



**Testimony of Maya Wiley, Counsel to the Mayor
Before the Committee on Technology, Committee on Oversight and Investigations, and the
Subcommittee on Zoning and Franchises
New York City Council
October 14, 2015**

Good afternoon. Thank you Councilmember Vacca and members of the Committee on Technology, Councilmember Gentile and members of the Committee on Oversight and Investigations, and Councilmember Richards and members of the Subcommittee on Zoning and Franchises for the opportunity to testify before you today on the Verizon FiOS franchise. Thank you for your leadership on the issue of the fair and equitable deployment of broadband technology, as well as oversight of franchises. These are issues of critical importance to our residents and to our future as a connected city of expanding opportunity.

As his Counsel, Mayor Bill de Blasio has charged me with development and implementation of a robust strategy to ensure universal, affordable broadband access to all New Yorkers, no matter their zip code. The Mayor understands that without high speed internet access, far too many New Yorkers will lack the 21st century tools necessary to end income inequality and support a more robust economy. The Mayor has been deeply committed to ensuring both the quality of the infrastructure and the greater competition.

Verizon FiOS has always been one critical component of the broader strategy for the best infrastructure technology has available today – fiber – and for the increased competition from the city-wide franchise, which requires the availability of that fiber to every resident of the city who wants it.

The Mayor has stated clearly the importance of holding our franchisees to the commitments they have made to the City as part of our larger strategy to ensure New Yorkers have access to broadband.

We want to see our franchisees succeed so New Yorkers can use their services. But it is imperative for the city this be done fairly and accountably, especially for something as essential to life in the city as access to broadband, television and phone service.

Universal broadband cannot be achieved by a one-size-fits-all solution. It requires a patchwork quilt of strategies, technologies, partnerships and programs. The Mayor has made an unprecedented commitment of resources to ensure universal broadband access in New York City by 2025. This includes

- a \$650 million commitment to the City's schools for broadband infrastructure and related technology needs;

- up to \$10 million to deliver free broadband service to residents of five NYCHA developments in Queens, Brooklyn and the Bronx – reaching a total of 16,000 residents;
- an established line in the capital budget for broadband for the first time in the history of the City, with a ten-year commitment of \$70 million for broadband investments throughout the city.

These are historic and important steps. We must also do more to meet our goal. To increase the quality and affordability of broadband service, we need more competition. This requires the committed attention of all of us, but includes City Hall. And one way City Hall has committed its attention to more competition is franchise accountability. FiOS represents a first-of-its-kind franchise for New York City, and one other cities want. It is our first city-wide franchise that requires delivery of the best technology available to deliver broadband. And that means increased competition with other broadband providers, most notably, Time Warner Cable and Cablevision.

In September 2014, the Mayor announced that DoITT would be conducting an audit of the Verizon FiOS franchise. Commissioner Roest will share the audit process and findings. But what they make clear is that Verizon is not in compliance with its franchise obligations, something consumers and their advocates already had reason to believe.

Just some of the problems we are demanding that Verizon improve in a measurable and accountable way:

- improve its record keeping,
- improve its communication with its customers and prospective customers,
- ensure acceptance of requests for FiOS service,
- delivering FiOS by fulfilling those requests in a timely manner; and
- substantially increasing its transparency.

We will take the necessary steps to ensure Verizon remedies these problems, complies with the franchise, and remains in compliance with the franchise.

This hearing today should serve as a reminder to Verizon that it is ultimately accountable, as we all are here, to the people of this city.

**DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS TESTIMONY
BEFORE THE CITY COUNCIL COMMITTEES ON TECHNOLOGY AND OVERSIGHT & INVESTIGATIONS
AND SUBCOMMITTEE ON ZONING & FRANCHISES
OVERSIGHT ON THE VERIZON FIOS FRANCHISE
WEDNESDAY, OCTOBER 14, 2015**

Thank you, Maya. Good afternoon Chairs Vacca, Gentile, and Richards, and members of the committees on Technology and Oversight and Investigations, and subcommittee on zoning and franchises. My name is Anne Roest and I am Commissioner of the Department of Information Technology and Telecommunications (DoITT) and citywide CIO. I am pleased to testify today regarding the compliance of Verizon with the build out requirements of its cable television franchise for its Fiber Optic Service, or "FiOS."

On July 15, 2008, the Verizon FiOS franchise agreement became effective. This landmark agreement represents the first and only citywide cable television franchise in New York City, and establishes the framework for New Yorkers to finally have more than one choice for cable television, Internet, and voice over Internet protocol (VoIP) services, no matter where they live in the five boroughs.

In the initial years of its franchise, Verizon appeared to the City to be making good progress with the build. The company refused to provide maps showing the progress of FiOS build due to confidentiality concerns. But our inspections of locations where Verizon represented that it had fulfilled its premises passed obligation revealed extensive deployment of fiber above and below the City's streets and homes connected to the system, well distributed throughout the five boroughs.

In July 2012, Verizon approached the City requesting approval of a method of laying fiber optic cable in the streets and under the sidewalks of the City in compact micro-conduits via narrow and shallow cuts called micro-trenches. Verizon requested approval of this method due to concerns about its ability to gain access to certain buildings due to issues with private property owners. DoITT and the Department of Transportation allowed Verizon to start using microtrenching as part of a pilot in November 2012.

Then, in 2013, Verizon informed DoITT that it was experiencing difficulties gaining access to "block properties," or locations where telecommunications services were traditionally provisioned in a method requiring permission to crossover multiple properties with facilities. Verizon proposed to divide the City into grids and to then prioritize the grids for building, focusing resources on certain grids to engage the community and get work done and then to move on to the next set of grids. DoITT's response was supportive only to the extent that this approach could be used within the timeframes allowed by the contract.

The FiOS franchise agreement provides for *force majeure* exceptions to the June 30, 2014, deadline, and in fact Verizon asserted such claims for Hurricane Irene in 2011, for a labor strike in 2011, and for Hurricane Sandy in 2012. Verizon claimed that those events would delay its compliance with the June 30, 2014, deadline by six months. DoITT accepted Verizon's assertion but did not agree that Verizon's delay should be as long as six months; instead, we stated our belief that Verizon's delay should be no more than three months, to September 30, 2014.

As 2014 progressed, and Verizon's reports of its FiOS build approached 100 percent, DoITT increasingly received anecdotal evidence, largely in the form of consumer complaints, suggesting that Verizon was simultaneously taking credit for "passing" households while declining to accept orders for non-standard service installations from those same households. While it was conceivable in the earlier years of the franchise that there would be complaints from residents in areas that did not yet have access to FiOS, these complaints became less plausible as Verizon reported close to a complete citywide build.

This evidence, in combination with discussions of the particular households involved with Verizon personnel, led DoITT to be concerned that these anecdotes reflected not occasional irregularities, but possibly broader failures by Verizon to fulfill its obligations. After Verizon was questioned about a number of complaints about delays in providing service, the company again proposed that it focus on getting service installed for potential subscribers in certain neighborhoods – priority to be set by the City – and withdraw its efforts from non-priority neighborhoods. In order to seriously consider this grid proposal, in June 2014 DoITT requested the addresses of all pending requests and all satisfied requests for service. Verizon never provided this data.

Beginning in November 2014, once Verizon claimed that it had passed all residential households with fiber, it was obligated to accept orders for residential service in all buildings across the five boroughs.

The anecdotal evidence, unfortunately, continued to show the contrary: Verizon was refusing to accept orders from residents, and in some cases told residents that Verizon had no plans, or no timeline, to provide cable television service in their buildings.

Realizing that our informal attempts to obtain data from Verizon were not being taken seriously, DoITT initiated an audit on September 17, 2014. We announced the results of that audit last June. The following is a summary of its major findings:

First, Verizon is not in compliance with its agreement since it has not truly “passed” all residential households in New York City.

Verizon’s working definition of “passing” a household with fiber optic cable is inconsistent with industry practice and incongruous with Section 5.4 of its own franchise agreement with the City. Since the agreement itself does not define “passed” we turn to the industry for a definition. In its definition of terms, the Fiber to the Home Council states:

“The number of “Homes Passed” is the potential number of premises to which an operator has capability to connect in a service area, but the premises may or may not be connected to the network.

“This definition excludes premises that cannot be connected without further installation of substantial cable plant such as feeder and distribution cable (fiber) to reach the area in which a potential subscriber is located.”

Therefore, at a minimum, the term “passed” must be understood to require sufficient proximity to permit Verizon to comply with its six-month deadline to fill NSIs.

Second, Verizon continues to show that FiOS service is not yet available to residential addresses, despite claiming to have passed all residential households in the City.

Our auditors found that the script on Verizon’s website informed potential customers that service was unavailable at many residential addresses and instead offered a two-year Direct TV contract instead of Verizon FiOS for many residential addresses in New York City. Although Verizon claimed the invitation on its web page to prospective customers to enter their information, so they can be contacted when service is available, is treated as an NSI, nothing on the web page informed prospective subscribers that this action will trigger Verizon’s obligation to provide them with FiOS service within six months or a year. Similarly, many potential customers who call Verizon’s customer service number were told that FiOS is not available at their addresses. In some cases, callers were told that Verizon had no plans to bring FiOS to their addresses.

Next, Verizon has not completed large number of non-standard installation service requests within the six-month and 12-month deadlines required by Section 5.4.2 of the franchise agreement.

Our review of Verizon's outstanding NSI report, received on January 8, 2015, revealed that approximately 75 percent of the nearly 42,000 NSIs that were outstanding as of December 31, 2014, had been outstanding for more than 12 months.

In this report Verizon does not distinguish among NSIs that are delayed due to an owner of a multiple dwelling refusing to provide access to the building, NSIs for single family homes, and NSIs from tenants in multiple dwellings where provision of access by the landlord is not an issue.

In addition, Verizon's failure to timely fill NSI orders must be considered in conjunction with Verizon's failure to accept NSI orders for all residential premises it claims as "passed," and with its incorrect understanding of the term "passed." In short, the total number of NSIs may still be an underrepresentation of the true demand.

Verizon failed to cooperate with the City's audit of FiOS rollout, in violation of its franchise agreement.

Verizon initially failed to provide access to the systems used in calculating the status of network build, with access granted five months DoITT's initial request. Throughout the course of the audit, and in violation of its franchise agreement, the company significantly delayed or failed to provide access to various other records, reports, and contracts requested by the City to conduct a full assessment of FiOS implementation.

Finally, Verizon does not communicate accurately and effectively with prospective customers.

From the beginning of the audit period to its completion, Verizon did not communicate the status of FiOS availability to prospective customers in a fashion that provided sufficient information. Verizon's continued diversion of potential customers from cable television service to DirecTV / DSL-type bundles mislead prospective cable television subscribers about their rights under the franchise agreement.

Complaints received by DoITT throughout the audit process revealed that Verizon continued to respond to inquiries from residents in New York City that FiOS is "unavailable" in their buildings even though Verizon claimed that all households in the City had been passed by fiber. When reviewing its database with us, Verizon staff explained that a prospective customer who has registered an NSI request is sent two automated e-mails regarding the status of the request, no matter how long the request has been pending, and the e-mails do not provide any actual projected dates for service installation.

Following the issuance of the Verizon FiOS audit, the Counsel to the Mayor's Office and DoITT have been meeting with the company to further discuss their compliance issues. We are hopeful that Verizon will commit the necessary resources to deliver upon the promise it made to all New Yorkers, but also remain prepared to pursue any necessary and appropriate measures to compel its compliance.

Thank you for the opportunity to testify this afternoon. Equality of access to services is a hallmark of the de Blasio Administration, and in the modern age, digital services – including the cable television, Internet, and VoIP services offered through FiOS – have a more profound impact than ever on the New Yorkers who stand to benefit most from them. We will continue to fight on their behalf.

This concludes our prepared testimony and we look forward to answering your questions.

Thank you.



OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f
431 West 125th Street, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f
www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

**Testimony of Gale A. Brewer, Manhattan Borough President
Joint Oversight Hearing on the Verizon FiOS Franchise, New York City Council
October 14, 2015**

My name is Gale A. Brewer and I am the Manhattan Borough President. I would like to thank Chairman Vacca of the Technology Committee, Chairman Gentile of the Committee on Oversight and Investigations, and Chairman Richards of the Subcommittee on Zoning and Franchises for holding this joint hearing today.

At issue today is Verizon's implementation of its cable/internet franchise, commonly referred to as the FiOS franchise. I was serving as Chair of the Technology Committee in 2008 when this franchise was first negotiated and I remember advocating for funding for the public access channels, for schools and libraries, and for city agencies, but the negotiations were long and difficult because Verizon did not want to offer any more than what the cable companies had settled for in their franchise agreement.

Back in 2008, we were confronted by a situation where most consumers in New York City had one or maybe two choices for telecom services. As a result, many New Yorkers feel they have nowhere to turn when their rates increase, they face persistent service outages, or they are frustrated by inadequate customer service. Then, as now, the Verizon FiOS franchise promised to bring important new competition to the telecom marketplace. However, seven years later far too many New Yorkers remain unable to access FiOS service. As Verizon has learned, installing fiber in a dense environment like New York City is incredibly complex. The company has accomplished an impressive feat, laying hundreds of miles of fiber cable under our streets, in a footprint that "passes" virtually every block in the five boroughs. The problem, as far as I understand it, is defining this term "passed," and making the final connection to the home, referred to as the "last mile" connection.

According to the terms of the 2008 franchise agreement, Verizon was obligated to "pass" all households in the five boroughs by June 30, 2014. Extensions were granted due to network disruptions caused by significant weather events, but the deadline has come and gone. According to a recent audit by DoITT, Verizon is falling woefully short of this requirement, notably by marking blocks "passed" even if there is insufficient access to actually pull fiber into a residential building within the block. In a gross oversimplification, there are wires in the vicinity of the block, but no expeditious way to get residents access. In addition to the "passing" requirement, the terms of the franchise also require Verizon to provide service to a residential address within six months of a request, or, if barriers exist, provide an explanation in writing as

to why they cannot fulfill the request. Unfortunately, this information is not conveyed to customers who search for FiOS service online, or call FiOS operators asking about service. Instead, many are simply told that service is unavailable in their area, and there are no plans for installation. At best, this strikes me as a violation of the spirit of the agreement, at worse an outright violation of the terms of a duly signed contract.

Now, these are serious allegations, and warrant significant scrutiny by government regulators. However, I want to also acknowledge the difficulties faced by Verizon. As anyone who has rented or purchased commercial or residential property in New York knows, tracking down information on property owners, and contacting them to discuss any construction work, is a nightmare. In order to actually deliver service to New Yorkers, Verizon has to negotiate with an untold number of landlords, condo boards, and home owners to pass wires under, over, or through private property. The scope and complexity of this work cannot be understated. Verizon representatives often contact members of my staff to assist them in reaching property owners to discuss installation terms. A question I hope the Council will consider is how city and state government can make it easier for Verizon to complete these agreements, and complete the necessary work to install fiber for all interested customers.

At the same time, Verizon must ensure that it is completing all work in a professional, timely, and clean fashion. I have heard many anecdotes about messy work by Verizon that frustrates many private owners who are left with a hole in the wall when none was discussed. I don't have an answer to this problem, but I know it must be addressed. The city, Verizon, and representatives of commercial and residential property owners need to come up with a set of agreed-upon stipulations that must be followed by all parties in installing fiber. Maybe we could look at innovative incentives for property owners who facilitate these conversions. As I said, I don't have all the answers, but it seems that there has been a failure thus far to come up with a comprehensive framework for negotiating these complexities.

Aside from these infrastructure concerns, Verizon also needs to answer for several other concerning allegations, including that they have refused to provide service to residential customers unless an entire building, or block of buildings, agrees to service. If true, this is unacceptable. Bulk agreements cannot be a sole requirement for installing service, as Verizon has an obligation to provide access to all interested customers as per the franchise agreement. Verizon must engage in honest communications with potential customers about its requirements, including the requirement to complete Non-Standard Installations (NSIs) within a six or twelve month period.

Next, I want to turn to another issue that has been brought to my office, notably at a public forum I held with Common Cause NY and Consumers Union in July, 2015. Many wireline phone customers of Verizon (including me) have experienced persistent service outages of their home telephone service. Even in this age of cellphones, copper wireline service remains an important communication tool, especially for older New Yorkers, lower-income residents who may be unable to afford a wireless plan, and commercial tenants who use copper for ATMs, security systems, fax machines, and more. While fiber connections are a technological advance over copper, many New Yorkers with wireline service cannot yet receive FiOS, or simply do not want to switch. Verizon has an obligation to continue to maintain its wireline infrastructure, especially for those New Yorkers who have no other alternative. Many allegations have been made, by the CWA and others, of Verizon's failure to adequately maintain their copper network.

I do not have all the facts, but anecdotal evidence raises serious questions about Verizon's plans for its copper network that I hope the Council explores.

While I have raised many concerns about Verizon, I hope that this hearing is an opportunity to have an honest conversation about the FiOS rollout. While Verizon may want to deliver FiOS to all interested customers in the city, we need transparency and commitment to provide this important telecom option across the five boroughs. It is clear that broadband internet in particular has become a necessity for success in today's world. Job searches, housing applications, education, and communications are all moving online, making internet connectivity as essential today as telephone service was in the twentieth century. A key part of delivering that service to all is ensuring that a multitude of options exist for customers, in which Verizon is a viable competitor. I look forward to working with the Council, the Mayor's Office, Verizon, and all New Yorkers to help ensure that FiOS lives up to its promise and Verizon to its obligations.

Thank you again for the opportunity to testify, and I am happy to answer any questions you may have.

Committee on Technology
Subcommittee on Zoning and Franchises
Committee on Oversight and Investigations

Wednesday, October 14, 2015 1:30 PM Council Chambers - City Hall
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The Verizon FiOS Franchise



New York City Council Hearing – Verizon Testimony Submissions

1. Written Testimony
2. Verizon June 12, 2015 Reply to DoITT Audit Report
3. Verizon August 10, 2015 Response to NYPSC Chairperson

Verizon Written Statement – NYC Council Hearing

Members and Chairs of the committees, thank you for inviting us to appear today to discuss the status of the Verizon cable television franchise with the City of New York. On behalf of Verizon New York Inc. (“Verizon”), my name is Leecia Eve, Vice President of State Government Affairs and I am joined by my colleague Kevin Service, Senior Vice President of Network Operations.

We want to say at the outset that Verizon takes great pride in being the first cable operator ever to make its services available *citywide* — in all five boroughs — and thus to provide *all* of the City’s residents with a competitive choice for cable television services, delivered over the only all-fiber network in the City.

Background

For more than seven years, Verizon and many of our 21,000 employees in New York State (including 12,000 in New York City), have worked hard to bring to life the vision of making competitive choice available to residents across this great city. When Verizon entered into its 12-year cable franchise agreement with New York City in July of 2008, the incumbent cable providers were each providing service in different parts of the City insulated from the risk of competing with each other and using networks that they had built or acquired in a low-risk, high-reward monopoly environment.

Verizon is the only provider that undertook a City-wide build, while facing competition with entrenched monopoly providers in each borough.

The environment that existed in 2008 — one of entrenched cable television monopolists with no cable competitors in sight or even on the horizon — changed when Verizon became the first company to commit to offer cable television service throughout all five boroughs offering a new option in direct competition with both of the incumbent monopolies. Through the implementation of its cable television franchise with the City, Verizon has brought the benefits of video competition — consumer choice, competitive pricing, and continued innovation — to the residents of New York City. Through its innovative FiOS video services, delivered over an advanced all-fiber-optic network, Verizon has offered residents of New York City a best-in-class cable television service that is also the cornerstone of a variety of multi-service bundles. No other provider was then or is now able to provide the competitive challenge to the cable incumbents that Verizon poses. Certainly the incumbents themselves — isolated in their non-overlapping service areas in the City — pose no such challenge to each other.

Unquestionably, the incumbents deployed their networks under far different — and more favorable conditions — than Verizon faces. First, the incumbent cable providers were entering a monopoly market, which meant that they had a far more assured source of revenues than did Verizon. Second, they were able to build out their networks incrementally, over a very long period of time, and in some cases to “build out” by acquisition of completed networks rather than through new construction. They did not face the daunting City-wide construction task that Verizon faced. Third, the incumbents likely faced far less opposition from apartment building owner/managers than Verizon now faces. This is because a building that denied access to the incumbents would not receive any cable television service at that time, whereas residents in buildings that deny access to Verizon today will in most cases simply not have the benefit of a second provider in the building.

The deployment of Verizon's all-fiber network in New York City has been the largest and — given the unique challenges inherent to such a construction effort in a city such as New York — the most ambitious, fiber-optic deployment in any city *in United States history*. With a total population of more than eight million people, New York is the largest city in the United States. An enormous, and ongoing, construction effort has been required to provide households in the City with an opportunity to obtain fiber-based cable television service from Verizon.

Moreover, with an area of over 300 square miles, New York City is also one of the most densely-populated cities in the country. The dense packing of people and facilities, the City's detailed and restrictive regulation of work in public rights of way, and the need to obtain the legal right to cross private property in order to pass and to enter any building in the City in which we may be required to provide service, all have posed considerable challenges for Verizon.

Despite these challenges, Verizon has worked diligently to complete its build-out in New York City, and we are proud of what we have achieved. Verizon has invested more than \$3.5 billion in this unprecedented effort, which has resulted in the installation of more than 15,000 *miles* of fiber-optic cable — enough cable to get from here to Los Angeles five times, or to wrap around the City itself 340 times — much of it requiring excavation construction to build underground. It has also resulted in the extension of that fiber-optic network to almost two million houses and apartments to date, so that residents of those households can now obtain service upon request, within only a few days.

Verizon and its sister companies are committed — as investors, employers, infrastructure creators, taxpayers, and corporate donors — to the City and to New York State as a whole. In 2014 alone, the Verizon companies invested over one billion dollars in our wireline

infrastructure across New York State. In addition, Verizon Wireless invested hundreds of millions in New York City.

Beyond the obvious benefits of bringing competition, choice, and a 21st century advanced infrastructure to New York City, Verizon has: now “passed” all of the households in the city with its fiber-optic network — an accomplishment that we will discuss in greater detail later in our testimony; has installed extensive new facilities in Verizon’s wire centers to enable the delivery of video programming in all 66 of its wire centers in the City; and has, as already noted, extended its fiber network to some two million households.

In addition, to date Verizon has paid: more than **\$132 Million in franchise fees** to the City; approximately **\$43 Million in grants** collectively to the Community Access Organizations in all five Boroughs to support Public Access programming; almost **\$6 Million** in grants to support Educational and Governmental Access programming; and **\$4 Million to the City** as a technology grant. We have also built and currently maintain advanced fiber optic connections as part of a municipal network supporting to the City’s critical public safety communications infrastructure and other telecommunications needs of the City government. We have also opened ten local presence centers throughout the City, and activated all 53 Public, Educational, and Governmental Access channels required under the franchise agreement, which has substantially enhanced the ability of the City, its educational institutions, and the public at-large to create and distribute a wide variety of personalized, educational, and civic programming throughout the City.

This extraordinary level of commitment is reflective of Verizon’s corporate principles and dedication to the communities it serves. Indeed, the Progressive Policy Institute has recently

named the Verizon group of companies, once again, as one of in its top “investment heroes” among *all* American companies across *all* industries. These investments have benefitted not only the customers and the communities we serve, but also the thousands of small and medium-sized businesses with which Verizon does business every day. Indeed, we are proud to be a charter member of the Billion Dollar Roundtable, one of only 21 U.S. companies in the nation that conduct more than \$1 billion in business with minority and women-owned businesses (MWBEs) each and every year. Last year, Verizon nationally spent more than \$5 billion in business with MWBE firms.

In short, Verizon’s City-wide FiOS fiber build-out exemplifies our unparalleled investment in the best-in-class infrastructure that connects the residents of the City while bringing them a diverse spectrum of information and entertainment. This project has not always been easy, but it is a commitment Verizon is proud to have made — one that has already transformed New York City and that will continue to do so for many years to come. As a company that has provided service to the state of New York for over a century, we could not be more proud of our historic role in creating citywide cable television competition in this City through the deployment of a robust, resilient and sophisticated communications infrastructure.

Without question, we have met with many obstacles. While some of these were anticipated, and accordingly are reflected in the provisions of franchise agreement, many could not have been anticipated in 2008, when the Agreement was signed, and demand a joint approach in which Verizon and the City work together to overcome those obstacles.

Verizon has been a willing, transparent, and cooperative partner in the City’s exercise of its oversight responsibilities over the last seven years. As will no doubt be discussed during this

hearing, Verizon participated in good faith in a six-month audit by DoITT of Verizon's deployment, has been responsive to numerous other inquiries from DoITT, has filed all required reports with DoITT in a timely manner, and has, along with DoITT staff, conducted annually extensive and comprehensive field verification tests to assess Verizon's compliance with the deployment provisions of the franchise. In addition, Verizon has consistently over the years worked cooperatively to engage DoITT as a partner to identify efficient and effective ways to accelerate deployment. To be sure, there have been recent disagreements between Verizon and DoITT concerning the precise scope of Verizon's obligations, but the City and this Council should not allow those good-faith disputes to obscure the magnitude of Verizon's achievement and the extent of its cooperation with DoITT.

This is illustrated by the fact that based on input from the public and DoITT Verizon has made significant improvements to its website messaging and, in conjunction with the Borough presidents, has participated town hall forums with residents of two boroughs – with others upcoming in the near future – in order to hear residents' concerns and further inform them of the process and the issues associated with obtaining approval from landlords and/or property managers to access their buildings.

We hope this hearing will present an opportunity to clarify any recently publicized misconceptions and that it will serve as a springboard to a more constructive dialogue between Verizon and DoITT, one in which we can work together in good faith and the spirit of cooperation to identify and resolve any service deployment issues.

Today, we would like to highlight two issues that have been at the center of recent discussions concerning Verizon's FiOS deployment: First, Verizon's obligation to "pass" all

households in the City with its fiber optic network; and second, the availability of service to potential customers, particularly in Multiple Dwelling Units or MDUs, that is to say, in apartment buildings.

Passage

Under the cable franchise agreement, Verizon must upgrade its network so as to “pass all households served by [Verizon’s] wire centers within the Franchise Area” by not later than June 30, 2014. As you may be aware, this obligation is subject to various exceptions and limitations, including a *force majeure* provision, which addresses events which are beyond Verizon’s reasonable ability to control. At a high level, this “pass all households” obligation involves placing the necessary fiber backbone facilities throughout New York City so that the fiber optic network can then be extended into specific buildings upon request. It does not mean – contrary to some public confusion – that Verizon’s network would have been extended into every New York City household. The obligation to extend the network into the individual households is set forth in the Non-Standard Installation provisions of the Agreement, which we will discuss later.

The Agreement requires an even-handed build out ensuring fair, equitable, and non-discriminatory deployment to residents of all income levels throughout the City. Verizon has fully complied with those obligations. Specifically, the build-out was conducted in accordance with Section 5 and Appendix F to the Agreement -- a negotiated, borough-by-borough schedule that was designed to ensure that the roll out would proceed simultaneously, and in a relatively proportionate manner, in each borough and in each type of housing — MDUs and single-family units. Moreover, as documented in reports submitted to DoITT, Verizon planned and executed the build-out so as to ensure that at each of three specified checkpoints, “the estimated median

household income of all homes passed [would] not be greater than the average household income of all households in New York City . . .” Each of these checkpoints was verified and validated by DoITT.

As for the “homes passed” requirement, the term “pass” is not expressly defined in the franchise agreement. General dictionary definitions of the term are not helpful or relevant in that they merely refer generally to going by, past, beyond, or through a place (such as a building), and do not specify how close a place must be approached in order to constitute a “passage.” This is not surprising, since specific distances and pathways are not part of the common understanding of the term.

It is important to note that the City’s franchise agreements with Cablevision and Time Warner Cable include an express obligation to run facilities in front of each building in the City. Here is the language:

a household is “passed” when functioning System facilities have been installed *in the street fronting the building* in which the household is located, such that Cable Service could be provided to such building in conformance with the provisions of Section 5.3 (assuming no delays in gaining lawful access to any private right-of-way).

In stark contrast, Verizon’s agreement does not include that language. This is no accident. The parties recognized while the agreement was being negotiated that Verizon would deploy its all-fiber network as an upgrade to its existing copper network, running the fiber along the same routes as it had used historically to serve the buildings in the City, and obtaining access to individual buildings using strategies similar to those it had used in the past. Those strategies included not only the use of public rights-of-way, but also, in many cases, the use of building-to-building connections. In other words, the parties recognized that Verizon would in many cases

run its fiber to the ends of a block, and reach buildings along the block through building-to-building connections. Although there are now attempts by some to unilaterally and retroactively revise the intent and meaning of the agreement, the word “pass” was always understood and used by Verizon and the City in that context. Thus, in some cases, Verizon has met its passage obligation by running its facilities along the entire length of the block on which a building is located. In other cases — and with equal validity under the agreement — Verizon has met the obligation by having facilities at the ends of the block, but not along its length, with a view towards accessing individual buildings through building-to-building connections. Through either of these authorized means, Verizon now passes every household in New York City, and thus complies with its passage obligation under the Agreement.

Service Availability

In addition to the requirement to “pass” households, Verizon is also required under the agreement to make cable service available to all residential dwelling units in the City upon request. In order to fulfill that obligation, residential units in Multi Dwelling Units (MDUs) not only need to be passed by Verizon’s facilities, but also must be “network created.” In other words, outside plant facilities must be extended into the building from the street (or backyard) in which those facilities are located, in-building wiring must be installed, and the outside plant must be connected to the in-building facilities. The technical and administrative work involved in what Verizon generically refers to as “network creation” varies widely because of the diversity of types of living units that are found in the City.

If Verizon receives a request for service in a building that has been passed with fiber but is not yet network-created, it is required to extend its facilities to the single requesting party

within six months of the request — a period that Verizon can extend, with due notice, for an additional six months. Such an extension of Verizon’s facilities is referred to as a “Non-Standard Installation,” or “NSI.”

Significantly, Verizon’s practice — even though the Agreement only requires service to that one specific requesting unit — has been to network-create an *entire* building when it receives an NSI request for service from the single resident of the building. As a result, subsequent requests for service arising from the same building will no longer be NSI requests. Instead, they are “Standard Installation” requests, which are generally fulfilled within a few days. This practice makes service available to other residents of the building much *more rapidly* than would be the case if Verizon did no more than comply with its obligation to build out facilities only to the requesting party’s premises.

By network-creating entire buildings, Verizon goes significantly above and beyond the requirements of the Agreement. As a result, today, hundreds of thousands of New York City households are able to subscribe to FiOS service within a few days rather than several months. Because of this practice and other proactive measures, we have network-created more than two million households to date in the City.

Verizon’s six- or twelve-month network creation obligation is also subject to exceptions, including one for “periods of delay caused by Franchisee’s inability, after good faith efforts, to obtain valid legal authority to access any MDU in the Franchise Area for the purpose of providing Cable Service to units within such MDU on other than commercially unreasonable terms and conditions with respect to each such MDU.” The inability to access MDUs contemplated by this exception can arise from two causes. One is Verizon’s inability to obtain

consent to extend its facilities *into* a building, for example due to intransigence on the part of the owner or manager. The other is its inability to obtain consent to extend its facilities *to* the building, such as through a neighboring building's (or even several neighboring buildings') consent to permit building-to-building connections running from distribution facilities at a nearby street corner to the target building.

This franchise exception for inability to access MDUs was incorporated into the franchise because Verizon and DoITT were both keenly aware of the potential widespread challenges that obtaining consent from hundreds of thousands of landlords and property managers would present. Accordingly, this exception was intended to ensure that Verizon would, appropriately, not be prejudiced by circumstances that are not fully within Verizon's control.

Based on Verizon's experience over the last seven years, multiple factors contribute to these delays associated with delivering service, among them:

- uncooperative or uninterested property owners;
- MDU property boards that meet on limited schedules;
- multiple rounds of negotiations prior to formalizing Verizon's access and/or design documents;
- the need for access to MDUs on *two* occasions (first to survey and create a design plan, then to actually install the network facilities in accordance with the approved plan) and the potential for resistance from property owners at both stages;
- the challenges of obtaining accurate property owner information; and
- MDUs with exclusive marketing agreements with incumbent providers.

In each of these circumstances, Verizon's ability to install its facilities in the building in response to a service request can be either delayed or denied because Verizon does not have the requisite authority to access the private property. While Verizon works diligently to pursue access consistent with the agreement, the fundamental reality is that Verizon cannot control the behavior of landlords or property managers.

As noted, some of these obstacles were expected, and Verizon and DoITT attempted to negotiate franchise provisions designed, in theory, to mitigate the delays associated with these circumstances. However, given the unprecedented nature of Verizon's citywide deployment, neither DoITT nor Verizon could have completely foreseen the extent to which these access issues have at times frustrated progress. Of course, improvements to the agreed upon process can be made — and it is clear at this point that the existing process is flawed and inefficient — but Verizon is hopeful that it can continue to work closely with DoITT in a constructive manner to enable more City residents to more quickly enjoy the benefits of Verizon's fiber-optic network.

Conclusion

In closing, the deployment of cable television service throughout New York City has been a project of unprecedented scope and scale and Verizon is proud of its many accomplishments under the agreement to date. Clearly, this is an ongoing effort, and Verizon recognizes that in some cases, there may be opportunities for process improvements. Indeed, Verizon and the City share the mutual goal of ensuring that all City residents have the opportunity to avail themselves of the benefits of the competitive, innovative, and high-quality services Verizon's entry into the market has made available.

We thank the Committees for allowing Verizon to participate in this hearing and we look forward to our continued partnership with the City in implementing our common goal of providing New York City residents with the competitive, innovative, and high quality cable television service they deserve.

RESPONSE OF VERIZON NEW YORK INC.

**TO THE DRAFT AUDIT REPORT OF THE NEW YORK
CITY DEPARTMENT OF INFORMATION
TECHNOLOGY AND TELECOMMUNICATIONS**

June 12, 2015

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RESPONSE OF VERIZON NEW YORK INC. TO DRAFT AUDIT REPORT

I. INTRODUCTION

The “Draft Audit Report” released on June 9, 2015 (the “Report”) by the New York City Department of Information Technology and Telecommunications (“DoITT”) presents a distorted view of Verizon New York Inc.’s performance under its cable television franchise agreement with the City (the “Agreement”), ignores the company’s truly significant accomplishments in implementing that Agreement.

When Verizon entered into the Agreement in July of 2008, it became the first cable operator to commit to offer cable service throughout all five boroughs of the City. Through its implementation of the Agreement, Verizon has brought the benefits of video competition — consumer choice, competitive pricing, and continued innovation — to the residents of the City by posing, for the first time, a formidable challenge, City-wide in scope, to the incumbent cable monopolies of Time Warner Cable and Cablevision. Through its innovative FiOS video services, delivered over an advanced all-fiber-optic network, Verizon offers residents of the City a best-in-class cable television service that is also the cornerstone of a variety of multi-service bundles. No other provider is ready, willing, or able to provide the competitive challenge to the incumbents that Verizon poses. Certainly the incumbents themselves — isolated in their non-overlapping service areas in the City — pose no such challenge to each other.

The deployment of Verizon’s fiber to the premises (“FTTP”) network has been the largest and — given the unique challenges inherent in such a construction effort in a city such as New York — the most ambitious, fiber-optic deployment in United States history. Since 2008, Verizon has worked diligently and tirelessly to complete its fiber-optic network in the City, and the company is proud of what it has achieved.

It is therefore deeply disappointing to Verizon that the Report not only fails to recognize these important achievements, but also repeatedly sets forth a variety of irresponsible, inaccurate, and unsupported factual and legal claims about Verizon’s compliance with the Agreement. On the very first page of the Report, DoITT admits that the audit was “not complete,” not conducted in accordance with any recognized, professionally accepted — or even stated — auditing standards, and relies upon “anecdotal evidence.” The Report then seeks to utilize this limited information as a basis from which to extrapolate to seemingly authoritative findings and conclusions about alleged “systemic” issues concerning Verizon’s compliance with § 5 of the Agreement. In short, DoITT begins the Report by effectively admitting that what is to follow is fundamentally unsound and incomplete, and then suggests that these acknowledged flaws be ignored and that the resulting conclusions be accorded the substantive weight a legitimate audit ordinarily merits.

It would therefore be unwarranted to conclude from the Report that Verizon has failed to comply with the Agreement. In numerous important respects, the Report’s conclusions are based on factual errors, incorrect interpretations of Verizon’s obligations under the Agreement, mischaracterizations and skewed descriptions of Verizon’s interactions with DoITT in the

conduct of its review, and an “audit” process that fails to meet fundamental standards of fairness, accountability, and objectivity.

Indeed, although it repeatedly described its review as an “audit,” DoITT failed to follow either the letter or the spirit of recognized auditing standards.¹ The irregularities in the review process persisted from its beginning, when DoITT apparently informed the press about its intention to initiate a review of Verizon’s performance before it informed Verizon²; to the end, when DoITT suddenly and unexpectedly terminated the review, with no prior notice to Verizon, thus preventing Verizon from providing additional information in response to DoITT’s requests. In an exchange at one point during one of Verizon’s early substantive meetings with DoITT, the lead official of the DoITT team asserted, in a manner that indicated no doubt whatsoever over the issue, that DoITT *would* conclude that Verizon had failed to “pass” all of the households in the City as required by § 5 of the Agreement. There is no place in a fair and proper compliance review for such pre-determined outcomes.

The Report’s assertions, findings, and recommendations do not withstand scrutiny. In particular, as detailed below:

- ***Cooperation with the Review.*** Verizon devoted considerable effort to meeting with DoITT and facilitating its review, and it fully cooperated with DoITT’s attempts to obtain legitimate information relevant to the company’s performance under the Agreement. Any unwillingness to provide requested information was attributable to DoITT’s overreaching in its attempt to obtain information beyond that which Verizon was required to provide under § 11 of the Agreement. DoITT undertook a freewheeling approach to its investigation — one that demanded direct, unmediated access to databases and systems that hold confidential customer information relating to Non-Cable Services, as well as numerous categories of collateral information that were unrelated to the obligations imposed by the Agreement and therefore outside the scope of verifying Verizon’s

¹ While the Agreement merely allows DoITT limited access to certain records, DoITT purported to “audit” Verizon’s compliance with the Agreement. In that connection, the Report incorrectly says that DoITT attempted “to conduct its audit in accordance with GAGAS,” Generally Accepted Government Auditing Standards, and would have done so but for “limitations” that were purportedly “imposed by Verizon.” Report at 3. (This is contradicted at page 5 of the Report where DoITT erroneously asserts that the “audit was conducted in accordance with GAGAS.”) The suggestion that DoITT intended to conduct a GAGAS audit and was prevented from doing so by Verizon is false. To begin with, nothing in the U.S. General Accounting Office’s “Government Auditing Standards” (2011) (known as the “Yellow Book”), which memorializes GAGAS, entitles auditors to excuse a failure to follow GAGAS through an after-the-fact attempt at blaming the subject of the audit. See, e.g., Yellow Book §§ 2.24(b), 7.12. DoITT actually ignored GAGAS from the outset. For example, while GAGAS states in no uncertain terms that “[a]uditors must prepare a written audit plan for each audit” (Yellow Book § 6.51), even before Verizon purportedly “imposed” “limitations,” DoITT informed Verizon that DoITT had no audit plan, much less a written one. At page 4 of the Report, DoITT admits that “GAGAS standards require that we plan . . . the audit,” but offers no explanation as to why DoITT prepared no audit plan. For this and other reasons, DoITT’s report is not the product of any “audit” that would satisfy any reasonable standard of reliability.

² Verizon first learned of DoITT’s intention to conduct this review on September 16, 2014, from a reporter for a well-known business news publication. It did not receive formal notice from DoITT until the following day.

compliance with its contractual obligations. (These included, for example, information on Verizon's relationship with DirecTV and on the vendors it used to create "pathways" for the placement of its cable in buildings.) These requests by DoITT improperly sought information well beyond what was authorized by or relevant to the Agreement, and Verizon was well within its rights in declining to provide the requested information. There is absolutely no evidence supporting DoITT's insinuations that delays that resulted from such disputes somehow created the possibility of alteration of Verizon's records, and such insinuations are completely unfair and unwarranted.

- ***Passage of Households.*** Perhaps the most surprising aspect of the Report is its conclusion that Verizon has failed to comply with its obligation to "pass all households served by [its] wire centers within the Franchise Area" — particularly because DoITT specifically recognized Verizon's compliance with the passage obligation by approving reductions in the amount of the Agreement's performance bond for the years of 2008-11; reductions that under the Agreement were triggered by Verizon's passage of specific numbers of premises in the City.³ DoITT's eleventh hour reversal on this issue is based on its misinterpretation of what Verizon is required to do in order to "pass" a household within the meaning of the Agreement.

Specifically, DoITT asserts that Verizon is required to run cable directly in front of a building in order to "pass" it, and bases that assertion on a definition of "Homes Passed" that is set forth in a 2015 "definition of terms" prepared by the Fiber to the Home ("FTTH") Council for purposes of its "market research."⁴ In fact, as we show below, the Agreement manifests a clear intention to employ a very specific standard of "passage" that differs from both the FTTH Council definition and the standard that had been set forth in the City's prior cable television franchise agreements with other companies. The agreed-to standard gave Verizon discretion as to how and where it would place its fiber-optic facilities in order to meet its obligations to make cable service available to the City's residents. The parties to the Agreement recognized and agreed that Verizon would generally place its FTTP network along the same routes as had been used for its copper network, and would use similar strategies for accessing individual buildings — strategies that did not necessarily involve running cable immediately in front of each building in which it offered service. The Report's

³ See Agreement § 15.9.2.1.

⁴ Despite its claim that the parties intended to incorporate the FTTH Council definition into the Agreement, DoITT did not mention that definition in the earlier version of the Report dated April 7, 2015, which relied solely on its understanding of how the "cable industry" viewed the term. DoITT's belated reliance on the FTTH Council definition — seven years after the franchise was negotiated and approved by the City, and years after multiple previous acknowledgments of milestones Verizon achieved — makes it clear that far from being part of the parties' original understanding, it was simply an afterthought offered to shore up the interpretation of the Agreement that it would now prefer.

conclusion and recommendation that Verizon should “build facilities on every residential block in the City to comply” with its passage obligation (Report at 16) are inconsistent with the Agreement, and would deprive Verizon of the flexibility that it bargained for in deploying its FTTP network.

- ***Timeframes for Non-Standard Installation Requests.*** The Report incorrectly concludes that Verizon has not completed non-standard installation service requests within the deadlines required by Section 5.4.2 of the franchise agreement.⁵

Initially, we note that this conclusion is apparently based in part on its incorrect understanding that the Agreement requires Verizon to complete NSI’s within six months, and that only under specified circumstances would the company be “entitled to an extension” of the six-month “deadline.”⁶ In fact, § 5.4.2 of the Agreement states that “Franchisee shall perform all Non-Standard Installations of Cable Service within six (6) months after any such request is received by the Franchisee, unless either a later date is agreed to with the requesting potential residential Subscriber *or Franchisee advises the requesting potential residential Subscriber of the current unavailability of Cable Service at the location as set forth in Subsection 5.4.2.1.*” (Emphasis supplied.) Thus, even absent consent of the prospective customer, the only prerequisite to extending the six-month NSI period to twelve months is compliance with the notice requirements of § 5.4.2.1.

Moreover, the NSI deadlines are subject to the provisions of § 5.5(C) of the Agreement, which creates an exception for “periods of delay caused by [Verizon’s] inability, after good faith efforts, to obtain valid legal authority to access any MDU [Multiple Dwelling Unit] in the Franchise Area for the purpose of providing Cable Service to units within such MDU on other than commercially unreasonable terms and conditions with respect to each such MDU.” Such inability to “access” MDUs can arise from two causes. One would be Verizon’s inability to obtain consent to extend its facilities *into* a building (e.g., due to intransigence on the part of the owner or manager); the other would be its inability to obtain consent to extend its facilities *to* the building (e.g., through a neighboring building’s consent to permit building-to-building connections).⁷ As DoITT is well aware (and as has been publicly reported by some media outlets) such access problems are a significant cause of the delays that have been

⁵ A “non-standard installation” (“NSI”) is essentially one arising from a request for service in a building that has not yet been network created. See Agreement §§ 1.35, 1.45.

⁶ This, too, appears to be an afterthought on DoITT’s part; this view of Verizon’s obligations under § 5.4.2 is not set forth in DoITT’s original draft of the Report.

⁷ Since “access” covers both of those circumstances, DoITT is incorrect in arguing that § 5.5 does not apply “where Verizon is unable to obtain access to private property other than the multiple dwelling building from which the NSI order originated.” Obtaining consent to attach Verizon’s facilities to such other adjacent building(s) (or to place the facilities in the building) is part of the process of obtaining “access” to the target building.

associated with NSIs. Moreover, DoITT repeatedly ignored Verizon's multiple requests for assistance in resolving access issues — assistance that was explicitly contemplated by the Agreement.⁸

- ***Public Communications.*** The Report claims that Verizon “broadly provided the public with misleading information with regard to Verizon’s obligations.”⁹ That statement is simply false. It is also worth noting that DoITT does not claim that Verizon is in violation of the contractual terms of the Agreement with respect to communications, but rather asserts that Verizon has somehow failed to meet DoITT’s unilaterally imposed and undefined conception of how Verizon should, in DoITT’s opinion, communicate with potential subscribers. Notwithstanding DoITT’s supposed business judgment about how Verizon interacts with potential subscribers, the reality is that Verizon has a business interest in transparently and comprehensively informing all potential subscribers of the steps — often beyond Verizon’s control — that need to be completed before Verizon can install service to the requesting subscribers.

Other DoITT findings are addressed, and the above matters are discussed in greater detail, in Section IV of this Response.

Aside from its erroneous conclusions and procedural flaws, the Report’s lack of balance and its clear agenda is also disturbing. One would expect a performance review to include an assessment of both the positives and the (perceived) negatives of Verizon’s performance. In stark contrast, however, the Report makes no positive findings, despite the fact that Verizon’s submissions during the review provided DoITT with several opportunities to do so. For example, Verizon provided data that demonstrated that its practice of network-creating entire buildings (rather than only the unit or apartment that had requested service, which is all that the Agreement requires) enabled over 588,000 City residents who had not yet requested Verizon’s service to obtain service more rapidly in response to a later request. DoITT’s failure to note such accomplishments raises important questions about the objectivity and fairness of its review.

In fulfilling its responsibilities under the Agreement, DoITT must ensure that any conclusions that it expresses about Verizon’s performance are balanced, supported by substantial evidence and thorough legal analysis, and reached through proper procedures. Moreover, those conclusions and the recommendations that flow from them must be supported by and consistent with a proper interpretation of the obligations imposed by the Agreement. The Report, unfortunately, fails to meet those requirements.

⁸ Agreement § 5.5.2.1.4.

⁹ Report at 3.

II. THE DEPLOYMENT OF AN ALL-FIBER OPTIC NETWORK THROUGHOUT THE CITY HAS BEEN A PROJECT OF ENORMOUS SCALE AND SCOPE

With a total population of over 8.4 million people, the City is the most populous metropolis in the United States. Moreover, with an area of approximately 303 square miles, it is also one of the most densely populated. Both the sheer number of potential customers, and the density with which they are clustered in the City, have posed considerable challenges for an FTTP deployment. Verizon has spent in excess of \$3.5 billion to build a robust fiber-optic network throughout the five boroughs of the City, a project that entailed the installation of over 15,000 *miles* of fiber-optic distribution cable, much of it underground.

Moreover, in order to make service available, residential units not only need to be passed by FTTP cable, but also must be “network created.” In other words, outside plant facilities must be extended into the building from the street (or backyard) in which those facilities are located, in-building wiring and terminating electronics must be installed, and the outside plant must be connected to the in-building facilities.

The challenges of deploying a ubiquitous new network are magnified by the fact that construction work in the City that involves the opening of streets requires a permit from the City’s Department of Transportation (“DOT”), and DOT permits typically contain a variety of stipulations that restrict the time, place, or manner of the construction activity that may be conducted in particular locations.

III. VERIZON FULLY COOPERATED WITH DoITT’S INVESTIGATION

The detailed history of Verizon’s interactions with DoITT demonstrates that Verizon fully and promptly complied with DoITT’s reasonable and authorized request for information. Limitations or delays in the provision of information were due primarily to requests that exceeded DoITT’s authority under the Agreement. Unfortunately, the process was considerably complicated, and Verizon’s task was made more difficult, by the seemingly random and haphazard timing of DoITT’s requests, as well as the lack of an audit plan by DoITT.

In the following discussion, we lay out that history (Section II(A)); describe exactly what the Agreement does (and does not) require Verizon to provide to DoITT in a performance review, and on what schedule (Section II(B)); and show that Verizon was justified in declining to provide certain types of information to DoITT (Section III(C)).

A. Background/Timeline¹⁰

1. The September 22, 2014 Conference

On September 17, 2014, DoITT sent Verizon a letter stating that DoITT was invoking the provisions of § 11.1 of the Franchise (“Reports and Records”) to inspect Verizon’s books and

¹⁰ Additional detail concerning the history discussed in this Section is included in Appendix A.

records related to Verizon's compliance with § 5 of the Franchise.¹¹ In that letter, DoITT's Assistant Commissioner stated that he would "contact [Verizon] shortly to schedule an audit conference."

Verizon and DoITT met for the initial conference on September 22, 2014. During that conference, DoITT and Verizon discussed the general timing, format, and scope of DoITT's review. Verizon requested a formal audit plan, which is a fundamental component of a proper audit and should be provided to an audit subject. DoITT informed Verizon that no such plan had been prepared. Ultimately, the parties' understanding was that the process would proceed essentially as follows:

- a series of presentations by Verizon on its processes, systems, sources, protocols, and data associated with the deployment and tracking of Cable Service; and
- a review of a random sampling of addresses selected by DoITT, which DoITT could then validate against Verizon's systems and other sources to determine both whether such addresses were passed and whether cable service was available.

Within that process, there was an understanding that the initial focus of the review would be on the premises-passed requirement, followed by the service availability obligations. The parties agreed to work cooperatively to schedule meetings, to conduct document production, interviews, and systems reviews, and otherwise to facilitate the review.

2. The October 9, 2014 Conference and Subsequent Information Requests

On October 1, 2014, Verizon sent DoITT a letter summarizing the process discussed at the initial conference and proposing that the parties schedule the next meeting for the week of October 13, 2014.¹² DoITT indicated that it wished to meet instead on October 9, 2014, and Verizon accommodated that request. Verizon and DoITT agreed that the purpose of the October 9th meeting would be to begin to educate DoITT on the process for determining how and whether a premises is "passed" for purposes of § 5.1 and Appendix F of the Agreement.

On October 1, 2014, DoITT requested a "flow chart of the FiOS installation process for our review prior to meeting with Verizon staff and an organization chart showing the reporting relationships of the key staff in this Verizon division."¹³ The following day, DoITT followed up by requesting the foregoing documents by no later than close of business on October 6th. Verizon provided those documents on October 6th.

¹¹ Letter from Stanley Shor, Assistant Commissioner, Franchise Administration, DoITT, to Monica Azare, Vice President & Deputy General Counsel, Verizon, dated September 17, 2014.

¹² Letter from Monica Azare, Vice President & Deputy General Counsel, Verizon, to Stanley Shor, Assistant Commissioner, Franchise Administration, DoITT, dated October 1, 2014.

¹³ Email from Stanley Shor, Assistant Commissioner, Franchise Administration, DoITT, to Monica Azare, Vice President & Deputy General Counsel, Verizon, dated October 1, 2014.

During the October 9th conference, Verizon made a detailed presentation regarding the process for qualifying a premises as “passed” for purposes of the Agreement. Verizon attendees at the conference included representatives of several Verizon departments involved in the engineering process in New York City, including the engineer responsible for the premises-passed process in the City, who responded to numerous questions from the DoITT audit team. The session was constructive and amicable. Verizon provided DoITT with a copy of a PowerPoint presentation so that DoITT could review the materials and develop follow-up questions.¹⁴

At the conclusion of the meeting, DoITT asked Verizon to provide certain documents. Specifically, as summarized in an October 10, 2014 email, DoITT requested: 1) a Glossary of Terms; 2) Verizon’s Complaint Handling Process and Records From 2012-2014 (“internal procedures for troubleshooting”); 3) Service Request Reports (2012-2014); 4) Subscriber List (2012-2014); 5) Premises Passed Reports (2012-2014) with route and reconciliation to premises passed numbers by borough; 6) Progress Reports (2012-2014); 7) Installation Notices (2012-2014); 8) Service Area Maps (2012-2014); and 9) Manual of Procedures.¹⁵

On October 20, 2014, DoITT requested that Verizon provide the requested glossary on that same day, and asked for an update on the dates on which Verizon anticipated that it would be submitting the other items.¹⁶ Verizon responded that same day by (i) transmitting the requested glossary (clearly noting that if there were additional terms for which DoITT would like definitions, DoITT could provide Verizon with a list of such terms); (ii) requesting clarification on one of the items (Premises Passed Reports); (iii) explaining that one of the items requested, the vaguely described “Manual of Procedures,” should have already been satisfied by the Premises Passed presentation on October 9th and would be further addressed during the upcoming Service Availability sessions; and (iv) proposing the dates on which the remaining items would be provided.

On October 23rd, Verizon provided DoITT with timely information in response to four of the remaining eight open items, and communicated that it was in the process of compiling the other information.

On November 3, 2014, Verizon made a timely submission of the remaining information from the original list of nine information requests, with the exception of the Manual of Procedures.¹⁷ Verizon had previously explained that “the nature and purpose of the request was vague.” The email again explained that “[w]ith regard to item Number 9 below, please be advised that no

¹⁴ The parties also agreed at this meeting that the audit would cover the period beginning on January 1, 2012, rather than July 1, 2008, as the September 17, 2014 letter had indicated.

¹⁵ Email from Wayne Kalish, Director of Franchise Audit and Revenue, Franchise Administration, DoITT, to Monica Azare, Vice President & Deputy General Counsel, Verizon, dated October 10, 2014.

¹⁶ Email from Wayne Kalish, Director of Franchise Audit and Revenue, Franchise Administration, DoITT, to Monica Azare, Vice President & Deputy General Counsel, Verizon, dated October 20, 2014.

¹⁷ Email from Monica Azare, Vice President & Deputy General Counsel, Verizon, to Wayne Kalish, Director of Franchise Audit and Revenue, Franchise Administration, DoITT, dated November 3, 2014.

'Manual of Procedures' exists. The earlier provided flow charts address the Processes followed, but as noted, we are available to walk through and explain questions which may arise."¹⁸ With this submission, Verizon noted that it believed it had satisfied, on-time and in full, DoITT's October 10th document request.

3. The November 5-10, 2014 Discussions

On November 5, 2014, (notwithstanding Verizon's previous explanations concerning this request), DoITT sent an email to Verizon stating that it had not yet received the Manual of Procedures. The email also asked for clarification on certain other items, and requested a description of service availability procedures. With respect to the latter, the email specifically requested a "[d]escription of the request for service process (both non-standard and standard installations) and the names and descriptions of the computer systems used to record and track service request calls. We would like to schedule time with you to review these computer systems used to record and track service request calls on November 13, 2014."¹⁹

It should be noted that — despite the Report's claim that DoITT first made a request to "access" Verizon's database systems on October 9th — this November 5th request and several others to follow over the course of the next several months merely sought names and descriptions of such systems and sought to schedule time in the future to review them. In any event, the parties agreed to meet on November 12, 2014, and at that meeting Verizon provided DoITT with access to Verizon's relevant databases and DoITT did in fact conduct some real-time sampling of property addresses.

In response to a November 7, 2014 request, Verizon agreed to participate in a teleconference with DoITT one business day later, on November 10, 2014. During this teleconference, Verizon responded to a wide range of questions from DoITT regarding, among other things, the premises passed process, complaint process, and installations.

During that call, DoITT also emailed Verizon a list of 17 additional questions related to those discussed during the teleconference. DoITT received the responses and incorporated them (in part) into the Report.

4. The November 12, 2014 Conference

At DoITT's request, the parties met again on November 12th to review the database systems that Verizon used in connection with the premises-passed process. At this meeting, Verizon allowed DoITT to select random addresses to sample in each applicable data system in order to determine whether the systems were accurate and, with DoITT observing, Verizon pulled the requested information from relevant systems in real time. Despite DoITT's claim that it was only able to review ten individual addresses and that this sample was insufficient to verify addresses for

¹⁸ *Id.*

¹⁹ Email from Wayne Kalish, Director of Franchise Audit and Revenue, Franchise Administration, DoITT, to Monica Azare, Vice President & Deputy General Counsel, Verizon, dated November 5, 2014.

accuracy, Verizon expressly offered additional access to review more addresses during this meeting or after, and DoITT declined that offer.

Following the November 12th conference, Verizon and DoITT agreed to additional face-to-face meetings for the following week (on November 17th and November 19th) to discuss service availability issues under § 5.4 of the Franchise, having concluded the premises-passed portion of the review. The meetings were rescheduled at DoITT's request, and the parties met on November 19th and 20th.

5. The November 19-20, 2014 Conferences

The sessions on each of these days lasted approximately three hours and appeared to be highly productive. As Verizon and DoITT discussed and agreed upon in advance, during the first session on November 19th, Verizon made a comprehensive presentation demonstrating the step-by-step procedure by which Verizon processes requests for Standard and Non-Standard Installations both at Verizon call centers and via the Verizon website. DoITT spent much of the time rehashing vague personal anecdotes about their associates' experiences. DoITT declined, however, to name the individuals involved in the anecdotes, which obviously eliminated any ability Verizon might have had to investigate the alleged problems. Thus, other than to provide information about Verizon's general policies and procedures, Verizon's ability to respond to these anecdotes was limited.

The following day, Verizon gave a detailed presentation on the process for responding to NSI requests and the physical installation process. The parties spent considerable time discussing the challenges associated with obtaining access to MDUs when the owners or managers deny Verizon access to the property as well as the challenges of securing needed rights of way from adjacent buildings. Members of the DoITT team repeatedly acknowledged those challenges and at one point queried whether Verizon had considered seeking legislative or regulatory relief in order to streamline the access process.

6. The December 22, 2014 Conference and Subsequent Requests

On December 12, 2014, DoITT asked if it could meet on December 18th in order to "view the Non-Standard Installation Request data through November 30."²⁰ DoITT later rescheduled this meeting to December 22nd. At the meeting, Verizon provided DoITT with the NSI report and all of the supporting raw data, and discussed the source validation procedure. The parties mutually agreed to meet next in January.

That same day, Verizon received an email from DoITT noting that the report data on NSIs it had received the day before through the shared drive²¹ was in PDF format, and asking that it be re-

²⁰ Email from Wayne Kalish, Director of Franchise Audit and Revenue, Franchise Administration, DoITT, to Monica Azare, Vice President & Deputy General Counsel, Verizon, dated November 12, 2014.

²¹ In order to facilitate the efficient production of documents, and for DoITT's convenience, Verizon set up and maintained a share drive which aggregated all documents and information produced in connection with the review. DoITT had 24/7 access to the drive.

sent in Excel format.²² Verizon was unable to immediately send the document in the specific format requested, but offered (by email that day and repeatedly thereafter)²³ to allow DoITT to come to Verizon's offices and review and filter the information from a terminal. Verizon provided the report in Excel format on January 8, 2015.

On January 13, 2015, DoITT requested, by January 15, "all correspondence and supporting documentation" for ten addresses it had previously selected.²⁴ On January 26, 2015, Verizon provided documentation associated with the properties, as well as letters sent to any properties that Verizon needed to traverse with its fiber in order to deliver service to the requesting parties. Verizon supplemented that response with additional related documents on January 30, 2015.

On January 28, 2015,²⁵ DoITT sent its list of outstanding documents and records, and asked Verizon to provide them within a week. Among the documents included in the list was a Manual of Procedures. As Verizon had (on two separate occasions) previously advised DoITT, it does not maintain such a Manual in the form requested. On February 13, 2015, Verizon responded to DoITT's letter, providing updates and/or objections to each requested item. Notably, Verizon indicated that it would again provide DoITT with access to Verizon's database systems as early as February 23, 2015. Verizon was prepared to provide the requested database access on February 25th, but DoITT cancelled the meeting, and it was rescheduled for March 5, 2015.

7. The March 5, 2015 Conference

The purpose of March 5, 2015 conference was to allow DoITT to source-validate a sampling of selected addresses to confirm the premises-passed and service-availability status in each of the relevant systems. During this session, DoITT selected 18 addresses to review and Verizon provided access to all pertinent information in each data system with respect to each such address. At the conclusion of the meeting, DoITT indicated it would like to sample a total of 1,600 total addresses over the course of the next meetings in order to ensure a statistically significant sample size. The parties agreed to meet again on March 10th, but DoITT subsequently rescheduled the meeting to March 17th.

²² Email from Wayne Kalish, Director of Franchise Audit and Revenue, Franchise Administration, DoITT, to Monica Azare, Vice President & Deputy General Counsel, Verizon, dated December 22, 2014.

²³ Emails from Monica Azare, Vice President & Deputy General Counsel, Verizon, to Wayne Kalish, Director of Franchise Audit and Revenue, Franchise Administration, DoITT, dated December 22, 2014 and January 5, 2015.

²⁴ Email from Wayne Kalish, Director of Franchise Audit and Revenue, Franchise Administration, DoITT, to Michael Morano, Assistant General Counsel — Northeast Operations, Verizon, dated January 13, 2015.

²⁵ While DoITT initially claimed this correspondence was emailed on January 21, 2015, none of the Verizon recipients received it on that date. It was only when DoITT followed up on the correspondence that this issue was identified, and DoITT re-sent the letter on January 28.

8. The March 17, 2015 Conference and DoITT's Termination of the Review

DoITT and Verizon met again on March 17th for what, unknown to Verizon at the time, would be the last review session. The purpose was to allow DoITT to continue sampling addresses in Verizon's systems, as had been done at the previous meeting. The parties reviewed approximately 80 addresses during this session. At the close of the meeting, Verizon requested scheduling dates for the next meeting and asked how many properties DoITT wanted to review during that session. DoITT responded that they had reviewed "enough" properties and would be back in touch with Verizon. DoITT did not in any respect indicate at that point that it was prematurely terminating the audit (nor did it indicate that it was dissatisfied with the access it had received to the information). Verizon was therefore shocked to learn later that DoITT had chosen to forego any further address reviews after it had viewed only 6% of what it had characterized as the sample size it needed to conduct a valid audit.

Verizon received no further correspondence from DoITT regarding the audit until April 7th, the day it received the Report.

B. DoITT's Rights Under § 11.1 of the Agreement

As DoITT acknowledged in its September 17, 2014 letter, this review is being conducted pursuant to rights granted by § 11.1 of the Agreement. That section, entitled Open Books and Records, permits DoITT to inspect Verizon's books and records subject to certain important, negotiated, and binding obligations and limitations. Despite DoITT's repeated description of its review as an "audit," the scope of that review, and the extent of DoITT's access to information, are governed and limited by the Agreement. It is therefore important to clarify exactly what § 11.1 does, and does not, require and permit in connection with an inspection of books and records such as this one.

1. Information Must Relate to Verizon's Provision of Cable Service

Section 11.1 provides that "[u]pon reasonable notice to [Verizon] and consistent with § 11.1.1 below, the City shall have the right to inspect Franchisee's books and records *pertaining to [Verizon's] provision of Cable Service in the Franchise Area* at any time during Normal Business Hours and on a nondisruptive basis, as are reasonably necessary to ensure compliance with the terms of the Franchise"²⁶ Similarly, and more emphatically, the last sentence of § 11.1 provides that "[n]otwithstanding anything to the contrary set forth in this Agreement, *[Verizon] shall not be required to disclose information (including its books and records and books and records of an Affiliate) that, in [Verizon's] reasonable determination, does not relate to the provision of Cable Service in the Service Area.*"²⁷

²⁶ Agreement § 11.1 (emphasis supplied).

²⁷ *Id.*

The purpose of these provisions is to ensure that any record inspections conducted by DoITT pursuant to the Franchise be limited exclusively to matters directly related to Verizon's provision of Cable Service, which is the service governed by the Agreement. The Agreement sets forth this language because, as a large company with numerous lines of business, Verizon is subject to a diverse array of legal, regulatory, and contractual requirements for its different service offerings. Residential Cable Service is only one of those offerings. This language is intended to make clear that DoITT may not use the Agreement as a vehicle through which to conduct an inspection of books and records of Verizon's Non-Cable Services, and indeed confers upon Verizon an affirmative *right* to decline to provide such records if it makes a "reasonable determination" that requested records fall outside of the scope of the Agreement.

Section 11.1 is relevant because on several occasions during its review, DoITT requested access to records that would disclose information pertaining to Verizon services that are not governed by the Agreement, such as voice and data services.²⁸ For instance, in the Report, DoITT objects to the fact that it was not granted the ability to independently (*i.e.*, without Verizon assistance) manipulate Verizon's database systems to verify premises-passed and service-availability accuracy. However, while Verizon did provide DoITT with unfettered access to the information in those database systems that concerned Verizon's provision of Cable Service, it would have been impossible for Verizon to fully exclude from those integrated databases information related to Verizon's voice and data services and customers, as well as other proprietary information that fell outside of the scope of the compliance review, and outside the scope of the Agreement. Moreover, Verizon's database systems are live operating systems used around the clock to provide service; giving untrained third parties unmediated access to those systems raises obvious security and data-integrity concerns.

Similarly, DoITT's request for an on-site visit to a call center would have resulted in the disclosure of information related to Verizon's Non-Cable Services, as those call centers handle customer service calls with respect to a wide range of non-cable matters, such as voice and data. Verizon's decision to restrict DoITT's access to information concerning Non-Cable Services was necessitated by its obligation to protect the privacy of its customers' information, and was within its rights under § 11.1. That restriction did not in any way impair DoITT's ability to assess Verizon's compliance with the Agreement using the information that Verizon had provided over the course of several months.

2. Requests Must Be "Reasonably Necessary" to Ensure Compliance

Even if a records inspection satisfies the first prong of § 11.1 with respect to its pertinence to the provision of Cable Service, § 11.1 requires that such request be "reasonably necessary to ensure Franchisee's compliance with the terms of [the] Franchise." This provision makes clear that the Agreement requires that records inspections be limited in scope ("reasonabl[e]") to that which is

²⁸ Further underscoring the fact that requested information must be pertinent to Verizon's provision of Cable Service pursuant to the Agreement, § 11.1 mandates that all written requests for information (*i.e.*, all valid requests) "specifically reference the section or subsection of the Franchise which is under review . . ." This provision makes clear that not only must all requests for information pertain to Verizon's Cable Service-related obligations, but that DoITT must also expressly identify the specific provision to which each such request relates.

required (“necessary”) to ensure Verizon’s compliance with its obligations under the Agreement. § 11.1 is not a boundless license for DoITT to investigate issues unrelated to Cable Service or to review any records it simply views as informative or helpful.

Throughout its review, DoITT failed to meet its burden of establishing that all of its requests met this standard of reasonable necessity. For instance, in Finding No. 7, DoITT states that Verizon violated § 11.1 by, among other allegations, declining to provide access to Verizon’s DirecTV agreement and wire center maps. However, as discussed below and as repeatedly explained to DoITT, that information bears no reasonable relation, let alone necessity, to Verizon’s compliance with the Agreement’s terms, and DoITT never attempted to articulate a theory for why it would be relevant.

3. Timing for Responses to Records Requests

Section 11.1.1 prescribes the periods within which Verizon must provide information in response to record requests. Three such periods are specified, a *fifteen-day* period, a *thirty-day* period, and an *extended* period. Verizon:

- “shall, within fifteen (15) days of Franchisee’s receipt of such written request, provide the City with access to any information Franchisee is reasonably able to collect in response to such request” and
- “shall, within thirty (30) days from receipt of such request make available to the City all pertinent information in response to such request, consistent with Section 11.1 above,” but
- “provided, however, that to the extent there is additional information which Franchisee is unable to reasonably collect in such thirty (30) day period, Franchisee shall provide the City with a written notice setting forth the nature of such additional information and the date on which Franchisee shall provide access to such information.”

Thus, § 11.1 requires that in response to a written records request from DoITT, (a) Verizon must provide information that it can reasonably collect within 15 days, and (b) provide all other properly requested information within 30 days, *unless* (c) it cannot reasonably collect all reasonable information within that period, in which case Verizon can so inform DoITT and schedule a later date for delivery of the information.

As is evident from the discussion in Section II(A), above, Verizon timely responded to virtually every relevant records request that DoITT provided in writing pursuant to § 11.1, as well as to its informal oral requests (which are beyond the scope of § 11.1). DoITT concedes as much in its Finding No. 7, where the only instances it cites as violations of the timeframes of § 11.1 relate to documents that Verizon declined to provide on the grounds that they were not reasonably necessary to ensure compliance with the Agreement. DoITT cites no request for which Verizon did not meet either the fifteen-day window, the thirty-day window, or the extended time period pursuant to written notice from Verizon as contemplated under § 11.1.1.

Despite the clear terms of § 11.1, DoITT frequently attempted, arbitrarily and unilaterally, to impose shorter deadlines on Verizon. For example, the Report states that DoITT

requested access to Verizon's systems and/or screen shots of the initial service requests for the ten property locations in a letter dated February 5, 2015 for which we did not receive a response by the due date of February 9, 2015. We were finally able to view the 10 property locations within the [Verizon system] on March 5, 2015 and received the screen shots on March 9, 2015, 28 days after the due date.²⁹

In fact, DoITT requested access to Verizon's "systems *and/or* screen shots" (emphasis added) on February 5th and Verizon provided the requested access to its systems on March 5th — 28 days from the initial written request, and within the 30-day timeframe established by Section 11.1. Having already satisfied the records request on a timely basis by providing access to the systems "and/or" screen shots within 30 days, Verizon also took the additional step of providing the screen shots four days later. DoITT repeatedly imposed arbitrary and unreasonable deadlines that were not consistent with the Agreement (four days in this case), and then declared Verizon in violation of those fictitious "requirements."

C. Verizon Properly Declined to Provide Documents That Were Beyond the Authorized Scope of DoITT's Review

The Report includes a list describing certain alleged "limitations" on DoITT's ability to conduct a proper and complete audit. As explained above, Verizon has at all times complied with the Agreement's requirements to provide all information "reasonably necessary to ensure compliance with the Franchise," and has provided such information in a timely manner. Verizon's responses to each of the purported limitations follow.

1. Access to Database Systems

The Report repeatedly asserts that Verizon "delayed" access to Verizon's database systems for a period of 147 days, starting from October 9, 2014. This claim is perhaps the most egregious misstatement in the entire Report.

- It presumes that DoITT expressly requested access to all of Verizon's relevant databases when in fact nothing in DoITT's early correspondence requested specific documents or access.
- DoITT could not have requested access to those systems at that time because it did not even know what these systems were, how they operate, or how they were relevant to this review.

²⁹ Report at 6.

- As stated above, Verizon provided DoITT with system access as early as November 12, 2014 — five days after DoITT submitted its first generic request to schedule an appointment to review Verizon’s databases.
- Verizon’s website is a *publicly accessible and constantly available* resource and DoITT could easily have used it to test service availability and customer messaging issues. But it never did so, instead choosing to rely on anecdotal data. Similarly, DoITT could have called into Verizon’s call centers at any time to test the messaging and communications from Verizon’s representatives relating to Cable Service, but chose not to do so.
- DoITT’s concession that Verizon *did* provide DoITT with access to the requested sources flies in the face of its claim that it “could not complete” the audit because it could not obtain necessary information.

2. Call Centers

The Report accurately notes that Verizon declined to provide DoITT representatives with access to Verizon’s call center because such access is beyond the scope of the review. Call center representatives respond to customer requests relating to a wide range of Non-Cable Services (e.g., voice, data, and business services), and allowing DoITT to review such communications and operations would create significant concerns with respect to customer privacy. Of course, as noted above, DoITT chose not to call into Verizon’s call centers to test the messaging and communications related to Cable Service availability.

3. Routes

The Report states that DoITT could not fully conduct the audit because Verizon did not provide it with access to Verizon’s fiber routes throughout the City, which DoITT claimed it needed to determine whether Verizon had complied with its obligation to “pass” households in the City. Verizon does not maintain its outside plant records in a manner that would conform to what DoITT apparently wants, nor is it required to do so, by the Agreement or otherwise. But fiber route maps are not necessary for verifying compliance and most important, Verizon provided DoITT with ample means to make such a determination.

To enable verification of Verizon’s compliance with the passage obligation, Verizon: provided DoITT with a list of all of the addresses in the City that Verizon claimed as passed; enabled DoITT staff to conduct a physical field verification of the premises passed by Verizon’s fiber network; and gave DoITT access to Verizon’s database systems to verify that addresses had been passed. DoITT had the ability to verify compliance using these tools. In fact, DoITT has conducted field verifications every year since 2008.³⁰

The notion that full and detailed route maps are needed to assess compliance with the passage obligation is without merit. While Verizon firmly believes it has provided DoITT with ample

³⁰ Agreement § 15.9.2.1.

means to verify Verizon's compliance, it is willing to discuss reasonable and feasible alternative means.

4. DirecTV

Verizon legitimately declined to provide DoITT with a copy of its agreement with DirecTV, as this is a perfect example of DoITT attempting to extend its review well beyond the boundaries set forth in the Agreement. DoITT does not need it to ensure Verizon's compliance with the Agreement, and it includes confidentiality and non-disclosure provisions that preclude Verizon from legally disclosing the agreement to third parties, such as DoITT. Nor has DoITT articulated any reason why the agreement would be reasonably necessary to review Verizon's performance of its obligations under the Agreement; a burden DoITT must meet based on the clear terms of Section 11.1 of the Agreement, as discussed above.

5. Pathway Vendors

Verizon sometimes uses third-party vendors to create "pathways" for its cables within buildings that it needs to network-create, once it has obtained the consents or orders necessary to gain access to those buildings. Verizon declined to provide DoITT with copies of its contracts with such vendors. Again, DoITT never provided an explanation of why this information was relevant to its review, and Verizon reasonably concluded that access to such information was not needed to ensure Verizon's compliance with the Agreement. In fact, nothing in the Agreement either requires Verizon to use, or prohibits it from using, vendors to carry out such functions as pathway creation; nor does the Agreement specify the terms and conditions of its dealings with such vendors. The presence or absence of such vendors is therefore irrelevant to Verizon's compliance with the obligations imposed by the Agreement.³¹

6. Staffing Summary

Contrary to the Report's claim, Verizon did provide DoITT with a detailed staffing summary in response to this request in addition to arranging face-to-face meetings with the Verizon personnel in each relevant Verizon organization. Prior to the Report, DoITT never expressed the view that this staff summary or the informational meetings were inadequate and never requested additional detail. Moreover, DoITT contradicts itself on this issue in the Report where it acknowledges that it "examined organization charts for determining responsibilities of divisions for build-out of Verizon FiOS" and interviewed various Verizon employees engaged in such work.³² Staffing, like other issues that DoITT sought to pursue, is not relevant to the question of whether Verizon complied with its obligations under the Agreement.

³¹ To the extent that § 17.4 of the Agreement requires Verizon to give preference to vendors located in the City, Verizon would be willing to identify its vendors without providing copies of its contracts. There is no evidence, however, that DoITT's review was intended to check Verizon's compliance with that section.

³² Report at 9.

7. Manual of Procedures

On November 5, 2014, DoITT requested a “Manual of Procedures for Premises Passed rather than the framework of premises passed procedures provided in the PowerPoint presentation on October 9, 2014. This manual should be the actual procedural documentation provided to Verizon FiOS employees. If this manual does not exist then please confirm.”³³

Verizon responded — in a complete, accurate, and timely fashion — by explaining that a “Manual of Procedures for Premises Passed,” as such, does not exist. Verizon explained that it did, of course, adhere to specific internal procedures for constructing, tracking, and reporting the construction of its FTTP Network consistent with Appendix F and § 5 of the Agreement. However, compiling its diverse methods and procedures into a single manual would not be useful or practical in light of the multi-layered, multi-organizational effort involved in this process, and so it never sought to do so. Moreover, the creation and maintenance of such a manual is not a requirement of the Agreement.

Although Verizon did not produce the non-existent Manual, it did provide DoITT with documentation relating to its process for passing, tracking, and reporting its premises-passed metrics, and it indicated that it would be happy to share any additional information on this issue that is reasonably necessary for DoITT to conduct this document inspection consistent with § 11.1 of the Franchise Agreement.³⁴

8. Internal Audits

DoITT correctly notes that Verizon declined to provide access to any internal audit of its operations. Verizon concluded that DoITT does not need any such information to ensure Verizon’s compliance with the Agreement. It also concluded that disclosure of such internal reviews would chill the internal review process and thus undermine efforts by companies such as Verizon to identify problems, potential remedial measures, areas for improvements, and refinements to its processes and procedures. Verizon concluded that even if DoITT needed Verizon’s internal reviews (and it does not), such material is protected from disclosure.

9. Electronic Maps

The Report correctly notes that Verizon declined to provide an electronic map of Verizon’s wire-center boundaries because of network security concerns. However, it fails to note that Verizon *did* provide DoITT with an electronic copy of a citywide deployment map. That map comports with the requirements of § 11.3.8 of the Agreement, which requires that Verizon maintain a “map showing the area of coverage for the provisioning of Cable Service . . .” Nowhere does the

³³ Email from Wayne Kalish, Director of Franchise Audit and Revenue, Franchise Administration, DoITT, to Monica Azare, Vice President & Deputy General Counsel, Verizon, dated November 5, 2014.

³⁴ See email from Marie Lasota, Assistant General Counsel, Verizon, to Linda Mercurio, Director — Risk Management, Franchise Administration, DoITT, dated November 20, 2014.

Agreement require Verizon to provide maps of its wire center boundaries. More important, electronic maps are not “reasonably necessary” to ensure compliance.

10. Timing/Access

As already discussed, there is no basis for the notion that there were any delays by Verizon, let alone for 147 days, in responding to DoITT’s proper requests.

11. Glossary

DoITT objects to the fact that when it requested a glossary of terms, the list provided by Verizon was limited to terms that were defined in the Agreement. Yet, when DoITT initially asked for a glossary, it did not identify any specific terms; nor did it do so later when Verizon asked for clarification of the request.³⁵ Of course, Verizon would have been willing to explain terms as they came up in conferences or in written exchanges between the parties (and it frequently did so), but it is unreasonable for DoITT to have expected Verizon to guess in advance which terms for which DoITT needed an explanation.

12. Software Logs

The Report claims that Verizon declined to provide computer software logs indicating when and how (if at all) the scripts used by customer service representatives to discuss service availability were changed. Nothing in the Agreement imposes obligations with respect to such logs, and DoITT does not need such logs to ensure Verizon’s compliance with the Agreement. The Agreement does require Verizon to provide prospective customers with certain information when they are requesting service, and Verizon fully adheres to those requirements. Indeed, Verizon provided DoITT with access to both its relevant customer service scripts for online and telephone communications, along with a presentation regarding process from the Verizon manager who oversees this aspect of the business.

IV. RESPONSES TO SPECIFIC PRELIMINARY FINDINGS

A. Finding No. 1: “Passage” of Households

Section 5.1 of the Agreement requires Verizon, subject to certain exceptions, to “pass all households served by Franchisee’s wire centers within the Franchise Area in accordance with the table attached hereto as Appendix F, with final completion no later than June 30, 2014.” Verizon has met that deadline and complied with its obligations under § 5.1. DoITT’s contrary conclusion is based on its own — unfounded — view of what it means to “pass” a household under the Agreement.

³⁵ The only exception was a request to re-define a term already defined in the Agreement, and another single additional definition which Verizon provided. Email from Wayne Kalish, Director of Franchise Audit and Revenue, Franchise Administration, DoITT, to Monica Azare, Vice President & Deputy General Counsel, Verizon, dated November 5, 2014.

The term “pass” is not defined in the Agreement. General dictionary definitions of the term refer to going by, past, beyond, or through a place (such as a building), and include no requirement as to how close a place must be approached in order to constitute a “passage.” Thus, there is nothing inherent in the word itself that would require Verizon to run cable directly in front of every building in the City in order to “pass” those buildings. Nevertheless, in both its original (April 7, 2015) draft Report and in the latest (June 9) version of the Report, DoITT has attempted to add an additional requirement to the Agreement by relying on a supposed “[cable] industry practice” of using the term to describe facilities that are “immediately adjacent” to a building. However, DoITT has offered no evidence of the practice itself — other than to set forth its own new “understanding” — or of the circumstances and contexts in which it is used. Even assuming the cable industry uses the term in that way, DoITT fails to explain why that usage should govern the unique undertaking that is described in the Agreement. In fact, it should not.

Tacitly conceding that the supposed “cable industry practice” was not a proper basis for its interpretation of this term, DoITT revised its Draft Report to assert that the passage obligation, for some reason, must be based on a definition of the term “Homes Passed” that is set forth in a “definition of terms” that was prepared by the FTTH Council for purposes of its “market research,” and that is in no respect connected to the Agreement. Although this contention is at least more specific than DoITT’s earlier vague claim of a cable industry usage, it is no more relevant to the interpretation of this specific Agreement. As a threshold matter, the fact that the parties did not intend to incorporate a definition akin to the FTTH Council definition into their Agreement — and that the argument based on the definition is an afterthought on DoITT’s part — is confirmed by the fact that the definition was not even mentioned in the prior version of the Report. More important, the parties had a very specific understanding of how the term would be applied under the Agreement — an understanding that was not based on any definition similar to the FTTH Council definition, and that intentionally deviated from the understanding adopted in DoITT’s prior agreements with the cable incumbents Cablevision and Time Warner Cable.³⁶

³⁶ Even assuming that it would be appropriate to ignore the Agreement’s plain meaning, the parties’ negotiations, and their course of conduct — and instead to accept DoITT’s claim, raised seven years after the execution of the Agreement, that the Agreement is governed by a supposed custom and usage — the FTTH Council definition would not help DoITT. DoITT has no evidence that the definition reflects a usage of the trade today, let alone that it was an established, unvarying usage of the trade that governed industry parlance when the parties began their discussions years ago. On page 1 of the document that DoITT cites, the Council acknowledges the “proliferation of terms and acronyms,” which it notes are “useful to individual organizations for their specific purposes,” but that “lack precise definitions” recognized in the trade. The Council explains that it developed its definitions for use in its own “market research.” DoITT cites no evidence suggesting that the Council’s definition of “homes passed” was consistently used in the trade in 2008. Indeed, the definition itself reveals the flexibility intended by the Council by incorporating the word “[t]ypically,” thus making it clear that parties could choose to deviate from the definition if it was not suited to their purposes. To the extent that either Verizon or the City gave any thought to the Council’s glossary when the Agreement was negotiated — and there is no evidence that they did so — they clearly decided to adopt their own definition instead.

Although the parties did not intend to adopt a definition similar to the FTTH Council definition, it is worth noting that that definition in any event depends on whether serving the target location from facilities already in place would or would not require “further installation of *substantial* cable plant” (emphasis supplied). This generic definition is thus flexible enough to accommodate a wide variety of strategies for serving a target location from facilities installed nearby.

Those agreements — although very similar to the Verizon Agreement in numerous other respects — used significantly different language in describing passage requirements. They stated that:

a household is “passed” when functioning System facilities have been installed *in the street fronting the building* in which the household is located, such that Cable Service could be provided to such building in conformance with the provisions of Section 5.3 (assuming no delays in gaining lawful access to any private right-of-way).³⁷

This narrow and specific definition of “passed” in the incumbent agreements is not found in the Verizon Agreement, in part because during negotiations with the City, Verizon had concerns — which it explicitly raised during the negotiations — about the phrase “in the street fronting the building.” Verizon recognized that it serves many MDUs from an adjacent MDU or from a chain of such MDUs. Accordingly, the FTTP Network is not described in the Agreement in terms of any particular path, but more generally as “transport connections and equipment . . . established and . . . operational to the fiber distribution terminal serving the residence requesting fiber-enabled services . . .” (See Verizon Agreement §1.25.) And, while the Agreement states that the “FTTP Network will pass all households” in accordance with a deployment schedule, in explaining the term “pass” it provides only that “‘pass’ or ‘passage’ of a household shall mean MDU’s whether or not network created and single family units whether or not a drop is installed” — which of course does not constitute a definition of the term.

Verizon’s commitment under the Agreement was a unique one. It had not agreed to build a conventional (*i.e.*, hybrid fiber/coax) cable network. Nor was it undertaking a “greenfield” deployment in an area that the company had not previously served. Rather — as was made clear in the discussions leading up to the Agreement, and as was memorialized in the Agreement itself³⁸ — Verizon intended to deploy an all-fiber network as an *upgrade* to its existing copper outside plant, and therefore to deploy fiber along the same routes as it had used historically to serve the buildings in the City, and to obtain access to individual buildings using strategies similar to those it had used in the past. Those strategies included not only the use of public rights-of-way, but also, in many cases, the use of building-to-building connections. The word “pass” was understood and used by the parties in that context.

Because of the lack of an explicit, restrictive definition, either in the Agreement or in the dictionaries, the term “pass” must take its meaning from two key facts. The first is the *omission* from the Verizon Agreement of the specific requirement of the prior incumbent agreements that cable be installed “in the street fronting” each building — an omission that is explained by the negotiating history described above. This omission speaks volumes as to the intentions of the parties.

³⁷ Language from 2011 incumbent agreements (emphasis supplied).

³⁸ See, *e.g.*, Agreement at 2 (“WHEREAS, the Franchisee is in the process of upgrading its existing Telecommunications Services . . . and Information Services . . . network through the installation of the FTTP Network . . .”).

Second, Verizon's "passage" obligation must be interpreted with reference to the role that that obligation plays in the context of § 5 as a whole. Under the Agreement, passage is one of the "gating" factors that triggers Verizon's obligation to provide Standard Installations and NSIs within the time frames set forth in § 5.4. This is because § 5.5(A) establishes an exception to those time frames and the related installation obligations where "the FTTP Network has not been deployed . . ." — *i.e.*, where the building or buildings in question have not yet been passed within the meaning of § 5.1.

In this context, with passage generally triggering the obligation to meet § 5.4's installation timelines, Verizon's facilities should be considered to "pass" a building when their location would enable Verizon to accept orders for service and to fulfill them within the time frames established for Standard Installations and NSIs (whichever may be applicable based on the definitions set forth in the Agreement), provided that none of the other § 5.5 exceptions applies.³⁹ When Verizon places its facilities at the ends of a block on which a household is located, and then moves on, Verizon's network has "passed" that household.

Aside from providing the word "pass" with a meaning appropriate to § 5 as a whole, that interpretation avoids treating the Agreement as a source of specific mandates concerning exactly where and how Verizon must deploy its fiber-optic cable. Such micromanagement by the City of Verizon's network engineering decisions would be inconsistent with the parties' clear understanding that Verizon would be able to deploy its FTTP network along existing routes and pathways, and to access buildings in the same ways as it had in the past. Moreover, § 5.1.4 of the Agreement expressly recognizes Verizon's discretion with respect to the deployment of facilities by stating that "nothing herein shall be construed to limit Franchisee's discretion with respect to the order of geographic areas to be wired," subject to the equitable deployment assessment (which Verizon has satisfied).

This understanding of the passage obligation is confirmed by DoITT's course of conduct, including its express approvals on four separate occasions (2008-2011)⁴⁰ of reductions in the amount of Verizon's performance bond pursuant to Agreement § 15.9.2.1. Under that section, Verizon's right to such reductions was based on the percentage of premises that it had passed, and DoITT in fact found in each case that Verizon had either "met" or "exceeded" its obligation

³⁹ These other exceptions include periods of force majeure and inability, despite good faith efforts, to obtain valid legal authority to access an MDU. As noted previously, "access" in this context means not only an inability to get *into* a specific building, but also an inability to use intervening buildings to get *to* a building.

⁴⁰ Letter from DoITT Commissioner Paul Cosgrave to Darian Gill, Verizon Franchise Manager, dated November 23, 2009; Letter from DoITT Commissioner Carole Post to Darian Gill, Verizon Franchise Manager, dated October 8, 2010; Letter from DoITT Commissioner Carole Post to Darian Gill, Verizon Franchise Manager, dated September 16, 2011; and Letter from Rahul N. Merchant, DoITT Chief Information and Innovation Officer to Darian Gill, Verizon Franchise Manager, dated May 29, 2013. It should be noted that, notwithstanding DoITT's newly adopted position on this issue, in each of the foregoing letters, DoITT acknowledged its satisfaction with Verizon's method for determining "passage" and its willingness to certify passage on that basis.

Subsequent requests for reduction of the performance bond were not made by Verizon on a regular basis because of force majeure issues raised by Hurricane Sandy.

to pass households in accordance with Appendix F of the Agreement. In determining whether to grant its approval on those occasions, DoITT personnel reviewed Verizon's plant at specific locations, including locations in which Verizon's "passage" of a block was based on the existence of facilities at either end of the block (but not along its entire length). Had it believed at the time that the premises on such blocks had not been "passed," it presumably would have withheld its approval. But it did not do so. Thus, even if Verizon's definition of passage had not been established by the parties' original intent — and, as described above, it was — it was established by their course of performance under the Agreement. Verizon is now being whipsawed between DoITT's previous and repeated affirmations that Verizon "passed" households even in areas where its facilities did not run along an entire block⁴¹ and the contrary theory now set forth in the Report. DoITT provides no explanation of this striking about-face on its part.

In short, in some cases, Verizon has met its passage obligation by running its facilities along the entire length of the block on which a building is located. In other cases — and with equal validity under the Agreement — Verizon has met the obligation by having facilities at the ends of the block, but not along its length, with a view towards accessing individual buildings through building-to-building connections, which in most instances require building approval. Through either of these authorized means, Verizon had passed every household in the City by November, 2014, and thus now complies with its passage obligation under the Agreement. The Report's recommendation that Verizon be required to "build facilities on every residential block in the City" in order to comply with that obligation is inconsistent with the Agreement and, if adopted, would rob Verizon of the flexibility for which Verizon bargained, and to which the parties agreed.

B. Finding No. 2: DoITT's Claims of Unavailability of Service to Certain Households

The Report claims that Verizon "show[s] residential household addresses as 'unavailable' despite claiming to have passed all residential households in the City." This claim is equally baseless.

Because Verizon has fulfilled its passage obligation, every household in the City (subject to the exceptions negotiated and agreed upon in § 5.5 of the Agreement) is eligible for either an NSI or a Standard Installation, and can receive service within the timeframes prescribed in the Agreement for such installations. In either case, Verizon describes the options available to the inquiring customer in a manner that is consistent with the obligations imposed by the Agreement.

⁴¹ Before DoITT decided to come up with a new, seven-years-after-the-fact definition of "passed," it rejected allegations similar to those set forth in the Report, and told the public: "Virtually all New York City households have access to broadband connectivity today, and the ongoing, on-schedule deployment of Verizon fiber (known as FiOS), now estimated at 80% across the five boroughs, will bring additional competition to the broadband market[.]" (See http://www.huffingtonpost.com/steve-rosenbaum/ny-tech-scene-rising_b_3177242.html). The parties' course of conduct is dispositive proof that DoITT's new interpretation of the passage provision amounts to an impermissible re-write of the Agreement.

When a building is already network-created for FiOS (and requesting customers are thus eligible for a Standard Installation), Verizon's website responds to inquiries by stating that FiOS is available at the specified address, and there is no mention of DirecTV. By contrast, when a building is not yet network-created (meaning that the six- or twelve-month timeframe for an NSI is generally applicable), an inquiring customer is provided with two options. The first option, set forth at the top of the page in bright red capital letters in the largest font that appears on the entire page, says "LOOKING FOR VERIZON FIOS?" — and then instructs the customer to click immediately below to place a request to bring FiOS to their location. On the same page, below the FiOS language, Verizon also indicates that bundled DirecTV/Verizon products are available. Including information on the DirecTV option recognizes that many residents may not be in a position to wait six to twelve months for Cable Service due to MDU access issues, and gives such residents the ability to obtain Cable Services in the short term, at a lower rate than if they were purchased separately from Verizon and DirecTV. Finally, with respect to the website scripting concerning NSIs, the language below (which appears after clicking below the "LOOKING FOR VERIZON FIOS?" language) clearly conveys to the resident that he/she can request FiOS at their location:

FiOS service is available in your neighborhood just not in your building right now. Equipping your building with FiOS may take up to 6-12 months to complete. Fill out the information below and we'll tell you when FiOS is ready to order. Don't worry, your information is only used to notify you about FiOS — so go ahead and put yourself on the list!

Importantly, § 5.4.2.1 of the Agreement provides that the six-month NSI period can be extended to twelve months if the company notifies the potential customer of "the *current unavailability* of Cable Service at the location." (Emphasis supplied.) Thus, the Agreement specifically recognizes that service is "unavailable" in situations in which an NSI is not completed within six months.

C. Finding No. 3: Timing Requirements for NSIs

DoITT contends that Verizon does not complete all NSIs⁴² to MDUs within the time prescribed in the Agreement. However, § 5.5(C) of the Agreement creates an exception from the prescribed times for "periods of delay caused by [Verizon's] inability, after good faith efforts, to obtain valid legal authority to access any MDU [Multi-Dwelling Unit] in the Franchise Area for the purpose of providing Cable Service to units within such MDU on other than commercially unreasonable terms and conditions with respect to each such MDU." Such "periods of delay" are therefore not instances of non-compliance. Verizon's inability to obtain access to buildings

⁴² NSIs involve the process of bringing fiber that is in the city streets (frequently, underground) into an MDU, upon the request of a resident in such MDU. These installations often involve bringing fiber from a manhole to a point of entry on the block, and often times then traversing multiple properties within that block until reaching the building in which service was requested.

despite its good faith efforts has been a significant cause of NSIs not being completed within the six- or twelve-month timeframes set forth in § 5.4 of the Agreement.⁴³

The Report attempts to minimize the significance of § 5.5(C) by stating that the section “does not provide for an exception to the six-month deadline where Verizon is unable to obtain access to private property other than the multiple dwelling building from which the NSI order originated.” Initially, it is important to note that the reference to a “six month deadline” is inaccurate. Section 5.4.2 of the Agreement makes it clear that completing NSIs within six months is *not* required either if “a later date is agreed to” by the potential customer, or if Verizon advises the potential customer “of the current unavailability of Cable Service at the location as set forth in Section 5.4.2.1.” Verizon’s general practice is to issue that notice, and as a result, the relevant NSI period is twelve months, not six months.

Second, § 5.5(C) covers inability to obtain authority to “access” the MDU to be served. As noted above, “access” includes both the ability to get *into* a building (due to opposition by the owner or manager of the building itself), and inability to get *to* a building (due to the refusal of owners or managers of adjacent buildings to permit building-to-building connections). Thus, a lack of consent or authorization from the owners of *other* buildings on the block to which Verizon needs to attach its facilities would amount to an inability to obtain access to the building in which the NSI request originated, and thus would trigger § 5.5(C).

Verizon has for several years now been transparent about the challenges associated with delivering service within the NSI timeframes, and has on numerous occasions requested DoITT’s assistance with these issues in accordance with the Agreement, but to date, those requests have largely been ignored. Moreover, DoITT has ignored the fact that when Verizon is provided access to buildings, it has over-delivered on its Franchise obligations by enabling service at every unit in the entire building, rather than just at the particular unit that requested service. This approach has accelerated access to the network for over 588,000 units that had not yet requested Verizon’s service.

Because Verizon was the first cable-service over-builder that agreed to cover the entire City, both the City and Verizon anticipated difficulty in gaining access or delayed access to MDUs in which cable service already existed and which at times were subject to exclusive marketing agreements with incumbent providers. Section 5.5.2.1 of the Agreement, commencing on July 1, 2012, calls for a series of procedures for gaining access to MDUs via the State’s mandatory access law, Publ. Serv. Law § 228. Section 5.5.2.1 calls for Verizon to seek the help of the Commissioner of DoITT and/or the Public Service Commission if Verizon has difficulty gaining access to MDUs. In addition, if Verizon finds that the Additional Procedures outlined in § 5.5.2.1 were not working efficiently, it can request that the DoITT Commissioner waive the process (or extend the timing requirements of the Additional Procedures) outlined in § 5.5.2.2 upon a showing of good cause. Section 11.2.1 of the Franchise further requires Verizon to report to DoITT regarding Verizon’s use of the Additional Procedures on an annual basis. Those

⁴³ As noted previously, § 5.5(C) covers both inability to get *into* a building (due to opposition by the owner or manager of the building itself), and inability to get *to* a building (due to the refusal of owners or managers of adjacent buildings to permit building-to-building connections).

reports provide significant data on the number of outstanding NSIs, how long they have been outstanding, and Verizon's use of the Additional Procedures to try to gain access to MDUs.

On multiple occasions (including, without limitation, each Additional Procedures report filed with DoITT since the initial filing was first required in 2013), Verizon has informed DoITT of substantial burdens and delays associated with gaining access to MDUs in a competitive cable environment. On February 15, 2013, Verizon wrote to the Commissioner of DoITT noting that the "current processes do, however, present significant challenges for efficient network creation in a timely fashion . . . Further the current processes do not adequately address the MDU's that require traversing adjacent properties to reach them . . . Verizon would welcome the opportunity to discuss alternative solutions to establishing the priority of MDU construction based on these and other factors . . ." Finally, some seven months after Verizon's original request, DoITT met with Verizon on MDU access issues on September 16, 2013. At the September 16th meeting, Verizon presented an alternative approach to DoITT for MDU access. However, on October 11, 2013 DoITT met with Verizon again and rejected the approach as a substitute for Verizon's current obligations.

On February 15, 2014, Verizon submitted its Annual MDU Additional Procedures Report to DoITT. In that report, Verizon notes that "[a]s we have previously discussed with DoITT, access issues continue to be the largest obstacle to network creating many of these properties (MDUs). More specifically, Verizon encounters the greatest resistance when seeking to gain access to those properties that it must traverse with fibers — but which are not subject to an NSI request — in order to reach a single property with an outstanding NSI request." In the same report, Verizon (as it had done a year earlier), explicitly requested assistance from DoITT pursuant of §§ 5.5.2.1.4 and 5.5.2.2 of the Franchise (requesting a waiver on Additional Procedures or to extend the timeline on Additional Procedures), and requested a meeting with DoITT to discuss the MDU issues. Verizon never received a response to its request for assistance and its request to meet with DoITT.

Once again, in February 2015, Verizon wrote to DoITT seeking its assistance in gaining more timely access to MDUs, stating:

As was done in the 2012 and 2013 Additional Procedures Reports, Verizon, in the interest of furthering our mutual interest of obtaining access to as many MDU's as possible and consistent with Section 5.5.2.1.4 of the Agreement, requests a meeting with DoITT to obtain its input and assistance regarding MDU access issues. Additionally, Verizon would like to discuss with the Commissioner and Staff, consistent with Section 5.5.2 of the Agreement, the process involved in the Additional Procedures and the use of Section 228 of the New York Public Service Law.⁴⁴

⁴⁴ 2014 MDU Additional Procedures Report, February 13, 2015.

As was the case with the request submitted in 2014, Verizon never received a response from DoITT concerning this issue.⁴⁵

Verizon actually expected this audit to present yet another opportunity to discuss the challenges with the existing processes and requirements with DoITT. To that end, Verizon, in painstaking detail, demonstrated to DoITT the efforts of Verizon's engineering and legal personnel in order to gain access to MDUs. This included a discussion of the complexities involved in negotiating access to a building or in many cases, multiple buildings on a block in order to satisfy a single service request. It also highlighted that multiple factors can contribute to delays associated with delivering service (many of which are not in Verizon's control), among them:

- uncooperative or apathetic property owners;
- MDU property boards that meet on limited schedules;
- multiple rounds of negotiations prior to formalizing Verizon's access and/or design documents;
- the need for access to MDUs on two occasions (first to survey and create a design plan, then to actually install the network facilities in accordance with the approved plan) and the potential for resistance from property owners at both stages; and
- the challenges of obtaining accurate property owner information.

Verizon's hope was that DoITT would finally see the need for alternative procedures and assistance in gaining access to MDUs. Instead, all Verizon received from DoITT was a baseless claim of non-compliance that ignored three years of attempts by Verizon to communicate with DoITT and to improve and increase the pace of access to MDUs.

Equally baseless is DoITT's recommendation that Verizon ensure it has "sufficient staff and resources" to address NSIs within twelve months. Setting aside the fact that it is based on an incorrect and factually unsupported assumption that Verizon does not maintain sufficient staff and resources, this recommendation, if adopted, would vitiate the Agreement's allowance of additional time to address NSIs where such additional time is needed in a particular situation.

D. Finding No. 4: Requests for "Non-Passed" Residents

While this issue is moot because Verizon has now passed all households in the City with its FTTP Network, it should be noted that § 5.5 of the Agreement sets forth, as the first enumerated exclusion to Verizon's Cable Service availability obligations, circumstances where "the FTTP Network has not been deployed or a VSO is not yet open for sales." As discussed above, this

⁴⁵ On October 21, 2013 then DoITT Commissioner Raul Merchant sent the New York Public Service Commission ("NY PSC") a letter requesting quick action on Orders of Entry Request. The letter does not mention Verizon or any other cable television provider.

exclusion would have applied to those households the Report references where Verizon had not yet passed the property from which the request derived. However, again, because Verizon has now passed all households in the City, this issue is in any event no longer relevant.

E. Finding No. 5: NSI Recordation/Communications

Contrary to the Report's finding, Verizon does not treat customers inconsistently and accurately tracks customer requests for service in its systems. Had DoITT completed its review instead of relying on the negligibly small sample size as the basis for this finding, the review would have demonstrated that while there may be some expected anomalies in Verizon's tracking system from time to time,⁴⁶ Verizon's systems and communications with Subscribers and potential Subscribers are consistently accurate and appropriate. Notwithstanding the foregoing, Verizon recognizes the importance of providing clear communications concerning FiOS availability in New York City. To that end, Verizon has conducted training sessions with its call center representatives concerning the specific protocols and scripts for FiOS availability in New York City and has also issued reminder notices to the call centers of these procedures.

F. Finding No. 6: Verizon's Communication with Subscribers

As noted immediately above, Verizon stands by its Subscriber communications policies and is proud of its record in that regard. However, as a business, Verizon is constantly reviewing those policies and practices to identify areas in need of enhancement and will continue to do so. Verizon appreciates DoITT's role in conveying Subscriber feedback on an ongoing basis, as Verizon wants to ensure that City residents receive accurate and comprehensive information regarding Verizon's Cable Service offerings. As a result, Verizon is in the process of modifying its existing communications protocols with NSI requesters to provide more transparency about the process of bringing FiOS to buildings in New York City, and to also provide more communications touch points during that process.

G. Finding No. 7: Section 11.1 Compliance

This issue has already been addressed; *see* discussion in Section II(B) and II(C), above.

H. Finding No. 8: Complaint Procedures for Non-Subscribers

Consistent with § 11.3.4 of the Agreement, Verizon maintains records of "installation/reconnection and requests for service extensions." This would include requests for Cable Service by prospective Subscribers.

While DoITT cites § 11.3.1 of the Agreement to suggest that Verizon has an obligation to track "complaints" from any person irrespective of whether they are a Subscriber, that Section must be read in conjunction with § 7 of Appendix A, entitled "Subscriber Complaints," which establishes in great detail the manner in which Verizon responds to and tracks complaints. As the title of

⁴⁶ No systems — not Verizon's, not the City's, not anyone's — are perfect. Perfection is an impossible goal, among other reasons because these systems are dynamic databases with information being updated on a regular basis.

that Section indicates, Verizon's obligations with respect to the handling of complaints is appropriately limited to actual Subscribers (as defined in § 1.46 of the Agreement) with whom Verizon is in contractual privity. Accordingly, a non-Subscriber could not register a "complaint" with Verizon pursuant to the Agreement. To adopt DoITT's interpretation that any person — without regard to their status as a subscriber or any other stated limitation, including whether or not the person currently lives in the City of New York — may submit a "complaint" would lead to absurd results if taken to its logical conclusion (*e.g.*, a resident of a West Coast City complaining that Verizon does not carry its local programming in New York City).

I. Finding No. 9: Bulk Agreements

This finding is particularly troubling for several reasons. First, it is based strictly on limited anecdotal evidence. Second, DoITT never raised this issue with Verizon during the review. Had DoITT approached Verizon about the issue, Verizon would have responded that as a policy, it does not offer preferential build treatment to buildings based on their willingness to enter into a bulk agreement. Moreover, Verizon would have informed DoITT that upon learning of the correspondence with the complainant at 1612-1614 York Avenue, Verizon reinforced its policies with the employee involved in the miscommunication. Verizon would also have responded that general messaging concerning these matters was distributed throughout that sales organization to ensure this would not be an issue going forward. With respect to DoITT's two unidentified informants, Verizon was never afforded the opportunity to investigate and/or respond to the allegations. Finally, it should be noted that in a City of over 3.5 million households and over 8.4 million people, a single complainant at one address and the unsubstantiated opinions of two unidentified informants apparently constituted the entire basis for this finding.

J. Finding No. 10: Manual of Procedures

This issue has already been addressed. *See* Section III(C)(7), above.

K. Finding No. 11: Data Integrity

As DoITT is well aware, Verizon is the first and only cable provider to enter into a cable-television franchise agreement that offers service throughout all five boroughs of the City. That Agreement imposed a unique and challenging obligation to complete construction of an advanced, all-fiber network. With well over 3.5 million households, the City is the largest municipal franchise area in the entire country. In an undertaking of such a vast size and scale, some data reporting errors and challenges can be expected. Verizon recognizes that the audit uncovered some limited data irregularities, and will be further investigating their root cause to limit their occurrence in the future. These efforts remain a work in progress. Verizon will also be reviewing its data maintenance processes with an eye towards improving data accuracy generally — these efforts will include regular reviews of Verizon's data systems to limit future occurrences of data issues.

V. CONCLUSIONS

The construction of Verizon's FTTP network and the deployment of Cable Service throughout New York City has been a project of unprecedented scope and scale. Verizon stands behind its efforts, and is proud of its many accomplishments under the Agreement to date. Clearly, this is

an ongoing effort, and Verizon recognizes that in some cases, there may be opportunities for process improvements. Indeed, Verizon and DoITT share the mutual goal of ensuring that all City residents have the opportunity to avail themselves of the benefits of the competitive, innovative, and high-quality services Verizon's entry into the market has made available for the first time.

Unfortunately, the Report does a disservice both to Verizon's unprecedented commitment and achievements and to DoITT's legitimate role as an agency overseeing Verizon's implementation of the Agreement. Its findings and conclusions are in numerous respects flawed, misleading, and baseless. And, the entirety of the Report is the product of a fundamentally unfair and arbitrary process that was initiated in the press, unprofessionally conducted, and abruptly terminated before DoITT could collect information that it had conceded would be necessary to its review.

Contrary to the Report's conclusions, Verizon cooperated fully with the review process, declining only to provide information that was beyond the scope of review as set forth in the Agreement. Substantively, the review was based on erroneous factual conclusions and incorrect interpretations of the Agreement. In particular, the Report's conclusion that Verizon has not complied with its obligation to "pass" all households in the City is based on a clear and significant misinterpretation of what that obligation entails. Its conclusion that Verizon has not met the timeframes for NSIs ignores § 5.5(C) of the Agreement, which creates an exception to those timeframes in cases where Verizon is unable, despite good faith efforts, to obtain access to buildings. Indeed, DoITT ignored Verizon's multiple requests to provide assistance with building access issues, despite the fact that such assistance was explicitly contemplated by the Agreement.

Despite the Report's many flaws, Verizon has attempted to identify opportunities for process improvements, both independently and in response to the limited areas of constructive insight provided by the Report. Moreover, it believes that there may be further opportunities for Verizon and DoITT to partner in order to address some of the challenges that Verizon has faced in the implementation of the Agreement, with a view towards enabling more City residents to enjoy sooner the benefits of Verizon's fiber-optic network. But such partnering efforts will be hindered, not facilitated, by the sort of factual errors and misinterpretations of the Agreement that permeate the Report.

Appendix A
Summary of Communications with NYC Dept. of Information Technology & Telecommunications

Date	Format	From	To	Summary
9/17/14	Letter	Anne Roest	Monica Azare	DOITT elected to audit VZ records for compliance with Franchise Agreement
14 calendar days				
10/1/14	Email	Stanley Shor	Monica Azare	Sought update for document request
10/1/14	Email	Monica Azare	Stanley Shor	Response to Shor email 10/1/14
10/1/14	Email	Stanley Shor	Monica Azare	Request VZ to provide summary charts to DOITT prior to meeting with VZ staff
10/1/14	Email	Monica Azare	Stanley Shor	VZ to provide requested summary charts to DOITT at first meeting
10/1/14	Email	Stanley Shor	Monica Azare	DOITT repeat request for VZ to provide summary charts prior to first meeting
10/1/14	Email	Wayne Kalish	Monica Azare	DOITT repeat request for VZ to provide summary charts by 10/6/14
5 calendar days				
10/6/14	Email	Monica Azare	Wayne Kalish	VZ provided requested documents to DOITT by requested date. Organizational chart and premises passed process.
2 calendar days				
10/8/14	Email	Monica Azare	Wayne Kalish	VZ requested alternative dates available for DOITT for meeting
10/8/14	Email	Wayne Kalish	Monica Azare	DOITT stated meeting scheduled 10AM next day
2 calendar days				
10/10/14	Email	Wayne Kalish	Monica Azare	DOITT requested follow up documentation from meeting
10/10/14	Email	Monica Azare	Wayne Kalish	VZ acknowledges request for documents
6 calendar days				
10/16/14	Email	Wayne Kalish	Monica Azare	DOITT requested timeline for VZ to provide follow up documentation
10/16/14	Email	Monica Azare	Wayne Kalish	VZ will provide update later that day on timeline for response to request for documents
1 calendar day				
10/17/14	Email	Wayne Kalish	Monica Azare	DOITT requested update on timeline for VZ provision of requested documents
3 calendar days				
10/20/14	Email	Wayne Kalish	Monica Azare Marie Lasota	DOITT requested update on timeline for VZ provision of requested documents
10/20/14	Email	Marie Lasota	Wayne Kalish	VZ provided requested Glossary of Terms (DOITT 10/20/14) and timeline for provision of remaining requested documents
10/23/14	Email	Monica Azare	Wayne Kalish	Complaint handling process and records and Premises Passed Progress Reports and map (2012-2014)
10/29/14	Email	Marie Lasota	Wayne Kalish	Subscriber lists – all five boroughs
10/30/14	Email	Marie Lasota	Wayne Kalish	VZ provided response to questions about subscriber lists. Accounts with more digits represent accounts migrated to new billing system
4 calendar days				
11/3/14	Email	Monica Azare	Wayne Kalish	VZ submitted installation notices, Quarterly Reports (2012-2014), Service Requests (2012-2014). VZ provided all requested documents and information, and requested clarification on two requests made by DOITT
2 calendar days				

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Date	Format	From	To	Summary
11/5/14	Email	Wayne Kalish	Monica Azare	DOITT requested documents missing from original request; requested more detailed explanation of some documents already delivered; requested dates for delivery; requested meeting to be scheduled to review all documents provided
1 calendar day				
11/6/14	Email	Wayne Kalish	Monica Azare	DOITT requested VZ most recent internal review report for NYC FIOS buildout by 11/10/14
11/6/14	Email	Monica Azare	Wayne Kalish	VZ acknowledged phone call on same day with DOITT (Wayne), summarized the requests made by DOITT during the phone call, and responded to previous requests for clarification on glossary terms
4 calendar days				
11/10/14	Email	Linda Mercurio	Monica Azare	DOITT requested more detailed explanation of complaint codes and provided follow up questions
11/11/14	Email	Monica Azare	Wayne Kalish	VZ provided revised Glossary of Terms
2 calendar days				
11/13/14	Email	Wayne Kalish	Monica Azare	DOITT request to reschedule meeting on prems passed from 11/20/14 to 11/21/14
11/14/14	Email	Wayne Kalish	Marie Lasota	DOITT request for complete address (e.g. add "street" or "avenue") for to chart out locations
3 calendar days				
11/17/14	Email	Marie Lasota	Wayne Kalish	VZ provided number # of WC per borough with codes and # of premises passed
11/17/14	Email	Wayne Kalish	Marie Lasota	DOITT asked for detail by wire center, but realized it was provided in Tab 2 of previous submission.
3 calendar days				
11/20/14	Email	Marie Lasota	Linda Mercurio	VZ provided more detailed explanations of complaint codes and responses to questions from 11/10/14.
3 calendar days				
11/23/14	Email	Marie Lasota	Wayne Kalish	VZ explanation the non-NYC addresses in the submitted subscriber lists was due to human error.
11/24/14	Email	Marie Lasota	Wayne Kalish	VZ explained for legal and network security reasons, it does not share electronic files depicting Title II network facilities and infrastructure. Noted that electronic map of wire centers is not necessary to conduct household sampling.
28 calendar days				
12/22/14	Paper	Monica Azare	Wayne Kalish	VZ provided summary of NSI Data to DoITT at 12/22/14 meeting
22 calendar days				
1/13/15	Email	Wayne Kalish	Mike Morano	DOITT requested NSI data on 10 properties
13 calendar days				
1/26/15	Shared drive	Will Freshwater	Wayne Kalish	VZ provided NSI information for the 10 properties identified by DoITT.
3 calendar days				
1/29/15	Shared drive	Will Freshwater	Wayne Kalish	VZ provided additional procedures for the 10 NSI properties.
1/30/15	Shared drive	Will Freshwater	Wayne Kalish	VZ provided due diligence information for the 10 NSI properties

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Date	Format	From	To	Summary
6 calendar days				
2/5/15	Letter	Stanley Shor	Mike Morano	VZ provided supporting documentation for 10 property locations requested in 1/13/2015, but did not contain initial non-standard installation service request records. Requested access to systems to view the initial non-standard installation requests for each of the 10 properties or provide screen shots that show the record of the person requesting.
2/5/15	Email	Mike Morano	Wayne Kalish	VZ provided status of information requested in DoITT letter 1/21/15
8 calendar days				
2/13/15	Email	Stanley Shor	Mike Morano	DOITT 2 nd request for information listed in 2/5/15 letter
2/13/15	Email	Mike Morano	Wayne Kalish	VZ Response to DoITT Letters 1/21 and 2/25.
2/13/2015	Shared drive	Will Freshwater	Wayne Kalish	VZ provided NYC Lots Progress Report -- requested in DoITT 2/5/15 Letter.
4 calendar days				
2/17/15	Shared drive	Will Freshwater	Wayne Kalish	VZ provided completed NSIs with Initial Inquiry Date
2/18/15	Email	Wayne Kalish	Mike Morano	DOITT proposed a meeting date of 2/25/15 to access VZ systems
2/18/15	Email	Wayne Kalish	Mike Morano	DoITT requested dates of completion of the NSI for the property addresses
2/19/15	Email	Mike Morano	Wayne Kalish	VZ committed to provide dates of completion of the NSI for the property addresses by the end of February. DOITT acknowledged.
2/20/15	Email	Mike Morano	Wayne Kalish	VZ provided summary of staffing for NYC build out per DOITT request from 1/21/15 letter
4 calendar days				
2/24/15	Email	Wayne Kalish	Mike Morano	DoITT working to find new dates for meeting originally scheduled for 2/25/15
13 calendar days				
3/9/15	Shared drive	Will Freshwater	Wayne Kalish	VZ provided screen shots of 20 system validated addresses from FAST, RSE and MMS
3/9/15	Phone	Wayne Kalish	Mike Morano	DOITT cancelled meeting schedule for 3/10/15 to validate system addresses
2 calendar days				
3/11/15	Email	Wayne Kalish	Mike Morano	DoITT asked what "MDU MMS Initial contact date of 4/12/13 for 500 Hamilton Ave refer to?"
3/11/15	Email	Wayne Kalish	Mike Morano	DOITT reschedule of meeting to validate system addresses to 3/17.
5 calendar days				
3/16/15	Email	Wayne Kalish	Monica Azare	DoITT request for VZ to provide documentation for tracing route to the prems passed numbers coming into VZ's databases; also want data showing when an address is passed.
3/17/15	Meeting			VZ staff validated addresses provided by DOITT
7 calendar days				
3/24/15	Shared drive	Will Freshwater	Wayne Kalish	VZ provided screen shots of system validated address from 3/17 meeting
2 calendar days				

Appendix A
Summary of Communications with NYC Dept. of Information Technology & Telecommunications

Date	Format	From	To	Summary
3/26/15	CD-ROM	Philip Montemarano	Paul McNicholas	VZ provided a shape file for each borough showing all blocks in each borough and a second shape file for each borough showing all blocks in each borough which have residential units that are not yet network created.
12 calendar days				
4/7/15	Letter			DOITT provided Preliminary Draft Audit Report with requests for comments within 7 business days

Monica Azare
Vice President & Deputy General Counsel
Verizon
140 West Street, 6th Floor
New York, NY 10007
V: 212-519-4715
F: 212-791-0615



Anne Roest
Commissioner
New York City Department of
Information Technology & Telecommunications
255 Greenwich Street, 9th Floor
New York, New York 10007

By: Electronic Mail and by Overnight Delivery Service

June 12, 2015

RE: DoITT June 9, 2015 Draft Audit Report/ Verizon New York Response

Dear Commissioner Roest,

Verizon New York Inc. ("Verizon") respectfully submits the attached response to DoITT's June 9, 2015 "Draft Audit Report" with respect to Verizon's compliance with Section 5 of the Cable Franchise Agreement by and between the City of New York and Verizon (the "Agreement").

As is more fully demonstrated in Verizon's attached response, the Draft Audit Report sets forth a deeply flawed, misleading, and inaccurate representation of Verizon's compliance with Section 5 of the Agreement and, more broadly, of Verizon's successful, and unprecedented, deployment of competitive cable service throughout all five boroughs of the City of New York. Unlike conventional audits that rely on data and established protocols, DoITT conducted this audit in a manner that completely disregarded such standards and instead resulted in an arbitrary and unrestrained effort to document what appeared throughout to be a preordained conclusion. Given the significant deficiencies in the audit process, it is unsurprising that the Draft Audit Report overtly states in the opening section that it was not completed in accordance with appropriate audit standards and thus relies on unsubstantiated "anecdotal evidence" to reach what is wrongly presented as definitive and broad-sweeping conclusions.

Unfortunately, DoITT failed to provide Verizon a meaningful opportunity to engage in a thoughtful dialogue on its objections to the audit process, findings and conclusions, as the haphazard nature of the audit process itself has persisted since DoITT's abrupt and premature conclusion of the audit in March. Following review of the Preliminary Draft Audit Report that DoITT issued on April 7, 2015, Verizon provided a detailed response on April 21 that challenged both DoITT's factual assertions and its interpretations of key provisions of the Agreement. DoITT may disagree with those criticisms, but it cannot deny that Verizon's April 21 submission raised issues that warranted an equally thoughtful and specific response. Verizon was disappointed to see that the revised Draft which DoITT issued on June 9 — to which the attached Response is addressed — differs in only relatively minor respects from the April 7 Preliminary Draft, and does not make any effort to refute or even to discuss Verizon's initial responses.

Page 2 of 2

Anne Roest, Commissioner

June 12, 2015

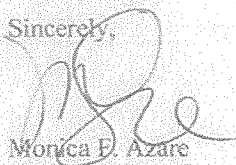
Verizon Response to DoITT June 9, 2015 Draft Audit Report

As an example, DoITT's Preliminary Draft Audit Report asserted that Verizon's obligation to "pass" premises in the City should be interpreted in the context of a supposed understanding of the term "pass" on the part of the cable industry. Verizon's response showed that even if such an understanding existed, the parties expressly agreed to deviate from it, and explained the alternative construct that had been embodied in the Agreement between the parties. Because DoITT's interpretation of the term "pass" was a material basis for the initial conclusion that Verizon had not yet passed all of the premises in the City, Verizon expected that DoITT would address the reply discussion on this issue. Instead of doing so, DoITT simply shifted its ground, and offered a new argument: that seven years after its execution the Agreement should be interpreted to incorporate, a 2015 definition included in a "definition of terms" prepared for purposes of the Fiber to the Home Council's "market research"—a definition that is nowhere in the Cable Franchise Agreement. Revealingly, DoITT did not refute or even discuss Verizon's account of the original intent underlying the obligation to "pass". Likewise, DoITT failed to address its prior formal written affirmations of Verizon's compliance with the premises passed obligation, as well as its striking about-face on this issue.

In view of these facts, the attached document incorporates all of Verizon's prior comments and responses, and addresses the few new issues DoITT raised in its June 9 Draft Audit Report. Verizon has attempted to make the Response as comprehensive as possible, but because of the extraordinarily short deadline — 72 hours — that DoITT arbitrarily imposed to submit a response (after DoITT afforded itself 49 days respond to Verizon's document), Verizon reserves its right to supplement this document as necessary.

As you are aware, representatives from our company and your Department and the Administration will be meeting at City Hall on Monday, at which time I sincerely hope that we may have the opportunity to present our views, impress upon you the importance of an accurate audit process and discuss how we may collaboratively work on an even more successful rollout of fiber and associated FiOS services to New Yorkers.

Sincerely,



Monica E. Azare

Vice President, Deputy General Counsel

Enclosure: Verizon New York's June 12, 2015 Response to Draft Audit Report

Cc w/encls:

Leecia Eve

Alphonso Jenkins

Stanley Shor

Wayne Kalish

Tanessa Cabe

**Information
Technology &
Telecommunications**

Paul J. Cosgrave
Commissioner
75 Park Place
New York, NY 10007
212-788-6600

November 23, 2009

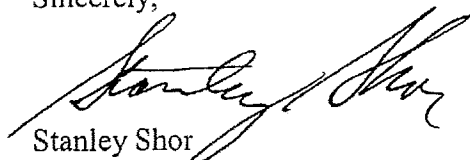
Darian Gill
Manager Franchise Operations
Verizon
FiOS TV
140 West Street, Room 3102
New York, NY 10007

Dear Mr. Gill:

The Department of Information Technology and Telecommunications ("DoITT") hereby acknowledges a November 18, 2009 letter from Christopher Levandos to Commissioner Cosgrave certifying that Verizon New York Inc. ("Verizon") has met and exceeded the requirements for 2008 as set forth in Appendix F of the Cable Franchise Agreement by and between the City of New York and Verizon ("Agreement"). In this certification letter, Mr. Levandos has requested that DoITT authorize the reduction of the Performance Bond No. 105090601 from fifty million dollars (\$50,000,000.00) to thirty-five million dollars (\$35,000,000.00).

Based on the Levandos certification, numerous citywide field inspections based on census tract information provided by Verizon and other additional data provided to DoITT, DoITT is satisfied that Verizon has met its obligations set forth in Appendix F of the Agreement for the year 2008. Therefore, by way of this letter, DoITT provides confirmation that it authorizes the above-requested reduction of Performance Bond No. 105090601 from fifty million dollars (\$50,000,000.00) to thirty-five million dollars (\$35,000,000.00) as contemplated in Section 15.9.2.1 of the Agreement.

Sincerely,



Stanley Shor
Assistant Commissioner
Franchise Administration



**Information
Technology &
Telecommunications**

Carole Post

Commissioner

75 Park Place

New York, NY 10007

212-788-6600

September 16, 2011

Darian Gill

Manager Franchise Operations

FiOS TV

140 West Street, Room 3102

New York, NY 10007

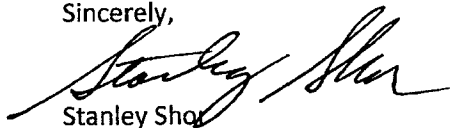
Dear Mr. Gill:

The Department of Information Technology and Telecommunications ("DoITT") has received a May 26, 2011 letter from Cara Oleska to Commissioner Post certifying that Verizon New York Inc. ("Verizon") has met the requirements of 2010 as set forth in Appendix F of the Cable Franchise Agreement ("Agreement") between the City of New York and Verizon. In her certification letter, Ms. Oleska has requested that DoITT authorize a reduction of the Performance Bond No. 105090601.

Ms. Oleska's letter states that Verizon has passed 58% of the households in New York City. This calculation was apparently not based on the households enumerated in the 2010 census of population. DoITT's best information, using the 2010 census, leads it to the conclusion that Verizon has actually passed 54% of the households in New York City. In future calculations related to performance bond reductions, Verizon should use the 2010 census population data for New York City.

Based on site inspections, the 2010 census, and information provided by Verizon, DoITT is satisfied that Verizon has met its obligations set forth in Appendix F of the Agreement for the year 2010. Accordingly, DoITT provides confirmation that it authorizes the reduction of Performance Bond No. 105090601 from thirty million dollars (\$30,000,000) to twenty-five million dollars (\$25,000,000).

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Shor".

Stanley Shor

Assistant Commissioner

Franchise Administration

**Information
Technology &
Telecommunications**

Paul J. Cosgrave
Commissioner
75 Park Place
New York, NY 10007
212-788-6600

November 23, 2009

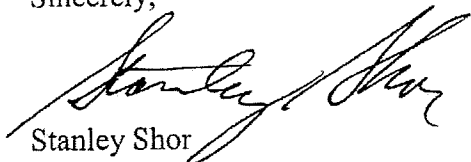
Darian Gill
Manager Franchise Operations
Verizon
FiOS TV
140 West Street, Room 3102
New York, NY 10007

Dear Mr. Gill:

The Department of Information Technology and Telecommunications ("DoITT") hereby acknowledges a November 18, 2009 letter from Christopher Levandos to Commissioner Cosgrave certifying that Verizon New York Inc. ("Verizon") has met and exceeded the requirements for 2008 as set forth in Appendix F of the Cable Franchise Agreement by and between the City of New York and Verizon ("Agreement"). In this certification letter, Mr. Levandos has requested that DoITT authorize the reduction of the Performance Bond No. 105090601 from fifty million dollars (\$50,000,000.00) to thirty-five million dollars (\$35,000,000.00).

Based on the Levandos certification, numerous citywide field inspections based on census tract information provided by Verizon and other additional data provided to DoITT, DoITT is satisfied that Verizon has met its obligations set forth in Appendix F of the Agreement for the year 2008. Therefore, by way of this letter, DoITT provides confirmation that it authorizes the above-requested reduction of Performance Bond No. 105090601 from fifty million dollars (\$50,000,000.00) to thirty-five million dollars (\$35,000,000.00) as contemplated in Section 15.9.2.1 of the Agreement.

Sincerely,



Stanley Shor
Assistant Commissioner
Franchise Administration

Monica Azare
Vice President & Deputy General Counsel



140 West Street, 6th Floor
New York, NY 10007
212-519-4715
monica.f.azare@one.verizon.com

March 6, 2015

BY: FEDERAL EXPRESS OVERNIGHT DELIVERY SERVICE

Mr. Stanley Shor
Assistant Commissioner, Franchise Administration
New York City Department of Information Technology & Telecommunications
2 Metro Tech Center, 4th floor
Brooklyn, NY 11201

Re: Verizon Performance Bond Reduction

Dear Assistant Commissioner Shor:

The purpose of this letter is to inform the City of New York ("City") of Verizon's efforts to meet the 2012 and 2013 "NYC Total" percentage of households passed by Verizon's FTTP network as set forth in Appendix F of the Cable Franchise Agreement between the City and Verizon New York Inc. ("Agreement"). In the Department's letter dated December 20, 2013, the City acknowledged that Verizon's 2011 labor stoppage, Hurricane Irene in 2011, as well as Hurricane Sandy in 2012, did in fact constitute Force Majeure events pursuant to Section 1.21 of the Agreement. Notwithstanding the significant challenges to Verizon's deployment posed by the foregoing force majeure events, Verizon still passed 91% of households against a target of 93% (based on the 2010 Census data) as of the 2013 commitment date.

By way of this letter, related to Verizon's 2012 and 2013 deployment commitments, Verizon requests that the City authorize the reduction of Performance Bond No. 105090601 to five million dollars (\$5,000,000.00) in accordance with the terms of Section 15.9.2.1 of the Agreement as Verizon had reached the 2013 "NYC Total" target of the Agreement.

Please provide written confirmation to William Freshwater, Verizon Franchise Manager, that Verizon may reduce the amount of the Performance Bond as set forth herein and in the Agreement. Mr. Freshwater's contact information is 140 West St., 6th Floor, New York, NY 10007; phone 212.519.4713.

Sincerely,

Monica Azare

cc: Chief, Economic Development Division, New York City Law Department
Paul McNicholas, Director Operations, Franchise Administration, New York City DoITT

Monica Azare, Vice President and General Counsel, Verizon
William Freshwater, Verizon Franchise Manager



**Information
Technology &
Telecommunications**

Rahul N. Merchant
Chief Information & Innovation Officer
2 Metro Tech Center
Brooklyn, NY 11201
212-788-6600

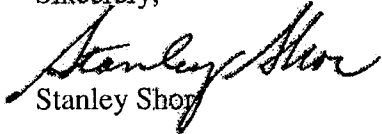
May 29, 2013

Dear Mr. Gill,

The Department of Information Technology and Telecommunications ("DoITT") hereby acknowledges a May 18, 2012 letter by you to the Department of Information Technology & Telecommunications certifying that Verizon New York Inc. ("Verizon") has met and exceeded the requirements for 2011 as set forth in Appendix F of the Cable Franchise Agreement by and between the City of New York and Verizon ("Agreement"). In this certification letter, you have requested that DoITT authorize the reduction of the Performance Bond No. 105090601 from Twenty-Five million dollars to (\$25,000,000.00) to Fifteen million dollars (\$15,000,000.00).

Based on your certification, numerous citywide field inspections based on census tract information provided by Verizon and other additional data provided to DoITT, DoITT is satisfied that Verizon has met its obligations set forth in Appendix F of the Agreement for the year 2011. Therefore, by way of this letter, DoITT provides confirmation that it authorizes the above-requested reduction of Performance Bond No. 105090601 from Twenty-Five million dollars to (\$25,000,000.00) to Fifteen million dollars (\$15,000,000.00) as contemplated in Section 15.9.2.1 of the Agreement.

Sincerely,



Stanley Shor



Leecia Eve

Vice President
State Government Affairs
New York, New Jersey & Connecticut

140 West Street, 6th Floor
New York, NY 10007

Phone: 212-519-4723
leecia.eve@verizon.com

August 10, 2015

Hon. Audrey Zibelman
Chair
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Cases 08-V-0624 and 08-V-0497

Dear Chair Zibelman:

On behalf of Verizon New York Inc. ("Verizon"), I thank you for your interest in the build-out of our fiber-based cable television network pursuant to our franchise agreement with New York City. This letter provides background that you may find helpful and responds to each of the questions set forth in your letter of July 27, 2015.¹

I want to express at the outset that Verizon shares your view that providing competitive choice for voice, broadband, and video services is critical to New York State and its citizens. Verizon recognizes and appreciates the Commission's leadership in bringing competition to the cable television market in New York — and in accelerating the growth of competition in the voice and broadband markets — through its landmark 2005 declaratory ruling on Verizon's fiber build-out and through its subsequent orders confirming Verizon cable television franchises in almost 200 municipalities in the State.

For more than seven years, Verizon and many of our 22,000 employees in New York State (including 12,000 in New York City), have worked hard to bring the Commission's vision to life by providing competitive choice to millions of New Yorkers, including almost four

¹ This letter includes three exhibits, one of which, Exhibit 2, is being submitted separately to the Commission's Records Access Officer pursuant to a request for confidential treatment under Article 6 of the Public Officers Law (the State Freedom of Information Law).

Hon. Audrey Zibelman
August 10, 2015

million households in New York City alone. When Verizon entered into its cable franchise agreement with the City in July of 2008, the incumbent providers — Time Warner Cable and Cablevision — were each providing service in different parts of the City (as, indeed, they do today), insulated from the risk of competing with each other and using networks that they had built or acquired in a low-risk monopoly environment. Time Warner Cable provided service in Manhattan, Queens, Staten Island and a small portion of Brooklyn; while Cablevision provided service in the Bronx and in the majority of Brooklyn. Thus, although cable television service (and broadband service provided by Time Warner Cable, Cablevision, Verizon and others) were virtually ubiquitous across New York City, there was no competition between franchised cable television providers. That changed, however, when Verizon became the first company to commit to offer cable television service throughout all five boroughs, in direct competition with both of the incumbent monopolists. As a new competitor seeking to gain share in an already established market, and required to make enormous investments in order to do so, Verizon's entry entailed far greater risks than the incumbents' long process of incremental growth in essentially monopoly markets.²

Through the implementation of its Agreement with the City, Verizon has brought the benefits of video competition — consumer choice, competitive pricing, and continued innovation — to the residents of New York City by posing, for the first time, a formidable challenge, City-wide in scope, to the Time Warner Cable and Cablevision monopolies. Through its innovative FiOS video services, delivered over an advanced all-fiber-optic network, Verizon has offered residents of New York City a best-in-class cable television service that is also the cornerstone of a variety of multi-service bundles. No other provider was then or is now ready, willing, and able to provide the competitive challenge to the cable incumbents that Verizon poses. Certainly the incumbents themselves — isolated in their non-overlapping service areas in the City — pose no such challenge to each other.

The deployment of Verizon's network in New York City has been the largest and — given the unique challenges inherent in such a construction effort in a city such as New York — the most ambitious, fiber-optic deployment in any city in United States history. With a total population of more than eight million people, New York is the most populous metropolis in the United States. A huge, and ongoing, construction effort has been required to provide each of the households in the City with an opportunity to obtain fiber-based cable television service from Verizon.

Moreover, with an area of approximately 303 square miles, New York City is also one of the most densely-populated cities in the country. The dense packing of people and facilities, the City's detailed and restrictive regulation of work in public rights of way, and the need to obtain rights of way both to pass and to enter any building in the City in which we may be required to provide service, all have posed considerable challenges for our deployment.

² Verizon's May 2, 2008 Petition in Case 08-V-0497 describes the lengthy process by which Time Warner Cable and Cablevision grew in New York City.

Hon. Audrey Zibelman
August 10, 2015

Despite these challenges, Verizon has worked diligently to complete its build-out in New York City, and we are proud of what we have achieved. Verizon has invested more than \$3.5 billion in this unprecedented effort, which has resulted in the installation of more than 15,000 miles of fiber-optic distribution cable,³ much of it underground, and the extension of the network to almost two million houses and apartments to date.

Although our build-out obligations under the Agreement are limited to New York City, Verizon is committed — as an investor, employer, infrastructure creator, taxpayer, and corporate donor — to New York State as a whole. In 2014 alone, Verizon invested over a billion dollars in our wireline infrastructure across New York State and in a portion of Connecticut. In addition, Verizon Wireless invested \$830 million in its infrastructure in New York State, including in the New York City metro area.⁴

This extraordinary level of commitment is nothing new for Verizon. Indeed, the Progressive Policy Institute has, time and time again, named the Verizon group of companies as one of its top “investment heroes” among *all* American companies across *all* industries.⁵

In short, Verizon’s City-wide FiOS build-out exemplifies our unparalleled investment in infrastructure. This project has not always been easy (which I am sure is one of the reasons why no other technology company was willing to undertake it), but it is a commitment Verizon is proud to have made — one that has already transformed New York City and that will continue to do so for many years to come.

* * *

In order to provide a background for our responses to your questions, it will be helpful to set forth the basic framework of Verizon’s build-out obligations under its Agreement with New York City. In general, Verizon’s obligation to build out a cable television network in the City has two components.

First, Verizon’s network is required to “pass all households served by [Verizon’s] wire centers within the Franchise Area”⁶ by not later than June 30, 2014. As you note in your July 27 letter, this obligation is subject to various exceptions and limitations, including a *force majeure* provision.⁷

³ <http://www.verizon.com/about/news/verizon-invested-23-billion-2014-new-york-and-connecticut-infrastructure>.

⁴ *Id.*

⁵ “U.S. Investment Heroes of 2014: Investing at Home in a Connected World,” The Progressive Policy Institute (September 2014).

⁶ Agreement § 5.1.

⁷ *Id.* §§ 5.1.1, 5.1.2.

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August 10, 2015

The Agreement requires that the build-out be carried out in an even-handed way that will prevent redlining or discrimination based on income. Verizon has complied with those obligations. Specifically, the build-out was conducted in accordance with Appendix F to the Agreement, which sets forth a negotiated, borough-by-borough schedule that was designed to ensure that the roll-out would proceed simultaneously, and in a relatively proportionate manner, in each borough and in each type of housing — multiple dwelling units (“MDUs”) and single-family units (“SFUs”). Moreover, as documented in reports submitted to DoITT, Verizon planned and executed the build-out so as to ensure that at each of three specified checkpoints, “the estimated median household income of all homes passed [would] not be greater than the average household income of all households in New York City”⁸

In fact, Verizon has rolled out its cable television facilities to a diverse range of neighborhoods with widely varying incomes. Particularly notable in this respect is the work we have done, and continue to do, to bring FiOS services to buildings managed by the New York City Housing Authority (“NYCHA”).⁹ Significantly, Verizon has satisfied a greater percentage of Non-Standard Installation (“NSI”) requests arising from NYCHA properties than from non-NYCHA properties. We have also spent well over \$15 million in NYCHA properties beyond expenditures we would normally make or are required to make under the Agreement, in order to satisfy special requests from NYCHA.

Second, Verizon is ultimately required under the Agreement to make cable service available to all residential dwelling units in the City upon request.¹⁰ In order to fulfill that obligation, residential units in MDUs not only need to be passed by Verizon’s facilities, but also must be “network created.” In other words, outside plant facilities must be extended into the building from the backyard or street in which those facilities are located and then in-building wiring and terminating electronics must be installed.

If Verizon receives a request for service in a building that is not yet network-created, it is required to extend its facilities to the single requesting party within six months of the request — a period that is extendable, with due notice, for an additional six months. Such an extension of Verizon’s facilities is referred to as a “Non-Standard Installation” or “NSI.” Notably, Verizon’s practice — even though the Agreement does not require this — has been to network-create an *entire* building when it receives an NSI request for service from even a single resident of the building. As a result, subsequent requests for service arising from the same building are no longer NSI requests. Instead, they are “Standard Installation” requests, which are generally fulfilled within a few days. This practice makes service available to other residents of the

⁸ *Id.* § 5.1.4; *see also id.* § 11.2.4. The Agreement also explicitly prohibits Verizon from “discriminat[ing] between or among any individuals in the availability of Cable Service or based upon the income in a local area.” *Id.* § 5.4.

⁹ “The New York City Housing Authority’s mission is to increase opportunities for low- and moderate-income New Yorkers by providing safe, affordable housing and facilitating access to social and community services.” *See* <http://www1.nyc.gov/site/nycha/about/about-nycha.page>.

¹⁰ Agreement §§ 5.3.1, 5.4.

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building more rapidly than would be the case if Verizon did no more than comply with its obligation to build out facilities to the requesting party's premises.

By network-creating entire buildings, Verizon goes significantly above and beyond the requirements of the Agreement. As a result, today, hundreds of thousands of New York City households are able to subscribe to FiOS service within a few days rather than several months. In total, because of this practice and other proactive measures, we have network-created more than **800,000** units in MDUs in addition to those units for which service has been requested and provided.

Verizon's six- or twelve-month network creation obligation is also subject to exceptions, including one for "periods of delay caused by Franchisee's inability, after good faith efforts, to obtain valid legal authority to access any MDU in the Franchise Area for the purpose of providing Cable Service to units within such MDU on other than commercially unreasonable terms and conditions with respect to each such MDU."¹¹ This inability to "access" MDUs can arise from two causes. One is Verizon's inability to obtain consent to extend its facilities *into* a building (*e.g.*, due to intransigence on the part of the owner or manager); the other is its inability to obtain consent to extend its facilities *to* the building (*e.g.*, through a neighboring building's consent to permit building-to-building connections running from distribution facilities at a nearby street corner to the target building).

* * *

With that background, we respond to your questions as follows:

Question 1: Indicate whether Verizon has achieved its six-year build-out in the cable franchise agreement. If Verizon has not achieved that build-out, please provide all documentation that Verizon provided to the City to justify the basis for any delay.

Yes. Verizon has achieved the six-year build-out under the Agreement. Specifically, Verizon fulfilled the "passage" requirement of the Agreement by November 28, 2014.¹²

It may be helpful to flesh out this statement by explaining what the Agreement means by "passing" a household, given that the term is not explicitly defined in Verizon's Agreement.¹³ By contrast, the City's franchise agreements with the cable incumbents Cablevision and Time Warner Cable have specifically stated that:

¹¹ *Id.* § 5.5(C).

¹² Section 5.1 of the Agreement requires Verizon to meet the passage obligation "no later than June 30, 2014" — *i.e.*, within roughly six years of the effective date of the Agreement. Verizon's fulfillment of the obligation in November 2014 was within that time limit as extended due to *force majeure* events.

¹³ The Agreement states only that "'pass' or 'passage' of a household shall mean MDU's whether or not network created and single family units whether or not a drop is installed." *Id.* § 5.1.

Hon. Audrey Zibelman
August 10, 2015

a household is “passed” when functioning System facilities have been *installed in the street fronting the building in which the household is located*, such that Cable Service could be provided to such building in conformance with the provisions of Section 5.3 (assuming no delays in gaining lawful access to any private right-of-way).¹⁴

This language was intentionally excluded from Verizon’s Agreement. This is because Verizon had concerns — which it explicitly raised during the negotiations — about the phrase “in the street fronting the building.” Unlike the networks of the incumbents, Verizon’s cable television network was planned — and was explicitly described in the Agreement¹⁵ — as an upgrade to its pre-existing copper network in the City, not as a “greenfield” build-out on a blank slate. That pre-existing network serves many MDUs through building-to-building connections leading to distribution facilities located at a nearby street corner, rather than by running those facilities directly in front of each building.

Because it was planned as an upgrade to the pre-existing network, Verizon’s all-fiber network generally runs along the same routes that Verizon has used historically to provide copper-based service to buildings in the City. Verizon obtains access to individual buildings using strategies similar to those it has used in the past. Those strategies include not only the use of public rights-of-way, but also the use of building-to-building connections.

This understanding of the passage obligation was shared by DoITT. Indeed, year after year, on four separate occasions (for the years 2008, 2009, 2010, and 2011), DoITT confirmed that understanding, in writing, by reducing the amount of Verizon’s performance bond pursuant to section 15.9.2.1 of the Agreement.¹⁶ Under that section, Verizon’s right to such reductions was based on the percentage of premises that it had passed. In each case, DoITT found that Verizon had met its obligation to pass households in accordance with Appendix F of the Agreement. In determining whether to grant its approval on those occasions, DoITT personnel reviewed Verizon’s plant at specific locations, including locations in which Verizon’s passage of the buildings on a block was based on the existence of facilities at either end of the block (but not along its entire length).

In November 2009, for example, Verizon stated that it had met and exceeded certain passage milestones in 2008 and therefore requested that DoITT authorize a reduction in its performance bond from \$50 million to \$35 million. That same month, DoITT responded and

¹⁴ Language from 2011 incumbent agreements (emphasis supplied).

¹⁵ See, e.g., Agreement at 2 (“WHEREAS, the Franchisee is in the process of upgrading its existing Telecommunications Services . . . and Information Services . . . network through the installation of the FTTP Network . . .”).

¹⁶ The four letters documenting DoITT’s approvals are provided in Exhibit 1 to this letter. DoITT’s approval letters for the years 2012 and 2013 are still pending, although the agency has completed its facilities verifications for those years.

Hon. Audrey Zibelman
August 10, 2015

stated that based on Verizon's certification, "numerous citywide field inspections based on census tract information provided by Verizon and other additional data provided to DoITT, DoITT is satisfied that Verizon has met its obligations set forth in Appendix F of the Agreement for the year 2008. Therefore, by way of this letter, DoITT provides confirmation that it authorizes the above-referenced reduction of [the performance bond] . . . from fifty million dollars (\$50,000,000) to thirty-five million dollars (\$35,000,000) as contemplated in Section 15.9.2.1 of the Agreement."¹⁷

Similar requests were made based on Verizon's compliance with subsequent passage milestones. As a result, the performance bond was lowered from \$35 million to \$30 million for having met the requirements for 2009, from \$30 million to \$25 million for having met the requirements for 2010, and from \$25 million to \$15 million for having met the requirements for 2011.¹⁸

In some cases, Verizon met its passage obligation by running its facilities along the entire length of the block on which a building is located. In other cases — and with equal validity under the Agreement, as acknowledged and confirmed by DoITT — Verizon met the obligation by having facilities at the end of a block, but not along its length, with a view towards accessing individual buildings through building-to-building connections, as it had historically done when providing copper-based service. Through one or another of these authorized means, Verizon had passed every household in the City by November 2014, and thus now complies with its passage obligation under the Agreement.

Question 2: In addition, please provide a current status of the FTTP build-out, by Borough, indicating the percentage and number of buildings served, and the remainder of buildings yet to be served.

We assume that this question refers to the second of the obligations described above, *i.e.*, network creation of buildings rather than passage.

Detailed, borough-by-borough network creation data is provided in Exhibit 2. As shown in that exhibit,¹⁹ Verizon has network-created 874,417 MDU housing units. Of these units, 825,466 were network-created without any NSI request having been submitted, in large part because of Verizon's policy of proactively network-creating entire buildings in response to individual NSI requests — as described above — even though the Agreement does not require Verizon to do so. Verizon has also network-created 1,031,343 SFUs.²⁰ Thus, in all, a total of almost 2,000,000 households — roughly half the households in the

¹⁷ See Exhibit 1.

¹⁸ *Id.*

¹⁹ The data in Exhibit 2 is as of July 2015.

²⁰ In general, an SFU that is passed by Verizon's facilities is deemed to be network-created. See Agreement § 1.49. Such buildings can generally receive service within seven business days.

Hon. Audrey Zibelman
August 10, 2015

City — have been network-created, meaning that service requests from these households are fulfilled within a few days.²¹

The remaining buildings for which NSI requests have been received are in varying stages of the access and/or build process. This is largely a function of the numerous challenges that Verizon has faced in obtaining access to buildings in the City following receipt of an NSI request.

Indeed, in many cases the twelve months allowed by the Agreement elapse before any access agreement is signed. Other factors include the complexities associated with the overall process (negotiation of necessary paperwork, coordination of scheduling, agreement to an installation design, etc.). With respect to access issues (uncooperative or unresponsive landlords), Verizon has on a number of occasions made written requests for DoITT's assistance in resolving those issues — assistance that was explicitly contemplated by the Agreement.²² We also look forward to working with the Commission concerning the processes for handling future filings made under section 228 of the Public Service Law.

Question 3: Provide a status update of the buildings identified in previous Verizon petitions for Orders of Entry, with a breakout to include:

- (a) Total number of building locations where access agreement with the building owner/manager has been reached.**
- (b) Total number of building locations where access agreement has not been reached.**
- (c) Total number of buildings where FTTP network has been deployed.**
- (d) Timeframes for buildings where access agreement has been reached that is pending deployment.**
- (e) Include explanations as to how Verizon is making determinations on which buildings it is deploying FTTP network throughout the Boroughs.**

(a) – (c) *See Exhibit 3.*²³ For purposes of the exhibit, § 228 filings are divided into two categories, those seeking access for purposes of conducting a pre-construction survey (“pre-survey”), and those seeking access for purposes of construction (“post-survey”). Please note that there is an overlap between the two categories given that 89 buildings have been the subject of both a pre-survey petition and a post-survey petition.

²¹ 874,417 + 1,031,343= 1,905,760.

²² Agreement § 5.5.2.1.4. The written requests were made in February of 2013, 2014, and 2015.

²³ The data in Exhibit 3 is as of July 2015.

Hon. Audrey Zibelman
August 10, 2015

(d) Of the buildings for which NSIs have been received and construction has either been scheduled or completed, the median interval from the time access arrangements are finalized to the actual or estimated construction completion date is ten months.

(e) Generally, Verizon network-creates buildings to which it has obtained access on a first-come, first-served basis within each borough. The scheduling, however, can also be influenced by other factors, such as operational logistics (*e.g.*, if Verizon is already network creating a building on a block and reaches an access agreement with another property on that same block, it may network create the new building as well), owner requests related to scheduling, and build restrictions. Additionally, in order to address issues related to voice service quality as rapidly as possible, fiber conversions would be prioritized in buildings experiencing out-of-service conditions due to copper cable failures.

Question 4: Please confirm that, in the City, the Company is adhering to the requirement to accept and record all requests for service and provide any data in support thereof.

Consistent with § 11.3.4 of the Agreement, Verizon maintains records of “installation/reconnection and requests for service extensions.” This would include requests for cable service received from prospective subscribers. In some cases, Verizon also notifies the requesting party of the availability of alternatives to the NSI process. Verizon is discussing with the City — and has begun to implement — improvements to its processes for handling requests for service, with the goal of ensuring that the requesting parties clearly understand the nature of the NSI process and their rights to obtain service under the Agreement.

Question 5: Please also explain whether Verizon handles complaints from potential subscribers who have a request/application for service pending.

Verizon strives to respond fully and accurately to questions, concerns or complaints related to requests for FiOS services. As noted above, Verizon is already in the process of reviewing and implementing improvements to its processes for interacting with New York City residents who have requested FiOS service. These improvements involve providing greater transparency to the resident about the various steps involved to bring service to his or her building, as well as updates when significant milestones have been completed. With respect to outgoing communications, the current plan involves increased email messaging to New York City residents who have requested service concerning the status of their requests (such as milestones completed and milestones outstanding). At the same time, call centers will be provided with similar information so that they can appropriately respond to incoming calls regarding status requests.

Verizon is proud of the all-fiber FiOS service that is available to New York City residents. Our goal is always to continue to improve our customer service, including with respect to communications with current customers as well as with those who seek our services.

Hon. Audrey Zibelman
August 10, 2015

* * *

Again, Verizon appreciates your interest in these issues. Please let us know if you require any additional information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Leecia Eve". The signature is fluid and cursive, with the first name "Leecia" being more prominent and the last name "Eve" following in a similar style.

Leecia Eve

cc (without Exhibit 2):

Hon. Anne Roest, Commissioner, DoITT
Maya Wiley, Esq., Counsel to the Mayor

EXHIBIT 1

**Information
Technology &
Telecommunications**

Paul J. Cosgrave
Commissioner
75 Park Place
New York, NY 10007
212-788-6600

November 23, 2009

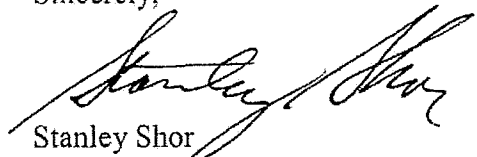
Darian Gill
Manager Franchise Operations
Verizon
FiOS TV
140 West Street, Room 3102
New York, NY 10007

Dear Mr. Gill:

The Department of Information Technology and Telecommunications ("DoITT") hereby acknowledges a November 18, 2009 letter from Christopher Levendos to Commissioner Cosgrave certifying that Verizon New York Inc. ("Verizon") has met and exceeded the requirements for 2008 as set forth in Appendix F of the Cable Franchise Agreement by and between the City of New York and Verizon ("Agreement"). In this certification letter, Mr. Levendos has requested that DoITT authorize the reduction of the Performance Bond No. 105090601 from fifty million dollars (\$50,000,000.00) to thirty-five million dollars (\$35,000,000.00).

Based on the Levendos certification, numerous citywide field inspections based on census tract information provided by Verizon and other additional data provided to DoITT, DoITT is satisfied that Verizon has met its obligations set forth in Appendix F of the Agreement for the year 2008. Therefore, by way of this letter, DoITT provides confirmation that it authorizes the above-requested reduction of Performance Bond No. 105090601 from fifty million dollars (\$50,000,000.00) to thirty-five million dollars (\$35,000,000.00) as contemplated in Section 15.9.2.1 of the Agreement.

Sincerely,



Stanley Shor
Assistant Commissioner
Franchise Administration

NYC
Information
Technology &
Telecommunications

Carole Post
Commissioner
75 Park Place
New York, NY 10007
212-788-6600

October 8, 2010

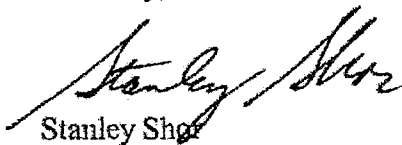
Darian Gill
Manager Franchise Operations
FiOS TV
140 West Street, Room 3102
New York, N.Y. 10007

Dear Mr. Gill:

The Department of Information Technology and Telecommunications ("DoITT") hereby acknowledges a January 25, 2010 letter from Christopher Levandos to Commissioner Post certifying that Verizon New York Inc. ("Verizon") has met and exceeded the requirements of 2009 as set forth in Appendix F of the Cable Franchise Agreement by and between the City of New York and Verizon ("Agreement"). In this certification letter, Mr. Levandos has requested that DoITT authorize the reduction of the Performance Bond No. 105090601 from thirty- five million dollars (\$35,000,000.00) to thirty million dollars (\$30,000,000.00).

Based on the Levandos certification, numerous citywide field inspections based on census tract information provided by Verizon and other additional data provided to DoITT, DoITT is satisfied that Verizon has met its obligations set forth in Appendix F of the Agreement for the year 2009. Therefore, by way of this letter, DoITT provides confirmation that it authorizes the above-requested reduction of Performance Bond No 1050907601 from thirty- five million dollars (\$35,000,000.00) to thirty million dollars (\$30,000,000.00) as contemplated in Section 15.9.2.1 of the Agreement.

Sincerely,



Stanley Shor
Assistant Commissioner
Franchise Administration

cc: J. Eskowitz



**Information
Technology &
Telecommunications**

Carole Post

Commissioner

75 Park Place

New York, NY 10007

212-788-6600

September 16, 2011

Darian Gill

Manager Franchise Operations

FiOS TV

140 West Street, Room 3102

New York, NY 10007

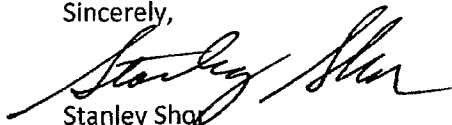
Dear Mr. Gill:

The Department of Information Technology and Telecommunications ("DoITT") has received a May 26, 2011 letter from Cara Oleska to Commissioner Post certifying that Verizon New York Inc. ("Verizon") has met the requirements of 2010 as set forth in Appendix F of the Cable Franchise Agreement ("Agreement") between the City of New York and Verizon. In her certification letter, Ms. Oleska has requested that DoITT authorize a reduction of the Performance Bond No. 105090601.

Ms. Oleska's letter states that Verizon has passed 58% of the households in New York City. This calculation was apparently not based on the households enumerated in the 2010 census of population. DoITT's best information, using the 2010 census, leads it to the conclusion that Verizon has actually passed 54% of the households in New York City. In future calculations related to performance bond reductions, Verizon should use the 2010 census population data for New York City.

Based on site inspections, the 2010 census, and information provided by Verizon, DoITT is satisfied that Verizon has met its obligations set forth in Appendix F of the Agreement for the year 2010. Accordingly, DoITT provides confirmation that it authorizes the reduction of Performance Bond No. 105090601 from thirty million dollars (\$30,000,000) to twenty-five million dollars (\$25,000,000).

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Shor".

Stanley Shor

Assistant Commissioner

Franchise Administration



**Information
Technology &
Telecommunications**

Rahul N. Merchant
Chief Information & Innovation Officer
2 Metro Tech Center
Brooklyn, NY 11201
212-788-6600

May 29, 2013

Dear Mr. Gill,

The Department of Information Technology and Telecommunications ("DoITT") hereby acknowledges a May 18, 2012 letter by you to the Department of Information Technology & Telecommunications certifying that Verizon New York Inc. ("Verizon") has met and exceeded the requirements for 2011 as set forth in Appendix F of the Cable Franchise Agreement by and between the City of New York and Verizon ("Agreement"). In this certification letter, you have requested that DoITT authorize the reduction of the Performance Bond No. 105090601 from Twenty-Five million dollars to (\$25,000,000.00) to Fifteen million dollars (\$15,000,000.00).

Based on your certification, numerous citywide field inspections based on census tract information provided by Verizon and other additional data provided to DoITT, DoITT is satisfied that Verizon has met its obligations set forth in Appendix F of the Agreement for the year 2011. Therefore, by way of this letter, DoITT provides confirmation that it authorizes the above-requested reduction of Performance Bond No. 105090601 from Twenty-Five million dollars to (\$25,000,000.00) to Fifteen million dollars (\$15,000,000.00) as contemplated in Section 15.9.2.1 of the Agreement.

Sincerely,

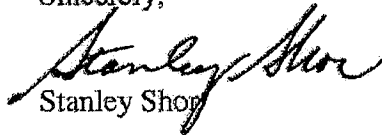
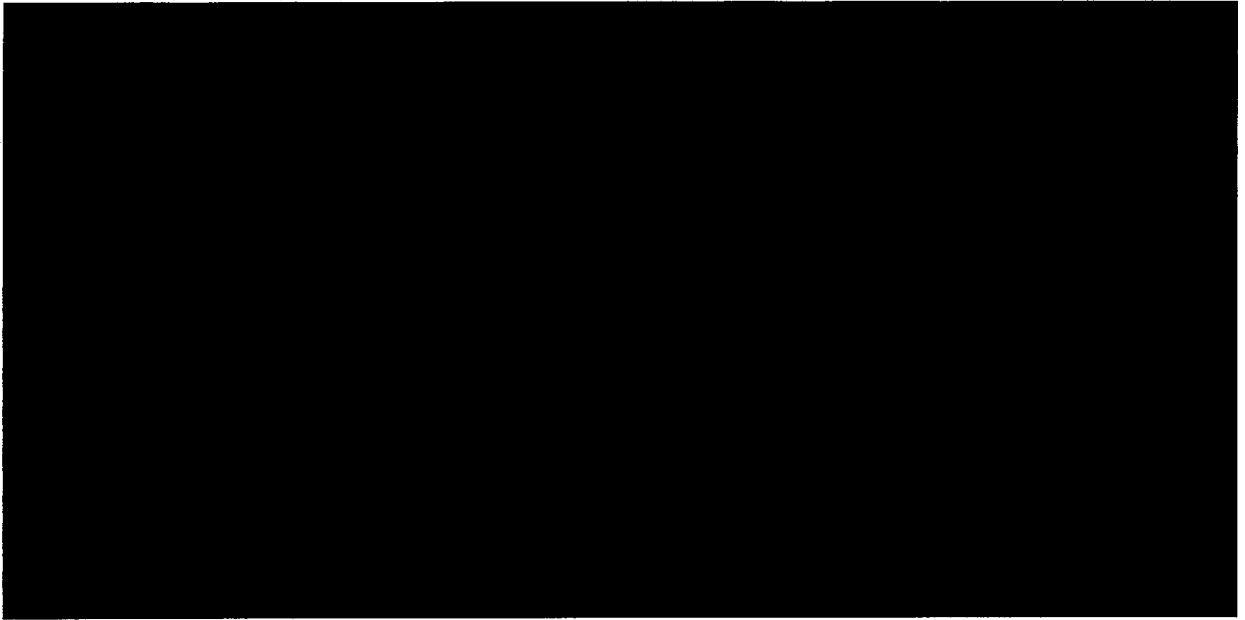

Stanley Shor

EXHIBIT 2



**REDACTED
FOR PUBLIC DISCLOSURE**

EXHIBIT 3

228 FILINGS – TOTAL

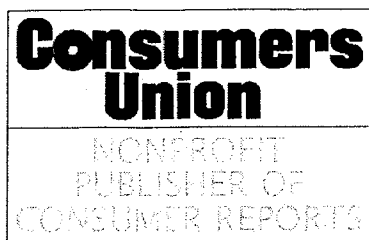
	Buildings	Living Units
<i>(89 buildings filed twice)</i>	3,520	293,368

228 FILINGS – PRE-SURVEY

	Buildings	Living Units
	1,282	96,331
Network Created	21	1,928
Access Agreement Reached	93	6,817
Survey of Building Completed, but Access Agreement Not Yet Reached	377	32,425
Survey of Building Not Completed	791	55,161

228 FILINGS – POST-SURVEY

	Buildings	Living Units
	2,238	197,037
Network Created	44	5,892
Access Agreement Reached	405	35,622
Access Agreement Not Reached	1,789	155,523



Testimony of
Charles Bell, Programs Director
Consumers Union
before the
New York City Council
Regarding the Verizon FiOS
Franchise Agreement
October 14, 2015

Good afternoon. Thank you very much for providing me the opportunity to testify before you today. I am Chuck Bell, Programs Director for Consumers Union, the policy and action arm of the nonprofit *Consumer Reports* magazine.¹ Since 1936, our mission at Consumer Reports has been to test products, inform the public, and protect consumers. We participate in advocacy regarding telecommunications issues as part of our consumer protection function.

Consumers Union supports the negotiation of cable franchise agreements that ensure all consumers can gain access to competitive cable and video services, protect public, educational and government (PEG) programming, and improve the quality of customer service.

Consumers pay very high rates for the cable TV services they receive. Since Congress deregulated the cable industry in 1996, prices in states with no effective competition for cable went up 64 percent, or about two and a half times as fast as inflation, between 1996 and 2007. The deplorable state of competition within the video and broadband marketplace is the result and legacy of the failed policies of the 1996 Telecommunication Act, which did too little to promote meaningful competition in wireline communications services and went too far in deregulating cable rates. The result has also been an explosion in mergers that have reduced competitive market options.

We supported Verizon's entry into the video services market in New York City in 2008, because we believed it would offer consumers with significantly great choice of cable, internet and telephone options. We were quite frankly excited – and are still excited -- about the opportunity to provide all New York City residents with at least one alternative choice of cable / broadband internet provider, so that customers would at least be able to "Vote with Their Feet" within the context of a duopoly choice of providers. But we recognize, even if the buildout is achieved, this is still a very highly concentrated market for consumers.

We recognize that deploying fast fiber broadband connections to all New York City customers and neighborhoods, as Verizon promised to do in 2008, is a massive undertaking. And we applaud the progress that has been made to bring FiOS service to millions of New York City customers and prospective customers. At the same time, we are deeply concerned about the delay's in the project's completion, and the findings of the Department of Information Technology and Telecommunications (DOITT) audit that was released in June. According to the audit, Verizon has not run fiber through all of the city's neighborhoods, and some blocks claimed as completed by Verizon have in fact do not have the necessary equipment to deliver service to

¹ Consumers Union is the public policy and advocacy arm of Consumer Reports. Consumers Union is an expert, independent, nonprofit organization whose mission is to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves. It conducts this work in the areas of telecommunications reform, health reform, food and product safety, financial reform, and other areas. Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications.

customers. The audit also revealed that Verizon had failed to respond to service requests that it did receive with the required 6-month and 12-month timeframes. Further, 75 percent of the more than 40,000 non-standard requests (i.e. requests from buildings that had not previously been wired for FiOS Service) that were labeled as outstanding as of December 31, 2014 had been outstanding for over a year.

The audit also reported that Verizon had not consistently logged and followed up on service requests, complaints and inquiries from prospective customers, even though this was a clear requirement of the franchise agreement. Along with DOITT, we have been urging prospective customers to log their service requests, follow-up inquiries and complaints with New York City by calling 311 or filing them at the DOITT web site (<http://www.nyc.gov/doitt>), so New York City will be aware of pending service requests and can potentially follow up in areas where there are delays.

We know that logging customer inquiries was a specific feature of the agreement, because in 2008 we were worked with Comptroller William Thompson's office to add a Cable Consumer Bill of Rights section to the agreement, and consumer concerns were very much at the forefront of New York City's concerns when the agreement was negotiated.

We recognize that many building owners have not cooperated with Verizon's efforts to bring FiOS to their buildings, and in some cases, buildings may have exclusive agreements with other cable providers, which can be a big problem for competition.

Along with Common Cause and New York City elected officials, including several Borough presidents, Consumers Union has been co-sponsoring community forums on the FiOS buildout in Manhattan, the Bronx, Queens and an upcoming event in Brooklyn. We have also reached out to consumers on our email lists to invite them to share their experiences regarding cable and internet providers, and specifically whether they were able to get a competitive choice of providers, including FiOS.

Here is a sampling of the consumer stories we have received:

Ellen (Floral Park)

I have FIOS internet but cannot get FIOS TV. Multiple times I have called Verizon but each time have been told that I am not in their service area. If I have FIOS internet - why can't I get FIOS TV?

Bruce (Forest Hills)

Verizon has refused to install FIOS in our Forest Hills co-op building for more than 3 years. No explanation has been given. This happened despite our offer of a bulk-purchase contract for our (upscale) building.

Michael (Elmhurst)

I have been trying for years to get FiOS in my building. Building management has fought my efforts. Then, I received notices that FiOS cannot connect to the building because our

building has a limited access agreement with TWC and RCN. I checked on this and it turned out to be false. I really want FiOS and Verizon in my building. A month ago I was told that the building's management would have to hire an "independent contractor" in order to "set up the needed wiring and other connections" in order to get FiOS/Verizon in our building. As of yet, nothing has happened. Very frustrating!!!

Jorge (Woodside)

Since late 2010 when i move to my address i been registering myself with Verizon and calling every few months, to no avail always the same answer we are around the corner but not in this block. No explanation as to why. No expected date to come into my block either, being locked in with one vendor no competition is very distressful when rates are raised or service issues happen. No one other than TWC services my address, not RCN not Optimun no one except them.

Georgia (Elmhurst)

Repeated promises from FIOS to have it reach my house. They LITERALLY are two doors down from me but my house and several others do not have FIOS. SHAME ON VERIZON!

Ronald (Woodside)

"Dear RONALD: During the initial phases of the ordering process, it appeared that your line would qualify for High Speed Internet, unfortunately, one of the following factors effects our ability to deliver Verizon High Speed Internet service on your line ending in 2934. Your home is too far from the Verizon central office from which you are served. We have reached capacity for the Verizon central office from which you are served. There is equipment on your line that would result in interference if service were installed. We apologize that we are unable to provide Verizon High Speed Internet service to your home."

Kathleen (Rego Park)

They even came ringing our bells to get us to sign up only to be told when we tried that it was not available. Us and many of our neighbors have tried to call to no avail. Absolutely ridiculous and totally fed up with all of them. Time Warner has also been a absolute nightmare.

My coop has service through Time Warner. I've contacted Verizon several times to see if they can provide service to our coop but they said it was not available at this time. My coop has a contract with Time Warner and we get discounts so I'm not even sure if the coop would cooperate with Verizon had they choose to bring in the service. I feel we deserve the chance to have both providers available so we can get a better deal.

Lawrence (Howard Beach)

I tried to have cable service with Verizon Fios to be told that my neighborhood isn't wired for the service. I am stuck with Time Warner Cable service which is unsatisfactory.

Mandisa (Long Island City)

I tried to have cable service with Verizon Fios to be told that my neighborhood isn't wired for the service. I am stuck with Time Warner Cable service which is unsatisfactory.

Jason (Brooklyn)

We live on the second block of Midwood Street, up from Flatbush Ave, in the Prospect-Lefferts Garden neighborhood. We have ancient phone lines that run along the back fences of the houses on this block, which is all attached houses from one end to the other (landmark district). No cable on our block, so everyone has satellite TV (if they so choose) and DSL internet connection, our only options. Every Verizon repair person who has come to our block knows very well the headaches they'll have to deal with when they arrive (the relay blocks along the back fences for those old copper wires, every few houses, are often open to the elements too). Verizon has talked about installing FIOS on our block for years & years, but can't figure out what method makes most sense, let alone what homeowners will accept. Meanwhile, we have awful service and everybody on the block just throws their hands up in frustration. (As consolation, it somewhat amuses me to tell foreign friends just how bad our service is, here in the middle of a big city in a supposedly technologically advanced country.)

E. Graham (Coop City, The Bronx)

This is about Cablevision cable television service. Cablevision by way of a deal/contract with Co-op City Board of Directors has "roped" the community into a long-term contract that has us paying WAY TOO MUCH FOR BASIC CABLE services. That is to say, that the channels we use to receive for FREE twenty (20) years ago we are now paying for; this includes shows that 30 to 50 years ago came on ABC, NBC, CBS, and other networks. We are just getting OLD shows and repeats of the same type of shows on BASIC CABLE. And the price is too much. Plus there are times when the cable TV cuts out & we do not get money back for that. Cable TV is too expensive. And Cablevision has a monopoly on cable service in Co-op City and is holding residents by a noose with the deal they made with Co-op City Board of Directors - they are making "easy money" at our expense. This is a real "mess." Their internet service is decent, yet WAY TOO COSTLY.

Stephen (Manhattan)

Basically, I am stuck with TWC since FIOS will not give me service, even though I first applied four years ago. FIOS cherry-picks large apartment buildings and co-ops, but will not install in small walkups, even though required to by law. TWC takes advantage of this by continually raising prices. Although my services are the same as five years ago, my services for digital cable (no premiums) and internet, have increased by \$50 a month. During this same time period my income has not increased at all.

Mel (Manhattan)

The high rise Condo that I live in entered into an agreement with TWC that for years has blocked any competition. In the most recent negotiation, they eliminated HBO/Showtime perk. In its place we received high speed cable. It really never showed me anything but it beats dial up. The HBO/Showtime package added, \$14.95 to my bill which also includes telephone service to \$195. I don't know if FIOS is any better but I'll wager that it's cheaper.

Floyd (Manhattan)

Had threatened to downgrade service over 2 years ago and most recent 1 year cut rate service was increased over 20% to 109.00/month - a ripoff! And our building doesn't have FIOS yet or any other provider. The only option to save money is to stop getting TV if our most important need is cable speed internet.

Many of the other stories we have received focus on consumer's frustration with the high costs of cable television and broadband service, and the specific cable pricing and bundling arrangements that their provider offers. Many consumers sign up with one provider for Triple Play services, but are frustrated when the price continues to creep up during the term of the agreement. They are also intensely frustrated that they are paying for channels that never watch and do not want, but no cheaper package is available.

We would also note that, as reported by DOITT, 22 percent of New York City household have no internet connection. That number jumps to 36 percent for families living in poverty. In the 21st Century, where New York City residents rely on the internet to apply for jobs, check their bank statements, pay bills, enroll in health care and social service programs, do homework, and apply for college, it is clear that an affordable, fast broadband connection is not a privilege, it is a necessity and should be a social right. We urge policymakers to also investigate what can be done to accelerate the provision of fast internet connections to all New York City residents, especially low-income and moderate-income residents, which may require many additional policy steps beyond completing the FiOS buildout and promoting additional completion among broadband providers.

The bottom line is that New York telecommunications consumers need more choices, not less. But the market is not adequately working to provide the competitive choices that consumers need and want. In that environment, there is a critical need to expand public oversight and accountability to ensure that the buildout of fast broadband internet, cable and telephone service is fair to consumers, and allows them to effectively exercise their rights to choose the providers and service packages they want, at a cost they can afford.

Contact:

Chuck Bell, Programs Director
Consumers Union
 101 Truman Avenue, Yonkers, NY 10703-1057
 (914) 378-2507 • (914) 378-2928 fax
www.ConsumerReports.org • www.ConsumersUnion.org

**Testimony of the Communications Workers of America - District One
to the New York City Council Joint Oversight Hearing on the Verizon FiOS
Franchise
October 14th, 2015**

Good afternoon, my name is Bob Master and I am the Assistant to the Vice President for CWA District 1. Thank you for holding this hearing and for the opportunity to testify.

CWA represents over 7,500 members at Verizon working in New York City. Our members build, maintain, install and service Verizon's wireline networks, including the copper-based telephone network and FiOS. They also provide customer service for both residential and business consumers, and maintain a small operator services department.

The De Blasio Administration and DoITT's audit of the Verizon franchise confirms what every Verizon worker knows: Verizon has blatantly violated the terms of its franchise by failing to deliver service to all of the City's households. Verizon's broken promise is not just a technical violation or a near miss; it appears to reflect flagrant disregard for the obligations that the company willingly entered into in 2008. It is worth noting that CWA testified before this City Council in support of the franchise agreement in 2008, hoping that it would lead to both continued employment and the provision of a state-of-the-art broadband product to the people of this city.

In fact, our technicians in the field tell us clearly that Verizon has failed to build out the service to large parts of the city, leaving thousands of street blocks without access to FiOS. As *The New York Times* put it in August, "FiOS remains unavailable in large swaths of the city".¹ CWA estimates that millions of New Yorkers cannot access FiOS, despite the franchise requirement that it be made available to every customer by now. Examples of Verizon's failure to deliver service include:

- All of Broadway from 135th Street to 219th Street, except for one building that was once a Verizon building between 213th and 214th Streets. On this 84 block-long stretch of Broadway, there are about 10 buildings total that get the FiOS network on the street blocks directly East and West of Broadway.
- 145th Street has no service from the Harlem to Hudson Rivers, except for 1 or 2 buildings.
- 17th Street from 1st Avenue to the Hudson River has no service except for 1 or 2 buildings.
- Co-Op City in the Bronx and Starrett City in Brooklyn do not have service.

¹ Story by Patrick McGeehan August 26th, 2015 titled "As Service Gaps Remains, City Says Verizon Broke Promise on FiOS" see: http://www.nytimes.com/2015/08/27/nyregion/new-york-city-and-verizon-battle-over-fios-service.html?_r=0

- In Sunnyside, there is no service in on the blocks that are between from 30th Street and 49th Street and 47th Avenue and either the Long Island Expressway (LIE) or 50th Avenue.
- In Jackson Heights, there is no FiOS service from 69th Street to 89th Street between Northern Boulevard and Roosevelt Avenue.

Throughout the City, there are blocks or large parts of neighborhoods without service throughout. Service is especially difficult to get in Chinatown, Washington Heights, Bedford Stuyvesant, Carroll Gardens, Park Slope, Prospect Heights, Jackson Heights, Bay Ridge, Bensonhurst, and Sunnyside among other areas.

In March of 2015 as part of a field inspection process separate from the City's audit, Verizon reported to NYC DoITT that of the 29,972 blocks with residential households that the company deemed "passed", 7,089 or 23.6% of the blocks did not have a single building with the service installed.²

Here's what our members tell us is going on. In 2008, when its NYC franchise began, Verizon started building the network in New York City. Instead of hiring more workers, the company brought in technicians from Upstate New York on temporary transfers of 2-3 weeks. While that meant more work getting done in the City, it robbed other areas of badly-needed workers. It also meant that Verizon's continued downsizing in New York City—where approximately one-third of jobs have been eliminated over the last decade—would continue apace.

Even though it had failed to hire enough workers, from 2008 through 2011, the FiOS build appeared to have been a genuine effort to build throughout the City. However, in 2012, Lowell McAdam became Verizon's CEO. McAdam's experience, unlike the previous CEO's, is primarily in wireless, not the company's wireline network. That year, the company seemed to slow down its deployment into new areas and buildings. Verizon's effort to build the city was much slower in 2012, 2013 and 2014 than in the first 4 years of the franchise. By 2014, the company had even withdrawn the Upstate technicians from the City.

In 2014, the year that FiOS was supposed to be available to all households, Verizon laughably declared that it had fulfilled the terms of the franchise. As you have heard from previous testimony, Verizon had not passed all of the city's households, did not track complaints from potential customers who could not get service, and did not fulfill all of the Non-Standard Installation (NSI) service requests.

The company's failures in New York City are part of a broader pattern: Verizon refuses to build FiOS into new areas, explaining that it is not seeking any new franchise agreements. Currently, the major upstate cities are left behind, even as many of their suburbs have service. In New Jersey, Verizon is obligated by a statewide franchise agreement to build throughout much of the State, including Newark and Jersey City. There, Verizon appears to be evading its responsibilities to Newark and Jersey City and

² NYC DoITT Verizon franchise audit at page 4.

numerous other cities—especially those that are disproportionately poor and of color-- by filing tens of thousands of waivers to build into specific properties in poorer areas of the State. For example, the company's per capita rate of filing waivers to build its network in Newark is almost ten times higher than in Hamilton Township and 4 times higher than in Tom River. Those ratios are even higher for Jersey City, and higher still in cities like Irvington and East Orange.³

In New York State, Public Service Commission staff found that higher-income households have greater access to fiber service in New York State.⁴ (Since FiOS is the overwhelming fiber optic provider in NYS, the PSC staff's finding is equivalent to a finding that FiOS availability in New York State is related to household income.) While CWA cannot reliably determine whether Verizon is deliberately discriminating by household income or race in New York City in its deployment of FiOS, the company's build-out statewide is clearly skewed towards middle and upper income areas.

Nonetheless, the City's efforts to make Verizon live up to its promises are having an effect. Lately, Verizon's effort to build the network has re-accelerated, with the company showing more urgency, forcing more technicians to work more overtime to finish FiOS work, and once again force-transferring workers from Upstate into the City. Verizon has raised its build-out goal for 2014 from 125,000 units to 350,000 units (a unit is a dwelling unit in an MDU or a household). Although we cannot speak to whether this goal is being met, the company has clearly accelerated its work on the ground. This hearing will add to the pressure on the company. The De Blasio Administration, DoITT and the Council deserve real credit for pressing for universal access.

Verizon needs to finish the job in New York City, not temporarily increase its efforts under pressure. To fulfill its obligations to the City, it is absolutely critical that Verizon hire more workers locally, including technicians and other staff. Currently, Verizon is moving in the opposite direction: instead of hiring, Verizon is trying to eliminate job security for its wireline workers. The company wants to keep lowering its headcount, which will cause further delays in the City.

For the past 18 months Verizon has made \$1 billion per month in profits. The company's top executives made a quarter of a billion dollars over the past five years. CEO Lowell McAdam makes over 200 times the pay of an average Verizon worker. Verizon can easily afford to build-out all of New York City as well as other parts of New York State.

Again, we applaud the De Blasio Administration and the Council's effort to make Verizon deliver FiOS. Universal access is vital to creating and protecting good jobs, ensuring cable competition, and access to high speed internet. We urge you to re-double

³ See theverge.com story September 14, 2015 at <http://www.theverge.com/2015/9/14/9322481/verizon-fios-access-new-jersey-deal-loop-hole>

⁴ See NYS Public Service Commission Staff Assessment of Telecommunications Service at page 52 [http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/0766d31ed8df519185257d08004f2b09/\\$FILE/Staff_Assessment_of_Telecommunications_Services.pdf](http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/0766d31ed8df519185257d08004f2b09/$FILE/Staff_Assessment_of_Telecommunications_Services.pdf)

your efforts alongside the Administration and DoITT to hold Verizon accountable.
Thank you.



**TESTIMONY OF SUSAN LERNER
EXECUTIVE DIRECTOR, COMMON CAUSE/NY
BEFORE THE NEW YORK CITY COUNCIL TECHNOLOGY COMMITTEE,
SUBCOMMITTEE ON ZONING AND FRANCHISES, AND COMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
October 14, 2015**

Thank you for the opportunity to testify today. My name is Susan Lerner and I am the Executive Director of Common Cause NY. Common Cause/New York, is a leading force in the battle for honest and accountable government. Common Cause fights to strengthen public participation and faith in our institutions of self-government and to ensure that government and the political processes serve the interest of all members of the public and not simply the special interests. Our national Media and Democracy Reform Initiative is aimed at spotlighting and countering the growing political and economic power of the communications industry. Here in New York we have taken active positions on telecommunications and other media matters, working with a broad range of groups as well as our own almost 20,000 members throughout the state on media and telecom matters.

At the time the City entered into the Franchise Agreement with Verizon to provide all of New York City's neighborhoods with high-speed fiber-optic network (FiOS) connectivity, Common Cause/NY raised questions about the way in which the agreement was negotiated and approved and questioned whether its enforcement provisions were strong enough to insure full compliance. Currently, now well past the deadline, many parts of NYC remain without high speed fiber optic connectivity. In April, Common Cause/NY sent out a survey to our members about their experiences with accessing FiOS. With nearly 300 responses, we were able to highlight specific problems that residents were facing.

Following up on that survey, we collected personal stories and testimonies which described cases where NYC residents had attempted - unsuccessfully - to have FiOS installed in their building. Along with our partner organizations, most particularly Consumers Union, we formed the Waiting 4 FiOS coalition and have been sponsoring public forums to hear directly from New York City residents. We conducted a public forum in Manhattan with the co-sponsorship of Manhattan Borough President Gale Brewer in July. That forum took place at the MNN East Harlem Firehouse facility and was broadcast on MNN. A video tape of the entire forum will be up on Common Cause/NY's YouTube page shortly. A short video of comments from our members regarding their telecom experiences is currently up on our YouTube page. In September, we conducted a public forum in the Bronx co-sponsored by Bronx Borough President Ruben Diaz, Jr. and another in Queens co-sponsored by Councilmembers Constantanides and Drumm, as well as State Senator Giannaris and Assemblywoman Simotas. We will be co-sponsoring a fourth public forum in Brooklyn in November with Brooklyn Borough President Eric Adams. We are continuing to monitor and assist efforts to hold Verizon accountable for their failure to meet the terms of the 2008 franchise agreement.

At our public forums and in response to our public outreach, we have heard from various members of the public who have significant concerns regarding the impact which difficulty in obtaining high speed internet and affordable, reliable phone service on their health and well-being. Members of the disability community have shared with us how heavily those with mobility issues depend on telecommunications

to be able to access the world outside their apartments. A representative of Gay Men's Health Alliance testified at the Manhattan Public Forum how much the Alliance's members depend on telecom services to be able to access their health providers and records, leading to a strong desire for FiOS service to bring competition.

Today, I want to share with you the results of our survey. We had close to 300 of our members reply to the survey and a few respondents from other organizations, including organizations representing the Asian American community in Brooklyn and Queens. Approximately 50 respondents indicated that they have Verizon FiOS. Over two-thirds of those respondents indicated that they had no problem getting the service; most said they called and it was installed within 2 weeks. But the balance of respondents who had FiOS had complaints, often regarding pricing. I've attached a summary selection of the responses we received from FiOS customers as Attachment A. Here are some indicative responses from our members who have FiOS service but are not happy (Capital letters as used by respondents).

"Verizon engineering, at a neighborhood meeting, said it was 'coming soon' to the neighborhood. It took almost 2 1/2 years AFTERWOOD to get PART of the neighborhood equipped/'wired' to get FIOS! I have had FIOS since September '14. On the other side of the street - NOTHING!!" E.24th St. Brooklyn

"All I have to say about Fios and Verizon is that their prices are uncontrollable. I signed up at \$65 (I was on a bare bones budget) and of course all the discounts and specials I took advantage of 2 years ago are gone. My monthly is now \$111, and I don't have TV! Digital phone and internet. These are MONOPOLIES! Why aren't our anti-trust laws in effect? Why isn't anyone contesting their right to bulldoze over their customers with poor customer service and rising rates. They are making money hand over fist! And what choice do I have? Time Warner? They're no better! THIS is a fight I want to see fought, fight these monopolies!" E.56th St., Manhattan

"My building had FIOS when I moved in. However my office building is not wired for FIOS and I don't think there are any plans to. I don't know if this is an issue with Verizon or the building owner but we would take FIOS in the office if it were available." Bleecker St., Manhattan

"I did not want FIOS. It was installed after my phone service went out with Hurricane Sandy. It is too expensive." Fish Ave., Bronx

"Our building got fios years ago with no problems. BUT DURING THE PAST YEAR THERE WAS A MARKED SLOWDOWN IN CONNECTIVITY, IMMEDIATELY FOLLOWED BY AN OFFER TO IMPROVE IT FOR \$10 MORE A MONTH." Manhattan

Attached as Attachment B is a summary of some of the more than 200 responses we received from our members who couldn't get FiOS. Here are some examples:

"I can't remember whether I was told that FiOS was available on my street, but I was definitely told it was not available in my building." Bryant Ave., Bronx

"You can only get bundled Services...Phone, Internet, TV. You cannot get FiOS as a stand-alone internet product. I already have Phone, but unless I get TV also....I cannot get FiOS Internet." 54th Ave., Queens

"I live in a NYCHA development and told that we could not get FiOS in our development."
Amsterdam Ave., Manhattan

"When I first learned about FiOS several years ago I called to find out and was told it would be available in my area in 2015 (at the time this was far away timewise). FiOS is still not." E.72nd St., Manhattan

But we are equally concerned about the complaints we have received that Verizon is forcing people off their landline or Plain Old Telephone Service. Here are two comments from our members:

"My neighborhood — the village/soho doesn't have FiOS yet — but the copper wires are too expensive for Verizon to fix so I haven't had DSL internet or my land line since Jan 23 — that is 2 months and counting. I've been a customer since 1975 at this address." MacDougal St., Manhattan

"I have a complaint re Verizon—they are disconnecting copper wire service and replacing it with battery dependent FiOS phone lines that will depend upon batteries in a power failure. In other words, they are destroying our emergency communication infrastructure. I care much more about this than whether I can see a movie." W.70th St., Manhattan

Following our public forums, more members of the public have contacted us regarding their dissatisfaction with Verizon. One gentlemen, a senior citizen living on the Upper Eastside, provided us with letters he had sent to Verizon, protesting the harassing notices and calls he was receiving, threatening "what would happen" if he refused to give up his landline service – that his phone service would be discontinued entirely.

What to make of these seemingly contradictory experiences? We believe that the picture our members and others have painted is of a company that is not responsive to its customers, that has not taken its obligations under the franchise agreement seriously and that is following some corporate agenda which does not comport with Verizon's obligations under the Franchise Agreement – to bring new technology to those customers who want it and provide New York City with a competitive telecom marketplace.

We hope that this hearing and the public attention it will garner will help Verizon understand its obligations to its customers and to the City under the Franchise Agreement and cause it to refocus its efforts to fulfill its contractual responsibilities. We commend DoITT and the Mayor's Office for their willingness to vigorously fulfill their oversight function, evaluate performance under the Franchise Agreement and urge them to continue to hold Verizon's feet to the fire. We thank the City Council, particularly Technology Committee Chair Vacca, Subcommittee on Zoning and Franchises Chair Richards and Committee on Oversight and Investigations Chair Gentile, for holding this hearing and giving members of the public a chance to be heard. We look forward to working with the Councilmembers and the Mayor's Office to help bring 21st century telecommunications services to all corners of our City.

ATTACHMENT A

Comments from Common Cause New York Members Without FiOS

April 2015

"Honestly, I am not sure if my street has FiOS yet. I know my neighborhood has FiOS. But the fact remains that my building at least, does not."	E 95th Street	New York	NY	10128-5782
"My building co-op board has tried to get them to make it available without success so far."	W 92nd Street	New York	NY	10025-7444
"I actually had inquired online, but was told it was not available in my area....that's it!! The cell phones my roommate and I use are from Verizon..."		New York	NY	10025-1406
"I was told my Washington Heights building does not have FiOS, full stop, and there's nothing I can do about it."	Cabrini Blvd	New York	NY	10040-3646
"It's impossible to find anyone with specific information as to FiOS availability. Other buildings on my street have it, but no one at Verizon seems to know anything."		New York	NY	
"I've had different answers. Once I was told that FiOS wasn't available in my "area." Another time, when I asked Verizon to upgrade my internet speed, they said they couldn't because my building's wiring (it's a very old building) didn't support it. I have internet with Verizon, but it's very slow speed."	Riverside Drive	New York	NY	10027-3942
"They said the entire block would have to opt in to getting FiOS."	Avenue Of The Americas	New York	NY	10011-2033
"I couldn't even get Verizon to install a landline and had to get one from Time Warner."	E 88th Street	New York	NY	10128-7708
"They 'couldn't say' when I'd be able to get it."		New York	NY	10024
"We have been told repeatedly by Verizon that they would install FiOS for our building, but it has not happened. We continue to wait."	Central Park South	New York	NY	10019-1560
"When I first learned about FiOS several years ago I called to find out and was told it would be available in my area in 2015 (at the time this was far away timewise). FiOS is still not."	E 72nd Street	New York	NY	10021-4753
"My neighborhood - the village/soho doesn't have FiOS yet - but the copper wires are too expensive for Verizon to fix so I haven't had DSL internet or my land line since Jan 23 - that is 2 months and counting. I've been a customer since 1975 at this address."	Macdougall Street	New York	NY	10012-2931
"My building in the West Village has 20+ apartments too small for them to install..."	Main Street	New York	NY	10014
"They said they were only doing avenues and there was no plan to do the side streets."	Riverside Drive	New York	NY	10025-9023
"My building with about 33 apartments may be too small. We are still negotiating."	E 85th Street	New York	NY	10028-0439

"I have a complaint re Verizon-- they are disconnecting copper wire service and replacing it with battery dependent FiOS phone lines that will depend upon batteries in a power failure. In other words, they are destroying our emergency communication infrastructure. I care much more about this than whether I can see a movie."	W 70th Street	New York	NY	10023-4386
"I can't remember whether I was told that FiOS was available on my street, but I was definitely told it was not available in my building."	Bryant Avenue	Bronx	NY	10460-4453
"You can only get bundled Services...Phone, Internet, TV. You cannot get FiOS as a stand-alone internet product. I already have Phone, but unless I get TV also....I cannot get FiOS Internet."	54th Avenue	Queens	NY	11368-3311
"I live in a NYCHA development and told that we could not get FiOS in our development."	Amsterdam	New York	NY	10027-4257
"Their website told me FiOS was not available at my address. Otherwise, I would have tried to have it installed."	W 90th Street	New York	NY	10024-1506
"We have waited for years and keep getting the same Verizon response that FiOS isn't available yet in our neighborhood. Yet, Verizon sends a FiOS promotional truck that parks on our street touting its virtues."	Avenue A	New York	NY	10009-4998
"It's coming 'real soon now'. That was eight years ago. And at the office (10016) we see FiOS's fleet every day on the corner, but there's no service in the area. They'll be here 'in nine months'. That was three years ago."		New York	NY	10034
"My street did not have it yet."		Queens	NY	11370

Comments from Common Cause New York Members With FiOS April 2015

"I had called for years and been told Fios was not yet available in my neighborhood. After Hurricane Sandy, I lost my regular Verizon service (phone and Internet) for several months. They only finally provided Fios because it was easier than replacing the copper wiring for my area. The installation tech actually said that Verizon was phasing out new Fios installation all over because it was too expensive."	W Broadway	New York	NY
"My building had FIOS when I moved in. However my office building is not wired for FIOS and I don't think there are any plans to. I don't know if this is an issue with Verizon or the building owner but we would take FIOS in the office if it were available."	Bleecker Street	New York	NY
"Our building got fios years ago with no problems. BUT DURING THE PAST YEAR THERE WAS A MARKED SLOWDOWN IN CONNECTIVITY, IMMEDIATELY FOLLOWED BY AN OFFER TO IMPROVE IT FOR \$10 MORE A MONTH."		New York	NY
"fios came to my building and I didn't have to do anything. It was new and I felt the workmen were inexperienced, and tho I am hardly a techie, I had to point things out to them. After a complaint, they did something or other, which a third person much later said was a fire hazard. The fios people are being paid much, much less than the "copper" people, and it shows I am a verizon stockholder, so you can tell I am annoyed."	W End Avenue	New York	NY
"Appointments for installation was week or two after call for installation was placed."	Sutter Avenue	Brooklyn	NY
"Verizon engineering, at a neighborhood meeting, said it was 'coming soon' to the neighborhood. It took almost 2 1/2 years AFTERWOOD to get PART of the neighborhood equipped/'wired' to get FIOS! I have had FIOS since September '14. On the other side of the street - NOTHING!!"	E 24th Street	Brooklyn	NY

ATTACHMENT B

"I did not want FIOS. It was installed after my phone service went out with Hurrican Sandy. It is too expensive."	Fish Avenue	Bronx	NY
"Because my building (60 East 9th Street) was signed up for a bundled deal, all interactions with Verizon have been smooth as silk."	E 9th Street	New York	NY
"All I have to say about Fios and Verizon is that their prices are uncontrollable. I signed up at \$65 (I was on a bare bones budget) and of course all the discounts and specials I took advantage of 2 years ago are gone. My monthly is now \$111, and I don't have TV! Digital phone and internet. These are MONOPOLIES! Why aren't our anti-trust laws in effect? Why isn't anyone contesting their right to bulldoze over their customers with poor customer service and rising rates. They are making money hand over fist! And what choice do I have? Time Warner? They're no better! THIS is a fight I want to see fought, fight these monopolies!"	E 56th Street	New York	NY
"I contacted Verizon about once a year, figuring I was in a relatively well-off, educated neighborhood that would probably be one of the first to get FIOS. We actually got it in 2014. Once it was in my neighborhood, the process was fairly smooth."	113th Street	Richmond Hill	NY
"I honestly don't recall how long it took BUT it was good service and now it stinks! They want more money to upgrade me. IT WORKED FINE BEFORE. NOW it will only work if I upgrade and pay more!!! I am sick of corporate greed and fraud"	Lakeview Drive	Riverhead	NY
"when I changed from Time Warner, Verizon double-charged me for six months, for two phone #s, and never ported-over my original home #, as they'd promised. technicians never brought enough optic cable, on multiple visits, and left modem on the floor, where a file-cabinet was supposed to be returned, and is still out of place 2 years later. Verizon disrupted my DVD/VHS player, and I have been unable to play or record."	Central Park South	New York	NY

ATTACHMENT B

<p>"I had FIOS too years previous to switching to Time Warner. After 2 years I decided to switch back to Verizon because of TWC price increase and bad service. Had to call FIOS 3 times because they wanted my SSN (I didn't want to give it out due to fear of ID theft) before installing and I felt my previous account was sufficient credit reference to get service (I paid bill on time for 2 years +). Ended up having to pay deposit, but I got even by eliminating TV package and will eliminate phone next month so I will only need internet which I can get cheaper from TWC. The antenna reception in NYC is great and with Netflix I am very happy saving \$120. per month. Verizon's credit policy discriminates against low income, retired citizens and people who don't want to give out SSN. I offered to put account on my BofA Credit Card but Credit Manager said unacceptable to Verizon. I asked him if he could provide documentation on how Verizon will protect my SSN info and said he couldn't. Verizon is collecting all these deposits and NOT paying interest on the deposit."</p>	W 34th Street	New York	NY
<p>"FIOS had representatives for a few days in the community room of my building to sign people up with 'special offers.' Follow up, in general was good; within 2-4 weeks. However some of their staff was poorly trained and as a result I had numerous problems, with many phone calls in order to get close to the 'special offer' originally contracted. I discovered that their 'internal communications' network is terrible; you can never reach the same person twice; you can't get a call back number (except for the original salesperson you had); evening or late night calls are answered somewhere else in the country by people who can't connect either you or themselves to daytime people. Enough said. (Not sure yet about sharing info w/staff at Mayor's office -- call me about that)"</p>	Columbus Avenue	New York	NY
<p>"when I changed from Time Warner, Verizon double-charged me for six months, for two phone #s, and never ported-over my original home #, as they'd promised. technicians never brought enough optic cable, on multiple visits, and left modem on the floor, where a file-cabinet was supposed to be returned, and is still out of place 2 years later. Verizon disrupted my DVD/VHS player, and I have been unable to play or record."</p>	Central Park South	New York	NY

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**Testimony of the Communications Workers of America - District One
to the New York City Council Joint Oversight Hearing on the Verizon FiOS
Franchise
October 14th, 2015**

Good afternoon, my name is Bob Master and I am the Assistant to the Vice President for CWA District 1. Thank you for holding this hearing and for the opportunity to testify.

CWA represents over 7,500 members at Verizon working in New York City. Our members build, maintain, install and service Verizon's wireline networks, including the copper-based telephone network and FiOS. They also provide customer service for both residential and business consumers, and maintain a small operator services department.

The De Blasio Administration and DoITT's audit of the Verizon franchise confirms what every Verizon worker knows: Verizon has blatantly violated the terms of its franchise by failing to deliver service to all of the City's households. Verizon's broken promise is not just a technical violation or a near miss; it appears to reflect flagrant disregard for the obligations that the company willingly entered into in 2008. It is worth noting that CWA testified before this City Council in support of the franchise agreement in 2008, hoping that it would lead to both continued employment and the provision of a state-of-the-art broadband product to the people of this city.

In fact, our technicians in the field tell us clearly that Verizon has failed to build out the service to large parts of the city, leaving thousands of street blocks without access to FiOS. As *The New York Times* put it in August, "FiOS remains unavailable in large swaths of the city".¹ CWA estimates that millions of New Yorkers cannot access FiOS, despite the franchise requirement that it be made available to every customer by now. Examples of Verizon's failure to deliver service include:

- All of Broadway from 135th Street to 219th Street, except for one building that was once a Verizon building between 213th and 214th Streets. On this 84 block-long stretch of Broadway, there are about 10 buildings total that get the FiOS network on the street blocks directly East and West of Broadway.
- 145th Street has no service from the Harlem to Hudson Rivers, except for 1 or 2 buildings.
- 17th Street from 1st Avenue to the Hudson River has no service except for 1 or 2 buildings.
- Co-Op City in the Bronx and Starrett City in Brooklyn do not have service.

¹ Story by Patrick McGeehan August 26th, 2015 titled "As Service Gaps Remains, City Says Verizon Broke Promise on FiOS" see: http://www.nytimes.com/2015/08/27/nyregion/new-york-city-and-verizon-battle-over-fios-service.html?_r=0

- In Sunnyside, there is no service in on the blocks that are between from 30th Street and 49th Street and 47th Avenue and either the Long Island Expressway (LIE) or 50th Avenue.
- In Jackson Heights, there is no FiOS service from 69th Street to 89th Street between Northern Boulevard and Roosevelt Avenue.

Throughout the City, there are blocks or large parts of neighborhoods without service throughout. Service is especially difficult to get in Chinatown, Washington Heights, Bedford Stuyvesant, Carroll Gardens, Park Slope, Prospect Heights, Jackson Heights, Bay Ridge, Bensonhurst, and Sunnyside among other areas.

In March of 2015 as part of a field inspection process separate from the City's audit, Verizon reported to NYC DoITT that of the 29,972 blocks with residential households that the company deemed "passed", 7,089 or 23.6% of the blocks did not have a single building with the service installed.²

Here's what our members tell us is going on. In 2008, when its NYC franchise began, Verizon started building the network in New York City. Instead of hiring more workers, the company brought in technicians from Upstate New York on temporary transfers of 2-3 weeks. While that meant more work getting done in the City, it robbed other areas of badly-needed workers. It also meant that Verizon's continued downsizing in New York City—where approximately one-third of jobs have been eliminated over the last decade—would continue apace.

Even though it had failed to hire enough workers, from 2008 through 2011, the FiOS build appeared to have been a genuine effort to build throughout the City. However, in 2012, Lowell McAdam became Verizon's CEO. McAdam's experience, unlike the previous CEO's, is primarily in wireless, not the company's wireline network. That year, the company seemed to slow down its deployment into new areas and buildings. Verizon's effort to build the city was much slower in 2012, 2013 and 2014 than in the first 4 years of the franchise. By 2014, the company had even withdrawn the Upstate technicians from the City.

In 2014, the year that FiOS was supposed to be available to all households, Verizon laughably declared that it had fulfilled the terms of the franchise. As you have heard from previous testimony, Verizon had not passed all of the city's households, did not track complaints from potential customers who could not get service, and did not fulfill all of the Non-Standard Installation (NSI) service requests.

The company's failures in New York City are part of a broader pattern: Verizon refuses to build FiOS into new areas, explaining that it is not seeking any new franchise agreements. Currently, the major upstate cities are left behind, even as many of their suburbs have service. In New Jersey, Verizon is obligated by a statewide franchise agreement to build throughout much of the State, including Newark and Jersey City. There, Verizon appears to be evading its responsibilities to Newark and Jersey City and

² NYC DoITT Verizon franchise audit at page 4.

numerous other cities—especially those that are disproportionately poor and of color-- by filing tens of thousands of waivers to build into specific properties in poorer areas of the State. For example, the company's per capita rate of filing waivers to build its network in Newark is almost ten times higher than in Hamilton Township and 4 times higher than in Tom River. Those ratios are even higher for Jersey City, and higher still in cities like Irvington and East Orange.³

In New York State, Public Service Commission staff found that higher-income households have greater access to fiber service in New York State.⁴ (Since FiOS is the overwhelming fiber optic provider in NYS, the PSC staff's finding is equivalent to a finding that FiOS availability in New York State is related to household income.) While CWA cannot reliably determine whether Verizon is deliberately discriminating by household income or race in New York City in its deployment of FiOS, the company's build-out statewide is clearly skewed towards middle and upper income areas.

Nonetheless, the City's efforts to make Verizon live up to its promises are having an effect. Lately, Verizon's effort to build the network has re-accelerated, with the company showing more urgency, forcing more technicians to work more overtime to finish FiOS work, and once again force-transferring workers from Upstate into the City. Verizon has raised its build-out goal for 2014 from 125,000 units to 350,000 units (a unit is a dwelling unit in an MDU or a household). Although we cannot speak to whether this goal is being met, the company has clearly accelerated its work on the ground. This hearing will add to the pressure on the company. The De Blasio Administration, DoITT and the Council deserve real credit for pressing for universal access.

Verizon needs to finish the job in New York City, not temporarily increase its efforts under pressure. To fulfill its obligations to the City, it is absolutely critical that Verizon hire more workers locally, including technicians and other staff. Currently, Verizon is moving in the opposite direction: instead of hiring, Verizon is trying to eliminate job security for its wireline workers. The company wants to keep lowering its headcount, which will cause further delays in the City.

For the past 18 months Verizon has made \$1 billion per month in profits. The company's top executives made a quarter of a billion dollars over the past five years. CEO Lowell McAdam makes over 200 times the pay of an average Verizon worker. Verizon can easily afford to build-out all of New York City as well as other parts of New York State.

Again, we applaud the De Blasio Administration and the Council's effort to make Verizon deliver FiOS. Universal access is vital to creating and protecting good jobs, ensuring cable competition, and access to high speed internet. We urge you to re-double

³ See theverge.com story September 14, 2015 at <http://www.theverge.com/2015/9/14/9322481/verizon-fios-access-new-jersey-deal-loop-hole>

⁴ See NYS Public Service Commission Staff Assessment of Telecommunications Service at page 52 [http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/0766d31ed8df519185257d08004f2b09/\\$FILE/Staff_Assessment_of_Telecommunications_Services.pdf](http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/0766d31ed8df519185257d08004f2b09/$FILE/Staff_Assessment_of_Telecommunications_Services.pdf)

your efforts alongside the Administration and DoITT to hold Verizon accountable.
Thank you.

Hi, my name is Fern Luskin, I am a Professor of Art History at LaGuardia Community College, and reside at 347 West 29th St.

Verizon is sitting on bundles of cash and real estate, yet it doesn't want to replace the old copper wires that used to serve us so reliably and, as I see it, the system is near collapse. For almost two years I have repeatedly had intolerable, month-long disruptions of my internet (DSL) service and landline, and so much static on the latter that it has been unusable for many years [SHOW IMAGES]. One reason for this is that, for at least 5 years, Verizon has left the copper wires leading into our building exposed, covered by nothing but a black plastic bag. In late August, a Verizon splicer swore to me that he would cover it with a metal cover, saying that he would get into trouble if he did not do so. Imagine my outrage when I saw on August 31st that he had simply covered it with a NEW black plastic bag. SHOW IMAGES: These are the photos of the 5 year old plastic bag and the current one. Verizon has also failed to maintain the copper wires in the X-box containing the cables for two whole blocks in Chelsea. After one of our brutal snowstorms, a technician told me she was only able to find one out of 600 cables in the X-box that could be connected to my phone line. I shudder to think of what will happen the next time a major storm settles upon New York City and there are NO cables left to restore phone service.

Complicating matters is the fact that the owner of 338 9th Ave., behind which the X-box is located, is suing Verizon and has forbidden the Chinese restaurant at that location from giving Verizon technicians access to the X-box. A Verizon foreman, Phyllis Tinsley, promised me in September 2014 that the X-box would be relocated and the cables re-routed, as this was now clearly a right of way issue. It never happened.

As a professor I depend on my internet service to do my research and my job (e.g., I couldn't read cover letters from prospective employees before their job interviews). I even had to travel to my office in Queens just so I could file my tax return in April 2014.

I have written to Senator Schumer, Councilmember Johnson, Manhattan Borough President Brewer, the CEO of Verizon and their Executive offices, and the Chair of the FCC about my internet outages and static issues on my land line. Finally, on August 28th, after Sen. Schumer had apprised the FCC of this situation, Jay Brown of Verizon's engineering department explained to me that the copper wires in my building are unusable and that my building will get FIOS (SHOW THEM THE LETTER). He told me the FIOS installation could be piggybacked onto a nearby building (351 West 29th St.). However, as of October 9th, another engineer, Adedeji (917-576-5266), and Erinn in Verizon's Executive offices, were unaware of this proposed resolution to the problem. As of today FIOS has still not been installed, and Verizon did not respond to my emails informing them that I had no internet for 3 days this week. Yesterday, I received the letter sent by the FCC to Sen. Schumer informing me that Verizon has 30 days to respond to my dysfunctional phone and internet service.

Another major issue I have with Verizon is the lack of reimbursement for the monumental, lack of service I have endured for many years. I was told by Verizon Repair that the company will not reimburse me until my case is closed. That should not be allowed.

This has been my particular, horrendous experience, but please bear in mind that numerous Verizon technicians over the years have told me that the deterioration of the copper wires is rampant all over the city. Obviously, Verizon wants us to sign up for FIOS instead of

continuing to use DSL. The catch is that they have not yet installed FIOS everywhere. It is scandalous that the company is charging for a service that they are not providing, especially given their vast financial reserves. We need strict governmental oversight over Verizon's maintenance of the copper wires.

IN CONCLUSION:



blan
No internet access

96%

11:18 AM
12/5/2014



they inject their heads back or forward,

The bearded, bronzed male figure - a satyr,
shown struggling with two snakes by which he
is 258 in Catullus' text: "some [horum, i.e.,
selves with writhing snakes." ^{chk} ¹⁹⁴ not by
it, as Holberton suggests, in which he uses the
The pair of non-venomous snakes encompassing
lineata, the four-lined snake, or the Italian

of Silenus (based on this *Fasli*), the rather large recess,
honeybees according to Ovid, is encircled by a "furry" border

and Jorio's gestures [I don't have in my Xeroxes]. Loeb ed. "the
according to Arelino has a sexual significance) fingers strokes the
der that the hands beaten like cymbals may resound in unison"

100% 124 PM 10/12/2014

no internet access 0%



98%



10:02 AM
9/16/2014

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 10/14/15

(PLEASE PRINT)

Name: PEPE SIKORA

Address: 80 PINE ST 37th

I represent: COMMUNICATIONS WORKERS OF

Address: AMERICA DISTRICT ONE

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: GEORGE A. JENSEN

Address: 20-79th ST. BROOKLYN NY 11209

I represent: FIRST EVANGELICAL FREE CHURCH

Address: 6501- 6th AVE BROOKLYN NY 11220

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: DG Weber Duffly

Address: 39-49 48th St Sunnyside Gardens

I represent: Jefferson Court Property Owners Assn

Address: 35-31-40-31 48th St

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: BRUCE RUTENICK

Address: _____

I represent: NEW NETWORKS

Address: 127 W 77th ST

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Fern Luskin

Address: 347 West 29th ST. #14

I represent: myself

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 10/14/2015

(PLEASE PRINT)

Name: Patricia Luskin

Address: 127 West 77th St. NYC NY 10024

I represent: myself

Address: 127 W 77th St

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

FIOS HEARING

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 10/14/15

(PLEASE PRINT)

Name: PAUL EPSTEIN

Address: 60 Cooper Street #4G, NY, NY 10034

I represent: Myself (and neighbors in my building)

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: LEE CIA EVG

Address: _____

I represent: VERIZON

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: KEVIN SERVICE

Address: _____

I represent: VERIZON

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Chuck Bell

Address: ~~642~~ 101 Truman Ave

I represent: Consumers Union Yonkers NY

Address: (Same) 10703

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
☐ in favor ☐ in opposition

Date: 10/14/15

(PLEASE PRINT)

Name: SUSAN LERNER

Address: 80 Broad St.

I represent: Common Cause NY

Address: 80 Broad St., NY, NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Stanley Shorr

Address: _____

I represent: Dolitt

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Anne Roest

Address: Department of Information Technology & Telecommunications

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Lucille Song-hai

Address: 1 Centre Street, 19th Floor South

I represent: Manhattan Borough President Gale Brewer

Address: 1 Centre Street, 19th Floor South

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 10/14

(PLEASE PRINT)

Name: MAYA WILKEY

Address: CITY HALL NEW YORK

I represent: MAYOR BILL DE BRASIO

Address: _____

Please complete this card and return to the Sergeant-at-Arms