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March 23, 2016

Honorable Kathleen H. Burgess
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Matter 16-00538, Petition of Verizon New York, Inc. for Limited Orders of Entry for 20 Multiple-Dwelling Unit Buildings in the City of New York

Dear Secretary Burgess:

Enclosed is an Answer and Answering Affirmation, which I am submitting herewith as counsel to Respondent 305 COLUMBUS, LLC., owner of the building located at 305 Columbus Avenue, New York, New York, in opposition to the above-captioned Petition.

A copy of the Answer and Answering Affirmation has been served by mail upon counsel for Petitioner.

Very truly yours,

Jesse A. Hecht

Jesse A. Hecht

cc: Joseph A. Post, Esq., w/o enc.
(enclosure previously served)

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of Verizon New York Inc. for Limited Orders of Entry for 20 Multiple-Dwelling Unit Buildings in the City of New York

Matter 16-00538

ANSWER

Respondent **305 COLUMBUS, LLC,** by its attorney, Jesse A. Hecht, Esq., hereby answers the Petition as follows:

1. General Denial

AS AND FOR AN AFFIRMATIVE DEFENSE

2. Petitioner Verizon New York Inc. fails to set forth a claim, under applicable statutory law, rules, and regulations, for the relief it seeks.

WHEREFORE, Respondent 305 COLUMBUS., LLC, respectfully requests that the Commission dismiss the petition in its entirety, together with such other and further relief as the Commission shall deem just, proper, and equitable.

Dated: New York, New York
March 23, 2016

JESSE A. HECHT
Attorney for Respondent
305 COLUMBUS, LLC
339 West 85th Street #2
New York, New York 10024
Phone: (212) 877-7871
Fax: (212) 877-9609

Jesse A. Hecht, Esq

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of Verizon New York Inc. for Limited Orders of Entry for 20 Multiple-Dwelling Unit Buildings in the City of New York

Matter 16-00538

ANSWERING AFFIRMATION

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss:

JESSE A. HECHT, an attorney duly admitted to practice in the Courts of the State of New York, affirms the following upon penalty of perjury:

1. I am an attorney-at-law, duly admitted to practice in the courts of the State of New York and I submit this Answering Affirmation in behalf of 305 COLUMBUS, LLC. ("305"), in opposition to the Petition for Limited Orders of Entry, dated March 10, 2016 (the "Petition"), of Verizon New York Inc. ("Verizon").

2. 305 is the owner of the building located at 305 Columbus Avenue, New York, New York (the "Building"), one of the buildings which is the subject of the Verizon Petition. The Building is a residential apartment building containing 24 apartments and two commercial units. I act as in-house counsel to 305, I am an officer of 305, and I work in the management of the Building. This affidavit therefore is based upon my personal knowledge of the matters set forth herein and the records maintained by 305, and deals as well as with the matters of law discussed herein.

3. The instant administrative proceeding brought by Verizon is completely groundless as a matter of law. There is no basis in either the Public Service Law or the rules and

regulations governing the Public Service Commission which authorizes a petition for a "limited order of entry." The Petition on its face is deficient.

4. However, of perhaps even greater significance, cable television facilities were installed in the Building years ago and are maintained by Time Warner Cable Inc. The then-owner of the Building permitted, without interference, the installation of cable television facilities and 305, having continuously permitted, without interference, the maintenance of such facilities in the Building, so that all Building tenants who wish to may subscribe to cable television services, 305 has fully complied with the requirements of Public Service Law ("PSL") §228, and nothing in the PSL compels 305 to permit the installation of facilities and equipment by any additional cable television companies - indeed, if Verizon is permitted to proceed, by a potentially-unlimited number of additional cable television companies - and to assume the burdens caused thereby.

There is No Legal Basis for the Petition

5. In the introductory paragraph of its Petition, Verizon states that its "Petition for Limited Orders of Entry" is being submitted "pursuant to 16 NYCRR § 898.4, allowing Verizon to conduct a pre-installation survey at 20 multiple-dwelling buildings . . ."

6. In fact, 16 NYCRR § 898.4 ("898.4") "Right of Entry," subdivision (b), authorizes a petition "[w]here the installation of cable television facilities is not effected pursuant to a notice served accordance with section 898.3 of this Part . . .," Section 898.3 ("898.3"),"Notice of Installation," requires a "cable television company proposing to install cable television service or facilities upon the property of a landlord" to serve a "written notice of intent thereof . . ."

7. Thus, 898.4(b) authorizes the submission of a petition to the Commission where the installation of cable service or facilities is not effected pursuant to an 898.3 notice of installation,

and 898.4 further details what such a petition must set forth (e.g., "a description of the facilities and equipment to be installed upon the property," 898.4(b)(4)).

8. 898.4(b) does not authorize the submission of a petition "for limited orders of entry," such as Verizon herein submits, "to conduct a pre-installation survey." (Petition, ¶ 1). The regulations do address the procedure for a cable company seeking entry for the purpose of making a survey, but they do so in 898.4 subdivision (a), which authorizes the cable television company

> "to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve a notice upon the landlord, or an authorized agent, which notice shall contain the date of the entry and all other information described in section 898.3(b) of this Part."

9. Section 898.4(a) does not authorize a petition to the Commission in connection with an entry onto property "for the purpose of making surveys or other investigations preparatory to the installation," as opposed to an entry to install television service or facilities, and 898.4(b) expressly authorizes the petition procedure only "[w]here the installation of cable television service or facilities is not effected pursuant to a notice served in accordance with section 898.3 of this Part," [emphases added] and not where an entry to make a survey is not effected pursuant to the 898.4(a) notice, see, e.g., Petition of Time Warner Cable of New York City for an Order of Entry Pursuant to 9 NYCRR to Install Upgraded Cable Equipment and Facilities at 158 West 58th Street, New York, New York 10019, New York Public Service Commission 04V0736, Decision dated 9/21/2005, Order of Entry Issued and Effective 9/26/2005 (under PSL §228 and 16 NYCRR Part 898.4, Commission granted Order of Entry "for installation and upgrading of cable television and related facilities." A copy of the decision is annexed hereto as Exhibit "A").

10. Thus, there is no legal basis in 898.4, relied upon by Verizon, or in any of the Commission's rules and regulations, or any statute, for Verizon's instant Petition for "limited orders of entry" to conduct a survey. Indeed, the term "limited order of entry" does not even appear in the the Department of Public Service rules and regulations.

11. If the cable television rules do not in fact provide a specific enforcement remedy in the case of a notice to make a survey under 898.4 and the Commission determines there is a need for such remedy, the Commission may, following required procedures, seek to amend its rules and regulations to provide such remedy. However, the Commission's rules and regulations cannot be amended, in order to create such a remedy, by means of a petition for which there is no basis in the rules, nor, it is respectfully submitted, can the Commission misapply its existing rules in order to circumvent the legal process necessary to amend its rules.

12. Thus, there is no legal basis, and Verizon cites no basis, for the instant petition.

Verizon's Notice of Intention is Defective

13. As shown above, 898.4(a), which authorizes a cable television company to enter property for the purpose of making a survey or other investigation preparatory to an installation, requires that before such entry, the company serve a notice upon the landlord containing the date of the entry. No such notice has been attached by Verizon to the Petition served upon 305. Instead, Verizon, in paragraph 4 of its Petition, states, "Supporting documentation is provided in Exhibit 2." However, if one goes to the page at the end of the Petition which is designated "Exhibit 2," one is simply informed that it is available at a specified Verizon website.

14. Annexed hereto as Exhibit "B" is a copy from the said Verizon website of Verizon's August 21, 2015 cover letter and of Verizon's "Notice of Intention to Install/Upgrade Cable Television Facilities and Service Inspection and Survey," dated February 3, 2016 (the "Verizon

Notice"), since 305 will not impose upon the Commission the burden, which Verizon has imposed upon all the respondents it has named in this proceeding, of having to search through Verizon's website to try to locate the papers applicable to the particular respondent.

15. As shown above, the notice of entry to make a survey required by 898.4 must contain the date of the entry. The Verizon Notice states, "The inspection will be performed on or about February 19, 2016." The furnishing of an "on or about" date is clearly insufficient to comply with the notice requirement of 898.4. It is obvious that the requirement of notifying the landlord of the date of a survey is to enable the landlord be present at the inspection, provide appropriate access to the property, have representatives available to accompany the representative or representatives of Verizon, observe what Verizon is doing, etc., for building security and other reasons.

16. To notify the landlord that Verizon will perform an inspection "on or about" a certain date is to give the landlord no notice whatsoever of the date of the inspection.

17. Thus, the Verizon Notice did not meet the notice requirements of 898.4(a).

The Petition is in Other Respects Legally Defective

18. As explained above, Verizon has no basis in the Public Service Law or in the rules and regulations for submitting its instant petition to conduct a survey, and, further, the underlying Verizon Notice is insufficient under 898.4(a). In addition, it should at least be noted that, even if Verizon in this case were entitled to submit a petition under 898.4(b), the Verizon Petition would be defective under that section.

a. Failure to Include Exhibit

19. To begin with, as described above, in lieu of annexing to its Petition the documents constituting the Petition's purported Exhibit 2, Verizon directs the parties on whom it

has served its Petition to a website. Verizon sets forth no legal basis for this procedure, requiring each respondent to locate the papers allegedly applicable to that individual respondent on Verizon's website. There is no basis for such procedure in 898.4 or elsewhere in applicable law. Verizon, in its covering letter dated February 3, 2016, transmitting its Petition to the Secretary of the Commission, states, "Due to its size, a paper copy of Exhibit 2 has not been provided to each respondent. Instead Exhibit 2 has been posted on a public webpage . . ." However, the size of the said exhibit 2 is only due to the fact that Verizon, solely for its own convenience and to minimize its own effort and/or expense, has chosen to join together 20 unrelated respondents owning unrelated properties into a single petition (e.g., the number of pages of the website Exhibit 2 related to 305 appears to be about 4).[1] That is not a valid legal excuse for Verizon's failure to serve each of the respondents Verizon is targeting with a complete set of the exhibit papers related to Verizon's proceeding against the particular respondent.

b. The Petition Fails to Set Forth Elements Required by §898.4(b)

20. The Petition further fails to set forth elements which 898.4(b) requires a petition to set forth,[2] including:

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[1] I do not have personal knowledge of the other landlords, managing agents, and properties set forth in Exhibit 1 of the Petition, but I know that 305 and the Building do not have any legal or other connection to the said other landlords, managing agents or properties.

[2] Recognizing that 898.4(a), which deals with surveys, does not provide for any petition to the Commission in connection therewith, and that 898.4(b), provides a petition procedure for installation of services or facilities, Verizon, it appears from the following, is attempting to proceed under 898.4(b): (1) In the introductory paragraph of the Petition, Verizon states that it is submitting its Petition "pursuant to 16 NYCRR § 898.4 . . .," without specifying either 898.4(a) or (b); (2) Verizon entitled the notice it sent to 305 "*NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE* INSPECTION AND SURVEY," (emphasis added) a hybrid of the notice to install cable television service or facilities required by §§898.3 and 898.4 (b)(1) and of the notice required by 898.4(a); the consecutive, titled sections ot the Petition ("Specific Location of the Properties", "Owners and Agents", "Description of the Work to be Performed", etc.) track, with minor variations, the required elements of the 898.4(b) petition, as set forth in 839.4(b) (2) through (9), but without, as will be discussed below, providing the information required by those subsections of 898.4(b).

Indeed, that Verizon is improperly seeking to petition under 898.4(b) without complying with the requirements of that section, can be clearly seen from Petition paragraph 9 in which Verizon states that each owner has twenty (20) days from receipt of the petition to file an answer and that the answer must be responsive to the Petition and may set

"(4) a description of the facilities and equipment to be installed upon the property, including the type and method of installation, the anticipated costs thereof, and the measures to be taken to minimize the aesthetic impact of the installation;"

21. Verizon's purported "Description of the Work to be Performed," set forth in paragraph 3 of its Petition, plainly fails to set forth any of the elements of the description required by the above-quoted language of 898.4(b)(4).

22. Similarly, paragraph 5 of the Petition gives the name of "the person primarily responsible for the proposed pre-installation surveys." Section 898.4(b)(5), however, requires "the name of the individual or officer responsible for the actual installation." (emphasis added).

23. Indeed, the apparent inability of Verizon, in its Petition, to furnish the information required by 898.4(b), with respect to whatever facilities and equipment it will ultimately intend to install, further establishes the point discussed at length above: that the petition procedure authorized by 898.4(b), "[w]here the installation of cable television service or facilities is not effected pursuant to a notice served in accordance with section 898.3 . . ." is simply inapplicable and unavailable with respect to a cable company seeking entry "for the purpose of making surveys or other investigations preparatory to the installation" under 898.3(a), following the service of a notice containing the date of entry.

c. Verizon's Petition is Not Verified

24. Section 898.4(b) requires that the petition be "verified" by an authorized officer. Verizon's petition contains what it terms an "affirmation," but includes no verification. The

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forth any additional matter not contained therein, a statement taken directly from, and required by, 898.5(b)(9). If Verizon is not seeking to exploit the petition procedure of 898.4(b), for which it cannot meet the requirements, where else did Verizon get that 20 day notice language? Certainly not from 898.4(a).

Petition's Affirmation of Keefe B. Clemons does not conform to the requirements of a verification as set forth in Civil Practice Law and Rules §3020(a):

> ". . . A verification is a statement under oath that the pleading is true to the knowledge of the deponent, except as to matters alleged on information and belief, and that as to those matters he believes it to be true."

d. Verizon's "Declaration" of Service

25, Annexed to Verizon's Petition is the "Declaration of Laura A. Shine," (the "Declaration"), dated March October 15, 2015, and bearing the signature of the said Laura A. Shine. In the Declaration, Ms. Shine states that a copy of the Verizon Petition "was sent on October 15, 2015 by First Class U.S. Mail to the persons on the attached Service List." Ms. Shine further "declares under the penalty of perjury that, to the best of her knowledge, the foregoing is true and correct."

26. Annexed hereto as Exhibit "C" is a copy of Ms. Shine's Declaration that was included in the copy of the Petition served on 305. As can be seen, the copy of the Declaration that Verizon included in the copy of the Petition which it served on 305 was already signed by Ms. Shine. Thus, Ms. Shine's statement in her Declaration that copies of the Petition were sent on October 15, 2015 to persons on the Service List could not have been true at the time she signed her Declaration (at a minimum, it could not have been true with respect to 305).

The Petition is in Violation of All Applicable Law

27. It is plain from all of the foregoing that Verizon in its Petition is proceeding in utter disregard of applicable statutory and regulatory law: proceeding in a manner of its own devising, designed to maximize its own convenience and minimize its expense, regardless of what the rules say, and to the detriment of small property owners, whom Verizon apparently believes it can bulldoze, en masse, into submission.

Verizon has No Right to Install Cable Television Facilities in the Building, in which Such Facilities have Already Been Installed and are Maintained

28. Quite apart from the defects of its instant Petition, Verizon, in the case of this Building, does not have the right, under the Public Service Law, to install cable television facilities in the Building.

29. Public Service Law ("PSL") §228(1)(a) states in part, "No landlord shall (a) interfere with the installation of cable television facilities upon his property or premises," (although the landlord may impose certain stated requirements). However, cable television facilities were installed in the Building years ago and have been continuously maintained and are now maintained by Time Warner Cable Inc. ("Time Warner"). A cable television company having been permitted to install cable television facilities in the Building and Time Warner having been permitted, without interference, to continuously maintain and/or upgrade such facilities, 302 is in full compliance with the requirements of PSL §228.

30. Cable television facilities having been installed in the Building and since maintained by a cable television company that is afforded access to the Building, and cable television thus being available for use by all tenants who choose to subscribe, the PSL does not anywhere require that a landlord such as 305 permit an unlimited number of additional cable television companies to install facilities in the Building. To construe PSL §228 as requiring a landlord to permit installation of cable television facilities and equipment, and thereafter necessarily to have to provide access for its maintenance, to more than a single cable television company - and, therefore, to any and all cable television companies that may come along - would lead to absurd and onerous consequences for the landlord and would be completely unjustified by the language of §228, which merely requires that a landlord not "interfere with the

installation of cable television facilities . . ." (emphasis added), and not that the landlord not interfere with any installation of cable television facilities.

31. In its letter to 305 dated February 3, 2016, which accompanied its "Notice of Intention to Install/Upgrade . . .", Verizon stated: "Verizon has the right to install cable facilities upon the Property." (Exhibit "B" hereto). The only case citation Verizon offered in support of its purported right is Loretto v. Teleprompter Manhattan CATV Corp., 53 N.Y. 2d 124 (1981). However, the Court in Loretto , in sustaining, as a valid exercise of the police power, the statute which required a landlord to allow installation of cable television ("CATV") facilities upon the landlord's property, for the use of tenants, was, in 1981, dealing with a single CATV company attempting to install CATV facilities in a building whose tenants had no such facilities. Thus, the Court found that what was at stake for the landlord in that case, in permitting the installation of cable facilities in a building which had no such facilities installed, was "*some negligible unoccupied space,*" (emphasis in original), while the more substantial interest of the tenants of such a building was in "a right to receive (and perhaps send) communications from and to the outside world." Id. at 141

32. In the instant case, neither of those two conditions exist: (1) 305 Columbus Avenue has already given up space for the cable and cable-related installations of Time Warner; and (2) the residential tenants, having available the cable services of Time Warner, both for television and for Internet usage and communication, can by no stretch of the imagination be said to be unable to receive or send communications from and to the outside world. Nowhere does the Loretto decision hold or imply that the relevant statute (today PSL §228) requires a landlord to permit multiple CATV companies to install facilities in a building. Indeed, the Court's rationale in sustaining the statute (a tenant's right to receive and send communications to the

outside world) implies the contrary, since once a tenant is able so to receive and send communications via cable, that right has been satisfied.

33. It is important to note that, under New York State law, there is clearly no right on the part of tenants to have every possible means of television transmission and/or television subscription deals and/or television programming available in every building. For example, New York courts have consistently held that a landlord may prohibit the installation by a tenant of a television satellite dish in any area that is not physically within the demised premises rented by the tenant and over which the tenant has exclusive use or control, 2682 Kingsbridge Associates, LLC v. Martinez, 4 Misc.3d 111, 782 N.Y.S.2d 496 (App. Term 1st Dept., 2004); Sherwood Complex LLC v. Vouzan, 4 Misc.3d 73, 781 N.Y.S.2d 560 (App. Term 2d and 11th Jud. Dists, 2004). Earlier case law had upheld a landlord's right to prohibit the maintaining of a television aerial outside the apartment rented by a tenant, Joan Building Corporation v. Gould, 276 A.D. 765, 92 N.Y.S.2d 925 (2nd Dept., 1949) (aerial on outside of apartment window); Goldstein v. Alweiss, 196 Misc. 513, 93 N.Y.S.2d 854 (App. Term 2, 1949) (aerial attached to outside frame of apartment window).

34. Dealing with a single cable television company and its facilities in a building is a burden upon a landlord. For example, as I know from experience, it has been a huge difficulty, including repeated telephone calls and long waits, to get Time Warner to fix loose cables at different buildings, even after we have received notice from our insurance company that such conditions are hazardous. At another building, Time Warner well more than a year ago installed a new cable to replace a hanging, loose cable that stretches across some windows - but still the old loose, hanging cable remains. Cable television company cables running down the front of buildings, sometimes across windows, and cable in lobbies and public hallways, behind ugly

moldings, are unsightly. Lobby and hallway cables interfere with attempts to improve those areas, and cables and cable boxes attached to parapets interfere with required Local Law 11 work. In addition, access must be provided to Time Warner when it chooses to perform some work at a building for its own purposes.

35. Nevertheless, 305 and its predecessor in title have not interfered in any way with the installation of cable television facilities and equipment - which include at least 5 cable apparatuses attached to the parapet wall on the roof, at least 5 cables draped down and diagonally across the front of the building, including diagonally across the outside of some windows, and cables running down various sides of the building - or with the maintenance and/or upgrading of same by Time Warner. However, 305 having complied, and still complying, with the requirements of PSL §228, there is no legal basis to compel 305 to accept the installation of additional cable television facilities from another provider. And, as noted above, if PSL §228 were to be misconstrued so as to require that a landlord permit installation of cable facilities by more than one provider, it then would necessarily mean such installations would have to be permitted to any and all providers in the future. Surely, §228 on its face does not require that and cannot have been intended to require that at the time §228 was passed by the legislature.

36,. Verizon thus has no legal basis to compel the installation of its facilities in the Building.

Conclusion

37. Verizon's Petition has no legal basis, and is deficient on its face. Moreover, Verizon has no legal right to install additional cable facilities in this Building, in which such facilities have long since been installed and are maintained.

WHEREFORE, it is respectfully requested that Verizon's Petition be dismissed in its entirety, together with such other and further relief as the Commission may deem just, proper, and equitable.

Dated: New York, New York
March 23, 2016



JESSE A. HECHT

JESSE A. HECHT
Attorney for Respondent
305 COLUMBUS, LLC
339 West 85th Street #2
New York, New York 10024
Phone: (212) 877-7871
Fax: (212) 877-9609

EXHIBIT "A"

WestlawNext

In re Time Warner Cable of New York City
September 26, 2005 (Approx. 2 pages)

2005 WL 2358131 (N.Y.P.S.C.)
Slip Copy

Petition of Time Warner Cable of New York City for an Order of Entry Pursuant to 9 NYCRR, to Install Upgraded Cable Equipment and Facilities at 158 West 58th Street, New York, New York 10019.

04V0736

New York Public Service Commission

September 21, 2005
Issued and Effective September 26, 2005
ORDER OF ENTRY

Before Flynn, Chairman, Dunleavy, Weiss, Galvin and Acampora, Commissioners.

BY THE COMMISSION:

BACKGROUND

On June 14, 2004, Time Warner Cable of New York City (Time Warner) filed a petition requesting an Order of Entry for 158 West 58th Street, New York, New York (the premises) to install upgraded cable television and related equipment in the premises. The petition was filed under PSL §228 and 9 NYCRR Part 598.4. The cable television rules have since been renumbered as **16 NYCRR** Part **898**.4 and will be so referenced herein.

THE PETITION

In its petition, Time Warner details its attempts to gain access to the premises including: serving a Notice of Intent to install, providing a description of the proposed work; agreeing to indemnify the Owner for damages to the premises; and making multiple attempted telephone calls and contacts by mail. Because the Owner has not allowed the installation, Time Warner seeks an Order of Entry. The Owner has filed no response to the petition.

DISCUSSION

PSL §228 provides that no landlord shall interfere with the installation of cable television on his property except that a landlord may require that the installation conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises. 16 NYCRR §898.4 allows the Commission to grant an Order of Entry, a ruling that the petitioning company has complied with the requirements of PSL §228 and **16 NYCRR** Part **898**.4.

Time Warner has proposed a reasonable plan for its cable installation. It will bear the cost of the installation and has agreed to indemnify the Landlord for any damage caused by the installation. Time Warner has met the requirements of PSL §228 and **16 NYCRR** Part **898.4**. It has provided proof of service of its Notice on the Landlord, a description of the proposed installation, proof of insurance, and a summary of efforts to effect entry.

CONCLUSION

Petitioner has met all the requirements of PSL 228 and **16 NYCRR** Part **898.4**. An Order of Entry to 158 West 58th Street, New York, New York for installation and upgrade of cable television facilities is hereby granted in the public interest.

The Commission orders:

1. The petition of Time Warner Cable of New York City for an Order of Entry to enter the premises at 158 West 58th Street, New York, New York 10019 for installation and upgrading of cable television and related facilities is granted.

2. This proceeding is closed.

End of Document

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EXHIBIT "B"

Property No. 9405738-1

Alyson M. Seigal
Area Manager
FiOS Franchise Assurance – New York City



140 West Street
New York, NY 10007
Phone: (888) 364-3467
NYCFiOS@verizon.com

February 3, 2016

VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 9405738-1
305 Columbus LLC
339 West 85 Street, Apt #2
New York, NY 10024-3818
Attn: Isadora Silverman

RE: Notice of Intention to Inspect, Survey and Install/Upgrade Cable Television Facilities and Service at:
305 Columbus Av, New York NY

Dear Property Owner/ Manager:

I have been advised by Verizon New York Inc.'s ("Verizon") NYC FiOS Real Estate Department of Verizon's unsuccessful attempts to either inspect, survey and/or install FiOS facilities at **305 Columbus Av, New York NY** ("Property"). Our records indicate that you have not responded to our previous correspondence or that you have denied Verizon access to the Property. The purpose of this letter is to restate and explain our need to gain access to your Property.

By way of background, Verizon is attempting to gain access to your Property because we have received a request for FiOS service(s) from a tenant(s) in your building and/or a resident(s) on your block, and our access to your Property is necessary to provide cable television services to those tenants and/or residents. We are very excited about the opportunity to provide world-class voice, data and video services to you and the area residents using a fiber based network to deliver these services at unprecedented speeds and capacities. Your cooperation in allowing Verizon access to your Property will enable your tenants and/or other residents on your block to receive the services they want in a timely manner.

Please be advised that under Section 228 of the New York Public Service Law and Part 898, Title 16 of the New York Codes, Rules and Regulations ("NYCRR"), Verizon has the right to install cable television facilities upon the Property. Loretto v. Teleprompter Manhattan CATV Corp., 53 N.Y. 2d 124 (1981). In addition , Verizon's Cable Franchise Agreement with the City of New York requires Verizon to provide cable television service to residents in its franchise area who request it, and Verizon has a limited timeframe in which to do so. Verizon's compliance with these franchise requirements may be compromised by the delay we are experiencing in trying to gain access to and install cable television facilities at your Property.

Verizon's proposed installation will protect the safety, functioning and appearance of the premises, and Verizon will bear the cost of the installation of its cable television facilities. Verizon will also indemnify the landlord for damage caused by the installation of Verizon's facilities. Verizon's policy is to work with you to arrange convenient dates for access and to reach agreement on engineering plans / designs for the Property. **Please contact Verizon's NYC FiOS Real Estate**

Department at (888) 364-3467 within two weeks of receipt of this letter so that we may move forward with the process of bringing FiOS to your Property and/or other properties on your block.

If you believe that Verizon's installation of cable television facilities constitutes an undue "taking" of your Property, you may file a petition for "just compensation" with the New York State Public Service Commission under the procedures set forth in Section 228 of the New York Public Service Law and Part 898, Title 16 of the NYCRR. Please note, however, that the filing of such a petition does not delay Verizon's right to access your Property. The complete text of Section 228 may be found on the enclosed copy of the notice of Verizon's intention to survey/install/upgrade cable television facilities and service.

If we do not hear from you within two weeks as mentioned above, Verizon's Legal Department may be forced to file a Petition for Order of Entry to the New York State Public Service Commission, after which you will be afforded, per 16 NYCRR 898.4(b)(9), twenty days to answer the Petition and set forth any additional matter not contained in the Petition. The Petition will seek an order granting Verizon the right to survey for and/or install/upgrade cable television facilities and service at your Property. If you have specific legal questions about Verizon's rights under New York law or Verizon's Cable Franchise Agreement, we recommend that you engage an attorney. You may also contact Michael Morano, Assistant General Counsel for Verizon's National Operations, at (908) 559-3332 to discuss legal issues or questions, but please be advised that he represents Verizon and cannot provide you with legal advice.

Your cooperation in this matter would be greatly appreciated. We look forward to hearing from you.

Sincerely,

Alyson M. Seigal

Alyson Seigal
Manager, FiOS Franchise Assurance – New York City

NOTICE OF INTENTION TO INSTALL/UPGRADE CABLE TELEVISION FACILITIES AND SERVICE INSPECTION AND SURVEY

PURSUANT to Public Service Law §228, and 16 NYCRR Part 898, Verizon New York Inc. has the right to enter and inspect your property in order to prepare drawings, plans and designs in preparation for the installation/upgrade of cable television facilities and service upon your property located at 305 Columbus Av, New York NY. The inspection will be performed on or about February 19, 2016. In the event of any damage to your property, Verizon New York Inc. will be responsible. After having prepared the plans and designs, Verizon New York Inc. will make plans for the facilities available for your information, review and consideration. More specifically, Verizon New York Inc.'s installation/upgrade plan involves the following:

An inspection / survey to determine a plan for the building of pathway from street to building and/or building to building basement(s), core drilling and placing vertical pathway, fiber hubs, terminals, and installing a horizontal molding or flexible duct system as required. Within these pathways fiber optic cable will be placed and spliced.

Verizon New York Inc.'s installation/upgrade should conform with the safety, functioning and appearance of the building. Should you have any questions regarding this Notice, please contact the NYC Verizon FiOS Real Estate Department at 888-364-3467 or NYCFiOS@verizon.com.

The installation/upgrade of cable service will likely enhance the value of your property, and there will be no charge to you for such installation/upgrade. If you believe the value of your property is not enhanced, you may attempt to seek compensation according to the procedures established by the New York State Public Service Commission as delineated on the reverse side of this Notice.

This Notice may be served, among other ways, by certified mail return receipt requested. If you have any questions, you may write or call the company's representative; or write or call the Secretary to the New York State Public Service Commission at secretary@dps.ny.gov or #3 Empire State Plaza, Albany, NY 12223-1350, Tel. No. 518-474-6530.

THE LANDLORD'S RIGHT TO INITIATE A COMPENSATION PROCEEDING WILL EXPIRE FOUR (4) MONTHS FROM THE SERVICE OF THIS NOTICE OR FROM THE DATE OF INSTALLATION, WHICHEVER IS LATER.

DATED: February 3, 2016

PUBLIC SERVICE LAW
§228. Landlord-tenant relationship

1. No landlord shall (a) interfere with the installation of cable television facilities upon his property or premises, except that a landlord may require:
(1) that the installation of cable television facilities conform to such reasonable conditions are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well being of other tenants;
(2) that the cable television company or the tenant or a combination thereof bear the entire cost of the installation, operation or removal of such facilities; and
(3) that the cable television company agree to indemnify the landlord for any damage caused by the installation, operation or removal of such facilities.

(b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or from any cable television company in exchange therefore in excess of any amount which the Commission shall, by regulation, determine to be reasonable; or

(c) Discriminate in rental charges or otherwise, between tenants who receive cable television service and those who do not.

2. Rental agreements and leases executed prior to January first, nineteen hundred seventy-three may be enforced notwithstanding this section.

3. No cable television company may enter into any agreement with the owners, lessees or persons controlling or managing buildings served by a cable television company, or do or permit any act, that would have the effect, directly or indirectly of diminishing or interfering with existing rights of any tenant or other occupant of such building to use or avail himself of master or individual antenna equipment.

NEW YORK CODES RULES AND REGULATIONS – PART 898 – LANDLORD-TENANT RELATIONSHIP (Statutory authority: Public Service Law §228(1)

§898.1 Prohibition
Except as provided in section 898.2 of this Part, no landlord shall demand or accept any payment from any cable television company in exchange for permitting cable television service or facilities on or within said landlord's property or premises.

§898.2 Just Compensation
Every landlord shall be entitled to the payment of just compensation for property taken by a cable television company for the installation of cable television service or facilities. The amount of just compensation shall be determined by the commission in accordance with section 228 (1)(b) of the Public Service Law upon application by the landlord pursuant to section 898.5 of this Part.

§898.3 Notice of installation
(a) Every cable television company proposing to install cable television service or facilities upon the property of a landlord shall serve upon said landlord or an authorized agent, written notice of intent thereof at least 15 days prior to the commencement of such installation.
(b) The secretary of the commission shall prescribe the procedure for service of such notice, and the form and content of such notice, which shall include, but need not be limited to:
(i) the name and address of the cable television company;
(ii) the name and address of the landlord;
(iii) the approximate date of the installation; and
(iv) a citation of section 228 of the Public Service Law and Part 898 of the commission's rules.
(c) Notice that installation of equipment has been completed may be served at any time on landlords upon whose property cable television service or facilities were placed prior to the effective date of this Part.

§898.4 Right of Entry
(a) A cable television company shall have the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable television company shall serve notice upon the landlord, or an authorized agent which notice shall contain the date of entry and all other information described in section 893.3(b) of this Part. The cable television company shall be liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable television company pursuant to section 228(1)(a)(3) of the Public Service Law.
(b) where the installation of cable television service or facilities is not effected pursuant to a notice served in accordance with section 898.3 of this Part, the cable television company may file with the commission a petition verified by an authorized officer of the cable television company setting forth:

(1) proof of service of a notice of intent to install cable television service upon the landlord;
(2) the specific location of the real property;
(3) the resident address of the landlord, if known;
(4) a description of the facilities and equipment to be installed upon the property, including the type and method of installation, the anticipated costs thereof, and the measures to be taken to minimize the aesthetic impact of the installation;
(5) the name of the individual or officer responsible for the actual installation;
(6) a statement that the cable television company shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord;
(7) a statement that the installation shall be conducted without prejudice to the rights of the landlord to just compensation in accordance with section 898.2 of this Part;
(8) a summary of efforts by the cable television company to effect entry of the property for installation; and
(9) a statement that the landlord is afforded the opportunity to answer the petition within 20 days from the receipt thereof which answer must be responsive to the petition and may set forth any additional matter not contained in the petition. Participation by the landlord is not mandatory, however, if no appearance by the landlord is made in the proceeding or no answer filed within the time permitted, the commission may grant to the petitioning cable television company an order of entry which order shall constitute a ruling that the petitioning cable television company has complied with requirements of section 228 of the Public Service Law and the regulations contained in this Part. If the landlord files a written answer to the petition, the cable television company shall have 10 days within which to reply to said answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with Section 228 of the Public Service Law.

§898.5 Application for just compensation
A landlord may file with the commission an application for just compensation within four months following the service by the cable television company of the notice described in section 898.3 of this Part or within four months following the completion of the installation of the cable television facilities, whichever is later.

§898.6 Contents of application for just compensation
An application for just compensation shall set forth specific facts relevant to the determination of just compensation. Such facts relevant to the determination of just compensation. Such facts should include, but need not be limited to, a showing of:
(a) the location and amount of space occupied by the installation;
(b) the previous use of such space;
(c) the value of the applicant's property before the installation of cable television facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and
(d) the method or methods used to determine such values. The secretary may, upon good cause shown, permit the filing of supplemental information at any time prior to final determination by the commission.

§898.7 Service of Application
A copy of the application filed by the landlord for just compensation shall be served upon the cable television company making the installation and upon the chief executive officer of the municipality in which the real property is located.

§898.8 Responses
Responses to the application, if any, shall be served on all parties and on the commission within twenty days from the service of the application.

§898.9 Hearing and determination
(a) If the commission finds that just compensation for the installation of cable television facilities as described in the application may be in excess of one dollar it shall conduct a hearing pursuant to section 216(3) of the Public Service Law.
(b) An applicant may, within 20 days from the release date of the commission order which sets compensation at one dollar or less, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a hearing pursuant to section 216(3) of the Public Service Law and Chapter I, Subchapter A of this Title.
(c) If after the filing of an application, the cable television company and the applicant agree upon the amount of just compensation and the commission approves such amount, the commission shall not be required to conduct a hearing on the issue.

EXHIBIT "C"

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of Verizon New York Inc. for Limited Orders of Entry for 20 Multiple-Dwelling Unit Buildings in the City of New York	**Matter 16-_____**

DECLARATION OF LAURA A. SHINE

I have taken steps to ensure that a copy of the Petition of Verizon New York Inc. for Limited Orders of Entry for 20 Multiple-Dwelling Unit Buildings in the City of New York was sent on March 10, 2016 by First Class U.S. Mail to the persons on the attached Service List.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

LAURA A. SHINE

Dated: New York, New York
March 10, 2016

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of Verizon New York Inc. for Limited Orders of Entry for 7 Multiple-Dwelling Unit Buildings in the City of New York

Matter 16-00538

AFFIRMATION OF SERVICE

JESSE A. HECHT, an attorney-at-law, duly admitted to practice in the Courts of the State of New York, affirms the following upon penalty of perjury:

I am over 18 years of age and reside in New York City, New York. On March 23, 2016, I served the within ANSWER and ANSWERING AFFIRMATION upon Joseph A. Post, Counsel for Petitioner, by first-class mail, by depositing a true copy thereof, enclosed in a postpaid envelope, in a depositary of the United States Postal Service, addressed as follows:

Joseph A. Post, Esq.
140 West Street, 6th Floor
New York, New York 10007

Dated: New York, New York
March 23, 2016

Jesse A. Hecht