

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of Joint Application of Charter)	
Communications, Inc.; Charter Fiberlink)	
CA-CCO, LLC (U6878C); Time Warner)	
Cable Inc.; Time Warner Cable Information)	
Services (California), LLC (U6874C);)	
Advance/Newhouse Partnership; Bright House)	
Networks, LLC; and Bright House Networks)	
Information Services (California), LLC)	
(U6955C) Pursuant to California Public Utilities)	
Code Section 854 for Expedited Approval of the)	Application 15-07-009
Transfer of Control of both Time Warner Cable)	
Information Services (California), LLC (U6874C))	(Filed July 2, 2015)
and Bright House Networks Information Services)	
(California), LLC (U6955C) to Charter)	
Communications, Inc., and for Expedited)	
Approval of a pro forma transfer of control of)	
Charter Fiberlink CA-CCO, LLC (U6878C).)	
_____)	

**Comments on the Proposed Decision of the
California Emerging Technology Fund**

Rachelle Chong
Outside Counsel to CETF
Law Offices of Rachelle Chong
220 Sansome Street, 14th Floor
San Francisco, California 94104
Telephone: (415) 288-4005
rachellechong@gmail.com

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TABLE OF CONTENTS

I.	CETF Concurs with the Proposed Decision's (PD) Finding that the Commission's Standard of Review Should Include Impacts on Broadband Deployment and Affordability	3
II.	CETF Requests that Some Text Be Added in the PD Describing the Data CETF Contributed to the Proceeding	3
III.	CETF Requests that Discussion of the CETF Memorandum of Understanding (MOU) Be Augmented and that the MOU Be Attached to the PD	5
IV.	CETF Supports Commission Enforcement of the MOUs Should New Charter Not Comply with MOU Terms	5
	Conclusion	5
	Attachment A - Requested CETF Edits to Proposed Decision	7

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**Comments on the Proposed Decision of the
California Emerging Technology Fund**

Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, the California Emerging Technology Fund (CETF) hereby files these comments on the Proposed Decision (PD) mailed by the Administrative Law Judge on April 12, 2016, in the above-referenced proceeding. CETF files these comments to support the portions of the PD relating to broadband deployment and broadband adoption conditions, and to request that a brief summary of CETF’s broadband data be added, that the section mentioning the CETF Memorandum of Understanding (MOU) be augmented, and that the language allowing Commission enforcement of MOUs be retained. CETF’s recommended edits are attached hereto as Attachment A.

I. CETF Concurs with the PD's Finding that the Commission's Standard of Review Should Include Impacts on Broadband Deployment and Affordability

CETF agrees with the PD's finding that the Commission should properly include in its standard of review issues flowing from the proposed transaction that impact broadband deployment and adoption. Broadband should be considered as the Commission performs its required review under Sections 854(b) and (c). Broadband has a direct bearing on economic benefits to both residential/business customers and to state and local economies.

As to economic benefits, this Commission should be concerned if the transaction brings improved broadband service to residential consumers but the minimum retail pricing is such that broadband service remains out of reach for low-income households. As set forth in CETF's Reply Testimony, broadband service is a necessity similar to basic telephone service in today's information society. As to benefits to state and local economies, this Commission has clear authority to encourage advanced communications services to all parts of the New Charter service area, including rural, remote and tribal areas. New broadband infrastructure in unserved and underserved areas will stimulate local economies, and provide opportunities in areas like tele-education, telehealth, e-government, public safety, and agricultural technology.

II. CETF Requests that Some Text Be Added in the PD Describing the Data CETF Contributed to the Proceeding

CETF's position has not been adequately summarized in the PD, and we respectfully request that some text be added to reflect its participation and contribution as a party in this proceeding. CETF expressed a unique viewpoint as the only non-profit organization dedicated to closing the Digital Divide in California. CETF made a motion for party status on July 30, 2015, which was granted by a ruling communicated by email from the ALJ on August 20, 2015.

In its testimony provided by CETF President and CEO Sunne Wright McPeak, CETF gathered and presented data on how many low-income households would be in the New Charter territory, and how many would be eligible for the New Charter affordable broadband offer. CETF requested eight conditions to realize tangible public benefits in two areas: (1) increasing broadband adoption among low-income populations, and (2) upgrading subpar broadband infrastructure in the New Charter service areas. CETF strongly urged the Commission to ensure tangible public benefits be obtained as part of this transfer that are *appropriate, fair and comparable* to public benefit commitments of communications providers seeking to merge in previous corporate consolidations. In making its case, CETF placed data into the record showing 2,302,454 low-income households (those earning under \$40,000/year) reside in the New Charter service areas.¹ CETF asked for an affordable broadband offer widely available to all low-income consumers (not just households with a child enrolled in the National School Lunch Program or seniors receiving Supplemental Security Income), a performance goal, a broadband strategic plan developed in collaboration with the Commission's Communications Division, capitalization of an independent fund for broadband adoption, and independent oversight of such a fund.

As to broadband deployment, CETF urged this Commission to ensure that broadband network upgrades be extended throughout the New Charter service areas, particularly in unserved or underserved places in rural, remote and tribal areas. CETF recommended that the merger would provide positive consumer benefits due to promised infrastructure upgrades that will produce higher broadband speeds (for example, Charter's promise to move base speed tiers from 15 megabits per second (Mbps) to Charter's current standard minimum of 60 Mbps - 100 Mbps at uniform pricing in Time Warner Cable and Bright House Network territories). CETF

¹ See Attachment 1 to CETF's Opening Brief, filed March 1, 2016.

recommended that New Charter be required to discuss collaboration with other broadband deployment initiatives.

III. CETF Requests that Discussion of the CETF Memorandum of Understanding (MOU) Be Augmented and that the MOU Be Attached to the PD

As set forth in Charter and CETF's recent motion filing a Memorandum of Understanding (MOU), signed April 7, 2016, CETF has reached a satisfactory agreement with Charter addressing CETF's broadband concerns regarding public benefits. As a result, CETF withdrew its eight public benefit recommendations and strongly urges this Commission to approve this transfer so long as its MOU is made an explicit condition of the Commission's decision. CETF is pleased to see its MOU discussed in the Proposed Decision at pages 12-14, and requests some minor corrections and minor additions of key terms be added. (Please see Attachment A.) CETF urges the MOU be attached to the final decision for reference as there are more details in the MOU itself.

IV. CETF Supports Commission Enforcement of the MOUs Should New Charter Not Comply with MOU Terms

CETF supports the PD language at Ordering Paragraph 2.c. that gives CETF and other intervenors that have memoranda of understandings with Charter the ability to enforce them at the Commission should New Charter fail to meet its commitments thereunder.

Conclusion

CETF's comments on the Proposed Decision are limited, and are attached hereto as Attachment A. The CETF MOU was previously filed attached to the Joint Motion of Charter Communications Inc., Charter Fiberlink CA-CCO, LLC and the California Emerging Technology Fund to Modify Positions in Proceeding to Reflect MOU Between Parties, filed on

April 7, 2016. CETF urges the Commission to promptly approve the transaction with the conditions contained in the PD relating to the CETF MOU, as amended as requested herein. Significant consumer benefits will flow to consumers relating to the broadband infrastructure upgrades and the affordable broadband offer resulting from this transaction. Given that low-income residents in the New Charter service areas – particularly Southern California – are seriously disadvantaged as a result of the Digital Divide, CETF urges this Commission to swiftly approve the proposed transaction so broadband benefits may flow to consumers.

Respectfully submitted,

/s/ Rachele Chong

Rachele Chong

Outside Counsel to CETF
Law Offices of Rachele Chong
220 Sansome Street, 14th Floor
San Francisco, California 94104
Telephone: (415) 288-4005
rachelechong@gmail.com

May 2, 2016

ATTACHMENT A

Requested CETF Edits to Proposed Decision

Section 1.1.4 “Protests and Other Responses to Application” at page 7:

Add at beginning of first paragraph below Section 1.1.4.: “The California Emerging Technology Fund (CETF) made a motion for party status on July 30, 2015, which was granted by an email ruling from the assigned ALJ on August 20, 2015. CETF neither opposed nor supported the application but made eight recommendations to the Commission for public benefit conditions relating to broadband infrastructure for rural, remote and tribal areas, and broadband adoption issues, particularly focused on households with low-income, seniors and people with disabilities.”

Edits to Section 1.1.4.5 on page 12-14 re CETF MOU:

Minor edit to paragraph “1.” under Section 1.1.4.5 “CETF MOU”: In the second line, correct “Mbs” to “Mbps” (megabits per second). After “National School Lunch Program” in the same sentence, add this clarifying parenthetical which is important for eligibility: “(either free or reduced lunch)”.

Add additional program eligibility and terms and condition details to help ensure compliance at the end of paragraph “1.” at top of page 13:

“This affordable broadband offer will begin within six months after the Transaction closes and throughout the New Charter service areas in California within 15 months, in all areas of the state that have broadband service availability from New Charter. No credit check will be performed, but eligibility will be subject to an individual settling any outstanding debt to New Charter. Current video and/or voice customers of New Charter would be eligible, but individuals who have subscribed to New Charter broadband service in the previous 60 days would not be eligible.

New Charter and CETF will work together to develop a plan to inform eligible and prospective customers, including in ethnic and community print media.”

Correct typo in para. “3”, ninth line, on page 13:

Change “2012-2014” to “2010-2014”. (The first date should be “2010”.)

Add further details to the end of para. “7” of Section 1.1.4.5 on page 14:

“These funds may be used by CETF directly or in conjunction with its CBO partners through grants to support programs and policies designed to improve the School2Home initiative and other efforts to make technology more useful in people’s lives. CETF shall work with organizations that serve people with disabilities to ensure equitable outreach to this population and opportunity for broadband adoption. The funds shall not be used to pay for or otherwise alter the low-income broadband service, including eligibility requirements offered by Charter to low-income broadband service customers. These funds shall only be used in New Charter’s service territory and for CETF administration and management expenses. This funding commitment is in lieu of and supersedes the broadband funding commitment to provide \$10 million over a period of four years to organizations to support public-private partnerships and technology initiatives set forth in the Charters March 11, 2016 reply brief. CETF will provide annual reporting to New Charter on the use and disposition of the funds.”

Insert mention of CETF MOU in second paragraph, line 11 of Section 3.1.1 on page 26:

Edit the fifth sentence of the paragraph to include CETF and read as follows: “Finally, it is worth noting that the three MOUs between Joint Applicants and the National Diversity Council, the County of Monterey, and CETF are overwhelmingly devoted to the same two issues,

broadband deployment and affordability, on the one hand, and diversity in hiring, contracting and programming on the other.”

Insert details of CETF’s participation in the proceeding at end of Section 3.1.7.b. at end of page 50:

“Responding to Joint Applicants assertions that it will improve broadband service post-transfer, Intervenor CETF, a non-profit organization dedicated to closing the Digital Divide in California, presented data in its Reply Testimony of Sunne Wright McPeak. The data showed 2,302,454 low-income households (those earning under \$40,000) reside in the New Charter service areas. About half of these households would not be eligible for the affordable broadband offer announced by Charter in December 2015. CETF requested that an affordable broadband service offer in the \$10-\$15/month range be extended by Applicants to *all low-income consumers* for five years, and that an aspirational goal to enroll 45% of eligible households be established, coupled with a \$285 million² independent fund capitalized to support outreach, digital literacy training, and assistance with broadband adoption. On broadband infrastructure, CETF requested deployment of wireline broadband to a minimum number of priority unserved and underserved areas at minimum threshold speeds set by the FCC, periodic network upgrades to meet service and performance requirements set by regulatory agencies to support prevalent consumer applications, and collaboration with other broadband deployment initiatives. CETF presented a review of past major mergers in the communications industry, highlighting public benefit commitments that were required by the Commission to ensure consumers received

² This dollar amount is equal to 45% of the eligible low-income households in the service areas at \$275 per household. The fund amount is based on the methodology that the Assigned ALJ set forth in the Comcast-Time Warner Cable Proposed Decision, in A.14-06-012 (never approved by the Commission due to withdrawal of the application by joint applicants). This is discussed in the Opening Brief of CETF at pp. 23-31, in the Charter-TWC-BHN docket.

benefits from the consolidations. CETF asked that Joint Applicants similarly be required to provide significant public interest benefits.”

Edit to Section 3.1.7.2. final paragraph at top of page 54:

Add additional Charter commitments by editing beginning of first sentence of the paragraph to read: “Weighing Charter’s commitments to increased Internet speeds, increased broadband deployment in unserved areas, an affordable broadband offer for five years, commitment to 25,000 out-of-home wireless broadband hot spots providing free public access to the Internet, free broadband service to 75 anchor institutions in rural and urban low-income areas, less onerous contracts . . . “