

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON ZONING & FRANCHISES

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April 3, 2012  
Start: 9:55 a.m.  
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HELD AT: Committee Room - 16<sup>th</sup> Floor  
250 Broadway

B E F O R E:

MARK S. WEPRIN  
Chairperson

COUNCIL MEMBERS:

Leroy G. Comrie, Jr.  
Daniel R. Garodnick  
Vincent M. Ignizio  
Robert Jackson  
Jessica S. Lappin  
Diana Reyna  
Joel Rivera  
Larry B. Seabrook  
James Vacca  
Albert Vann

## A P P E A R A N C E S

Stanley Shor  
Assistant Commissioner for Franchise Administration  
Department of Information Technology & Telecomm

Bruce Riegel  
Senior Counsel  
NYC Law Department

Tanessa Cabe  
Telecommunications Counsel  
DOITT

Charles Fraser  
General Counsel  
DOITT

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2 CHAIRPERSON WEPRIN: Good morning  
3 everyone, my name is Mark Weprin, I'm the Chair of  
4 the Zoning & Franchises Subcommittee of the Land  
5 Use Committee and I am delighted this morning to  
6 be joined by Council Member Al Vann on my far  
7 left, the Chair of the Land Use Committee -- Al  
8 gets sensitive about that -- Leroy Comrie, I've  
9 got to remember who I answer to on the Committee,  
10 Council Member Joel Rivera, Council Member Jimmy  
11 Vacca and Council Member Larry Seabrook, where the  
12 south and upper Bronx comes together, and we'll be  
13 joined by some other members as we go. Today we  
14 only have one item on the agenda, but it's a very  
15 important one at that, it is the cable TV  
16 authorizing resolution, this is Land Use #590,  
17 2012-5458, and we have representatives here from  
18 the Department of Information Technology, and I'd  
19 like to call them up to the table, Stanley Shor,  
20 Bruce Riegel and Tanessa Cabe, is it Cabe?

21 MS. CABE: Yes.

22 CHAIRPERSON WEPRIN: And what I'd  
23 like you to do is please each of you as you speak,  
24 state your name for the record, and then describe  
25 for the members of the Committee the authorized

1  
2 resolution and I'm sure the Committee will have  
3 some questions. Whenever you're ready.

4 MR. SHOR: Good morning, Chair  
5 Weprin, Chairman Comrie and members of the  
6 Subcommittee on Zoning & Franchises, my name is  
7 Stanley Shor, I am the Assistant Commissioner for  
8 Franchise Administration at the Department of  
9 Information Technology & Telecommunications, or as  
10 we call it, DOITT. With me today on my far left  
11 is Tanessa Cabe, Telecomm Counsel at DOITT, and  
12 Bruce Riegel, Senior Counsel with the New York  
13 City Law Department. Thank you for the  
14 opportunity to testify on Land Use #590, this  
15 cable television authorizing resolution. The  
16 prior authorizing resolution expired last year,  
17 and in order to grant new franchises, as described  
18 below, a new resolution is now required. The  
19 resolution pending before you will give DOITT the  
20 authority to grant, consistent with Federal, state  
21 and city law, franchises to companies that may  
22 seek to enter the cable market in New York City.  
23 The resolution gives DOITT the authority to  
24 evaluate potential cable operators, insure that  
25 such operators have the ability to provide service

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2 consistent with the public interest, guarantee  
3 that the city is properly compensated for use of  
4 its rights-of-way, and that operators use such  
5 rights-of-way in a manner that causes minimal  
6 disruption to city residents and businesses. I  
7 would like to emphasize that cable television  
8 franchises are not exclusive agreements, and the  
9 city has historically encouraged fair competition  
10 in the cable television market. Consistent with  
11 that policy, the authorizing resolution pending  
12 before you will allow for additional entrants in  
13 the cable market and the administration looks  
14 forward to continuing to support competition in  
15 this regard. The city currently has franchises  
16 with three cable television providers, Time Warner  
17 Cable, Cablevision and Verizon. Time Warner Cable  
18 provides service in Manhattan, Staten Island,  
19 Queens and a portion of Brooklyn, while  
20 Cablevision provides service in the Bronx and in  
21 the remaining portion of Brooklyn. Verizon is in  
22 the process of building out its network to all  
23 residences in the five boroughs, Verizon now  
24 provides service in approximately 66% of the city  
25 and is scheduled to complete its build-out to all

1 residential streets in the city by July 30<sup>th</sup>, 2014.

2 CHAIRPERSON WEPRIN: Can you move  
3 the microphone a little closer to your mouth?  
4

5 MR. SHOR: Sure.

6 CHAIRPERSON WEPRIN: And the Bronx  
7 delegation, just a little quieter, just a little  
8 quieter. Thanks.

9 MR. SHOR: Okay. In addition, RCN  
10 provides cable service to a relatively small  
11 number of subscribers in Manhattan, Queens and  
12 Brooklyn under a special open video system, or  
13 OVS, agreement with the city, authorized by the  
14 Federal government in 1996. Under Federal rules  
15 at that time, an OVS provider was exempt from the  
16 city's requirement to obtain a local franchise.  
17 In return, RCN was required by Federal law to make  
18 available 2/3 of its channel capacity to anyone  
19 who wished to lease it. A subsequent Federal  
20 court decision in Texas, however, has called into  
21 question RCN's future authority to provide OVS  
22 service without a local franchise. RCN's OVS  
23 agreement has expired and we will require RCN to  
24 obtain a city cable franchise. The resolution  
25 before you today would authorize DOITT, subject to

1 approval by the Franchise & Concession Review  
2 Committee and the Mayor, to grant non-exclusive  
3 franchises for the construction, installation,  
4 use, operation and/or maintenance of cable wire  
5 and associated equipment on, over and under the  
6 inalienable property of the city for the provision  
7 of cable television services in the city. The  
8 authorizing resolution we have submitted is  
9 identical to the one the Council passed in 2006,  
10 we are not seeking any changes in that resolution.  
11 Consistent with Federal and state law, the  
12 authorizing resolution provides that, prior to the  
13 granting of any franchise a request for proposals  
14 or other form of solicitation shall be issued by  
15 DOITT. The criteria to be used by DOITT in  
16 evaluating responses to such a solicitation shall  
17 include the degree to which the public interest  
18 will be served by the proposed serviced, the  
19 financial, legal and technical and managerial  
20 experience and capabilities of the applicant,  
21 including the ability of the applicant to maintain  
22 city property in good condition throughout the  
23 term of the franchise, and the adequacy of the  
24 proposed compensation to be paid to the city.  
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1 Pursuant to the authorizing resolution, all  
2 franchises shall contain terms and conditions that  
3 are consistent with the following: there shall be  
4 remedies to protect the city's interests in the  
5 event the franchisees fail to comply with the  
6 terms and conditions of the franchise agreement;  
7 the franchisee shall be required to provide  
8 security to insure the performance of its  
9 obligations; the franchisee will be required to  
10 maintain complete and accurate books of account  
11 and record sufficient to assure the franchisee's  
12 compliance with the franchise agreement, which  
13 books of account and record shall be made  
14 available on demand to the city for inspection;  
15 there shall be provisions requiring the franchisee  
16 to comply with applicable city laws and  
17 regulations related to employment and  
18 investigations, also provisions to insure adequate  
19 oversight by the city of the franchisee's  
20 performance of its franchise obligations, and  
21 provisions designed to minimize the extent to  
22 which the public use of the streets of the city  
23 are disrupted in connection with the construction,  
24 installation, use or removal of the franchisee's  
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1 facilities on city property. Also, consistent  
2 with the Public Service Commission's regulations,  
3 the authorizing resolution gives DOITT the  
4 authority to grant franchises for a term of up to  
5 15 years. In acting pursuant to the authorizing  
6 resolution, DOITT will also need to be more  
7 mindful of other key Federal and state law  
8 requirements. The city will follow all Federal  
9 and state requirements pertaining to the granting  
10 of new franchises, as mentioned above, both  
11 Federal and state law prohibit the city from  
12 granting exclusive franchises. With regard to old  
13 franchises, Federal law also requires the city to  
14 insure that access to cable service is not denied  
15 to any group of potential residential cable  
16 subscribers based on its income level, New York  
17 State has a similar requirement. Under Federal  
18 law, municipalities may not, with a few limited  
19 exceptions for public educational and governmental  
20 programming, direct cable companies to provide  
21 specific programming. Also, because the FCC has  
22 found that the cable TV market in the city is  
23 subject to effective competition, we may not  
24 regulate rates for comparable TV service. In  
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1  
2 addition to promoting competition among video  
3 service providers in the city, passage of the  
4 pending resolution will also have the salutary  
5 effect of placing the city in a stronger position  
6 to lobby against any so-called pro-competitive  
7 Federal initiatives that will eviscerate municipal  
8 franchising authority. We believe that the prompt  
9 passage of the resolution before you will assist  
10 the city in its efforts to maintain local  
11 franchising authority before Congress and the FCC.  
12 In conclusion, we urge the Committee to approve  
13 the resolution, thank you again for the  
14 opportunity to testify, and we'll be happy to  
15 answer any questions.

16 CHAIRPERSON WEPRIN: Thank you, Mr.  
17 Shor, and you're the only one testifying, right?

18 MR. SHOR: At the moment.

19 CHAIRPERSON WEPRIN: So let me just  
20 try to make this clear for those watching at home  
21 and for those who are maybe watching here in the  
22 room. So can you explain what happens if we don't  
23 pass this resolution?

24 MR. SHOR: Well, if you don't pass  
25 the resolution, we are not authorized to issue any

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2 solicitations or in effect do anything with regard  
3 to a new cable franchise.

4 CHAIRPERSON WEPRIN: So anyone who  
5 wants to come in to compete with the other four  
6 people who have franchises would not be allowed to  
7 come in.

8 MR. SHOR: That's correct.

9 CHAIRPERSON WEPRIN: So by  
10 authorizing this, we're creating ... we're opening  
11 up the opportunity to create more competition.

12 MR. SHOR: Yes, in effect.

13 CHAIRPERSON WEPRIN: Now currently  
14 there are cable companies that already have a  
15 renewed agreement, is that correct?

16 MR. SHOR: Yes.

17 CHAIRPERSON WEPRIN: And who would  
18 those be, and what are the terms? I don't mean to  
19 pry, I'm not cross examining you here, (inaudible)  
20 I'm just curious, I wanted to be clear, it's a  
21 little dense for some people, including the  
22 Chairman here, and I just want to be clear what it  
23 is we're doing, because the truth is, when you  
24 mention cable TV companies and cable, people don't  
25 like them, with all due respect to the members who

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2 are representing them, they don't like their cable  
3 company, and they get mad because it seems like  
4 every couple of months consumers are held hostage  
5 by cable companies, and we get angry about that.  
6 When you first brought this up to me, it was  
7 actually pre-insanity, although we did discuss  
8 Jeremy Reynolds, the second game having appeared  
9 of (inaudible), and I said that we got this  
10 coming, and at that time they were on TV and since  
11 has been resolved. But every couple of weeks we  
12 heard these problems. So what can you tell us  
13 about approving this agreement that will make  
14 consumers happy that we would do this, and that it  
15 somehow will benefit them?

16 MR. SHOR: Okay, right now we have  
17 three companies that have cable franchises that  
18 are in full effect. We have Time Warner Cable,  
19 Cablevision and Verizon, and we have the other  
20 television provider that does not have an  
21 agreement in effect, it's actually working on a  
22 holdover of its open video service contract, is  
23 RCN. So what this authorizing resolution will  
24 allow us to do, number one, is to convert RCN into  
25 a cable franchise and put in additional benefits

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2 to the city that we get out of a cable franchise,  
3 plus open up additional possibilities for new  
4 providers to come in, if they have the resources  
5 to come in to the city and provide service.

6 CHAIRPERSON WEPRIN: Is RCN  
7 currently providing all over the city, or only in  
8 certain areas of the city?

9 MR. SHOR: RCN has a very small  
10 amount in Brooklyn, a larger amount in Queens and  
11 Manhattan, and they have ... they don't have ...  
12 Bruce, maybe you can describe this a little better  
13 than I can. They have, I think, property-based  
14 agreements, they do it building-by-building- -

15 MR. RIEGEL: (Interposing) They  
16 negotiate building-by-building to get into  
17 individual buildings in the areas where they have  
18 fiber networks established. They're a smaller,  
19 less-capitalized company than the Time Warners and  
20 the Verizons of the world, so they're building  
21 where they get access to buildings.

22 CHAIRPERSON WEPRIN: And they work  
23 with a lot of co-ops and condo buildings, and try  
24 to convert them. They took over the former  
25 Liberty Cable Company, I remember the commercials

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2 on TV, I remember Liberty Cable, and I know they  
3 were going building-by-building. Back then they  
4 were a different type of service though, I think  
5 it was ... Liberty Cable was a dish- -

6 MR. RIEGEL: (Interposing) A  
7 satellite service.

8 CHAIRPERSON WEPRIN: A satellite  
9 service, right.

10 MR. SHOR: They would put dishes  
11 and microwave, and now they're doing ... but I've  
12 heard all that into fiber optic cable, yes.

13 CHAIRPERSON WEPRIN: Okay, so I  
14 just want to be sure, I just want to be clear,  
15 because, you know, just seeing the words "cable  
16 companies" in the name of your documents has  
17 raised a lot of people to say, you know, get more  
18 of this, because they want to make sure consumers  
19 are (inaudible), and I just want to be clear that  
20 this will allow us to create more competition for  
21 current cable operators.

22 MR. SHOR: Yes.

23 CHAIRPERSON WEPRIN: And right now,  
24 I mean, it still seems so strange that there are  
25 regions for cable companies, you know, like Queens

1  
2 has Time Warner, what is the purpose of that? If  
3 you know ... I mean, it just seems why isn't it just  
4 a free-for-all of anyone can go anywhere?

5 MR. SHOR: Well, it's an historical  
6 arrangement that, when the Board of Estimate was  
7 looking to get cable service throughout the city,  
8 they made ... the Bureau of Franchises did  
9 solicitation at the time and they had to make an  
10 effort to insure that everyone in the city got  
11 cable, so they had a number of different  
12 franchises at the time, some of those got  
13 consolidated since then into Time Warner Cable and  
14 what's that, Cablevision. But I don't think it  
15 was the desire that there wouldn't be competition,  
16 I think it was the economics of the time that  
17 companies coming in and making the investment were  
18 only willing to go into certain areas- -

19 CHAIRPERSON WEPRIN: (Interposing)  
20 They had an exclusivity agreement.

21 MR. SHOR: Well, the agreements  
22 were never made exclusively, but they obviously  
23 wanted to have areas that they were going to be  
24 profitable for them. So the ... as the city did a  
25 few years ago, we made competition available by

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2 doing the solicitations for a citywide franchise,  
3 which Verizon responded to, and now we have  
4 Verizon building in all of the areas that Time  
5 Warner and Cablevision are in, so there is an  
6 expectation that there will be a complete build by  
7 the middle of 2014. So there will be ... there  
8 already is competition in a significant part of  
9 the city, it's about 66% of the city's households  
10 now have Verizon's facilities available down their  
11 streets, and by 2014 there will be 100%.

12 CHAIRPERSON WEPRIN: And actually  
13 Directv is something completely separate, they're  
14 a satellite company, they can come in anywhere,  
15 but they can- -

16 MR. SHOR: (Interposing) They don't  
17 use the city streets. We have nothing to say  
18 about it.

19 CHAIRPERSON WEPRIN: Let me ask a  
20 question. Six years ago we passed the franchise  
21 that is exactly the same as the one before us  
22 today. How does that document differ from what  
23 was first proposed six years? Were there changes  
24 put in there in between the time the proposal was  
25 made and the City Council approved?



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2 MR. RIEGEL: We have a few  
3 provisions, there are some ... as I remember the key  
4 changes that were made to that authorizing  
5 resolution six years ago, from when we presented  
6 it to when it was finally adopted, are two  
7 provisions in the authorizing resolution which  
8 assure that when DOITT grants competitive  
9 franchises, that those competitive franchises  
10 would have provisions in them to assure that the  
11 competition with existing companies is fair  
12 competition, that is, the existing companies  
13 wanted to make sure that we didn't put provisions  
14 into new franchises that were so favorable to the  
15 new companies that the competition was not on a  
16 level playing field. So they asked for the  
17 addition of two provisions in this agreement.

18 CHAIRPERSON WEPRIN: Was that ...  
19 that was 20 and 21 I was just handed?

20 MR. RIEGEL: Yes.

21 CHAIRPERSON WEPRIN: So #20, I'll  
22 just read it to you for the fun of it. "All  
23 franchises shall be subject to comparable  
24 obligations and requirements provided that work,  
25 the imposition of such obligations and

1 requirements would be duplicatory, then altering  
2 duplicative or comparative obligations or  
3 requirements shall be imposed."

4 MR. SHOR: And the other one is 19.

5 CHAIRPERSON WEPRIN: Oh, 19, okay.

6 19 says "No franchise granted hereunder shall  
7 contain economic or regulatory burdens on the  
8 franchise which, when taken as a whole, are  
9 greater or lesser than those burdens placed upon  
10 another cable television franchisee operating  
11 within their area." And this was done in order to  
12 try to insure fair competition.

13 MR. SHOR: Correct, and also to  
14 reflect the state level rules, the Public Service  
15 Commission also has rules about cable (inaudible)  
16 franchising which require some of the same kinds  
17 of level playing field requirements, so we were  
18 trying to insure that that was compatible with  
19 Public Service Commission rules.

20 CHAIRPERSON WEPRIN: And is it your  
21 experience, I'm just curious, I mean, during the  
22 course of the competition that's been going on,  
23 all the advertising and all of this, cable rates,  
24 consumers have benefited from this competition, do  
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you think rates become lower because of that?

MR. SHOR: I think to some extent what we've seen is, the rates, the bundled packages, purchasing cable, internet and phone service, have been unusually competitive, as opposed to seeing rate increases every year, the way we traditionally have with non-competitive cable television service, now that we have competition, we're seeing companies aggressively competing on bundled packages, which I think is a good thing for the city.

CHAIRPERSON WEPRIN: Absolutely, it seems so, but you know, I just want to know where we are in your experience. Do any members of the panel have any questions? I will call on Council Member Comrie, Chair Comrie?

COUNCIL MEMBER COMRIE: Just to clarify something, you're saying that this authorizing resolution will be able to create competition, so by (inaudible) will be able to go into other areas, or is it just designated areas that they're in? How is competition created, can you clarify that for the public?

MR. SHOR: Okay, what this

1  
2 authorizing resolution does is authorizes us to  
3 issue solicitations, so when they issue a  
4 solicitation for a cable franchise, companies can  
5 respond to it. So for example, if we issue a  
6 solicitation for a citywide cable franchise, and  
7 Time Warner wants to get a citywide franchise,  
8 they can respond to it. We can also do variations  
9 on the franchise solicitations that we've done  
10 before, and during the last authorizing resolution  
11 we did specific renewal solicitations to the  
12 companies that had existing franchises that had  
13 expired or were expiring. So it does affect the  
14 ability of us soliciting. So we could solicit for  
15 one borough, we could solicit for a subset of the  
16 city, or we could solicit for the entire city, we  
17 would have to make sure that whatever we do, that  
18 it is competitively fair. So- -

19 COUNCIL MEMBER COMRIE:

20 (Interposing) Right now, right now, Time Warner  
21 and Cablevision, do they have borough-wide  
22 authorization or is it only Verizon that has a  
23 borough-wide ... a citywide ... I'm sorry, Time Warner  
24 and Cablevision, do they have citywide cable  
25 authorization to go to any neighborhood to

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establish the cable company?

MR. SHOR: Their franchises are borough-wide franchises.

COUNCIL MEMBER COMRIE: Are borough-wide, and they've only selected certain boroughs.

MR. SHOR: Correct. And they share Brooklyn, but both companies have the right to build out all of Brooklyn if they wish.

COUNCIL MEMBER COMRIE: Okay. And right now Verizon has the citywide franchise, they can go anywhere.

MR. SHOR: Yes.

COUNCIL MEMBER COMRIE: So technically their ability for competition is between Verizon and another company, except for some parts of Brooklyn, you're saying that Cablevision ... you can pick between Cablevision and Time Warner. But is there a desire to see that opened up to allow for other citywide, another citywide competition or contract, or is it as Chair Weprin was saying, you know, a lot of consumers are dissatisfied, and I think there's a high rate of people that would like to transfer

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2 companies and for those the competition, it seems  
3 like everybody is competing against Verizon in  
4 their desire to see people to have more than one  
5 choice, or to switch to, or to having a citywide  
6 competition to allow the existing providers to now  
7 compete citywide as well, or is it just the  
8 Verizon contract, so we put Verizon for a certain  
9 period of time?

10 MR. SHOR: Until the old  
11 authorizing resolution expired, DOITT had an  
12 outstanding solicitation, which was continuous,  
13 seeking proposals for citywide franchises in  
14 competition with the existing companies. However,  
15 because the old resolution has now expired, we  
16 needed to close down that solicitation, and we  
17 would certainly expect to reopen the solicitation  
18 of that kind or a similar kind if we get a new  
19 authorization from the Council to go ahead with  
20 citywide franchises.

21 MR. FRASER: If I may, my name is  
22 Charles Fraser, I'm the General Counsel at DOITT.  
23 To answer your question directly, we would welcome  
24 any new proposal for a citywide franchise, and as  
25 Mr. Riegel said, we had solicitations out

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2 previously that have not received proposals for  
3 citywide franchises, but we would welcome that.

4 COUNCIL MEMBER COMRIE: Okay. So  
5 in laymen's terms, Verizon ... Cablevision and Time  
6 Warner all knew about it, they just did not apply  
7 for it, okay.

8 MR. FRASER: Correct.

9 COUNCIL MEMBER COMRIE:  
10 Interesting, okay. And there was something that  
11 struck me in your testimony about Federal issues.  
12 Do you believe that there is some pending Federal  
13 legislation that would take away the rights of the  
14 city to do cable authorizations, and if so, could  
15 you explain what that is, and what we need to do  
16 to make sure that that doesn't happen?

17 MR. SHOR: Sure. There have been  
18 proposals over the years in Congress in recent  
19 years to federalize, in effect, cable television  
20 franchising. Many states around the country, a  
21 number of states, have acted to take away local  
22 franchising and bring it to the state level.  
23 There have been proposals over the years in the  
24 New York State Legislature to do the same thing.  
25 There is also currently outstanding at the Federal

1  
2 Communications Commission a notice of inquiry  
3 asking for thoughts and comments about how the  
4 Federal government should change the regulation at  
5 the Federal level of the use of local rights-of-  
6 way for telecommunications. All of those  
7 initiatives are active in the sense that everyone  
8 at the Federal level and state level is looking at  
9 how local governments franchise and regulate their  
10 streets with respect to telecommunications. So we  
11 are always under some scrutiny with respect to are  
12 we keeping our streets open to potential new  
13 competition, and it's always helpful to have the  
14 ability to be able to say we are open to  
15 competition, so that we can respond to Federal and  
16 state concerns that maybe we're not open to  
17 competition. That's one of the reasons that we  
18 always like to have these kinds of authorizing  
19 resolutions open and available.

20 COUNCIL MEMBER COMRIE: But they're  
21 not looking to prove that cities are really  
22 maintaining or being able to charge for the  
23 cable's authorization, are they, by this  
24 federalization? Or are they just looking at how  
25 you are monitoring your conduct vis-à-vis what



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2 you're charging them? Or what is it that they are  
3 looking to oversee?

4 MR. SHOR: There's in fact a long  
5 history at the Federal level of trying to limit  
6 the amount of money that cities can collect from  
7 cable television and other telecommunications  
8 providers, and there's a constant struggle for us  
9 to maintain our authority and our ability to  
10 collect reasonable rents for the use of the right-  
11 of-way for these matters.

12 COUNCIL MEMBER IGNIZIO: Mr.  
13 Chairman, if I may address my colleague's  
14 question, in my opinion, if I have permission,  
15 please?

16 CHAIRPERSON WEPRIN: All right,  
17 yes, Mr. Ignizio, I guess we'll take it, it's a  
18 highly unusual act.

19 COUNCIL MEMBER IGNIZIO: Yes, I  
20 know, I know, but my prior position as the ranker  
21 and (inaudible) authority up in the state, I would  
22 just like to speak to that which I don't think my  
23 colleagues can speak to, which is that a lot of  
24 this ... [crosstalk]

25 CHAIRPERSON WEPRIN: We have a

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2 chair of the (inaudible), I don't know,  
3 competition.

4 COUNCIL MEMBER IGNIZIO: No, I  
5 think some of this also is very large companies  
6 that want to usurp the authority from the city  
7 because there are a lot of let's say interested  
8 parties in legislatures, both at the Federal level  
9 and the state level, that take a lot of campaign  
10 contributions, and their desire, I believe, for  
11 these major companies is to kind of be on the  
12 state or the Federal level, so as not to have to  
13 deal with the localities and their needs and  
14 desires, and so I think the answer is correct, of  
15 DOITT, but I think the behind-the-scenes answer is  
16 these are major corporations that would like to  
17 get in under the umbrella of a state grant, state  
18 permit, or a Federal permit, and not have to deal  
19 with the localities at all and cut us out of the  
20 market. That's been my experience, to which  
21 anybody can (inaudible) of the Committee.

22 CHAIRPERSON WEPRIN: All right.

23 COUNCIL MEMBER COMRIE: I was still  
24 ... I appreciate the insight, but we didn't talk  
25 about dollar amounts and we didn't talk about

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2 community participation, and one of the other  
3 things that is key, especially in Queens, is QPTV  
4 and the public access and the opportunities for  
5 public access, will that be increased, or is there  
6 any codicil or addendum that requires the cable  
7 companies to do educational training, other than  
8 the community access? Has there been any  
9 amendments or improvements to the last resolution,  
10 because I didn't see anything in the specific text  
11 that speaks to any of that.

12 MS. CABE: In the solicitations  
13 that we issue, in the negotiations that we go  
14 into, we'll definitely consider Inet, public  
15 educational governmental channel, and similar  
16 provisions that are found in other cable  
17 franchises.

18 MR. SHOR: That was Tanessa Cabe,  
19 for the record.

20 COUNCIL MEMBER COMRIE: Okay, and  
21 so we can make some suggestions to add to the  
22 resolution to insure that there will be increased  
23 public access and public training and also asking  
24 the cable companies to do some educational  
25 training at the DOE? I mean, is that written in

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by just efforts at the last time?

MS. CABE: Well, traditionally those are negotiated separately ... is that right, Bruce? They have ... we have provisions that require PEG channels and certain provisions to support PEG channels, but the agreements are made between the QPTV and the providers themselves, so they enter into a negotiation, they have a separate agreement. So that's kind of going on while we have the underlying support for PEG, they actually have the negotiations.

COUNCIL MEMBER COMRIE: They have to negotiate independently?

MS. CABE: Directly, yes.

COUNCIL MEMBER COMRIE: And so each borough's public access has to create their own negotiation team to make that happen? That seems to be an unfair burden on a public entity.

MR. SHOR: The problem is that there are Federal law limits on what we can do with respect to educational and governmental channels, and the support that they get.

COUNCIL MEMBER COMRIE: Right.

MR. SHOR: And in order to

1  
2 accommodate those Federal law limits, we try and  
3 work with the individual access organizations,  
4 such as QPTV in Queens. We have a history of  
5 working very closely with them, to make sure that  
6 their needs are adequately served, that they can  
7 best sort of represent themselves in describing  
8 those needs to the cable companies, and we help  
9 make sure that the cable companies step forward  
10 and meet those. I would- -

11 COUNCIL MEMBER COMRIE:

12 (Interposing) I would hope that there is some, you  
13 know, across-the-board standard, because, you  
14 know, I've been to the Queens studio and I have  
15 been to the Brooklyn studio, and there is a vast  
16 difference in the quality of the studios and the  
17 equipment in the studios and, you know, I think  
18 that, you know, with all due respect, the group in  
19 Queens got shortchanged in their studio, as well  
20 as the Manhattan studio, state-of-the-art, they've  
21 got their own building, they have a newer  
22 facility, so I think that's something that's not  
23 being translated in those agreements to make sure  
24 that public access ... I've never been to the Bronx  
25 studio, I haven't been out to the Bronx, so I

1  
2 can't speak to that, and Staten Island, I don't  
3 know, I'd have to come out there, but I think that  
4 there's some opportunity to at least make sure  
5 that public access is given an opportunity to have  
6 their resources updated and increased, you know,  
7 at the public access channel, and many people want  
8 to speak to it, but I know the Chair wants me to  
9 stop, but I have just one other line of  
10 questioning. In Queens, with the hurricane and  
11 the heavy rains, but are we doing more to put more  
12 of the lines underground in the new agreement, or  
13 are we still going through the trees, where you  
14 have, especially in my district, trucks knocking  
15 them down all the time?

16 MR. SHOR: Okay, what we did with  
17 the agreements that we negotiated for Time Warner  
18 and Cablevision, that went into effect in  
19 November, is that we added a provision regarding  
20 locations where the cable wires are above ground,  
21 where the other utilities are below ground, that  
22 we can direct them to go underground. So if  
23 everything is above ground, we have, you know,  
24 it's not fair to just make the cable companies go  
25 underground, and there's ... that's a different type

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2 of arrangement, where I imagine the Council could  
3 pass a law that in a section of the city that all  
4 the wires have to go underground. But where Con  
5 Edison is underground and Verizon telephone is  
6 underground, but the cable companies put up their  
7 poles at, through, new poles that were allowed by  
8 the Board of Estimate, we now have the ability to  
9 direct them to go underground. So if you have  
10 locations that you wish to see underground, you  
11 should let me know.

12 COUNCIL MEMBER COMRIE: Nearly half  
13 of Queens is still above ground, so those are  
14 problems.

15 MR. SHOR: But there are actually  
16 locations where it's ... if it's a cable pole, that  
17 means that they weren't able to locate on someone  
18 else's pole, that usually means that they put up  
19 the wires where there weren't other wires before,  
20 so if you have, if any Council Member is concerned  
21 about poles, you want to check with us, we can  
22 determine whether they're cable poles or not, and  
23 we can see whether we can direct them underground.

24 COUNCIL MEMBER COMRIE: I  
25 appreciate that.

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MR. SHOR: Sure.

COUNCIL MEMBER COMRIE: And just with the MWBE and contracting and the percentage, but if you could just get back to us on what those percentages are, since my Chair is watching me to stop asking questions.

CHAIRPERSON WEPRIN: This is the problem when we work closely with someone, he knows all of your idiosyncrasies, he can tell by how I move my hand. No, Mr. Chair, we love hearing from you. I just want to acknowledge who we have now, the entire Committee, Dan Garodnick came in, Vinnie Ignizio, Diana Reyna, Robert Jackson and Jessica Lappin, with questions, a number of the people asked questions, Mr. Chair, so that's fine. They're getting a little antsy. Diana Reyna I have first on the list, and then Dan Garodnick.

COUNCIL MEMBER REYNA: Thank you so much, Mr. Chair. I just wanted to concur with the comments thus far as to the request for MWBE contracting opportunities within the cable television authorizing resolution and how it applies to MWBE contracting opportunities, if



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there are any.

MR. SHOR: Well, the franchises are open to anyone. We advertise the solicitations widely, and certainly we'll do that in the future. We have mailing lists with MWBE, we also have on the website, if you go to the DOITT page, and you go for businesses, you have the ability to put your name on the mailing list for franchise solicitations, so I would encourage anyone who knows of an MWBE company that may not be on our list that is interested specifically in franchise solicitations, to go to our website and sign up.

COUNCIL MEMBER REYNA: And currently there is ... what is the utilization rate?

MR. SHOR: Well, currently there are the companies that have cable television franchises are Verizon, Cablevision, Time Warner Cable. I don't think that they fall into that category.

COUNCIL MEMBER REYNA: So there is zero utilization as far as MWBE's, despite your- -

MR. SHOR: (Interposing) I don't know what the, you know, these companies sub-contract, (inaudible) they definitely have sub-

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2 contractors, but specifically we have very large  
3 requirements that tend to be the companies that  
4 come in are big corporations, so I don't really  
5 know their ownership structures, as far as MWBE.

6 MR. FRASER: I would add, though,  
7 that when the city originally granted its  
8 individual franchises for different franchise  
9 areas, there were minority-owned businesses who  
10 received cable television franchises, such as  
11 Inner City Broadcasting. Those companies have  
12 since been bought out by companies like Time  
13 Warner Cablevision, but the city has always been  
14 open to, and has in fact granted, cable television  
15 franchises to minority-owned businesses in the  
16 past, and we're certainly open to doing so in the  
17 future, and we're going to do what we can to make  
18 sure that they are and will have that ability.

19 COUNCIL MEMBER REYNA: Of course,  
20 if you can get back to us as the subcontracting  
21 goals that have been reached as far as this  
22 particular area, that would be helpful.

23 MR. SHOR: We'll ask the cable  
24 companies what their stats are and if they're  
25 compliant as far as cooperating.

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2 COUNCIL MEMBER REYNA: And that's  
3 exactly right, that's exactly where we want to be,  
4 where your authorizing agent abilities is able to  
5 hold accountable what would be the contracted  
6 company to be able to work with MWBE contracting  
7 goals. And so it's important, because as an  
8 agency we want to make sure that as far as the  
9 legislature is concerned holding the agency  
10 accountable, but we're only as good as what you're  
11 able to do with these private companies. Go  
12 ahead.

13 MR. SHOR: Yes, we will ask them  
14 what they are doing with the MWBE's.

15 COUNCIL MEMBER REYNA: Fantastic.  
16 And on other note, I have a meeting set up with  
17 Verizon for tomorrow, concerning one of the  
18 industrial business zones in the City of New York,  
19 in particular the one in my district, the one in  
20 Greenpoint-Williamsburg IBZ, and apparently  
21 there's an issue on the infrastructure that is  
22 provided as far as service is concerned with  
23 specifically Verizon. I don't know what DOITT has  
24 done as far as oversight is concerned on  
25 infrastructure service, whether it's telephone

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2 lines or cable lines, for businesses. One  
3 particular example I'm going to give you is  
4 Lucky's Tomato, and they operate every three days  
5 with a service shut down, where they have no  
6 incoming calls, only outgoing. Now, no one can  
7 run a business that way, I'd imagine you would  
8 agree, and the issue of Verizon coming before us  
9 with this resolution, when in fact this is now  
10 going to provide what would be a service on cable,  
11 but the telephone service is already an issue, am  
12 I going to compound that with cable service, where  
13 this particular zone area that is dependent on a  
14 combination of different infrastructure issues is  
15 going to get less than mediocre service. And so I  
16 want to understand what type of oversight do you  
17 have, in particular collaborating this, what would  
18 be small businesses in manufacturing zones, which  
19 seem to be treated as secondary to residential,  
20 nevertheless are just as important, providing what  
21 would be the day-to-day operations of their  
22 business in (inaudible) people (inaudible)?

23 MR. SHOR: Sorry to say that we  
24 actually do not have jurisdiction over telephone  
25 service, so I think it's still Public Service.

1  
2 MS. CABE: Right, Lucky's Tomato  
3 can make their complaint to the Public Service  
4 Commission, if they haven't done so already, the  
5 State Public Service Commission.

6 COUNCIL MEMBER REYNA: Well, my  
7 issue is beyond the telephone, I just want to  
8 understand what collaboration have DOITT worked  
9 with what would be the industrial manufacturing  
10 coordinator in the past was a direct office out of  
11 the Mayor's, Deputy Mayor Steel's office, today  
12 it's operating out of the Economic Development  
13 Corporation, headed by Miquela Craytor. And so  
14 there's clearly an indication that DOITT's  
15 collaboration with Miquela is necessary, in order  
16 to provide better service to the manufacturing  
17 districts. Is this something that has been  
18 brought to your attention?

19 MR. SHOR: As part of the renewal  
20 that we negotiated with Time Warner Cable, Time  
21 Warner Cable agreed to upgrading its cable service  
22 throughout the industrial areas, for like 20 miles  
23 of fiber optic cable a year, they had committed to  
24 building. So therefore we have been in  
25 discussions with that and the Economic Development

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2 Corporation and Deputy Mayor Steel's office as far  
3 as discussing with Time Warner where they should  
4 go, we also have some provisions where we can  
5 identify locations and direct them to provide  
6 service. There's a commitment of a certain amount  
7 of money per year that we can direct them, as far  
8 as specific buildings. So we have the ability of  
9 working it out with the Economic Development  
10 people, because we want to do it in a fair way.

11 COUNCIL MEMBER REYNA: Okay. So if  
12 I can just understand, there's 16 manufacturing  
13 zones that are identified geographically. Amongst  
14 the 16, what is the need?

15 MR. SHOR: That's part of what  
16 we're trying to determine, what the need is, we'd  
17 be happy to hear from you, if there are specific  
18 streets that you know have a low quality of  
19 facilities, give us the locations of this business  
20 that you mentioned. Obviously it does not mean ...  
21 I mean, we have a provision with Time Warner,  
22 there's nothing stopping Verizon coming in if they  
23 wished to also in that area, there's also other  
24 franchisees with broad band franchises that  
25 potentially could come in. But there's

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2 possibilities, we'd love to hear from you what  
3 your specific locations are, and what the issues  
4 are.

5 COUNCIL MEMBER REYNA: Mr. Shor,  
6 you mentioned that you've negotiated already with  
7 the assistance of Deputy Mayor Steel as to  
8 identifying this as a priority for businesses in  
9 the industrial manufacturing zones, and there was  
10 an amount of 20?

11 MR. SHOR: Twenty miles per year  
12 that Time Warner has in their contract committed  
13 to building fiber optic cable.

14 COUNCIL MEMBER REYNA: And how was  
15 the 20 miles per year reached, as far as a  
16 comparable amount of mileage per year, in  
17 comparison to need? If you don't know the need,  
18 in its totality, amongst what would be very  
19 geographic zones that exist, how we know that 20  
20 will be initially sufficient for every year's  
21 plan? And this is 20 miles per year for how many  
22 years?

23 MR. SHOR: Through 2020.

24 COUNCIL MEMBER REYNA: So for the-

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2 MR. SHOR: Up until they've built  
3 everything, and this is for previously unserved  
4 non-residential blocks. So it was a negotiated  
5 process, we were able to get Time Warner to  
6 stipulate to it, and we didn't have a lot of data  
7 as far as what the need is.

8 COUNCIL MEMBER REYNA: Okay.

9 MR. SHOR: We still don't have a  
10 lot of data, because nobody has actually done a  
11 comprehensive study.

12 COUNCIL MEMBER REYNA: That's what  
13 I wanted to understand. Okay, so I look forward  
14 to discussing with you and bringing together what  
15 would be some of the feedback from the businesses  
16 and just to be able to work with you on figuring  
17 out, is this 20 miles per year a definite amount  
18 or is this still open for negotiations? So this  
19 is not, I'm seeing behind you the shaking of the  
20 head.

21 MR. SHOR: It's a minimum that  
22 they've committed to, they can certainly do more  
23 if they, you know, voluntarily do more, but  
24 they're committed to doing 20 miles per year.

25 COUNCIL MEMBER REYNA: And how will



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2 you make sure that this is being met, as far as  
3 the goal of a minimum amount?

4 MR. SHOR: We've asked them ... we  
5 have periodically that we meet with them, and we  
6 get their reporting from them, so we're gauging  
7 from them what they've done so far. And so we  
8 will stay on top of that as part of enforcing all  
9 the terms of the contract.

10 COUNCIL MEMBER REYNA: Thank you  
11 very much, and I look forward to meeting with you  
12 on a separate occasion just to, sooner than later,  
13 to be able to discuss some of the priority areas.  
14 Thank you.

15 CHAIRPERSON WEPRIN: Thank you,  
16 Council Member Reyna. Council Member Garodnick,  
17 followed by Council Member Jackson.

18 COUNCIL MEMBER GARODNICK: Thank  
19 you very much, Mr. Chairman, and I will be brief,  
20 there was really one area which I wanted to  
21 explore with you, which is the ongoing disputes  
22 which seem to arise between cable companies and  
23 broadcasters to the detriment of New York City  
24 consumers and cable enjoyers. We have advocated  
25 in the past this Council putting in more specific

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2 rules governing those disputes into the contracts  
3 that exist between the city and the cable  
4 companies, specifically requiring binding  
5 arbitration, to the extent that they kept them to  
6 an agreement, or other legal mechanisms which push  
7 them to resolve their disputes. Is this something  
8 that is on your horizon as you move forward to  
9 start talking to other companies or even to re-up  
10 with the existing companies that currently serve  
11 New Yorkers?

12 MR. SHOR: Let me defer to counsel  
13 on this.

14 MR. RIEGEL: The answer to the  
15 question is that the Federal government sort of  
16 jealously guards its jurisdiction over these  
17 issues. The Federal Communications Commission and  
18 the U.S. Congress have adopted provisions as part  
19 of the Federal Cable Act, which restricts local  
20 governments from getting into this area generally.  
21 We are always at the city level ready and willing  
22 to try and mediate and work with the cable  
23 companies and the programmers to help bring them  
24 together on these matters, but in terms of binding  
25 arbitration or requiring the cable companies to

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2 participate in a sort of legally-binding way is  
3 something that's really beyond the city's  
4 authority under Federal law, and so it's a  
5 constant frustration for us too, and we would be  
6 happy to work with you to try and get the Federal  
7 law changed to expand the authority of local  
8 governments in this area, but until we do that, we  
9 don't have a whole lot of ability to incorporate  
10 that into franchising.

11 COUNCIL MEMBER GARODNICK: And what  
12 are the tools that are available to you all when  
13 you are trying to move a cable company in one  
14 direction or another, in a way that is more  
15 sympathetic to New York City consumers?

16 MR. RIEGEL: Well, in the specific  
17 area of programming, really what we can do is  
18 jawbone. We can talk to the cable companies, we  
19 are generally speaking in constant contact with  
20 the cable companies when these issues arise. So  
21 we let them know that it's important to us that  
22 they resolve these disputes in a timely way, but  
23 beyond working with them and encouraging them to  
24 move forward and to act in a responsible way,  
25 there's a whole lot from a legally-binding point

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2 of view or a contractual point of view that we can  
3 do under current Federal law.

4 COUNCIL MEMBER GARODNICK: What are  
5 the elements that you can include in a contract  
6 with one of these cable companies, which is  
7 consistent with Federal law, which would be  
8 something that consumers would be interested to  
9 know about?

10 MR. RIEGEL: With respect to  
11 specific programming? You know, with respect to  
12 specific programming, the city's authority is  
13 generally limited to requiring types of  
14 programming, so that we can require in our  
15 franchise agreement that the cable companies  
16 include sports programming, or news programming.  
17 But we can't require specific channels to be  
18 carried, and that's why we're sort of barred from  
19 requiring them to negotiate in any particular way  
20 with a particular company. We also, of course,  
21 have the ability to require that public,  
22 educational and governmental channels be set aside  
23 for the specific use of communities and city  
24 government to provide public interest programming.

25 COUNCIL MEMBER GARODNICK: Okay,

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2 well it certainly continues to be a point of  
3 frustration and we hope that you will stand with  
4 us when we advocate to the Federal government to  
5 include these types of provisions into the  
6 agreements, because at the end of the day, when  
7 everybody is fighting with each other, it is the  
8 consumers who lose out here, and we want to  
9 exercise as much muscle as we can in their behalf  
10 to be able to insure that that doesn't happen. So  
11 thank you, Mr. Chairman, and we appreciate your  
12 testimony today.

13 CHAIRPERSON WEPRIN: Thank you, Mr.  
14 Garodnick. RJ, you're okay now? Okay, so does  
15 anyone else have any comments or questions?  
16 Everyone is okay. So I want to thank you all for  
17 coming, and thank you for explaining to us why  
18 this is so important. We are going to close the  
19 hearing now, we're not going to vote on this item  
20 today, but we will be looking at it very shortly,  
21 but we are going to close the hearing, the  
22 required hearing, and I'm going to do that now,  
23 close the hearing. And as I mentioned, everyone  
24 was in attendance today, so thank you all for  
25 coming, and with that the meeting is adjourned.

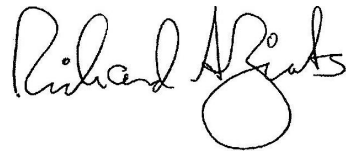
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Thank you all.

C E R T I F I C A T E

I, Richard A. Ziats, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature \_\_\_\_\_

Date April 7, 2012