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## **Appendix D**

### **Suggested Changes to Findings of Fact and Conclusions of Law**

#### **Proposed Changes to Findings of Fact**

10. Comcast provides low-cost Internet access to low-income families throughout its pre-merger service territories with its “Internet Essentials” (“IE”) program, a program it told the FCC it would implement after its 2011 merger with NBC Universal. Currently, program eligibility is limited to households with at least one K-12 student in any school (whether public, private, charter, parochial or home-schooled) that is eligible for a free-or-reduced lunch in the National School Lunch Program. Eligible households receive: (1) high-speed Internet access for \$9.95 per month (excluding tax, with no price increase, no activation fee, and no equipment rental fee); (2) an optional purchase of a low cost computer for \$149.99 plus tax at initial enrollment; (3) and complimentary Digital Literacy training available in person, online and in print. A toll free number, a dedicated Internet Essentials customer care center, and an online enrollment website are provided, so that eligible families are not “upsold” to more expensive services, bundles or products. No social security number or credit check is required. Previously, households with past bad debt or unreturned Comcast equipment were not deemed eligible for the program, but recently, Comcast relaxed its eligibility criteria to allow an otherwise eligible family with past debt more than one year old to qualify for the IE program. All students in schools with 70% of students qualified for the free-or-reduced lunch program are “auto enrolled” into the IE program with no further eligibility tests.

16. Post-merger, Comcast will serve 84% of the households in California, and 87% of the eligible households of K-12 children for free-and-reduced lunch for the National School Lunch Program.



18. To date, record evidence shows that Comcast’s Internet Essentials low-income program has had a weak performance due to overly strict corporate eligibility policies, poor implementation as to sign-ups, delays in equipment delivery, a lack of effective and targeted advertising (including in-language), and a corporate decision to not leverage experienced Community–Based Organizations for outreach and sign-up activities for the target populations. To date, Comcast reported to the FCC sign-ups of 14.7% of the eligible population for California for Internet Essentials. This low level of performance demonstrates that universal service goals are not being met for broadband in the targeted low-income communities which are on the wrong side of the Digital Divide. With 25% of the California population unconnected to broadband at home, this impacts the state’s economic vitality and educational achievement levels.

#### **Proposed Changes to Conclusions of Law**

4. Section 706(a) of the 1996 Telecommunications Act, codified in 47 United States Code § 1302(a) is a grant of authority to the Commission to examine the implications of the proposed merger of the parent companies on broadband deployment in California and to impose pro-competitive conditions that enhance broadband deployment, especially to schools, libraries and underserved communities, particularly rural, low-income, minority, non-English speaking, and people with disabilities. This Commission has been given authority by the State Legislature in areas of broadband infrastructure deployment, broadband mapping activities and ensuring broadband adoption in affordable housing units. This authority gives the Commission jurisdiction to order conditions impacting broadband deployment and adoption in the post merger service areas given universal service goals for broadband particularly in low-income communities.



### **Proposed Edits to Appendix A of the Proposed Decision (Conditions)**

11. Comcast shall extend its Internet Essentials program to all former Time Warner customers and provide all elements of the program that are provided at the time this Decision is adopted by the Commission. These program elements shall include: (1) \$9.95/month plus tax for broadband service at FCC benchmark broadband speeds with no price increase during enrollment term, no activation fee, and no equipment rental fee; (2) the option to purchase a computer for \$149.99 at time of initial enrollment; (3) free digital literacy training (including in-language) online, in person and in print; (4) no social security number or credit check required of applicant; (5) a functional, easy-to-use online IE enrollment system that is operational 99% of the time; (6) a single call-in customer service number with IE-knowledgeable customer service personnel; (7) no disqualifications for past bad debt or unreturned equipment to any Joint Applicant; and (8) qualification for all students eligible for reduced or free lunch under the National School Lunch Program; and (9) continued “auto enrollment” for all students at schools that have 70% of its student body qualified for the free-or-reduced-lunch program with no further eligibility tests. Within 90 days of the parent’s merger, Comcast shall improve the Internet Essentials program as follows: (1) no waiting periods shall be required to switch to the IE program from another rate plan of the Joint Applicants; (2) applications must be sent to an applicant within five business days, processed within three business days, and any equipment (e.g. computer, modem, wireless router) shipped within seven business days of program acceptance; and (3) emails or faxes of reliable identification, such as ITIN issued by the Internal Revenue Service shall be accepted so that no in-person meeting is required for applicants without a social security number; and (4) at its own expense, the Joint Applicants shall provide effective advertising (including in-language as appropriate in a low-income community) in a variety of media and other advertising methods in target low-income communities



as measured by census blocks or census block groups. In addition, Comcast shall provide speeds at the FCC minimum benchmark speeds for the Internet Essentials program. Further, at no additional cost, a Wi-Fi router shall be provided so that Internet Essentials enrollees can benefit from accessing more than one device to the Internet, especially devices such as tablets that are provided at low or no cost by numerous California school districts or schools.

12. Comcast shall revise its eligibility criteria for participation in the Internet Essentials program to include all households in the service territory of the merged company that (1) have household incomes equal to 200% of the federal poverty level or less, or (2) are eligible for the CPUC Telephone Lifeline Program eligibility criteria. Evidence of Telephone Lifeline Program enrollment or of a household income less than or equal to 200% of the federal poverty level shall immediately qualify a household for the non-school based Internet Essentials program. There should be no waiting period to qualify for the IE program by low-income households, even if the household currently has broadband service from Joint Applicants.

13. Comcast shall enroll at least 45% of eligible low-income households in Internet Essentials within two years of the effective date of the parent company merger. The 45% goal should apply to each low-income census block group and census tract, and not to the service territory as a whole. As to the 45% goal, the U.S. Census Bureau American Community Survey shall be the database used by Comcast for determining the number of low-income households and the California Department of Education shall be the source used for the number of students eligible for free-or-reduced lunch on the National School Lunch Program.



13.1. The Joint Applicants shall: (a) make a firm commitment to enroll all eligible low-income households under the criteria ordered in the final decision; or (b) if not prepared to enroll all eligible low-income households, state what percentage of low-income households they will commit to enroll in IE; and (c) commit \$275 per low-income household included in the 45% goal placed in a separate fund to support experienced CBOs, schools, and libraries compensated on a performance basis for each household they enroll in IE. The budget should be required as part of the Annual Plan filed with the Commission, made available for public review and input, and subject to modification by the Commission before approval by the Commission.

13.2. Joint Applicants shall develop and submit an Annual Plan (“Plan”) for the expanded Internet Essentials program for each of five years to ensure achieving the goal to enroll 45% of eligible households with a minimum amount of \$275 allocated per eligible household. The first Annual Plan shall be submitted 90 days after the close of the merger. The Plan should identify the number of eligible households by census block, census block groups, and census tract (nested within one another) and by school and school district. The 45% goal must be based on these identified eligible households. Data sampling should be conducted to reach agreement on the average number of eligible students per family. The Plan needs to set forth how Joint Applicants intends to redesign the IE program implementation to address not only the cost barrier, but the other two barriers, meaning effective digital literacy training for these low-income communities and effective outreach and actual program sign-ups by CBOs that are “trusted messengers” to these communities. The Commission should require the Annual Plan to be publicly available, open to public comment and subject to amendment by the Commission before approval. Joint Applicants should be prohibited from increasing the barriers to sign-ups in the form of more stringent eligibility requirements, such as credit checks, submission of social security numbers, or sign-ups requiring a visit to a customer



service office. The first Annual Plan should delineate how the current IE process will be improved, streamlined and simplified to facilitate subscriptions. Each Plan thereafter needs to assess program effectiveness, with identification of additional steps that might be appropriate and necessary to achieve the 45% adoption goal.

13.3 An Internet Essentials fund shall be capitalized by the Joint Applicants with an independent third party administrator selected by an open Request for Proposal by this Commission or an appropriate State agency in order to ensure transparency of the fund use, grants to experienced CBOs, schools, and libraries for outreach with actual subscription metrics in the target neighborhoods, and full compliance with this decision and specifically the conditions. The \$275 per eligible household should be required to be set aside by Joint Applicants in an independent fund to ensure enforceability. The bulk of the \$275 per eligible household shall be dedicated to funding for CBOs, schools and libraries to perform the outreach (in-language and in culture), digital literacy training (including in language), and hands-on assistance in completing the sign-up process. Other partnerships with regional civic, educational, library and other non-profit organizations serving target populations are encouraged. These outreach partners shall be fairly compensated upon proof of enrollment which may include evidence such as the IE welcome letter or a first bill for IE service. Funds should include public awareness through community and ethnic media in the targeted low-income communities. The Annual Plan funding budget shall include: (1) experienced, third-party outreach and sign-ups by CBOs, schools, libraries and other partners for targeted low-income communities; (2) effective digital literacy programs in target neighborhoods; (3) technical assistance; (4) acquisition of affordable computing equipment (such as refurbished devices lower in cost than \$149.99 offered by the Internet Essentials program); (5) independent program management and coordination not to exceed 10% of the cost per household sign-up; and (6) in-language



advertising that targets the low-income communities in media or other outlets not owned or affiliated with Joint Applicants with a customer service telephone number. The Plan should reflect regional proportionality in the allocation of funding between the areas with the lowest broadband adoption rates, the Los Angeles Region, Inland Empire, and San Joaquin Valley.

13.4. Joint Applicants shall significantly expand effective advertising in such communities through its own video and cable channels, broadcasting stations, websites, social media, and other media holdings as an additional investment beyond the proposed \$275 per eligible household. Joint Applicants should advertise Internet Essentials with the same kind of sophisticated communications and production value as it does their other consumer services.

13.5 Comcast should provide quarterly public reports to the Commission that contain: (1) the number of new IE subscriptions by census block (nested within census block groups and census tracts) and by school (nested within schools districts) for that quarter; (2) the total number of IE subscriptions by census block (nested within census block groups and census tracts) and by school (nested within school district) since the inception of the program; and (3) the number of continuing IE subscribers with an accounting for those subscribers who terminated IE service in that quarter for any reason.

13.6 In formulating the Initial and Annual Internet Essentials Plan, the third party administrator or the Commission's Communications Division staff shall encourage annual meetings open to the public between Comcast, CETF, experienced CBOs, interested Regional Rural Broadband Consortia, tribes, interested state and federal agencies (e.g. California Department of Technology, Department of Commerce's NTIA, Department of Agriculture's Rural Utility Service) and interested consumer and public interest organizations.



15. Comcast shall, within 24 months of the effective date of the parent company merger, upgrade facilities to make broadband services available in all California households where the Joint Applicants currently provide only video service. Such upgrades shall provide, at a minimum, broadband service speeds at the FCC's broadband benchmark speeds. Comcast shall provide data to Staff no later than April 15, 2015, with information that clearly identifies areas of the State within Comcast's footprint where there is a lack of broadband availability but where there is video availability. This information shall be provided in addition to the information provided for purposes of compliance with the provisions of the Digital Infrastructure and Video Competition Act of 2006.

16. Comcast shall make broadband services available throughout its service territory at 25 Mbps down and 3 Mbps up, to conform to the FCC's definition of minimum broadband speeds, as may be adjusted by the FCC.

18. No later than three years following the effective date of the parent company merger, Comcast shall build at least ten new broadband facilities in unserved or underserved broadband areas in California that may be adjacent to or near areas that Comcast currently serves by broadband. No later than 90 days following the effective date of the parent company merger, Comcast shall submit a plan for Commission approval detailing Comcast's infrastructure plans and expenditures to comply with this condition. We encourage Comcast to consult with the Commission's California Advanced Services Fund staff on designated priority unserved and underserved areas and to hold informal discussions with Regional Rural Broadband Consortia, interested tribes, and CETF for input on infrastructure projects.





24. For a period of five years following the effective date of the parent company merger, Comcast shall file an annual report with the Commission no later than March 31st of the following calendar year detailing its compliance with the conditions imposed by this decision. Such report shall include, but not be limited to: (a) the most recent J.D. Power and Associates rating of customer satisfaction with Comcast's service offerings. By the end of 2016, and then maintained through at least the fifth year after the merger's closing, those measures of customer satisfaction for the combined company's California operations shall be at least at the most current average of the residential customer satisfaction scores achieved for all entities in the Internet and residential voice industry segments for the West Region; (b) the Internet Essentials Plan and the related Fund, and IE subscriber results as set forth above; (c) a report on broadband deployment throughout Comcast's service area including data and maps showing the distribution of broadband customers including low-income households (d) FCC Form 477, (f) a report on the progress toward incorporating best practices into Comcast's website and certification of compliance with web accessibility requirements (g) the status of measures to comply with each condition in this Decision and (h) the General Order 156 report required by Condition 2. Comcast shall report on the status of measures to comply with each condition in this Decision.