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**Via Electronic Mail**

March 23, 2021

Ms. Aida Camacho-Welch, Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, 9<sup>TH</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350  
[Board.Secretary@bpu.nj.gov](mailto:Board.Secretary@bpu.nj.gov)

Re: In the Matter of Request for an Investigation into the Operations  
of Altice USA in New Jersey, **BPU Docket No. CX21020139**

Dear Secretary Camacho-Welch:

The New Jersey Division of Rate Counsel (“Rate Counsel”) submits this filing with the New Jersey Board of Public Utilities’ (“Board”) pursuant to an investigation initiated by the Board on February 17, 2021, following complaints filed by ten municipalities, concerning the quality of services provided by Altice, USA (“Altice”) on its multi-function network in New Jersey.<sup>1</sup> The Board scheduled a public hearing on March 16, providing an opportunity for interested parties and customers (public and private) to submit testimony on the record detailing service quality issues and concerns. Over 75 speakers provided detailed and eloquent testimony on the record and respectfully requested the Board take action to resolve the persistent and systemic service issues that plague safe and reliable service to mostly captive customers throughout Altice’s service territory. Rate Counsel submits the comments herein for the Board’s

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<sup>1</sup> *In the Matter of Request for an Investigation into the Operations of Altice USA in New Jersey*, BPU Docket No. CX21020139, Board Order dated February 17, 2021, (effective February 25, 2021).

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consideration as the Board develops a path towards a process that will address the issues raised, confirm service accountability and ensure services provided remain safe and reliable. Rate Counsel's filing is provided by electronic mail only.<sup>2</sup> Please acknowledge receipt of Rate Counsel's electronic filing for its record. Thank you for your consideration and attention to this matter.

### Introduction

On September 17, 2015, Altice NV, a European telecommunications conglomerate, announced its intention to acquire Cablevision Systems Corporation, which provided in New Jersey, under its brand name Optimum, high-speed internet service, digital TV/cable and VoIP phone service (provided through its wholly-owned subsidiaries Lightpath and 4Connections) for \$17.7 billion.<sup>3</sup> On May 3, 2016, the Federal Communications Commission ("FCC") found the transaction was in the public interest and approved the transaction based on commitments made (that included the commitment to invest to upgrade Cablevision's broadband), creating the nation's fourth largest telecommunications, broadband and cable operator, under the name Altice, USA ("Altice" and/or the "Company").<sup>4</sup>

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<sup>2</sup> I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, BPU Docket No. EO20030254.

<sup>3</sup> <https://www.alticeusa.com/news/articles/press-release/corporate/altice-acquires-cablevision-and-creates-4-cable-operator-us-market>

<sup>4</sup> <https://www.wsj.com/articles/altice-closes-buy-of-cablevision-1466515394>. See also, <https://www.reuters.com/article/us-altice-cablevision-cable/fcc-approves-altice-purchase-of-cablevision-systems-idUSKCN0XV001>

On May 16, 2016, the Board approved the merger with several conditions in connection with system upgrades, resiliency, reliability and customer service.<sup>5</sup> The company committed to the following conditions, summarized thus:

1. a. **Network Upgrade/Expansion**, 300 Mbps service in each system, updates shall include progress on the bandwidth reclamation plan; system capacity, analog/digital RF allocation, and maximum broadband speed offering (downstream and upstream); IP Network augmentation and upgrade; hardware installation, testing, and activation; and operation readiness training and tools, as appropriate;
- d. **Network Resiliency/Recovery**: In the event of the declaration of an active, qualifying state of emergency, pursuant to N.J.S.A. App. A:9-33 et seq., the Company shall provide:
  - i. **Emergency Wi-Fi for Everyone**
  - ii. **Hyper Local News and Weather for All Residents** - access to the News 12 website for access to storm and emergency information.
  - iii. **Partner with Utilities to Speed Power Restoration**
  - iv. **Backup Customer Support** - backup customer support resources during an emergency, including rerouting customer service calls from affected areas to adequately staffed support centers and third-party support operations inside and outside the affected locales.
  - v. **Enhanced Network Resiliency** - The Company shall commit to maintain Ring within Ring topology to remote hub for redundancy.
  - vi. **Backup Powering** - The Company shall commit to maintain an adequate backup power generation capacity to support outside plant in the event of a prolonged regional power outage.
  - vii. **Storm Readiness Communications Plan**
- f. **Employment Commitments**: On an annual basis, Cablevision shall provide the Board with the following information: Total number of NJ Employees; Total number of customer facing jobs in NJ. For purposes of this Stipulation, "customer-facing" refers to direct, non-incidental interaction with customers, including but not limited to call center and other walk-in center jobs, and service technicians.

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<sup>5</sup> *In the Matter of the Verified Joint Petition of Altice N.V. and Cablevision Systems Corporation and Cablevision Cable Entities for Approval to Transfer Control of Cablevision Cable Entities*, Docket No. CM15111255, ("Merger Order" dated May 25, 2016), pp. 7-11.

**h. Customer Service Offices:** commits to maintain customer service offices in the State in accordance with its municipal franchise obligations, and applicable statutes and regulations, including but not limited to N.J.S.A. 48:5A.-26(d) and N.J.A.C. 14:18-5.1.

**i. Customer Service:** The Company committed to repair and service metrics maintaining service quality benchmarks and provide quarterly reports and based on the Report for the prior twelve (12) months, if the Repair & Service calls per customer exceeded the Service Quality Benchmark by ten percent (10%) or more, then the Company would be required to invest up to \$250,000 per quarter to improve customer service over the next twelve (12) months.

**k. Compliance:** The Company will abide by applicable customer service standards, performance standards, and service metrics as delineated under N.J.A.C. Title 14, including but not limited to Chapters 3, 10 and 18, and N.J.S.A. 48:5A, including, but not limited to, requirements related to billing practices and termination.

The commitments are intended to ensure Altice maintains service quality, systems reliability, resiliency and safety for Altice’s approximate 900,000 customers throughout over 200 New Jersey municipalities.<sup>6</sup>

#### Enforceable Regulatory Requirements

Altice has a regulatory obligation to provide safe, adequate and proper service, equipment and facilities for the operation of its CATV system. N.J.S.A. 48:5A-36, et seq. Additionally, to the extent that the Board’s merger approval provided authority for Altice to operate under the existing system-wide franchise the commitments remain enforceable by the Board under N.J.S.A. 48:5A-28.2. Moreover, “the Board may enforce these provisions through any appropriate method, including the imposition of monetary penalties under section 51 of

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<sup>6</sup> On March 16, 2021, at the public hearing held before the New Jersey Board of Public Utilities, Ms. Marilyn D. Davis, Esq., Area Director, Government Affairs for Altice testified as to the current number of customers served by Altice throughout its footprint in New Jersey. *In the Matter of Request for an Investigation into the Operations of Altice USA in New Jersey*, Docket No. CX21020139.

P.L.1972, c.186 (C.48:5A-51), or suspension and revocation of the certificate of approval or system-wide franchise,” *Id. See also*, N.J.S.A. 48:5A-47. In addition to regulatory authority available under state law, the Board may also enforce federal regulations to ensure all technical and performance standards are maintained, as may apply under 47 C.F.R. §§ 76.601, 76.605 and 76.609; and customer service metrics are met pursuant to § 76.309. The Board may also enforce other federal consumer protection regulations i.e., § 76.981(a) that protect customers against “negative option billing” practices ensuring customers do not pay for cable services or equipment that the customer did not request,<sup>7</sup> and can ensure the rates charged to customers are charged as advertised by the company pursuant to § 76.946.

#### Issues Raised Before the Board

The live comments provided on March 16 to the Board, by over 75 speakers included testimony from several Township customers, commercial business customers and residential customers. They confirm that Altice Optimum service issues are connected to all service offerings: voice, cable/video and broadband, and customer service. Service issues appear to be equally affecting customers throughout the company’s entire New Jersey service footprint and are not contained to any one geographic location. Lastly, as noted by many customers who

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<sup>7</sup> FCC Enforcement Bureau Order, paras. 3-4, *In the Matter of Comcast Corporation*, File No. EB-IHD-15-00018, Acct. No.: 201632080013; FRN: 0015401581; DA 16-1127, Order (October 11, 2016), citing at footnotes 5, 6, 7 and 8 to: 47 USC § 543 (f); *Petition for a Declaratory Ruling Regarding Negative Option Billing Restrictions of Section 623(f) of the Communications Act and the FCC’s Rules and Policies*, Declaratory Ruling, 26 FCC Rcd. 2229, 2230, para. 4 (MB 2011); *See also* Third Order on Recons., 9 FCC Rcd at 4361-62, para. 128 & n. 83; 138 Cong. Rec. S14248 (daily ed. Sept. 21, 1992) (statement of Sen. Gorton); 138 Cong. Rec. S567-S568 (daily ed. Jan. 29, 1992)(statement of Sen. Gordon). *See also*, *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation*, Sixth Order on Reconsideration, 10 FCC Rcd 1226, 1296, Appendix B, para. 4 (1994) (Sixth Order on Recons.). <https://docs.fcc.gov/public/attachments/DA-16-1127A1.pdf>

spoke, the service quality issues that consistently interrupt the provision of safe and reliable services to customers predate the Covid-19 pandemic.

Rate Counsel highlights only a handful of comments presented to the Board during the March 16 public hearing that discuss township, residential and commercial customer experience concerning Altice service reliability, service quality and customer service spread across 27 municipalities throughout eight counties.<sup>8</sup>

Mayor Jason Cilento, Dunellen Township (Middlesex County) speaking on behalf of constituents (school children, business community, workers and residents) stated the need for functional broadband connection noting that Borough Hall lost internet service for four hours recently;

Fred Semrau, Esq., Attorney for Montville Township, (Morris County) noted Montville Township will provide data in connection with the number of repeat onsite visits by Altice in a 30-day period where service issues persist. Requesting a thorough investigation with a technical expert to determine if Altice has the financial resources and technical expertise to provide proper, reliable and safe service;

Joe Hewes, Associate Pastor, Marlboro Township, (Monmouth County) noted the Church had to cancel services two Sundays in February due to an upload speed below 2 Mbps when they pay for an upload speed of 25Mbps and phone lines so affected where “we hear them (caller) but they can’t hear us,” it sounds like “we are under water.”

Baruch Blaustein, Lakewood Township, (Ocean County), works in an industrial area in a business that provides IT solutions and has experienced persistent internet outages at work and had to purchase an expensive dedicated internet at his own cost. He stressed that small business customers and residential customers are not receiving the service they are paying Altice to provide.

Mayor Brian Wahler, Piscataway Township (Middlesex County) joined in the statements made by other Mayors that Altice was in noncompliance with the Board’s Merger Order and added Altice was in noncompliance with 47 C.F.R. § 76.309 as Altice had failed to ensure a) customer

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<sup>8</sup> Testimony was provided by customers in Dunellen, Piscataway, West Milford, Jackson, Mt. Olive, Montville, Howell, Hamilton, Barrier Islands (Seaside Heights), North Brunswick, Ocean, Marlboro, Pompton Lakes, Fairmont, Sayreville, Lakewood, Wall, Byram, Ridgewood, Roxbury, Ringwood, Jefferson, Randolph, Manalapan, Morganville, Hopatcong and the counties of Middlesex, Bergen, Passaic, Sussex, Monmouth, Ocean, Morris and Mercer.

service lines were properly staffed; b) failed to answer calls within 30 seconds; and c) failed not to show a busy signal less than 3% of the time.

Mayor Alex Rubenstein, Byram Township (Sussex County) Service Electric was acquired by Altice about a year ago and the company has failed to integrate customer accounts resulting in their customer service representatives' inability to locate customer accounts to resolve service issues. Additionally, there no longer is a local office for customer assistance. There is no other competing internet broadband provider in the area and internet service is a necessity like electricity which the Board should regulate.

Mayor Michele Dale, West Milford, (Passaic County) noted that the internet drops several times per day and a customer can spend hours waiting on the phone to get a simple reboot and reconnect to the internet.<sup>9</sup>

Councilperson Pamela Richmond, Howell Township, (Monmouth County), stated Altice is the only provider for 15,000 customers in Howell; noting over 700 hours without internet service in Howell Township and requests a thorough investigation to improve customer service, and quicker restoration of service on vital internet services.

Andrew Bayer, Esq., Attorney for Howell Township, (Monmouth County) echoed issues addressed by Councilperson Richmond, and added the Board should conduct an in-depth investigation and appoint a technical expert to ensure safe, adequate and reliable service is provided.

Councilmember Andrew Kerns, Jackson Township (Ocean County), noted that during a two-week period the township received 130 complaints, which the township will submit to the Board. The complaints include: loss of TV/cable signal, DVR not functional, loss of channel guide, loss of internet necessitating reboot of router several times a day on a daily basis, speed of internet not as advertised causing hundreds of teachers to piece together lessons due to service interruptions and as phones are connected to internet thousands of seniors live in fear of losing power on phones, and alarms.

Dr. Matthew Kayne, Montville Township Committeeman, (Morris County) echoed service quality issues and noted inadequately trained service technicians and customer service representatives after repeat service calls push an \$8.00 per month service call plan so that

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<sup>9</sup> See also, comments filed in this matter dated March 19, 2021, from West Milford Township and service complaint details provided by resident Altice customers annexed thereto.

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customers can avoid the \$80 service call fee. He also noted that customers are also told to buy a “mesh” system at the cost of \$500 to resolve the service interruption issues.<sup>10</sup>

Council-at-Large Member, Gabrielle Cahill, Piscataway Township (Middlesex County) noted the Board must hold Altice accountable and should enforce its service obligations and seek penalties for its noncompliance under N.J.S.A. 56A:8-8; 56A:8-13; 56A:8-15.

Elissa Groddschraeger, Hamilton Township (Mercer County) added that 911/internet does not work noting the urgency to remedy and require the provision of reliable service and requested the Board direct reimbursement to customers, imposition of penalties and expansion of competition in the area.

Suzanne Von Langerke, Byram Township (Sussex County) stated she has no access to internet service at all and has resorted to using her phone’s hotspot or leave the property and go to a parking lot to access internet service.

Vincent Martesack, Ridgewood Township, (Bergen County) complained about slow internet speed, was advised to upgrade the service but still had slow speed issues and confirmed technicians regularly miss scheduled appointments (technicians met only 2 out of 8 appointments scheduled) and service problems continue to exist.

A review of the comments provided by the public confirms that the provision of safe and reliable vital services throughout Altice’s footprint is severely compromised and may never arrive for certain New Jersey customers and communities without the Board’s active intervention. This may be due to issues that include accessibility to equipment facilities, geography and economic considerations that influence a company’s decision to deploy new service and/or maintain existing infrastructure.<sup>11</sup> The customer comments provided on March 16 confirm that customers expect availability of service, security, reliability, and responsive and knowledgeable customer service. These core components of safe and reliable service are

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<sup>10</sup> See also, comments filed in this matter dated March 19, 2021, from Montville Township and service complaint details provided by Montville Township resident and Altice customer Jill Weiss, annexed thereto.

<sup>11</sup> Altice USA CEO says cable TV will die and broadband and wireless companies should merge, by Alex Sherman, March 1, 2021, CNBC Tech Report, <https://www.cnbc.com/2021/03/01/altice-usa-ceo-cable-tv-will-die-broadband-and-wireless-should-merge.html> .



jeopardized when service metrics are consistently not met by the service provider and action to ensure or improve compliance is not initiated. The testimony provided by townships and customers clearly underscores that the impact on services is worse where services are provided to captive customers that have no other viable service options.<sup>12</sup> Therefore, it remains imperative that the Board continue to exercise oversight of service quality and impose service metrics and best practices that will ensure Altice provides New Jersey customers with the resilient, safe and functional service they pay to receive.

The testimony provided at the public hearing posited several questions of fact that the Board must address to resolve the service quality issues that have been presented by townships, residential and business customers. These include but may not be limited to:

- 1) Whether Altice has complied with the Board's 2016 Merger commitments and other state and federal regulatory requirements regarding investments in system/infrastructure upgrades that ensure resiliency and an optimal working platform for the provision of voice, cable/video and broadband services;
  - a) Whether the Board should retain a technical expert to assess the functionality and capabilities of the Altice network/infrastructure;
- 2) Whether Altice has met service quality standards and metrics under both the 2016 Merger Order and state and federal regulations;
- 3) Whether Altice has met customer service standards and metrics under both the 2016 Merger Order and state and federal regulations;
- 4) Whether Altice has violated state and federal consumer protection regulations;

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<sup>12</sup> Jeannette Osowski Altice customer stated at the March 16 public hearing, "we have no competition and so we are stuck." Richard Thompson, Roxbury, NJ, noted the "inadequate service on a daily basis, minutes, hours, restart, reboot, lose landline on a daily basis, can't stream internet shows the speed is too slow, we have terrible, terrible service but Optimum only game in town."

- 5) Whether Altice service tariffs are consistently applied throughout the entire service franchise;<sup>13</sup>
- 6) Whether Altice's actions in its provision of service and apparent inability to successfully resolve reoccurring service issues throughout its footprint (consisting of persistent interrupted and nonfunctional service) constitute unconscionable commercial or deceptive business practices in connection with the sale of its services under New Jersey's Consumer Fraud Act;<sup>14</sup> and
- 7) Whether penalties should be imposed for Altice's failure to provide safe and reliable service under N.J.S.A. 56A:8-8; 56A:8-13; 56A:8-15;

Rate Counsel respectfully requests, consistent with the findings the Board makes as a result of the March 16 public hearings, that the Board proceed with an in-depth investigation to assess the functionality and capabilities of the Company's network/infrastructure and its business practices. Rate Counsel notes that Altice reached a \$72 million settlement in New York to improve storm resiliency which included \$3.4 million in credits to New York customers.<sup>15</sup> Rate Counsel stands ready to work with the Board, the Company, the townships and other parties and stakeholders in a process that allows the Board and parties to discuss specific regulations;

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<sup>13</sup> Rate Counsel notes that while pricing will vary depending on tiers of service provided customer by customer and tariffs will vary between service franchises, it is expected that all customers within the same service franchise will be priced under the same tariff rates.

<sup>14</sup> The Consumer Fraud Act, N.J.S.A. 56:8-2, prohibits:

“The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of merchandise...”

Moreover, Rate Counsel notes that legal and/or equitable relief, under N.J.S.A. § 56:8-19, may arguably be awarded to consumers who can prove (1) an unlawful practice, (2) an ascertainable loss, and (3) a causal relationship between the unlawful conduct and the ascertainable loss.

<sup>15</sup> Multichannel News, Altice USA Reaches \$72 Million Settlement with New York State for Response to Tropical Storm Isaias, by Mike Farrell, dated 03/19/2021; at: [www.nexttv.com/news/altice-usa-reaches-dollar72-million-settlement-with-new-york-state-for-response-to-tropical-storm-isaias](http://www.nexttv.com/news/altice-usa-reaches-dollar72-million-settlement-with-new-york-state-for-response-to-tropical-storm-isaias)

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metrics; best practices; and examine the cause(s) of the service quality and customer service issues raised by customers, to assist in the development of a plan that provides a path in ensuring that safe, functional and reliable service is restored and maintained. This action will allow the Board to make an informed decision and issue targeted directives to assist Altice in resolving service issues and eliminating the apparent unfair business practices throughout its service footprint.

Rate Counsel respectfully reserves the right to provide additional comments in reply to comments provided by other parties in this matter.

Thank you for the opportunity to participate and provide comments and for your consideration and attention to this matter.

Respectfully submitted,

STEFANIE A. BRAND,  
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NJ DIVISION OF RATE COUNSEL

*/s/ Maria T Novas-Ruiz*

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c: Service List