

June 1, 2016

***Via Regular Mail & Email***

Irene Kim Asbury, Esq.  
Secretary of the Board & Records Custodian  
Office of the Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
Trenton, NJ 08625-0350

Re: In the Matter of the Petition of Time Warner Cable, 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 City, LLC and Approval of Transaction Financing  
Docket No. CM15070770

In the Matter of the Verified Petition of Charter Communications, Inc. and Time Warner Cable Inc., for Approval of the Transfer of Control of Time Warner Cable Information Services (New Jersey), LLC and Approval of Transaction Financing  
Docket No. TM15070772

Dear Ms. Asbury:

This office represents the National Association of African American-Owned Media (“NAAAOM”) and Entertainment Studios, Inc. (“ESI”). Enclosed please find an original and one (1) copy executed Certification of Byron Allen, the President of ESI. This is our reply to the opposition filed by the Joint Petitioners in the above-referenced matters. Kindly return a “filed” copy in the envelope provided.

Thank you for your attention to this matter.

Very truly yours,  
HILL WALLACK LLP

  
Rocky L. Peterson

RLP:ar

Cc: See attached Service List (*Via email & Reg. Mail*) ✓  
Janice Arouh (email)  
Gavin P. Lentz, Esq. (email)

Service List

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MAIL RECEIVED

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Docket No. CM15070770

In the Matter of the Verified Petition of Charter Communications, Inc. and Time Warner Cable Inc., for Approval of the Transfer of Control of Time Warner Cable Information Services (New Jersey), LLC and Approval of Transaction Financing

Docket No. TM15070772

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Attorneys for Movants/Appellants National Association of African American-Owned Media and Entertainment Studios Networks, Inc.

In the Matter of the Petition of Time Warner Cable, 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 City, LLC and Approval of Transaction Financing

Docket No. CM15070770

AND

In the Matter of the Verified Petition of Charter Communications, Inc. and Time Warner Cable Inc., for Approval of the Transfer of Control of Time Warner Cable Information Services (New Jersey), LLC and Approval of Transaction Financing

Docket No. TM15070772

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO.:

Civil Action

On Appeal From:

March 31, 2016 Order from the Board of Public Utilities (made effective April 1, 2016).

CERTIFICATION OF  
BYRON ALLEN

I, Byron Allen, of full age, do hereby certify in lieu of oath as follows:

1. I am the founder, chairman, CEO and sole owner of Entertainment Studios Networks, Inc. (hereinafter "ESI").



2. This Certification is in support of ESI's request for a stay of the Order entered by the BPU approving a merger of Charter Communications and Time Warner Cable.
3. The BPU failed to consider that the proposed merger did not require, involve or otherwise provide for participation of any 100% African American owned media companies, such as ESI, who are being discriminated against by Charter Communications (and Time Warner Cable through Charter control) on account of race in violation of my and other African American media owners' civil rights. Despite being advised in writing of the discriminatory impact of approving the merger prior to entry of the Order, the BPU never addressed the demonstrated adverse impact of the merger on New Jersey subscribers and vendors.
4. It is the responsibility of the BPU to address allegations of racial discrimination against Charter Communications when considering Charter's application in New Jersey to merge with Time Warner Cable and control all cable television subscribers in New Jersey. Here, the allegation was made in writing to the BPU by myself and Mark DeVitre, President of the National Association of African American Owned Media, months prior to entry of the Order. It would not have been an inconvenience for the BPU to address the issues raised in this written warning and in the Complaint

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I filed in Federal District Court in Los Angeles, California which was provided to the BPU and described in detail the allegations.

5. ESI is a 100% African American owned media company involved in film and television production and distribution, as well as the distribution of seven cable channels (all distributed to consumers in the United States on a 24-hour per day, seven day per week basis) to the major television distribution platforms (cable, satellite, telco). While ESI's cable channels are retransmitted to nearly 80 million cumulative pay television subscribers in the United States by such major television platforms as Verizon Fios, DirectTV, AT&T U-verse, and Suddenlink (among others), ESI's cable channels are the only ones out of approximately 600 cable channels surveyed, which are carried on all of the aforementioned platforms, but not also carried on Charter/Time Warner. Charter further does not carry any other 100% African American owned cable channels. Clearly, ESI has been, and continues to be, adversely impacted by Charter's discriminatory refusal to include 100% African American owned channels on its television platform. It has standing to intervene in this matter and seek emergent relief.

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6. Tom Rutledge, the Chief Executive Officer and President of Charter Communications has repeatedly, on numerous occasions, refused to even meet with me to discuss adding 100% African American owned channels to the Charter cable systems despite the fact that he meets with similarly situated white channel owners frequently. This continuing refusal of Charter to meet and/or negotiate with ESI have been previously described in the papers submitted by counsel for ESI. Those refusals illustrate and foster the continuing, unabated discrimination against ESI and financially harm the State of New Jersey by stifling diverse voices in program ownership, competition and African American (and other minorities) access to Charter/Time Warner Cable systems in New Jersey if this merger is not stayed. ESI should be given the opportunity to address not only the economic harm to 100% African American owned media like ESI, but also the economic harm to New Jersey pay television subscribers.

7. By not requiring Charter to provide television platform access for 100% African American owned media companies like ESI, the BPU has deprived New Jersey subscribers of uncounted opportunities to experience the 100% African American owned cable channel programming offered by ESI and companies like it. Thus, the merger limits competition

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among cable providers and reduces the need for those providers to make diverse programming available.

8. Failure to provide inclusion for 100% African American owned media, which may attract more subscribers to Charter, deprives the State of New Jersey of substantial employment opportunities. Because of Charter's ongoing racial discrimination, ESI, as a 100% African American owned media company, cannot obtain cable carriage in New Jersey. If ESI channels were available to cable subscribers in New Jersey, revenue and job opportunities would be created in New Jersey. Those job opportunities are now lost due to approval of this merger and the failure to consider the discriminatory impact of the failure to require Charter to include 100% African American owned media on its platforms.
9. Charter has announced that, on behalf of African Americans, it has established Memoranda of Understanding ("MOU") with the National Action Network (i.e., Al Sharpton), and the National Urban League, neither of which organizations own or operate any cable channels. These non-media organizations' did not via such MOU secure any actual inclusion for 100% African American owned media companies in the "New Charter", such being left entirely up to Charter's discretion. Charter's one token commitment was to renew the carriage agreement of one single, African





American "targeted" (not owned) cable channel, such as BET. But this so-called commitment is illusory because Charter would inevitably renew the white owned, Viacom cable channel, BET, as it has every time in the past. Beyond illusory, this deceptive tactic, when taken with the history of African Americans with Charter Communications (Charter does not have a Chief Diversity Officer, and does not have any African American, or female, director on its Board of Directors), makes clear that Charter intends to continue its racial discrimination in New Jersey and elsewhere, and the BPU's Order endorses these horrific practices.

10. Adding insult to injury, Charter states in the MOU they "may" create an advisory committee to strategically consider whether to add African American focused or targeted networks at their sole option. Again, Charter is intentionally vague, and silent about launching 100% African American owned networks which they discriminate against.

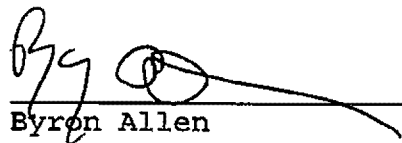
11. It is incumbent upon the BPU to protect the substantial number of New Jersey's, African American pay television subscribers, and all citizens of New Jersey, from racial discrimination in violation of Federal laws.

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The proposed Order does not accomplish, or even address, this injustice.

12. Nothing in the BPU's Order requires Charter to include 100% African American owned media or cable channels as part of its television offerings, and thus, the cable subscribers of New Jersey will be unable to view any channels truly owned by African Americans. Further, the businesses and other advertisers of New Jersey will be unable to advertise on any channels truly owned by African Americans. This state-sponsored discrimination against 100% African American owned media, including my company, must not be tolerated, and the Order must be stayed affording ESI the right to address this emergent and overwhelming need for diversity and economic opportunity and inclusion in the State of New Jersey's television landscape.

13. I certify that the foregoing is true to the best of my knowledge.

  
Byron Allen

Date: