

**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)

**RESPONSE OF STOP THE CAP! TO THE MOTION OF THE PUBLIC ADVOCATES  
OFFICE TO REOPEN PROCEEDING**

**I. INTRODUCTION**

Pursuant to Rule 11.1(e) of the the California Public Utilities Commission’s (CPUC or Commission) Rules of Practice and Procedure, and the January 18 2019 email to Stop the Cap! from the Docket Office, we hereby respond to the Motion of the Public Advocates Office to Reopen Proceeding, filed on December 21, 2018. Stop the Cap! strongly supports the Public Advocates Office’s motion, but would urge the Commission to look at a number of other issues as well.

## II. DISCUSSION

### A. Charter claimed in legal filings that the Commission never intended it to comply with the Commission's legal notification ruling.

On April 24, 2016, Stop the Cap! filed a motion describing how TWC failed to notify certain customers of the Los Angeles PPH.<sup>1</sup> In their response on May 9, 2016, Applicants did not contest the facts surrounding the failure to issue notice. Instead, Applicants stated that ALJ ruling was “boilerplate language”<sup>2</sup> that the Commission never intended them to follow. The Commission never responded to Stop the Cap!’s motion describing these procedural problems.

The Commission erred when it did not address this notification failure, and as of yet has never commented on the Applicants’ claims that the Commission never intended for Applicants to comply with this legal ruling. These issues should be addressed when the Commission reopens the proceeding.

### B. The Commission erred by removing the permanent Net Neutrality protections.

The Initial Proposed Decision contained a mitigation condition requiring New Charter to adhere to Net Neutrality principles with no sunset clause.<sup>3</sup> Applicants and Intervenors argued positions both for keeping and removing the permanency of this mitigation condition. The ALJ kept the permanent mitigation condition in the Revised PD.<sup>4</sup>

Inexplicably, the Commission neutered this important consumer protection from the dais at the time of the vote. Then, last year, defying a bipartisan outcry and amid credible allegations of Russian hacking into the comment system, the FCC rescinded Net Neutrality protections at the behest of the telecom industry. This repeal means that the Commission in effect has cancelled Net Neutrality protections for all of New Charter’s California customers.

The Commission should fix its mistake.

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<sup>1</sup> Motion for Judicial Notice, 4/24/2016.

<sup>2</sup> RESPONSE 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) TO STOP THE CAP! MOTION FOR JUDICIAL NOTICE. Page 4.

<sup>3</sup> Proposed decision. Condition h. Page 69.

<sup>4</sup> Proposed decision (REV. 1) Condition k. Page 69.

**C. The Commission erred by failing to mitigate other “potential” harms that have now become “actual” harms.**

Stop the Cap! warned the Commission that massive rate hikes for Internet service would result from an unmitigated approval<sup>5</sup>, and those rate hikes have come to pass, including new connection fees for higher speed service— connection fees that Time Warner Cable never charged. Further, customers have lost the ability to negotiate better retention pricing.

Stop the Cap! warned the Commission that a drastic reduction in the choice of available packages would result from an unmitigated approval<sup>6</sup>, and that reduction has come to pass.

Stop the Cap! warned the commission that an unmitigated approval would result in the loss of TWC’s pledge to “never” impose data caps<sup>7</sup>, and the Commission failed to address this consumer harm.

**III. CONCLUSION**

Stop the Cap! Strongly agrees that reopening this proceeding is the correct course of action for a wide variety of reasons.

Respectfully submitted 14 January 2019,

/s/ Matthew Friedman

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<sup>5</sup> Comments of Stop the Cap! On the Proposed Decision Granting with Conditions Application to Transfer Control, Page 5.

<sup>6</sup> *Id.*

<sup>7</sup> Reply Brief of Stop the Cap! Page 2.