

Docket Number	:	A.25-07-016
Exhibit Number	:	Cal Adv - 07
Commissioner	:	Matthew Baker
Administrative Law Judge	:	Jamie Ormond
Cal PA Project Mgr.	:	Antoinette M. Floyd
Cal PA Expert Witness	:	Ernesto Falcon



**PUBLIC ADVOCATES OFFICE**  
**California Public Utilities Commission**

**Direct Testimony of Ernesto Falcon**  
**Summary of the Public Advocates Office Merger**  
**Recommendations**

**Application 25-07-016**

San Francisco, California  
February 11, 2026

**TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
MEMORANDUM .....	1
EXECUTIVE SUMMARY .....	2
I. The Charter – Cox Merger Would be One of the Largest Consolidations of Broadband Access Points in the State’s History.....	2
A. Future Access and Prices are Dependent on Gigabit-Capable Competition.....	2
B. The Scale of the Merger Will Enhance the Monopoly Power of Charter and will Cost Californians with Higher Prices and Less Competition.....	4
C. Low-income Californians Have the Most to Lose from This Merger as Broadband will be Systemically Made Unaffordable.....	5
II. The Commission Either Has to Block the Merger or Restore its Traditional Anti-Monopoly Tools to Protect Californians.....	6
A. The Commission Must Protect Californians Facing a Monopoly .....	6
B. Commission Intervention is Necessary to Protect Low-Income Californian Access to Broadband.....	7
III. CONCLUSION .....	9
ATTACHMENT A .....	A-1

1 **MEMORANDUM**

2 This testimony is prepared by Ernesto Falcon of the Public Advocates Office at  
3 the California Public Utilities Commission (Cal Advocates). Attachment A to this  
4 testimony presents a statement of qualifications from Ernesto Falcon. Cal Advocates is  
5 represented by attorney Noah Stid in this proceeding.

6 In preparing this testimony, Cal Advocates has reviewed the Joint Application of  
7 Charter Communications, Inc., Charter Communications Holdings, LLC, and Cox  
8 Enterprises, Inc. for Approval Pursuant to Public Utilities Code Section 854 of the  
9 Indirect Transfer of Control of Cox California Telcom, LLC (U-5684-C) (Joint  
10 Application or A.25-07-016). Cal Advocates has also reviewed the responses of Charter  
11 Communications, Inc., Charter Communications Holdings, LLC, and Cox Enterprises,  
12 Inc. to discovery requests, as well as publicly available information. For purposes of this  
13 testimony,

- 14 • “**Charter**” refers to Charter Communications, Inc., and  
15 Charter Communications Holdings, LLC, including,  
16 without limitation, all parent, subsidiary, and affiliated  
17 companies.
- 18 • “**Cox**” refers collectively to Cox Enterprises, Inc. (CEI),  
19 Cox Communications, Inc., Cox Communications  
20 California, LLC, and Cox California Telcom, LLC as  
21 identified in Exhibit C to the Joint Application.
- 22 • “**Proposed Transaction**” means the transfer of control of  
23 CEI’s subsidiary, Cox Communications, Inc., to Charter  
24 Communications, Inc., including the transfer of control of  
25 Cox Communications California, LLC and Cox California  
26 Telcom, LLC.

27 Although every effort was made to comprehensively review, analyze, and provide  
28 the Commission with recommendations, the absence from this testimony of analysis or  
29 recommendation on any particular item contained within the Joint Application, the  
30 proceeding’s Scoping Ruling, or data request responses does not constitute either  
31 acceptance of, or agreement with, the information in the Joint Application. Cal Advocates  
32 reserves the right to supplement this testimony.

1 EXECUTIVE SUMMARY

2 **I. THE CHARTER – COX MERGER WOULD BE ONE OF THE**  
3 **LARGEST CONSOLIDATIONS OF BROADBAND ACCESS**  
4 **POINTS IN THE STATE’S HISTORY**

5 The Commission has been asked to approve a merger that will lead to higher  
6 prices for more than 5 million residents who would be at the mercy of a monopoly while  
7 putting at risk low-income access to broadband. All of this is being asked at a time when  
8 the state is losing its edge on broadband price competition.<sup>1</sup> The Proposed Transaction  
9 would bring together the largest and fourth largest broadband providers in California. The  
10 Commission only has two options. It must block the merger or reinstate anti-monopoly  
11 protections in this sector until competition can return and low-income Californians can  
12 obtain affordable access to the essential service of broadband.

13 **A. Future Access and Prices are Dependent on**  
14 **Gigabit-Capable Competition**

15 Cal Advocates conducted extensive research on the current pricing trends and  
16 dynamics of the California market from annual reports and targeted analysis.<sup>2</sup> It has been  
17 shown that the gigabit service tier serves as both an anchor point for prices and the  
18 pressure point for competitive forces.<sup>3</sup> This result requires heightened scrutiny of the  
19 status of gigabit connections in this proposed merger.

---

<sup>1</sup> Exhibit F-1 Public Advocates Office 2025 Broadband Pricing Trends in California, Table 4 at 14. Public Advocates Office, *2025 Broadband Pricing Trends in California* (Dec. 18, 2025), <https://www.publicadvocates.cpuc.ca.gov/-/media/cal-advocates-website/files/press-room/reports-and-analyses/251218-public-advocates-office-2025-broadband-pricing-trends-in-california-report.pdf>.

<sup>2</sup> Exhibit F-2 Broadband Policy Options to Improve Affordability for Low-Income Californians. Public Advocates Office, *Broadband Policy Options to Address Affordability in California: Initial Findings and Preliminary Report* (Mar. 18, 2025), <https://www.publicadvocates.cpuc.ca.gov/-/media/cal-advocates-website/files/press-room/reports-and-analyses/250318-public-advocates-office-broadband-policy-options-to-address-affordability-in-ca.pdf>; see also Exhibit F-3 Broadband Competition and Pricing Strategies in California’s Urban Markets (Cal Advocates’ Competitive Report). Bixia Ye, *Broadband Competition and Pricing Strategies in California Urban Markets* (Pub. Advocates Office. Jan. 14, 2026), <https://www.publicadvocates.cpuc.ca.gov/-/media/cal-advocates-website/files/press-room/reports-and-analyses/260114-public-advocates-broadband-competition-and-pricing-strategies-in-california-urban-markets.pdf>.

<sup>3</sup> Exhibit F-3 Broadband Competition and Pricing Strategies in California’s Urban Markets (Cal Advocates’ Competitive Report), at 4.

1 Both Charter and Cox would have the Commission believe that market  
2 competition is reflected by simply the number of internet connections available to a  
3 consumer. We have found no evidence to support that assertion. In fact, the actual  
4 movement of prices and the market as a whole is primarily driven by consumer demand  
5 for broadband services of 300 Mbps or greater.<sup>4</sup> These services are predominantly  
6 offered by cable companies such as Charter and Cox and fiber-based companies that have  
7 only limited penetration in the state.<sup>5</sup> As consumer usage has consistently grown year  
8 over year for decades, the need for ever higher service tiers will continue. Therefore, the  
9 number of options capable of delivering the most in-demand products today and in the  
10 future is critical to understanding the competitive impacts of this merger.

11 Cable companies enjoy unique advantages over fixed wireless, copper, and  
12 satellite broadband providers. These advantages are baked into the physics of the  
13 transmission mediums used to move data. In the case of copper-based broadband, the  
14 ability to increase the broadband speeds has generally met their limits and cannot  
15 effectively reach even 300 Mbps. Simultaneously, fixed wireless broadband and satellite  
16 broadband have the limited capacity to scale and depend on the availability of spectrum  
17 licenses or the commercial feasibility to increase tower or satellite density. The inherent  
18 capacity within cable's coaxial line enables cable companies like Charter and Cox to  
19 increase their service tier capacity at an exponential level.<sup>6</sup> Only fiber-based broadband  
20 providers can match and exceed that level of growth, which makes their presence as  
21 competitors a key consideration in reviewing this merger. In fact, the most direct means

---

<sup>4</sup> Exhibit F-2 Broadband Policy Options to Improve Affordability for Low-Income Californians, at 10.

<sup>5</sup> Fiber Broadband Association & RVA LLC, *The Progress of U.S. FTTH Availability by State* (May 5, 2025), [https://fiberbroadband.org/wp-content/uploads/2025/05/FBA.RVA\\_StateFTTH\\_WhitePaper250505.pdf](https://fiberbroadband.org/wp-content/uploads/2025/05/FBA.RVA_StateFTTH_WhitePaper250505.pdf).

<sup>6</sup> Bennett Cyphers, *Why Fiber Is a Superior Medium for 21st Century Broadband* (Elec. Frontier Found. Feb. 11, 2022), [https://www.eff.org/files/2022/02/11/why\\_fiber\\_is\\_a\\_superior\\_medium\\_for\\_21st\\_century\\_broadband\\_2.pdf](https://www.eff.org/files/2022/02/11/why_fiber_is_a_superior_medium_for_21st_century_broadband_2.pdf) at 17.

1 for cable companies to respond to competitive pressure from fiber companies is to  
2 integrate more fiber and replace segments of their own coaxial lines.<sup>7</sup>

3 **B. The Scale of the Merger Will Enhance the Monopoly**  
4 **Power of Charter and will Cost Californians with Higher**  
5 **Prices and Less Competition**

6 Cal Advocates has determined the net cost to consumers in a gigabit monopoly  
7 exceeds \$1 billion a year in .<sup>8</sup> Both Charter and Cox demonstrate monopoly pricing  
8 behavior in markets where they are the gigabit monopoly and competitive pricing when  
9 even one alternative gigabit-capable provider is present.<sup>9</sup> Increasing the size of the  
10 monopoly zone with the Proposed Transaction will incentivize the post-merger entity to  
11 rely on its monopoly customers to maintain and subsidize its profits while it faces  
12 competition in limited portions of its network.

13 The merger would also result in a sizable loss of competition to the state with the  
14 disappearance of the fourth largest provider. The repeated assertions of the lack of  
15 overlap are without merit as noted in other testimony.<sup>10</sup> The Commission should not  
16 accept the premise that an unwillingness to compete is anything other than a discretionary  
17 choice by the merging parties. In fact, denying the merger would force both Charter and  
18 Cox to identify new revenue opportunities through expanding their physical networks and  
19 their content offerings outside their territories. Any “synergies” asserted by the Proposed  
20 Transaction are not the result of enhanced competitive forces, but rather an age-old  
21 argument in favor of monopoly over “ruinous” competition.<sup>11</sup> The Commission should be

---

<sup>7</sup> Hybrid fiber-cable, also known as “HFC,” is essentially the replacement of portions of the original coaxial cable line network with fiber optics to increase the capacity of the legacy line. Modern versions of cable broadband are designed in this fashion to deploy multi-gigabit broadband speeds.

<sup>8</sup> Exhibit F-3 Broadband Competition and Pricing Strategies in California’s Urban Markets (Cal Advocates’ Competitive Report), at 18.

<sup>9</sup> Exhibit F-3 Broadband Competition and Pricing Strategies in California’s Urban Markets (Cal Advocates’ Competitive Report), at 11-13.

<sup>10</sup> See Direct Testimony of Lee Selwyn, paragraphs 40-44 at 52-57.

<sup>11</sup> See Direct Testimony of Lee Selwyn, paragraphs 74-77 at 83-87.

1 skeptical of “cost savings” that stem from consolidation and greater market concentration  
2 as opposed to innovation and gains in efficiency to retain a competitive edge.

3 Lastly, there are no meaningful commitments by Charter to lower prices from this  
4 merger. This should come as no surprise because our research demonstrates that lower  
5 broadband prices only happens from outside competitive pressure (and primarily from  
6 fiber providers). Nothing in this merger motivates or creates an incentive for Charter to  
7 reduce its overall prices. As the data provided by Cal Advocates shows, when Charter is  
8 the only gigabit-capable provider, prices are \$30 higher per month totaling \$360 more per  
9 year per customer.<sup>12</sup> The post-merger entity will enjoy growing its monopoly market by a  
10 sizable share, which provides even greater monopoly rents to seek.

11 **C. Low-income Californians Have the Most to Lose from**  
12 **This Merger as Broadband will be Systemically Made**  
13 **Unaffordable**

14 Charter does not offer a single low-income *broadband* product.<sup>13</sup> Nor have they  
15 committed to offering one despite the growth in market power and scale in a post-merger  
16 environment. At best, the company provides a 50/10 Mbps product at \$15 or \$25<sup>14</sup> while  
17 reserving services that qualify as broadband at \$50 or more.<sup>15</sup> Using the Commission’s  
18 metrics under the Affordability Ratio Calculator, Cal Advocates analysis shows Charter’s  
19 pricing plans increase the number of areas of affordability concern in California.<sup>16</sup>

20 The low-income population is a unique and distinct customer base that requires  
21 special care to ensure they can obtain access to broadband. They lack buying power  
22 because of their income limits and are more likely to forgo broadband access due to a  
23 lack of affordability. The Commission has a long history of promoting universal access in

---

<sup>12</sup> Exhibit F-3 Broadband Competition and Pricing Strategies in California’s Urban Markets (Cal Advocates’ Competitive Report), Table 2 at 13-14.

<sup>13</sup> See Direct testimony of Christopher Bartulo.

<sup>14</sup> See Direct testimony of Christopher Bartulo, Table 2 at 11.

<sup>15</sup> See Direct testimony of Christopher Bartulo, at 7.

<sup>16</sup> See Direct testimony of Elizabeth Louie.

1 this area with its public purpose programs and effectively has increased the buying power  
2 of low-income residents with Lifeline. However, the ability of these low-income  
3 programs to be effective is contingent on broadband providers offering low-cost  
4 alternatives for these types of customers.

5 The offering of specially tailored low-income broadband services would not cost  
6 the broadband providers any significant loss of revenues. In fact, the value proposition to  
7 broadband providers to increase adoption is real. As the Cal Advocates noted in a  
8 statewide study published in early 2025, if the largest four providers (which include  
9 Charter and Cox) were required to offer \$15 broadband services, the net impact to their  
10 revenues would be less than 1% and could be recovered from increased adoption.<sup>17</sup>

11 **II. THE COMMISSION EITHER HAS TO BLOCK THE**  
12 **MERGER OR RESTORE ITS TRADITIONAL ANTI-**  
13 **MONOPOLY TOOLS TO PROTECT CALIFORNIANS**

14 Cal Advocates is unable to identify a single merger-specific benefit that will be  
15 delivered to the consumer as a result of the Proposed Transaction. A merger-specific  
16 consumer benefit must be a product of a regulated merger and unable to be independently  
17 replicated by the separate companies. As detailed throughout the testimonies, the merger  
18 will raise prices, reduce competition, and create increased affordability concerns for low-  
19 income Californians. The Commission has only two choices in this proceeding. It must  
20 block the merger to maintain the status quo and force the providers to continue to  
21 compete, or it must use its anti-monopoly tools<sup>18</sup> to protect Californians until competition  
22 can be relied on again.

23 **A. The Commission Must Protect Californians Facing a**  
24 **Monopoly**

25 More than 5 million Californians post-merger will be at the mercy of a gigabit  
26 monopoly.<sup>19</sup> With each passing year their dependence on the post-merger entity will

---

<sup>17</sup> Exhibit F-2 Broadband Policy Options to Improve Affordability for Low-Income Californians, at 9.

<sup>18</sup> See Direct testimony of Professor Tejas Narechania.

<sup>19</sup> See Direct testimony of Bixia Ye, Table 1-1 at 4.

1 grow as consumer usage needs grow. In turn the post-merger entity can be expected to  
2 raise prices above competitive rates as a source of revenue growth. If the Commission  
3 moves to approve the merger, it does not need to be a helpless bystander to what happens  
4 to captive Californians. If approving the merger, the Commission should intervene with  
5 its rate regulatory authority as a temporary substitution for competition. The Commission  
6 could accomplish this in two ways. It can set a price cap for the gigabit tier,<sup>20</sup> which then  
7 exerts downward pressure on the prices for the services below that service tier. This  
8 Commission-authorized price cap would be lifted at an address-level basis when a  
9 gigabit-capable alternative is verifiably<sup>21</sup> available to the customer. Charter exerts  
10 address-level targeting today of prices and offerings to consumers, so they would have  
11 the capacity to offer a Commission-authorized gigabit tier rate if competition is absent.

12 In the alternative the Commission can require Charter to offer identical pricing,  
13 including all promotional and special offers, to be equally available to all Californians  
14 without exception. This would in effect leverage the competitive benefits of Charter's  
15 network where they face one or more gigabit-capable providers to ensure the monopoly  
16 customers can receive the same prices. Compliance with this method would likely come  
17 at a lower burden simply because it would simplify the pricing tiers into a statewide  
18 unified package. Such a condition could apply on a statewide basis and can be lifted  
19 when all California residents within the service territory of the merged entity have access  
20 to two or more gigabit-capable options.

21 **B. Commission Intervention is Necessary to Protect Low-**  
22 **Income Californian Access to Broadband**

23 The Commission can only promote universal access for low-income residents with  
24 its Lifeline program if the broadband providers offer useful products that match the

---

<sup>20</sup> Exhibit F-3 Broadband Competition and Pricing Strategies in California's Urban Markets, Table 3 at 17. (Cal Advocates recommends \$51 as the price cap for the gigabit tier service as it represents the averaging of all competitive situations we have identified).

<sup>21</sup> Federal Communications Commission, *Broadband Data Collection* (National Broadband Map), <https://broadbandmap.fcc.gov> (the agency regularly updates its dataset providing address-level verification of broadband availability, including identifying gigabit-capable service).

1 subsidies. Charter currently offers no low-income broadband products. Post-merger, it  
2 would be the largest provider of broadband access points in the state. If the Commission  
3 moves to approve the merger, it must require Charter's participation in the Lifeline  
4 program with a \$20 per month price for 300 Mbps or more broadband services similar to  
5 that of Verizon.<sup>22</sup> The Commission, just like with Verizon, should adopt a three-year  
6 review to increase the quality of the services while retaining the price point of \$20 to  
7 ensure low-income residents can fully utilize the next generation of internet-based  
8 applications and services. While the conditions Verizon is subject to stem from a  
9 settlement agreement, it is available as an option through direct regulation by the  
10 Commission.<sup>23</sup>

11 Cal Advocates analysis of the most impoverished California residents has found  
12 conclusively that the offering of zero cost broadband services (a low-cost offering fully  
13 covered by the Lifeline subsidy) is the only means to achieve universal access.<sup>24</sup> As  
14 noted in other testimony<sup>25</sup>, the current, "below broadband" offering is insufficient and  
15 the elimination of Cox would result in the elimination of existing low-income broadband  
16 offerings.<sup>26</sup> The absence of intervention coupled with the approval of the merger carries  
17 enormous risk of systemic discrimination across the state where those that lack the

---

<sup>22</sup> See Direct testimony of Christopher Bartulo, at 13.

<sup>23</sup> See Direct testimony of Tejas Narechania.

<sup>24</sup> Exhibit F-2 Broadband Policy Options to Improve Affordability for Low-Income Californians, at 10.

<sup>25</sup> See Direct testimony of Christopher Bartulo.

<sup>26</sup> See Direct testimony of Elizabeth Louie.

1 income,<sup>27</sup> which could serve as a proxy<sup>28</sup> for race, will be denied access to the Internet.  
2 The fact that the state has stepped in to increase the buying power of these residents has  
3 drastically increased the value of these customers to the broadband industry, giving them  
4 no excuse not to cater to this population.<sup>29</sup>

### 5 III. CONCLUSION

6 In sum, Cal Advocates testimonies demonstrate that the Proposed Transaction will  
7 increase prices, reduce competitive pressure, and place millions of Californians at risk of  
8 ever-rising broadband prices from monopoly power. The Applicants have not  
9 demonstrated merger-specific benefits that would offset these harms, nor have they  
10 offered enforceable commitments sufficient to protect consumers, particularly low-  
11 income households. The Commission therefore must either deny the application or use its  
12 traditional authorities to replicate the discipline of competition and ensure affordable  
13 access to essential communications services. Absent such action, approval of the merger  
14 would undermine the Commission’s longstanding mandate to protect consumers and  
15 promote universal access to broadband.

---

<sup>27</sup> Income is relevant in broadband access given that Congress, through the Bipartisan *Infrastructure Investment and Jobs Act*, directed the Federal Communications Commission to adopt rules to expressly including income level as a protected characteristic for the FCC’s anti-discrimination regime. *See Infrastructure Investment and Jobs Act*, Section 60506(b) of the Infrastructure Investment and Jobs Act (47 U.S.C. § 1754) (requiring the Commission to adopt rules preventing digital discrimination based on income level and other listed bases).

<sup>28</sup> Proxy serves as a potential method of discrimination against populations that are otherwise protected, *see* Consumer Fin. Prot. Bureau, *Using Publicly Available Information to Proxy for Unidentified Race and Ethnicity: A Methodology and Assessment* (Sept. 2014), [https://files.consumerfinance.gov/f/201409\\_cfpb\\_report\\_proxy-methodology.pdf](https://files.consumerfinance.gov/f/201409_cfpb_report_proxy-methodology.pdf).

<sup>29</sup> Kelsey Clark et al., *Closing the Digital Divide Benefits Everyone, Not Just the Disconnected: An Analysis of How Universal Connectivity Benefits Education, Health Care, Government Services, and Employment* (Common Sense & Boston Consulting Group 2022), [https://www.common sense media.org/sites/default/files/research/report/2022-cs-bcg-closing-digital-divide\\_final-release-3-for-web.pdf](https://www.common sense media.org/sites/default/files/research/report/2022-cs-bcg-closing-digital-divide_final-release-3-for-web.pdf) at pg. 34 (it should be noted that when subsidies were issued under the Affordable Connectivity Program, broadband deployment was improved with greater revenue potential from low-income subscribers with increased buying power).

# **ATTACHMENT A**

## **Statement of Qualifications and Experience**



1 Hill as a legislative assistant, advising Members of Congress on telecommunications and  
2 technology issues. I served as a senior staffer for a Member of Congress on the Energy  
3 and Commerce Committee's Subcommittee on Telecommunications and contributed to  
4 the broadband infrastructure policies in the American Recovery and Reinvestment Act.