

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

**I/M/O the In the Matter of the Joint Petition
of CSC TKR, LLC Service Electric Cable
T.V. of New Jersey, Inc. for the Approval of
the Transfer of Certificates of Approval of
Service Electric Cable T.V. of New Jersey,
Inc.**

BPU Docket No. CM20030211

**COMMENTS OF THE STATE OF NEW JERSEY
DIVISION OF RATE COUNSEL
June 26, 2020**

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I. INTRODUCTION

A. Overview

On March 5, 2020, CSC TKR, LLC, which is a wholly-owned subsidiary of Altice USA, Inc. (“Altice”) and Service Electric Cable T.V. of New Jersey, Inc. (“Service Electric” or “SECTV”) (collectively “Petitioners”) filed a petition pursuant to N.J.S.A. 48:5A-19 and N.J.A.C. 14:17-6.8 requesting that the New Jersey Board of Public Utilities (“Board”) approve the transfer of twenty eight (28) certificates of approval and related authorizations and the accompanying cable systems from Service Electric to Altice (“Petition”).

Pursuant to the Board’s *Prehearing Order* issued on May 15, 2020, the New Jersey Division of Rate Counsel (“Rate Counsel”) submits these comments regarding Altice’s proposed acquisition of Service Electric.¹ Rate Counsel participated and submitted comments in the Board’s investigation of the merger of Altice and Cablevision,² its investigation of the merger of Charter and Time Warner,³ and the Board’s investigation of numerous other mergers and sales of telecommunications and cable companies.

¹ Susan M. Baldwin, Rate Counsel’s consultant assisted with the preparation of these comments.

² I/M/O the Verified Joint Petition of Altice N.V. and Cablevision Systems Corporation and Cablevision Cable Entities for the Approval to Transfer Control of Cablevision Cable Entities, BPU Docket No. CM15111255 and I/M/O the Verified Joint Petition of Altice N.V. and Cablevision Systems Corporation, Cablevision Lightpath-NJ, LLC and 4Connections, LLC for Approval to Transfer Control of Cablevision Lightpath-NJ, LLC and 4Connections, LLC and for Certain Financing Arrangements, BPU Docket No. TM15111256, Order Approving Stipulation of Settlement, May 25, 2016 (“Altice/Cablevision Merger Order”).

³ I/M/O the Petition of Time Warner, Inc., Charter Communications, Inc. and Time Warner Cable New York City, LLC, for Approval of the Transfer of Control of Time Warner Cable New York, LLC and Approval of Transaction Financing; BPU Docket No. CM15070770 and I/M/O the Verified Petition of Charter Communications, Inc., and Time Warner, Inc., for Approval of the Transfer of Control of Time Warner Cable Information Services (New Jersey), LLC and the Petition of Time Warner Cable Information Services (New Jersey), LLC for Approval of Transaction Financing, BPU Docket No. TM15070772, Order Approving Stipulation of Settlement, February 24, 2016 (“Time Warner/Charter Merger Order”).

Rate Counsel has reviewed the Petition, responses to the 113 questions it posed to the Petitioners (as well as responses to Staff interrogatories), filings with the Securities and Exchange Commission (“SEC”), and publicly available information. Rate Counsel also participated telephonically in a discovery settlement conference on May 26, 2020, a procedural conference on June 19, 2020, and a settlement conference on June 23, 2020. Rate Counsel is submitting its comments five days in advance of the July 1, 2020 filing date set forth in the Board’s *Prehearing Order* in order to provide the Board with more time to review and consider Rate Counsel’s analysis and recommendations given its understanding that the matter will be considered by the Board on July 2, 2020.⁴ Based on its detailed analysis and on its participation in numerous Board proceedings regarding proposed changes of control, Rate Counsel concludes that the Board should approve the proposed transaction but only if it imposes specifically enforceable conditions and commitments that will deliver concrete benefits to New Jersey’s consumers, employees, and communities. The COVID-19 pandemic heightens the importance of these commitments because it poses uncertainty about the financial situation of Altice and its willingness and ability to deliver the benefits the Petitioners describe in their petition. Although the Petitioners describe various plans and intentions in their petition, they do not make any firm commitments to the Board or the customers and employees of Service Electric and Altice.

In these comments, Rate Counsel summarizes its analysis of the transaction and how it might affect New Jersey’s consumers and communities. Rate Counsel also describes specific recommendations, which, if adopted, would increase the chance of benefits flowing to

⁴ If Rate Counsel filed its comments on the scheduled filing date of July 1, 2020 (pursuant to the Board’s *Prehearing Order*), the Board would have less than a single day to consider the evidence and arguments set forth in these comments before it meets on July 2, 2020 to deliberate on the merits of the proposed transaction.
<https://www.bpu.state.nj.us/bpu/pdf/publicnotice/Notice%20date%20change%20of%206-26%20to%207-2%20agenda%20meeting.pdf>

consumers and decrease the chance of pandemic-related risks preventing such benefits from occurring. Rate Counsel believes these conditions will help ensure that consumers enjoy net benefits from the transaction, the standard the Board has applied in similar cases.⁵

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

Review of this transaction is governed by the requirements set out under N.J.S.A. 48:2-51.1 et seq., which requires the Board to evaluate the impact of the acquisition on competition, on the rates of ratepayers affected by the acquisition of control, on the employees of the affected public utility or utilities, and on the provision of safe and adequate utility service at just and reasonable rates. Moreover, the Board must accompany its decision on a request for approval of an acquisition of control with a written report detailing the basis for its decision, including findings of fact and conclusions of law. In addition, in evaluating an application for approval of a merger or consolidation of a New Jersey public utility, under N.J.A.C. 14:1-5.14(c), the Board must be “satisfied that positive benefits will flow to customers and the State of New Jersey and, at a minimum, there are no adverse impacts on any of the criteria delineated in N.J.S.A. 48:2-51.1.” Likewise, pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-10, the Board must determine whether the public utility may be unable to fulfill its pension obligations to any of its employees. Finally, pursuant to N.J.S.A. 48:3-9, the Board must approve the Transaction Financing if it is satisfied that the proposed Transaction is made in accordance with law and the purpose thereof is approved by the Board.

The Petition contains various assertions of implied benefits but provides no affirmative commitments to ensure that the statutory requirements will be met rendering any implied benefit

⁵ Altice/Cablevision Merger Order; Time Warner/Charter Merger Order.

illusory. The Petitioners have failed to demonstrate positive benefits will flow from the transaction. Thus, in order to approve this transaction, the Board must incorporate the representations made by Altice regarding positive benefits as conditions of approval of the merger, as well as other conditions that are generally consistent with prior Board orders. Specifically, the Board's approval of the transaction should be conditioned on the following commitments:

1. ***Affordable broadband Internet access:***
 - i. Altice should commit to continuing its Altice Advantage Internet ("AAI") program throughout its existing and new footprint for at least three years at a monthly rate of no more than \$14.99.
 - ii. Altice should commit to offering stand-alone broadband internet access throughout its existing and new footprint for at least three years at a monthly rate of no more than \$24.95.
2. ***No data caps:*** The Board should seek a three-year commitment by Altice not to impose data caps on broadband Internet
3. ***Commitment, without an expiration date, to not block or throttle Internet traffic.***
4. ***Commitment to upgrade:*** Altice has described various broadband-related plans. Rate Counsel recommends that the Board seek commitments to specific milestones regarding Altice's specific broadband upgrade plans, shown separately by community and with projected dates such upgraded speeds will be available.
5. ***Free internet to schools, libraries, certain nonprofits and municipal office buildings:*** Commitment to continue providing under the terms of its franchises.⁶

⁶ Response to RCR-31.

6. ***Network reliability and public safety:*** Altice should provide:

- i. “Warm dial tone” (access to E911 service) even when voice services are suspended or disconnected
 - ii. Quarterly public reports to the Board and to Rate Counsel regarding, at a minimum, the following metrics:
 1. Answer time for repair and technical assistance;
 2. Average installation period
 3. Outages; and
 4. The Network Outage Reporting System (“NORS”) data that Altice submits to the FCC should be submitted simultaneously to the Board and Rate Counsel.
 - iii. A commitment to coordinate with local, state, and federal emergency and public safety officials to facilitate preparations for and responses to man-made and natural emergencies to protect the public safety and welfare of New Jersey’s consumers and communities. The companies should commit to transfer information about SECTV’s experiences and procedures (including lessons learned) in these matters to Altice.
7. ***Service Quality:*** Altice should commit to: (1) improve Service Electric’s service quality as measured by at least the following two metrics: consumer complaints as a percentage of complaints and average speed of answer to reach a customer service representative; (2) achieve such improvement within three months of the transaction’s closing; and (3) maintain such improvement.
8. ***Programming diversity:*** The Board should require Altice to continue to carry the existing PEG channels.
9. ***Community anchor institution:*** Altice indicates that, as a condition of its merger with Cablevision, it continues to support eighteen community centers that are anchor institutions with free 100 Mbps service.⁷ Altice should commit to continue this support and also commit to support at least two anchor institutions in the territory that it proposes to acquire from Service Electric.
10. ***Employment:*** Especially in light of the uncertain impact of COVID-19 on Altice’s financial situation, and consistent with the Board’s prior merger orders, Altice should commit to no reduction in the number of employees in the SECTV territory for two years following the close of the transaction and thereafter not to exceed 15% during a five-year period with notice to the Board with copy to Rate Counsel.⁸
11. ***Annual Public Benefits Report:*** Altice should commit to submit, within 30 days from the close of the transaction and annually thereafter during a four-year period, a report related

⁷ Responses to RCR-5, and RCR-110.

⁸ Responses to S-4 and S-7. *Altice/Cablevision Merger Order*, at 10; *Time Warner/Charter Merger Order*, at 11.

to the public benefits asserted by Altice in its filing to the Board with a copy to Rate Counsel.⁹

Also, in recognition of the unprecedented and challenging times during which the transaction is occurring, the Board should consider seeking the following additional pandemic-related commitments from Altice:

- a. ***Pandemic-related emergency internet access – distance learning:*** Altice indicated that to support remote school learning during the COVID-19 pandemic it has expanded customer eligibility for its AAI program beyond the existing requirements to include all households with K-12 and/or college students and that to support the community there is no cost for customers that subscribe to AAI between March 16 and June 30. Altice also partnered with school districts to provide a Student WiFi product, allowing school issued devices to be provisioned to access the Altice’s outdoor WiFi access points at no charge through June 30.¹⁰ Schoolchildren continue to need to be connected.¹¹ *Altice should commit to continue the important pandemic-related programs throughout its existing and new territory through December 31, 2020. Schoolchildren, especially those most at risk of falling behind their grade levels during this time of isolation, may be attending summer classes and therefore continue to need to engage in distance learning in the upcoming months and through the fall and early winter months.*
- b. ***Pandemic-related emergency internet access – assisting older persons overcome social isolation:*** Working with appropriate state agencies and stakeholders, and using its Altice Mobile product, Altice could commit to help older persons overcome the social isolation they are experiencing during these unprecedented time by providing wifi hotspots at no charge in independent living, assisted living, and nursing homes.¹²

⁹ *Time Warner/Charter Merger Order*, at 12.

¹⁰ Altice’s website (as of June 20, 2020) states: “we have extended our free Altice Advantage Internet service until the end of the 2019 - 2020 school year – only pay the already discounted installation fee. You can cancel the service at any time. Otherwise, you’ll keep it for \$14.99/mo. after June 30, 2020.” <https://www.alticeadvantageinternet.com/>

¹¹ “Senator blasts DOE as 89,000 New Jersey students remain without internet access,” Politico – Carly Sitrin <https://subscriber.politicopro.com/states/new-jersey/story/2020/06/08/senator-blasts-doe-as-89-000-new-jersey-students-remain-without-internet-access-1291821>

¹² See for example discussions of a grant that provides digital literacy and tablets to older adults in San Francisco through a new program called Sunset Tech Connect. One article describes the program further: “It will teach them to use tablets safely and to independently connect to the internet to access services and information. The tablets were donated by Sprint, and each participant who completes the program will get to keep the tablet and receive six months of service.” “CTN Receives Metta Fund Grant to Bridge the Digital Divide for SF Seniors,” by Jessica Looney, posted January 4, 2019, <https://www.communitytechnetwork.org/blog/ctn-receives-metta-fund-grant-to-bridge-the-digital-divide-for-sf-seniors/> See also the description on Verizon’s website of various projects it has funded, including the following: “New Mexico’s Aging and Long-Term Services Department worked with Verizon

- c. Billing and termination procedures:* Altice should increase the billing payment period and during the pandemic, eliminate late payment charges.
- d. Pandemic-related emergency internet access – keeping people connected:* Altice could commit to:
 - i. Continuing its moratorium on broadband and phone disconnections through December 31, 2020; and
 - ii. Establishing an arrearage management fund to help customers pay their arrearages.¹³

Rate Counsel acknowledges that it is the cable franchises/operations that are specifically subject to Board oversight, and it is the transfer of ownership assets related to cable operations that have necessitated state regulatory review of the proposed transaction.¹⁴ Nonetheless, the Petitioners, in seeking the Board’s approval of the acquisition, have specifically touted Altice’s broadband plans as a transaction-related benefit. The Board should not permit Petitioners to base Board approval on alleged benefits related to broadband service and then implicitly establish that the Board lacks the authority to request firm commitments on the alleged benefits that will flow to New Jersey customers. Altice’s broadband promises (as well as other aspects of the proposed transaction) must therefore be reviewed by the Board to determine whether the promised benefits are likely to occur. As these comments discuss below, the Board must find that the transaction will yield a net benefit in order to approve the transaction. Without appropriate conditions and commitments, there is no assurance that benefits will actually flow to consumers. Accordingly, Rate Counsel asks that the asserted benefits be incorporated into any Order issued by the Board

to distribute hundreds of tablets to nursing facilities across the state.” <https://www.verizon.com/about/news/update-verizon-serve-customers-covid-19>

¹³ In Vermont, legislation is pending that would allocate \$20 million to fund ratepayer arrearages resulting from the Public Utility Commission’s moratorium on utility disconnections. See document entitled “Draft 1.1 – Energy and Technology, 6/10/2020 - MCR – 12:29 PM VT LEG #348770 v.1, Coronavirus Relief Fund – Committee Recommendations House Committee on Energy and Technology – June 10, 2020 Revisions Highlighted in Yellow, June 10, 2020 HE&T Revisions in Blue.”

¹⁴ Review and approval by the Federal Communications Commission (“FCC”) is not required. Response to RCR-10.

as enforceable commitments.

C. Implications of the unique timing of the proposed transaction

The Board's review of the proposed transaction is occurring during unprecedented times, and it is, therefore, important to consider the Petition as it relates to today's market conditions and not to those that existed in the pre-pandemic times when the Petitioners negotiated their transaction. Rate Counsel acknowledges that the duration and severity of the COVID-19 pandemic cannot yet be known,¹⁵ but certainly the existence of the pandemic has the potential to affect the ability and willingness of Altice's decision-makers to follow through on their pre-transaction promises to New Jersey.¹⁶ Rate Counsel recommends that the Board, consistent with its prior merger orders, condition its approval of the transaction on firm commitments; these commitments take on heightened importance because the COVID-19 pandemic affects many aspects of Altice's operations and finances.¹⁷

Rate Counsel is particularly concerned that the economic downturn will jeopardize Altice's plans to invest in its New Jersey network. In its 1Q Form 10-Q (at page 37), Altice states (emphasis added):

Additionally, in order to prioritize the demands of the business, *we may delay certain capital investments*. Due to the uncertainty surrounding the magnitude and duration of business and economic impacts relating to COVID-19, including the effort to contain and combat the spread of the virus, and business impacts of

¹⁵ See, e.g., <https://www.bloomberg.com/news/features/2020-06-18/we-will-be-living-with-the-coronavirus-pandemic-well-into-2021>

¹⁶ The COVID-19 pandemic is likely affecting Altice's finances, which Altice explicitly acknowledges in its Form 10-Q quarterly report (for the period spanning January through March) submitted on May 1, 2020 to the Securities and Exchange Commission ("SEC"). Rate Counsel anticipates that Altice will submit its next quarterly report (for the period spanning April through June) in late July, and recommends that the Board closely review Altice's second quarter 10-Q.

¹⁷ See e.g., Altice Form 10-Q, period ending March 31, 2020, filed May 1, 2020 with the Securities and Exchange Commission ("Altice 1Q 10-Q"), at pages 37 and 53-54 (discussing impact of COVID-19 on consumer demand for Altice's services, on arrearages, and on the timing of capital investment).

government actions, we currently cannot reasonably estimate the ultimate impact of COVID-19 on our business.

The risks are real. They are documented in Altice's own report to its investors. Moreover, the future scope and severity of these risks are uncertain because they relate to an unprecedented public health crisis with far-ranging economic impacts, which, in turn, will likely affect Altice's financial situation. Rate Counsel acknowledges that, in response to Rate Counsel discovery, Altice has re-confirmed its commitment to upgrade SECTV's network and to offer innovative services to consumers within the same time frame that Altice had originally (i.e., pre-pandemic) contemplated.¹⁸ Rate Counsel of course would welcome the upgrading of SECTV's network and offerings and improvement in the quality of service now offered to SECTV's customers, and Altice's strong financial position may well be sufficiently substantial to weather the poor economy, but the challenging times in which the proposed transaction is occurring justify requiring Altice to translate its plans and intentions into firm, enforceable commitments. Without such commitments, a finding of positive net benefits cannot be supported and would be illusory.

¹⁸ Response to RCR-93.

D. Statutory standards governing review of the Petition

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

In an order on the appropriate standard of review issued by the Board in its investigation of the joint petition of Public Service Electric and Gas Company ("PSE&G") and Exelon Corporation ("Exelon"), the Board unambiguously departed from the "no harm standard." The Board stated that it "shall utilize a positive benefits standard of review. Pursuant to the positive benefits standard, in order for the proposed acquisition of control and transfer of stock to be approved by this Board, the Joint Petitioners must show and the Board must be satisfied that positive benefits will flow to customers and to the State as a result of the proposed change in control, and, at a minimum, that there are not adverse impacts on any of the criteria delineated in N.J.S.A. 48:2-51.1."¹⁹

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

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

¹⁹ In the Matter of the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control of Public Service Electric and Gas Company, and Related Authorizations, Order on Standard of Review, November 9, 2005, at 25.

result from the merger with respect to at least one of the four criteria, and that no harm would result with respect to the other three.²⁰

See, N.J.A.C. 14:1-5.14

The Board reiterated the “positive benefits” standard in its Order approving the Time Warner/Charter merger, stating: “as per N.J.A.C. 14:1-5.14(c), positive benefits must result from the transaction in order for the Board to approve a merger” and similarly reiterated the “positive benefits” standard in its approval of the Altice/Cablevision merger.²¹ Petitioners in each of these prior merger proceedings committed to specific tangible benefits (such as, but not limited to: network upgrades and expansions; subsidized broadband internet access for income-eligible households; low-cost broadband offerings; and service quality measures) which allowed the Board to find positive benefits in those cases as required by the statute and Board precedent.²²

II. PETITIONERS’ PRESENCE IN NEW JERSEY AND NATIONAL MARKETS

A. Altice

Altice is the nation’s fourth largest cable provider.²³ Nationwide, Altice operates in 21 states and delivers broadband, video and telephony to 4.9 million residential and business customers and its hybrid-fiber coaxial (“HFC”) broadband network passed 8.8 million homes as

²⁰ In the Matter of the Joint Petition of SBC Communications Inc. and AT&T Corp., Together with its Certificated Subsidiaries for Approval of Merger, New Jersey Board of Public Utilities Docket No. TM05020168, Order, October 4, 2005 (“SBC/AT&T Merger Order”), at 5-6. See also I/M/O the Merger of Exelon Corporation and PEPCO Holdings, Inc., BPU Docket No. EM14060581 (Order, February 11, 2015), p. 34.

²¹ *Time Warner/Charter Merger Order*, at 10. See also *Altice/Cablevision Merger Order*, at 7, referring to “positive benefits” test.

²² *Time Warner/Charter Merger Order*, at 10-13; *Altice/Cablevision Merger Order*, at 10-12.

²³ Response to RCR-30.

of December 31, 2019.²⁴ As described in its 2019 Annual Report, Altice USA is a holding company that does not conduct any business operations of its own. Altice Europe, through a subsidiary, acquired Cequel Corporation ("Cequel" or "Suddenlink") on December 21, 2015 and Cequel became part of Altice USA on June 9, 2016. Altice USA acquired Cablevision Systems Corporation ("Cablevision" or "Optimum") on June 21, 2016.²⁵ Altice indicates that it “principally provides broadband communications and video services in the United States and markets its services primarily under two brands: Optimum, in the New York metropolitan area, and Suddenlink, principally in markets in the south-central United States.”²⁶ Altice launched Altice Mobile, a full service mobile offering, to consumers across its footprint in September 2019.²⁷ Altice explained to its investors that it is “building a fiber-to-the-home ("FTTH") network, which will enable it to deliver more than 10 Gbps broadband speeds to meet the growing data needs of residential and business customers and that it is also continuing to upgrade its existing HFC network through the deployment of digital and data over cable service interface specification (“DOCSIS”) 3.0 technology in order to roll out enhanced broadband services to customers.”²⁸

Altice also describes its “Altice One” product as follows:

During the fourth quarter of 2017, we introduced an entertainment and connectivity hub, Altice One, and we continue to expand the availability of this device across our footprint, as well as its functionality. Altice One is an innovative, integrated platform with a dynamic and sophisticated user interface, combining a settop box, Internet wireless router and cable modem in one device,

²⁴ Altice Form 10-K, filed with the SEC on February 4, 2020 (“Altice 2019 Annual Report”), at 2. <http://altice.net/pdf/altice-europe-nv-%E2%80%93-annual-report-2019>

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

and it is our most advanced home communications hub. Altice One is available to customers across over 80% of our entire footprint. We had approximately 540 thousand Altice One customers as of December 31, 2019.²⁹

With annual revenues of \$9.761 billion; annual earnings before interest, taxes, depreciation, and amortization of \$4.265 billion; and approximately 4.9 million customer relationships, Altice indisputably brings substantial technical, financial and managerial qualifications to the proposed transaction.³⁰ Nationwide, approximately 47% of its residential customers were triple-play customers (broadband, video and voice) as of year-end 2019; 4.2 million customers subscribed to broadband; 3.2 million to video; and 2.4 million to telephony.³¹

In New Jersey, Altice has more than 680,000 total video customer accounts.³² Altice did not provide the information Rate Counsel requested regarding the numbers of Altice's broadband and voice accounts in New Jersey, though lacking any information to the contrary, one could expect the pattern in New Jersey to mirror Altice's national subscribership distributions shown above: assuming this similar pattern of consumer demand, Rate Counsel estimates that in New Jersey Altice serves approximately 520,000 broadband accounts and 389,000 voice accounts. In 2016, Altice passed over one and one half million homes in New Jersey.³³

Altice faces competition from Verizon in its New Jersey market and explains in its 1Q Form 10-Q (at pages 41-42): "We believe our video customer declines noted in the table above are largely attributable to competition, particularly from Verizon in our Optimum footprint and DBS providers in our Suddenlink footprint, as well as competition from companies that deliver

²⁹ *Id.*

³⁰ *Id.*

³¹ Altice 2019 Annual Report, at 3.

³² Response to RCR-24.

³³ Response to RCR-34.

video content over the Internet directly to customers. These factors are expected to continue to impact our ability to maintain or increase our existing customers and revenue in the future.” Although consumers in many local markets (especially non-rural ones) in New Jersey may have the option of choosing between Altice’s cable-based service and Verizon’s fiber-based service, the presence of these two companies represents a duopoly, which does not translate into effective competition that is sufficient to yield reasonable rates and quality of service.³⁴

In this proceeding, Altice provides a rosier view of its competitive risks, indicating that “it has substantial experience responding to competition, given that New Jersey -- where Verizon FiOS is authorized to offer a triple play of products in 158 of Altice’s 177 communities -- is one of the most competitive markets in the country.”³⁵ In any event, competition from Verizon and from video provided over the internet presents another risk to Altice’s revenue stream.

B. Service Electric

Service Electric’s operating territory in New Jersey is small, with its video customer base of approximately 19,000 representing less than 3 percent of Altice’s customer base.. SECTV

³⁴ In New Jersey, statewide, 99% of households have access to broadband at speeds of 25 Mbps download / 3 Mbps upload and in rural areas, 98% have such access. Data as of June 2019, released by the FCC on March 12, 2020. https://broadbandmap.fcc.gov/#/area-comparison?version=jun2019&tech=acfosw&speed=25_3&searchtype=state&searched=y Although fiber-based services offer a reasonably comparable alternative to cable offerings digital subscriber line service does not. An examination of the FCC’s broadband deployment data shows that in New Jersey, approximately 71% of the urban population has access to fiber-based broadband whereas only 30% of the rural population has access to fiber-based broadband. https://broadbandmap.fcc.gov/#/area-comparison?version=jun2019&tech=f&speed=25_3&searchtype=county&searched=y&geoid=34. The Federal Communications Commission reports that nationally, for speeds of 25 Mbps/3 Mbps and higher, approximately 79% of residential internet connections are provided over cable modem, approximately 15% are provided over fiber; approximately 5 percent over DSL; and the remaining are uncategorized. “Internet Access Services: Status as of December 31, 2017,” FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, August 2019, Figure 24.

³⁵ Response to RCR-102.

does not know the number of small businesses, large businesses, and anchor institutions passed in its footprint.³⁶

In response to S-65, SECTV provided confidential Exhibit C, which is an Excel spreadsheet containing all open new service and construction requests, including line-extension requests requiring contribution, scheduled for construction since January 1, 2020.

In response to S-66, Altice provided confidential Exhibit D, which it describes as a “deck summarizing Altice’s assessment of the SECTV network, its compatibility with the Altice network in NJ, and its suitability as a platform for Altice (following certain investments referenced in the attached) to offer product enhancements described in S-2.”

III. OVERVIEW OF TRANSACTION

Applicants’ Asserted Benefits

Altice and Service Electric negotiated a purchase price of \$150 million and other terms that are reflected in the Asset Purchase Agreement (“APA”)³⁷ over the course of several months.³⁸ The Petitioners describe the proposed transaction as a “a straightforward cash purchase of: (1) the physical assets used to distribute cable and non-cable services to SECTV customers; and (2) the franchises and other cable television authorizations.”³⁹

As described by the Petitioners, the proposed transaction would extend Altice’s footprint into 28 communities in Sussex County and Warren County now served by Service Electric.⁴⁰

³⁶ Response to RCR-113.

³⁷ The APA is included as Appendix A to the Petition.

³⁸ Petition, at 6-7, “III. Description of the Transaction”; Response to S-21.

³⁹ Response to S-16.

⁴⁰ See footnote 2 of the Petition for the list of 22 communities in Sussex County and six communities in Warren County.

The Petitioners assert that the transaction would allow Altice to provide its “high-quality video offerings and state-of-the-art entertainment platforms to homes and businesses” and also would enable Altice to bring its “advanced networks, faster broadband speeds, pro-consumer mobile offerings and more local news” to homes and businesses in these 28 communities.⁴¹

In their Petition (at pages 7-8), the Applicants state that “Altice will have both the incentives and resources to offer Altice’s advanced suite of offerings to homes and business in twenty-eight additional communities in New Jersey.” When asked by Rate Counsel for the time frame of such offerings, Altice referenced the responses to S-2 and S-15,⁴² which describe time frames of 60 to 120 days after the date of the transaction’s closing.

Altice indicates that it “offers products today to its Optimum NJ customer base that are not offered by Service Electric, including Smart Wi-Fi, Internet Security, Service Protection, Altice One, and Cloud-based DVR,” and further indicates that the “feasibility, process and timing for deployment of many of such Optimum products and services are necessarily dependent on the staged network and system integration referenced in Response to S-2, as well as the capabilities of the hardware (*e.g.*, set top boxes, cable modems) in customer’s homes.”⁴³ Altice also anticipates being able to increase broadband speeds in Service Electric’s footprint to 400 Mbps within 60 to 120 days of closing, and is targeting full migration to the Optimum suite of products in the Fourth Quarter of 2020.⁴⁴

⁴¹ Petition, at 2.

⁴² Response to RCR-28.

⁴³ Response to S-15.

⁴⁴ Response to S-15. See also responses to S-2, S-13, and S-18 for discussions of the innovative services, network upgrades, and faster broadband speeds that Altice anticipates offering to Service Electric customers.

Altice anticipates deploying innovative service offerings “contingent on technical and marketplace conditions,”⁴⁵ which, in Rate Counsel’s view, might include the marketplace conditions associated with the COVID-19 pandemic. Altice’s SEC filing for its first quarter of 2020 discusses various major marketplace conditions relating to the COVID-19 pandemic, and its imminent second quarter filing is likely to do the same. These uncertain times underscore the importance of firm commitments.

Altice believes that approximately 34,000 homes passed in the SECTV footprint will be added to Altice’s footprint.⁴⁶ The APA contemplates that Altice will acquire all SECTV customers, including those acquired since the submission of the Petition, and including those in arrears.⁴⁷ There are no federal licenses or authorizations being transferred from Service Electric to Altice for which advance FCC approval is required.⁴⁸ Altice continues to provide free internet to schools, libraries, and municipal office building under the terms of its franchises, and certain non-profits, subject to the terms, conditions, and use policies of Altice, which would continue post-pandemic.⁴⁹

Altice also states that:

As described in RCR-6 and in light of the COVID-19 pandemic, Altice has introduced numerous programs to make broadband available to additional households in New Jersey through its Altice Advantage Internet service and Student WiFi service—both offered for free through June 30, 2020 and opening its outdoor WiFi hotspots for public use to non-subscribers. Altice continues to review its long-term post-pandemic plans and will fully evaluate its offerings in

⁴⁵ Petition, at 8.

⁴⁶ Response to S-17.

⁴⁷ Responses to RCR-108 and RCR-109.

⁴⁸ Response to RCR-10.

⁴⁹ Response to RCR-31.

addition to the affordable plans that it already provides as part of its regular offerings.⁵⁰

The COVID-19 pandemic continues and the needs for broadband are as great as ever. Rate Counsel is hopeful that Altice will commit to extend the deadline of June 30th.

Altice states that it provides PEG channels in each community according to the requirements of applicable law and state regulations, which can also vary by the number of channels required in each community and that it has no specific plans in place for changes in the number of PEG channels in the Service Electric system at this time.⁵¹

Work Force Implications

Altice indicates that it “does not have any current plans for workforce changes as a result of the Transaction, subject to Altice’s evaluation over time of integration of SECTV facilities and operations.”⁵² It is also planning to retain SECTV’s Sparta location—where customers go and most employees work.⁵³ SECTV presently has 21 employees in New Jersey.⁵⁴

Customer service

Altice plans on maintaining the customer service number that is currently used by SECTV’s customers and once it has integrated networks and systems, according to Altice, SECTV customers “will benefit from the self-service tools and other resources of Altice’s customer care operations,” and also that it does not anticipate any disruption to subscribers’

⁵⁰ Response to RCR-32.

⁵¹ Response to RCR-48.

⁵² Response to S-4.

⁵³ Response to S-7.

⁵⁴ Response to S-1.

ability to reach Altice customer service as a result of the Transaction.⁵⁵ Altice anticipates that eventually its marketing of SECTV products and services will transition from the Service Electric brand to Altice’s Optimum Brand, and expects this transition to occur in the first quarter of 2021.⁵⁶

IV. ANALYSIS OF THE PROPOSED TRANSACTION

A. Assessment of Probability of Potential Benefits – Compliance with Prior Commitments

In considering the merits of the Petition, it is appropriate to consider whether Altice fulfilled the commitments it made pursuant to the Board’s approval in 2016 of its acquisition of Cablevision. Altice stated that it “has fulfilled its obligations in accordance with the terms of the relevant stipulations.”⁵⁷ The major commitments are discussed below:

- Broadband commitment: Altice indicates that it fulfilled its merger commitment to upgrade its then top broadband speed of 100 Mbps to 300 Mbps (more than one year in advance of the requirement in the Stipulation). Altice indicates that it offers the Optimum NJ footprint top speed of up to 400 Mbps..⁵⁸
- Broadband for low-income customers: Altice launched Altice Advantage Internet (AAI) in September 2017 (after a pilot program beginning December 1, 2016) to households eligible for the National School Lunch Program and senior citizens eligible for Supplemental Security Income. In November 2019, Altice expanded the eligible population for AAI to include Veterans that receive state or federal assistance in an effort to better serve NJ residents. Altice indicates that the monthly price has been \$14.99/month, with no monthly fee for use of a modem, with an option for customers to pay the \$30 install fee over three months.⁵⁹ Among other forms of outreach, Altice mails promotional materials in English and Spanish to households in the eligible population and

⁵⁵ Response to S-9.

⁵⁶ Response to S-13.

⁵⁷ Response to RCR-5.

⁵⁸ Response to RCR-1.

⁵⁹ Response to RCR-2.

the website is available in English and Spanish. Altice also partnered with Acer, an information and communications technology company, to offer AAI customers a discounted internet-ready, recertified Chromebook laptop for purchase. Altice indicates that “[a]t this time, there are no plans to discontinue the offer of Altice Advantage Internet.”⁶⁰

- Support to Community Centers: Altice continues to support 18 community centers with free 100 Mbps service.⁶¹

Altice’s compliance with these and other prior commitments demonstrates its ability and willingness to fulfill merger-related commitments, and more importantly, demonstrates the value of providing tangible benefits to consumers. Had Altice not made these commitments, which were integral to the Board’s approval of Altice’s purchase of Cablevision, it is not clear which of these benefits would have flowed to consumers.

B. Transaction-related Consumer Harms

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

- *Lack of commitments*: Altice has not offered any enforceable commitments to the Board. “Planned” benefits are insufficient and are not enforceable and therefore should be translated into commitments. The following sections discuss some of the possible benefits resulting from Altice’s proposed acquisition of Service Electric, and identify commitments that should be made integral to the Board’s approval of the proposed transaction. Without such commitments, the Board cannot find that the transaction, on balance, would yield positive benefits.

⁶⁰ Response to RCR-3.

⁶¹ Response to RCR-5. In a subsequent data response, Altice corrected its original reference, which had been to 17 community centers, to indicate that it supports 18 community centers. See response to RCR-110.

- *Uncertainties and risks associated with COVID-19 pandemic:* The uncertainties created by the COVID-19 pandemic underscore the need for tangible benefits to yield an overall net benefit for consumers.

C. Transaction-related Potential Benefits

Although the Petitioners describe various *potential* benefits, they do not commit to any of them. Without such commitments, the proposed transaction does not pass the Board’s “positive benefit” test. Rate Counsel recommends that the Board condition its approval of Altice’s acquisition of SECTV’s operations and assets on the following commitments so that the transaction yields a net benefit for consumers.

1. Broadband affordability

Advanced broadband networks are meaningless if consumers lack the financial and digital literacy resources to adopt them. In New Jersey, as of 2018, 86.5% of households had broadband at speeds of 25 Mbps/3 Mbps or more and 60.9% of households had broadband at speeds of 100 Mbps/ 10 Mbps or more.⁶² However, reports released by the Pew Research Center⁶³ show that broadband adoption varies significantly by income, age, and community. The commitments that Altice previously made in the context of its merger with Cablevision are as relevant as ever.

In 2017, Altice began offering Altice Advantage Internet (“AAI”), a subsidized

⁶² In the Matter of Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, GN Docket No. 19-285, 2020 Broadband Deployment Report, Adopted: April 20, 2020, Released: April 24, 2020, FCC 20-50, Appendix 7 (“Adoption Rate for Fixed Terrestrial Services in the United States, Including the U.S. Territories (As of December 2018)”). Appendix 7 also shows state-level adoption rates for 10 Mbps/1 Mbps; 50 Mbps/5 Mbps; and 250 Mbps/25 Mbps.

⁶³“Internet Broadband Fact Sheet,” Pew Research Center Internet & Technology, June 12, 2019, <http://www.pewinternet.org/fact-sheet/internet-broadband/>

broadband internet offering (at a price not to exceed \$14.99 per month), in compliance with the Board's 2016 Order approving the Altice-Cablevision merger.⁶⁴ More recently, in response to the COVID-19 pandemic, Altice expanded its AAI program to encompass all households with students (regardless of income) and offered it to these households for free. Altice discusses AAI in responses to various Rate Counsel questions.⁶⁵ Altice should commit to offer AAI based throughout its existing and new footprint for at least five years post closing. Just as Altice's commitments were integral to the Board's approval of its prior acquisition of Cablevision, so too should commitments be integral to any Board approval of the transaction proposed in this proceeding.

In response to Rate Counsel's query in RC-20, the Petitioners indicate that they each offer stand-alone broadband. Altice should commit to offer stand-alone broadband throughout its existing and new footprint for at least three years at a monthly rate of no more than \$24.95. Also, Altice should commit that it will not charge any termination fees associated with consumers migrating from Service Electric's offerings to Altice's offerings, post-transaction.

2. No data caps

Consistent with its Orders approving the Altice/Cablevision merger and the Time Warner/Charter merger, the Board should seek a three-year commitment by Altice not to impose data caps on broadband Internet.⁶⁶ Recently Charter, another large cable/broadband provider, announced its plans to seek the FCC's approval of its request to impose data caps in May 2021 (and to charge fees for video services), in advance of the scheduled expiration of this and other

⁶⁴ *Altice/Cablevision Order*, at 8.

⁶⁵ See responses to RCR-2, 3, 5, 6, 105, 106 and 107.

⁶⁶ *Altice/Cablevision Merger Order*, at 10; *Time Warner/Charter Merger Order*, at 11.

merger conditions in May 2023. Rate Counsel is concerned that Altice might seek to mirror this industry action.. Therefore a commitment not to impose data caps would ensure tangible benefits flow to New Jersey customers.⁶⁷

3. Commitment, without an expiration date, to not block or throttle Internet traffic

Consistent with Executive Order No. 9, the Board should seek a commitment from Altice not to block or throttle internet traffic.

4. Commitment to Network Upgrade

Altice states that “it has substantially built out its service territory in the State of New Jersey and offers its full suite of Optimum broadband services to all households and small businesses passed by its network.”⁶⁸ Also, as discussed earlier in these comments, Altice anticipates rolling out its high-performing broadband in the Service Electric territory within 60 to 120 days following the transaction’s closing.⁶⁹ Altice has reiterated these commitments: “Notwithstanding challenges associated with its businesses and the pandemic, Altice remains interested in building on its investment in New Jersey through the Transaction. As outlined in Altice’s responses to the initial discovery requests, Altice plans to make substantial improvements to services received by customers currently in Service Electric’s footprint. Altice stands by those plans as described in the Petition and in Response to S-2.”⁷⁰

⁶⁷ <https://arstechnica.com/tech-policy/2020/06/charter-seeks-fcc-ok-to-impose-data-caps-and-charge-fees-to-video-services/>. See also FCC Public Notice DA 20-652, Petition by Charter Communications, Inc. to Sunset Merger Conditions, Pleading Cycle Established, WC Docket 16-197, released June 22, 2020. <https://ecfsapi.fcc.gov/file/0622272439013/DA-20-652A1.pdf>

⁶⁸ Response to RCR-15.

⁶⁹ Responses to S-2 and S-15.

⁷⁰ Response to RCR-93.

Based on these representations, Altice should be required to deliver the benefits described according to the time frames set forth in their discovery responses. If Altice translates these intentions into enforceable commitments, the transaction will bring positive benefits to customers⁷¹

5. Free internet to schools, libraries, certain nonprofits and municipal office buildings

Altice should reiterate its commitment to this offering under the terms of its franchises throughout its existing and new footprints.⁷²

6. Network reliability and public safety

Altice states that it prepares a Severe Weather Preparedness Plan, which it updates yearly, and that the plan addresses the company's entire footprint, including New Jersey, and SECTV indicates it does not prepare emergency preparedness documents, plans, or policy manuals for its operations in the State of New Jersey, but instead, during expected storms, it "initiates its 'Storm Mode' of operation, during which staff are required to be available as needed."⁷³ The Board should seek firm commitments by Altice to integrate the emergency planning, policies and procedures of its existing and newly acquired operations as well as of the network outage reporting practices.⁷⁴ Altice should also commit to comply with the Board's orders regarding cyber security and emergency alert systems.⁷⁵

⁷¹ *Altice/Cablevision Merger Order*, at 7-8.

⁷² Response to RCR-31.

⁷³ Response to RCR-50. See also responses to RCR-51 through RCR-56.

⁷⁴ See response to RCR-54 stating in part: "Although not obligated to do so under applicable law, Altice does provide the Board with notice of outages affecting 500 or more video subscribers for at least one hour during normal business hours and provides notice during after-hours for outages affecting 10,000 video subscribers for at least 4 hours. Additionally, Altice provides notice of larger outages (affecting 10,000 or more subscribers) affecting voice and/or broadband services. In addition, Altice communicates with the FCC daily concerning its system status and the number of customers online/offline when the FCC's enables the Disaster Information Reporting System

7. Service Quality

Altice stated in discovery that it intends to “address the service needs of current Service Electric customers through the processes, resources and protocols that Altice employs in the rest of the Optimum New Jersey footprint, which it will bring the legacy Service Electric territory,” referencing its responses to the Board Staff’s questions SR-2 and SR-9. Altice should be required as a condition of approval of this transaction to improve the quality of service offered in the Service Electric footprint as measured by specific metrics and time frames.

Complaint Rate: The complaint rate for SECTV is extraordinarily high. In its most recent filing (for 2019) made pursuant to NJAC § 14:18-6.7(g) (which requires cable operators to submit annual complaint reports to the Board regarding video services), SECTV reported 9,000 video complaints for 2019, representing approximately 47 percent of its customer base, more than twelve times the complaint rate of 3.8 percent by Altice’s customers (approximately 26,000 complaints).⁷⁶ Altice should commit to:

- Continue to track separately consumer complaints in the Service Electric territory until such time as the complaint rate for this territory is under 5.0 percent so that the Board can monitor Altice’s progress in addressing this matter. If complaints were averaged across both territories, Altice’s performance in its existing territory would mask Altice’s performance in its new territory; and

(“DIRS”) web site. SECTV states that it currently has no such processes or procedures in place. During emergencies, any communication would occur through email or telephone call to the appropriate official.”

⁷⁵ Altice should commit to comply with the Board’s Order: I/M/O Utility Cyber Security Program Requirements, under Docket No. A016030196, (March 18, 2016). <https://www.nj.gov/bpu/pdf/boardorders/2016/20160318/3-18-16-6A.pdf>. Altice should also commit to provide certification that it will remain fully compliant with FCC Emergency Alert System (EAS) obligations on digital programming services. Altice Cablevision Merger Order, Docket No. CM15111255, (5/25/16) pp. 15-16.

⁷⁶ Response to RCR-11.

- Reduce the complaint rate to under 5.0 percent within three months of the transaction's closing.

Call Answer Time: The mean time for a customer to reach a SECTV customer service representative is two minutes and fifty-seven seconds (SECTV does not track its peak-hour wait times).⁷⁷ This is a long time for customers to wait to talk with a representative and it is the *average* wait time, meaning that some customers may experience substantially longer wait times. Altice should commit to:

- Continue to track separately for its existing territory and for Service Electric's territory the timeliness of call answering, using either the average wait time or the percent of customer telephone calls answered within 30 seconds until such time as the timeliness is reasonably comparable so that the Board can monitor Altice's progress in addressing this matter (if call answering metrics were averaged across both territories, Altice's performance in its existing territory would mask Altice's performance in its new territory); and
- Reduce the customer wait time in Service Electric's territory to align with the customer wait time in Altice territory within three months of the transaction's closing.

8. Programming diversity

The Board should require Altice to continue to carry the existing PEG channels.

9. Community Anchor Institutions

Pursuant to a prior stipulation (in the Altice/Cablevision proceeding), Altice provides the

⁷⁷ Response to RCR-63.

following 18 community centers 100 Mbps Internet service at no cost.⁷⁸ Altice should commit to continue to support these 18 community centers for another five years and should also identify at least one community center for a similar level of support in the Service Electric footprint.

Organization	Address	City
Boys & Girls Club of Newark	1 Avon Avenue	Newark
Urban League of Essex County	508 Central Avenue	Newark
International Youth Organization	703 Twelfth Street S.	Newark
Bayonne Youth Center	524 Kennedy Boulevard	Bayonne
St. Peter's Haven	380 Clifton Avenue	Clifton
Hope Through Care - Grandma's Place	89 1st Street	Clifton
Boys and Girls Club of Paterson and Passaic	264 21st Avenue	Paterson
NJ Community Development Corp. Youth Center	52 Front Street	Paterson
Boys & Girls Club of Hudson - Hoboken Branch	123 Jefferson Street	Hoboken
Boys & Girls Club of Lodi	460 Passaic Avenue	Lodi
Boys & Girls Club of Hackensack	170-B Sussex Street	Hackensack
Puerto Rican Action Bd. - Family Success Center	255 Livingston Avenue	New Brunswick
Boys and Girls Club of Paterson and Passaic	14-20 Hudson Street	Passaic
Boys and Girls Club of Garfield	490 Midland Avenue	Garfield
Catholic Charities	1410 6th Avenue	Neptune
Boys and Girls Club of Hawthorne	150 Maitland Avenue	Hawthorne
Elizabethport Presbyterian Center	184 First Street	Elizabeth
Howell PAL	115 Kent Road	Howell

⁷⁸ Response to RCR-110.

10. Employment

Especially in light of the uncertain impact of the COVID-19 pandemic on Altice's finances, Altice should commit to not reduce the number of employees in the SEC-TV territory for two years following the close of the transaction and thereafter not to exceed a reduction of 15% during a five-year period with notice of any reductions to the Board with a copy to Rate Counsel.⁷⁹

11. Annual Public Benefits Report

The Board should direct Altice to submit a report within 30 days from the close of the transaction and annually thereafter during a four-year period related to the public benefits asserted by Altice in its filing to the Board with copy to Rate Counsel.⁸⁰

Additional Commitments

In light of the unprecedented circumstances created by the COVID-19 pandemic, Rate Counsel recommends that the Board seek additional commitments from Altice to assist its customers during these challenging times. Such commitments could include;

⁷⁹ Response to S-4 and S-7. *Altice/Cablevision Merger Order*, at 10; *Time Warner/Charter Merger Order*, at 10-11.

⁸⁰ *Time Warner/Charter Merger Order*, at 12.

- a. ***Pandemic-related emergency internet access – distance learning:*** Altice could commit to extend its expanded customer eligibility for its AAI program (which, through June 30, includes all households with K-12 and/or college students) to December 31, 2020, and, similarly to extend its partnership with school districts to provide a Student WiFi product, allowing school issued devices to be provided to access the Altice’s outdoor WiFi access points at no charge through December 31, 2020.
- b. ***Pandemic-related emergency internet access – assisting older persons overcome social isolation:*** Working with appropriate state agencies and stakeholders, and using its Altice Mobile product, Altice could commit to help older persons overcome the social isolation they are experiencing during these unprecedented times by providing wifi hotspots at no charge in independent living, assisted living, and nursing homes.⁸¹
- c. ***Billing and termination procedures:*** The COVID-19 pandemic has led to widespread unemployment. Households are struggling to pay rent and buy food. Altice’s bills are due 15 days from the customers’ billing cycle date and SECTV’s bills are due between 15 and 18 days from a customer’s billing cycle date.⁸² Short turnaround times for bill-paying likely create pressure for consumers, especially those with fixed or low incomes. Altice should extend the bill payment period for an additional 30 days during the pandemic. Altice could also offer a tangible benefit by eliminating any late payment charges.⁸³

⁸¹ See footnote **, supra.

⁸² Response to RCR-65. See response to RCR-66 for information about late payment charges.

⁸³ See Governor Murphy’s Executive Order No. 126, (April 13, 2020).

<https://nj.gov/infobank/eo/056murphy/pdf/EO-126.pdf>

d. *Pandemic-related emergency internet access – keeping people connected:* Altice could commit to:

- i. Continuing its moratorium on broadband and phone disconnections through December 31, 2020; and
- ii. Establishing an arrearage management fund to help customers pay their arrearages.⁸⁴

⁸⁴ In Vermont, legislation is pending that would allocate \$20 million to fund ratepayer arrearages resulting from the Public Utility Commission’s moratorium on utility disconnections. See document entitled “Draft 1.1 – Energy and Technology, 6/10/2020 - MCR – 12:29 PM VT LEG #348770 v.1, Coronavirus Relief Fund – Committee Recommendations House Committee on Energy and Technology – June 10, 2020 Revisions Highlighted in Yellow, June 10, 2020 HE&T Revisions in Blue.”

V. CONCLUSION

The Board's investigation of Altice's proposed acquisition of SECTV is occurring in the context of major societal and economic upheaval relating to the ongoing COVID-19 pandemic. Rate Counsel acknowledges the potential for benefits to flow to New Jersey consumers if Altice's proposed acquisition of the assets of Service Electric occurs (such as faster broadband, improved customer service, etc.). Rate Counsel also acknowledges that in its responses to discovery, Altice reiterates its plans to invest in New Jersey.⁸⁵ Therefore, requiring firm, enforceable commitments should not be an issue to ensure that Altice devotes the resources necessary to provide the benefits it asserts will flow to New Jersey consumers and form the basis for Board approval of this proposed transaction

Rate Counsel welcomes innovative, advanced products and services in the voice, broadband internet access, and video markets that are offered at affordable rates and reasonable terms and conditions. Rate Counsel also welcomes adequate customer service. Altice's substantial financial, technical, and managerial resources equip the company to improve the services now offered to Service Electric customers. However, as is discussed in detail in these comments, Altice, in its first quarter 10-Q filing with the SEC, has identified numerous risks to its finances associated with the COVID-19 pandemic

Consumers should be better off and yet the proposed transaction would occur during an unprecedented pandemic that could jeopardize the realization of the benefits that Altice describes as the basis for approval of this transaction. In order to ensure that consumers benefit from the merger and are protected from potentially harmful consequences of the proposed transaction,

⁸⁵ Altice response to RCR-93.

Rate Counsel urges the Board to condition its approval of the transaction on the commitments discussed in these comments.

Respectfully submitted,

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