NTCA THE RURAL BROADBAND ASSOCIATION

July 21, 2016

***Ex Parte* Notice**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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; Universal Service Contribution Methodology, WC Docket No. 06-122

Dear Ms. Dortch:

On Tuesday, July 19, 2016, the undersigned, Brian Ford, and Shirley Bloomfield, CEO of NTCA–The Rural Broadband Association ("NTCA") met with FCC Commissioner, Jessica Rosenworcel and her legal advisor, Marc Paul. NTCA discussed its petition seeking reconsideration of the residential build-out requirement imposed as part of the Federal Communications Commission's ("Commission") approval of the above-referenced merger application.

NTCA pointed out that it is not seeking reconsideration of the merger approval, but rather the residential build out requirement as applied to out-of-market areas, particularly, but not exclusively, where the condition may put at risk or undermine other broadband build-out initiatives.

The Commission failed to give notice that it was considering a forced competition requirement, announcing it only in a press release after the order was drafted and circulating for approval. It veered drastically from what was originally proposed in the merger application and was not transaction-specific. This rush to push out a competitive build out requirement likely led to a lack of forethought and coordination with other Commission initiatives. For example, the Connect America Fund ("CAF") Phase II unserved area build outs by price cap carriers are just commencing, and the Commission is still in the process of developing the CAF II competitive bidding process for areas the price cap carriers choose to leave unserved. The Commission also released a recent order creating new CAF mechanisms for rate of return regulated companies, which include buildout requirements for all RLECs, whether or not they elect model-based support.[1] Thus, the Commission has several, relatively nascent steps underway – utilizing

[1] *See*, *In the Matter of Connect America Fund, et.al.,* WC Docket No. 10-90, *et. al.*, Report and Order and Further Notice of Proposed Rulemaking (rel. March 30, 2016).

several billion dollars per year of universal service fund resources – aimed at reaching currently unserved consumers.

Because of the lack of coordination, resources could be wasted as one could see currently unserved areas become served by two different firms -- one investing to satisfy regulator-imposed merger conditions and the other investing pursuant to regulator-driven, USF-supported buildout obligations – while other unserved areas would continue to sit without any broadband services at all.

New Charter would be building out because of a regulatory requirement, not because market or economic conditions. It will be forced to use resources that might better be used to improve service to existing customers or expand service to unserved customers. Forced competition in areas that cannot support competition (or in many areas, even a single network) could result in companies cutting back services or exiting markets. In the extreme, if the single emergent provider is New Charter, it has no obligation to maintain "reasonable comparability" in service or price. There is no obligation to ensure quality and affordability to customers. New Charter's only obligation under the over-build condition is to build.

During the meeting, NTCA requested that the Commission reconsider the residential build-out requirement and seek public input so that it may afford full consideration to all of its potential consequences.

The group also briefly discussed the sustainability of the Universal Service Fund and efforts to address contribution reform.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,

/s/ *Jill Canfield*
Jill Canfield
V.P. Legal & Industry
Assistant General Counsel

cc: Jessica Rosenworcel
Marc Paul