Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of Applications of Cox Enterprises and Charter Communications For Consent to Transfer Control of Licenses and Authorizations	WC Docket No. 25-233

REPLY TO OPPOSITION OF PUBLIC KNOWLEDGE, COMMUNICATIONS WORKERS OF AMERICA, BENTON INSTITUTE FOR BROADBAND & SOCIETY, AND CENTER FOR ACCESSIBLE TECHNOLOGY

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TABLE OF CONTENTS

I. INTRODUCTION

Public Knowledge, Communications Workers of America, Benton Institute for Broadband & Society, and Center for Accessible Technology (Petitioners) submit this reply to the Applicants' Joint Opposition to Petitioners' Petition to Deny (Petition). The Applicants' opposition confirms rather than dispels Petitioners' concerns. It rests on three flawed premises: that theoretical competition from technologies that do not serve as real substitutes somehow disciplines cable pricing; that the absence of local geographic overlap means this transaction poses no competitive harm; and that the Commission's public interest authority is limited to the narrow question of whether two specific companies directly compete. Each premise is wrong, and the Applicants' opposition should not deter the Commission from protecting the public interest.

The Applicants devote substantial effort to describing competition from fixed wireless access (FWA), satellite broadband, and fiber. But even if these services created meaningful competitive pressure on Charter and Cox (and they do not), the relevant question is whether this transaction would harm the public interest by increasing Charter's gatekeeper power over internet traffic, reducing incentives to compete on price and service, and concentrating labor market power. On each point, the Applicants' opposition is unpersuasive.

II. THE APPLICANTS OVERSTATE COMPETITIVE PRESSURE AND UNDERSTATE TRANSACTION HARMS

A. Fixed Wireless and Satellite Do Not Discipline Cable Pricing

The Applicants claim that FWA and satellite broadband create competitive pressure sufficient to prevent post-merger price increases.[1] The record does not support this claim.

FWA does not function as a competitive constraint on cable pricing. The Applicants cite FWA subscriber growth,[2] but growth does not establish that FWA can absorb the

[1] Reply Comments and Joint Opposition at 10-12.
[2] Reply Comments and Joint Opposition at 10.

customers who would switch away from cable in response to a price increase. FWA appeals primarily to price-sensitive consumers willing to accept capacity constraints and variable performance in exchange for lower monthly bills. These consumers are not the marginal subscribers whose potential loss disciplines cable pricing.

The Applicants quote AT&T's recent spectrum acquisition as evidence of FWA's competitive significance.[3] But AT&T's 2023 assessment remains the more candid evaluation: AT&T's executives described FWA as "not a great product" that "the customer ultimately is going to reject" because "the customer's experience is going to degrade" over time.[4] AT&T may be deploying FWA as a transitional product to capture certain customers while fiber deployment proceeds, but that does not make FWA a substitute that constrains cable pricing.

Satellite broadband faces the same substitutability problem. Latency, capacity constraints, and weather sensitivity make satellite unsuitable for many broadband applications. The Applicants note Starlink's subscriber growth,[5] but Starlink's primary market is rural and remote areas with fewer terrestrial alternatives.[6] In the suburban and urban markets where Charter and Cox operate, satellite serves as a fallback, not a competitive discipline.

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[3] Reply Comments and Joint Opposition at 11, n. 37

[4] AT&T, Inc., Deutsche Bank Media, Internet & Telecom Conference Call Transcript, February 27, 2023, https://seekingalpha.com/article/4584506-at-and-t-inc-t-deutsche-bank-media-internet-and-teleco m-conference-call-transcript

[5] Reply Comments and Joint Opposition at 11.

[6] Mike Dano, *Starlink looking less niche as its retail presence expands*, Light Reading (Dec. 7, 2025), https://www.lightreading.com/satellite/starlink-looking-less-niche-as-its-retail-presence-expands ("Overall, more than 85% of Starlink's customers come from rural areas, while the rest are suburban[.]"); Appl. for Rev. of Starlink Servs., 38 FCC Rcd. 12,201, 12,216 (2023) (Carr, Comm'r, dissenting) ("[I]n exchange for awarding Starlink $885 million back in 2020, the FCC secured a commitment for the delivery of high-speed Internet service to over 642,000 unserved rural homes and businesses across 35 states.")

The Applicants claim that cable companies have lost subscribers to these alternatives.[7] But subscriber losses to FWA and satellite occurred primarily among customers without access to fiber alternatives, customers in rural areas newly served by Starlink, and customers seeking lower-cost options who accept reduced performance. None of these dynamics suggests that Charter or Cox would lose significant subscribers if they raised prices by 5% or 10% after the merger. The Applicants' pricing table shows modest price reductions between 2022 and 2024,[8] but these reductions coincided with aggressive fiber overbuilding and FWA expansion that the Applicants themselves cite as evidence of competitive pressure. If pre-merger competition produced these reductions, the relevant question is whether post-merger concentration will weaken the competitive forces that drove them. The Applicants' refusal to make binding pricing commitments suggests they anticipate more pricing "flexibility" after the transaction closes

B. The Absence of Local Overlap Does Not Eliminate Competitive Harm

The Applicants argue that because Charter and Cox have minimal geographic overlap, the transaction cannot harm competition. This argument reflects a cramped understanding of how consolidation in the broadband industry affects competitive dynamics.

First, the Applicants do not address the California Public Utilities Commission's finding that Charter and Cox have 25,503 overlapping locations, of which 16,485 (65%) have only Charter and Cox as providers of 1 Gbps service. The Applicants instead rely on their economist's assertion that the transaction "does not affect the number of broadband competitors at more than 99.9% of the locations in the combined company's footprint" and that "at least one other high-speed terrestrial fixed broadband service provider" serves approximately 80% of overlap locations.[9] But this framing sidesteps the CPUC's point.

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[7] Reply Comments and Joint Opposition at 8 and 10.
[8] Reply Comments and Joint Opposition at 21.
[9] Reply Comments and Joint Opposition at 9 and 14, n. 52.

Customers at the 16,485 locations where only Charter and Cox offer gigabit service will see their choices reduced from two providers to one. The Applicants' claim that satellite provides 100/20 Mbps service at "every single overlap location"[10] does not remedy this harm. Satellite service at the FCC's minimum benchmark speed is not a substitute for the gigabit fiber and cable service these customers currently can choose between. The Commission has set an aspirational goal of 1 Gbps/500 Mbps, and the Applicants should not be permitted to dismiss the loss of gigabit competition by pointing to satellite service operating at a fraction of those speeds. Relatedly, as several commenters stated in response to the FCC's Section 706 Inquiry, "benchmarks should not remain stagnant in a rapidly evolving digital landscape."[11] This view is widely shared across industry, research, and advocacy communities, with many agreeing that broadband standards must continue to advance to reflect technological progress and consumer needs.[12]

Second, the economic literature on multimarket contact and conscious parallelism supports the concern that consolidation facilitates tacit coordination even without direct overlap. The Applicants mischaracterize Petitioners' argument. The claim is not that cable operators explicitly coordinate prices. Reducing the number of major cable operators makes it easier for each to benchmark pricing decisions against others, reducing competitive pressure across the industry. When Charter absorbs Cox, the remaining major cable operators will more readily observe and match each other's pricing, promotional practices, and bundling strategies. The Applicants' response, that each operator sets prices independently based on

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[10] Reply Comments and Joint Opposition at 14, n. 52

[11] Reply Comments of Public Knowledge, X-Lab, Hispanic Technology & Telecommunications Partnership (HTTP), National Digital Inclusion Alliance, UnidosUS, New America's Open Technology Institute in GN Docket No. 25-223 (September 23, 2025) at 6.

[12] Comments of Benton Institute for Broadband & Society in GN Docket No. 25-223 (September 8, 2025) at 5; Comments of Fiber Broadband Association in GN Docket 25-223 (September 8, 2025) at page 6; Comments of NTCA-The Rural Broadband Association in GN Docket 25-223 (September 8, 2025) at 3.

costs and demand, ignores that the structure of an industry affects how operators perceive competitive constraints. A more concentrated industry reduces uncertainty about rivals' likely responses and makes parallel pricing more stable.

Third, and most important, the principal competitive harm from this transaction is not reduced head-to-head competition between Charter and Cox. It is the increase in Charter's gatekeeper power over internet traffic. Every internet content provider seeking to reach Charter's subscribers must ultimately traverse Charter's network. The merged entity would control the exclusive path to over 37 million subscribers. Content providers and edge services cannot route around Charter, and most Charter subscribers cannot credibly threaten to switch to alternatives if their service degrades. This terminating access monopoly is not just a function of local competition. It is a function of scale, and this transaction increases Charter's scale.

III. INTERCONNECTION CONDITIONS REMAIN NECESSARY

The Applicants argue that interconnection conditions are unnecessary because Charter voluntarily offers settlement-free peering and has no history of interconnection disputes. This argument proves too much. If Charter's voluntary practices are adequate, a condition requiring those practices should impose no burden. If Charter intends to maintain settlement-free peering indefinitely, a condition memorializing that commitment should be unobjectionable.

The Applicants' opposition reveals why conditions remain necessary. Charter maintains settlement-free peering today because the 2016 conditions created expectations and practices that Charter has found efficient to continue. But voluntary practices can change. Charter's shareholders could decide that the enlarged post-merger subscriber base creates an opportunity to extract interconnection payments. Without conditions, nothing would prevent this shift.

The Applicants claim that the interconnection market is "highly competitive" and cite the Commission's statement in the 2018 Restoring Internet Freedom Order.[13] But that Order's analysis of interconnection competition predates significant changes in internet traffic patterns and content delivery. More importantly, the 2018 Order was addressing whether to regulate interconnection generally, not whether to impose conditions on a specific transaction that would substantially increase one provider's gatekeeper leverage. The Commission has repeatedly recognized that transaction review serves different purposes than general rulemaking.

The Applicants also argue that no interconnection partner has complained about Charter's practices. This absence of complaints reflects Charter's current practices, not its post-merger incentives. Content providers dependent on reaching Charter's subscribers have strong reasons not to antagonize Charter by filing comments that Charter might view as hostile. The absence of complaints in a regulatory proceeding is weak evidence of competitive conditions.

Petitioners proposed permanent conditions because the structural incentives created by this transaction will persist indefinitely. The Applicants suggest this is excessive, but they offer no reason why conditions should expire if Charter's commitment to settlement-free peering is genuine. The 2016 conditions were vacated by the D.C. Circuit, and the Applicants now point to Charter's continued compliance as evidence that conditions are unnecessary. This reasoning is circular. Charter complied with conditions when they existed, continued practices established under those conditions after they were no longer in force, and now argues that its continued compliance proves conditions were never needed. A more straightforward explanation is that conditions work, and Charter's post-condition compliance

[13] Reply Comments and Joint Opposition at 21.

reflects path dependence, not proof that market forces alone would produce the same outcome.

IV. THE APPLICANTS' PRICING ARGUMENTS ARE UNPERSUASIVE

The Applicants argue that the transaction will benefit consumers through lower prices, citing Charter's "approach to pricing" and the synergies the merger will generate.[14] But the Applicants refuse to make binding pricing commitments. This refusal speaks louder than their assurances.

The Applicants claim that competitive pressure will force them to pass synergy savings to consumers. But they simultaneously argue that FWA and satellite create intense competitive pressure today. If current competition is sufficient to discipline pricing, why do the Applicants refuse to commit to maintaining or extending those reductions post-merger? The Applicants cannot have it both ways. Either current competition constrains pricing, in which case Charter's current prices already reflect competitive discipline and synergies will flow to shareholders, or current competition does not fully constrain pricing, in which case the Applicants' claims about post-merger competitive pressure are overstated.

The empirical literature cited in the Petition demonstrates that mergers in concentrated industries typically increase prices rather than reducing them. It shows that when firms combine, they internalize competitive pressure that previously existed between them, and they gain market power that allows them to raise prices or reduce investment without losing customers. The Applicants point to declining broadband prices industry-wide, but this trend reflects technological change and fiber deployment by competitors, not evidence that mergers reduce prices. The question is whether prices would be lower still absent the merger, and the weight of economic evidence suggests they would.

[14] Reply Comments and Joint Opposition at 16.

V. LABOR CONCERNS ARE WITHIN THE COMMISSION'S PURVIEW

The Applicants argue that labor issues are outside the Commission's jurisdiction and should be addressed by other agencies. This argument misunderstands the Commission's public interest authority.

The Commission has previously considered employment effects in transaction review.[15] The Applicants cite recent orders where the Commission declined to impose labor conditions, but those decisions turned on the specific record in each proceeding, not on a categorical exclusion of labor issues from public interest review. When applicants tout job creation and employment benefits as public interest benefits, as the Applicants do here, the Commission is entitled to evaluate whether those claims are credible.

The record here supports skepticism. Charter's Chairman announced 20,000 new jobs following the TWC merger, but Charter's employment peaked at 101,700 in 2022 and has since declined to 94,500. Charter closed call centers in 2024, affecting workers in Milwaukee, Syracuse, and Cincinnati. The Applicants characterize these closures as efficiency measures and note that affected employees could apply for other positions, but this is precisely the pattern of post-merger workforce reduction that undermines claims of employment benefits.

The Applicants defend Charter's labor practices by noting that every unfair labor practice charge against Charter in the past five years was withdrawn or dismissed. But the withdrawal of charges often reflects settlement rather than exoneration, and the NLRB process can be lengthy enough that workers abandon claims before resolution. The Applicants also note that CWA has faced more charges than Charter, but this comparison is

[15] Application of Verizon Commc'ns Inc. & América Móvil, S.A.B. de C.V., 36 FCC Rcd 16,994, ¶¶ 103–08 (2021) (finding that the transaction would have limited impact on telecommunications workers and declining to impose employment-related conditions); *In re* Consent to Transfer Control of Certain Subsidiaries of TEGNA Inc. to SGCI Holdings III LLC, 38 FCC Rcd 1282, ¶¶ 36–44 (Media Bur. 2023) (designating for hearing the question of whether the transaction would harm localism through the reduction of station-level staffing).

inapt: CWA is a union representing workers who may file charges when they disagree with union decisions, while Charter is an employer whose employees may file charges alleging unlawful conduct. The categories are not comparable.

The Applicants dispute Petitioners' characterization of retirement benefit changes, claiming that Cox employees will not "lose retirement benefits accrued prior to closing."[16] But this narrow response does not address the broader point. The Applicants confirm that Cox employees will transition to Charter's 401(k) and Retirement Accumulation Plan structure. Whatever the status of previously accrued benefits, this transition moves workers from Cox's legacy retirement framework to a defined-contribution model that shifts investment risk onto employees. The Applicants tout Charter's 401(k) matching as generous, but a company match is not equivalent to the guaranteed benefit a defined-benefit pension provides. And the Applicants do not dispute that Cox employees will lose eligibility for retiree healthcare, instead noting only that Cox closed these plans to new employees in 2017. That these plans closed before the merger does not change the fact that the merger will take these important benefits away from the long-tenured employees who are still eligible for them (those hired before 2017).

VI. AFFORDABILITY AND DIGITAL EQUITY CONDITIONS ARE TRANSACTION-SPECIFIC

The Applicants argue that Petitioners' proposed affordability and digital equity conditions are not transaction-specific because they reflect general policy concerns. This argument misunderstands how transaction-specific harms arise.

This transaction would eliminate competitive pressure between Charter and Cox, reducing each company's incentive to improve low-income offerings. Before the merger, Cox might enhance its ConnectAssist program to compete with Charter's Internet Assist, or vice

[16] Reply Comments and Joint Opposition at 28.

versa. After the merger, the combined company faces no such pressure. This is a transaction-specific harm because it arises directly from the combination of these two firms.

The Applicants suggest that conditions addressing this harm would require 'rate regulation' that the Commission should avoid. But conditions addressing consumer protection concerns have been imposed in previous transactions. The Commission's authority to address affordability through merger conditions is well established.[17] The Applicants also argue that conditions would "divert resources" from competitive responses.[18] This argument is telling. If the Applicants believe that serving low-income customers diverts resources from more profitable activities, that belief confirms Petitioners' concern that the merged entity will underinvest in affordability absent regulatory requirements.

The Applicants criticize the study Petitioners cited regarding pricing disparities in Los Angeles County, claiming it has "significant flaws."[19] But the Applicants' response does not address the study's core finding: that advertised prices varied systematically across neighborhoods in ways correlated with income and demographics. Whether this variation reflects discrimination or other factors, it demonstrates that Charter's claim of uniform footprint-wide pricing does not capture the full picture of how customers experience Charter's offerings.

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[17] Appl. of Verizon Commc'ns Inc. & América Móvil, S.A.B. de C.V., 36 FCC Rcd. 16,994, 17,029 (2021) (App. B, Cond. 2) ("Verizon will not add new co-pays to TracFone's existing Lifeline plans offered at no cost to prepaid customers for at least 3 years after the transaction closes . . . ."); Appls. of Charter Commc'ns, Inc., Time Warner Cable Inc., & Advance/Newhouse P'ship, 31 FCC Rcd. 6,327, 6,547 (2016) (App. B, Cond. VI) ("The Company shall offer year-round, with no limitations imposed on enrollment periods or terms, fixed Broadband Internet Access Service with download speeds of at least 30/4 Mbps and a cable modem to any Eligible Enrollee who does not have an Eligibility Restriction in the Company's footprint for no more than $14.99 per month."); Appl. of Comcast Corp., Gen. Elec. Co. & NBC Universal, Inc., 26 FCC Rcd. 4,238, 4,379 (2011) (App. F) ("Comcast shall commence a program, the Comcast Broadband Opportunity Program . . . each eligible participating household shall . . . receive the Economy version of Comcast's Broadband Internet Access Service for $9.95 per month . . . .")

[18] Reply Comments and Joint Opposition at 32.

[19] Reply Comments and Joint Opposition at 33.

VII. CONCLUSION

The Applicants' opposition confirms the concerns raised in the Petition. The Applicants point to theoretical competition that does not constrain their pricing, dismiss geographic overlap that will reduce consumer choice, claim that voluntary interconnection practices obviate the need for conditions while refusing to accept conditions that would formalize those practices, tout employment benefits while reducing employee compensation, and dismiss affordability conditions as outside the scope of transaction review despite the Commission's long history of imposing consumer-protection conditions in major transactions. Therefore, the Commission should deny this transaction or, at minimum, impose conditions that address the transaction-specific harms Petitioners have identified: permanent interconnection requirements, prohibitions on data caps and usage-based pricing, enhanced affordability programs, and labor protections.

Respectfully submitted,

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