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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 Transfer of Control of both Time Warner Cable Information Services (California), LLC (U6874C) 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).

Application 15-07-009
(Filed July 2, 2015)

ASSIGNED COMMISSIONER'S SCOPING RULING

Background

Charter Communications, Inc. (Charter), Time Warner Cable Inc. (TWC), Time Warner Cable Information Services (California), LLC (TWCIS), Advance/Newhouse Partnership (ANP), Bright House Networks, LLC (BHN) and Bright House Networks Information Services (California), LLC (Bright House) (collectively, Joint Applicants) filed this application (Application) for approval of the transfer of control of TWCIS and Bright House to Charter as described herein (the Transaction) on July 2, 2015. TWCIS and Bright House are

competitive local exchange carriers (CLECs) licensed by this Commission. The Application was filed under §854(a) of the Pub. Util. Code which provides, in relevant part, that transfers of control of CLECs may only be made with the prior approval of the Commission. Through the Transaction, Charter, TWC, and BHN will merge into "New Charter." Following the Transaction, TWCIS and BHN will both be indirect subsidiaries of New Charter.

Timely protests were filed by the Office of Ratepayer Advocates (ORA), the Center for Accessible Technology (CforAT), Common Cause, The Utility Reform Network (TURN), and the Greenlining Institute (Greenlining) (collectively, Joint Consumer Protestors), and the National Diversity Coalition (NDC). In addition, party status was granted to Media Alliance (MA), the County of Los Angeles (LAC), California Emerging Technologies Fund (CETF), Writers Guild of America (WGA), the Town of Apple Valley (Apple Valley) and the City of Gonzales (Gonzales), any of whom may file comments on the application and any proposed or alternate decision in this matter.

The transfer of control of the CLECs is incidental to a proposed merger between Charter and TWC (Merger). Charter is a communications company that provides voice and business phone service as well as broadband Internet and video services to over 5.8 million residential customers and 386,000 commercial customers nationwide. Charter operates in 28 states, including California, and employs over 23,500 people nationwide, including approximately 1,500 in California. TWC is a publicly traded Delaware corporation that provides, voice, video and broadband services to over 15 million residential and business customers across portions of 30 states. It is the largest cable operator in southern California.

The Application recites that immediately following the proposed change of control customers of TWCIS and Bright House will continue to receive the same services at the same rates as were available to them prior to the change of control and that over time the Merger will result in enhanced services to the voice customers of the CLECs. For these reasons, Joint Applicants urge the Commission to treat the Application as a routine matter and approve the change of control without delay and without the necessity for evidentiary hearings. Joint Applicants further maintain that the Commission's jurisdiction is limited to evaluating the impact of the proposed license transfer on the market for voice services in California. They argue that the transfer will enhance competition in the market for voice services and is ipso facto in the public interest.

Protestors urge us to look not only at the implications of the transfer for voice customers of TWCIS and Bright House but also at the implications of the Merger for the cost and availability of broadband services in California.

Joint Applicants urge an expedited proceeding without evidentiary hearings; Protesters propose a longer calendar with evidentiary hearings leading to a decision in the second quarter of 2016.

2. Discussion

Joint Applicants contend that the sole matter before the Commission is the indirect transfer of control of TWCIS and Bright House to Charter. Indirect transfers of control of licensed public utilities are governed by §854 of the Public Utilities Code (Pub. Util. Code). Section 854(a) requires Commission approval of any change of control of a public utility. In implementing this section of the Code, the Commission has historically approved transactions that it determines are not adverse to the public interest. Sections 854(b) and 854(c) apply only to transactions above a certain size. If any of the public utilities involved has gross

annual California revenues exceeding \$500 million, the transaction is subject to review under §854(b). Neither TWCIS, nor Bright House, meets this requirement. If any entity that is a party to the transaction meets the \$500 million test, the transaction is subject to review under §854(c). Both Charter Communications Inc. and Time Warner Corporation have gross annual California revenues exceeding \$500 million, and accordingly the Transaction is subject to review under Pub. Util. Code § 854(c). Under this section, the Commission considers eight specific public interest factors. The Commission “need not find that each criterion is independently satisfied,” but it must find that, “on balance . . . [the transaction] is in the public interest.”¹ The public interest factors include whether the Transaction will: (1) maintain or improve the financial condition of the resulting utility; (2) maintain or improve the quality of service to ratepayers; (3) maintain or improve the quality of management of the utility; (4) be fair and reasonable to affected utility employees, both union and nonunion; (5) be fair and reasonable to the majority of utility shareholders; (6) be beneficial on an overall basis to state and local economies, and to the communities in areas served by the utility; (7) preserve the jurisdiction of the Commission and the capacity of the Commission to effectively regulate and audit the utility; and (8) provide mitigation measures to prevent significant adverse consequences that may result from the transaction. Joint Applicants claim that the many alleged benefits of the Transaction, specifically including its alleged beneficial implications for broadband deployment and affordability, taken together satisfy the §854(c) requirements.

¹ Decision 00-03-021, 5 CPUC 3d 156, 209 (Mar. 2, 2000).

3. Scope of the Proceeding

The proceeding shall address the following issues:

- a. Does the Transaction meet some or all of the criteria enumerated in Pub. Util. Code § 854(c)?
- b. How will the Transaction affect broadband deployment and/or affordability? and
- c. Is the proposed change of control in the public interest?
- d. Are there any implications for public safety from the transaction?

4. Timetable

Joint Applicants urge an expedited timetable that will result in this proceeding being concluded prior to a decision in the parallel proceeding before the Federal Communications Commission (FCC). Assuming no additional delays in the FCC proceeding, they have stated that the FCC decision will be rendered on or before the middle of March 2016. ORA responded, on behalf of the protesters generally, that it is unlikely that the FCC will meet its current mid-March deadline for various procedural reasons and because the FCC has issued a lengthy and detailed information request that is unlikely to be complied with by Joint Applicants and reviewed by FCC staff in time for a mid-March decision. Protesters also point out that there may be contested issues of material fact in this proceeding that require evidentiary hearings to resolve and that whether such disputed issues exist will not be known until after the protesters have concluded at least a preliminary phase of discovery. I conclude that the following timetable is reasonable and it is adopted as the timetable for this proceeding:

DATE	EVENT
December 4, 2015	Joint Applicants Opening Testimony
December 7 2015 to January 15, 2015	Intervenor Discovery on Joint Applicants Opening Testimony
January 25 - 29, 2016	Public Participation Hearings in Southern California, time and place TBD
January 15, 2016	Intevenor Reply Testimony
February 5, 2016	Joint Applicants Rebuttal Testimony
February 17 - 18, 2016 @ 10:00 a.m. Commission Courtroom 505 Van Ness Avenue San Francisco, CA 94102	Evidentiary Hearings
March 4, 2016	Concurrent Opening Briefs
March 18, 2016	Concurrent Reply Briefs
May 13, 2016	Proposed Decision
June 10, 2016	Final Decision

If there are any meetings or workshops in this proceeding, or meetings or workshops related to this proceeding, that may be attended by a decision maker or an advisor, notices of such meetings and/or workshops will be posted on the Commission's Daily Calendar to inform the public that a decision maker or an advisor may be present at these meetings and/or workshops. Parties shall check the Daily Calendar regularly for such notices.

This proceeding will be completed as set forth in the above schedule. The assigned Commissioner and/or the assigned Administrative Law Judge (ALJ) may modify the schedule, as necessary, for the reasonable and efficient conduct of this proceeding. The proceeding will be submitted on filing of reply briefs, unless the ALJ or assigned Commissioner directs further evidence or argument.

In any event, this proceeding will conclude no later than 18 months from the date of this Scoping Memo as required by Pub. Util. Code § 1701.5.

5. Assigned Commissioner; Presiding Officer

Michael Picker is the assigned Commissioner. Pursuant to Rule 13.2, ALJ Karl J. Bemesderfer is designated as the presiding officer.

6. Categorization and Need for Hearings

On July 23, 2015 in Resolution ALJ176-3360 this proceeding was characterized as Ratesetting and it was preliminarily determined that evidentiary hearings are necessary. This ruling confirms the Commission's preliminary categorization of Application 15-07-009 as Ratesetting and its determination that evidentiary hearings are necessary. This ruling, only as to categorization, is appealable under the provisions of Rule 7.6 of the Commission's Rules of Practice and Procedure (Rules).

7. Ex Parte Communication

Since this proceeding is categorized as Ratesetting, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors, and the ALJ are only permitted as described at Pub. Util. Code § 1701.3(c) and Rules 8.2, 8.3 and 8.5.

8. Discovery

Discovery will be conducted according Article 11 of the Rules. If the parties have discovery disputes they are unable to resolve through meet- and-confer sessions, they shall raise these disputes under the Commission's Law and Motion procedure as soon as possible to avoid unnecessary delay in the proceeding. (See Rule 11.3.)

9. Filing, Service, and Service List

The official service list is now on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process Office, the service list, and the judge. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's web site meets that definition.

Electronic service is now the standard under Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded that, when serving copies of documents, the document format must be consistent with the requirements set forth in Rule 1.10(a).

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Other documents, including prepared testimony, are served on the service list but not filed with the Docket Office. This proceeding will follow the electronic service protocols adopted by the Commission in Rule 1.10, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the appearance or state service list member did not provide an e mail address. If no e-mail address was provided, service should be made by United States mail. Additionally, parties shall serve paper copies of all filings on the presiding officer and assigned Commissioner.

E-mail communication in this proceeding should include, at a minimum, the following information on the subject line of the e-mail: A.15-07-009 Charter-TimeWarner Merger. In addition, the party sending the e-mail should briefly describe the attached communication; for example, *Brief*.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to karen.miller@cpuc.ca.gov.

10. Intervenor Compensation

In accordance with Pub. Util. Code § 1804(a)(1) and Rule 17.1(a)(1), notices of intent to claim intervenor compensation in this proceeding must be filed and served no later than October 28, 2015.

11. Final Oral Arguments

Any party wishing to exercise the right under Rule 13.13 to make a final oral argument before the Commission must make a written request in the Opening Briefs, file it, and serve it on all parties, the assigned Commissioner and assigned ALJ.

IT IS RULED that:

1. The scope of this proceeding is as set forth above.
2. The schedule of this proceeding is as set forth above, unless amended by the assigned Commissioner or the assigned Administrative Law Judge.
3. *Ex parte* Rules 8.3 and 8.4 apply to this proceeding
4. The presiding officer in this proceeding is Administrative Law Judge Karl J. Bemederfer.

5. This proceeding is categorized as Ratesetting and evidentiary hearings are required.

6. Notices of intent to claim compensation must be filed no later than October 28, 2015.

7. The Administrative Law Judge may modify the schedule of this proceeding as needed for efficient and effective case management.

Dated November 13, 2015, at San Francisco, California.

/s/ MICHAEL PICKER

Michael Picker
Assigned Commissioner