

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of )  
Application of Charter Communications, Inc., )  
Time Warner Cable Inc., and ) MB Docket No. 15-149  
Advance/Newhouse Partnership For Consent to the ) (filed June 25, 2015)  
Transfer of Control of Licenses and Authorizations )  
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**Comments of the California Emerging Technology Fund  
to Application Relating to Public Benefits**

Sunne Wright McPeak  
President and CEO  
California Emerging Technology Fund  
The Hearst Building, 5 Third Street, Suite 320  
San Francisco, California 94103  
Tel. (415) 744-2383  
sunne.mcpeak@cetfund.org

Rachelle Chong  
Outside Counsel  
Law Offices of Rachelle Chong  
220 Sansome Street, 14<sup>th</sup> Floor  
San Francisco, California 94104  
Tel. (415) 288-4005  
rachellechong@gmail.com

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Attachment A: Letter dated July 22, 2014 from 21 California organizations supporting CETF's requests to the FCC, relating to the Comcast-Time Warner Cable merger, Docket 14-57.

Attachment B: California Emerging Technology Fund Service Area Population Base Data for Broadband Providers in California to Determine Appropriate, and Comparable Public Benefit Contributions, dated July 2015.

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**Summary**

The California Emerging Technology Fund (CETF), a non-profit organization dedicated to closing the Digital Divide, hereby timely files comments requesting conditions be ordered by this Commission to realize significant public benefits in this docket for broadband consumers. CETF files these comments representing the unique interests of residents and households in the impacted service areas in California that lack adequate broadband infrastructure and bandwidth speeds below Federal Communications Commission (FCC or Commission) and California Public Utilities Commission (CPUC) minimums, or do not have home broadband access because of cost, lack of computing devices, or lack of computer and Internet usage training (referred to here as “digital literacy”).

Under Section 214(a) and 310(d) of the Communications Act, this Commission needs to find the transfer of control will “serve the public interest, convenience and necessity.”<sup>1</sup> CETF neither supports nor opposes the merger, however respectfully requests that, should the Federal Communications Commission grant this application, this Commission mandate the following conditions as important public interest requirements to benefit the people of the

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<sup>1</sup> 47 U.S.C. Section 214(a), 310(d).

United States. The National Broadband Plan has set forth the importance of broadband as “a foundation for economic growth, job creation, global competitiveness and a better way of life.” Among its recommendations, the National Broadband Plan recommends “Ensure universal access to broadband network services”, “Create mechanisms to ensure affordability to low-income Americans”, and “Ensure that every American has the opportunity to become digitally literate.”<sup>2</sup> In light of these key recommendations, CETF submits that this Commission should act consistent with our recommendations.

CETF respectfully proposes and strongly recommends five (5) public benefit requirements for *broadband adoption*:

1. Require New Charter to Offer a Stand-Alone Affordable Broadband Offer for All Low-Income Households. This would require New Charter to offer for at least three years or until 80% of the eligible persons in the targeted underserved communities are connected (with no demographic group less than 70%), a stand-alone wireline broadband offer at \$10 per month. The discounted affordable broadband offer by New Charter should be for all low-income households, seniors (people over 65 years of age), people with disabilities, and returning veterans.
2. Set a Performance Goal of 45% of the Eligible Low-Income Population. Set a 45% national goal for New Charter to reach the eligible persons in the targeted underserved communities within three years in its service areas, and to continue the offer until 80% of the target low-income population is achieved in its service areas.

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<sup>2</sup> National Broadband Plan, Executive Summary, at pages XI-XIII.

3. Direct Collaboration with States to Develop a Strategic Plan. In states where it has service areas, the FCC should require New Charter to collaborate with states agencies with jurisdiction over telecommunications and broadband and to prepare a written strategic plan to address broadband adoption in each state.
4. Require Capitalization of an Independent Fund for Adoption. The FCC should require New Charter to capitalize an independent fund in an amount equal to 45% of the eligible low-income households in the service areas at \$275 per household to increase broadband adoption through performance-based grants to experienced community-based organizations (CBOs), schools and libraries as “trusted messengers” to effectively reach the target populations (outreach in-language and culture, digital literacy training, and assistance with actual sign-ups). CETF has prepared a summary of service area population base data for broadband providers in California to determine appropriate, fair and comparable public benefit contributions by companies with pending applications before the California Public Utilities Commission and the FCC. For this transaction, \$285 million is the requested public benefit to reach 45% of eligible low-income households at \$275 per household, while \$133 million is a subset of the \$285 million representing the public benefit amount to reach 45% of Free-or-Reduced Lunch Program (FRLP) households at \$275 per household.
5. Establish a National Advisory Oversight Committee: An independent national advisory committee overseeing this broadband program would provide feedback and input to the FCC in monitoring actual performance each year, establishing annual milestones, and progress to reach the goals.

CETF respectfully proposes and strongly recommends three (3) public benefit requirements for *broadband infrastructure deployment*:

1. Require High-Speed Broadband Deployment in Priority Areas: Require deployment of wireline broadband by New Charter to a minimum number of priority unserved and underserved areas that meet acceptable threshold speeds to both the FCC and respective states. In California, deployment should be required into at least 10 unserved or underserved areas as designated by the CPUC relating to the California Advanced Services Fund (CASF) in Resolution No. T-17443.
2. Require Network Upgrades: Require upgrades to the broadband network now and periodically to meet service and performance requirements set by regulatory agencies to support prevalent consumer applications. Consumers include: residential last-mile customers; schools, libraries and other anchor institutions; small and larger employers; higher education and research institutions; and facilities to control and manage other critical statewide infrastructure such as power grids and water systems.
3. Encourage Collaboration with Other Deployment Initiatives: Encourage collaboration with FirstNet to assist the nation with emergency response capabilities and to explore opportunities to coordinate deployment projects with statewide networks, such as Corporation for Education Network Initiatives in California (CENIC), K-12 High-Speed Network, California Research and Education Network (CalREN), and the California Telehealth Network (CTN).

## **I. Background of the California Emerging Technology Fund**

CETF is a non-profit organization dedicated to closing the Digital Divide in California. CETF has a unique voice that should be heard in this proceeding on the narrow topic of public interest benefits proposed by Applicants relating to this application. To date, CETF is the only non-profit organization established by the CPUC to focus exclusively on broadband deployment and broadband adoption issues. CETF comments on this transfer based on its deep knowledge and expertise as to the California broadband environment. Further, CETF has commented on similar corporate consolidation applications that have come before this Commission: Comcast-Time Warner Cable; AT&T – DirecTV; Frontier-Verizon; and Cequel Corp. d/b/a Suddenlink Communications – Altice.<sup>3</sup> In fairness and due to its technology-neutral approach, CETF hereby offers similar comments relating to this transfer, which has significant impacts on California service areas, particularly in Southern California.

CETF was founded in 2007 as a non-profit organization at the direction of the CPUC after the mergers of SBC-AT&T and Verizon-MCI in 2005. As a CPUC condition of approval for the mergers to provide a public benefit, AT&T and Verizon were required to contribute a total of \$60 million to CETF over 5 years “for the purpose of achieving ubiquitous access to broadband and advanced services in California, particularly in underserved communities, through the use of emerging technologies by 2010.” An independent governing board sets the priorities and approves the programs of the CETF with advice from a board of experts. CETF has offices in Northern California (San Francisco) and Southern California (Los Angeles).

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<sup>3</sup> Comcast Corp.– Time Warner Cable, Inc., MB 14-57, AT&T – DirecTV, MB 14-90, Frontier Communications Corp. – Verizon Communications Inc., WC 15-44, and Cequel Corp. d/b/a Suddenlink Communications – Altice S.A., WC 15-135.

The mission of CETF is to close the Digital Divide in California by overcoming barriers to high-speed Internet access at home. The CETF goal is to reach 98% of all residences with broadband infrastructure and to achieve 80% home adoption by 2017. Since inception, CETF has provided more than \$31 million in grants to CBOs and public agencies for programs promoting broadband deployment and adoption to serve unconnected Californians, with a focus on rural communities, low-income disadvantaged neighborhoods, and people with disabilities. An example is the early work by CETF in the multi-lingual “*Get Connected!*” campaign targeting underserved communities in Southern California and the Central Valley.<sup>4</sup> CETF is also a founder and major funder of the California Telehealth Network,<sup>5</sup> a \$22.1 million grantee of the FCC Rural Health Care Pilot Program and one of the largest statewide telehealth networks in the nation.

Additionally, CETF assumed a leadership role related to the American Recovery and Reinvestment Act (ARRA) broadband projects, assisting the Governor’s Office, the CPUC, the State Legislature, and the California Congressional delegation to develop and secure ARRA broadband grants for the state.<sup>6</sup> CETF received and managed two ARRA broadband grants with 19 CBO partners totaling \$14.3 million from the Department of Commerce National Telecommunications and Information Agency (NTIA). One grant focused on building broadband awareness and adoption, while the second grant concentrated on workforce preparation improving training and access to careers in technology.<sup>7</sup> CETF managed 19 sub-grantees resulting in more than 200,000 new broadband adoptions and over

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<sup>4</sup> See description of CETF grant process for Get Connected: <http://www.cetfund.org/investments/GC-Grant-Overview>

<sup>5</sup> <http://www.caltelehealth.org/about>

<sup>6</sup> [http://www.cetfund.org/files/Website%20Statement%2042409%20\\_2\\_\\_0.pdf](http://www.cetfund.org/files/Website%20Statement%2042409%20_2__0.pdf)

<sup>7</sup> CETF Annual Report, 2013, at page 20. <http://www.cetfund.org/files/CETF2012-2013ARwebRGB.pdf>

2,700 jobs for low-income residents. Further, CETF and its partners trained over 24,000 low-income persons and over 12,000 small business owners and employers with digital literacy skills.

Beginning in 2008, CETF commissioned an Annual Statewide Survey to measure broadband adoption and hold itself accountable to a set of metrics for reaching its goals. While CETF focused efforts over the last seven years have resulted in significant progress in connecting the poorest Californians to the Internet, the latest statewide survey by Field Research Corporation (Field) shows that California is still falling short of the 80% adoption goal. According to the 2015 Annual Statewide Survey, 21% of California households do not have high-speed Internet at home; and of the 79% who are connected, 8% are by smart phone only, which is effective for Internet navigation but insufficient for a student to do homework or and adult to acquire workforce skills. Of the 21% of California households that do not have high-speed internet these households cited cost as the major factor for being unconnected. The following is the percentage of Californians with broadband at home by key categories:

- 65% of households earning under \$20,000 a year (16% by smart phone only);
- 63% of households with Spanish-speakers (21% by smart phone only);
- 59% of people with disabilities (8% by smart phone only);
- 57% of adults age 65 or older [seniors], (1% by smart phone only); and
- 52% of non-high school graduates (18% by smart phone only).

Thus, there continues to be significant broadband adoption work to do in California. CETF has set an ambitious home broadband adoption goal of 80% by 2017, with no single demographic group (for example, low-income residents, Spanish-speaking households, seniors, and people with disabilities) or geographic region below 70%. Given its deep experience in broadband adoption, it is clear to CETF that this goal cannot be met without

significant, focused programs funded by all Internet Service Providers, the FCC, state utility commissions, State and local governments, regional consortia, and CBOs to achieve broadband adoption for underserved communities.

## **II. If This Commission Approves the Proposed Transaction, It Should Impose Conditions to Further the Public Interest**

Charter Communications, Inc. (Charter), Time Warner Cable, Inc. (TWC), and Bright House Networks, LLC (BHN), (together, Applicants) filed a series of applications pursuant to Sections 214 and 310(d) of the Communications Act of 1934, as amended, seeking approval to transfer control of TWC, BHN and their subsidiaries to Charter. After the combination of these three companies, the subsequent provider will be referred to as “New Charter.” TWC provides broadband Internet, video and voice services to over 15 million customers across 30 states. Furthermore, TWC offers high-speed broadband Internet service to approximately 11.7 million customers across 30 states, including, California, the specific state of interest to CETF. BHN provides video, high-speed data, home security, and voice services to approximately 2.5 million customers in six states, including California.

### **A. Applicants Assert the Proposed Transaction Will Generate Public Interest Benefits Which Should Be Monitored**

In its Application, Applicants claim that there will be substantial public interest benefits if the transaction is granted. As to broadband deployment, the Applicants assert New Charter will transition Time Warner Cable and Bright House Networks systems to all Digital Systems within 30 days of the closing of the transaction. They claim that “substantially all” consumers will get at least 60 megabytes per second (Mbps) download of speeds as a result.<sup>8</sup>

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<sup>8</sup> Application’s Public Interest Statement, at 19.

CETF recommends that more information about the upgrades be required by the FCC. CETF wants to know what specific areas of California will benefit by this commitment, the download and upload speeds expected, and the time tables of the infrastructure upgrades.

CETF is also underwhelmed by the weak offer in the Application for affordable broadband rates for underserved communities, such as low-income households, senior citizens, and people with disabilities. It is apparent that both Charter and Time Warner have no current affordable broadband program for low-income persons, comparable to Comcast's Internet Essentials or the upcoming AT&T Discounted Broadband Plan, a condition of the AT&T – DirecTV FCC decision. The Application merely promises to expand the small BHN Connect2Complete discount offer to raise speeds and expand eligibility.<sup>9</sup> CETF is quite disappointed by the lack of details in this offer of a public interest benefit. Among the questions it raises for CETF are the following: What will the discounted rate be? What is the lowest standalone broadband rate offered in the service areas (to understand the depth of the discount)? What are the specific eligibility criteria for the program? What speeds will be offered? Will this be a stand-alone broadband product or bundled with other services like video or voice? Will credit checks be performed on applicants? Will the router include a Wi-Fi capability? Will marketing and advertising of the offer be required, both in language and in culture? Will the FCC monitor this program for results periodically?

Should this application be granted by the Commission, CETF urges the Commission to require much more detail about the scope of this program, and to require this commitment as a condition of the merger for at least three years. In fact, CETF recommends the Commission continue the obligation until 80% of the eligible persons in the targeted

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<sup>9</sup> Application Public Interest Statement, at 20.

underserved communities (within no demographic group less than 70%) are connected to broadband.

CETF respectfully proposes five (5) recommendations that, if followed, will ensure that public interest benefits will be generated as to broadband adoption issues in the impacted areas. CETF recommends that New Charter be required to offer a stand-alone, low cost broadband offer at the rate of \$9.95 per month for low-income households. The failure of broadband providers to offer a low-cost service plan has been a serious detriment to closing the Digital Divide for low-income households. CETF recommends that the Commission “put some teeth” into this commitment with specific goals, accountability, oversight, and specific eligibility involving the communities most underserved by broadband in the nation. The public benefit sought by CETF is similar to what was ordered by this Commission in the decision of AT&T – DirecTV as part of the conditions therein related to the affordable broadband program and the fiber-to-the-premises build-out.<sup>10</sup> CETF is confident that the AT&T – DirecTV will be a “game-changer” for our state’s broadband adoption efforts, given AT&T’s extensive service territory in California. An affordable broadband program for New Charter would be a “game-changer” for the Southern California markets that have not benefitted from the Comcast Internet Essentials offer to date.<sup>11</sup>

#### B. The Public Interest Will Be Served by Five Recommendations for Broadband Adoption and Three Recommendations for Broadband Deployment

Research shows and extensive experience confirms that there are three (3) primary barriers to broadband adoption: (1) Cost; (2) Relevance; and (3) Digital Literacy. The

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<sup>10</sup> In the Matter of the Applications of AT&T and DirecTV for Consent to Assign or Transfer Control of Licenses and Authorizations, MB 14-90, Memorandum Opinion & Order, FCC 15-94, see Conditions in Appendix B (adopted July 24, 2015, released July 28, 2015) (AT&T DirecTV Order).

<sup>11</sup> Comcast’s service area in California does not include Southern California. As a result, broadband adoption outreach efforts have been more difficult in Southern California, absent a \$10/month broadband offer.

following recommendations address all 3 barriers to ensure that an increase in broadband adoption among disadvantaged populations and low-income households will be achieved as a tangible public benefit from this corporate consolidation.

1. Require New Charter to Offer a Stand-Alone Affordable Broadband Offer for All Low-Income Households

Given the 2015 Field Study findings on broadband adoption in California described above, CETF respectfully recommends that the Commission require a stand-alone broadband rate to be offered by New Charter for at least three years to all low-income households, or until 80% of residents have broadband at home. If this Commission wishes to limit this rate to particular underserved groups, CETF suggests low-income persons including, but not limited to, limited-English speaking households and households headed by non-high school graduates), seniors (age 65 and over), people with disabilities, and low-income recently-returning veterans.

CETF is aware of the FCC's Notice proposing to add broadband service to the traditional FCC Lifeline program<sup>12</sup> for low-income populations. CETF applauds this landmark step forward to transition the landline Telephone Lifeline program to a Broadband Lifeline program, and has filed detailed comments in that docket. CETF agrees with the FCC when it states in its notice that "broadband is essential to participate in society"<sup>13</sup> and that "[d]isconnected consumers, which are disproportionately low-income consumers, are at an increasing disadvantage as institutions and schools and even government agencies, require

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<sup>12</sup> In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order and Memorandum Opinion and Order (Second FNPR), WC Docket 11-42, 09-197, 10-90, FCC 15-17 (rel. June 22, 2015)("Second Further Lifeline Notice")

<sup>13</sup> Second Further Lifeline Notice, at para. 4.

Internet access for full participation in key facet of society.”<sup>14</sup> Applicants should not be allowed to use the pendency of this Broadband Lifeline docket to argue against any short term affordable broadband offers as a result of this merger. Given the many complex issues relating to a Lifeline transition and the diverse stakeholders impacted, CETF suggests it will take a significant amount of time for the Broadband Lifeline docket to conclude and even more time for the implementation of a new Broadband Lifeline program given the complexities of this new program. In the meantime, millions of low-income consumers remain unconnected to the Internet at home, either because no broadband infrastructure is available to them, or because market set broadband prices are too expensive for them to afford. *This nation simply cannot wait that long for the Digital Divide to be closed.* Our country is falling behind other global competitors in terms of economic development. Already it is a fact that California, the home of Silicon Valley, is producing only one-third of the projected demand for workers for computing job positions in this decade.<sup>15</sup>

As previously noted, both Charter and Time Warner Cable have poor records as to historical offers of affordable broadband rates to low-income persons.<sup>16</sup> CETF recommends

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<sup>14</sup> Second Further Lifeline Notice, at para. 4.

<sup>15</sup> “More than half of expected jobs in STEM fields will be in computing occupations. . . Sadly, at the current rate, the estimated number of graduates in computing between 2010 and 2020 will meet less than one-third of the demand. Despite a 16 percent increase in high school enrollment from 2000 to 2012, the number of computer science and programming courses fell 34 percent.” “California is failing to produce enough Computer Scientists,” The Sacramento Bee, Dec. 7, 2014. <http://www.sacbee.com/opinion/op-ed/soapbox/article4301778.html>

<sup>16</sup> See for example the following website summarizing low cost broadband offers. Charter is notably absent from this list. <http://www.cheapinternet.com/low-income-internet> . The [www.broadbandnow](http://www.broadbandnow.com) site shows the lowest standalone broadband one year promotional offer for Charter to be \$39.99 per month for 60 Mbps download and 4 Mbps upload with no data caps. The regular rate is \$59.99 per month for this plan after the year promotion is up, and there is a \$29.99 one-time installation fee. <http://broadbandnow.com/Charter-Communications-deals> See also the last two paragraphs relating to recent Internet-only rate increases by Charter. <http://stopthecap.com/2015/03/05/charter-communications-quietly-eliminates-usage-caps-that-were-rarely-enforced-anyway/>

the New Charter broadband rate should be unbundled from any other service (such as voice or video), and must be a stand-alone broadband offer. The broadband rate should be affordable for low-income persons at a broadband speed that allows quality access to modern applications. A benchmark rate that has worked well in recent years is the \$9.95 per month rate offered by Comcast for its Internet Essentials program for low-income families with K-12 schoolchildren approved by this Commission relating to Comcast's merger with NBC Universal.<sup>17</sup> This is also the affordable broadband rate ordered by this Commission in the AT&T DirecTV order, relating to its mandated discounted broadband program. In California, broadband studies conducted by independent third parties on behalf of CETF since its formation in 2006, CETF has found that a \$10-\$15 monthly broadband rate is within the range of "affordable" by the low-income population. The rate should be offered for at least three full years, and extended until 80% of the target eligible underserved population is connected, with no demographic population under 70%. CETF and its partners strongly support an affordable broadband rate for all low-income households and have demonstrated solid public support through its "Internet For All Now" (IFAN) social media mobilization.<sup>18</sup>

In establishing a broadband discount program, CETF cautions that there should not be onerous terms of service that make the broadband subscription out of the reach of low-income households. These may include, but are not limited to, the following requirements: long-term service contracts, onerous deposit requirements, a requirement of a social security number, a credit check, one-time charges for installation, deposits for required equipment, and requiring

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<sup>17</sup> In the Matter of Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses, Memorandum Opinion and Order, MB docket 10-54 (released Jan. 20, 2011).

<sup>18</sup> <http://www.internetforallnow.org/>

online sign-up by persons without Internet access. Further, it is vital that modems with Wi-Fi capable routers be provided in conjunction with the service to be compatible with most computing devices being issued by schools and to enable more than one member of the household (especially schoolchildren) to be online at the same time.<sup>19</sup>

CETF recommends that this Commission require New Charter to provide sufficient advertising in the targeted communities to make them aware of the stand-alone broadband offer and low rate, including advertising in minority media outlets and community gatherings, using in-language methods, and not requiring sign-ups to be “on-line.” CETF has had reports from CBOs of inefficient advertising by ISPs of low-cost offers during the middle of the night, or advertisements listing only a website address which families without Internet access cannot access to get more information or sign-up.

2. Set a Performance Goal of 45% of the Eligible Low-Income Households

CETF recommends that a performance goal of 45% of the eligible populations should be established for a three-year program with a stand-alone, broadband offer.<sup>20</sup> The 45% goal is the same performance goal CETF requested for the Comcast Internet Essentials program in the now defunct Comcast-Time Warner Cable merger docket, the AT&T –DirecTV application for transfer of control, the Frontier Communications - Verizon Communications application for transfer of control, and the Cequel Corp. d/b/a Suddenlink - Altice application for transfer of control.

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<sup>19</sup> CETF notes that Comcast is now offering Wi-Fi routers as part of its \$9.95 per month Internet Essentials program. <https://apply.internetessentials.com/>

A 45% enrollment goal of eligible households is an achievable goal. In the Comcast – Time Warner docket at the FCC, 21 experienced CBOs working on broadband adoption signed a letter confirming their commitment to achieve the 45% goal. See Attachment A, at page 2, #2. “Set Performance Goals.” A 45% goal has been found reasonable for the Wireless Lifeline program at the California Public Utilities Commission.<sup>21</sup> In a budget document prepared for the State Legislature relating to its 20-15-2016 Wireless Lifeline program, the Commission’s Communications Division staff stated there are about 3 million eligible low-income households in California. With wireline phone subscribers waning, wireless phone subscription has risen. The CPUC has forecast for 2015-2016, a 45% participation rate (1.376 million participants) in the wireless Lifeline telephone program for low-income persons. The 45% rate was found to be a reasonable assumption based on its review of different wireless service rates from other large states with Lifeline programs, like New York, Florida, and Illinois, ranging from 30-38%. Because California has a higher number of low-income households, offers higher level of support to service providers (both Federal and California Lifeline) with a larger discount than other states, the Commission found it more likely that California customers would subscriber and thus “45% is a reasonable assumption.” While a different program, Wireless Lifeline uses the same targeted low-income population, and as noted, a 45% goal was found reasonable.

Further, in the Proposed Decision on the Comcast – Time Warner Cable docket at the CPUC, A. 14-04-013, Administrative Law Judge (ALJ) Bemserderfer ordered Comcast to enroll at least 45% of the eligible households in its Internet Essentials program within two

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<sup>21</sup> State of California Budget Change Proposal for Universal Lifeline phone Service Program, Sec. D “Justification” at para. 4, at page 2. [http://www.cpuc.ca.gov/NR/rdonlyres/7FBA0C56-0D99-4C66-8A3E-A202D396CBA6/0/BCP\\_7\\_Lifelinefinal.pdf](http://www.cpuc.ca.gov/NR/rdonlyres/7FBA0C56-0D99-4C66-8A3E-A202D396CBA6/0/BCP_7_Lifelinefinal.pdf)

years of the effective date of the parent company merger, and to submit a plan to achieve its enrollment requirement no later than 90 days following the effective date of the parent company merger, and each calendar year thereafter for a period of five years.<sup>22</sup> Thus, a 45% performance goal is reasonable for New Charter's affordable broadband program.

In addition, a long-term goal of 80% of broadband subscription in low-income neighborhoods in its major service areas should be established by New Charter. This 80% level of broadband adoption is a goal that CETF would find acceptable, and is comparable to the position it took in the Comcast-Time Warner Cable merger, the AT&T-DirectTV transfer, the Frontier-Verizon transfer proceedings and Cequel d/b/a Suddenlink – Altice proceedings.

Further, it is critical that this Commission establish accountability of New Charter to make progress towards meeting the performance goals annually. It is not enough that the FCC require annual reports on the commitment, but the FCC should also set a numeric goal and hold New Charter accountable for the results. The results should be public so that state agencies, consumer groups, and stakeholders can view the program results, proposed improvements, and have input to the FCC and New Charter on how to improve the program. CETF was pleased to see reporting and enforcement provisions in the AT&T-DirectTV Order, as part of the conditions.

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<sup>22</sup> Proposed Decision of ALJ Bemesderfer (never approved by the full Commission due to withdrawal of the application by Joint Applicants), Decision Granting With Conditions Applications to Transfer Control, Joint Application of Comcast Corp., Time Warner Cable Inc., Time Warner Cable Information Services (California), LLC for Expedited Approval of the Transfer of Control of Time Warner Cable Information Services (California), LLC (U6874C); and the Pro Forma Transfer of Control of Bright House Networks Information Services (California) LLC (U6955C), to Comcast Corporation Pursuant to California Public Utilities Code Section 854(a), A. 14-04-013, A. 14-06-012 (mailed 2/13/2015), at 78-79 (hereinafter "Proposed Decision of ALJ Bemesderfer in Comcast – Time Warner")

### 3. Direct Collaboration with States to Develop a Strategic Plan

In States where it has service areas, the FCC should ensure that New Charter collaborates with the state agencies with jurisdiction over broadband and telecommunications, anchor institutes, local governments, emergency responders including FirstNet, and other stakeholders. CETF suggests that written strategic plan to address broadband adoption be prepared with input by stakeholders, by a date certain after the closing, and submitted to the FCC where it will be made public.

### 4. Require Capitalization of an Independent Fund for Broadband Adoption

CETF recommends that accountability should be required on the merger commitments. The best way to achieve this is for the FCC to require New Charter to capitalize an independently-managed fund within those states that are major markets. The FCC should require New Charter to have written plans of how it intends to help close the Digital Divide in its service areas, including California. The administrator of the fund should be selected by an appropriate State agency through an open competitive process limited to no more than 10% of CBO funding with CBOs provided grants pursuant to performance. CETF emphasizes that it is not requesting it be the administrator of the independent fund, but recommends the administrator be named after an open, fair and transparent Request for Proposal process.

This independently-managed fund will be charged with engaging experienced community-based organizations (CBOs) and anchor institutions in broadband adoption to perform outreach, and obtain actual broadband sign-ups in target low-income, senior, disabled, and veteran communities to achieve the specific adoption subscribership goals

described in the section above (3). Such a fund must require CBOs to not only perform outreach, *but to also meet actual subscription targets in order to receive the funding*. It is CETF's experience over the years (including its *Get Connected!* program and its successful ARRA programs) that CBOs with broadband outreach experience are the most effective groups to perform adoption work, as they are "trusted messengers" in the targeted communities and can perform the numerous personal interactions necessary to obtain a successful broadband subscription for this group.

The FCC should calculate the size of a fund necessary to bridge the Digital Divide by looking at the number of unconnected persons in the cumulative New Charter service areas. In Attachment B, CETF provides service area base data for broadband providers in California to determine appropriate, fair and comparable public benefit contributions relating to various proposed transfers impacting the state. As background, the California broadband goals are 98% deployment (in all regions) and 80% adoption (with no demographic group or region less than 70%) by 2017. CETF and a coalition of civic groups urge this Commission to secure tangible public benefits from pending corporate consolidations to help meet those goals, including requiring broadband providers to contribute to an independent fund to provide performance-based grants to CBOs, schools, libraries to increase broadband adoption by low-income households.

Using 45% as the 3-year goal based on the CPUC Telephone Lifeline program, the FCC can calculate the size of the fund necessary. Experienced CBOs report an average cost of \$480 per sustainable broadband adoption, but this amount can be driven down to \$275 per adoption assuming a sincere partnership of New Charter in this effort. The figure of \$275 was equal to the recommendation from CETF and partners based on: (a) estimated cost of each

sign-up at \$250 per household (to cover the costs of outreach, digital literacy training and completion of a subscription) if there was a sincere partnership with the company (to establish a user-friendly sign-up process and do effective advertising); and (b) an allowance of up to an additional 10% (\$25) for management (to be selected by an appropriate state agency through an open competitive process). It should be noted that CETF and partners recommended that an independent fund be constituted by the company with no pre-designated grantees or manager to ensure transparency and accountability. Further, with an affordable broadband subscription offer of around \$10 per month which would generate revenue of \$120 per year from each signed-up household, the investment of \$275 per household by the company would be paid back in less than three years (each subscriber would generate \$360 in three years). This approach constitutes what economists call a “virtuous circle” because the funds contributed by the company into an independent fund are returned to the company by the customers in a very short period of time and the grantees receive grant payments based on performance (households actually signed up for broadband service). The benefits from such a “investment” also accrue to the overall economy in the form of increased productivity and to society in general as more low-income households and disadvantaged residents can use technology to become self-sufficient.

This \$275 per sustainable broadband adoption per household figure with a 45% goal is the amount for broadband outreach by CBOs, schools and libraries that an independent CPUC ALJ included as a condition in a Proposed Decision in the now defunct Comcast-Time Warner Cable proceeding.<sup>23</sup> He found that “Comcast shall submit, for Commission approval, a plan to achieve its Internet Essentials enrollment requirement no later than 90 days

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<sup>23</sup> See Proposed Decision of ALJ Bemserfer in Comcast – Time Warner, App. A, Conditions at 13.

following the effective date of the parent company merger, and each calendar year thereafter for a period of five years. The plan shall include (1) specific cost details, including but not limited to the amount of funds allocated to outreach and marketing with a minimum amount of \$275 allocated per eligible household. . .” CETF suggests this Commission use this finding as a basis to order the same 45% goal and \$275 public benefit contribution per household here. As to the reasonableness of the \$275 per household figure, CETF notes that Sprint PCS spends an average of \$315 in customer acquisition costs for a telecom customer, and so obtaining a new customer for \$275 is reasonable.<sup>24</sup>

Thus CETF proposes as an appropriate, fair and comparable public benefit for the Charter-Time Warner Cable-Bright House merger, using the amount of \$275 per household, a fund contributed by New Charter of **\$285,000,000** to reach 45% of all eligible low-income households at \$275 per household, (of which \$133,000,000 is a public benefit to reach 45% of households with students eligible for the Free-or-Reduced Lunch Program at \$275).<sup>25</sup>

The FCC may ask why CETF thinks that outreach by community-based organizations are necessary for success. CETF has learned from its “*Get Connected!*” program and ARRA broadband adoption efforts, that ISPs are unwilling to widely offer low-cost broadband offers which will help low-income Americans get online, perhaps because it takes away sales from their lowest cost broadband offer. It is our experience that ISPs are reluctant to aggressively

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<sup>24</sup> “How Much Did That New Customer Cost You”, Entrepreneur magazine article (Jan. 14, 2013). <http://www.entrepreneur.com/article/225415>

<sup>25</sup> Olp; B contains further data supporting these figures.

market and promote low cost offers for these stand-alone broadband plans. CETF quotes from reports filed with it by two of its California CBO grantees on the topic:

OTX-West: “Another challenge was in finding and maintaining low-cost Internet options for customers. It is particularly disappointing that the carriers (particularly AT&T and Comcast) only have market rate offerings. Credit checks make access even more difficult for low-income families. OTX-West did have success with the One Economy program with AT&T (AccessAll), but AT&T withdrew the low-cost offer with the switch to U-verse.”

CDTech: “Unfortunately, as we continued to enroll [low-income] families in the program, the vast majority of the applicants were informed by the service provider (AT&T) that high-speed DSL could not be made available to them. At this point, CDTech’s credibility in the community was being negatively affected by this denial of service and we discontinued the broadband outreach and orientation program until the problem could be resolved.

CDTech recruited, trained and followed-up with clients to assist them install the modem in their homes. The staff heard from the majority of these clients, 216 of which 100 were allowed to subscribe. After talking to AT&T directly, the CDTech staff learned that applicants were being denied the service because even though 1,000 slots had been allotted to the South [Los Angeles] region, only 100 were available at any given time for the free internet service introductory offer. This is outrageous and caused CDTech to share misleading information [with the community].”

Based on CETF’s many years of experience “in the trenches” of broadband adoption efforts in low-income neighborhoods in California, community-based organizations are critical “trusted messengers” that can successfully reach out to the targeted community and sincerely encourage them to subscribe to a low-cost broadband service and discuss benefits, without conflicting commercial interests.

##### 5. Establish a National Oversight Committee

An independent national oversight committee should be established to monitor New Charter’s progress on this effort. The committee would meet periodically to review the company’s progress, make suggestions, provide feedback, and make recommendations to the FCC on the program’s effectiveness and improvements. Further, this Commission should require New Charter to collaborate with state utility commissions, where it has service areas,

and to draft a specific strategic plan to close the Digital Divide as to broadband services for each state. The oversight committee should include senior executives from New Charter, regulators, state officials of the largest merger states, experienced non-profit organizations with a track record of accomplishment in closing the Digital Divide, and consumer representatives. Additional members may include experts knowledgeable about Digital Literacy, effective use of technology in education, integration of information and communications technology (ICT) skills in workforce preparation, and telehealth-telemedicine. The national advisory oversight committee should request regular reports on progress from the independently-capitalized and administered state fund discussed immediately below in (4).

C. New Charter Should Make Commitments as to High-Speed Broadband Deployment to Ten Unserved and Underserved Areas in California

On the equally important issue of broadband infrastructure deployment, CETF further recommends that New Charter be required to deploy high-speed broadband into priority unserved or underserved areas in, adjacent to, or near, its service areas, particularly in areas designated by the CPUC relating to the California Advanced Services Fund broadband infrastructure program in its Resolution T-17443.<sup>26</sup> In Appendix 4 of Resolution T-17443, the CPUC in partnership with 15 regional broadband consortia has designated unserved and underserved areas that are priority areas for new broadband builds in California. CETF requests that this Commission require New Charter to identify and select ten (10) unserved or underserved California areas with significant population and require these areas be built out

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<sup>26</sup> CPUC Resolution T-17443, Implementation of New Timelines for California Advanced Services Fund Applicants, at Appendix 4, “Broadband Infrastructure Priority Areas” (June 26, 2014) (CPUC Resolution T-17443).

with broadband of adequate speeds (example, Connect America Fund speeds of 10 Mbps download and 1 Mbps upload) within three years. This simple requirement would represent a true public benefit to those residing in rural, remote and tribal areas who desire broadband for economic development and societal benefits, but have been denied it by the incumbent broadband providers.

This proposal would meet the Section 706 of the Telecommunications Act of 1996<sup>27</sup> objectives of encouraging “the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.”

Broadband mapping in California reveals that rural, remote and Tribal areas of the state are not adequately served by broadband facilities at speeds defined by this Commission for the Connect America Fund. Currently, broadband providers solely decide where to deploy infrastructure. Given the high cost of broadband deployment to rural, remote and Tribal areas, these are the “broadband wastelands,” which perpetuate isolation of its residents from the rest of modern society. The issue of rural, remote and tribal areas being unserved is a serious detriment to our nation’s economic development and global competitiveness. A 2012 study by the International Telecommunications Union, found that expanding access to affordable broadband services has “considerable positive spill-over effects on the economy,”

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<sup>27</sup> Section 706(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, §706, 110 Stat. 56, (1996), as amended by the Broadband Data Improvement Act, Pub. L. No. 110-122, Stat. 4096 (2008), is now codified in Title 47, Chapter 12 of the USC, at 47 U.S.C. §1302.

both in terms of fostering GDP growth and creating jobs.<sup>28</sup> As a result, CETF recommends three (3) conditions be imposed as public benefit requirements for broadband infrastructure deployment in California.

1. Require High-Speed Broadband Deployment in Priority Areas

CETF proposes that this Commission require deployment of wireline broadband by New Charter of a minimum number of priority unserved and underserved areas that meet acceptable threshold speeds to both the FCC and respective states. In California, deployment should be required into at least ten (10) unserved or underserved areas as designated by the CPUC relating to the California Advanced Services Fund (CASF) in Resolution T-17443.<sup>29</sup> The plans should be specific as to the proposed construction, speeds, and timetable. The plans should be coordinated with the CPUC's Broadband Policy and Analysis Branch of the Communications Division, and subject to input by stakeholders including local governments, anchor institutions, and interested non-profit organizations.

2. Require Network Upgrades

CETF also proposes that this Commission require upgrades to the broadband network now and periodically to meet service and performance requirements set by regulatory agencies to support prevalent consumer applications. Consumers include: residential last-mile customers; schools, libraries and other anchor institutions; small and larger employers; higher education and research institutions; and facilities to control and manage other critical statewide infrastructure such as power grids and water systems.

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<sup>28</sup> Impact of Broadband on the Economy, Telecom Development Sector, ITU study, dated April 2012, at 3.

<sup>29</sup> Implementation of New Timelines for California Advanced Services Fund Applicants, California PUC Resolution T-17443, Communications Division, Broadband Policy and Analysis Branch (June 26, 2014).

### 3. Encourage Collaboration with Other Deployment Initiatives

Finally CETF encourage collaboration with FirstNet to assist the nation with emergency response capabilities and to explore opportunities to coordinate deployment projects with statewide networks, such as CENIC, K-12 High-Speed Network, CalREN, and the California Telehealth Network.

### **III. Conclusion**

Broadband is essential 21st Century infrastructure for global competitiveness. It is a key factor in attracting capital investment to generate jobs. Communities without broadband access are being left behind in the Digital Age. Rural residents, tribes, those living in poor urban areas, returning veterans, and people with disabilities are even more disadvantaged without broadband availability and computing devices to access the Internet. To borrow from a well-established civil rights principle, “access delayed is access denied”.

Closing the Digital Divide with public policies and strategies to achieve ubiquitous broadband deployment and to accelerate broadband adoption is an imperative for economic prosperity, quality of life, and family self-sufficiency. Fortunately, this is a goal that can be achieved with inspired vision, focused leadership, alignment of existing resources, and enlightened investment of public and private funding in a sincere partnership. CETF asks this Commission to continue to be national leaders on Internet for all.

Wherefore, CETF respectfully requests that this Commission grants its request for public interest benefits, the five enumerated above for broadband adoption and three for broadband deployment.

Respectfully submitted,

*/s/ Sunne Wright McPeak*

*/s/ Rachelle Chong*

Sunne Wright McPeak  
President and CEO  
California Emerging Technology Fund  
The Hearst Building, 5 Third Street, Suite 320  
San Francisco, California 94103  
Tel. (415) 744-2383  
[sunne.mcpeak@cetfund.org](mailto:sunne.mcpeak@cetfund.org)

Rachelle Chong  
Outside Counsel to CETF  
Law Offices of Rachelle Chong  
220 Sansome Street, 14<sup>th</sup> Floor  
San Francisco, California 94104  
Tel. (415) 288-4005  
[rachellechong@gmail.com](mailto:rachellechong@gmail.com)

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