

NOVICK, EDELSTEIN, LUBELL, REISMAN,  
WASSERMAN & LEVENTHAL, P.C.  
ATTORNEYS AND COUNSELLORS AT LAW  
733 YONKERS AVENUE  
YONKERS, NY 10704

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EXEC-FILES-ALBANY (914) 375-0100

FAX (914) 375-0699

I. SCOTT EDELSTEIN  
ROBERT H. LEVENTHAL  
PETER A. LUBELL  
EUGENE S. REISMAN  
EDWARD FRIEDMAN  
PETER A. LIFSON  
RAMONA L. GOODMAN  
LAWRENCE T. SCHIRO  
CRAIG D. ZIM  
CHARLES D. WASSERMAN

MATTHEW L. GORDON  
PAUL T. FINKELSTEIN  
STEVEN M. LESH  
STEPHEN I. WOHLBERG  
MORTON M. GOLDBERG  
GREGORY BOUGOPOULOS  
MICHELI PEREZ  
ERIN LAROCCA  
JOSEPH A. JACOBSON  
FRANCISCO RIVERA  
AUTREY JOHNSON  
KELLY KRUSZEWSKI

October 10, 2014

Hon. Kathleen H. Burgess  
Secretary, New York State Public Service Commission  
Three Empire State Plaza  
Albany, New York 12233

Verizon  
140 West Street - 6<sup>th</sup> Floor  
New York, New York 10007  
Attn: Richard C. Fipphen  
& Via Email: [Fipphen@verizon.com](mailto:Fipphen@verizon.com)

**RE: PETITION OF VERIZON NEW YORK INC.  
FOR ORDERS OF ENTRY FOR 65 MULTIPLE  
DWELLING UNIT BUILDINGS IN THE CITY  
OF NEW YORK  
CASE NO.: 14-V-\_\_\_\_\_**

Dear Judge Burgess/Mr. Fipphen:

I enclose an answer to Verizon's Petition for access on behalf of 342 East 67<sup>th</sup> Street and SW Management.

We will serve an amended answer next week with the principal's verification as it is a Jewish holiday and he is observing same.

Very truly yours,

Lawrence Schiro, Esq.

LS:jn

Enc.

cc: Mr. Isaac Benishai  
SW Management  
Via Email: [ib@swmanagement.com](mailto:ib@swmanagement.com)

Eugene Reisman  
Via Email

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

-----X

**PETITION OF VERIZON NEW YORK INC.  
FOR ORDERS OF ENTRY FOR**

**ANSWER TO PETITION SEEKING  
ORDER OF ENTRY**

**CASE NO.: 14-V-\_\_\_\_\_**

**65 MULTIPLE DWELLING UNIT BUILDINGS  
IN THE CITY OF NEW YORK**

-----X

The premises at 342 East 67<sup>th</sup> Street and SW Management, by their attorneys, NOVICK, EDELSTEIN, LUBELL, REISMAN, WASSERMAN & LEVENTHAL, P.C., answers the Petition seeking an Order of Entry as follows:

1. Respondent denies so much of paragraph 1(1) that alleges that Respondent failed to respond to Verizon's letter requesting access to install fiber-optic facilities to provide cable television service and denies paragraph 1(2) which alleges Respondent affirmatively denied Verizon's request for access.

2. Respondent denies paragraphs 4, 6 and 8 of the Petition.

3. Respondent denies knowledge or information sufficient to form a belief as to paragraphs 2, 3, 5 and 9 of the Petition.

**I. AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

4. Respondent sent correspondence to Petitioner in May, June, July and August, 2014, responding to Petitioner's request for access.

5. Respondent requested that Verizon provide and modify their plans so that:

(i) certain lines be run in rubber conduits on the outside of the building, through the compactor room and/or hallways;

(ii) holes to be made to run FIOS to apartments;

(iii) insurance requirements to be met and hold harmless agreement signed by Verizon and any third party contractors.

**II. AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

6. The statute relied on by Petitioner, 16 NYCRR §898 and the Public Service Law §228 et seq. are unconstitutional as applied herein and unconstitutional on their face under the New York State Constitution.

**III. AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

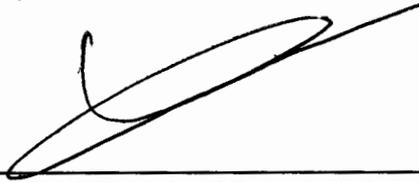
7. If the Commission finds that access must be provided, Respondent requests just compensation pursuant to 16 NYCRR §898(2) and §898.5.

**IV. CONCLUSION**

**WHEREFORE,** Respondent requests relief accordingly, together with whatever other further and just relief the Commission deems just and proper.

**Dated:** Yonkers, New York  
October 10, 2014

Yours, etc.



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**NOVICK, EDELSTEIN, LUBELL, REISMAN,  
WASSERMAN & LEVENTHAL, P.C.  
ATTORNEYS FOR RESPONDENT  
BY: LAWRENCE SCHIRO, ESQ.  
733 YONKERS AVENUE  
YONKERS, NEW YORK 10704  
(914) 375-0100  
(914) 375-0699 [FAX]  
[lschiro@novickedelstein.com](mailto:lschiro@novickedelstein.com)**

**TO:** Verizon  
140 West Street - 6<sup>th</sup> Floor  
New York, New York 10007  
Attn: Richard C. Fippen, Esq.  
& Via Email: [richard.fippen@verizon.com](mailto:richard.fippen@verizon.com)

Hon. Kathleen H. Burgess  
Secretary, New York State Public Service Commission  
Three Empire State Plaza  
Albany, New York 12233

STATE OF NEW YORK COUNTY OF

) ss.:

The undersigned, as attorney admitted to practice in the Courts of New York State:

Certification by Attorney

Certifies that the within

Has been compared by the undersigned with the original and found to be a true and complete copy

Attorney's Affirmation

Shows: deponent is

the attorney(s) of record for

In the within action; deponent has read the foregoing and knows the contents thereof, the same is true to deponent's own knowledge, except as to the matters stated to be alleged on information and belief; and that as to those matters deponent believes it to be true. This verification is made by deponent and not by

The grounds of deponent's belief to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing are true, under the penalties of perjury.

DATED:

STATE OF NEW YORK, COUNTY OF WESTCHESTER) ss.:

, an attorney, affirms and says he is not a party to this action is over 18 years of age and maintains an office at 733 Yonkers Avenue, Yonkers, New York 10704

That on 2014, he served with within

Service by Mail

Upon

In this action, at

The address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in -- a post office -- an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Personal Service

On 2014, at

Served the within

upon

, herein, by delivering a true copy thereof to h personally.

Affirmant knew the person so served to be the person mentioned and described in said papers as the therein.

Affirmed as true under penalty of perjury this

day of 2014

STATE OF NEW YORK, COUNTY OF WESTCHESTER) ss.:

, an attorney, affirms and says he is not a party to this action is over 18 years of age and maintains an office at 733 Yonkers Avenue, Yonkers, New York 10704

That on 2014, he served with within

Affidavit of Service by Mail

Upon

In this action, at

The address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in -- a post office -- an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Affidavit of Personal Service

On 2014, at

Served the within

upon

, herein, by delivering a true copy thereof to h personally.

Affirmant knew the person so served to be the person mentioned and described in said papers as the therein.

Sworn to before me this

day of 2014

Notary Public

**NOTICE OF ENTRY**

Sir:-Please take notice that the within is a (certified) duly entered in the office of the clerk of the within named court on \_\_\_\_\_, 2014  
Dated:

Yours, etc.

NOVICK, EDELSTEIN, LUBELL  
REISMAN, WASSERMAN & LEVENTHAL, P.C.

*Attorney for*

*Office and Post Office Address*  
733 Yonkers Avenue  
Yonkers, New York 10704

Attorney(s) for

\_\_\_\_\_ Notice of Settlement \_\_\_\_\_

Sir:-Please take notice that an order of which the within is a true copy will be presented for settlement to the Hon. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2014 at \_\_\_\_\_ M.

Dated,

NOVICK, EDELSTEIN, LUBELL  
REISMAN, WASSERMAN & LEVENTHAL, P.C.

*Attorney for*  
*Office and Post Office Address*  
733 Yonkers Avenue  
Yonkers, NY 10704

To

Attorney(s) for

CASE NO.: 14-V-\_\_\_\_\_ YEAR: \_\_\_\_\_  
STATE PUBLIC SERVICE COMMISSION

PETITION OF VERIZON NEW YORK INC.  
FOR ORDERS OF ENTRY FOR

65 MULTIPLE DWELLING UNIT BUILDINGS  
IN THE CITY OF NEW YORK

ANSWER TO PETITION SEEKING  
ORDER OF ENTRY

NOVICK, EDELSTEIN, LUBELL,  
REISMAN, WASSERMAN & LEVENTHAL, P.C.

*Attorneys for* Respondent Walton Avenue Associates LLC

*Office and Post Office Address, Telephone*

733 Yonkers Avenue  
Yonkers, New York 10704  
(914) 375-0100

COMPLIANCE PURSUANT TO 22 NYCRR §130-1.1[a]  
To the best of the undersigned's knowledge, information and belief formed after inquiry reasonable under the circumstances, the within document(s) and contentions contained herein are not frivolous as defined in 22 NYCRR §130-1.1[a]