



Alliance for Community Media

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**CHARTER COMMUNICATIONS,
PEG ACCESS AND OTHER PUBLIC SERVICE OBLIGATIONS
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The Alliance for Community Media (www.allcommunitymedia.org) and its members are concerned about the ramifications of the proposed merger between Charter Communications, Time Warner and Bright House Networks to create a “New Charter”. We have identified a significant number of cases which reveal troubling actions by Charter as it relates to the company’s Public Educational and Government (PEG) Access and other local public service obligations.

We summarize the issues below. They are organized by state, but reflect a reasonable characterization of Charter’s behavior related to PEG and public service obligations that are beyond the borders of any particular state.

It should be noted that one of the key “lenses” through which the Federal Communications Commission has viewed other proposed mergers has been whether the situation related to any particular concern will be worse under a merged environment than it would be if the merger does not occur.

WISCONSIN

Charter and Time Warner Cable operate the majority of cable holdings in Wisconsin.

Time Warner Cable has a call center in Appleton. Charter's call center in Fond du Lac is located about 45 miles from Appleton. These call centers would likely be consolidated after the merger, which would cause significant job losses.

Channel Relocation (*Often referred to as "Channel Slamming" is an action taken by a cable company to move PEG channels from lower-numbered positions to little-viewed, high-numbered locations.*)

In 2008, Charter moved all PEG channels on at least 31¹ of its Wisconsin systems from low numbers (like 1, 2, 3, 4, 10, 12, 13, and 19 -- where they had been for decades) to 982-994. Since then, many viewers reported serious reception problems for the PEG channels in the new channel locations. Wisconsin's video franchise law only requires that PEG channels be "transmitted." Signal quality concerns are not addressed.

Time Warner Cable has continued to carry PEG channels on low channel numbers. PEG channel reception problems are rarely reported by Time Warner Cable subscribers. If Charter takes over Time Warner Cable's systems, will Charter relocate these PEG channels to the upper-900s and have no concerns about their signal.

PEG Channels Rarely Appear on Charter's Electronic Program Guide ("EPG")

Recent surveys of cable subscribers throughout the United States reveal that a cable system's EPG has become the primary method used by subscribers to find information about programming on cable TV channels. Unfortunately, few of Charter's Wisconsin systems include PEG program schedules on their EPG. For example, efforts by **Chippewa Valley Community Television (CVCTV) in Eau Claire** to get their listings on the EPG were fruitless. Charter would charge them at least \$100 per month for this capability, far too expensive for CVCTV and other financially struggling PEG management organizations that serve rural and other small communities in Wisconsin, where its state franchise law prohibits PEG fees. *Charter charges PEG channels – but not broadcast or satellite-delivered programming channels -- to include their program schedules on the EPG.*

Charter Charges School Districts for Cable Service

Prior to 2007, when the state franchise law was adopted in Wisconsin, local communities required that cable companies provide cable service at no charge to public buildings and schools. During legislative discussion, lawmakers were left with the impression that such free service would continue without the need for a provision in the state franchise law. However, in recent years, Charter has begun charging these institutions business rates (\$70 per month) for cable service – plus a cable box fee of \$5.99 to \$7.99 per month per box. For example, Charter told **Merrill Area Public Schools** and the **Whitewater Area School District** that one cable box would be provided at no charge to each school, but any

¹ Including these PEG channels: **Beloit Access TV, Chippewa Valley Community Television, City of Algoma TV, Columbus Cable, Deerfield Community Access TV, Fitchburg Access Television, Janesville JATV Media Services, Jefferson JPEG and SDOJ, Lake Mills Community Access TV, Madison City Channel, Madison Metro School District, Marshfield Community Television, Monona School/Community TV, Mount Horeb Village Cable, Rice Lake Public Access Television, River Cities Community Access, Stevens Point Community Television, Sun Prairie Media Center, Superior Community Television, The Ripon Channel, Town of Sevastopol TV, Village of Cambridge TV, Village of Cottage Grove TV, Waterloo Community Access TV, Watertown Television, Waunakee Community Access TV, Whitewater Community Television, WIN-TV (Waupaca), WMCF McFarland, WSCS Sheboygan.**

additional boxes would cost \$7.99 per month. Since the school district could not afford Charter's cable box fees to equip every classroom, the only location where educational cable programming is available is in the school library, where the one free box is kept.

Charter's only-one-free-box-per-school policy caused the same result for financially struggling schools in the **Village of McFarland (Monona Grove School District and the McFarland School District)**.

CALIFORNIA

Non-Payment of PEG Fees as Mandated by the State Franchising Law (DIVCA)

In several California communities that it serves (including **Santa Cruz County, San Luis Obispo County, and the Cities of Capitola, Morro Bay and Grover Beach**), Charter has unilaterally ceased payments of PEG fees established by these communities in conformance with DIVCA (Digital Infrastructure and Video Competition Act), due to the company's interpretation of state law. No other cable operator has done this.

Refusal to Provide Free Connection between PEG Channel Playback Site and Charter's Facilities

In **Long Beach**, Charter discontinued its management of the Public Access channel in 2009, immediately after DIVCA went into effect. Subsequently, nearly four years passed with no Public Access channel in Long Beach, until a local nonprofit organization secured grant funding, which enabled it to set up PADNET (Long Beach Public Access Digital Network), a new Public Access management entity to serve this community.

When PADNET was ready to connect its playback system to Charter's headend, its representatives were told by Charter that a substantial fee would be charged to PADNET for that connection to occur. If PADNET had refused to pay this fee, the revived Public Access channel would not be transmitted to Charter's subscribers.

Although other PEG facilities throughout California do not – and have never -- paid such a connection fee, Charter decided to take this unilateral action against the new Public Access operation in Long Beach.

The **Los Angeles County** channel is another PEG channel that could be serving the residents of Long Beach (which is located within Los Angeles County), but it is not available to Long Beach subscribers because Charter requires the City to pay the company to transmit this channel.

We are unaware of any "connection fee" being charged by Charter to a broadcast channel or satellite-delivered service carried on any Charter system in the United States. Charter's decision to single out PEG channels -- the least likely programming service to be able to afford such a connection fee illustrate much about Charter's attitude about PEG.

*Based on available information, we believe that Charter was the first cable MSO in the United States to impose a connection fee as a condition of PEG channel transmission. Regrettably, other MSOs are starting to follow Charter's example (e.g., in the **San Diego** area, Cox recently sent notices to several cities and PEG channel managers to inform them that the company will begin charging for PEG channel transport from their facilities).*

Charter to Begin Charging Schools for Cable Service

Mirroring its practice in Wisconsin, Charter has informed local schools in **Long Beach** that cable service previously provided by the company at no charge to public buildings and schools is being discontinued.

PEG Channels Do Not Appear on Charter's Electronic Program Guide ("EPG")

In **Pasadena**, PEG programming information is not on Charter's EPG, due to the high fee quoted by Charter and its incorrect statement to Pasadena Media that the information has to be locked in at least one month in advance.³ PEG programming information is also unavailable on Charter's EPG in **Long Beach**.

³ According to Rovi (a company that provides EPG service to Charter), 30 days of current data must always be present, but *it can be changed/updated as late as one day in advance.* (See: <http://alist.rovicorp.com/farsight/Include/ALISTHelp.pdf>)

MASSACHUSETTS

Channel Relocation

Charter has moved PEG channels in several locations in Massachusetts. For example, in 2014 Charter unilaterally moved PEG channels in **Northbridge** from 11, 12, and 13 to 191, 192 and 194. This was done despite the Town's franchise agreement, which stated that the PEG channels would be on 11, 12 and 13. At a public meeting, Charter representative Tom Cohan told the Northbridge Selectmen that it was a mistake for Charter to agree to the PEG channel location terms in the franchise agreement, but Charter would not move the channels back. Without citing any evidence, Mr. Cohan claimed that lower channel positions are unimportant.⁴

The Selectmen believe Charter is in breach of its contract with Northbridge, but are reluctant to take Charter to court because of the expense. Charter has repeated this behavior towards PEG in **Worcester, Uxbridge, and Douglas**, unilaterally moving their PEG channels and harming service to local communities.

MINNESOTA

Channel Relocation

In 2014, Charter unilaterally decided to move the PEG channels in **Rochester**, despite the City Council's previous denial of Charter's request to do so.^{5,6} The channels were moved from 10, 19, 20, 21 and 22 to the 180s. Although the "Relocation of PEG Channels" section of the Rochester franchise agreement states that "*Grantee and Grantor may at any time agree to relocate any PEG access Channel to a different Channel number,*" Charter interpreted this to mean that the company just had to inform the city, not to have a mutual agreement. This section of the franchise agreement goes on to state that "*Grantee shall provide Grantor and all Subscribers with at least thirty (30) days prior written notice of any legally required relocation.*" However, no advance notice was given to the City by Charter, which notified Council members of the change in a letter on the day the channels were moved.

Also in 2014, Charter moved **St. Cloud** PEG channels 12, 19, 6, 21 and 20 to channels 180, 181, 187, 188 and 189, respectively.⁷ Charter did not receive written consent from the City of St. Cloud prior to the relocation, which the City stated was required by the franchise agreement. In this case, the corporation made the move after it had been denied by the city.

⁴ <https://www.youtube.com/watch?v=DZdhea-vigI&feature=youtu.be>

⁵ KTTC, October 16, 2014. <http://www.kttc.com/story/26809907/2014/10/16/charter-communications-relocates-channels-city-officials-say-potential-violation>

⁶ Rochester Post Bulletin, October 17, 2014. http://www.postbulletin.com/business/charter-change-upsets-rochester-council/article_5a1b78f4-b415-5489-85d9-225235b415a7.html

⁷ St. Cloud Times, September 4, 2014. <http://www.sctimes.com/story/news/local/2014/09/04/city-st-cloud-accuses-charter-violating-agreement/15070577/>

MISSOURI

Channel Relocation

Shortly after Missouri's state franchising law took effect in 2007, Charter moved PEG channels throughout the state from lower-numbered positions to the mid- to upper-900s, a move that required many subscribers to pay a \$5 monthly fee for a cable box to tune in city council meetings and other community programming.

St. Louis aldermen held a lengthy public hearing about this action, to no avail. They said that Charter was not listening to those residents who care about public programming.⁸ **Florissant** Mayor Robert Lowery said that this action by Charter was especially hard on older adults and others on a fixed income. **Brentwood** Mayor Pat Kelly learned about the change from residents who called him to ask why the local government channel had gone dark. Kelly said that "since we no longer have a franchise agreement with Charter, we really don't have any club to fight with."⁹

MONTANA

Charter's Switch from Analog to Digital Could Cost Schools \$60,000-100,000

In **Missoula**, the existing local franchise agreement requires Charter to provide a free connection to each school. In July of 2014, Charter informed the School District that the company's switch from analog channels to digital would require new digital set-top boxes for every TV. A cable box on every TV was not needed previously in the School District's 628 classrooms. The next month, cable service was no longer available to those classrooms.

To outfit each classroom with a digital cable box, the cost to the School District "could be anywhere from \$60,000 to \$100,000," according to Hatton Littman, Director of Technology and Communications with Missoula County Public Schools.^{10, 11}

⁸ St. Louis Post Dispatch, July 1, 2010. http://www.stltoday.com/news/local/govt-and-politics/st-louis-aldermen-fired-up-at-charter-want-cable-co/article_a215677e-853d-11df-96e2-00127992bc8b.html

⁹ St. Louis Post Dispatch, February 21, 2010. http://www.stltoday.com/news/local/metro/city-council-meetings-get-pushed-off-many-screens/article_7944de68-5acd-5f2f-aca7-cf65d658efec.html

¹⁰ Missoulian, August 27, 2014. http://missoulian.com/news/local/charter-digital-tv-conversion-could-mean-higher-costs-for-city/article_70ae6a52-2d7f-11e4-94c7-001a4bcf887a.html

¹¹ KECI, August 28, 2014. <http://www.nbcmontana.com/news/city-schools-negotiate-with-charter-to-get-cable-service-back/27781240>