



**Testimony of Chris Keeley, Associate Director of Common Cause/New York before the
Committees on Technology in Government, Consumer Affairs, and Land Use**

Oversight "Who are you going to call?" New York City Cable Franchisee Customer Service Issues

April 7, 2009

Good morning. Thank you for the opportunity to speak before you here today. My name is Chris Keeley and I am the Associate Director of Common Cause/New York. Common Cause/ New York is a non-partisan, non-profit citizens' lobby and a leading force in the battle for honest and accountable government. Common Cause/New York is also coordinator of New Yorkers for *Fair and Affordable Utility Services*, a coalition of nearly 50 organizations from throughout the state that are fighting for regulations and oversight bodies that are responsive to the needs of the public.

The franchise renewal agreements that are being negotiated between the City and the incumbent cable providers offer a valuable opportunity for the City to push for new concessions, including improved services and expanded access to government information.

I will focus my testimony here today on the two items:

- 1) The City's ongoing negotiations with the incumbent cable providers, with an eye towards lessons learned through a recent franchising process and
- 2) broader concerns surrounding cable franchising in New York.

As a matter of background, let us first briefly discuss the recent ground-breaking agreement between the City and Verizon Cable.

In 2008, Verizon and the City of New York reached an agreement granting Verizon a franchise to provide cable service in New York City. This franchise was to bring competition within the five boroughs for the first time, and was approved by the city's Franchise and Concession Review Committee in short order. It was only then, when the agreement was forwarded to New York State Public Service Commission for approval – *after the City had negotiated and after the FCRC had approved* the agreement – that the public first learned that Verizon had a "high proportion" of cable installations in New York State that were non-compliant with the National Electrical Code. Months of debate and briefs followed to address these issues of non-compliance. (See attached comments.)

This was an eye-opener. Documentation through this process before the PSC brought to light that the City was unaware of Verizon's non-compliance throughout its own negotiation process. Throughout the 18-month negotiation process between the City and Verizon, it seems this information about a "high proportion" of cable installations non-compliant with the National Electrical Code was not shared by the PSC or Verizon, nor is there indication that it was requested by the City.

To discuss oversight here today, we must first consider effective communication. With that in mind, I encourage the Council to ensure that the City's Law Department and Department of Information Technology and Telecommunications have strong, ongoing communications with the state Public Service Commission and its staff, as well as other local, state, and federal regulators that may have access to information that is critical to an effective cable franchise agreement. Not the least of such critical information is that which concerns public safety, as was the case with Verizon's non-compliance.

We would like to briefly offer a few additional recommendations regarding the pending negotiations with the incumbent cable providers.

- **The public must be brought back into the renewal process.** It has been years since public meetings were held to solicit the public's input regarding the renewal of the incumbents' franchises. Much has changed in the City's cable marketplace since then, including the entry of Verizon as a five-borough cable provider and the deep procedural and public safety concerns brought about by the negotiation of Verizon's franchise. Public conversation must be re-ignited.
- **Protect and expand public, educational, and government (PEG) programming.** A great deal of the government's business is conducted during the traditional working day, greatly impeding broad public participation. By making coverage on government channels available through Video On Demand technology, New Yorkers would have more convenient access to and greater familiarity with their municipal and state government. This hearing today and the FCRC's daytime hearing regarding Verizon's cable franchise are just two familiar examples of public conversations that would reach a far wider audience through Video on Demand capabilities.

There have been rumblings that the incumbents may be trying to single out PEG programming costs on a customer's bill. If this is true, it is pernicious and against the public interest. If cable companies seek to specifically break out the cost of PEG channels on monthly billing statements, it seems only logical that they should then also break down programming costs for each of their other 700 or 800 channels, many of which most New Yorkers never even consider viewing. Common Cause would be interested to stand with the Council, the Mayor, and other interested parties to ensure that such discriminatory and anti-public proposals are not put in place in New York.

- **Incorporate the Cable Consumer Bill of Rights in the franchise agreement.** In March, 2008, Consumers Union, NYPIRG and New York City Comptroller William Thompson laid out a Cable Consumer Bill of Rights, offering a range of consumer protections. This Bill of Rights should act as the City's *floor for negotiation* with the incumbent providers regarding consumer protections.

We would like to briefly offer a few broad recommendations regarding cable oversight in New York City.

- **The City should establish a Cable Franchise Oversight Committee.** As our colleagues at People's Production House have pointed out in the past, Seattle's Citizens' Telecommunications and Technology Advisory Board offers a valuable model. Members of the Seattle citizen advisory board:
 - Study and make recommendations to the Mayor and the City Council on issues of community-wide interest relating to telecommunications and technology, including cable television access, technology access, and regulatory issues within the City's authority regarding wire and wireless communication systems;

- Conduct hearings and workshops and make recommendations to the City regarding telecommunications and technology issues;
 - Encourage and promote affordable access to and use of telecommunications and technology;
 - Advocate, solicit, and facilitate citizen participation in telecommunications and technology decision making; and
 - Measure and evaluate the effectiveness of telecommunications and technology policies and programs.
- **Publicize complaint resolution options.** In the Preliminary Mayor's Management Report, DoITT reported that 311 received 15,200 calls, only about 8% (1,250) of the calls came in regarding cable television. 311 is an underutilized resource for cable customers frustrated with their provider or service. Unfortunately, too few New Yorkers know they can call 311 to help learn of their rights as a cable subscriber and to report cable complaints. Bill inserts should more prominently provide information about 311 and marketing materials put out by 311 itself should list cable complaints as one of the services it can help New Yorkers rectify. Now that there is direct competition in New York's cable marketplace, it would be useful for DoITT to make complaint information available to New Yorkers at a local level (e.g., zip code) so potential subscribers can make decisions about their cable provider informed by the experience of given providers in their particular community. Common Cause has discussed these issues with representatives of DoITT and the Mayor's Office and we have been encouraged by their response. We encourage members of the Council also to pick up this flag and push for more robust use of 311 in regards to New York's cable marketplace.

Thank you again for this opportunity to testify. We hope the Committee on Technology in Government will take note of our recommendations for the cable franchise renewal contract. We look forward to working with you in the future.