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Counsel for Defendants/Appellants
Charter Communications, Inc. and
Charter Communications Operating, LLC

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

_____)	
In re:)	Chapter 11
)	
WINDSTREAM FINANCE, CORP., <i>et al.</i> ,)	Case No. 19-22397 (RDD)
)	
Debtors.)	(Formerly Jointly Administered
)	under Lead Case Windstream
_____)	Holdings, Inc., 19-22312)
)	
WINDSTREAM HOLDINGS, INC., <i>et al.</i> ,)	
)	
Plaintiffs,)	Adv. Pro. No. 19-08246
)	
vs.)	
)	
CHARTER COMMUNICATIONS, INC.)	
and CHARTER COMMUNICATIONS)	
OPERATING, LLC,)	
)	
Defendants.)	
_____)	

NOTICE OF APPEAL AND STATEMENT OF ELECTION



Part 1: Identify the appellant(s)

1. Name(s) of appellant(s):
CHARTER COMMUNICATIONS, INC. and
CHARTER COMMUNICATIONS OPERATING, LLC
2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

For appeals in a bankruptcy case and not in an adversary proceeding.

☐ Plaintiff☐ Debtor☒ Defendant☐ Creditor☐ Other (describe)☐ Trustee☐ Other (describe) _____**Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from: Judgment on Counts VI and VII in Adversary Proceeding entered on the docket maintained by the clerk of court (Adv. Dkt. 334) on April 15, 2021, against Defendants and in favor of Plaintiffs on Counts VI and VII of Plaintiffs' Complaint.

Plaintiffs are 205 individual companies that filed petitions under Chapter 11 of the Bankruptcy Code in February of 2019. Pursuant to Federal Rule of Civil Procedure 20, all 205 plaintiffs jointly filed a seven-count complaint against Defendants. The district court withdrew the automatic bankruptcy reference as to the claims in Counts I through V. *See* Case No. 19-cv-09354, April 21, 2020 Order. *See also id.* ECF No. 39 (transcript of April 21, 2020 hearing including bench ruling on motion to withdraw). When it withdrew the reference, the district court provided for the bankruptcy court to enter a final judgment on the claims presented in Counts VI and VII. *See* Case No. 19-cv-09354, ECF No. 39 at 33:21-23 (addressing the possibility that Defendants "will have a final judgment they can appeal from" following a bench trial on Counts VI and VII) and 37:11-16 (contemplating a "new civil case in the district court" following an appeal from "the final order that's entered by the Judge Drain on Counts VI and VII"). Thus, the claims in Counts VI and VII were severed, under Federal Rule of Civil Procedure 21, from those presented in Counts I through V. *See Acevedo-Garcia v. Monroig*, 351 F.3d 547, 560 (1st Cir. 2003) And the Bankruptcy Court's judgment on Counts VI and VII is final and appealable. *See Spencer, White & Prentis Inc. of Connecticut v. Pfizer Inc.*, 498 F.2d 358, 361 (2d Cir. 1974) (appeal from severed claim may be timely taken as a matter of right notwithstanding pendency of remaining claim).

2. State the date on which the judgment, order, or decree was entered: April 15, 2021.

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Party: CHARTER COMMUNICATIONS, INC. Appellant

Attorney: Brian Hockett
THOMPSON COBURN LLP
One U.S. Bank Plaza, Suite 2700
St. Louis, MO, 63101
314-552-6000

2. Party: CHARTER COMMUNICATIONS OPERATING, LLC Appellant

Attorney: Brian Hockett
THOMPSON COBURN LLP
One U.S. Bank Plaza, Suite 2700
St. Louis, MO, 63101
314-552-6000

See attached pages for additional parties

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal. **N/A**

- ☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

/s/ Brian Hockett
Signature of attorney for appellant(s)
(or appellant(s) if not represented by an attorney)

Date: April 29, 2021

Name, address, and telephone number of attorney
(or appellant(s) if not represented by an attorney):

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Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]

ATTACHMENT – NOTICE OF APPEAL

Part 3: Continuation of List of Parties on Notice of Appeal

Plaintiffs/Appellees

3. Windstream Holdings, Inc. (d/b/a: none)¹
4. Windstream Business Holdings, LLC (d/b/a: Earthlink, LLC)
5. Allworx Corp. (d/b/a: none)
6. American Telephone Company, LLC (d/b/a: none)
7. ARC Networks, Inc. (d/b/a: none)
8. A.R.C. Networks, Inc. (d/b/a: none)
9. ATX Communications, Inc. (d/b/a: none)
10. ATX Licensing, Inc. (d/b/a: none)
11. ATX Telecommunications Services of Virginia, LLC (d/b/a: none)
12. Birmingham Data Link, LLC (d/b/a: none)
13. BOB, LLC (d/b/a: Business Only Broadband; Windstream Fixed Wireless, LLC)
14. Boston Retail Partners LLC (d/b/a: none)
15. BridgeCom Holdings, Inc. (d/b/a: none)
16. BridgeCom International, Inc. (d/b/a: none)
17. BridgeCom Solutions Group, Inc. (d/b/a: none)
18. Broadview Networks, Inc. (d/b/a: none)
19. Broadview Networks of Massachusetts, Inc. (d/b/a: none)
20. Broadview Networks of Virginia, Inc. (d/b/a: none)
21. Broadview NP Acquisition Corp. (d/b/a: none)
22. Buffalo Valley Management Services, Inc. (d/b/a: none)
23. Business Telecom of Virginia, Inc. (d/b/a: none)
24. Business Telecom, LLC (d/b/a Earthlink Business Solutions; Earthlink Business; Earthlink Business I; Earthlink Business III; Earthlink Business IV; Earthlink Business VIII; Earthlink Business IX; BTI; BTI Telecommunications Services)
25. BV-BC Acquisition Corporation (d/b/a: none)
26. Cavalier IP TV, LLC (d/b/a: none)
27. Cavalier Services, LLC (d/b/a: none)
28. Cavalier Telephone Mid-Atlantic, L.L.C. (d/b/a: none)
29. Cavalier Telephone, L.L.C. (d/b/a: none)
30. CCL Historical, Inc. (d/b/a: none)
31. Choice One Communications of Connecticut Inc. (d/b/a: Earthlink Business; One Communications; One Communications Corp.)
32. Choice One Communications of Maine Inc. (d/b/a: Earthlink Business; Earthlink Business II; One Communications)

¹ D/b/a refers to “[a]ll other names debtor used in the last 8 years” as listed in Paragraph 2 of Official Form 201 each Plaintiff filed in the bankruptcy division of the United States District Court for the Southern District Court of New York on February 25, 2019. D/b/a includes “any assumed names, trade names, and *doing business as* names.” *E.g.*, Official Form 201, Choice One Communications of Maine, Inc., No. 19-22324, ECF 1 (S.D.N.Y. Bankr. Feb. 25, 2019) at 1, ¶2 (admitted as Defendants’ Exhibit 185).

33. Choice One Communications of Massachusetts Inc. (d/b/a: Earthlink Business; One Communications)
34. Choice One Communications of New York Inc. (d/b/a: Earthlink Business; One Communications)
35. Choice One Communications of Ohio Inc. (d/b/a: Earthlink Business; One Communications)
36. Choice One Communications of Pennsylvania Inc. (d/b/a: Earthlink Business; One Communications)
37. Choice One Communications of Rhode Island Inc. (d/b/a: Earthlink Business; One Communications)
38. Choice One Communications Resale L.L.C. (d/b/a: Earthlink Business; One Communications)
39. Choice One Communications of Vermont Inc. (d/b/a: Earthlink Business; Earthlink Business IV; One Communications)
40. Choice One of New Hampshire, Inc. (d/b/a: Earthlink Business; One Communications)
41. Cinergy Communications Company of Virginia, LLC (d/b/a: Cinergy Communications Company of Virginia)
42. Conestoga Enterprises, Inc. (d/b/a: none)
43. Conestoga Management Services, Inc. (d/b/a: none)
44. Conestoga Wireless Company (d/b/a: none)
45. Connecticut Broadband, LLC (d/b/a: Earthlink Business; One Communications)
46. Connecticut Telephone & Communication Systems, Inc. (d/b/a: Earthlink Business; One Communications)
47. Conversent Communications Long Distance, LLC (d/b/a: Earthlink Business; One Communications Long Distance of New Hampshire)
48. Conversent Communications of Connecticut, LLC (d/b/a: Earthlink Business; One Communications; One Communication Corp.)
49. Conversent Communications of Maine, LLC (d/b/a: Earthlink Business IV; One Communication IV)
50. Conversent Communications of Massachusetts, Inc. (d/b/a: Earthlink Business; One Communications)
51. Conversent Communications of New Hampshire, LLC (d/b/a: Earthlink Business; One Communications of New Hampshire)
52. Conversent Communications of New Jersey, LLC (d/b/a: Earthlink Business)
53. Conversent Communications of New York, LLC (d/b/a: Earthlink Business; One Communications)
54. Conversent Communications of Pennsylvania, LLC (d/b/a: Earthlink Business; One Communications)
55. Conversent Communications of Rhode Island, LLC (d/b/a: Earthlink Business IV; One Communications IV)
56. Conversent Communications of Vermont, LLC (d/b/a: Earthlink Business; Earthlink Business IV; One Communications)
57. Conversent Communications Resale L.L.C. (d/b/a: Earthlink Business; Earthlink Business III; Earthlink Business IV; One Communications)
58. CoreComm-ATX, Inc. (d/b/a: none)
59. CoreComm Communications, LLC (d/b/a: none)
60. CTC Communications Corporation (d/b/a: Earthlink Business; Earthlink Business I; Earthlink Business IV; Earthlink Business, Inc.; One Communications; One Communications Corp.)

61. CTC Communications of Virginia, Inc. (d/b/a: none)
62. D&E Communications, LLC (d/b/a: D&E Communications, Inc.)
63. D&E Management Services, Inc. (d/b/a: none)
64. D&E Networks, Inc. (d/b/a: none)
65. D&E Wireless, Inc. (d/b/a: none)
66. Deltacom, LLC (d/b/a: Earthlink Business; Earthlink Business I; Earthlink Business IV; Earthlink Business Solutions)
67. Earthlink Business, LLC (d/b/a: Earthlink Business)
68. Earthlink Carrier, LLC (d/b/a: none)
69. Equity Leasing, Inc. (d/b/a: Equity Leasing of Illinois (Illinois only))
70. Eureka Broadband Corporation (d/b/a: none)
71. Eureka Holdings, LLC (d/b/a: none)
72. Eureka Networks, LLC (d/b/a: none)
73. Eureka Telecom, Inc. (d/b/a: none)
74. Eureka Telecom of VA, Inc. (d/b/a: none)
75. Georgia Windstream, LLC (d/b/a: none)
76. Heart of the Lakes Cable Systems, Inc. (d/b/a: none)
77. Infocore, Inc. (d/b/a: none)
78. Info-Highway International, Inc. (d/b/a: none)
79. InfoHighway Communications Corporation (d/b/a: none)
80. InfoHighway of Virginia, Inc. (d/b/a: none)
81. Intellifiber Networks, LLC (d/b/a: Intellifiber Networks, Inc.)
82. Iowa Telecom Data Services, L.C. (d/b/a: none)
83. Iowa Telecom Technologies, LLC (d/b/a: none)
84. IWA Services, LLC (d/b/a: none)
85. KDL Holdings, LLC (d/b/a: none)
86. LDMI Telecommunications, LLC (d/b/a: LDMI Telecommunications, Inc.; LDMI Telecommunications)
87. Lightship Telecom, LLC (d/b/a: Earthlink Business; Earthlink Business I; Earthlink Business IV; One Communications)
88. MassComm, LLC (d/b/a: none)
89. McLeodUSA Information Services LLC (d/b/a: none)
90. McLeodUSA Purchasing, LLC (d/b/a: none)
91. McLeodUSA Telecommunications Services, L.L.C. (d/b/a: PaeTec Business Services)
92. MPX, Inc. (d/b/a: none)
93. Nashville Data Link, LLC (d/b/a: none)
94. Network Telephone, LLC (d/b/a: Cavalier Telephone; Cavalier Telephone and TV; Cavalier Business Communications)
95. Norlight Telecommunications of Virginia, LLC (d/b/a: Norlight Telecommunications of Virginia, Inc.)
96. Oklahoma Windstream, LLC (d/b/a: none)
97. Open Support Systems, LLC (d/b/a: none)
98. PaeTec Communications of Virginia, LLC (d/b/a: none)
99. PaeTec Communications, LLC (d/b/a: PaeTec Communications, Inc.)
100. PAETEC Holding, LLC (d/b/a: PAETEC Holding Corp.)
101. PAETEC iTEL, L.L.C. (d/b/a: none)
102. PAETEC Realty LLC (d/b/a: none)
103. PAETEC, LLC (d/b/a: PAETEC Corp.)
104. PCS Licenses, Inc. (d/b/a: none)

105. Progress Place Realty Holding Company, LLC (d/b/a: none)
106. RevChain Solutions, LLC (d/b/a: none)
107. SM Holdings, LLC (d/b/a: none)
108. Southwest Enhanced Network Services, LLC (d/b/a: Southwest Enhanced Network Services, LP)
109. Talk America of Virginia, LLC (d/b/a: Talk America of Virginia, Inc.; Cavalier Telephone)
110. Talk America, LLC (d/b/a: Talk America, Inc.; Cavalier Telephone; Cavalier Business Communications)
111. Teleview, LLC (d/b/a: none)
112. Texas Windstream, LLC (d/b/a: Texas Windstream, Inc.)
113. The Other Phone Company, LLC (d/b/a: Cavalier Business Communications; The Phone Company)
114. TriNet, LLC (d/b/a: none)
115. TruCom Corporation (d/b/a: none)
116. US LEC Communications LLC (d/b/a: PaeTec Business Services)
117. US LEC of Alabama LLC (d/b/a: none)
118. US LEC of Florida LLC (d/b/a: none)
119. US LEC of Georgia LLC (d/b/a: PaeTec Business Services)
120. US LEC of Maryland LLC (d/b/a: none)
121. US LEC of North Carolina LLC (d/b/a: none)
122. US LEC of Pennsylvania LLC (d/b/a: none)
123. US LEC of South Carolina LLC (d/b/a: none)
124. US LEC of Tennessee LLC (d/b/a: none)
125. US LEC of Virginia LLC (d/b/a: PaeTec Business Services)
126. US Xchange Inc. (d/b/a: Earthlink Business; One Communications; Choice One; Choice One Communications)
127. US Xchange of Illinois, L.L.C. (d/b/a: Earthlink Business; One Communications)
128. US Xchange of Indiana, L.L.C. (d/b/a: Earthlink Business; One Communications)
129. US Xchange of Michigan, L.L.C. (d/b/a: Earthlink Business; One Communications)
130. US Xchange of Wisconsin, L.L.C. (d/b/a: Earthlink Business; One Communications)
131. Valor Telecommunications of Texas, LLC (d/b/a: Windstream Communications Southwest)
132. WaveTel NC License Corporation (d/b/a: none)
133. WIN Sales & Leasing, Inc. (d/b/a: Communications Sales and Leasing, Inc.)
134. Windstream Accucomm Networks, LLC (d/b/a: none)
135. Windstream Accucomm Telecommunications, LLC (d/b/a: none)
136. Windstream Alabama, LLC (d/b/a: none)
137. Windstream Arkansas, LLC (d/b/a: none)
138. Windstream Buffalo Valley, Inc. (d/b/a: none)
139. Windstream BV Holdings, LLC (d/b/a: Windstream BV Holdings, Inc.; Broadview Network Holdings, Inc.)
140. Windstream Cavalier, LLC (d/b/a: none)
141. Windstream Communications Kerrville, LLC (d/b/a: none)
142. Windstream Communications Telecom, LLC (d/b/a: none)
143. Windstream Communications, LLC (d/b/a: Windstream Communications, Inc.)
144. Windstream Concord Telephone, LLC (d/b/a: Windstream Concord Telephone, Inc.)
145. Windstream Conestoga, Inc. (d/b/a: none)
146. Windstream CTC Internet Services, Inc. (d/b/a: none)
147. Windstream D&E Systems, LLC (d/b/a: Windstream D&E Systems, Inc.)

148. Windstream D&E, Inc. (d/b/a: none)
149. Windstream Direct, LLC (d/b/a: none)
150. Windstream Eagle Holdings LLC (d/b/a: Earthlink Holdings, LLC; Earthlink Holdings Corp.)
151. Windstream Eagle Services, LLC (d/b/a: Earthlink Services, LLC)
152. Windstream EN-TEL, LLC (d/b/a: none)
153. Windstream Finance Corp. (d/b/a: none)
154. Windstream Florida, LLC (d/b/a: Windstream Florida, Inc.)
155. Windstream Georgia Communications, LLC
156. Windstream Georgia Telephone, LLC (d/b/a: none)
157. Windstream Georgia, LLC (d/b/a: none)
158. Windstream Holding of the Midwest, Inc. (d/b/a: none)
159. Windstream Iowa Communications, LLC (d/b/a: Windstream Iowa Communications, Inc.)
160. Windstream Iowa-Comm, LLC (d/b/a: Windstream Iowa-Comm, Inc.)
161. Windstream IT-Comm, LLC (d/b/a: none)
162. Windstream KDL, LLC (d/b/a: none)
163. Windstream KDL-VA, LLC (d/b/a: none)
164. Windstream Kentucky East, LLC (d/b/a: none)
165. Windstream Kentucky West, LLC (d/b/a: none)
166. Windstream Kerrville Long Distance, LLC (d/b/a: none)
167. Windstream Lakedale Link, Inc. (d/b/a: none)
168. Windstream Lakedale, Inc. (d/b/a: none)
169. Windstream Leasing, LLC (d/b/a: none)
170. Windstream Lexcom Communications, LLC (d/b/a: Windstream Lexcom Communications, Inc.)
171. Windstream Lexcom Entertainment, LLC (d/b/a: none)
172. Windstream Lexcom Long Distance, LLC (d/b/a: none)
173. Windstream Lexcom Wireless, LLC (d/b/a: none)
174. Windstream Mississippi, LLC (d/b/a: none)
175. Windstream Missouri, LLC (d/b/a: Windstream Missouri, Inc.)
176. Windstream Montezuma, LLC (d/b/a: Windstream Montezuma, Inc.)
177. Windstream Nebraska, Inc. (d/b/a: none)
178. Windstream Network Services of the Midwest, Inc. (d/b/a: none)
179. Windstream New York, Inc. (d/b/a: none)
180. Windstream Norlight, LLC (d/b/a: Windstream Norlight, Inc.; Norlight, Inc.)
181. Windstream North Carolina, LLC (d/b/a: none)
182. Windstream NorthStar, LLC (d/b/a: none)
183. Windstream NTI, LLC (d/b/a: Windstream NTI, Inc.)
184. Windstream NuVox Arkansas, LLC (d/b/a: Windstream NuVox Arkansas, Inc.)
185. Windstream NuVox Illinois, LLC (d/b/a: Windstream NuVox Illinois, Inc.)
186. Windstream NuVox Indiana, LLC (d/b/a: Windstream NuVox Indiana, Inc.)
187. Windstream NuVox Kansas, LLC (d/b/a: Windstream NuVox Kansas, Inc.)
188. Windstream NuVox Missouri, LLC (d/b/a: Windstream NuVox Missouri, Inc.)
189. Windstream NuVox Ohio, LLC (d/b/a: Windstream NuVox Ohio, Inc.)
190. Windstream NuVox Oklahoma, LLC (d/b/a: Windstream NuVox Oklahoma, Inc.)
191. Windstream NuVox, LLC (d/b/a: Windstream NuVox, Inc.)
192. Windstream of the Midwest, Inc. (d/b/a: none)
193. Windstream Ohio, LLC (d/b/a: none)
194. Windstream Oklahoma, LLC (d/b/a: none)

- 195. Windstream Pennsylvania, LLC (d/b/a: none)
- 196. Windstream Services, LLC (d/b/a: Windstream Corporation)
- 197. Windstream SHAL Networks, Inc. (d/b/a: none)
- 198. Windstream SHAL, LLC (d/b/a: none)
- 199. Windstream Shared Services, LLC (d/b/a: Earthlink Shared Services, LLC)
- 200. Windstream South Carolina, LLC (d/b/a: none)
- 201. Windstream Southwest Long Distance, LLC (d/b/a: none)
- 202. Windstream Standard, LLC (d/b/a: none)
- 203. Windstream Sugar Land, LLC (d/b/a: none)
- 204. Windstream Supply, LLC (d/b/a: none)
- 205. Windstream Systems of the Midwest, Inc. (d/b/a: none)
- 206. Windstream Western Reserve, LLC (d/b/a: none)
- 207. Xeta Technologies, Inc. (d/b/a: none)

Parties No. 3 through No. 207 are represented by:

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Intervening Party/Appellee

- 208. Official Committee of Unsecured Creditors of Windstream Holdings, Inc.

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