



**PROPOSAL TO PERFORM
CABLE FRANCHISE NEGOTIATIONS
WITH VERIZON**

submitted to

**THE VILLAGE OF
CROTON-ON-HUDSON**

by the

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TABLE OF CONTENTS

	<u>PAGE</u>
I. INTRODUCTION	2
II. POTENTIAL FRANCHISE BENEFITS	4
III. SCOPE OF SERVICES	8
IV. PROFESSIONAL BACKGROUND	9
V. COST OF SERVICES.....	11

I. INTRODUCTION

The Cohen Law Group (“CLG”) welcomes this opportunity to submit a proposal for legal services to assist the Village of Croton-on-Hudson (the “Village”) in negotiating an initial cable franchise agreement with Verizon New York Inc. (“Verizon”). Our understanding is that Verizon seeks to offer cable services in the Village and provide a choice to residents in addition to the services of the Village’s incumbent cable company, Altice. As such, Verizon must obtain a franchise from the Village in the form of a cable franchise agreement.

A cable franchise agreement is required by federal law and is the only opportunity for municipalities to obtain benefits and to assert their legal rights with their cable companies. When a new cable operator, such as Verizon, seeks an initial franchise with a municipality, it is also a critical time to define the cable operator’s buildout and customer service obligations. It is crucial to determine the amount and type of construction work necessary to allow for the provision of cable service and the proper requirements to govern such work.

There have been dramatic changes in video technology over the last several years. These include the expansion of digital technology, the proliferation of channels broadcast in high definition (HD) format, the growth in video-on-demand, and, perhaps most importantly, the rise of competitive video streaming services (e.g. YouTubeTV, Netflix, Hulu, Disney+). There have also been major developments in federal law and regulations applicable to cable franchising. For example, in 2019 the Federal Communications Commission (“FCC”) issued its consequential *Third Report and Order on Cable Franchising* that made fundamental changes to the cable franchise process and the benefits available to municipalities.

Municipal officials have two critical roles when it comes to negotiating a cable franchise. First, they are effectively the landlords of their cable companies. The cable companies utilize the municipality’s public rights-of-way to operate their cable systems. Municipal officials

manage those rights-of-way as a public trust and are entitled to a fair return for the cable companies' use of those public properties.

Second, municipal officials have an obligation to protect and advance the interests of their residents. This means not only getting the best possible services from cable operators today, but also doing everything possible to prepare for the future. Video technology changes very rapidly. A cable franchise agreement must provide for the benefits available from existing technologies as well as those that may become available from future technologies. A cable franchise agreement must also anticipate changes in law and protect the municipality from any unnecessary negative effects thereof.

Our law firm is uniquely qualified to represent the Village in cable franchise negotiations with Verizon. For over 27 years, our firm has specialized in cable franchise matters on behalf of local governments. We have represented over 500 municipalities in six states in negotiations with their cable companies, including the Village in its most recent cable franchise negotiations with Altice. We have also negotiated hundreds of agreements with Verizon. We know the company's negotiators and their franchise policies. This experience allows us to represent our clients efficiently and effectively in negotiations with cable operators.

The principal of the firm is Dan Cohen. He has assisted local governments in cable, wireless, and broadband issues for over 27 years. He served as a Board Member (2017-21) and Co-Chair of the Legal Committee (2022-23) of the National Association of Telecommunications Officers and Advisors ("NATOA"), which is the national organization that advocates for local governments in these fields. He was also recently named as a 2025 Best Lawyer in Government Relations for his work in representing local governments in telecommunications matters.

Aside from his credentials as a telecommunications attorney, Mr. Cohen is especially qualified to represent municipalities because he was a municipal official himself. As a former

member of the Pittsburgh City Council for 12 years, he understands the practical needs and financial constraints facing municipal officials. In addition to Mr. Cohen, CLG has a strong team that also includes attorneys Stacy Browdie, Mike Roberts, and Phil Fraga.

CLG has developed a three-step approach to cable franchise projects. The first step is identifying the client's specific needs. Since clients' needs often become better defined as the negotiation progresses, we maintain flexibility throughout the process to achieve a franchise agreement that accomplishes the client's specific goals. Second, we negotiate firmly and deliberately with the cable operator to reach agreement in a timely fashion. Finally, we work efficiently to achieve results that are cost effective for the client. We are keenly aware of the fiscal constraints facing municipalities and focus on keeping attorneys' fees as low as possible.

II. POTENTIAL FRANCHISE BENEFITS

There are significant benefits available to the Village in a new cable franchise agreement. The key to receiving these benefits is to know the law and regulations relating to each benefit and to negotiate from strength to obtain them from the cable operator. The following is a list of some of the more important potential benefits.

- 1. Franchise Fee Revenue.** Under federal law, municipalities may assess a franchise fee of up to 5% of the cable company's "gross revenues" for cable services derived from subscribers residing in the municipality. In addition to the franchise fee percentage, a key subject of negotiation with the cable operator is the specific revenue sources to be included in the definition of "gross revenues." **CLG has developed a comprehensive list that now includes 27 eligible revenue sources that may be subject to the franchise fee.** Please note that all franchise fees are passed through to cable customers as a

separate line item on their bills.

- 2. Franchise Fee Accountability.** In addition to franchise fee revenue, it is also important for municipalities to require franchise fee accountability. These include, among other protections, the following: a) franchise fee reports with line items for specific revenue sources; b) the right to conduct franchise fee audits with interest/penalties for underpayments; and c) protections against franchise fee reductions due to bundled service discounts (referred to as the “triple play” of internet, television, and telephone services).
- 3. Build-Out of Cable System.** The geographical area and time frame for Verizon’s activation of cable service in the Village and any necessary build-out of Verizon’s cable system is essential to include in an initial franchise agreement. This includes attempting to negotiate provision of cable service by Verizon to all areas of the Village. If a full build-out is not included in the franchise agreement, then certain neighborhoods in the Village would have the benefit of cable competition (which typically includes lower rates and improved service) and other neighborhoods would not.
- 4. Legal Protections of the Rights-of-Way.** Because cable companies place wires and equipment in the public rights-of-way, it is critical that the franchise agreement include legal protections for the Village. These include, but are not limited to, repair and restoration of property damage within a specified time frame, safety standards, emergency removal of equipment, full indemnification of the Village, and

comprehensive insurance coverage.

5. Public, Educational and Governmental (PEG) Channel.

Municipalities have a right under federal law to dedicated channel space for public, educational and governmental (“PEG”) programming. Based on our prior work with the Village, we understand that the Village currently operates one Governmental Channel. **As such, our negotiations with Verizon will include reserving space to broadcast such channel on Verizon’s cable network, as well as to obtain capital support for the operation of the channel commensurate with that currently provided by Altice.**

6. Customer Service Standards.

In a franchise agreement, municipalities may impose customer service standards on cable operators. It is important to include comprehensive and enforceable standards. Examples include telephone answering time limits for customer service operators, refunds for service interruptions, time frames for home visits by technicians, rules for resolving customer billing disputes and a prohibition against early application of late fees.

7. Courtesy Services.

It is common in a franchise agreement for cable companies to provide free cable television service to public facilities. The major subjects for negotiation are: a) the type(s) of services to be provided; and b) the facilities (e.g. municipal buildings, schools, and public libraries) that will receive the service. This benefit will be significantly impacted by the FCC’s 2019 *Third Report and Order*.

8. Reporting Requirements.

It can be helpful to obtain periodic

information from the cable operator related to financial, customer service and right-of-way issues. The franchise agreement may require the cable operator to submit written reports on such matters as franchise fee verification, customer complaints, and construction activity in the public rights-of-way.

- 9. Competitive Equity.** A key issue in the negotiations will be competitive equity between the Village's cable operators — Altice and Verizon. Verizon will insist on a competitive equity provision to ensure that the Village does not favor one cable operator over the other. That being said, a competitive equity provision can also go too far so as to undermine competition and potentially nullify the Verizon agreement altogether. It is important to negotiate a competitive equity provision that protects the Village and its residents and to be cognizant of the effects of the competitive equity provisions on both Verizon and Service Electric.
- 10. Enforcement.** Once Verizon agrees to provide certain benefits to the Village, the Village must be able to enforce these obligations. This includes strict and practical enforcement tools to ensure the company's performance of its obligations under the agreement. These tools may include monetary fines, a substantial performance bond, and the right to revoke the franchise in extreme circumstances. Financial security is of particular importance in an initial franchise agreement should substantial construction activity be necessary to bring Verizon's cable service online.

11. Length of Term; Unilateral Termination. Because video technology changes rapidly, municipalities typically seek a shorter length of franchise term. Cable companies typically seek longer terms to protect their capital investment in the cable system. The difference between these two positions is resolved through negotiation. Verizon will also often seek a “unilateral termination” provision, which permits the cable operator to terminate the agreement prior to its expiration. Negotiation of this provision is also critical to ensure that the Village does not experience undue harm should Verizon choose to exercise such a right.

III. SCOPE OF SERVICES

The following is the scope of services that the Cohen Law Group will perform if hired to assist Croton-on-Hudson Village in cable franchise negotiations with Verizon:

A. Preliminary Setting of Priorities

We will first arrange a virtual meeting with Village officials to kick off the project. During the meeting, we will thoroughly outline the cable franchise negotiation process. We will discuss the Village’s legal rights, including the substantive areas in which it has legal authority over the cable operator and those areas in which their legal authority is limited. We will also define the process differences between an initial franchise and a franchise renewal. Finally, we will outline the potential benefits to the Village as well as solicit the concerns of Village officials.

B. Drafting of Proposed Agreement

Upon completion of the setting of priorities phase, we will draft a proposed franchise agreement with Verizon or prepare a redline of Verizon’s draft agreement that provides the Village with

the benefits and legal protections to which it is entitled under current law and technology. The agreement will include the results of the setting of priorities stage above, as well as our judgment as to the legal provisions that will advance the Village's interests and meet its future cable-related needs. We will then submit the agreement to the Village for informal review and comment. Any suggested changes will be incorporated into the proposed agreement before presenting it to representatives of Verizon.

C. Negotiation with Cable Operator

The most important stage in the process is negotiating a cable franchise agreement with Verizon. CLG has negotiated numerous agreements with Verizon on behalf of local governments in New York. We know Verizon's negotiators, as well as the company's franchise policies and its negotiating positions. The working document for these negotiations will be the franchise agreement prepared by CLG and informally approved by the Village. The negotiation typically consists of conference calls with cable operator representatives, status conferences with the Village, revisions of the proposed franchise agreement, redrafting specific franchise agreement provisions, and editing the final draft of the cable franchise agreement.

D. Consideration by Village Board of Trustees

After tentative agreement with Verizon has been reached on a cable franchise agreement, CLG will report to the Village on the substantive provisions of the final agreement. Specifically, we will present the Village with the final cable franchise agreement (and any side agreements) negotiated by the parties and recommended by CLG. We will also draft an executive summary of the major provisions of the final agreement. Finally, we will draft a recommended approval resolution for consideration by the Village Board of Trustees. During all phases of the Board of Trustees' consideration of the Agreement, we will advise the Village so as to ensure compliance with the applicable procedural requirements of the NYS PSC.

IV. PROFESSIONAL BACKGROUND

The Cohen Law Group specializes exclusively in representing municipalities in cable, wireless, and broadband matters. Collectively, our attorneys have worked on cable franchise issues for over 70 years. CLG has represented over 500 local governments in six states in negotiations with cable companies. We have negotiated many franchise agreements with Verizon. CLG's full array of legal services includes the following:

- Drafting cable franchise agreements
- Cable franchise renewal negotiations with cable companies
- Franchise fee audits
- Cable compliance reviews
- Drafting of wireless facilities ordinances
- Negotiation of leases for cell towers and "small cell" facilities
- Wireless facility litigation
- Drafting of right-of-way ordinances
- Right-of-way management and enforcement
- Pole attachment negotiations with cable and telecom companies
- Conducting broadband expansion planning and implementation

As an active member of the National Association of Telecommunications Officers and Advisors (NATOA), CLG stays current with frequent changes in cable, wireless, and broadband law. CLG attorneys have written articles on cable and wireless matters that have been published in *Pennsylvania Village News*, *Pennsylvania Village News*, *Pennsylvania Municipal Reporter*, and *Public Management Magazine*. They are also frequent speakers at municipal conferences.

Prior to providing professional counsel to municipalities on cable, wireless and broadband matters, Dan Cohen served as an elected official for 12 years on the Pittsburgh City Council. He has firsthand knowledge of the challenges and opportunities confronting municipal governments. Mr. Cohen served as Chair of City Council's Cable Committee for 10 years and also on the Mayor's Telecommunications Committee. Mr. Cohen led Pittsburgh's efforts to regulate cable rates, which resulted in a refund ordered by the FCC for all City of Pittsburgh cable customers. He

graduated from Yale University and Stanford Law School. In addition to Mr. Cohen, CLG includes a strong team of qualified and experienced attorneys, including Phil Fraga, Stacy Browdie and Mike Roberts. Our Office Manager is Victoria Novak.

V. COST OF SERVICES

The following is the Cohen Law Group's cost of services to represent the Village of Croton-on-Hudson in cable franchise negotiations with Verizon. We propose to perform these services on a flat fee basis, because our significant experience lends predictability to our efforts on behalf of the Village. A flat fee also provides price certainty to the Village. Our standard fee for this project, before any discount is \$11,900; however, given that the Village is a longtime client of our firm, we are pleased to offer a 10% discount as follows:

Cable Franchise Negotiations with Verizon: \$10,710

This flat fee includes all expenses. We bill one-third of the fee at the beginning of the project, one-third in the middle of the project, and the final one-third upon provision of the final franchise agreement and accompanying documents to the Village. Finally, the flat fee amount above also do not include the unlikely possibility of services requested outside the scope of services in this proposal or any significant unforeseeable developments. In the event of such developments, we would contact the Village to discuss such them prior to rendering such services. If such services are authorized, CLG would charge a fee of \$340 per hour. While it is not expected that travel will be necessary for this project and is not included in the flat fees above, if requested our travel rate is one-half of our standard rate or \$170 per hour. Thank you for the opportunity to submit this proposal. We look forward to discussing it with you at your convenience.