Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	MB Docket No. 14-57
	)	
Applications of	)	
	)	
Comcast Corporation, Time Warner Cable Inc. Charter Communications, Inc. and Spinco	))))	
	)	
To Assign and Transfer Control of FCC Licenses and Other Authorizations	))	

PETITION TO DENY OF THE GREENLINING INSTITUTE

Paul S. Goodman
Legal Counsel

The Greenlining Institute
1918 University Ave., Second Floor
Berkeley CA, 94704
Office: 510-926-4004

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PETITION TO DENY

The Greenlining Institute ("Greenlining") hereby files this Petition to Deny the applications, as proposed, in the above-captioned matter pursuant to Section 309(d)(I) of the Communications Act of 1934,[1] and the FCC's Public Notice of July 10, 2014.[2] The proposed transaction would seriously harm consumers from communities of color and low-income consumers; these public interest harms outweigh any potential public interest benefits. The public interest therefore requires that the Commission reject the applications in their entirety, as proposed, or, at a minimum, impose significant conditions to ameliorate the threatened harms to low-income consumers and protect the public interest.

SUMMARY

Greenlining files this petition to deny on the information that is currently available. However, Greenlining is currently investigating this transaction, and Greenlining's current position in this proceeding may not be its ultimate position. In an effort to learn more about this transaction, Greenlining is undertaking a review of the Confidential and Highly Confidential documents that Applicants have submitted to the Commission.

Applicants must prove by a preponderance of the evidence that the proposed transaction is in the public interest. Comcast lacks the requisite character to meet the qualifications for a transfer of licenses. The proposed transaction will reduce the availability of services to low-income consumers, result in the loss of Time Warner as a "maverick" provider, and harm consumers and the public interest by creating a new company with degraded customer service. The proposed transaction will not result in any economic benefit to residential customers and

[1] 47 U.S.C. § 309(d)(l) (2011).
[2] FCC Public Notice, MB Docket No. 14-57 (July 10, 2014) (Establishing Pleading Cycle).

promises to harm diversity. For these reasons, the proposed transaction will harm the public interest. Accordingly, the Commission should deny the proposed transaction.

ARGUMENT

I. GREENLINING HAS STANDING TO FILE THIS PETITION

Any "party in interest" may petition the Commission to deny the assignment or transfer of a license.[3] A party in interest is any party whose interests are likely to be adversely affected.[4] Greenlining is a non-profit organization dedicated to empowering communities of color, low-income communities, and other disadvantaged groups. Started in 1993 by the Greenlining Coalition, Greenlining seeks to protect consumer interests while partnering with some of the largest companies in America to better serve this country's multi-ethnic and underserved communities. Beyond ethnic diversity, the coalition represents diverse constituents that include faith-based organizations, minority business associations, community development corporations, health advocates, traditional civil rights organizations, and minority media outlets.

Members of the Greenlining Coalition subscribe to cable services provided by the Applicants. Moreover, members of the communities served by Greenlining Institute and employees of the Greenlining Institute are subscribers to cable services and will be impacted by the proposed merger. As this petition will demonstrate, the proposed merger would directly and adversely impact the communities the Greenlining Institute represents. Accordingly, Greenlining has standing to oppose the applications.

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[3] 47 U.S.C. §309(d) (2011).

[4] Camden Radio, Inc., v. Federal Communications Commission, 220 F.2d 191, 194 (D.C. 1954).

II. THE PROPOSED TRANSACTION IS NOT IN THE PUBLIC INTEREST

Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction is in the public interest. The proposed transaction would harm the public interest. Comcast lacks the requisite character to for the Commission to grant permit the transfer. The proposed transaction threatens the existence of universal service. The proposed transaction will eliminate a maverick in the telecommunications industry and potentially decrease the diversity of viewpoints and suppliers in California. Finally, the proposed transaction threatens to cause serious harms to customers in the form of degraded customer service. Accordingly, the Commission should deny the Applications.

A. Applicants Must Prove by a Preponderance Of the Evidence that the Proposed Transaction Is In the Public Interest.

A party seeking the acquisition or transfer of a license bears the burden of proving to the Commission, by a preponderance of the evidence, that the proposed transaction will serve the public interest, convenience, and necessity.[5] In making this determination, the Commission first assesses "whether the proposed transaction complies with the specific provisions of the Communications Act, other applicable statutes, and the Commission's rules."[6] When reviewing a transaction, the Commission considers the competitive effects of that transaction on the public interest.[7] However, the Commission's public interest inquiry extends far beyond potential competitive effects.[8] The Commission also considers "whether the proposed assignment and transfer of control…is likely to generate verifiable, transaction-specific public interest benefits."[9]

[5] Order In the Matter of Applications of AT&T Inc. and Cellco Partnership, WT Docket No. 09-104, Memorandum Opinion and Order, 25 FCC Rcd 8704, 8716 (June 22, 2010) (hereafter, AT&T/Cellco Order).
[6] *Id*.
[7] *Id*.
[8] *Id*. at 8717.
[9] *Id*.

The Commission's public interest inquiry includes a consideration of, "among other things, a deeply rooted preference for preserving and enhancing competition in relevant markets, accelerating private sector deployment of advanced services, promoting a diversity of license holdings, and generally managing the spectrum in the public interest."[10]

The Commission then considers whether the acquisition "could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Communications Act or related statutes."[11] If there is a risk of harm, the Commission employs "a balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits."[12] If the potential public interest harms outweigh the potential public interest benefits, the transaction is not in the public interest.[13]

B. Comcast Lacks the Requisite Character to Meet the Requisite Qualifications to Transfer Licenses.

"Among the factors the Commission considers in its public interest review is whether the applicant for a license has the requisite 'citizenship, character, financial, technical, and other qualifications.' Therefore, as a threshold matter, the Commission must determine whether the applicants to the proposed transaction – both the assignee and the assignor – meet the requisite qualifications requirements to hold and transfer licenses under section 310(d) and the Commission's rules."[14]

Recent actions by Comcast in California involving the release of confidential consumer information raise serious questions about Comcast's character. Comcast's behavior raises serious questions about how Comcast treats its current customers, and how it will treat Time

[10] *Id*.
[11] *Id*.
[12] *Id*.
[13] *Id*.
[14] https://apps.fcc.gov/edocs_public/attachmatch/DA-13-1940A1.pdf (citations omitted).

Warner's customers should the merger be approved. Comcast is currently the subject of a California Public Utilities Commission (CPUC) investigation regarding its admitted disclosure of over 74,000 Californians' unlisted phone numbers over a period of at least two years.[15] These 74,000 customers constitute more than half of Comcast's California customers that requested an unlisted number.[16] Many of these customers requested an unlisted number because they had testified against violent criminals, were survivors of domestic violence, or worked in the criminal justice field, and accordingly had serious privacy concerns.[17]

Comcast states that it did not discover these disclosures until early October of 2012.[18] However, there is evidence that Comcast knew about the disclosures as early as March of 2010.[19] At the same time that Comcast was disclosing customers' unlisted information, it also supported SB 1161, a bill which severely restricts the California Public Utilities Commission's authority to impose consumer protections on Voice over Internet Protocol providers.[20] Comcast was one of SB 1161's strongest proponents and supporters.[21] While it is unclear to what extent Comcast lobbied in support of SB 1161, it appears that Comcast did not raise the issue of unauthorized release of information with any of the legislators it met with during the process.

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[15] *California Public Utilities Commission, Investigation on the Commission's Own Motion Into the Operations, Practices, and Conduct of Comcast Phone of California LLC (U-5698-C) and its Related Entities (Collectively "Comcast") to Determine Whether Comcast Violated the Laws, Rules, and Regulations of this State in the Unauthorized Disclosure and Publication of Comcast Subscribers' Unlisted Names, Telephone Numbers, and Addresses*, *Order Instituting Investigation into the Unauthorized Disclosure and Publication of Unlisted Telephone Numbers by Comcast,* I.13-10-003 (Oct. 3, 2013) (*hereafter*, Comcast Unlisted Numbers OII).
[16] *Id*. at 8.
[17] Comcast Unlisted Numbers OII, *supra* note 29 at 3.
[18] *Id*. at 2.
[19] *Id*. at 9.
[20] SB 1161 was eventually enacted as Public Utilities Code section 710.
[21] An April 17, 2012 committee bill analysis listed Comcast Communications as a supporter of the legislation, and Comcast continued to support SB 1161 throughout the legislative process. See Sen. Energy, Utilities and Commc'ns Committee, Analysis of Sen. Bill 1161 (2011-2012 Sess.), *available at* http://leginfo.ca.gov/pub/11-12/bill/sen/sb_1151-1200/sb_1161_cfa_20120413_162757_sen_comm.html.

Additionally, while Comcast admits that it discovered the disclosures no later than early October 2012, it did not report the disclosures until January 9, 2013, nine days after SB 1161 went into effect.[22] Comcast admits that its disclosure of the unlisted numbers was a violation of CPUC rules at the time the disclosure occurred, but now argues that the CPUC has no jurisdiction to investigate or impose penalties against Comcast because of SB 1161.[23] To date, Greenlining has seen no evidence in the information available in support of the merger that Comcast has done anything, or plans to do anything, to correct its course and start doing right by its customers, despite claims that it plans to improve its customer service.

Comcast's actions—releasing unlisted phone numbers while actively lobbying to remove the CPUC's jurisdiction to punish such acts—seriously call into question Comcast's character and quality of management. These released phone numbers belong to more than half of Comcast's customers in California who have paid for their phone numbers to remain private, and the proposed merger could put more customers at risk of the same breach of statutory and Constitutional right. Accordingly, Comcast does not meet the requisite qualifications requirements to hold and transfer licenses under section 310(d) and the Commission's rules, and the Commission should deny the proposed transaction.

[22] Comcast Unlisted Numbers OII, *supra* note 29 at 2.
[23] *California Public Utilities Commission, Investigation on the Commission's Own Motion Into the Operations, Practices, and Conduct of Comcast Phone of California LLC (U-5698-C) and its Related Entities (Collectively "Comcast") to Determine Whether Comcast Violated the Laws, Rules, and Regulations of this State in the Unauthorized Disclosure and Publication of Comcast Subscribers' Unlisted Names, Telephone Numbers, and Addresses, Motion to Dismiss of Comcast Phone of California, LLC and its Affiliates*, I.13-10-003, Nov. 18, 2013 (hereafter Comcast Motion to Dismiss).

C. The Proposed Transaction Could Reduce the Availability of Services to Low-Income Consumers.

The proposed transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Communications Act. Specifically, the proposed transaction would impede the Commission's directive to "make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."[24] If the Commission approves the proposed transaction, it is likely that Time Warner will not provide Lifeline service in California, reducing the availability of low-cost phone service to low-income customers. Additionally, Comcast's statements and past behavior indicate that the new company will only participate in universal service programs if required to do so by the Commission, and that the new company's compliance with any such requirements will be minimal at best.

1. The Proposed Merger Promises to Harm Lifeline Customers.

Greenlining believes that the market for wireline Lifeline services is a relevant submarket in the state and local markets where Time Warner operates. In recent years, Time Warner has shifted its business model to include serving low-income customers.[25] For example, Time Warner recently applied for ETC status in order to begin offering Lifeline in California.[26] In its application for ETC status, Time Warner noted its commitment to serving low-income consumers, stating that "[d]esignating Time Warner Cable Information Services (CA) as an ETC

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[24] 47 U.S.C. § 151.

[25] *See Time Warner's Petition for Modification of Existing Eligible Telecommunications Carrier Designation, New York Public Service Commission*, 12-C-0510, Nov. 13, 2012; and *Petition of Time Warner Cable Information Services (Maine), LLC for Designation as a Lifeline-only Eligible Telecommunications Carrier in the State of Maine*, WC Docket No. 09-197, Federal Communications Commission, Jul. 22, 2013.

[26] *Application of Time Warner Cable Information Services (California), LLC (U-6874-C) for Designation as an Eligible Telecommunications Carrier, California Public Utilities Commission*, A.13-10-019, Oct. 25, 2013.

will enable it to offer high-quality voice service at price points that meet the needs of California's Lifeline-eligible consumers, and thus will serve the public interest."[27] The CPUC subsequently granted that application.[28]

The proposed merger has the potential to reduce competition for Lifeline services, because the merger will either (1) eliminate Time Warner as a potential entrant[29] (if Time Warner has not begun providing Lifeline service at the time the merger is consummated), or (2) eliminate Time Warner as a competitor (if Time Warner has begun offering Lifeline service at the time the merger is completed).[30] The Commission should examine the public interest harms that would result from the new company's withdrawing or failing to offer Lifeline service.

Unlike Time Warner, Comcast has displayed no interest in providing Lifeline service in California. While Comcast does not directly state that it is planning on relinquishing Time Warner's Lifeline offerings once the merger closes, Greenlining believes that Comcast is not interested in offering Lifeline through TWICS based on statements Comcast made in its application.[31] "As noted above, TWCIS (CA) recently was designated as an ETC in California, but has not begun to offer any Lifeline services as of the date of this application. If TWICS (CA) offers Lifeline services prior to the transfer of control of TWCIS (CA) to Comcast Corporation,

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[27] *Id*. at 14-15.
[28] *Application of Time Warner Cable Information Services (California), LLC (U6874C) for Designation as an Eligible Telecommunications Carrier, Decision Granting Request For Eligible Telecommunications Carrier Status*, D.13-03-038, Apr. 3, 2014. (*hereafter*, Time Warner ETC Application).
[29] *Horizontal Merger Guidelines*, U.S. DEPARTMENT OF JUSTICE AND THE FEDERAL TRADE COMMISSION, Aug. 19, 2010, *available at* http://www.ftc.gov/sites/default/files/attachments/merger-review/100819 hmg.pdf.
[30] *Id*.
[31] *See Joint Application of Comcast Corporation, Time Warner Cable Inc., Time Warner Cable Information Services (California), LLC, and Bright House Networks Information Services (California), LLC for Expedited Approval of the Transfer of Control of Time Warner Cable Information Services (California), LLC (U6874C); and the Pro Forma Transfer of Control of Bright House Networks Information Services (California), LLC (U6955C), to Comcast Corporation Pursuant to California Public Utilities Code Section 854(a)*. A.14-04-013 (April 11. 2014) (hereafter, California Application), *available at* http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=89642501, where Comcast states that it will continue to offer Lifeline through TWCIS if TWCIS starts to offer Lifeline prior to the merger and "unless and until the Commission approved an application to relinquish the TWCIS CA Lifeline certificate."

Comcast Corporation acknowledges that it would continue to provide service to Lifeline customers (unless and until the Commission approved an application to relinquish the TWCIS (CA) Lifeline certificate)."[32] These statements are a strong indication that the new company does not intend to offer Lifeline service.

The proposed transaction's potential elimination of Lifeline in Time Warner's service areas could seriously harm low-income consumers and the public interest. Even if Comcast does not intend to relinquish Time Warner's ETC status, Comcast does not indicate any interest in applying for ETC status and providing California Lifeline service through any of its affiliates that offers telephone service, or any successor companies, regardless of the technology used to provide that telephone service. Although the new company would benefit from the merger by acquiring more market power, it will not leverage this benefit to provide affordable stand-alone telephone service to Lifeline-eligible customers. The actual or potential elimination of Time Warner as a Lifeline provider would seriously harm the public interest. Accordingly, the Commission should deny the proposed transaction.

2. Comcast Has a Poor Record of Serving Low-Income Customers.

Comcast has historically only participated in low-income programs when required to do so. Comcast's lack of commitment to its Internet Essentials program is a perfect example of Comcast's reluctance to serve low-income customers. Comcast created its "Internet Essentials" program as a condition of the FCC's approval of its merger with NBCUniversal. Internet Essentials was a product of the settlement that Comcast was forced to negotiate as a condition of

[32] California Application, *supra* note 4 at 21-22.

its takeover of NBC Universal, not an independent business decision.[33] Internet Essentials is set to expire in 2014.[34]

Comcast announced that it would extend Internet Essentials "indefinitely" after its original expiration in June 2014.[35] After Comcast is no longer required to provide Internet Essentials, there is no guarantee how long Comcast will continue and expand the program. In order to be eligible for Internet Essentials, Comcast requires that an applicant has not subscribed to Comcast Internet within the last 90 days and that the applicant does not have an overdue payment or unreturned equipment. These eligibility requirements naturally eliminate a huge portion of the low-income population that otherwise qualify for the program. Comcast has shown no concrete plans to accept new sign-ups or make any improvements to its eligibility requirements and quality of service.

Comcast has recently announced some measures to increase adoption of Internet Essentials--new Internet Essentials subscribers will get six months of free Internet access. Additionally, ex-Comcast customers who cannot sign up for Internet Essentials because of outstanding balances will now be able to enroll; however, this option is not available to ex-customers whose outstanding balances are less than a year old.[36] Comcast's actions seem designed to promote the purported benefits of the transaction, rather than to increase actual

[33] *In the Matter of Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licensees*, *Memorandum of Opinion and Order,* Docket No. 10-56, Jan. 18, 2011 at 141.
[34] *See id.*
[35] Public Interest Statement, *supra* note 40 at 59.
[36] http://www.washingtonpost.com/blogs/the-switch/wp/2014/08/04/comcast-is-expanding-its-10-a-month-internet-program-for-the-poor/

adoption.[37] For example, these new measures only apply to customers who sign up for Internet Essentials by September 20.[38]

Comcast's implementation and administration of Internet Essentials has been a failure, and the current program does almost nothing to benefit the public interest. The "high-speed connections" Comcast gives participants are slow: 3Mbps downstream and 768Kbps upstream.[39] A household must have at least one household member eligible for the National School Lunch Program to participate in Internet Essentials. Comcast estimates that that there are about 2.6 million eligible households that meet that requirement in Comcast's service territory. Of those 2.6 million households, only about 150,000 households are *actually* served—a penetration rate of about one half of one percent. Comcast's *de minimis* compliance with its commitment to Internet Essentials has resulted in a program which not only creates second class service for low income customers, but also neither serves enough people to make a real impact on reducing the digital divide, nor provides sufficient speed and data to allow low-income customers to benefit from high-speed internet.

Comcast is touting Internet Essentials as a huge success and promises to expand the program to Time Warner's territories as a result of the merger, in order to bring all Americans into the digital communications age and end the digital divide.[40] However, Internet Essentials has failed to meet its purported goals of benefitting low-income households and bridging the digital divide. In the program's current form, the extension of Internet Essentials to Time Warner consumers will be of extremely limited benefit to Californians. Greenlining urges the

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[37] *Id*.
[38] *Id*.
[39] This speed is about 70% slower than the average connection of internet in the U.S. *See Akamai's State of the Internet Q4 2013 Report*, Vol.6 Num. 4, *available at* http://www.akamai.com/dl/akamai/akamai-soti-q413-exec-summary-a4.pdf.
[40] *Akamai's State of the Internet Q4 2013 Report*.

Commission to consider Comcast's lackluster efforts around Internet Essentials when assessing whether the merger is in the public interest.

D. The Proposed Transaction Would Result in the Loss of Time Warner as a "Maverick" Provider.

Applicants argue that because Comcast and Time Warner do not compete in any market, the proposed transaction raises no concerns about increased market concentration.[41] However, market concentration is not the only evidence of competitive effects of a transaction.[42] "An acquisition eliminating a maverick firm…in a market vulnerable to coordinated conduct is likely to cause adverse coordinated effects."[43] "If the merged firm would withdraw a product that a significant number of customers strongly prefer to those products that would remain available, this can constitute a harm to customers over and above any effects on the price or quality of the product."[44]

Unlike most other cable companies, Time Warner has acknowledged that its offering telephone services makes Time Warner a common carrier. Time Warner acknowledges that these offerings make it subject to CPUC regulation as a telecommunications carrier: "TWC has now transitioned to a more efficient and cost-effective business model under which it relies on TWCIS (CA) to interconnect and exchange traffic with incumbent local exchange carriers. In addition to carrying out wholesale carrier functions relating to interconnection with the public switched telephone network, TWCIS (CA), a telephone corporation in California, will provide retail interconnected VoIP service as a telecommunications service pursuant to its CPCN."[45]

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[41] California Application at 20-21.
[42] *Horizontal Merger Guidelines*, U.S. DEPARTMENT OF JUSTICE AND THE FEDERAL TRADE COMMISSION, Aug. 19, 2010, *available at* http://www.ftc.gov/sites/default/files/attachments/merger-review/100819 hmg.pdf.
[43] *Id*.
[44] *Id*. at 24.
[45] Time Warner ETC Application at 3.

As noted above, Time Warner is one of a very small number of cable companies that view serving low-income consumers as part of a viable business model. Time Warner is a "maverick" that freely acknowledges that to the extent it provides telephone service, it is a common carrier. Time Warner's acknowledgment of its common carrier status, as discussed further in section IV.H below, will help ensure that Time Warner will serve the public interest by contributing to a consistent standard of telephone service quality across the state. Eliminating Time Warner would eliminate one of the few "good actors" in the cable industry and would reduce service options for individuals with fewer choices in the telephone market. Accordingly, the proposed transaction has the potential to harm consumers and the public interest.

E. The Proposed Transaction Promises to Harm Consumers and the Public Interest by Creating a New Company with Degraded Customer Service.

Despite Comcast's marketing efforts to convince customers that Comcast's customer service has improved, Comcast continues to provide the worst customer service among cable companies, but also provides some of the worst customer service among 19 industries.[46] Comcast won Consumerist.com's 2013 "worst company in America" contest.[47] These consistently poor rankings create a very real risk that a combined company would harm consumers.[48]

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[46] Lance Whitney, Cable providers, ISPs rank dead last for customer service (August 21, 2013), *available at* http://www.cnet.com/news/cable-providers-isps-rank-dead-last-for-customer-service/.

[47] Congratulations To Comcast, Your 2014 Worst Company In America! (April 8, 2014), *available at* http://consumerist.com/2014/04/08/congratulations-to-comcast-your-2014-worst-company-in-america/.

[48] Comcast and Time Warner Cable Score Low on Latest Consumer Reports Customer Satisfaction Survey (March 24, 2014) , *available at* https://consumersunion.org/news/comcast-and-time-warner-cable-score-low-on-latest-consumer-reports-customer-satisfaction-survey/.

Even after Comcast announced the proposed transaction, Comcast's customer service has continued to decline. Customers have reported being yelled at and harassed by service reps,[49] experiencing overly long wait times for installation or repair,[50] being told that the customer would not have received a refund but for the fact that the customer had a recording of a phone call where a representative offered a refund,[51] and spending two and a half hours on the phone with customer service representatives.[52] These customer complaints do not appear to be isolated incidents, as these actions are consistent with training materials and performance metrics that Comcast provides to its employees.[53] Comcast's internal documents and its public statements admit that its customer service policies are responsible for incidents like those described above.[54]

Comcast employees and ex-employees describe constant pressure to sell customers service, even if those employees work in tech support, billing, general customer service, or repair.[55] Comcast pressured one employee to sell new services to a customer who was 55 days late on her bill.[56] Another employee stated that when a 90-year-old woman called to add phone to her account, the employee's supervisor stated that the woman "was probably senile… but you

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[49] Dan Siefert, Comcast's customer service nightmare is painful to hear (July 25, 2014), *available at* http://www.theverge.com/2014/7/15/5901057/comcast-call-cancel-service-ryan-block.

[50] Adrienne Jeffries, Comcast Confessions: why the cable guy is always late (August 4, 2014), *available at* http://www.theverge.com/2014/8/4/5960251/comcast-confessions-why-the-cable-guy-is-always-late.

[51] Adrienne Jeffries, Now everyone is recording their nightmare Comcast calls (August 11, 2014), *available at* http://www.theverge.com/2014/8/11/5991525/now-everyone-is-recording-their-nightmare-comcast-calls.

[52] Meg Marco, Watch A Guy Sit On Hold With Comcast Until They Close (August 14, 2014), *available at* http://consumerist.com/2014/08/13/watch-a-guy-sit-on-hold-with-comcast-until-they-close/

[53] Adrienne Jeffries, Here's why your Comcast rep is yelling at you (July 16, 2014), *available at* http://www.theverge.com/2014/7/16/5909591/here-s-why-your-comcast-rep-is-yelling-at-you.

[54] Jacob Kastrenakes, Comcast admits its policies are responsible for customer harassment (July 22, 2014), *available at* http://www.theverge.com/2014/7/22/5926565/comcast-leaked-memo-reexamining-retention-call-policies; Adrienne Jeffries, This is Comcast's internal handbook for talking customers out of canceling service (August 4, 2014), *available at* http://www.theverge.com/2014/8/4/5967255/this-is-comcasts-internal-handbook-for-talking-customers-out-of.

[55] Adrienne Jeffries, Comcast Confessions: when every call is a sales call (July 28, 2014), *available at* http://www.theverge.com/2014/7/28/5936959/comcast-confessions-when-every-call-is-a-sales-call.

[56] *Id.*; Adrienne Jeffries, Employee metrics show how Comcast pushes customer service reps to make sales (August 19, 2014), *available at* http://www.theverge.com/2014/8/19/6028059/training-materials-show-how-comcast-pushes-customer-service-reps-to/in/5716626.

should have upgraded her cable. I don't think you are going to be sitting in this seat for very long."[57] Comcast's internal documents indicate that the company considers sales to be about 20 percent of an employee's performance.[58]

The Commission's approval of the proposed transaction would result in the expansion of a company that does not view customer service as a means to increase customer satisfaction. Rather, Comcast views customer service calls as a sales opportunity—customer satisfaction is secondary at best. Notably, Comcast's past and present customer service problems appear to be in part attributable to past mergers and acquisitions.[59] Comcast has not spent the time or resources to fully integrate previously acquired systems into its network, leading to systemic problems.[60] If the Commission approves the proposed transaction, it is likely that the new company's customers will experience the same, merger-specific problems that Comcast customers have experienced as a result of past transactions. These problems would harm the public interest. Accordingly, the Commission should deny the proposed transaction

F. The Proposed Transaction Will Not Result in Any Economic Benefit to Residential Customers.

The new company will experience some cost savings as a result of eliminating redundant costs (which includes job cuts) and increased bargaining power with suppliers and purchasers. The new company should have to pass some of those savings on to customers. However, Comcast apparently does not intend to pass any cost savings along to customers. David L. Cohen, Executive Vice President of Comcast, has stated that Comcast is "certainly not promising that customer bills are going to go down or even increase less rapidly" as a result of the merger,

[57] *Id*.
[58] *Id*.
[59] Adrienne Jeffries, Comcast Confessions: growing pains of a Goliath (August 11, 2014), *available at* http://www.theverge.com/2014/8/11/5978481/comcast-confessions-there-is-no-one-comcast.
[60] *Id*.

and that benefits to consumers, if any, will come via "quality of service, by quality of offerings, by technological innovations."[61] Comcast's deriving significant increased revenue from California customers post-merger without any price benefits to those customers harms the public interest. Accordingly, the Commission should deny the proposed transaction.

G. The Proposed Transaction Will Harm Diversity.

Supplier, workforce, management, and ownership diversity are issues of public interest, particularly in a state as diverse as California. Applicants claim that the merger would bring Time Warner under control of an entity that voluntarily reports and performs well under the supplier diversity standards of the CPUC's General Order 156.[62] While it is generally true that Comcast has made some progress on its supplier diversity performance, Greenlining does not view that progress as "well-performing," and in fact gave Comcast an "F+" in Greenlining's 2014 Supplier Diversity Report Card.[63] Applicants have made no greater commitment to substantially improve the new company's efforts to diversify its suppliers or workforce, nor to promoting overall economic development in our communities, beyond Comcast's currently lackluster efforts. The Commission should deny the proposed transaction because the transaction promises to harm diversity.

H. The Commission Should Deny the Applications.

The proposed transaction will not offer substantial benefits to California consumers and instead poses a great risk of public interest harms. Comcast's poor managerial character, the threats to universal service, the elimination of Time Warner as an industry maverick and the

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[61] Jon Brodkin, *Comcast: No Promise that Prices "Will go down or even increase less rapidly*," ARTECHNICA.COM, Feb. 13, 2014, http://arstechnica.com/tech-policy/2014/02/comcast-no-promise-that-prices-will-go-down-or-even-increase-less-rapidly/.
[62] Application, *supra* note 4at 15.
[63] 2014 Supplier Diversity Report Card: Unexpected Achievements and Continuing Gaps (June 9, 2014), *available at* http://greenlining.org/issues/2014/2014-supplier-diversity-report-card/.

harms to customer service and diversity demonstrate that the proposed transaction will be adverse to the public interest. Greenlining respectfully requests that the Commission deny the Application.

III. IF THE COMMISSION DOES APPROVE THE PROPOSED TRANSACTION, IT SHOULD IMPOSE CONDITIONS TO PROTECT THE PUBLIC INTEREST.

The Commission can prescribe restrictions or conditions that may be necessary to carry out the provisions of the Communications Act.[64] The Commission can use its "…extensive regulatory and enforcement experience to impose and enforce conditions to ensure that the transaction will yield overall public interest benefits."[65] As discussed above, the new company's compliance with *already existing* conditions or conditions relating to other transactions or proceedings would be insufficient to ensure that the proposed transaction is in the public interest. Accordingly, should the Commission approve the Application, the Commission should impose conditions that will preserve competition, protect consumers and ensure that the new company passes through the economic benefits of the transaction. Finally, because of Comcast's history of poor compliance with previous conditions, the Commission must take care to craft detailed mitigation measures with measurable performance metrics and a structure for transparent oversight and accountability, and substantial penalties if the new company fails to meet those metrics.

[64] 47 U.S.C. § 303, subdivision (f); AT&T/Cellco Order at 8717-8718.
[65] AT&T/Cellco Order at 8718.

IV. CONCLUSION

Greenlining supports well-designed industry measures that increase the availability of affordable communications services to communities of color and low-income consumers. While the proposed transaction has the potential to achieve this goal, Applicants have not yet provided sufficient proof that the alleged benefits of the proposed transaction are likely to occur. Accordingly the Commission should either deny the applications or impose conditions to ensure that communities of color and low-income consumers can take advantage of the benefits of telephone and broadband services that should be available to everyone.

For the above-stated reasons, Greenlining respectfully requests that the Commission deny the proposed transaction or impose conditions to protect the public interest.

Respectfully submitted, Dated: August 25, 2014

/s/______________________
Paul Goodman
Legal Counsel

Declaration of Paul Goodman

My name is Paul Goodman. I am Legal Counsel-Telecommunications of the Greenlining Institute.

The Greenlining Institute is a national policy, organizing and leadership institute working for racial and economic justice. The Greenlining Institute's mission is to empower communities of color and other disadvantaged groups through multi-ethnic economic and leadership development, civil rights, and anti-redlining activities. We also advocate before regulatory agencies to advance these goals.

Members of the communities served by the Greenlining Institute reside in areas served by Comcast services and/or Time Warner services, and many are subscribers to those services. Moreover, members of the communities served by Greenlining Institute and employees of the Greenlining Institute are subscribers to other service providers who will be impacted by the proposed merger.

I am familiar with the contents of the foregoing Petition to Deny. The factual assertions made in the petition are true to the best of my knowledge and belief.

I declare that the foregoing is true and correct.

Executed on August 25, 2014.

/s/ Paul Goodman___________
Paul Goodman

Certificate of Service

I hereby certify that on this 25th day of August, 2014, I caused true and correct copies of the foregoing Petition to Deny to be served as follows:

Via electronic mail to:

Best Copy and Printing, Inc.
FCC@BCPIWEB.COM

Vanessa Lemmé
Media Bureau
Vanessa.Lemme@fcc.gov

Marcia Glauberman
Media Bureau
Marcia.Glauberman@fcc.gov

William Dever
Wireline Competition Bureau
William.Dever@fcc.gov

Jim Bird
Office of General Counsel
TransactionTeam@fcc.gov Matthew A. Brill

Michael Hurwitz
WILLKIE FARR & GALLAGHER LLP
1875 K. Street NW
Washington, DC 20006
mhurwitz@willkie.com

Matthew Brill
LATHAM & WATKINS LLP
555 11th Street, NW, Suite 1000
Washington, DC 20004
Matthew.Brill@lw.com

Samuel L. Feder
Jenner & Block LLP
1099 New York Avenue, NW Suite 900
Washington, DC 20001-4412
(202) 639-6092
sfeder@jenner.com

/s/_Paul Goodman_____________________
Paul S. Goodman