



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 18-1154

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MEDIA BUREAU ACTION

ESTABLISHMENT OF “PERMIT-BUT-DISCLOSE” *EX PARTE* PROCEDURES FOR CHARTER COMMUNICATIONS, INC.’S PETITION FOR DETERMINATION OF EFFECTIVE COMPETITION

MB DOCKET NO. 18-283
CSR 8965-E

On September 14, 2018, Charter Communications, Inc. (Charter) filed the above-captioned petition for a determination of effective competition.¹ Charter asserts that it is subject to local exchange carrier (LEC) effective competition in its 32 franchise areas in Massachusetts and in Kauai, Hawaii, based on competition from AT&T’s DIRECTV NOW streaming service.² The Petition was placed on public notice.³ By email, the Media Bureau granted an extension pursuant to which comments were due on October 25, 2018, and replies will be due on November 19, 2018.⁴

For *ex parte* purposes, the Petition is not exempt under Section 1.1204(b) of the Commission’s rules, nor is it permit-but-disclose under Section 1.1206(a) of the Commission’s rules. Therefore, we would ordinarily treat it as a “restricted” proceeding in which *ex parte* presentations are generally prohibited pursuant to Section 1.1208 of the Commission’s rules.⁵ Under Section 1.1200(a), however, the Commission may adopt modified *ex parte* procedures “where the public interest so requires.”⁶ Given the potential impact of our determination of whether competition from DIRECTV NOW satisfies the LEC

¹ Charter Communications, Inc., Petition for Determination of Effective Competition (filed Sept. 14, 2018) (Petition).

² *Id.* at ii.

³ Special Relief and Show Cause Petitions, Report No. 0473, Public Notice (Sept. 21, 2018).

⁴ *See*

https://ecfsapi.fcc.gov/file/10926247621271/RE_%20Assented%20to%20Motions%20for%20Extension%20of%20Time.pdf.

⁵ 47 CFR § 1.1208.

⁶ *Id.* § 1.1200(a).

effective competition test, which may have effects beyond the specific matter at issue in the Petition, adoption of modified *ex parte* procedures is appropriate in this case. We shall therefore treat this proceeding as “permit-but-disclose” for *ex parte* purposes subject to the procedural requirements of Section 1.1206.⁷

Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum.

Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

For further information, contact Diana Sokolow of the Policy Division, Media Bureau, (202) 418-2120.

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⁷ *Id.* § 1.1206.