

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN
APPROVING IN PART AND CONCURRING IN PART**

Re: *Applications of Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations, MB Docket No. 15-149.*

In the nearly 12 months since Charter Communications announced its intention to transfer its license along with those of Time Warner Cable and Bright House Networks to form New Charter, I have heard from many parties, including those that support, oppose or are advocates for conditions they feel would protect consumers and prevent harms to competition.

Like previous transactions presented during my tenure, I have maintained my focus on the likely consumer impact, the competitive implications, the effect on independent and diverse programming and the importance of expanded deployment of broadband and access to affordable services. While the Order seeks to address these goals by requiring a series of public interest benefits, which I do applaud, I continue to have concerns in key areas.

Let me begin by discussing the Applicant's proposed discounted broadband service offering for low-income subscribers. I have been steadfast in my commitment to programs that are not only accessible to those most in need, but offer the speeds necessary for those currently trapped in the "digital darkness" to take advantage of all the Internet has to offer. The pledge to provide stand-alone broadband service with download speeds of 30 Mbps, in excess of the FCC's baseline definition for those who qualify for the national school lunch program and SSI, is highly commendable. This should ensure that program participants who sign up for the service will be able to unlock the Internet's full potential, including access to advanced health services, education, the ability to apply for jobs, and so much more.

At the same time, there is a subset of low-income households we must never lose sight of: adults without school age children, veterans and persons with disabilities. That veteran from Wyoming who finds it challenging to access VA benefits or schedule a medical appointment online, or that disabled woman from Illinois who has difficulty searching and applying for a job could miss out on the benefits of this affordable broadband program. Nonetheless, it is indeed a significant step in the right direction and New Charter's commitment to exceed its initial enrollment targets in the 18 months following the close of the transaction, to ensure that the program truly meets the needs of its intended beneficiaries, is to be commended.

Second, in an effort to bridge the communications divide, I am pleased that the Order requires broadband builds, with speeds more than double the FCC's baseline definition, to two million additional locations. According to the Commission's most recent statistics, 34 million people still lack access to download speeds of at least 25 Mbps. This condition makes a small, but meaningful dent in our effort to bring broadband to all Americans. As the soon-to-be, second largest provider of broadband Internet access, with service to approximately one-fifth of households, I believe that New Charter should be required to build-out to more households with a specific focus on reaching those homes deemed 'unserved.'

Third, noticeably absent from the Order, though much discussed, is a condition on stand-alone broadband. While Charter currently offers a competitively priced stand-alone broadband service, nothing in this Order would prevent the elimination of this product. Why does this matter? In a world in which consumers are increasingly cutting the cord and relying on online video distributors (OVDs), a competitively priced, stand-alone broadband offering ensures consumers truly have a choice in where they get their video programming. I appreciate Charter's commitment to me that they have no intention to eliminate its competitive stand-alone broadband offering.

Fourth, like many of the parties that commented on this transaction, I am concerned about the barriers that continue to exist when it comes to independently owned and diverse programming networks. The settlement reached between DOJ and the Applicants addresses one of the barriers I frequently hear about: the use of alternative distribution method (ADM) clauses which programmers' claim thwart their ability to distribute content through online platforms. At the same time, independently owned-and-operated programmers point to other basic roadblocks such as simply being able to acquire carriage or difficulty receiving fair or reasonable contract terms. While I acknowledge the commitments made by Charter through the January 2016 Memorandum of Understanding, my preference would have been to see these issues addressed through a condition that requires the company to add additional independently owned-and-operated networks that are not currently affiliated with New Charter.

Finally, I remain concerned by the large number of outstanding local franchise agreements across Time Warner Cable's territory. Earlier this year, I heard from the mayor of a community that has been in a "hold over" franchise status for almost a decade! The cable industry prides itself on its commitment to local communities, yet the absence of PEG funding for this particular city not only seems contrary to this claim, but has left them with no public access studio and their city council chambers without the video equipment needed to allow its citizens to watch those proceedings from home. Although the Order does not condition the transaction on reaching a resolution on these agreements, I am happy that New Charter will act expeditiously to renew and settle these outstanding agreements.

For all of the above reasons, I vote to fully approve the conditions reached in this transaction, but because I am of the view that there are elements that should have gone further, I concur on the underlying Order.