

## **The Greenlining Institute's Prepared Remarks to the California Public Utilities Commission on the Proposed Comcast-Time Warner Merger**

*February 25, 2015*

Good afternoon Commissioners, thank you for your time today. I'm Stephanie Chen with the Greenlining Institute.

While we commend the Commission on the very robust set of conditions it has outlined in its Proposed Decision, Greenlining continues to assert that this merger must be denied. The conditions are necessary, but they are not sufficient. The conditions set forth do not fully cure the harms they intend to address, and even if they DID work perfectly, the merger would still be harmful to the public interest, harmful to consumers, and a violation of Public Utilities Code section 854.

Even with the proposed conditions, the merger would still give one company more than 80% of the broadband customers in California. No matter which company that is, it would create far too much of a monopoly in a loosely regulated industry to be any good for consumers. And in this instance, the company at issue has an exceptionally poor track record when it comes to diversity matters, customer privacy, and serving underserved communities. From every angle, allowing this company to grow bigger would simply be bad public policy.

We will address details about the proposed conditions in our written comments, but for now we note that overall, the conditions are not strong enough, they are not specific enough to ensure the result the Commission is aiming for, and they are for the most part extremely difficult to enforce. The Commission lacks the resources to ensure compliance with the proposed conditions, and Comcast has proven in prior mergers that it cannot be relied upon to comply with this kind of condition in a satisfactory manner.

As an example, the requirement that Comcast increase Internet Essentials speeds to 10 megs down and 1 meg up, while it does vastly improve IE's current performance, sets a standard that is LESS THAN HALF of what the FCC has defined as broadband service. Greenlining STRONGLY supports

affordable broadband for low income families. What we DO NOT support is SECOND CLASS service for low income families, and neither should this Commission.

The condition requiring buildout to currently unserved and underserved communities provides an example where the condition does not guarantee the intended result. There is nothing in this condition as written that ensures that buildout will occur in working class communities, farmworker communities, and communities of color, and not in the Los Gatos hills or other wealthy vacation communities. This condition doesn't close the digital divide. It actually masks the digital divide, by claiming progress where none has actually been made.

We heard earlier from many members of the public, most of whom represent organizations supported by Comcast. As other parties have noted, these kinds of community partnerships are commendable, and they don't require a merger to happen. They can and should go on without this merger. They also do not negate the harms that the merger would cause in the very same communities many of these organizations serve and represent. If anything, all the great work you heard about today indicates that these organizations deserve the opportunity to expand! It doesn't say anything about whether Comcast should be permitted to expand.

Finally, approving this decision will send a message that this Commission will approve any merger, no matter how large or how serious the competitive harms it creates. Under the analysis used in this decision, this Commission would have approved the AT&T/T-Mobile merger.

In the time since that merger did NOT happen, T-Mobile has taken its role as a maverick in the market and really run with it. They have created genuine disruption and real competition in a previously stagnant, highly coordinated market, and consumers have greatly benefitted from these changes.

As we have noted throughout this proceeding, while Time Warner certainly has its flaws, it is a maverick provider in its industry. It has tried new things

that Comcast has not tried, and that's good for consumers. Allowing the merger to go forward and eliminate that maverick would virtually guarantee that things will never improve in an industry that is sorely in need of improvement.

In closing, Greenlining submits that the Commission must apply the public interest standard set forth in Section 854, and deny the Comcast Time Warner merger outright. There are no conditions that will negate all the harms created by the proposed merger, and it should not be allowed to go forward.

Thank you.