



Department of Public Service

Public Service Commission

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August 19, 2020

VIA US MAIL

Michael Olsen
General Counsel
Altice USA Inc
1 Court Square West
Long Island City New York 11101

Re: Notice of Apparent Violations Related to Tropical Storm Isaias

Dear Mr. Olsen:

This letter is to notify Altice USA, Inc. and its New York operating subsidiaries (collectively, “Altice”) that, based on the initial investigation undertaken by the Department of Public Service (Department), Altice is in apparent violation of the State Public Service Law (PSL) and associated Public Service Commission (Commission) orders due to its wholly inadequate response to the August 2020 Tropical Storm Isaias. As detailed below, the Department’s initial investigation revealed that Altice apparently failed to follow its Commission-ordered Resiliency Plan (“RP”) requirements relating to (1) Network Planning, (2) Customer Service and Communications, and (3) Government Coordination. This Notice also provides a series of corrective actions that Altice must implement immediately to prevent any potential failings in case of the occurrence of another significant storm event this year.

A. Law Governing the Apparent Violations

The Commission has significant legal authority to investigate and ensure that Altice, and its New York operating subsidiaries, meets their regulatory obligations to provide cable and telecommunications services in a safe, adequate and reliable manner, including during storm and other outage events. PSL §§ 91, 216. Additionally, as part of its Order dated June 15, 2016 (“Merger Order”), authorizing the transfer to Altice of Cablevision Systems, Inc.’s (“Cablevision”) broadband internet, telephone, and cable television systems, and franchises in New York (“New

York System”), the Commission required Altice to, among other things, upgrade the resiliency of the New York System, including “offer[ing] backup customer support, maintenance of ‘Ring within Ring’ topology to remote hub; backup powering; and storm communications planning.”¹ As part of the required resiliency upgrade, the Merger Order directed Altice, and its New York operating subsidiaries, to, among other things, undertake the following action items:

- Within 120 days of the close of the transaction with Cablevision, file an RP “with the Secretary to the Commission designed to improve Cablevision’s emergency response, readiness plan, outage reporting, pre-storm emergency communications and network planning,” and “particularly detail any plans to enhance Cablevision’s infrastructure to be more resilient in extreme weather conditions;”
- Update the RP “on an annual basis” and make the plan “available to local governments;” and,
- “During any state or federally declared emergency period in Cablevision’s service territory, the Petitioners shall be required to open its Wi-Fi network to all consumers (subscribers and non-subscribers), without charge” and “include access to news and electric power outage alert systems, also without charge.”²

Altice filed its RP with the Commission on October 19, 2016 and filed subsequent updates annually. In its initial RP, Altice states that it takes emergency preparedness seriously, as demonstrated by its detailed and comprehensive Severe Weather Preparedness Plan (“SWPP”), which Altice filed with the Commission as Exhibit A, along with a request for confidential treatment. The SWPP, which is updated on an annual basis, is intended to provide clear instructions for affected business units and reflects best practices for each phase of response including preparation, assessment, response, and recovery. However, as described below, there were significant failures in the company’s adherence to the RP and associated SWPP that led to the apparent violations herein.

The Merger Order makes plain that all conditions contained in its Appendix A, as well as the RP, “shall be enforceable” against Altice, and its operating subsidiaries, pursuant PSL §§ 25 and 26.³ PSL § 25(2) authorizes the Commission to initiate an action in Supreme Court requiring Altice, and its operating subsidiaries, to forfeit a sum up to \$100,000 for each and every offense, and, in the case of a continuing violation, each day is deemed a separate and distinct offense. As part of such an action, the Commission is authorized to also seek injunctive relief. PSL § 26. PSL § 227-a also authorizes the Commission to assess civil penalties against any “cable television company, and all officers, agents and employees of any cable television company,” to the extent it violates an “order, direction or requirement made by the commission.”

¹ See Case 15-M-0647, *Joint Petition of Altice N.V. and Cablevision Systems Corporation et al.*, Order Granting Joint Petition Subject to Conditions (June 15, 2016), at 81.

² *Id.*, Appendix A, at 11-12.

³ *Id.* at 12.

Finally, under PSL § 216(1) the Commission is authorized to rescind the Merger Order “as it may find necessary or appropriate.” Under PSL § 227(1)(a) if “after public notice and opportunity for a hearing,” the Commission determines that Altice, or its operating subsidiaries, “has committed a material breach of its franchise(s) or any applicable provision of this article or of the regulations promulgated hereunder and has failed, without reasonable justification, to cure said breach within sixty days after having received written notice thereof from the commission,” it may terminate Altice’s cable franchises.

B. Apparent Violations

Tropical Storm Isaias first appeared in Altice’s service territory on Tuesday afternoon, August 4, 2020 in the form of severe winds and rain. Throughout the afternoon and into the first evening of the storm, the Altice service territory experienced winds gusting to 70+ mph, with sustained winds of 40+ mph for over five hours, causing severe damage to trees, poles and conductors. Peak electrical outages in New York State due to Tropical Storm Isaias reached approximately 920,000 customers, and approximately 1.3 million New York customers experienced power outages during this event. By the evening of Wednesday, August 5, 2020, the Department understands that the Altice network had over 400,000 customers without service, with many thousands still without service as of August 16, 2020—twelve days after the storm first hit New York. At this point in the investigation, the Department has determined that Altice was ill-prepared for the storm and failed to comply with many aspects of its RP and SWPP.

The Department highlights three apparent violations below based on the Department’s initial investigation. The Department believes that these apparent violations constitute, in whole or in part, material reasons why Altice was unable to timely restore service to its customers that experienced outages.

1. Failure to Make Sufficient Readiness Plans and Post Storm Restoration

In its RP, Altice states that the SWPP provides clear instructions for its affected business units and reflects best practices for each phase of response including preparation, assessment, response and recovery. The Department understands from information and through its initial investigation that Altice, and its New York operating subsidiaries, did not sufficiently plan for Tropical Storm Isaias and, as a result, may not have had sufficient human and equipment resources to perform post-storm restoration in a timely and efficient manner. On August 11, 2020 the Department asked Altice for its storm crewing information; however, Altice was unable to explain at that time to the Department the level of human resources dedicated to field restoration with any specificity. Altice responded to the Department’s request ten hours later, leaving the impression that Altice did not have a clear understanding of its current resources or a plan for human resources within its storm restoration strategy. In addition, the Department heard numerous statements from municipal and emergency management officials that in many communities, Altice’s human and equipment resources were not present even days after commercial power was restored. The Department also participated in several meetings with municipal and emergency management officials in which it similarly learned that, in many communities, Altice’s human and equipment resources (and back-up generators) were not present

for days after commercial power had been restored. As such, the Department believes that Altice failed to properly prepare for the storm, assess damages after the storm, and have an adequate strategy to make timely and efficient service restorations. The potential lack of adequate human and equipment resources likely triggered extended customers outages that might have been otherwise avoided.

2. Customer Service and Communications

In its RP, Altice states that it “operates skills-based call center routing, allowing customer phone calls to be routed to customer service representatives whose training and background best meet the subject matter of the customer’s inquiry (billing, technical, troubleshooting, etc.), rather than by location. This call center model also addresses the Merger Order’s requirement that Altice maintain adequate resources outside of affected locales to address customer inquiries in the event of severe weather or related emergencies.” In its 2019 update, Altice states with respect to call centers that “[f]ully staffed teams are available on standby across the Tri-State area to assist customers during severe weather events.”

The Department believes based upon its initial investigation that Altice’s customer service and communications in response to Tropical Storm Isaias were inadequate. Indeed, Altice acknowledged to the Department that its Interactive Voice Response system, an automated system used to gather information to open a service request, failed. In addition, the company also acknowledged that there were problems with its Optimum.net site that prevented customers from being able to ascertain accurate information regarding the status of their service. Because of these website outages, customers were unable to get information on the extent of damage, restoration times and other important emergency communications. The Department’s initial investigation revealed there were customers waiting on hold for hours, sometimes only to be disconnected and have to begin the process over again. These failures added to customer frustration during this time of crisis and the Department has been further advised that this caused increased calls to municipal and elected officials, which distracted them from other emergency response efforts.

3. Government Input on Altice’s Plan and Communications with Government During Severe Weather Events

With respect to government input and planning, the RP provides as follows:

[S]ince issuance of the Merger Order, Altice has met with Staff designated by the Governor’s office and the Offices of Emergency Management (“OEMs”) for Nassau, Suffolk, NYC, Westchester and Dutchess to discuss storm preparation/response, including the elements of this Plan. Common areas of interest among these governmental entities are effective coordination tactics among cable/telecommunication providers, power companies, and governments. Through these meetings, direct contacts for both the OEMs and Altice were established for emergency situations. During discussions, Altice also emphasized the need for its employees to be able to move freely along roads and across bridges in the wake of storms, with the same credentials as public safety personnel. Going forward, Altice will continue to work with the OEMs to further the constructive dialogue and protocols for emergency response.

From its 2019 update, Altice states that “personnel actively communicate with local government officials during and after severe weather events. Conversations are focused on the status and timing of restorations.”

The Department’s initial investigation has revealed that Altice, and its operating subsidiaries, failed to conduct sufficient accurate outreach to OEMs or local government officials in a timely fashion in response to this emergency. The first coordinated outreach began on Monday, August 10th, almost a full week after Tropical Storm Isaias occurred. This outreach took the form of scheduled calls with municipal/elected officials from Dutchess, Nassau, Suffolk and Westchester counties, in which the Department participated. The Department heard repeated complaints from municipal/elected officials regarding the lack of a coordinated communications effort on Altice’s part, and that where prior individual communications had been made to municipal and/or elected officials, basic questions could not be answered and information that was provided was inaccurate. Altice also failed to provide the Department and municipal/elected officials with estimated restoration times and only did so late in the restoration process. Altice conceded on these calls that it did not participate in the coordination activities of the County Emergency Operations Centers (EOCs). Participation in EOC activities could have resulted in better coordinated restoration with electric utilities, an enhanced damage assessment strategy, and more timely restoration of services.

C. Demand for Relief

Based on the apparent violations identified above, the Department demands that Altice immediately implement the following interim remedial action items both to mitigate the existing public health and safety crises resulting from the company’s delay in restoring service and to prevent any future delays. Therefore, Altice shall immediately take the following actions and report back to the Department within 30 days:

- Develop plans to secure additional crews and equipment before and during storms;
- Develop plans to actively participate with Municipal and County EOC emergency response and restoration activities;
- Develop a revised plan to deploy and monitor power supplies, generators, and back-up generators adequate for use during emergency and storm restorations, and procure additional generators as required;
- Work with the business units to understand communities impacted by the service outages and identify Government contacts in the affected areas;
- Establish a process to ensure timely and accurate information to customers, the media and government groups;
- Establish a process to provide timely and accurate outage information including estimated times of restoration for each municipality and county for which the company operates; and,
- Establish a process to coordinate periodic updates to its customer websites informing what is being done in their area and what to expect regarding damage assessment and the progress of restoration to restore full service to all areas.

Letter to Altice
August 17, 2020

Should Altice fail to undertake these actions immediately, the Department will not hesitate to seek any and all relief to compel such actions.


Altice's apparent failure to follow the Commission's Merger Order directives is a serious matter and provides grounds for several possible additional actions by the Commission against the company. For example, based on the apparent violations identified above, as well as those that it may find as a result of its ongoing investigation, the Department believes that Altice is liable for violating the RP and thus must pay civil penalties in accordance with PSL § 25. Please be on notice that the Department intends to supplement this Notice at the end of its investigation to provide a full accounting of apparent violations and the associated penalties regarding the same. Please be on further notice the Department reserves all rights to seek additional injunctive relief, including to revoke Altice's operating subsidiaries' certificates to operate in New York.

Finally, given the nature of this investigation, we are directing Altice to preserve all documents, including email, text messages, voice mail, recordings, and other documentation relating to the aforementioned matters.

Should you have any questions regarding this Notice, please contact my colleague Brian Ossias at the below address.

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Sincerely,



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Director, OIE

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