

September 16, 2016

Leah J. Tulin
Tel +1 202 639 6058
ltulin@jenner.com

FILED VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Expanding Consumers' Video Navigation Choices*, MB Docket No. 16-42
Commercial Availability of Navigation Devices, CS Docket No. 97-80

Dear Ms. Dortch:

On September 14, 2016, Alex Hoehn-Saric, Charter Communications, Inc.'s Senior Vice President for Policy and External Affairs, met with Matthew Berry, Chief of Staff to Commissioner Pai.

During the meeting, Mr. Hoehn-Saric explained that Charter's practice of providing modems to its broadband subscribers at no additional charge is both transparent and customer-friendly, and that Charter's inclusive prices are competitive with those of its peers even *without* factoring in the separate modem fees charged by other MVPDs.¹ Mr. Hoehn-Saric also reiterated that the Commission's proposal to require a separately stated modem fee would not only fail to meet the Commission's stated goal of increasing transparency to consumers, but would actively harm consumers by creating a new fee that the vast majority of subscribers would need to pay.² In addition to being a bad policy proposal, Mr. Hoehn-Saric noted that the Commission's proposed rule is legally flawed for the numerous reasons that Charter has already explained.³

¹ See Letter from Leah J. Tulin, Counsel for Charter Communications, Inc., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-42 & CS Docket No. 97-80, at 1-2 (filed Aug. 18, 2016).

² See *id.* at 2.

³ See Letter from Samuel L. Feder, Counsel for Charter Communications, Inc., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-42 & CS Docket No. 97-80, at 1-5 (filed Sept. 12, 2016); Letter from Leah J. Tulin, Counsel for Charter Communications, Inc., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-42 & CS Docket No. 97-80, at 1-2 (filed Aug. 18, 2016); Letter from Leah J. Tulin, Counsel for Charter Communications, Inc., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-42 & CS Docket No. 97-80, at 2-3 (filed July 11, 2016); Reply Comments of Charter Communications, Inc., MB Docket No. 16-42 & CS Docket No. 97-80 (filed May 23, 2016).

Mr. Hoehn-Saric also pointed out that, in its Order approving the transactions through which Charter acquired Time Warner Cable and Bright House Networks, the Commission explicitly prohibited Charter from charging a separate modem fee as part of the discounted broadband services offer that Charter will soon begin offering to eligible low-income customers.⁴ The Commission's proposal to now *require* providers to impose a separate modem charge is fundamentally at odds with the policy the Commission endorsed in the *Charter-TWC-BHN Order* and underscores the arbitrary and capricious nature of the Commission's proposal.

Finally, Mr. Hoehn-Saric expressed concerns with the concepts and approaches recently raised by Commission staff for addressing other issues in this proceeding.⁵

Please contact me if you have any questions regarding these matters.

Sincerely,

/s/ Leah J. Tulin

Leah J. Tulin
Counsel for Charter Communications, Inc.

cc: Matthew Berry

⁴ *In re Applications of Charter Commc'ns, Inc., Time Warner Cable Inc., and Advance/Newhouse P'ship. For Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, MB Docket No. 14-159, app. B, § VI.2.e (May 10, 2016) ("*Charter-TWC-BHN Order*") ("Qualifying households . . . shall not be required to pay modem fees . . .").

⁵ See Letter from Paul Glist, Counsel for National Cable & Telecommunications Association, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-42 & CS Docket No. 97-80, at 1-2 (filed Sept. 13, 2016).