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ESTATES NY REAL ESTATE SERVICES LLC

40 West 57th Street, 23rd Floor
New York, New York 10019

2014 NOV 12 PM 11:46

November 10, 2014

VIA E-MAIL AND OVERNIGHT MAIL

Honorable Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350
secretary@dps.ny.gov

Re: Matter No. 14-02162 – Petition of Verizon New York Inc. for Limited Orders of Entry for 21 Multiple Dwelling Unit (“MDU”) Buildings in the City of New York (the “Petition”)

Dear Secretary Burgess:

The undersigned is the managing agent for Wetherole Holding Limited Liability Company (“Wetherole”), the owner of the building located at 295 Clinton Avenue, Brooklyn, New York (the “Wetherole Property”) and Georgetown Leasing Limited Liability Company (“Georgetown” and together with Wetherole, the “Owners”), the owner of the building located at 170 East 4th Street, Brooklyn, New York, the “Georgetown Property” and together with the Wetherole Property, the “Properties”). Pursuant to Public Service Law Section 228 and 16 NYCRR Section 898.4, the Owners hereby respond to Verizon New York Inc.’s (“Verizon”) Petition.

Reference is made to that certain letter, dated March 6, 2014 (the “March 6 Letter”), a copy of which is attached hereto as Attachment #1. For the reasons set forth in the March 6 Letter, the Owners request that the Commission stay and/or deny Verizon access to the Properties pending finalization of an installation plan governing the Gateway Properties (as such term is defined in the March 6 Letter). The same issues are present at the Properties as those addressed in the March 6 Letter. Ongoing meetings between Owner’s telecommunications consultant, Rick Garrigan, and Verizon have not yielded any alternative proposals from Verizon. As discussed in the March 6 Letter, it is in the best interest of the parties to develop an installation template to proceed efficiently with any installation of service at the Properties and avoid unnecessary duplication of time and effort.

Accordingly, for all the reasons set forth in the March 6 Letter, the undersigned respectfully requests that the Commission:

- (1) deny the Petition pending finalization of a plan to provide FiOS service to the tenants of the Gateway Properties, or, in the alternative, require Verizon to: (a) install crown molding, at its expense, in the Properties to house the existing cabling/wiring and Verizon’s new cabling/wiring, and (b) install in each Closet at the Properties, at its expense, an electrical outlet to provide the required electrical power; and

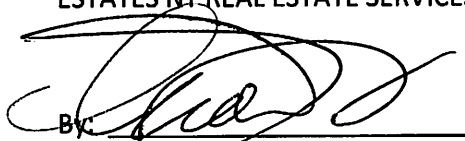
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(2) grant the undersigned permission to amend the list of properties to which the Commission's order would apply as other intent to wire letters or petitions are received.

If you have any questions regarding this response, please feel free to contact me at 212-708-6627 (ebenudis@lefrak.com) or Rick Garrigan at 973-812-8668 (rgarrigan@itsnpt.com).

Respectfully,

ESTATES NY REAL ESTATE SERVICES LLC



By: _____
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Rick Garrigan (via e-mail)
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ATTACHMENT #1
THE MARCH 6 LETTER

ESTATES NY REAL ESTATE SERVICES LLC
40 West 57th Street, 23rd Floor
New York, New York 10019

March 6, 2014

VIA E-MAIL AND OVERNIGHT MAIL

Honorable Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350
secretary@dps.ny.gov

Re: Matter No. 14-00095 – Petition of Verizon New York Inc. for Orders of Entry for 50 Multiple Dwelling Unit (“MDU”) Buildings in the City of New York (the “Dover Petition”)

Matter No. 14-00059 - Petition of Verizon New York Inc. for Orders of Entry for 25 MDU Buildings in the City of New York (the “Arcadia/Annapolis Petition”)

Matter No. 14-00144 - Petition of Verizon New York Inc. for Orders of Entry for 40 MDU Buildings in the City of New York (the “Belair Petition”)

Matter No. 14-00439 - Petition of Verizon New York Inc. for Orders of Entry for 27 MDU Buildings in the City of New York (the “Brazilia/Cadillac Petition”)

Matter No. 14-00333 - Petition of Verizon New York Inc. for Orders of Entry for 25 MDU Buildings in the City of New York (the “Bucknell Petition,” and together with the Dover Petition, the Arcadia/Annapolis Petition, the Belair Petition and the Brazilia/Cadillac Petition, the “Petitions”)

Property ID: 7022806 – Notice of Intent to Install/Upgrade Cable Television Facilities and Service at 2411 E 3, Brooklyn, New York (the “Portland Letter”)

Notice of Intent to Wire at 4190 Bedford Avenue, Brooklyn, New York (the “Harvard Letter”)

Notice of Intent to Wire at 388 Avenue X, Brooklyn, New York (the “Danbury Letter”)

Notice of Intent to Wire at 3205 Emmons Avenue, Brooklyn, New York (the “Hampton Letter”)

Notice of Intent to Wire at 2625 E 13th Street, Brooklyn, New York (the “Pasadena Letter,” and together with the Portland Letter, the Harvard Letter, the Danbury Letter and the Hampton Letter, the “Intent to Wire Letters”)

Dear Secretary Burgess:

The undersigned is the managing agent for the following property owners: (i) Dover Leasing Limited Partnership (the “Dover Owner”), the owner of the building located at 2375 East 3rd Street, Brooklyn, New York (the “Dover Property”); (ii) Arcadia Leasing Limited Partnership (the “Arcadia Owner”), the owner of the building located at 2740 East 13th Street, Brooklyn, New York (the “Arcadia

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Property"); (iii) Mount Vernon Shopping Center Delaware LLC (the "Annapolis Owner"), the owner of the building located at 2815 Coyle Street, Brooklyn, New York (the "Annapolis Property"); (iv) Belair Leasing Limited Partnership (the "Belair Owner"), the owner of the building located at 2775 East 12th Street, Brooklyn, New York (the "Belair Property"); (v) Brazilia Leasing Limited Partnership (the "Brazilia Owner"), the owner of the building located at 97-07 Horace Harding Expressway, Elmhurst, New York (the "Brazilia Property"), (vi) Cadillac Leasing Limited Partnership (the "Cadillac Owner"), the owner of the building located at 123-60 83rd Avenue, Kew Gardens, New York (the "Cadillac Property"), (vii) Bucknell Realty Limited Partnership (the "Bucknell Owner"), the owner of the building located at 44-35 Colden Street, Queens, New York (the "Bucknell Property"); (viii) Portland Leasing Limited Liability Company (the "Portland Owner"), the owner of the building located at 2411 East 3rd Street, Brooklyn, New York (the "Portland Property"); (ix) Harvard Leasing Limited Liability Company (the "Harvard Owner"), the owner of the building located at 4190 Bedford Avenue, Brooklyn, New York (the "Harvard Property"); (x) Danbury Leasing Limited Partnership (the "Danbury Owner"), the owner of the building located at 388 Avenue X, Brooklyn, New York (the "Danbury Property"); (xi) Hampton Realty Limited Partnership (the "Hampton Owner"), the owner of the building located at 3205 Emmons Avenue, Brooklyn, New York (the "Hampton Property"); and (xii) Pasadena Leasing Limited Partnership (the "Pasadena Owner"), the owner of the building located at 2625 E 13th Street, Brooklyn, New York (the "Pasadena Property"). In addition, the undersigned is the managing agent for various buildings leased by Marina Towers Associates, L.P. (the "Gateway Owner," and together with the Dover Owner, the Arcadia Owner, the Annapolis Owner, the Belair Owner, the Brazilia Owner, the Cadillac Owner, the Bucknell Owner, the Portland Owner, the Harvard Owner, the Danbury Owner, the Hampton Owner and the Pasadena Owner, the "Owners") located in Battery Park City, New York, New York (collectively, the "Gateway Properties," and together with the Dover Property, the Arcadia Property, the Annapolis Property, the Belair Property, the Brazilia Property, the Cadillac Property, the Bucknell Property, the Portland Property, the Harvard Property, the Danbury Property, the Hampton Property and the Pasadena Property, the "Properties"¹). Pursuant to Public Service Law Section 228 and 16 NYCRR Section 898.4, the Owners hereby respond to Verizon New York Inc.'s ("Verizon") Petitions and Intent to Wire Letters. As set forth herein, the Owners request that the Commission deny the Petitions and Intent to Wire Letters with respect to the Properties pending finalization of an installation plan governing all the Properties. In the alternative, Verizon should be required to install, at its expense, crown molding and electrical outlets as described below.

¹ Although formal notices have not yet been received, based on the exhibit attached to the Brazilia/Cadillac Petition, it is anticipated that the following similarly situated owners/properties will receive notices of petition shortly: Maple Leasing Limited Partnership for 102-40 62nd Avenue, Forest Hills, New York; Oak Leasing Limited Partnership for 105-40 62nd Road, Forest Hills, New York; Notre Dame Leasing Limited Liability Company for 44-15 Colden Street, Flushing, New York; Elm Leasing Limited Liability Company for 102-50 62nd Road, Forest Hills, New York; Lafrance Leasing Limited Partnership for 96-04 57th Avenue, Elmhurst, New York; Mandalay Leasing Limited Partnership for 98-25 Horace Harding Expressway, Elmhurst, New York; Copenhagen Leasing Limited Partnership for 96-08 57th Avenue, Elmhurst, New York; Ceylon Leasing Limited Partnership for 98-15 Horace Harding Expressway, Elmhurst, New York; Singapore Leasing Limited Partnership for 98-17 Horace Harding Expressway, Elmhurst, New York; Columbia Leasing Limited Partnership for 97-15 Horace Harding Expressway, Elmhurst, New York; Mexico Leasing Limited Liability Company for 97-22 Horace Harding Expressway, Elmhurst, New York; Brisbane Leasing Limited Partnership for 98-32 57th Avenue, Elmhurst, New York; and Sydney Leasing Limited Partnership for 98-30 57th Avenue, Elmhurst, New York (for purposes of this letter, the foregoing property owners are also "Owners" and the buildings they own are also "Properties").

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As an initial matter, Verizon's Petitions and Intent to Wire Letters fail to provide an accurate summary of the efforts by Verizon and the Owners to bring FiOS to the Properties. Since 2009, the Owners, through their telecommunications consultant Rick Garrigan, have been negotiating in good faith with Verizon regarding the installation of FiOS at the Gateway Properties. During the course of these negotiations, Verizon has requested access to the other Properties in order to install FiOS and the Owners have consistently responded that once an acceptable template is in place for installing FiOS at the Gateway Properties, access will be granted to the other Properties for FiOS to be installed in a similar manner. As a result, any Intent to Wire Letters received from Verizon during this period were flagged, by both Rick Garrigan and Carmen Ebanks from Verizon, with the understanding that the roll out at the Gateway Properties was to serve as the template for installing FiOS at the other Properties. In the meantime, the Owners have continued to cooperate with Verizon with regards to the roll out of FiOS at the Gateway Properties.

Unfortunately, there are several issues of vital importance that require resolution with Verizon before FiOS can be installed at the Gateway Properties. Namely, the Owners object to (i) the aesthetics of proposed wiring in the hallways of the Gateway Properties, and (ii) the absence of electrical outlets in the apartment closets that will house Verizon's network device (the "Closet"). Of note, Closets are where telephone and cable services are typically distributed in an apartment unit.

The Owners are not interfering with Verizon's ultimate right to install cable television facilities upon the Properties. In fact, the Owners have a long history of cooperation with cable and telephone service providers. Instead, the Owners are merely requesting that Verizon adhere to certain conditions before proceeding with the installation. Section 228 of the Public Service Law expressly authorizes a landlord to impose reasonable conditions for the installation of cable services on its premises in order "to protect the safety, functioning and appearance of the premises, and the convenience and well-being of other tenants." In addition, the law requires the cable television company, or the tenants (or some combination), to bear the entire cost of the installation and operation of such facilities. The Owners' current denial of access to the Properties is predicated on Verizon's continued refusal to adequately comply with the Owners' reasonable conditions to resolve the aesthetic and electrical power issues at the Gateway Properties.

With respect to aesthetics, cable television wiring in the apartment buildings is typically routed behind or within molding in the hallway of each floor of the respective building. However, in most of the Properties, including the Gateway Properties, there is no available space behind the existing molding to run additional wiring. Verizon's proposed solution requires running a second molding through the building hallways to conceal its wiring. The Gateway Owner was open to this solution, and even allowed Verizon to install the second molding on one of the Gateway Properties' floors to review the aesthetics with the existing molding in place. Regrettably, the result was not aesthetically acceptable. The only other option is to increase the size of the molding. The Gateway Owner proposes installing crown molding to cover the existing wiring and Verizon's new wiring. Verizon has rejected this reasonable solution based upon cost.

Electrical power issues also arise due to Verizon's proposed location of its network device in the apartment Closet. The network device requires electrical power. Currently, electrical power does not exist within the Closet. This has not been a problem in the past because other cable and telephone service providers power their building cable distribution network from one central location within the

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building, and thus do not require electrical power in the individual apartments. Verizon requests to install its network device in the Closet with power running to the nearest outlet. However, this solution is unacceptable. In most cases, the nearest power outlet is far from the Closet, and in some cases it is across a hallway. This requires a power cable to be run through the apartment, which is not visually appealing and may pose an inconvenience to the apartment tenants. Instead, the Gateway Owner would like Verizon to install a power outlet in each apartment closet. Unfortunately, Verizon again has rejected this solution as unacceptable from a cost perspective.

For both the aesthetic and power issues, the Gateway Owner proposes reasonable conditions for Verizon's installation of cable on the premises. The Gateway Owner's main concern is protecting the appearance of the premises and avoiding inconvenience to its tenants. Verizon's concerns, on the other hand, are related to its own cost. Verizon's position cannot withstand scrutiny. The cost of installing a power outlet in each apartment closet is relatively minimal, no more than a few hundred dollars. While crown molding is relatively more expensive, it remains the only reasonable option due to the current lack of available space for additional wiring in the hallways. In both instances, Verizon will quickly recover the associated costs through the expanded business it will receive from tenants at all the Properties.

These same aesthetic and electrical power issues exist at all of the Properties. The Owners are seeking to avoid the unnecessary confusion and duplication of work that would result from dealing with all of the Properties in a piecemeal fashion – as has been pursued by Verizon. Instead, the Owners believe it is in both parties best interest to deal with these issues at the Gateway Properties first, so that an installation template is developed so that service at the other Properties can proceed efficiently. As it stands, the parties continue to work towards a solution for the Gateway Properties. In fact, Verizon has already installed the fiber for FiOS service in all of the Gateway Properties. This fiber is currently rolled up in the garage of each of the Gateway buildings pending finalization of an acceptable plan to run the fiber to the residents.

In light of the foregoing, the undersigned respectfully requests that the Commission:

(1) deny the Petitions pending finalization of a plan to provide FiOS service to the tenants of the Gateway Properties, or, in the alternative, require Verizon to: (a) install crown molding, at its expense, in each of the Properties to house the existing cabling/wiring and Verizon's new cabling/wiring, and (b) install in each Closet, at its expense, an electrical outlet to provide the required electrical power;

(2) stay the filing of Petitions for any of the other Properties for which Intent to Wire Letters have been received to date; and

(3) grant the undersigned permission to amend the list of Properties to which the Commission's order would apply as other intent to wire letters or petitions are received.

Honorable Kathleen H. Burgess, Secretary
New York State Public Service Commission
November 10, 2014

Honorable Kathleen H. Burgess, Secretary
New York State Public Service Commission
March 6, 2014

If you have any questions regarding this response, please feel free to contact me at 212-708-6627 (ebenedis@lefrak.com) or Rick Garrigan at 973-812-8668 (rgarrigan@tsnpt.com).

Respectfully,

ESTATES NY REAL ESTATE SERVICES LLC

By: 

Elissa Ganbarg Benedis, Esq.
Associate Counsel

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