

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

Complaint of Charter Communications, Inc.                    )  
Against Verizon New York Inc. for Failure to                )  
Provide Lawful Access to Utility Poles                        )           **Case 17-C-\_\_\_\_\_**

**VERIFIED COMPLAINT OF CHARTER COMMUNICATIONS, INC.**

Charter Communications, Inc. (“Charter”), on behalf of itself and its affiliates, respectfully brings this Complaint, pursuant to Section 96(3) of the New York Public Service Law, against Verizon New York, Inc. (“Verizon”) due to Verizon’s unlawful constructive denial of access to its utility pole facilities. Verizon’s refusal to provide access to poles on nondiscriminatory terms violates Public Service Law §§ 97 and 119-a, and the Commission’s regulations and orders implemented thereunder, including its Order in Case 03-M-0432, *Proceeding on Motion of the Commission Concerning Certain Pole Attachment Issues*, Order Adopting Policy Statement on Pole Attachments (Aug. 6, 2004) (“Pole Attachment Order”). Verizon’s unlawful actions have frustrated Charter’s ability to meet the initial milestone in the Commission-imposed buildout condition to expand the availability of broadband in New York, despite Charter’s efforts toward meeting that milestone. Charter’s ability to promptly deploy additional infrastructure to expand broadband availability in the State has been a subject of significant recent interest and attention from both the Commission and the Department of Public Service (“Department”). In the absence of action by the Commission to remedy Verizon’s unreasonable conduct and failure to comply with its obligations under New York pole attachment rules and this Commission’s orders, Charter will be unable to meet future milestones in the buildout condition, and more unserved and underserved New Yorkers will be denied timely access to broadband.

## **PARTIES**

1. Charter Communications, Inc. is a Delaware corporation, headquartered in Stamford, Connecticut. Charter is the ultimate parent of several affiliates holding cable franchises in communities throughout the State of New York, and through which Charter provides video, broadband Internet, voice, and business services to New York customers.

2. Verizon New York, Inc. (“Verizon”) is a corporation organized and existing under the laws of the State of New York, which owns utility pole facilities throughout the State. Verizon also offers video, broadband Internet, voice, and business services; in many markets, Verizon and Charter compete directly against one another for the same customers. As a “telephone corporation” under the New York Public Service Law,<sup>1</sup> Verizon is obligated to provide competitors, such as Charter, with non-discriminatory access to such facilities.

## **JURISDICTION**

1. The Commission has the power of “general supervision” over telephone corporations in New York, which includes the power to examine their “compliance with all provisions of law.”<sup>2</sup> Moreover, the Commission is authorized by statute to hear and resolve complaints involving violations of the Public Service Law or Orders of the Commission,<sup>3</sup> and has the express power to address “unjust or unreasonable” practices of any telephone company and to determine “the just, reasonable, adequate, efficient and proper regulations [and] practices” of telephone companies.<sup>4</sup>

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<sup>1</sup> N.Y. Pub. Serv. Law § 2(17).

<sup>2</sup> *Id.* § 94.

<sup>3</sup> *Id.* § 96(3).

<sup>4</sup> *Id.* § 97.

## STATUTORY AND REGULATORY BACKGROUND

2. Section 119-a of the New York Public Service Law provides that “[t]he commission shall prescribe just and reasonable rates, terms and conditions for attachments to utility poles and the use of utility ducts, trenches and conduits.”<sup>5</sup>

3. In 2004, in order to resolve issues concerning pole attachments and to “streamline the process by which attachments to utility poles are made in order to promote the deployment of competitive telecommunications networks[,]” the Commission issued an order adopting a Policy Statement on Pole Attachments.<sup>6</sup> Although the Pole Attachment Order permits individual pole owners and attachers to enter into agreements and operating procedures to govern pole attachments, such “agreement[s] and operating procedures must be consistent with the Policy Statement on Pole Attachments” adopted in the Pole Attachment Order.<sup>7</sup>

4. Under the Commission’s Pole Attachment Order and Policy Statement on Pole Attachments, pole owners such as Verizon are required to process Charter’s applications for pole attachment permits within five business days of receipt.<sup>8</sup> After receiving a complete application, pole owners have 45 days from the date of the application’s receipt to complete a preconstruction survey.<sup>9</sup>

5. Within 14 days of completing the survey, the pole owner must send a make-ready work estimate to the applicant—in this case, Charter.<sup>10</sup> The applicant has 14 days from receipt of

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<sup>5</sup> *Id.* § 119-a.

<sup>6</sup> Pole Attachment Order, at 1.

<sup>7</sup> *Id.* at 9.

<sup>8</sup> Pole Attachment Order, Appendix A, Policy Statement on Pole Attachments, at 2 (“Policy Statement”).

<sup>9</sup> Pole Attachment Order, at 3; Policy Statement, at 3.

<sup>10</sup> Pole Attachment Order, at 3; Policy Statement, at 4.

the estimate to accept and pay for the make-ready work, and the pole owner must then perform the make-ready work within 45 days of receiving payment.<sup>11</sup>

6. If a pole owner is unable to meet these deadlines, the Pole Attachment Order expressly authorizes the applicant to “hire an outside contractor to do the survey or perform make-ready work, if the contractor is approved by the Owner [in this case, Verizon].”<sup>12</sup> Moreover, the Order makes clear that a pole owner may not withhold such approval on the grounds that it is contractually prohibited from doing so by its own collective bargaining agreements:

Some Owners and the Unions object to this procedure [i.e., the use of outside contractors for survey and make-ready work], arguing that their collective bargaining agreements may not allow hiring outside contractors. Since time is the critical factor in allowing Attachers to serve new customers, it is reasonable to require the utilities either to have an adequate number of their own workers available to do the request work, to hire outside contractors themselves to do the work, or to allow Attachers to hire approved outside contractors.<sup>13</sup>

7. In addition, the Pole Attachment Order expressly authorizes applicants to use various alternative attachment methods to facilitate the timely completion of their buildout. For example, recognizing that speed is of the essence to an attacher and that temporary attachments can “compensate for delays in make-ready and other impediments to accessing poles[,]”<sup>14</sup> the Pole Attachment Order requires that “[t]emporary attachments to poles should be used if they meet all safety requirements and if a utility is unable to meet the make-ready work timeline.”<sup>15</sup> The Order likewise contemplates that “[e]xtension arms may be an appropriate method of attachment for both

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<sup>11</sup> Pole Attachment Order, at 3; Policy Statement, at 4.

<sup>12</sup> Pole Attachment Order, at 2-3; Policy Statement, at 3.

<sup>13</sup> Pole Attachment Order, at 3.

<sup>14</sup> Policy Statement, at 5.

<sup>15</sup> Pole Attachment Order, at 5.

permanent installations, when make-ready costs are exorbitant and/or on a temporary basis when make-ready work cannot be performed in a timely manner.”<sup>16</sup>

8. Beyond the specific obligations identified in the Commission’s Pole Attachment Order, telephone corporations have a general obligation under Public Service Law Section 97 not to utilize “rules, regulations or practices” that are “unjust, unreasonable or unjustly discriminatory.” This prohibition extends to and includes telephone corporations’ rules, regulations, and practices governing access to their poles. Notably, the Commission’s power to regulate pole attachments is delegated under the Federal Pole Attachment Act of 1978,<sup>17</sup> which Congress enacted, in part, to prevent pole owners from using their monopoly power to impede customers’ access to competitors’ services. As the FCC has noted, the Act, as amended in 1996, “seeks to ensure that no party can use its control of the enumerated facilities and property to impede, inadvertently or otherwise, the installation and maintenance of telecommunications and cable equipment by those seeking to compete in those fields.”<sup>18</sup>

## **FACTUAL BACKGROUND**

### **I. Charter’s Commission-Ordered Buildout.**

9. Charter’s pole attachment dispute with Verizon arises in the broader context of a large buildout project that Charter is undertaking in the State of New York in connection with conditions imposed by the Commission in approving Time Warner Cable Inc.’s (TWC’s) transfer of control to Charter of several cable and telecommunications provider affiliates offering services within the state. Specifically, the Commission’s order requires Charter to extend its network to

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<sup>16</sup> Policy Statement, at 6.

<sup>17</sup> 47 U.S.C. § 224(c)(1).

<sup>18</sup> *In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15,499, 16,059-60 ¶ 1123 (1996).

pass an additional 145,000 unserved or underserved premises within four years of closing its transaction with TWC (*i.e.*, by May 18, 2020), with 25% completed in the first year and an additional 25% completed in each successive year (“Buildout Condition”).<sup>19</sup>

10. In addition to the Buildout Condition imposed by the Commission, Charter is also subject to national broadband buildout commitments in connection with the Federal Communications Commission’s (“FCC”) approval of the national transaction involving Charter and TWC, of which the transfers of control of TWC’s New York affiliates approved by the Commission was a component. Although Charter’s national buildout commitments to the FCC are not specific to New York, Charter’s completion of its network buildout commitments in New York is an important component of its plans for satisfying its national commitments to the FCC.

11. Charter has worked towards meeting its buildout obligations in New York. It filed with the Commission on July 5, 2016 (and revised on July 26, 2016) a Network Expansion Implementation Plan and 45-Day Report detailing the Company’s plans to expand service in

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<sup>19</sup> Charter’s Verified Complaint should not be construed in any way as a waiver or a concession by Charter with respect to the Commission’s jurisdiction to regulate Charter, impose conditions on the Merger, or otherwise compel Charter to act (or refrain from acting) with respect to any activities Charter conducts in New York that are beyond the scope of the Commission’s limited jurisdiction, including but not limited to Charter’s activities in New York related to broadband service or infrastructure which are outside of the jurisdiction of the Commission.

Charter’s Verified Complaint should also not be construed in any way as a waiver or a concession by Charter that any provision or condition of the Merger Order, including but not limited to Condition I of Appendix A of the Order, is lawful or valid under the New York Constitution, the Federal Constitution, or any applicable New York or federal statutes, caselaw and regulations.

Charter reserves all of its rights, including its right to challenge any provision or condition of the Merger Order, including but not limited to Condition I of Appendix A of the Order, in a state or federal court of competent jurisdiction on the basis that the provision or condition is invalid because the Commission lacked statutory authority or jurisdiction to impose the condition, that enforcement of the provision or condition and any associated penalty violates the Due Process or Commerce Clauses of the New York Constitution or the Federal Constitution, or that the provision or condition is preempted by or otherwise contravenes state or federal law.

compliance with this condition (collectively, the “Network Expansion Plan” or “Plan”). Charter has since submitted a summary of the activities, expenditures, and schedules related to its Network Expansion Plan on August 16, 2016 as part of its 90 Day Report and Implementation Plan, along with subsequent updates on November 18, 2016, February 17, 2017 and May 18, 2017.

## **II. Delays in Pole Attachment Process.**

12. Charter’s ability to complete its Network Expansion Plan depends upon its ability to access poles owned by third parties—which, in turn, depends upon those third parties’ meeting their contractual and regulatory obligations to grant such access in a timely manner. As Charter’s implementation of its Network Expansion Plan has progressed, however, the principal barrier Charter has encountered—again and again—is the failure of pole owners to process and respond to Charter’s applications in a timely manner.

13. Charter has prepared and submitted to various pole owners applications for approximately 180,164 poles within the State of New York since May 2016 (when Charter’s transaction with TWC closed and the Buildout Condition became effective) in order to obtain access to poles needed under its Network Expansion Plan, and has paid approximately \$4.1 million in fees to pole owners in connection with those applications. However, New York pole owners have come nowhere close to meeting their obligations under this Commission’s rulings to process those applications in a timely manner, and have granted approval for only approximately 6,472 of those poles, *i.e.*, fewer than 4% of those that Charter has submitted. The Commission’s 2004 Pole Attachment Order requires pole owners to process applications and complete initial surveys within 45 days. Yet pole owners are consistently and systematically disregarding this requirement—statewide, over 76% of Charter’s applications have been pending without approval for more than 45 days; 62% of Charter’s applications have been pending without approval for more than 90 days,

and over 61% of Charter’s applications (covering 110,213 poles) have been pending for more than 100 days.

14. Charter has sought in good faith to work with pole owners to mitigate these issues. As Charter explained in its February 14, 2017 letter to the Commission,<sup>20</sup> Charter has been actively engaging with its three largest pole partners, Verizon, National Grid USA Service Company, Inc. (“National Grid”), and New York State Electric and Gas Corporation (“NYSEG”)—who collectively represent approximately 85% of all pole attachment applications—in an attempt to find mutually acceptable resolutions that will allow Charter to move forward with its Network Expansion Plan. Charter has engaged in joint calls with Verizon (as well as with National Grid) on a weekly basis to discuss the pole attachment process, including answering specific questions or concerns regarding specific Charter pole attachment applications, providing ideas and opportunities to expedite and improve work-flow, identifying potential resolutions to barriers encountered, as well as assisting with general housekeeping and other agenda items.

15. Charter has also sought the assistance of the Department in facilitating resolution of these recurring delays. In a February 14, 2017 letter, Charter outlined a number of pole attachment issues that have been delaying Charter’s ability to complete its Network Expansion Plan, as well as its mitigation strategy to expedite approvals.<sup>21</sup> As part of this letter, Charter also identified specific areas in which the Department’s active engagement would be necessary to facilitate resolution of the pole impediments and mitigate further delays.

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<sup>20</sup> CASE 15-M-0388 - *Joint Petition of Charter Communications and Time Warner Cable for Approval of a Transfer of Control of Subsidiaries and Franchises, ProForma Reorganization, and Certain Financing Arrangements*, Letter from Adam Falk, Senior Vice President, State Government Affairs, Charter Communications, Inc. to Karen Geduldig, Director, Office of Telecommunications, Department of Public Service (Feb. 14, 2017) (Filing No. 140).

<sup>21</sup> *Id.*



16. Charter has also regularly met with Staff over the past year to discuss these issues—including in several meetings held throughout early 2017 and in a joint meeting on March 22, 2017, which included Charter, pole owners (including Verizon), and Department Staff. The Department shares Charter’s interest in swiftly obtaining pole attachment rights to facilitate the joint goal of expanding broadband availability in unserved and underserved areas of the State, and has committed to effectuate approvals and prompt the pole owners to take necessary actions to accomplish that goal.<sup>22</sup> Charter welcomes those efforts; however, since the March 22, 2017 meeting, the same delays by pole owners have persisted, and they have approved only 179 additional pole permits.

17. In light of the challenges it has faced in obtaining access to utility poles, Charter on May 17, 2017 submitted to the Commission a request for an extension of the four-year line extension build-out provision, as well as an extension of the requirement that one quarter of the commitment be completed one year after the close of the transaction.<sup>23</sup> On June 19, 2017 Charter and the Department reached a settlement agreement for consideration by the Commission. Under the terms of that agreement, Charter stands to forfeit as much as \$13 million if it is unable to meet certain targets set forth in the agreement. Absent approval by the Commission of the proposed extension agreement, Charter could be threatened with other penalties. Immediate action by the Commission is required if Charter is to meet its commitments to the Commission and bring broadband services to unserved and underserved New Yorkers.

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<sup>22</sup> See CASE 15-M-0388, Letter from Karen Geduldig, Director, Office of Telecommunications, Department of Public Service, to Adam Falk, Senior Vice President, State Government Affairs, Charter Communications, Inc. (Feb. 8, 2017) (Filing No. 139).

<sup>23</sup> CASE 15-M-0388, Request of Charter Communications, Inc. for an Extension of Time in Which to Comply with the Merger Order’s Buildout Provisions and Reserving the Right to Supplement (May 17, 2017) (Filing No. 143).

### **III. Verizon’s Failure to Comply with the Pole Attachment Order and the Commission’s Rules.**

18. As one of Charter’s largest pole partners in New York, Verizon’s cooperation is vital to Charter’s ability to meet its Commission-ordered buildout targets. Verizon’s persistent failure to meet its legal and regulatory obligations to grant timely access to poles has caused significant harm to Charter and impeded Charter’s ability to meet these initial targets.

19. While many of the pole attachment agreements among Charter’s affiliates and Verizon date from before the Commission’s 2004 Pole Attachment Order, the Pole Attachment Order makes clear that any agreements and operating procedures that pole owners use to govern access to their facilities’ attachments may not be inconsistent with the Order’s provisions.<sup>24</sup> The Commission’s regulations reiterate this directive, stating that such contracts “may not be used by [pole owners] to avoid common carrier obligations.”<sup>25</sup> And in any event, Verizon’s agreements expressly incorporate that their terms are subject to “all laws, ordinances, and regulations which in any manner affect the rights and obligations of the parties.”<sup>26</sup>

20. Verizon is responsible, either in whole or in part, for a significant portion of the poles for which Charter has not been granted approval to access for attachments as set forth in Paragraphs 12-17 above. Since the Buildout Condition took effect in May 2016, Charter has submitted 822 pole attachment applications to Verizon, requesting permits to attach to 55,856 poles—nearly a third of all of the poles that Charter needs to access in order to meet its buildout requirements. In connection with those applications, Charter has paid \$409,296 to Verizon in

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<sup>24</sup> Pole Attachment Order, at 9.

<sup>25</sup> 16 NYCRR § 605.2(d).

<sup>26</sup> *See, e.g.*, Pole Attachment Agreement between New York Telephone Company and TCI of Buffalo, Inc., Art. III, § 1 (Dec. 1, 1986) (“Verizon-TCI Pole Attachment Agreement”).

application fees. To date, however, Verizon has approved only 179 of those applications and has released only 4,048 poles to Charter—a mere 7% of poles for which Charter has submitted applications to Verizon. Verizon has not conducted any preconstruction surveys for 51% of Charter’s applications (representing 62% of the poles), despite accepting Charter’s payment of application fees to pay for such work. While a number of these may represent poles that Verizon jointly owns with another pole owner (and in some instances other pole owners have likewise been a source of unacceptable delays),<sup>27</sup> Verizon’s co-ownership of a pole does not relieve it of its legal obligation to complete surveys in a timely fashion. And of the poles for which Verizon *has* completed surveys, more than 20% were not completed until *after* expiration of the 45-day deadline specified in the Commission’s Pole Attachment Order.

21. Of the more than 55,000 poles covered by Charter’s applications, Verizon has performed the initial preconstruction surveys and provided make-ready estimates to Charter for only 11,199 poles. In some instances, estimates from Verizon’s co-owners remain outstanding and Charter is not yet in a position to evaluate whether the ultimate make-ready costs for the pole would make a workaround, such as underground deployment, more practical than attaching to the pole. Charter has remitted \$580,848 to Verizon for make-ready work encompassing 7,873 of the poles for which Verizon has provided make-ready estimates; however, Verizon has completed that work on only 2,795 poles. An additional 5,078 Verizon poles still await make-ready work, 924 of them already outside the requisite 45-day window.<sup>28</sup>

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<sup>27</sup> As discussed in Paragraphs 12-17 *supra*, delays by pole owners impeding Charter’s Network Expansion Plan have not been limited to Verizon. Charter anticipates that it may need to seek the Commission’s assistance in addressing similar difficulties with other pole owners as well, including (without limitation) with respect to poles co-owned with Verizon.

<sup>28</sup> *Id.*

22. Of the 643 applications that remain pending, Verizon’s processing has been delayed, often significantly, as shown below:

<b>Days Application Pending</b>	<b>Applications</b>	<b>Poles</b>
0-45	153	11,494
46-90	54	3,756
91-120	42	2,849
121-150	171	14,184
151-180	135	10,110
181 or more	88	9,415
<b>Total</b>	<b>643</b>	<b>51,808</b>

23. Unlike other pole owners in the State, Verizon does not provide routine status updates regarding the status of Charter’s permit applications, further frustrating Charter’s efforts to mitigate delays in Verizon’s processing of such applications. Charter has compiled the following summary demonstrating the delays in Verizon’s performance from internal data— which Charter is regularly updating during the course of its build—based on information that Charter’s construction coordinators have been able to glean piecemeal from their counterparts at Verizon:

<b>Application Processing and Surveys</b>	
Application Fees Charter Has Remitted to Verizon	\$409,296
Applications Charter Has Submitted to Verizon	822
Poles Encompassed by Charter Applications to Verizon	55,856
Poles for which Verizon has Performed Preconstruction Survey / Provided Make-Ready Estimate	11,199
<b>Make-Ready Work</b>	
Poles for which Verizon has Performed Preconstruction Survey / Provided Make-Ready Estimate	11,199
Make-Ready Fees Charter Has Remitted to Verizon	\$580,848
Verizon Poles for which Charter Has Remitted Payment for Make-Ready Work	7,873
Poles for which Verizon Has Completed Make-Ready Work	2,795
Verizon Poles Awaiting Make-Ready	5,078
Verizon Poles Awaiting Make-Ready Outside 45-Day Window	924

24. Although Charter will need access to additional Verizon poles to satisfy its commitments under the Buildout Condition, Verizon's inability or unwillingness to process Charter's existing pole attachment applications in a timely manner, as well as its huge existing backlog of unprocessed applications, has made it effectively futile for Charter to continue submitting such applications to Verizon until the backlog can be addressed.

#### **IV. Verizon's Failure to Take Adequate Steps to Mitigate Its Noncompliance.**

25. Charter brings this Verified Complaint only after trying without success to obtain Verizon's cooperation in mitigating the failures described above.<sup>29</sup> Verizon's unwillingness to address these deficiencies has, in turn, frustrated Charter's ability to take necessary measures to do so.

26. As a threshold matter, Verizon's delays are a direct result of its failure to commit, deploy, or retain sufficient staff to meet its pole attachment obligations. Rather than remedy this problem by retaining or deploying the necessary staffing to those efforts, Verizon has exacerbated it by refusing to use contractors or subcontractors to complete work that it has been unable to do in a timely fashion, refusing for months to allow Charter to hire contractors to perform preconstruction survey work despite Charter's requests, and refusing altogether to allow Charter to hire contractors to perform make-ready work on poles for which Verizon has been unable to meet the Commission's pole attachment timelines.

27. Verizon had initially also invoked, among its rationalizations for its delays in processing Charter's requests, that its pole attachment agreements limit the number of pole

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<sup>29</sup> Charter reserves all rights to seek additional remedies against Verizon beyond those available in a pole attachment complaint before the Commission, including without limitation its rights to seek any appropriate legal and equitable relief in a court of law.

attachment applications it will process each month within specific regions.<sup>30</sup> Irrespective of whether it would *ever* be permissible under the Pole Attachment Order for a utility to use agreements (whether negotiated prior to or after adoption of the Pole Attachment Order) to limit its pole attachment obligations, or whether a specific limitation on the quantity of applications a pole owner will process would ever be considered just and reasonable under Public Service Law Section 97, any reliance by Verizon on such a limitation to delay Charter's network buildout in this particular instance is unjust and unreasonable. Here, the party seeking access to Verizon's poles is doing so in order to satisfy a Commission order to bring broadband access and competition to unserved and underserved New Yorkers. Verizon has been on notice for nearly a year that Charter is proceeding with a Network Expansion Plan and that access to significant numbers of Verizon poles is required in connection with that effort. Verizon, moreover, is a competitor to Charter's services and thus benefits from delaying the onset of competition from Charter's buildout. Under such circumstances, relying on pole attachment agreements to limit timely access to Verizon's poles effects an unjust and unreasonable limitation, both on access to Verizon's poles and on the Commission's buildout requirements.

28. Charter began negotiating with Verizon, after submitting its initial round of applications, regarding mechanisms for ensuring that Verizon's processing and acceptance of pole attachment applications would be completed in a manner that would allow Charter to satisfy its commitments in connection with the Buildout Condition. By the end of 2016, however, Charter

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<sup>30</sup> See, e.g., Verizon-TCI Pole Attachment Agreement, Art. IV, § 1.c. (requiring Verizon to "perform the required preconstruction survey and/or make-ready work to permit the issuance by [Verizon] and/or a joint user of a total of 1,500 pole attachment authorizations per month in each of [Verizon's] plant construction operating areas."). Verizon's processing and approval of Charter's applications, in any event, have not been keeping pace even with this self-imposed limitation.

became increasingly concerned that Verizon was not moving with deliberate speed, and that Charter's ability to access Verizon's poles on the necessary timetable could be in question unless Verizon took steps to accelerate the process.

29. Verizon repeatedly represented to Charter throughout late 2016 and early 2017 that it was working on a proposed agreement that would provide a framework for allowing Charter to access Verizon poles in a timely fashion. Charter relied in good faith upon Verizon's representations that Verizon was working on a proposal for facilitating such access, and awaited this proposal for several months in lieu of taking other action to accelerate deployment, including but not limited to the filing of a formal complaint with the Commission.

30. Although Verizon eventually came forward several months later with a proposed letter agreement to supply a framework for accelerating Charter's access to Verizon's poles ("Verizon Make-Ready Proposal"), the Verizon Make-Ready Proposal was materially inadequate and failed to address the principal causes of delay. Critically, Verizon's proposal included no commitments to address the critical problem at the heart of Verizon's pole processing delays—Verizon's failure to devote adequate staffing to the effort or to permit the use of contractors where Verizon's own resources were inadequate to meet both Charter's targets and the Commission's deadlines under the 2004 Pole Attachment Order.

31. Verizon's proposal did contemplate certain construction methods that could expedite make-ready work on Verizon poles under certain circumstances—including the use of alternative spacing (*i.e.*, permitting Charter to attach within the communications space below Verizon's facilities, or within six inches above Verizon's facilities within the communications space). However, it attempted to condition use of such alternative spacing methods on Charter agreeing to indemnify Verizon against any future liability caused by Verizon's subsequent change,

modification, rearrangement, or transfer of Charter’s attachments—a provision that would effectively place onto Charter all risk arising out of Verizon’s work on Charter facilities, which Charter would have no means for supervising or controlling. Indeed, such a provision would be inconsistent with Verizon’s standard pole attachment agreement, in which attachers are only required to indemnify Verizon against any liability caused by the attacher’s employees, agents, or contractors—and not against liability arising out of Verizon’s *own* work.<sup>31</sup> Verizon’s unreasonable demand in its draft proposal is also inconsistent with the Commission’s 2004 Pole Attachment Order, which avoids burdening attachers whose plant has already been constructed with continuing obligations when pole owners or third parties make subsequent alterations to those facilities.<sup>32</sup>

32. More importantly, when the Commission convened a meeting of Charter and several pole owners on March 22, 2017, Charter learned that the construction methods proposed in the Verizon Make-Ready Proposal—even if that proposal were accepted by Charter—would have been of little use in speeding Charter’s access to Verizon’s poles at the time Verizon proposed it. That is because Verizon failed to make other parties with whom it jointly owns poles—in particular, National Grid—timely aware of the elements of the Verizon Make-Ready Proposal or secure their agreement with the proposed alternative attachment methods set forth therein. Absent such agreement, Verizon’s proposal would not accelerate Charter’s ability to attach to any jointly-owned poles. Although Verizon represented a full three months ago that it would work to secure

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<sup>31</sup> See Verizon Pole Attachment Agreement, Art. VI, § 4, [http://www22.verizon.com/wholesale/attachments/pcl/PCL\\_NY\\_Pole\\_Agmt\\_1.pdf](http://www22.verizon.com/wholesale/attachments/pcl/PCL_NY_Pole_Agmt_1.pdf).

<sup>32</sup> Cf. Pole Attachment Order, at 4 (“[I]n fairness to all Attachers, if an attachment is legal when made, subsequent rearrangements should be paid for by the Attacher that requires the rearrangement and not previous Attachers.”)



National Grid's agreement with the construction elements in the Verizon Make-Ready Proposal, Verizon has yet to confirm that it has done so.

33. Notwithstanding Verizon's extensive delays in processing Charter's applications and the inadequacy of its proposed mitigation measures, Charter has continued to attempt to work with Verizon to resolve these issues, including offering to pay for the additional staffing and overtime that Verizon would need to process its backlog of Charter pole attachment applications. Such discussions, however, have failed to create any meaningful progress in remedying Verizon's failure to meet its obligations.

34. Due to this continued lack of progress by Verizon in addressing its deficiencies, Charter on June 5, 2017, submitted a letter requesting that Verizon take certain immediate actions, required under the Pole Attachment Order, to address its delays ("Demand Letter").<sup>33</sup> Specifically, Charter again requested Verizon's immediate consent to hire approved outside contractors for the following functions:

- On poles where preconstruction surveys have not been conducted by either pole owner (either within or outside the 45 day time frame), allow an approved contractor (of both the electric utility and Verizon) to perform preconstruction surveys in electric and communications space at the same time, rather than sequentially.
- On poles where electric make-ready work and Verizon work have not been conducted by either pole owner (either within or outside the 45 day time frame), allow an approved contractor (of both the electric utility and Verizon) to perform Verizon and electric make-ready at the same time, rather than sequentially.
- On poles where the electric utility pole owner has already conducted the pre-construction survey, and Verizon has failed to perform the pre-construction survey

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<sup>33</sup> See Letter from Terrence Rafferty, Regional Vice President, Northeast Region Field Operations, Charter Communications, to Julie Slattery, Vice President—Northeast Wireline Field Operations, Verizon, at 3 (June 5, 2017) (attached as Exhibit 1). The original Exhibit B to Exhibit 1 has been omitted from this filing as containing trade secret information, but can be provided, subject to a request for confidential treatment, if needed to assist the Commission's evaluation of the issues set forth in this Complaint.

within 45 days of the application, allow Charter to hire an approved to perform Verizon and electric make-ready at the same time, rather than sequentially.

- On poles where the electric pole owner has already conducted make-ready, and Verizon has failed to perform the make-ready within 45 days of Charter's estimate payment, allow Charter to hire an approved contractor to perform any necessary Verizon make-ready.

Charter also again requested Verizon's consent to utilize several standard alternative attachment methods, including temporary attachments, bracketing, and alternative spacing, to accelerate the make-ready and construction process.<sup>34</sup>

35. On June 6, 2017, in a conference call to discuss Charter's Demand Letter, Verizon finally agreed to Charter's request that Verizon authorize joint preconstruction surveys to be performed by an approved outside contractor, and to discuss the use of contractors with respect to make-ready design. As noted above, Charter had been requesting authority from Verizon to retain contractors for these purposes for months—dating back to at least January 2017—but Verizon unreasonably withheld such consent until receiving Charter's Demand Letter in June. Prior to that date, Verizon had agreed only to the very limited step of authorizing joint surveys by a contractor on a trial basis—and even then granted such agreement only recently and upon repeated requests from Charter.

36. Moreover, Charter has still been unable to secure Verizon's consent to Charter's use of contractors for the actual performance (as opposed to the design) of make-ready work, or for the use of alternative attachment methods. Verizon's primary basis for refusing to allow

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<sup>34</sup> The use of temporary attachments and brackets are methods expressly contemplated by the Pole Attachment Order for the purpose of reducing make-ready delays and cost, and do not require separate agreement of the parties to implement. *See* Pole Attachment Order, at 5-6. The Pole Attachment Order does not specifically speak to alternative spacing; however, in light of Verizon's continued failure to meet the timeframes set forth in the Pole Attachment Order—as well as its own willingness to consider alternative spacing as a mitigation measure in early 2017—it would represent a reasonable approach for mitigating Verizon's scheduling delays.

Charter to hire outside contractors to perform necessary make-ready work has been that its collective bargaining agreements prevent Verizon from granting such authorization. As noted above, however, the Commission expressly considered and rejected such an excuse in the Pole Attachment Order.<sup>35</sup>

37. Verizon still has not consented to the use of alternative attachment methods to expedite deployment. In addition to the unreasonable indemnification demands described in paragraph 31 above, Verizon has also claimed that National Grid, with whom Verizon co-owns a large number of poles that are the subject of Charter's pending applications, has not yet agreed to those methods. However, despite Verizon's representations that it would work towards securing such consent from its pole co-owners, Verizon has failed to confirm that it has done so, or that it has taken timely and reasonably necessary steps towards obtaining such approval—even though Verizon has claimed to have been working on such a proposal since late 2016 and represented that it would work with National Grid on such an agreement a full three months ago at the Commission's March 22, 2017 meeting.<sup>36</sup>

38. Indeed, Verizon has recently even gone so far as to take the legal position that is not bound by the Commission's 2004 Pole Attachment Order at all—Verizon's stated reasoning being that the Commission never approved a standard pole attachment agreement arising out of its directives, thereby rendering the Order ineffectual. Although the Pole Attachment Order directed utilities to file a standard pole attachment agreement embodying the requirements of the Order for

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<sup>35</sup> See para. 7, *supra*.

<sup>36</sup> At other times, Verizon has represented to Charter that it does not require the consent of National Grid or its other joint pole owners to deploy alternative attachments methods on its jointly-owned poles. However, despite such representations, and despite being obligated to use such alternative attachment methods by the 2004 Pole Attachment Order, Verizon continues to delay the deployment of such methods.

review and approval by the Commission,<sup>37</sup> nothing in the Order makes the subsequent approval and entry of such an agreement a condition precedent to the rights, obligations, and procedures set forth therein. To the contrary, the Order expressly states that it shall “govern the relationship between attachers and utilities, unless they mutually agree otherwise, on a prospective basis,”<sup>38</sup> and implements dispute resolution procedures accordingly.<sup>39</sup> Verizon’s position amounts to the absurd claim that the Commission issued a comprehensive ruling regarding the rights and obligations of pole owners and attachers, but then essentially abandoned implementation of the regime before it could take effect.

39. Verizon’s consistent failures to meet the timeframes required under the Pole Attachment Order, and refusal to take adequate, reasonable steps to mitigate those failures, have adversely affected Charter and the 145,000 New Yorkers who stand to benefit from the expanded broadband service contemplated by the Network Expansion Plan. In the face of Verizon’s intransigence, Charter has been unable to satisfy the milestones in the Buildout Condition. It is also thereby deprived of the opportunity to use its network buildout in New York State as a means of partially satisfying its buildout commitments to the FCC.<sup>40</sup>

40. Verizon’s constructive refusal to provide timely access to its poles is further unjust and unreasonable because it is anticompetitive. The cumulative effect of Verizon’s conduct has been to frustrate Charter’s ability to bring its services to additional areas in the state and offer competitive alternatives to “bottleneck” providers—including competing against Verizon itself.

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<sup>37</sup> Pole Attachment Order, at 9; Policy Statement, at 13.

<sup>38</sup> Pole Attachment Order, at 2.

<sup>39</sup> *Id.* at 9; Policy Statement, at 14.

<sup>40</sup> CASE 15-M-0388, Charter Communications, Inc. Annual Update (May 18, 2017) (Filing No. 145).

The inability of Charter to expand its footprint caused by Verizon's delays also inflicts commercial harm on Charter by depriving it of the opportunity to provide service to new customers. And, as noted above, Verizon's delays are also subjecting Charter to the continued risk of regulatory sanctions based on circumstances entirely within Verizon's control.

**COUNT I – VIOLATION OF PUBLIC SERVICE LAW § 119-a**

41. Charter realleges and incorporates by reference Paragraphs 1 through 40 as though fully set forth herein.

42. As described above, Verizon has, in numerous instances, failed: (a) to conduct a preconstruction survey of poles within 45 days of receiving a complete application from Charter to attach to Verizon's utility poles; or (b) to perform make-ready work within 45 days of receiving payment from Charter for such work.

43. Despite being unable to meet these timelines, Verizon has refused Charter's requests to allow Charter to hire approved outside contractors to complete surveys and make-ready work.

44. In addition, Verizon has refused Charter's requests to utilize alternative attachment methods, including temporary attachments, bracketing, and alternative spacing, to accelerate processing times, unless Charter agrees to indemnify Verizon against any future liability caused by Verizon's subsequent change, modification, rearrangement, or transfer of Charter's attachments.

45. Verizon's failure to meet the above timeframes required for performing preconstruction surveys and make-ready work, and refusal to consent to Charter's use of approved outside contractors and/or alternative attachment methods except under unreasonable and unlawful

terms, violates Public Service Law § 119-a, and the Commission's orders implemented thereunder, including its 2004 Pole Attachment Order.

**COUNT II – VIOLATION OF PUBLIC SERVICE LAW § 97**

46. Charter realleges and incorporates by reference Paragraphs 1 through 45 as though fully set forth herein.

47. As described above, Verizon has, in numerous instances, failed to meet required deadlines for the processing of Charter's applications to attach to Verizon's poles.

48. Despite being unable to meet these deadlines, Verizon has refused Charter's reasonable requests to allow Charter to hire approved outside contractors to complete surveys and make-ready work.

49. In addition, Verizon has refused Charter's reasonable requests to utilize alternative attachment methods, including temporary attachments, bracketing, and alternative spacing, unless Charter agrees to indemnify Verizon against any future liability caused by Verizon's subsequent change, modification, rearrangement, or transfer of Charter's attachments.

50. Verizon's failure to timely process Charter's pole attachment applications, and its refusal to consent to Charter's use of approved outside contractors and/or alternative attachment methods except under unreasonable and unlawful terms, constitute "unjust and unreasonable" practices in violation Public Service Law § 97(2).

**REQUEST FOR RELIEF**

WHEREFORE, for the reasons set forth herein, Charter Communications, Inc. respectfully requests that the Commission initiate an expedited dispute resolution proceeding to resolve the outstanding pole attachment issues between Charter and Verizon.

To the extent the Commission's further intervention fails to produce a resolution, Charter requests that the Commission order Verizon to take immediate steps to do the following, backed up, if necessary, by the Commission's enforcement and penalty provisions contained in Public Service Law sections 25 and 26:

1. Forgo reliance upon or application of any provisions in Verizon's pole attachment agreements limiting the number of pole attachment applications Verizon's will process in a given month, as the unique circumstances of Charter's access to Verizon's poles in connection with the Commission's Buildout Condition render the application of such limitations in this instance unjust and unreasonable; and
2. Implement measures as needed to enable Charter to meet its Commission-ordered deadlines with respect to its Network Expansion Plan, including, without limitation;
  - a. Ensuring that an adequate number of Verizon's own workers are available to process Charter's pole attachment application with the timeframes required under the 2004 Pole Attachment Order; and/or
  - b. Hiring outside contractors to perform the necessary survey and make-ready work to timely process such applications; and/or
  - c. Allowing the use of standard alternative measures, including temporary attachments, bracketing, and alternative spacing to further facilitate the timely completion of the request make-ready work; and
  - d. Providing Charter, on a weekly basis, with real-time information regarding the status of all Charter pole attachment applications, including, at minimum:
    - i. the date preconstruction survey work is completed by Verizon for each application/pole set;
    - ii. the date the make-ready check is received by Verizon for each application/pole set;

- iii. the date make-ready work is submitted to Verizon for completion for each application/pole set; and
    - iv. the date make-ready work is completed for each pole/set of poles; and
  - e. Performing each of the above in a manner that, in combination, addresses the backlog of Charter's pending pole attachment applications to Verizon and enables Charter to meet its Commission-ordered buildout obligations; and
- 3. Refund to Charter:
  - a. Charter's application fees in connection with any applications for which Charter retains contractors to perform pre-construction survey work due to Verizon's inability to do so in a timely manner; and
  - b. Any fees already paid to Verizon for make-ready work with respect to any applications for which the Commission authorizes Charter to retain contractors to perform make-ready work due to Verizon's inability to do so in a timely manner; and
- 4. If the Commission deems it necessary to authorize any of the relief requested herein, approve and require Verizon to adopt immediately a new standard pole attachment agreement that conforms to the requirements of the Commission's 2004 Pole Attachment Order; and
- 5. Grant any such further relief as the Commission deems appropriate.



Dated: June 24, 2017

Respectfully Submitted,

/s/ Maureen O. Helmer

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*Counsel for Charter Communications,  
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# **EXHIBIT 1**



**Terence Rafferty**  
RVP, Northeast Region  
Field Operations

June 5, 2017

**Via E-mail and U.S. Mail**

Ms. Julie Slattery  
Verizon  
Vice President—Northeast Wireline Field Operations  
125 High Street  
Oliver Tower—Room 709  
Boston, MA 02110  
[Julie.K.Slattery@verizon.com](mailto:Julie.K.Slattery@verizon.com)

**Re: Charter Communications - New York State Buildout Requirements**

Dear Ms. Slattery:

Thank you for agreeing to a conference call with Charter on June 6, 2017. I thought it might be helpful for you to have a good understanding of what Charter intends to discuss, prior to our call. I am the Regional Vice President of Operations for Charter Communications (“Charter”), responsible for supervision of all field-related activity, including network construction for the Northeast Region, which includes Upstate, New York. As you know, Charter is in the process of a very large buildout project in New York, as a result of conditions imposed by the New York Public Service Commission (“Commission”) in approving the merger of Charter and Time Warner Cable last May. Specifically, Charter is required to build-out to 145,000 unserved or underserved premises over a four year period, which began with the merger closing in May 2016.

The key to meeting the buildout timeframes required by the Commission is the cooperation of New York’s pole owners, including Verizon. Indeed, as one of our largest pole partners in New York, Verizon is vital to this effort. While Charter appreciates that this project places an unprecedented

demand on Verizon's resources in New York, Verizon owns the infrastructure necessary for Charter to meet its targets for this buildout and has a legal obligation to process Charter's pole attachment permits and conduct make-ready work within the timeframes set forth in the Commission's 2004 Pole Order, Case 03-M-0432 – Proceeding on Motion of the Commission Concerning Certain Pole Attachment Issues (Issued and Effective Aug. 6, 2004) (hereinafter "2004 Pole Order)."

### **Timeframes for Processing Pole Attachment Applications**

Since October 2016, Charter has submitted 666 pole attachment applications, containing a total of 47,616 poles, to Verizon. But because Verizon is not meeting the application processing and/or make-ready performance timeframes in the 2004 Pole Order, only 57 applications, containing a total of 1,840 poles, have been released to Charter to date. This means that *only 4%* of the poles submitted have been approved to date. Furthermore, as you can see from **Exhibit A**, attached hereto, of the applications submitted (as of May 24, 2017), Verizon has failed to conduct preconstruction surveys for 54% of the applications (and 60% of the poles), within the 2004 Pole Order's 45 day timeframe. Of those applications for which surveys have been completed and make ready estimates have been paid by Charter, Verizon has only completed make-ready on 1,284 poles. Moreover, 2,067 poles await make-ready and 156 of these are outside the requisite 45 day window. As a result of Verizon's failure to meet the 2004 Pole Order timeframes, Charter is missing its buildout targets and the Commission is pressuring both Charter and Verizon to come up with a process that will help Charter meet its goals.

In order to successfully meet the targets required for this project, approximately 12,000 poles per month need to be released to Charter by Verizon, going forward, as further prioritized on **Exhibit B**, attached hereto.<sup>1</sup> While these priorities may change over time based on field or other conditions, we will communicate with you about these projects and provide updated priorities, as necessary.

Charter will provide the resources necessary to support Verizon, as specifically provided in the 2004 Pole Order, but there are a number of steps Verizon can immediately take that will enable Charter to assist Verizon in meeting its legal obligations under the 2004 Pole Order, which will in turn enable Charter to meet its buildout targets. While our two companies have had several meetings/calls about these issues and the need to expedite the process (including meetings sponsored by the Department of Public Service), little progress has been made and time is running short.

Given the challenge this project presents to Verizon and its inability to complete work on a timely basis to date, Charter requests that Verizon immediately take the following specific actions:

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<sup>1</sup> Please note, Exhibit B sets forth the poles that need to be released from June through August.

## Use of Outside Contractors

The 2004 Pole Order requires that if either pre-construction surveys or make-ready work is not completed in the timeframes specified therein, then the pole owner must either hire an outside contractor or allow the attacher to hire an approved contractor.<sup>2</sup> Although Verizon claims that its collective bargaining agreements prevent Verizon from allowing the use of contractors to perform survey and make-ready work, that issue was settled in the 2004 Pole Order and is not a valid excuse:

Some Owners and the Unions object to this procedure [specifically, the use of outside contractors for survey and make-ready work], arguing that their collective bargaining agreements may not allow hiring outside contractors. Since time is the critical factor in allowing Attachers to serve new customers, it is reasonable to require the utilities either to have an adequate number of their own workers available to do the requested work, to hire outside contractors themselves to do the work, *or to allow Attachers to hire approved outside contractors.*<sup>3</sup>

Charter, therefore, hereby seeks immediate consent to utilize outside/approved contractors for the following functions:

- On poles where preconstruction surveys have not been conducted by either pole owner (either within or outside the 45 day timeframe), allow an approved contractor (of both the electric utility and Verizon) *to perform preconstruction surveys in electric and communications space at the same time, rather than sequentially.*<sup>4</sup>
- On poles where electric make-ready work and Verizon make-ready work have not been conducted by either pole owner (either within or outside the 45 day timeframe), allow an approved contractor (of both the electric utility and Verizon) *to perform Verizon and electric make-ready work at the same time, rather than sequentially.*
- On poles where the electric pole owner has already conducted the pre-construction survey, and Verizon has failed to perform the pre-construction survey within 45 days of the application, allow Charter *to hire an approved contractor to perform the pre-construction survey.*
- On poles where the electric pole owner has already conducted make-ready, and Verizon has failed to perform the make-ready within 45 days of Charter's estimate payment, allow Charter *to hire an approved contractor to perform any necessary Verizon make-ready.*

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<sup>2</sup> See 2004 Pole Order, Order Adopting Policy Statement on Pole Attachments, p. 3.

<sup>3</sup> *Id.* (emphasis added).

<sup>4</sup> With regard to jointly owned poles with National Grid, we understand that Verizon and National Grid have tentatively agreed to use this practice, so far, Charter has not received confirmation. Please let us know as soon as possible when we can expect this process to commence.

### **Alternative Attachment Methods**

Charter also requests that Verizon immediately allow standard alternative attachment methods as permitted by the 2004 Pole Order. Many of these attachments have been the subject of ongoing discussions between Charter and Verizon since last November. Although the parties have been attempting to memorialize the use of these methods in a contract, Charter has been waiting to receive a new draft from Verizon, which has apparently been attempting to get sign-off from National Grid. The agreement therefore remains unexecuted. Regardless of the status of the agreement, which is not a pre-condition for such requests under the 2004 Pole Order, Charter requests immediate approval to use the following alternative construction methods to assist in the buildout effort:

- **Temporary attachments** – Throughout the 2004 Pole Order, the Commission emphasizes that “speed is of the essence to attachers.” Temporary attachments can “compensate for delays in make-ready and other impediments to accessing poles.”<sup>5</sup> For this reason, the Commission requires that “[t]emporary attachments to poles should be used if they meet all safety requirements and if a utility is unable to meet the make-ready work timeline.”<sup>6</sup> Since it is evident that Verizon cannot generally meet the make-ready work timeline, *Verizon must permit the use of temporary attachments.*
- **Brackets** – Extension arm brackets are another expedited attachment technique that the Commission sanctioned in its 2004 Pole Order. The Commission recognized that “[e]xtension arm brackets are commonly used in many areas of the State. Extension arms may be an appropriate method of attachment for both permanent installations, when make-ready costs are exorbitant and/or on a temporary basis when make-ready work cannot be performed in a timely manner.”<sup>7</sup> Verizon expressed support for the use of brackets in its proposed agreement and at a joint Commission, Charter, Verizon, and National Grid meeting held at the Commission’s offices. *Verizon must, therefore, permit the use of brackets.*<sup>8</sup>
- **Alternative Spacing** – Allow Charter to attach (a) a minimum of 6 inches above (rather than 12) Verizon’s attachments and (b) below (rather than above) Verizon’s attachments, in conformance with the National Electrical Safety Code.

Most of these alternative arrangements were also contained in the last version of the above-referenced contract. *Please confirm in writing that Verizon will allow them and that they have been agreed to by joint pole owners, as necessary, including National Grid.*<sup>9</sup>

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<sup>5</sup> 2004 Pole Order, Appendix A, p. 5.

<sup>6</sup> 2004 Pole Order, Order Adopting Policy Statement on Pole Attachments, p. 5.

<sup>7</sup> 2004 Pole Order, Appendix A, p. 6.

<sup>8</sup> At the DPS meeting, National Grid requested a copy of the proposed engineering for the bracket from Verizon. Please provide a status report regarding whether Verizon and National Grid have come to agreement on this architecture.

<sup>9</sup> At the PSC meeting in March 2017, Verizon agreed to work with National Grid to resolve and report back to Charter.

### **Need for Real Time Project Information**

Given the scope of this project, Charter needs better, real time information about the status of projects that have been submitted to Verizon at each stage of the process. We understand that you have provided similar information to the Commission, so this should not be a burdensome task. As a point of reference, National Grid has been providing this information to Charter *via* their permit status website throughout this project. *Specifically, the following is needed on a statewide and municipality-specific basis going-forward:*

- A weekly status update on each permit submitted by Charter;
- The date preconstruction survey work is completed by Verizon for each application/pole set;
- The date the make-ready check is received by Verizon for each application/pole set;
- The date make-ready work is submitted to Verizon for completion for application/pole set;
- The date make-ready work is completed for each pole/set of poles.

Charter's ability to meet its buildout requirements cannot be achieved without the partnership of New York's pole owners, including Verizon, and their commitment to adhere to the 2004 Pole Order.

I look forward to talking to your team Tuesday and arriving a mutually workable solution that will allow Charter to meet its buildout targets.

Sincerely,



Terence Rafferty  
Regional Vice President of Operations, Northeast  
Charter Communications

## Exhibit A - Outstanding Applications/Poles<sup>1</sup>

Charter Exhibit A	
<b>Current Verizon Permit/Poles Status</b>	
Permits Submitted	666
Poles Submitted	47,616
Approved Permits	57
Approved Poles	1,840
Unapproved Permits past 45 day timeframe	362
Unapproved Poles past 45 day timeframe	28,349
% Unapproved Permits past 45 day timeframe	54%
% Unapproved Poles past 45 day timeframe	60%
Poles With Paid Make Ready	3,351
Poles With Completed Make Ready	1,284
Poles Awaiting Make Ready	2,067
Poles Awaiting Make Ready Past 45 Day SLA	156

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<sup>1</sup> As of May 24, 2017.



**EXHIBIT B Omitted**