TO, AND DESIGNED TO AMELIORATE, THE POTENTIAL HARMS TO PEG ACCESS ARISING FROM THE TRANSACTIONS.**

Comcast/TWC (Opposition at 295-96) and Charter/Midwest Cable (Charter Reply at 16-17) assert that our proposed PEG conditions have nothing to do with the transactions. But in fact, those proposed conditions have everything to do with the transactions. Comcast/TWC's and Charter/Midwest Cable's claims to the contrary ignore the direct and obvious implications of the transactions.

**A. *The Comcast/TWC Transaction.***

Comcast/TWC ignores what the Commission has already recognized in the *Comcast-NBCU Order*.

*First*, the Commission recognized not only the unique importance of PEG channels to localism and diversity, but also the need for it to take affirmative steps to ensure that large cable transactions of this nature do not impair PEG's ability to continue to serve these vital public interests:

Congress afforded PEG channels special status in order to promote localism and diversity, and we believe that this transaction requires us to ensure that these objectives are preserved. In addition, Congress has noted that "PEG channels serve a substantial and compelling government interest in diversity, a free market of ideas, and an informed and well-educated citizenry." PEG channels serve these objectives by providing subscribers locally oriented educational information about health and cultural matters and the operation of their government. The availability of this information

informs community members' voting and other civic decisions and improves the quality of their lives and those of their families.<sup>7</sup>

*Second*, the Commission also recognized that the vertical integration of a large cable operator with a broadcast network, as well as a large inventory of cable programming, creates an inherent risk that the vertically-integrated operator will “discriminat[e] in the delivery of PEG channels.”<sup>8</sup> The Commission therefore concluded that a merger condition was necessary to prevent the enlarged Comcast from “discriminat[ing] against PEG [access] with respect to the functionality, signal quality, and features from those of the broadcast stations that it carries.”<sup>9</sup>

Comcast's proposed acquisition of TWC would greatly exacerbate those risks. The reasons should be obvious: the transaction would substantially expand the already-heavily-vertically-integrated Comcast cable footprint, from approximately 22 million subscribers to almost 30 million subscribers.<sup>10</sup> Thus, the transaction would further amplify Comcast's pre-existing incentive to favor its programming over PEG channels. It bears emphasizing that every single market into which the enlarged Comcast will enter as a result of the transactions contains either a Comcast/NBC network O&O or a Comcast/NBC network affiliate.

On the network O&O front, the transaction would result in Comcast acquiring TWC cable systems in New York City, Los Angeles and Dallas-Fort Worth, each of which is a market with an NBC O&O.<sup>11</sup> And Comcast will also acquire TWC cable systems in at least five

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<sup>7</sup> *Comcast-NBCU Order*, 26 FCC Rcd. at 4326 (quotations and footnotes omitted).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 4326-4327.

<sup>10</sup> Declaration of Dr. Gregory L. Rosston and Dr. Michael D. Topper, 10-11, Exhibit 5 of Applications and Public Interest Statement (“Public Interest Statement”) (Apr. 8, 2014).

<sup>11</sup> Public Interest Statement at 26.

markets (Los Angeles, New York City, Dallas-Fort Worth, Houston and San Antonio) where there is a Comcast/NBC-owned Telemundo O&O.<sup>12</sup>

But PEG access concerns about discrimination arising from a greatly enlarged and vertically integrated Comcast are not limited to markets where there are NBC and Telemundo network O&O stations. Comcast/NBC likewise has a vested interest in the viewership success of every single NBC and Telemundo network affiliate. And there is at least one such affiliate in every former TWC cable market Comcast would acquire as a result of the transaction. As a result, the post-transaction Comcast would have a new and greatly expanded incentive and ability to discriminate against PEG access in each and every one of its newly acquired cable markets.

Thus, Comcast's claims to the contrary notwithstanding, the proposed transactions would substantially multiply the risk—a risk that the Commission has already found to be “inherent” in the *Comcast-NBCU Order*—that a vertically-integrated cable operator would “discriminat[e] in the delivery of PEG channels.”<sup>13</sup>

***B. The Comcast/Charter-Midwest Cable Transaction.***

Like Comcast/TWC, Charter asserts (Charter Reply at 4) that our proposed PEG conditions “have nothing to do with the Divestiture Transactions.” And like Comcast/TWC, Charter is wrong, for several reasons.

*First*, the Charter/GreatLand portion of the transactions does indeed have vertical programming content implications, thereby triggering the inherent risk of discrimination against PEG access.<sup>14</sup> As Charter itself concedes (Charter Reply at 7 & n.20), under the transactions

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<sup>12</sup> *Id.* at 93.

<sup>13</sup> *Comcast-NBCU Order*, 26 FCC Rcd. at 4326.

<sup>14</sup> *Comcast-NBCU Order*, 26 FCC Rcd. at 4326.

GreatLand would acquire two local programming channels and four regional sports networks (“RSNs”). To be sure, Charter/GreatLand would own considerably less cable programming content than Comcast, but Charter/GreatLand’s incentive nevertheless remains the same: to favor its own affiliated programming over PEG. Moreover, Charter further concedes (*id.* at 15) that “individuals with interests in Charter also have interests in programming assets.” This indirect common ownership between Charter and cable programmers creates still further vertical incentives for Charter to discriminate against PEG vis-à-vis these other Charter-affiliated programmers.

*Second*, Charter overlooks the new and much closer relationship it and GreatLand will have with Comcast—and thus Comcast’s huge broadcast network and cable programming content holdings—as a result of the transactions. Charter (*id.* at 16 & n.51) seeks to belittle the links among itself, GreatLand and Comcast that will be formed as a result of the proposed transactions, but the facts remain that both Charter and Comcast shareholders will own GreatLand after the transactions are consummated,<sup>15</sup> Liberty Media, which owns programming content interests, will own a controlling interest in Charter,<sup>16</sup> and for a period of time after the transactions are consummated, Comcast will continue to have a contractual role with respect to the systems divested to Charter and GreatLand.<sup>17</sup> Although the precise effects of this ongoing post-transaction web of relationships among Comcast, Charter and GreatLand are difficult to predict, those relationships call into serious question Charter’s claim that post-transaction, it will

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<sup>15</sup> See Charter Reply at 16 & n.51.

<sup>16</sup> See, e.g., *Charting the Course for Charter Communications*, Invest Correctly (Oct. 13, 2014), available at <http://investcorrectly.com/20141013/charting-course-charter-communications>.

<sup>17</sup> Charter Services Agreement By and Between Midwest Cable, Inc. and Charter Communications Operating LLC, 1, Dec. 2, 2014.

have few vertical programming content relationships that give rise to the incentive and ability to discriminate against PEG access.

*Third*, even assuming for the sake of argument that the post-transaction Charter and GreatLand would have no significant direct or indirect vertical program content interests, it does not follow that the post-transaction Charter and GreatLand would have no incentive and ability to discriminate against PEG. To the contrary, the post-transaction Charter and GreatLand would have a powerful incentive to discriminate against PEG. This is so for at least two reasons. First, the post-transaction Charter/GreatLand would earn revenue from advertising on all commercial cable programming channels on its systems, and the greater the viewership of those channels, the higher its advertising revenues. Every PEG viewer is, perforce, not watching those commercial cable programming channels on which Charter/GreatLand earn advertising revenue when he or she is watching PEG. Second, by discriminating against PEG and thereby reducing PEG viewership, the post-transaction Charter/GreatLand could point to reduced PEG viewership to undermine any attempt by a local franchising authority to justify greater cable-related needs under the franchise renewal provision of the Cable Act, 47 U.S.C. § 546, thereby potentially decreasing the amount of PEG support that Charter/GreatLand could be required to provide in the franchise renewal process. In short, discriminating against PEG, and reducing PEG viewership, would be a “win-win” strategy for Charter/GreatLand’s (and Comcast’s) bottom line, and a “lose-lose” proposition for the continued viability of PEG access and the unique localism and diversity public interests it serves.

*Fourth*, Charter (Charter Reply at 17) takes the position that the PEG-related *Comcast-NBCU Order* conditions should not apply to the cable systems divested to Charter/GreatLand as a result of the transactions. If Charter’s position were accepted (contrary to our position that it

should not be), that would mean that the 6 million subscribers served by those systems, which currently are subject (or, in the case of the TWC systems, would become subject) to the PEG-related *Comcast-NBCU Order* conditions would lose that benefit as a result of the transactions.

### **III. COMCAST’S AND CHARTER/MIDWEST CABLE’S ATTACKS ON OUR PROPOSED MERGER CONDITIONS ARE WITHOUT MERIT.**

Comcast and Charter/Midwest Cable raise other arguments seeking to defend their PEG access practices and to attack our proposed merger conditions. Opposition at 294-299; Charter Reply at 16-18. These arguments are misguided.

Comcast, claims, for instance, that it “is the largest distributor of PEG access programming in the county, with PEG fee payments exceeding \$65 million per year.” Opposition at 296. Given that Comcast is the largest cable operator in the nation by a wide margin, the fact that it is the largest PEG access distributor is nothing more than a truism and says little about its level of PEG support. As for Comcast’s claim of making \$65 million in annual PEG payments, that claim needs to be placed in context. Assuming that the figure is accurate, it represents only about 5% of Comcast’s \$1.246 billion in “franchise and other regulatory fees” in 2013, and less than 0.03% of Comcast’s over \$22.7 billion in cable subscriber and advertising revenues in 2013.<sup>18</sup> Moreover, the \$65 million PEG fee figure is dwarfed by the \$9.1 billion Comcast paid in other programming costs in 2013.<sup>19</sup> Thus, by any measure, Comcast’s claimed nationwide level of PEG access monetary support is meager. In fact, it is pocket change for a cable operator of Comcast’s size.

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<sup>18</sup> Comcast Corporation Form 10-K 2013 Annual Report at 53 (Feb. 12, 2014), *available at* <http://files.shareholder.com/downloads/CMCSA/3753141384x0xS1193125-14-47522/1166691/filing.pdf>.

<sup>19</sup> *Id.*

Comcast's assertion, buried in a footnote (Opposition at 294-95 n.934), that it has "no objection to PEG programmers having detailed program listings included in [its VPG]" is simply untrue. We have pointed out the fallacies of this Comcast claim elsewhere.<sup>20</sup> While Comcast has permitted individual PEG program listings in its VPG in scattered locations, it does not do so in most of its systems and has specifically refused to do so in some instances. And Comcast has done so even where the PEG center has been willing to pay the fee to Comcast's VPG vendor, and even where that VPG vendor has no objection to including individual PEG program listings on the VPG. Thus, Comcast's assertion (Opposition at 295 n.934) that the VPG vendor, rather than Comcast, "control[s]" whether PEG program listings are inserted in the VPG, is inaccurate.

Attached as Exhibit 1 is an October 29, 2014, letter from Northampton (Massachusetts) Community Television ("NCTV") describing Comcast's ongoing refusal to permit NCTV's program listings to be included in Comcast's VPG. NCTV "is the only channel [on Comcast's system] in Northampton that is not allowed to provide program information to viewers via the [VPG] for subscribers in its community." Exhibit 1 at 1. The absence of NCTV's program listing on Comcast's VPG continues despite the fact that (1) NCTV "has engaged Comcast regularly about this issue *since its inception in 2007*" (emphasis on original); (2) NCTV has been "willing[ ] to assume the financial costs of providing [VPG] information to third party [VPG] services used by Comcast, such as ROVI"; and (3) "NCTV has received numerous and regular requests from the community . . . to have its programming information available on the [VPG]." *Id.* NCTV's inability to have its program listings included in Comcast's VPG has effectively denied hearing-impaired viewers of access to NCTV's closed-captioned programming, prevented

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<sup>20</sup> See Comments of the Alliance for Communications Democracy, 7-8, Feb. 18, 2014 and Reply Comments of the Alliance for Communications Democracy, 5-6, Mar. 20, 2014, *In re Accessibility of User Interfaces, Video Programming Guides & Menus; Accessible Emergency Info., & Apparatus Requirements for Emergency Info., & Video Description; Implementation of the Twenty-first Century Comm'ns & Video Accessibility Act of 2010*, MB Docket Nos. 12-108, 12-107.

NCTV viewers from recording NCTV programming through Comcast's DVR functionality, made it difficult for Northampton residents to find NCTV's programming, and thus harmed NCTV's viewership. *Id.* at 2.

As set forth in the August 8, 2013, Resolution of the Board of Meridian (Michigan) Township, attached as Exhibit 2, Meridian's PEG channel, HOMTV, has experienced much the same VPG-related problems with Comcast as NCTV. Unlike the case with NCTV, however, HOMTV's program listings did appear on Comcast's VPG until "the mid-2000's." *Id.* But when Comcast's system went all-digital, it discontinued inclusion of HOMTV program listings in its VPG. *Id.* Comcast's refusal to include HOMTV programming in its VPG continues even though HOMTV "has an account and password in place" with Comcast's third-party VPG vendor to provide its programming information for inclusion in the VPG. *Id.*

In addition to refuting Comcast's assertion that it is willing to include PEG program listings in its VPG, the HOMTV experience also belies Comcast's claim (Opposition at 297) that its "conversion of its systems to all-digital has also improved PEG performance with digital delivery of PEG channels." Comcast's VPG practices also appear to violate the Commission's requirement in the *Comcast-NBCU Order*, 26 FCC Rcd. at 4326-4327, that "Comcast cannot discriminate against PEG with respect to the *functionality*, signal quality, and *features* from those of the broadcast stations that it carries." (Emphasis added.)

The record also reveals the need for the Commission to enforce, strengthen, and extend to the post-transaction Charter/GreatLand, the PEG non-discrimination requirements of the *Comcast NBCU-Order*. Attached as Exhibit 3 is a transcript of the August 4, 2014, public hearing before the Vermont Public Service Board concerning the petition of a Charter affiliate for renewal of its certificate to provide cable service in Vermont municipalities. As that

transcript reveals, representatives of a number of community organizations testified that the local PEG channel, Kingdom Access TV (“KATV”), provides invaluable and uniquely local programming, ranging from children’s advocacy programming or health and palliative care programming, local arts programming, library programming, school concerts and community events, and local public and governmental meetings. Community members also, however, voiced their complaints that Charter was not including KATV programming in its VPG, was not carrying KATV programming in HD, and was moving KATV from channel 7 to a channel in the 700s. As the public witnesses noted, Charter’s failure to include KATV programming in its VPG and to cablecast KATV in HD, as well as its movement of KATV to a high channel number far away from local broadcast programming, made it much more difficult for residents to find, watch and enjoy KATV’s uniquely local programming.

Other than re-stating our proposed merger condition that it be required to carry in HD format PEG programming that is delivered to it in HD format (Opposition at 295), neither Comcast nor Charter mentions the scope or extent of their PEG HD carriage or PEG channel placement. In a footnote (*id.* at 295 n.934), Comcast merely makes the vague assertion that “[it] does distribute PEG programming in HD and does have PEG programming on OnDemand in a number of communities where community need and interest has been demonstrated and as a part of the puts and takes in franchise renewals.”

Comcast well knows, however, that there are no “puts and takes in franchise renewal” in the many states that have enacted state video franchising laws. In those states, there is nothing more than a postcard renewal process with no opportunity to demonstrate increased PEG-related community needs and interests; PEG requirements are locked down in perpetuity. Moreover, Comcast’s related argument (Opposition at 296), echoed by Charter/Midwest Cable (Reply at

17-18), that these issues can be addressed in the local franchise renewal process in those remaining states with no state video franchising laws, likewise misses the mark. The bargaining power of corporate behemoths such as Comcast, TWC and Charter dwarfs that of any local franchising authority, much less any PEG access center. Any suggestion that the further consolidation of these cable operators into Comcast, Charter and GreatLand would not further exacerbate this already-existing bargaining inequity ignores reality.

Furthermore, Comcast's and Charter's franchise renewal-based arguments overlook what the Commission required Comcast to do in the *Comcast-NBCU Order*—an FCC-imposed requirement that applies independently of the franchise renewal process. That Order prohibits Comcast from “discriminat[ing] against PEG with respect to the functionality, signal quality, and features from those of the broadcast stations that it carries.” Refusing to carry a PEG HD feed in HD, when Comcast does carry the broadcast station HD feeds it receives in HD, constitutes just the sort of prohibited discrimination against PEG that the *Comcast-NBCU Order* prohibits.

The *Comcast-NBCU Order*'s anti-discrimination requirement with respect to PEG also lays bare the fallacy of Charter/Midwest Cable's assertion that the Commission “has never imposed [PEG non-discrimination] requirements” (Charter Reply at 17), and underscores the need to extend these requirements to any post-merger Charter and GreatLand. Equally specious is Charter/Midwest Cable's assertion that “PEG has long survived without being available on Video On Demand.” *Id.* Local broadcasters and commercial cable programmers also both “long-survived” without HD and VOD, but the marketplace has changed, and they no longer have to survive without HD and VOD because they now have the ability to serve subscribers accordingly. If the Commission's concerns about enlarged cable operators' increased ability and incentive to discriminate against PEG access in an increasingly concentrated and nationalized

market mean anything, they should mean that mammoth cable operators like the post-merger Comcast, Charter and GreatLand should not be able to relegate PEG channels and PEG programming to the outmoded regime of SD-only signals, no VOD access and no VPG listing (and as a result, no DVR functionality).

#### **IV. CONCLUSION**

For the foregoing reasons and those set forth in our opening comments, if the Commission grants consent to the license transfers relating to the transactions, it should impose the following PEG-related conditions on that consent:

PEG Condition No. 1: Comcast, Charter and GreatLand should be required to make all PEG channels on all of their cable systems universally available on the basic service tier, in the same format as local broadcast channels, unless the local government and PEG center specifically agree otherwise.

PEG Condition No. 2: The Commission should protect PEG channel positions on all Comcast, Charter and GreatLand Systems.

PEG Condition No. 3: The Commission should prohibit Comcast, Charter and GreatLand from discriminating against PEG channels, and ensure that PEG channels on all of their systems will have the same signal quality and the same features and functionality—including HD format, VPG listing, DVR functionality and VOD access—as that provided to local broadcast channels.

PEG Condition No. 4: The Commission should require that all PEG programming is easily accessed on all VPGs and menus, and easily and non-discriminatorily accessible, on all Comcast, Charter and GreatLand video programming distribution platforms, including VOD.

PEG Condition No. 5: The Commission should require that, if requested by the local jurisdiction or PEG center, PEG channels on any Comcast, Charter and GreatLand Systems must be distributed in HD format on HD tiers.

Respectfully submitted,

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*/s/ James N. Horwood*

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Media and the Alliance For  
Communications Democracy*

December 23, 2014

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# Exhibit 1



Community. Art. Culture.

**Northampton Community Television**  
**www.northamptontv.org**  
**413-587-3550**

October 29, 2014

To Whom It May Concern,

This letter serves as a statement from Northampton Community Television regarding its historic and continued failed attempts for equitable treatment by the cable provider Comcast in the municipality of Northampton, MA regarding presence on the electronic program guide.

Northampton Community Television is the only channel in Northampton that is not allowed to provide program information to viewers via the onscreen program guide for subscribers in its community. This is the community's very own channel, that represents the community interests of Northampton residents, provides opportunities for education and expression of the community, is run by the community, and is very actively used by the community as is demonstrated clearly in metrics provided in NCTV's annual reports. Comcast continues to generate significant private revenues utilizing public right of way in Northampton while refusing to provide equitable treatment for the community in terms of the presence of community programming information on the electronic program guide.

Northampton Community Television (NCTV hereafter) has engaged Comcast regularly about this issue *since its inception in 2007*. Comcast has long known of this issue. Also consider the following:

- NCTV has expressed its ability to provide detailed programming information for an electronic program guide in a timely, accurate, and regular manner.
- NCTV has expressed its willingness to assume the financial costs of providing electronic program guide information to third party subscription services used by Comcast, such as ROVI.
- Through the years NCTV has received numerous and regular requests from the community of Northampton to have its programming information available on the electronic program guide. It has been one of the most frequent requests provided by the community. NCTV has both documented this fact historically and indicated these facts to Comcast throughout the years.
- During the public ascertainment hearing in January of 2014, a packed public room repeatedly indicated that the community of Northampton desired presence for NCTV on the electronic program as part of a potential next contract between the city and Comcast.

**NCTV, 380 Elm St., Northampton, MA 01060**



Community. Art. Culture.

**Northampton Community Television**  
**[www.northamptontv.org](http://www.northamptontv.org)**  
**413-587-3550**

Just a few effects of unequal treatment regarding presence on the program guide include:

- NCTV carries some programming that is closed captioned. Without program guide information, the hard of hearing cannot know what captioned programming is available. In addition program descriptions are not available for reading services for those who have some degree of vision impairment.
- The public is unable to record programming from NCTV via services such as DVR, which rely on program guide information in order to schedule recordings
- The Northampton community cannot find programming that it wants to watch – programming it has produced, programming about the community itself, programming that is central to government transparency, programming it has self-selected as important.
- The mission of the organization of NCTV is presented by an enormous obstacle because it cannot utilize a service that is central to the outreach, marketing, and exposure to which every other media organization in its medium is granted access. The community's resource is crippled.
- Enormous interest in NCTV is clearly demonstrated by its metrics available through internet traffic, and the fulfillment of that interest is directly crippled for the organization in its cable television experience. Viewers of cable content are certainly much less likely to search for content simply by “flipping through channels” in 2014.

In discussion with Comcast relating to this issue, NCTV recognizes that there are technical issues related to the systemic design of Comcast's plant that have presented challenges for granting us equal treatment on the program guide. However it has been nearly eight years since we have been communicating those issues to Comcast. And these realities were certainly true well before then. There has been more than ample time for Comcast to make corrections to its approach to provide only baseline equal treatment to the very communities that have allowed them to grow into the accomplished organization that they represent today. We believe they are long past the deadline to meet their community obligations.

In addition, the passing years have made the functionality of IT systems and the targeting of users directly that much easier and more affordable. The new X1 and X2 platforms, for example, should



Community. Art. Culture.

**Northampton Community Television**  
**[www.northamptontv.org](http://www.northamptontv.org)**  
**413-587-3550**

certainly not exist, nor should any future such platforms, without support of all community media functionality that is identical to the functionality of other content on the system. These are newly developed systems that Comcast had ample time to ensure met such needs.

As a final note, while Comcast is currently in process of negotiation with the City of Northampton regarding the next franchise agreement, there seems to be no indication that program guide functionality will be provided and that there is no plans of providing it.

Northampton, MA is a community that uses its community media center at a very high rate, that has explicitly requested presence on the program guide, that has done so regularly over a number of years, and that continues to be denied equal treatment by Comcast, who utilizes this community's property for its own gain while developing new platforms that maintain the approach of unfair treatment.

Sincerely,

P. Al Williams  
Executive Director  
Northampton Community Television

---

# Exhibit 2

RESOLUTION TO APPROVE

Resolution of Support  
Regarding HOMTV on the Comcast  
Scrolling Guide Channel,  
Interactive Guide Channel  
and Online Channel Line Up

RESOLUTION

At a regular meeting of the Township Board of the Charter Township of Meridian, Ingham County, Michigan, held at the Meridian Municipal Building, in said Township on the 8<sup>th</sup> day of August 2013, at 6:00 p.m., local time.

PRESENT: Supervisor LeGoff, Clerk Dreyfus, Treasurer Brixie, Trustees Scales, Veenstra,  
Wilson

ABSENT: Trustee Styka

The following resolution was offered by Clerk Dreyfus and supported by Trustee Veenstra.

**WHEREAS**, prior to the Comcast digitization in the mid 2000's, the HOMTV name and program schedule use to appear on the Comcast scrolling guide channel; and

**WHEREAS**, HOMTV is a public service to Meridian Township residents and produced over 500 programs in 2011 and produced almost 800 programs in 2012; and

**WHEREAS**, HOMTV appears on these channel lineups the same as local affiliate news networks appear with their individual call letters and location; and

**WHEREAS**, the HOMTV call letters replace the "government access" wording on the channel lineups; and

**WHEREAS**, when channel surfing alphabetically, HOMTV appears in the alphabetical lineup as HOMTV rather than government access; and

**WHEREAS**, the HOMTV channel lineup includes the programs' names and play times on the channel guide; and

**WHEREAS**, having the HOMTV call letters listed allows the customer to find HOMTV and the HOMTV program schedule; and

**WHEREAS**, having HOMTV programs listed allows customers to schedule recordings of individual programs; and

**WHEREAS**, the Meridian Township Communications Department has an account and password in place with the third party company to submit information to Comcast guide(s); and

**WHEREAS**, the Meridian Township Communications Department has a Video Programmer position in place to update the information on the guide channel in a timely manner.

8.8.13  
# 11A

**NOW, THEREFORE, BE IT RESOLVED** the Township Board of the Charter Township of Meridian hereby supports HOMTV call letters and programs being listed on the Comcast Guide(s).

ADOPTED: YEAS: Trustees Scales, Veenstra, Wilson, Supervisor LeGoff, Clerk  
Dreyfus, Treasurer Brixie

NAYS: None

STATE OF MICHIGAN     )  
                                  ) ss  
COUNTY OF INGHAM    )

I, the undersigned, the duly qualified and acting Clerk of the Township of Meridian, Ingham County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the Township Board on the 8<sup>th</sup> day of August 2013.

  
\_\_\_\_\_  
Brett Dreyfus  
Township Clerk, Charter Township of Meridian

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# Exhibit 3

STATE OF VERMONT  
PUBLIC SERVICE BOARD

DOCKET NUMBER 7820

PETITION OF THE HELICON GROUP, L.P., d/b/a CHARTER  
COMMUNICATIONS, FOR RENEWAL OF ITS CERTIFICATE OF  
PUBLIC GOOD TO PROVIDE CABLE TELEVISION SERVICE IN 46  
VERMONT MUNICIPALITIES

August 4, 2014  
7 p.m.

-----  
115 Eastern Avenue  
St. Johnsbury, Vermont

Public Hearing held before the Vermont Public  
Service Board, at the Caledonia Arts Center, 115 Eastern  
Avenue, St. Johnsbury, Vermont, on August 4, 2014,  
beginning at 7 p.m.

P R E S E N T

HEARING OFFICER: Jake Marren, Staff Attorney

CAPITOL COURT REPORTERS, INC.  
P.O. BOX 329  
BURLINGTON, VERMONT 05402-0329  
(802/800) 863-6067  
E-mail: [info@capitolcourtreporters.com](mailto:info@capitolcourtreporters.com)

SPEAKERS

| Name           | Page  |
|----------------|-------|
| Fred Saar      | 5     |
| Laural Ruggles | 7     |
| Jerry Aldredge | 9     |
| Robert Joly    | 14    |
| Michael Cohen  | 17    |
| MaryEllen Reis | 18    |
| Tom Moore      | 20,32 |
| Greg MacDonald | 23    |
| Darlene Ballou | 26    |
| David Ballou   | 28    |
| Susan Jerry    | 30    |

1 concerns or issues, please speak to Megan.  
 2 MS. LUDWIG: Yes. My e-mail and my  
 3 phone number is on the Department's web site  
 4 which you can get by going through the Public  
 5 Service Board's web site, and like Jake said  
 6 we represent the general good of the state.  
 7 So -- and we are a party to all these  
 8 proceedings.

9 HEARING OFFICER MARREN: So the format  
 10 of tonight I will just call out people's names  
 11 in the order you have signed up, and if you  
 12 decided after hearing other people speak that  
 13 you don't want to speak, that's okay. As I  
 14 said you can also submit your comments in  
 15 writing. Furthermore, we have more public  
 16 hearings this week if you wish to have lots of  
 17 fun. There will be another public hearing  
 18 tomorrow night in Barre on this same docket  
 19 and as well via VIT. The nearest broadcast  
 20 station will be in Lyndonville on Wednesday  
 21 night at 7 p.m., and then also right next door  
 22 in Concord on Thursday night at 7 p.m. So if  
 23 you want to be like me and do cool things with  
 24 your week, you can do that.  
 25 Since there are only 10 people signed up

1 HEARING OFFICER MARREN: Good evening  
 2 everyone. This is a Public Hearing in Public  
 3 Service Board Docket Number 7820 which  
 4 concerns the petition of the Helicon Group,  
 5 which is doing business as Charter  
 6 Communications, for renewal of its Certificate  
 7 of Public Good to provide a cable television  
 8 service in 46 Vermont municipalities.

9 My name is Jake Marren. The Board has  
 10 appointed me to be Hearing Officer in this  
 11 matter. The purpose of tonight's hearing is  
 12 to take comments from the public. Comments  
 13 may also be submitted to the Board in writing  
 14 and they count just as much as those that are  
 15 delivered live here. So if you're more  
 16 comfortable writing your thoughts down, feel  
 17 free to submit them to the Board, and if you  
 18 need the Board's e-mail address please -- and  
 19 I can provide it to you.

20 I'll also point out that a  
 21 representative from the Department of Public  
 22 Service, which is a separate state agency from  
 23 the Board, is here, Megan Ludwig. The  
 24 Department is the ratepayer advocate for  
 25 ratepayers in the state. So if you have

1 to speak right now I'm not going to be  
 2 limiting people's comments. However, I would  
 3 request that you be mindful of all the other  
 4 people in the room who I'm sure want to get  
 5 back to their families and such this evening.  
 6 So that said I'll invite Fred Saar.

7 MR. SAAR: Thank you. I have some brief  
 8 comments for two organizations tonight. The  
 9 first is the St. Johnsbury Kiwanis Club, and  
 10 just by background we operate a pool here in  
 11 St. Johnsbury. We have for the past 70 years.  
 12 Just had our 70th anniversary, and we give  
 13 free swimming lessons to approximately 700  
 14 children a year, and we have about 6,000  
 15 visitors from around 18 to 20 communities in  
 16 the area.

17 There are no fees to use the pool. We  
 18 raise about 75 percent of our annual budget  
 19 from fundraisers. Our largest fundraiser is  
 20 the Kiwanis auction which is broadcast over  
 21 the local public station, and that public  
 22 access is really critical to our fundraising.  
 23 We raise about half of our budget through the  
 24 auction. The auction's broadcast over three  
 25 nights and the local access TV station

1 provides all the technical support there, gets  
2 everything set up, as well as helps us get our  
3 equipment together and working correctly. So  
4 without that support it would be in dire  
5 straits.

6 We're seeing a trend, transition from  
7 phone calls to online bidding. People  
8 watching the auction at home, bidding online  
9 on their computer, and we're starting to see  
10 more people use tablets and devices like that.  
11 They mention it when they call in. So from  
12 our perspective it's critical to maintain the  
13 public access. There's just no way we could  
14 raise the money that we raise in the auction  
15 by any other fundraiser, and we believe that  
16 it's important that the public access station  
17 looks like any other station; they are on the  
18 guides, they have all of the same features and  
19 functions, and as we're looking at our auction  
20 program that physically runs the auction we're  
21 trying to figure out how we address the  
22 tablets and the iPhones and the new devices  
23 and how do we keep up with the technology and  
24 changes that evolve. So it's important to us  
25 that the cable television station be able to

1 the Vice President of Marketing and Community  
2 Health Improvement at Northeastern Vermont  
3 Regional Hospital, and I live in Danville and  
4 I wasn't sure how much time I was going to  
5 have so I just wrote something out that I'm  
6 going to read if you don't mind.

7 HEARING OFFICER MARREN: Of course.  
8 You're also free to provide me a copy at the  
9 end.

10 MS. RUGGLES: Northeastern Vermont  
11 General Hospital is a non-profit community  
12 hospital. We rely on media partners like  
13 Kingdom Access TV to help us inform the public  
14 about health information and timely health in  
15 issues on our state and nationally. KATV and  
16 Jamie is my go-to person for getting health  
17 information out to the community. In just the  
18 last six months KATV has provided video  
19 coverage of presentations to inform the public  
20 about palliative medical care, advanced  
21 directives, and the work being done locally to  
22 improve the patient experience and improve  
23 population health and to contain costs.

24 We know people watch KATV programming on  
25 TV and online because we hear back from

1 keep up with that technology also. So, in  
2 summary, that public access keeps the pool  
3 open each summer. It's a vital recreational  
4 opportunity for St. Johnsbury and the  
5 surrounding communities.

6 The second organization is the Caledonia  
7 Special Investigations Unit and Caledonia  
8 Children's Advocacy Center, and we have had  
9 excellent support from the local public access  
10 station. They have been on site a couple of  
11 times to cover events, give us publicity, and  
12 they have been super with public service  
13 announcements, and April is child abuse month  
14 and they were very, very good about scheduling  
15 our PSAs around relevant programming, not just  
16 dropping them in where they had an extra  
17 minute, and that's really the only channel we  
18 have to reach a lot of people in the area. So  
19 thank you very much.

20 HEARING OFFICER MARREN: Thank you, and  
21 it's also very helpful if you identify the  
22 organizations like Mr. Saar did that he's  
23 representing. So I appreciate you doing that.  
24 Laurel Ruggles.

25 MS. RUGGLES: Hi Laurel Ruggles. I'm

1 community members that they have seen the  
2 broadcast or clicked on the video links. It  
3 is important to us and our patients that  
4 KATV's local access channels remain on the  
5 on-screen programming guide making it easy for  
6 viewers to find KATV and watch the programs.  
7 It is also important that our web savvy  
8 patients of all ages can access TV programs  
9 through their web site as more and more people  
10 are viewing programs through their computers  
11 or hand held media.

12 In my experience in marketing and  
13 community health improvement for the hospital  
14 local news is important to people living in  
15 our rural area. KATV is an important vehicle  
16 for local news and information. Please help  
17 them maintain new technology to better serve  
18 the needs of our community.

19 HEARING OFFICER MARREN: Thank you very  
20 much. Jerry Aldredge.

21 MR. ALDREDGE: Good evening. I'm Jerry  
22 Aldredge and I'm the Artistic Director here at  
23 Catamount Arts. We were very happy to host  
24 this meeting tonight.

25 I'm here to speak in support generally

1 of Charter TV and specifically in support of  
 2 KATV which is channel 723. I am a subscriber  
 3 to Charter TV and I receive several hundred  
 4 stations it seems, although like most  
 5 subscribers I focus on a very few, and in my  
 6 case it's Vermont PBS and NESN. With those  
 7 two I'm pretty well satisfied, but I have  
 8 noticed that Charter TV seems to provide  
 9 pretty much every station that's available  
 10 over the air, but I've also noticed as I visit  
 11 my family and friends in other cities that the  
 12 same networks are provided, the same stations  
 13 are over their cable TV network, whatever that  
 14 happens to be, and so my assumption becomes  
 15 that cable TV pretty much is the same no  
 16 matter where you live over the entire United  
 17 States, and probably the only thing that  
 18 separates them and makes a cable company a  
 19 strong individual entity is the strength and  
 20 variety of their local programming.

21 St. Johnsbury is a very small town and  
 22 our local programming is really limited to  
 23 KATV. There are some statewide stations that  
 24 sometimes give local coverage, but here in St.  
 25 Johnsbury when we want to find out what is

1 happening with everything from our town  
 2 selectboard to our school board to the Kiwanis  
 3 Club, as with everything we have already heard  
 4 we turn to channel 7 KATV.

5 So I'm here tonight to encourage the  
 6 Board to really set expectations that Charter  
 7 TV will really show their public and community  
 8 support of St. Johnsbury by showing the same  
 9 support and respect for KATV that they show  
 10 for other channels and networks that they  
 11 provide.

12 **What does it mean to show the same**  
 13 **report? I think it means, for example, that**  
 14 **KATV local access channels that their**  
 15 **schedules be placed on the on-screen channel**  
 16 **program guide so that viewers can use their**  
 17 **remote control to click to the program**  
 18 **immediately or record it on their DVDs. I**  
 19 **think it means that KATV's local access center**  
 20 **should have its channels in high definition so**  
 21 **that people are drawn to it with the same**  
 22 **interest and the same level of satisfaction**  
 23 **that they are with our channels.**

24 **Because the internet is becoming a**  
 25 **major, if not principal, vehicle for watching**

1 **TV I think the cable operator, in this case**  
 2 **Charter, should be providing the KATV center**  
 3 **with even faster bandwidth so that it can**  
 4 **maintain all of its professional levels** and  
 5 because KATV is a non-commercial network who  
 6 really has very limited possibilities and ways  
 7 of raising operating revenue, I would strongly  
 8 feel that Charter, or whoever the cable TV  
 9 company has to be, really should help to  
 10 support and maintain KATV financially and with  
 11 technical support.

12 On a personal level Catamount Arts has a  
 13 very close and positive working relationship  
 14 with KATV. They have always shown themselves  
 15 to be very competent professionals. We  
 16 provide quite a few meetings each month that  
 17 are the community outreach type of programming  
 18 such as our Courageous Conversation which  
 19 regularly deals with issues of local concern.  
 20 KATV is always there to broadcast those.

21 We have many other local organizations  
 22 in St. Johnsbury who use our facility to get  
 23 their programming and their word out to the  
 24 public. For example, our OSHER educational  
 25 series, which is for people over 50 and it's

1 an educational and cultural series, is always  
 2 broadcast by KATV, and so that even people who  
 3 cannot make it to the center here because of  
 4 health reasons or mobility reasons can still  
 5 see it on TV.

6 KATV has also invited us into their  
 7 station many, many times to present  
 8 programming in the studio about events that we  
 9 have coming up such as our auction or the  
 10 First Night programming events. They also  
 11 regularly put our programming on their  
 12 scrolling scheduling board. So in many ways  
 13 we could not get our message out without KATV,  
 14 and I think that the residents of St.  
 15 Johnsbury would not be able to not only find  
 16 out what's happening in St. Johnsbury, but to  
 17 feel that they are truly a part of our  
 18 community since much of our identity with  
 19 whatever we do is now tied into media without  
 20 KATV.

21 So for these reasons we definitely would  
 22 like to encourage Charter and whatever cable  
 23 company might provide cable in the future to  
 24 continue to include KATV in their programming.  
 25 Thank you.

1 HEARING OFFICER MARREN: Robert Joly.  
 2 MR. JOLY: Hi, I'm Robert Joly. I'm the  
 3 Director of St. Johnsbury Athenaeum. That's  
 4 the public library just in case people aren't  
 5 clear what Athenaeum is, and I wrote my notes  
 6 and I'll just read what I have here.

7 I want to give the highest commendation  
 8 to Jamie Dimick and the staff and the Board at  
 9 KATV in St. Johnsbury. KATV has recorded over  
 10 50 programs and events presented by the St.  
 11 Johnsbury Athenaeum and they provide high  
 12 quality broadcasts on demand through KATV's  
 13 web site and are easily found on the air by  
 14 the on-screen program guide. Copies of the  
 15 recordings are provided to the Athenaeum for  
 16 inclusion in our circulated collection. This  
 17 is truly serving the public good.

18 KATV supports the Athenaeum's outreach  
 19 to the community, particularly to those who  
 20 cannot attend events in person, and I just  
 21 want to echo what everybody else has said  
 22 here. It seems vital for people who can't  
 23 come easily to be able to watch these events  
 24 either live or on demand or through the  
 25 station itself.

1 One of our roles is to be the local  
 2 connection to the wide world of information.  
 3 KATV is our partner in bringing what is great  
 4 about the Athenaeum and St. Johnsbury and the  
 5 other organizations here and the region to  
 6 people who live here or who live far away.  
 7 You can be living far away just a mile down  
 8 the road if you cannot attend a board meeting  
 9 or lecture or concert or conversation. Live  
 10 programming in the Athenaeum or any other  
 11 public event is an even greater effort to  
 12 connect the community in realtime.

13 The Athenaeum is one of nine host sites  
 14 in Vermont of the Vermont Humanities Council  
 15 First Wednesday Series. At a meeting last  
 16 year site directors were encouraged to have  
 17 their local access center record their  
 18 programs for broadcast. I proudly stated that  
 19 KATV was the backbone of our outreach for  
 20 these and many other programs. Oversight  
 21 directors had less involvement with their  
 22 local access, and I am proud of the  
 23 outstanding work of KATV and I bragged about  
 24 it.

25 KATV and all the other Vermont access

1 KATV recently recorded a premiere  
 2 presentation of the work If Nothing Happened.  
 3 This is a one-time presentation in the  
 4 Athenaeum's gallery in high definition  
 5 recording, is bright and crisp and will serve  
 6 as the permanent record of this event. HD  
 7 broadcast of KATV's programming and adequate  
 8 bandwidth for internet broadcast must be  
 9 supported by Charter Cable. Future  
 10 technological developments must be adequately  
 11 funded and made available to KATV and all  
 12 other local access centers in Vermont.  
 13 Serving the public good cannot be accomplished  
 14 without adequate financial and technical  
 15 support.

16 The Athenaeum has a long and proud  
 17 history having opened in 1871. Libraries and  
 18 museums have experienced a period of rapid  
 19 change in access to information. We find  
 20 ourselves redefining our relevance. Everyone  
 21 with a smart phone has access to the worldwide  
 22 library. This is organized in a sometimes  
 23 questionable veracity such that it is we ask  
 24 ourselves what is our role in this particular  
 25 place and time.

1 centers benefit from robust financial and  
 2 technological support from Charter Cable or  
 3 whoever else will profit from the designation  
 4 of being in the public good. Please ensure  
 5 that the conditions are healthy for vital  
 6 local service. Thank you.

7 HEARING OFFICER MARREN: Thank you  
 8 Michael Cohen.

9 MR. COHEN: Michael Cohen with Vermont  
 10 Broadcast Associates. We are a group of six  
 11 radio stations in the St. Johnsbury and  
 12 Lyndonville area. So I as a radio guy am here  
 13 tonight.

14 First off, I've worked alongside Jamie  
 15 and his group for years. I'm here as an  
 16 advocate. KATV's commitment to local  
 17 community events, school concerts,  
 18 graduations, public meetings and so much more.  
 19 The key word to me is local. Their live  
 20 programming is critical in keeping area  
 21 residents in touch with our community. They  
 22 need to remain as a local resource and grow  
 23 with all the advantages of the latest  
 24 technology for HD broadcasting, web site  
 25 presence, and online streaming. These

1 resources must be made available for KATV in  
2 the future. These guys are an absolute  
3 wonderful resource in our community, and I  
4 would like to see them stick around for years  
5 to come.

6 HEARING OFFICER MARREN: Thank you,  
7 MaryEllen Reis.

8 MS. REIS: It's okay. I married into  
9 it. My name is MaryEllen. I go by Mel Reis  
10 and I'm the Assistant Head for External  
11 Affairs at Lyndon Institute, which is a  
12 private high school down the street of about  
13 3500 students. I also formerly worked at St.  
14 Johnsbury Academy where I worked with Jamie,  
15 which is another school in St. Johnsbury of  
16 about a thousand students. So Jamie and I  
17 have worked together on covering a vast amount  
18 of events.

19 It is a privilege to write this letter  
20 to advise the tremendous appreciation we have  
21 for KATV and Jamie Dimick's team. As a key  
22 resource for media communications in our area  
23 KATV is a vital resource for many area  
24 organizations, and especially for the Lyndon  
25 Institute. They are an important partner who

1 remain connected and learn about our area. In  
2 other urban areas the cable access channels  
3 may not have a large viewing audience, but  
4 here in the Northeast Kingdom KATV is crucial  
5 to us to communicate with one another. School  
6 board meetings, student presentations, area  
7 cultural events, news, interviews, community  
8 bulletin boards are just a few examples of the  
9 programs that are broadcast helping to keep  
10 our entire community connected and engaged.

11 I would like to see KATV feature options  
12 that can improve internet streaming utilizing  
13 web services or high definition. They have a  
14 vast library of recorded cultural events, as  
15 Bob had mentioned, and performances and they  
16 are the keepers of the record. They are  
17 storytellers and that's important. The  
18 practice should be expanded to allow customers  
19 to download these on demand.

20 I am happy to answer any questions you  
21 may have. Thank you for the opportunity to  
22 support Jamie and KATV.

23 HEARING OFFICER MARREN: Thank you. Tom  
24 Moore.

25 MR. MOORE: Hi, I'm Tom Moore. I have

1 support us by recording key events on campus,  
2 performances, presentations, and other  
3 miscellaneous events where sophisticated video  
4 recording equipment isn't necessarily  
5 available and it's truly needed.

6 They also help to promote our events on  
7 their web site Kingdom Access Television  
8 providing an audience to global students. We  
9 have about 85 boarding students from 16  
10 countries all over the world.

11 Having worked with Jamie for over seven  
12 years I can speak to his professionalism and  
13 willingness to be a creative resource. His  
14 team is always willing to help if they can  
15 working in a rural area where companies like  
16 KATV are rare. I am grateful for the product  
17 and services provided by their team. In  
18 addition, they are also a non-profit trying to  
19 survive with donations, and in this economy it  
20 can be a very difficult challenge.

21 I know that if the opportunity presented  
22 itself KATV would be an excellent candidate  
23 for expansion. To date they have managed to  
24 partner with almost every major organization  
25 in our area. Their service has helped us to

1 no written notes since I got the word in the  
2 middle of the afternoon so I'll try to speak  
3 slowly and don't expect anything afterwards.

4 I'm a member of the St. Johnsbury  
5 Selectboard and candidate for the Vermont  
6 House from St. Johnsbury this year and the  
7 Board certainly thanks KATV for being there  
8 and filming. It provides people who can't get  
9 there or whose time is off a chance to get  
10 some real visible transparency to what goes on  
11 down at the board meetings, and it also gives  
12 us a chance to go back and look when we're not  
13 absolutely sure what somebody said. The  
14 viewing public can certainly see town officers  
15 get their -- in the fire when people are upset  
16 with what's going on and it's good for  
17 everybody else to see. Things are right  
18 there. They are not edited.

19 Surprising amount of people have come to  
20 me since I've been on the board and said gee I  
21 saw what was going on the board last night. I  
22 agree with you. I don't agree with you.  
23 Where did you see that? I saw it on my  
24 laptop. I saw it on my phone. Whatever other  
25 wireless device they have. So people are

1 going back, they are looking on the schedule,  
2 finding out when this stuff is going to be on  
3 and playing it, and one guy said I replayed  
4 that about three times trying to figure out  
5 what that guy was talking about. Well we were  
6 sitting up at the desk in front we're still  
7 not sure what he was talking about, but you  
8 had a chance to see it live on the TV.

9 Fred mentioned the auction. I watch the  
10 auction every year. I used to go to it. I  
11 watch it on TV. It is a good money maker for  
12 the Kiwanis and the Kiwanis do great things  
13 for the pool and for the town. So anything  
14 that they can do like that is great.

15 Archiving the meetings. I was just  
16 talking with them before we started about  
17 going back a year or two to some issues that  
18 we had in town where money was spent one way  
19 or another and people said this and another  
20 person said that, and now we're paying the  
21 bills so we can go back and look and see what  
22 the claims were. So those -- having those  
23 archives where any amount of notes are only as  
24 good as the note taker happened to be, but if  
25 it's on camera right there we can see it.

1 I think that's about all I've got. The  
2 Board certainly does appreciate it and  
3 sometimes we even watch ourselves to see what  
4 we could be doing better. Thank you.

5 HEARING OFFICER MARREN: Thank you.  
6 Greg MacDonald.

7 MR. MacDONALD: I'm Greg MacDonald,  
8 currently a board member of Catamount Arts and  
9 also the Community Restorative Justice Center  
10 in St. Johnsbury.

11 In a past life I was a member of the St.  
12 Johnsbury School Board and also Probation and  
13 Parole Office here in St. Johnsbury, and there  
14 were times where KATV was not in the room but  
15 they were instrumental in getting word out and  
16 getting what was fact and what was fiction out  
17 as far as the matter of record on stuff that  
18 was going on in the community.

19 The word community access it's such an  
20 important thing. That's the service that KATV  
21 provides to our community. As I mentioned  
22 earlier we're a very rural community. We have  
23 limited resources as far as getting word out  
24 through the media which is sometimes slanted.  
25 So people can tune in to KATV and really find

1 out for themselves what's going on at  
2 Selectboard meetings or arts. We have  
3 programs that have done very -- it's Catamount  
4 Arts and school board meetings or whatever  
5 other function. They seem to be everywhere.  
6 I don't know how sometimes Jamie does -- and  
7 his crew do what they do on the limited  
8 resources that they have.

9 I don't get KATV. I live out in the  
10 boonies in St. Johnsbury and I don't have  
11 cable out there so I have to watch it on the  
12 web, and so that's really, really important to  
13 me. If something is going on in town that I  
14 can't make, I can go some place that has wifi  
15 coverage and watch it on my laptop.

16 I don't know all the technology involved  
17 in this. The fact that they are shooting in  
18 high definition, I do have a high definition  
19 TV and I know that's a much more enjoyable  
20 experience than watching it on the old TV. So  
21 when Comcast comes in or whatever cable access  
22 the company is that's going to be doing this,  
23 it's really important that they do I think the  
24 on-demand scheduling so people can record  
25 KATV, and if they see a program they want to

1 see on their DVD or whatever and they can  
2 watch it in high def just like any other  
3 station that they can find.

4 Jerry had mentioned the whole thing  
5 around the Catamount Arts program. We have  
6 Great Conversations and that's a monthly  
7 program in which we have panelists come in and  
8 talk about a specific subject such as poverty  
9 or racism or environmental issues or issues in  
10 our communities, and KATV has filmed that  
11 every single session. We average between 25  
12 and 50 people at some of those discussions and  
13 conversations, but I know the audience is much  
14 broader out there in the community that tune  
15 into that, and we inform them. I have been  
16 approached afterwards about some of the  
17 programs they have seen on community TV  
18 through the Courageous Conversations, and so I  
19 know people watch them. I don't know if  
20 there's any poll numbers or anything like  
21 that, but also when Jamie asked me to come  
22 here tonight and speak I dropped anything else  
23 I was doing. I was going to go to the  
24 Mountaineers ball game tonight, but I was like  
25 Jamie has done so much for this community and

1 community access is so important to this  
 2 community. Thank you for the opportunity.  
 3 HEARING OFFICER MARREN: Thank you.  
 4 Darlene Ballou.

5 MS. BALLOU: Hello. I'm Darlene Ballou.  
 6 I'm the Director of Broadcast Operations at  
 7 Lyndon State College. I'm here representing  
 8 the Electronic Journalism Arts Department at  
 9 the college.

10 We have a live nightly news broadcast  
 11 that is aired over KATV during the academic  
 12 calendar year, and essentially we have had  
 13 this partnership since the inception of KATV.  
 14 We have an incredible track record in terms of  
 15 our programming and our students being able to  
 16 get that programming out to the community, and  
 17 that's based on a fantastic partnership and  
 18 support by KATV.

19 We are a nationally recognized college  
 20 news broadcast and that has a great deal to do  
 21 with how our broadcast gets out, who sees it,  
 22 and again many thanks to Jamie for supporting  
 23 that.

24 A couple of issues that in chatting with  
 25 Jamie that really do come to mind as we kind

1 and we are extremely --  
 2 MR. DIMICK: Only 18.

3 MS. BALLOU: Okay. So it's been an  
 4 incredible partnership. One that we like to  
 5 recognize and continually count on Jamie's  
 6 support to be able to continue our  
 7 programming, and we certainly are very pleased  
 8 to be here this evening. Thank you.

9 HEARING OFFICER MARREN: David Ballou.

10 MR. BALLOU: Yeah. I'm going to just  
 11 play off from what Darlene just said. I'm a  
 12 35-year plus year faculty member at Lyndon  
 13 State College. I was one of the founders of  
 14 Kingdom Access Television ironically before  
 15 Jamie came along.

16 A couple of things I would like to point  
 17 out in relation to what we produce. Darlene  
 18 mentioned each year we produce 120 half hour  
 19 live newscasts. Most of those live newscasts  
 20 now include live reporting from some of the  
 21 municipalities that are served by the now  
 22 Charter Cable system. We have done well with  
 23 these newscasts not only we feel serving the  
 24 community, but also serving our student  
 25 population. When we started doing live news,

1 of move forward with the Certificate of Public  
 2 Good. The first is channel placement. We  
 3 have our vantage point. We are News 7. That  
 4 will no longer be and that's going to be a  
 5 difficult change for us, but we feel as a  
 6 department that our channel should be aligned  
 7 with the other local news channels so that as  
 8 viewers are surfing around they can find us a  
 9 whole lot easier.

10 The other part is the support of KATV  
 11 and how the funding is sustained to support  
 12 KATV. That is a significant concern as more  
 13 and more people cut the cord. That's what's  
 14 happening in terms of broadcasting. We see it  
 15 and more and more people are looking at  
 16 programming via the internet like everyone has  
 17 mentioned, and we're very concerned that the  
 18 current funding model to support KATV may no  
 19 longer be viable as more and more people  
 20 migrate away from cable subscription and  
 21 solely go into internet subscription. So  
 22 we're concerned about that.

23 KATV is an incredible, incredible  
 24 operation and has been spearheaded very nicely  
 25 for the past 25 some odd years by Mr. Dimick,

1 which is now over 30 something years ago, we  
 2 made a decision and have stuck with it not to  
 3 become a college news station that reports  
 4 student government meetings or what's going on  
 5 in the cafeteria, but to report on what's  
 6 going on in the community.

7 Without Kingdom Access Television we  
 8 simply will not be able to continue this. We  
 9 have been nominated this year for two Emmys  
 10 and we have won two Emmys in the past. We  
 11 were named top ten program by News Pro  
 12 Magazine in the Radio and Television Digital  
 13 News Association this year. Our packaging is  
 14 slick and our programming is 101 percent  
 15 designed to serve the communities on the  
 16 Charter system. It is difficult for me having  
 17 been there this long to realize that without  
 18 Kingdom Access Television surviving and  
 19 surviving well we won't be able to continue  
 20 this tradition, and subsequently I think our  
 21 student population will suffer but also  
 22 members of the community who watch our  
 23 newscast. Spell somebody's name wrong and you  
 24 can immediately hear whether or not anybody  
 25 watches the show.

1 I think Darlene summed it up better than  
2 I did and I just wanted to add that response.

3 HEARING OFFICER MARREN: Thank you.  
4 Thank you for -- I'm not familiar with the  
5 student broadcast, but I'm very impressed and  
6 I'm going to look it up.

7 So that concludes the list of folks who  
8 signed up. I know some other people came in  
9 after the sign-up sheet. So if anyone who  
10 came later would like to speak, if you can  
11 just state your name for the court reporter?

12 MS. JERRY: Susan Jerry. I started  
13 working with Jamie when I was the music  
14 teacher in St. Johnsbury and we would record  
15 all of our choral performances and the  
16 students had a chance to do self assessment  
17 when they saw that, and also relatives that  
18 weren't able to come see the performances.

19 Currently I am the Chair of the Planning  
20 Commission and all of our Planning Commission  
21 meetings are recorded by Kingdom Access  
22 Television which is a really important piece  
23 because evening meetings are hard for people  
24 in a rural area to attend meetings, and we  
25 find that also as some community dialogue

1 able to attend a meeting but can give feedback  
2 to meetings they see on access.

3 HEARING OFFICER MARREN: Thank you. I  
4 notice Tom Moore would like to add something.  
5 Is there anyone who hasn't spoken yet who  
6 would like to have a comment entered into the  
7 record? The floor is yours, Mr. Moore.

8 MR. MOORE: I would like to add about  
9 what she said about Lyndon State news program  
10 there's a real vacuum when school closes.  
11 There really isn't anything in this part of  
12 the state. Everything comes out of  
13 Burlington.

14 They are everywhere during the school  
15 year. Pipe breaks somewhere, floods, house  
16 burns, good things that are going on, bad  
17 things that are going on, they seem to get  
18 there quicker than just about anybody else  
19 around here, and at 5:30 a lot of people tune  
20 in, and I always say that's when the end of  
21 the college year comes about and we're waiting  
22 in September for them to get up and get  
23 running and get back online again because they  
24 do provide a tremendous amount of news right  
25 about this area all the way from St. Johnsbury

1 meetings are happening with a program called  
2 DART, and those community conversations are  
3 about the Drug Abuse Resistance Team, and  
4 we're talking about the addiction problem in  
5 our community, and we have had people join the  
6 conversation by coming to the next monthly  
7 meeting because they saw that on Kingdom  
8 Access Television and they wanted to be part  
9 of the community conversation.

10 I was very interested in making sure  
11 that people had access to the positive things  
12 that were happening in St. Johnsbury, and as  
13 the Director of the Community Restorative  
14 Justice Center now I go in regularly and  
15 record a studio show at Kingdom Access  
16 Television and we talk about the positive  
17 things that are happening in the community.  
18 So I have interviewed guests that we do a half  
19 hour show and we do a studio program in and  
20 around St. Johnsbury.

21 So I just wanted to reiterate what I  
22 have heard people say already and that is that  
23 people have access to what's going on in the  
24 community because of what they see and can  
25 participate in a level where they might not be

1 to Sutton to Sheffield down through to Barnet.  
2 I'm not sure how much further away they go,  
3 but they certainly cover this area very well.

4 HEARING OFFICER MARREN: Thank you. Is  
5 there anybody else who would like to give a  
6 comment this evening? Well thank you very  
7 much everyone. I appreciated everyone's  
8 comments.

9 I'll reiterate if you would like to  
10 submit something in writing to the Board,  
11 please come up after the hearing and I'll give  
12 you our mailing address or email address, and  
13 if that's all, then we're adjourned. Thank  
14 you.

15 (Whereupon, the proceeding was  
16 adjourned at 7:40 p.m.)  
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I, JoAnn Q. Carson, do hereby certify that I recorded by stenographic means the public hearing re: Docket Number 7820 at the Catamount Arts Center, 115 Eastern Avenue, St. Johnsbury, Vermont, on August 4, 2014, beginning at 7 p.m.

I further certify that the foregoing testimony was taken by me stenographically and thereafter reduced to typewriting, and the foregoing 33 pages are a transcript of the stenograph notes taken by me of the evidence and the proceedings, to the best of my ability.

I further certify that I am not related to any of the parties thereto or their Counsel, and I am in no way interested in the outcome of said cause.

Dated at Burlington, Vermont, this 9th day of August, 2014.

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JoAnn Q. Carson  
Registered Merit Reporter  
Certified Real Time Reporter