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The Cable Television & Telecommunications Association of New York, Inc. 9: 39

ELISE L. HILLER  
general counsel

December 22, 2005

Hon. Jaclyn Brilling  
Secretary  
State of New York Public  
Service Commission  
Three Empire State Plaza, 14<sup>th</sup> Floor  
Albany, New York 12223-1350

Re: Petitions for Confirmation of Cable Franchises by Verizon in Nyack and South Nyack

Dear Secretary Brilling:

Please accept this letter from the Cable Telecommunications Association of New York, Inc. (CTANY) with regard to the above-captioned petitions. The following comments request that the franchises approved by both Nyack and South Nyack be made to conform, at a minimum, to the standards set forth by the Public Service Commission in its Order and Certificate of Confirmation issued and effective December 15, 2005.

After signing its franchise with the Village of Massapequa Park, Verizon negotiated agreements with Nyack and South Nyack. The Nyack and South Nyack franchises contained all of the concessions Verizon received from the Village of Massapequa Park with additional allowances to Verizon on construction quality, restoration of municipal property, and level of facilities regulation.

Shortly after Verizon filed its Nyack and South Nyack franchises with the Commission, the Commission concluded that five aspects of the Massapequa franchise violated state law. If one applies those holdings to the Nyack and South Nyack franchises, the citizens of those communities – like the citizens of Massapequa Park – will be well served. Lower income customers will have an increased opportunity to have competitive cable options, all taxpayers will be less vulnerable to liability caused by defective Verizon construction or negligent operations, the municipal rights-of-way will be better protected, the public will be assured new opportunities for education and all citizens will reap the benefits of increased video competition.

While we do not necessarily agree with every aspect of the Commission's December 15, 2005 Order, the order advanced the public good by clarifying that Verizon can no longer misinterpret and misapply the Commission's June 15, 2005 Declaratory Ruling. As the Commission noted, "Article 11 cable franchising requirements, and all its attendant rules and regulations, would attach to that system when Verizon: (1) deploys equipment that could be

used exclusively for cable service; or (2) offers for hire video programming.”<sup>1</sup> The reaffirmation of Article 11 serves as a reminder of the importance of the cable rules and regulations in New York and because Verizon’s franchises in Nyack and South Nyack differ from this standard, the Commission should require changes to the franchises to conform to its December 15, 2005 order.

As in the December 15, 2005 order, provisions in the two franchises at issue should be made to comply, among other items, with minimum consumer protection and customer service standards, minimum PEG access, minimum standards for line extensions, municipal indemnification, location of trunk and feeder lines, and any and all other minimum standards that have not been previously met. The proposed franchises as filed not only violate Commission regulations but create an unlevel playing field and thus would violate 16 NYCRR § 895.3.

We continue to urge the Commission to carefully consider each aspect of the franchise agreements as they are presented. Despite protestations from new entrants, Commission review has brought clarity to the franchising process and established that Verizon must conform to the requirements of Article 11 of the Public Service Law. While not a template, per se, the Commission’s December 15 order does provide many of the parameters for new entrants to follow. We hope that with each new franchise presented, even greater clarity will emerge.

Sincerely,



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CTANY

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<sup>1</sup> December 15, Order at 18; Declaratory Ruling at p. 18.