BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Joint Application of Comcast Corporation, Time Warner Cable Inc., Time Warner Cable Information Services (California), LLC, and Bright House Networks Information Services (California), LLC for Expedited Approval of the Transfer of Control of Time Warner Cable Information Services (California), LLC (U-6874-C); and the Pro Forma Transfer of Control of Bright House Networks Information Services (California), LLC (U-6955-C), to Comcast Corporation Pursuant to California Public Utilities Code Section 854(a).	A. 14-04-013 (Filed April 11, 2014)
And Related Matter.	A.14-06-012 (Filed June 17, 2014)

REPLY COMMENTS OF THE CALIFORNIA ASSOCIATION OF COMPETITIVE TELECOMMUNICATIONS COMPANIES ON THE PROPOSED DECISION GRANTING WITH CONDITIONS APPLICATION TO TRANSFER CONTROL

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Pursuant to Commission Rule 14.3, the California Association of Competitive Telecommunications Companies ("CALTEL") respectfully submits these reply comments on the Proposed Decision ("PD") of Administrative Law Judge Bemesderfer Granting with Conditions the Applications to Transfer Control.

CALTEL briefly responds to the Joint Applicants' arguments regarding the need for conditions 7 and 8 to mitigate the impacts of the proposed transaction on wholesale inputs, and on the business customers that CLECs use those inputs to serve.[1] CALTEL urges the Commission to adopt conditions 7 and 8, as well as the revisions to Condition 25 proposed by CALTEL in its opening comments, if and when the merger is consummated.

I. DISCUSSION

The Joint Applicants address proposed conditions 7 and 8 on pages 30-31 of their consolidated opening comments. They appear to rely on a new and totally unfounded claim that Time Warner Cable (TWC) is a better wholesale supplier because of unidentified "market conditions" that are somehow not present in Comcast's current service territory.[2]

As CALTEL's Executive Director stated at the All-Party Meeting on February 25, 2015, the superiority of TWC's wholesale offerings is reflected in a variety of contexts, including contract terms and conditions like Service Level Agreements (SLAs), three times the number of lit buildings, access to thousands of "near-net" buildings, and announcement of a new voice-and-

[1] Two of the proposed conditions in the PD, Conditions 7 and 8, specifically address concerns raised by CALTEL:

7. Comcast shall offer Time Warner's Business Calling Plan with Stand Alone Internet Access to interested CLECs throughout the combined service territories of the merging companies for a period of five years from the effective date of the parent company merger at existing prices, terms and conditions.
8. Comcast shall offer Time Warner's Carrier Ethernet Last Mile Access product to interested CLECs throughout the combined service territories of the merging companies for a period of five years from the effective date of the parent company at the same prices, terms and conditions as offered by Time Warner prior to the merger.

[2] Joint Applicants' Consolidated Opening Comments at p. 30.

internet product for resellers.[3] Rather than reflecting some unidentified dissimilarity between market conditions in northern and southern California, these differences instead reflect a divergence in the wholesale paradigms of TWC and Comcast. As discussed in CALTEL's brief and testimony in this proceeding, TWC recognized the value of gaining revenue from wholesale customers for unused capacity on its network, and Comcast did not.[4] More importantly, as the PD recognizes, in offering these valuable wholesale inputs to CLECs and wireless carriers that would only be available from incumbent LECs (ILECs), TWC provided critical pricing and terms-and-conditions discipline on the emerging Ethernet wholesale market.[5]

Conditions 7 and 8 are therefore needed to mitigate the loss of TWC as a supplier of wholesale inputs, and to require Comcast to adopt TWC's paradigm across the post-merger territory for the next five years. And, as described in CALTEL's brief and testimony, the availability of these wholesale inputs has and will continue to have a direct impact on CLECs' ability to compete in the business services markets.[6]

The Joint Applicants next make a nonsensical statement about the "incremental value" of CLECs as wholesale customers that entirely misses the point and if anything reinforces the need for a paradigm shift.[7]

Finally, in their discussion of conditions 7 and 8, the Joint Applicants include a puzzling argument about rate re-regulation of business services. To be clear, conditions 7 and 8 deal with the rates, terms and conditions of two services that TWC currently offers to <u>wholesale carrier customers.</u> With regards to rates, the conditions simply extend the availability of these services

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[3] *See also* DeYoung Testimony at pp. 9-14.
[4] Id. at p. 25.
[5] PD at p. 42.
[6] DeYoung Testimony at pp. 23-25.
[7] Joint Applicants' Consolidated Opening Comments at p. 31.

throughout the post-merger territory for a period of 5 years at rates, terms and conditions set by TWC, and which, as noted above, provided critical pricing and terms-and-conditions discipline on the emerging Ethernet market.[8] There is absolutely no evidence in the record that TWC was operating at a competitive loss on those products, and that extending the availability of these products will "impede Comcast's ability to compete" in the wholesale market.[9]

II. CONCLUSION

For the reasons described above, CALTEL respectfully requests that the Commission adopt proposed conditions 7 and 8 in order to mitigate the negative impacts of the proposed transaction on the availability of wholesale inputs, and on the business customers that CLECs use those inputs to serve.

Respectfully submitted,

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[8] DeYoung Testimony at p. 6.
[9] Joint Applicants' Consolidated Opening Comments at p. 31.