

Joint Use & Pole Attachments Newsletter

Charter Communications, Inc. Announces Plans to File a Chapter 11 Bankruptcy Petition

March 2009

For Further Information Contact:

Russ Campbell
(205) 226-3438
rcampbell@balch.com

Eric Langley
(205) 226-8772
elangley@balch.com

Allen Estes
(205) 226-8717
aestes@balch.com

Visit our Website

www.balch.com
www.balch.com/jointuse

Charter Communications, Inc. has announced plans to file a Chapter 11 bankruptcy petition no later than April 1, 2009.

Based on Charter's statements and reports related thereto, expectations are that through its Chapter 11 bankruptcy case Charter will attempt to reorganize its existing operations as opposed to liquidating its assets. During this reorganization process, Charter will likely continue its regular day to day business operations insofar as it relates to pole attachment agreements. However, payments for charges accruing prior to the bankruptcy petition filing could be delayed (and potentially discharged) and Charter might seek to "reject" the existing pole attachment agreements. The ability to reject certain contracts is a benefit afforded a debtor that allows the debtor to escape its obligations under a contract which the debtor deems, in its business judgment, to be burdensome or unnecessary.

Below is a checklist of items to help protect your interests as they relate to your pole attachment agreement(s) with Charter entities.

THINGS TO DO NOW – PRIOR TO CHARTER'S BANKRUPTCY FILING

- Locate and review all existing agreements with Charter

- Make sure that you are current on all invoicing to Charter (rentals, make-ready, electric service, etc.)

- Locate and review your bond/security instrument for collection possibilities

- Be prepared to develop a plan of action should Charter reject existing pole attachment agreements in its bankruptcy proceeding

THINGS TO DO AFTER CHARTER'S BANKRUPTCY FILING

- Stop any collection efforts on outstanding invoices for charges accruing prior to the bankruptcy petition date. The automatic stay, which arises at the commencement of a bankruptcy case, prohibits sending collection correspondence and taking other collection efforts for prepetition debt outside the bankruptcy proceeding. Additionally, your ability to terminate a contract for a payment default (prepetition or postpetition) is limited by the bankruptcy case.

- To the extent possible, review pleadings filed in the bankruptcy case to determine Charter's reorganization strategy.

- Analyze your ability to demand payment under your bond, letter of credit or other security instrument for past due amounts.

- Determine the amount of charges due by Charter as of the bankruptcy petition date. This amount will be needed to file a proof of claim or for the cure amount if Charter seeks to assume (continue to operate under post-bankruptcy) its existing pole attachment agreement(s) with you.

Charter's bankruptcy is expected to be a "pre-packaged Chapter 11 filing." Such filings typically are followed by the immediate filing of the petitioner's reorganization plan. Under these circumstances, debtors sometimes continue to pay prepetition debts and honor prepetition obligations/contracts. However, the timing of such payments may be altered. While Charter may continue to operate within the terms of its existing contracts and meet its financial obligations thereunder, there is also the possibility that Charter might take some action in the bankruptcy proceeding which could negatively affect your rights under your existing pole attachment agreement(s) with Charter.

Please let us know if you have questions.

This newsletter is provided as an informational resource for clients and friends of Balch & Bingham LLP. It does not contain legal advice, and it is not a solicitation to perform legal services. No representation is made that the quality of legal services performed by Balch & Bingham LLP is greater than the quality of legal services performed by other lawyers. Design, logo, and content © 2008 Balch & Bingham LLP.