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April 30, 2015

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

Re: Matter 15-00884, Petition of Verizon New York, Inc. for Limited Orders of Entry for
36 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 300 W. 106TH ST. CORP., owner of the building located at 300 West
106th Street, 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
Petitioner's Assistant General Counsel.

Very truly yours,



Jesse A. Hecht

cc: Richard C. Fipphen 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 36 Multiple-Dwelling Unit
Buildings in the City of New York**

Matter 15-00884

ANSWER

Respondent **300 W. 106TH ST. CORP.**, by its attorney, Jesse A. Hecht, Esq., hereby answers the Petition as follows:

1. General Denial

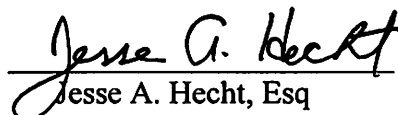
AS AND FOR AN AFFIRMATIVE DEFENSE

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 300 W. 106TH ST. CORP, 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
April 30, 2015

JESSE A. HECHT
Attorney for Respondent
300 W. 106TH ST. CORP.
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New York, New York 10024
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Jesse A. Hecht, Esq

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Petition of Verizon New York Inc. for Limited
Orders of Entry for 36 Multiple-Dwelling Unit
Buildings in the City of New York**

Matter 15-00884

**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 300 W. 106TH ST. CORP. ("300"), in opposition to the Petition for Limited Orders of Entry dated April 20, 2015 (the "Petition") of Verizon New York Inc. ("Verizon"). The Petition was received by mail by 300 on April 22, 2015.

2. 300 is the owner of the building located at 300 West 106th Street, 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 61 apartments. I act as in-house counsel to 300, I am an officer of 300 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 300, as well as with respect to matters of law in this matter.

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 300, 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, 300 has fully complied with the requirements of Public Service Law ("PSL") §228, and nothing in the PSL compels 300 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 44 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," 838.4(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 300. Instead, Verizon, in paragraph 4 of its Petition, states, "Supporting documentation is provided in Exhibit 2." However, when one goes to the page at the end of the Petition which states "Exhibit 2," one is simply directed to a website.

14. Annexed hereto as Exhibit "B" is a copy from the Verizon website of Verizon's March 6, 2015 cover letter and of Verizon's "Notice of Intention to Install/Upgrade Cable Television Facilities and Service Inspection and Survey," dated March 6, 2015 (the "Verizon

Notice"), since 300 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 March 20, 2015." 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 so that the landlord can 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 April 20, 2015, 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 36 unrelated respondents owning unrelated properties into a single petition (e.g., the number of pages of the website Exhibit 2 related to 300 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, including:

"(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).

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 300 and the Building do not have any legal or other connection to the said other landlords, managing agents or properties.

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.

d. Verizon's "Declaration" of Service

25. Annexed to Verizon's Petition is the "Declaration of Laura A. Shine," (the "Declaration"), dated April 20, 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 April 20, 2015 by 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 300. As can be seen, the copy of the Declaration is signed. Thus, Ms. Shine's statement in her Declaration that copies of the Petition were sent on

April 20, 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 300).

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, 204-206 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 available for use by all tenants who choose to subscribe, the PSL does not anywhere require that a landlord such as 300 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. 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, even after we have received notice from our insurance company that such conditions are hazardous. At another building, Time Warner months 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 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 in the Building for its own purposes.

32. Nevertheless, 300 and its predecessor in title have not interfered in any way with the installation of cable television facilities and equipment and the maintenance and/or upgrading

of same by Time Warner. However, 300 having complied, and still complying, with the requirements of PSL §228, there is no legal basis to compel 300 to accept the installation of additional cable television facilities from another provider. And, as noted above, if PSL §228 were 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.

33. It is also 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).

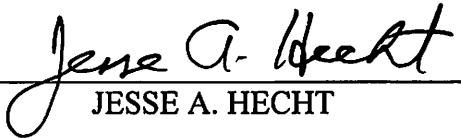
34. Verizon thus has no legal basis to compel the installation of its facilities in the Building.

Conclusion

35. 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
April 30, 2015


JESSE A. HECHT

JESSE A. HECHT
Attorney for Respondent
300 W. 106TH ST. CORP.
339 West 85th Street #2
New York, New York 10024
Phone: (212) 877-7871
Fax: (212) 877-9609



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

140 West Street, Room 1105
New York, NY 10007
Phone: (888) 364-3467
NYCFIOS@verizon.com

March 6, 2015

VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Property ID: 7065233-1
Isadora Hecht
300 W. 106th St. Corp
339 W 85 Street , Apt 2
New York, NY 10024-3818

RE: Notice of Intention to Install/Upgrade Cable Television Facilities and Service - Inspection and Survey at:
300 W 106, New York NY

Dear Property Owner/Manager:

I have been advised by Verizon New York Inc.'s ("Verizon") NYC FiOS Real Estate Department of the difficulty Verizon has encountered in attempting to install and/or attach its FiOS facilities at **300 W 106, New York NY** ("Property"). Our records indicate that you have not responded to our previous correspondence, that you have conditioned Verizon's access on unreasonable terms and conditions or that you have denied Verizon access to the Property. The purpose of this letter is to restate our need to gain access to your Property.

By way of background, Verizon is attempting to gain access to your building 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.

However, in the event that you do not cooperate in providing Verizon access, you should know 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). Section 228 of the New York Public Service Law states that "[n]o landlord shall interfere with the installation of cable television facilities upon his property or premises" 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.

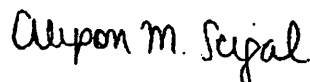
Verizon's proposed installation will protect the safety, functioning and appearance of the premises, and Verizon will bear the cost of the installation of its cable television facilities. Verizon will also indemnify the landlord for damage caused by the installation of Verizon's facilities. Verizon's 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
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 300 W 106, New York NY. The inspection will be performed on or about March 20, 2015. 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 conforms 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: March 6, 2015

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.

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

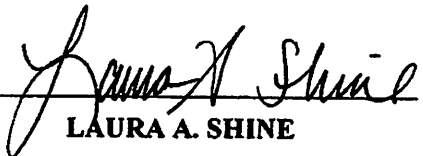
**Petition of Verizon New York Inc. for Limited
Orders of Entry for 36 Multiple-Dwelling Unit
Buildings in the City of New York**

Matter 15-_____

DECLARATION OF LAURA A. SHINE

A copy of the Petition of Verizon New York Inc. for Limited Orders of Entry for 36 Multiple-Dwelling Unit Buildings in the City of New York was sent on April 20, 2015 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
April 20, 2015

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Petition of Verizon New York Inc. for Limited
Orders of Entry for 36 Multiple-Dwelling Unit
Buildings in the City of New York**

Matter 15-00884

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 April 30, 2015, I served the within ANSWER and ANSWERING AFFIRMATION upon Richard C. Fipphen, Assistant General Counsel for Petitioner, by first-class mail, by depositing a true copy thereof, enclosed in a postpaid envelope, in a depository of the United States Postal Service, addressed as follows:

Richard C. Fipphen
Assistant General Counsel
Verizon New York Inc.
140 West Street 6th Floor
New York, NY 10007

Dated: New York, New York
April 30, 2015


Jesse A. Hecht