



Town of Lexington, Massachusetts

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June 6, 2006

Alicia C. Matthews, Director
Cable Television Division
Massachusetts Department of Telecommunications and Energy
One South Station, 4 East
Boston, MA 02110

Re: Comments by the Town of Lexington to Petition by Verizon New England Inc.
CTV 06-1

Dear Ms. Matthews:

Please accept this letter as a response to the Cable Television Division's May 5, 2006 Notice of Public Hearing and Request for Comment regarding Verizon New England, Inc.'s (Verizon") petition to commence a rulemaking pursuant to 207 C.M.R. Sec. 2.01(1) to amend 207 C.M.R. Sec. 3.00 et seq.: Licensing ("Petition"). The Town of Lexington ("Lexington" or "Town") is firmly opposed to the Petition and urges the Division to deny the Petition.

Since August 1, 1981 Lexington has been provided with cable television service by Comcast of Massachusetts III, Inc ("Comcast") or one of its predecessor companies. RCN-BecoCom, L.L.C. ("RCN") has provided cable television service to the Town since May 24, 1999 in competition with Comcast. The Comcast license was recently renewed and the Town will shortly be entering into negotiations for a renewal license with RCN. Neither Comcast nor RCN has ever informed the Town that the local franchise process is a barrier to their competitiveness or in need of reform. In fact, RCN chose the licensing process over Open Video Systems as promulgated under the Telecommunications Act of 1996 which does not require a license from the municipality. It has served both companies and the Town well.

The Town does not view the local franchise process as a barrier or hindrance to Verizon or any other company's competitive entry into the local cable market. The proposed changes would be detrimental to municipalities by limiting their authority and ability to properly negotiate a license that best fits the needs of their citizens. A wise person once said "If it ain't broke, don't fix it!" The current system "ain't broke."

Lexington believes that the concept of a provisional license should be kept in place even if, as the Order Instituting Rulemaking avers, the provisional licenses issued since 1997 have been of short duration. While Verizon has the financial wherewithal to build out its system (in fact it is already substantially built out in Lexington), other competitors new to the industry might need time to obtain the necessary construction financing and access to rights-of-way in order to progress with construction of its system. The provisional period provides municipalities with opportunity to confirm a new licensee's ability to comply with the obligations it has undertaken to the municipality.

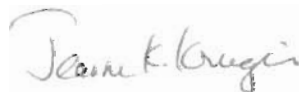
Verizon has also proposed severely shortening the time frame of the licensing process by instituting a new right of *de novo* appeal (3:09: Rights of Appeal). While the Town agrees that the process can take some time, its experience, especially with Verizon, is that much of the delay is due to the potential licensee. In Verizon's case it is exacerbated by the fact that it is using third party contractors with absolutely no authority to negotiate its licenses. It is not the Town that has delayed the issuance of a license but Verizon's own internal negotiating procedures.

By limiting the process to three months, Verizon can drag its feet if it doesn't get what it wants from a municipality and then appeal to the Cable Division citing a municipality's "inaction". Lexington's experience so far seems to bear this out. There is no provision in the Petition for an applicant's inaction. Therefore an applicant can get a *de novo* hearing with the Cable Division in virtually every case by not negotiating with an issuing authority in good faith.

Further, the Cable Television Division does not appear to have the authority to grant licenses or to order a municipality to grant a license. Even if it did, there is no standard or process for the Cable Television Division to review a license application or to assess the needs of a municipality. The Town argues that the standards and process should be no less rigorous than those which a municipality is compelled to apply to any applicant.

For the reasons stated above, the Town of Lexington urges the Cable Television Division to deny the Petition of Verizon New England, Inc.

Sincerely,

A handwritten signature in cursive script, reading "Jeanne K. Krieger".

Jeanne K. Krieger
Chairman

JKK/lap