

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

I/M/O the Verified Joint Petition of Altice N.V. and Cablevision Systems Corporation and Cablevision Cable Entities for the Approval to Transfer Control of Cablevision Cable Entities,

and

I/M/O the Verified Joint Petition of Altice N.V. and Cablevision Systems Corporation, Cablevision Lightpath-NJ, LLC and 4Connections, LLC for Approval to Transfer Control of Cablevision Lightpath-NJ, LLC and 4Connections, LLC and for Certain Financing Arrangements

BPU Docket No.: CM15111255

BPU Docket No.: TM15111256

**COMMENTS OF THE STATE OF NEW JERSEY
DIVISION OF RATE COUNSEL**

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I. INTRODUCTION

A. Overview

The Division of Rate Counsel (“Rate Counsel”) submits these comments to the Board of Public Utilities (“Board”) regarding the proposed acquisition by Altice N.V. (“Altice) of Cablevision Systems Corporation and Cablevision Cable Entities (“Cablevision”) (collectively, “Petitioners”).¹

Rate Counsel has reviewed the Petition, responses to the 101 questions it posed to the Petitioners (as well as responses to Staff interrogatories), filings with the Federal Communications Commission (“FCC”), filings with the Securities and Exchange Commission (“SEC”), and responses (including those designated as confidential) submitted in response to the FCC’s information requests.² Rate Counsel also participated telephonically in a conference on February 23 regarding financial aspects of the proposed transaction. Based on its detailed analysis of this information and on its participation in numerous Board proceedings regarding proposed changes of control, Rate Counsel concludes that the proposed transaction is not in the public interest and should be rejected. If the Board intends, nonetheless, to approve the transaction, it should do so only if the Petitioners agree to enforceable mitigation measures to detect and deter transaction-related harms and also to enforceable commitments to deliver concrete benefits to New Jersey’s consumers, employees, and communities.

¹ Susan M. Baldwin and Sarah M. Bosley assisted with the preparation of these comments.

² Although Rate Counsel and its consultants, Ms. Baldwin and Ms. Bosley, signed the FCC’s protective order in WC Docket No. 15-257 to obtain access to the highly confidential versions of the Petitioners’ responses to the FCC’s requests, the Petitioners provided Rate Counsel with versions of their responses in which large portions continue to be redacted, suggesting that the Petitioners have provided Rate Counsel with the confidential and not the highly confidential versions of the responses that Rate Counsel sought. See, e.g., Petitioners’ Highly Confidential Attachment F, provided to the FCC, and provided to Rate Counsel in a redacted form.

In these comments, Rate Counsel summarizes its preliminary analysis of the transaction, specifically as the transaction might affect New Jersey’s consumers and communities. Rate Counsel also describes specific recommendations, which, if adopted, would increase the chance of benefits flowing to consumers and decrease the chance of consumer harm. As a threshold matter, as Rate Counsel discusses in more detail below, not only should consumers not be worse off as a result of the proposed transaction occurring, but also they should, on balance, enjoy net benefits.

Altice’s proposed acquisition of Cablevision – which would saddle Cablevision with substantial new debt and pressure to achieve annual savings of \$450 million³ – could lead to service quality deterioration, price hikes, and employee layoffs. The purported benefits are vague, and, moreover, Petitioners have failed to demonstrate that these benefits would not occur absent the merger.

The Petitioners have failed to commit to any measurable enforceable benefits nor have they offered any commitments that would mitigate against harm. Although Rate Counsel sought, through discovery, to understand the ways in which Altice – a self-proclaimed “world class” company – could or would improve upon Cablevision’s broadband and telecommunications services (as measured by deployment, speed, price, and service quality), the Petitioners were unable to offer anything more than generalities in response, and would not commit to maintain at least the level of service quality that Cablevision now offers. The Petitioners have failed to demonstrate that there would be a net benefit to the consumers, communities, employees, and

³ The Petitioners provide the estimate of \$450 million in annual savings in its public responses to FCC Request No. 2 and No. 5. The public (redacted for public inspection) version of the Petitioner's response to the FCC can be located here: <http://apps.fcc.gov/ecfs/document/view;NEWECFSSESSION=zmXZWykPsZbMnvysyTS3QzzXzZhfD4vMmYW7WLZXwygz9G96vXxr!1261540857!1749169674?id=60001519156>.

economy of New Jersey. Instead, they would be exposed, unnecessarily, to the risk of various significant harms.

Although it is typical that companies seeking to merge or transfer control describe benefits in generalities, the level of vagueness in the Petitioners' responses to discovery and in their Petition are notable.⁴ Contrasting these uncertain and vague benefits is the unambiguous fact that the transaction would burden Cablevision with vast new debt load and result in foreign ownership, further distancing Cablevision from accountability to New Jersey regulators and consumers. The proposed transaction would yield clear, substantial and tangible benefits to Cablevision's executive officers⁵ and to its shareholders.⁶ As Rate Counsel demonstrates in these comments, it is less clear that consumers and employees will benefit and there is compelling evidence that they will be harmed.

⁴ When Rate Counsel sought specific detailed information in discovery, the Petitioners responded with generalities (see, e.g., response to RC-13 which states in pertinent part: "specific plans ... will depend upon further analysis in the period leading up to and following Altice's acquisition of control of Cablevision"). There are many more examples of the Petitioners' lack of information about Altice's intentions. See, e.g., responses to RC-16, 21, 22, 85-c (re "potential enhancements" to Cablevision's offerings). See also, RC-15, which asks (emphasis added): "Re Petition at 7 referring to Altice's intention to provide 'world-class broadband Internet connectivity, voice and video service.' To the extent not answered in the pending response to Staff S-6(d): *Are Cablevision's broadband Internet connectivity, voice, and video services now 'world-class'? If not, please explain specifically the ways in which Cablevision's services are not world-class.*" In response, the Petitioners refer Rate Counsel to Petitioners' response to Request S-6(d) in which Altice's "best in class" service is described. The answer is non-responsive to Rate Counsel's question because it fails to explain or substantiate the implied weaknesses in Cablevision's products. The Petitioners fail to explain what exactly Altice will do or offer that Cablevision is not now doing, or absent, the transaction, would not or could not otherwise do.

⁵ Schedule 14C Information, filed by Cablevision Systems Corporation with Securities and Exchange Commission, December 2, 2015, at 46-48 (regarding golden parachutes).

⁶ Schedule 14C Information, filed by Cablevision Systems Corporation with Securities and Exchange Commission, December 2, 2015, at 20-21 (regarding the transaction-related premium on shares).

B. The Petitioners have failed to demonstrate a net benefit from the proposed transaction.

Under N.J.S.A. 48:2-51.1, acquiring companies must request and receive the Board's written approval. When evaluating a request for approval of transfer of control, the Board must consider the merger's impact on the following: competition; the rates of ratepayers affected by the acquisition of control; the employees of the affected public utility or utilities; and the provision of safe and adequate utility service at just and reasonable rates. N.J.S.A. 48:2-51.1.

In an order on the appropriate standard of review issued by the Board in its investigation of the joint petition of Public Service Electric and Gas Company ("PSE&G") and Exelon Corporation ("Exelon"), the Board unambiguously departed from the "no harm standard." The Board stated that it "shall utilize a positive benefits standard of review. Pursuant to the positive benefits standard, in order for the proposed acquisition of control and transfer of stock to be approved by this Board, the Joint Petitioners must show and the Board must be satisfied that positive benefits will flow to customers and to the State as a result of the proposed change in control, and, at a minimum, that there are not adverse impacts on any of the criteria delineated in N.J.S.A. 48:2-51.1."⁷

In a recent merger Order, the Board set forth the standards applicable to a review of a merger application:

Consistent with the provisions of NJSA 48:2-51.1 and the standard of review set out in NJAC 14:1-5.14(c), the Board shall not approve a change in control "unless it is satisfied that positive

⁷ In the Matter of the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control of Public Service Electric and Gas Company, and Related Authorizations, Order on Standard of Review, November 9, 2005, at 25.

benefits will flow to customers and the State of New Jersey and, at a minimum, that there are no adverse impacts” on competition, rates, the employees of the affected public utility, and on the provision of safe and adequate utility service at just and reasonable rates, Joint Petitioners have the burden of proving to the board by a preponderance of the evidence, that the merger meets the requirements of this section. NJAC 14:1-5.14(d).⁸

Similarly, in its review of the proposed merger of AT&T Corporation (“AT&T”) and SBC Communications Inc. (“SBC”), the Board stated, with respect to the standard of review:

...we find that in order for this Board to be justified in approving petitioners’ proposed merger, petitioners must demonstrate not merely that the merger does no harm to any of the four enumerated criteria, but that on aggregate, the merger would affirmatively promote the public interest. Said another way, petitioners in this case must show, at a minimum, that some positive benefit would result from the merger with respect to at least one of the four criteria, and that no harm would result with respect to the other three.⁹

N.J.A.C. 14:1-5.14 explicitly requires that merger petitions contain certain information as well as a requirement that the Board refrain from approval any merger, consolidation, acquisition or change in control “unless it is satisfied that positive benefits will flow to customers and the State of New Jersey and, at a minimum, that there are no adverse impacts on any of the [four criteria delineated above].”

C. The Petition lacks enforceable measurable commitments to mitigate harm and to share benefits.

As stated earlier, and for reasons set forth throughout these comments, Rate Counsel recommends that the Board reject the proposed transaction. If, nonetheless, the Board is

⁸ I/M/O the Merger of Exelon Corporation and PEPCO Holdings, Inc., BPU Docket No. EM14060581 (Order, February 11, 2015), p. 34.

⁹ In the Matter of the Joint Petition of SBC Communications Inc. and AT&T Corp., Together with its Certificated Subsidiaries for Approval of Merger, New Jersey Board of Public Utilities Docket No. TM05020168, Order, October 4, 2005 (“SBC/AT&T Merger Order”), at 5-6.

considering possible approval of the transaction, Rate Counsel urges and recommends that Board approval be conditioned on the following commitments from Altice:

1. ***Affordable broadband Internet access:***
 - i. Altice should commit to continue to offer (and to publicize) Cablevision's Economy broadband service on a stand-alone basis at \$14.99 per month (the existing price is \$24.95) for at least five years.
 - ii. Altice should commit to offer subsidized broadband service for income-eligible customers at a speed of at least 30 Mbps at a price of no more than \$10 per month. Outreach should be coordinated with low-income organizations and consumer education materials should be provided in multiple languages.
 - iii. Altice should commit to advertise the availability of its stand-alone broadband service and subsidized broadband service, including the prominent display of such availability on the company's web site.
2. ***Affordable stand-alone voice service:*** Except in an extremely isolated situation, Cablevision does not offer voice service on a stand-alone basis. Altice should offer stand-alone voice service for at least five years and should seek ETC status for the provision of stand-alone Lifeline telephone service.
3. ***No data caps:*** The Board should seek a three-year commitment by Altice not to impose data caps on broadband Internet access (Altice has not made any commitment).¹⁰
4. ***Commitment, without an expiration date, to not block or throttle Internet traffic and to abide by the FCC's net neutrality rules***
5. ***Commitment to upgrade:*** Rate Counsel recommends that the Board seek specific milestones regarding Altice's specific broadband upgrade plans, shown separately by community and with projected dates such upgraded speeds will be available. Altice should provide such information to the Board and to Rate Counsel *before* the Board decides on the merits of the proposed transaction.

¹⁰ Although Cablevision does not now impose data caps, Suddenlink, recently acquired by Cablevision, imposes data caps. Suddenlink, "Data Plans: Frequently Asked Questions," available at: <http://www.suddenlink.com/data-plans> (accessed February 25, 2016). Indeed, Suddenlink's Chairman and CEO, Jerry Kent stated in November 2015: "Overage charges have become a significant revenue stream for us." Suddenlink Communications Earnings Conference Call, Third Quarter 2015 Results, November 5, 2015 at 39:35. See http://phx.corporate-ir.net/phoenix.zhtml?c=213551&p=irol-presentations_2015 (accessed February 25, 2016). See New Jersey Board of Public Utilities News Release February 24, 2016; Stipulation of Settlement, at 8(f).

6. ***Unlimited flat rate broadband option:*** Regardless of any usage-cap or usage-based pricing plans, and after the five-year “no caps” commitment expires, Altice should commit to introduce and permanently continue to offer unlimited, flat rate Internet service at a reasonable price as an alternative to usage-priced plans.
7. ***Opt-out option for Wi-Fi hotspots:*** Customers will be given the option of opting out of any leased/provided modem Wi-Fi hotspot plan that offers a wireless connection to outside users without the customer’s consent.
8. ***Network reliability and public safety:*** Altice should provide:
 - i. Back-up batteries for all existing and new customers of its Voice over Internet Protocol (“VoIP”) service at cost, i.e., without a mark-up.
 - ii. Customer education in multiple languages, subject to Board and Rate Counsel review, regarding the importance of battery back-up for network connections during prolonged power outage.
 - iii. Provision of “warm dial tone” (access to E911 service) even when voice services suspended or disconnected.
 - iv. Quarterly public reports to the Board and to Rate Counsel regarding, at a minimum, the following metrics:
 1. Answer time for repair and technical assistance;
 2. Average installation period;
 3. Outages;
 4. The Network Outage Reporting System (“NORS”) data that Charter submits to the FCC should be submitted simultaneously to the Board and Rate Counsel.
 - v. A commitment to coordinate with local, state, and federal emergency and public safety officials to facilitate preparations for and responses to man-made and natural emergencies to protect the public safety and welfare of New Jersey’s consumers and communities. The companies should commit to transfer information about Cablevision’s experiences and procedures (including lessons learned) in these matters to Altice.
9. ***Service Quality:*** Altice should commit to maintain or improve Cablevision’s service quality as measured by at least the following two metrics and as shown in the data included in Cablevision’s responses to RC-31 and RC-32: average installation interval; and average speed of answer to reach a customer service representative.

10. ***Billing and termination procedures:*** Altice should increase the billing payment period and also reduce late payment charges.
11. ***Programming diversity:*** The Board should require Altice to continue to carry the existing PEG channels.¹¹
12. ***Open customer premises equipment:*** The Board should require Altice to allow customers to use their own set-top equipment (e.g., Roku, Apple TV, etc.) to receive cable television service without compulsory equipment and rental fees. Altice has disclosed that it has not yet determined its plans for cable boxes relative to existing Cablevision options, although Petitioners' response to RC-74 discloses potential plans to extend Altice's La Box offering into New Jersey. While certain customers may find the added features of La Box attractive and worth paying for, others should have the option to retain a lower-priced, more basic set-top box, and Altice should commit to preserving this option.

¹¹ See response to RC-41 and Exhibit 41-A.

II. PETITIONERS' PRESENCE IN NEW JERSEY AND NATIONAL MARKETS

Altice does not currently have a presence in New Jersey.¹² Altice is a multinational cable, fiber, telecommunications, content and media company serving customers in Western Europe (France, Belgium, Luxembourg, Portugal and Switzerland), Israel, and the Overseas Territories (currently comprising the French Caribbean and the Indian Ocean regions and the Dominican Republic).¹³ Altice's principal executive offices are located in Amsterdam, in the Netherlands.¹⁴ Altice's prices vary by country and region "based on local market conditions and applicable legal requirements."¹⁵

Cablevision serves approximately 3.1 million subscribers in New York, New Jersey and Connecticut.¹⁶ Table 1 below shows that as of December 31, 2015, Cablevision passed <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> households in New Jersey and they all can subscribe to voice, broadband and video service.¹⁷

¹² In the Matter of the Application of Altice N.V., Transferee, and Cablevision Systems Corporation, Transferor, Application for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Transfer Control of Domestic and International Section 214 Authorizations, WC Docket No. 15-257, Oct. 14, 2015 ("Joint Application"), at 4.

¹³ Schedule 14C Information, filed by Cablevision Systems Corporation with Securities and Exchange Commission, December 2, 2015, at 15.

¹⁴ Schedule 14C Information, filed by Cablevision Systems Corporation with Securities and Exchange Commission, December 2, 2015, at 15.

¹⁵ Petitioners' response to RC-2.

¹⁶ FCC Application, at 5.

¹⁷ Petitioners' response to RC-26.

Table 1
Number of Subscriber Households as of December 31, 2015
(Cablevision New Jersey)¹⁸

<<<BEGIN CONFIDENTIAL

Service Type	Number of Households Subscribed
Voice	[REDACTED]
Broadband	[REDACTED]
Video	[REDACTED]

END CONFIDENTIAL>>>

As of December 31, 2015, as Table 2 shows, Cablevision passed <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> commercial locations in New Jersey and all locations subscribe to voice, broadband and video service.¹⁹

Table 2
Number of Small Businesses Subscribed as of December 31, 2015
(Cablevision New Jersey)²⁰

<<<BEGIN CONFIDENTIAL

Service Type	Number of Small Businesses Subscribed
Voice	[REDACTED]
Broadband	[REDACTED]
Video	[REDACTED]

END CONFIDENTIAL>>>

In response to RC-3, Cablevision provided a sample rate card for Bayonne, New Jersey that it states “is representative of Cablevision’s offerings and prices throughout New Jersey.”²¹

¹⁸ Petitioners’ response to RC-27.

¹⁹ Petitioners’ response to RC-28.

²⁰ Petitioners’ response to RC-29.

²¹ Petitioners’ response to RC-3, Exhibit 3-A.

Cablevision's video services range in price from \$12.79 for "Broadcast Basic" to \$109.95 for "Optimum Gold."²² Customers can obtain video service on a stand-alone basis.

Cablevision's unlimited local and long distance phone service is \$34.95 per month (the price includes unlimited directory assistance and several discretionary services). Battery backup equipment is a one-time charge of \$29.95. Voice services are only available to Optimum Online customers, *i.e.*, are not available on a stand-alone basis.²³

According to the sample rate card provided to Rate Counsel in response to data requests, Cablevision's broadband offering, Optimum Online Internet service (at a speed of 25 Mbps download/5 Mbps upload, or "25/5"²⁴), starts at \$59.95 per month (discounted to \$49.95 if customer is a cable subscriber), with an additional charge for the modem of \$4.95 per month. For \$4.95, \$20 and \$55 extra per month consumers can subscribe 50/25, 75/35 and 101/35 service respectively.

Cablevision offers broadband Internet access on a stand-alone basis.²⁵ In addition to the pricing details contained in the rate card provided in response to Rate Counsel's requests, the companies' response to S-7(b) indicates that Cablevision offers a basic 5 Mbps download/1 Mbps upload broadband service for \$24.95 per month. However, this is not contained on the rate card Cablevision provided nor is it advertised on Cablevision's website.²⁶ Confidential Table 3,

²² Petitioners' response to RC-3, Exhibit 3-A.

²³ In response to RC-5, Cablevision indicated that it does not provide stand-alone voice service and that customers must have Optimum Online service to acquire voice with the limited exception of Lakewood, New Jersey where some residents have a religious objection to broadband service. Lightpath does offer stand-alone voice service to business locations (RC-5). Cablevision offers stand-alone broadband service (RC-6). Similarly, Cablevision offers video on a stand-alone basis (RC-7).

²⁴ Petitioners' response to S-7.

²⁵ Petitioners' response to RC-6.

²⁶ See, e.g., <https://www.optimum.net/pricing-packages>.

below, summarizes new residential orders for Cablevision's broadband services between 2012 and 2015, separately by speed and shows generally customers' growing preference for higher speeds.

**Table 3
New Residential Orders for Broadband Service: 2012 through 2015
(Cablevision New Jersey)²⁷**

<<<BEGIN CONFIDENTIAL

2012	Additions
OOL (15/2)	[REDACTED]
Boost (30/5)	[REDACTED]
Boost Plus (50/8)	[REDACTED]
Ultra 101 (101/15)	[REDACTED]
2013	Additions
OOL (15/2 rising to 15/5 in July 2013)	[REDACTED]
Boost (30/5)	[REDACTED]
Boost Plus (50/8)	[REDACTED]
Ultra 50 (50/25)	[REDACTED]
Ultra 101 (101/15 rising to 101/35 in July 2013)	[REDACTED]
2014	Additions
Economy (5/1)	[REDACTED]
OOL (15/5)	[REDACTED]
Ultra 50 (50/25)	[REDACTED]
Ultra 75 (75/35)	[REDACTED]
Ultra 101 (101/35)	[REDACTED]
2015	Additions
Economy (5/1)	[REDACTED]
OOL (15/5 rising to 25/5 August 2015)	[REDACTED]
Ultra 50 (50/25)	[REDACTED]
Ultra 75 (75/35)	[REDACTED]
Ultra 101 (101/35)	[REDACTED]
1 GBPS (1000/1000)	[REDACTED]

END CONFIDENTIAL>>>

²⁷ Petitioners' response to RC-9.

Confidential Table 4, below, summarizes new small business orders for Cablevision's broadband services between 2012 and 2015, separately by speed and shows generally customers' growing preference for higher speeds.

**Table 4
New Small Business Orders for Broadband Service: 2012 through 2015
(Cablevision New Jersey)²⁸**

<<<BEGIN CONFIDENTIAL

2012	Additions
OOL (15/2)	[REDACTED]
Boost (30/5)	[REDACTED]
Boost Plus (50/8)	[REDACTED]
Ultra 101 (101/15)	[REDACTED]
2013	Additions
OOL (15/2 rising to 15/5 in July 2013)	[REDACTED]
Boost (30/5)	[REDACTED]
Boost Plus (50/8)	[REDACTED]
Ultra 50 (50/25)	[REDACTED]
Ultra 101 (101/15 rising to 101/35 in July 2013)	[REDACTED]
2014	Additions
OOL (15/5)	[REDACTED]
Boost (30/15)	[REDACTED]
Ultra 50 (50/25)	[REDACTED]
Ultra 101 (101/35)	[REDACTED]
2015	Additions
OOL (15/5)	[REDACTED]
Boost (30/15)	[REDACTED]
Ultra 50 (50/25)	[REDACTED]
Ultra 101 (101/35)	[REDACTED]

END CONFIDENTIAL>>>

Altice has made no commitments about providing stand-alone voice, video or broadband services in the future. Altice has not made any commitments to freeze rates for any of its

²⁸ Petitioners' response to RC-10.

services. As Rate Counsel discusses more below, the substantially increased debt load and the likely focus of the company to achieve synergies will create pressure on Altice to raise rates and to upsell its products to consumers.

III. OVERVIEW OF TRANSACTION

On September 16, 2015, Cablevision and Altice entered into an Agreement and Plan of Merger (Agreement), pursuant to which Altice will acquire 100 percent of the shares of Cablevision.²⁹ As described by the FCC in its Public Notice, after the proposed transaction occurs, Cablevision will ultimately be majority owned and controlled by Patrick Drahi, a citizen of Israel (approximately a 60.45 percent interest through his indirect ownership interest in Altice).³⁰

The Petitioners submitted their application to the FCC on October 24, 2015, seeking approval for the transfer of control of Cablevision and certain subsidiaries to Altice. As of March 16, 2016, the FCC was on day 132 of its 180-clock.³¹ Comments and petitions to deny were submitted December 7, 2015; reply comments and oppositions to petitions to deny were submitted December 22, 2015. More recently, on February 4, 2016, the FCC issued additional information requests to the Petitioners, requesting responses by February 18, 2016.

Altice and Cablevision submitted their Petition for Approval to Transfer Control (“Petition”) to the Board on November 4, 2015. The Board has not yet established a procedural schedule. Rate Counsel propounded discovery on January 13, 2016 and participated telephonically in a meeting with Board Staff and the Petitioners on February 23, 2016.

²⁹ FCC Public Notice, “Applications Filed for the Transfer of Control of Cablevision Systems Corporation to Altice N.V.: Pleading Cycle Established,” WC Docket No. 15-257, DA15-1258, November 5, 2015 (“FCC Public Notice”), citing Section 214 Application at 5.

³⁰ FCC Public Notice.

³¹ Applications for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, Transfer Control of Authorizations from Cablevision Systems Corporation to Altice N.V. WC Docket No. 15-257.

Cablevision offers digital television, Internet services, and Voice over Internet Protocol (“VoIP”) service to approximately 3.1 million subscribers in New York, New Jersey, and Connecticut. It also operates a network of over 1 million Wi-Fi Internet access points throughout its territory. Cablevision has a subsidiary, Cablevision Lightpath, Inc., which offers competitive telecommunications services to companies in the New York Metro area.³² Cablevision also owns Cablevision Media Sales, which is Cablevision’s advertising sales division. As is described in the FCC’s Public Notice, Cablevision provides news and information in its service area through the News 12 programming networks; Newsday, a Long Island daily newspaper; amNewYork, a free daily serving New York City; and Star Community Publishing, a publisher of weekly shoppers and community papers on Long Island.³³

Altice is a publicly traded holding company, which provides fixed and mobile voice, video, and broadband services throughout the world, and which serves approximately 34.5 million subscribers world-wide. This does not count subscribers from Altice’s recent acquisition of Cequel Corporation (d/b/a Suddenlink Communications) and its subsidiaries, which was approved by the FCC in December 2015.³⁴ In reference to the Suddenlink acquisition, the FCC stated:

³² Cablevision’s service region is in the Bronx, Brooklyn, Long Island, Greater Hudson Valley, Northern New Jersey, and Southern Connecticut.

³³ Altice’s acquisition of Cablevision excludes any interest in Cablevision’s programming interests, MSG Networks and AMC Networks, Inc.

³⁴ *Applications Filed for the Transfer of Control of Cequel Corporation d/b/a Suddenlink Communications to Altice S.A.*, WC Docket No. 15-135, Memorandum Opinion and Order, FCC 15-1451, released December 18, 2015. According to the FCC’s initial Public Notice regarding this transaction, the Applicants state that, assuming consummation of the proposed transaction with Suddenlink, Altice will offer cable television, broadband services, VoIP services, and competitive telecommunications services to 1.5 million subscribers in the 17 states in which Suddenlink operates. According to the Petitioners, Cablevision does not own network facilities or operate in any of those states. Public Notice, WC Docket 15-135, 30 FCC Rcd 6442 (2015).

[T]he transaction is likely to result in tangible benefits for customers through improved broadband service and investment. Because Altice does not currently serve the U.S. market, the transaction does not reduce the number of service providers in local, regional, or national markets. Applicants filed additional evidence in the record further supporting the broadband deployment benefits they claim may result from the transaction.³⁵

Rate Counsel and Staff issued numerous questions to the Petitioners, and the FCC has also issued information and data requests to the Petitioners. Rate Counsel is unaware of any commitments that Altice has made either to the Board or to the FCC.

³⁵ Id. at para. 16.

IV. ANALYSIS OF THE PROPOSED TRANSACTION

A. Issues raised by proposed transaction

The proposed transaction raises various issues: the impact of the substantial new debt load and need to achieve synergies on (1) broadband Internet access affordability and deployment, (2) the quality of broadband and voice services and customer service, and (3) employment in New Jersey. The transaction also raises questions about public safety and network reliability as customers migrate to new telecommunications platforms; and the state's achievement of universal broadband service. With increasing consumer reliance on voice over Internet protocol ("VoIP") technology as a way to connect to the public switched network, it has become increasingly important to ensure that there is adequate consumer education about the vulnerability of VoIP services to prolonged power outages; adequate consumer preparation; and provision of battery back-up.

B. Broadband deployment and competition

Because Altice does not now serve New Jersey or U.S. markets, the proposed transaction would not alter the level of concentration in relevant product and geographic markets. However, the backdrop of a monopoly or at best a duopoly controlling New Jersey's broadband markets provides an important context for considering the potential harms and benefits resulting from the proposed transaction. The increasing concentration in the broadband Internet access market that has been occurring³⁶ increases the opportunity for collusion and coordination among the

³⁶ *See, e.g.*, In the Matter of Petition of Time Warner Cable Inc., Charter Communications, Inc. and Time Warner Cable New York City LLC, for Approval of the Transfer of Control of Time Warner Cable New York City LLC and Approval of Transaction Financing, BPU Docket No. CM15070770; In the Matter of the Verified Petition of Charter Communications, Inc. and Time Warner Cable Inc., for Approval of the Transfer of Control of Time Warner Cable Information Services (New Jersey), LLC and the Petition of Time Warner Cable Information Services (New Jersey), LLC, for Approval of Transaction Financing, BPU Docket No. TM15070772; In the Matter of Application of

dwindling number of suppliers. Broadband Internet access has emerged as an essential service, and yet broadband markets are not competitive. Although consumers may cut their video cord, their demand for broadband service is far less price-elastic and they are captive customers.

Consumers are demanding faster broadband speeds, which contributes to cable companies' growing dominance of the broadband Internet access market.³⁷ In New Jersey, as of December 31, 2013, 52% of all Internet access connections were at least 10 mbps downstream³⁸ compared to just 40% at the end of 2010³⁹ and 35% at the end of 2008.⁴⁰ Although the FCC does not report state-specific data regarding speed-specific market shares, based on national data, it is highly probable that as the threshold speed for the market being examined increases, New Jersey's cable companies' market share would increase. Nationally, as the speed of broadband

Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership For Consent to the Transfer of Control of Licenses and Authorizations, FCC Docket No. 15-149.

³⁷ On September 4, 2014, FCC Chairman Wheeler gave a speech at the "1776" Headquarters in Washington DC regarding broadband. Mr. Wheeler stated: "Today, cable companies provide the overwhelming percentage of high-speed broadband connections in America. Industry observers believe cable's advantage over DSL technologies will continue for the foreseeable future." Chairman Wheeler used the term "duopoly" to describe the current market and went further by stating:

But even two 'competitors' overstates the case. Counting the number of choices the consumer has on the day before their Internet service is installed does not measure their competitive alternatives the day after. Once consumers choose a broadband provider, they face high switching costs that include early-termination fees, and equipment rental fees. And, if those disincentives to competition weren't enough, the media is full of stories of consumers' struggles to get ISPs to allow them to drop service.

Text of the speech is available at: <http://www.fcc.gov/document/chairman-remarks-facts-and-future-broadband-competition>. "1776" is a startup incubator.

³⁸ Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, *Internet Access Services: Status as of December 31, 2013*, rel. October 2014 ("FCC Internet Access Services Report"), at Table 18.

³⁹ Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, *Internet Access Services: Status as of December 31, 2010*, rel. October 2011, at Table 20.

⁴⁰ Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, *High-Speed Services for Internet Access: Status as of December 31, 2008*, rel. February 2010, at Table 15.

Internet access increases, the share served by ILECs' digital subscriber lines ("DSL") declines and the share served by cable companies increases (fiber's share – typically provided by ILECs - - increases also, but it is significantly smaller than cable companies' share).⁴¹ At the 3 mbps speed, cable's share of the residential fixed connections is 62%, but rises to 73% of residential fixed connections at the 10 mbps speed.⁴²

Rate Counsel acknowledges that Verizon offers FiOS service in parts of Cablevision's footprint.⁴³ Cablevision's response to RC-24, including Confidential Exhibits 24-A and 24-B, which we include as Exhibits 1 and 2 to these comments, provide town-specific data about Cablevision's footprint and subscribers, respectively. The exhibits also disaggregate data for residential and business customers. Exhibit 24-A includes the numbers of households and businesses that Cablevision passes. Exhibit 24-B includes the numbers of households and business that Cablevision actually serves. In response to RC 24, Altice provided Confidential Exhibit 24A showing that Cablevision passes <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> homes in its New Jersey operating territory as of December 31, 2015 and Exhibit 24B showing that it provided broadband services to <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> residential customers as of December 31, 2015. Accordingly, Cablevision provides broadband Internet access services to <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> of the households in its New Jersey operating territory. Its market share is somewhat higher if one calculates the share among only

⁴¹ Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, *Internet Access Services: Status as of December 31, 2013*, rel. October 2014 ("FCC Internet Access Services Report"), at Table 11 and Chart 12.

⁴² *Id.*, at Table 11 and Chart 12.

⁴³ Petitioners' response to RC-86 in which the Petitioners' explain that Verizon "is capable of serving more than 60% of the residents of a municipality."

those households that subscribe to broadband services. As of December 31, 2013 (the latest FCC data available), 84% of New Jersey households subscribed to wireline Internet access services.⁴⁴ Therefore, Cablevision provides broadband Internet access services to <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> of the households that subscribe to wireline Internet access services in its New Jersey operating territory.

Using the Exhibits, one can also compute estimates of Cablevision's town-specific market shares, though the estimates will be biased significantly downward (unless one uses the proxy for households connections of 84% used above). For sake of illustration, to explain why such estimates would be biased significantly downward: assume that Cablevision passes all of the 10,000 homes in Town A and serves 4,000 of these households. We can then compute that Cablevision serves 40% of Town A's homes. However, we don't know how many of these 10,000 households actually subscribe to wireline broadband service. If, for example, only 6,000 households subscribe to broadband, then Cablevision would be serving two-thirds of the broadband market in that town.

C. Transaction-related Consumer Harms

1. Overview

Rate Counsel has identified the following overarching concerns with the proposed transaction:

- *Substantial new debt*: Cablevision will be highly leveraged, and, as an operating subsidiary, apparently responsible for meeting the large interest payments for the new

⁴⁴ Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, *Internet Access Services: Status as of December 31, 2013*, rel. October 2014, at Table 14: Residential Fixed Connections and Households by State as of December 31, 2013 (Connections over 200 kbps in at least one direction and households, in thousands).

transaction-related debt of \$8.6 billion. This debt creates pressure to raise rates, upsell products, lay off employees, and allow customer service to deteriorate.

- *Pressure to achieve savings:* Cablevision will be under pressure to achieve \$450 million annual savings.⁴⁵ This also will create pressure to raise rates, upsell products, lay off employees, and allow customer service to deteriorate.
- *Lack of commitments:* Altice has not offered any commitments to the Board and therefore its vague descriptions of purported benefit are insufficient.
- *Lack of evidence that Altice will enhance Cablevision's operations:* The general and vague references to the benefit of Altice's "global expertise" are not persuasive. The Petitioners have failed to demonstrate how consumers would be better off.

2. The highly leveraged Cablevision will confront significant pressure to raise rates, cut costs, and reduce employment in order to meet interest payments and achieve synergies.

In order to consummate the proposed transaction, Cablevision's debt will more than double, increasing from \$5.9 billion to \$14.5 billion.⁴⁶ The new \$8.6 billion of transaction-related debt⁴⁷ will create pressure on Altice to raise rates, reduce employment and allow service quality to deteriorate. Other than churn (new orders and disconnections), the same size of customer base will be supporting the vastly increased debt load and therefore bear the risk of worse service at higher prices and increased pressure to purchase more expensive products. *Even*

⁴⁵ Petitioners' public responses to FCC Request Nos. 2 and 5.

⁴⁶ Schedule 14C Information, filed by Cablevision Systems Corporation with Securities and Exchange Commission, December 2, 2015, at 3.

⁴⁷ Schedule 14C Information, filed by Cablevision Systems Corporation with Securities and Exchange Commission, December 2, 2015, at 3.

before this new debt was even taken into account, Cablevision reported having incurred substantial indebtedness to support its existing business operations and expansion plans and considered itself to be “highly leveraged,” as explained in this excerpt from the company’s 2014 Annual Report:

We have incurred substantial amounts of indebtedness to finance operations, upgrade our cable plant and acquire other cable systems, sources of programming and other businesses. We have also incurred substantial indebtedness in order to offer new or upgraded services to our current and potential customers and to pursue activities outside our core businesses . . .

. . . Because of our substantial indebtedness, we are highly leveraged and we will continue to be highly leveraged. This means that our payments on our borrowings are significant in relation to our revenues and cash flow. This leverage exposes us to significant risk in the event of downturns in our businesses (whether through competitive pressures or otherwise), in our industries or in the economy generally, because although our cash flows would decrease in this scenario, our required payments in respect of indebtedness would not.⁴⁸

The Petitioners anticipate \$450 million in annual synergies,⁴⁹ creating additional pressure to raise prices, upsell products, and slash costs. Moreover, high debt burden may reduce the company’s ability to attract capital, thus impairing investment in network.

The cost of meeting its new substantial debt load will create pressure on Altice to extract monopoly profits where it can through higher prices and by upselling more expensive services. At higher broadband speeds, cable companies often exert monopoly power, as consumers do not consider the available DSL alternatives to be a competitive substitute. Where Verizon offers FiOS and where AT&T offers U-Verse, consumers have a duopoly, which, though of course better than a monopoly, still fails to yield the positive benefits of effective competition.

Describing current conditions, the FCC Chief of Staff, Ruth Milkman observed:

⁴⁸ Cablevision 2014 Annual Report, at 17.

⁴⁹ Petitioners’ public responses to FCC Request Nos. 2 and 5.

So the Commission raised the benchmark to 25 megabits per second down, 3 up. At those speeds, how much choice do consumers have for broadband? For most Americans, the answer is not much. About 70 percent of Americans have either one or no choice for Internet service at 25 mbps.

With a lack of meaningful competition for broadband, the FCC can't afford to just sit back and trust the markets to take care of everything.⁵⁰

The lack of effective competition has several adverse consequences for consumers that could be exacerbated by the proposed transfer of control. In the absence of effective competition, With pressure to raise revenues, Altice will not be constrained from raising rates for its services and attempting to upsell products, and it will have even less incentive than Cablevision to advertise its standalone options, because standalone products do not generate as high revenues as do bundled offerings. Although consumers have some video alternatives, broadband alternatives are sorely lacking, enabling Altice to cross-subsidize its video services with high prices for broadband Internet access, an increasingly essential service.

2. The Board should seek firm rate stability commitments from Altice.

One way to assess Altice's possible decisions about price change in New Jersey is to examine the changes it has made elsewhere. Rate Counsel sought information about Altice's pricing patterns in its other footprints, but Altice did not provide responsive information.⁵¹ Rate Counsel recommends that Altice be required to continue Cablevision's current prices and to

⁵⁰ Evercore Tech Change Conference, Remarks of Ruth Milkman, Chief of Staff, Federal Communications Commission, Washington, D.C., November 3, 2015.

⁵¹ See, e.g., RC-17 in which Rate Counsel sought information about changes in Altice's prices during the past four years and to which Altice responds with three objections no answer. See also RC-19, which requested Altice to provide examples of market developments that would lead to an increase in rates or a decrease in rates, and to which Altice did not respond. In response to RC-80, which requested detailed information about Altice's price changes in its other footprints, Altice objected and stated in pertinent part: "Altice adjusts its prices -- including by lowering prices -- in each market based on changes in market conditions." See also Altice's responses to RC-81, RC-82, and RC-83.

provide standalone Internet service for a minimum of five years. Rate Counsel also urges that the Board require Altice to continue to offer Cablevision's "Economy" broadband service (5 Mbps/1 Mbps), but at a price of \$15.00 rather than the existing price of \$24.95. Moreover, Altice should be required to advertise the availability of this service, including by making the service highly visible on the web site.

3. The Board should seek a commitment from Altice to offer stand-alone voice at affordable rates.

Currently, Cablevision's voice services are only available to Optimum Online customers, *i.e.*, are not available on a stand-alone basis.⁵² This is in contrast to Charter, for example.⁵³ Altice should offer stand-alone voice service for at least five years and should seek ETC status for the provision of stand-alone Lifeline telephone service.

4. The Board should seek firm commitments from Altice to maintain or improve service quality.

According to the Petitioners, Altice "can substantially improve customer service through measures such as pushing fiber deeper into the network – which eliminates active components and thus achieves lower failure rates – and investing in IT infrastructure to replace legacy IT systems with more robust, easier-to-manage platforms, which reduces operational complexity

⁵² In response to RC-5, Cablevision indicated that it does not provide stand-alone voice service and that customers must have Optimum Online service to acquire voice with the limited exception of Lakewood, New Jersey where some residents have a religious objection to broadband service. Lightpath does offer stand-alone voice service to business locations (RC-5). Cablevision offers stand-alone broadband service (RC-6). Similarly, Cablevision offers video on a stand-alone basis (RC-7).

⁵³ In the case of the recent Time Warner/Charter transaction, Rate Counsel recognized in its comments that both Charter and Time Warner do provide stand-alone basic exchange service. In the Matter of Petition of Time Warner Cable Inc., Charter Communications, Inc. and Time Warner Cable New York City LLC, for Approval of the Transfer of Control of Time Warner Cable New York City LLC and Approval of Transaction Financing, BPU Docket No. CM15070770; In the Matter of the Verified Petition of Charter Communications, Inc. and Time Warner Cable Inc., for Approval of the Transfer of Control of Time Warner Cable Information Services (New Jersey), LLC and the Petition of Time Warner Cable Information Services (New Jersey), LLC, for Approval of Transaction Financing, BPU Docket No. TM15070772; Comments of the State of New Jersey Division of Rate Counsel, December 7, 2015, at 7.

and enables the company to better serve customers through improved service provisioning, billing, and incident management.”⁵⁴ Given Altice’s confidence in its ability to improve customer service, it should be willing to commit to measurable performance relative to specific service quality metrics, especially since Altice’s proposed acquisition of Cablevision, with the new debt load and pressure to meet synergy targets, creates the risk that it will adopt cost-cutting measures that negatively affect service quality.

Altice’s promises might be evaluated, at least in part, by how well it addresses service quality in its existing markets, but Altice has not cooperated in providing such information. When asked, in RC-89, whether it has any internal service quality objectives for any of the markets that it now serves, and, if so, for data for the past three years by market on “key objectives such as but not limited to: a) answer time for customer service; b) installation interval (between request for service and actual service); and c) ratio of customer complaints to customers,” Altice listed three objections and did not answer the question.⁵⁵ Altice’s inability or unwillingness to provide objective data about its actual service quality performance in markets it is presently serving implies that the Petitioners are asking the Board to take on faith that Altice will maintain (or improve service quality).⁵⁶ Altice has failed to even indicate whether it has any

⁵⁴ Petitioners’ response to RC-84.

⁵⁵ See, also Petitioners’ response to RC-94, in which Altice discusses “a variety of metrics to measure its service provisioning, billing, and management of technical issues that affect a customer’s ability to receive service.” In this response, Altice lists various metrics with general descriptions but does not provide the actual company standards and performance.

⁵⁶ On February 26, 2016, Altice provided Exhibit 6-B2 in response to Staff discovery, entitled, “ARCEP – Indicateurs de qualité de l'accès aux services fixes (English),” Republic of France, The Proceedings of ARCEP, October 2015, “Measurements of the quality of access to fixed services performed by the operators in the 2nd quarter 2015.” This 22-page report is “a regulatory obligation established” by the Post and Electronic Communications Code and “aims at permitting end users to provide simple, individual, comparable, updated information and which expresses the user’s perception on the quality of the service provided by the electronic communications operators.” *Id.*, at 4. The report summarizes service quality indicators for five broadband operators (connection time, breakdown

internal service quality objectives, or if it does, to provide the objectives.⁵⁷

Turning specifically to Altice's plans for New Jersey, in RC-96, Rate Counsel requested that Altice "compare the service Cablevision now provides with specific reference to 'better serv[ing] customers' with the service objectives that Altice intends to provide" and requested that Altice provide such a comparison with reference to particular objective metrics. In response, Altice referred Rate Counsel to its response to RC-84, which sets forth general expectations of improved service quality, but, again, does not include any specific objective measurements associated with these expectations.⁵⁸

Altice also has not yet committed to meet or improve upon Cablevision's performance with respect to any of the following important service quality measures:

- Cablevision's average installation intervals shown for 2015, which were <<<BEGIN CONFIDENTIAL [REDACTED], [REDACTED], and [REDACTED], END CONFIDENTIAL>>> respectively, for video, data, and voice.⁵⁹
- Cablevision's average speed of answer to reach a customer service representative

rate, repair time, wait time for customer service, complaint resolution rate and complaints regarding billing accuracy). *Id.*, at 7. See also Exhibit 6-C2, which includes a matrix of suppliers' performance in France based on eleven service quality metrics, but which does not clearly indicate which of the companies shown is an Altice company.

⁵⁷ Petitioners' response to RC-89. Regarding RC-91, which sought information about Altice's numbers of employees in other markets that it serves – pre- and post-acquisition, Altice similarly included three objections and did not provide the requested information, making it that much more difficult for the Board to assess the impact of an Altice acquisition on employment in New Jersey.

⁵⁸ Petitioners' response to RC-96. See also Petitioners' response, which was provided on March 11, 2016, and is labeled as "4" and which refers to various factors that Altice uses "in assessing customer service, including proactive monitoring of network parameters and proactive scheduling of interventions, volumes of customer service calls, answer rates and waiting time, percentage of first contact call resolution, repeat calls, the frequency of truck rolls (including repeat truck rolls), repeat truck rolls, avoidable truck-rolls (e.g., truck rolls that could be avoided with customer education efforts), time to re-establish service, detailed customer chum follow-up, and customer satisfaction measurements," but which does not include any specific benchmarks for any of these measurements.

⁵⁹ Petitioner's response to RC-31, included as Exhibit 3.

shown for 2015 as <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> respectively for “measured” days (days on which Cablevision is open to receive calls) and for “reportable” days” (days that are defined as “normal operating conditions” by the FCCs rules).⁶⁰ Cablevision’s peak hour for calls is <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> and the average wait time during this peak hour is <<<BEGIN CONFIDENTIAL [REDACTED] . END CONFIDENTIAL>>>⁶¹

Altice also has not yet committed to continue Cablevision’s practice of providing service outage credits upon customer request nor has it committed to provide a <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> to those customers who report a missed appointment and request compensation.⁶² The Board should not accept a statement that “[t]here are no specific plans in place for changes in Cablevision’s customer service structure or policies, including with respect to customer credits”⁶³ as an enforceable commitment.

The risk to service quality associated with having a new, unknown owner who is unwilling to make any specific and measurable commitments can be contrasted with the known and measurable conduct of the incumbent. On its own, Cablevision has demonstrated recent progress toward improving its service quality. Cablevision reported in its most recent quarterly earnings statement: “Customer service initiatives continue to improve efficiencies with a 25 percent

⁶⁰ Petitioners’ response to RC-32, included as Exhibit 4.

⁶¹ Petitioners’ response to RC-56.

⁶² Petitioners’ response to RC-40.

⁶³ Petitioners’ response to RC-40.

reduction in trouble call truck rolls compared with the prior year period.”⁶⁴ Cablevision also described its improving service quality in response to RC-97, stating that its “Net Promoter Score” (“NPS”) has been steadily improving over the course of 2015. In the same data response, Cablevision also states that “in an independent JD Power survey in 2015, Cablevision received the highest marks for customer service among major cable providers in the East.” Cablevision’s NPS, which evaluates customer service “based upon whether, based on a caller’s recent service call experience, the customer would recommend Cablevision’s Optimum service to friends and family,” increased between January 2015 to December 2015 from <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>>⁶⁵

In sharp contrast, Altice refused to respond to Rate Counsel’s request for studies about and assessments of Altice’s customer satisfaction.⁶⁶ The Board cannot assess the credibility of Altice’s promise to improve customer service if it refuses to provide studies/assessments of its customer service in its other footprints and will not commit to specific measurable service quality benchmarks. If Altice is confident that the transaction will not harm consumers, it should be willing to make enforceable commitments to service quality performance.

5. Customer education about and batteries for prolonged power outages.

As of December 31, 2013 (the most recent FCC data available), approximately 73% percent of residential wireline telephone lines in New Jersey rely on VoIP for their voice connection to the public switched telephone networks (cable companies and telecommunications

⁶⁴ Cablevision Third Quarter Earnings Release, November 3, 2015, page 1 of 12.

⁶⁵ Petitioners’ response to RC-97. See also, Petitioners; response to Staff-36, which describes, among other things, ways in which Cablevision has taken steps to improve its service quality.

⁶⁶ Petitioners’ response to RC-97.

companies offer VoIP).⁶⁷ By comparison in 2008 and 2010, only 32% and 47% percent of New Jersey residential wireline telephone lines relied on VoIP for voice service, respectively.⁶⁸ The increasing popularity of VoIP (typically provided as part of a bundle) combined with the possibility of natural and man-made emergencies that cause prolonged power outages means that customer education and preparedness is essential to protect public safety and welfare. When Cablevision installs voice service, it requires the customer to sign a work order that include the following language, which is printed in bold type:

OPTIMUM VOICE CUSTOMERS

E911 NOTIFICATION. In the event of a power outage, and provided you do not have battery backup on your modem, you will not have E911 service. If your service is disconnected or in the event of an outage or other disruption to the cable network or facilities, you will not have E911 service. If you relocate the modem to a different address, you must notify Cablevision in advance to update 911 service. During the initial 72 hours of service at your new address, you may be required to provide the E911 operator with your new service address.⁶⁹

In addition, every subscriber receives a guide (“The Optimum Guide”) that contains the limitations of the service during power outages and how to obtain backup batteries and such information is also available on Cablevision’s website.⁷⁰

Cablevision sells rechargeable batteries with eight hours of standby time and up to six hours of talk time for \$29.95 for the cable modems that it leases to its Optimum Voice customer or customers can purchase them for \$34.95 directly from the modem manufacturer.⁷¹

⁶⁷ Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, *Local Telephone Competition: Status as of December 31, 2013*, rel. October 2014, at Table 10.

⁶⁸ Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, *Local Telephone Competition: Status as of December 31, 2010*, rel. October 2011; *Status as of December 21, 2008*, rel. June 2010, at Table 9.

⁶⁹ Petitioners’ response to RC-50.

⁷⁰ *Id.*

In August 2015, the FCC issued new rules to “place limited backup power obligations on providers of facilities-based fixed, residential voice services that are not line-powered to ensure that such service providers meet their obligation to provide access to 911 service during a power outage, and to provide clarity for the role of consumers and their communities should they elect not to purchase backup power.”⁷² Among other things, the FCC requires all providers of facilities-based, fixed, voice residential service that is not line powered to offer new subscribers the option to purchase a back-up solution that provides consumers with at least 8 hours of standby power during a commercial power outage and also requires providers to “offer, within three years of the effective date of the eight hour obligation, at least one option that provides a minimum of 24 hours of 911 service.”⁷³ Therefore, as a condition of Board approval Altice should commit to provide all new and existing customers with battery back-up at no more than Altice’s cost of supplying the battery. Finally, Altice should provide proof of its compliance with the FCC’s new battery back-up rules within 30 days of the Board’s Order or a reasonable time as may be determined and directed by the Board.

6. Access to emergency services.

Cablevision has the technical capability to provide voice service without providing broadband service,⁷⁴ and also has the ability to provide a “warm dial tone,” i.e., to retain

⁷¹ Petitioners’ response to RC-51.

⁷² PS Docket No. 14-174, the Matter of Ensuring Continuity of 911 Communications, FCC 15-98, Report and Order, released August 6, 2015, at para. 3.

⁷³ *Id.*, at para. 4.

⁷⁴ Petitioners’ response to RC-64.

consumers' ability to dial 9-1-1.⁷⁵ It is not evident from Cablevision's response to RC-65 whether, although it has the technical ability to provide a warm dial tone, it actually does so. An FAQ on Cablevision's website states, the following, which suggests that E911 will not operate if the Optimum service has been disconnected:

Your E911 service will not operate if:

- There is a power outage in your home, unless you have a battery backup connected to your modem. [Click here to order a battery backup.](#)
- Your service is disconnected by Optimum.
- Service to your home is interrupted.
- You move your cable modem to a new address without notifying Optimum.⁷⁶

Rate Counsel believes this is an issue of grave importance for New Jersey customers particularly for customers who are disabled and or require uninterrupted service related to medical needs. Therefore, Rate Counsel urges the Board to condition approval of the transition on a five-year commitment by Altice to provide the ability to dial 9-1-1 even when voice service has been otherwise disconnected.

As discussed above, approximately 73% percent of residential wireline telephone lines in New Jersey rely on VoIP for their voice connection to the public switched telephone networks (and this percentage, which is based on data as of December 2013, has likely increased even more).⁷⁷ Moreover, in 93 percent of these instances, consumers purchase VoIP as part of a bundle.⁷⁸ Therefore, in order to protect public safety and welfare Rate Counsel urges the Board to

⁷⁵ Petitioners' response to RC-65.

⁷⁶ See http://optimum.custhelp.com/app/answers/detail/a_id/280/onet (visited March 6, 2016).

⁷⁷ Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, *Local Telephone Competition: Status as of December 31, 2013*, rel. October 2014, at Table 10.

⁷⁸ *Id.*

ensure that Altice's disconnection policy does not harm vulnerable households and also furthers the state's public safety goals.

7. Bills and payment: Altice should increase the bill payment period.

Short turnaround times for bill-paying likely create pressure for consumers, especially those with fixed or low incomes.⁷⁹ Cablevision's bills are due 15 days from the customers' billing cycle dates.⁸⁰ (By contrast, Charter's bills are due 20 days after the statement date.⁸¹ The number of days between when TWC mails a bill and when the bill is due has been designated as confidential.⁸²)

Rate Counsel urges the Board to consider the payment patterns of New Jersey's Cablevision consumers and seek a commitment from Altice to expand the period of time for bill payment. Of course the lag times that the mailing process creates does not affect those who receive paperless bill or pay with an automatic charge to their credit card or bank account. However, only <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> of customers pay automatically.⁸³ For the <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> who pay by mail,⁸⁴ a lengthened bill cycle could provide a concrete benefit by alleviating some financial pressure.

⁷⁹ See Exhibits 54-A through 54-D for sample Cablevision bills.

⁸⁰ Petitioners' response to RC-58.

⁸¹ Charter/Time Warner Proceeding, Charter response to RC-53.

⁸² Id.

⁸³ Petitioners' response to RC-57 (d) and (e).

⁸⁴ Petitioners' response to RC-57 (a) and (b).

Altice could also offer a tangible benefit by reducing the late payment charge of \$10 that Cablevision now applies.⁸⁵ By comparison, Charter's late payment fee is \$7.95⁸⁶ and TWC's late-payment charge is \$5.50.⁸⁷ The number of late fees assessed is not insignificant, which underscores the value of reducing the late-payment charge as a benefit of the transaction, and particularly because broadband Internet access has emerged as an essential service. In 2015, Cablevision applied <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> in late fees to New Jersey customers, potentially affecting those with the least disposable income.⁸⁸

⁸⁵ Petitioners' response to RC-59.

⁸⁶ Charter/Time Warner Proceeding, Charter response to RC-54.

⁸⁷ Id.

⁸⁸ Petitioners' response to RC-59.

8. The Petitioners should demonstrate their ability and willingness to ensure a smooth transition regarding emergency preparedness.

The Petitioners address various aspects of emergency preparedness in their responses to RC-43 through RC-49. Among other preparedness activities, Cablevision indicates that it prepares a Severe Weather Preparedness Plan (“SWPP”) for its entire footprint, including New Jersey that it updates annually.⁸⁹ Cablevision has participated in emergency preparedness trials in New Jersey on a voluntary basis and also conducts its own preparedness activities; Cablevision also has been developing contacts with PSEG, Jersey Central Power & Light, and Orange & Rockland Utilities to coordinate with service outages and restoration efforts.⁹⁰

Cablevision also indicates that: <<<BEGIN CONFIDENTIAL

[REDACTED]

[REDACTED]

[REDACTED]

END

CONFIDENTIAL>>>⁹¹ Among other things, Cablevision also analyzes the performance of its system to seek opportunities “to ‘storm proof’ or otherwise improve plant performance during a storm, in order to avoid future outages and improve repair response.”⁹²

Rate Counsel is unaware of any commitments by Altice to maintain or improve upon Cablevision’s emergency preparedness plans and Cablevision’s communications with the Board regarding emergency preparedness and response. The Board should seek firm commitments by Altice to maintain or improve Cablevision’s policies and procedures for preparing for and

⁸⁹ Petitioners’ response to RC-43.

⁹⁰ Petitioners’ response to RC-45.

⁹¹ Petitioners’ response to RC-47.

⁹² Petitioners’ response to RC-48.

responding to emergencies as well as its policies and procedures for communicating with the Board.

9. Set-top boxes, customer premises equipment

One important pro-competitive measure that the Board can implement in the context of the proposed merger, should the Board decide to approve it, is a requirement that customers be permitted to own set-top equipment and/or software interfaces (e.g. Roku, Apple TV, etc.) to receive cable television service, rather than being forced to rent a set-top box from Altice. With greater options, customers, including those with limited incomes, will have more options (beyond digital TV antennas) to select a cable interface that meets their needs and budgets. This is consistent with the policy framework recently proposed by the FCC.⁹³ Among the potential benefits that could result from providing consumers with these competitive options are greater choice and flexibility, increased innovation, and lower prices.

There is a strong and highly successful precedent for such action – the opening up of the telephone company customer premises equipment market. That change created vast opportunities for the development of competitive products, spurring significant innovation and producing massive savings for residential and business customers alike. Moreover, all of this was accomplished without any harm to the operation of the public switched telephone network, despite industry warnings about potentially disastrous consequences.

Until the option for customer-provided set-top boxes is fully implemented, and perhaps even after such time, it is important that customers have affordable options for renting basic

⁹³ In the Matter of Expanding Consumers' Video Navigation Choices; Commercial Availability of Navigation Devices, CS Docket No. 97-80, MB Docket No. 16-42, Notice of Proposed Rulemaking and Memorandum Opinion and Order, FCC 16-18, February 18, 2016.

equipment to interface with their cable service. Altice has disclosed that it has not yet determined its plans for cable boxes relative to existing Cablevision options, although Petitioners' response to RC-74 discloses potential plans to extend Altice's La Box offering into New Jersey.⁹⁴ While certain customers may find the added features of La Box attractive and worth paying for, others should have the option to retain a lower-priced, more basic set-top box, and Altice should commit to preserving this option.⁹⁵

D. Potential Transaction-related Benefits

1. Overview

The Petitioners anticipate \$450 million annually in transaction-related savings.⁹⁶ Relative to its three-state footprint, and based, respectively, on revenues and on customers, New Jersey represents 29.6% and 30.2% of Cablevision's total operations.⁹⁷ Rate Counsel acknowledges that there is no statutory or regulatory requirement for these savings to be flowed through to consumers. However, Rate Counsel urges the Board to consider that approximately \$135 million *annually* in savings can be attributed to New Jersey. These savings should inform the Board's consideration of the value of any commitments that the Petitioners make to the Board in the Petitioners' efforts to render the transaction in the public interest.

⁹⁴ Altice describes La Box as follows: "La Box, as offered in Altice's existing markets, is an all-in-one home center that includes, among other features, a 500GB hard drive, an HD TV decoder, a modem, wireless router capabilities using 802.11ac, a unique user interface, and (subject to content restrictions) the capability to record multiple live television programs simultaneously and to stream programming to other screens in the household." Petitioners' response to RC-100.

⁹⁵ When asked whether it would commit to maintaining current set-top box rental prices for a period of time after the transaction, Altice was non-committal, stating: "Altice has not made definitive decisions regarding the U.S. features and pricing for La Box, nor does Altice have any definitive plans to alter Cablevision's current set-top box options or rental prices immediately following the Transaction." *Id.*

⁹⁶ Petitioners' public responses FCC Request Nos. 2 and 5.

⁹⁷ Petitioners' response to RC-90.

2. Roll-out of more broadband at faster speeds.

Cablevision's system is built out to "substantially all of its service footprint in new Jersey."⁹⁸ The communities of Bedminster, Berkeley Township, Sandyston, and Tom River granted Cablevision limited authority to specific areas within their municipalities.⁹⁹

The Petitioners refer generally to Altice's world class products.¹⁰⁰ However, the Petitioners do not make any commitments at all regarding plans to upgrade broadband speeds or deployment, nor do they explain what is lacking in Cablevision's fiber deployment.¹⁰¹ In response to FCC Request 5, Petitioners note that Cablevision "has deployed broadband to nearly 100% of the Footprint. With a minor exception, every household in the Footprint has access to broadband services at 101 Mbps, 50 Mbps, 25 Mbps, and 5 Mbps."¹⁰² When asked for specifics regarding any planned upgrades, Petitioners failed to provide the FCC with any details as to plans post-transaction. Petitioners noted that with a \$450 million annual target for synergies, the company would develop new offerings including and "all-in-one home center"; an improved customer interface; and continued investments in Cablevision's WiFi network.¹⁰³ The Petitioners fail to explain the ways in which Cablevision is not presently offering world-class broadband services, or the ways in which Altice's acquisition would lead to more broadband deployment, faster broadband services, a wider variety of innovative broadband services, or more affordable

⁹⁸ Cablevision response to RC-25.

⁹⁹ Id.

¹⁰⁰ See, e.g., Petition, at 7, which describes Altice's "world-class broadband Internet connectivity, video and voice service."

¹⁰¹ See, e.g., Petitioners' response to S-47.

¹⁰² Petitioners' response to FCC Request No. 5. A few hundred homes on a barrier island of Long Island, NY do not have broadband service. Existing customers can also subscribe to 75 mbps service.

¹⁰³ Id.

broadband services than would occur absent the transaction.¹⁰⁴ When asked for more specificity, the Petitioners stated: “The specific additional innovative and competitive service offerings contemplated for Cablevision in New Jersey will depend on analysis post-closing. As a general matter, however, Altice plan (sic) to focus on fiber deployment and the maintenance of a robust and reliable Wi-Fi network.”¹⁰⁵ In response to Staff discovery, Altice provided a confidential chart that shows separately for the third quarters of 2014 and 2015, and separately for five different geographic territories (i.e., other countries that Altice serves): (1) the EBITDA (earnings before interest, tax, depreciation and amortization) margin; (2) capital expenditures as a percentage of its revenues; and (3) the EBITDA-Capex margin.¹⁰⁶ This chart shows, among other things, that Altice’s capital expenditures expressed as a percentage of Altice’s revenues vary significantly among the countries where it offers service.¹⁰⁷ Absent firm commitments to New Jersey, it is unclear, based on Altice’s investment patterns in other parts of the world, the level of investment that Altice would make in New Jersey.¹⁰⁸

When asked to “[c]ompare by municipality in New Jersey’s footprint the residential broadband speed now offered with the broadband speed that Altice intends to offer” and to “[c]ompare WiFi deployment assuming the transaction does and does not occur,” the Petitioners responded: “Altice states that it has not yet determined specific deployment plans or the specific

¹⁰⁴ See, e.g., Petitioners’ response to S-42, in which the Petitioners describe, among other things, how “Cablevision has demonstrated its commitment to” principles relating to “providing best-in class fixed broadband Internet connectivity, video and voice service.” See also the Petitioners’ statement that “Cablevision is continually improving its product, service, network, and pricing strategy.” Id.

¹⁰⁵ Petitioners’ response to RC-71.

¹⁰⁶ Response to S-56, Exhibit 56-B, “Altice Margin History.”

¹⁰⁷ Id. See, also page 1 of Attachment B provided to the FCC on a confidential basis, which shows similar metrics for various cable companies in the United States.

¹⁰⁸ See also response to FCC-5(c), stating: Applicants have not yet determined the specific number of households that will be upgraded to higher download speeds or the specific timeframe for such upgrades.

amounts and allocations of its investments, which will depend upon further analysis in the period leading up to and following Altice's acquisition of control of Cablevision."¹⁰⁹

There is insufficient evidence to demonstrate that consumers will have better or more broadband and WiFi deployment as a result of the proposed transaction or that Cablevision requires the proposed transaction to provide the purported benefits. Among other accomplishments included in its third quarter report to investors, Cablevision included this statement: "Continued deployment of smart routers and outside access points in the New York tri-state area to optimize WiFi experience; ended quarter with more than 1.4 million Optimum WiFi access points."¹¹⁰ The Petitioners have failed to explain satisfactorily how Altice would enhance the fiber deployment and WiFi networks that Cablevision, absent the transaction, would deploy.

On its own, Cablevision has been upgrading its broadband services: it increased its "OOL Basic" service tier from 15 Mbps/2 Mbps up to 15 Mbps/5 Mbps in July, 2013 and then further to 25 Mbps/5 Mbps in August 2015; it increased the speed of its "Ultra 101" service from 101 Mbps/15 Mbps to 101 Mbps/35 Mbps in July 2013.¹¹¹

Also, the Petitioners do not commit to offer stand-alone broadband service at an affordable rate. To be considered available, broadband Internet access service needs to be affordable. Rate Counsel recommends that the Board seek specific milestones regarding Altice's

¹⁰⁹ Petitioners' response to RC-73. See Petitioners' response to S-56 and also Exhibit 56-A, provided in response to Staff discovery, which is Altice's investor presentation, "Acquisition of Cablevision," September 17, 2015, at 11, which describes Cablevision's WiFi network as follows: "The most robust 1.3m WiFi hotspot network" and describes the overall Cablevision network (including the WiFi hotspot network) as follows: "Highly competitive network; significant capacity headroom; highly efficient maintenance, upgrade, build-out; scalable network and platform for growth."

¹¹⁰ Cablevision Third Quarter Earnings Release, November 3, 2015, page 1 of 12.

¹¹¹ Cablevision response to RC-30.

specific broadband upgrade plans, shown separately by community and with projected dates that such upgraded speeds will be available. Altice should provide such information to the Board and to Rate Counsel before the Board decides on the merits of the proposed transaction.

Rate Counsel recommends that the Board seek the following additional commitments from Altice:

- 1) Altice will commit to Net Neutrality principles without an expiration date;
- 2) Regardless of any usage-cap or usage-based pricing plans, and after the five-year “no caps” commitment expires, Altice should commit to introduce and permanently continue to offer unlimited, flat rate Internet service at a reasonable price as an alternative to usage-priced plans,¹¹² and
- 3) Customers will be given the option of opting out of any leased/provided-modem Wi-Fi hotspot plan that offers a wireless connection to outside users without the customer’s consent.

3. Subsidized broadband for low-income households

Cablevision does not offer a broadband subsidy to low-income consumers. Instead, when asked by Staff to provide information about any “low income broadband service programs, initiatives and commitments” Petitioners highlighted its “Economy Tier” “5/1” broadband offering discussed above.¹¹³ The monthly rate of \$24.95 that Cablevision charges for this “economy” service significantly exceeds Time Warner’s “Everyday Low Price” of \$14.99 for download/upload speeds of 3 Mbps/1 Mbps.

¹¹² Suddenlink, recently acquired by Altice, applies monthly data plans (or usage allowances) to its residential Internet accounts in most service areas. Source: Suddenlink, “Data Plans: Frequently Asked Questions,” available at: <http://www.suddenlink.com/data-plans> (accessed February 25, 2016). Indeed, Suddenlink’s Chairman and CEO, Jerry Kent stated in November 2015: “Overage charges have become a significant revenue stream for us.” Suddenlink Communications Earnings Conference Call, Third Quarter 2015 Results, November 5, 2015 at 39:35. See http://phx.corporate-ir.net/phoenix.zhtml?c=213551&p=irol-presentations_2015 (accessed February 25, 2016).

¹¹³ Petitioners’ response to S-23.

Altice does not make any commitments to offer subsidized broadband service, nor does it make any commitments to advertise and to continue Cablevision's Economy Tier offering. However, Altice, in reply comments filed March 9, 2016 in New York's proceeding examining the proposed transaction¹¹⁴ committed to offer a low-income broadband service and "also work in partnership with community groups and public authorities to identify and address their technology needs."¹¹⁵ Though the eligibility requirements are not clear, Altice committed to provide 30 Mbps broadband service for \$14.99 a month to eligible households.¹¹⁶ (In New York, Altice committed to make investment to improve and upgrade the network to provide broadband service "of up to 300 Mbps"; provide a low-income broadband offering; release new a new "all-in-one home center" and improved customer interface; and extend Cablevision's WiFi network. Rate Counsel is unaware of any time table for the broadband roll-out or how to interpret the vague reference to "up to 300 Mbps.")¹¹⁷ Apparently, Altice is offering to make similar commitments in New Jersey.¹¹⁸

However, although the Petitioners provided a matrix that compares Altice's broadband services (speed and prices) in France with those of Cablevision and Verizon FiOS, Altice did not make any commitments to offer New Jersey customers broadband service at the prices it offers

¹¹⁴ Joint Petition of Altice N.V, and Cablevision Systems Corporation and Subsidiaries for Approval of a Holding Company Level Transfer of Control of Cablevision Lightpath, Inc. and Cablevision Cable Entities, and for Certain Financing Arrangements, NYPSC Case No. 15-M-0647, Reply Comments of Altice and Cablevision, filed March 8, 2016.

¹¹⁵ *Id.*, at 11.

¹¹⁶ *Id.*, at 28.

¹¹⁷ *Id.*, at i-ii, 8. Regarding the timing of the broadband "up to" 300 Mbps, Altice states: "Altice anticipates that timing and sequencing of the upgrade necessary to achieve that goal will depend on resource allocation and market demand but will unfold at a reasonable pace based on market conditions." *Id.*, at 24

¹¹⁸ Un-numbered response on electronic page 14 of March 11, 2016 filing. See also response to S-62, which has been designated as confidential.

to customers in France.¹¹⁹ For example, Altice offers customers in France a “Power” service level of up to 400 Mbps download and 20 Mbps upload (with TV with 240 channels) for \$48.99 euros, and it compares that offering with Cablevision’s “Ultra” offering of 50 Mbps/25 Mbps (and no TV channels) for \$64.90,¹²⁰ but Altice does not make any commitments to bring its “world class” prices to New Jersey.¹²¹

At a minimum, the Board should examine why the \$24.95 “economy” service is not on the rate card and whether or not it is regularly advertised. As indicated above, it does not appear to be advertised on Cablevision’s website. As of December 31, 2015, Cablevision provided <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>>¹²² the Economy Tier (5/1) broadband service, a <<<BEGIN CONFIDENTIAL [REDACTED] [REDACTED] END CONFIDENTIAL>>> broadband subscribers in New Jersey.¹²³ Altice should commit to enhance consumer awareness of this product and to continue to offer the product for at least five years and a rate comparable to that of Time Warner’s comparable service.¹²⁴

¹¹⁹ Petitioners’ response to S-46, Exhibit 46-A.

¹²⁰ Even assuming an exchange rate of a Euro equaling \$1.11, the prices compare at \$54.38 in France with \$64.90 in New Jersey. <https://www.google.com/webhp?sourceid=chrome-instant&ion=1&espv=2&ie=UTF-8#q=how%20much%20is%20a%20euro%20worth> Site visited March 15, 2016.

¹²¹ Petitioners’ response to S-46, Exhibit 46-A. Generally, Exhibit 46-A shows that Altice’s broadband prices in France are significantly lower and the broadband speeds significantly higher than those of Cablevision, but without any explicit commitment by Altice to lower prices in New Jersey and increase speeds with enforceable, measurable milestones, Altice’s services in other countries are not in and of themselves useful for assessing the merits of the proposed transaction.

¹²² Petitioners’ response to RC-85.

¹²³ Petitioners’ response to RC-27.

¹²⁴ This commitment would mirror that adopted by the Board in the Time Warner/Charter transaction. See New Jersey Board of Public Utilities News Release February 24, 2016; Stipulation of Settlement, at 8(c).

In RC-20, Rate Counsel asked whether Altice participates in low-income broadband access programs. Altice responded that Cequel participates in the ConnectHome pilot program and in the Connect2Compete program. Altice also stated that it “similarly operates various other subsidized broadband service programs in other markets.” However, in response to RC-21, Altice failed to make any commitments for New Jersey consumers and instead stated that it “has not yet developed concrete plans regarding low-income or other subsidized broadband service but will fully evaluate options for doing so, in addition to the affordable plans Cablevision already provides as part of its regular offerings.”¹²⁵

In addition, the Pew Internet & American Life Project, which has produced numerous studies on Internet use, shows in recent reports (based on national data) that there remains a significant gap in Internet adoption and use by older adults,¹²⁶ and also that “[t]he demographic factors most correlated with home broadband adoption continue to be educational attainment, age, and household income.”¹²⁷ Therefore, if the Board approves the transaction, the Board should seek a commitment from Altice to adopt a low income broadband expansion plan that goes beyond the Connect2Compete eligibility requirements to include low income households, regardless of whether they qualify for free or reduced school lunch, as well as to households with members over age 65, and those households with disabled members. Moreover, Altice should commit to minimum speeds of 10Mbps downstream and 1 Mbps upstream.

¹²⁵ See, also, Petitioners’ response to S-23(d).

¹²⁶ Pew Research Center, “American’s Internet Access: 2000-2015,” June 26, 2015, at 2. Available at: <http://www.pewinternet.org/2015/06/26/americans-internet-access-2000-2015/>.

¹²⁷ Pew Research Center, Home Broadband 2013, August 26, 2013, at 3. Pew reports that among households with income under \$30,000 per year, only 54 percent have a broadband connection in the home, compared with 88 percent of homes where the household income is over \$75,000. *Id.* Pew also reports that: “For seniors earning less than \$30,000 annually, 39% go online and 25% have broadband at home.” Pew Research Center, April 2014, “Older Adults and Technology Use.”

Likewise, the Board should consider the FCC's recent approval of the AT&T/DirectTV transaction. As part of the approval (in July 2015), the FCC concluded:

While we find that the availability of better and lower priced bundles of video and broadband service is a potential benefit of the merger, we also conclude that the public interest requires us to ensure that a bundle of video and broadband services is not the only competitive choice for low-income subscribers who may not be able to afford bundled services. Accordingly, we will require as a condition of this transaction that the combined entity make available an affordable, low-price standalone broadband service to low-income consumers in the combined entity's wireline footprint.¹²⁸

The FCC outlined additional detailed outreach and reporting requirements to increase low-income broadband adoption within nine months of the transaction closing and required that the company "clearly and conspicuously" advertise the program, including a link on its website and training of customer service representatives must engage in "targeted outreach efforts, in coordination with schools and community-based organizations serving low-income individuals and families, including, but not limited to veterans, the elderly, and those who are non-English speaking".¹²⁹

Based on consumer protection measures adopted by the FCC and described above and the recent Board approval of the Time Warner/Charter transaction,¹³⁰ Rate Counsel recommends that the Board require Altice to offer subsidized broadband service for income-eligible customers at a speed of at least 30 Mbps/4 Mbps.¹³¹ Rate Counsel continues to support a policy that would offer the service to all income-eligible

¹²⁸ In the Matter of Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorization, MB Docket No. 14-90, *Memorandum Opinion and Order*, rel. July 28, 2015 ("FCC AT&T/DIRECTV Order"), at para. 397.

¹²⁹ FCC AT&T/DIRECTV Order, at Appendix B: Conditions, Section VI.

¹³⁰ See New Jersey Board of Public Utilities News Release February 24, 2016.

¹³¹ See New Jersey Board of Public Utilities News Release February 24, 2016; Stipulation of Settlement, at 8(g)(ii).

consumers, and not just to families with school-aged children. However, at a minimum, the program should include households eligible for the National School Lunch Program and senior citizens age 65 and older who are eligible for Supplemental Security Income benefits to mirror the Time Warner/Charter transaction.¹³² It should be rolled out within fifteen months, at a monthly price of no more than \$14.99 per month (including modem) and should continue to be offered indefinitely.¹³³ Outreach should be coordinated with low-income organizations and consumer education materials should be provided in multiple languages.

¹³² See New Jersey Board of Public Utilities News Release February 24, 2016; Stipulation of Settlement, at 8(g)(i).

¹³³ See New Jersey Board of Public Utilities News Release February 24, 2016; Stipulation of Settlement, at 8(g) and 8(g)(ii).

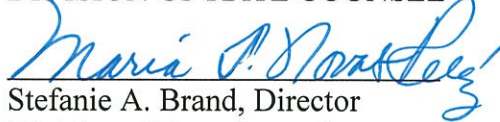
V. CONCLUSION

Rate Counsel welcomes innovative, advanced products and services in the voice, broadband Internet access, and video markets that are offered at affordable rates and reasonable terms and conditions. Altice’s proposed acquisition of Cablevision, however, raises concerns that, if left unaddressed, would pose harm to New Jersey consumers. The substantial new debt of \$8.6 billion associated with the transaction, combined with the pressure to meet \$450 million annual savings¹³⁴ will likely lead to high prices for broadband service – a service that has become essential in today’s society.

Consumers should be better off and yet the proposed transaction likely would make New Jersey’s consumers, employees, and economy worse off. If the Board does not simply reject the transaction, in order to ensure that consumers benefit from the merger and are protected from potentially harmful consequences of the proposed transaction, Rate Counsel recommends and urges the Board to condition approval of the transaction on the following:

Respectfully submitted,

STATE OF NEW JERSEY
DIVISION OF RATE COUNSEL



Stefanie A. Brand, Director
Division of Rate Counsel

Maria T. Novas-Ruiz,
Assistant Deputy Rate Counsel

Date: March 16, 2016

¹³⁴ Petitioners’ public response to FCC Request Nos. 2 and 5.

Confidential Exhibit 1

Cablevision response to RC-24, Confidential Exhibit 24-A

Cablevision Homes Passed

EXHIBIT 24-A

CABLEVISION HOMES PASSED

(CONFIDENTIAL)

Confidential Exhibit 2

Cablevision response to RC-24, Confidential Exhibit 24-B

Cablevision Customers Served

Confidential Exhibit 3

Cablevision confidential response to RC-31

Confidential Exhibit 4

Cablevision confidential response to RC-32