

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7077

Joint Petition of all Vermont affiliates of Adelphia)
Communications Corporation and Time Warner)
Cable Inc. for: (1) consent to sell substantially all)
of Adelphia's Vermont assets to Cable Holdco)
Exchange III LLC; (2) approval of such affiliates')
abandonment of cable television service in)
Vermont; and (3) revocation of the affiliates')
Certificates of Public Good; AND **Joint Petition**)
of Time Warner Cable Inc. and Cable Holdco)
Exchange III LLC for a Certificate of Public Good)
for Cable Holdco to own and operate said cable)
television systems; AND **Joint Petition** of Time)
Warner Cable Inc. and Comcast of Georgia, Inc.)
for authority to acquire control of Cable Holdco)
Exchange III LLC)

PREFILED TESTIMONY OF
BENNETT S. TRUMAN
ON BEHALF OF THE
VERMONT DEPARTMENT OF PUBLIC SERVICE

September 2, 2005

Summary: The purpose of Mr. Truman's testimony is to recommend the imposition of service quality and reliability performance, monitoring and reporting requirements governing service provided by Comcast as a part of its being granted a Certificate of Public Good, and to address certain consumer protection issues.

Prefiled Testimony
of
Bennett S. Truman

1 Q. Please state your name and occupation.

2 A. My name is Bennett S. Truman, and I am the Senior Consumer Affairs & Public
3 Information Specialist for the Vermont Department of Public Service (DPS).

4
5 Q. Please state your educational background and professional experience.

6 A. I have worked for the Department's Consumer Affairs & Public Information
7 division (CAPI) since August 1997, and in my present position since April 2003. Prior to
8 that I served as staff to members of the Burlington City Council, assisting in policy
9 development and constituent relations. From 1987 to 1991 I served as a member of the
10 Vermont House of Representatives from Burlington in the former District 7-4. In 1993, I
11 worked in the White House Office of Agency Liaison in Washington, D.C., facilitating
12 assistance from federal agencies for members of the public. I have additionally served
13 both as legislative and development director for the Vermont American Civil Liberties
14 Union. I have a Bachelor of Arts degree in Elementary Education and History from
15 Trinity College in Burlington.

16
17 Q. What are your responsibilities in your current position?

18 A. I am one of four staff members responsible for the handling of the complaints
19 filed by consumers who contact the Department. As Senior Specialist, I am responsible
20 for the maintenance of the division's electronic complaint tracking system, and the quality
21 control of casework handled by CAPI staff. My complaint handling responsibilities
22 include listening to and reviewing the concerns of the public, maintaining records of
23 consumer concerns, providing information, and working with consumers and utilities to
24 resolve complaints for consumers and groups of consumers. I provide information to

1 utilities who request guidance on compliance with state public service regulations, and
2 review proposed tariffs and make recommendations on consumer protections. In addition,
3 I research and monitor consumer protection trends relative to public utilities in Vermont,
4 and review patterns of consumer complaints and make recommendations on enforcement,
5 public information, and advocacy activities undertaken by the Department. I am also
6 responsible for helping prepare public information materials.

7 Q. What is the purpose of your testimony?

8 A. The purpose of my testimony is to recommend service quality performance,
9 monitoring and reporting requirements the Board should require of Comcast in any
10 Certificate of Public Good (CPG) issued in this docket. I also address several conditions
11 of Comcast's proposed CPG

12 Q. What service quality performance monitoring and reporting requirements do you
13 recommend be required of Comcast by the Board?

14 A. Comcast has proposed a CPG that suggests negotiating a Service Quality Plan
15 (SQP), rather than establishing it as part of this proceeding. The Department recommends
16 that the Board instead require the SQP proposed by the Department and attached to this
17 testimony as Exhibit DPS-BST-1.

18 Q. Why is the Department proposing a plan instead of leaving it to be negotiated?

19 A. The service quality requirements established by Federal rules, Vermont State
20 statutes and by the Public Service Board lay out the general and specific principles of
21 what it means to provide adequate service quality. One of the Department's goals is to
22 establish a set of service quality standards and indices that the company and DPS will
23 hold in common. The Department believes it is important for a new cable company CPG
24 to include an SQP at the onset, both for the very key purpose of enforcing federal and

1 state cable rules, as well as to establish the framework for the timely resolution of
2 consumer complaints and service quality deficiencies. This plan translates the rules and
3 statutory obligations into a specific set of measurable criteria that includes the tracking
4 and reporting of service quality standards. The Department endeavors to maintain a
5 proactive working relationship with companies providing regulated services to Vermont
6 consumers, and with a SQP in place, both the company and the Department will have the
7 means to identify and remediate any problems in service quality.

8 The SQP proposed by the Department is built upon those which the Board has
9 adopted for Adelphia and Charter Communications (Charter) in Docket 6521, and the one
10 which the hearing officer has recommended the Board approve for Burlington Telecom
11 (BT). Based on experience with these plans, DPS has continued to streamline the
12 presentation of the plans without compromising the content. This was done both for
13 Charter and BT. In this instance, we are proposing an SQP which is based upon a version
14 of the one under which Adelphia currently operates. As I will explain in greater detail
15 later in my testimony, the plan is a simplified one. It eliminates redundancy, and notably
16 does not include a great deal of the detail about reporting systems that was unique to
17 Adelphia's systems. By eliminating the reference to particular internal systems from the
18 SQP while retaining the elements to be tracked, the Department believes that Comcast, as
19 a new service provider taking over Adelphia's operation in Vermont, will be able operate
20 within the requirements of this SQP without difficulty.

21
22 Q. What approach to service quality and reliability standards does the recommended SQP
23 take?

24 A. The SQP specifies 11 measurement protocols and 17 performance standards.
25 Baselines are set in the recommended plan for several areas. These include customer
26 service call answer time, customer service call abandonment, repair and service
27 interruption response time, company response time for billing complaints, and the time

1 frame for installations. These standards compare to those in the Charter and BT Service
2 Quality Plans, as well as Adelphia's, incorporating recent updates requested and approved
3 for Adelphia concerning Out of Normal conditions. The SQP includes the federal
4 requirements as well.

5 Q. What aspects of service are covered by the recommended plan?

6 A. The plan recommends one or more performance measures in eight broad areas of
7 service that have a substantial impact on consumers. They include performance measures
8 that are also included in Adelphia, BT and Charter's SQ Plans:

- 9 1. Call answering
- 10 2. Call Handling
- 11 3. Repairs
- 12 4. Appointments
- 13 5. Billing
- 14 6. Refunds and Credits
- 15 7. Installations
- 16 8. Complaint Resolution

17 Q. How does this Plan compare to those of Adelphia, Charter Communications and that
18 proposed for Burlington Telecom?

19 A. The substance of the SQP proposed for Comcast captures the essential elements
20 which were included in the plans of Adelphia, Charter, and Burlington Telecom. One of
21 the Department's goals is to ensure that all these SQ Plans maintain as much
22 commonality as possible among their elements, in an effort to ensure competitive
23 neutrality. The structure of this proposed plan is different from its predecessors, but that
24 streamlining is primarily in form, rather than substance.

1 Q. How is this proposal structured differently than that of the others you cite?

2 A. A significant change in the Department's proposed SQ is the elimination of the
3 what was Section I of the forerunner SQ Plans. I want to be clear that this change does
4 not eliminate any of the requirements, standards or measures that were in Section I.
5 Rather, we found it to have been largely redundant, and have incorporated the substance
6 of that section into this proposal's Section III. Where essentially duplicate standards,
7 measures or other requirements existed, we have eliminated the repetition. If there was
8 an element in Section I absent in Section III, then it was incorporated into the later. We
9 believe that this simplified format more clearly spells out the SQ requirements, and
10 reduces the likelihood of confusion from having similarly worded but separate SQ
11 elements within the plan.

12 Although this plan is based in part upon Adelpia's SQP, this plan does not
13 include the detail about the data collection systems that were spelled out in Adelpia's
14 plan. As Comcast is a new service provider in Vermont, and its systems may ultimately
15 differ from those of Adelpia, the Department does not believe that it is necessary to
16 specify the extreme detail of data measurement systems that was included in Adelpia's
17 plan. Rather, it is sufficient to specify what must be measured and to leave it up to the
18 company to determine precise means of obtaining the data, with the caveat that the plan
19 allows regulators to ask for back up data as needed to evaluate the way the company is
20 conducting its monitoring .

21

22 Q. How long does the SQP last?

23 A. For the duration of the CPG.

24

25 Q. What will happen during the life of the SQP if monitoring shows the Company's service
26 quality fails to meet the baselines?

1 A. The standards contained in the SQP are established by law and rules, so they are
2 legal obligations of all cable companies, with or without an SQP. The SQP provides
3 notice to the company that the Board intends to enforce the federal and state service
4 quality rules and that the company is obligated to comply with the rules.

5 Second, because it is important for ensuring service quality, the SQP includes a
6 provision for remediation in the event performance fails to meet baseline standards (see
7 Section I, Paragraph G). In any quarter where performance falls more than ten percent
8 below any standard, or where performance does not meet any standard for two
9 consecutive quarters, Comcast must, within 30 days of the end of the quarter, submit a
10 corrective action plan indicating how it will regain the failed standard. This provision,
11 along with the ongoing discussions about service quality issues during the regular course
12 of business, as well as during the complaint resolution process, will ensure a continuing
13 focus on achieving a high level of service quality.

14 In the event of substandard performance, the Department has found it can
15 generally negotiate corrective action where needed without formal enforcement action.

16 If formal enforcement is necessary, 30 V.S.A. § 209(a)(1) & (3) clearly establishes
17 the statutory authority of the Board to address service quality issues. In addition, 47
18 C.F.R. § 76.309 establishes that a cable franchise authority may enforce the customer
19 service standards. The language of 30 V.S.A. § 30 (a)(2) establishes the Board's authority
20 to penalize a company for violating 30 V.S.A. § 219, the obligation of utilities to "furnish
21 reasonably adequate service, accommodation and facilities to the public." Although the
22 Department sees this SQP as an opportunity for Comcast to demonstrate a high level of
23 service quality performance, if the monitoring were to reveal serious deficiencies, and the
24 Company did not remediate them, penalties are available under the law.

25
26 Q. What other comments do you have regarding the proposed CPG?

27 A. My comments address a couple of consumer protection matters. Specifically the

1 conditions proposed by Comcast in its draft CPG, Conditions 41, 42 and 43 . In addition I
2 wish to address one of the additional conditions being proposed by the Department.

3 Q. What is your comment about Condition No. 41?

4 A. In its proposed CPG, Condition 41 references the monitoring and reporting of
5 service quality standards to the Department, and the circumstances under which a
6 corrective action plan must be filed with DPS. The Department largely accepts this
7 language, but proposes additional language to require that any corrective action plan must
8 be submitted to the Department within 30 days of the end of the quarter in which the
9 service quality provision is triggered. This addition simply ensures consistency with the
10 language of the proposed SQP, and sets a specific time frame for this action by the
11 company. In addition, earlier in my testimony I recommended a specific SQP to be
12 adopted by the Board in this Docket. The proposed language changes below
13 accommodate that specific proposal, rather than leaving the SQP subject to future
14 negotiation. The Department recommends the following language for Condition 41
15 (changes shown with underscore and strike through):

16 Comcast shall adhere to the customer service standards contained in 47
17 C.F.R. § 76.309. [Footnote: “All references to sections of 47 C.F.R. are
18 intended to refer to those sections as they shall be amended from time to
19 time.”] The Company must monitor its customer service performance in
20 relation to all FCC and Board customer service standards on a monthly
21 basis. Comcast will maintain a the service quality plan, developed in
22 collaboration with the Department of Public Service, ordered by the Board
23 in Docket 7077 to ensure effective monitoring and adherence to state and
24 federal standards. Quarterly, the Company must submit these data to the
25 Department and the Board. Where quarterly performance falls more than
26 10 percent below any standard, or where performance does not meet any

1 standard for two consecutive quarters, the Company must submit within
2 30 days of the end of the reporting quarter a corrective action plan
3 indicating how it will regain the failed standards.

4 Q. What changes are you recommending for Condition No. 42?

5 A. This section of Comcast's proposed CPG concerns consumer complaint
6 thresholds for when certain complaint tracking protocols would be triggered. This section
7 includes circumstances under which Comcast must track and analyze all consumer
8 complaints, including those that do not go beyond handling by a Customer Service
9 Representative.

10 The proposed condition calls for the company to "work with the Department to
11 develop a complaint-tracking protocol that defines what is considered a complaint to the
12 Company and complaint categories to be tracked." The Department proposes language
13 only to make clear that the requirement comes into play only if the relevant threshold is
14 triggered. The change is for clarity only. The added language is shown in bold as follows:
15 "Specifically, if this provision is triggered, the Company must work with the Department
16 to develop a complaint-tracking protocol that defines what is considered a complaint to
17 the Company and complaint categories to be tracked."

18 Q. What changes are you recommending for Paragraph No. 43?

19 A. This section of Comcast's proposed CPG addresses the manner in which inquiries
20 and complaints will be made by the Department to Comcast, and the time frames in
21 which they will be addressed by the company. Most notable is a change in the response
22 time Comcast is allowed for replying to inquiries and complaints. In Docket 6101,
23 Adelphia was given a five (5) business days initial response time. This time frame arose
24 from problems with complaint response by the company. Comcast proposes a 14-day
25 initial response time, which may be extended with Department approval to no more than

1 21 days. This 14 calendar day time frame is consistent with that of Comcast's peer cable
2 companies. As noted in my earlier answer about some of the differences between the
3 Adelphia and Comcast SQP, the Department believes that Comcast's status as a new
4 provider in Vermont entitles it to the less restrictive response time frame.

5 While we are accepting the 14 day standard, the Department is proposing to
6 formalize a hitherto informal practice related to communications between service
7 providers and DPS. In instances of an urgent matter, such as a loss of service or imminent
8 loss of service, the Department has found it essential to have the latitude to request the
9 company respond to an initial inquiry or complaint in an expedited manner. This has been
10 our practice over several years in our dealings utilities, including Adelphia and Charter,
11 and such requests have met with no objections apart from an occasional issue of
12 practicality. Our proposed language will allow for the Department to request, on a case by
13 case basis, a response from Comcast by a date certain. In our experience, in any case
14 where this may be problematic for the company, we have been able to informally
15 negotiate a more agreeable response time, and expect this to be the case with Comcast as
16 well. Specifically, the additional language would read: "In instances of an urgent matter
17 as determined by the Department, such as loss or imminent loss of service, Comcast shall
18 provide expedited responses to the Department, of less than the 14 day standard, as
19 specified by the Department on a case by case basis."

20 Finally, the Department proposes further changes to Comcast's proposal that also
21 more accurately reflect the actual and practicable complaint resolution practices of the
22 Department. Comcast requests written communication as the manner in which it would
23 receive initial inquiries and complaints from DPS. The language we propose be
24 incorporated into that proposed by Comcast broadens the manner in which inquiries and
25 complaints may be relayed to Comcast, to include both verbal and written
26 communication. The Department believes that because of the often diverse nature of
27 consumer complaints, consumer interests are best served by not precluding a means of

1 communication. Charter, among others have been willing to work with DPS in this
2 manner. In practice, the Department usually makes an initial contact in writing, and DPS
3 is willing to maintain this as the standard procedure. However, we do not want to
4 preclude verbal contact as a means of communicating with the utility at any stage of the
5 complaint resolution process. In addition, we recognize the company may wish to
6 maintain a written record of such contacts. Upon request, DPS will follow up with a
7 written version of any initial verbal contact. With our proposed additions, this portion of
8 the condition would read: "Comcast must respond to verbal or written inquiries from the
9 Department regarding consumer complaints within 14 days commencing upon receipt by
10 Comcast of the Department's verbal or written notification of a complaint. Written
11 notification includes notification by electronic mail, facsimile, hand-delivery or U.S.
12 mail. When a verbal notification is given, Comcast may request a written version for its
13 records. In any case in which the Company is unable to respond fully, providing all
14 information necessary to resolve the complaint, within seven days, it must provide notice
15 to the Department before the elapse of the initial 14 days that an extension of time is
16 required. In no case may the total response time, including the initial seven days and any
17 extension, exceed 21 days. Although the initial transmittal of the complaint may be in
18 writing, the Department and the Company are permitted to discuss the complaints in
19 person or by telephone."

20 Q. What is the additional CPG condition you want to address?

21 A. New CPG Condition E would state that "Comcast shall cooperate and share
22 information with the Department as necessary to resolve consumer complaints. Privacy
23 requirements of state and federal cable rules do not restrict the ability of the company to
24 discuss customer accounts with the Department in cases where a Comcast customer has
25 requested DPS intervention in resolving a consumer complaint."

26 As part of our informal resolution process, DPS routinely requests certain

1 information from utilities about consumers. This information is maintained in the
2 Department's Consumer Affairs Tracking System. Consumer specific information
3 maintained by CAPI is exempt from the Public Records law, and is not shared outside of
4 CAPI with any parties other than the consumer and, as needed, with the consumer's
5 permission, with the utility. Further, 30 V.S.A. § 206 states that "On request of the
6 Department of Public Service, a company...subject to supervision of this chapter shall
7 furnish the Department information required by it..."

8 The Department is concerned that some companies may interpret Federal Privacy
9 rules to mean the company does not have to share the information required to engage in a
10 constructive complaint resolution process. We believe this proposed condition is essential
11 to ensure the Department can effectively advocate on behalf of Vermont consumers who
12 request such assistance

13 Q. Does that conclude your testimony?

14 A. Yes it does.