



New York State Conference of Mayors and Municipal Officials

comments

ORIG-FILES

C 05-M-0250

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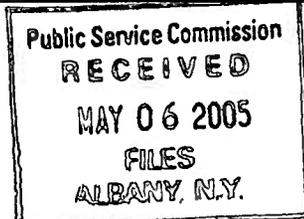
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April 28, 2005

MR. B. OSSIA
MR. C. HUMPHREYS
MR. R. MAYER

Hon. Jaclyn Brillling
Secretary
New York State Public Service Commission
3 Empire State Plaza
Albany, New York 12223-1350

Re: Case No. 05-M-0250 Petition for an Expedited Declaratory Ruling of the Town of Babylon, New York, the Cable telecommunications Association of New York, Inc. and CSC Holdings, Inc., Concerning Unfranchised Construction of Cable Systems in New York by Verizon Communications, Inc. in Violation of the Public Service Law

Dear Secretary Brillling:

I write you today on behalf of the New York State Conference of Mayors (NYCOM) and our membership of more than 600 cities and villages in order to express our concerns in the above titled matter.

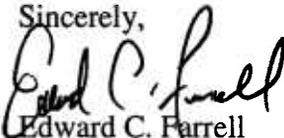
While NYCOM and its membership welcome competition in the field of cable television providers, the current activities of Verizon in upgrading their telecommunication infrastructure has created confusion and concern among our membership. Many questions have arisen concerning the applicability of the cable franchising provisions of the Public Service Law and the obligations of our local government members to franchise these systems. Municipalities are concerned that Verizon, and/or its affiliates, have commenced an upgrade to their existing systems that could, among other things, support cable television services through a Fiber-to-the Premises ("FTTP") network, in several rights-of-way areas prior to first receiving a franchise agreement from the subject municipality. Our understanding has been that a cable provider must first obtain a franchise agreement as a precursor to installation of a cable system in a public right-of-way. These franchise agreements have long served the dual purpose of protecting both the public rights-of-way as well as consumers of cable services.

Owing to this, I would ask the Commission to act in as expeditious manner as possible to resolve the issues raised by the subject Petition. I would further urge that the Commission bear in mind the very real concerns that municipal governments have with respect to issues of construction safety, indemnification and insurance protections and preservation of aesthetics of any telecommunications system build outs located in the public rights-of-way.

Hon. Jaelyn Brillling
April 28, 2005
Page 2

It is not the intention of NYCOM, or any municipal government, to treat any industry or company in a more favorable light than another. We are only interested in preserving a local government's obligation to regulate the public right-of-way in a way that serves the public interest, while allowing municipal governments to treat any company needing to do business within the public rights-of-way in an equitable fashion. *See* New York State Constitution Article 9, §1(f). We believe that this was the intent of lawmakers when the current provisions of the cable franchising law were enacted.

The public rights-of-way areas are a pivotal part of the infrastructure which local governments are responsible for. The decisions of the Commission will, I hope, keep that exceptionally important issue in mind as it deals with the subject Petition.

Sincerely,

Edward C. Farrell
Executive Director

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cc: NYCOM Executive Committee