

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS
CONCURRING**

Re: *Petition for Determination of Effective Competition in 32 Massachusetts Communities and Kauai, HI (HI0011)*, MB Docket No. 18-283 and CSR No. 8965-E.

On the narrow issue before us, “Charter’s Petition for Determination of Effective Competition in 32 Massachusetts Communities and Kauai, HI,” I find the reading of this order to be a reasonable reading of the LEC test, and so I must concur with this Order. Nevertheless, I foresee harm to vulnerable consumers from the action we take today.

In the narrowest reading of the LEC test, the elements of the test are met: (1) DIRECTV NOW is an affiliate of AT&T; (2) DIRECTV NOW is “offered” within the Franchise Areas; (3) it is offered “directly (albeit, via the internet) to subscribers”; and (4) DIRECTV NOW offers video programming services that are “comparable to” the video programming services offered by Charter.

However, I am very concerned with how a straightforward application of this test will impact the experience of consumers. The LEC test does not anticipate that in order to receive the OTT video service, a consumer would have to rely on the service of a competitor to provide an entirely different and, yet, necessary service. In this instance, in order for consumers in these markets to receive DIRECTV NOW, they must first purchase the internet. Assuming an internet service provider provides you with a satisfactory rate on a suitable internet service, only then can you purchase one of the several DIRECTV offerings—all of which are more expensive than the regulated basic cable service you may have originally wanted. This is not the type of competition contemplated by the LEC rule. This brings me to the core of my concern. One cannot ignore the very real impact today’s order will likely have on the consumers’ pockets. The record is clear, prices are going to go up. The party requesting this finding of effective competition has, itself, gone on record that some consumers will see their rates go up by nearly 100 percent.¹

While the Commission refused several requests for additional factfinding, anecdotal evidence strongly suggests that most internet subscribers receive their services “bundled” with cable services, in order to receive a cheaper total price for internet and cable services, rather than just receiving internet service alone. Unfortunately, we do not take on that issue today.

Finally, those consumers relying on basic cable service, while they may be few, are often our most underprivileged consumers, and often are on fixed incomes. Where some of these consumers were paying as little as \$12 per month for the regulated basic cable services, they may well have to spend upwards of \$100 per month—that is no small expense to someone surviving on a fixed income. These are members of the community who are retired, elderly, veterans, or simply trying to make ends meet. The Commission’s goal, our mission, should be to make service more affordable for these consumers, not more expensive. Instead, I fear this decision risks reinforcing the inequity between families with resources to pay for these services, and families without.

Regardless of my concerns about the impacts of this item, I would like to take a moment to thank the Media Bureau staff for their work on this item.

¹ See, *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. 7, 2019) (describing Charter’s planned rate increases); *In re Petition of Charter Commc’ns, Inc. for a Determination of Effective Competition*, MB Docket No. 18-283, *MDTC Notice of Ex Parte Presentation* (Mar. 11, 2019).