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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Charter Communications, Inc., Charter Communications Holdings, LLC, and Cox Enterprises, Inc. for Approval Pursuant to Public Utilities Code Section 854 of the Indirect Transfer of Control of Cox California Telcom, LLC (U-5684-C).	Application 25-07-016 (Filed July 30, 2025)

JOINT REPLY COMMENTS ON CHARTER SETTLEMENT AGREEMENTS WITH THE CALIFORNIA EMERGING TECHNOLOGY FUND & THE PUBLIC ADVOCATES OFFICE

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I. INTRODUCTION

In accordance with Rule 12.2 of the Commission's Rules of Practice and Procedure, the California Alliance for Digital Equity (CADE), Fresno Coalition for Digital Inclusion (FCDI), East Bay Broadband Consortium (EBBC), Media Alliance, and Digital Equity Los Angeles (DELA), and Center for Accessible Technology (CforAT) (collectively, "Joint Advocates") timely submit these Reply Comments on the May 1, 2026 Joint Motion of Charter and Public Advocates Office for Adoption of Settlement Agreement (the Charter/Cal Advocates Settlement) and the May 1, 2026 Joint Motion for of Charter Communications, Inc. and California Emerging Technology Fund for Adoption of Settlement Agreement (the Charter/CETF Settlement).

As stated in our opening comments, the Settlement Agreements represent initial steps to move the proposed transaction towards the public interest. However, while there are some reasonable concepts in the Settlement Agreements, the terms of the settlements do not go far enough to outweigh the public interest harms of the proposed transaction. Even with the settlements, the record of the proceeding does not show that the proposed transaction is in the public interest, and the settlement proponents make unsupported factual assertions about the benefits the settlements would provide, which Joint Applicants dispute.

If the Commission does approve the transaction, it allow for further record development on the disputed factual issues implicated by the settlements, and then it should bolster the terms of the existing settlements not only with enforcement, transparency and accountability mechanisms, but also further measures to protect the public interest. Further, many of the settlement terms need to be restructured to provide stronger, unambiguous, enforceable language that clearly establishes binding commitments. Absent these modifications and additional mitigation measures, Joint Advocates continue to respectfully urge the Commission to deny the

proposed transaction.

Accordingly, Joint Advocates make the following recommendations in order of priority:

- The Commission should reject the settlements as insufficient to make the proposed transaction in the public interest and deny the Application.
- If the Commission is inclined to consider the impact of the settlements on its public interest analysis, it should schedule dates for testimony and three days of evidentiary hearings to resolve outstanding material issues of fact.
- The Commission should determine whether the settlements, as amended consistent with Joint Advocates' recommendations, combined with Joint Advocates' mitigation measures (and any other mitigation measures the Commission is inclined to impose) are sufficient to make the proposed transaction in the public interest.

II. DISCUSSION

In the subsections below, Joint Advocates reiterate our previous discussion of the additional mitigation measures that are necessary to ensure the public interest benefits outweigh the harms of the proposed transaction. Joint Advocates also emphasize that the Joint Applicants have not demonstrated a concrete commitment even to the measures proposed in the existing settlements. Instead, Joint Applicants have inappropriately continued to assert both that the existing settlements are unnecessary and that the settlements obviate any concerns about the proposed transaction. While there is an evidentiary record available for the Commission to consider when reviewing Joint Applicants' first argument, there is no such record regarding the second.

In these reply comments, Joint Advocates further address how the settlements are insufficient to ensure that the transaction will be in the public interest. Additionally, we explain how strong mitigation measures backed by meaningful enforcement and penalty provisions in the areas of disaster resiliency, affordability, community benefits, PEG channels, jobs, and transparency and accountability will help counteract the probable public interest harms of the proposed transactions. However, as we explain in further detail below, it continues to be the

case that the settlements fail to meaningfully address the demonstrable public interest harms to service quality, jobs, diversity, equity and inclusion, local economies, and local communities which Joint Advocates have already addressed in briefing. Additionally, the meager mitigation measures in the settlements which purport to address these harms are woefully insufficient.

In prior briefing and comments, Joint Advocates recommended a number of mitigation measures which, paired with robust enforcement mechanisms and meaningful penalty provisions, would help prevent or at least limit the serious public harms that are likely to occur if the Commission approves this transaction. As stated in opening comments, these additional, complementary measures offer enforceable, long-term commitments that directly respond to the experiences of Charter's customers and impacted communities, and direct investment in the organizations and institutions carrying out independent digital equity work within Charter's service areas. These remedies will not only mitigate the harms of the proposed transaction but also ensure that various public-interest benefits are passed through directly to Charter/Cox customers.

The Settling Parties have disputed the need for these additional measures and made factual assertions regarding the purported beneficial outcomes of the proposed settlements that are not supported in the record of this proceeding. Accordingly, the Commission must either deny the proposed transaction or approve it subject to more rigorous and enforceable mitigation measures following evidentiary hearings on the factual assertions made in support of the settlements.

A. Joint Applicants Have Failed to Demonstrate that the Settlements are Sufficient to Counteract the Proposed Transaction's Significant Public Interest Harms.

1. Joint Applicants and CETF Are Not Entitled to Commission Approval of Their Settlements.

As a threshold issue, under the Commission's Rules of Practice and Procedure, Settling Parties are not authorized to submit opening comments on their own settlements.[1] Despite this fact, each of the Settling Parties included discussion of the settlements in their briefs, effectively engaging in an inappropriate attempt to introduce extra-record evidence into the record of this proceeding.[2] Joint Advocates continue to object to the inclusion of disputed issues of fact about the purported benefits of the settlements in filings that are supposed to be based on record evidence. This includes Joint Applicants' reply brief, which repeatedly asserted various merits of the settlements despite the fact that Joint Advocates did not address those settlements in briefing.[3]

In briefing, Joint Applicants and CETF also described their settlements as "reached with the specific encouragement of both the Assigned Commissioner and the ALJ in this proceeding."[4] This is a significant misstatement of the record. Joint Applicants imply that Assigned Commissioner and/or the assigned Administrative Law Judge encouraged Joint Applicants to reach their *specific* settlements with CETF and Cal Advocates, improperly implying that those settlements already have the imprimatur of Commission approval. This is not the case. Rather, as CETF notes, "[r]eaching voluntary agreements on public benefits was

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[1] Joint Advocates Reply Brief at pp. 2-5.
[2] *Id*.
[3] *See* Joint Advocates Brief at p. 37.
[4] Joint Applicants Reply Brief at p. 2 (internal citations omitted); ETF Reply Brief at p. i.

explicitly encouraged by Assigned Commissioner Baker,"[5] i.e., the Commissioner encouraged the concept of settlement generally.[6]

In this way, Joint Applicants misrepresent the Commission's general policy of encouraging settlements. Nothing in the Commission's Rules of Practice and Procedure (or California law, for that matter), assigns any value to whether a Commissioner or assigned Administrative Law Judge encouraged settlement. Rather, settlements are considered based on whether they are reasonable in light of the whole record, consistent with law, or in the public interest.[7] Joint Applicants efforts to imply that they are entitled to approval of their settlements, like their efforts to demand authority over the schedule of the proceeding,[8] are misplaced.

Even under the correct standard of review, the proposed settlements are insufficient to ensure that the proposed transaction in the public interest. Accordingly, the Commission must either deny the proposed transaction or approve it subject to more rigorous and enforceable mitigation measures following evidentiary hearings on the factual assertions made in support of the settlements.

2. Joint Applicants, CETF, and Cal Advocates have Not Provided Any Evidentiary Support for their Claims about the Settlements.

In briefing, Joint Applicants correctly acknowledged that:

> "The Commission's Rules require that factual statements made in briefs 'must be supported by identified evidence of record," and "[n]ew facts may not be

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[5] CETF Reply Brief at p. i.

[6] This type of misstatement is representative of the magical thinking that pervades Joint Applicants' case in chief. Where Joint Advocates explain the presence of reasonably likely merger harms, Joint Applicants claim that there is no evidence in the record to support Joint Advocates claims, yet when Joint Advocates argue that the Settlements only offer potential benefits, Joint Applicants claim that the record contains ample evidence of those benefits.

[7] Commission Rules of Practice and Procedure, Rule 12.1(d).

[8] *See* CforAT Motion to Compel Discovery and for Further Relief at pp. 1-4, filed Feb. 11, 2026; *see also*, Joint Applicants' Motion to Modify the Deadlines to Comment on Settlements, filed May 4, 2026.

> introduced in briefs"…Such proposed conditions, and their predicate facts, should be disregarded.[9]

Additionally, Joint Applicants correctly argued that the Commission should not consider arguments "predicated upon factual assertions outside the evidentiary record, including ones introduced in opening briefs."[10] Joint Advocates wholeheartedly agree.

As CforAT previously highlighted, Settling Parties make numerous factual assertions about the settlements in their briefs, and the facts asserted are material, disputed, and outside the evidentiary record.[11] The Reply Briefs do the same. While Joint Advocates address specific factual assertions in further detail below, we note generally that there are material factual disputes about:

- Whether the settlement terms are unambiguous;
- Whether the settlement terms will actually result in the promised benefits;
- Whether the settlements benefits will affect all communities equitably;
- Whether Settling Parties have demonstrated that the brief LifeLine obligations contained in the agreements will meaningfully increase affordability for many low-income customers;
- Whether the settlements' low-income commitments provide benefits after January 26, 2029;
- Whether Settling Parties have demonstrated that commitments on marketing of low-income programs will bring actual benefits to customers;
- Whether Settling Parties have demonstrated that the Cox Low-Income Pricing Commitment will bring actual benefits to customers;
- Whether Charter and CETF's limited commitments on diversity, equity, and inclusion (DEI) will harm diverse employees, diverse contractors, and diverse communities;

[9] Joint Applicants Brief at p. 8 (citing CforAT).
[10] Joint Applicants Brief at p. 8.
[11] E.g., Joint Applicants Brief at pp. 2, 3, 6, 9, 10, 18, 24, 27, 28, 31, 33, 34, 35, 38, 40, 41, 43, 45, 46, 47, 50.

- Whether Charter and Cal Advocates have demonstrated that their agreement on promotional pricing will eliminate discriminatory pricing;
- Whether Charter and Cal Advocates have demonstrated that their agreement will maintain or improve service quality; and
- Whether, even if the proposed settlements do result in the purported benefits, those benefits outweigh the proposed transaction's public interest harms.

Joint Applicants have not meaningfully addressed these material factual disputes, nor can they do so based on the existing record of the proceeding. Rather, they have responded by insisting that Joint Advocates' factual claims are incorrect.[12] In doing so, they effectively agree that there are material factual disputes about the expected terms and impacts of the settlements, and that these disputes are not addressed in the record of the proceeding. In order for the Commission to determine whether the settlements are reasonable in light of the whole record, consistent with law, or in the public interest, further factual development is needed.

In sections B-H below, Joint Advocates provide the Commission with a discussion of evidence that we are prepared to offer in order to assist the Commission to resolve the factual disputes. The Commission should authorize this additional factual development and set hearings on the disputed factual issues stemming from the proposed settlements.

B. Settling Parties Have Not Demonstrated that the Agreements Regarding Public Safety and Resiliency Are Sufficient to Mitigate the Proposed Transaction's Harms to Affordability.

1. The Settlements Contain No Meaningful Commitments Regarding Disaster Resiliency.

Despite Joint Applicants' claims otherwise, neither Settlement Agreement substantively addresses disaster resiliency. In fact, the Cal Advocates Settlement expressly defers consideration of any service quality issues to the service quality proceeding, tacitly

[12] *See*, e.g, Joint Applicants Reply Brief at p. 17.

acknowledging that it does not address either service quality or disaster resiliency issues. This gap is striking in light of CETF's characterization of its own settlement's public safety benefits. In its Reply Brief, CETF asserts that its provision establishing an infrastructure upgrade to Charter's legacy network will have "significant impacts on reliability of the network with impacts on public safety," and frames the provision establishing 50 public WiFi anchor institution access points as serving those "who have been evacuated in an emergency."[13]

Neither the CETF MOU nor the Cal Advocates Settlement contains any commitment requiring Charter to develop, implement, or publicly report on a protocol for suspending automated billing, equipment-return demands, or penalty notices during declared emergencies. As previously described by Joint Advocates, Charter's billing and collections conduct during disasters is not a series of isolated mistakes, it is a pattern that spans across the November 2016 Gatlinburg, Tennessee wildfire, the 2021 Almeda Fire in Ashland, Oregon, and the January 2025 Palisades and Eaton fires in Los Angeles County. Joint Advocates have provided multiple examples of problematic conduct and are prepared to offer more at evidentiary hearings on the settlements. In each instance, Charter reversed course only after media coverage forced the issue into public view, not as a result of any proactive company protocol.[14] These issues have already been established in the evidentiary record in this proceeding, and Joint Advocates are prepared to provide additional facts further supporting the need for improved disaster response..[15]

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[13] CETF Reply Brief at 12-13

[14] TR Vol. 8 at 1044:3-10.

[15] TR Vol. 8 at 1044:3-10. Additionally, at evidentiary hearings on the settlements, Joint Advocates are prepared to provide evidence that numerous Los Angeles residents who were impacted by the January 2025 Los Angeles wildfires experienced difficulties consistent with Charter's previous behavior. Approximately 18,467 households and 48,191 residents in Charter's service territory were affected, including 8,919 households in the Eaton fire area and 9,548 in the Palisades fire area. As in other disasters, Charter's automated systems were generating collection notices while the area was actively undergoing a disaster. Joint Advocates are prepared to provide additional detail about customers who continued to receive demands, warnings and charges during the fires or in their immediate aftermath.

Charter confirmed during cross-examination that Invincible WiFi, its flagship resilience product, routes backup connectivity through a third-party cellular network it does not own, does not operate, and which it has never inspected for compliance with Commission backup power requirements.[16] Moreover, Charter admitted that customers cannot take Invincible WiFi equipment to an evacuation shelter, because doing so violates Charter's terms of service.[17] CETF's Reply Brief frames the 50 public WiFi anchor institution access points as a benefit to those "evacuated in an emergency," yet Charter's own terms of service prevent displaced customers from using the very resilience product Charter markets as its emergency solution[18].

At the end of evidentiary hearings, the Assigned ALJ authorized DELA and other parties to ask questions on the record, though no answers were provided. At that time, DELA inquired about the protocol Charter maintains or commits to developing to suspend automated billing, equipment-return demands, and penalty notices for customers in areas subject to an active emergency declaration; the Commission, and the public, must have this information before approving the proposed transaction.[19] Since hearings concluded, Charter has not provided any meaningful information about those issues. CETF is correct that network reliability has direct public safety implications.[20] However, that acknowledgment makes the settlements' silence on Charter's documented disaster billing practices all the more indefensible.

.Additionally, DELA documented a separate practice harming fire victims: When fire victims tried to cancel their service, Charter instead enrolled these customers into a "maintenance account" at $10 per month, without clearly disclosing the ongoing charge, meaning customers who believed they had canceled service continued to receive bills for an account they had explicitly attempted to terminate .

[16] TR Vol. 5 at 497:14-499:21

[17] TR Vol. 5 at 503:11-12

[18] CETF Reply Brief at 12-13; TR Vol. 5 at 503:11-12.

[19] TR Vol. 8 at 1046:9-18.

[20] TR Vol 8 at p. 1046:1-17.

The Cal Advocates Settlement is also silent on disaster resilience, even as it includes commitments on call center practices, pricing, and low-income tiers.[21] While improved infrastructure supports public safety, a monetary commitment alone does not help during disasters. Cal Advocates did not address disaster response policies in conjunction with its other policy provisions.

The lack of disaster response policy improvements in either settlement, despite awareness of documented harms, leaves the Commission with no assurance that Charter will improve its behavior in its expanded post-merger California service territory. The combined company's expanded scale makes enforceable disaster protections more urgent, not less. A company seeking to expand its California footprint through a multi-billion-dollar acquisition must include enforceable commitments to protect the communities it already serves when those communities are most vulnerable.

2. Settling Parties' failure to meaningfully address these ongoing issues requires that the Commission impose mitigation measures addressing those issues as a condition of approval under Public Utilities Code Section 854 following additional record development.

If the Commission does not reject the proposed transaction, Joint Advocates recommend that the Commission authorize further record development and hearings on Applicants' disaster response policies and practices so that it can require improved disaster response as a further mitigation measures. This should include creation of a public Disaster Resilience Customer Protection Protocol, coordination with the California Governor's Office of Emergency Services (Cal OES), county emergency management agencies, and community-based organizations in advance of infrastructure construction in fire-prone areas, creation of a post-disaster service

[21] CETF Brief at p. 22.

restoration priority plan, and termination of existing activities during disasters, including reporting customers' failure to return equipment to consumer credit reporting agencies where the failure to return is attributable to a declared state or local emergency or disaster. In order to effectively implement these requirements, the Commission should also require effective reporting, including reports on outage restoration timelines by census tract to the Commission on a quarterly basis, with annual public reporting.[22] None of these requirements is technically burdensome. Each reflects the minimum necessary to prevent the combined company from repeating, at expanded scale, the documented harms the evidentiary record establishes.

C. Settling Parties Have Not Demonstrated that the Agreements Regarding Broadband Affordability Are Sufficient to Mitigate the Proposed Transaction's Harms to Affordability.

1. The Cal Advocates Settlement Does Not Meaningfully Address Affordability and Only Provides Short-Term Commitments.

The Cal Advocates Settlement provides incremental progress on broadband affordability. The commitment to establish new California LifeLine Service Tiers, including a standalone 100/20 Mbps plan at $20 per month and a non-LifeLine tier at the same price point for income-qualified households, directly addresses gaps that DELA and other advocates have raised throughout this proceeding. The fixed pricing, absence of early termination fees, and expansion of eligibility criteria beyond Spectrum Internet Assist's current qualifying programs are all improvements over the status quo. These commitments matter precisely because the record makes clear that Charter cannot be relied upon to deliver affordability benefits voluntarily. However, these affordability benefits are not sufficiently robust, and the duration of those commitments is insufficient to ensure long-term affordability for Californians.

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[22] CADE, FCDI, EBBC, and DELA Brief at pp. 5-6.

The factual record of this proceeding shows that there are no certain affordability benefits for customers from the proposed transaction. As addressed in briefing, Charter's own economic expert confirmed that cost savings to customers is not guaranteed, only theoretically incentivized.[23] Meanwhile, TURN's witness established that the company's marketing program is designed to increase average revenue per customer, making bills bigger, not smaller.[24] CETF's testimony reinforces this picture: noting that 36 percent of unconnected persons cite affordability as the top reason they are not connected to the internet, while fewer than 3% cite lack of infrastructure. The facts in the record thus demonstrate why the Commission must ensure that any affordability commitments contained in settlements are durable, structural, and free of the loopholes that the current agreements leave intact.

As submitted to the Commission, the affordability commitments in the Cal Advocates settlement will only last, at maximum, five years, and, as explained in CforAT's opening comments on the settlements, as few as three.[25] That duration is insufficient given the scale of Charter's post-merger market power, the depth of the affordability crisis documented in the record, and the precedent the Commission has already established. As a condition of the Verizon-Frontier merger, the Commission required Verizon to offer all customers a $20 per month wireline plan at 300 Mbps for ten years.[26]

Joint Advocates are prepared to show through an expanded factual record that Charter charges customers up to $40 more per month in areas where it faces no competition than it does in competitive markets.[27] UC Santa Barbara research analyzing 35,554 Spectrum-served

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[23] TR Vol. 6 at 609:8-22
[24] TR Vol. 8 at 965:9-17
[25] CforAT Comments on Settlements at p. 11.
[26] DELA Supplemental Comments at pp. 10-11.
[27] DELA Supplemental Comments at p. 2-3

addresses across 61 Los Angeles zip codes found that 73% of addresses in the highest-poverty census tracts received the worst-valued plan Spectrum offers, compared to 46% in low-poverty tracts.[28] In order to address this practice by a company that controls a dominant share of the broadband structure in Los Angeles County, the Commission must consider authorize additional record development and apply *at minimum* the same ten-year standard it applied to Verizon. A five-year commitment from a company with this footprint and this record is not proportionate to the harm. The pricing, eligibility standards, and no-contract terms negotiated by the Settling Parties may remain intact; the Commission need only extend the duration of the affordability provisions consistent with the Verizon precedent.

2. The Cal Advocates Settlement Leaves Structural Problems Unaddressed that the Commission Must Resolve with Additional Mitigation Measures.

a. The Commission should Clarify the Eligibility Standards for Low-Income Programs.

Charter's existing Spectrum Internet Assist eligibility policy requires that a prospective enrollee cannot have had a Charter broadband subscription within 30 days prior to enrollment. The Cal Advocates Settlement's new tiers, the New California LifeLine Service Tiers, and the Standalone Non-LifeLine Service Tier, set out their own eligibility criteria based on qualifying program enrollment, with no mention of a prior-subscription waiting period.

Assuming no such waiting period exists, this would be a meaningful improvement. However, the Cal Advocates Settlement does not eliminate the waiting period for Spectrum Internet Assist, and is not explicit about whether a similar waiting period does or does not apply to the new tiers. During the question period at the end of evidentiary hearings, DELA raised

[28] *Id*. at p. 3

this issue, which was also identified at the Commission's Public Participation Hearings as a structural barrier to enrollment in low-income programs.[29] DELA asked Charter to estimate how many income-qualified households remain on standard rate plans because of this requirement.[30] To date, Charter has not provided any response to DELA.

It is unreasonable to require a low-income household to go without broadband service for 30 days in order to be eligible for an income-qualified plan.[31] The Commission should authorize additional record development on the impact of this requirement and then modify the Cal Advocates Settlement to ensure that no prior-subscription waiting period applies to any settlement tier or to Spectrum Internet Assist.

b. To Protect Affordability, the Commission Should Require that Charter Modify its Policies Involving Equipment Returns.

Charter's current policies include reporting customer failures to return equipment to consumer credit reporting agencies, harming their overall credit and affecting their eligibility to enroll in low-income plans.[32] The Cal Advocates Settlement does not address this practice, even in the context of disasters. A customer who loses equipment in a disaster, or who cannot navigate Charter's return process while displaced, should not be screened out of the very low-income plans the settlement establishes. Additionally, Charter charges monthly equipment rental fees to Spectrum Internet Assist subscribers; the Cal Advocates Settlement does not prohibit or cap these fees for customers enrolled in the new low-income tiers. These fees erode the effective affordability of plans whose headline prices are established in the settlement.

[29] TR Vol. 8 at 1044:24-1045:8
[30] TR Vol. 8 at 1045:9-19
[31] *See* DELA Supplemental Comments at pp. 12-13.
[32] TR Vol. 8 at 1044:11-22

c. The Commission Should Strengthen and Extend the Promotional Pricing Cap.

The settlements contain a promotional pricing cap, which must be strengthened and extended to provide a benefit over a meaningful time period**.** Settlement proponents claim that the Cal Advocates Settlement caps promotional prices for three years at $30 for 100/20 Mbps, $50 for 500/20 Mbps, and $70 for gigabit service, and limits geographic price disparities to no more than $15 between competitive and non-competitive areas; Cal Advocates estimates that these provisions will result in potential annual consumer savings of $596 million. Joint Advocates urge the Commission to extend the duration of these requirements to at least five years, and to reduce the permissible geographic disparity from $15 to $10. Joint Advocates are prepared to provide further record development on the existing price disparities between competitive markets and non-competitive markets; a $15 disparity tolerance still permits substantial overcharging of the communities least able to bear it.

d. The Commission Should Strengthen Language Requiring that Charter Participate in a "Successor Program" to LifeLine.

The CETF settlement includes a provision requiring Charter to participate in a "substantially similar successor program" to the current California Home Broadband Lifeline Pilot if the pilot is not reauthorized. This commitment is set to last for any remaining time following the end of the pilot through a five-year post-closing period. However, the CETF Agreement does not contain an adequate definition of what it means for a program to be "substantially similar." Instead, it only requires that the successor program must have "the same or more stringent eligibility requirements" and impose "no greater or more burdensome regulatory or administrative rules" on Charter compared to the current Pilot. Read together, these conditions mean Charter could decline to participate in a Commission-sponsored successor

program that expands eligibility beyond the current Pilot's criteria, or that imposes any additional compliance obligations—even modest ones designed to better protect consumers. If the Commission does not deny the proposed transaction, it should, after evidentiary hearings and further factual development, further define what a "substantially similar" program is and retain enforcement jurisdiction to resolve any dispute about whether a successor program qualifies.

e. The Commission Should Require that Charter Make a Meaningful Commitment to Marketing Low-Income Services.

The existing settlements commit Charter to a $300,000 annual marketing commitment for low-income services, but the record does not contain information about Charter's current marketing expenditures. The Commission should allow further record development on the significance of this spending commitment, which Joint Advocates expect to demonstrate is wholly inadequate given the scale of the population Charter is obligated to reach.

Charter currently serves 429,969 low-income households in Los Angeles County alone.[33]. If the transaction is approved, this number will rise substantially. But even at the current level of subscribership, a $300,000 per year commitment would amount to less than $0.70 per low-income household annually. CETF's own witness testimony establishes that affordability is the primary barrier to broadband adoption, and that enrollment in affordable plans depends heavily on whether households are aware those plans exist. A marketing commitment of $300,000 per year is not a sufficient to reach a substantial portion of existing unconnected (not to mention underconnected) households.

The settlements also contain an annual reporting requirement. The Commission should require Charter to submit, within 90 days of transaction closing, a marketing plan with a budget

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[33] DELA Supplemental Comments P. 2-3

adequate to reach income-qualified households across the full combined service territory, subject to Commission review and approval. The annual marketing requirement should be equally detailed, with an updated plan for each successive year, including modifications based on lessons learned.

f. Absent Meaningful Affordability Measures, the Commission must Deny the Application.

Overall, the Commission should find that the proposed settlements fail to provide adequate affordability measures sufficient to ensure that the transaction is in the public interest. If the Commission determines that it may be appropriate to approve the proposed transaction, it should authorize additional record development, including an evidentiary hearing on the settlement provisions, and consider adding additional conditions of approval as discussed above and in opening comments on the settlements. In summary the additional affordability measures should include the following:

- Extend the New California LifeLine Service Tiers and the Standalone Non-LifeLine Service Tier from a five-year term to a ten-year term, consistent with the Verizon-Frontier merger precedent;
- Explicitly confirm that no prior-subscription waiting period applies to the New California LifeLine Service Tiers, the Standalone Non-LifeLine Service Tier, and Spectrum Internet Assist;
- Prohibit the combined company from reporting customers' failure to return equipment to consumer credit reporting agencies, using equipment return history as a factor in determining eligibility for any low-income or income-qualified service plan, or charging equipment rental fees to customers enrolled in any low-income or income-qualified service tier;
- Extend the promotional pricing cap established under the Cal Advocates Settlement from three years to five years and reduce the permissible geographic price disparity between competitive and non-competitive areas from $15 to $10;
- Require that Charter's LifeLine Pilot successor program commitment be defined by the consumer affordability outcome;

- Submit a marketing plan with a budget adequate to meaningfully reach income-qualified households across the full combined service territory;
- Expand the bi-annual reporting required under Paragraph 13 of the Cal Advocates Settlement to include annual disaggregation by region, census tract, and the race, ethnicity, income level, and primary language of the customer's census tract; separately report the number of customers denied enrollment due to the 30-day requirement or a negative equipment return record; and remove confidentiality stipulations on all reported data to allow full public access;
- Stop charging monthly equipment rental fees for all customers once a customer's cumulative rental payment fees exceed the retail value of the device or devices, as determined by off-the-shelf retail prices of comparable equipment. Additionally, if a customer's customer premises equipment (CPE) or wireless access point (WAP) is more than three years old, the combined company shall not charge monthly equipment rental fees for that equipment. The combined company may not charge a fee for exchanging or updating equipment, although it may charge a rental fee for any new equipment provided to the customer;
- Refresh CPE and WAPs regularly and equitably across service areas: as the combined company rolls out new or updated technology, it shall distribute that technology, including CPE and WAPs, equitably across its entire service territory. The combined company shall provide parties to this proceeding with quarterly data about the distribution of new technology, disaggregated by census block; and
- Annually report the age of Customer Premises Equipment and Wireless Access Points currently in service in the field, broken down by three categories: under three years old, three to five years old, and over five years old.

The Cal Advocates Settlement is a starting point, not a complete remedy. The Commission has the authority, and the duty under Section 854, to impose conditions beyond what the Settling Parties have agreed to where those conditions are necessary to protect the public interest. Joint Advocates are prepared to produce further record evidence showing that these additional conditions are necessary to address the structural barriers the settlements leave intact and ensure that affordability commitments match the scale of Charter's post-merger market power in California.

D. Settling Parties Have Not Demonstrated that the Agreements Regarding Investment Are Sufficient to Mitigate the Proposed Transaction's Harms to State and Local Economies.

The Settling Parties argue the Settlement Agreements as executed satisfy all public interest requirements for approval of the proposed transaction. The Commission should not accept this argument. The arguments would have the Commission provide legitimacy and credit for claimed benefits in broadband affordability, digital inclusion, ESJ investment, public WiFi, infrastructure upgrades, and projected low-income household savings.[34] The Commission's regulatory authority requires it to determine whether these asserted benefits will actually materialize, and if so, whether they are sufficient in scale, structure, enforceability, and distribution to outweigh the transaction's public-interest harms. Applicants have routinely conflated arguments about what is in their own business interests with what is in the public interest, and they repeatedly make factual claims about potential settlement benefits that have never been tested and that are disputed.

The CETF Settlement purports to create a holistic and comprehensive digital inclusion program. However, that settlement does not acknowledge that a single program will not work for all populations, and that various communities need access to digital inclusion programs *that work for them*. There is a substantial factual dispute about whether the limited set of digital inclusion activities established in the settlement will ensure that local, regional, and other statewide organizations across Charter's expanded California footprint have parity in leveraging resources to address the diverse and complex needs and barriers their communities face.

The Commission should allow for further record development and ensure that any digital inclusion provisions mandated in conjunction with authorization of the proposed transaction will

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[34] Joint Applicants' Post-Hearing Reply Brief 1–4, 16–17.

invest directly and widely in organizations and public institutions that understand, and directly serve, affected communities.

CETF argues that the Joint Advocates' proposed pooled fund that would support broader digital inclusion efforts is duplicative.[35] This argument is part of a broader factual dispute, but it also misses the point of Joint Advocates' proposal. Regional Broadband Consortia are planning and coordination entities; they are not a statewide implementation resource. CETF is a statewide intermediary with its own program model. A pooled fund would allow for broad support of various *individualized* community-defined strategies to support digital inclusion, such as enrollment assistance, language access, accessibility support, device distribution, school-based connectivity screening, telehealth access support, rural navigation, digital skills training, local broadband planning, and sustained regional coalition capacity.[36] This expanded capacity would complement the program proposed in the CETF Settlement because it would fund work that settlement commitment does not support.[37]

CETF's opposes the proposed pooled fund by comparing it to prior voluntary contributions made to CETF's own Digital Inclusion programs.[38] This is the wrong benchmark. Joint Advocates are proposing a Commission-ordered mitigation fund tied to the scale of this transaction, Charter's expanded California market power, and the communities affected by the merger.

[35] CETF Reply Brief at p. 15;
[36] Joint Opening Comments on Settlement Agreements at 12–16
[37] CETF Settlement Agreement at 6–8
[38] The Commission's Rules explicitly state that "Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding."

Joint Advocates are prepared to show that the proposed digital inclusion fund represents one half of one percent of Charter's 2025 revenue, or approximately 3 percent of one year of Charter's projected post-merger cash flow. It is also responsive to the existing record in this proceeding, which documents widespread affordability barriers, uneven pricing practices, and the need for local and regional capacity to reach households that infrastructure commitments alone will not reach. The Commission should authorize further record development, then evaluate the proposed amount against those harms and the scale of the transaction; not against prior voluntary contributions to a single intermediary.[39]

CETF estimates that its settlement could result in connectivity for as many as 100,000 low-income households; this factual estimate (that is not supported in the record) should heighten the Commission's concern.

In order to connect this many households, they must first be reached, educated about options, supported, and assisted in enrolling in means-tested broadband tiers where appropriate. Yet, the settlement does not even remove existing enrollment barriers such as the 30-day prior-subscriber ban. A public benefit package built around promotion of means-tested plans is not enough where access to those plans remains contested, enrollment barriers remain unresolved, public verification of those outcomes remains unclear, and the organizations best positioned to reach disconnected households are not guaranteed direct support.

Upon development of a full record, Joint Advocates expect to demonstrate that enhanced digital inclusion mitigation measures are required for the proposed transaction to be in the public interest. In order to provide adequate mitigation, the Commission should require a digital inclusion structure capable of delivering it: a $275 million Statewide Capacity-Building Pooled

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[39] CETF Reply Brief at 15 & nn.38-39; Joint Advocates Opening Brief at 38 & n.136.

Fund, with at least 75 percent reserved for local and regional implementation grants and the remainder available for statewide ecosystem-building activities.[40]

E. Joint Applicants Have Not Demonstrated that the Settlements will Prevent Public Interest Harms to Public, Educational, and Governmental Access Channels

Neither of the proposed settlements addresses public benefit channels at all. This is a large and significant oversight. Parties have demonstrated that the support of public benefit channels is the only specific and legally-mandated public interest requirement that Joint Applicants must meet, separate from any merger conditions or settlements. The Commission must authorize further record development which will show that Applicants' record of compliance is poor. The Commission must ensure that the intended benefits of the Cable Act are delivered to communities, and this must be a metric for evaluating likely compliance with and effectiveness of any new public interest commitments.

Media Alliance has provided information on this issue. Joint Applicants' response in reply brief was profoundly discouraging. While unclear, it appeared to make three arguments. First, it asserted that channel-slamming behavior identified by Media Alliance happened outside of California.[41] Second, it commented on the fact that Media Alliance was unable to participate in the 4-day long evidentiary hearings.[42] Finally, it argued that the Commission does not enforce DIVCA.[43]

None of these arguments undermine the need for the Commission to address PEG issues as part of its review of the proposed transaction. Joint Applicants' past channel-slamming

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[40] Joint Applicants Reply Brief at 32; Joint Opening Comments on Settlement Agreements at 9 & n.18.
[41] Joint Applicants Brief at p. 45.
[42] Joint Applicants Brief at p. 45. Media Alliance faced capacity issues that are not relevant to the legal or factual arguments in briefing or in a review of whether the proposed settlements serve the public interest.
[43] Joint Applicants Brief at pp. 45-46.

behavior in other states is deeply concerning and relevant to risks to California communities post-merger. The difficulties that smaller organizations face in participating in multi-day Commission proceedings supports the need for independent Commission review of identified issues. Finally, the Commission is not being asked to enforce DIVCA. The Commission is being asked to consider past and future public benefits delivery to help to determine if the merger is in the public interest.

The Commission has heard a great deal about the urgent need for affordable and reliable broadband in California homes, and rightly so. But it is important to remember that the digital inclusion struggle of today was preceded by the multi-decade struggle for public access which was a demand for non-commercial spaces in heavily gate-kept mass media for local voices. It is just as true today as it was forty years ago that Californians cannot solely depend on huge corporations for the news and information needed for a robust multiracial democracy. Joint Advocates are prepared to show that the public interest is harmed when telecommunications giants like the Joint Applicants fail to provide mandated support for necessary noncommercial spaces. In order for the merger to clearly demonstrate public benefit, Applicants' harmful behavior towards remaining PEG channels needs to stop and support for these spaces needs to be robust, non-discriminatory, and technologically modern. This has not been addressed in either of the settlements, and thus must be addressed by the Commission in its consideration of whether the proposed transaction supports the public interest.

Based on the existing record and an expanded record we are prepared to develop, Joint Advocates ask the Commission to require as terms of any merger approval or appropriate settlement agreement that the Joint Applicants will:

- Make full financial restitution for unwarranted transmission and interconnection charges to nonprofit and municipal operators of public benefit channels.

- Provide equilateral treatment for public benefit channels in cable channel guides and navigation systems.
- Comply with Digital Infrastructure and Video Competition Act (DIVCA) prohibitions against channel-slamming.
- Ensure video content submitted by the public is not down-converted and degraded prior to broadcast without the payment of ruinous and expensive fees.

These four conditions will ensure that required public benefits are delivered in an appropriate manner that serves the residents of California and benefits the public interest.

F. Joint Applicants Have Not Demonstrated that the Settlements will Prevent Public Interest Harms to Employees of the Combined Company.

Joint Applicants' meager claims[44] about the settlements' benefits for workers state only that Charter "commits to invest $2 million dollars in its VetConnect Program,"[45] Joint Applicants claim that this money will be "used to develop curriculum and hire trainers to conduct training sessions at... military bases, which will help transition active military personnel in their final 180 days of military service as they enter into the civilian workforce."[46] Neither the settlements nor Charter and CETF's briefs explain how this investment will lead to benefits for existing employees, or even that the program will result in new jobs with the combined company.

The settlements do not appear to provide any benefits for either union or nonunion utility employees, nor do they ensure that the proposed transaction will be fair and reasonable to those employees. Joint Advocates have already argued that the record includes ample evidence that

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[44] Joint Applicants also, citing extra-record evidence, claim at the time of the Charter/TWC merger, "Charter had 1,500 employees, not 9,800, as Joint Advocates claim." Joint Applicants Reply Brief at p. 44, fn. 253. However, that is not a "claim," it was the testimony of Adam Falk, Charter's witness. TR Vol. 6 at p. 757:21-25.
[45] Joint Applicants Reply Brief at p. 44.
[46] *Id*.

the proposed transaction will result in layoffs at the combined company.[47] As Joint Advocates stated in their Reply Brief:

> Once again, Joint Applicants fail to make any commitment that these benefits will be extended to Cox. Rather, they state only that the proposed transaction "can *help* enable faster service restoration for impacted communities within the Cox California territory by creating a unified employee workforce operating on a harmonized network and allowing the combined company to rely more on trained employees who are familiar with the network's infrastructure." Additionally, as Joint Advocates have previously noted, there is a substantial risk that the proposed transaction will result in job losses. As described above, Charter's promise that jobs would increase as a result its 2016 Charter/Time Warner Cable did not materialize, and today Charter's workforce in California has decreased 31 percent since that merger was authorized. If Charter cuts more jobs post-merger, some of those job cuts are likely to include employees that work on service restoration, redundant network routes, and the enterprise backup and recovery solutions. Without any meaningful commitments on jobs, the Commission should determine that Joint Applicants have not demonstrated that the proposed transaction will increase public safety or will be fair and reasonable to employees.[48]

Given Charter's anti-worker history, Joint Applicants and Settling Parties' failure to include any meaningful commitments regarding jobs, and Charter's apparent current effort to cut jobs before the Commission approves the transaction,[49] the proposed transaction's threats, especially to diverse workers, contractors, and communities remain. Accordingly, Joint Advocates' proposed mitigation measures regarding new employee hiring, backed with meaningful enforcement measures if the combined company fails to meet the conditions, are reasonable and necessary to ensure that the proposed transaction is in the public interest.

G. Joint Applicants Have Not Demonstrated that the Settlements will Prevent Public Interest Harms to Retail Locations and Jobs in the Combined Company's Service Territory.

[47] Joint Advocates Reply Brief at p. 16.
[48] Joint Advocates Reply Brief at p.. 18-19.
[49] National Institute for Worker's Rights Comments on Settlements at p. 5, fn. 4.

As discussed previously, neither settlement addresses the issue that low-income and ESJ communities will likely bear the brunt of the combined company's job cuts. The comments submitted by the National Institute for Worker's Rights highlight this risk, and increase the need for testimony and evidentiary hearings to resolve factual disputes about the potential impacts of the proposed transaction on ESJ communities, including jobs at physical stores operated by the combined company.[50]

In order to address these risks, the Commission should require that Charter adopt an equitable approach for providing customers (and potential customers) access to retail locations, using quantifiable, enforceable metrics that increase access for low-income, public transit-dependent, and disabled populations, as well as populations with other access barriers. Specifically, the Commission should require that the combined company build and maintain sufficient retail stores to ensure that every Charter customer has access to a store within 30 minutes travel by public transportation.

H. The Commission Should Ensure that Everyone in the Combined Company's Service Territory Receives the Benefits of the Proposed Transaction by Imposing Mitigation Measures Requring Transparency & Accountability of Public Benefits

In the interest of transparency - and to allow all parties to the proceeding to track developments related to the Joint Applicants' Settlement obligations - all future reports, compliance filings, and other materials pertaining to the proposed transaction (whether required by either settlement or separately by the Commission) should be accessible to the public. The proposed transaction will have a significant impact on the public; communities across the state therefore have a vested interest in remaining informed about the commitments undertaken by

[50] National Institute for Worker's Rights Comments on Settlements at p. 5, fn. 4.

both parties. Making settlement compliance (and, if necessary, enforcement actions and fines) entirely public will not only allows Californians to follow the parties' performance of their commitments, but also will allow them to seek action to enforce such commitments when performance is lacking or inadequate.

Joint Advocates strongly support the recommendations provided by The Utility Reform Network ("TURN") reporting and compliance provisions that should be added to the CETF Settlement. TURN writes, "if the Commission approves the Settlement and/or proposed transaction, the Commission should require Charter and CETF to make all reporting and compliance materials available to the Commission and other parties to this proceeding. Sharing this material will facilitate transparency and allow the Commission and other parties to monitor Charter's and CETF's compliance with and the efficacy of specific conditions on the proposed transaction."[51]

Crucially, the CETF Settlement includes a compliance monitor in Section XIV, but it does not define the monitor's functions or powers.[52] This should be specified. Additionally, the compliance period should be extended by the same length of time as the duration period of any performance failure that may occur, as the compliance monitor in their sole discretion may find. Should the compliance monitor find that a compliance failure is material or willful, the Commission should extend the compliance period by the length of the duration period of the failure plus an additional one year.

Finally, Joint Advocates reiterate the importance of replacing conditional commitments in the Settlements with binding language that clearly establishes concrete and quantified commitments from the Joint Applicants. As TURN describes in opening comments, a number of

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[51] TURN Opening Comments on Settlement Agreements, P.5
[52] CETF MOU Sec. XIV, P.15

Charter's commitments are "highly conditional." Joint Advocates agree with TURN in urging the Commission to "not go along with provider attempts to water down the public interest standard through incrementally smaller commitments."[53]

Finally, Settlement Agreement commitments that incorporate language such as "best efforts" must be replaced with enforceable performance metrics. Without these adjustments, Settlement commitments could easily be diluted to vague aspirations and claims, rather than contractual obligations.

I. The Settlements are Insufficient to Ensure that the Public Interest Benefits Outweigh the Public Interest Harms of the Proposed Transactions.

Joint Applicants' briefing and arguments in support of the proposed settlements (including factual assertions about the impacts of the proposed settlements) address specific commitments individually but never attempt to evaluate the holistic impact of the agreements on the proposed transaction or the public.

Some of the measures are facially meaningless. For example, Charter makes a commitment to follow the law regarding supplier diversity reporting. Charter fails to note that this is required regardless of the proposed transaction or settlements and instead argues that it will somehow limit the harms caused by Charter's elimination of its diversity, equity, and inclusion programs.[54] Notwithstanding this argument (which is completely unsupported in the record), there is substantial evidence that Charter's elimination of its DEI programs will ensure continued discrimination against people with disabilities, people of color, and other diverse communities. That discrimination is a direct result of Charter's actions, yet Joint Applicants' response to these harms is limited to a commitment to file a report. This is deeply offensive.

[53] TURN Opening Comments on Settlement Agreements, P. 21
[54] Joint Applicants Brief at pp. 31-32; CETF Comments at pp. 3-4.

Mitigation measures are not a box-checking exercise, yet Joint Applicants' settlements are rife with performative gestures claiming to be solutions to credible threats to service quality, jobs, diversity, local economies, and local communities. Even if some of the commitments in the settlements do create public benefits, there is no basis to conclude that they are in any way sufficient to counteract the overall harms to the public interest. Taken as a whole, the terms of the settlements fail to counteract the proposed transaction's substantial promised public interest harms.

III. CONCLUSION

Joint Advocates appreciate that the settlements offer a limited effort to address certain harms that will flow from the proposed transaction. However, the settlements fail to create enforceable, long-term commitments that directly respond to the expected experiences of Charter's customers and impacted communities and will not result in direct investment in the organizations and institutions carrying out digital equity work within Charter's service areas. For these reasons, the settlements alone are insufficient to mitigate the public interest harms that will result from the proposed transaction.

The Commission should deny approval of the Application based on the existing record. If the Commission is considering approving the proposed transaction with additional mitigation measures, it should first authorize a process for further record development, including evidentiary hearings on the proposed settlements in accordance with Rule 12. This will allow a full record for consideration of sufficient mitigation measures to make the proposed transaction in the public interest. Joint Advocates expect to be able to show that our proposed additional,

complementary mitigation measures will help ensure that everyone in the combined company's service territory reaps the public interest benefits of the transaction.[55]

Joint Advocates thank the Commission for the opportunity to provide reply comments on the Settlement Agreements, and especially appreciate the Commission's efforts to ensure that the interests of the communities we represent are considered and part of the record.

Respectfully submitted,

/s/ Paul Goodman
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[55] Unfortunately, given Charter's history of noncompliance and conduct in this proceeding, Joint Advocates believe there is a substantial risk that the Settling Parties' agreements will not result in the claimed outcomes.