



COMMONWEALTH OF MASSACHUSETTS

Department of Telecommunications and Cable

1000 Washington Street, Suite 600, Boston, MA 02118

(617) 305-3580

www.mass.gov/dtc

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

EDWARD A. PALLESCHI
UNDERSECRETARY

KAREN CHARLES PETERSON
COMMISSIONER

October 11, 2019

Notice of Ex Parte -- Filed Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

In re Charter Communications, Inc. Petition for Determination of Effective Competition, MB
Docket No. 18-283

Dear Ms. Dortch:

Pursuant to section 1.1206 of the Federal Communications Commission's ("Commission") rules, the Massachusetts Department of Telecommunications and Cable ("MDTC") hereby provides notice that on October 9, 2019, the undersigned held a call with Michael Scurato and Taylor Lamb of the Office of Commissioner Starks.

During the call, I reiterated the MDTC's position that Charter has not met its burden of demonstrating that it is subject to effective competition based on DirecTV Now.¹ I described the incongruity of Charter claiming competition from a service that needs Charter's own facilities in order to be offered. Specifically, I stated that Congress made clear its "preference for competition" in the relevant statute, but AT&T's need for Charter's facilities and Charter's admission that its cable rates would go up immediately upon deregulation both indicate a lack of true competition.²

During the call, I also referenced AT&T's elimination of DirecTV Now in favor of AT&T TV Now, and suggested that the Commission should not grant a Petition based on a named service that is no longer available.³

¹ *Petition of Charter Commc'ns, Inc. for a Determination of Effective Competition*, MB Docket No. 18-283 (2018); 47 C.F.R. § 76.907(b).

² 47 U.S.C. § 543(a)(2)(A); *see also, e.g., In re Petition of Charter Commc'ns, Inc. for a Determination of Effective Competition*, MB Docket No. 18-283, *Charter Notice of Ex Parte Presentation* (Mar. 14, 2019).

³ *See* Press Release, AT&T, DIRECTV NOW Rebrands Under AT&T TV Family (July 30, 2019) https://about.att.com/newsroom/2019/directv_now_rebrands_under_att_tv.html; *In re Petition of Charter*

We also discussed the demographics of the 32 Massachusetts franchise areas at issue in this proceeding as those demographics relate to broadband adoption in the franchise areas. Specifically, unemployment in these 32 communities is higher than the Massachusetts average, and at least three of the communities (Chicopee, Pittsfield, and Worcester) fall within Department of Housing and Urban Development Qualified Census Tracts.⁴ Additionally, Worcester and Pittsfield are Gateway Cities, further highlighting the need for socioeconomic protections.⁵ In sum, the make-up of these 32 communities, in particular, exacerbates the harm that a grant of Charter's Petition would do to the vulnerable populations that subscribe to the basic service tier.⁶

Additionally, we discussed some of the unintended consequences that might result if the Petition is granted, including the possibility that broadcasters will use the Order to impose the retransmission consent regime on online video distributors and the possibility that online video distributors will use the Order to impose nondiscriminatory program access requirements on cable operators.

Finally, I referenced the Commission's pending Further Notice of Proposed Rulemaking in which the Commission proposed to modernize its cable rate regulations to reduce any burdens imposed on cable operators.⁷ I stated that that proceeding is a more appropriate vehicle for altering cable rate oversight than a petition attempting to shoehorn a modern, broadband-based service into a law written almost a quarter-century ago.

Pursuant to section 1.1206 of the Commission's rules, this notice is being filed electronically via ECFS with your office. Please do not hesitate to contact me should you have any questions.

Respectfully,

/s/ Sean M. Carroll

Sean M. Carroll
General Counsel

cc: Michael Scurato

Commc'ns, Inc. for a Determination of Effective Competition, MB Docket No. 18-283, MDTC Supplement to Motion for Abeyance (Aug. 5, 2019).

⁴ See Mass.gov, *Find Unemployment Rates*, <http://lmi2.detma.org/lmi/data/12MonthAvg.xlsx> (last visited Oct. 11, 2019); ArcGIS Hub, *Qualified Census Tracts*, <http://hub.arcgis.com/datasets/HUD::qualified-census-tracts>, (last visited Oct. 11, 2019).

⁵ See MassINC, *About the Gateway Cities*, <https://massinc.org/our-work/policy-center/gateway-cities/about-the-gateway-cities/> (last visited Oct. 11, 2019).

⁶ See *In re Petition of Charter Commc'ns, Inc. for a Determination of Effective Competition*, MB Docket No. 18-283, MDTC Ex Parte Letter (Mar. 11, 2019).

⁷ See *In re Modernization of Media Regulation Initiative*, MB Docket No. 17-105, *Further Notice of Proposed Rulemaking & Report & Order*, FCC 18-148 (Oct. 23, 2018).