

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

In the Matter of	)	
	)	
Joint Application of Charter Fiberlink MA-CCO, LLC and Time Warner Cable	)	
Information Services (Massachusetts), LLC	)	D.T.C. 21-2
for Designation as Eligible	)	
Telecommunications Carriers to Receive	)	
Rural Digital Opportunity Fund Auction	)	
(Auction 904) Support for Voice and	)	
Broadband Services	)	

**PETITION OF CHARTER FIBERLINK MA-CCO, LLC AND
TIME WARNER CABLE INFORMATION SERVICES (MASSACHUSETTS), LLC
TO AMEND THEIR RESPECTIVE ETC DESIGNATED SERVICE AREAS**

Charter Fiberlink MA-CCO, LLC (“Charter Fiberlink”) and Time Warner Cable Information Services (Massachusetts), LLC (“TWCIS”)¹ hereby petition the Department of Telecommunications and Cable (the “Department”) to revise the Charter Entities’ respective ETC designated service areas by removing the census blocks identified in **Exhibits 1-A and 1-B** so that the service areas will remain consistent with the areas that are eligible for support from the FCC’s Rural Digital Opportunity Fund (“RDOF”) as reflected in **Exhibit 2**. In support of this Petition, the Charter Entities submit the following:

I. BACKGROUND

In December 2020, the FCC named CCO Holdings, LLC (“CCO Holdings”), an affiliate of the Charter Entities, a winning bidder of support in the “Phase I” auction of its RDOF program.² As assignees of that support in Massachusetts, the Charter Entities would receive federal RDOF

¹ Charter Fiberlink and TWCIS are referred to collectively as the “Charter Entities.”

² As discussed in the Charter Entities’ Joint Application for ETC designation, CCO Holdings was selected as a winning bidder in Massachusetts under the FCC’s RDOF Phase I Auction (Auction 904). CCO Holdings assigned its winning bids in Massachusetts to the Charter Entities.

support to expand the broadband network owned and operated by Charter Communications, Inc. and its affiliates into certain rural census blocks in Massachusetts that are currently unserved by high-speed broadband service (the “RDOF Census Blocks”). As a condition to receiving the RDOF support, the Charter Entities were required to become ETCs in the areas for which they would receive RDOF support. As a result, in January 2021, the Charter Entities filed their Joint Application with the Commission seeking ETC designation only in the RDOF Census Blocks (identified in Exhibits A and B to the Joint Application).

The Charter Entities and the FCC recognized that the Phase I auction (as well as the RDOF program generally) relied on imperfect data to identify unserved areas and could include areas that would turn out not to be suitable for network expansion or RDOF support; therefore, it was likely that RDOF support would ultimately not be awarded for at least some census blocks that were included in the Phase I auction. To account for this contingency, the Charter Entities amended their Joint Application for ETC designation to clarify that the RDOF Census Blocks were subject to change and asked the Commission to include in any ETC designation order a mechanism by which the Charter Entities’ designated service areas could be amended to remain congruent with the RDOF Census Blocks if they changed.³

On June 4, 2021, the Commission issued its order (the “ETC Designation Order”) granting the Charter Entities’ Joint Application and designating them as ETCs in those census blocks (the “ETC Census Blocks”) that track the RDOF Census Blocks. The ETC Designation Order expressly recognizes that the RDOF Census Blocks can change, and it also provides that, if the

³ *Joint Application of Charter Fiberlink MA-CCO, LLC and Time Warner Cable Information Services (Massachusetts), LLC for Designation as Eligible Telecommunications Carriers to Receive Rural Digital Opportunity Fund Auction (Auction 904) Support for Voice and Broadband Services, Request to Amend Petition of Charter Fiberlink MA-CCO, LLC and Time Warner Cable Information Services (Massachusetts), LLC*, DTC 21-2 (filed May 27, 2021).

RDOF Census Blocks do change, the Charter Entities may petition for an amendment to the ETC Census Blocks so that the two groups of census blocks remain consistent.⁴

II. REQUEST FOR ETC CENSUS BLOCK MODIFICATION

Since the ETC Designation Order was entered, the FCC has issued a public notice indicating that the Charter Entities will not receive RDOF support in certain census blocks in Massachusetts that CCO Holdings had initially won in the RDOF auction and for which support had been assigned to the Charter Entities (the “Returned Census Blocks”).⁵ The Returned Census Blocks are identified in **Exhibits 1-A and 1-B**.⁶ Because the Charter Entities will not receive RDOF support for these census blocks, they now seek to amend the ETC Census Blocks to remove the Returned Census Blocks from their respective ETC designated service areas.

Exhibit 2 provides a revised list of the remaining census blocks for which TWCIS should remain designated as an ETC. Following the return of its census blocks, Charter Fiberlink will have no census blocks remaining in its ETC Designated Service Area.

The Charter Entities’ request for removal of the Returned Census Blocks conforms with state and federal law. Under 47 U.S.C. § 214(e)(4), the Charter Entities must show the following: (1) there must be more than one ETC serving the service area; (2) the ETC must give the Department advance notice of any change to its ETC designation; (3) the remaining ETC(s) in the service area must ensure that any affected customers will continue to be served; and (4) to the

⁴ ETC Designation Order, at 25 – 26.

⁵ See *Rural Digital Opportunity Fund, Public Notice – Rural Digital Opportunity Fund Bid Defaults Announced*, WC Docket No. 19-126 (FCC July 26, 2021) available at <https://docs.fcc.gov/public/attachments/DA-21-910A1.pdf> and Attachment A thereto, available at <https://docs.fcc.gov/public/attachments/DA-21-910A2.pdf>.

⁶ As discussed in the Charter Entities’ Joint Application, CCO Holdings assigned its winning bids in Massachusetts to TWCIS, which is the “lead operating company” for RDOF purposes with respect to such bids. Because of this, the FCC’s records only reflect TWCIS as returning census blocks in Massachusetts, but those census blocks include the census blocks for which Charter Fiberlink received ETC designation in Massachusetts.

extent that additional facilities are required to serve any of those customers, there must be sufficient notice to allow the remaining ETC(s) to construct or purchase those additional facilities.

The Charter Entities meet this standard. The census blocks in question were all served by ETCs other than the Charter Entities when the ETC Designation Order was issued in June, and to the Charter Entities' knowledge those ETCs remain in place today. The Charter Entities have not yet begun providing service in the Returned Census Blocks, so the return of the census blocks will have no impact on residents' existing service or any facilities needed to serve such residents. After the Charter Entities' ETC designated service areas are revised, the residents of the affected census blocks will remain served just as they were before the ETC Designation Order was entered.

An ETC that plans to cease offering Lifeline service in Massachusetts must, at a minimum, (1) notify its Lifeline customers and the Department 60 days in advance of the ETC's planned discontinuance of Lifeline service in Massachusetts and (2) work in good faith with its Lifeline customers and the Department to facilitate a smooth transition of customers to alternative ETCs of the customers' choice.⁷ As discussed above, the Charter Entities do not have any Lifeline customers in Massachusetts. Therefore, there are no customers to notify or to transition to other providers. Accordingly, no Lifeline service will be disrupted in the affected census blocks at all.

III. CONCLUSION & REQUEST FOR RELIEF

For the reasons stated above, the Charter Entities respectfully request that the Department take the following actions:

- Remove the census blocks identified in **Exhibits 1-A and 1-B** from the Charter Entities' respective ETC designated service areas;

⁷ *Investigation by the Dep't on its Own Motion into the Implementation in Mass. of the FCC's Order Reforming the Lifeline Program*, D.T.C. 13-4, *Order Implementing Requirements* at 21, Appendix (Aug. 1, 2004). *See also* *Petition of Crocker Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, D.T.C. 18-4, *Order* (Dec. 19, 2019).

- Confirm that TWCIS's ETC designated service area comprises the census blocks identified in Exhibit 2; and
- Confirm that Charter Fiberlink is no longer designated as an ETC in the Commonwealth of Massachusetts.

Respectfully submitted,

Charter Fiberlink MA-CCO, LLC and Time Warner Cable Information Services (Massachusetts), LLC



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LIST OF EXHIBITS

Exhibit 1-A – List of Census Blocks Returned by Time Warner Cable Information Services (Massachusetts), LLC Charter Fiberlink MA-CCO, LLC

Exhibit 1-B – List of Census Blocks Returned by Charter Fiberlink MA-CC, LLC

Exhibit 2 – List of Census Blocks forming ETC Designated Service Area of Time Warner Cable Information Services (Massachusetts), LLC