



## Department of Public Service

### Public Service Commission

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Three Empire State Plaza, Albany, NY 12223-1350  
www.dps.ny.gov

June 26, 2018

Thomas Rutledge  
Chairman and Chief Executive Officer  
Charter Communications, Inc.  
400 Atlantic Street  
Stamford, CT 06901

Dear Mr. Rutledge:

By this letter, we are informing you that the Department of Public Service is taking a series of immediate actions to address Charter Communications, Inc. d/b/a Spectrum's continued false advertisements and publications about its compliance with its obligations to New York State and its efforts to provide New Yorkers with critical broadband access. These misrepresentations, coupled with Spectrum's overall pattern of unacceptable conduct in New York, call into question the continued viability of Spectrum as a regulated telephone/cable company in this State. As detailed below, we are today: (1) directing you to cease and desist this deceptive advertising; (2) referring this matter to the Attorney General of the State of New York for further appropriate legal action to address Spectrum's misrepresentations; (3) referring this matter to the United States Securities and Exchange Commission for further appropriate action regarding Spectrum's apparent failure to disclose to its investors certain material facts; and (4) demanding a log pursuant to Public Service Law § 216 of all such advertising in advance of potential direct enforcement action for penalties by the Commission. Further, we direct you to preserve all documents, including email, text messages, voice mail, recordings, and other documentation relating to the aforementioned matters.

As you know, on June 14, 2018, the Public Service Commission issued an order finding that Spectrum fell well short of meeting its December 16, 2017 commitment to expand the Company's broadband network in New York to "pass" additional unserved and underserved residences and businesses. Nevertheless, not only has Spectrum not told its customers of this

failure, it continues to assert in advertisements and publications that it has complied with - and even exceeded - its commitments to New York. As discussed below, those representations are demonstrably and materially false. Nor is this the first time Spectrum is alleged to have engaged in false advertising and misrepresentations to New York consumers, as reflected in the pending case brought by the New York Attorney General's office over false representations by the company about the speed of its internet service. Two courts, including most recently the Appellate Division, First Department, have now ruled that there is sufficient basis for that suit to move forward against Spectrum. Spectrum's pattern of conduct raises significant concerns for its customers, shareholders, and New Yorkers in underserved areas that Spectrum has blatantly disregarded.

### Build-out Misrepresentations

Contrary to the requirements of the Public Service Commission's September 17, 2017 Order, Spectrum missed its required December 16, 2017 build-out commitment by 12,245 passings. Spectrum also failed to cure, as required, its earlier failure prior to March 16, 2018. For these two failures, Spectrum was ordered by the Public Service Commission to forfeit \$1,000,000 per failure for a total of \$2,000,000. These failures came on top of earlier failures by Spectrum to meet its commitments. Indeed, Spectrum has not met a single build-out deadline since the approval of its acquisition of Time Warner Cable in 2016.

Instead of working to meet its commitment to New York, Spectrum has continued to advertise and publish knowingly false claims that the Company is "exceeding its mid-December 2017 commitment made to New York (S)tate by more than 6,000 locations" and is "on track to extend the reach of [its] advanced broadband network to 145,000 unserved or underserved locations by May 2020." Both claims are patently false. Spectrum missed its required December build-out commitment by 12,245 passings; it did not exceed it. Spectrum is not on track to meet its commitments; it is at least six months behind that schedule, which itself was modified last year to give Spectrum more time after its earlier failures to meet the original schedule laid out in the order approving the Time Warner acquisition.

Aware that Charter/Spectrum was making false representations, the Commission in its June 14, 2018 order directed the company to amend its public relations messaging related to the buildout condition to reflect the Commission's determination. The order states:

the Commission is also aware that Charter has engaged in a public relations initiative regarding the Network Expansion Condition. Through advertising, social media, and on its own website Charter has made representations regarding the investments it has made to expand its network. For example, its website includes the statement: "Charter has invested millions of dollars to build out its network to more than 42,000 New York homes and businesses since January 2016, exceeding its mid-December 2017 commitment made to New York state by more than 6,000 locations. We're on track to extend the reach of our advanced

broadband network to 145,000 unserved or underserved locations by May 2020."[] Following the issuance of this Order, Charter is advised that it should modify its messaging to reflect the Commission's decision regarding eligible passings.

Despite this clear statement by the Public Service Commission, Charter/Spectrum has continued to make false claims on its company website, on YouTube, and on television advertising without making any mention of the Commission's contrary findings.

Spectrum's failure to meet its build-out commitments hurts unserved and underserved New Yorkers, leaving them without a key public utility service crucial to their future success and well-being. Spectrum's publication of claims that it knows are false harm all consumers who rely on honest and accurate information in choosing suppliers from among competitors. And when Spectrum continues to advertise and publish false claims even after being directed not to by its governmental regulator, it demonstrates deliberate disregard and lack of respect for the Public Service Commission, the rule of law, and regulation in New York State.

That cannot be tolerated. In the name of customers and potential customers, we demand that Spectrum immediately cease and desist all advertising and publishing of knowingly false claims including those described above, and we call on Charter to set the record straight by instead advertising and publishing the truth that Charter has been found by the Public Service Commission to have failed to keep its buildout commitment to New York State.

In addition, Charter's failure to follow the Commission's directive to change its false advertising is a serious matter and provides grounds for a possible penalty action by the Commission against the company. Accordingly, pursuant to Public Service Law Sections 216(2) and 227-a, this letter shall also serve as a demand that Spectrum produce within 10 days a log of all advertising, publications, internet, social media and other media references caused by Spectrum regarding the status of its broadband build-out and its passings targets at any point since December 16, 2017.

#### Referrals for Further Investigation

In light of Spectrum's serious and continuing efforts to mislead consumers and New Yorkers, we are simultaneously with the issuance of this cease and desist letter referring the matter of Spectrum's false claims to the New York State Attorney General to investigate as a consumer fraud. In addition, given that Spectrum has yet to disclose to investors and the markets the Commission's findings regarding the Company's failures and the possible rescinding of the Commission order approving the company's acquisition of Time Warner cable, we are also referring this matter to the United States Securities and Exchange Commission for investigation into Charter's compliance with the securities laws and other appropriate action.

Obligation to Preserve

Finally, given the numerous ongoing proceedings and investigations spurred by Spectrum's conduct, we are directing the company to preserve all documents, including email, text messages, voice mail, recordings, and other documentation relating to the aforementioned matters. We will continue to monitor closely the actions of Spectrum on these issues and the Commission continues to evaluate other enforcement measures, including, as previously noted, possible rescinding of the Commission order approving Charter's acquisition of Time Warner Cable and further penalty and enforcement proceedings as necessary and appropriate.

Sincerely,



PAUL AGRESTA  
General Counsel