

Communications  
Workers of America  
AFL-CIO, CLC

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March 22, 2006

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Dear Ms. Dortch:

**RE: Ex Parte Notice. MB Docket No. 05-192. In the Matter of Adelphia Communications Corporation, Debtor-in-Possession, Time Warner, Inc. and Comcast Corporation Seek Approval to Transfer Control and/or Assign FCC Authorizations and Licenses.**

On March 21, 2006, Communications Workers of America Economist Kenneth Peres met with Rudy N. Brioche, the legal advisor to Commissioner Jonathan Adelstein.

Dr. Peres discussed the effect of the proposed Adelphia Transaction on workers and specifically responded to recent *ex parte* notices filed by Time Warner and Comcast concerning their relations with union represented workers.<sup>1</sup> This letter reviews the pertinent points of that discussion and CWA's recommendations.

Both Time Warner and Comcast have initiated a series of actions that have resulted in the discriminatory treatment of their union represented workers. Such treatment is relevant for review by the FCC since it affects the public interest. After all, the ability of Time Warner and Comcast to deliver quality service to the public would be undermined by company policies that erode the stable employment of an experienced workforce. In addition, these discriminatory actions by the companies contradict a commitment they both made to "honor the letter and *spirit* of the law" (emphasis added).<sup>2</sup>

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<sup>1</sup> Letter from Seth Davidson, Counsel for Time Warner Inc. to Marlene Dortch, Secretary, Federal Communications Commission, dated February 28, 2006; Letter from Michael Hammer of Wilkie Farr & Gallagher, to Marlene Dortch, Secretary, Federal Communications Commission dated March 7, 2006; and Letter from Martha Heller, Counsel for Comcast, to Marlene Dortch, Secretary, Federal Communications Commission dated March 7, 2006.

<sup>2</sup> Letter from Deane Leavenworth, Time Warner Cable Vice President, to Los Angeles City Councilwoman, dated November 30, 2006; Letter from Perry Parks III, Comcast Vice President, to Los Angeles City Councilwoman,

## **TIME WARNER'S ATTACKS AGAINST REPRESENTED WORKERS**

Time Warner has not only failed to “honor... the spirit of the law” but has undertaken a series of specific attacks against represented workers and their democratically elected union.

- **Time Warner Discriminates Against Represented Workers in Dallas.** Recently, Time Warner Cable (TWC) representatives held meetings with workers in non-represented units in the Dallas area and provided information concerning the proposed transfer from Comcast to TWC. However, TWC has so far refused to meet with represented workers. TWC also has refused to consult with the union about proposed changes in the terms and conditions of employment. The anti-union message resulting from such actions is clear.
- **Time Warner's Selective & Threatening Letter to Adelphia and Comcast Workers.** In a February 17, 2006 letter to Adelphia employees TWC stated, “Your employment with TWC will be at-will and is not governed by any individual contract or collective bargaining agreement. As such, you or the Company may terminate your employment at any time, with or without prior notice, for any reason not prohibited by law.”

The implication is clear: the union will have no role to play after the transaction. After all, the letter states that all workers – including those who had been represented by unions – will be transformed into “at-will” employees. This conclusion is reinforced by what TWC excluded from this letter; specifically, TWC does not state that there are specific legal requirements that, if met, require TWC to continue a bargaining relationship with the union. TWC also omits any mention of its legal obligation to engage in good faith bargaining with any union representing its employees.

- **Time Warner Refuses to Respect Existing Contracts.** Even Comcast – a notoriously anti-union company – stated in reply comments to this Commission that it would “respect existing contracts.”<sup>3</sup> Time Warner has refused to make this same commitment.

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dated November 30, 2006.

<sup>3</sup> Adelphia, et. al., Reply, filed in MB Docket No. 05-192 (August 5, 2005) at 117.

- **Time Warner's Refusal to Commit to an Ongoing Relationship with Unions Is Unique in CWA's Experience.** Other telecommunications corporations proposing significant transactions have made commitments to continue the bargaining relationship with the union. Examples include Bell Atlantic, SBC, Verizon, and, most recently, Sprint.
- **Time Warner Goes Around the Union to Instill Fear in LA Workers.** Mr. Drake, a senior counsel and negotiator for Time Warner met with represented workers (but not the union) a few days before a decertification vote at the invitation of Adelphia. Mr. Drake told CWA represented workers in Adelphia's represented Los Angeles units that if they kept the union, he would be the negotiator for Time Warner and would likely not agree to negotiate the 401(k), pension plan, and tuition aid programs that workers would otherwise get automatically if they were non-union employees.

It should be noted that Mr. Drake had refused to discuss the transfer with union representatives as far back as August 2005 stating that "it would be inappropriate, both as a matter of fact and as a matter of law, to discuss such matters with you."<sup>4</sup>

CWA has filed an Unfair Labor Practice charge with the NLRB which impounded the votes.

### **COMCAST'S ATTACKS AGAINST REPRESENTED WORKERS**

Comcast states in a March 7th *ex parte* letter to this Commission that its "policy is to respect workers' right to organize and the company will continue to abide by relevant labor laws..." In response to charges that Comcast is anti-union the company states that "Nothing could be further from the truth."<sup>5</sup>

Comcast's actions contradict these statements. Comcast has not only failed to "honor... the spirit of the law" but has undertaken a series of specific attacks against represented workers and their democratically elected union.

- **Comcast Refuses to Sign Franchise Agreement Because Oakland Passed an Ordinance Requiring "Non-Confrontational" Procedures.** On February 21, 2006, Comcast refused to sign a 13-year franchise

<sup>4</sup> Letter from Gregory Drake, Senior Counsel for Time Warner Cable, to Jim Weitkamp, Assistant Vice President CWA District 9, dated September 16, 2005. A similar statement also was made in an August 24, 2005 letter from Mr. Drake to Mr. Weitkamp.

<sup>5</sup> Letter from Martha Heller, Counsel for Comcast, to Marlene Dortch, Secretary, Federal Communications Commission dated March 7, 2006.

agreement that took three years to negotiate because the Oakland City Council gave final approval to an ordinance requiring all companies with city franchises to agree to “non-confrontational and expeditious procedures by which their workers can register” whether or not they want to be represented by a union.<sup>6</sup>

- **Comcast Fires Worker Who Spoke at Public Forum.** In February 2006, Comcast fired Will Goodo, a longtime employee who is not represented by a union, after he testified before the Oakland, California, City Council and at a Workers' Rights Board hearing on Comcast's violations of workers' rights.
- **Religious Leaders Criticize Comcast's Labor Policies.** One Hundred religious leaders signed a letter presented at the 2005 Comcast shareholders meeting stating that “from a moral and ethical perspective, as religious leaders, we are concerned that Comcast's employment practices do not responsibly address your employees moral and legal right to freedom of association.”
- **Socially Responsible Index Drops Comcast Citing its Labor Policies.** In December 2005, the Calvert Fund (one of the largest socially responsible investment funds) deleted Comcast from its portfolio because it “no longer meets Calvert's standards for workplace practices and labor relations.”
- **Comcast Has a Long and Well Documented History of Anti-Union Policies.** Comcast's anti-union policies include firing and harassing union organizers and supporters, preventing the free dissemination of ideas about the union, holding captive audience meetings without allowing any similar forum for a union response, discriminating against unionized workers in relation to wages and benefits and generally undermining the collective bargaining process. These Comcast practices have been richly detailed in a study by American Rights at Work.<sup>7</sup>

## RECOMMENDATIONS

CWA recommends that the Commission condition approval of the transaction upon written commitment by Time Warner and Comcast to the following:

- The companies will continue a bargaining relationship with those units that are represented by a union.

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<sup>6</sup> Oakland Tribune, February 23, 2006.

<sup>7</sup> American Rights at Work, *No Bargain: Comcast and the Future of Workers' Rights in Telecommunications*.

- Transferred workers will be eligible for company benefit plans and no reduction in compensation as a result of the transaction.

Through such a letter, Time Warner and Comcast would send a strong signal that they will treat their employees in a manner that will promote the public interest.

Sincerely,



Kenneth R. Peres, PhD.  
Economist  
Research and Development Department  
Communications Workers of America

cc: Rudy Brioche