

**State Board of Real Property Tax Services  
June 04, 2025 – 11:00 A.M.**

**Table of Contents**

<b>Topic</b>	<b>Page</b>
Agenda	001
<b>Item I</b>	
Minutes 1/28/2025	004
<b>Item II</b>	
SF Memorandum	008
Resolution SF 25-16	033
SF-25-01	035
SF-25-02	061
SF-25-13	089
Resolution SF 25-17	121
SF-25-04	123
SF-25-43	138
SF-25-44	143
Resolution SF 25-18	173
SF-25-03	175
Resolution SF 25-19	183
SF-25-05	185
SF-25-06	190
SF-25-07	195
SF-25-08	200
SF-25-09	205
SF-25-10	210
SF-25-11	215
SF-25-12	220
SF-25-14	225
SF-25-15	238
SF-25-16	251
SF-25-19	264
SF-25-20	278
SF-25-21	292
SF-25-22	306
SF-25-23	320
SF-25-24	334
SF-25-25	348
SF-25-26	362
SF-25-27	376
SF-25-28	390

SF-25-29	404
SF-25-30	418
SF-25-31	432
SF-25-32	446
SF-25-33	460
SF-25-34	474
SF-25-35	488
SF-25-36	502
SF-25-37	516
SF-25-38	530
SF-25-39	544
SF-25-40	558
SF-25-41	572
SF-25-42	586
Resolution SF 25-20	600
SF-25-17	602
SF-25-18	619
Resolution SF 25-21	637
SF-25-45	639
Resolution SF 25-22	796
SF-25-46	798
Hearing Officer Report – 1/16/25 Hearing	807
Hearing Officer Report – 1/30/25 Hearing, Corning	815
Hearing Officer Report – 1/30/25 Hearing, Liberty	820
Hearing Officer Report –1/30/25 Hearing, Cablevision	825
Hearing Officer Report –3/20/25 Hearing, Millennium	831
Hearing Officer Report –3/20/25 Hearing, Cablevision	836
Hearing Officer Report –3/20/25 Hearing, SLIC	843
Hearing Officer Report –4/3/25 Hearing, Bayonne	849
Hearing Officer Report –4/3/25 Hearing, Con Ed	854
<b>Item III</b>	
STAR Memorandum – General Discussion	858
<b>Item IV &amp; V</b>	
STAR Memorandum 25-23	861
Resolution 25-23	863
STAR Memorandum 25-24	869
Resolution 25-24	871
STAR Memorandum 25-25	878
Resolution 25-25	880



STAR Memorandum 25-26	889
Resolution 25-26	891
STAR Memorandum 25-27	899
Resolution 25-27	901
STAR Memorandum 25-28	906
Resolution 25-28	908
STAR Memorandum 25-29	915
Resolution 25-29	917

## ***NOTICE***

### **State Board of Real Property Tax Services**

will meet on

**June 04, 2025 – 11:00 A.M.**

The meeting will be conducted by videoconference at the following locations.

New York State Tax Department  
Office of Real Property Tax Services  
Central Office  
299 Old Niskayuna Rd.  
Wade Rd. Conference Room C4  
Latham, NY 12110

New York State Tax Department  
ORPTS Western Regional Office  
Genesee County Building 2  
3837 West Main Street Road  
Batavia, NY 14020

New York State Tax Department  
Buffalo District Office  
77 Broadway  
Buffalo, NY 14203

Board members will be physically present at the Batavia and Buffalo locations. ORPTS staff will be physically present at the Latham location. Members of the public may physically attend and observe the meeting from any of these locations. In addition, the meeting may be observed online via:

<https://meetny-gov.webex.com/meetny-gov/j.php?MTID=mae415ed464e60584cb470a7bed40433e>

To access the meeting, call 1-415-527-5035 and use Access Code: 2822 295 6058

The materials that will be considered at the meeting (outside of executive session, if any) will be posted in advance of the meeting at:

<https://rptboard.ny.gov/board-meetings/>

## *Agenda*

- I. State Board Administration – Minutes of January 28, 2025 State Board meeting
- II. State Full Values and Assessment – Final special franchise full values and assessments for the 2025 assessment rolls where complaints were filed by: Liberty Utilities, Corning Natural Gas Corporation, SLIC Network Solutions, Cablevision and Subsidiaries, Millennium Pipeline Company, LLC, Bayonne Energy Center and Consolidated Edison Company
- III. STAR Exemption Appeals – General Discussion  
[The Board will be asked to discuss the individual appeals in Executive Session to protect the confidential information of appellants]
- IV. Executive Session [Subject to the approval of the State Board] – Discussion of individual STAR Exemption Appeals
- V. STAR Exemption Appeals – Action on Resolutions
- VI. Other Business

### **Conduct of Meeting**

All State Board meetings are open to the public and, within two weeks of the meeting, a link to the meeting recording will be published on the State Board of Real Property Tax Services webpage.

The Board's functions include the determination of final special franchise assessments and values, railroad ceilings and State equalization rates where complaints were filed. Additionally, the Board hears and determines reviews relating to determinations of County equalization agencies and appeals from property owners who are dissatisfied with the Tax Department's final determination of STAR eligibility.

Adequate opportunity to comment on matters considered by the Board is available through hearings and written submissions. All written documents relating to items on the agenda are available to the Board members in advance of the meeting. The agenda is ordinarily available two weeks prior to a Board meeting.

Persons who wish to address the Board concerning a specific item on the agenda may request permission to do so by notifying the Assistant to the State Board *at least seven days prior to the date of the meeting*. The Board encourages individuals who wish to address the Board at the meeting to provide written comments concerning a specific item on the agenda prior to the meeting in accordance with the above schedule. This process allows the Board to adequately address interested individuals' concerns. When addressing the Board, presenters are encouraged to limit statements to no more than ten minutes.

### **Services Available – Upon Request**

To ensure that Board meetings are accessible to individuals with disabilities, services are available upon request if made the day before the Board meeting. For those attending the Board meeting who have hearing difficulties, an Assisted Listening System is available for use to amplify speakers' voices, or an interpreter may be provided for those with deafness. For those watching the video of the Board meeting, closed captioning will be available. Please contact the Assistant to the State Board for these services.

I

**MEETING MINUTES**  
***SUBJECT TO APPROVAL BY STATE BOARD***  
**NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE**  
**STATE BOARD OF REAL PROPERTY TAX SERVICES**

**MEETING OF JANUARY 28, 2025**

A meeting of the State Board of Real Property Tax Services was held via videoconference. The following members and staff were present:

Scott Becker  
Samuel Casella, *Acting Chair*

Rachel Ingalsbe, *Acting Secretary of the State Board, and Assistant Deputy Commissioner Real Property Tax Services*  
Joseph Gerberg, *Legal Advisor to the State Board, Office of Counsel*  
David Markey, *Associate Attorney, Office of Counsel*  
Erica Foley, *Assistant to the State Board, Office of Real Property Tax Services*  
Jane Glasser, *Assistant to the State Board, Office of Real Property Tax Services*  
Brinda Mendez-Sankrith, *Assistant to the State Board, Office of Real Property Tax Services*

ORPTS staff also in attendance:

Mary Ellen Nagengast, *Real Property Services Administrator 2, Office of Real Property Tax Services*  
Petrina Castracani, *Real Property Services Administrator 1, Office of Real Property Tax Services*  
John Wolham, *Real Property Services Administrator 1, Office of Real Property Tax Services*  
Jimson George, *Real Property Analyst Trainee 1, Office of Real Property Tax Services*  
Christina Palmer, *Real Property Analyst Trainee 1, Office of Real Property Tax Services*  
Jim McGovern, *Real Property Analyst 3, Office of Real Property Tax Services*  
Geoffrey Gloak, *Real Property Analyst 3, Office of Real Property Tax Services*  
Jennifer Dwire, *Real Property Analyst 3, Office of Real Property Tax Services*  
Marcia Whalen, *Taxpayer Services Specialist 3, Office of Real Property Tax Services*  
Jonathan Lack, *Real Property Analyst 2, Office of Real Property Tax Services*  
Rebecca Bellard, *Associate Accountant, Office of Real Property Tax Services*  
Patricia Cocozzo, *Real Property Analyst Trainee 1, Office of Real Property Tax Services*  
Arielle Nicoletti, *Taxpayer Services Specialist 1, Office of Real Property Tax Services*  
Breanna Colon-Serrano, *Taxpayer Services Specialist 1, Office of Real Property Tax Services*

Though the meeting was held by videoconference, the Board members were present in-person in one of the publicly-accessible sites specified in the Meeting Notice, as follows:

- Mr. Becker was in the Tax Department's District Office in Buffalo, New York.
- Mr. Casella was in the ORPTS Western Regional Office in Batavia, New York.

The staff members who were present in-person at the specified sites were as follows:

- Ms. Ingalsbe, Mr. Gerberg, Ms. Foley, Ms. Glasser, & Ms. Mendez-Sankrith were in the ORPTS Central Office in Latham, New York.
- Mr. Wolham, Mr. George, and Ms. Palmer were in the ORPTS Southern Regional Office in White Plains, New York.

The remaining attendees appeared remotely.

## **Meeting Minutes – January 28, 2025**

## **Meeting Minutes – January 28, 2025**

Mr. Becker nominated Mr. Casella to act as Acting Chair. Mr. Casella called the State Board of Real Property Tax Services meeting to order at 11:01 AM.

### **Agenda Item No. I - State Board Administration - Minutes of the July 25, 2024, State Board meeting**

On motion of Mr. Becker, seconded by Mr. Casella, Mr. Casella stated that the minutes of the July 25, 2024, Board meeting stand approved and are, hereby, adopted as written.

### **Agenda Item No. II - STAR Exemption Appeals - General Discussion**

Mr. Casella turned the meeting over to Ms. Ingalsbe.

Ms. Ingalsbe spoke briefly regarding the STAR cases before the Board including requirements for STAR exemption recipients for the 2023 roll year.

### **Agenda Item No. III - Executive Session - Discussion of Individual STAR Exemption Appeals**

Mr. Becker made a motion to go into executive session to discuss Individual STAR appeals. Mr. Casella seconded the motion and entered executive session at 11:03AM.

Ms. Ingalsbe explained resolutions 25-01 through 25-15 to the Board in executive session.

### **Agenda Item No. IV - STAR Exemption Appeals - Action on Resolutions**

The meeting returned to public session at 11:07AM

Mr. Casella stated all the cases were reviewed in executive session and the Board can now consider the resolutions 25-01 through 25-15.

Mr. Becker motioned to approve resolutions 25-01, 25-02, 25-14, and 25-15 as a block. Mr. Casella seconded the motion. Upon affirmative votes of Mr. Becker & Mr. Casella, the Board approved and adopted resolutions 25-01, 25-02, 25-14, and 25-15.

Mr. Becker motioned to approve remaining resolutions 25-03 through 25-13 together as a block. After confirming Ms. Ingalsbe and Mr. Gerberg were satisfied with the discussion in executive session, Mr. Casella seconded the motion. Upon affirmative votes of Mr. Becker & Mr. Casella, the Board approved and adopted resolutions 25-03 through 25-13.

Mr. Casella thanked everyone and asked for any further questions or comments.

Mr. Becker wished to thank, on the record, Matt Rand for his service to the Board over the past several years. Mr. Casella agreed and wished Mr. Rand well.

Mr. Becker and Mr. Casella both wished to put on the record that a Board of two people is neither sustainable nor desirable and is a disservice to people of the state. Mr. Casella expressed his agreement. They added that while the composition of the board is not in the control of anyone present at the meeting, it is critical that the vacancies be filled as quickly as possible.

Assistant to the State Board, Erica Foley, stated the meeting started recording after executive session and stated the correct timeline for the record.

With no further questions or matters to discuss, Mr. Becker made a motion to adjourn, seconded by Mr. Casella. Upon its approval, the Board concluded its meeting.

Respectfully submitted,

Rachel Ingalsbe

Acting Secretary of the State Board





## MEMORANDUM

**TO:** State Board Members

**FROM:** Mary Malaty

**SUBJECT:** 2025 Final Special Franchise Full Values for selected City and Town rolls where complaints have been filed by: Liberty Utilities (New York Water) Corp. f/k/a NY American Water Corporation, Inc. (**Liberty**); SLIC Network Solutions, Inc. (**SLIC**); Corning Natural Gas Corporation (**Corning**); Cablevision and its subsidiaries or affiliates (**Cablevision**); Millennium Pipeline Company (**Millennium**); Bayonne Energy Center LLC (**BEC**); and Consolidated Edison Company (**Con Ed**)

**DATE:** May 16, 2025

### Purpose

To recommend the 2025 full values where complaints have been filed.

### Recommendation

As discussed below, it is recommended that resolutions 25-16 through 25-22 (Attachment A) be adopted and the 2025 special franchise full values for the municipalities where complaints have been filed on Lists No. SF-25-01 through SF-25-46 on file in the Office of Real Property Tax Services be approved.

### Discussion

The 2025 special franchise assessments and full values for the municipalities where complaints have been filed were established on December 05, 2024, December 10, 2024, December 13, 2024, and December 19, 2024 (Villages, early cites, and Nassau County), February 12, 2025 (Cities and Towns), and February 28, 2025 (New York City). Complaints were filed as follows:

<b><u>Complainant</u></b>	<b><u>Affected Party</u></b>
Liberty Utilities Corp. (SF-25-01)	5 Villages
Liberty Utilities Corp. (SF-25-02)	8 Villages
Corning Natural Gas Corp (SF-25-03)	One City
SLIC Network Solutions, Inc. (SF-25-04)	One City
Cablevision of Ossining (SF-25-05)	One Village
Suffolk Cable of Shelter Island (SF-24-06)	One Village
CSC Acquisition MA (SF-25-07)	2 Villages
Cblvsn. System, L.I. Corp (SF-25-08)	9 Villages
Cblvsn. System, L.I. Corp (SF-25-09)	12 Villages
Cablevision of Rockland/Ramapo (SF-25-10)	One Village
Cblvsn System Great Neck Corp. (SF-25-11)	2 Villages
Cblvsn System Great Neck Corp. (SF-25-12)	One Village
Liberty Utilities Corp. (SF-25-13)	One City, 3 Towns
CSC Acquisition MA (SF-25-14)	One Town
Cblvsn System Great Neck (SF-25-15)	One Town
Cblvsn System LI Corp (SF-25-16)	2 Cities, 3 Towns
Millennium Pipeline (SF-25-17)	3 Towns
Millennium Pipeline (SF-25-18)	20 Towns
Cablevision of Rockland/Ramapo (SF-25-19)	4 Towns
Cblvsn System LI Corp (SF-25-20)	One City

Cblvsn Sys Huntington (SF-25-21)	One Town
Cblvsn Sys East Hampton Corp (SF-25-22)	One Town
Cblvsn System-Westchester Corp (SF-25-23)	8 Towns
Cablevision of Brookhaven Inc (SF-25-24)	One Town
Cablevision of Dutchess County (SF-25-25)	7 Towns
Cblvsn System-Suffolk Corp (SF-25-26)	One Town
Samson Cablevision Corp (SF-25-27)	One Town
Suffolk Cable of Shelter Island (SF-25-28)	2 Towns
Suffolk Cable Corp (SF-25-29)	One Town
Cablevision System Islip Corp (SF-25-30)	One Town
Cablevision of Wappinger Falls (SF-25-31)	2 Cities, 16 Towns
Cablevision of Warwick (SF-25-32)	4 Towns
CSC Acquisition-NY (SF-25-33)	One Town
CSC Acquisition-NY (SF-25-34)	2 Towns
CSC Acquisition MA (SF-25-35)	One Town
CSC Acquisition MA (SF-25-36)	One Town
Cablevision of So. Westchester (SF-25-37)	One City, One Town
Cablevision of So. Westchester (SF-25-38)	5 Towns
Cablevision of Ossining (SF-25-39)	8 Towns
Cablevision of Ossining (SF-25-40)	One City, 2 Towns
Suffolk Cable of Smithtown (SF-25-41)	One Town

Suffolk Cable of Smithtown (SF-25-42)	One Town
SLIC Network Solutions, Inc. (SF-25-43)	2 Towns
SLIC Network Solutions, Inc. (SF-25-44)	One City, 80 Towns
Bayonne Energy Center (SF-25-45)	One Borough
Consolidated Edison Company of NY (SF-25-46)	4 Boroughs

Hearings on the complaints were held on **January 16, 2025**, for SF-25-01, SF-25-02; SF-25-04 through SF-25-12; **January 30, 2025**, for SF-25-03; SF-25-13 through SF-25-16; **March 20, 2025**, for SF-25-17 through SF-2-44; and **April 3, 2025**, for SF-25-45 and SF-25-46. The Hearing Officers' reports are attached for your reference (Attachment B).

### **Liberty Utilities (New York Water) Corp. (Liberty)**

Liberty filed three complaints on its tentative special franchise full values and assessments in one city and multiple towns and villages. The Hearing Officer's report addresses the legal issues and this memorandum addresses the valuation issues.

#### **SF-25-01**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$31,212,932	\$7,803,234	-\$23,409,698	-75%

#### **SF-25-02**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$1,625,283	\$406,321	-\$1,218,962	-75%

#### **SF-25-13**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$257,475,657	\$64,368,913	-\$193,106,744	-75%

## **Discussion**

Liberty alleges that ORPTS tentative special franchise full values and assessments are improper, unlawful, unequal, and unconstitutional. Liberty complaints are identical in argument. They make the following allegations:

1. ORPTS has valued Complainant's special franchise property by applying third-party indices to trend original book costs incorrectly and inappropriately, in a manner which fails to make proper adjustments, and which results in an overvaluation of Complainant's special franchise property.
2. ORPTS arbitrarily fixed and determined the value for such non-existent intangible parts at an excessive and confiscatory amount, and at a sum representative of at least 5% of ORPTS' estimate of the value of the tangible part of each of the special franchise properties.
3. ORPTS' rules on depreciation arbitrarily fail to permit full depreciation and establish an artificial and incorrect mandate to freeze depreciation at an arbitrary level which yields inadequate physical depreciation contrary to Complainant's actual experience, and results in the excessive valuation of Complainant's special franchise property.
4. A portion of the overvaluation for each of the excessive full values results from ORPTS' application of inappropriate salvage factors in determining the value of Complainant's special franchise property. For instance, ORPTS uses negative 10% for the mains and negative 15% for the hydrant accounts, but for book purposes negative 20% - 75% to the mains and negative 90% for the hydrants are the correct numbers.
5. A portion of the overvaluation for each of the excessive full values results from ORPTS' failure to recognize the underutilization of Complainant's property and, as a result, its failure to adequately recognize the functional obsolescence which exists in Complainant's property.
6. ORPTS rules do not provide for a sufficient allowance for the existence of economic (external) obsolescence in determining the special franchise full values. As a result, in determining Complainant's full values, ORPTS failed to account fully for the considerable economic obsolescence resulting from the heavy regulation of Complainant, including the limitations placed upon Complainant's earnings by the PSC. The failure to recognize such economic obsolescence resulted in incorrect and excessive full values.
7. The full values of Complainant's special franchise properties in the affected jurisdictions should have been fixed by ORPTS at amounts not exceeding the following amounts set forth above under the caption

"Claimed Full Value." The extent of overvaluation in each listed jurisdiction is set forth in the right-hand column:

## **Response**

The complaints indicate several alleged grounds for a change in values but fail to provide any calculations to support the claimed values or changes to tentative special franchise assessments and full values. All complaints (SF-25-01, SF-25-02, and SF-25-13) are laid out in an identical manner, using identical arguments, and set forth identical conclusions; therefore, all are addressed in this single response.

1. The cost indices to trend the property were used in accordance with ORPTS long standing and widely accepted procedures. These indices were used consistently to trend all 2025 special franchise values for every water company and municipality in the state. Complainant has not provided any alternative indices to support its claim.

Staff recommends no change to the 2025 special franchise full values due to the use of third-party indices.

2. The intangible portion of the Liberty special franchise value was valued at five percent of the Reproduction Cost New Less Depreciation (RCNLD) of the tangible physical property. Five percent of the RCNLD of the physical property has historically been considered a reasonable estimate of the intangible value. The calculation of the intangible value of the special franchise is outlined in the Procedures of ORPTS and has been accepted by the courts.

Staff recommends no change to the 2025 special franchise full values due to application of intangible value applied to Liberty's property.

3. ORPTS does not consider additional depreciation beyond 120 percent of service life. At that point maximum depreciation has occurred and the remainder is the residual value (20% for positive salvage values and 5% for negative salvage values). The residual value is the minimal value after all forms of depreciation have been reached. ORPTS defaults to this residual value for all assets that are still in service since a producing asset must have some value attributable to it. ORPTS has applied this standard in accordance with its procedures to all special franchise values for all companies and in all municipalities.

Staff recommends no change to the 2025 special franchise full values due to the use of a minimum floor value applied to Liberty's property.

4. As part of a special franchise owner's annual property report, 20 NYCRR §8197-2.8(a) allows for a special franchise owner to apply for use of

service lives which differ from those in the latest procedures adopted by ORPTS. This request must also have supporting documentation to merit consideration. The Complainant provided additional data with respect to mains and hydrants, but they did not provide the information necessary to determine an increased allowance for physical depreciation. There is no documentation to support the conclusions in the chart Complainant provided. ORPTS determined physical depreciation using service lives and salvage factors based on a study conducted by AUS Consultants, that AUS based on data supplied by various utility companies who are regulated by the PSC. ORPTS has applied these salvage factors in accordance with its procedures to all special franchise values for all companies and in all municipalities. Complainant failed to provide any alternative calculation to support its claim.

Staff recommends no change to the 2025 tentative special franchise assessments and full values due to net salvage allowances.

5. As part of a special franchise owner's annual property report, 20 NYCRR §8197-2.8(a) allows for a special franchise owner to apply for functional and economic obsolescence; such request must contain supporting documentation. Liberty did not request any functional obsolescence, much less provide supporting documentation, when filing this year's report. Under §8197-4.2(b)(4), a special franchise owner may not request functional obsolescence in a complaint unless it establishes that it failed to request it earlier for circumstances beyond its control, which has not been done here. In addition to being untimely, that claim was likewise unaccompanied by supporting documentation.

Staff recommends no change to the 2025 special franchise assessments and full values due to lack of functional obsolescence applied to Liberty's property.

6. ORPTS performed an earnings test on the Complainant's property using long standing and prescribed procedures (e.g., five-year average achieved return and required return) to calculate external obsolescence. ORPTS found economic obsolescence of 50% for service area 1 (the Complainant requested 57%) and 50% for service area 2 (the Complainant requested 66%). Additional information was provided but proposed unacceptable calculation methods (e.g., ORPTS uses RCNLD for earnings instead of OCLD) and failed to provide any calculations to support their claimed 75% reduction.

Staff recommends no change to the 2025 special franchise assessments and full values due to the economic obsolescence applied to Liberty's property.

7. The values provided by the Complainant are all 25% (-75%) of ORPTS determined value for each jurisdiction. No calculations were provided demonstrating how the Complainant arrived at these calculation(s).

Staff recommends no changes to the 2025 special franchise assessments and full values for Liberty.

### **SLIC Network Solutions, Inc. (SLIC)**

SLIC filed three complaints on its tentative special franchise full values and assessments in multiple cities and towns. The Hearing Officer's report addresses the legal issues and this memorandum addresses the valuation issues

#### **SF-25-04**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$142,249	\$0.00	-\$143,249	-100%

#### **SF-25-43**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$10,012	\$394	-\$9,618	-96%

#### **SF-25-44**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$17,165,473	\$2,345,613	-\$14,819,860	-86%

### **Discussion**

SLIC alleges that ORPTS tentative special franchise full values and assessments are improper, unlawful, and unequal. The complaints make the following allegations

1. In complaint SF-25-04, SLIC asserts in its complaint that it does not have any special franchise property located in the City of Watertown in Jefferson County and, therefore, the tentative value established by ORPTS should be reduced to \$0.00.



2. In complaints SF-25-43 and SF-25-44, SLIC alleges that the value of its specialty property should be based solely on the Company's contribution. SLIC argues that ORPTS includes grant dollars in the value of its property, which has the effect of overvaluing the property, adding to the value of the property the uneconomic portion of the project costs resulting in gross inflation of the property. SLIC further argues that "surviving dollars" should be interpreted to mean the value of the plant and not the grant. Moreover, SLIC argues that ORPTS unjustifiably denied its application for obsolescence.

## **Response**

1. As a preliminary matter, as noted in the Hearing Officer report, ORPTS agreed to rescind its assessed value for the property referenced in complaint #SF-25-04 as the special property cited by ORPTS has not yet been fully constructed. Accordingly, the tentative value established by ORPTS has been reduced to \$0.00.
2. The complaints indicate several alleged grounds for a change in values but fail to provide any calculations to support the claimed values or a change to tentative special franchise assessments and full values. Complaints #SF-25-43 and #SF-25-44 are addressed in this single response:
  - a. The property of SLIC was valued utilizing the reproduction cost new less depreciation methodology (RCNLD) which is the only valid method of determining the assessment and full value of specialty property. RCNLD methodology uses the original cost of the property regardless of who paid for those costs (SLIC vs. grant dollars).
  - b. The argument the complainant made at the hearing that grant dollars somehow represent economic obsolescence is unfounded. While 20 NYCRR § 8197-2.8(b) does allow for economic obsolescence adjustments, such loss in value must be due to an impairment in desirability or useful life caused by external factors. The mere presence of public grants does not constitute such an impairment. The difference between private and total investment may reflect funding policy, not market impairment. Thus, SLIC's interpretation of economic obsolescence is not supported by regulation or valuation standards and is therefore rejected.

Staff recommends no change to the 2025 special franchise assessment and full values due to the economic obsolescence applied to SLIC's property.

3. The values provided by SLIC in complaints #SF-25-43 and SF-25-44 are 4% (-96%) and 14 (-86%) of ORPTS determined value for each jurisdiction. No calculations were provided demonstrating how SLIC arrived at these calculation(s).

Staff recommends no change to the 2025 tentative special franchise assessment and full values for SLIC for SF-25-43 and SF-25-44.

### **Corning Natural Gas Corporation (Corning)**

Corning filed a complaint on its tentative special franchise full values for the City of Corning.

#### **SF-25-03**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$23,467,600	\$16,820,298	-\$6,647,302	-28%

### **Discussion**

1. Corning alleges that it misclassified its property when filing its annual reports with ORPTS for the years 2014 through 2023. It also alleges that it reported the relevant property as “Distribution Mains – Other” when it should have reported that property to ORPTS as “Distribution Mains – Plastic.” Corning alleges that, had it correctly reported the relevant property to ORPTS, it would have been assessed at a lower value. Corning reported starting with a cost basis of \$21,180,000 and adjusting this back to 2014 to \$6,580,169.40 due to the alleged misclassification of distribution mains.
2. Corning argued that its special franchise property should be depreciated over a remaining useful life not exceeding 27 years, based on the anticipated impact of the New York State Climate Leadership and Community Protection Act, which it claims will render gas assets obsolete by 2050.

### **Response**

Corning indicates several alleged grounds for a change in values but fail to provide accurate calculations to support the claimed values or a change to tentative special franchise full values.

1. ORPTS determined the tentative special franchise full values using data submitted by Corning in its annual property reports, which formed the basis for the 2025 values. At the Complainant’s request, ORPTS held a phone meeting with the complainant on October 24, 2024, to discuss concerns about misclassified property reported in its annual reports from 2014 through 2023. The complainant claimed that it had incorrectly listed certain assets under the generic “Distribution Mains – Other” category rather than under the more specific

“Distribution Mains – Plastic” subcategory. ORPTS gave the complainant an opportunity to submit corrected data, but the revised inventory was submitted after the deadline— less than one month before issuance of the 2025 special franchise notices. As a result, ORPTS determined there was insufficient time to review and incorporate the revised reports into the 2025 roll year. Although Corning now claims its classification was an error, it failed to identify or correct the issue before the reporting deadline.

ORPTS also determined the value that Corning claimed of \$6,580,169.40 includes property that is in the private right-of-way, which is not subject to special franchise assessment. Corning did not dispute this assertion at the hearing.

Staff recommends no change to the 2025 tentative special franchise full values for Corning to lack of evidence and supporting documents.

2. ORPTS clarified that any valuation impact due to New York State Climate Act would take the form of an economic obsolescence adjustment— not a reduction in the depreciable lives of the company’s property as Corning asserts. ORPTS asserts that the complainant was, in fact, granted economic obsolescence by ORPTS upon filing a timely request and that it has not offered any explanation of why it is entitled to additional economic obsolescence beyond what was already granted.

Staff recommends no change to the 2025 special franchise full values due to additional economic obsolescence for NYS Climate Act applied to Corning property.

### **Cablevision and its subsidiaries or affiliates (Cablevision)**

Cablevision filed 34 complaints on its tentative special franchise full values and assessments in multiple cities, towns, and villages. The Hearing Officer’s report addresses the legal issues and this memorandum addresses the valuation issues.

#### **SF-25-05**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$9,074	\$5,250	-\$3,824	-42%

#### **SF-25-06**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$71,466	\$29,177	-\$42,289	-59%

**SF-25-07**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$1,732,978	\$754,365	-\$978,613	-56%

**SF-25-08**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$7,022,637	\$2,742,934	-\$4,279,703	-61%

**SF-25-09**

<b>2025 Tentative Special Franchise Assessments</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$283,167	\$110,505	-\$172,662	-61%

**SF-25-10**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$59,098	\$28,979	-\$30,119	-51%

**SF-25-11**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$21,617	\$7,987	-\$13,630	-63%

**SF-25-12**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$886,427	\$331,169	-\$555,258	-63%

**SF-25-14**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$3,062,631	\$1,385,898	-\$1,676,733	-55%

**SF-25-15**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$7,358,952	\$3,245,542	-\$4,113,410	-56%

**SF-25-16**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$175,110,871	\$90,421,993	-\$84,688,878	-48%

**SF-25-19**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$33,007,019	\$20,547,428	-\$12,459,591	-38%

**SF-25-20**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$4,116,457	\$1,958,915	-\$2,157,542	-52%

**SF-25-21**

<b>2025 Tentative Special Franchise Assessments</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$106,348	\$103,483	-\$2,865	-3%

**SF-25-22**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$13,391	\$9,104	-\$4,287	-32%

**SF-25-23**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$25,582,506	\$13,623,139	-\$11,959,367	-47%

**SF-25-24**

<b>2025 Tentative Special Franchise Assessments</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$136,679	\$126,386	-\$10,293	-8%

**SF-25-25**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$2,502,404	\$2,372,902	-\$129,502	-5%

**SF-25-26**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$67,095	\$2,423	-\$64,672	-96%

**SF-25-27**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$21,069,008	\$20,024,918	-\$1,044,090	-5%

**SF-25-28**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$573,625	\$455,440	-\$118,185	-21%

**SF-25-29**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$180,038	\$176,087	-\$3,951	-2%

**SF-25-30**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$4,539,658	\$4,110,067	-\$429,591	-9%

**SF-25-31**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$20,884,793	\$15,528,605	-\$5,356,188	-26%

**SF-25-32**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$12,482,103	\$9,172,104	-\$3,309,999	-27%

**SF-25-33**

<b>2025 Tentative Special Franchise Assessments</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$81,400	\$40,392	-\$41,008	-50%

**SF-25-34**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$16,565,760	\$10,488,627	-\$6,077,133	-37%

**SF-25-35**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$11,659	\$10,864	-\$795	-7%

**SF-25-36**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$650,525	\$537,565	-\$112,960	-17%

**SF-25-37**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$64,652	\$59,015	-\$5,637	-9%

**SF-25-38**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$12,463,117	\$11,316,021	-\$1,147,096	-9%

**SF-25-39**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$18,058,892	\$8,963,019	-\$9,095,873	-50%



**SF-25-40**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$269,352	\$124,506	-\$144,846	-54%

**SF-25-41**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$241,242	\$225,260	-\$15,982	-7%

**SF-25-42**

<b>2025 Tentative Special Franchise Assessment</b>	<b>2025 Claimed Assessment</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$210,174	\$4,810	-\$205,364	-98%

**Discussion**

Cablevision alleges that ORPTS tentative special franchise full values and assessments are improper, unlawful, and unequal. All Cablevision complaints are identical in argument. They make the following allegations:

1. ORPTS allegedly overstated the value of its fiber optic network by assigning a value of approximately \$50,000 per mile. Cablevision claimed its actual cost per mile of the fiber optic network is approximately \$35,000. This cost must be further reduced to reflect obsolete and/or underutilized plant. Additionally, based on valuation studies conducted by the complainants' experts, the cost should be reduced by an additional 15%.
2. Cablevision's actual cost of \$35,000 per mile is believed to include bundled intangible costs, which are not real property or special franchise, including: 6% for software licenses; 5% for indefensible rights to use; 8% for contract premiums related to retainage and warranties on labor and materials
3. Cablevision determined its "ultimate opinion of value" by starting with the 2023 special franchise value of its fiber optic network, as determined by ORPTS; applying 15% depreciation over two years to that base value; adding the 2022 network expansion value, depreciated by 8%; adding the un-depreciated value of its 2023 expansion; using a cost per mile of

\$22,750 for 2022 and 2023 expansions, which reflects alleged downward adjustments for intangibles and obsolescence

4. Cablevision claimed after applying the appropriate reductions and excluding intangibles, the final adjusted cost per mile is approximately \$22,750.

## **Response**

The complaints indicate several alleged grounds for a change in values but fail to provide any calculation to support the claimed values or a change to tentative special franchise assessments and full values. All complaints (SF-25-05, SF-25-06, SF-25-07, SF-25-08, SF-25-09, SF-25-10, SF-25-11, SF-25-12, SF-25-14, SF-25-15, SF-25-16, SF-25-19, SF-25-20, SF-25-21, SF-25-22, SF-25-23, SF-25-24, SF-25-25, SF-25-26, SF-25-27, SF-25-28, SF-25-29, SF-25-30, SF-25-31, SF-25-32, SF-25-33, SF-25-34, SF-25-35, SF-25-36, SF-25-37, SF-25-38, SF-25-39, SF-25-40, SF-25-41, and SF-25-42) are laid out in an identical manner, using identical arguments, and set forth identical conclusions; therefore, all are addressed in this single response.

1. ORPTS valued the Complainant's special franchise property based on industry-wide average cost per mile, not individual company costs. ORPTS uses a base cost for cable companies for three (3) different regions: upstate; downstate, and NYC areas and the rates differ from region to region depending on the location. Figures are based on industry reports and indices.

Staff recommends no change to the 2025 special franchise full values, as the record lacks sufficient evidence to refute the validity of ORPTS's original determination.

2. ORPTS asserts that, to the extent Cablevision argues the cost per mile should be further reduced to account for obsolete and/or underutilized plant, any such consideration would properly constitute a claim for economic obsolescence—not a direct reduction in the cost per mile, as Cablevision argues. Furthermore, Cablevision did not request functional obsolescence, and no supporting utilization study was submitted that would allow ORPTS to substantiate functional obsolescence on complainant's property. Moreover, economic (external) obsolescence was not requested by the complainant and therefore no obsolescence was granted.

Staff recommends no change to the 2025 special franchise full values and assessments due to inadequate documentation to reduce their cost per mile for obsolete and/or underutilized plant.

3. ORPTS utilizes the same cost basis was applied to Cablevision as to other cable companies in similar regions. ORPTS' regulations do not require

submission of actual costs, but rather the average cost per mile. Even if actual costs were considered, Cablevision failed to substantiate its claimed \$22,750 per mile. Furthermore, ORPTS noted that Cablevision has reported flat labor costs since 2019, which calls into question the accuracy of its data and highlights the lack of supporting documentation.

Staff recommends no changes to 2025 special franchise full value and assessments due to inadequate documentation.

4. ORPTS applies a standardized straight-line methodology based on a 15-year service life and a negative 10% salvage value. Under this method, depreciation is calculated at 7.33% annually for the first ten years, followed by 2.5% annually thereafter. In contrast Cablevision's proposed 15% annual depreciation is unsupported by evidence.

Staff recommends no changes to 2025 special franchise full value and assessments due to providing no basis for concluding the validity of Cablevision's depreciation or intangible adjustments

### **Millennium Pipeline Company (MPC)**

MPC filed two (2) complaints on its tentative special franchise full values and assessments in multiple towns. The Hearing Officer's report addresses the legal issues and this memorandum addresses the valuation issues.

#### **SF-25-17**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$61,121	\$15,279	-\$45,842	-75%

#### **SF-25-18**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$114,087,260	\$28,521,817	-\$85,565,443	-75%

### **Discussion**

MPC alleges that ORPTS tentative special franchise full values and assessment are improper and unlawful. The complaints make the following allegations:

1. ORPTS has valued Complainant's special franchise property by applying

third-party indices to trend original book costs incorrectly and inappropriately, in a manner which fails to make proper adjustments, and which results in an overvaluation of Complainant's special franchise property.

2. ORPTS used inaccurate construction costs and failed to make proper adjustments for unnecessary, unusual, or safety and regulatory-related construction expenses. ORPTS failed to apply deductions for economic (external) and functional obsolescence and failed to recognize the underutilization of Millennium's property.
3. ORPTS improperly included the value of intangible property in the assessment of tangible assets and failed to use accurate construction costs and did not make appropriate adjustments for unnecessary or atypical construction expenditures.
4. ORPTS incorrectly used a 50-year service life for gas transmission and field lines, rather than the 30-year service life used by the Federal Energy Regulatory Commission (FERC) for similar property. Additionally, ORPTS failed to consider the impact of the Climate Leadership and Community Protection Act on the service life of MPC's property.

### **Response**

The complaint indicates several alleged grounds for a change in values but fail to provide any calculations to support the claimed values or a change to tentative special franchise full values.

The complaints indicate several alleged grounds for a change in values but fail to provide any calculations to support the claimed values or changes to tentative special franchise assessments and full values.

1. The cost indices to trend the property were used in accordance with ORPTS long standing and widely accepted procedures. These indices were used consistently to trend all 2025 special franchise values for every gas pipeline company and municipality in New York State. Complainant has not provided any alternative indices to support its claim.

Staff recommends no change to the 2025 special franchise assessments and full values due to the use of third-party indices.

2. As part of a special franchise owner's annual property report, 20 NYCRR §8197-2.8 allows for a special franchise owner to apply for functional and economic obsolescence; such request must contain supporting documentation. MPC did not request functional or economic obsolescence adjustments in its annual report, nor did it seek the application of any alternative valuation method as permitted under 20 NYCRR § 8197-2.8. The complaints also do not offer any justification for this omission or allege that the failure was caused by factors

outside the company's control.

Staff recommends no change to the 2025 special franchise assessments and full values due to lack of functional and/or economic obsolescence applied to MPC's property.

1. The intangible portion of MPC special franchise value was valued at five percent of the RCNLD of the tangible physical property. Five percent of the RCNLD of the physical property has historically been considered a reasonable estimate of the intangible value. The calculation of the intangible value of the special franchise is outlined in the Procedures of ORPTS and has been accepted by the courts.

Staff recommends no change to the 2025 special franchise assessments and full values due to application of intangible value applied to MPC's property.

2. The values provided by the Complainant are all 25% (-75%) of ORPTS determined value for each jurisdiction. No calculations were provided demonstrating how the Complainant arrived at these calculation(s).

Staff recommends no changes to the 2025 special franchise assessments and full values for MPC.

3. ORPTS applied a 50-year service life to MPC gas transmission and field line, consistent with the service life used for all similar property across New York State. This determination was based on a comprehensive depreciation study conducted by a Leading Industry Expert. Although MPC alleges that a 30-year service life, as used by the Federal Energy Regulatory Commission (FERC), is more appropriate, it has not provided any evidence to substantiate its claim. Although MPC alleges that the Climate Leadership and Community Protection Act (CLCPA) will shorten the remaining service life of its property, it did not provide any supporting documentation to demonstrate how the CLCPA would directly impact the valuation or useful life of its property.

Staff recommends no changes to the 2025 special franchise assessments and full values for MPC due to lack of evidence to substantiate its claim.

### **Bayonne Energy Center LLC (BEC)**

BEC filed a complaint on its tentative special franchise full values for the City of New York (Brooklyn - King County). The Hearing Officer's report addresses the legal issues and this memorandum addresses the valuation issues.

**SF-25-45**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$71,947,865	\$57,810,109	-\$14,137,756	-20%

**Discussion**

BEC alleges that ORPTS tentative special franchise full values are improper, unlawful, unequal, and unconstitutional. The complaint makes the following allegations:

1. ORPTS has included costs that were unusual and extraordinary and incurred as the result of unforeseen events out of the Complainant's control when determining the RCNLD for the Complainant's special franchise property (e.g., costs related to unnecessary or unusual construction, duplication, re-design, relocation, and extraordinary time schedules). The inclusion of these costs has resulted in an excessive full value for the Complainant's property.
2. ORPTS has used an inadequate net salvage percent that does not accurately reflect the negative salvage value of the complainant's property. Complainant has engaged ESS Group, LLC to study and prepare a decommissioning plan for its submarine and land cable. Based on this study, the net salvage percent that should be utilized in valuing Complainant's property is negative 43.23%. A copy of the study is attached to the complaint as Exhibit "A." ORPTS is currently using 0% net salvage for account 358- "Trans UG Conductors & Devices." Account 358 does not accurately reflect submarine cables and only reflects land-based cable removal. Complainant claimed that the cost to remove submarine cable is much more expensive than land-based cable, and ORPTS' utilization of account 358 does not accurately reflect true removal costs for the subject property.
3. ORPTS applied an insufficient deduction for physical depreciation and improperly denied an economic (external) obsolescence and functional obsolescence.
4. ORPTS failed to acknowledge that the company is required by the United States Army Corps of Engineers to remove the submarine cable within two years of the termination of its permit agreement.

**Response**

The complaint indicates several alleged grounds for a change in values but fail to provide any calculations to support the claimed values or a change to tentative special franchise full values.

1. ORPTS valued the Complainant's special franchise property based upon the original construction costs reported in its annual property report. This report did not include any adjustments for non-utilized construction, and none were applied by ORPTS. In calculating the Reproduction Cost New Less Depreciation (RCNLD), the first step is to estimate the Reproduction Cost New (RCN) by trending the company's reported actual costs to the valuation date using standardized indices. ORPTS applied this methodology consistently across all similarly situated properties and municipalities in accordance with its established procedures.

Staff recommends no change to the 2025 special franchise full values due to the lack of adjustments to construction costs.

2. BEC's special franchise property was valued according to the ORPTS standards. The determination of a zero-salvage value is appropriate as submarine cables—such as those installed in the seabed—are rarely removed due to the significant disruption their removal would cause. Contrary to BEC's assertion, its permit from the U.S. Army Corps of Engineers explicitly allows the cables to remain in place at the end of their service lives, provided certain conditions are met. Although BEC submitted a decommissioning and salvage plan (Exhibit A), it did not demonstrate that decommissioning is imminent or certain. Furthermore, BEC has not indicated any plans to discontinue use of the asset, which has an expected 40-year service life. Under the permit (Exhibit B), cable removal is only required if the cables are decommissioned and if the Corps denies a request to leave them in place. As such, removal remains speculative, and no negative salvage adjustment is warranted at this time.

Staff recommends no change to the 2025 special franchise full values due to the use of a zero-salvage value and categorization in the BEC account.

3. BEC did not request functional obsolescence, and no supporting utilization study was submitted that would allow ORPTS to substantiate functional obsolescence on complainant's property. Moreover, economic (external) obsolescence was not requested by the complainant and therefore no obsolescence was granted.

Staff recommends no change to the 2025 special franchise full values due to lack of functional and economic obsolescence applied to the complainant.

4. BEC indicated that there were no imminent plans to remove or discontinue use of the cable. The submarine cable may be permitted to be abandoned in place as stated in the U.S. Army Corps of Engineers permit. As a result, ORPTS determined that it was appropriate to attribute neither a positive nor negative salvage value to the property.

Staff recommends no changes to 2025 special franchise full value due to

inadequate documentation to discontinue use of the submarine cable in the near future.

5. The values provided by the Complainant are all 80% (-20%) of ORPTS determined value for each jurisdiction. The calculations provided demonstrating how the Complainant arrived at these calculation(s) are based upon a negative 43.23% salvage factor, for which no justification has been provided.

Staff recommends no changes to the 2025 special franchise full values for BEC.

### **Consolidated Edison Company (Con Ed)**

Con Ed filed a complaint on its tentative special franchise full values for the City of New York. The Hearing Officer's report addresses the legal issues and this memorandum addresses the valuation issues.

#### **SF-25-46**

<b>2025 Tentative Special Franchise Full Values</b>	<b>2025 Claimed Full Values</b>	<b>Difference in Value</b>	<b>Percent Difference in Value</b>
\$ 42,916,780,674	\$ 21,305,050,000	-\$21,611,730,674	-50%

### **Discussion**

1. Con Ed alleges that ORPTS tentative special franchise full values are excessive, and illegal because ORPTS failed to reflect the full extent of the depreciation, including economic obsolescence. ORPTS included the value of property not owned by the complainant.
2. Con Ed argues that the Climate Leadership and Community Protection Act (Chapter 106 of the Laws of 2019) and New York City Local Law 97 of 2019:
  - a. Represent a long-term governmental initiative to limit fossil fuel use and sales.
  - b. Result in significant external (economic) obsolescence affecting the value of its special franchise property.

### **Response**

As a preliminary matter, we note that the Hearing Officer recommended rejecting this complaint due to procedural deficiencies—specifically, insufficient documentation, an improper signature, and untimely service. However, we recognize that the Board may also wish to consider the valuation issues raised in the complaint, allow us to add that we believe the complaint should be rejected on its merits as well.



The complaint indicates several alleged grounds for a change in values but fail to provide any calculations to support the claimed values or a change to tentative special franchise full values.

1. The property of Con Ed was valued utilizing the reproduction cost new less depreciation methodology (RCNLD) which is the only valid method of determining the full value of specialty property.  
While Con Ed provided an estimate of full value for each assessing unit, it didn't include documents to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted. Although Con Ed did not request a specific amount of economic obsolescence, ORPTS granted the complainant a reasonable and sufficient reduction based on economic obsolescence.

Staff recommends no changes to the 2025 special franchise full values due to lack of evidence and insufficient documentation to supporting Con Ed's claim.

2. ORPTS believes any valuation impact due to New York State Climate Act would take the form of an economic obsolescence adjustment. Again, Con Ed failed to request economic obsolescence, and no supporting utilization study was submitted that would allow ORPTS to substantiate economic obsolescence on complainant's property.

Staff recommends no change to the 2025 special franchise full values due to lack of evidence and insufficient documentation.

Cc: Rachel Ingalsbe

Attachment A (Seven Resolutions)  
Attachment B (Hearing Officer Reports)



## RESOLUTION 25-16

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on December 05, 2024, December 13, 2024, and December 19, 2024, the tentative special franchise full values for Liberty Utilities (New York Water) Corp. were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notices of the tentative special franchise full values and the scheduled hearing dates were duly mailed on December 05, 2024, December 13, 2024, and December 20, 2024

**WHEREAS**, complaints (#SF-25-01, SF-25-02, and SF-25-13), dated January 03, 2025, and March 16, 2025 were filed by Liberty Utilities (New York Water) Corp. as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4.2; and

**WHEREAS**, hearings pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 were held with regard to the complaints on January 16, 2025, and January 30, 2025; and

**WHEREAS**, appearances on behalf of Liberty Utilities (New York Water) Corp. were not made at the January 16, 2025 hearing and the January 30, 2025 hearing; and

**WHEREAS**, the Hearing Officer has filed reports dated February 19, 2025, and March 27, 2025; and

**WHEREAS**, ORPTS staff has reviewed the complaints, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated May 16, 2025; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

25-16

-2-

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2025 final special franchise full values as set forth in List No. SF-25-01, SF-25-02, and SF-25-13, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to the affected municipalities to be used as the special franchise full values on the respective 2025 assessment roll.

Voting in favor:

Voting against:

Abstaining:

Absent:

STATE OF NEW YORK    )  
                                      ) ss:  
COUNTY OF ALBANY    )

I, Rachel Ingalsbe, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 04, 2025.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 4<sup>th</sup> day of June 2025.

---

Rachel Ingalsbe, Director of the Office of Real  
Property Tax Services



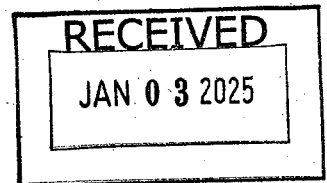
**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE  
 FOR ORPTS USE ONLY

Complaint Number	Hearing Date
SF-25-01	01/16/2025

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Liberty Utilities (New York Water) Corp.

Company Name

60 Brooklyn Avenue, Merrick, NY 11566

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

County Name(s)	Assessing Unit(s)	ORPTS Tentative Full Value	Company's Estimate of Full Value
See attached	Schedule A		

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

Company Name(s)	ORPTS Tentative Full Value	Assessing Unit's Estimate of Full Value

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, Deborah Franco, President on behalf of complainant, hereby designate  
Cullen and Dykman LLP to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

12/18/24  
 Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cullen and Dykman LLP/ Robert J. Sorge, Karen I. Levin, Michael Hrankiowskyj  
 Contact Person and Title

333 Earle Ovington Blvd., 2nd Floor, Uniondale, NY 11553  
 Street Address, City, State, Zip

( 516 ) 357-3700  
 Telephone Number

( 516 ) 357-3792  
 Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Liberty Utilities (New York Water) Corp. relies upon the annual inventory reports provided to ORPTS, but with appropriate adjustments as set forth in Schedule B.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 22.)*

☒ **2. Valuation**

Please see attached Schedule B: Additional Information in Support of Claimed Full Values.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 22.)*

☒ **3. Other**

Please see attached Schedule B: Additional Information in Support of Claimed Full Values.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 22.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

12/18/24  
Date

De Shu, President  
Signature and Title

Clear Form

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

**SCHEDULE A IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
LIBERTY UTILITIES (NEW YORK WATER) CORP.  
DATED DECEMBER 30, 2024**

**LIST OF ASSESSING UNITS AND COMPANY'S ESTIMATES OF FULL VALUES**



County	Town/City	Village/Town Outside Village	Tentative Full Value	Claimed Full Value
ORPTS NOTICE ADDRESSED TO LONG ISLAND WATER COMPANY (Village Roll)				
Nassau	Town of Hempstead	Village of Lawrence	4,950,694	1,237,674
		Village of Lynbrook	13,853,768	3,463,442
ORPTS NOTICE ADDRESSED TO CAMBRIDGE WATER WORKS (Village Roll)				
Washington	Town of Cambridge	Village of Cambridge	913,770	228,443
	Town of White Creek	Village of Cambridge	4,326,047	1,081,512
ORPTS NOTICE ADDRESSED TO SEA CLIFF WATER COMPANY (Village Roll)				
Nassau	Town of Oyster Bay	Village of Sea Cliff	7,168,653	1,792,163

**SCHEDULE B IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
LIBERTY UTILITIES (NEW YORK WATER) CORP.**

**DATED DECEMBER 30, 2024**

**ADDITIONAL INFORMATION IN  
SUPPORT OF CLAIMED FULL VALUES**

Liberty Utilities (New York Water) Corp., formerly known as New York American Water Company Inc., formerly known as New York Water Service Corporation, Long Island Water Corporation and Aqua New York of Sea Cliff Inc. (hereinafter “Complainant”)<sup>1</sup> complains of and objects to the Tentative Special Franchise Full Values determined by the Office of Real Property Tax Services (hereinafter “ORPTS”) and set forth in the notices dated December 5, 2024 and December 13, 2024 attached hereto. Complainant is the corporate entity owning the special franchise property that is the subject of the attached notices. Complainant alleges that said Tentative Special Franchise Full Values are excessive, unlawful and unconstitutional, as more fully set forth below.

### **I. EXCESSIVE FULL VALUES**

1. The ORPTS determination of the full value of Complainant’s special franchise property located in the assessing units listed below exceeds its full value as determined by proper use of valuation methodologies.

2. On information and belief, the ORPTS has attempted to apply a reproduction cost new less depreciation methodology (“RCNLD” or “reproduction cost methodology”) in valuing Complainant's special franchise property which is incorrect in numerous respects, is misapplied in many instances and which has achieved full values in excess of the cost to reproduce the property and which has resulted in excessive full values.

---

<sup>1</sup> On December 16, 2021, an order was issued by the New York State Public Service Commission (“PSC”) in Case 20-W-0102, which authorized Liberty Utilities (Eastern Water Holdings) Corp. on January 1, 2022 to acquire New York American Water Company Inc. from American Water Works Company, Inc. (“AWW”). Previously, on May 1, 2012, in accordance with an order issued by the PSC in Case 11-W-0472, AWW acquired all of the outstanding shares of Aqua New York, Inc. (“Aqua NY”). Aqua NY, in turn, owned all the outstanding shares of New York Water Service Corporation (“NYWS”), Aqua New York of Sea Cliff, Inc. (“Sea Cliff”) and five small upstate companies. On October 4, 2012, in accordance with an order issued by the PSC in Case 12-W-0217, Aqua NY’s subsidiaries, NYWS and Sea Cliff were merged with and into Aqua NY. Aqua NY subsequently merged with and into Long Island Water Corporation (“LIWC”), with LIWC as the surviving corporation which was renamed “New York American Water Company, Inc.”

3. The ORPTS has valued Complainant's special franchise property by applying a third-party index to trend original book costs incorrectly and inappropriately, in a manner which fails to make proper adjustments and which results in an overvaluation of Complainant's special franchise property.

4. In fixing and determining the full values of the Complainant's special franchise property, the ORPTS erroneously, improperly and illegally deducted from its estimated value an arbitrary, inadequate and insufficient sum for all forms of depreciation, including physical depreciation and economic (external) and functional obsolescence, with the result that the ORPTS adopted a value in excess of, and more than, the value produced by a correct and proper application of its own valuation procedure, and in excess of, and more than, the maximum value of said tangible property, and in excess of, and more than, the true valuation of the special franchise property.

5. The physical depreciation applied to Complainant's property is incorrect and inadequate in numerous respects, including the following: the ORPTS' rules on depreciation arbitrarily fail to permit full depreciation and establish an artificial and incorrect mandate to freeze depreciation at an arbitrary level which yields inadequate physical depreciation contrary to Complainant's actual experience, and results in the excessive valuation of Complainant's special franchise property.

6. The ORPTS uses a depreciation floor for water machinery and equipment. The floor is applied to the value of the property based on Reproduction Cost New methodology. A random depreciation floor should not be applied to water property that once fully depreciated is no longer included in rate base as an earning asset. Moreover, there is no appraisal basis for the application of a random depreciation floor to the reproduction cost new value of the property.

However, if a floor is to be applied (an erroneous and baseless application to which Complainant strongly objects), it should be applied to the original cost of the asset and not the reproduction cost which is typically many times higher than original cost. ORPTS' application of a depreciation floor is not reasonable for an asset that is fully depreciated and has no earning capacity for a rate regulated utility.

7. A portion of the overvaluation results from the ORPTS' application of inappropriate salvage factors in determining the value of Complainant's special franchise property. Specifically, the ORPTS uses negative 10% for the mains account and negative 15% for the hydrants account in valuing Complainant's property. Complainant has submitted information to the ORPTS staff demonstrating that the negative salvage applied to Complainants' property is insufficient. In April 2023, Complainant provided materials in support of an increase in the negative salvage applied to its property. A copy of these materials is attached here as Exhibit A. Based upon the materials provided to ORPTS, they should apply salvage factors between negative 20% and negative 75% to the mains account. At a minimum ORPTS should use the PSC-approved salvage factor of negative 40% for the mains account. Based upon the materials provided to ORPTS, they should apply a salvage factor of negative 90% to the hydrants account. At a minimum ORPTS should use the PSC-approved salvage factor of negative 60% for the hydrants account. This requested adjustment is fully consistent with ORPTS rules which allow for a Company specific adjustment to the depreciation factors established by ORPTS for a particular industry.

8. Complainant's property is functionally obsolete as defined by the ORPTS rules and by generally accepted appraisal methodology. Yet, in its application of the reproduction cost new less depreciation method of valuation, the ORPTS failed to adequately recognize the functional

obsolescence which exists in Complainant's special franchise property. The failure to adequately recognize functional obsolescence has resulted in incorrect and excessive full values.

9. A portion of the overvaluation of Complainant's special franchise property results from the ORPTS' failure to recognize the underutilization of Complainant's property and, as a result, its failure to adequately recognize the functional obsolescence which exists in Complainant's property.

10. The full value of Complainant's special franchise property in the listed jurisdiction should have been fixed by the ORPTS at an amount not exceeding the following amount set forth below under the caption "Claimed FV." Complainant used the latest inventory information from ORPTS with adjustments for net negative salvage, the depreciation floor and economic obsolescence to determine its claimed values. The extent of overvaluation is set forth in the right-hand column:

County	Town/City	Village/Town Outside Village	Tentative Full Value	Claimed Full Value	Extent of Overvaluation
ORPTS NOTICE ADDRESSED TO LONG ISLAND WATER COMPANY (Village Roll)					
Nassau	Town of Hempstead	Village of Lawrence	4,950,694	1,237,674	3,713,020
		Village of Lynbrook	13,853,768	3,463,442	10,390,326
ORPTS NOTICE ADDRESSED TO CAMBRIDGE WATER WORKS (Village Roll)					
Washington	Town of Cambridge	Village of Cambridge	913,770	228,443	685,327
	Town of White Creek	Village of Cambridge	4,326,047	1,081,512	3,244,535

ORPTS NOTICE ADDRESSED TO SEA CLIFF WATER COMPANY (Village Roll)					
Nassau	Town of Oyster Bay	Village of Sea Cliff	7,168,653	1,792,163	5,376,490

## **II. UNLAWFUL FULL VALUES**

11. Complainant alleges further that, in fixing and determining the full value of Complainant's special franchise property, the ORPTS arbitrarily, capriciously, improperly and unlawfully ignored the principles of law and facts and its own rules and, as a result thereof, fixed and determined the value of the special franchise property in a discriminatory and unwarranted manner, and at an excessive and confiscatory amount at a sum in excess of its value.

12. The ORPTS charges Complainant for determining its full values and such charge is constitutionally infirm and illegal and a further burden on the special franchise property which is not recognized in the full values and results in excessive full values.

## **III. UNCONSTITUTIONAL VALUES**

13. ORPTS determination of the 2025 full values of Complainant's special franchise property is invalid in that it failed to consider all determinants of value on a uniform basis and disparately treated Complainant's special franchise property from all other similarly situated special franchise property owners and resulted in the imposition of excessive and burdensome real property taxes upon Complainant's special franchise property that exceeds the amounts imposed upon other special franchise property owners located in the assessing unit set forth in the notice, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Section 11 of Article 1 of the New York State Constitution, and section 305 of the Real Property Tax Law.

14. The excessive valuations of Complainant's property established by the ORPTS results in the imposition of excessive and burdensome real property taxes which significantly

impair the value of Complainant's property and result in a confiscatory taking of Complainant's property.

#### **IV. OTHER**

15. Complainant is aggrieved and is injured by this unconstitutional, illegal, void, unjust, excessive and unequal valuation and Complainant has been compelled to pay a far greater amount in taxes based upon this valuation than it would have been compelled to pay if the valuation had been constitutionally, justly and legally determined in accordance with the provisions of law and established methods of valuation and in accordance with the provisions of the Constitutions of the United States and of the State of New York, and the resulting amount paid in taxes is far more than its fair and equal portion of aggregate taxes levied upon real property in the assessing unit listed herein for the same period, resulting in confiscation of Complainant's property, denying Complainant equal protection of the law, depriving Complainant of its property without due process of the law and taking Complainant's property for public use without rendering just compensation therefor, in violation of the Constitutions of the United States and of the State of New York.

16. Complainant and its customers have been injured by the full values complained of herein.



## **EXHIBIT A**



## MANAGEMENT APPLICATIONS CONSULTING, INC.

1103 Rocky Drive • Suite 201 • Reading, PA 19609-1157 • 610/670-9199 • fax 610/670-9199 • www.manapp.com

### MEMO

DATE: 04/13/2023  
TO: Margaret Meyer, Manager of Indirect Tax  
New York Water  
FROM: Paul Normand  
SUBJECT: Discussion of NYW Mains Cost of Removal (Service Area 1)  
REFERENCE: Depreciation Study @12/31/2021

It is our understanding that Liberty Utilities (New York Water) Corp. (“the Company”) will be requesting an adjustment to the net salvage value used by the Office of Real Property Tax Services (“ORPTS”) when valuing the company’s special franchise property. We were asked to review the company’s records and prepare an analysis of the appropriate net salvage value for the mains account.

According to ORPTS’ rules, “salvage value” is “the amount received for property retired, less any expenses incurred in connection with the sale of or in preparing the property for sale or if retained, the amount at which the material recoverable is chargeable to materials and supplies or other appropriate account.” The “net salvage value” is the salvage value of property retired less the cost of removal. When valuing special franchise property, the net salvage value is necessary to determine the allowance for physical depreciation. ORPTS has established net salvage percentages by asset account that it utilizes to determine the appropriate amount of physical depreciation an asset is currently incurring. Based upon our review and analysis, we believe that the ORPTS established net salvage percentages for the mains account should be adjusted for purposes of valuing the Company’s special franchise property.

The cost of removal component of Net Salvage (NS) typically gathers aged data (some fairly old) along with current costs of removing/retiring these facilities. As a result, the current installed costs will always be much greater than the original installed costs. In some cases, the reported data is lagged simply due to accounting/recording of the data from engineering and the closing of work orders. As a result, any one year may present abnormally elevated results but the important point is to review various bands (years) of average data along with recent annual

To: Margaret Meyer, Manager of Indirect Tax  
Subject: Discussion of NYW Mains Cost of Removal  
(Service Area 1)

Page 2  
04/13/2023

results to show any trend or continued trend of any cost relationships. Moreover, based upon our discussions with Company representatives, it is our understanding that mains are not typically removed upon retirement, but rather cut, capped and retired in place.

The mains account is segregated into 4 subaccounts. I will briefly discuss each subaccount separately. Utility account 331.00 (NARUC 343.00) Vault/Pipe Fittings is the second largest mains account with approximately \$23.8M (2021) in assets. This is a new account since the previous depreciation study @12/31/2015. Looking at the most recent five year activity band (2017-2021), the result of the net salvage is -221.5.0

Utility account 331.03 (NARUC 343.03) Paving - LI has an asset balance of approximately \$6.7M (2021). There is limited retirement and cost of removal history for this account.

Utility account 331.10 (NARUC 343.10) Mains-4" & Less has an asset balance of \$5.2M (2021) and is the smallest of the mains accounts. Looking at the most recent five year activity band (2017-2021), the result of the net salvage related to the retirements is -1,397.5%.

Utility account 331.23 (NARUC 343.23) Mains-6" & Greater-LI is the largest of the mains accounts and has an asset balance of \$132.5M (2021). Looking at the most recent five year band (2017-2021), the result of the net salvage related to the retirements is -207.0%.

The annual values for retirements and cost of removal (for MAIN accounts) reflect the utility operations with respect to retirements, replacements and improvements over time. For Service Area 2 (Merrick and Sea Cliff), our analysis was limited with respect to the availability of historical data (6 years). Having prepared a thorough analysis of Service Area 1 with both service areas being contiguous and with the installed facilities being of similar material type, we applied the same depreciation parameters from Service Area 1 to Service Area 2.

Attached is a summary of our cost of removal/salvage analysis of the mains subaccounts which is based upon a review of Company records and supports the proposed increase in negative Net Salvage (NS). We have also provided a comparison of the ORPTS Net Salvage parameters with the currently approved Public Service Commission ("NYSPSC") Net Salvage factors as well as the new

To: Margaret Meyer, Manager of Indirect Tax  
Subject: Discussion of NYW Mains Cost of Removal  
(Service Area 1)

Page 3  
04/13/2023

proposed parameters submitted to the NYSPSC. Our recommendation is that the currently approved NYSPSC Net Salvage parameters for the mains account should be considered by ORPTS.

LIBERTY UTILITIES CORORATION  
 NEW YORK WATER  
 FRANCHISE TAX SUPPORT  
 SERVICE AREA 1  
 DEPRECIATION PARAMETERS  
 MAINS

NARUC ACCOUNT NUMBER	UTILITY ACCOUNT NUMBER	ACCOUNT DESCRIPTION	ORPTS RECOMMENDED PARAMETERS	PSC APPROVED PARAMETERS CASE 16-W-0259	PROPOSED PARAMETERS DEPRECIATION STUDY @12/31/21
			NET SALVAGE %	NET SALVAGE %	NET SALVAGE %
<b>343.00</b>	331.00	MAINS-VAULT/PIPE FITTINGS	-10	-40	-20
<b>343.03</b>	331.03	MAINS-PAVING-LI	-10	0	-5
<b>343.10</b>	331.10	MAINS-4" & LESS	-10	-40	-75
<b>343.23</b>	331.23	MAINS-6" & GREATER	-10	-40	-50

LIBERTY UTILITIES (NEW YORK WATER) CORP  
SERVICE AREA #1  
COR/SALVAGE ANALYSIS  
FRANCHISE TAX BACKGROUND

Page 1 OF 1

NEW ACCOUNT IN 2021 STUDY

Account	UTILITY 331.00	NARUC 343.00	T & D MAINS- PIPE FITTINGS YEAR				
	2021	2020	2019	2018	2017	2016	
RETIREMENTS	866	4,055	11,824	67,913	36,084	22,508	
GROSS SALVAGE	30,234	0	39,847	8,040	43	2,191	
COST TO RETIRE	2,372	147,691	141,531	17,193	36,865	34,573	
NET SALVAGE	27,862	-147,691	-101,684	-9,153	-36,822	-32,382	
% NET SALVAGE	3217.3	-3642.2	-860.0	-13.5	-102.0	-143.9	

PLANT BALANCE @12/31/2021 \$23,784,788

TOTAL BAND 2016-2021	5 Year Band 2017-2021
143,250	120,742
80,355	78,164
380,225	345,852
-299,870	-267,488
209.3	-221.5

PRIOR EXISTING ACCOUNTS

Account	UTILITY 331.03	NARUC 343.03	T & D MAINS- PAVING-LI YEAR				
	2021	2020	2019	2018	2017	2016	
RETIREMENTS	55	0	0	0	0	2,214	
GROSS SALVAGE	0	0	0	0	0	0	
COST TO RETIRE	3,459	0	14,088	43	0	1,752	
NET SALVAGE	-3,459	0	-14,088	-43	00	-1,752	
% NET SALVAGE	-6269.1	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	-79.1	

PLANT BALANCE @12/31/2021 \$6,736,538

TOTAL BAND 2016-2021	5 Year Band 2017-2021
2,269	55
0	0
19,342	17,590
-19,342	17,590
-852.4	-31981.8

Account	UTILITY 331.10	NARUC 343.10	T & D MAINS- 4" & LESS YEAR											
	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008
RETIREMENTS	370	1,625	20,845	62,995	20,987	36,499	12,174	253	205	9,034	573	763	313,837	4,580
GROSS SALVAGE	30,234	0	39,847	8,040	43	2,191	0	0	0	0	0	0	0	0
COST TO RETIRE	229,631	126,633	739,808	335,187	139,784	356,918	67,909	20,879	85,554	-12,138	53,322	17,793	4,834	0
NET SALVAGE	-199,397	-126,633	-699,961	-327,147	-139,741	-354,727	-67,909	-20,879	-85,554	12,138	-53,322	-17,793	-4,834	0
% NET SALVAGE	53891.1	-7792.8	-3357.9	-519.3	-685.8	-971.9	-557.8	8252.6	-41733.7	134.4	-9305.8	-2332.0	-1.5	0.0

PLANT BALANCE @12/31/2021 \$8,216,954

TOTAL BAND 2010-2021	5 Year Band 2017-2021
166,323	106,822
80,355	78,164
2,161,280	1,571,043
-2,080,925	-1,492,879
-1251.1	-1397.5

Account	UTILITY 331.23	NARUC 343.23	T & D MAINS- 6" & GREATER-LI YEAR											
	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008
RETIREMENTS	456,927	83,221	56,969	757,967	106,522	782,763	16,274	23,175	49,835	73,365	25,544	85,848	114,328	75,009
GROSS SALVAGE	0	0	0	0	0	0	0	0	0	0	9,591	0	0	0
COST TO RETIRE	270,711	276,274	932,835	1,121,922	423,686	422,814	1,072,650	390,753	394,971	156,822	364,416	167,123	104,852	138,743
NET SALVAGE	-270,711	-276,274	-932,835	-1,121,922	-423,686	-422,814	-1,072,650	-390,753	-394,971	-156,822	-354,825	-167,123	-104,852	138,743
% NET SALVAGE	-59.2	-332.0	-1637.4	-148.0	-397.7	-54.0	-6591.2	-1686.1	-792.6	-213.8	-1389.1	-194.7	-91.7	-185.0

TOTAL BAND 2010-2021	5 Year Band 2017-2021
2,518,410	1,461,606
9,591	0
5,994,977	3,025,428
5,985,386	-3,025,428
-237.7	-207.0



## MANAGEMENT APPLICATIONS CONSULTING, INC.

1103 Rocky Drive • Suite 201 • Reading, PA 19609-1157 • 610/670-9199 • fax 610/670-9199 • www.manapp.com

### MEMO

DATE: 04/13/2023  
TO: Margaret Meyer, Manager of Indirect Tax  
New York Water  
FROM: Paul Normand  
SUBJECT: Discussion of NYW Hydrants Cost of Removal (Service Area 1)  
REFERENCE: Depreciation Study @12/31/2021

It is our understanding that Liberty Utilities (New York Water) Corp. (“the Company”) will be requesting an adjustment to the net salvage value used by the Office of Real Property Tax Services (“ORPTS”) when valuing the company’s special franchise property. We were asked to review the company’s records and prepare an analysis of the appropriate net salvage value.

According to ORPTS’ rules, “salvage value” is “the amount received for property retired, less any expenses incurred in connection with the sale of or in preparing the property for sale or if retained, the amount at which the material recoverable is chargeable to materials and supplies or other appropriate account.” The “net salvage value” is the salvage value of property retired less the cost of removal. When valuing special franchise property, the net salvage value is necessary to determine the allowance for physical depreciation. ORPTS has established net salvage percentages by asset account that it utilizes to determine the appropriate amount of physical depreciation an asset is currently incurring. Based upon our review and analysis, we believe that the ORPTS established net salvage percentage for the hydrants account should be adjusted for purposes of valuing the Company’s special franchise property.

The cost of removal component of Net Salvage (NS) typically gathers aged data (some fairly old) along with current costs of removing/retiring these facilities. As a result, the current installed costs will always be much greater than the original installed costs. In some cases, the reported data is lagged simply due to accounting/recording of the data from engineering and the closing of work orders. As a result, any one year may present abnormally elevated results but the important

To: Margaret Meyer, Manager of Indirect Tax  
Subject: Discussion of NYW Hydrants Cost of Removal  
(Service Area 1)

Page 2  
04/13/2023

point is to review various bands (years) of average data along with recent annual results to show any trend or continued trend of any cost relationships.

Based upon our review of Company records, hydrants are replaced on a more frequent basis than the underlying infrastructure. The Company's hydrant account assets are approximately \$17M (2021). Looking at the most recent five year activity band (2017-2021), the result of the net salvage related to the retirements is 117% (see attached).

These annual values for retirements and cost of removal reflect the operations with respect to retirement, replacement, and improvements over time. For Service Area 2 (Merrick and Sea Cliff), our analysis was limited with respect to the available historical data (6 years). Having prepared a thorough analysis of Service Area 1, with the service areas being contiguous and the installed facilities being of a similar material, we applied the same depreciation parameters from Service Area 1 to Service area 2.

Attached is a summary of our cost of removal/salvage analysis of hydrants which is based upon a review of Company records and supports the proposed increase in negative Net Salvage (NS). We have also provided a comparison of the ORPTS Net Salvage parameters with the currently approved Public Service Commission Net Salvage (NYPSC) factors as well as the new proposed parameters submitted to the NYPSC. Our recommendation is that the currently approved NYSPSC Net Salvage parameters for the hydrants account should be considered by ORPTS.



LIBERTY UTILITIES CORPORATION  
 NEW YORK WATER  
 FRANCHISE TAX SUPPORT  
 SERVICE AREA I  
 COMPARISON DEPRECIATION PARAMETERS  
 HYDRANTS

NARUC ACCOUNT NUMBER	UTILITY ACCOUNT NUMBER	ACCOUNT DESCRIPTION	ORPTS RECOMMENDED PARAMETERS	PSC APPROVED PARAMETERS CASE 16-2-0259	PROPOSED PARAMETERS DEPRECIATION STUDY @12/31/21
348.00	335.00	HYDRANTS	NET SALVAGE % -15	NET SALVAGE % -60	NET SALVAGE % -90

LIBERTY UTILITIES (NEW YORK WATER) CORP  
SERVICE AREA #1  
COR/SALVAGE ANALYSIS  
FRANCHISE TAX BACKGROUND

Account	UTILITY	NARUC	T & D HYDRANTS												TOTAL		5 Year
	335.00	348.00	YEAR												2008	2010-2021	2017-2021
			2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009		
RETIREMENTS		251.003	102.892	166.491	443.036	18.341	55.990	9.440	3.495	8.210	22.038	2,615	13,745	24,010	45,254	1,092,794	979,563
GROSS SALVAGE		0	0	0	0	0	0	491	0	0	0	0	10,000	0	0	0	0
COST TO RETIRE		57.555	88.751	422.984	497.534	100.398	218,156	283,824	65,552	25,745	59,210	64,981	64,281	30,932	4,039	1,928,971	1,147,220
NET SALVAGE		-57.555	-88.751	-422.984	-497.534	-100.398	-217,867	-283,824	-65,552	-25,745	-59,210	-64,981	-64,281	-30,932	-4,039	-1,916,480	-1,147,220
% NET SALVAGE		-22.9	-88.9	-254.1	112.3	-814.4	-390.0	-3.007	-1.876	-415	-289	-2.103	-488	-129	-9	-175.6	117.1
PLANT BALANCE @ 12/31/2021			\$17,001,865														



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
December 13, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

For village assessment roll to be filed in 2025

Sea Cliff Water Company 240800  
C/O Margaret Meyer, Indirect Tax Manager  
PO Box 1420  
Massapequa, NY 11758

Hearing Date and Location:  
January 16, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
<b>Village of Sea Cliff, Town of Oyster Bay, Nassau County</b>			
Village of Sea Cliff		<u>7,168,653</u>	-3.2
Total Town:	240800-2824	\$7,168,653	

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

RP27

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

Dated  
December 05, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

For village assessment roll to be filed in 2025

Cambridge Water Works 206300  
C/O Margaret Meyer, Indirect Tax Manager  
PO Box 1420  
Massapequa, NY 11758



Hearing Date and Location:  
January 16, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
<u>County of Washington</u>			
Village of Cambridge, Town of Cambridge	206300-532201	913,770	-5.1
Village of Cambridge, Town of White Creek	206300-535001	4,326,047	10.0
Grand Total		\$5,239,817	

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
December 05, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**  
For village assessment roll to be filed in 2025

Long Island Water Company 227600  
C/O Margaret Meyer, Indirect Tax Manager  
PO Box 1420  
Massapequa, NY 11758

Hearing Date and Location:  
January 16, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
<b><u>County of Nassau</u></b>			
Village of Lawrence, Town of Hempstead	227600-282023	4,950,694	-7.4
Village of Lynbrook, Town of Hempstead	227600-282025	13,853,768	-8.7
Grand Total		\$18,804,462	

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.



**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number.	Hearing Date
SF-25-02	01/16/2025

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Liberty Utilities (New York Water) Corp.

Company Name

60 Brooklyn Avenue, Merrick, NY 11566

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See attached	Schedule A		

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, Deborah Franco, President on behalf of complainant, hereby designate  
Cullen and Dykman LLP to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.

12/18/24  
 Date

[Signature]  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cullen and Dykman LLP/ Robert J. Sorge, Karen I. Levin, Michael Hrankiowskyj  
 Contact Person and Title

333 Earle Ovington Blvd., 2nd Floor, Uniondale, NY 11553

Street Address, City, State, Zip

(516 ) 357-3700

Telephone Number

(516 ) 357-3792

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Liberty Utilities (New York Water) Corp. relies upon the annual inventory reports provided to ORPTS, but with appropriate adjustments as set forth in Schedule B.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 24.)*

☒ **2. Valuation**

Please see attached Schedule B: Additional Information in Support of Claimed Full Values.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 24.)*

☒ **3. Other**

Please see attached Schedule B: Additional Information in Support of Claimed Full Values.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 24.)*



**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

Date

Signature/Title

Clear Form

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

**SCHEDULE A IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
LIBERTY UTILITIES (NEW YORK WATER) CORP.  
DATED DECEMBER 30, 2024**

**LIST OF ASSESSING UNITS AND COMPANY'S ESTIMATES OF ASSESSMENTS**

County	Town/City	Village/Town Outside Village	Tentative Assessment	Claimed Assessment
ORPTS NOTICE ADDRESSED TO LONG ISLAND WATER COMPANY (Village Roll)				
Nassau	Town of Hempstead	Village of Cedarhurst	201,755	50,439
		Village of East Rockaway	195,703	48,926
		Village of Island Park	171,960	42,990
		Village of Malverne	431,677	107,919
		Village of Valley Stream	588,484	147,121
ORPTS NOTICE ADDRESSED TO NEW YORK WATER SERVICE (Village Roll)				
Nassau	Town of Oyster Bay	Village of Massapequa Park	1,003	251
ORPTS NOTICE ADDRESSED TO SEA CLIFF WATER COMPANY (Village Roll)				
Nassau	Town of North Hempstead	Village of Roslyn Estates	72	18
	Town of Oyster Bay	Village of Old Brookville	34,629	8,657

**SCHEDULE B IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
LIBERTY UTILITIES (NEW YORK WATER) CORP.**

**DATED DECEMBER 30, 2024**

**ADDITIONAL INFORMATION IN  
SUPPORT OF CLAIMED ASSESSMENTS**

Liberty Utilities (New York Water) Corp., formerly known as New York American Water Company Inc., formerly known as New York Water Service Corporation, Long Island Water Corporation and Aqua New York of Sea Cliff Inc. (hereinafter “Complainant”)<sup>1</sup> complains of and objects to the Tentative Special Franchise Assessments determined by the Office of Real Property Tax Services (hereinafter “ORPTS”) and set forth in the notices dated December 5, 2024 attached hereto. Complainant is the corporate entity owning the special franchise property that is the subject of the attached notices. Complainant alleges that said Tentative Special Franchise Assessments are excessive, unlawful and unconstitutional, as more fully set forth below.

### **I. EXCESSIVE ASSESSMENTS**

1. The ORPTS determination of the assessments of Complainant’s special franchise property located in the assessing units listed below exceeds its assessments as determined by proper use of valuation methodologies.

2. On information and belief, the ORPTS has attempted to apply a reproduction cost new less depreciation methodology (“RCNLD” or “reproduction cost methodology”) in valuing Complainant's special franchise property which is incorrect in numerous respects, is misapplied in many instances and which has achieved assessments in excess of the cost to reproduce the property and which has resulted in excessive assessments.

---

<sup>1</sup> On December 16, 2021, an order was issued by the New York State Public Service Commission (“PSC”) in Case 20-W-0102, which authorized Liberty Utilities (Eastern Water Holdings) Corp. on January 1, 2022 to acquire New York American Water Company Inc. from American Water Works Company, Inc. (“AWW”). Previously, on May 1, 2012, in accordance with an order issued by the PSC in Case 11-W-0472, AWW acquired all of the outstanding shares of Aqua New York, Inc. (“Aqua NY”). Aqua NY, in turn, owned all the outstanding shares of New York Water Service Corporation (“NYWS”), Aqua New York of Sea Cliff, Inc. (“Sea Cliff”) and five small upstate companies. On October 4, 2012, in accordance with an order issued by the PSC in Case 12-W-0217, Aqua NY’s subsidiaries, NYWS and Sea Cliff were merged with and into Aqua NY. Aqua NY subsequently merged with and into Long Island Water Corporation (“LIWC”), with LIWC as the surviving corporation which was renamed “New York American Water Company, Inc.”

3. The ORPTS has valued Complainant's special franchise property by applying a third-party index to trend original book costs incorrectly and inappropriately, in a manner which fails to make proper adjustments and which results in an overvaluation of Complainant's special franchise property.

4. In fixing and determining the assessments of the Complainant's special franchise property, the ORPTS erroneously, improperly and illegally deducted from its estimated value an arbitrary, inadequate and insufficient sum for all forms of depreciation, including physical depreciation and economic (external) and functional obsolescence, with the result that the ORPTS adopted a value in excess of, and more than, the value produced by a correct and proper application of its own valuation procedure, and in excess of, and more than, the maximum value of said tangible property, and in excess of, and more than, the true valuation of the special franchise property.

5. The physical depreciation applied to Complainant's property is incorrect and inadequate in numerous respects, including the following: the ORPTS' rules on depreciation arbitrarily fail to permit full depreciation and establish an artificial and incorrect mandate to freeze depreciation at an arbitrary level which yields inadequate physical depreciation contrary to Complainant's actual experience, and results in the excessive valuation of Complainant's special franchise property.

6. The ORPTS uses a depreciation floor for water machinery and equipment. The floor is applied to the value of the property based on Reproduction Cost New methodology. A random depreciation floor should not be applied to water property that once fully depreciated is no longer included in rate base as an earning asset. Moreover, there is no appraisal basis for the application of a random depreciation floor to the reproduction cost new value of the property.

However, if a floor is to be applied (an erroneous and baseless application to which Complainant strongly objects), it should be applied to the original cost of the asset and not the reproduction cost which is typically many times higher than original cost. ORPTS' application of a depreciation floor is not reasonable for an asset that is fully depreciated and has no earning capacity for a rate regulated utility.

7. A portion of the overvaluation results from the ORPTS' application of inappropriate salvage factors in determining the value of Complainant's special franchise property. Specifically, the ORPTS uses negative 10% for the mains account and negative 15% for the hydrants account in valuing Complainant's property. Complainant has submitted information to the ORPTS staff demonstrating that the negative salvage applied to Complainants' property is insufficient. In April 2023, Complainant provided materials in support of an increase in the negative salvage applied to its property. A copy of these materials is attached here as Exhibit A. Based upon the materials provided to ORPTS, they should apply salvage factors between negative 20% and negative 75% to the mains account. At a minimum ORPTS should use the PSC-approved salvage factor of negative 40% for the mains account. Based upon the materials provided to ORPTS, they should apply a salvage factor of negative 90% to the hydrants account. At a minimum ORPTS should use the PSC-approved salvage factor of negative 60% for the hydrants account. This requested adjustment is fully consistent with ORPTS rules which allow for a Company specific adjustment to the depreciation factors established by ORPTS for a particular industry.

8. Complainant's property is functionally obsolete as defined by the ORPTS rules and by generally accepted appraisal methodology. Yet, in its application of the reproduction cost new less depreciation method of valuation, the ORPTS failed to adequately recognize the functional

obsolescence which exists in Complainant's special franchise property. The failure to adequately recognize functional obsolescence has resulted in incorrect and excessive assessments.

9. A portion of the overvaluation of Complainant's special franchise property results from the ORPTS' failure to recognize the underutilization of Complainant's property and, as a result, its failure to adequately recognize the functional obsolescence which exists in Complainant's property.

10. The assessments of Complainant's special franchise property in the listed jurisdiction should have been fixed by the ORPTS at an amount not exceeding the following amount set forth below under the caption "Claimed AV." Complainant used the latest inventory information from ORPTS with adjustments for net negative salvage, the depreciation floor and economic obsolescence to determine its claimed values. The extent of overvaluation is set forth in the right-hand column:

County	Town/City	Village/Town Outside Village	Tentative Assessments	Claimed Assessments	Extent of Overvaluation
ORPTS NOTICE ADDRESSED TO LONG ISLAND WATER COMPANY (Village Roll)					
Nassau	Town of Hempstead	Village of Cedarhurst	201,755	50,439	151,316
		Village of East Rockaway	195,703	48,926	146,777
		Village of Island Park	171,960	42,990	128,970
		Village of Malverne	431,677	107,919	323,758
		Village of Valley Stream	588,484	147,121	441,363



ORPTS NOTICE ADDRESSED TO NEW YORK WATER SERVICE (Village Roll)					
Nassau	Town of Oyster Bay	Village of Massapequa Park	1,003	251	752
ORPTS NOTICE ADDRESSED TO SEA CLIFF WATER COMPANY (Village Roll)					
Nassau	Town of North Hempstead	Village of Roslyn Estates	72	18	54
	Town of Oyster Bay	Village of Old Brookville	34,629	8,657	25,972

## **II. UNLAWFUL ASSESSMENTS**

11. Complainant alleges further that, in fixing and determining the assessment of Complainant's special franchise property, the ORPTS arbitrarily, capriciously, improperly and unlawfully ignored the principles of law and facts and its own rules and, as a result thereof, fixed and determined the value of the special franchise property in a discriminatory and unwarranted manner, and at an excessive and confiscatory amount at a sum in excess of its value.

12. The ORPTS charges Complainant for determining its assessments and such charge is constitutionally infirm and illegal and a further burden on the special franchise property which is not recognized in the assessments and results in excessive assessments.

## **III. UNCONSTITUTIONAL VALUES**

13. ORPTS determination of the 2025 assessments of Complainant's special franchise property is invalid in that it failed to consider all determinants of value on a uniform basis and disparately treated Complainant's special franchise property from all other similarly situated special franchise property owners and resulted in the imposition of excessive and burdensome real property taxes upon Complainant's special franchise property that exceeds the amounts imposed upon other special franchise property owners located in the assessing unit set forth in the notice, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States

Constitution, Section 11 of Article 1 of the New York State Constitution, and section 305 of the Real Property Tax Law.

14. The excessive valuations of Complainant's property established by the ORPTS results in the imposition of excessive and burdensome real property taxes which significantly impair the value of Complainant's property and result in a confiscatory taking of Complainant's property.

#### **IV. OTHER**

15. Complainant is aggrieved and is injured by this unconstitutional, illegal, void, unjust, excessive and unequal valuation and Complainant has been compelled to pay a far greater amount in taxes based upon this valuation than it would have been compelled to pay if the valuation had been constitutionally, justly and legally determined in accordance with the provisions of law and established methods of valuation and in accordance with the provisions of the Constitutions of the United States and of the State of New York, and the resulting amount paid in taxes is far more than its fair and equal portion of aggregate taxes levied upon real property in the assessing unit listed herein for the same period, resulting in confiscation of Complainant's property, denying Complainant equal protection of the law, depriving Complainant of its property without due process of the law and taking Complainant's property for public use without rendering just compensation therefor, in violation of the Constitutions of the United States and of the State of New York.

16. Complainant and its customers have been injured by the assessments complained of herein.

## **EXHIBIT A**



## MANAGEMENT APPLICATIONS CONSULTING, INC.

1103 Rocky Drive • Suite 201 • Reading, PA 19609-1157 • 610/670-9199 • fax 610/670-9199 • www.manapp.com

### MEMO

DATE: 04/13/2023  
TO: Margaret Meyer, Manager of Indirect Tax  
New York Water  
FROM: Paul Normand  
SUBJECT: Discussion of NYW Mains Cost of Removal (Service Area 1)  
REFERENCE: Depreciation Study @12/31/2021

It is our understanding that Liberty Utilities (New York Water) Corp. (“the Company”) will be requesting an adjustment to the net salvage value used by the Office of Real Property Tax Services (“ORPTS”) when valuing the company’s special franchise property. We were asked to review the company’s records and prepare an analysis of the appropriate net salvage value for the mains account.

According to ORPTS’ rules, “salvage value” is “the amount received for property retired, less any expenses incurred in connection with the sale of or in preparing the property for sale or if retained, the amount at which the material recoverable is chargeable to materials and supplies or other appropriate account.” The “net salvage value” is the salvage value of property retired less the cost of removal. When valuing special franchise property, the net salvage value is necessary to determine the allowance for physical depreciation. ORPTS has established net salvage percentages by asset account that it utilizes to determine the appropriate amount of physical depreciation an asset is currently incurring. Based upon our review and analysis, we believe that the ORPTS established net salvage percentages for the mains account should be adjusted for purposes of valuing the Company’s special franchise property.

The cost of removal component of Net Salvage (NS) typically gathers aged data (some fairly old) along with current costs of removing/retiring these facilities. As a result, the current installed costs will always be much greater than the original installed costs. In some cases, the reported data is lagged simply due to accounting/recording of the data from engineering and the closing of work orders. As a result, any one year may present abnormally elevated results but the important point is to review various bands (years) of average data along with recent annual

To: Margaret Meyer, Manager of Indirect Tax  
Subject: Discussion of NYW Mains Cost of Removal  
(Service Area 1)

Page 2  
04/13/2023

results to show any trend or continued trend of any cost relationships. Moreover, based upon our discussions with Company representatives, it is our understanding that mains are not typically removed upon retirement, but rather cut, capped and retired in place.

The mains account is segregated into 4 subaccounts. I will briefly discuss each subaccount separately. Utility account 331.00 (NARUC 343.00) Vault/Pipe Fittings is the second largest mains account with approximately \$23.8M (2021) in assets. This is a new account since the previous depreciation study @12/31/2015. Looking at the most recent five year activity band (2017-2021), the result of the net salvage is -221.5.s

Utility account 331.03 (NARUC 343.03) Paving - LI has an asset balance of approximately \$6.7M (2021). There is limited retirement and cost of removal history for this account.

Utility account 331.10 (NARUC 343.10) Mains-4" & Less has an asset balance of \$5.2M (2021) and is the smallest of the mains accounts. Looking at the most recent five year activity band (2017-2021), the result of the net salvage related to the retirements is -1,397.5%.

Utility account 331.23 (NARUC 343.23) Mains-6" & Greater-LI is the largest of the mains accounts and has an asset balance of \$132.5M (2021). Looking at the most recent five year band (2017-2021), the result of the net salvage related to the retirements is -207.0%.

The annual values for retirements and cost of removal (for MAIN accounts) reflect the utility operations with respect to retirements, replacements and improvements over time. For Service Area 2 (Merrick and Sea Cliff), our analysis was limited with respect to the availability of historical data (6 years). Having prepared a thorough analysis of Service Area 1 with both service areas being contiguous and with the installed facilities being of similar material type, we applied the same depreciation parameters from Service Area 1 to Service Area 2.

Attached is a summary of our cost of removal/salvage analysis of the mains subaccounts which is based upon a review of Company records and supports the proposed increase in negative Net Salvage (NS). We have also provided a comparison of the ORPTS Net Salvage parameters with the currently approved Public Service Commission ("NYSPSC") Net Salvage factors as well as the new

To: Margaret Meyer, Manager of Indirect Tax  
Subject: Discussion of NYW Mains Cost of Removal  
(Service Area 1)

Page 3  
04/13/2023

proposed parameters submitted to the NYSPSC. Our recommendation is that the currently approved NYSPSC Net Salvage parameters for the mains account should be considered by ORPTS.

LIBERTY UTILITIES CORORATION  
 NEW YORK WATER  
 FRANCHISE TAX SUPPORT  
 SERVICE AREA I  
 DEPRECIATION PARAMETERS  
 MAINS

NARUC ACCOUNT NUMBER	UTILITY ACCOUNT NUMBER	ACCOUNT DESCRIPTION	ORPTS RECOMMENDED PARAMETERS	PSC APPROVED PARAMETERS CASE 16-W-0259	PROPOSED PARAMETERS DEPRECIATION STUDY @12/31/21
			NET SALVAGE %	NET SALVAGE %	NET SALVAGE %
343.00	331.00	MAINS-VAULT/PIPE FITTINGS	-10	-40	-20
343.03	331.03	MAINS-PAVING-LI	-10	0	-5
343.10	331.10	MAINS-4" & LESS	-10	-40	-75
343.23	331.23	MAINS-6" & GREATER	-10	-40	-50

LIBERTY UTILITIES (NEW YORK WATER) CORP  
SERVICE AREA #1  
COR/SALVAGE ANALYSIS  
FRANCHISE TAX BACKGROUND

NEW ACCOUNT IN 2021 STUDY

Account	UTILITY NARUC		T & D MAINS- PIPE FITTINGS					
	331 00	343.00	YEAR					
			2021	2020	2019	2018	2017	2016
RETIREMENTS			866	4,055	11,824	67,913	36,084	22,508
GROSS SALVAGE			30,234	0	39,847	8,040	43	2,191
COST TO RETIRE			2,372	147,691	141,531	17,193	36,865	34,573
NET SALVAGE			27,862	-147,691	-101,684	-9,153	-36,822	-32,382
% NET SALVAGE			3217.3	-3642.2	-860.0	-13.5	-102.0	-143.9

TOTAL BAND	5 Year Band
2016-2021	2017-2021
143,250	120,742
80,355	78,164
380,225	345,652
299,870	267,488
209.3	-221.5

PLANT BALANCE @12/31/2021 \$23,784,788

PRIOR EXISTING ACCOUNTS

Account	UTILITY NARUC		T & D MAINS- PAVING-LI					
	331.03	343.03	YEAR					
			2021	2020	2019	2018	2017	2016
RETIREMENTS			55	0	0	0	0	2,214
GROSS SALVAGE			0	0	0	0	0	0
COST TO RETIRE			3,459	0	14,088	43	0	1,752
NET SALVAGE			-3,459	0	-14,088	-43	0	-1,752
% NET SALVAGE			-6289.1	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	-79.1

TOTAL BAND	5 Year Band
2015-2021	2017-2021
2,269	55
0	0
19,342	17,590
19,342	17,590
852.4	-31981.8

PLANT BALANCE @12/31/2021 \$8,736,638

Account	UTILITY NARUC		T & D MAINS- 4" & LESS												
	331 10	343.10	YEAR												
			2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
RETIREMENTS			370	1,625	20,845	62,995	20,987	36,499	12,174	253	205	9,034	573	763	313,837
GROSS SALVAGE			30,234	0	39,847	8,040	43	2,191	0	0	0	0	0	0	0
COST TO RETIRE			229,631	126,633	739,808	335,187	139,784	356,918	67,909	20,879	85,554	-12,138	53,322	17,793	4,834
NET SALVAGE			199,397	-126,633	-699,961	-327,147	139,741	-354,727	-67,909	-20,879	-85,554	12,138	-53,322	-17,793	-4,834
% NET SALVAGE			53891.1	-7792.8	-3357.9	-519.3	-685.8	-971.9	-557.8	8252.6	-41733.7	134.4	-9305.8	-2332.0	-1.5

TOTAL BAND	5 Year Band
2010-2021	2017-2021
166,323	106,822
80,355	78,164
2,161,280	1,571,043
-2,080,925	1,492,879
-1251.1	-1397.5

PLANT BALANCE @12/31/2021 \$8,218,954

Account	UTILITY NARUC		T & D MAINS- 6" & GREATER-LI												
	331 23	343 23	YEAR												
			2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
RETIREMENTS			456,927	83,221	56,969	757,967	106,522	782,763	16,274	23,175	49,835	73,365	25,544	85,848	114,328
GROSS SALVAGE			0	0	0	0	0	0	0	0	0	0	9,591	0	0
COST TO RETIRE			270,711	276,274	932,835	1,121,922	423,686	422,814	1,072,650	390,753	394,971	156,822	364,416	167,123	104,852
NET SALVAGE			-270,711	-276,274	-932,835	-1,121,922	-423,686	-422,814	-1,072,650	-390,753	-394,971	-156,822	-354,825	-167,123	-104,852
% NET SALVAGE			-59.2	-332.0	-1637.4	-148.0	-397.7	-54.0	-6591.2	-1686.1	-792.6	-213.8	-1389.1	-194.7	-91.7

TOTAL BAND	5 Year Band
2010-2021	2017-2021
2,518,410	1,461,806
9,591	0
5,994,977	3,025,428
5,985,386	-3,025,428
-237.7	-207.0





## MANAGEMENT APPLICATIONS CONSULTING, INC.

1103 Rocky Drive • Suite 201 • Reading, PA 19609-1157 • 610/670-9199 • fax 610/670-9199 • www.manapp.com

### MEMO

DATE: 04/13/2023  
TO: Margaret Meyer, Manager of Indirect Tax  
New York Water  
FROM: Paul Normand  
SUBJECT: Discussion of NYW Hydrants Cost of Removal (Service Area 1)  
REFERENCE: Depreciation Study @12/31/2021

It is our understanding that Liberty Utilities (New York Water) Corp. (“the Company”) will be requesting an adjustment to the net salvage value used by the Office of Real Property Tax Services (“ORPTS”) when valuing the company’s special franchise property. We were asked to review the company’s records and prepare an analysis of the appropriate net salvage value.

According to ORPTS’ rules, “salvage value” is “the amount received for property retired, less any expenses incurred in connection with the sale of or in preparing the property for sale or if retained, the amount at which the material recoverable is chargeable to materials and supplies or other appropriate account.” The “net salvage value” is the salvage value of property retired less the cost of removal. When valuing special franchise property, the net salvage value is necessary to determine the allowance for physical depreciation. ORPTS has established net salvage percentages by asset account that it utilizes to determine the appropriate amount of physical depreciation an asset is currently incurring. Based upon our review and analysis, we believe that the ORPTS established net salvage percentage for the hydrants account should be adjusted for purposes of valuing the Company’s special franchise property.

The cost of removal component of Net Salvage (NS) typically gathers aged data (some fairly old) along with current costs of removing/retiring these facilities. As a result, the current installed costs will always be much greater than the original installed costs. In some cases, the reported data is lagged simply due to accounting/recording of the data from engineering and the closing of work orders. As a result, any one year may present abnormally elevated results but the important

To: Margaret Meyer, Manager of Indirect Tax  
Subject: Discussion of NYW Hydrants Cost of Removal  
(Service Area 1)

Page 2  
04/13/2023

point is to review various bands (years) of average data along with recent annual results to show any trend or continued trend of any cost relationships.

Based upon our review of Company records, hydrants are replaced on a more frequent basis than the underlying infrastructure. The Company's hydrant account assets are approximately \$17M (2021). Looking at the most recent five year activity band (2017-2021), the result of the net salvage related to the retirements is 117% (see attached).

These annual values for retirements and cost of removal reflect the operations with respect to retirement, replacement, and improvements over time. For Service Area 2 (Merrick and Sea Cliff), our analysis was limited with respect to the available historical data (6 years). Having prepared a thorough analysis of Service Area 1, with the service areas being contiguous and the installed facilities being of a similar material, we applied the same depreciation parameters from Service Area 1 to Service area 2.

Attached is a summary of our cost of removal/salvage analysis of hydrants which is based upon a review of Company records and supports the proposed increase in negative Net Salvage (NS). We have also provided a comparison of the ORPTS Net Salvage parameters with the currently approved Public Service Commission Net Salvage (NYPSC) factors as well as the new proposed parameters submitted to the NYPSC. Our recommendation is that the currently approved NYSPSC Net Salvage parameters for the hydrants account should be considered by ORPTS.

LIBERTY UTILITIES CORORATION  
 NEW YORK WATER  
 FRANCHISE TAX SUPPORT  
 SERVICE AREA I  
 COMPARISON DEPRECIATION PARAMETERS  
 HYDRANTS

NARUC ACCOUNT NUMBER	UTILITY ACCOUNT NUMBER	ACCOUNT DESCRIPTION	ORPTS RECOMMENDED PARAMETERS	PSC APPROVED PARAMETERS CASE 16-2-0259	PROPOSED PARAMETERS DEPRECIATION STUDY @12/31/21
348.00	335.00	HYDRANTS	NET SALVAGE % -15	NET SALVAGE % -60	NET SALVAGE % -90

LIBERTY UTILITIES (NEW YORK WATER) CORP  
SERVICE AREA #1  
COR/SALVAGE ANALYSIS  
FRANCHISE TAX BACKGROUND

Account	UTILITY 335.00	NARUC 348.00	T & D HYDRANTS														
				YEAR												TOTAL BAND 2010-2021	5 Year Band 2017-2021
				2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008
RETIREMENTS		251,003		102,692	166,491	143,036	18,341	55,690	9,440	3,495	8,210	22,038	2,615	13,745	24,010	45,254	1,092,791
GROSS SALVAGE		0		0	0	0	0	491	0	0	0	0	0	10,000	0	0	0
COST TO RETIRE		57,555		68,751	122,984	197,534	100,396	218,158	283,824	65,552	25,745	59,210	84,981	64,281	30,932	4,039	1,928,971
NET SALVAGE		-57,555		-68,751	-122,984	-197,534	-100,396	-217,667	-283,824	-65,552	-25,745	-59,210	-84,981	-64,281	-30,932	-4,039	-1,916,460
% NET SALVAGE		-22.9		-68.9	-254.1	-112.3	-614.4	-390.0	-3,007	-1,876	-415	-288	-2,103	-188	129	.9	-175.0
PLANT BALANCE @12/31/2021				\$17,001,865													



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
December 05, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE ASSESSMENT**

For village assessment roll to be filed in 2025

Sea Cliff Water Company 240800  
C/O Margaret Meyer, Indirect Tax Manager  
PO Box 1420  
Massapequa, NY 11758



Hearing Date and Location:  
January 16, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise assessments for the following assessing unit(s) at the amounts shown below. The assessments were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The assessments include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such assessments. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise assessments on Form RP-7142 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Assessment Number</u>	<u>Tentative Assessment</u>	<u>Pct Change From Prior Roll</u>
<b><u>County of Nassau</u></b>			
Equalization Rate:	0.17*		-5.6
Village of Roslyn Estates, Town of North Hempstead	240800-282243	72	-19.1
Equalization Rate:	0.08*		0.0
Village of Old Brookville, Town of Oyster Bay	240800-282415	34,629	-0.2
Grand Total		\$34,701	-0.2

David Ange  
Real Property Services Administrator 2

\* The State Office has determined that your city/town/village has not completed a full value revaluation since 1953. Accordingly, the latest state equalization rate or special equalization rate has not been used in determining the portion of your special franchise assessments that is attributable to property assessed in 1953. In future years, the State Office will use the latest rate in valuing the entire special franchises for all rolls following completion of the appropriate revaluation.

Note: The amounts of the special franchise assessments set forth in this notice are "tentative" and must not be entered on the assessment roll. The final assessments for entry on the assessment roll will be transmitted at a later date.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
December 05, 2024



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
December 05, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE ASSESSMENT**

For village assessment roll to be filed in 2025

Long Island Water Company      227600  
C/O Margaret Meyer, Indirect Tax Manager  
PO Box 1420  
Massapequa, NY 11758

Hearing Date and Location:  
January 16, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise assessments for the following assessing unit(s) at the amounts shown below. The assessments were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The assessments include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such assessments. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise assessments on Form RP-7142 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Assessment Number</u>	<u>Tentative Assessment</u>	<u>Pct Change From Prior Roll</u>
<b><u>County of Nassau</u></b>			
Equalization Rate:	1.74*		-8.9
Village of Cedarhurst, Town of Hempstead	227600-282003	201,755	-7.3
Equalization Rate:	1.36*		-2.9
Village of East Rockaway, Town of Hempstead	227600-282005	195,703	0.0
Equalization Rate:	1.12*		-5.1
Village of Island Park, Town of Hempstead	227600-282021	171,960	1.3
Equalization Rate:	0.99*		-2.9
Village of Malverne, Town of Hempstead	227600-282027	431,677	-3.6
Equalization Rate:	0.99*		-4.8
Village of Valley Stream, Town of Hempstead	227600-282035	588,484	-1.7
Grand Total		\$1,589,579	-2.5



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

RP27

WA Harriman State Campus  
Albany, N Y 12227  
(518)474-5711

Dated  
December 05, 2024

A handwritten signature in black ink, reading "David Ange".

David Ange  
Real Property Services Administrator 2

\* The State Office has determined that your city/town/village has not completed a full value revaluation since 1953. Accordingly, the latest state equalization rate or special equalization rate has not been used in determining the portion of your special franchise assessments that is attributable to property assessed in 1953. In future years, the State Office will use the latest rate in valuing the entire special franchises for all rolls following completion of the appropriate revaluation.

Note: The amounts of the special franchise assessments set forth in this notice are "tentative" and must not be entered on the assessment roll. The final assessments for entry on the assessment roll will be transmitted at a later date.





STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
December 05, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE ASSESSMENT**  
For village assessment roll to be filed in 2025

New York Water Service 232100  
C/O Margaret Meyer, Indirect Tax Manager  
PO Box 1420  
Massapequa, NY 11758



Hearing Date and Location:  
January 16, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise assessments for the following assessing unit(s) at the amounts shown below. The assessments were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The assessments include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such assessments. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise assessments on Form RP-7142 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Assessment Number</u>	<u>Tentative Assessment</u>	<u>Pct Change From Prior Roll</u>
<b><u>County of Nassau</u></b>			
Equalization Rate:	1.10*		-3.5
Village of Massapequa Park, Town of Oyster Bay	232100-282417	1,003	51.5

David Ange  
Real Property Services Administrator 2

\* The State Office has determined that your city/town/village has not completed a full value revaluation since 1953. Accordingly, the latest state equalization rate or special equalization rate has not been used in determining the portion of your special franchise assessments that is attributable to property assessed in 1953. In future years, the State Office will use the latest rate in valuing the entire special franchises for all rolls following completion of the appropriate revaluation.

Note: The amounts of the special franchise assessments set forth in this notice are "tentative" and must not be entered on the assessment roll. The final assessments for entry on the assessment roll will be transmitted at a later date.

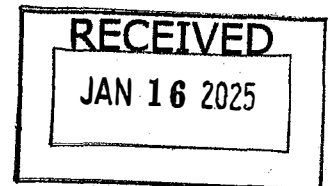


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number <b>SF-25-13</b>	Hearing Date <b>01/30/2025</b>

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Liberty Utilities (New York Water) Corp.

Company Name

60 Brooklyn Avenue, Merrick, NY 11566

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See attached	Schedule A		

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, Deborah Franco, President on behalf of complainant, hereby designate  
Cullen and Dykman LLP to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

1/10/2025  
 Date

Deborah Franco  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cullen and Dykman LLP/ Robert J. Sorge, Karen I. Levin, Michael Hrankiowskyj  
 Contact Person and Title

333 Earle Ovington Blvd., 2nd Floor, Uniondale, NY 11553  
 Street Address, City, State, Zip

( 516 ) 357-3700  
 Telephone Number

( 516 ) 357-3792  
 Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**

*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Liberty Utilities (New York Water) Corp. relies upon the annual inventory reports provided to ORPTS, but with appropriate adjustments as set forth in Schedule B.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 26.)*

☒ **2. Valuation**

Please see attached Schedule B: Additional Information in Support of Claimed Full Values.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 26.)*

☒ **3. Other**

Please see attached Schedule B: Additional Information in Support of Claimed Full Values.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 26.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

1/10/2025  
Date

Dee Ju President  
Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

**SCHEDULE A IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
LIBERTY UTILITIES (NEW YORK WATER) CORP.  
DATED JANUARY 15, 2025**

**LIST OF ASSESSING UNITS AND COMPANY'S ESTIMATES OF FULL VALUES**

County	Town/City	Village/Town Outside Village	Tentative Full Value	Claimed Full Value
ORPTS NOTICE ADDRESSED TO LONG ISLAND WATER COMPANY (County Roll)				
Nassau	Town of Hempstead	Village of Cedarhurst	5,654,002	1,413,500
		Village of East Rockaway	4,528,942	1,132,235
		Village of Hewlett Bay Park	2,730,011	682,503
		Village of Hewlett Harbor	11,881,869	2,970,467
		Village of Hewlett Neck	1,746,058	436,515
		Village of Island Park	10,970,444	2,742,611
		Village of Lawrence	4,071,591	1,017,898
		Village of Lynbrook	10,244,384	2,561,096
		Village of Malverne	12,524,860	3,131,215
		Village of Valley Stream	11,529,599	2,882,400
		Village of Woodsburgh	260,383	65,096
		Village of Atlantic Beach	9,882,681	2,470,670
		Town Outside Villages	92,198,894	23,049,724
ORPTS NOTICE ADDRESSED TO KINGSVALE WATER COMPANY (County Roll)				
Nassau	Town of Oyster Bay	Village of Mill Neck	3,995	999
ORPTS NOTICE ADDRESSED TO SEA CLIFF WATER COMPANY (County Roll)				
Nassau	City of Glen Cove		483,831	120,958
	Town of North Hempstead	Village of Roslyn Estates	40,024	10,006

	Town of Oyster Bay	Village of Old Brookville	633,917	158,479
		Village of Sea Cliff	7,168,653	1,792,163
		Village of Roslyn Harbor	62,809	15,702
		Town Outside Villages	5,264,215	1,316,054
ORPTS NOTICE ADDRESSED TO NEW YORK WATER SERVICE (County Roll)				
Nassau	Town of Hempstead	Town Outside Villages	58,002,383	14,500,595
	Town of Oyster Bay	Village of Massapequa Park	164,961	41,240
		Town Outside Villages	7,427,151	1,856,787



**SCHEDULE B IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
LIBERTY UTILITIES (NEW YORK WATER) CORP.**

**DATED JANUARY 15, 2025**

**ADDITIONAL INFORMATION IN  
SUPPORT OF CLAIMED FULL VALUES**

Liberty Utilities (New York Water) Corp., formerly known as New York American Water Company Inc., formerly known as New York Water Service Corporation, Long Island Water Corporation and Aqua New York of Sea Cliff Inc. (hereinafter “Complainant”)<sup>1</sup> complains of and objects to the Tentative Special Franchise Full Values determined by the Office of Real Property Tax Services (hereinafter “ORPTS”) and set forth in the notices dated December 19, 2024 attached hereto. Complainant is the corporate entity owning the special franchise property that is the subject of the attached notices. Complainant alleges that said Tentative Special Franchise Full Values are excessive, unlawful and unconstitutional, as more fully set forth below.

### **I. EXCESSIVE FULL VALUES**

1. The ORPTS determination of the full value of Complainant’s special franchise property located in the assessing units listed below exceeds its full value as determined by proper use of valuation methodologies.

2. On information and belief, the ORPTS has attempted to apply a reproduction cost new less depreciation methodology (“RCNLD” or “reproduction cost methodology”) in valuing Complainant's special franchise property which is incorrect in numerous respects, is misapplied in many instances and which has achieved full values in excess of the cost to reproduce the property and which has resulted in excessive full values.

---

<sup>1</sup> On December 16, 2021, an order was issued by the New York State Public Service Commission (“PSC”) in Case 20-W-0102, which authorized Liberty Utilities (Eastern Water Holdings) Corp. on January 1, 2022 to acquire New York American Water Company Inc. from American Water Works Company, Inc. (“AWW”). Previously, on May 1, 2012, in accordance with an order issued by the PSC in Case 11-W-0472, AWW acquired all of the outstanding shares of Aqua New York, Inc. (“Aqua NY”). Aqua NY, in turn, owned all the outstanding shares of New York Water Service Corporation (“NYWS”), Aqua New York of Sea Cliff, Inc. (“Sea Cliff”) and five small upstate companies. On October 4, 2012, in accordance with an order issued by the PSC in Case 12-W-0217, Aqua NY’s subsidiaries, NYWS and Sea Cliff were merged with and into Aqua NY. Aqua NY subsequently merged with and into Long Island Water Corporation (“LIWC”), with LIWC as the surviving corporation which was renamed “New York American Water Company, Inc.”

3. The ORPTS has valued Complainant's special franchise property by applying a third-party index to trend original book costs incorrectly and inappropriately, in a manner which fails to make proper adjustments and which results in an overvaluation of Complainant's special franchise property.

4. In fixing and determining the full values of the Complainant's special franchise property, the ORPTS erroneously, improperly and illegally deducted from its estimated value an arbitrary, inadequate and insufficient sum for all forms of depreciation, including physical depreciation and economic (external) and functional obsolescence, with the result that the ORPTS adopted a value in excess of, and more than, the value produced by a correct and proper application of its own valuation procedure, and in excess of, and more than, the maximum value of said tangible property, and in excess of, and more than, the true valuation of the special franchise property.

5. The physical depreciation applied to Complainant's property is incorrect and inadequate in numerous respects, including the following: the ORPTS' rules on depreciation arbitrarily fail to permit full depreciation and establish an artificial and incorrect mandate to freeze depreciation at an arbitrary level which yields inadequate physical depreciation contrary to Complainant's actual experience, and results in the excessive valuation of Complainant's special franchise property.

6. The ORPTS uses a depreciation floor for water machinery and equipment. The floor is applied to the value of the property based on Reproduction Cost New methodology. A random depreciation floor should not be applied to water property that once fully depreciated is no longer included in rate base as an earning asset. Moreover, there is no appraisal basis for the application of a random depreciation floor to the reproduction cost new value of the property.

However, if a floor is to be applied (an erroneous and baseless application to which Complainant strongly objects), it should be applied to the original cost of the asset and not the reproduction cost which is typically many times higher than original cost. ORPTS' application of a depreciation floor is not reasonable for an asset that is fully depreciated and has no earning capacity for a rate regulated utility.

7. A portion of the overvaluation results from the ORPTS' application of inappropriate salvage factors in determining the value of Complainant's special franchise property. Specifically, the ORPTS uses negative 10% for the mains account and negative 15% for the hydrants account in valuing Complainant's property. Complainant has submitted information to the ORPTS staff demonstrating that the negative salvage applied to Complainants' property is insufficient. In April 2023, Complainant provided materials in support of an increase in the negative salvage applied to its property. A copy of these materials is attached here as Exhibit A. Based upon the materials provided to ORPTS, they should apply salvage factors between negative 20% and negative 75% to the mains account. At a minimum ORPTS should use the PSC-approved salvage factor of negative 40% for the mains account. Based upon the materials provided to ORPTS, they should apply a salvage factor of negative 90% to the hydrants account. At a minimum ORPTS should use the PSC-approved salvage factor of negative 60% for the hydrants account. This requested adjustment is fully consistent with ORPTS rules which allow for a Company specific adjustment to the depreciation factors established by ORPTS for a particular industry.

8. Complainant's property is functionally obsolete as defined by the ORPTS rules and by generally accepted appraisal methodology. Yet, in its application of the reproduction cost new less depreciation method of valuation, the ORPTS failed to adequately recognize the functional

obsolescence which exists in Complainant's special franchise property. The failure to adequately recognize functional obsolescence has resulted in incorrect and excessive full values.

9. A portion of the overvaluation of Complainant's special franchise property results from the ORPTS' failure to recognize the underutilization of Complainant's property and, as a result, its failure to adequately recognize the functional obsolescence which exists in Complainant's property.

10. The full value of Complainant's special franchise property in the listed jurisdiction should have been fixed by the ORPTS at an amount not exceeding the following amount set forth below under the caption "Claimed FV." Complainant used the latest inventory information from ORPTS with adjustments for net negative salvage, the depreciation floor and economic obsolescence to determine its claimed values. The extent of overvaluation is set forth in the right-hand column:

County	Town/City	Village/Town Outside Village	Tentative Full Value	Claimed Full Value	Extent of Overvaluation
ORPTS NOTICE ADDRESSED TO LONG ISLAND WATER COMPANY (County Roll)					
Nassau	Town of Hempstead	Village of Cedarhurst	5,654,002	1,413,500	4,240,502
		Village of East Rockaway	4,528,942	1,132,235	3,396,707
		Village of Hewlett Bay Park	2,730,011	682,503	2,047,508
		Village of Hewlett Harbor	11,881,869	2,970,467	8,911,402
		Village of Hewlett Neck	1,746,058	436,515	1,309,543
		Village of Island Park	10,970,444	2,742,611	8,227,833

		Village of Lawrence	4,071,591	1,017,898	3,053,693
		Village of Lynbrook	10,244,384	2,561,096	7,683,288
		Village of Malverne	12,524,860	3,131,215	9,393,645
		Village of Valley Stream	11,529,599	2,882,400	8,647,199
		Village of Woodsburgh	260,383	65,096	195,287
		Village of Atlantic Beach	9,882,681	2,470,670	7,412,011
		Town Outside Villages	92,198,894	23,049,724	69,149,170
ORPTS NOTICE ADDRESSED TO KINGSVALE WATER COMPANY (County Roll)					
Nassau	Town of Oyster Bay	Village of Mill Neck	3,995	999	2,996
ORPTS NOTICE ADDRESSED TO SEA CLIFF WATER COMPANY (County Roll)					
Nassau	City of Glen Cove		483,831	120,958	362,873
	Town of North Hempstead	Village of Roslyn Estates	40,024	10,006	30,018
	Town of Oyster Bay	Village of Old Brookville	633,917	158,479	475,438
		Village of Sea Cliff	7,168,653	1,792,163	5,376,490
		Village of Roslyn Harbor	62,809	15,702	47,107
		Town Outside Villages	5,264,215	1,316,054	3,948,161
ORPTS NOTICE ADDRESSED TO NEW YORK WATER SERVICE (County Roll)					
Nassau	Town of Hempstead	Town Outside Villages	58,002,383	14,500,595	43,501,788
	Town of Oyster Bay	Village of Massapequa Park	164,961	41,240	123,721
		Town Outside Villages	7,427,151	1,856,787	5,570,364

## **II. UNLAWFUL FULL VALUES**

11. Complainant alleges further that, in fixing and determining the full value of Complainant's special franchise property, the ORPTS arbitrarily, capriciously, improperly and unlawfully ignored the principles of law and facts and its own rules and, as a result thereof, fixed and determined the value of the special franchise property in a discriminatory and unwarranted manner, and at an excessive and confiscatory amount at a sum in excess of its value.

12. The ORPTS charges Complainant for determining its full values and such charge is constitutionally infirm and illegal and a further burden on the special franchise property which is not recognized in the full values and results in excessive full values.

## **III. UNCONSTITUTIONAL VALUES**

13. ORPTS determination of the 2025 full values of Complainant's special franchise property is invalid in that it failed to consider all determinants of value on a uniform basis and disparately treated Complainant's special franchise property from all other similarly situated special franchise property owners and resulted in the imposition of excessive and burdensome real property taxes upon Complainant's special franchise property that exceeds the amounts imposed upon other special franchise property owners located in the assessing unit set forth in the notice, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Section 11 of Article 1 of the New York State Constitution, and section 305 of the Real Property Tax Law.

14. The excessive valuations of Complainant's property established by the ORPTS results in the imposition of excessive and burdensome real property taxes which significantly impair the value of Complainant's property and result in a confiscatory taking of Complainant's property.

#### **IV. OTHER**

15. Complainant is aggrieved and is injured by this unconstitutional, illegal, void, unjust, excessive and unequal valuation and Complainant has been compelled to pay a far greater amount in taxes based upon this valuation than it would have been compelled to pay if the valuation had been constitutionally, justly and legally determined in accordance with the provisions of law and established methods of valuation and in accordance with the provisions of the Constitutions of the United States and of the State of New York, and the resulting amount paid in taxes is far more than its fair and equal portion of aggregate taxes levied upon real property in the assessing unit listed herein for the same period, resulting in confiscation of Complainant's property, denying Complainant equal protection of the law, depriving Complainant of its property without due process of the law and taking Complainant's property for public use without rendering just compensation therefor, in violation of the Constitutions of the United States and of the State of New York.

16. Complainant and its customers have been injured by the full values complained of herein.



## **EXHIBIT A**



## MANAGEMENT APPLICATIONS CONSULTING, INC.

1103 Rocky Drive • Suite 201 • Reading, PA 19609-1157 • 610/670-9199 • fax 610/670-9199 • www.manapp.com

### MEMO

DATE: 04/13/2023  
TO: Margaret Meyer, Manager of Indirect Tax  
New York Water  
FROM: Paul Normand  
SUBJECT: Discussion of NYW Mains Cost of Removal (Service Area 1)  
REFERENCE: Depreciation Study @12/31/2021

It is our understanding that Liberty Utilities (New York Water) Corp. ("the Company") will be requesting an adjustment to the net salvage value used by the Office of Real Property Tax Services ("ORPTS") when valuing the company's special franchise property. We were asked to review the company's records and prepare an analysis of the appropriate net salvage value for the mains account.

According to ORPTS' rules, "salvage value" is "the amount received for property retired, less any expenses incurred in connection with the sale of or in preparing the property for sale or if retained, the amount at which the material recoverable is chargeable to materials and supplies or other appropriate account." The "net salvage value" is the salvage value of property retired less the cost of removal. When valuing special franchise property, the net salvage value is necessary to determine the allowance for physical depreciation. ORPTS has established net salvage percentages by asset account that it utilizes to determine the appropriate amount of physical depreciation an asset is currently incurring. Based upon our review and analysis, we believe that the ORPTS established net salvage percentages for the mains account should be adjusted for purposes of valuing the Company's special franchise property.

The cost of removal component of Net Salvage (NS) typically gathers aged data (some fairly old) along with current costs of removing/retiring these facilities. As a result, the current installed costs will always be much greater than the original installed costs. In some cases, the reported data is lagged simply due to accounting/recording of the data from engineering and the closing of work orders. As a result, any one year may present abnormally elevated results but the important point is to review various bands (years) of average data along with recent annual

To: Margaret Meyer, Manager of Indirect Tax  
Subject: Discussion of NYW Mains Cost of Removal  
(Service Area 1)

Page 2  
04/13/2023

results to show any trend or continued trend of any cost relationships. Moreover, based upon our discussions with Company representatives, it is our understanding that mains are not typically removed upon retirement, but rather cut, capped and retired in place.

The mains account is segregated into 4 subaccounts. I will briefly discuss each subaccount separately. Utility account 331.00 (NARUC 343.00) Vault/Pipe Fittings is the second largest mains account with approximately \$23.8M (2021) in assets. This is a new account since the previous depreciation study @12/31/2015. Looking at the most recent five year activity band (2017-2021), the result of the net salvage is -221.5e

Utility account 331.03 (NARUC 343.03) Paving - LI has an asset balance of approximately \$6.7M (2021). There is limited retirement and cost of removal history for this account.

Utility account 331.10 (NARUC 343.10) Mains-4" & Less has an asset balance of \$5.2M (2021) and is the smallest of the mains accounts. Looking at the most recent five year activity band (2017-2021), the result of the net salvage related to the retirements is -1,397.5%.

Utility account 331.23 (NARUC 343.23) Mains-6" & Greater-LI is the largest of the mains accounts and has an asset balance of \$132.5M (2021). Looking at the most recent five year band (2017-2021), the result of the net salvage related to the retirements is -207.0%.

The annual values for retirements and cost of removal (for MAIN accounts) reflect the utility operations with respect to retirements, replacements and improvements over time. For Service Area 2 (Merrick and Sea Cliff), our analysis was limited with respect to the availability of historical data (6 years). Having prepared a thorough analysis of Service Area 1 with both service areas being contiguous and with the installed facilities being of similar material type, we applied the same depreciation parameters from Service Area 1 to Service Area 2.

Attached is a summary of our cost of removal/salvage analysis of the mains subaccounts which is based upon a review of Company records and supports the proposed increase in negative Net Salvage (NS). We have also provided a comparison of the ORPTS Net Salvage parameters with the currently approved Public Service Commission ("NYSPSC") Net Salvage factors as well as the new

To: Margaret Meyer, Manager of Indirect Tax  
Subject: Discussion of NYW Mains Cost of Removal  
(Service Area 1)

Page 3  
04/13/2023

proposed parameters submitted to the NYSPSC. Our recommendation is that the currently approved NYSPSC Net Salvage parameters for the mains account should be considered by ORPTS.

LIBERTY UTILITIES CORPORATION  
 NEW YORK WATER  
 FRANCHISE TAX SUPPORT  
 SERVICE AREA 1  
 DEPRECIATION PARAMETERS  
 MAINS

NARUC ACCOUNT NUMBER	UTILITY ACCOUNT NUMBER	ACCOUNT DESCRIPTION	ORPTS RECOMMENDED PARAMETERS  NET SALVAGE %	PSC APPROVED PARAMETERS CASE 16-W-0259  NET SALVAGE %	PROPOSED PARAMETERS DEPRECIATION STUDY @12/31/21 NET SALVAGE %
343.00	331.00	MAINS-VAULT/PIPE FITTINGS	-10-	-40-	-20-
343.03	331.03	MAINS-PAVING-LI	-10-	0-	-5-
343.10	331.10	MAINS-4" & LESS	-10-	-40-	-75-
343.23	331.23	MAINS-6" & GREATER	-10-	-40-	-50-

LIBERTY UTILITIES (NEW YORK WATER) CORP  
SERVICE AREA #1  
COR/SALVAGE ANALYSIS  
FRANCHISE TAX BACKGROUND

Page 1 OF 1

NEW ACCOUNT IN 2021 STUDY

Account	UTILITY 331 00	NARUC 343.00	T & D MAINS- PIPE FITTINGS	YEAR					
				2021	2020	2019	2018	2017	2016
RETIREMENTS				866	4,055	11,824	67,913	36,084	22,508
GROSS SALVAGE				30,234	0	39,847	8,040	43	2,191
COST TO RETIRE				2,372	147,891	141,531	17,193	36,865	34,573
NET SALVAGE				27,862	-147,891	-101,684	-9,153	-36,822	-32,382
% NET SALVAGE				3217.3	-3842.2	-860.0	13.5	-102.0	-143.9

TOTAL BAND 2016-2021	5 Year Band 2017-2021
143,250	120,742
80,355	76,164
380,225	345,652
299,870	267,488
209.3	-221.5

PLANT BALANCE @12/31/2021 \$23,784,786

PRIOR EXISTING ACCOUNTS

Account	UTILITY 331.03	NARUC 343.03	T & D MAINS- PAVING-LI	YEAR					
				2021	2020	2019	2018	2017	2016
RETIREMENTS				55	0	0	0	0	2,214
GROSS SALVAGE				0	0	0	0	0	0
COST TO RETIRE				3,459	0	14,088	43	0	1,752
NET SALVAGE				-3,459	0	-14,088	-43	0	-1,752
% NET SALVAGE				-6289.1	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	79.1

TOTAL BAND 2016-2021	5 Year Band 2017-2021
2,269	55
0	0
19,342	17,590
19,342	17,590
852.4	-31981.8

PLANT BALANCE @12/31/2021 \$8,736,638

Account	UTILITY 331 10	NARUC 343.10	T & D MAINS- 4" & LESS	YEAR												2008	TOTAL BAND 2010-2021	5 Year Band 2017-2021
				2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009		
RETIREMENTS				370	1,625	20,845	62,995	20,987	36,499	12,174	253	205	9,034	573	763	313,637	4,580	166,323
GROSS SALVAGE				30,234	0	39,847	8,040	43	2,191	0	0	0	0	0	0	0	0	80,355
COST TO RETIRE				229,631	126,633	739,808	335,187	139,784	356,918	67,909	20,879	85,554	-12,138	-53,322	17,793	4,834	0	2,161,780
NET SALVAGE				199,397	-126,633	-699,961	-327,147	139,741	-354,727	-67,909	20,879	85,554	12,138	-53,322	17,793	-4,834	0	2,080,925
% NET SALVAGE				53891.1	-7792.8	-3357.9	-519.3	-685.8	-971.9	-557.8	8252.6	-41733.7	134.4	-9305.8	-2332.0	-1.5	0.0	1251.1

PLANT BALANCE @12/31/2021 \$6,219,954

Account	UTILITY 331 23	NARUC 343.23	T & D MAINS- 6" & GREATER-LI	YEAR												2008	TOTAL BAND 2010-2021	5 Year Band 2017-2021
				2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009		
RETIREMENTS				456,927	83,221	56,969	757,967	106,522	782,763	16,274	23,175	49,835	73,365	25,544	85,848	114,328	75,009	2,518,410
GROSS SALVAGE				0	0	0	0	0	0	0	0	0	0	9,591	0	0	0	9,591
COST TO RETIRE				270,711	276,274	932,835	1,121,922	423,686	422,814	1,072,650	390,753	394,971	156,822	364,416	167,123	104,852	138,743	5,984,977
NET SALVAGE				-270,711	-276,274	-932,835	-1,121,922	-423,686	-422,814	-1,072,650	-390,753	-394,971	-156,822	-364,825	-167,123	-104,852	138,743	5,985,386
% NET SALVAGE				-59.2	-332.0	-1637.4	-148.0	-397.7	-54.0	-6591.2	-1686.1	-792.6	-213.8	-1389.1	-194.7	-91.7	165.0	237.7



## MANAGEMENT APPLICATIONS CONSULTING, INC.

1103 Rocky Drive • Suite 201 • Reading, PA 19609-1157 • 610/670-9199 • fax 610/670-9199 • www.manapp.com

### MEMO

DATE: 04/13/2023  
TO: Margaret Meyer, Manager of Indirect Tax  
New York Water  
FROM: Paul Normand  
SUBJECT: Discussion of NYW Hydrants Cost of Removal (Service Area 1)  
REFERENCE: Depreciation Study @12/31/2021

It is our understanding that Liberty Utilities (New York Water) Corp. ("the Company") will be requesting an adjustment to the net salvage value used by the Office of Real Property Tax Services ("ORPTS") when valuing the company's special franchise property. We were asked to review the company's records and prepare an analysis of the appropriate net salvage value.

According to ORPTS' rules, "salvage value" is "the amount received for property retired, less any expenses incurred in connection with the sale of or in preparing the property for sale or if retained, the amount at which the material recoverable is chargeable to materials and supplies or other appropriate account." The "net salvage value" is the salvage value of property retired less the cost of removal. When valuing special franchise property, the net salvage value is necessary to determine the allowance for physical depreciation. ORPTS has established net salvage percentages by asset account that it utilizes to determine the appropriate amount of physical depreciation an asset is currently incurring. Based upon our review and analysis, we believe that the ORPTS established net salvage percentage for the hydrants account should be adjusted for purposes of valuing the Company's special franchise property.

The cost of removal component of Net Salvage (NS) typically gathers aged data (some fairly old) along with current costs of removing/retiring these facilities. As a result, the current installed costs will always be much greater than the original installed costs. In some cases, the reported data is lagged simply due to accounting/recording of the data from engineering and the closing of work orders. As a result, any one year may present abnormally elevated results but the important

To: Margaret Meyer, Manager of Indirect Tax  
Subject: Discussion of NYW Hydrants Cost of Removal  
(Service Area 1)

Page 2  
04/13/2023

point is to review various bands (years) of average data along with recent annual results to show any trend or continued trend of any cost relationships.

Based upon our review of Company records, hydrants are replaced on a more frequent basis than the underlying infrastructure. The Company's hydrant account assets are approximately \$17M (2021). Looking at the most recent five year activity band (2017-2021), the result of the net salvage related to the retirements is 117% (see attached).

These annual values for retirements and cost of removal reflect the operations with respect to retirement, replacement, and improvements over time. For Service Area 2 (Merrick and Sea Cliff), our analysis was limited with respect to the available historical data (6 years). Having prepared a thorough analysis of Service Area 1, with the service areas being contiguous and the installed facilities being of a similar material, we applied the same depreciation parameters from Service Area 1 to Service area 2.

Attached is a summary of our cost of removal/salvage analysis of hydrants which is based upon a review of Company records and supports the proposed increase in negative Net Salvage (NS). We have also provided a comparison of the ORPTS Net Salvage parameters with the currently approved Public Service Commission Net Salvage (NYPSC) factors as well as the new proposed parameters submitted to the NYPSC. Our recommendation is that the currently approved NYPSC Net Salvage parameters for the hydrants account should be considered by ORPTS.



LIBERTY UTILITIES CORORATION  
 NEW YORK WATER  
 FRANCHISE TAX SUPPORT  
 SERVICE AREA I  
 COMPARISON DEPRECIATION PARAMETERS  
 HYDRANTS

NARUC ACCOUNT NUMBER	UTILITY ACCOUNT NUMBER	ACCOUNT DESCRIPTION	ORPTS RECOMMENDED PARAMETERS	PSC APPROVED PARAMETERS CASE 16-2-0259	PROPOSED PARAMETERS DEPRECIATION STUDY @12/31/21
348.00	335.00	HYDRANTS	NET SALVAGE % -15	NET SALVAGE % -60	NET SALVAGE % -90

LIBERTY UTILITIES (NEW YORK WATER) CORP  
SERVICE AREA #1  
COR/SALVAGE ANALYSIS  
FRANCHISE TAX BACKGROUND

Account	UTILITY	NARUC	T & D HYDRANTS														TOTAL		5 Year
	335.00	348.00	YEAR														BAND	Band	
			2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2010-2021	2017-2021	
RETIREMENTS			251,003	102,882	166,491	443,036	16,341	55,680	9,440	3,495	0,210	22,036	2,615	13,745	24,010	45,254	1,092,794	979,563	
GROSS SALVAGE			0	0	0	0	0	491	0	0	0	0	10,000	0	0	0	10,491	0	
COST TO RETIRE			57,555	68,751	422,984	497,534	100,380	218,158	283,824	65,552	25,745	59,210	64,981	64,281	30,932	4,039	1,028,971	1,147,220	
NET SALVAGE			57,555	68,751	422,984	497,534	100,380	217,607	283,824	65,552	25,745	59,210	54,981	64,281	30,932	4,039	1,916,483	1,147,220	
% NET SALVAGE			22.9	66.9	254.1	112.3	-614.4	-390.8	-3,007	-1,876	-415	-260	-2,103	-468	-129	-9	175.0	112.1	
PLANT BALANCE @12/31/2021			\$17,081,888																



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27-SAU

Dated  
December 19, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**  
For Nassau County assessment roll to be filed in 2025

Long Island Water Company      227600  
C/O Margaret Meyer, Indirect Tax Manager  
PO Box 1420  
Massapequa, NY 11758

Hearing Date and Location:  
January 30, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
<b>Nassau County Assessing Unit, Town of Hempstead</b>			
Village of Cedarhurst		5,654,002	-30.4
Village of East Rockaway		4,528,942	-25.6
Village of Hewlett Bay Park		2,730,011	-27.5
Village of Hewlett Harbor		11,881,869	-29.4
Village of Hewlett Neck		1,746,058	-28.8
Village of Island Park		10,970,444	-28.3
Village of Lawrence		4,071,591	-17.8
Village of Lynbrook		10,244,384	-26.1
Village of Malverne		12,524,860	-28.0
Village of Valley Stream		11,529,599	-33.5
Village of Woodsburgh		260,383	-18.6
Village of Atlantic Beach		9,882,681	-21.9
Town Outside Villages		92,198,894	-23.7
Total Town:	227600-2820	\$178,223,718	
Grand Total		\$178,223,718	



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27-SAU

Dated

December 19, 2024

A handwritten signature in cursive script that reads "David Ange".

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27-SAU

Dated  
December 19, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

For Nassau County assessment roll to be filed in 2025

Kingsvale Water Company 207320  
C/O Margaret Meyer, Indirect Tax Manager  
PO Box 1420  
Massapequa, NY 11758

Hearing Date and Location:  
January 30, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
<b>Nassau County Assessing Unit, Town of Oyster Bay</b>			
Village of Mill Neck		<u>3,995</u>	3.3
Total Town:	207320-2824	\$3,995	

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

RP27-SAU

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

Dated  
December 19, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

For Nassau County assessment roll to be filed in 2025

Sea Cliff Water Company      240800  
C/O Margaret Meyer, Indirect Tax Manager  
PO Box 1420  
Massapequa, NY 11758

Hearing Date and Location:  
January 30, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
<b>Nassau County Assessing Unit, City of Glen Cove, County Roll</b>	240800-2806	<u>\$483,831</u>	<u>-10.7</u>
<b>Nassau County Assessing Unit, Town of North Hempstead</b>			
Village of Roslyn Estates		<u>40,024</u>	-5.5
Total Town:	240800-2822	<u>\$40,024</u>	
<b>Nassau County Assessing Unit, Town of Oyster Bay</b>			
Village of Old Brookville		<u>633,917</u>	-4.2
Village of Sea Cliff		<u>7,168,653</u>	-3.2
Village of Roslyn Harbor		<u>62,809</u>	-3.1
Town Outside Villages		<u>5,264,215</u>	-0.6
Total Town:	240800-2824	<u>\$13,129,594</u>	
Grand Total		<u>\$13,653,449</u>	



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27-SAU

Dated

December 19, 2024

A handwritten signature in black ink, reading "David Ange".

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27-SAU

Dated  
December 19, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**  
For Nassau County assessment roll to be filed in 2025

New York Water Service      232100  
C/O Margaret Meyer, Indirect Tax Manager  
PO Box 1420  
Massapequa, NY 11758

Hearing Date and Location:  
January 30, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
<b>Nassau County Assessing Unit, Town of Hempstead</b>			
Town Outside Villages		<u>58,002,383</u>	-5.5
Total Town:	232100-2820	\$58,002,383	
<b>Nassau County Assessing Unit, Town of Oyster Bay</b>			
Village of Massapequa Park		<u>164,961</u>	223.0
Town Outside Villages		<u>7,427,151</u>	-13.1
Total Town:	232100-2824	\$7,592,112	
Grand Total		\$65,594,495	





STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27-SAU

Dated

December 19, 2024

A handwritten signature in cursive script that reads "David Ange".

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.



## RESOLUTION 25-17

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on December 10, 2024, and February 12, 2025, the tentative special franchise full values for SLIC Network Solutions, Inc. were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notices of the tentative special franchise full values and the scheduled hearing dates were duly mailed on December 10, 2024, and February 13, 2025

**WHEREAS**, complaints (#SF-25-04, SF-25-43, and SF-25-44), dated January 08, 2025 and March 11, 2025 were filed by SLIC Network Solutions, Inc. as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4.2; and

**WHEREAS**, hearings pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 were held with regard to the complaints on January 16, 2025 and March 20, 2025; and

**WHEREAS**, appearances on behalf of SLIC Network Solutions, Inc. were made at the January 16, 2025 and March 20, 2025 hearing; and

**WHEREAS**, the Hearing Officer has filed reports dated February 19, 2025 and April 23, 2025; and

**WHEREAS**, ORPTS staff has reviewed the complaints, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated May 16, 2025; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

25-17

-2-

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2024 final special franchise full values as set forth in List No. SF-25-04, SF-25-43 and SF-25-44, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to the affected municipalities to be used as the special franchise full values on the respective 2025 assessment roll.

Voting in favor:

Voting against:

Abstaining:

Absent:

STATE OF NEW YORK    )  
                                      ) ss:  
COUNTY OF ALBANY    )

I, Rachel Ingalsbe, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 4, 2025.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 4<sup>th</sup> day of June 2025.

---

Rachel Ingalsbe, Director of the Office of Real  
Property Tax Services



**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
 for the year 2025

ORIGINAL

RECEIVED

JAN 08 2025

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number SF-25-04	Hearing Date 01/16/2025

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

SLIC Network Solutions, Inc.

Company Name  
3330 State Highway 11 B, P.O. Box 150, Nicholville, New York 12965

Street Address, City, State, Zip

(315 ) 244-7738

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
Jefferson	Watertown	\$142,249	\$0

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Please see attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

☒ **2. Valuation**

Please see attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

☒ **3. Other**

Please see attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, SEE ATTACHED AUTHORIZATION on behalf of complainant, hereby designate  
 \_\_\_\_\_ to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year \_\_\_\_\_ .

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Henry A. Zomerfeld, Esq.

\_\_\_\_\_  
 Contact Person and Title

Hodgson Russ LLP, 140 Pearl Street, Buffalo, New York 14202

\_\_\_\_\_  
 Street Address, City, State, Zip

( 716 ) 848-1370

\_\_\_\_\_  
 Telephone Number

( )

\_\_\_\_\_  
 Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

01/03/25

Date

Harry A. Zingales

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

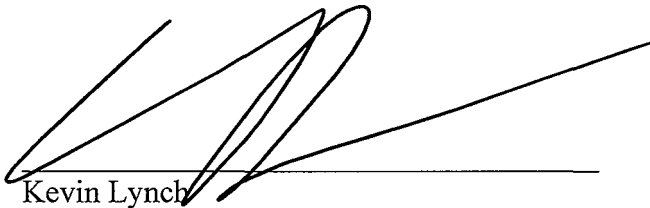
Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

### **AUTHORIZATION**

I, Kevin Lynch, as Chief Operations Officer of SLIC Network Solutions, Inc., hereby designate HODGSON RUSS LLP (Daniel A. Spitzer, Esq. and Henry A. Zomerfeld, Esq., or any employee, partner, or member of their firm) 140 Pearl Street, Buffalo, New York 14202 to act as representatives of the aforementioned entity in any proceedings before the New York State Department of Taxation and Finance/Office of Real Property Tax Services (the “Department”) and any assessing units in which each property is located for the purposes of reviewing the assessments, ceilings, and values of its telecommunications, special franchise, and any property appearing on the 2025-2026 tentative and final assessment rolls as set by the Department and/or any assessing units in which each property is located.

The representatives designated herein are authorized to sign any administrative complaints/grievances, to sign, verify, and certify any papers or pleadings, and to take all other necessary actions in connection with SLIC Network Solutions, Inc.’s property values and assessments, and to preserve its rights and interests, including commencing any necessary litigation under New York law.

Dated: January 3, 2025

  
Kevin Lynch



NEW YORK STATE  
DEPARTMENT OF TAXATION AND FINANCE

---

In Re SLIC NETWORK SOLUTIONS, INC.,  
Complainant.

---

**ATTORNEY AFFIRMATION IN SUPPORT OF  
ADMINISTRATIVE COMPLAINT ON SPECIAL FRANCHISE VALUES**

Henry A. Zomerfeld, Esq., under penalty of perjury and pursuant to CPLR §  
2106, affirms the following to be true and correct:

1. I am an attorney duly admitted to practice law in New York and am a partner with Hodgson Russ LLP, attorneys for Complainant, SLIC Network Solutions, Inc. (“Complainant” or “SLIC”).
2. I am fully familiar with the facts and circumstances surrounding SLIC’s Complaint, and offer this Affirmation in support of the Complaint concerning values and assessments set by the Office of Real Property Tax Services (“ORPTS”) for Watertown.
3. Attached as **Exhibit A** is the tentative values from ORPTS for special franchise full values for the tax year at issue.
4. Attached as **Exhibit B** is a copy of the Jefferson County Image Mate website showing no properties for SLIC in Watertown.

5. Attached as **Exhibit C** is a copy of the Jefferson County Image Mate website showing no properties for SLIC in Jefferson County.

### **INTRODUCTION**

6. The crux of this challenge relates to these new values and assessments being imposed where SLIC has no tangible property.

7. As the Jefferson County Image Mate site confirms, SLIC has no property in Watertown or Jefferson County. *See* Exs. B and C.

8. The values and assessments should be stricken as there is no tangible real property for which a value can be attributed.

### **ARGUMENT**

#### **SLIC Has No Tangible Real Property in Watertown for DOTF to Value or Assess.**

9. Property can be assessed only as of its condition as of the applicable taxable status date.

10. With no physical property as of the taxable status date, there is nothing to assess or value.

11. While it is unclear as to how DOTF derived its values and assessments, upon information and belief, DOTF perhaps relied upon reporting of dollars expended for general work in progress (“WIP”), none of which represents real property.

12. WIP generally consists of conceptual build outs with no physical assets. It would be akin to assessing the owner of a blueprint of a building residing on a computer hard disc drive with no physical footprint.

13. Here, upon information and belief, a significant portion of the fees reported as WIP were engineering and design fees.

14. These preliminary, incomplete drawings and designs and other soft costs are intangibles and thus non-taxable as they are not real property.

15. As the New York State Constitution provides: “Intangible personal property shall not be taxed ad valorem nor shall any excise tax be levied solely because of the ownership or possession thereof . . . .” N.Y. Const. art. XVI § 3 (ellipsis added).

16. RPTL § 102(17) defines special franchise property. As relevant here, “[f]or purposes of assessment and taxation a special franchise shall include the value of *the tangible property* situated in, under, above, upon or through any public street, highway, water or other public place in connection therewith.” (emphasis added).

17. It remains that, as the Jefferson County records confirm, SLIC has no property in Watertown. *See* Exs. B and C. There is no tangible real property subject to taxation.

18. Thus, it appears DOTF is improperly relying upon WIP reporting for no physical or tangible asset. There can be no real property tax liability where there is no real property.

19. As such, the tentative assessments and values should be stricken entirely.

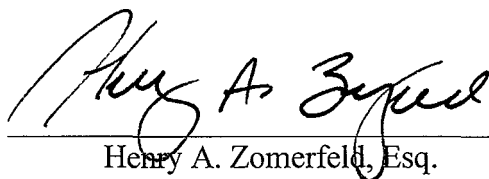
### **CONCLUSION**

20. SLIC's Complaint should be granted in its entirety and its special franchise values reduced in the amount as set forth herein.

21. SLIC's Complaint and supporting materials consist of information that is confidential and is exempt from disclosure under the Freedom of Information Law, Public Officers Law § 87(2)(d), insofar as the materials contain trade secrets or information that, if released, would jeopardize and harm SLIC's competitive and economic position. Please promptly provide notice to SLIC with a copy to me should a FOIL request be made seeking any such information.

**WHEREFORE**, Complainant SLIC Network Solution, Inc.'s Complaint should be granted in its entirety, along with such other and further relief deemed just and proper.

Dated: January 3, 2025  
Buffalo, New York

  
Henry A. Zomerfeld, Esq.

## EXHIBIT A



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

RP27

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

Dated  
December 10, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

For city and town assessment roll to be filed in 2025

SLIC Network Solutions Inc 701360  
C/O Mr. Kevin P Lynch, COO  
3330 State Hwy 11B  
Nicholville, NY 12965

Hearing Date and Location:  
January 16, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
City of Watertown, Jefferson County	701360-2218	\$142,249	New
			New

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.

## EXHIBIT B

Jefferson County

[Navigation](#) [Tax Maps](#) | [DTF Links](#) [Assessment Info](#)[Help](#) [Contact Us](#) [Log In](#)

## Jefferson County Search

No properties match your search criteria. Try removing some of your criteria.

<b>Municipality</b>	Watertown ▼
<b>Tax ID / SBL</b>	
<b>Last Name *</b>	SLIC Network Solutions
<b>First Name *</b>	
<b>Street #</b>	
<b>Street Name</b>	

[Switch to Advanced Search](#)

\*sFor corporate or business names, it is usually best to search in the last name field.

IMO Version 24.07 (data updated on 12/18/2024)

### News

Welcome to Jefferson County Real Property Tax Services assessment information page. This site will allow users to access the information commonly requested on parcels in Jefferson County outside the City of Watertown. To view parcel information for the City of Watertown please go to [s](http://www.watertown-ny.gov/imo/s) <http://www.watertown-ny.gov/imo/s>



## EXHIBIT C

Jefferson County



## Image Mate Online

[Navigation](#) [Tax Maps](#) | [DTF Links](#) [Assessment Info](#)[Help](#) [Contact Us](#) [Log In](#)

## Tips

- Click on a parcel's Tax ID to see its information.
- Click on a column title to sort on that column.

SWIS - Municipality	Tax ID	Owner	Street #	Street Name
224600 - Town of Orleans	13.18-1-38.4	Slicer Laurence A		NYS Rte 180
224600 - Town of Orleans	32.11-1-93.81	Slicer Laurence A Sr	36394	Sarah Ln
223889 - Town of Hounsfield	88.16-1-74	Slick's Sugar Shack LLC	17721	Hy Knoll Dr
223889 - Town of Hounsfield	88.16-1-85.4	Slick's Sugar Shack LLC		Hy Knoll Dr

Showing results 1-4 of 4

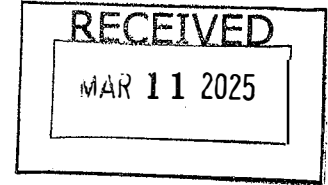


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
<b>SF-25-43</b>	<b>03/20/25</b>

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

SLIC Network Solutions, Inc.

Company Name

3330 State Highway 11 B, P.O. Box 150, Nicholville, New York 12965

Street Address, City, State, Zip

( 315 ) 244-7738

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (*Attach additional sheets, if needed.*)**  
 See attached.

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, SEE ATTACHED AUTHORIZATION on behalf of complainant, hereby designate  
 \_\_\_\_\_ to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.  
3/10/25 \_\_\_\_\_  
 Date Signature of Complainant

Name, Address and Telephone Number of Representative:

Henry A. Zomerfeld, Esq.

\_\_\_\_\_  
 Contact Person and Title

Hodgson Russ LLP, 140 Pearl Street, Buffalo, New York 14202

\_\_\_\_\_  
 Street Address, City, State, Zip

(716 ) 848-1370

\_\_\_\_\_  
 Telephone Number

( )

\_\_\_\_\_  
 Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Please see attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

☒ **2. Valuation**

Please see attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

☒ **3. Other**

Please see attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

3/10/25

Date

Ray A. Zuped

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

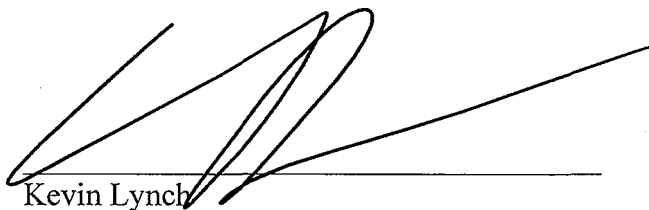
Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

### AUTHORIZATION

I, Kevin Lynch, as Chief Operations Officer of SLIC Network Solutions, Inc., hereby designate HODGSON RUSS LLP (Daniel A. Spitzer, Esq. and Henry A. Zomerfeld, Esq., or any employee, partner, or member of their firm) 140 Pearl Street, Buffalo, New York 14202 to act as representatives of the aforementioned entity in any proceedings before the New York State Department of Taxation and Finance/Office of Real Property Tax Services (the “Department”) and any assessing units in which each property is located for the purposes of reviewing the assessments, ceilings, and values of its telecommunications, special franchise, and any property appearing on the 2025-2026 tentative and final assessment rolls as set by the Department and/or any assessing units in which each property is located.

The representatives designated herein are authorized to sign any administrative complaints/grievances, to sign, verify, and certify any papers or pleadings, and to take all other necessary actions in connection with SLIC Network Solutions, Inc.’s property values and assessments, and to preserve its rights and interests, including commencing any necessary litigation under New York law.

Dated: January 3, 2025

  
Kevin Lynch



**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year** 2025

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number <b>8F-25-44</b>	Hearing Date <b>03/20/25</b>

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

SLIC Network Solutions, Inc.

Company Name

3330 State Highway 11 B, P.O. Box 150, Nicholville, New York 12965

Street Address, City, State, Zip

(315 ) 244-7738

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

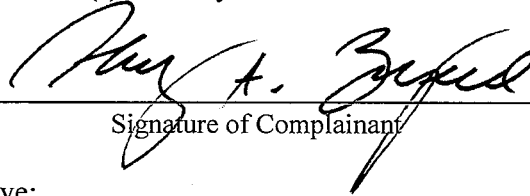


**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, SEE ATTACHED AUTHORIZATION on behalf of complainant, hereby designate  
 \_\_\_\_\_ to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

3/10/25

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Henry A. Zomerfeld, Esq.

Contact Person and Title

Hodgson Russ LLP, 140 Pearl Street, Buffalo, New York 14202

Street Address, City, State, Zip

(716) 848-1370

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Please see attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

☒ **2. Valuation**

Please see attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

☒ **3. Other**

Please see attached.

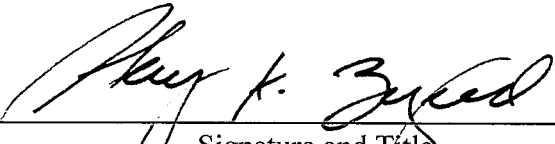
*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

3/6/25

Date

  
Signature and Title**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

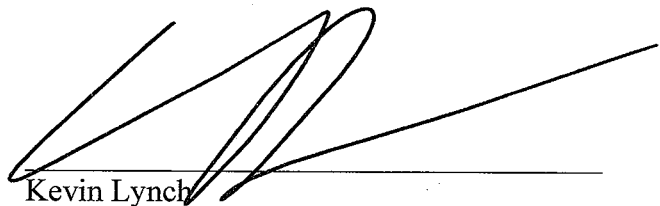
Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

## AUTHORIZATION

I, Kevin Lynch, as Chief Operations Officer of SLIC Network Solutions, Inc., hereby designate HODGSON RUSS LLP (Daniel A. Spitzer, Esq. and Henry A. Zomerfeld, Esq., or any employee, partner, or member of their firm) 140 Pearl Street, Buffalo, New York 14202 to act as representatives of the aforementioned entity in any proceedings before the New York State Department of Taxation and Finance/Office of Real Property Tax Services (the "Department") and any assessing units in which each property is located for the purposes of reviewing the assessments, ceilings, and values of its telecommunications, special franchise, and any property appearing on the 2025-2026 tentative and final assessment rolls as set by the Department and/or any assessing units in which each property is located.

The representatives designated herein are authorized to sign any administrative complaints/grievances, to sign, verify, and certify any papers or pleadings, and to take all other necessary actions in connection with SLIC Network Solutions, Inc.'s property values and assessments, and to preserve its rights and interests, including commencing any necessary litigation under New York law.

Dated: January 3, 2025

  
Kevin Lynch

In Re SLIC NETWORK SOLUTIONS, INC.,  
Complainant.

---

**ATTORNEY AFFIRMATION IN SUPPORT OF  
ADMINISTRATIVE COMPLAINT**

Henry A. Zomerfeld, Esq., under penalty of perjury and pursuant to CPLR § 2106, affirms the following to be true and correct:

1. I am an attorney duly admitted to practice law in New York and am a partner with Hodgson Russ LLP, attorneys for Complainant, SLIC Network Solutions, Inc. (“Complainant” or “SLIC”).
2. I am fully familiar with the facts and circumstances surrounding SLIC’s Complaint, and offer this Affirmation in support of the Complaint.
3. Attached as **Exhibit A** is the tentative values from the Office of Real Property Tax Services (“ORPTS”) for special franchise assessments for this tax year. Attached as **Exhibit B** are the tentative special franchise full values for this tax year. Attached as **Exhibit C** are SLIC’s requested values.

**INTRODUCTION**

4. There are several bases for SLIC’s Complaint on the values set by ORPTS, which individually and collectively support the request for reduction sought herein.

5. First, SLIC's values should be based only SLIC's company contributions; they should not include external third-party grant funding.

6. Second, surviving dollars should be interpreted to mean the economically feasible portion of the plant (the balance, or grant-funded dollars, equating to the economically infeasible portion).

7. Finally, to the extent ORPTS set values for any property that is neither fully constructed or operational, such work in progress is not a taxable asset and such values should be stricken.

8. For these reasons, SLIC's special franchise property is overassessed and the values tentatively set by ORPTS should be reduced accordingly.

### **ARGUMENT**

#### **I. The Special Franchise Values Should be Based Only on the Company's Contribution.**

9. Should SLIC's properties be deemed taxable real property, the ceilings should be based only on the company's contribution, which is 20%. The remaining 80% is external grant funding, which should not be considered.

10. In such an instance, SLIC is to be assessed relative only to the value of the property, not the subsidy. Said another way, the subsidy represents the portion of the overall project cost that made the project otherwise not economically viable. This subsidy amount is not arbitrary, but rather well defined by the open, competitive, market-based auction conducted by the State of New York and other government agencies.

11. The fact that the market required a subsidy as an inducement to proceed to build the network to these remote areas by definition means that the project was, absent the subsidy, economically not viable. There was, and is, no question as to the viability of the project without subsidy, and there is no question as to the value of the subsidy required to induce a willing party to pursue the construction of these networks.

12. Understanding that the costs provided for by the grants relate to the uneconomic portion of the project requires that these grant subsidy dollars be excluded, and only the company funded dollars—the “surviving dollars”—should be utilized as inputs to value the property. So, the correct inputs to the Department’s reproduction cost new less depreciation (“RCNLD”) valuation model are the surviving dollars, and that is the methodology ORPTS should employ.

13. As interpreted by SLIC, the term “surviving dollars,” based on a plain reading, meant that it represented only the portion of the company’s contribution to the inventory, and did not include funds provided by others.

14. Utilizing RCNLD in this fashion, the value from the “surviving dollars” equate precisely to the economically feasible portion of the plant (the balance, or grant funded dollars, equating to the economically infeasible portion). The company’s surviving cost is exactly the cost dollars which would be economically feasible and reasonably expected to be replaced. Grant subsidies are not company cost or funds. Rather, they are funds from a third party to incentivize construction. To include them is contrary to the Department’s regulations, and results in systematically overvaluing the subject properties. It is tantamount to taxing a subsidy as real property, which cannot stand.

15. Regardless of the label, whether referred to as surviving dollars, company dollars, non-subsidized dollars, or non-grant dollars, ORPTS must use appropriate cost inputs to yield proper outputs for taxation purposes. It cannot be that the value of the plant is greater than the value of the enterprise.

16. Yet, by utilizing full cost of both the plant and the subsidy, instead of separating out the value of the subsidy, it leads to the conclusion that the value of the plant is in excess of the value of the entire enterprise value of the company. ORPTS has neglected to back-out the grants funds to arrive at an appropriate valuation based on funds contributed only by SLIC.

17. Subtracting out the grant funding is consistent with other states, including North Carolina and Texas, where outside funding is deducted from their valuation models to avoid overvaluation.

18. Equating the grant dollars with asset value is a deficient approach that results in a fallacy. Doing so is essentially suggesting that a \$1 million award to construct a network increased the value of the company by at least the full construction cost of the network. This is simply not the case. The value of the company is determined by an evaluation of its assets, including not just the plant, but its people, operations, systems, processes, reputation, customers, contracts, etc. and/or through a review of the future cash flows the company generates.

19. Assigning value based on a highly subsidized cost structure results in erroneous conclusions. As an example, a \$10 million grant might result in \$4 million of construction and 1,000 additional subscribers. These additional subscribers and their corresponding future cash flows might result in incremental value to the company of \$2 million. However, it cannot be that the value of the plant is greater than the value of the enterprise.



20. Yet, by utilizing full cost of both the plant and the subsidy, instead of separating out the value of the subsidy, it leads to the conclusion that the value of the plant is in excess of the value of the entire enterprise value of the company. So, incredulously, we would have to believe that the wires by themselves are not only worth more than the rest of the assets of the company, but ironically, the value of all the other assets is actually negative. In our example, if the plant is worth an additional \$4 million, but the overall value creation is \$2 million, then rest of the enterprise, by definition, must have lost \$2 million in value by adding the subscribers. This is entirely devoid of logic.

**II. Surviving Dollars Should be Interpreted to Mean the Value of the Plant, not the Subsidy.**

---

21. Surviving dollars was purposefully used by SLIC in order to arrive at the value of the plant, distinct from the value of any subsidy provided. If ORPTS is relying on the cost method to value the plant, it must utilize the company cost, its surviving dollars, as input for its determination. Utilizing costs incurred by others, which were deployed to subsidize project costs, conflates the value of the plant and the value of the subsidy (or “inflates the value of the plant by the value of the subsidy”).

22. SLIC is to be assessed relative to only the value of the property, *not* the subsidy. Said another way, the subsidy represents the portion of the overall project cost that made the project otherwise not economically viable. This subsidy amount is not arbitrary, but rather well defined by the open, competitive, market-based auction conducted by the State of New York. The fact that the market required a subsidy as an inducement to proceed to build the network to these remote areas by definition means that the project was, absent the subsidy, economically not

viable. Therefore, the amount of the subsidy, as determined in this open auction process, defined precisely the absolute amount of immediate economic obsolescence to be incurred by SLIC.

23. There was, and is, no question as to the viability of the project without subsidy and there is no question as to the value of the subsidy required to induce a willing party to pursue the construction of these networks. In either case, the value of the plant-only must be the company's funded cost for the project construction or ORPTS must apply the known and quantified economic obsolescence to the assets.

### **III. The Obsolescence Requested Should Have Been Granted.**

24. ORPTS' denial of SLIC's request for obsolescence for this tax year was arbitrary and capricious. Its determination provided no justification or rationale. SLIC relied on ORPTS form and model to obtain the requested obsolescence value. Yet ORPTS denied the application without a basis. The obsolescence SLIC requested should be granted.

### **IV. To The Extent the Values Include Any Work In Progress, These Must be Excluded.**

25. Property can be assessed only as of its condition as of the applicable taxable status date.

26. Where there is no physical property as of the taxable status date, there is nothing to assess or value.

27. While it is unclear as to how DOTF derived its values and assessments, upon information and belief, DOTF perhaps relied upon reporting of dollars expended for general work in progress ("WIP"), none of which represents real property.

28. WIP generally consists of conceptual build outs with no physical assets. It would be akin to assessing the owner of a blueprint of a building residing on a computer hard disc drive with no physical footprint.

29. As the New York State Constitution provides: “Intangible personal property shall not be taxed ad valorem nor shall any excise tax be levied solely because of the ownership or possession thereof . . . .” N.Y. Const. art. XVI § 3 (ellipsis added).

30. RPTL § 102(17) defines special franchise property. As relevant here, “[f]or purposes of assessment and taxation a special franchise shall include the value of *the tangible property* situated in, under, above, upon or through any public street, highway, water or other public place in connection therewith.” (emphasis added).

31. Any values based on non-taxable assets or intangibles should be stricken.

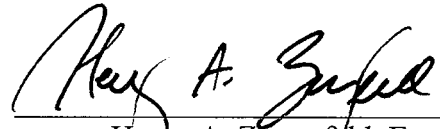
### **CONCLUSION**

32. SLIC’s Complaint should be granted in its entirety and its special franchise values reduced in the amount as set forth herein.

33. SLIC’s Complaint and supporting materials consist of information that is confidential and is exempt from disclosure under the Freedom of Information Law, Public Officers Law § 87(2)(d), insofar as the materials contain trade secrets or information that, if released, would jeopardize and harm SLIC’s competitive and economic position. Please promptly provide notice to SLIC with a copy to me should a FOIL request be made seeking any such information.

**WHEREFORE**, Complainant SLIC Network Solution, Inc.'s Complaint should be granted in its entirety, along with such other and further relief deemed just and proper.

Dated: March 10, 2025  
Buffalo, New York



---

Henry A. Zomerfeld, Esq.

## EXHIBIT A



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
February 12, 2025

**NOTICE OF TENTATIVE SPECIAL FRANCHISE ASSESSMENT**

For city and town assessment roll to be filed in 2025

SLIC Network Solutions Inc 701360  
C/O Mr. Kevin P Lynch, COO  
3330 State Hwy 11B  
Nicholville, NY 12965

Hearing Date and Location:  
March 20, 2025 at 10:00 am  
CR 125, Bldg 9, 1st Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise assessments for the following assessing unit(s) at the amounts shown below. The assessments were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The assessments include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such assessments. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise assessments on Form RP-7142 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Assessment Number</u>	<u>Tentative Assessment</u>	<u>Pct Change From Prior Roll</u>
<b>Town of Constable, Franklin County</b>	701360-1636	<b>\$8,275</b>	<b>-21.1</b>
Equalization Rate: 7.02*			<b>-19.7</b>
<b>Town of Stony Creek, Warren County</b>	701360-5236	<b>\$1,737</b>	<b>-12.8</b>
Equalization Rate: 0.73*			<b>-11.0</b>
<b>Grand Total</b>		<b>\$10,012</b>	<b>-19.8</b>

David Ange  
Real Property Services Administrator 2

\* The State Office has determined that your city/town/village has not completed a full value revaluation since 1953. Accordingly, the latest state equalization rate or special equalization rate has not been used in determining the portion of your special franchise assessments that is attributable to property assessed in 1953. In future years, the State Office will use the latest rate in valuing the entire special franchises for all rolls following completion of the appropriate revaluation.

Note: The amounts of the special franchise assessments set forth in this notice are "tentative" and must not be entered on the assessment roll. The final assessments for entry on the assessment roll will be transmitted at a later date.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

RP27

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

Dated  
February 12, 2025

## EXHIBIT B





STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

RP27

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

Dated  
February 12, 2025

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

For city and town assessment roll to be filed in 2025

SLIC Network Solutions Inc 701360  
C/O Mr. Kevin P Lynch, COO  
3330 State Hwy 11B  
Nicholville, NY 12965

Hearing Date and Location:  
March 20, 2025 at 10:00 am  
CR 125, Bldg 9, 1st Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	Full Value Number	Full Value Tentative	Pct Change From Prior Roll
Town of Altona, Clinton County	701360-0920	\$130,866	-2.0
Town of Ausable, Clinton County	701360-0922	\$1,759	New
			New
Town of Beekmantown, Clinton County	701360-0924	\$5,873	-1.9
Town of Dannemora, Clinton County			
Village of Dannemora		168,151	-2.0
Town Outside Villages		620,243	-2.4
Total Town:	701360-0934	\$788,394	-2.3
Town of Ellenburg, Clinton County	701360-0936	\$437,988	-2.5
Town of Mooers, Clinton County	701360-0938	\$59,179	-1.8
Town of Peru, Clinton County	701360-0940	\$11,377	New
			New
Town of Plattsburgh, Clinton County	701360-0942	\$14,068	-1.7
Town of Saranac, Clinton County			
Town Outside Villages		166,076	-2.0
Total Town:	701360-0944	\$166,076	-2.0



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

RP27

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

Dated  
February 12, 2025

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
Town of Chesterfield, Essex County	701360-1520	\$1,056	-2.1
Town of Crown Point, Essex County	701360-1522	\$12,079	-1.8
Town of Elizabethtown, Essex County	701360-1524	\$125,885	-1.9
Town of Essex, Essex County	701360-1526	\$75,885	-2.0
Town of Keene, Essex County	701360-1530	\$199,364	-2.5
Town of Lewis, Essex County	701360-1532	\$315,314	-1.8
Town of Minerva, Essex County	701360-1534	\$574,310	-2.5
Town of Moriah, Essex County	701360-1536	\$21,673	-1.7
Town of Newcomb, Essex County	701360-1538	\$261,889	-2.5
Town of North Elba, Essex County			
Village of Saranac Lake		33,420	-3.1
Total Town:	701360-1540	\$33,420	-3.1
Town of North Hudson, Essex County	701360-1542	\$85,013	-2.8
Town of Schroon, Essex County	701360-1546	\$207,995	-3.0
Town of Ticonderoga, Essex County	701360-1548	\$21,351	-1.9
Town of Willsboro, Essex County	701360-1552	\$419,752	-1.9
Town of Tupper Lake, Franklin County			
Town Outside Villages		51,345	-4.6
Total Town:	701360-1620	\$51,345	-4.6
Town of Bangor, Franklin County	701360-1622	\$702,080	-1.8
Town of Bellmont, Franklin County	701360-1624	\$376,705	-2.2
Town of Bombay, Franklin County	701360-1626	\$6,656	-1.8
*			
Town of Brandon, Franklin County	701360-1628	\$30,445	-5.3
Town of Chateaugay, Franklin County			
Town Outside Villages		139,757	-2.0
Total Town:	701360-1634	\$139,757	-2.0
Town of Dickinson, Franklin County	701360-1638	\$107,449	-5.6
Town of Duane, Franklin County	701360-1640	\$117,688	-1.9
Town of Fort Covington, Franklin County	701360-1642	\$176,934	-1.4
Town of Malone, Franklin County			
Village of Malone		40,803	-3.5
Town Outside Villages		197,838	-3.1
Total Town:	701360-1648	\$238,641	-3.2
Town of Moira, Franklin County			
Town Outside Villages		31,077	-5.3
Total Town:	701360-1650	\$31,077	-5.3
Town of Waverly, Franklin County	701360-1654	\$92,143	-1.8
Town of Westville, Franklin County	701360-1656	\$7,648	-1.7
Town of Long Lake, Hamilton County	701360-2032	\$276,934	-3.4
Town of Schaghticoke, Rensselaer County			
Town Outside Villages		31,008	-0.3
Total Town:	701360-3842	\$31,008	-0.3



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
February 12, 2025

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

	Full Value Number	Full Value Tentative	Pct Change From Prior Roll
City of Ogdensburg, St Lawrence County	701360-4012	\$69,860	-6.0
Town of Brasher, St Lawrence County	701360-4020	\$133,563	-2.5
Town of Canton, St Lawrence County			
Village of Canton		4,276	-12.2
Town Outside Villages		185,575	-5.3
Total Town:	701360-4022	\$189,851	-5.5
Town of Clare, St Lawrence County	701360-4024	\$9,121	-4.2
Town of Clifton, St Lawrence County	701360-4026	\$134,545	-5.5
Town of Colton, St Lawrence County	701360-4028	\$117,540	-2.0
Town of De Peyster, St Lawrence County	701360-4032	\$57,544	-2.5
Town of Fine, St Lawrence County	701360-4036	\$251,177	-5.3
Town of Hopkinton, St Lawrence County	701360-4046	\$96,132	-1.0
Town of Lawrence, St Lawrence County	701360-4048	\$121,764	1.8
Town of Lisbon, St Lawrence County	701360-4050	\$297,098	-5.2
Town of Louisville, St Lawrence County			
Town Outside Villages		164,897	3.1
Total Town:	701360-4052	\$164,897	3.1
Town of Madrid, St Lawrence County	701360-4056	\$189,373	-5.3
Town of Massena, St Lawrence County			
Village of Massena		563,116	878.1
Town Outside Villages		73,217	88.8
Total Town:	701360-4058	\$636,333	560.4
Town of Norfolk, St Lawrence County			
Village of Norwood		1,813	-5.3
Town Outside Villages		122,560	-5.6
Total Town:	701360-4062	\$124,373	-5.6
Town of Oswegatchie, St Lawrence County			
Town Outside Villages		127,260	-2.9
Total Town:	701360-4064	\$127,260	-2.9
Town of Parishville, St Lawrence County	701360-4066	\$122,872	-3.3
Town of Piercefield, St Lawrence County	701360-4068	\$111,484	-5.1
Town of Pierrepont, St Lawrence County	701360-4070	\$77,748	-5.3
Town of Potsdam, St Lawrence County			
Village of Potsdam		64,933	-6.0
Town Outside Villages		210,256	-5.5
Total Town:	701360-4074	\$275,189	-5.6
Town of Russell, St Lawrence County	701360-4078	\$17,811	-5.3
Town of Stockholm, St Lawrence County	701360-4080	\$165,543	-4.5
Town of Waddington, St Lawrence County			
Town Outside Villages		66,640	-5.3
Total Town:	701360-4082	\$66,640	-5.3



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
February 12, 2025

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
<b>Town of Ballston, Saratoga County</b>			
Village of Ballston Spa		<u>13,174</u>	<b>New</b>
Total Town:	701360-4120	\$13,174	New
<b>Town of Lake George, Warren County</b>			
Town Outside Villages		<u>7,447</u>	<b>-1.8</b>
Total Town:	701360-5222	\$7,447	-1.8
<b>Town of Chester, Warren County</b>	701360-5224	<b>\$40,458</b>	<b>-2.2</b>
<b>Town of Johnsburg, Warren County</b>	701360-5230	<b>\$1,030,393</b>	<b>-1.9</b>
<b>Town of Thurman, Warren County</b>	701360-5238	<b>\$434,770</b>	<b>-2.0</b>
<b>Town of Warrensburg, Warren County</b>	701360-5240	<b>\$97,726</b>	<b>-2.0</b>
<b>Town of Argyle, Washington County</b>			
Town Outside Villages		<u>325,297</u>	<b>-1.2</b>
Total Town:	701360-5320	\$325,297	-1.2
<b>Town of Cambridge, Washington County</b>			
Town Outside Villages		<u>262,895</u>	<b>-0.8</b>
Total Town:	701360-5322	\$262,895	-0.8
<b>Town of Dresden, Washington County</b>	701360-5324	<b>\$579,656</b>	<b>-1.8</b>
<b>Town of Easton, Washington County</b>			
Town Outside Villages		<u>738,473</u>	<b>-1.0</b>
Total Town:	701360-5326	\$738,473	-1.0
<b>Town of Fort Ann, Washington County</b>			
Town Outside Villages		<u>208,084</u>	<b>-1.4</b>
Total Town:	701360-5328	\$208,084	-1.4
<b>Town of Fort Edward, Washington County</b>			
Town Outside Villages		<u>231,318</u>	<b>-0.8</b>
Total Town:	701360-5330	\$231,318	-0.8
<b>Town of Granville, Washington County</b>			
Town Outside Villages		<u>366,949</u>	<b>-1.7</b>
Total Town:	701360-5332	\$366,949	-1.7
<b>Town of Greenwich, Washington County</b>			
Town Outside Villages		<u>184,678</u>	<b>-0.9</b>
Total Town:	701360-5334	\$184,678	-0.9
<b>Town of Hampton, Washington County</b>	701360-5336	<b>\$206,292</b>	<b>-1.9</b>
<b>Town of Hartford, Washington County</b>	701360-5338	<b>\$350,718</b>	<b>-1.2</b>
<b>Town of Hebron, Washington County</b>	701360-5340	<b>\$1,028,721</b>	<b>-1.5</b>
<b>Town of Putnam, Washington County</b>	701360-5346	<b>\$347,380</b>	<b>-1.8</b>
<b>Town of Salem, Washington County</b>	701360-5348	<b>\$657,422</b>	<b>-1.7</b>
<b>Town of Whitehall, Washington County</b>			
Village of Whitehall		<u>26,437</u>	<b>-1.7</b>
Town Outside Villages		<u>112,391</u>	<b>-1.8</b>
Total Town:	701360-5352	\$138,828	-1.8
Grand Total		\$17,165,473	



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

RP27

WA Harriman State Campus  
Albany, N Y 12227  
(518)474-5711

Dated  
February 12, 2025

A handwritten signature in cursive script, reading "David Ange".

David Ange  
Real Property Services Administrator 2

\* The State Office has determined that your city/town/village has not completed a full value revaluation since 1953. Accordingly, the latest state equalization rate or special equalization rate has not been used in determining the portion of your special franchise assessments that is attributable to property assessed in 1953. In future years, the State Office will use the latest rate in valuing the entire special franchises for all rolls following completion of the appropriate revaluation.

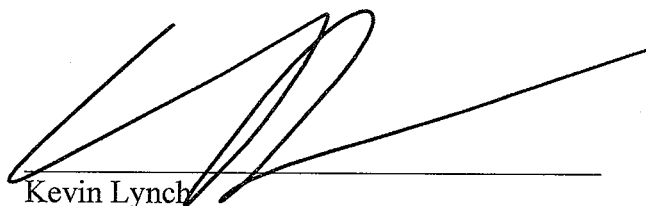
Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.

### AUTHORIZATION

I, Kevin Lynch, as Chief Operations Officer of SLIC Network Solutions, Inc., hereby designate HODGSON RUSS LLP (Daniel A. Spitzer, Esq. and Henry A. Zomerfeld, Esq., or any employee, partner, or member of their firm) 140 Pearl Street, Buffalo, New York 14202 to act as representatives of the aforementioned entity in any proceedings before the New York State Department of Taxation and Finance/Office of Real Property Tax Services (the "Department") and any assessing units in which each property is located for the purposes of reviewing the assessments, ceilings, and values of its telecommunications, special franchise, and any property appearing on the 2025-2026 tentative and final assessment rolls as set by the Department and/or any assessing units in which each property is located.

The representatives designated herein are authorized to sign any administrative complaints/grievances, to sign, verify, and certify any papers or pleadings, and to take all other necessary actions in connection with SLIC Network Solutions, Inc.'s property values and assessments, and to preserve its rights and interests, including commencing any necessary litigation under New York law.

Dated: January 3, 2025

  
Kevin Lynch

## EXHIBIT C

SLIC Network Solutions, Inc.  
2025 Special Franchise Requested Values

	\$
<b>Altona</b>	<b>30,136.23</b>
	\$
92000	30,136.23
	\$
<b>Bangor</b>	<b>9,710.92</b>
	\$
162200	9,710.92
	\$
<b>Beekmantown</b>	<b>1,165.04</b>
	\$
92400	1,165.04
	\$
<b>Bellmont</b>	<b>101,771.79</b>
	\$
162400	101,771.79
	\$
<b>Brandon</b>	<b>6,572.83</b>
	\$
162800	6,572.83
	\$
<b>Brasher</b>	<b>30,049.29</b>
	\$
402000	30,049.29
	\$
<b>Canton, T</b>	<b>55,047.33</b>
	\$
402289	55,047.33
	\$
<b>Canton, V</b>	<b>9,082.01</b>
	\$
402201	9,082.01
	\$
<b>Chateaugay</b>	<b>39,164.04</b>
	\$
163400	39,164.04
	\$
<b>Chester</b>	<b>8,296.11</b>
	\$
522400	8,296.11
	\$
<b>Chesterfield</b>	<b>299.61</b>
	\$
152000	299.61
	\$
<b>Clare</b>	<b>57.79</b>



SLIC Network Solutions, Inc.  
2025 Special Franchise Requested Values

	\$
402400	57.79
	\$
<b>Clifton</b>	<b>44,077.53</b>
	\$
402600	44,077.53
	\$
<b>Colton</b>	<b>32,458.22</b>
	\$
402800	32,458.22
	\$
<b>Dannemora</b>	<b>52,136.99</b>
	\$
93400	52,136.99
	\$
<b>Dannemora T</b>	<b>68,153.45</b>
	\$
93489	68,153.45
	\$
<b>Dannemora V</b>	<b>33,369.20</b>
	\$
93401	33,369.20
	\$
<b>De Peyster</b>	<b>9,177.77</b>
	\$
403200	9,177.77
	\$
<b>Dickinson</b>	<b>28,587.35</b>
	\$
163800	28,587.35
	\$
<b>Dresden</b>	<b>20,061.60</b>
	\$
532400	20,061.60
	\$
<b>Duane</b>	<b>13,265.33</b>
	\$
164000	13,265.33
	\$
<b>Elizabethtown</b>	<b>31,221.31</b>
	\$
152400	31,221.31
	\$
<b>Ellenburg</b>	<b>109,365.74</b>
	\$
93600	109,365.74

SLIC Network Solutions, Inc.  
2025 Special Franchise Requested Values

	\$
<b>Essex</b>	<b>21,690.43</b>
	\$
152600	21,690.43
	\$
<b>Fine</b>	<b>83,286.50</b>
	\$
403600	83,286.50
	\$
<b>Hampton</b>	<b>44,142.04</b>
	\$
533600	44,142.04
	\$
<b>Hopkinton</b>	<b>16,747.89</b>
	\$
404600	16,747.89
	\$
<b>Johnsburg</b>	<b>3,887.81</b>
	\$
523000	3,887.81
	\$
<b>Keene</b>	<b>38,974.09</b>
	\$
153000	38,974.09
	\$
<b>Lake George</b>	<b>241.92</b>
	\$
522289	241.92
	\$
<b>Lawrence</b>	<b>26,749.90</b>
	\$
404800	26,749.90
	\$
<b>Lewis</b>	<b>31,327.78</b>
	\$
153200	31,327.78
	\$
<b>Lisbon</b>	<b>74,701.09</b>
	\$
405000	74,701.09
	\$
<b>Long Lake</b>	<b>68,732.72</b>
	\$
203200	68,732.72
	\$
<b>Louisville</b>	<b>40,418.81</b>

SLIC Network Solutions, Inc.  
2025 Special Franchise Requested Values

	\$
405200	40,418.81
	\$
<b>Madrid</b>	<b>53,676.85</b>
	\$
405600	53,676.85
	\$
<b>Malone, T</b>	<b>31,356.97</b>
	\$
164899	31,356.97
	\$
<b>Malone, V</b>	<b>6,979.27</b>
	\$
164801	6,979.27
	\$
<b>Massena, T</b>	<b>12,101.79</b>
	\$
405889	12,101.79
	\$
<b>Massena, V</b>	<b>41,458.55</b>
	\$
405801	41,458.55
	\$
<b>Minerva</b>	<b>125,528.70</b>
	\$
153400	125,528.70
	\$
<b>Moir</b>	<b>7,783.94</b>
	\$
165000	7,783.94
	\$
<b>Newcomb</b>	<b>77,508.38</b>
	\$
153800	77,508.38
	\$
<b>Norfolk</b>	<b>32,730.52</b>
	\$
406200	32,730.52
	\$
<b>North Hudson</b>	<b>38,688.58</b>
	\$
154200	38,688.58
	\$
<b>Norwood</b>	<b>597.41</b>
	\$
406201	597.41

SLIC Network Solutions, Inc.  
2025 Special Franchise Requested Values

	\$
<b>Ogdensburg</b>	<b>24,261.52</b>
	\$
401200	24,261.52
	\$
<b>Oswegatchie</b>	<b>33,217.01</b>
	\$
406400	33,217.01
	\$
<b>Parishville</b>	<b>2,066.92</b>
	\$
406600	2,066.92
	\$
<b>Piercefield</b>	<b>32,761.50</b>
	\$
406800	32,761.50
	\$
<b>Pierrepoint</b>	<b>23,062.48</b>
	\$
407000	23,062.48
	\$
<b>Potsdam, T</b>	<b>65,895.74</b>
	\$
407489	65,895.74
	\$
<b>Potsdam, V</b>	<b>50,253.19</b>
	\$
407403	50,253.19
	\$
<b>Putnam</b>	<b>50,670.08</b>
	\$
534600	50,670.08
	\$
<b>Russell</b>	<b>4,050.05</b>
	\$
407800	4,050.05
	\$
<b>Saranac</b>	<b>6,556.34</b>
	\$
94400	6,556.34
	\$
<b>Saranac Lake</b>	<b>36,556.78</b>
	\$
154003	36,556.78
	\$
<b>Schroon</b>	<b>130,962.69</b>

SLIC Network Solutions, Inc.  
2025 Special Franchise Requested Values

	\$
154600	130,962.69
	\$
<b>Stockholm</b>	<b>44,378.43</b>
	\$
408000	44,378.43
	\$
<b>Stony Creek</b>	<b>392.56</b>
	\$
523600	392.56
	\$
<b>Thurman</b>	<b>77,904.21</b>
	\$
523800	77,904.21
	\$
<b>Ticonderoga</b>	<b>3,763.36</b>
	\$
154800	3,763.36
	\$
<b>Tupper Lake</b>	<b>14,567.35</b>
	\$
162000	14,567.35
	\$
<b>Waddington</b>	<b>19,218.27</b>
	\$
408200	19,218.27
	\$
<b>Warrensburg</b>	<b>18,327.90</b>
	\$
524000	18,327.90
	\$
<b>Waverly</b>	<b>576.55</b>
	\$
165400	576.55
	\$
<b>Whitehall</b>	<b>28,307.19</b>
	\$
535289	28,307.19
	\$
<b>Willsboro</b>	<b>65,716.07</b>
	\$
155200	65,716.07
	\$
<b>Grand Total</b>	<b>2,346,005.59</b>

\* Any jurisdiction not listed but included in DOTF values this year should be valued at \$0.



## RESOLUTION 25-18

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on December 10, 2024, the tentative special franchise full values for Corning Natural Gas Corporation were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notices of the tentative special franchise full values and the scheduled hearing dates were duly mailed on December 10, 2024

**WHEREAS**, complaints (#SF-25-03), dated January 7, 2025 were filed by Corning Natural Gas Corporation as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4.2; and

**WHEREAS**, hearings pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 were held with regard to the complaints on January 30, 2025; and

**WHEREAS**, appearances on behalf of Corning Natural Gas Corporation were made at the January 30, 2025 hearing; and

**WHEREAS**, the Hearing Officer has filed reports dated March 28, 2025; and

**WHEREAS**, ORPTS staff has reviewed the complaints, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated May 16, 2025; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

25-19

-2-

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2025 final special franchise full values as set forth in List No. SF-25-03, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to the affected municipalities to be used as the special franchise full values on the respective 2025 assessment roll.

Voting in favor:

Voting against:

Abstaining:

Absent:

STATE OF NEW YORK    )  
                                      ) ss:  
COUNTY OF ALBANY    )

I, Rachel Ingalsbe, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 04, 2025.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 4<sup>th</sup> day of June 2025.

---

Rachel Ingalsbe, Director of the Office of Real  
Property Tax Services



**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

**RECEIVED**

JAN 07 2025

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-03	01/16/2025

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Corning Natural Gas Corporation

Company Name

330 W William Street, Corning, NY, 14830

Street Address, City, State, Zip

(607 ) 936-3755

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
Steuben County	City of Corning	\$ 23,467,600	\$17,661,313

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

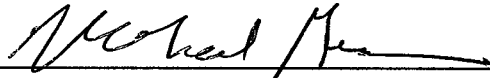


**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, Michael German on behalf of complainant, hereby designate  
Charles Lenno to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

1/2/25

Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Charles Lenno, Senior VP & CFO

Contact Person and Title

330 W William Street, Corning, NY 14830

Street Address, City, State, Zip

( 607 ) 936-3755

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☐ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages 4.)*

☐ **2. Valuation**

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

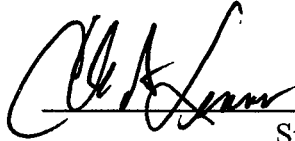
☐ **3. Other**

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

1/3/2025  
Date

 SR VP & CFO  
Signature and Title

Clear Form

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Project Name: S2025E00  
Inventory Year: 2024

N.Y.S. Office of Real  
Property Tax Services

Assessment Analysis for the 2025 Roll

Company: 111900 - Corning Natural Gas Corp.

MUN: 460300: Steuben County, City of Corning

SWS: 460300: City of Corning

REVAL Municipal Market Level: 01/2024

	ORIGINAL		RCN		FUNCT		ECON		RCNLD	INTANG	UA	TENTATIVE	
	COST		OBSOL		OBSOL		OBSOL					ASSD VALUE	EQ RATE
CURR YEAR	20,182,743	52,025,411	-	-	7,176,995	16,820,298	841,015	17,661,313	17,661,313	100.00			
PRIOR YEAR	18,422,723	63,678,362	-	-	5,029,517	22,223,565	1,111,178	23,334,743	23,334,743	100.00			
DIFFERENCE	1,760,020	(11,652,951)	-	-	2,147,478	(5,403,267)	(270,163)	(5,673,430)	(5,673,430)	-			
PCT DIFF	9.55	(18.30)	-	-	42.70	(24.31)	(24.31)	(24.31)	(24.31)	-			
RunTotals													
CURR YEAR	20,182,743	52,025,411	-	-	7,176,995	16,820,298	841,015	17,661,313	17,661,313				
PRIOR YEAR	18,422,723	63,678,362	-	-	5,029,517	22,223,565	1,111,178	23,334,743	23,334,743				
DIFFERENCE	1,760,020	(11,652,951)	-	-	2,147,478	(5,403,267)	(270,163)	(5,673,430)	(5,673,430)				
PCT DIFF	9.55	(18.30)	-	-	42.70	(24.31)	(24.31)	(24.31)	(24.31)				

In its 2024 ORPTS filing, the Company misclassified special franchise gas mains additions for the years 2014 through 2023 as Distribution Mains - Other (Swiss Code 20376000). These additions should have been coded as Distribution Mains - Plastic (Swiss Code 20376200). The total assets that were misclassified equals \$6,538,169.40.

Year	Should have been booked to	Weight
2014	20376200	
2014	249,549.65	3.82%
2015	272,459.00	4.17%
2016	1,140,877.41	17.45%
2017	598,069.99	9.15%
2018	768,166.11	11.75%
2019	310,977.62	4.76%
2020	314,380.80	4.81%
2021	959,573.60	14.68%
2022	603,911.25	9.24%
2023	1,320,203.97	20.19%
<b>Total</b>	<b>6,538,169.40</b>	<b>100.00%</b>

**Step 1:** having corrected the misclassification of plastic mains on our 2024 ORPTS filing, we next calculated the impact of this error on the RCN calculation. We determined that the error makes up 32.39% of the total original cost of special franchise property situated in the City of Corning. We assumed that this misclassified property also equals 32.39% of the RCN value, or \$21,796,131. We reduced RCN by \$21,796,131 to account for this error.

\$ 6,538,169 Total error noted in filing above  
 \$ 20,182,743 Total Original Cost per Assessment  
 32.39% This is the % of the cost that is in the wrong category

Based on this factor we conclude that the assessed value is therefore incorrect by this percentage category:

\$ 67,282,703 Total RCN Assessment  
 \$ (21,796,131) Valuation error at 32.39%  
 \$ 45,486,572 Value of removed mains out of steel

We then increased RCN for the value of the increase in the Distribution Mains - Plastic account. We assumed that the infilor index for plastic was 30% of the infilor index for steel. Accordingly, we increased RCN by 30% of the reduction in the Distribution Mains - Other account, or \$6,538,839. This adjustment resulted in a tentative restatement of RCN from \$67,282,703, to \$52,025,411.

\$ 45,486,572 Total RCN Assessment  
 \$ 6,538,839 Increase assumed at 30% the value of steel  
 \$ 52,025,411 Restated RCN.

**Step 2:** Next, we make the argument that because of the New York State Climate Act, there should be a reduction in the depreciable lives in the assets being depreciated. The only assets for which bwe have specific placed is neservice dates are the plastic gas mains, for which we have placed in service dates and amounts from 2014 through 2023. We used the above referenced RCN value of plastic mains in the amount of \$6,538,839, less salvage value of 5% and we recalculated depreciation using the year 2050 as the end point.

\$ 52,025,411 NEW RCN Assessment  
 53.60% Original allocation of value of steel  
 \$ 27,884,411 NEW RCN of value of Steel  
 30.00% Assumed value of plastic  
 \$ 6,538,839 NEW RCN of plastic  
 -5.00% less assumption for intangible assets  
 \$ 6,211,897 New Value of Asset for Depreciation

Now we take the \$6,211,897 amount and need to compare how ORPTS is calculating depreciation vs. how it should be calculated taking the climate act into consideration. We note that ORPTS is taking mains over 55 years for all additions, whereas we can trace our plastic mains and depreciate each year's additions over the remaining lives under the climate act as follows:

ORPTS Calculation of Depreciation:

# of Depreciation Years	55	55	55	55	55	55	55	55	55	55	55	55	55	55	55	TOTAL
Year	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023						
Amount of Depreciation per year	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 4,310.84	\$ 43,108.45
		\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 4,706.59	\$ 42,359.33
			\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 19,708.08	\$ 157,664.67
				\$ 10,331.36	\$ 10,331.36	\$ 10,331.36	\$ 10,331.36	\$ 10,331.36	\$ 10,331.36	\$ 10,331.36	\$ 10,331.36	\$ 10,331.36	\$ 10,331.36	\$ 10,331.36	\$ 10,331.36	\$ 72,319.51
					\$ 13,269.68	\$ 13,269.68	\$ 13,269.68	\$ 13,269.68	\$ 13,269.68	\$ 13,269.68	\$ 13,269.68	\$ 13,269.68	\$ 13,269.68	\$ 13,269.68	\$ 13,269.68	\$ 79,618.10
						\$ 5,371.98	\$ 5,371.98	\$ 5,371.98	\$ 5,371.98	\$ 5,371.98	\$ 5,371.98	\$ 5,371.98	\$ 5,371.98	\$ 5,371.98	\$ 5,371.98	\$ 26,859.91
							\$ 5,430.77	\$ 5,430.77	\$ 5,430.77	\$ 5,430.77	\$ 5,430.77	\$ 5,430.77	\$ 5,430.77	\$ 5,430.77	\$ 5,430.77	\$ 21,723.08
								\$ 16,576.15	\$ 16,576.15	\$ 16,576.15	\$ 16,576.15	\$ 16,576.15	\$ 16,576.15	\$ 16,576.15	\$ 16,576.15	\$ 49,728.45
									\$ 10,432.26	\$ 10,432.26	\$ 10,432.26	\$ 10,432.26	\$ 10,432.26	\$ 10,432.26	\$ 10,432.26	\$ 20,864.53
																\$ 22,805.86
																\$ 537,051.88

CNG Calculation of Depreciation:

# of Depreciation Years	36	35	34	33	32	31	30	29	28	27	TOTAL
Year	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
Amount of Depreciation per year	\$ 6,586.01	\$ 6,774.18	\$ 6,973.43	\$ 7,184.74	\$ 7,409.26	\$ 7,648.27	\$ 7,903.22	\$ 8,175.74	\$ 8,467.73	\$ 8,781.35	\$ 75,903.94
		\$ 7,396.07	\$ 7,613.61	\$ 7,844.32	\$ 8,089.46	\$ 8,350.41	\$ 8,628.75	\$ 8,926.30	\$ 9,245.09	\$ 9,587.50	\$ 75,681.50
			\$ 31,880.72	\$ 32,846.81	\$ 33,873.27	\$ 34,965.95	\$ 36,131.49	\$ 37,377.40	\$ 38,712.31	\$ 40,146.10	\$ 285,934.04
				\$ 17,218.93	\$ 17,757.02	\$ 18,329.83	\$ 18,940.82	\$ 19,593.96	\$ 20,293.74	\$ 21,045.36	\$ 133,179.66
					\$ 22,807.27	\$ 23,542.99	\$ 24,327.75	\$ 25,166.64	\$ 26,065.45	\$ 27,030.84	\$ 148,940.93
						\$ 9,530.94	\$ 9,848.63	\$ 10,188.24	\$ 10,552.11	\$ 10,942.93	\$ 51,062.84
							\$ 9,956.41	\$ 10,299.74	\$ 10,667.58	\$ 11,062.68	\$ 41,986.41
								\$ 31,437.53	\$ 32,560.30	\$ 33,766.23	\$ 97,764.06
									\$ 20,491.95	\$ 21,250.91	\$ 41,742.85
											\$ 46,456.38
											\$ 998,652.62

INCREASE IN DEPRECIATION \$ 461,600.74

As such we should have an additional \$461,601 in depreciation, which should then be used to further reduce our RCNLD, giving us a NEW Tentative Assessment of:

\$ 23,467,600	Original Tentative Assessment
\$ 17,661,313	NEW Tentative Assessment
\$ (5,806,286)	Reduction in Assessment

Summary

We calculated the updated RCNLD number of \$17,281,899 by first taking the updated and corrected RCN value of \$52,025,411 and multiplying it by 33.22%. That percentage factor is the ratio of the original assessment analysis RCNLD amount of \$22,350,095 divided by the original assessment RCN of \$67,282,703. Therefore, the new RCNLD has to be that % of the new RCN of \$52,025,411 multiplied by 33.22%. Then, we further calculated the additional depreciation due to the climate act, which our calculation came up with an additional depreciation amount of \$461,601. The new RCNLD is now a total of \$16,820,298, with the calculation shown below:

\$ 17,281,899
\$ (461,601)
\$ 16,820,298



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
December 10, 2024

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**  
For city and town assessment roll to be filed in 2025

Corning Nat. Gas Corporation 111900  
C/O Chuck Lenks, CFO  
330 W William Street  
Corning, NY 14830-0058

Hearing Date and Location:  
January 16, 2025 at 10:00 am  
CR 219B, Bldg 9, 2nd Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	Full Value Number	Full Value Tentative	Pct Change From Prior Roll
City of Corning, Steuben County	111900-4603	\$23,467,600	0.6

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.



## Board of Real Property Tax Services

### RESOLUTION 25-19

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on December 05, 2024, December 19, 2024, and February 12, 2025, the tentative special franchise full values for Cablevision and its subsidiaries or affiliates were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notices of the tentative special franchise full values and the scheduled hearing dates were duly mailed on December 05, 2024, December 20, 2024, and February 13, 2025

**WHEREAS**, complaints (#SF-25-05, SF-25-06, SF-25-07, SF-25-08, SF-25-09, SF-25-10, SF-25-11, SF-25-12, SF-25-14, SF-25-15, SF-25-16, SF-25-19, SF-25-20, SF-25-21, SF-25-22, SF-25-23, SF-25-24, SF-25-25, SF-25-26, SF-25-27, SF-25-28, SF-25-29, SF-25-30, SF-25-31, SF-25-32, SF-25-33, SF-25-34, SF-25-35, SF-25-36, SF-25-37, SF-25-38, SF-25-39, SF-25-40, SF-25-41, SF-25-42), dated January 10, 2025, January 24, 2025, and March 10, 2025 were filed by Cablevision and its subsidiaries or affiliates as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4.2; and

**WHEREAS**, hearings pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 were held with regard to the complaints on January 16, 2025, January 30, 2025, and March 20, 2025; and

**WHEREAS**, appearances on behalf of Cablevision and its subsidiaries or affiliates were made at the January 16, 2025, January 30, 2025, and March 20, 2025 hearing; and

**WHEREAS**, the Hearing Officer has filed reports dated February 19, 2025, March 28, 2025, and April 23, 2025; and

**WHEREAS**, ORPTS staff has reviewed the complaints, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated May 16, 2025; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it



25-18

-2-

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2025 final special franchise full values as set forth in List No. SF-25-05, SF-25-06, SF-25-07, SF-25-08, SF-25-09, SF-25-10, SF-25-11, SF-25-12, SF-25-14, SF-25-15, SF-25-16, SF-25-19, SF-25-20, SF-25-21, SF-25-22, SF-25-23, SF-25-24, SF-25-25, SF-25-26, SF-25-27, SF-25-28, SF-25-29, SF-25-30, SF-25-31, SF-25-32, SF-25-33, SF-25-34, SF-25-35, SF-25-36, SF-25-37, SF-25-38, SF-25-39, SF-25-40, SF-25-41, SF-25-42, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to the affected municipalities to be used as the special franchise full values on the respective 2025 assessment roll.

Voting in favor:

Voting against:

Abstaining:

Absent:

STATE OF NEW YORK    )  
  ) ss:  
COUNTY OF ALBANY    )

I, Rachel Ingalsbe, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 04, 2025.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 4<sup>th</sup> day of June 2025.

---

Rachel Ingalsbe, Director of the Office of Real  
Property Tax Services

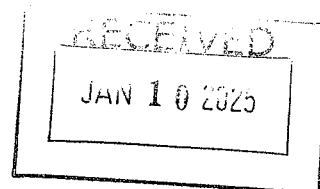


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-05	01/16/2025

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of Ossining

Company Name

C/O Laura La Neve, Vice President - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
Rockland	Village of Haverstraw	9,074	5,250

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )


Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.  
January 3, 2025   
 Date Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel  
 Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
 Street Address, City, State, Zip  
(212 ) 287-7033 ( )  
 Telephone Number Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **2. Valuation**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **3. Other**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



January 3, 2025

Date

David Prebut, Senior Vice President - Tax

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Section 1.b Attachment

Company ID	SWIS Code	SWIS Name	County	Value Inc per mile	Mileage Added CY22	YOY Increase	2025 Full Value	2025 Equalized Value	2024 Full Value	2024 Equalized Value	Cost Per Mile	Value of Fiber Added	2025 Opinion of Value
928300	382201	VILLAGE OF HAVERSTRAW	ROCKLAND	53,628	2.8	173.9%	219,179	9,074	69,021	3,313	19,000	53,200	5,250

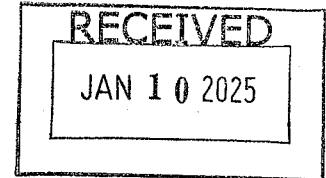


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-06	01/16/2025

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Suffolk Cable of Shelter Islan

Company Name

C/O Laura La Neve, Vice President - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
Suffolk	Dering Harbor	71,466	29,177

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

January 3, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.



**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **2. Valuation**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **3. Other**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



January 3, 2025

Date

David Prebut, Senior Vice President - Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Section 1.b Attachment

Company ID	SWIS Code	SWIS Name	County	Value Inc per mile	Mileage Added CY22	YOY Increase	2025 Full Value	2025 Equalized Value	2024 Full Value	2024 Equalized Value	Cost Per Mile	Value of Fiber Added	2025 Opinion of Value
843580	473201	VILLAGE OF DERING HARBOR	SUFFOLK	53,779	1.2	931.1%	71,466	71,466	6,831	6,931	19,000	22,800	29,177

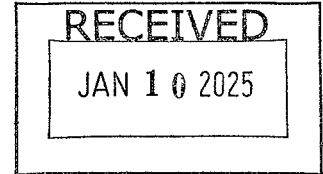


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-07	01/16/2025

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

CSC Acquisition MA

Company Name

C/O Laura La Neve, Vice President - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
Nassau	Village of Lawrence	597,176	262,051
Nassau	Village of Lynbrook	1,135,802	492,314

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

January 3, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **2. Valuation**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **3. Other**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



January 3, 2025

Date

David Prebut, Senior Vice President - Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

## Section 1.b Attachment

Company ID	SWIS Code	SWIS Name	County	Value Inc per mile	Mileage Added CY22	YOY Increase	2025 Full Value	2025 Equalized Value	2024 Full Value	2024 Equalized Value	Cost Per Mile	Value of Fiber Added	2025 Opinion of Value
927350	282023	VILLAGE OF LAWRENCE	NASSAU	53,880	9.4	558.3%	597,176	597,176	50,708	90,708	19,000	178,600	262,051
927350	282025	VILLAGE OF LYNBROOK	NASSAU	53,656	18.2	613.2%	1,135,802	1,135,802	159,254	159,254	19,000	345,800	492,314



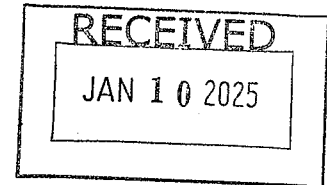


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-08	01/16/2025

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cblvsn. System, L.I.Corp.

Company Name

C/O Laura La Neve, Vice President - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See attached	See attached	See attached	See attached

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**


<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)**

**3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

January 3, 2025  
 Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel  
 Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
 Street Address, City, State, Zip  
( 212 ) 287-7033 ( )  
 Telephone Number Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in the Section 1.b attachment, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in such attachment. Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **2. Valuation**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in the Section 1.b attachment, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in such attachment. Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **3. Other**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in the Section 1.b attachment, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in such attachment. Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



January 3, 2025

Date

David Prebut, Senior Vice President - Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

# Section 1.b Attachment

Company ID	SWIS Code	SWIS Name	County	Value Inc per mile	Mileage Added CY22	YOY Increase	2025 Full Value	2025 Equalized Value	2024 Full Value	2024 Equalized Value	Cost Per Mile	Value of Fiber Added	2025 Opinion of Value
923500	282007	VILLAGE OF FLORAL PARK	NASSAU	53,554	21.7	1411.1%	1,244,476	1,244,476	82,354	82,354	19,000	412,300	485,066
923500	282033	VILLAGE OF STEWART MANOR	NASSAU	53,668	0.8	1316.2%	46,196	46,196	3,262	3,262	19,000	15,200	18,201
923500	282267	VILLAGE OF WILLISTON PARK	NASSAU	54,478	1.2	224.7%	94,463	94,463	29,090	29,090	19,000	22,800	49,563
923500	282403	VILLAGE OF BROOKVILLE	NASSAU	53,554	13.4	1581.1%	763,012	763,012	45,387	45,387	19,000	254,600	296,356
923500	282405	VILLAGE OF CENTRE ISLAND	NASSAU	53,645	6.7	1891.1%	378,426	378,426	19,006	19,006	19,000	127,300	144,796
923500	282411	VILLAGE OF LATTINGTOWN	NASSAU	53,581	15.4	1924.4%	868,017	868,017	42,877	42,877	19,000	292,600	332,047
923500	282421	VILLAGE OF MATINECOCK	NASSAU	53,539	17.6	3491.7%	969,279	969,279	26,987	26,987	19,000	334,400	359,228
923500	282429	VILLAGE OF MUTTONTOWN	NASSAU	53,593	37.4	2148.7%	2,097,676	2,097,676	93,282	93,282	19,000	710,600	796,419
923500	282431	VILLAGE OF OLD WESTBURY	NASSAU	54,029	8.4	423.2%	561,092	561,092	107,248	107,248	19,000	159,600	258,268



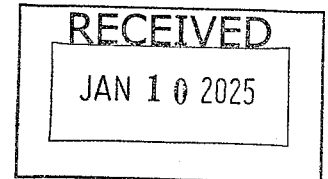
**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-09	01/16/2025

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: *Complete this section.***



**a. Complainant Information**

Cblvsn. System, L.I. Corp.

Company Name

C/O Laura La Neve, Vice President - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See attached	See attached	See attached	See attached

**2. Assessing Units: *Complete this section.***

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

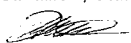
Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

Type text here

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.  
January 3, 2025   
 Date Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel  
 Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
 Street Address, City, State, Zip  
(212 ) 287-7033 ( )  
 Telephone Number Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
(Check one or more)☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in the Section 1.b attachment, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in such attachment. Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **2. Valuation**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in the Section 1.b attachment, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in such attachment. Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **3. Other**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in the Section 1.b attachment, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in such attachment. Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*



### PART FOUR: CERTIFICATION

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



January 3, 2025

David Prebut, Senior Vice President - Tax

Date

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

# Section 1.b Attachment

Company ID	SWIS Code	SWIS Name	County	Value Inc per mile	Mileage Added CY22	YOY Increase	2025 Full Value	2025 Equalized Value	2024 Full Value	2024 Equalized Value	Cost Per Mile	Value of Fiber Added	2025 Opinion of Value
923500	282003	VILLAGE OF CEDARHURST	NASSAU	53,728	7.9	995.9%	462,931	8,055	38,482	735	19,000	150,100	3,288
923500	282005	VILLAGE OF EAST ROCKAWAY	NASSAU	53,591	22	1868.1%	1,240,221	16,867	61,214	857	19,000	418,000	6,473
923500	282009	VILLAGE OF FREEPORT	NASSAU	53,719	75.5	1194.8%	4,372,705	53,347	316,923	4,120	19,000	1,434,500	21,291
923500	282013	VILLAGE OF HEMPSTEAD	NASSAU	53,667	59.4	981.6%	3,487,325	54,751	289,527	5,062	19,000	1,128,600	22,376
923500	282021	VILLAGE OF ISLAND PARK	NASSAU	53,518	22.1	1992.9%	1,238,929	13,876	56,186	663	19,000	419,900	5,313
923500	282027	VILLAGE OF MALVERNE	NASSAU	53,610	24.3	1899.3%	1,365,192	13,555	86,471	678	19,000	461,700	5,195
923500	282029	VILLAGE OF ROCKVILLE CTR	NASSAU	53,918	57	1954.7%	3,225,521	30,965	152,222	1,507	19,000	1,083,000	11,783
923500	282035	VILLAGE OF VALLEY STREAM	NASSAU	53,625	85.3	1585.3%	4,848,081	47,996	273,846	2,848	19,000	1,620,700	18,665
923500	282203	VILLAGE OF EAST HILLS	NASSAU	53,510	34.3	21066.8%	1,843,945	20,099	8,559	95	19,000	651,700	7,191
923500	282241	VILLAGE OF ROSLYN	NASSAU	53,436	26.9	2506.5%	1,488,904	21,738	51,481	834	19,000	511,100	8,229
923500	282245	VILLAGE OF ROSLYN ESTATES	NASSAU	55,033	9	3560.9%	495,294	842			19,000	171,000	291
923500	282415	VILLAGE OF OLD BROOKVILLE	NASSAU	53,903	23.7	1892.6%	1,345,000	1,076	67,500	54	19,000	450,300	410

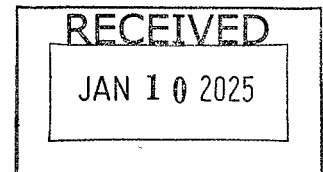


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-10	01/16/2025

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of Rockland/Ramapo

Company Name

C/O Laura La Neve, Vice President - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
Rockland	Sprng Valley Clarkstown	59,098	28,979

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number


( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.  
January 3, 2025   
 Date Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
Street Address, City, State, Zip  
(212 ) 287-7033 ( )  
 Telephone Number Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **2. Valuation**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **3. Other**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



January 3, 2025

David Prebut, Senior Vice President - Tax

\* Date

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Section 1.b Attachment

Company ID	SWIS Code	SWIS Name	County	Value Inc per mile	Mileage Added CY22	YOY Increase	2025 Full Value	2025 Equalized Value	2024 Full Value	2024 Equalized Value	Cost Per Mile	Value of Fiber Added	2025 Opinion of Value
919120	392003	VILLAGE OF SPRING VALLEY	ROCKLAND	53,032	21.5	383.3%	1,361,705	59,098	221,522	12,228	19,000	408,500	28,579



**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-11	01/16/2025

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cblvsn System Great Neck Corp.

Company Name

C/O Laura La Neve, Vice President - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
Nassau	Village of Kings Point	18,701	6,903
Nassau	Village of Saddle Rock	2,916	1,084

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

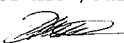
Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>



**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.  
January 3, 2025   
 Date Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel  
 Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
 Street Address, City, State, Zip  
(212 ) 287-7033 ( )  
 Telephone Number Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **2. Valuation**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **3. Other**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



January 3, 2025

David Prebut, Senior Vice President - Tax

Date

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Section 1.b Attachment

Company ID	SWIS Code	SWIS Name	County	Value Inc per mile	Mileage Added CY22	YOY Increase	2025 Full Value	2025 Equalized Value	2024 Full Value	2024 Equalized Value	Cost Per Mile	Value of Fiber Added	2025 Opinion of Value
911200	282217	VILLAGE OF KINGS POINT	NASSAU	53,700	42.4	3855.2%	2,337,625	18,701	60,732	498	19,000	805,600	6,503
911200	282249	VILLAGE OF SADDLE ROCK	NASSAU	53,588	4.4	3213.6%	243,000	2,916	7,213	88	19,000	83,600	1,084



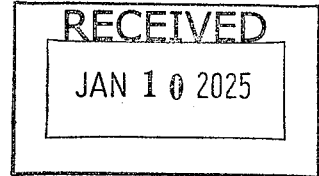
**New York State Department of Taxation and Finance  
Office of Real Property Tax Services  
Complaint on Tentative Special Franchise Full Values  
for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number <b>SF-25-12</b>	Hearing Date <b>01/16/2025</b>

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**



**a. Complainant Information**

Cblvsn System Great Neck Corp.

Company Name

C/O Laura La Neve, Vice President - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
Nassau	Village of Plandome	886,427	331,169

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

January 3, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

(212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **2. Valuation**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

☒ **3. Other**

Based on Complainant's review of the ORPTS tentative special franchise assessments, Complainant believes that ORPTS overstated Complainant's property value by using a cost of \$50,000 per mile of fiber installed in the assessing units noted above. Complaint's average cost for each fiber mile of inventory added within the assessing units named above is \$19,000. This cost estimate is based on complainant's actual cost per mile of new build in suburban areas for aerial build types and using an average fiber cable strand count of 155. This estimate also includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. Based on a cost of \$19,000 per fiber mile multiplied by the number of miles of new build in the assessing units indicated in Section 1.b, and 8% year over year depreciation, the company's assessment should be reduced to the amounts indicated in Section 1.b.

Complainant hereby incorporates by reference all information already provided to ORPTS. Additional facts, figures, and calculations based on complainant's actual cost for new build is attached. Complainant reserves the right to provide additional information before, during and after the hearing.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 1.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



January 3, 2025

Date

David Prebut, Senior Vice President - Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.



Section 1.b Attachment

Company ID	SWIS Code	SWIS Name	County	Value Inc per mile	Mileage Added CY22	YOY Increase	2025 Full Value	2025 Equalized Value	2024 Full Value	2024 Equalized Value	Cost Per Mile	Value of Fiber Added	2025 Opinion of Value
911200	282233	VILLAGE OF FLANDOME	NASSAU	53,556	16	2901.6%	886,427	886,427	29,532	29,532	19,000	304,000	331,169



**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number SF-25-14	Hearing Date 01/30/2025

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

CSC Acquisition MA

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
Nassau County	Town of Hempstead	\$3,062,631	\$1,385,898

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number


**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

January 15, 2025  
 Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel  
 Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
 Street Address, City, State, Zip  
( 212 ) 287-7033  
 Telephone Number  
( )  
 Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages × 9.)*

☒ **2. Valuation**

See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages × 9.)*

☒ **3. Other**

See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages × 9.)*

### PART FOUR: CERTIFICATION

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



January 15, 2025

David Prebut, Senior Vice President, Tax

Date

Signature and Title

Clear Form

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services ("ORPTS") in the Notices of Special Franchise Assessment dated December 19, 2024 ("Notices"). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant's estimate of assessment is attached hereto as Exhibit A. The information illustrates that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

In calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State. In calendar year 2022, Complainant expanded its network by 2,376 miles using fiber optic cable. The 2022 buildout consisted of 2,374 miles of aerial overbuild and 2 miles of underground build. In calendar year 2023, Complainant expanded its network by about 600.9 miles, also using fiber optic cable. The buildout consisted of 600.2 miles of aerial overbuild and 0.70 miles of underground build.

Complainant's actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant's customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant's valuation expert. See Exhibit B. In addition, Complainant's \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant's "special franchise" or "real property" under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the

Attachment 1  
Form 7141

Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer.” *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant’s actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) (“[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review.”). Moreover, there is nothing about Complainant’s cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) (“In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.”).

As Complainant’s actual costs are the most reliable indicator of the value of Complainant’s property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant’s values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).



# Exhibit A

			Calendar Year 2023, 2025 Assessment Roll					Calendar Year 2022, 2024 Assessment Roll					2023 Assessment Roll	2025 Opinion of Value				
Company ID	SWIS Code	SWIS Name	CY 23 Fiber Added	Construction Type	ORPTS Indicated Value Per Mile Added	YOY Increase	2025 Full Value	CY 22 Fiber Added	Construction Type	Value per mile added	YOY Increase	2024 Full Value	2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value; New Fiber @ 22.7K + one yr dep't	25 Roll Added Value; New Fiber @ 22.7K	Total 2025 Opinion of Full Value	
927350	TOWN OF HEMPSTEAD		26.90				3,062,631	27.60				1,661,305	230,888		196,255	577,668	611,975	1,385,898
282023	VILLAGE OF LAWRENCE		12.70	Aerial Overlashing	52,639	117.5%	1,237,525	9.4	Aerial Overlashing	51,661	582.3%	569,012	83,396	70,887	196,742	286,925	556,554	
282025	VILLAGE OF LYNBROOK		14.20	Aerial Overlashing	52,311	68.6%	1,825,106	18.2	Aerial Overlashing	51,363	633.8%	1,082,293	147,492	125,368	380,926	323,050	829,344	

# Exhibit B

**From:** David Perkins  
**To:** Ahmadi, Cyavash  
**Cc:** Diane Cates; David Prebut; Laura La Neve  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM

---



This is the first time you received an email from this sender david.perkins@ctaspilc.com. Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

New York State  
Department of Taxation & Finance  
Date 1/17/25 Time 12:45  
Rec'd By P. Garland  
TIA



**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-15	01/30/2025

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cblvsn System Great Neck Corp

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
Nassau County	Town of N. Hempstead	\$7,358,952	\$3,245,542

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

January 15, 2025  
 Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel  
 Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
 Street Address, City, State, Zip  
( 212 ) 287-7033  
 Telephone Number  
( )  
 Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.



**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages <sup>9</sup> \_\_.)*

☒ **2. Valuation**

See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages ~~x~~ <sup>9</sup> \_\_.)*

☒ **3. Other**

See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages <sup>9</sup> \_\_.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

January 15, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services ("ORPTS") in the Notices of Special Franchise Assessment dated December 19, 2024 ("Notices"). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant's estimate of assessment is attached hereto as Exhibit A. The information illustrates that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

In calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State. In calendar year 2022, Complainant expanded its network by 2,376 miles using fiber optic cable. The 2022 buildout consisted of 2,374 miles of aerial overbuild and 2 miles of underground build. In calendar year 2023, Complainant expanded its network by about 600.9 miles, also using fiber optic cable. The buildout consisted of 600.2 miles of aerial overbuild and 0.70 miles of underground build.

Complainant's actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant's customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant's valuation expert. See Exhibit B. In addition, Complainant's \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant's "special franchise" or "real property" under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the

Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer.” *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant’s actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) (“[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review.”). Moreover, there is nothing about Complainant’s cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) (“In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm’s length transaction.”).

As Complainant’s actual costs are the most reliable indicator of the value of Complainant’s property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant’s values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Calendar Year 2023, 2025 Assessment Roll								Calendar Year 2022, 2024 Assessment Roll					2023 Assessment Roll	2025 Opinion of Value			
Company ID	SWIS Code	SWIS Name	CY 23 Fiber Added	Construction Type	ORPTS Indicated Value Per Mile Added	YOY Increase	2025 Full Value	CY 22 Fiber Added	Construction Type	Value per mile added	YOY Increase	2024 Full Value	2023 Full Value	23 Roll Value1 Depreciated fwdadd'l years	24 Roll Added Value: New Fiber @22.7k - one yr depr	25 Roll Added Value: New Fiber @22.7k	Total 2025 Opinion of Full Value
911200		TOTAL NASSAU COUNTY ASSESSING UNIT, TOWN OF NORTH HEMPSTEAD	7.40				7,358,852	133				7,355,215	345,298	293,592	2,783,690	198,359	3,245,542
		282207 VILLAGE OF FLOWER HILL				-2.9%	1,705,773	34.0	Aerial Overlashing	51,025	7795.3%	1,757,102	22,255	18,917	711,620	-	730,537
		282211 VILLAGE OF GREATNECK ESTATES	4.70	Aerial Overlashing	53,622	2318.6%	262,893	-		8.0%	10,871	10,066	8,556	-	-	106,925	115,481
		282213 VILLAGE OF GREATNECK PLAZA				-1.7%	220,316	3.4	Aerial Overlashing	51,946	372.4%	224,041	47,426	40,312	71,162	-	111,474
		282215 VILLAGE OF KENSINGTON				4.8%	8,409			7.3%	8,081	7,531	6,401	-	-	-	6,401
		282217 VILLAGE OF KINGS POINT				-2.8%	2,164,376	42.4	Aerial Overlashing	51,208	3882.4%	2,227,132	55,924	47,535	887,432	-	904,967
		282219 VILLAGE OF LAKE SUCCESS	2.70	Aerial Overlashing	46,394	17.8%	827,296	11.1	Aerial Overlashing	51,123	2065.8%	702,132	32,419	27,556	274,183	61,425	363,164
		282225 VILLAGE OF MUNSEY PARK				2.8%	568,657	11.1	Aerial Overlashing	51,082	3133.0%	585,106	18,098	15,383	232,323	-	247,706
		282229 VILLAGE OF NORTH HILLS				-0.8%	256,133	3.4	Aerial Overlashing	52,879	229.2%	258,233	78,443	66,677	71,162	-	137,839
		282233 VILLAGE OF PLANDOME				-2.8%	826,610	16.0	Aerial Overlashing	51,084	3006.4%	844,531	27,187	23,109	334,880	-	357,989
		282236 VILLAGE OF PLANDOME HEIGHTS				4.9%	5,763			8.3%	5,452	5,071	4,310	-	-	-	4,310
		282237 VILLAGE OF PLANDOME MANOR				4.9%	5,146			7.8%	4,907	4,552	3,869	-	-	-	3,869
		282247 VILLAGE OF RUSSELL GARDE NS				-2.9%	270,209	5.2	Aerial Overlashing	51,058	2090.8%	278,203	12,647	10,750	108,836	-	119,586
		282249 VILLAGE OF SADDLE ROCK				-2.8%	225,045	4.4	Aerial Overlashing	51,103	3390.9%	231,484	6,831	5,636	92,092	-	97,728
		282253 VILLAGE OF THOMASTON				1.5%	18,166	-		5.0%	17,900	17,648	14,491	-	-	-	14,491

# Exhibit B



**From:** David Perkins  
**To:** Ahmadi Cyavash  
**Cc:** Diane Cates; David Prebut; Laura La Neve  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM

---



This is the first time you received an email from this sender david.perkins@ctaspilc.com. Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

New York State  
Department of Taxation & Finance  
Date 1/17/25 Time 12:45  
Rec'd By P. Garland  
TIA



**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-16	01/30/2025

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cblvsn. System, L.I. Corp.

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
Nassau County	City of Glen Cove	\$4,116,457	\$1,958,915
Nassau County	Town of Hempstead	\$87,696,884	\$42,391,457
Nassau County	Town of N. Hempstead	\$32,102,388	<del>\$14,436,430</del> \$14,436,430
Nassau County	Town of Oyster Bay	\$48,754,161	<del>\$30,578,645</del> \$30,578,645
Nassau County	City of Long Beach	\$2,440,981	\$1,056,546

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Ted Friedman and Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

January 15, 2025  
 Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel  
 Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
 Street Address, City, State, Zip  
(212 ) 287-7033  
 Telephone Number  
( )  
 Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages × 9.)*

☒ **2. Valuation**

See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages × 9.)*

☒ **3. Other**

See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages × 9.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

January 15, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services ("ORPTS") in the Notices of Special Franchise Assessment dated December 19, 2024 ("Notices"). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant's estimate of assessment is attached hereto as Exhibit A. The information illustrates that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

In calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State. In calendar year 2022, Complainant expanded its network by 2,376 miles using fiber optic cable. The 2022 buildout consisted of 2,374 miles of aerial overbuild and 2 miles of underground build. In calendar year 2023, Complainant expanded its network by about 600.9 miles, also using fiber optic cable. The buildout consisted of 600.2 miles of aerial overbuild and 0.70 miles of underground build.

Complainant's actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant's customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant's valuation expert. See Exhibit B. In addition, Complainant's \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant's "special franchise" or "real property" under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.



ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the

Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer.” *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant’s actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) (“[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review.”). Moreover, there is nothing about Complainant’s cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) (“In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm’s length transaction.”).

As Complainant’s actual costs are the most reliable indicator of the value of Complainant’s property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant’s values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Company ID	SWS Code	SWS Name	Calendar Year 2022, 2025 Assessment Roll					Calendar Year 2022, 2025 Assessment Roll					2023 Assessment Roll					2025 Option of Value				
			CY 23 Fiber Added	Construction Type	ORPTS Indicated Value Per Mile Added	YOY Increase	2025 Full Value	CY 22 Fiber Added	Construction Type	Value per mile added	YOY Increase	2024 Full Value	2023 Full Value	2023 Full Value	2023 Full Value	2023 Full Value	2023 Full Value	23 Roll Value: Depreciated woodstl years	24th roll Added Value: New Fiber @22.7% + one Yr depr	25th Roll Added Value: New Fiber @22.7%	Total 2025 Option of Full Value	
923590	280690	CITY OF GLEN COVE	75.50	Aerial Overlashing	50,612	1294.3%	4,116,457	49.1	Aerial Overlashing	51,040	4183.2%	295,225	263870	263870	263870	263870	263870	241,290	1,096,733	1,717,625	1,868,935	
923590	281090	CITY OF GLEN BEACH	75.50	Aerial Overlashing	50,612	1294.3%	4,116,457	49.1	Aerial Overlashing	51,040	4183.2%	295,225	263870	263870	263870	263870	263870	241,290	1,096,733	1,717,625	1,868,935	
923500	281090	TOTAL TOWN OF HEMPSTEAD	280.40	Aerial Overlashing	50,612	1294.3%	4,116,457	1,225.70	Aerial Overlashing	51,040	4183.2%	295,225	12,186,418.00	12,186,418.00	12,186,418.00	12,186,418.00	12,186,418.00	10,358,456.00	25,633,901.00	6,379,100.00	42,391,457	
282001		VILLAGE OF BELLEVILLE	3.60	Aerial Overlashing	53,644	1822.1%	203,719	-	Aerial Overlashing	51,327	1138.3%	441,101	9,841	9,841	9,841	9,841	9,841	8,365	-	81,900	90,265	
282003		VILLAGE OF CEDARHURST	-	Aerial Overlashing	430,690	-2.4%	430,690	7.9	Aerial Overlashing	51,327	1138.3%	441,101	35,621	35,621	35,621	35,621	35,621	30,278	165,347	-	195,625	
282005		VILLAGE OF EAST ROCKAWAY	4.60	Aerial Overlashing	46,551	18.1%	1,395,868	22.0	Aerial Overlashing	51,139	1985.2%	1,181,732	56,672	56,672	56,672	56,672	56,672	48,171	480,460	104,650	613,281	
282007		VILLAGE OF FLORAL PARK	15.30	Aerial Overlashing	51,374	66.3%	1,971,794	21.7	Aerial Overlashing	51,133	1465.5%	1,185,766	64,755	64,755	64,755	64,755	64,755	45,181	346,975	-	867,611	
282009		VILLAGE OF FREEPORT	7.10	Aerial Overlashing	37,971	6.5%	4,436,014	75.5	Aerial Overlashing	51,307	1323.3%	4,166,423	282,730	282,730	282,730	282,730	282,730	248,821	1,586,215	161,525	1,990,561	
282011		VILLAGE OF GARDEN CITY	5.30	Aerial Overlashing	53,267	123.0%	511,802	0.1	Aerial Standard	105,110	4.8%	229,485	218,974	218,974	218,974	218,974	186,128	2,093	126,575	-	308,796	
282013		VILLAGE OF HEMPSTEAD	-	Aerial Overlashing	-	-	-	-	Aerial Overlashing	-	-	-	-	-	-	-	-	-	-	-	-	
282016		VILLAGE OF HEMPSTEAD	24.60	Aerial Overlashing	50,208	37.2%	4,558,106	59.4	Aerial Overlashing	51,283	1100.7%	3,322,982	276,754	276,754	276,754	276,754	235,241	1,243,242	559,650	-	2,638,133	
282015 or		VILLAGE OF HEWLETT BAY PARK	-	Aerial Overlashing	-	-2.6%	349,655	6.7	Aerial Overlashing	51,229	2161.1%	359,113	15,882	15,882	15,882	15,882	13,500	140,231	-	-	153,731	
282017		VILLAGE OF HEWLETT HARBOR	-	Aerial Overlashing	-	-0.8%	161,452	2.3	Aerial Overlashing	52,885	295.7%	162,769	41,134	41,134	41,134	41,134	34,964	48,133	-	-	83,103	
282018		VILLAGE OF HEWLETT NECK	-	Aerial Overlashing	-	-2.4%	135,023	2.5	Aerial Overlashing	51,355	1287.5%	134,360	9,873	9,873	9,873	9,873	8,416	52,235	-	-	60,601	
282021		VILLAGE OF ISLAND PARK	-	Aerial Overlashing	-	-2.8%	1,147,424	22.1	Aerial Overlashing	51,052	2167.7%	1,180,538	52,050	52,050	52,050	52,050	44,250	462,553	-	-	506,803	
282025		VILLAGE OF LYNN BROOK	-	Aerial Overlashing	-	4.9%	10,380	-	Aerial Overlashing	-	8.9%	8,900	9,124	9,124	9,124	9,124	7,755	-	-	-	7,755	
282027		VILLAGE OF MALVERNE	1.90	Aerial Overlashing	8,643	0.5%	3,090,090	24.3	Aerial Overlashing	51,148	2015.6%	1,304,562	61,664	61,664	61,664	61,664	52,414	508,599	-	-	561,013	
282029		VILLAGE OF ROCKVILLE	-	Aerial Overlashing	-	4.6%	31,495	57.0	Aerial Overlashing	51,456	2090.3%	3,073,285	140,314	140,314	140,314	140,314	119,267	1,193,010	43,225	-	1,355,502	
282033		VILLAGE OF S O F LORAL PARK	6.50	Aerial Overlashing	53,336	787.5%	290,790	0.8	Aerial Overlashing	51,233	1350.4%	44,021	27,875	27,875	27,875	27,875	23,779	16,744	147,875	-	23,779	
282035		VILLAGE OF VALLEY STREAM	27.10	Aerial Overlashing	49,042	28.8%	5,045,186	85.3	Aerial Overlashing	51,178	1721.1%	4,619,137	253,645	253,645	253,645	253,645	215,598	1,785,329	616,525	-	2,617,452	
282037		VILLAGE OF WOODBURGH	-	Aerial Overlashing	-	-1.0%	86,577	1.0	Aerial Overlashing	52,687	315.8%	69,371	16,684	16,684	16,684	16,684	14,181	20,930	-	-	35,111	
282039		VILLAGE OF WOODBURY	-	Aerial Overlashing	-	-2.9%	813,493	16.0	Aerial Overlashing	51,041	3825.4%	838,005	21,348	21,348	21,348	21,348	18,146	334,880	-	-	353,026	
282041		VILLAGE OF NEW HYDE PARK	15.40	Aerial Overlashing	48,949	31.9%	3,116,993	45.5	Aerial Overlashing	50,997	5418.2%	2,363,184	42,825	42,825	42,825	42,825	36,401	952,315	350,350	-	1,339,066	
282043		VILLAGE OF ATLANTIC BEACH	159.00	Aerial Overlashing	44,884	15.3%	56,960,377	13.6	Aerial Overlashing	51,094	3408.9%	715,287	29,408	29,408	29,408	29,408	28,648	15,948,660	3,844,750	-	301,995	
282089		TOWN OF NORTH HEMPSTEAD	119.40	Aerial Overlashing	44,884	15.3%	56,960,377	762.0	Aerial Overlashing	51,057	370.4%	49,498,815	10,593,575	10,593,575	10,593,575	10,593,575	8,928,039	15,948,660	3,844,750	-	28,771,449	
923500	282201	VILLAGE OF BAXTER ESTATES	119.40	Aerial Overlashing	44,884	15.3%	56,960,377	478.00	Aerial Overlashing	51,057	370.4%	49,498,815	2,018,290.00	2,018,290.00	2,018,290.00	2,018,290.00	1,715,540.00	10,800,540.00	2,716,350.00	-	14,436,400	
282203		VILLAGE OF EAST HILLS	7.20	Aerial Overlashing	46,997	19.3%	2,095,168	34.3	Aerial Overlashing	50,968	22163.2%	1,756,792	4,097	4,097	4,097	4,097	3,482	-	-	-	3,482	
282205		VILLAGE OF EAST WILLISTON	10.30	Aerial Overlashing	53,561	4665.3%	563,520	34.0	Aerial Overlashing	50,998	18652.4%	1,743,224	10,969	10,969	10,969	10,969	9,324	711,620	234,325	-	243,649	
282207		VILLAGE OF FLOWER HILL	-	Aerial Overlashing	-	-3.0%	1,691,210	64.8	Aerial Overlashing	51,121	2282.5%	3,457,791	9,296	9,296	9,296	9,296	7,902	711,620	-	-	719,522	
282209		VILLAGE OF GREAT NECK	-	Aerial Overlashing	-	-3.0%	3,555,591	11.0	Aerial Overlashing	51,101	2612.0%	583,626	145,133	145,133	145,133	145,133	123,363	1,356,264	-	-	1,479,627	
282221		VILLAGE OF MANOR HAVEN	-	Aerial Overlashing	-	-2.8%	567,529	11.0	Aerial Overlashing	51,101	2612.0%	583,626	21,520	21,520	21,520	21,520	18,292	230,230	-	-	248,522	
282223		VILLAGE OF MINEOLA	19.20	Aerial Overlashing	52,274	108.6%	1,928,175	16.0	Aerial Overlashing	51,245	764.0%	924,509	104,582	104,582	104,582	104,582	88,895	334,880	436,800	-	860,575	
282227		VILLAGE OF NEW HYDE PARK	-	Aerial Overlashing	-	-2.3%	514,860	8.4	Aerial Overlashing	51,431	455.1%	526,950	9,429	9,429	9,429	9,429	8,090	175,812	-	-	256,502	
282231		VILLAGE OF OLDFIELD	-	Aerial Overlashing	-	-1.5%	186,646	-	Aerial Overlashing	-	3.1%	189,578	183,878	183,878	183,878	183,878	156,296	-	-	-	156,296	
282239		VILLAGE OF PORT WASHINGTON	-	Aerial Overlashing	-	4.7%	28,071	-	Aerial Overlashing	-	7.9%	26,812	24,849	24,849	24,849	24,849	21,122	-	-	-	21,122	
282241		VILLAGE OF ROSHYN	5.60	Aerial Overlashing	45,772	18.1%	1,674,873	26.9	Aerial Overlashing	50,973	2807.7%	1,418,546	47,384	47,384	47,384	47,384	40,276	563,017	127,400	-	720,693	
282243		VILLAGE OF ROSHYN ESTATES	1.00	Aerial Overlashing	40,247	8.1%	511,928	9.0	Aerial Overlashing	51,082	3848.8%	471,681	11,946	11,946	11,946	11,946	10,153	188,370	22,750	-	221,773	
282245		VILLAGE OF ROSLYN HARBOR	1.90	Aerial Overlashing	53,151	1455.0%	170,393	1.0	Aerial Overlashing	52,324	306.3%	69,407	17,083	17,083	17,083	17,083	14,521	20,930	43,225	-	76,576	
282251		VILLAGE OF SANDS POINT	-	Aerial Overlashing	-	1.6%	64,489	-	Aerial Overlashing	-	5.9%	63,492	59,965	59,965	59,965	59,965	50,962	-	-	-	50,962	
282255		VILLAGE OF WESTBURY	22.10	Aerial Overlashing	47,686	27.6%	4,876,561	64.7	Aerial Overlashing	50,812	614.3%	3,822,096	535,167	535,167	535,167	535,167	454,892	1,354,171	502,775	-	2,311,838	
282257		VILLAGE OF WILLISTON PARK	21.30	Aerial Overlashing	53,475	1264.9%	1,229,060	1.2	Aerial Overlashing	52,531	234.4%	90,045	27,008	27,008	27,008	27,008	22,957	25,116	484,575	-	532,648	
282259		VILLAGE OF FLORAL PARK	-	Aerial Overlashing	-	4.6%	17,622	-	Aerial Overlashing	-	7.6%	16,838	15,621	15,621	15,621	15,621	13,278	-	-	-	13,278	
282261		VILLAGE OF GARDEN CITY	-	Aerial Overlashing	-	170.0%	11,846	-	Aerial Overlashing	-	4.9%	13,415	14,110	14,110	14,110	14,110	11,954	-	-	-	11,954	
282289		TOWN OF OUTSIDE VILLAGES	30.80	Aerial Overlashing	43,762	12.0%	12,610,332	206.7	Aerial Overlashing	51,183	1549.3%	11,262,454	862,863	862,863	862,863	862,863	540,434	4,326,231	700,700	-	5,607,365	
923500	282401	VILLAGE OF BAYVILLE	90.60	Aerial Overlashing	48,754,161	-2.6%	1,217,492	481.60	Aerial Overlashing	51,182	1888.5%	1,250,301	22,193,774	22,193,774	22,193,774	22,193,774	18,856,207	9,661,268	2,661,150	-	36,576,645	
282403		VILLAGE OF BROOKVILLE	-	Aerial Overlashing	-	-2.7%	707,026	23.2	Aerial Overlashing	51,182	1888.5%	1,250,301	62,877	62,877	62,877	62,877	53,445	485,576	-	-	539,021	
282405		VILLAGE OF CENTRE ISLAND	-	Aerial Overlashing	-	-2.6%	351,147	13.4	Aerial Overlashing	51,170	1660.6%	726,968	41,2912	41,2912	41,2912	41,2912	35,097	280,482	-	-	315,559	
282407		VILLAGE OF COVENECK	-	Aerial Overlashing	-	-2.6%	510,411	6.7	Aerial Overlashing	51,192	1953.1%	360,550	17,561	17,561	17,561	17,561	14,927	140,231	-	-	155,158	
282409		VILLAGE OF EAST HILLS-OR	-	Aerial Overlashing	-	-2.9%	510,411	10.2	Aerial Overlashing	51,024	9614.8%	525,862	5,413	5,413	5,413	5,413	4,601	213,486	-	-	218,887	
282420		VILLAGE OF FARMINGDALE	5.20	Aerial Overlashing	45,196	26.1%	1,136,996	-	Aerial Overlashing	-	-1.2%	901,876	912,931	912,931	912,931	912,931	775,991	-	118,300	-	894,291	
282411		VILLAGE OF LAITINGTOWN	-	Aerial Overlashing	-	-2.7%	804,561	15.4	Aerial Overlashing	51,140	2003.0%	827,026	39,326	39,326	39,326	39,326	33,427	322,222	-	-	355,749	
282413		VILLAGE OF LAUREL HOLLOW	-	Aerial Overlashing	-	4.4%	49,789	-	Aerial Overlashing	-	7.8%	47,708	44,256	44,256	44,256	44,256	37,618	-	-	-	37,618	
282415		VILLAGE OF OLD BROOKVILLE	-	Aerial Overlashing	-	-2.7%	1,247,565	23.7	Aerial Overlashing	51,486	1981.6%	1,281,807</										

# Exhibit B

**From:** David Perkins  
**To:** Ahmadi, Cyavash  
**Cc:** Diane Cates; David Prebut; Laura La Neve  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM

---

 This is the first time you received an email from this sender david.perkins@ctaspilc.com. Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

**New York State**  
**Department of Taxation & Finance**

Date 11/17/25 Time 12:45

Rec'd By P. Garland

Title TIA



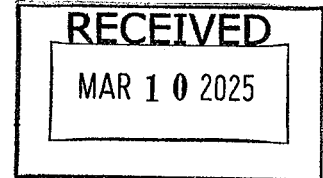


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF - 25-19	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of Rockland/Ramapo

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

March 5, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Calendar Year 2022-2024 Assessment Roll													Calendar Year 2022-2024 Assessment Roll													2023 Assessment Roll													2025 Option of Value												
Company ID	SWIS Name	County	23 Fiber Added	OPRTS Indicated		VOY	2025 Full Value	2025 Equalized Value	22 Fiber Added	VOY		2024 Roll Value	2024 Equalized Value	2023 Full Value	23 Roll Value	24 Roll Added Value: New Fiber @22.7K + one y depr	25 Roll Added Value: New Fiber @22.7K	Total 2025 Option of Full Value																																	
				Value Per Mile	Added					Increased	2024 Roll Value								2024 Equalized Value	2023 Full Value	23 Roll Value	24 Roll Added Value: New Fiber @22.7K + one y depr	25 Roll Added Value: New Fiber @22.7K																												
919120	TOTAL TOWN OF TUREDO	ORANGE	54.30	1,959,911	1,959,911	105.6%	1,959,911	1,959,911	-	-	3.7%	168,017	168,017	162,785	138,387	-	-	1,235,325	1,373,882																																
	VILLAGE OF TUREDO PARK	ORANGE	4.50	32,801	283.0%	197,941	197,941	-	-	3.0%	51,685	51,685	49,641	42,985	-	-	102,375	144,710																																	
	TOWN OF TUREDO	ORANGE	49.80	32,643	139.74%	1,741,970	1,741,970	-	-		116,332	116,332	112,944	96,002	-	-	1,132,550	1,228,592																																	
919120	TOWN OF CLARKSTOWN	ROCKLAND	35.01	12,381,573	12,381,573	12.1%	12,381,573	12,381,573	89.38	-3.8%	11,027,835	11,027,835	6,378,039	5,419,633	1,570,272	-	-	8,066,479	8,066,479																																
	VILLAGE OF UPPER NYACK	ROCKLAND	-	314,310	314,310	-7.4%	314,310	314,310	-	-3.8%	339,534	339,534	352,946	300,004	-	-	-	300,004																																	
	VILLAGE OF SPRING VALLEY	ROCKLAND	0.19	1,292,065	1,292,065	-5.1%	1,292,065	1,292,065	21.47	514.7%	1,361,706	1,361,706	221,524	188,295	448,400	-	-	642,114	642,114																																
	VILLAGE OF NYACK	ROCKLAND	0.22	334,732	334,732	-4.2%	334,732	334,732	4.21	192.6%	335,303	335,303	114,477	97,205	68,168	-	-	150,778	150,778																																
	TOWN OUTSIDE VILLAGES	ROCKLAND	34.60	10,420,426	10,420,426	15.3%	10,420,426	10,420,426	63.67	59.1%	8,991,292	8,991,292	5,597,092	4,834,028	1,232,704	-	-	6,553,882	6,553,882																																
919120	TOWN OF RANDVIEW ON HUDSON	ROCKLAND	3.07	7,568,789	7,568,789	-3.4%	7,568,789	7,568,789	106.20	765.5%	7,834,736	7,834,736	1,594,593	1,695,693	2,222,788	-	-	3,988,278	3,988,278																																
	VILLAGE OF NYACK	ROCKLAND	-	92,609	92,609	-4.9%	92,609	92,609	1.54	4.6%	97,368	97,368	11,240	9,354	-	-	-	43,874	43,874																																
	VILLAGE OF HENKONT	ROCKLAND	0.08	30,329	30,329	-0.8%	30,329	30,329	13.57	3276.4%	750,785	750,785	29,224	24,840	-	-	-	24,840	24,840																																
	TOWN OUTSIDE VILLAGES	ROCKLAND	2.99	673,022	673,022	-4.7%	673,022	673,022	91.00	250.0%	6,956,037	6,956,037	1,392,313	1,647,388	1,941,712	-	-	3,911,561	3,911,561																																
919120	TOWN OF RAMAPO	ROCKLAND	28.11	11,136,766	11,136,766	9.6%	11,136,766	11,136,766	91.79	8.2%	10,170,473	10,170,473	5,339,340	4,538,430	1,591,062	-	-	7,039,473	7,039,473																																
	VILLAGE OF HILLBURN	ROCKLAND	-	73,558	73,558	-4.1%	73,558	73,558	0.08	3.4%	76,707	76,707	70,894	60,260	1,674	-	-	61,934	61,934																																
	VILLAGE OF SCOUTSBURG	ROCKLAND	15.80	890,464	890,464	679.8%	890,464	890,464	-	-1.1%	127,009	127,009	122,833	104,408	-	-	-	463,858	463,858																																
	VILLAGE OF SPRING VALLEY	ROCKLAND	-	678,084	678,084	-5.2%	678,084	678,084	1.54	38.2%	715,652	715,652	723,005	614,554	-	-	-	614,554	614,554																																
	VILLAGE OF WESTLEY HILLS	ROCKLAND	8.70	53,911	752,657	158.2%	752,657	752,657	19.23	317.4%	291,457	291,457	321,990	273,892	32,180	-	-	197,925	409,366																																
	VILLAGE OF NEW HENPSTAD	ROCKLAND	-	1,288,760	1,288,760	-5.6%	1,288,760	1,288,760	16.78	320.7%	1,343,987	1,343,987	279,426	848,208	-	-	-	588,751	588,751																																
	VILLAGE OF CHENUT RIDGE	ROCKLAND	-	1,110,602	1,110,602	-5.5%	1,110,602	1,110,602	5.10	189.9%	1,619,579	1,619,579	997,892	123,409	-	-	-	1,106,599	1,106,599																																
	VILLAGE OF MONTEBELLO	ROCKLAND	-	1,513,871	1,513,871	-4.5%	1,513,871	1,513,871	36.71	130.1%	1,392,410	1,392,410	1,474,320	1,253,172	788,385	-	-	2,103,660	2,103,660																																
	VILLAGE OF MASER	ROCKLAND	-	400,140	400,140	-3.3%	400,140	400,140	-	1.8%	11,995	11,995	11,763	10,016	-	-	-	10,016	10,016																																
	VILLAGE OF AIRMONT	ROCKLAND	3.61	3,379,069	3,379,069	-0.4%	3,379,069	3,379,069	-	1.5%	995,832	995,832	995,832	833,048	-	-	-	833,048	833,048																																
	TOWN OUTSIDE VILLAGES	ROCKLAND	-	957,964	957,964	-3.8%	957,964	957,964																																											

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).



# Exhibit A



# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspilc.com](mailto:david.perkins@ctaspilc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

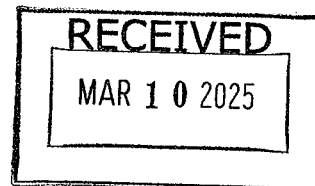


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-20	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cblvsn. System, L.I. Corp

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

March 5, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.



**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Calendar Year 2023-2025 Assessment Roll										Calendar Year 2022-2024 Assessment Roll										2023 Assessment Roll		2023 Option of Value		2025 Option of Value	
Company ID SWIS Name		County	23 Fiber Added	OFRS Indicated Value Per Mile Added	YOY Increase	2025 Full Value	2025 Equalized Value	22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Full Value: 24 Roll Added Value, New Dispatched two add'l Fiber @22.7K / mile, if 40W years	25 Roll Added @22.7K	Total 2025 Option of Full Value										
82550 CITY OF GLEN COVE		NASSAU	75.50		1229.7%	4,119,457	4,119,457	*	4.0%	295,225	295,225	283,870	241,200	1,717,625	1,958,825										

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant herby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Calendar Year 2023/2025 Assessment Roll						Calendar Year 2022/2024 Assessment Roll						2023 Assessment Roll		2025 Opinion of Value			
Company ID	SWIS Name	County	23 Fiber Added	OPRTS Indicated		22 Fiber Added	YOY		2023 Full Value	2024 Full Value	2024 Equalized Value	2023 Full Value	2023 Equalized Value	23 Roll Value Excludes two add'l years	24 Roll Added Value: New Fiber @ 22.7% + one y depr	25 Roll Added Value: New Fiber @ 22.7%	Total 2025 Opinion of Full Value
				Value Per Mile Added	Increase		YOY	2025 Full Value									
923500	CITY OF GLEN COVE	MASSAU	75.50		1250.7%			4,116,457			4,116,457			241,290		1,171,625	1,958,915



# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspilc.com](mailto:david.perkins@ctaspilc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.



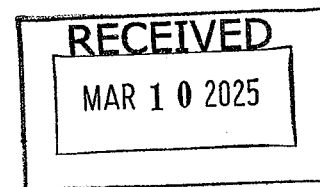
**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-21	03/20/25

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**



**a. Complainant Information**

Cblvsn. Sys., Huntington Corp.

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (Attach additional sheets, if needed.)**


<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.

March 5, 2025

Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, new York, NY 10036

Street Address, City, State, Zip

(212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.


*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

  
David Prebut, Senior Vice President, Tax

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.



Company ID	SWS Name	County	Operts Indicated				Columbia Year 2022/2024 Assessment Roll				2023 Assessment Roll		2025 Columbia of Value			
			23 Fiber Added	Value Per Mile	YOY Increase	2025 Full Value	2025 Equalized Value	22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value- Depreciated two add'l years	24 Roll Added Value New Fiber @22 TK	25 Roll Added Value New Fiber @22 TK	Total 2025 Option of Full Value
90690	TOWN OF HUNTINGTON	SUFFOLK	26.54	-	-10.5%	21,709,673	106,346	33.73	-17.0%	21,689,273	118,851	23,310,429	97,088	3,459	2,535	103,483
	VILLAGE OF SHARON	SUFFOLK	-	-	-17.2%	126,327	619	-	-15.2%	136,727	752	165,331	691	-	-	691
	VILLAGE OF HUNTINGTON BAY	SUFFOLK	-	-	-16.4%	187,765	920	-	-15.2%	197,818	1,068	233,276	972	-	-	972
	VILLAGE OF LYONS HARBOR	SUFFOLK	1.13	-	-14.6%	1,943,061	9,521	-	-17.2%	2,022,273	11,150	2,448,397	10,134	-	-	10,134
	VILLAGE OF NORTHPORT	SUFFOLK	0.23	-	-16.4%	1,038,163	5,067	0.13	-16.8%	1,106,909	6,086	1,327,229	5,524	14	25	5,539
	TOWN OUTSIDE VILLAGES	SUFFOLK	24.98	-	-9.6%	18,408,357	80,201	33.60	-5.2%	18,140,545	89,773	19,135,596	79,700	3,416	2,765	85,880

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

		Calendar Year 2023 2025 Assessment Roll					Calendar Year 2022 2024 Assessment Roll					2023 Assessment Roll		2025 Opinion of Value				
Company ID	SVS Name	County	23 Fiber Added	Value Per Mile Added	YOY Increase	2025 Full Value	2025 Equalized Value	22 Fiber Added	Value Per Mile Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22 Yr + one y depr	25 Roll Added Value: New Fiber @22 Yr	Opinion of Full Value	Total 2025
800605	TOWN OF HUNTINGTON	SUFFOLK	26.34		-10.5%	21,703,673	106,348	33.73		-17.6%	21,609,273	118,651	23,310,429	97,088	3,469	2,858	103,483	691
	VILLAGE OF FISHBORN	SUFFOLK	-		-17.7%	126,327	619	-		-15.2%	136,727	752	165,931	691	-	-	691	691
	VILLAGE OF HUNTINGTON BAY	SUFFOLK	-		-15.4%	187,755	920	-		-15.2%	197,818	1,008	233,276	972	-	-	126	10,323
	VILLAGE OF LUDLOW HARBOR	SUFFOLK	1.13		-14.6%	1,943,061	9,521	-		-17.2%	2,027,273	11,150	2,448,397	10,188	-	126	5,567	5,567
	VILLAGE OF NORTHPORT	SUFFOLK	0.23		-16.4%	1,038,163	5,087	0.13		-16.9%	1,106,509	6,088	1,327,229	5,528	14	25	2,785	2,785
	TOWN OUTSIDE VILLAGES	SUFFOLK	24.88		-9.6%	16,408,367	80,201	33.60		-5.2%	16,140,545	89,773	13,135,596	79,700	3,414	2,785	85,919	85,919

# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspilc.com](mailto:david.perkins@ctaspilc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-\$35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in



utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

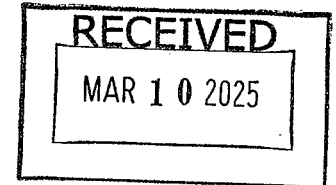


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
8F-25-22	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

a. Complainant Information  
 Cblvsn Sys East Hampton Corp

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) .662-1122

Telephone Number

( )

Fax Number

b. List of Assessing Units and Company's Estimates of Assessment (*Attach additional sheets, if needed.*)

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See Attached.			

**2. Assessing Units: Complete this section.**

a. Complainant Information

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

b. List of Companies and Assessing Unit's Estimates of Assessment (*Attach additional sheets, if needed.*)


<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.

March 5, 2025

Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

(212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**

*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.


*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

  
David Prebut, Senior Vice President, Tax

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

CHANDLER TWP 2023, 2025 Assessment Roll										CHANDLER TWP 2022, 2024 Assessment Roll										2023 Assessment Roll				2025 Comparison of Value			
Company ID	SWIS Name	County	23 Fiber Added	OPRTS Indicated Value Per Mile		YOY Increase	2023 Full Value	2023 Equalized Value	22 Fiber Added	YOY Increase		2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22.7K + one yr depx	25 Roll Added Value: New Fiber @22.7K	Total 2025 Opinion of Full Value									
				Added						Added																	
906040	TOWN OF EAST HAMPTON	SUFFOLK	4.44	76,626	0.0%	3,326,000	13,391	23.45	-	-19.9%	3,617,668	13,385	2,361,377	7,028	810	1,725	354	9,104									
	VILLAGE OF EAST HAMPTON	SUFFOLK	2.00	76,626	58.1%	382,571	1,339	23.45	-	-19.9%	228,919	847	272,189	6,215	-	-	159	869									
	TOWN OUTSIDE VILLAGES	SUFFOLK	2.44		-3.9%	3,443,429	12,052	23.45	62.2%	62.2%	3,389,649	12,538	2,089,179			1,725	195	8,135									

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complainant hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the



product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Calendar Year 2023 Assessment Roll										Calendar Year 2022-2024 Assessment Roll										2023 Assessment Roll					2025 Opinion of Value				
Company ID	SWIS Name	County	23 Fiber Added	ORFTS Indicated		YOY Increase	2023 Full Value	2023 Equalized Value		22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value		2023 Full Value		23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22.7K + one yr depr	Value New Fiber @22.7K	25 Roll Added Value New Fiber	Opinion of Full Value	Total 2025							
				Value Per Mile	Added										2023 Full Value	2023 Equalized Value							2023 Full Value	2023 Equalized Value					
906040	TOWN OF EAST HAMPTON	SUFFOLK	4.44			0.0%	3,828,000	13,391		23.55	-19.9%	3,617,568	13,385		2,361,377		7,025	1,725	354	9,104									
	VILLAGE OF EAST HAMPTON	SUFFOLK	2.00			58.1%	382,571	1,359			62.2%	228,519	647		272,198		810	-	159	969									
	TOWN OUTSIDE VILLAGES	SUFFOLK	2.44			-3.9%	3,449,429	12,052		23.55		3,389,549	12,538		2,089,172		6,215	1,725	195	8,135									

# Exhibit B

**From:** David Perkins  
**To:** Ahmadi, Cyavash  
**Cc:** Diane Cates; David Prebut; Laura La Neve  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender david.perkins@ctaspplc.com. Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 100 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.





**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number <b>SF-25-23</b>	Hearing Date <b>03/20/25</b>

**PART ONE: GENERAL INFORMATION**

**RECEIVED**

**MAR 10 2025**

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cblvsn.System-Westchster Corp.

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

March 5, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Calendar Year 2023, 2025 Assessment Roll										Calendar Year 2022, 2024 Assessment Roll										2023 Assessment Roll					2025 Opinion of Value				
Company ID	SWIS Name	County	23 Fiber Added	OpRTS Indicated Value Per Mile Added		YOY Increase	2023 Full Value	2025 Equalized Value		22 Fiber Added	YOY Increase		2024 Full Value	2024 Equalized Value						23 Roll Value: Depreciated two add'l years	2024 Opinion of Value:		25 Roll Added Value: New Fiber @22.7K	Opinion of Full Value	Total 2025				
																					24 Roll Added Value: New Fiber @22.7K + one yr depr	Value New Fiber @22.7K							
906000	TOWN OF PUNAH VALLEY	PUNAH	127.50	32,635	1,665.2%	4,444.129	4,444.129			-	2.3%	265,401	265,201						235,399	480,252	2,574	-	2,960,625	3,135,934					
906000	TOWN OF BEDFORD	WESTCHESTER	82.80	54,545	762.0%	5,109.017	4,405.352			0.12	4.9%	513,491	592,697	513,491					428,790	428,790	-	-	1,883,790	2,356,526	428,790				
906000	TOWN OF LEWISBORO	WESTCHESTER	-	-	-3.5%	486,352	486,352			-	1.8%	493,065	493,065	493,065					372,200	372,200	-	-	-	372,200					
906000	TOWN OF NORTH SALEM	WESTCHESTER	-	-	-5.3%	410,232	410,232			-	-1.1%	433,095	433,095	433,095					372,200	372,200	-	-	-	372,200					
906000	TOWN OF ROUND RIDGE	WESTCHESTER	-	-	-2.3%	376,323	376,323			-	2.8%	385,359	385,359	385,359					319,256	319,256	942	-	-	319,256					
906000	TOWN OF SOKERS	WESTCHESTER	51.40	53,980	324.7%	3,629,947	3,629,947			-	0.6%	854,400	854,400	854,400					722,627	722,627	-	-	1,169,350	1,851,977	320,197				
906000	TOWN OF YORKTOWN	WESTCHESTER	167.10	54,546	975.0%	10,049,498	10,049,498			0.02	1.9%	524,841	524,841	524,841					148,158	148,158	423	-	3,801,525	4,581,747	626,408				
906000	TOWN OF MOUNT NESCO	WESTCHESTER	16.60	54,192	531.0%	1,059,008	1,059,008			-	-2.8%	169,423	169,423	169,423					148,158	148,158	-	-	377,650	525,808	525,808				
906000	VILLAGE OF MOUNTAINSCO	WESTCHESTER	16.60	54,192	531.0%	1,059,008	1,059,008			-	-2.8%	169,423	169,423	169,423					148,158	148,158	-	-	377,650	525,808	525,808				

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Waier District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).



# Exhibit A

Calendar Year 2023 2023 Assessment Roll										Calendar Year 2022 2024 Assessment Roll										2023 Assessment Roll		2025 Opinion of Value			
Company ID	SWIS Name	County	23 Fiber Added	OPRTS Indicated		YOY Increase	2023 Full Value	2023 Equalized Value	22 Fiber Added	YOY Increase		2024 Full Value	2024 Equalized Value	2023 Full Value	2023 Equalized Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22.7K + one yr depr	25 Roll Added Value: New Fiber @22.7K	Total 2025 Options of Roll Value						
				Value Per Mile	Added					Value Per Mile	Added														
906000	TOWN OF BEDFORD VALLEY	PUNAM	22.30	22.953	1469.2%	4,444,129	4,444,129	-	0.12	2.3%	283,201	283,201	283,201	276,834	276,834	235,399	480,232	2,900,625	3,135,934						
906000	TOWN OF BEDFORD	PUNAM	62.80	64.145	762.0%	6,109,017	6,109,017	-	0.12	4.9%	919,687	919,687	919,687	964,412	964,412	428,750	372,200	1,883,700	3,206,266						
906000	TOWN OF LEWISBORO	WESTCHESTER	-	-	-3.5%	410,232	410,232	-	-	1.1%	433,065	433,065	433,065	437,882	437,882	319,255	722,627	1,883,700	428,750						
906000	TOWN OF NORTH SALEM	WESTCHESTER	-	-	-2.3%	376,323	376,323	-	-	1.1%	433,065	433,065	433,065	437,882	437,882	319,255	722,627	1,883,700	428,750						
906000	TOWN OF POUND RIDGE	WESTCHESTER	51.40	53.880	324.7%	3,628,947	3,628,947	0.05	0.05	2.6%	854,400	854,400	854,400	860,149	860,149	342	942	1,169,350	3,500,157						
906000	TOWN OF SOFERS	WESTCHESTER	16.60	54.546	978.0%	10,049,498	10,049,498	0.02	0.02	1.9%	169,423	169,423	169,423	174,303	174,303	148,156	423	3,801,525	4,981,747						
906000	TOWN OF YONKATOWN	WESTCHESTER	16.60	54.192	531.0%	1,069,008	1,069,008	-	-	-2.8%	169,423	169,423	169,423	174,303	174,303	148,156	-	377,650	525,809						
906000	TOWN OF MOUNT NISCO	WESTCHESTER	16.60	54.192	531.0%	1,069,008	1,069,008	-	-	-2.8%	169,423	169,423	169,423	174,303	174,303	148,156	-	377,650	525,809						

# Exhibit B

**From:** David Perkins  
**To:** Ahmadi, Cyavash  
**Cc:** Diane Cates; David Prebut; Laura La Neve  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender david.perkins@ctaspilc.com. Please note in case you are expecting this to be a familiar sender

**EXTERNAL**

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctasp LLC.com](mailto:David.perkins@ctasp LLC.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

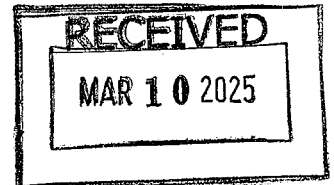


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
58-25-24	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of Brookhaven Inc.

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See Attached			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (Attach additional sheets, if needed.)**


<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.

March 5, 2025

Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, new York, NY 10036

Street Address, City, State, Zip

(212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.



**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.


*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

  
David Prebut, Senior Vice President, Tax

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Calendar Year 2023, 2023 Assessment Roll										Calendar Year 2022, 2024 Assessment Roll										2023 Assessment Roll		2023 Opinion of Value			
Company ID	SWIS Name	County	23 Fiber Added		YOY Increase	2025 Full Value	2025 Equalized Value	22 Fiber Added		YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two and 1/2 years	24 Roll Added Value: New Fiber @ 22.7% + one yr depr	25 Roll Added Value: New Fiber @ 22.7%	Total 2025 Opinion of Full Value								
			Value Per Mile	Added				Added	Added																
914006	TOWN OF BROOKHAVEN	SUFFOLK	28.17	25,679	0.7%	25,789,491	136,679	64.29	25,127,407	-14.9%	102,593	135,698	25,890,808	115,737	7,131	3,518	126,386								
	VILLAGE OF BELLPORT	SUFFOLK	-	93,962	-10.1%	59,962	488	-	102,593	-13.7%	425,370	554	120,555	543	-	-	543								
	VILLAGE OF PATCHOGUE	SUFFOLK	-	403,396	-6.9%	403,396	2,138	-	492,697	-16.0%	257,778	2,297	492,697	2,220	-	-	2,220								
	VILLAGE OF POQUOTT	SUFFOLK	-	240,000	-8.6%	240,000	1,272	-	306,878	-16.9%	3,050,928	1,392	306,878	1,382	-	-	1,382								
	VILLAGE OF LAKE GROVE	SUFFOLK	-	2,646,226	-8.4%	2,646,226	15,085	-	3,627,736	-	16,475	16,475	3,627,736	16,343	-	-	16,343								
	TOWN OUTSIDE VILLAGES	SUFFOLK	28.17	31,324	2.4%	22,204,906	117,686	64.29	21,290,741	0.7%	114,970	114,970	21,142,742	95,248	7,131	3,518	105,897								

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Calendar Year 2023 2025 Assessment Roll									
Company ID	SWIS Name	County	OPRTS Indicated				2023 2025 Equalized Value		
			23 Fiber Added	YOY Increase	2025 Full Value	2025 Equalized Value	2023 Full Value	2025 Equalized Value	
									Value Per Mile Added
604000	TOWN OF BROOKHAVEN	SUFFOLK	28.17	0.7%	25,788,491	136,679	25,890,806	126,386	
	VILLAGE OF BELFORT	SUFFOLK	-	-10.1%	93,962	498	120,555	543	
	VILLAGE OF PATCHOGUE	SUFFOLK	-	-8.9%	403,396	2,138	482,897	2,220	
	VILLAGE OF POQUOTT	SUFFOLK	-	-8.8%	240,000	1,272	306,878	1,382	
	VILLAGE OF LAKE GROVE	SUFFOLK	-	-8.4%	2,646,226	15,985	3,027,736	16,343	
	TOWN OUTSIDE VILLAGES	SUFFOLK	28.17	2.4%	22,204,806	117,686	21,142,742	105,697	
Calendar Year 2023 2024 2025 Assessment Roll									
Company ID	SWIS Name	County	OPRTS Indicated				2023 2024 2025 Equalized Value		
			22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	2024 Equalized Value	2025 Equalized Value
			64.29	-	25,127,407	135,688	25,890,806	126,386	
			-	-14.5%	102,693	554	120,555	543	
			-	-13.7%	425,370	2,297	482,897	2,220	
			-	-16.0%	257,778	1,382	306,878	1,382	
			-	-16.9%	3,050,026	16,473	3,027,736	16,343	
			64.29	0.7%	21,290,741	114,670	21,142,742	105,697	
2023 2024 2025 Equalized Value									
Company ID	SWIS Name	County	OPRTS Indicated				2023 2024 2025 Equalized Value		
			23 Roll Value	24 Roll Value	25 Roll Value	23 Roll Value	24 Roll Value	25 Roll Value	
									Depreciated two add'l years
			115,737	543	-	7,131	3,518	126,386	
			2,220	1,382	-	-	-	2,220	
			16,343	16,343	-	-	-	1,382	
			95,248	95,248	-	7,131	3,518	105,697	



# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctasp LLC.com](mailto:david.perkins@ctasp LLC.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

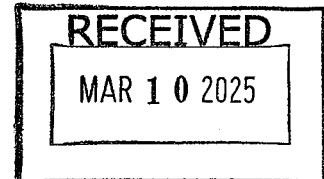


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number SF - 25 - 25	Hearing Date 03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of Dutchess County

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .


March 5, 2025

Date

Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT***(Check one or more)*☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.



Company ID	SWIS Name	County	23 Fiber Added	CRPTS Indicated		YOY Increase	2023 Full Value	2023 Equalized Value	Candidacy Year 2023-2024 Assessment Roll		2023 Full Value	2023 Option A Value		25 Roll Added Option of Full Value	Total 2025 Option of Full Value
				Value Per Mile	Added				22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Value: New Fiber @22.7K	
902000	TOWN OF AVENIA	DUTCHESS	-			-10.3%	514,472	514,472	0.09	-2.6%	573,753	573,753	589,065	500,709	502,501
902000	TOWN OF CLINTON	DUTCHESS	0.12			-7.0%	420,958	420,958	0.03	-3.4%	452,825	452,825	469,764	398,449	401,993
902000	TOWN OF DOVER	DUTCHESS	0.30			-4.9%	327,699	327,699	-	-4.2%	344,686	344,686	359,797	305,827	312,620
902000	TOWN OF NORTHEAST	DUTCHESS	0.50			-6.0%	248,226	248,226	0.18	-4.0%	282,254	282,254	273,181	232,204	247,381
902000	VILLAGE OF WILLESTON	DUTCHESS	0.50	14,278		6.3%	121,238	121,238	-	-4.0%	114,099	114,099	118,853	101,025	112,400
TOWN OUTSIDE VILLAGES		DUTCHESS	-			-13.6%	127,868	127,868	0.18	-4.0%	148,155	148,155	154,326	131,179	134,961
902000	TOWN OF PINE PLAINS	DUTCHESS	3.20			41.6%	283,559	283,559	-	-7.2%	198,851	198,851	215,357	183,053	225,553
902000	TOWN OF LINCOLNVALE	DUTCHESS	-			-4.6%	277,325	277,325	0.07	1.5%	280,208	280,208	286,016	243,115	244,580
902000	TOWN OF WASHINGTON	DUTCHESS	0.07			-8.3%	429,165	429,165	1.28	5.7%	473,210	473,210	446,602	379,612	407,584
902000	VILLAGE OF WILLBROOK	DUTCHESS	0.07			-5.2%	137,262	137,262	-	-6.7%	144,813	144,813	155,212	131,520	133,464
TOWN OUTSIDE VILLAGES		DUTCHESS	-			-11.0%	291,903	291,903	1.28	12.7%	328,397	328,397	320,397	267,692	274,510

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years. for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3.290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Calendar Year 2023, 2025 Assessment Roll									
Company ID	SWIS Name	County	23 Fiber Added	CRPTS Indicated		YOY Increase	2025 Full Value	2025 Equalized Value	
				Value Per Mile	Added				
902000	TOWN OF AMENIA	DUTCHESS	-	-	-	-10.3%	514,472	514,472	
902000	TOWN OF CLINTON	DUTCHESS	0.12	-	-	-7.0%	420,559	420,559	
902000	TOWN OF DOVER	DUTCHESS	0.30	-	-	-4.9%	327,659	327,659	
902000	TOWN OF NORTHEAST	DUTCHESS	0.50	-	-	-5.0%	248,226	249,226	
902000	VILLAGE OF MILLERTON	DUTCHESS	0.50	14,278	-	6.3%	121,238	121,238	
902000	TOWN OUTSIDE VILLAGES	DUTCHESS	-	-	-	-13.6%	127,988	127,988	
902000	TOWN OF PINE PLAINS	DUTCHESS	3.20	26,159	-	41.9%	283,559	283,559	
902000	TOWN OF UNIONDALE	DUTCHESS	-	-	-	-4.6%	277,325	277,325	
902000	TOWN OF WASHINGTON	DUTCHESS	0.07	-	-	-3.3%	429,165	429,165	
902000	VILLAGE OF MILLBROOK	DUTCHESS	0.07	-	-	-5.2%	137,252	137,252	
902000	TOWN OUTSIDE VILLAGES	DUTCHESS	-	-	-	-11.0%	291,903	291,903	
Calendar Year 2022, 2024 Assessment Roll									
			22 Fiber Added	YOY Increase		2024 Full Value	2024 Equalized Value		
				Value	Added				
			0.09	-	-	-2.6%	573,753	573,753	
			0.03	-	-	-4.2%	452,326	452,326	
			0.18	-	-	-4.0%	262,254	262,254	
			0.18	-	-	-4.0%	114,099	114,099	
			0.18	-	-	-4.0%	148,155	148,155	
			-	-	-	-7.2%	199,851	199,851	
			0.07	1.5%	-	290,308	290,308		
			1.28	-	-	473,210	473,210		
			-	-6.7%	-	144,813	144,813		
			1.28	12.7%	-	328,397	328,397		
2023 Assessment Roll									
			2023 Full Value						
			589,059						
			488,764						
			399,797						
			273,161						
			118,653						
			154,328						
			215,357						
			286,018						
			446,602						
			155,212						
			291,390						
2025 Option of Value									
			23 Roll Value:	24 Roll Added Value:	25 Roll Added				
			Depreciated two add'l years	Fiber @22.7K + one yr depr	Value: New Fiber @22.7K	Option of Value	Total 2025		
			500,709	1,792	-	502,501			
			399,449	703	-	401,993			
			309,827	-	6,793	312,620			
			232,204	3,782	11,375	247,361			
			101,025	-	11,375	112,400			
			131,179	3,782	-	134,961			
			183,053	-	72,800	255,853			
			243,115	1,485	-	244,580			
			379,612	26,828	1,554	407,994			
			131,930	-	1,554	133,484			
			247,682	26,828	-	274,510			

# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspplc.com](mailto:david.perkins@ctaspplc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in



utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.



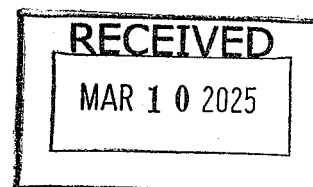
**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-24	03/20/25

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**



**a. Complainant Information**

Cblvsn. System-Suffolk Corp.

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (*Attach additional sheets, if needed.*)**


<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.

March 5, 2025

Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, new York, NY 10036

Street Address, City, State, Zip

(212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025  
Date

  
David Prebut, Senior Vice President, Tax  
Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the “Notice of Tentative Special Franchise Full Values” which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Company ID	SWIS Name	County	23 Fiber Added	Calendar Year 2023/2025 Assessment Roll				Calendar Year 2022/2024 Assessment Roll				2023 Assessment Roll		2025 Option of Value		
				ORFTS Indicated Value Per Mile Added	YOY Increase	2025 Full Value	2025 Equalized Value	23 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Full Value Depreciated two add'l years	24 Full Value: New Fiber @2.7K + one yr depr	25 Full Value: New Fiber @2.7K	Total 2025 Option of Full Value
943560	TOWN OF BABYTON	SUFFOLK	9.67	0.54	0.1%	10,014,179	67,008	3.53	-17.7%	67,018	67,018	79,860	445	-	1,474	2,423
	VILLAGE OF AMITYVILLE	SUFFOLK	-	-	5.8%	330,299	2,213	0.75	-3.2%	2,091	2,007	2,541	14	-	82	96
	VILLAGE OF BABYTON	SUFFOLK	-	-	-4.2%	286,866	1,922	0.23	-17.8%	2,007	2,007	2,073	12	106	-	117
	VILLAGE OF UNDERHURST	SUFFOLK	0.78	-	-3.3%	1,487,015	12,643	0.23	-17.8%	13,073	13,073	15,904	81	32	119	241
	TOWN/OUTSIDE VILLAGES	SUFFOLK	8.36	-	0.9%	7,510,060	50,317	2.55	-16.0%	49,847	49,847	69,342	336	357	1,274	1,989

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant herby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services ("ORPTS") in the Notices of Special Franchise Assessment dated December 19, 204 ("Notices"). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant's estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant's assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the "Cable Act"). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant's special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant's actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant's customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant's valuation expert. See Exhibit B. In addition, Complainant's \$35,000 figure is believed to include bundled intangible costs for software licenses, infeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant's "special franchise" or "real property" under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the



product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

			Calendar Year 2022, 2023 Assessment Roll					Calendar Year 2022, 2023 Assessment Roll					2023 Assessment Roll					2025 Opinion of Value				
Company ID	SWIS Name	County	23 Fiber Added	Value Per Mile Added	YOY Increase	2023 Full Value	2023 Equalized Value	22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22.7K * one y depr	25 Roll Added Value: New Fiber @22.7K	Total 2025 Opinion of Full Value						
943850	TOWN OF BABYLON	SUFFOLK	9.67	0.54	5.86%	10,014,179	67,095	3.53	-17.7%	67,018	67,018	79,860	455	494	1,474	2,423						
	VILLAGE OF AMITYVILLE	SUFFOLK	0.54	-	-4.2%	330,289	2,213	0.75	-3.2%	2,007	2,007	2,541	14	-	82	96						
	VILLAGE OF BABYLON	SUFFOLK	-	0.78	-3.3%	1,887,015	12,643	0.23	-17.6%	13,073	13,073	15,904	12	106	-	117						
	VILLAGE OF LINDENHURST	SUFFOLK	-	0.78	-3.3%	1,887,015	12,643	0.23	-17.6%	13,073	13,073	15,904	91	32	119	241						
	TOWN OUTSIDE VILLAGES	SUFFOLK	8.36	0.9%	7,510,000	50,317	2.55	-16.0%	49,847	49,847	49,847	59,342	338	357	1,274	1,969						

# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspllc.com](mailto:david.perkins@ctaspllc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.



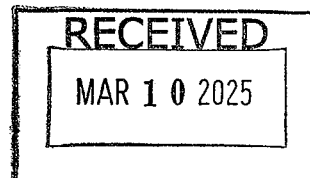


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-27	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Samson Cablevision Corp.

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

March 5, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

(212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Company ID	SWIS Name	County	Chandler Year 2023, 2023 Assessment Roll				Chandler Year 2022, 2024 Assessment Roll				2023 Assessment Roll		2025 Continuation of Value			
			23 Fiber Added	Value Per Mile Added	YOY Increase	2023 Full Value	2025 Equalized Value	22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value- Depreciated two add'l years	24 Roll Added Value: New Fiber @ 22.7K + one yr deprec	25 Roll Added Value: New Fiber @ 22.7K	Total 2025 Option of Full Value
943970	TOWN OF ISIP	SUFFOLK	8.59	-	-5.7%	21,069,008	21,069,008	0.18	-4.0%	22,352,916	22,352,916	23,324,438	19,035,772	3,767	155,379	20,024,918
	VILLAGE OF BRIGHTWATERS	SUFFOLK	-	-	-7.6%	495,505	495,505	-	-	494,223	494,223	514,816	497,594	-	-	497,594
	VILLAGE OF ISLANDIA	SUFFOLK	0.78	-	-2.3%	952,505	952,505	-	-3.5%	975,264	975,264	1,010,638	859,041	-	17,782	976,823
	TOWN OUTSIDE VILLAGES	SUFFOLK	7.81	-	-5.9%	19,659,598	19,659,598	0.18	-4.2%	20,883,429	20,883,429	21,798,986	18,529,138	3,767	177,596	19,710,501

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).




# Exhibit A

Calendar Year 2023 Assessment Roll										Calendar Year 2024 Assessment Roll										2025 Assessment Roll									
Company ID	SWIS Name	County	23 Fiber Added	OpRts Indicated		YOY Increase	2023 Full Value	2023 Equalized Value		22 Fiber Added	YOY Increase		2024 Full Value	2024 Equalized Value		2023 Full Value	23 Roll Value		24 Roll Added Value: New Fiber @22.7K + one y depr	25 Roll Added Value: New Fiber @22.7K	Total 2025								
				Value Per Mile	Added						Added	Added					Depreciated two ad1 years	Opinion of Full Value											
945370	TOWN OF ISLIP	SUFFOLK	8.59			-5.7%	21,069,008	21,069,008		0.18		-4.0%	22,352,916	22,352,916		23,324,438	19,825,772	437,594	3,767	195,579	20,024,918								
	VILLAGE OF BROOKHAVENS	SUFFOLK	-			-7.6%	459,505	459,505		-		-3.5%	484,223	484,223		514,616	899,041	-	-	-	437,594								
	VILLAGE OF BLANDIA	SUFFOLK	0.78			-2.3%	952,905	952,905		-		-4.2%	975,264	975,264		1,010,636	19,529,138	3,767	177,596	876,823	18,710,501								
	TOWN OUTSIDE VILLAGES	SUFFOLK	7.81			-5.9%	19,659,598	19,659,598		0.18		-4.2%	20,893,429	20,893,429		21,798,985													

# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM

 This is the first time you received an email from this sender [david.perkins@ctaspllc.com](mailto:david.perkins@ctaspllc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

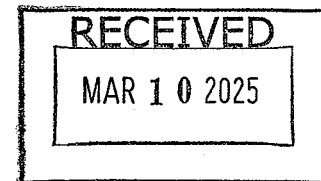


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SP-25-28	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Suffolk Cable of Shelter Island

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)**

**3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

March 5, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.



**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025  
\_\_\_\_\_  
Date

David Prebut, Senior Vice President, Tax  
\_\_\_\_\_  
Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the “Notice of Tentative Special Franchise Full Values” which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Company ID	SWIS Name	County	Caledonia Year 2023, 2025 Assessment Roll					Caledonia Year 2023, 2025 Assessment Roll					2023 Assessment Roll		2025 Option 1 Value	
			OPRTS Indicated	Value Per Mile	VOY	2023 Full Value	2025 Equalized Value	22 Fiber Added	VOY	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two auct years	24 Roll Added Value: New Fiber @ 2.7% + one yr. depre	25 Roll Added Value: New Fiber @ 2.7%	Total 2025 Option of Full Value
943580	TOWN OF SHELTER ISLAND	SUFFOLK	-	-	-4.4%	484,870	484,870	2.16	507,230	607,230	393,678	334,628	48,289	-	379,315	
943580	VILLAGE OF DENNIS HARBOR	SUFFOLK	-	-	-0.2%	67,775	67,775	1.25	71,466	71,466	6,932	5,801	26,075	-	31,866	
943580	TOWN OUTSIDE VILLAGES	SUFFOLK	-	-	-0.3%	417,085	417,085	0.92	435,864	435,864	396,727	328,725	19,214	-	347,949	
943580	TOWN OF SOUTHAMPTON	SUFFOLK	-	-	-2.8%	86,755	86,755	-	91,341	91,341	88,853	76,525	-	-	76,525	
943580	VILLAGE OF NORTH HAVEN	SUFFOLK	-	-	-2.8%	86,755	86,755	-	91,341	91,341	88,853	76,525	-	-	76,525	

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complainant hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Calendar Year 2023 Assessment Roll										Calendar Year 2022-2024 Assessment Roll										2023 Assessment Roll		2025 Opinion of Value			
Company ID	SWIS Name	County	23 Floor Added	OpRTS Indicated		YOY Increase	2023 Full Value	2023 Equilized Value		22 Floor Added	YOY Increase		2024 Full Value	2024 Equilized Value		2023 Full Value	2023 Full Value	23 Roll Value:		24 Roll Value:		25 Roll Value:			
				Value Per Mile	Added						Value	Added						Value	Value	Depreciated two add'l years	Fluor @22.7K + one y depr	Value: New Fluor @22.7K	Value: New Fluor @22.7K	Value: New Fluor @22.7K	Value: New Fluor @22.7K
943880	TOWN OF SHELTER ISLAND	SUFFOLK	-			-4.4%	464,870	464,870				2.1%	507,230	507,230		393,670	393,670	334,020	43,280	-	-	279,315			
	VILLAGE OF DENING HARBOR	SUFFOLK	-			-4.2%	67,775	67,775				1.2%	71,466	71,466		6,931	6,931	5,691	78,715	-	-	31,400			
	TOWN OUTSIDE VILLAGES	SUFFOLK	-			-4.3%	417,095	417,095		0.92		12.7%	435,864	435,864		396,742	396,742	328,735	19,214	-	-	347,949			
943880	TOWN OF SOUTHAMPTON	SUFFOLK	-			-2.8%	88,735	88,735				2.8%	91,341	91,341		89,653	89,653	78,535		-	-	75,525			
	VILLAGE OF NORTH HAVEN	SUFFOLK	-			-2.8%	89,735	89,735				2.8%	91,341	91,341		89,653	89,653	75,525		-	-	75,525			



# Exhibit B

**From:** David Perkins  
**To:** Ahmadi, Cyavash  
**Cc:** Diane Cates; David Prebut; Laura La Neve  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender david.perkins@ctaspilc.com. Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

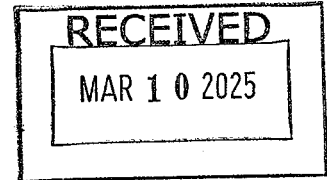


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-29	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

a. Complainant Information  
 Suffolk Cable Corp.

Company Name	
C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714	
Street Address, City, State, Zip	
( 516 ) 662-1122	( )
Telephone Number	Fax Number

b. List of Assessing Units and Company's Estimates of Assessment *(Attach additional sheets, if needed.)*

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See Attached.			

**2. Assessing Units: Complete this section.**

a. Complainant Information

Assessing Unit Name	
Street Address, City, State, Zip	
( )	( )
Telephone Number	Fax Number

b. List of Companies and Assessing Unit's Estimates of Assessment *(Attach additional sheets, if needed.)*


<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.

March 5, 2025

Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

(212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.


*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

  
David Prebut, Senior Vice President, Tax

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.



General Year 2023 2023 Assessment Roll										General Year 2022 2024 Assessment Roll										2023 Assessment Roll										2025 Option of Value									
Company ID	SWS Name	County	23 Fiber Added	OFRS Indicated		YOY Increase	2023 Full Value	2025 Equalized Value	Value Per Mile	22 Fiber Added	YOY Increase		2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @ 22.1K + one yr depr @ 22.1K	25 Roll Added Value: New Fiber @ 22.1K	Option of Full Value	Total 2025 Value																			
				Added	Value						Added	Value																											
943820	TOWN OF BROOKHAVEN	SUFFOLK	18.40	-	-	-4.4%	33,969,354	180,038	-	64.63	-8.7%	34,890,185	188,353	37,003,079	166,699	7,169	29	2,219	176,087	1,125																			
	VILLAGE OF BELLE TERRE	SUFFOLK	-	-	-	-8.0%	208,302	1,104	-	0.26	-15.5%	222,222	1,458	243,396	1,097	-	-	-	1,439	1,439																			
	VILLAGE OF OLD FIELD	SUFFOLK	-	-	-	-8.0%	251,208	1,342	-	-	-15.5%	270,000	1,458	319,527	1,439	-	-	-	1,439	1,439																			
	VILLAGE OF SHOREHAM	SUFFOLK	-	-	-	-2.6%	21,241	113	-	-	-8.7%	21,481	116	23,526	106	-	-	-	106	106																			
	VILLAGE OF PORT JEFFERSON	SUFFOLK	-	-	-	-7.2%	1,276,981	6,788	-	-	-15.0%	1,357,222	7,329	1,586,732	7,193	-	-	-	7,193	7,193																			
	TOWN OUTSIDE VILLAGES	SUFFOLK	18.40	-	-	-4.2%	32,209,623	170,711	-	64.37	-5.2%	33,099,259	170,250	34,819,894	156,884	7,141	2,219	-	166,223	166,223																			

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complainant hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, infeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A



# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspilc.com](mailto:david.perkins@ctaspilc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in



utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

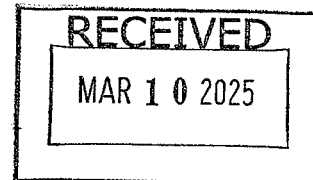


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-30	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision System Islip Corp.

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

March 5, 2025  
 Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel  
 Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
 Street Address, City, State, Zip  
(212 ) 287-7033  
 Telephone Number  
( )  
 Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Current Year 2023 Assessment Roll										Current Year 2022-2024 Assessment Roll										2023 Assessment Roll		2025 Option of Value			
Company ID	SWIS Name	County	20 Fiber Added	OPRS Indicated		2025 Full Value	2025 Equalized Value	22 Fiber Added	YOY		2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22 TK + one yr depr	25 Roll Added Value: New Fiber @22 TK	Total 2025 Option of Full Value								
				Value Per Mile	Added				YOY Increase	2023 Full Value								2023 Full Value							
944740	TOWN OF RIAP	SUFFOLK	-	-3.0%	4,339,658	4,339,658	-	-	-3.2%	4,680,641	4,680,641	4,339,373	4,110,067	-	-	-	4,110,067								
	TOWN OUTSIDE VILLAGES	SUFFOLK	-	-3.0%	4,339,658	4,339,658	-	-	-3.2%	4,680,641	4,680,641	4,339,373	4,110,067	-	-	-	4,110,067								

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the



product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Chieftain/Veef 2023-2025 Assessment Roll										Chieftain/Veef 2022-2024 Assessment Roll										2023 Assessment Roll		2025 Option of Value			
Company ID	SWIS Name	OPRTS Indicated	Value Per Mile	YOY Increase	2025 Full Value	2025 Equalized Value	22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22.7K + one yr depr	25 Roll Added Value: New Fiber @22.7K	Total 2025 Option of Full Value										
844740	TOWN OF ISIP	SUFFOLK	-	-3.0%	4,539,658	4,539,658	-	-3.2%	4,890,641	4,890,641	4,835,373	4,110,097	-	-	4,110,097										
	TOWN OUTSIDE VILLAGES	SUFFOLK	-	-3.0%	4,539,658	4,539,658	-	-3.2%	4,890,641	4,890,641	4,835,373	4,110,097	-	-	4,110,097										

# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspilc.com](mailto:david.perkins@ctaspilc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-\$35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.



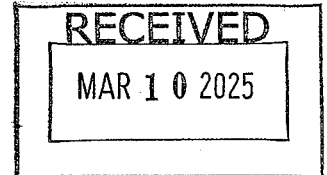


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number <b>89-25-31</b>	Hearing Date <b>02/20/25</b>

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of Wappinger Falls

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

March 5, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Calendar Year 2023-2025 Assessment Roll										Calendar Year 2022-2026 Assessment Roll										2023 Assessment Roll		2025 Collection of Taxes			
Company ID	SWIS Name	County	23 Fiber Added	ORFIS Indicated		YOY Increase	2025 Full Value	2025 Equalized Value	22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value			2023 Full Value		23 Roll Value	24 Roll Added Value: New Fiber @22.7K + one yr depr years	25 Roll Added Value: New Fiber @22.7K	Total 2025	Opinion of Full Value				
				Value Per Mile	Added																				
946100	BEACON	DUTCHESS	46.10	32,658	1240.8%	1,621,874	1,621,874		-	0.9%	120,863	120,963			119,884		101,901	-	1,048,775	1,150,676					
946100	DUTCHESS CITY C.A.P. #2, EAST FISHKILL	DUTCHESS	72.90	31,809	252.0%	3,289,933	3,289,933		-	-2.0%	920,036	920,036			938,812		797,990	-	1,658,475	2,456,465					
946100	DUTCHESS CITY C.A.P. #1, TOWN OF FISHKILL	DUTCHESS	64.06	442.3%	2,597,255	2,597,255		0.21	-	4.4%	462,264	462,364			474,651		403,433	4,374	1,457,271	1,865,089					
946100	VILLAGE OF FISHKILL	DUTCHESS	9.06	52.2%	22,274	22,274		-	0.21	-4.4%	14,541	14,541			13,928		11,810	-	1,271	13,110					
946100	TOWN OUTSIDE VILLAGES	DUTCHESS	64.00	454.8%	2,484,981	2,484,981		-	0.21	-2.8%	447,823	447,823			469,723		391,615	4,374	1,455,000	1,851,859					
946100	TOWN OF HYDE PARK	DUTCHESS	0.47	2.3%	471,571	471,571		0.48	1.75%	450,045	450,045			467,549		422,849		383,757	10,162	10,792	384,691				
946100	TOWN OF LEBANON	DUTCHESS	-	-3.0%	272,287	272,287		-	-	1.7%	250,700	250,700			276,008		234,697	-	-	234,697					
946100	TOWN OF FOUNDTREES	DUTCHESS	-	-6.8%	319,286	319,286		-	-	-11.6%	341,516	341,816			348,333		296,083	-	-	296,083					
946100	VILL OF WAPNACET FALLS	DUTCHESS	-	-17.7%	49,672	49,672		-	-	0.5%	60,335	60,335			60,335		50,014	-	-	50,014					
946100	TOWN OUTSIDE VILLAGES	DUTCHESS	-	-4.2%	289,614	289,614		-	-	0.5%	281,481	281,481			280,081		238,089	-	-	238,089					
946100	WAPNACET CITY C.A.P. #1, TOWN OF FALLS	DUTCHESS	108.60	561.9%	4,131,108	4,131,108		-	-	-3.9%	624,551	624,551			629,643		535,197	-	-	2,470,650					
946100	VILL OF WAPNACET FALLS	DUTCHESS	36.00	1,387.7%	1,387,787	1,387,787		-	-	-3.9%	235,669	235,669			244,527		207,846	-	-	619,000					
946100	TOWN OUTSIDE VILLAGES	DUTCHESS	72.60	606.0%	2,743,321	2,743,321		-	-	0.9%	388,592	388,592			385,116		337,349	-	-	1,651,650					
946100	CITY OF NEWBURGH	ORANGE	-	2.1%	3,980	3,980		-	-	5.1%	3,897	3,897			3,708		3,152	-	-	3,152					
946100	TOWN OF BLOOMING GROVE	ORANGE	38.60	61.1%	1,457,245	1,457,245		0.52	-	-	204,914	204,914			182,656		138,259	-	-	10,884					
946100	VILLAGE OF SOUTH BLOOMING GROVE	ORANGE	-	0.1%	42,211	42,211		-	0.52	-4.9%	42,169	42,169			40,189		34,169	-	-	10,884					
946100	TOWN OUTSIDE VILLAGES	ORANGE	38.60	786.5%	1,415,034	1,415,034		-	-	32.9%	162,745	162,745			162,745		104,098	-	-	878,150					
946100	CITY OF CORNWALL	ORANGE	-	2.1%	10,665	10,665		-	-	5.1%	10,441	10,441			9,934		8,444	-	-	8,444					
946100	TOWN OUTSIDE VILLAGES	ORANGE	-	2.1%	10,665	10,665		-	-	5.1%	10,441	10,441			9,934		8,444	-	-	8,444					
946100	TOWN OF MONROE	ORANGE	76.70	464.2%	2,978,786	2,978,786		0.24	-	-	527,823.00	527,923			540,386		459,328	-	-	5,023					
946100	VILLAGE OF MONROE	ORANGE	6.30	168.4%	317,074	317,074		0.08	6.7%	-	117,710	117,710			110,319		93,771	-	-	1,674					
946100	VILLAGE OF HARRMAN	ORANGE	2.20	219.2%	100,441	100,441		-	-	-3.6%	31,463	31,463			32,638		27,742	-	-	50,050					
946100	TOWN OUTSIDE VILLAGES	ORANGE	68.20	575.2%	2,561,271	2,561,271		0.16	-4.7%	-	378,750	378,750			397,429		337,815	-	-	3,349					
946100	TOWN OF NEWBURGH	ORANGE	-	1.7%	13,990	13,990		-	-	5.1%	13,760	13,760			13,092		11,128	-	-	1,551,550					
946100	TOWN OF NEW WINDSOR	ORANGE	-	2.1%	8,112	8,112		-	-	5.1%	7,843	7,843			7,558		6,424	-	-	11,128					
946100	TOWN OF WOODBURY	ORANGE	12.50	163.0%	635,511	635,511		-	-	-0.0%	241,675	241,675			243,397		206,887	-	-	284,375					
946100	VILLAGE OF HARRMAN	ORANGE	-	-14.3%	5,308	5,308		-	-	-	6,166	6,166			6,735		5,725	-	-	9,725					
946100	VILLAGE OF WOODBURY	ORANGE	12.50	315.7%	630,203	630,203		-	-	-0.5%	235,479	235,479			236,692		201,163	-	-	284,375					
946100	TOWN OF PHILIPSTOWN	PUTNAM	59.80	135.5%	2,114,323	2,114,323		0.30	-	-8.8%	171,158	171,158			163,227		138,743	-	-	6,210					
946100	VILLAGE OF COLD SPRING	PUTNAM	-	-12.7%	53,947	53,947		-	-	-8.8%	61,802	61,802			67,965		57,600	-	-	1,580,450					
946100	VILLAGE OF NELSONVILLE	PUTNAM	-	-9.0%	6,354	6,354		-	-	-3.3%	9,182	9,182			9,495		8,071	-	-	9,760					
946100	TOWN OUTSIDE VILLAGES	PUTNAM	59.80	194.8%	2,052,022	2,052,022		0.30	-	16.5%	100,152	100,152			65,980		73,072	-	-	6,210					
946100	TOWN OF LLOYD	ULSTER	-	-5.7%	810,453	810,453		15.30	142.3%	859,762	859,762			354,834		301,669		332,785	-	-	1,350,450				
946100	TOWN OF MARLBOROUGH	ULSTER	-	0.6%	26,597	26,597		-	-	4.3%	26,431	26,431			25,341		21,540	-	-	21,540					
946100	TOWN OF PLATEAU	ULSTER	-	-3.3%	262,907	262,907		0.29	9.6%	271,951	271,951			248,130		210,911		210,911	-	-	6,002				

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complainant hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).



# Exhibit A

CHARTER YEAR 2022, 2025 ASSESSMENT ROLL										CHARTER YEAR 2022, 2024 ASSESSMENT ROLL										2024 ASSESSMENT ROLL	
Company ID	SWIS Name	County	22 Fiber Added	Operts Indicated		YOY	2025 Full Value	2025 Equalized Value	22 Fiber Added	YOY	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value	24 Roll Added Value New Fiber @22.7K + one y depr	23 Roll Added @22.7K	Total 2025 Option of Full Value				
				Value Per Mile	Added													Value	Value	Value	Value
946100	BEACON	DUTCHESS	46.10	32,558	1240.8%	1,621.874	1,621.874		-	0.9%	120,983	120,983		119,884	101,901	-	1,048,775	1,150,676			
946100	DUTCHESS CITY C.A.P. #2, EAST FISHKILL	DUTCHESS	72.90	31,809	282.0%	3,238.933	3,238.933		-	-2.0%	920,036	920,036		939,812	797,980	-	1,658,475	2,456,465			
946100	FISHKILL	DUTCHESS	64.06		442.3%	2,507,255	2,507,255		0.21	-	462,364	462,364		474,651	403,433	4.374	1,457,271	1,865,098			
946100	VILLAGE OF FISHKILL	DUTCHESS	0.06		53.2%	22,274	22,274		-	4.4%	14,541	14,541		13,928	11,819	-	-	13,928			
946100	TOWN OUTSIDE VILLAGES	DUTCHESS	64.00	31,831	454.9%	2,484,981	2,484,981		0.21	-2.8%	447,823	447,823		460,723	391,515	4.374	1,456,000	1,851,989			
946100	TOWN OF HYDE PARK	DUTCHESS	0.47		2.5%	471,571	471,571		-	7.5%	460,045	460,045		467,946	363,757	10.142	10,702	364,691			
946100	TOWN OF LAGRANGE	DUTCHESS	-		-8.0%	272,297	272,297		-	1.7%	280,700	280,700		276,005	234,607	-	-	234,607			
946100	TOWN OF WAPPINGER FALLS	DUTCHESS	-		-6.6%	319,286	319,286		-	-11.6%	341,816	341,816		348,333	296,083	-	-	296,083			
946100	TOWN OUTSIDE VILLAGES	DUTCHESS	-		-17.7%	49,672	49,672		-	0.5%	60,335	60,335		60,335	58,014	-	-	58,014			
946100	DUTCHESS CITY C.A.P. #1, TOWN OF WAPPINGER FALLS	DUTCHESS	108.60		561.5%	4,131,108	4,131,108		-	-3.5%	624,651	624,651		629,643	556,197	-	2,470,650	3,005,847			
946100	VILL OF WAPPINGER FALLS	DUTCHESS	36.00	31,995	488.1%	1,387,787	1,387,787		-	-3.5%	225,669	225,669		244,527	207,846	-	819,000	1,026,846			
946100	TOWN OUTSIDE VILLAGES	DUTCHESS	72.60	32,434	806.0%	2,743,321	2,743,321		-	0.9%	388,582	388,582		395,116	327,346	-	1,651,650	1,978,989			
946100	CITY OF NEWBURGH	ORANGE	-		2.1%	3,980	3,980		-	5.1%	3,897	3,897		3,705	3,152	-	-	3,152			
946100	TOWN OF BLOOMING GROVE	ORANGE	38.60		611.1%	1,467,245	1,467,245		0.52	-	204,514	204,514		204,914	139,456	10.884	878,150	1,027,292			
946100	VILLAGE OF SOUTH BLOOMING GROVE	ORANGE	-		0.1%	42,211	42,211		-	4.9%	42,169	42,169		40,199	34,169	-	-	40,199			
946100	TOWN OUTSIDE VILLAGES	ORANGE	38.60	32,443	769.5%	1,415,034	1,415,034		0.52	32.9%	162,745	162,745		122,457	104,088	10.884	878,150	993,122			
946100	TOWN OF CORNWALL	ORANGE	-		2.1%	10,665	10,665		-	5.1%	10,441	10,441		9,834	8,444	-	-	8,444			
946100	TOWN OUTSIDE VILLAGES	ORANGE	-		2.1%	10,665	10,665		-	5.1%	10,441	10,441		9,834	8,444	-	-	8,444			
946100	TOWN OF NONROSE	ORANGE	75.70		464.2%	2,978,786.00	2,978,786		0.24	-	527,323.00	527,323		540,386	459,328	5.023	1,744,925	2,209,276			
946100	VILLAGE OF NONROSE	ORANGE	6.30	31,645	169.4%	317,074	317,074		0.08	6.7%	117,710	117,710		110,319	93,771	1.674	143,325	238,779			
946100	VILLAGE OF HARBANY	ORANGE	2.20	31,354	219.2%	100,441	100,441		-	-3.6%	31,463	31,463		32,638	27,742	-	50,060	77,792			
946100	TOWN OUTSIDE VILLAGES	ORANGE	68.20	22,002	576.2%	2,561,271	2,561,271		0.16	-4.7%	378,790	378,790		397,429	337,015	3.349	1,551,550	1,892,714			
946100	TOWN OF NEWBURGH	ORANGE	-		1.7%	13,990	13,990		-	5.1%	13,760	13,760		13,092	11,128	-	-	11,128			
946100	TOWN OF NEW WINDSOR	ORANGE	-		2.1%	6,112	6,112		-	5.1%	7,943	7,943		7,555	6,424	-	-	6,424			
946100	TOWN OF WOODBURY	ORANGE	12.50		160.6%	635,511	635,511		-	-	241,675	241,675		243,387	206,887	-	284,375	491,262			
946100	VILLAGE OF HARBANY	ORANGE	-		-14.3%	5,308	5,308		-	-0.0%	6,196	6,196		6,725	5,725	-	-	5,725			
946100	VILLAGE OF WOODBURY	ORANGE	12.50	31,578	167.6%	630,203	630,203		-	-0.5%	235,479	235,479		236,692	201,435	-	284,375	485,198			
946100	TOWN OF PUTNAMSPRING	PUTNAM	59.60		113.8%	2,114,322	2,114,322		0.30	-	171,138	171,138		163,227	138,743	6.210	1,380,450	1,505,450			
946100	VILLAGE OF OLD SPRING	PUTNAM	-		-12.7%	53,947	53,947		-	8.8%	61,802	61,802		67,785	67,600	-	-	67,600			
946100	VILLAGE OF WELLSVILLE	PUTNAM	-		-8.6%	3,354	3,354		-	-3.5%	9,182	9,182		9,495	8,071	-	-	8,071			
946100	TOWN OUTSIDE VILLAGES	PUTNAM	59.60	32,640	186.9%	2,052,022	2,052,022		0.30	16.5%	100,132	100,132		89,927	73,072	6.210	1,380,450	1,489,732			
946100	TOWN OF LUDY	PUTNAM	-		-3.7%	810,583	810,583		-	4.3%	859,782	859,782		854,634	801,450	-	-	801,450			
946100	TOWN OF MARLBOROUGH	PUTNAM	-		0.6%	26,597	26,597		-	4.3%	26,431	26,431		26,341	21,450	-	-	21,450			
946100	TOWN OF PUTNAM	PUTNAM	-		-3.3%	262,907	262,907		0.29	9.6%	271,551	271,551		271,951	246,130	6.002	-	246,130			

# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspilc.com](mailto:david.perkins@ctaspilc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

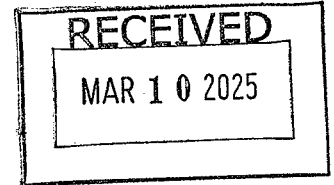


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
8F-25-32	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of Warwick

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

March 5, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.



**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Comparison Year 2023 2025 Assessment Roll										Comparison Year 2022 2024 Assessment Roll										2023 Assessment Roll										2025 Option of Value									
Company ID	SWIS Name	County	23 Fiber Added	ORPIS Indicated		YOY Increase	2025 Full Value	2025 Equalized Value	2025 Equalized Value Per Mile	22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2024 Equalized Value Per Mile	2023 Full Value		2023 Full Value	2023 Full Value Per Mile	22 Roll Value - Depreciated two add'l years	24 Roll Added Value - New Fiber @ 22.7K - one yr dep	25 Roll Added Value - New Fiber @ 22.7K	Option of Full Value	Total 2025 Value																
				Value	Added										Value	Added								Value	Added														
948000	TOWN OF CHESTER	ORANGE	77.80			768.6%	2,862,303	2,862,303	29,773	0.29	2.5%	329,537	329,537	30,609	318,961	289,099	289,099	271,117	25,383	6,070	-	2,847,137																	
	VILLAGE OF CHESTER	ORANGE	-			-2.7%	29,773	29,773				30,609	30,609		289,099	289,099		175,148	6,070	-	26,363																		
	TOWN OUTSIDE VILLAGES	ORANGE	77.80			847.8%	2,832,530	2,832,530	29,773	0.29	3.4%	298,928	298,928	29,773	206,056	191,955	191,955	163,196	26,591	-	-	201,729																	
948000	TOWN OF MINISINK	ORANGE	-			-9.90%	216,677	216,677		-	-7.7%	12,978	12,978		14,061	14,061		11,952	-	-	-	11,952																	
	VILLAGE OF UNIONVILLE	ORANGE	-			-11.0%	11,553	11,553		-	-7.7%	12,978	12,978		14,061	14,061		11,952	-	-	-	11,952																	
	TOWN OUTSIDE VILLAGES	ORANGE	-			-9.8%	205,124	205,124		1.27	18.5%	227,514	227,514		191,955	191,955		163,196	26,591	-	-	189,777																	
948000	TOWN OF WARWICK	ORANGE	236.10			420.6%	9,402,043	9,402,043	1,29	1.29	-2.9%	1,806,130	1,806,130	1,806,130	1,739,038	1,739,038	1,739,038	1,524,082	27,000	5,371,275	5,371,275	6,322,357																	
	VILLAGE OF FLORIDA	ORANGE	31.30			1175.4%	1,101,169	1,101,169		-	-2.9%	86,342	86,342		86,342	86,342		75,583	-	-	-	797,658																	
	VILLAGE OF GREENWOOD LAKE	ORANGE	13.20			670.468	670,468	670,468	0.14	0.14	-1.8%	255,845	255,845	255,845	260,535	260,535	260,535	221,465	2,530	300,300	300,300	524,885																	
	VILLAGE OF WARWICK	ORANGE	14.60			633.9%	550,534	550,534		-	3.5%	75,010	75,010		72,473	72,473		61,602	-	-	-	393,792																	
	TOWN OUTSIDE VILLAGES	ORANGE	177.00			409.2%	7,079,872	7,079,872	1.15	1.15	1.3%	1,388,833	1,388,833	1,388,833	1,371,109	1,371,109		1,105,443	24,070	4,028,750	4,028,750	5,218,283																	
948000	TOWN OF WANAWANDA	ORANGE	-			-0.9%	1,090	1,090		-	5.2%	1,090	1,090		1,036	1,036		881	-	-	-	881																	

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. & K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).


# Exhibit A

[illegible]



# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM

 This is the first time you received an email from this sender [david.perkins@ctaspllc.com](mailto:david.perkins@ctaspllc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

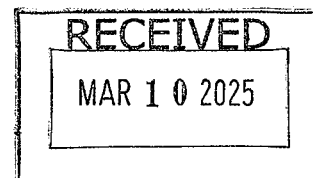


**New York State Department of Taxation and Finance  
Office of Real Property Tax Services  
Complaint on Tentative Special Franchise Assessments  
for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-33	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

CSC Acquisition-NY Inc

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment *(Attach additional sheets, if needed.)***

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number


( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment *(Attach additional sheets, if needed.)***

<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.  
March 5, 2025   
 Date Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, new York, NY 10036  
Street Address, City, State, Zip  
(212 ) 287-7033 ( )  
 Telephone Number Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

  
David Prebut, Senior Vice President, Tax

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.



Cheney, Neb 2023-2025 Assessment Roll										Cheney, Neb 2022-2024 Assessment Roll										2023 Assessment Roll		2025 Continue of Value			
Company ID	SWS Name	County	23 Fiber Added	Value Per Mile Added	YOY Increase	2025 Full Value	2025 Equalized Value	2025 Equalized Value	2025 Equalized Value	22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2024 Equalized Value	2024 Equalized Value	2023 Full Value	2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22.7K + one yr dep	25 Roll Added Value: New Fiber @22.7K	Opinion of Full Value	Total 2025 Value			
827340	TOWN OF SOUTHOLD	SUFFOLK	1.05	-	-0.4%	14,890,000	81,400	81,400	81,400	263.49	879.01%	15,596,316	88,899	88,899	10,294	2,123,867	554,998	9,929	30,331	-	-	40,392			
	VILLAGE OF GREENPORT	SUFFOLK	1.05	-	-0.3%	13,111,273	72,112	72,112	72,112	27.60	325.41%	1,805,965	78,605	78,605	78,605	78,605	1,569,986	7,334	27,155	131	-	34,620			
	TOWN OUTSIDE VILLAGES	SUFFOLK	1.05	-	-0.3%	13,111,273	72,112	72,112	72,112	235.89	879.01%	13,792,351	78,605	78,605	78,605	78,605	1,569,986	7,334	27,155	131	-	34,620			

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3.290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").


As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Greenhurst Twp 2022, 2023 Assessment Roll									
Company ID	SWIS Name	County	23 Fiber Added	OPRTS Indicated		YOY Increase	2025 Full Value	2025 Equalized Value	
				Value Per Mile	Added				
827340	TOWN OF SOUTHOLD	SUFFOLK	1.05	-	-	-8.4%	14,600,000	81,400	
	VILLAGE OF GREENPORT	SUFFOLK	-	-	-	-8.8%	1,688,727	9,288	
	TOWN OUTSIDE VILLAGES	SUFFOLK	1.05	-	-	-8.3%	13,111,273	72,112	
Suffolk Twp 2022, 2023 Assessment Roll									
			22 Fiber Added	YOY Increase		2024 Full Value	2024 Equalized Value		
				Value	Added				
			283.49	879.0%	15,585,318	88,899			
			27.60	328.4%	1,805,865	10,294			
			235.89	879.0%	13,779,551	78,605			
2023 Assessment Roll									
			2023 Full Value						
			2,123,867						
			554,698						
			1,569,169						
2025 Comparison of Value									
			23 Roll Value:		24 Roll Added Value: New		25 Roll Added		Total 2025
			Depreciated two add'l years	Fiber @ 22.7K	Value: New Fiber @ 22.7K	Value: New Fiber @ 22.7K	Option of Full Value		
			9,329	30,331	3,177	-	131	40,332	
			2,869	27,155	-	-	-	5,771	
			7,334				131	34,620	

# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM

 This is the first time you received an email from this sender [david.perkins@ctasp LLC.com](mailto:david.perkins@ctasp LLC.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-\$35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in



utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

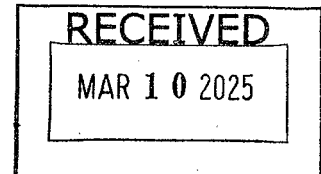


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-34	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

CSC Acquisition-NY Inc.

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

March 5, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Company ID	SWIS Name	County	Calendar Year 2022, 2025 Assessment Roll				Calendar Year 2022, 2024 Assessment Roll				2023 Assessment Roll		2025 Optimized Value			
			23 Roll Added	Value Per Acre	YOY Increase	2025 Full Value	22 Roll Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value Depreciated two add'l years	24 Roll Added Value: New Fiber @22 TK + one yr depr	Value New Fiber @22 TK	25 Roll Added	Total 2025 Option of Full Value
927340	TOWN OF RIVERHEAD	SUFFOLK	17.13	-	-8.7%	8,056,532	22.40	45.0%	6,945,570	6,945,570	6,028,065	5,492,156	1,155,992	464,851	389,798	6,446,148
	VILLAGE OF SOUTHAMPTON	SUFFOLK	0.07	-	-1.6%	223,306	-	-0.6%	226,861	226,861	228,251	194,013	-	-	1,363	150,606
	VILLAGE OF SOUTHAMPTON	SUFFOLK	0.06	-	-0.5%	327,173	-	0.6%	328,841	328,841	326,800	277,848	-	-	1,363	150,606
	VILLAGE OF WESTHAMPTON BEACH	SUFFOLK	-	-	-4.9%	169,200	0.19	1.3%	177,992	177,992	176,706	149,552	-	-	-	169,552
	VILLAGE OF SAG HARBOR	SUFFOLK	-	-	-8.1%	52,137	-	52.8%	56,728	56,728	37,126	31,557	-	-	-	55,554
	VILLAGE OF WESTHAMPTON DUNES	SUFFOLK	-	-	-1.1%	5,769	-	4.9%	5,836	5,836	5,563	4,729	-	-	-	4,729
	VILLAGE OF SAGAPONACK	SUFFOLK	-	-	-5.5%	1,213,491	-	New	1,284,556	1,284,556	-	-	-	-	-	-
	TOWN OUTSIDE VILLAGES	SUFFOLK	17.00	70.631	24.7%	6,056,456	22.21	63.8%	4,864,736	4,864,736	2,989,924	2,524,435	-	464,851	389,750	3,376,046

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 204 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the



product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Company ID	SWS Name	County	23 Fiber Added	2023 Assessment Roll				2024 Assessment Roll				2025 Assessment Roll				2025 Option of Value			
				OPRTS Indicated	Value Per Mile	YOY Increase	2025 Full Value	2025 Equalized Value	2023 Full Value	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Full Value:	24 Full Value:	25 Full Value:	2025 Option of Value	Total 2025	Option of Full	Value
82740	TOWN OF SUTHERLAND	SUFFOLK	-	-	-	-5.7%	8,509,228	8,509,228	5,226,095	9,027,796	9,027,796	5,226,095	3,181,934	1,159,992	468,837	389,708	6,448,148	-	6,448,148
82740	TOWN OF SUTHERLAND	SUFFOLK	1713	0.07	-	-1.8%	8,065,632	8,065,632	3,743,482	6,445,570	6,445,570	3,743,482	1,181,013	468,837	1,503	389,708	6,448,148	1,503	155,006
	VILLAGE OF QUOCUE	SUFFOLK	0.06	-	-	-0.5%	327,173	327,173	228,251	328,841	328,841	228,251	194,013	277,848	-	-	279,213	-	279,213
	VILLAGE OF WESTHAMPTON	SUFFOLK	-	-	-	-4.9%	169,200	169,200	177,992	177,992	177,992	175,708	149,352	3,977	-	-	149,352	-	149,352
	VILLAGE OF WESTHAMPTON BEACH	SUFFOLK	-	-	-	-6.1%	52,137	52,137	56,728	56,728	56,728	56,728	31,557	4,729	-	-	35,534	-	35,534
	VILLAGE OF WESTHAMPTON DUNES	SUFFOLK	-	-	-	-1.1%	5,769	5,769	5,563	5,563	5,563	5,563	4,729	-	-	-	4,729	-	4,729
	VILLAGE OF WESTHAMPTON DUNES	SUFFOLK	-	-	-	-5.3%	1,213,491	1,213,491	1,284,556	1,284,556	1,284,556	1,284,556	2,594,435	464,861	-	385,150	3,375,045	-	3,375,045
	TOWN OF SUTHERLAND	SUFFOLK	1700	70.631	24.7%	6,065,456	6,065,456	6,065,456	2,299,924	4,864,735	4,864,735	2,299,924	2,594,435	464,861	-	385,150	3,375,045	-	3,375,045

# Exhibit B

**From:** David Perkins  
**To:** Ahmadi, Cyavash  
**Cc:** Diane Cates; David Prebut; Laura La Neve  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender david.perkins@ctaspilc.com. Please note in case you are expecting this to be a familiar sender

**EXTERNAL**

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.



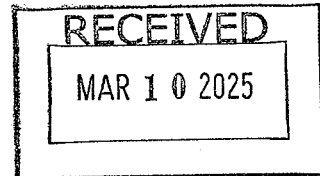


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-35	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

a. Complainant Information  
 CSC Acquisition MA

Company Name  
 C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714  
 Street Address, City, State, Zip  
 ( 516 ) 662-1122 ( )  
 Telephone Number Fax Number

b. List of Assessing Units and Company's Estimates of Assessment (*Attach additional sheets, if needed.*)

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See Attached.			

**2. Assessing Units: Complete this section.**


a. Complainant Information

Assessing Unit Name  
 Street Address, City, State, Zip  
 ( ) ( )  
 Telephone Number Fax Number

b. List of Companies and Assessing Unit's Estimates of Assessment (*Attach additional sheets, if needed.*)

<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.  
March 5, 2025   
 Date Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, new York, NY 10036  
Street Address, City, State, Zip  
(212 ) 287-7033 ( )  
 Telephone Number Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.


*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

  
David Prebut, Senior Vice President, Tax

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

				Calendar Year 2023, 2025 Assessment Roll				Calendar Year 2022, 2024 Assessment Roll				2023 Assessment Roll		2025 Option of Years		
Company ID	SWIS Name	County	23 Full Added	OpRS Indicated	VOY	2025 Full Value	2025 Equalized	22 Full	VOY	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value:	24 Roll Added Value: New	25 Roll Added	Total 2025
				Value Per Mile Added	Increase	Value	Value	Added	Increase	Value	Value	Depreciated two add'l years	Flow @22 Yr + one yr drop @22 Yr	Value New then @22 Yr	Option of Full Value	
92380	TOWN OF HARRISON	WESTCHESTER	-		-9.2%	1,031,770	11,659	1.31	-0.1%	1,087,807	12,842	1,099,706	10,553	311	-	10,864
	VILLAGE OF HARRISON	WESTCHESTER	-		-9.2%	1,031,770	11,659	1.31	-0.1%	1,087,807	12,842	1,099,706	10,553	311	-	10,864

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).



# Exhibit A

Calendar Year 2023, 2023 Assessment Roll							Calendar Year 2022, 2022 Assessment Roll							2023 Roll Difference		2023 Roll Difference	
Company ID	SWIS Name	County	23 Fiber Added	OPRS Indicated		YOY	2025 Full Value	2025 Equalized Value	22 Fiber Added	YOY		2024 Full Value	2024 Equalized Value	2023 Full Value	22 Roll Value: Depreciated two-sided Fiber @2.7% + one yr dep	24 Roll Added Value: New Fiber @2.7% @2.7%	Total 2025 Options of Roll Value
				Value Per Mile	Added					Added	Increase						
827350	TOWN OF HARRISON	WESCHESTER	-		-9.2%	1,051,770	11,659	1.31	-0.1%	1,097,607	12,842	1,099,706	10,555	311	-	10,864	
VILLAGE OF HARRISON			WESCHESTER	-	-9.2%	1,051,770	11,659	1.31	-0.1%	1,097,607	12,842	1,099,706	10,555	311	-	10,864	

# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctasp LLC.com](mailto:david.perkins@ctasp LLC.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

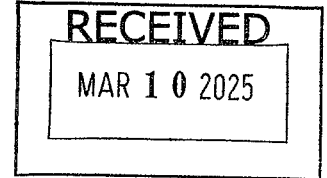


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-36	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

CSC Acquisition MA

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

March 5, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.



**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

2022 - 2023 Assessment Roll										2023 - 2024 Assessment Roll										2024 - 2025 Assessment Roll									
Company ID	SWIS Name	County	23 Fiber Added	YOY Increase	2023 Full Value	2023 Equilized Value	2023 Roll Value:	24 Roll Added Value @22 TK + one yr drop @22 TK.	25 Roll Added Value	Total 2025 Opinion of Full Value	2024 Fiber Added	YOY Increase	2024 Full Value	2024 Equilized Value	2024 Roll Value:	25 Roll Added Value @22 TK + one yr drop @22 TK.	26 Roll Added Value	Total 2026 Opinion of Full Value	2025 Fiber Added	YOY Increase	2025 Full Value	2025 Equilized Value							
92730	TOWN OF RYE	WESCHESTER	8.00	192.5%	650.525	650.525	188.525	167.440	153.000	370.525	8.00	0.5%	222.431	222.431	222.431	221.324	-	162.000	370.525	8.00	192.5%	650.525	650.525						
	VILLAGE OF PORT CHESTER	WESCHESTER	8.00	192.5%	650.525	650.525	188.525	-	162.000	370.525	-	0.5%	222.431	222.431	222.431	221.324	-	162.000	370.525	-	0.5%	222.431	222.431						

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services ("ORPTS") in the Notices of Special Franchise Assessment dated December 19, 2024 ("Notices"). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant's estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant's assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the "Cable Act"). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant's special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant's actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant's customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant's valuation expert. See Exhibit B. In addition, Complainant's \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant's "special franchise" or "real property" under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value

on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other hand, presented evidence that the actual cost to build the pipeline, including a 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).


# Exhibit A

Calendar Year 2023 2023 Assessment Roll										Calendar Year 2022 2024 Assessment Roll										2023 Assessment Roll										2023 Calendar of Values									
Company ID	SWIS Name	County	23 Fiber Added	OPRTS Indicated		YOY	2023 Full Value	2023 Equalized Value	22 Fiber Added	YOY		2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two and a half years	24 Roll Added Value: New Fiber @22.7K + one yr depr	25 Roll Added Value: New Fiber @22.7K	Total 2023	Option of Bulk Value																				
				Value Per Mile	Added					Added	Increase									Added	Increase																		
827589	TOWN OF RIE	WESTCHESTER	8,00	53,512	192.5%	650,525	650,525	650,525	8,00	0.5%	222,431	222,431	221,324	221,324	188,125	167,440	182,000	537,565	370,125																				
VILLAGE OF PONTI CHESTER			8,00	53,512	192.5%	650,525	650,525	650,525	-	0.5%	222,431	222,431	221,324	221,324	188,125																								



# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM

 This is the first time you received an email from this sender [david.perkins@ctaspilc.com](mailto:david.perkins@ctaspilc.com). Please note in case you are expecting this to be a familiar sender

**EXTERNAL**

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

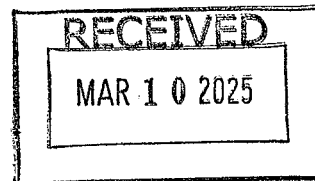


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
8F-25-37	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of So. Westchester

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number


( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.  
March 5, 2025   
 Date Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
Street Address, City, State, Zip  
(212 ) 287-7033 ( )  
 Telephone Number Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.


*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

  
David Prebut, Senior Vice President, Tax

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.



Schedule Year 2023, 2023 Assessment Roll										Schedule Year 2022, 2024 Assessment Roll										2023 Assessment Roll										2025 Opinion of Value									
Company ID	SWIS Name	County	23 Fiber Added	OPRTS Indicated		YOY Increase	2023 Full Value	2023 Equalized Value		22 Fiber Added	YOY Increase		2024 Full Value	2024 Equalized Value		2023 Full Value		23 Roll Value: Depreciated two add'l years	24 Roll Added Value New Fiber @22.7% + one yr depr	New Value @22.7%	23 Roll Added Value New Fiber @22.7%	Total 2025 Opinion of Full Value																	
				Value Per Mile	Per Mile						Added	Added																											
910350	CITY OF NEW ROCHELLE	WESTCHESTER	11.30	44,122	24.7%	2,453,731	47,590	-	0.14	-13.6%	1,995,155	38,124	2,274,485	37,313	15,907	2,056,456	653	27	27	4,592	42,274																		
910350	TOWN OF EASTCHESTER	WESTCHESTER	3.90	-	0.7%	1,879,341	17,102	0.14	-0.6%	1,895,170	16,978	769	84,443	653	6,208	802,530	6,208	-	-	-	16,741																		
	VILLAGE OF BUCKNABE	WESTCHESTER	-	-	-6.8%	80,769	735	-	-13.2%	696,596	6,548	6,548	802,530	9,046	-	1,169,485	9,046	-	-	-	6,208																		
	TOWN OUTSIDE VILLAGES	WESTCHESTER	3.90	34,762	9.6%	1,161,209	10,567	-	-12.3%	1,025,638	9,641	9,641	1,169,485	-	-	-	-	-	-	-	9,653																		

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Official Year 2023, 2025 Assessment Roll										Official Year 2022, 2024 Assessment Roll										2023 Assessment Roll									
Company ID SWIS Name		County	OPRTS indicated		YOY	2025 Full Value		2025 Equalized Value		2022 Full Value		YOY	2024 Full Value		2024 Equalized Value		2023 Full Value		2023 Full Value	2025 OPRTS Value		25 Roll Added	Total 2025						
Value Per Mile	Added	23 Fiber Added	Increased	2025 Full Value		2025 Equalized Value	Added			Increased	2024 Full Value		2024 Equalized Value	Added			Increased	2024 Full Value		2024 Equalized Value	2023 Full Value			2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22.7K + one yr depr @22.7K	Opinion of Full Value		
COMPANY ID SWIS NAME		COUNTY	23 FIBER ADDED	ADDED	YOY	2025 FULL VALUE	2025 EQUALIZED VALUE			2022 FULL VALUE	ADDED	INCREASED	2024 FULL VALUE	2024 EQUALIZED VALUE			2023 FULL VALUE	2023 FULL VALUE	23 ROLL VALUE: DEPRECIATED TWO ADD'L YEARS	24 ROLL ADDED VALUE: NEW FIBER @22.7K + ONE YR DEPR @22.7K	OPINION OF FULL VALUE								
910350 CITY OF NEW ROCHELLE		WESTCHESTER	11.30	44,122	24.7%	2,463,791	47,550			1,985,155	0.14	-13.6%	1,986,170	16,978	38,124	2,274,485	2,274,485	37,313	27	807	42,271								
910350 TOWN OF WESTCHESTER		WESTCHESTER	3.90	-	0.7%	1,879,341	17,102	0.14	-0.6%	83,939	64,443	-	83,939	769	84,443	84,443	84,443	653	27	-	680								
VILLAGE OF BROOKVILLE		WESTCHESTER	-	-	-8.8%	637,363	5,800	-	-13.2%	696,596	6,548	-	696,596	6,548	6,548	802,530	802,530	6,208	-	-	6,208								
VILLAGE OF TUCKAHOE		WESTCHESTER	-	-	-11.4%	1,151,209	10,567	-	-12.3%	1,025,638	9,641	-	1,025,638	9,641	9,641	1,169,485	1,169,485	9,048	-	-	9,048								
TOWN OUTSIDE VILLAGES		WESTCHESTER	3.90	34,762	9.6%																								

# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspillc.com](mailto:david.perkins@ctaspillc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in



utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

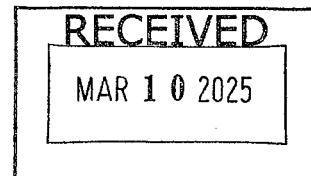


**New York State Department of Taxation and Finance  
Office of Real Property Tax Services  
Complaint on Tentative Special Franchise Full Values  
for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
84-25-38	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of So. Westchester

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

March 5, 2025

Date



Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Comptrol ID	SWIS Name	County	23 Fiber Added	2023 Assessment Roll			2024 Assessment Roll			2025 Assessment Roll			2026 Assessment Roll			2027 Assessment Roll		
				Value Per Mile	YOY Increase	2023 Full Value	2024 Full Value	2024 Equalized Value	2025 Full Value	2025 Equalized Value	2026 Full Value	2026 Equalized Value	2027 Full Value	2027 Equalized Value	2028 Full Value	2028 Equalized Value	2029 Full Value	2029 Equalized Value
910380	TOWN OF GREENBURGH	WESTCHESTER	3.21	-	-4.8%	7,101,989	7,462,289	7,462,289	7,729,209	7,729,209	7,996,129	7,996,129	8,263,049	8,263,049	8,529,969	8,529,969	8,796,889	8,796,889
	VILLAGE OF DOBBS FERRY	WESTCHESTER	-	-	-7.8%	1,044,305	1,044,305	1,044,305	1,044,305	1,044,305	1,044,305	1,044,305	1,044,305	1,044,305	1,044,305	1,044,305	1,044,305	1,044,305
	VILLAGE OF ELMSFORD	WESTCHESTER	-	-	-10.1%	512,640	512,640	512,640	512,640	512,640	512,640	512,640	512,640	512,640	512,640	512,640	512,640	512,640
	VILLAGE OF HASTINGS ON HUDSON	WESTCHESTER	-	-	-9.3%	904,843	904,843	904,843	904,843	904,843	904,843	904,843	904,843	904,843	904,843	904,843	904,843	904,843
	TOWN OF HAWTHORNE	WESTCHESTER	1.55	-	-4.3%	3,169,726	3,169,726	3,169,726	3,169,726	3,169,726	3,169,726	3,169,726	3,169,726	3,169,726	3,169,726	3,169,726	3,169,726	3,169,726
910380	TOWN OF HAWTHORNE	WESTCHESTER	-	-	-7.4%	2,339,415	2,339,415	2,339,415	2,339,415	2,339,415	2,339,415	2,339,415	2,339,415	2,339,415	2,339,415	2,339,415	2,339,415	2,339,415
	VILLAGE OF LARCHMONT	WESTCHESTER	-	-	-3.4%	153,978	153,978	153,978	153,978	153,978	153,978	153,978	153,978	153,978	153,978	153,978	153,978	153,978
	VILLAGE OF MAMARONECK	WESTCHESTER	-	-	-3.9%	162,162	162,162	162,162	162,162	162,162	162,162	162,162	162,162	162,162	162,162	162,162	162,162	162,162
	TOWN OF MAMARONECK	WESTCHESTER	-	-	-4.6%	1,995,275	1,995,275	1,995,275	1,995,275	1,995,275	1,995,275	1,995,275	1,995,275	1,995,275	1,995,275	1,995,275	1,995,275	1,995,275
910380	TOWN OF PELHAM	WESTCHESTER	0.20	-	-14.6%	143,838	143,838	143,838	143,838	143,838	143,838	143,838	143,838	143,838	143,838	143,838	143,838	143,838
	VILLAGE OF PELHAM MANOR	WESTCHESTER	0.20	-	-2.4%	63,324	63,324	63,324	63,324	63,324	63,324	63,324	63,324	63,324	63,324	63,324	63,324	63,324
910380	TOWN OF RYE	WESTCHESTER	-	-	-3.2%	322,181	322,181	322,181	322,181	322,181	322,181	322,181	322,181	322,181	322,181	322,181	322,181	322,181
	VILLAGE OF PORT CHESTER	WESTCHESTER	-	-	0.0%	3,856	3,856	3,856	3,856	3,856	3,856	3,856	3,856	3,856	3,856	3,856	3,856	3,856
	VILLAGE OF MAMARONECK	WESTCHESTER	-	-	-0.8%	64,380	64,380	64,380	64,380	64,380	64,380	64,380	64,380	64,380	64,380	64,380	64,380	64,380
	VILLAGE OF RYE BROOK	WESTCHESTER	-	-	-3.8%	253,945	253,945	253,945	253,945	253,945	253,945	253,945	253,945	253,945	253,945	253,945	253,945	253,945
910380	TOWN OF SCARSDALE	WESTCHESTER	-	-	-8.2%	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694
	VILLAGE OF SCARSDALE	WESTCHESTER	-	-	-8.2%	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694	2,561,694

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complainant hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the



product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").


As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Company ID	SWIS Name	County	Calendar Year 2023 2023 Assessment Roll			Calendar Year 2022 2024 Assessment Roll			2023 Assessment Roll			2023 2025		
			23 Filter Added	Value Per Mile	YOY Increase	2023 Full Value	2023 Equalized Value	22 Filter Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	2023 Full Value	2025 Full Value
910350	TOWN OF GREENBURGH	WESTCHESTER	3.21	-	-4.8%	7,101,989	7,101,989	0.51	-4.6%	7,462,289	7,462,289	7,279,209	6,187,328	10,750
	VILLAGE OF ADOLEY	WESTCHESTER	-	-	-0.3%	646,255	646,255	0.09	-23.6%	704,795	704,795	738,779	627,862	1,792
	VILLAGE OF DOBBS FERRY	WESTCHESTER	-	-	-7.5%	1,044,305	1,044,305	0.09	-0.2%	1,129,517	1,129,517	913,849	776,772	1,792
	VILLAGE OF ELMSFORD	WESTCHESTER	-	-	-10.1%	512,640	512,640	0.09	-0.2%	570,266	570,266	571,409	485,686	1,792
	VILLAGE OF ELASTINGS ON HUDSON	WESTCHESTER	-	-	-0.3%	904,843	904,843	0.09	-4.2%	987,004	987,004	1,095,681	880,329	1,792
	VILLAGE OF HAWKINGTON	WESTCHESTER	1.55	47,251	9.8%	824,240	824,240	0.09	-4.2%	750,778	750,778	783,693	666,139	1,792
	TOWN OF HUNTERVILLE	WESTCHESTER	1.55	-	-4.5%	3,169,706	3,169,706	0.09	2.6%	3,319,929	3,319,929	3,235,798	2,750,428	1,792
910350	TOWN OF MARYKNICK	WESTCHESTER	-	-	-7.4%	2,333,415	2,333,415	-	0.0%	2,519,534	2,519,534	2,631,203	2,226,423	-
	VILLAGE OF LARCHMONT	WESTCHESTER	-	-	5.4%	155,978	155,978	-	0.4%	147,985	147,985	189,652	125,797	-
	VILLAGE OF MARYKNICK	WESTCHESTER	-	-	-3.9%	132,152	132,152	-	-4.9%	189,607	189,607	189,652	150,524	-
	TOWN OF MARYKNICK	WESTCHESTER	-	-	-0.6%	1,895,275	1,895,275	-	-	2,181,942	2,181,942	2,294,366	1,950,211	-
910350	TOWN OF PELHAM	WESTCHESTER	0.20	-	-14.6%	143,838	143,838	-	2.2%	135,541	135,541	123,541	103,151	-
	VILLAGE OF PELHAM MANOR	WESTCHESTER	0.20	99,350	32.8%	63,324	63,324	-	-	64,697	64,697	60,644	53,975	-
	VILLAGE OF PELHAM	WESTCHESTER	-	-	-3.2%	80,514	80,514	-	4.8%	80,644	80,644	82,862	49,186	-
910350	TOWN OF RYE	WESTCHESTER	-	-	-0.0%	322,181	322,181	1.17	4.8%	332,487	332,487	293,652	101,407	24,426
	VILLAGE OF RYE CREEK	WESTCHESTER	-	-	0.0%	3,656	3,656	-	4.7%	3,657	3,657	5,680	3,128	-
	VILLAGE OF RYEKNICK	WESTCHESTER	-	-	-0.8%	64,380	64,380	-	-	64,517	64,517	62,001	52,703	-
	VILLAGE OF RYE BROOK	WESTCHESTER	-	-	-3.8%	253,945	253,945	1.17	63.1%	264,113	264,113	159,972	135,976	24,426
910350	TOWN OF SCARSDALE	WESTCHESTER	-	-	-0.2%	2,351,694	2,351,694	0.13	-4.3%	2,791,985	2,791,985	2,817,414	2,479,602	2,680
	VILLAGE OF SCARSDALE	WESTCHESTER	-	-	-0.2%	2,351,694	2,351,694	0.13	-4.3%	2,791,985	2,791,985	2,817,414	2,479,602	2,680

# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM

 This is the first time you received an email from this sender [david.perkins@ctasp LLC.com](mailto:david.perkins@ctasp LLC.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-\$35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.



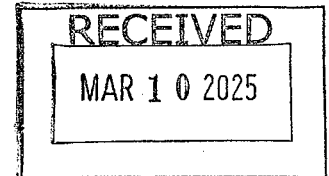


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year** 2025

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number <b>84-25-39</b>	Hearing Date <b>03/20/25</b>

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of Ossining

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)**

**3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate Cyavash Ahmadi to act as my representative in any and all proceedings for purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

March 5, 2025   
Date Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel  
Contact Person and Title  
1114 Avenue of the Americas, 40th Floor, New York, NY 10036  
Street Address, City, State, Zip  
( 212 ) 287-7033 ( )  
Telephone Number Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.



March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Calendar Year 2023/2024 Assessment Roll										Calendar Year 2022/2023 Assessment Roll										2023 Assessment Roll				2023 Opinion of Value			
Company ID	SWIS Name	County	23 Fiber Added	OPRTS Indicated		YOY Increase	2023 Full Value	2023 Equalized Value		22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value							2023 Full Value		2023 Full Value	2023 Full Value	22 Roll Value: Depreciated two-adrt Fiber @22.7K + one yr depr	24 Roll Added Value New Value New Fiber @22.7K	25 Roll Added Value New Fiber @22.7K	Total 2023 Opinion of Full Value
				Value Per Mile	Added																						
928300	TOWN OF PHILPSTOWN	PUTNAM	33.90	-	32.455	670.3%	1,264,358	1,264,358		-	0.1%	164,145	164,145							163,981		163,981		139,384	-	771,225	910,609
928300	TOWN OUTSIDE VILLAGES	PUTNAM	33.90	-	32.455	670.3%	1,264,358	1,264,358		-	0.1%	164,145	164,145							163,981		163,981		139,384	-	771,225	910,609
928300	TOWN OF HAVESTRAW	ROCKLAND	-	-	-	-6.4%	2,855,500	2,855,500		46.23	217.6%	3,016,917	3,016,917							542,630		542,630		461,236	927,608	-	1,428,844
928300	VILLAGE OF HAVESTRAW	ROCKLAND	-	-	-	-4.6%	209,036	209,036		2.80	744.1%	219,171	219,171							69,009		69,009		58,658	58,506	-	117,254
928300	VILLAGE OF WEST HAVESTRAW	ROCKLAND	-	-	-	-5.8%	792,919	792,919		13.92	744.1%	841,323	841,323							99,671		99,671		84,720	261,323	-	376,043
928300	VILLAGE OF POMONA	ROCKLAND	-	-	-	-5.5%	1,080,385	1,080,385		17.47	453.4%	1,142,891	1,142,891							206,522		206,522		175,514	90,552	-	541,726
928300	TOWN OUTSIDE VILLAGES	ROCKLAND	-	-	-	-5.0%	773,160	773,160		12.04	385.9%	813,532	813,532							167,428		167,428		142,314	251,906	-	394,310
928300	TOWN OF RAHAPO	ROCKLAND	-	-	-	-6.2%	1,166,766	1,166,766		17.91	315.6%	1,243,555	1,243,555							206,522		206,522		175,544	374,897	-	580,441
928300	VILLAGE OF POMONA	ROCKLAND	-	-	-	-6.2%	1,166,766	1,166,766		17.91	315.6%	1,243,555	1,243,555							206,522		206,522		175,544	374,897	-	580,441
928300	TOWN OF STONY POINT	ROCKLAND	-	-	-	-5.3%	2,919,883	2,919,883		51.09	808.5%	3,081,040	3,081,040							393,135		393,135		288,265	1,089,384	-	1,387,629
928300	TOWN OF BEDFORD	WESTCHESTER	-	-	-	-7.8%	279,805	279,805		-	-4.2%	303,549	303,549							316,957		316,957		289,328	-	-	289,328
928300	TOWN OF GREENBURGH	WESTCHESTER	19.30	-	-	-4.7%	1,256,767	1,256,767		-	-2.3%	218,391	218,391							223,532		223,532		190,002	-	439,075	629,077
928300	VILLAGE OF HARTTOWN	WESTCHESTER	19.30	-	-	-4.7%	1,256,767	1,256,767		-	-2.3%	218,391	218,391							223,532		223,532		190,002	-	439,075	629,077
928300	TOWN OF NEW CASTLE	WESTCHESTER	75.50	-	-	-4.8%	4,676,382	4,676,382		-	-3.8%	537,912	537,912							519,220		519,220		440,497	-	1,171,625	2,158,112
928300	TOWN OF OSSINING	WESTCHESTER	60.50	-	-	-890.2%	3,640,431	3,640,431		-	-1.3%	337,010	337,010							332,475		332,475		292,604	-	1,376,375	1,668,979
928300	VILL. OF BRIDGELIFF MANOR- OSSINING	WESTCHESTER	-	-	-	-1.1%	99,811	99,811		-	-4.8%	100,912	100,912							99,290		99,290		81,847	-	-	81,847
928300	TOWN OF OSSINING	WESTCHESTER	31.90	-	-	-1,839.430	1,839,430	1,839,430		-	-1.9%	141,097	141,097							99,290		99,290		79,246	-	723,459	892,696
928300	TOWN OUTSIDE VILLAGES	WESTCHESTER	28.70	-	-	-54,393	1,106,4%	1,702,190	1,702,190	-	-1.3%	141,097	141,097							142,955		142,955		121,512	-	652,925	774,437

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).



# Exhibit A



# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspilc.com](mailto:david.perkins@ctaspilc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

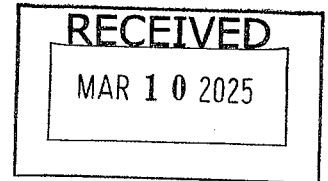


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
8F-25-40	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Cablevision of Ossining

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (Attach additional sheets, if needed.)**


<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.

March 5, 2025

Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

(212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.



**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

  
David Prebut, Senior Vice President, Tax

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Company ID	SWIS Name	County	Z3 Fiber Added	Orders Indicated		YOY Increase	2025 Full Value		2025 Equalized Value		22 Fiber Added	YOY Increase	2024 Full Value		2024 Equalized Value		2023 Full Value	22 Roll Value: Depreciated to add'l years	2023 Cumulative Value		23 Roll Added Value Fiber @22.7k	24 Roll Added Value Fiber @22.7k	Total 2025 Orders of Full Value
				Value Per Mile	Added		2025 Full Value	Value	2025 Equalized	Value			2024 Full Value	Value	2024 Equalized	Value							
929300	CITY OF PERSKILL	WESTCHESTER	36.50	\$4,616		13.56.2%	2,153,249		61,932		-	-6.2%	159,749		3,818		168,512	3,395	-	-	19,660	23,075	38,695
	VILLAGE OF BUCHANAN	WESTCHESTER	173.00			-10.0.2%	10,342,542		122,442		-	-6.6%	901,666		10,093		988,680	9,716	-	-	46,442	56,158	65,874
	VILLAGE OF CROTON-ON-HUDSON	WESTCHESTER	-			-5.6%	57,981		683		-	-7.9%	59,282		723		63,450	636	-	-	46,442	636	6,910
	TOWN OUTSIDE VILLAGES	WESTCHESTER	-			-7.3%	150,847		1,780		-	-8.6%	167,459		1,921		170,965	1,715	-	-	46,442	53,007	55,723
	TOWN OUTSIDE VILLAGES	WESTCHESTER	173.00			-	10,133,814		119,979		-	-8.6%	664,344		8,348		724,275	7,955	-	-	46,442	53,007	55,723
928900	TOWN OF MOUNT PLEASANT	WESTCHESTER	146.40				8,999,844		66,276		0.56		1,025,792		11,591		1,045,683	9,810	126	3,657	45,239	63,297	68,551
	VILLAGE OF SLEEPY HOLLOW	WESTCHESTER	15.00				53,427		274,141		-7.4%		271,593		3,069		293,297	2,668			3,651	6,446	4,771
	VILLAGE OF PLAINVILLE	WESTCHESTER	18.60				54,465		565.2%		-3.8%		177,166		2,002		184,166	1,875			3,651	4,771	4,771
	VILL. OF BRACKLEY MANOR	WESTCHESTER	12.80				892.356		9,946		-3.7%		156,726		2,223		204,284	1,858			3,651	4,974	3,115
	TOWN OUTSIDE VILLAGES	WESTCHESTER	89.00				54,623		1341.3%		0.56	4.5%	380,255		4,297		353,850	3,310	126	24,059	27,355	27,355	27,355

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Grand Total Year 2023/2025 Assessment Roll									
Company ID	SWIS Name	County	23 Fiber Added	OpRTs Indicated		YOY Increase	2025 Full Value	2025 Equalized Value	
				Value Per Mile Added					
928300	CITY OF PEEBLSKILL	WESTCHESTER	36.50	54,616		1236.9%	2,153,249	51,032	
928300	TOWN OF CORTLANDT	WESTCHESTER	173.00			1010.2%	10,343,542	122,042	
	VILLAGE OF BROOKHAVEN	WESTCHESTER	-			-5.5%	57,891	683	
	VILLAGE OF DRONOH-HUDSON	WESTCHESTER	-			-7.3%	150,847	1,780	
	TOWN OUTSIDE VILLAGES	WESTCHESTER	173.00			1332.3%	10,133,814	119,979	
928300	TOWN OF HOOK PLEASANT	WESTCHESTER	146.40			730.6%	6,997,944	96,278	
	VILLAGE OF SLEEP HOLLOW	WESTCHESTER	15.00			274.1%	1,072,991	11,481	
	VILLAGE OF PLEASANTVILLE	WESTCHESTER	19.60			545.6%	1,244,673	13,318	
	VILL. OF BRIMCROFT MANOR	WESTCHESTER	12.80			329.5%	892,336	9,548	
	TOWN OUTSIDE VILLAGES	WESTCHESTER	99.00			1341.3%	5,787,944	61,931	
			22 Fiber Added	YOY Increase		2024 Full Value	2024 Equalized Value		
			-		-5.2%	189,748	10,953	3,813	
			-		-6.6%	901,066	723	1,921	
			-		-7.9%	157,459	8,349		
			-		-6.6%	694,544	11,591		
			0.56		-7.4%	1,025,752	11,591		
			-		-3.6%	271,593	3,069		
			-		-3.7%	177,168	2,002		
			0.56		4.5%	196,726	2,223		
						380,255	4,297		
2023 Assessment Roll									



# Exhibit B

**From:** [David Perkins](#)  
**To:** [Ahmadi, Cyavash](#)  
**Cc:** [Diane Cates](#); [David Prebut](#); [Laura La Neve](#)  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender [david.perkins@ctaspilc.com](mailto:david.perkins@ctaspilc.com). Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.

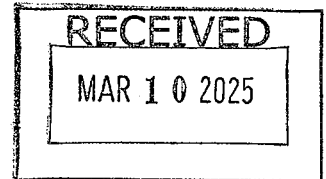


**New York State Department of Taxation and Finance  
Office of Real Property Tax Services  
Complaint on Tentative Special Franchise Full Values  
for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
8F-25-41	03/20/25

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Suffolk Cable of Smithtown

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

(516 ) 662-1122

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (*Attach additional sheets, if needed.*)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached.			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (*Attach additional sheets, if needed.*)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.


March 5, 2025

Date

Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, New York, NY 10036

Street Address, City, State, Zip

( 212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

David Prebut, Senior Vice President, Tax

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.



Cabinet Year 2023-2025 Assessment Roll										Cabinet Year 2022-2024 Assessment Roll										2023 Assessment Roll		2025 Cabinet of Value			
Company ID	SWIS Name	County	23 Fiber Added	ORPS Indicated		YOY Increase	2025 Full Value	2025 Equalized Value	22 Fiber Added	YOY Increase		2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22.7K + one yr depr @22.7K	25 Roll Added Value: New Fiber @22.7K	Total 2025 Opinion of Full Value							
				Value Per Mile Added																					
64560	TOWN OF RIPE	SUFFOLK	-	-	-6.2%	241,242	241,242	-	-3.0%	257,062	257,062	265,012		225,580	-	-	225,580								
	TOWN OUTSIDE VILLAGES	SUFFOLK	-	-	-6.2%	241,242	241,242	-	-0.6%	257,062	257,062	265,012		225,580	-	-	225,580								

### **Supplement to Complaint on Tentative Special Franchise Full Values**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the

product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").

As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Company ID 94586 TOWN OF BSLP TOWN OUTSIDE VILLAGES	County SUFFOLK SUFFOLK SUFFOLK	23 Fiber Added	OPFS Indicated			2023 Assessment Roll			2024 Assessment Roll			2025 Comparison of Value		
			Value Per Mile Added	YOY Increase	2025 Full Value	2025 Equalized Value	22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two and Fiber @22.7K + one y dep @22.7K	25 Roll Added Value New Fiber @22.7K	Total 2025 Opinion of Full Value
				-6.2%	241,242	241,242		-6.2%	257,062	257,062	256,012	225,660	-	225,660
				-6.2%	241,242	241,242		-0.03	257,062	257,062	256,012	225,661	-	225,661

# Exhibit B

**From:** David Perkins  
**To:** Ahmadi, Cyavash  
**Cc:** Diane Cates; David Prebut; Laura La Neve  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM



This is the first time you received an email from this sender david.perkins@ctaspllc.com. Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in



utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.



**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-42	03/20/25

**PART ONE: GENERAL INFORMATION**

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Suffolk Cable of Smithtown

Company Name

C/O Laura La Neve, VP - Indirect Tax, 1111 Stewart Avenue, Bethpage, NY 11714

Street Address, City, State, Zip

( 516 ) 662-1122

Telephone Number

( )

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
See Attached			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

Telephone Number

( )

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (*Attach additional sheets, if needed.*)**


<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, David Prebut on behalf of complainant, hereby designate  
Cyavash Ahmadi to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.

March 5, 2025

Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Cyavash Ahmadi, Counsel

Contact Person and Title

1114 Avenue of the Americas, 40th Floor, new York, NY 10036

Street Address, City, State, Zip

(212 ) 287-7033

Telephone Number

( )

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**

*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **2. Valuation**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

☒ **3. Other**

See Attached.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 10.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

March 5, 2025

Date

  
David Prebut, Senior Vice President, Tax

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

Company ID	SVMS Name	County	Chapter 171 Ref 2022-2025 Assessment Roll					Chapter 171 Ref 2022-2025 Assessment Roll					2023 Assessment Roll		2025 Continuation Value			
			23 Fiber Added	Value Per Mile Added	YOY Increase	2025 Full Value	2025 Equalized Value	22 Fiber Added	YOY Increase	2024 Full Value	2024 Equalized Value	2023 Full Value	23 Roll Value: Depreciated two add'l years	24 Roll Added Value: New Fiber @22.7K + one yr depr	25 Roll Added Value: New Fiber @22.7K	Opinion of Full Value	Total 2025	
643560	TOWN OF SMITH TOWN	SUFFOLK	9.18		-5.4%	24,428,837	210,174	6.43	11.6%	222,106	222,106	253,972	1,457	1,457	1,797	4,310		
	WILLAGE OF HEAD OF HARBOR	SUFFOLK	-		-3.7%	90,349	777	0.31	-12.5%	807	807	4,113	5	55	-	61		
	VILLAGE OF WESSELOQUE	SUFFOLK	-		-6.3%	391,977	3,371	-	-13.5%	3,599	3,599	5,553	30	-	-	30		
	VILLAGE OF THE BRANCH	SUFFOLK	0.06		-6.0%	522,507	4,497	-	-13.5%	4,786	4,786		40	-	12	52		
	TOWN OUTSIDE VILLAGES	SUFFOLK	9.12		-5.3%	23,453,605	201,929	6.12	-12.6%	212,914	212,914	249,693	1,791	1,102	1,795	4,697		

### **Supplement to Complaint on Tentative Special Franchise Assessment**

Complainant hereby disputes the tentative special franchise assessment determined by the State Office of Real Property Tax Services (“ORPTS”) in the Notices of Special Franchise Assessment dated December 19, 2024 (“Notices”). Pursuant to 20 NYCRR 8197-4.2(b)(6), Complainant hereby incorporates by reference all facts, figures, and calculations provided in reports to the Commissioner for the 2025 tax year. Additional information supporting the Complainant’s estimate of assessment is attached hereto as Exhibit A. The information establishes that the tentative special franchise assessment determined by the State Office of Real Property Tax Services are excessive (by reason of overvaluation), misclassified, unequal (by reason of inequality), and unlawful (by reason of illegality).

First, Complainant’s assessment conflicts with and is preempted by the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* (the “Cable Act”). As required under the Public Services Law, Complainant pays a franchise fee (as defined under the Cable Act, 47 U.S.C. § 542(g)(1)) to the localities included in this appeal. Complainant also pays a property tax on Complainant’s special franchise that constitutes a franchise fee under the Cable Act. The amount of the property tax Complainant pays on its special franchise, when combined with the franchise fee, exceeds the five percent cap on franchise fees authorized under the Cable Act. To the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment (once finalized) complained of here, Complaint hereby claims its entitlement to such credit.

Second, in calendar years 2022 and 2023, Complainant undertook to expand its fiber optic network in New York State.

Complainant’s actual cost per fiber mile build was approximately \$35,000 per mile. This figure, however, should be reduced for obsolete and/or under-utilized plant, as Complainant’s customers have increasingly adopted more modern methods of delivery for their services (e.g., fiber optic cable). The Complainant reduced its \$35,000 cost estimate by 15% based on studies performed by Complainant’s valuation expert. See Exhibit B. In addition, Complainant’s \$35,000 figure is believed to include bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. Based on studies performed by its valuation expert, the Complainant has reduced the \$35,000 figure by 8% for contractor premiums, 5% for IRUs, and 6% for software licenses. None of those items constitute part of Complainant’s “special franchise” or “real property” under the RPTL. See RPTL § 102(12), (17). Therefore, in reaching its opinion of value, Complainant has deducted from the \$35,000 per mile cost a total of 35% to arrive at a total cost per fiber mile of \$22,750.

In arriving at its ultimate opinion of value, Complainant accepted the special franchise value determined by ORPTS for the 2023 assessment roll. Complainant depreciated the 2023 roll value two years, for a total of 15%. Complainant then determined the value that was added to its system in calendar year 2022 by taking the product of its actual fiber mile costs and the number of miles added to its system in calendar year 2022 and depreciated that value by 8%. Complainant further determined the value that was added to its system in calendar year 2023 by taking the



product of its actual fiber mile costs and the number of miles added to its system in calendar year 2023 (there was no depreciation taken on this figure because this amount appears on the 2025 roll). The sum of the value added in calendar year 2022 and calendar year 2023 were added to the value on the 2023 roll (depreciated two years) to arrive at the total value for the 2025 roll. A summary of the foregoing computations is provided in Exhibit A.

ORPTS has overstated Complainant's property value resulting in astronomical year-over-year value increases of over 1,000% for some localities. Based on the property value determined by ORPTS, it appears that ORPTS has imputed a cost of approximately \$50,000 per fiber mile of new build. ORPTS' valuation is thus almost twice the value indicated by Complainant's actual costs, which is no surprise given that ORPTS utilized a per-mile cost that is about twice that of Complainant's.

Complainant understands that ORPTS assessed value is based on the costs of other special franchise properties, certain indices (the specifics of which have not been disclosed), and other factors based on the type of build and characteristics of the fiber. While this *methodology* may in some cases be reasonable, the resulting *value* in this case is not, as New York case law makes clear.

Special franchise property is defined as real property by Real Property Tax Law (RPTL) § 102 (12). It is subject to annual assessment by the State Board of Equalization and Assessment and all taxes and special ad valorem levies for county, city, town, village, school or special district purposes are imposed on the final assessment of each special franchise. Both the tangible real property and the intangible right to use the streets and thoroughfares (the intangible franchise) are components of a special franchise, and the values of each must be added to determine the value of the entire special franchise. *Brooklyn Union Gas Co. v. State Bd. of Equalization & Assessment*, 65 N.Y.2d 472 (1985) (citations omitted).

"[T]he ultimate purpose of valuation, whether in eminent domain or tax certiorari proceedings, is to arrive at a fair and realistic value of the property involved." *Matter of Great Atlantic & Pacific Tea Co. v. Kiernan*, 42 N.Y.2d 236 at 242 (1977); *see also Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971). The Court of Appeals has explained that the preferred method of valuation for special franchise property is reproduction-cost-new-less-depreciation (RCNLD). *See Brooklyn Union Gas Co.*, 65 N.Y.2d 472. In applying this method of valuation, New York law favors the use of actual cost figures, instead of abstract cost estimates. *See Niagara County Water District v. Board of Assessors*, 36 A.D.2d 236 (4th Dept. 1971).

In *Niagara County Water District*, the Appellate Division, Fourth Department reviewed the assessment of a water pipeline and determined that a taxpayer's actual cost were a more reliable measure of value than the assessor's general estimates. The assessor valued 3,720 feet of pipeline at \$8.25 per foot, plus valves, heads and hydrants at \$3,290. *Id.* at 241. The assessor added a 10% contingency for engineering, inspection and legal fees. *Id.* The assessor did not provide any explanation for the dollar values attached to the line and equipment. *Id.* The taxpayer, on the other

hand, presented evidence that the actual cost to build the pipeline, including at 10% contingency for engineering, legal and other purposes, based on the contract price was \$6.84 per foot. *Id.*

In rejecting the assessor's estimate of value, the court explained that "[n]o reason has been suggested why the line should be given a per foot value which is substantially above the actual cost of construction some 11 years earlier. Furthermore, the computation of distance by the Consulting Engineer actually working on the job bears a reliability not present in the calculation submitted by the assessor based upon a map prepared by the engineer." *Id.*

The rationale adopted by the Appellate Division in *Niagara County Water District* thus supports the position that Complainant's actual cost figures are superior indicia of value than estimates abstracted from other taxpayers, and undisclosed cost indices. *See also S.S. &K. Realty Corp. v Finance Admin. of New York*, 82 A.D.2d 808 (2nd Dept. 1981) ("[I]n determining the reproduction costs less depreciation, the actual cost of construction is a highly significant factor particularly where ... the construction is close in time to the tax years under review."). Moreover, there is nothing about Complainant's cost figures that calls into question their reliability. *Cf. Grossman v. Board of Trustees*, 44 A.D.2d 259 (4th Dept. 1974) ("In this case in which the owners, the developer, and the construction contractor are all the same people, there is no assurance that the actual cost reflects replacement cost to a potential buyer because the transaction was not an arm's length transaction.").


As Complainant's actual costs are the most reliable indicator of the value of Complainant's property, and such costs indicate a property value that is half of what ORPTS determined, it is respectfully requested that Complainant's values be reduced to reflect the amount indicated in its opinion of value. If not satisfied with the foregoing explanation and additional documentation included with its complaint, Complainant respectfully requests an opportunity to provide any additional documentation that ORPTS, through the hearing officer, may request. *See* 20 NYCRR § 8197-4.2(c)(2).

# Exhibit A

Calendar Year 2023, 2024, 2025 Assessment Roll									
Company ID	SWIS Name	County	OPRT's Indicated		VOY Increase	2023 Full Value	2025 Equalized Value	Calendar Year 2022, 2024 Assessment Roll	
			23 Fiber Added	Value Per Mile Added				22 Fiber Added	2024 Full Value
648660	TOWN OF SMITH TOWN	SUFFOLK	9.18		-8.4%	24,438,837	210,174	6.43	222,106
	VILLAGE OF HEAD OF HARBOR	SUFFOLK	-		-3.7%	90,349	777	0.31	807
	VILLAGE OF MISSECOQUE	SUFFOLK	-		-8.3%	391,977	3,371	-	3,599
	VILLAGE OF THE BRANCH	SUFFOLK	0.06		-6.0%	\$22,907	4,497	-	4,786
	TOWN OUTSIDE VILLAGES	SUFFOLK	9.12		-5.3%	23,433,605	201,529	6.12	212,914
2023 Assessment Roll									
						253,978			
						723			
						4,113			
						5,533			
						243,609			
2025 Opinion of Value									
							23 Roll Value:	24 Roll Added Value: New	25 Roll Added
							Depreciated two add'l years	Fiber @22.7K + one y depr	Value: New Fiber @22.7K
							1,897	1,157	1,797
							5	55	-
							30	-	-
							40	-	12
							1,791	1,102	1,785
									4,810
									61
									30
									52
									4,897

# Exhibit B

**From:** David Perkins  
**To:** Ahmadi, Cyavash  
**Cc:** Diane Cates; David Prebut; Laura La Neve  
**Subject:** Altice - Fiber Build Response  
**Date:** Thursday, January 16, 2025 6:16:09 PM

 This is the first time you received an email from this sender david.perkins@ctasp LLC.com. Please note in case you are expecting this to be a familiar sender

[EXTERNAL]

Cyavash:

Based on our earlier discussion, I am understanding that the real property division is applying a uniformity assessment per mile to the taxpayer's newly constructed aerial fiber build at approximately \$50-\$55K per mile which is generally based on a variety of differing builds from a collection of taxpayers and where applicable, an index is applied for older builds to a current price. Based on our discussions, it was unclear to the taxpayer whether the uniformity benchmark of \$50-\$55K per mile used by the real property division is a combination of aerial and buried and differing materials such as metallic and fiber. In contrast, the taxpayer reported the recent cost to build aerial fiber at roughly \$30-35K per mile. In our discussion you had asked for my input based on benchmarking and a high level overview of our current engagement with the taxpayer to review both replacement costs along with bundled intangible costs.

At a high level, an aerial fiber build generally costs significantly less than a buried build for any material type for the obvious reasoning that you have to open the ground to lay a buried build. The length of time to construct, coordination with various landowners, permitting, security, additional equipment rentals, and labor are all premium charges for a buried build as compared to an aerial build. In addition, fiber can carry data and voice traffic significantly further with less boosting equipment than its predecessor metallic material. **Combined, the advantages of building aerial fiber as compared to any other material, whether buried or aerial, can run as much as 40% less.** Boosting equipment located at nodes or attached to poles accounts for approximately 15% of the premium. The remaining 25% is the premium for a buried build as compared to an aerial build offset by the additional cost of fiber as compared to metallic material.

While our study is not yet complete on the replacement cost and bundled intangible cost, I can provide our benchmarking estimates commonly used as parameters. On the replacement plant, it is estimated that approximately 85% of the older vintage material previously installed is not only obsolete but is also significantly under-utilized as customers have increasingly adopted the fiber technology. The 85% is supported by an approximate 12%-14% per year decline per year in

utilization of metallic plant since 2008 to 2012 which is being replaced by fiber. Our estimate of a discount to the new fiber build is conservatively 15% to account for the already assessed and under-utilized duplicate plant. In addition, certain costs in the optical transport of data/voice employed in a fiber build have bundled intangible costs for software licenses, indefeasible rights to use (IRU), and contractor premiums for retainage and warranties on labor/materials. These estimates conservatively stand at about 5%-8% for the contractor premiums, 3%-5% for IRUs, and 4%-6% for software licenses. **In total, a discount to the new fiber build would equate to a conservative 30% reduction from the reported costs assuming no other adjustments are being made to remove the duplicate plant.** If the duplicate plant were to be removed from assessment, our discount from the new fiber build would approximate roughly 15% for bundled intangible costs.

Let me know if you have any questions.

Thanks,

---

David Perkins, ASA, CPA

Managing Member

T: 213.262.3156

M: 206.550.1065

F: 213.559.0585

E: [David.perkins@ctaspllc.com](mailto:David.perkins@ctaspllc.com)

Columbia Tax Advisory Services PLLC

19215 SE 34<sup>th</sup> Street, Suite 106 #504

Camas, WA 98607

This message (including any attachments) contains confidential information intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you should delete this message and any disclosure, copying, or distribution of this message, or the taking of any action based on it, by you is strictly prohibited.





## RESOLUTION 25-20

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on February 12, 2025, the tentative special franchise full values for Millennium Pipeline Company were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notices of the tentative special franchise full values and the scheduled hearing dates were duly mailed on February 13, 2025

**WHEREAS**, complaints (#SF-25-17 and SF-25-18), dated March 07, 2025 were filed by Millennium Pipeline Company as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4.2; and

**WHEREAS**, hearings pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 were held with regard to the complaints on March 20, 2025; and

**WHEREAS**, appearances on behalf of Millennium Pipeline Company were not made at the March 20, 2025 hearing; and

**WHEREAS**, the Hearing Officer has filed reports dated April 23, 2025; and

**WHEREAS**, ORPTS staff has reviewed the complaints, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated May 16, 2025; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

**25-20**

-2-

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2025 final special franchise full values as set forth in List No. SF-25-17 and SF-25-18, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to the affected municipalities to be used as the special franchise full values on the respective 2025 assessment roll.

Voting in favor:

Voting against:

Abstaining:

Absent:

**STATE OF NEW YORK            )**  
**COUNTY OF ALBANY         ) ss:**

I, Rachel Ingalsbe, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 04, 2025.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 4<sup>th</sup> day of June 2025.

Rachel Ingalsbe, Director of the Office of Real  
Property Tax Services

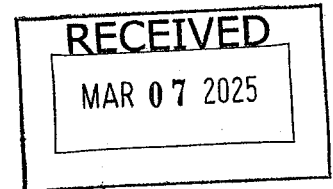


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Assessments**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-17	03/20/2025

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Millennium Pipeline Company, LLC

Company Name

1 Blue Hill Plaza, P.O. Box 1565, Pearl River, New York 10965

Street Address, City, State, Zip

(248 ) 840-6219

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Company's Estimate of Assessment</u>
SEE ATTACHED			
SCHEDULE A			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Assessment (*Attach additional sheets, if needed.*)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Assessment</u>	<u>Assessing Unit(s) Estimate of Assessment</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, Erich Voeffray, Vice President of Finance, on behalf of complainant, hereby designate  
Cullen and Dykman LLP to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise assessment(s) for the year 2025.

3/4/25  
 Date

[Signature]  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Karen Levin, Robert Sorge, Michael Hrankiowskyj  
 Contact Person and Title  
333 Earle Ovington Boulevard, Second Floor, Uniondale, New York 11553  
 Street Address, City, State, Zip

(516 ) 296-9110  
 Telephone Number

(516 ) 357-3792  
 Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Unequal Assessment**

The tentative assessment did not reflect the proper equalization rate or uniform percentage of full value for the assessment roll in question.

☒ **B. Improper Full Value**

Full value of property is erroneous.

☒ **C. Unlawful Assessment**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE ASSESSMENT OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Millennium Pipeline Company, LLC relies upon the annual inventory reports previously provided to the Office of Real Property Tax Services, but with appropriate adjustments as set forth in Schedule B.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 8.)*

☒ **2. Valuation**

Please see attached Schedule B: Additional Information in Support of Claimed Assessments.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 8.)*

☒ **3. Other**

Please see attached Schedule B: Additional Information in Support of Claimed Assessments.

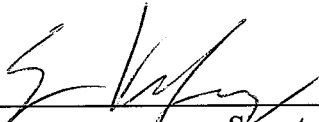
*(If additional explanation or documentation is necessary, please attach - # of attached pages 8.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

3/4/25

Date

 VP of Finance

Signature/Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

**SCHEDULE A IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
MILLENNIUM PIPELINE COMPANY  
DATED MARCH 6, 2025**

**LIST OF ASSESSING UNITS AND COMPANY'S ESTIMATES OF ASSESSMENTS**

County	Town/City	Village/Town Outside Village	Tentative AV	Claimed AV
Delaware (eq. rate 3.49)	Town of Deposit	Town Outside Villages	33,646	8,411
Steuben (eq. rate 5.14)	Town of Jasper		329	82
Tioga (eq. rate 4.5)	Town of Tioga		27,146	6,786
Grand Total			61,121	15,279



**SCHEDULE B IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
MILLENNIUM PIPELINE COMPANY, LLC**

**DATED MARCH 6, 2025**

**ADDITIONAL INFORMATION IN  
SUPPORT OF CLAIMED ASSESSMENTS**

Millennium Pipeline Company, LLC (hereinafter “Complainant”) complains of and objects to the Tentative Special Franchise Assessments determined by the Office of Real Property Tax Services (hereinafter “ORPTS”) and set forth in the Notice dated February 12, 2025. Complainant alleges that said Tentative Special Franchise Assessments are excessive, unequal, unlawful and unconstitutional, as more fully set forth below.

### **I. EXCESSIVE ASSESSMENTS**

1. The ORPTS determination of the assessments of Complainant’s special franchise property located in the assessing units listed in Schedule “A” exceeds their values as determined by proper use of valuation methodologies.

2. On information and belief, the ORPTS has attempted to apply a reproduction cost new less depreciation methodology in valuing Complainant's special franchise property which is incorrect in numerous respects, is misapplied in many instances and which has achieved values in excess of the cost to reproduce the property and which has resulted in excessive assessments, all as generally described below.

3. The ORPTS has valued Complainant’s special franchise property by applying a third party index to trend original book costs incorrectly and inappropriately or using inflated unit construction costs, in a manner which fails to make proper adjustments and which results in an overvaluation of Complainant's special franchise property.

4. In valuing Complainant’s special franchise property, the ORPTS failed to apply the correct construction costs. Upon information and belief, the ORPTS applied Complainant’s unadjusted reported original costs for pipeline construction costs (and other costs). In applying said costs, the ORPTS failed to adjust those reported original costs downward to remove costs that

were wholly unrelated to the construction of the subject pipeline or unrelated to the locations which are listed on the ORPTS Notice dated February 12, 2025.

5. In valuing Complainant's special franchise property, the ORPTS failed to apply appropriate adjustments to Complainant's unadjusted original costs to reflect actual construction costs on the correct valuation date(s).

6. In valuing Complainant's special franchise property, the ORPTS failed to apply proper adjustments for costs related to unnecessary or unusual construction, duplication, re-design, relocation and extraordinary time schedules for completing construction of the pipeline. Such failure results in a gross overstatement of the cost to reproduce Complainant's special franchise property.

7. Without significant adjustments, Complainant's reported unadjusted original costs cannot be used to compute the reproduction cost new of the Complainant's special franchise property as of the valuation date(s).

8. The ORPTS' application of the reproduction cost methodology fails to account for numerous other factors which diminish the value of Complainant's special franchise property and which have resulted in excessive assessments, including, the improper valuation of unused or underutilized property.

9. The ORPTS' application of the reproduction cost methodology utilizes construction and other capital costs which, while properly treated and booked as original costs for regulatory ratemaking purposes, should not be utilized by the ORPTS without adjustment or modification for valuation purposes.

10. The ORPTS has failed to consider that certain costs associated with safety and regulatory compliance, such as hydrostatic testing and pig runs, although capitalized on its books,

are in the nature of inspection and maintenance and therefore should be expensed for property valuation purposes. These and similar costs which provide burdens and no benefit and add no value continue to be trended, valued and assessed because the ORPTS' reliance upon the treatment of these expenditures, which while properly booked as capital as an investment under accounting principles, is misplaced for property valuation purposes. Under normal property valuation principles, these expenditures are expense items and would not be considered as capital additions. Unlike capital additions, these expenditures do not achieve an economic benefit such as the expansion of the existing system for the addition of new customer load.

11. The ORPTS, in the determination of Complainant's assessments, separated the value of each of the special franchise properties into two parts or elements, namely, the tangible and the intangible, and, after valuing the tangible part, which already reflected any intangible value, then added a so-called intangible element without any reasonable basis and thereby fixed incorrect and excessive assessments.

12. The ORPTS arbitrarily fixed and determined the value for such non-existent intangible parts at an excessive and confiscatory amount, and at a sum representative of at least 5% of the ORPTS' estimate of the value of the tangible part of each of the special franchise properties.

13. In determining the value for such non-existent intangible parts of each of the special franchise properties, the ORPTS failed to consider the economic obsolescence impacting the property and the inability of the Complainant to recover all of its "construction related" costs in its rates from its customers.

14. Complainant is subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") in the manner of the determination and regulation of rates that

Complainant may charge for services rendered. Complainant's property consists of its real property, plant and equipment, special franchises and other miscellaneous property and such property has no greater value for tax valuation purposes than that which the FERC accepts as the valuation of Complainant's property for the regulation of revenues and earnings and by the fixation and prescription of the maximum rates which may be charged by Complainant for services furnished.

15. In fixing and determining the assessments of the Complainant's special franchise properties, the ORPTS erroneously, improperly and illegally deducted from its estimated value an arbitrary, inadequate and insufficient sum for all forms of depreciation, including physical depreciation and economic (external) and functional obsolescence, with the result that the ORPTS adopted in each instance a value in excess of the value produced by a correct and proper application of its own or any correct valuation procedure, and in excess of the maximum value of said tangible property, and in excess of the true valuation of each of the special franchise properties.

16. The physical depreciation applied to Complainant's property is incorrect and inadequate in numerous respects, including the following: The ORPTS' rules on depreciation arbitrarily fail to permit full depreciation and establish an artificial and incorrect mandate to freeze depreciation at an arbitrary level which yields inadequate physical depreciation contrary to Complainant's actual experience, and results in the excessive valuation of Complainant's special franchise property. In addition, the ORPTS rules provide for a fifty (50) year service life for gas pipeline transmission mains and field lines which is contrary Complainant's actual experience and contrary to FERC which provides for a thirty (30) year service life for this equipment. The use of an arbitrary fifty (50) year service life results in the excessive valuation of Complaint's special franchise property.

17. The ORPTS failed to acknowledge the impact of the Climate Leadership and Community Protection Act (“CLCPA”) upon the service life of Complainant’s special franchise property. The CLCPA requires 100% zero-emission electricity by 2040. The CLCPA will require Complainant to cease utilizing the subject property or update it to conform with the CLCPA by 2040. The subject property was installed in 2008 or earlier, and according to ORPTS’ guidelines, has a 50 year average service life. The CLCPA will negatively impact Complainant’s property and reduce the service life of Complainant’s property. The ORPTS has not adjusted the valuation of Complainant’s property to reflect this reduced service life.

18. A portion of the overvaluation for each of the excessive assessments results from the ORPTS’ application of inappropriate salvage factors in determining the value of Complainant’s special franchise property.

19. Complainant's property is functionally obsolete as defined by the ORPTS rules and by generally accepted appraisal methodology. Yet, in its application of the reproduction cost new less depreciation method of valuation, the ORPTS failed to adequately recognize the functional obsolescence which exists in Complainant's special franchise property. The failure to adequately recognize functional obsolescence has resulted in incorrect and excessive assessments.

20. A portion of the overvaluation for each of the excessive assessments results from the ORPTS’ failure to recognize the underutilization of Complainant’s property and, as a result, its failure to adequately recognize the functional obsolescence which exists in Complainant’s property.

21. The ORPTS rules do not provide for a sufficient allowance for the existence of economic (external) obsolescence in determining the special franchise assessments. The failure to recognize such economic obsolescence resulted in incorrect and excessive assessments.

22. In fixing and determining the assessments of Complainant's special franchise property, the ORPTS failed to consider the substantial cost overruns in the construction of the pipeline.

23. The assessments of Complainant's special franchise properties in the listed assessing units should have been fixed by the ORPTS at amounts not exceeding the following amounts set forth below under the caption "Claimed AV." The extent of overvaluation in each listed assessing unit is set forth in the right hand column:

County	Town/City	Village/Town Outside Village	Tentative AV	Claimed AV	Reduction
Delaware (eq. rate 3.49)	Town of Deposit	Town Outside Villages	33,646	8,411	25,235
Steuben (eq. rate 5.14)	Town of Jasper		329	82	247
Tioga (eq. rate 4.5)	Town of Tioga		27,146	6,786	20,360
Grand Total			61,121	15,279	45,842

## **II. UNLAWFUL ASSESSMENTS**

24. Complainant alleges further that, in fixing and determining the assessed valuations of Complainant's special franchises, the ORPTS arbitrarily, capriciously, improperly and unlawfully ignored the principles of law and facts and its own rules and, as a result thereof, fixed and determined the valuation of each of said special franchise properties in a discriminatory and unwarranted manner, and at an excessive and confiscatory amount at a sum in excess of its value.

25. The ORPTS charges Complainant for determining its assessments and such charge is constitutionally infirm and illegal and a further burden on the special franchise properties which is not recognized in the assessments and results in excessive assessments.

### **III. UNCONSTITUTIONAL ASSESSMENTS**

26. The actions of the ORPTS in determining the 2025 assessed values of Complainant's special franchise property are invalid in that they failed to consider all determinants of value on a uniform basis and disparately treated Complainant's special franchise property from all other similarly situated interstate and/or intra-state natural gas pipeline special franchise property in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Section 11 of Article 1 of the New York State Constitution, and section 305 of the Real Property Tax Law.

27. Upon information and belief, the ORPTS did not value Complainant's special franchise property by the same methodology it values all other similarly situated interstate and/or intra-state natural gas pipeline special franchise property owned by other companies. The ORPTS' use of a different methodology to value Complainant's special franchise property resulted in values in excess of the cost to reproduce the property and in excessive, illegal and unconstitutional values. Had the ORPTS applied the same methodology used to value all other similarly situated properties, the assessed values of Complainant's special franchise property would have been lower than the assessed values listed above and in Schedule "A."

28. Complainant is engaged in interstate commerce by virtue of its interstate natural gas pipeline transmission system.

29. The ORPTS' actions constitute an unlawful burden on interstate commerce in violation of the Commerce Clause of Article I, Section 8, Clause 3 of the Constitution of the United States in that the assessed values were made in a systematic, intentional, burdensome, arbitrary, capricious and discriminatory fashion that result in excess tax liabilities being imposed on Complainant, as compared to other similarly situated interstate or intra-state natural gas pipeline



special franchise properties operating in the State of New York; thereby resulting in a competitive disadvantage to Complainant.

30. The ORPTS must treat all similarly situated special franchise properties equally, including applying uniform valuation methodologies.

#### **IV. OTHER**

31. Complainant is aggrieved and is injured by these unconstitutional, illegal, void, unjust, excessive and unequal valuations and Complainant has been compelled to pay a far greater amount in taxes based upon these valuations than it would have been compelled to pay if the valuations had been made constitutionally, justly and legally determined in accordance with the provisions of law and established methods of valuation and in accordance with the provisions of the Constitutions of the United States and of the State of New York, and the resulting amounts paid in taxes is far more than its fair and equal portion of aggregate taxes levied upon real property in the assessing units listed herein and in Schedule "A" for the same period, resulting in confiscation of Complainant's property, denying Complainant equal protection of the law, depriving Complainant of its property without due process of the law and taking Complainant's property for public use without rendering just compensation therefor, in violation of the Constitutions of the United States and of the State of New York.

32. Complainant and its customers have been injured by the assessments complained of herein.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
February 12, 2025

**NOTICE OF TENTATIVE SPECIAL FRANCHISE ASSESSMENT**

For city and town assessment roll to be filed in 2025

Millennium Pipeline Co., LLC 810700  
C/O Erich Voeffray  
One Blue Hill Plaza  
Pearl River, NY 10965

Hearing Date and Location:  
March 20, 2025 at 10:00 am  
CR 125, Bldg 9, 1st Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise assessments for the following assessing unit(s) at the amounts shown below. The assessments were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The assessments include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such assessments. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise assessments on Form RP-7142 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	<u>Assessment Number</u>	<u>Tentative Assessment</u>	<u>Pct Change From Prior Roll</u>
<b>Town of Deposit, Delaware County</b>			
Equalization Rate:	3.49*		-4.9
Town Outside Villages		<b>33,646</b>	-12.5
Total Town:	810700-1230	\$33,646	-12.5
<b>Town of Jasper, Steuben County</b>	810700-4656	<b>\$329</b>	-2.1
Equalization Rate:	5.14*		14.2
<b>Town of Tioga, Tioga County</b>	810700-4936	<b>\$27,146</b>	-8.0
Equalization Rate:	4.50*		0.0
Grand Total		<b>\$61,121</b>	-10.5



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
February 12, 2025

A handwritten signature in cursive script that reads "David Ange".

David Ange  
Real Property Services Administrator 2

\* The State Office has determined that your city/town/village has not completed a full value revaluation since 1953. Accordingly, the latest state equalization rate or special equalization rate has not been used in determining the portion of your special franchise assessments that is attributable to property assessed in 1953. In future years, the State Office will use the latest rate in valuing the entire special franchises for all rolls following completion of the appropriate revaluation.

Note: The amounts of the special franchise assessments set forth in this notice are "tentative" and must not be entered on the assessment roll. The final assessments for entry on the assessment roll will be transmitted at a later date.

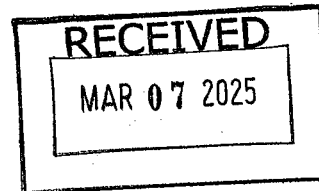


**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number	Hearing Date
SF-25-18	03/20/2025

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Millennium Pipeline Company, LLC

Company Name

1 Blue Hill Plaza, P.O. Box 1565, Pearl River, New York 10965

Street Address, City, State, Zip

(248 ) 840-6219

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
SEE ATTACHED			
SCHEDULE A			

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

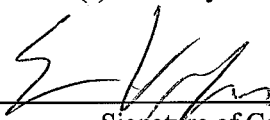
**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, Erich Voeffray, Vice President of Finance, on behalf of complainant, hereby designate  
Cullen and Dykman LLP to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025 .

3/4/25  
 Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Karen Levin, Robert Sorge, Michael Hrankiowskyj  
 Contact Person and Title

333 Earle Ovington Boulevard, Second Floor, Uniondale, New York 11553  
 Street Address, City, State, Zip

(516 ) 296-9110  
 Telephone Number

(516 ) 357-3792  
 Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Millennium Pipeline Company, LLC relies upon the annual inventory reports previously provided to the Office of Real Property Tax Services, but with appropriate adjustments as set forth in Schedule B.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 9.)*

☒ **2. Valuation**

Please see attached Schedule B: Additional Information in Support of Claimed Full Values.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 9.)*

☒ **3. Other**

Please see attached Schedule B: Additional Information in Support of Claimed Full Values.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 9.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

3/4/25  
Date

*[Signature]* VP of Finance  
Signature and Title

<b>Clear Form</b>
-------------------

---

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

---

**SCHEDULE A IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
MILLENNIUM PIPELINE COMPANY  
DATED MARCH 6, 2025**

**LIST OF ASSESSING UNITS AND COMPANY'S ESTIMATES OF FULL VALUES**



<b>County</b>	<b>Town/City</b>	<b>Village/Town Outside Village</b>	<b>Tentative Full Values</b>	<b>Claimed Full Values</b>
Broome	Town of Chenango		1,372,415	343,104
	Town of Dickinson	Village of Port Dickinson	1,765,184	441,296
	Town of Fenton		277,946	69,487
	Town of Windsor	Town Outside Villages	386,391	96,598
Chemung	Town of Horseheads	Town Outside Villages	106,878	26,720
	Town of Veteran	Town Outside Villages	3,346,159	836,540
Delaware	Town of Hancock	Town Outside Villages	2,177,022	544,256
Orange	Town of Deerpark		113,266	28,317
	Town of Greenville		923,836	230,959
	Town of Minisink	Town Outside Villages	494,355	123,589
	Town of Tuxedo		26,705,560	6,676,390
	Town of Warwick	Town Outside Villages	7,762,193	1,940,548
	Town of Wawayanda		174,636	43,659
Rockland	Town of Ramapo	Village of Pomona	118,601	29,650
		Town Outside Villages	37,364,581	9,341,145
Steuben	Town of Campbell		62,878	15,720
Steuben	Town of Greenwood		147,489	36,872
Sullivan	Town of Delaware		3,093,220	773,305
Sullivan	Town of Forestburgh		417,668	104,417
	Town of Highland		5,458,305	1,364,576
	Town of Lumberland		21,818,677	5,454,669
Grand Total			114,087,260	28,521,817

**SCHEDULE B IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
MILLENNIUM PIPELINE COMPANY, LLC**

**DATED MARCH 6, 2025**

**ADDITIONAL INFORMATION IN  
SUPPORT OF CLAIMED FULL VALUES**

Millennium Pipeline Company, LLC (hereinafter “Complainant”) complains of and objects to the Tentative Special Franchise Full Values determined by the Office of Real Property Tax Services (hereinafter “ORPTS”) and set forth in the Notice dated February 12, 2025. Complainant alleges that said Tentative Special Franchise Full Values are excessive, unequal, unlawful and unconstitutional, as more fully set forth below.

### **I. EXCESSIVE FULL VALUES**

1. The ORPTS determination of the full values of Complainant’s special franchise property located in the assessing units listed in Schedule “A” exceeds their full values as determined by proper use of valuation methodologies.

2. On information and belief, the ORPTS has attempted to apply a reproduction cost new less depreciation methodology in valuing Complainant's special franchise property which is incorrect in numerous respects, is misapplied in many instances and which has achieved values in excess of the cost to reproduce the property and which has resulted in excessive full values, all as generally described below.

3. The ORPTS has valued Complainant’s special franchise property by applying a third party index to trend original book costs incorrectly and inappropriately or using inflated unit construction costs, in a manner which fails to make proper adjustments and which results in an overvaluation of Complainant's special franchise property.

4. In valuing Complainant’s special franchise property, the ORPTS failed to apply the correct construction costs. Upon information and belief, the ORPTS applied Complainant’s unadjusted reported original costs for pipeline construction costs (and other costs). In applying said costs, the ORPTS failed to adjust those reported original costs downward to remove costs that

were wholly unrelated to the construction of the subject pipeline or unrelated to the locations which are listed on the ORPTS Notice dated February 12, 2025.

5. In valuing Complainant's special franchise property, the ORPTS failed to apply appropriate adjustments to Complainant's unadjusted original costs to reflect actual construction costs on the correct valuation date(s).

6. In valuing Complainant's special franchise property, the ORPTS failed to apply proper adjustments for costs related to unnecessary or unusual construction, duplication, re-design, relocation and extraordinary time schedules for completing construction of the pipeline. Such failure results in a gross overstatement of the cost to reproduce Complainant's special franchise property.

7. Without significant adjustments, Complainant's reported unadjusted original costs cannot be used to compute the reproduction cost new of the Complainant's special franchise property as of the valuation date(s).

8. The ORPTS' application of the reproduction cost methodology fails to account for numerous other factors which diminish the value of Complainant's special franchise property and which have resulted in excessive full values, including, the improper valuation of unused or underutilized property.

9. The ORPTS' application of the reproduction cost methodology utilizes construction and other capital costs which, while properly treated and booked as original costs for regulatory ratemaking purposes, should not be utilized by the ORPTS without adjustment or modification for valuation purposes.

10. The ORPTS has failed to consider that certain costs associated with safety and regulatory compliance, such as hydrostatic testing and pig runs, although capitalized on its books,

are in the nature of inspection and maintenance and therefore should be expensed for property valuation purposes. These and similar costs which provide burdens and no benefit and add no value continue to be trended, valued and assessed because the ORPTS' reliance upon the treatment of these expenditures, which while properly booked as capital as an investment under accounting principles, is misplaced for property valuation purposes. Under normal property valuation principles, these expenditures are expense items and would not be considered as capital additions. Unlike capital additions, these expenditures do not achieve an economic benefit such as the expansion of the existing system for the addition of new customer load.

11. The ORPTS, in the determination of Complainant's full values, separated the value of each of the special franchise properties into two parts or elements, namely, the tangible and the intangible, and, after valuing the tangible part, which already reflected any intangible value, then added a so-called intangible element without any reasonable basis and thereby fixed incorrect and excessive full values.

12. The ORPTS arbitrarily fixed and determined the value for such non-existent intangible parts at an excessive and confiscatory amount, and at a sum representative of at least 5% of the ORPTS' estimate of the value of the tangible part of each of the special franchise properties.

13. In determining the value for such non-existent intangible parts of each of the special franchise properties, the ORPTS failed to consider the economic obsolescence impacting the property and the inability of the Complainant to recover all of its "construction related" costs in its rates from its customers.

14. Complainant is subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") in the manner of the determination and regulation of rates that

Complainant may charge for services rendered. Complainant's property consists of its real property, plant and equipment, special franchises and other miscellaneous property and such property has no greater value for tax valuation purposes than that which the FERC accepts as the valuation of Complainant's property for the regulation of revenues and earnings and by the fixation and prescription of the maximum rates which may be charged by Complainant for services furnished.

15. In fixing and determining the full values of the Complainant's special franchise properties, the ORPTS erroneously, improperly and illegally deducted from its estimated value an arbitrary, inadequate and insufficient sum for all forms of depreciation, including physical depreciation and economic (external) and functional obsolescence, with the result that the ORPTS adopted in each instance a value in excess of the value produced by a correct and proper application of its own or any correct valuation procedure, and in excess of the maximum value of said tangible property, and in excess of the true valuation of each of the special franchise properties.

16. The physical depreciation applied to Complainant's property is incorrect and inadequate in numerous respects, including the following: The ORPTS rules on depreciation arbitrarily fail to permit full depreciation and establish an artificial and incorrect mandate to freeze depreciation at an arbitrary level which yields inadequate physical depreciation contrary to Complainant's actual experience, and results in the excessive valuation of Complainant's special franchise property. In addition, the ORPTS rules provide for a fifty (50) year service life for gas pipeline transmission mains and field lines which is contrary Complainant's actual experience and contrary to FERC which provides for a thirty (30) year service life for this equipment. The use of an arbitrary fifty (50) year service life results in the excessive valuation of Complaint's special franchise property.

17. The ORPTS failed to acknowledge the impact of the Climate Leadership and Community Protection Act (“CLCPA”) upon the service life of Complainant’s special franchise property. The CLCPA requires 100% zero-emission electricity by 2040. The CLCPA will require Complainant to cease utilizing the subject property or update it to conform with the CLCPA by 2040. The subject property was installed in 2008 or earlier, and according to ORPTS’ guidelines, has a 50 year average service life. The CLCPA will negatively impact Complainant’s property and reduce the service life of Complainant’s property. The ORPTS has not adjusted the valuation of Complainant’s property to reflect this reduced service life.

18. A portion of the overvaluation for each of the excessive full values results from the ORPTS’ application of inappropriate salvage factors in determining the value of Complainant’s special franchise property.

19. The ORPTS failed to adequately recognize the functional obsolescence which exists in Complainant’s special franchise property. The failure to adequately recognize functional obsolescence has resulted in incorrect and excessive full values.

20. A portion of the overvaluation for each of the excessive full values results from the ORPTS’ failure to recognize the underutilization of Complainant’s property and, as a result, its failure to adequately recognize the functional obsolescence which exists in Complainant’s property.

21. The ORPTS rules do not provide for a sufficient allowance for the existence of economic (external) obsolescence in determining the special franchise full values. The failure to recognize such economic obsolescence resulted in incorrect and excessive full values.

22. In fixing and determining the full values of Complainant's special franchise property, the ORPTS failed to consider the substantial cost overruns in the construction of the pipeline.

23. The full values of Complainant's special franchise properties in the listed assessing units should have been fixed by the ORPTS at amounts not exceeding the following amounts set forth below under the caption "Claimed FV." The extent of overvaluation in each listed assessing unit is set forth in the right hand column:

County	Town/City	Village/Town Outside Village	Tentative Full Values	Claimed Full Values	Reduction
Broome	Town of Chenango		1,372,415	343,104	1,029,311
	Town of Dickinson	Village of Port Dickinson	1,765,184	441,296	1,323,888
	Town of Fenton		277,946	69,487	208,459
	Town of Windsor	Town Outside Villages	386,391	96,598	289,793
Chemung	Town of Horseheads	Town Outside Villages	106,878	26,720	80,158
	Town of Veteran	Town Outside Villages	3,346,159	836,540	2,509,619
Delaware	Town of Hancock	Town Outside Villages	2,177,022	544,256	1,632,766
Orange	Town of Deerpark		113,266	28,317	84,949
	Town of Greenville		923,836	230,959	692,877
	Town of Minisink	Town Outside Villages	494,355	123,589	370,766
	Town of Tuxedo		26,705,560	6,676,390	20,029,170
	Town of Warwick	Town Outside Villages	7,762,193	1,940,548	5,821,645
	Town of Wawayanda		174,636	43,659	130,977
Rockland	Town of Ramapo	Village of Pomona	118,601	29,650	88,951
		Town Outside Villages	37,364,581	9,341,145	28,023,436
Steuben	Town of Campbell		62,878	15,720	47,158
Steuben	Town of Greenwood		147,489	36,872	110,617



County	Town/City	Village/Town Outside Village	Tentative Full Values	Claimed Full Values	Reduction
Sullivan	Town of Delaware		3,093,220	773,305	2,319,915
Sullivan	Town of Forestburgh		417,668	104,417	313,251
	Town of Highland		5,458,305	1,364,576	4,093,729
	Town of Lumberland		21,818,677	5,454,669	16,364,008
Grand Total			114,087,260	28,521,817	85,565,443

## **II. UNLAWFUL FULL VALUES**

24. Complainant alleges further that, in fixing and determining the full valuations of Complainant's special franchises, the ORPTS arbitrarily, capriciously, improperly and unlawfully ignored the principles of law and facts and its own rules and, as a result thereof, fixed and determined the valuation of each of said special franchise properties in a discriminatory and unwarranted manner, and at an excessive and confiscatory amount at a sum in excess of its value.

25. The ORPTS charges Complainant for determining its full values and such charge is constitutionally infirm and illegal and a further burden on the special franchise properties which is not recognized in the full values and results in excessive full values.

## **III. UNCONSTITUTIONAL VALUES**

26. The actions of the ORPTS in determining the 2025 full values of Complainant's special franchise property are invalid in that they failed to consider all determinants of value on a uniform basis and disparately treated Complainant's special franchise property from all other similarly situated interstate and/or intra-state natural gas pipeline special franchise property in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States

Constitution, Section 11 of Article 1 of the New York State Constitution, and section 305 of the Real Property Tax Law.

27. Upon information and belief, the ORPTS did not value Complainant's special franchise property by the same methodology it values all other similarly situated interstate and/or intra-state natural gas pipeline special franchise property owned by other companies. The ORPTS' use of a different methodology to value Complainant's special franchise property resulted in full values in excess of the cost to reproduce the property and in excessive, illegal and unconstitutional values. Had the ORPTS applied the same methodology used to value all other similarly situated properties, the full values of Complainant's special franchise property would have been lower than the full values listed above and in Schedule "A."

28. Complainant is engaged in interstate commerce by virtue of its interstate natural gas pipeline transmission system.

29. The ORPTS' actions constitute an unlawful burden on interstate commerce in violation of the Commerce Clause of Article I, Section 8, Clause 3 of the Constitution of the United States in that the full values were made in a systematic, intentional, burdensome, arbitrary, capricious and discriminatory fashion that result in excess tax liabilities being imposed on Complainant, as compared to other similarly situated interstate or intra-state natural gas pipeline special franchise properties operating in the State of New York; thereby resulting in a competitive disadvantage to Complainant.

30. The ORPTS must treat all similarly situated special franchise properties equally, including applying uniform valuation methodologies.

#### **IV. OTHER**

31. Complainant is aggrieved and is injured by these unconstitutional, illegal, void, unjust, excessive and unequal valuations and Complainant has been compelled to pay a far greater

amount in taxes based upon these valuations than it would have been compelled to pay if the valuations had been made constitutionally, justly and legally determined in accordance with the provisions of law and established methods of valuation and in accordance with the provisions of the Constitutions of the United States and of the State of New York, and the resulting amounts paid in taxes is far more than its fair and equal portion of aggregate taxes levied upon real property in the assessing units listed herein and in Schedule "A" for the same period, resulting in confiscation of Complainant's property, denying Complainant equal protection of the law, depriving Complainant of its property without due process of the law and taking Complainant's property for public use without rendering just compensation therefor, in violation of the Constitutions of the United States and of the State of New York.

32. Complainant and its customers have been injured by the full values complained of herein.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

RP27

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

Dated  
February 12, 2025

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

For city and town assessment roll to be filed in 2025

Millennium Pipeline Co., LLC 810700  
C/O Erich Voeffray  
One Blue Hill Plaza  
Pearl River, NY 10965

Hearing Date and Location:  
March 20, 2025 at 10:00 am  
CR 125, Bldg 9, 1st Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	Full Value Number	Full Value Tentative	Pct Change From Prior Roll
Town of Chenango, Broome County	810700-0324	\$1,372,415	-8.0
Town of Dickinson, Broome County			
Village of Port Dickinson		1,765,184	-8.0
Total Town:	810700-0330	\$1,765,184	-8.0
Town of Fenton, Broome County	810700-0332	\$277,946	-8.0
Town of Windsor, Broome County			
Town Outside Villages		386,391	-8.0
Total Town:	810700-0350	\$386,391	-8.0
Town of Horseheads, Chemung County			
Town Outside Villages		106,878	-8.0
Total Town:	810700-0734	\$106,878	-8.0
Town of Veteran, Chemung County			
Town Outside Villages		3,346,159	-8.1
Total Town:	810700-0740	\$3,346,159	-8.1
Town of Hancock, Delaware County			
Town Outside Villages		2,177,022	-8.0
Total Town:	810700-1236	\$2,177,022	-8.0



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES  
WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27

Dated  
February 12, 2025

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**

	<u>Full Value Number</u>	<u>Full Value Tentative</u>	<u>Pct Change From Prior Roll</u>
Town of Deerpark, Orange County	810700-3328	\$113,266	-8.0
Town of Greenville, Orange County	810700-3332	\$923,836	-8.0
Town of Minisink, Orange County			
Town Outside Villages		<u>494,355</u>	<b>-8.0</b>
Total Town:	810700-3338	\$494,355	-8.0
Town of Tuxedo, Orange County	810700-3350	\$26,705,560	-8.1
Town of Warwick, Orange County			
Town Outside Villages		<u>7,762,193</u>	<b>-8.0</b>
Total Town:	810700-3354	\$7,762,193	-8.0
Town of Wawayanda, Orange County	810700-3356	\$174,636	-5.4
Town of Ramapo, Rockland County			
Village of Pomona		<u>118,601</u>	<b>-10.7</b>
Town Outside Villages		<u>37,364,581</u>	<b>-8.4</b>
Total Town:	810700-3926	\$37,483,182	-8.4
Town of Campbell, Steuben County	810700-4630	\$62,878	-13.2
Town of Greenwood, Steuben County	810700-4646	\$147,489	-6.3
Town of Delaware, Sullivan County	810700-4826	\$3,093,220	-8.0
Town of Forestburgh, Sullivan County	810700-4830	\$417,668	-8.1
Town of Highland, Sullivan County	810700-4834	\$5,458,305	-8.0
Town of Lumberland, Sullivan County	810700-4838	\$21,818,677	-8.0
Grand Total		\$114,087,260	

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.



## RESOLUTION 25-21

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on February 28, 2025, the tentative special franchise full values for Bayonne Energy Center, LLC were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notices of the tentative special franchise full values and the scheduled hearing dates were duly mailed on February 28, 2025

**WHEREAS**, complaints (#SF-25-45), dated March 24, 2025 were filed by Bayonne Energy Center, LLC as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4.2; and

**WHEREAS**, hearings pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 were held with regard to the complaints on April 03, 2025; and

**WHEREAS**, appearances on behalf of Bayonne Energy Center, LLC were made at the April 03, 2025 hearing; and

**WHEREAS**, the Hearing Officer has filed reports dated April 29, 2025; and

**WHEREAS**, ORPTS staff has reviewed the complaints, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated May 16, 2025; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

25-21

-2-

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2025 final special franchise full values as set forth in List No. SF-25-45, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to the affected municipalities to be used as the special franchise full values on the respective 2025 assessment roll.

Voting in favor:

Voting against:

Abstaining:

Absent:

STATE OF NEW YORK    )  
                                      ) ss:  
COUNTY OF ALBANY    )

I, Rachel Ingalsbe, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 04, 2025.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 4<sup>th</sup> day of June 2025.

---

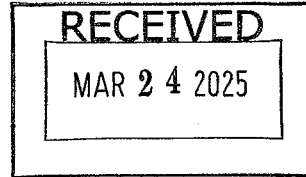
Rachel Ingalsbe, Director of the office of Real  
Property Tax Services



Cullen Dykman

Cullen and Dykman LLP  
The Omni Building  
333 Earle Ovington Blvd, 2<sup>nd</sup> Floor  
Uniondale, NY 11553  
T: 516.357.3700  
F: 516.357.3792

MICHAEL HRANKIWSKYJ, Esq.  
PARTNER  
DIRECT: 516-357-3886  
DIRECT FAX: 516-357-3792  
E-MAIL: [MHHRANKIWSKYJ@CULLENLLP.COM](mailto:MHHRANKIWSKYJ@CULLENLLP.COM)



March 21, 2025

**VIA FEDERAL EXPRESS**

NYS Tax Department  
ORPTS - EXEC  
W A Harriman Campus  
Albany, New York 12227-0801

Re: Bayonne Energy Center LLC Complaint  
Tentative Special Franchise Full Values issued February 28, 2025  
Hearing Date: April 3, 2025

Dear Sir or Madam:

Pursuant to section 610 of the Real Property Tax Law, enclosed please find the following:

- (1) one (1) original and two (2) copies of Bayonne Energy Center LLC's complaint challenging the Tentative Special Franchise Full Values set forth in the Notice dated February 28, 2025;

As proof of our timely filing, please time/date-stamp the enclosed copy of this cover letter and return it to my attention in the enclosed postage-paid envelope. Affidavits of service will follow under separate cover.

Thank you for your cooperation in this matter. If you have any questions, please feel free to call me.

Very truly yours,



Michael Hrankiowskyj

Enclosures

---

FOUNDED 1850

NEW YORK NEW JERSEY WASHINGTON DC

21206.4000 21367431v1





**New York State Department of Taxation and Finance**  
**Office of Real Property Tax Services**  
**Complaint on Tentative Special Franchise Full Values**  
**for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE  
 FOR ORPTS USE ONLY  
 Complaint Number      Hearing Date  
 SF-25-45 04/03/25

**PART ONE: GENERAL INFORMATION**

**RECEIVED**

MAR 24 2025

**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Bayonne Energy Center LLC

Company Name

401 Hook Road, Bayonne, NJ 07002

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
See Attached	Schedule A		

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>

**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, Thomas P. Miller on behalf of complainant, hereby designate  
Cullen and Dykman LLP to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

3/18/2025

Date

  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Robert J. Sorge, Karen I. Levin, Michael Hrankiowskyj, Cullen and Dykman LLP  
 Contact Person and Title

333 Earle Ovington Boulevard, Uniondale, NY 11553

Street Address, City, State, Zip

( 516 ) 357-3700

Telephone Number

( 516 ) 357-3792

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☐ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☒ **1. Inventory**

Bayonne Energy Center, LLC relies upon the annual inventory reports provided to ORPTS, but with appropriate adjustments as set forth in Schedule B.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 52.)*

☒ **2. Valuation**

Please see attached Schedule B: Additional Information in Support of Claimed Full Values.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 52.)*

☒ **3. Other**

Please see attached Schedule B: Additional Information in Support of Claimed Full Values.

*(If additional explanation or documentation is necessary, please attach - # of attached pages 52.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

3/18/2025

Date

Thomas P. Mills President

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

**SCHEDULE A IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
BAYONNE ENERGY CENTER LLC  
DATED MARCH 21, 2025**

**LIST OF ASSESSING UNITS AND COMPANY'S ESTIMATES OF FULL VALUES**

County	City	Tentative Full Value	Claimed Full Value
Kings	New York City	71,947,865	14,137,756

**SCHEDULE B IN SUPPORT OF THE  
SPECIAL FRANCHISE COMPLAINT  
OF  
BAYONNE ENERGY CENTER LLC**

**DATED MARCH 21, 2025**

**ADDITIONAL INFORMATION IN  
SUPPORT OF CLAIMED FULL VALUES**

Bayonne Energy Center, LLC (hereinafter “Complainant”) complains of and objects to the Tentative Special Franchise Full Values determined by the Office of Real Property Tax Services (hereinafter “ORPTS”) and set forth in the notice dated February 28, 2025 attached hereto. Complainant is the legal entity owning the special franchise property that is the subject of the attached notice. Complainant alleges that said Tentative Special Franchise Full Values is excessive, unlawful and unconstitutional, as more fully set forth below.

### **I. EXCESSIVE FULL VALUES**

1. The ORPTS determination of the full value of Complainant’s special franchise property located in the assessing unit listed below exceeds its full value as determined by proper use of valuation methodologies.

2. On information and belief, the ORPTS has attempted to apply a reproduction cost new less depreciation methodology (“RCNLD” or “reproduction cost methodology”) in valuing Complainant's special franchise property which is incorrect in numerous respects, is misapplied in many instances and which has achieved a full value in excess of the cost to reproduce the property and which has resulted in an excessive full value.

3. On information and belief, the ORPTS has improperly calculated Complainant’s reproduction cost new as the ORPTS has trended costs at a higher percentage than what is appropriate for the Complainant’s special franchise property.

4. On information and belief, the ORPTS has included costs that were unusual and extraordinary and incurred as the result of unforeseen events out of the Complainant’s control when determining the RCNLD for the Complainant’s special franchise property. The inclusion of these costs has resulted in an excessive full value for the Complainant’s property.



5. In valuing Complainant's special franchise property, the ORPTS failed to apply proper adjustments for costs related to unnecessary or unusual construction, duplication, re-design, relocation and extraordinary time schedules. Such failure results in a gross overstatement of the cost to reproduce Complainant's special franchise property.

6. Without significant adjustments, Complainant's reported unadjusted original costs cannot be used as the basis for any trended original cost methodology to compute the reproduction cost new of the Complainant's special franchise property as of the valuation date(s).

7. In fixing and determining the full values of the Complainant's special franchise property, the ORPTS erroneously, improperly and illegally deducted from its estimated value an arbitrary, inadequate and insufficient sum for all forms of depreciation, including physical depreciation and economic (external) and functional obsolescence, with the result that the ORPTS adopted a value in excess of, and more than, the value produced by a correct and proper application of its own valuation procedure, and in excess of, and more than, the maximum value of said tangible property, and in excess of, and more than, the true valuation of the special franchise property.

8. The physical depreciation applied to Complainant's property is incorrect and inadequate in numerous respects, including the following: the ORPTS has used an inadequate net salvage percent which has led to the Complainant's property not receiving appropriate physical depreciation for the subject property. Complainant has engaged ESS Group, LLC to study and prepare a decommissioning plan for its submarine and land cable. Based on this study, the net salvage percent that should be utilized in valuing Complainant's property is negative 43.23%. A copy of the study is attached hereto as Exhibit "A." Upon information and belief, ORPTS is currently using 0% net salvage for account 358- "Trans UG Conductors & Devices." Account 358

does not accurately reflect submarine cables and only reflects land-based cable removal. In our experience the cost to remove submarine cable is much more expensive than land-based cable, and ORPTS' utilization of account 358 does not accurately reflect true removal costs for the subject property.

9. In fixing and determining the full value of Complainant's special franchise property, ORPTS failed to acknowledge that Complainant is required under its agreement with the United States Army Corps of Engineers to be remove the subject special franchise property within two years of the termination of the permit agreement. A copy of the United States Army Corps of Engineers permit is attached hereto as Exhibit "B."

10. In fixing and determining the full value of Complainant's special franchise property, ORPTS failed to recognize that the subject property is a generator lead, and not a utility transmission line. Therefore, as an independent power producer, Complainant's special franchise property will cease functionality when the accompanying generator facilities are decommissioned.

11. Upon information and belief, ORPTS' use of 0% salvage value was derived from studies performed in the 1990's, and these studies have not been updated since this time to reflect current trends. The ESS Group, LLC report more accurately reflects the decommissioning and removal of the subject property from the seabed.

12. The study analyzed the anticipated decommissioning process for Complainant's property and the processes that would be necessary in order to properly decommission and remove the property. The study provides a detailed cost breakdown of the processes which is based on ESS Group LLC's experience and judgment.

13. Upon information and belief, similar projects in the same area have been required to provide a letter of credit to secure funding for decommissioning activities in the event the project

owner does not comply with its decommissioning obligations. See attached as Exhibit "C" the Empire Wind 1 Project Decommissioning Plan filed with the New York Public Service Commission. This letter of credit indicates that the property owner must adhere to its decommissioning obligations which includes removal of the property from the seabed. Therefore, the ORPTS must consider the decommissioning and removal of Complainant's subject property from the seabed as discussed in the ESS Group, LLC report and such costs should result in a net salvage value of 43.23%.

14. The full value of Complainant's special franchise property in the listed jurisdiction should have been fixed by the ORPTS at an amount not exceeding the following amount set forth below under the caption "Claimed FV." Complainant used the latest inventory information filed with ORPTS with adjustments for net negative salvage. The extent of overvaluation is set forth in the right-hand column:

County	Town/City	Tentative Full Value	Claimed Full Value	Overvaluation
Kings	New York City	71,947,865	57,810,109	14,137,756

## **II. UNLAWFUL FULL VALUES**

15. Complainant alleges further that, in fixing and determining the full value of Complainant's special franchise property, the ORPTS arbitrarily, capriciously, improperly and unlawfully ignored the principles of law and facts and its own rules and, as a result thereof, fixed and determined the value of the special franchise property in a discriminatory and unwarranted manner, and at an excessive and confiscatory amount at a sum in excess of its value.

16. The ORPTS charges Complainant for determining its full values and such charge is constitutionally infirm and illegal and a further burden on the special franchise property which is not recognized in the full values and results in excessive full values.

### **III. UNCONSTITUTIONAL VALUES**

17. The ORPTS determination of the 2025 full values of Complainant's special franchise property is invalid in that it failed to consider all determinants of value on a uniform basis and disparately treated Complainant's special franchise property from all other similarly situated special franchise property owners and resulted in the imposition of excessive and burdensome real property taxes upon Complainant's special franchise property that exceeds the amounts imposed upon other special franchise property owners located in the assessing unit set forth in the notice, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Section 11 of Article 1 of the New York State Constitution, and section 305 of the Real Property Tax Law.

18. The excessive valuations of Complainant's property established by the ORPTS results in the imposition of excessive and burdensome real property taxes which significantly impair the value of Complainant's property and result in a confiscatory taking of Complainant's property.

### **IV. OTHER**

19. Complainant is aggrieved and is injured by this unconstitutional, illegal, void, unjust, excessive and unequal valuation and Complainant has been compelled to pay a far greater amount in taxes based upon this valuation than it would have been compelled to pay if the valuation had been constitutionally, justly and legally determined in accordance with the provisions of law and established methods of valuation and in accordance with the provisions of the Constitutions of the United States and of the State of New York, and the resulting amount paid in taxes is far

more than its fair and equal portion of aggregate taxes levied upon real property in the assessing unit listed herein for the same period, resulting in confiscation of Complainant's property, denying Complainant equal protection of the law, depriving Complainant of its property without due process of the law and taking Complainant's property for public use without rendering just compensation therefor, in violation of the Constitutions of the United States and of the State of New York.

20. Complainant and its customers have been injured by the full values complained of herein.

## **EXHIBIT A**



# Decommissioning Plan

## Bayonne Energy Center Submarine and Land Cable

Within New York City Limits

**PREPARED FOR:**

Bayonne Energy Center, LLC  
401 Hook Road  
Bayonne, NJ 07002

**PREPARED BY:**

ESS Group, LLC  
404 Wyman Street, Suite 375  
Waltham, Massachusetts 02451

ESS Project No.: 016238.0000.0000

April 20, 2023



A TRC Company  
TRCcompanies.com





## TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
1.0 INTRODUCTION.....	1
1.1 Transmission Cable Line Description.....	1
2.0 TRANSMISSION AND FIBER OPTIC CABLES AND COMPONENTS TO BE DECOMMISSIONED...	1
2.1 Submarine Transmission Cable System Cables.....	1
2.1.1 Submarine Power Cables.....	1
2.1.2 Submarine Fiber Optic Cables.....	2
2.2 Upland Transmission Cable System Cables.....	2
2.2.1 Upland Power Cables.....	2
2.2.2 Upland Fiber Optic Cables.....	2
2.3 Miscellaneous Submarine and Upland Transmission Cable System Components.....	2
2.3.1 Transition Vaults.....	2
2.3.2 Duct Bank System.....	2
2.3.3 Landfall HDPE Conduits.....	3
3.0 ANTICIPATED DECOMMISSIONING PROCESSES.....	3
3.1 Cables.....	3
3.1.1 Submarine Cables.....	3
3.1.2 Upland Cables.....	4
3.2 Various System Components.....	4
3.2.1 Transition Vaults, Duct Bank System, and Upland HDPE Conduits.....	4
3.2.2 Landfall HPDE Conduits.....	5
4.0 CABLE RECYCLING.....	5
5.0 BUDGETARY ESTIMATE.....	5
<b>APPENDICES</b>	
Appendix A	As-Built Drawings
Appendix B	Submarine and Upland Power Cables – Typical Diagrams
Appendix C	Submarine and Upland Fiber Optic Cables – Typical Diagrams
Appendix D	Transition Vaults – Typical Diagrams
Appendix E	Duct Banks – Typical Diagrams
Appendix F	Budgetary Estimate





## **1.0 INTRODUCTION**

This Decommissioning Plan (the Plan) has been prepared by ESS Group, LLC (ESS), a TRC company, for Bayonne Energy Center, LLC (BEC). BEC owns a 345 kilovolt (kV) electric transmission cable line (i.e., cables and associated components) connecting Bayonne Energy Center at 401 New Hook Road in Bayonne, New Jersey to the Consolidated Edison Company (Con Edison) Gowanus Substation located at 7 27th Street, Brooklyn, New York. While the cable line would need to be decommissioned in its entirety, for the simplicity of an allocation of costs, this Plan concerns the general means and methods and provides for an estimated cost for decommissioning the cable line from the New York State border in the waters of Upper New York Bay to the Con Edison Gowanus Substation in Brooklyn. The cable line route and relevant features are depicted on as-built drawings prepared by ABB Substations (ABB), Caldwell Marine International, LLC (Caldwell), and Con Edison included in Appendix A.

*Note: Other means, methods, requirements, etc. may be necessary to decommission the transmission cable line in the state of New Jersey resulting in different unit and/or overall costs as presented herein. The foregoing, however, should have no bearing on the unit or overall costs presented herein.*

### **1.1 Transmission Cable Line Description**

The 345 kV electric transmission cable line consists of single circuit Submarine Transmission Cable and Upland Transmission Cable Systems, both of which contain three phase power cables. From the New York State border in Upper New York Bay, the Submarine Transmission Cable System, embedded in the seabed, extends through and exits Gowanus Bay in Brooklyn, New York at land owned by City of New York and occupied by the Lafarge Cement Brooklyn Terminal Pier (25TH Street Pier). The transition to the Upland Transmission Cable System occurs in underground Transition Vaults. From the Transition Vaults, the Upland Transmission Cable System extends underground within concrete-encased duct banks, and under existing facilities located on Con Edison property, to the Gowanus Substation. From the end of the duct bank, the Upland Transmission Cable System is located aboveground for approximately 20 to 25 feet to the Electrical Interconnection at the Gowanus Substation.

## **2.0 TRANSMISSION AND FIBER OPTIC CABLES AND COMPONENTS TO BE DECOMMISSIONED**

General descriptions (e.g., materials, types, lengths, dimensions, etc.) of the Submarine and Upland Transmission Cable Systems are provided below.

### **2.1 Submarine Transmission Cable System Cables**

The Submarine Transmission Cable System consists of three submarine power cables and three submarine fiber optic (FO) cables descriptions of which are provided in the following sections.

#### **2.1.1 Submarine Power Cables**

Three approximately 5.23-inch diameter 345 kV AC solid dielectric, cross linked polyethylene (XLPE) submarine power cables with single, continuous copper conductors (XLPE Submarine Cables; designated as BEC1 – North Cable, BEC2 – Center Cable, and BEC3 – South Cable) were buried beneath the seabed at depths ranging between 4 and 18 feet below present bottom. The cables, measured at lengths of 14,676 feet (ft), 14,688 ft, and 14,424 ft and weighing approximately 26.6 pounds per foot, respectively, were installed at approximately 33 feet of separation. The typical construction and composition of the XLPE Submarine Cables are detailed in Caldwell's Figure 5-1 (Diagram of submarine power cable) included in Appendix B.



### **2.1.2 Submarine Fiber Optic Cables**

A submarine fiber optic (FO) cable of a 4-ribbon cable design was bundled to each of the three submarine power cables deployed beneath the seabed. Consequently, the lengths of the submarine FO cables associated with BEC1 – North Cable, BEC2 – Center Cable, and BEC3 – South Cable measure 14,676 ft, 14,688 ft, and 14,424 ft, respectively. The typical construction and composition of the submarine FO cables are detailed in ABB's Technical Specification 08-1063-1 included in Appendix C.

## **2.2 Upland Transmission Cable System Cables**

The Upland Transmission Cable System consists of three upland power cables and three upland fiber optic (FO) cables descriptions of which are provided in the following sections.

### **2.2.1 Upland Power Cables**

The upland power cables (designated Cable A, Cable B, and Cable C) consist of a segmented copper conductor and do not contain an inner sheath, bedding, or armor. Furthermore, the cables contain an outer sheath consisting of high-density polyethylene (HDPE), weigh approximately 24.2 pounds per foot, and have an approximate outer diameter of 5.17 inches. The installed lengths of the cables are measured at 850 ft, 891 ft, and 955 ft, respectively. The typical construction and composition of the XLPE Upland Cables are detailed in Caldwell's Figure 4-2 (Underground Cable) included in Appendix B.

### **2.2.2 Upland Fiber Optic Cables**

One high voltage, upland FO cable was installed for each of the three upland power cables. The cables were installed in HDPE conduits separate from each other and the upland power cables and measured 850 ft, 891 ft, and 955 ft, respectively. The typical construction and composition of the upland FO cables are detailed in ABB's Technical Specification Underground Cable Segment in Brooklyn BA-09-0128 included in Appendix C.

## **2.3 Miscellaneous Submarine and Upland Transmission Cable System Components**

Significant components of the Submarine and Upland Transmission Cable System include Transition Vaults, a duct bank system, and HDPE conduits. Descriptions of these components are provided in the following sections.

### **2.3.1 Transition Vaults**

Transition Vaults (three total) were installed at the transition point (submarine to underground) to each of the power cables of the Submarine and Upland Transmission Cable Systems. The Transition Vaults are rectangular, precast concrete structures measuring approximately 9 ft wide by 35 ft long. In addition, the Transition Vaults are filled with sand and capped with concrete. A diagram of the top and cross-sectional views of a typical Transition Vault is provided in Caldwell's Figure 8-1 [Transition Vault (submarine to underground splice)] included in Appendix D.

### **2.3.2 Duct Bank System**

A duct bank system was installed along the upland cable route from the Transition Vaults to 25 ft from the Electrical Interconnection at the Gowanus Substation. It contains HDPE conduits (3-inch and 12-inch) for the Upland Transmission Cable System, was installed at approximately 3 ft below ground surface (bgs), was constructed with reinforced concrete rated at 3,000 pounds per square inch (psi)



and consists of combined and single duct banks collectively measured at 875 feet long. Diagrams of the typical construction and relevant features of the single and combined duct banks prepared by Caldwell (Figure 5-2 and Figure 5-3, respectively) are included in Appendix E.

### **2.3.3 Landfall HDPE Conduits**

Three 12-inch and six 3-inch diameter HDPE conduits were installed for submarine and upland power cables and associated FO and ECC cables, respectively, from Gowanus Substation to selected points within Gowanus Bay (approximately 1,416 ft, 1,421 ft, and 1,434 ft along the cable routes). The conduits from the Transition Vaults to the end point within Gowanus Bay were filled with grout (after cable installation). In addition, from Gowanus Substation to the Transition Vaults (approximately 654 ft, 693 ft, and 758 ft, respectively), the conduits are encased within the concrete duct bank system.

## **3.0 ANTICIPATED DECOMMISSIONING PROCESSES**

The processes for decommissioning the electric transmission cable line (i.e., the cables and associated components described in Section 2.0) should be completed by a licensed contractor(s). Descriptions for anticipated decommissioning processes are provided below. Note that the sequencing of decommissioning processes is not described herein and the means and methods for decommissioning processes described herein are subject to change.

An independent environmental inspector will be required to be present during the decommissioning work in accordance with the Article VII certificate.

Regulatory authorizations from the New York State Public Service Commission and the US Army Corps of Engineers will be required to conduct decommissioning operations. To obtain such authorizations, detailed plans describing how the work will be performed will need to be prepared and submitted for agency review and approval.

### **3.1 Cables**

#### **3.1.1 Submarine Cables**

Prior to submarine cable removal, a marine survey of the seabed along the Submarine Cable Route will be performed to map existing seabed conditions to identify any anomalous conditions that could affect cable removal and to generate an updated corridor map. The survey will use side scan sonar and multibeam hydrographic equipment. A magnetometer may be used during the survey to identify any large ferrous objects that could interfere with cable removal.

A location will be determined where an initial cable cut will be made at the New York State border. At this location, divers will excavate the seabed sediments using water lances or similar tools to expose the cables for cutting. After the initial cut, the cable recovery operation will proceed until the entire lengths of submarine cables in New York State waters are removed from the seabed. The submarine cables and fiber optic cables will likely remain bundled during the recovery operations.

Cable recovery would be accomplished by a barge mounted crane with diver support. After the cut end of the cable is pulled from the seabed, it will be raised to the barge and either spooled onto a reel or cut into manageable lengths. The removed cables will then be transported by barge for recycling.

Since the cable removal would take place in New York State waters, it is likely that Water Quality/Total Suspended Sediment monitoring would be required during removal operations. This work is performed



by a separate survey vessel that uses remote-sensing and water samples to monitor concentrations of suspended sediment and various target analytes both up-current and down-current of the removal operation to verify there are no exceedances of permitted water quality thresholds.

### **3.1.2 Upland Cables**

The upland power and FO cables would be decommissioned by cutting the splice connections at the Transition Vaults, disconnecting the cables from the Potheads to the Electrical Interconnection at Gowanus Substation, and then pulling the cables out of the underground duct banks. The removed cables would be coiled on truck-mounted reels or cut into manageable lengths for transportation to a recycling facility. The decommissioning process would be accomplished with support from various types of machinery and equipment (e.g., cranes, scaffolding, etc.) and operators and laborers.

## **3.2 Various System Components**

### **3.2.1 Transition Vaults, Duct Bank System, and Upland HDPE Conduits**

Decommissioning of Transition Vaults, duct banks, and HDPE conduits of the Upland Transmission Cable System is expected to be completed using typical construction equipment (e.g., excavators, concrete hammers, dump trucks, etc.) and include:

- Establishing and maintaining erosion and sedimentation controls.
- Exposing the top and sidewalls of the Transition Vaults and duct banks via excavation. The soils removed during this work would likely be side-cast adjacent to the work area and/or properly secured on-Site to eventually be reused as backfill.
- Removing the Transition Vaults, duct banks and HDPE conduits from the subsurface. Demolishing the concrete into a suitable size for acceptance into a receiving facility for recycling and/or disposal as general construction and demolition (C&D) debris. This work may be performed within or outside of the excavation area.
- Backfilling the excavation areas with previously excavated soils and imported clean fill. During and following backfilling the soils, would be compacted to reduce or prevent sinking/settling.
- Loading and transporting the concrete and HDPE conduit to a licensed receiving facility for disposal and/or recycling.

The following should also be noted:

- Any potentially contaminant-impacted soils or concrete should be separated from "clean" soils and concrete during decommissioning. If permitted, contaminant-impacted soils may be backfilled into the excavation at the respective depth of excavation. However, any impacted soils that cannot be reused as backfill or any impacted concrete that cannot be accepted as C&D debris should be sampled and the samples laboratory tested for acceptance into a receiving facility.
- The contractor(s) performing this decommissioning work should be familiar with receiving facility acceptance requirements (e.g., material types accepted, size limitations, etc.) prior to transport for disposal and/or recycling.



### **3.2.2 Landfall HPDE Conduits**

Horizontal direction drilling (HDD) will be performed to free and remove the submarine cables from the grout in each of the HDPE conduits and then to ream the conduits themselves. The HDD would be completed from the western extents of the conduits in Gowanus Bay to the Transition Vaults (i.e., 762 ft, 728 ft, and 676 ft, respectively) and generally consist of the following:

- Installing temporary cofferdams constructed with steel sheet piles and pre-cast concrete sections in Gowanus Bay (3 total) to facilitate HDD operations. Sediment will be dredged from within the cofferdams to create pits and expose the cables and conduits using mechanical dredging methods. Approximately 350 cubic yards (CY) of sediment will be generated during this process and managed for re-use and/or disposal at an appropriate receiving facility.
- A custom fabricated cutting head with a mud motor will be attached to and used to bore a hole alongside the existing cables. This process will remove the grout and free the cables. The grout will be collected and managed for disposal and/or reuse (non-reuse value).
- The cables will be removed from the bore hole as described in Section 3.1.1 above after which the boreholes created to free the cables will be forward reamed with a custom fabricated reamer sized to encompass the existing conduit. The conduits will be shredded from the reaming process which will be collected along with the drilling fluids and managed for disposal. Approximately 253 CY of drilling waste is expected to be generated.
- Lastly, the open boreholes will be filled with grout (253 CY), the pits within the cofferdams will be backfilled with imported clean fill (350 CY), and the cofferdams will be dismantled and removed.

### **4.0 CABLE RECYCLING**

The metal components of the submarine and upland cables have salvage value as scrap. It is likely that once removed, the cable segments would be brought to a New York City area scrap metal facility for disassembly and segregation of the various types of salvable materials.

To understand the likely process for scrapping the cables, ESS contacted Schnitzer Steel, a large metal recycling company with facilities in the New York City area. In April 2023, Schnitzer Steel provided ESS with an estimated salvage value of \$0.50 to \$0.80 per pound of copper wire in the cables. For purposes of this estimate, ESS used a value of \$0.65 pound to estimate the salvage value.

### **5.0 BUDGETARY ESTIMATE**

Decommissioning the 345 kV electric transmission cable line from the New York State border in the waters of Upper New York Bay to the Gowanus Substation is estimated at \$35.21 million. However, this estimate is offset by the salvage value for the copper component of the submarine and upland power cables estimated at a total of \$357,500. Therefore, taking the salvage value into account, the Budgetary Estimate or net estimated capital expenditure to decommission the transmission cable with a 10 percent contingency, is estimated at \$38.33 million. An itemized summary of estimated costs used to calculate the Budgetary Estimate is included in Appendix F.

Please note the following regarding the itemized summary:

- Estimated costs for removal of the various project components were obtained from Caldwell Marine International and Huxted Trenchless.

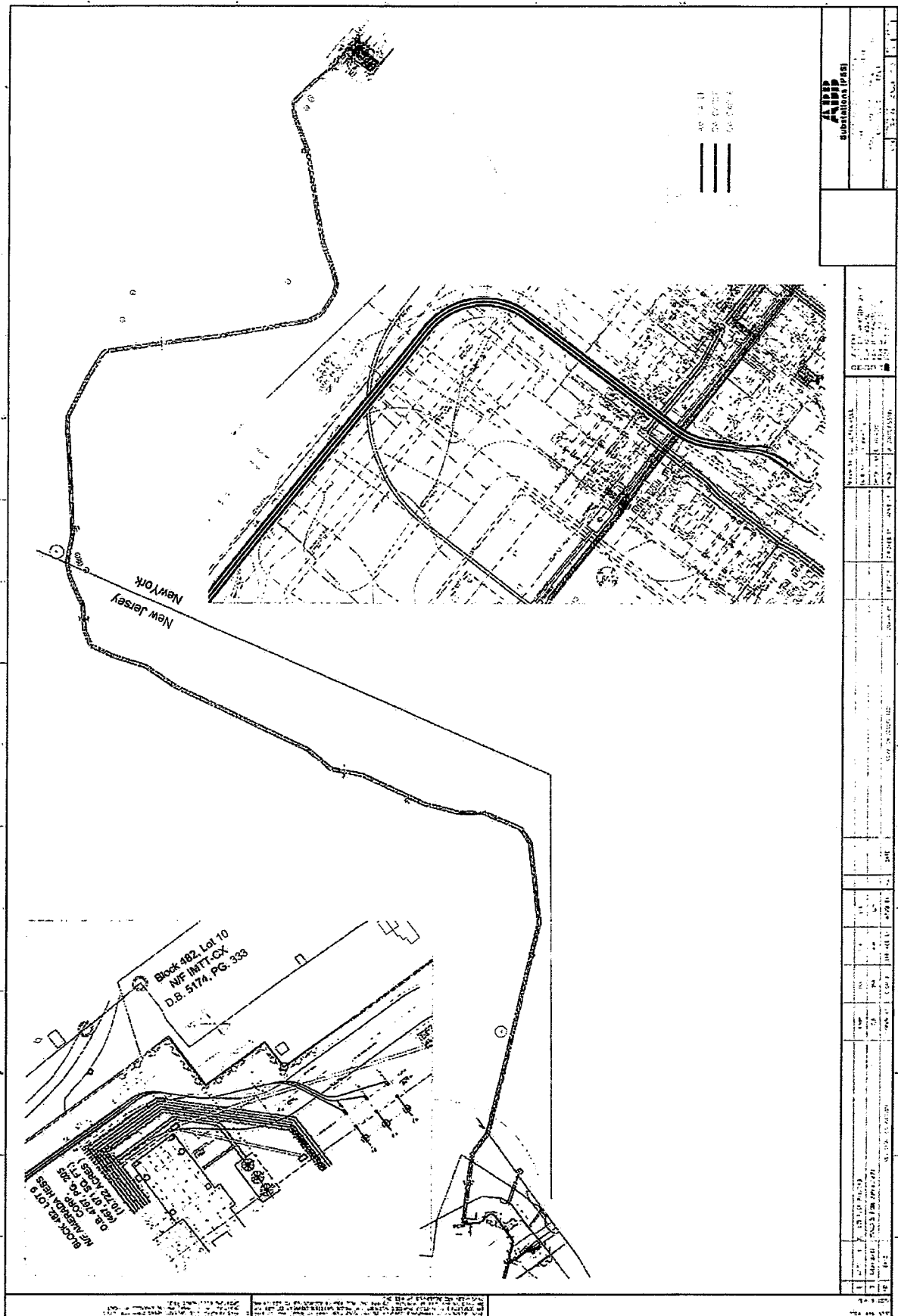


- Estimate costs for pre- and post-marine surveys, inspection, monitoring, and regulatory permitting are based on ESS experiences with similar projects.
- Estimated costs for salvaging copper from marine and upland cables were based on discussions with Schnitzer Steel, a scrap metal recycling facility, and current per pound recycling rates.
- The estimated costs are based on rates applicable at the time this Plan was prepared and, therefore, are subject to change based on when decommissioning occurs and BEC's final agreement with the contractor(s) selected to perform the decommissioning work.
- There are currently no cable crossings (e.g., natural gas lines, water line, submarine or upland cables, etc.) along the transmission cable line described herein and, as such, no costs have been estimated for managing crossings. However, between the date of this report and the actual time of decommissioning, the transmission cable line may be crossed by new cables (likely those supporting New York's offshore wind industry) thereby requiring an additional level of detail and caution. A separate line-item (No. 17) has been included in the summary in Appendix F to account for future crossings. The cost associated with managing the crossings is currently listed as To Be Determined (TBD) and will need to be updated as the crossings become known.

## Appendix A

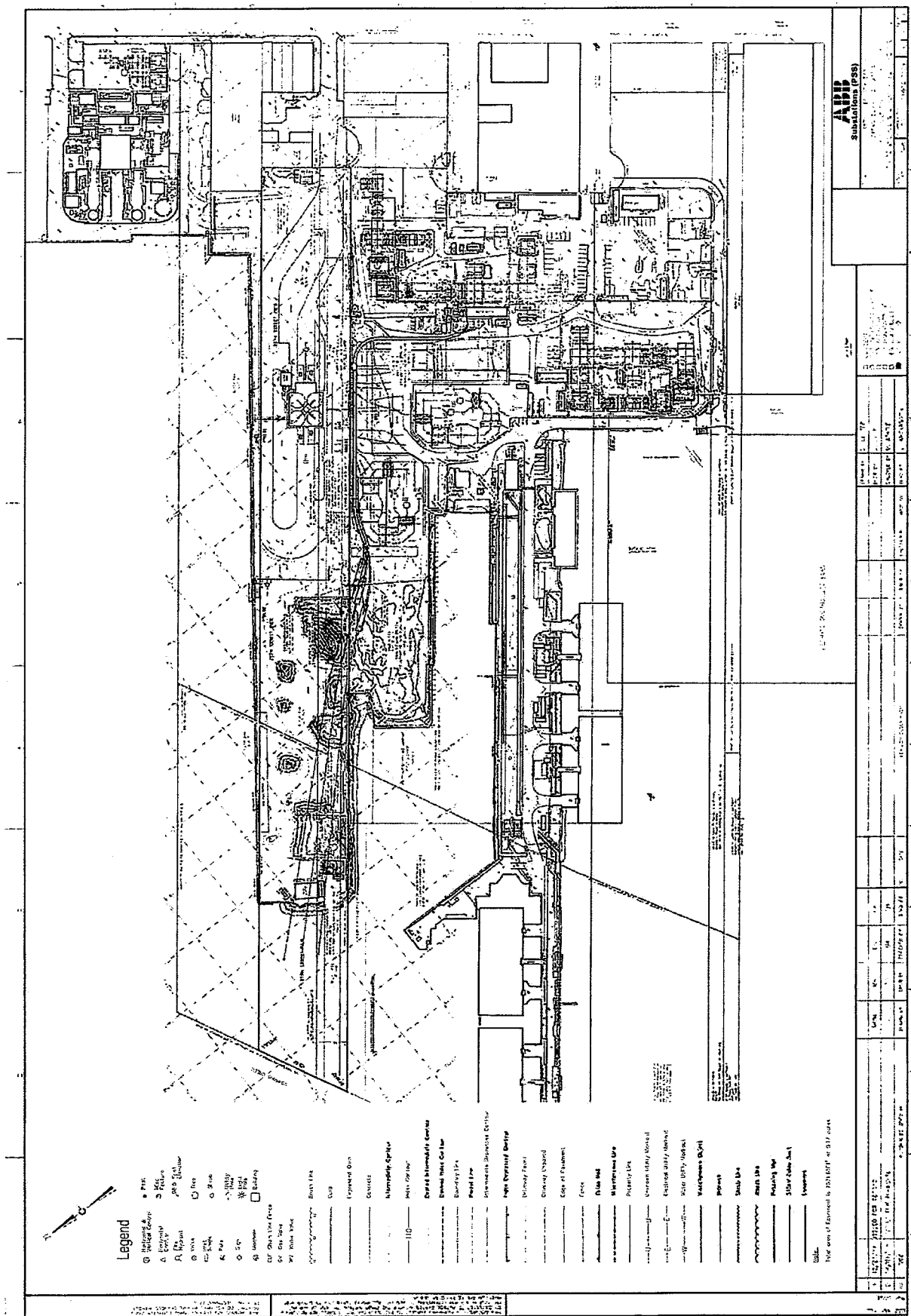
---

### As-Built Drawings

















**SSS**  
SHEET NO. 4

**GENERAL NOTES**

1. THE PROJECT IS A BURIAL CHANNEL FOR THE REMAINS OF THE DECEASED.
2. THE CHANNEL IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE DESIGN SPECIFICATIONS.
3. THE CHANNEL IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE DESIGN SPECIFICATIONS.
4. THE CHANNEL IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE DESIGN SPECIFICATIONS.
5. THE CHANNEL IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE DESIGN SPECIFICATIONS.
6. THE CHANNEL IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE DESIGN SPECIFICATIONS.
7. THE CHANNEL IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE DESIGN SPECIFICATIONS.
8. THE CHANNEL IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE DESIGN SPECIFICATIONS.
9. THE CHANNEL IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE DESIGN SPECIFICATIONS.
10. THE CHANNEL IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE DESIGN SPECIFICATIONS.

**LEGEND**

- 1. BURIAL CHANNEL
- 2. BURIAL CHANNEL
- 3. BURIAL CHANNEL
- 4. BURIAL CHANNEL
- 5. BURIAL CHANNEL
- 6. BURIAL CHANNEL
- 7. BURIAL CHANNEL
- 8. BURIAL CHANNEL
- 9. BURIAL CHANNEL
- 10. BURIAL CHANNEL

**SCALE**

1" = 100'

**DATE**

10/1/2010

**PROJECT**

BURIAL CHANNEL

**LOCATION**

100' 0" 100'

**CLIENT**

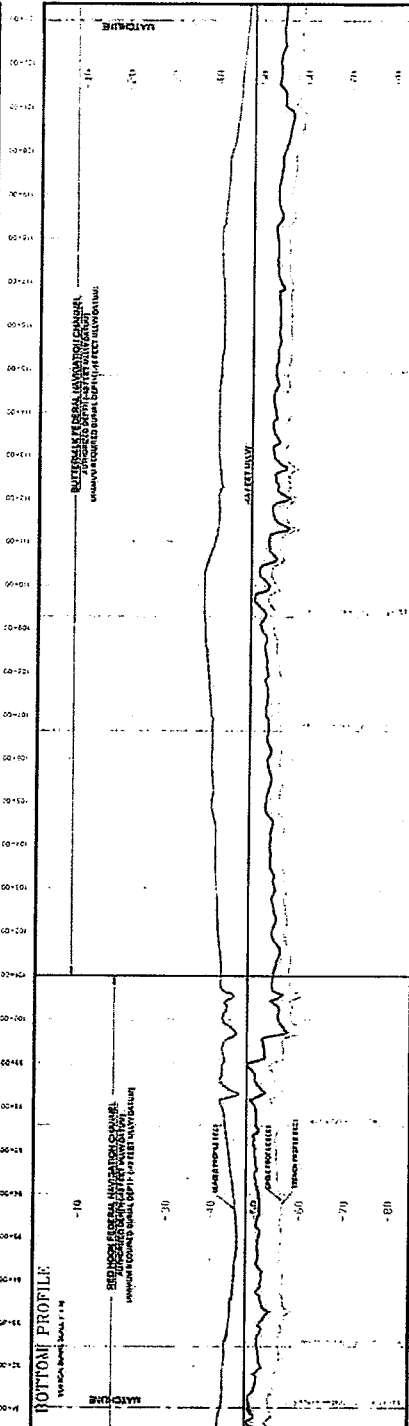
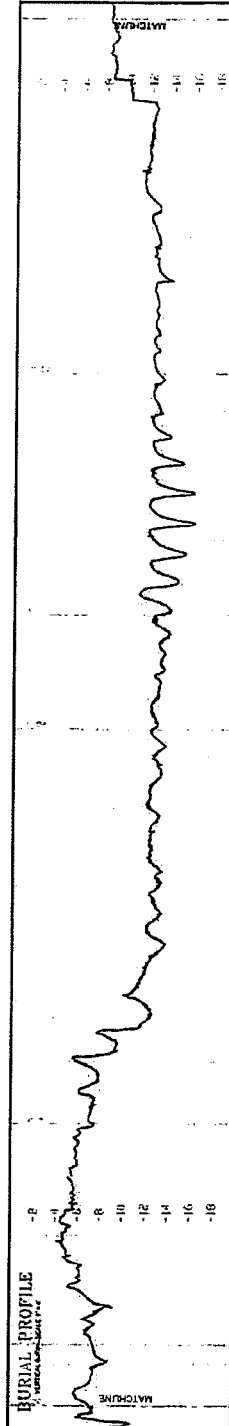
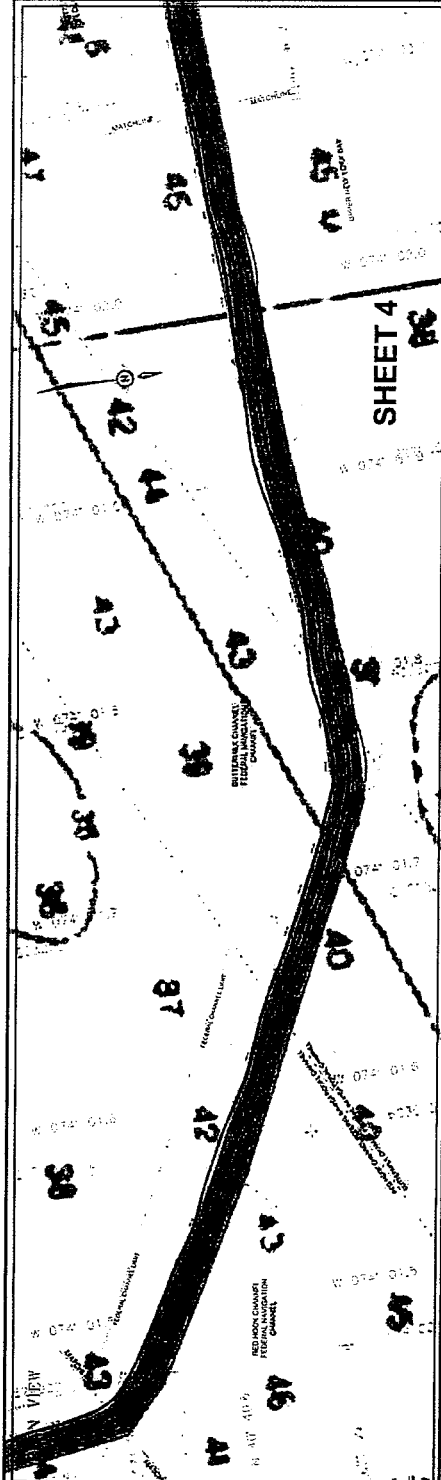
Caldwell

**DESIGNER**

Shirley International, LLC

**DATE**

10/1/2010





# Bayonne Energy Center Brooklyn, New York As-Built - Drill 1

Cofferdam  
Drill 1 Exit  
Sta. 332+63.0  
N 667.588.2  
E 629.364.1

Drill 1 Entry  
Sta. 340+20.7  
N 667.022.3  
E 629.866.2

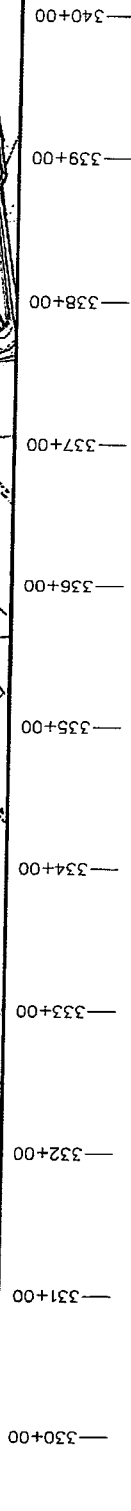
APPROXIMATE LOCATION OF TUNNEL ENTRANCE

APPROXIMATE LOCATION OF TUNNEL ENTRANCE

Drill 1

Drill 2

Drill 3

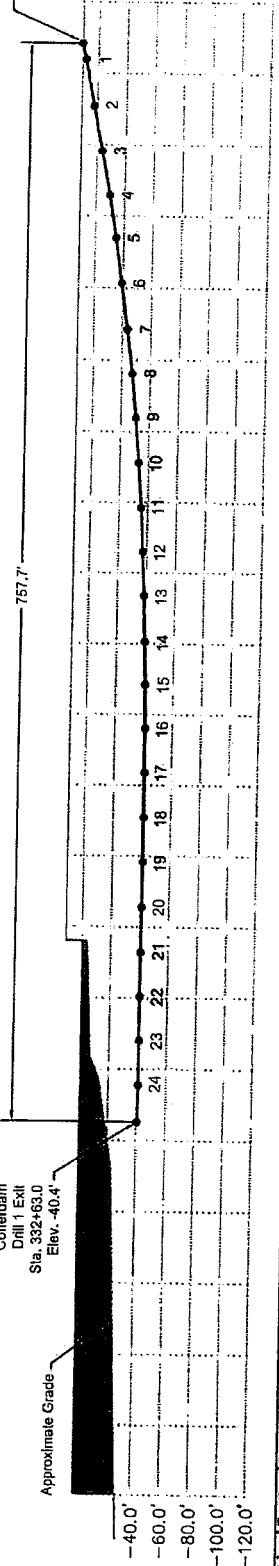


Drill 1 Entry  
Sta. 340+20.7  
Elev. 11.1'

Cofferdam  
Drill 1 Exit  
Sta. 332+63.0  
Elev. 40.4'

Approximate Grade

757.7



Scale: 1" = 80'

JT #	North	East	Station	Offset	Elev.	JT #	North	East	Station	Offset	Elev.
1	667.022.3	629.866.2	340+20.7	-0.7	11.1	9	667.226.7	628.703.4	337+58.5	-3.9	-30.4
2	667.031.5	629.859.9	340+09.5	-0.5	8.7	10	667.240.2	628.682.8	337+28.2	-2.9	-33.0
3	667.038.3	629.842.3	339+76.7	1.5	2.3	11	667.272.6	628.661.3	336+86.5	-2.4	-35.3
4	667.065.0	629.824.6	339+46.5	2.1	-3.7	12	667.297.1	628.641.7	336+85.2	-1.8	-37.1
5	667.110.2	629.807.1	339+14.9	2.7	-9.5	13	667.321.1	628.621.5	336+33.9	2.0	-38.5
6	667.133.5	629.788.0	338+84.8	1.0	-14.4	14	667.346.5	628.601.5	335+01.7	4.8	-38.7
7	667.157.1	629.767.1	338+53.4	-1.2	-16.9	15	667.365.2	628.579.9	335+71.2	4.1	-40.5
8	667.181.1	629.746.9	338+21.3	-2.3	-23.5	16	667.390.5	628.558.4	335+40.2	3.7	-41.1
9	667.202.8	629.723.8	337+80.2	-4.5	-27.4	17	667.412.5	628.536.8	335+08.6	2.4	-41.4

Horizontal Distance = 757.7'  
Measured Distance = 762.0'

868 ROBINWOOD CT.  
TRAVERSE CITY, MI 49686  
PH: (231) 929-1242  
FAX: (231) 941-7412

Bayonne Energy Center  
Brooklyn, New York

Scale: 1" = 80'

As-Built



# Bayonne Energy Center Brooklyn, New York As-Built - Drill 2

Collarham  
Drill 2 Exit  
Sta. 332+63.0  
N 667.584.5  
E 629.343.0

Drill 2 Entry  
Sta. 339+87.9  
N 667.040.2  
E 629.840.4

APPROX. LOCATION OF TUNNEL ENTRANCE

APPROX. LOCATION OF TUNNEL ENTRANCE

Drill 1

Drill 2

Drill 3

330+00

331+00

332+00

333+00

334+00

335+00

336+00

337+00

338+00

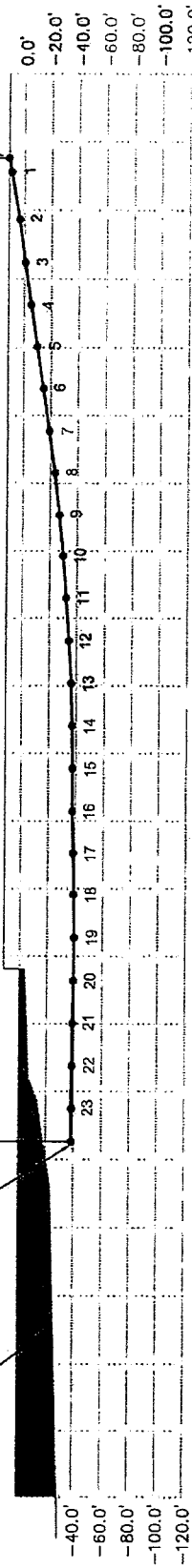
339+00

340+00

724.9'

Collarham  
Drill Exit  
Sta. 332+63.0  
Elev. -38.5'

Approximate Grade



Scale: 1" = 80'

JT #	North	East	Station	Offset	Elev.	JT #	North	East	Station	Offset	Elev.
1	667.040.2	629.840.4	339+87.9	0.0	11.2	9	667.237.1	629.655.6	337+25.9	-0.3	-26.8
2	667.048.8	629.834.6	339+77.8	0.6	8.3	10	667.258.5	629.647.8	336+86.4	0.6	-28.8
3	667.075.7	629.813.8	339+43.5	1.0	3.5	11	667.290.3	629.625.3	336+65.0	-1.2	-32.1
4	667.101.1	629.765.0	339+12.0	1.8	-0.7	12	667.302.5	629.602.6	336+33.3	-1.5	-34.4
5	667.126.0	629.726.5	338+81.0	2.7	-5.0	13	667.324.7	629.580.0	336+01.6	-1.8	-36.1
6	667.148.6	629.757.7	338+50.8	3.3	-9.7	14	667.346.1	629.557.1	335+70.3	-2.0	-37.0
7	667.172.0	629.726.5	338+20.1	2.1	-14.4	15	667.368.7	629.535.1	335+38.8	-2.5	-37.6
8	667.194.5	629.714.4	337+88.7	1.3	-18.8	16	667.381.4	629.513.2	335+07.2	-2.1	-37.7
9	667.215.6	629.691.7	337+57.7	0.1	-23.3	17	667.414.6	629.482.6	334+76.3	-0.2	-38.4

Horizontal Distance = 724.9  
Measured Distance = 728.6



866 ROBINWOOD CT.  
TRAVERSE CITY, MI 49686  
PH: (231) 929-1242  
FAX: (231) 941-7412

DATE 10-22-10 JOB NO. 08-8029 DRAWN BY GJH  
CHECKED BY Bayonne Energy Center  
PROJECT QUANTITY S to N  
LOCATION Upper New York Bay  
AS-BUILT 2

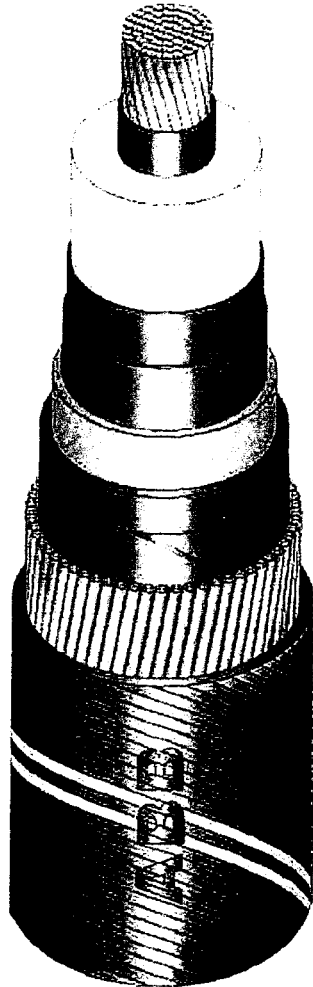


## **Appendix B**

---

### **Submarine and Upland Power Cables – Typical Diagrams**

2.1. 345 kV XLPE-Insulated Submarine Cable with 1750 kcmil Copper Conductor



Rated voltage $U_0/U$	200 / 345 kV
Maximum system voltage $U_m$	362 kV
Impulse level	1300 kV
<b>Conductor</b>	
- type / material	compacted / copper
- cross-section	1750 kcmil
- diameter	1.42 inches
- longitudinal water seal	compound & swelling tape
<b>Conductor screen</b>	
- material	conductive PE
- thickness	79 mils
<b>Insulation</b>	
- type	triple-extruded, dry-cured
- material	XLPE
- thickness / diameter over XLPE	1.06 / 3.75 inches
<b>Insulation screen</b>	
- material	Conductive PE
- thickness	67 mils
<b>Longitudinal water sealing</b>	
- material	swelling tape
<b>Radial water barrier, metallic sheath</b>	
- material	lead alloy
- thickness	130 mils
<b>Inner sheath</b>	
- material	Conductive PE
- thickness	130 mils
<b>Bedding</b>	
- material	Bitumen impregnated tape
<b>Armour</b>	
- material 1	Copper
- diameter	157 mils
- cross-section	2014 kcmil
- material 2	Bitumen
<b>Outer serving</b>	
- material	2 layers of polypropylene yarn
- thickness	157 mils
- material 2	Bitumen
<b>Complete cable</b>	
- Approximate outer diameter	5.23 inches
- Approximate weight in air	26.6 lbs. per foot
Maximum pulling tension	13955 lbf

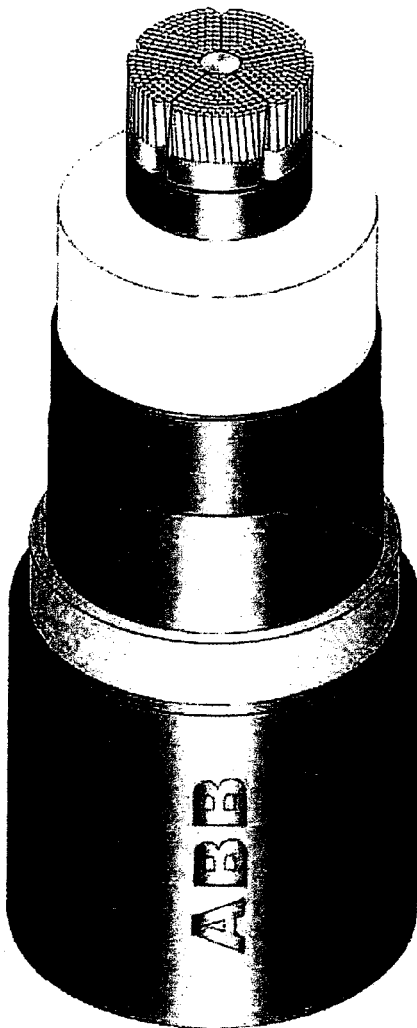
All Values Are Nominal

Figure 5-1. Diagram of submarine power cable.

# Caldwell

Marine International, LLC.

## Underground Cable



<b>Rated voltage <math>U_0/U</math></b>	200 / 345 kV
<b>Maximum system voltage <math>U_m</math></b>	362 kV
<b>Impulse level</b>	1300 kV
<b>Conductor</b>	
- type / material	segmented / copper
- cross-section	3000 kcmil
- diameter	1.89 inches
- longitudinal water seal	swelling tape
<b>Conductor screen</b>	
- material	conductive PE
<b>Insulation</b>	
- type	triple-extruded, dry-cured
- material	XLPE
- thickness / diameter over XLPE	1.06 / 4.32 inches
<b>Insulation screen</b>	
material	Conductive PE
<b>Longitudinal water sealing</b>	
- material	swelling tape
<b>Radial water barrier, metallic sheath</b>	
- material	lead alloy
- thickness	122 mils
<b>Outer sheath</b>	
- material	HDPE
- conductive layer	extruded
- thickness	256 mils
- Approximate outer diameter	5.17 inches
- Approximate weight	24.2 lbs. per foot
<b>Maximum pulling tension</b>	23920 lbf

All data is Nominal

Figure 4-2. Underground Cable

## Appendix C

---

### Submarine and Upland Fiber Optic Cables – Typical Diagrams

## 8. Fibre Optic Cable

A submarine fibre optic (FO) cable will be bundled to each one of the three single phase power cables and installed along with it. This submarine FO cable is based on a well-proven 4-ribbon cable design. The ribbon technique provides a high density of the fibers and a smaller outer diameter accordingly. The fibres are colour-coded and the number of fibres is still to be discussed. The radial shape of the slotted core profile provides a protective cavity for the ribbons. Hence the slotted core cable has a high crush load resistance. The slotted core protected by a PE-jacket is placed into a waterproof copper tube, followed by a second outer PE-jacket and a layer of galvanized steel wires. The steel wire reinforcement provides reliable mechanical protection, enabling installation and operation during rough conditions. The outer serving consists out of one layer polypropylene yarn.

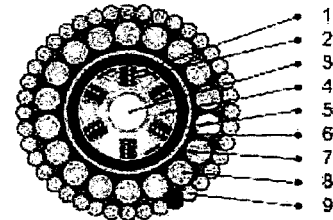


### 8.1. FO cable properties

Minimum bending radius, no tensile load	0.5 m
Minimum bending radius, with tensile load	1.5 m
Minimum coiling radius	1.5 m
Maximum nominal transient tensile strength	100 kN
Crush resistance for 4-48 fibres	150 kN/m
Crush resistance for 52-96 fibres	100 kN/m
Weight in air	2.4 kg/m
Weight in water	1.6 kg/m

### 8.2. FO cable design

1. 4-fiber ribbon
2. filling compound
3. central strength member
4. slotted core
5. PE-jacket
6. Copper sheath
7. PE-jacket
8. Armour: galvanized steel wire
9. Polypropylene yarn



## 9. Distributed Temperature Sensing System

Please refer to Appendix 13, "Distributed Temperature Sensing System (DTS) and Sample Site Acceptance Test Procedure for the DTS".



ABB AB  
High Voltage Cables

Technical Specification Underground Cable Segment in  
Brooklyn BA-09-0128  
12/20/2009

## 10. Fibre Optic Cable



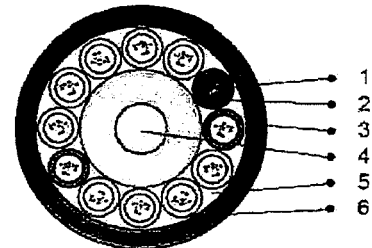
A fibre optic (FO) cable will be installed in a separate duct for each one of the three single phase power cables and installed along with it. This FO cable is based on a well-proven loose tube cable design and designed for installation in ducts. The fibres are colour-coded and the number of fibres is still to be discussed. The cable is completely dielectric making it suitable for installations in environments where there is electrical interference. A filling compound of foamed thermoplastic elastomer is used as water blocking in the cable. The outer serving consists out of a black polyethylene sheath.

### 10.1. FO cable properties

Minimum bending radius, no tensile load	0.2 m
Minimum bending radius, with tensile load	0.3 m
Maximum tensile strength during installation	4 kN
Crush resistance for 4-48 fibres	2.0 kN/100mm
Crush resistance for 52-96 fibres	2.5 kN/100m

### 10.2. FO cable design

1. primary coated fiber
2. filling compound
3. loose tube
4. central strength member
5. water blocking
6. sheath



## 11. Distributed Temperature Sensing System

A Distributed Temperature Sensing System (DTS) will be placed at the Bayonne side.



## Appendix D

---

### Transition Vaults – Typical Diagrams

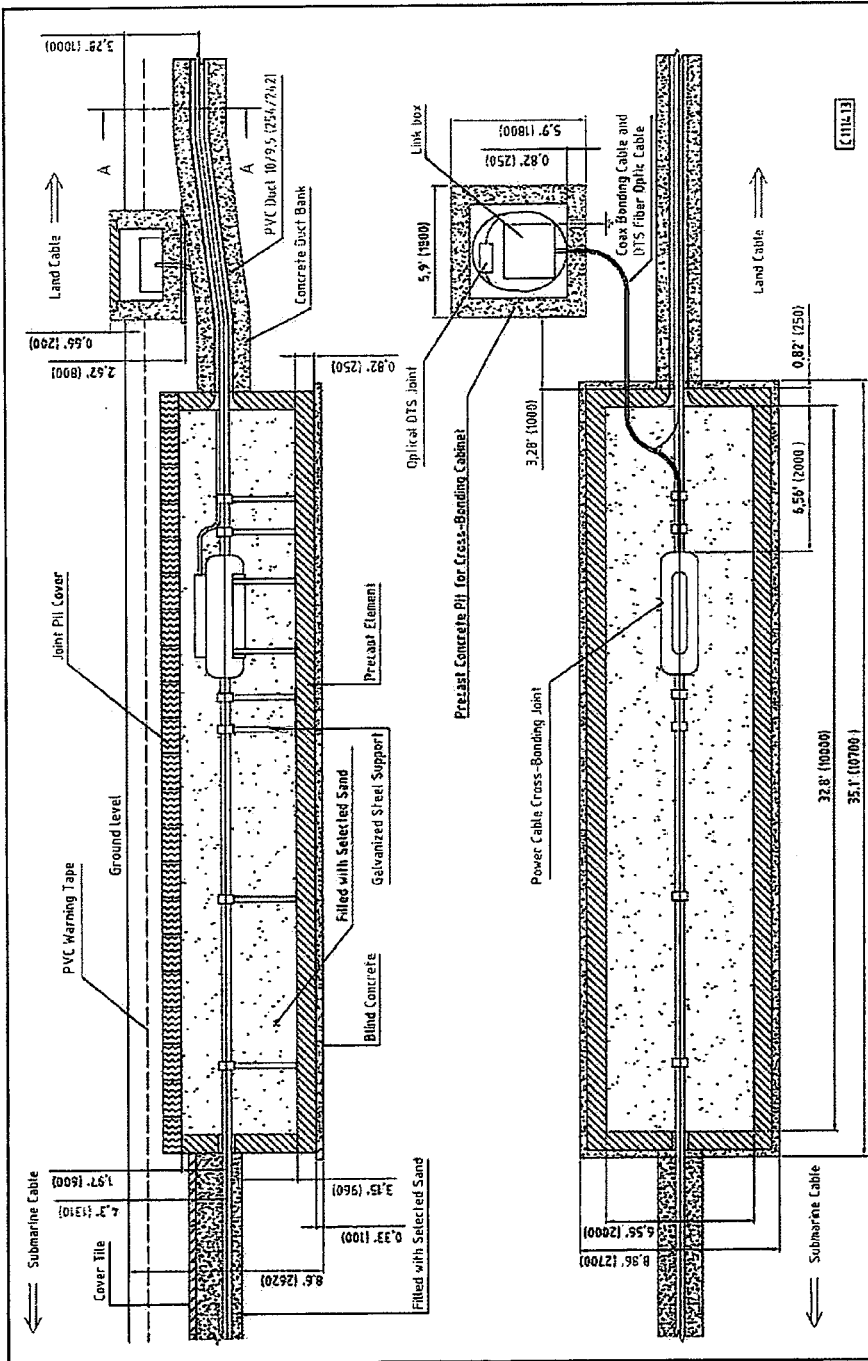


Figure 8-1. GA Transition Vault (submarine to underground splice)

## Appendix E

---

### Duct Banks – Typical Diagrams



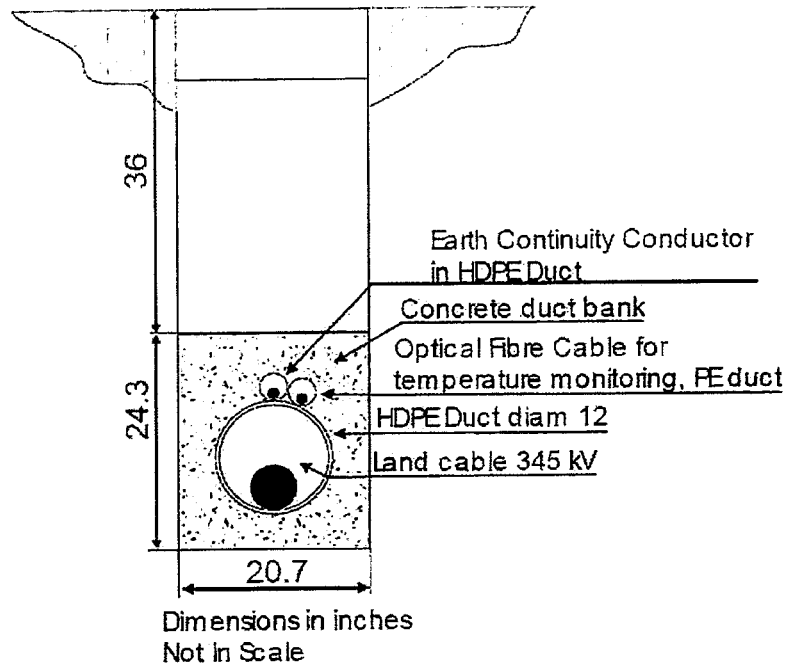


Figure 5-2. Single Duct Bank

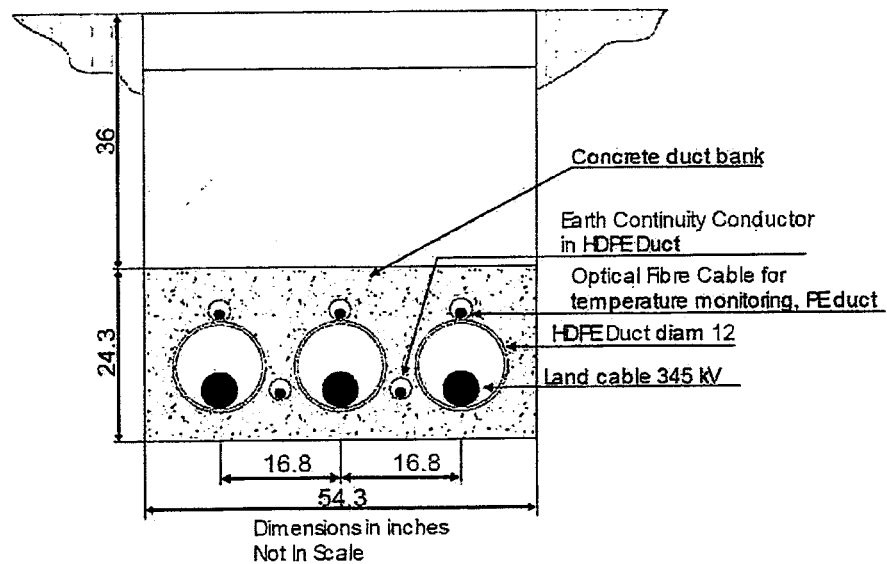


Figure 5-3. Combined Duct Bank

## Appendix F

---

### Budgetary Estimate



**DECOMMISSIONING PLAN**  
**PROJECT: BAYONNE ENERGY CENTER SUBMARINE AND LAND CABLE**  
**PREPARED BY: CCP**  
**DATE: 04/20/2023**

PROJECT NO.: 016238.0000.0000

PAGE NO.: 1 OF 1

Item #	Description	Units	Unit Price	Quantity	Estimate
1	Submarine Cable Removal	FT	\$450	43,788	\$19,716,861
2	Upland Cable Removal	FT	\$100	2,696	\$269,600
3	Upland Fiber Optic Cable Removal	FT	\$100	2,696	\$269,600
4	Duct Bank System and Transition Vault Removal	FT	\$500	980	\$490,000
7	Landfall HPDE Conduit Removal	DAY	\$30,000	60	\$1,800,000
8	Cofferdam Installation & Removal	LS	\$5,667,000	1	\$5,667,000
11	Mobilization & Demobilization (10% of Subtotal of Above)	LS	--	1	\$2,821,306
5	Imported Clean Fill - Duct Bank System and Transition Vaults	Tons	\$20	55,979	\$1,119,583
6	Concrete Disposal (Duct Bank System and Transition Vaults)	Tons	\$20	55,979	\$1,119,583
9	Sediment Disposal and Imported Clean Backfill (Cofferdams)	CY	\$1,019	700	\$713,844
10	Waste Disposal (Sediment, Grout, Shredded Conduits)	CY	\$1,019	253	\$257,930
12	Pre- and Post-Removal Marine Surveys	LS	\$210,000	1	\$210,000
13	Article VII Independent Environmental Inspector	DAY	\$5,000	30	\$150,000
14	Suspended Sediment/Water Quality Monitoring	DAY	\$17,500	30	\$525,000
15	Regulatory Permitting	LS	\$75,000	1	\$75,000
16	Copper Salvage (Submarine and Upland Cables)	LB	\$0.65	550,098	-\$357,564
17	Future Cable Crossing	TBD	TBD	TBD	TBD
<b>Notes:</b>					
1. Estimates for Items 1 through 15 are based on 2022 costs. Actual costs will depend on timing of cable removal.					
2. Estimates for Item 16 is based on 2023 costing. Actual cost will depend on timing of cable removal.					
				<b>Sub-Total:</b>	<b>\$34,947,743</b>
				10% Contingency	\$3,484,774
				<b>Total:</b>	<b>\$38,332,517</b>
				<b>Budgetary Estimate</b>	<b>SAY \$38,33,000</b>
<b>Disclaimer:</b> This Budgetary Estimate is made on the basis of ESS' experience and judgement and utilizes the sources and items referenced in the accompanying report. The stated estimated costs are opinions only and are not a formal construction estimate. ESS makes no warranty, expressed or implied, that proposals, bids, or actual construction cost will not vary from this Budgetary Estimate. If the Client wishes greater assurance as to probable construction costs, the Client shall employ an independent cost estimator or contractor.					



Bayonne Energy Center, Inc. Generation Leads Salvage Value  
 Project From NY State Line to Brooklyn, NY  
 All costs in \$000's

TOTAL SALVAGE VALUE AND ALLOCATION BY TAX JURISDICTION

Item	Workscope		Value	Allocation				Allocated Salvage Value		
	Description	Selection		NYS	DOT	Con Ed		NYS	DOT	Con Ed
1	Submarine Cable Removal	Submarine NY	-\$19,717	94%	6%	0%		-\$18,470	-\$1,246	\$0
2	Upland Cable Removal	Land NY	-\$270	0%	16%	84%		\$0	-\$42	-\$228
3	Upland Fiber Optic Cable Removal	Land NY	-\$270	0%	16%	84%		\$0	-\$42	-\$228
4	Duct Bank System and Transition Vault Removal	Land NY	-\$490	0%	16%	84%		\$0	-\$76	-\$414
5	Landfill HPDE Conduit Removal	Submarine DOT	-\$1,800	0%	100%	0%		\$0	-\$1,800	\$0
6	Cofferdam Installation & Removal	Submarine DOT	-\$5,667	0%	100%	0%		\$0	-\$5,667	\$0
7	Mobilization & Demobilization (10% of Subtotal of Above)	Calculation	-\$2,821	65%	31%	3%		-\$1,847	-\$887	-\$87
8	Imported Clean Fill (Duct Bank System and Transition Vaults)	Land NY	-\$1,120	0%	16%	84%		\$0	-\$175	-\$945
9	Concrete Disposal (Duct Bank System and Transition Vaults)	Land NY	-\$1,120	0%	16%	84%		\$0	-\$175	-\$945
10	Sediment Disposal and Imported Clean Backfill (Cofferdams)	Submarine DOT	-\$714	0%	100%	0%		\$0	-\$714	\$0
11	Waste Disposal (Sediment, Grout, Shredded Conduits)	Submarine DOT	-\$258	0%	100%	0%		\$0	-\$258	\$0
12	Pre- and Post-Removal Marine Surveys	Submarine NY	-\$210	94%	6%	0%		-\$197	-\$13	\$0
13	Article VII Independent Environmental Inspector	Total NY	-\$150	88%	7%	5%		-\$132	-\$10	-\$7
14	Suspended Sediment/Water Quality Monitoring	Submarine NY	-\$525	94%	6%	0%		-\$492	-\$33	\$0
15	Regulatory Permitting	Total NY	-\$75	88%	7%	5%		-\$66	-\$5	-\$4
16	Copper Salvage (Submarine and Upland Cables)	Total NY	\$358	88%	7%	5%		\$316	\$25	\$18
Total Salvage Value			-\$34,848	Total Allocated Salvage Value				-\$20,889	-\$11,120	-\$2,839

Taxing Jurisdiction

Total Salvage Value	
(I) In NYS and DOT Lands	-\$32,009
(II) In Con Ed Land	-\$2,839
(III) In NYS, DOT, and Con Ed Lands	-\$34,848

July 2011 Handy Whitman Index	917
July 2022 Handy Whitman Index	1,694
Original Cost Approved by NYS ORPTS	\$40,085
Net Salvage Value (%)	-43.23%

REFERENCE CALCULATIONS: QUANTITY ALLOCATIONS, BY TAXING JURISDICTION

Installed Submarine Cable Quantities

Source: ABB letter

NY State Line to Transition Vault

	BEC 1	BEC 2	BEC 3	Total
NY	14,676	14,688	14,424	43,788
Total	14,676	14,688	14,424	43,788

Installed Land Cable Quantities

Source: ABB letter

Transition Vault to Con Ed Termination Structures

	A	B	C	Total
Brooklyn	850	891	955	2,696
Total	850	891	955	2,696

Installed Submarine/Land Cable Quantities, by NY taxing

Jurisdiction

Source: ABB letter & as-built map

	BEC 1	BEC 2	BEC 3	Total
Submarine Cable Length (NYS)	13,708	13,758	13,554	41,020
Submarine Cable Length (DOT)	968	930	870	2,768
Land Cable (DOT)	95	139	187	421
Land Cable (Con Ed)	755	752	768	2,275
Total	15,526	15,579	15,379	46,484

Allocations

	NYS	DOT	Con Ed	Total
Submarine NY	94%	6%	0%	100%
Submarine DOT	0%	100%	0%	100%
Land NY	0%	16%	84%	100%
Total NY	88%	7%	5%	100%



## **EXHIBIT B**

# DEPARTMENT OF THE ARMY PERMIT

Permittee: Bayonne Energy Center, LLC  
C/o Pure Energy Resources, LLC  
25 Mall Road, Suite 100  
Burlington, Massachusetts 01803  
(781) 229-0400

Permit Number: NAN-2008-01564-M3  
**JUL 07 2011**

Issuing Office: U.S. Army Corps of Engineers - New York District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the US Army Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

Upon issuance, this permit shall be known as NAN-2008-01564-M3. It incorporates by single modification all current DA authorized regulated activities associated with the originally issued DA Permit NAN-2008-01564 (12 April 2010) and the two subsequent permit modifications M1 (25 August 2010) and M2 (24 June 2011).

You are authorized to perform work in accordance with the terms and conditions specified below.

## Regulated Project Description:

### a. Three (3) Submarine Electric Transmission Cables

Install approximately 6.5 miles of three parallel 345-kilovolt (KV) Alternating Current (AC) submarine electric transmission cables beneath the waters of the Kill Van Kull, Upper New York Bay, and Gowanus Bay, within eight (8) Congressionally authorized Federal Navigation Channels and three (3) Federal Anchorages, between the City of Bayonne, Hudson County, New Jersey, and the Con Edison Gowanus Substation in New York City, Borough of Brooklyn, Kings County, New York.

The three parallel submarine electric transmission cables, each an individual cable consisting of a 5.2-inch-diameter single core AC cable, shall be installed within three parallel trenches approximately 33 feet apart and at least eight (8) feet below the Federal Navigation Channels' Congressionally authorized depth with a minimum of four (4) feet of final cover, as further described and stipulated in this permit's Special Conditions. The following activities are also authorized to facilitate installation of the three submarine electric transmission cables.

### b. Temporary Cofferdam Construction and Dredging/Back-Filling Activities with Upland Disposal of All Dredged Materials

ENG FORM 1721, Nov 86

EDITION OF SEP 82 IS OBSOLETE.

1145-2-303b (Bayonne Energy Center, LLC/NY&NJ Harbor/Three (3) Buried Power Cables (33 CFR 325 (Appendix A))

PERMIT NUMBER: NAN-2008-01564-M3

JUL 07 2011

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

Construct temporary steel sheet cofferdams at each submarine electric transmission cable's landfall location. Within the waters of the Kill Van Kull and at the New Jersey cable landfall site in the City of Bayonne, one temporary cofferdam approximately 70 feet wide by approximately 200 feet long will be constructed. Within the waters of the Gowanus Bay and at the three (3) New York cable landfall sites in Brooklyn, three (3) temporary cofferdams each approximately 10 feet wide by 64 feet long will be constructed. To aid in the installation of the cables at the New York cable landfall sites in Brooklyn, horizontal directional drilling (HDD) may be used.

Bucket dredge approximately 500 cubic yards of sediments from within the New Jersey temporary cofferdam and a total of approximately 1,000 cubic yards of sediments from within the three (3) New York temporary cofferdams. All dredged materials shall be placed into sealed barges to settle. In New Jersey only, the discharge of decant water from the settling barges into the Kill Van Kull waterway is authorized, subject to the requirements of the State of New Jersey Department of Environmental Protection (NJDEP) issued water quality certification (copy attached) for this work. All dredged materials from all the coffer dams shall be disposed of at a State-approved upland site. Upon completion of the installation of the herein authorized three (3) submarine electric transmission cables, the four (4) temporary cofferdams shall be removed from the waterways and the areas within the temporary cofferdams returned to pre-construction elevations by the placement of approximately 500 cubic yards of clean sand on the New Jersey side and approximately 1,000 cubic yards of clean sand on the New York side.

c. New Jersey Pierhead Navigation Channel Jet Flow Route Testing

Because of the presence of hard materials, including rocks, cobbles, and large boulders; and to maximize the hydraulic jet plow's ability to place and adequately bury the herein authorized three (3) submarine electric transmission cables to required minimum depth of -28 feet, MLLW datum, beneath the New Jersey Pierhead Navigation Channel, the following three elements of work are permitted:

ELEMENT 1: Remove by clamshell bucket dredging approximately 2,600 cubic yards of bottom sediment with rocks and boulders, from the top 2 feet of a 700-foot-long by 50-foot-wide lane of the north cable alignment crossing the New Jersey Pierhead Navigation Channel. All dredged materials shall be disposed at a State-approved upland location. Then move the hydraulic jet plow through the dredged lane to test whether the plow could install cable in the channel bottom at the required depth of -28 feet, MLLW datum.

PERMIT NUMBER: NAN-2008-01564-M3

JUL 07 2011

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

ELEMENT 2: If Element 1 above proves successful, remove by clamshell bucket dredging an additional 4,930 cubic yards of bottom sediment with rocks and boulders from the top 2 feet of an additional 1,330-foot-long by 50-foot-wide lane of the north cable alignment crossing the New Jersey Pierhead Navigation Channel. All dredged materials shall be disposed at a State-approved upland location. Then move the hydraulic jet plow through the addition 1,300 feet of dredged lane to test whether the plow could continue to install cable in the channel bottom at required depth of -28 feet, MLLW datum.

ELEMENT 3: If Element 2 above proves successful, remove by clamshell bucket dredging an additional 5,520 cubic yards of bottom sediment with rocks and boulders from the top 2 feet of a 1,900-foot-long by 50-foot-wide section of the southern cable alignment crossing the New Jersey Pierhead Navigation Channel. All dredged materials shall be disposed at a State-approved upland location. Then move the hydraulic jet plow through the 1,900 feet of dredged lane to test whether the plow could install cable in the channel bottom at the required depth of -28 feet, MLLW datum.

d. New Jersey Pierhead Navigation Channel Submarine Electric Transmission Cables Burial In Dredged Trench Alternative

In the event the construction work authorized in paragraph(c) above fails to demonstrate that the herein authorized three (3) submarine electric transmission cables can be correctly installed by hydraulic jet plow to the required depth of -28 feet, MLLW datum, below the New Jersey Pierhead Navigation Channel, the trench dredging described below, with upland disposal of dredged materials at a State-approved disposal location, is authorized.

Dredge by clamshell bucket dredge approximately 57,000 cubic yards of dredged materials from a 1,900-foot-long by 74-foot-wide trench between cable stations 29+07 and 47+82 crossing the New Jersey Pierhead Navigation Channel. Install the herein authorized three (3) submarine electric transmission cables in the dredged trench at the required minimum depth of -28 feet, MLLW datum; and then cover the cables with a minimum final cover of four (4) feet materials satisfying Conditions 28 and 29 of the attached State of New Jersey Department of Environmental Protection modification letter (WFD 110001 Modification) dated 7 June 2011.

All work shall be performed in accordance with the attached permit drawings titled "Submarine Transmission Cable System, Bayonne Energy Center Project, Key Plan - NAVD88 Plan Set At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC", Sheets 1 - 35 (Project No. P273-026), prepared by ESS Group Inc; and the attached State of New York Public

JUL 07 2011

PERMIT NUMBER: NAN-2008-01564-M3

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

Service Commission (NYSPSC) Section 401 of the Clean Water Act water quality certifications (Case 08-T-1245) issued and effective 19 April 2011 and 12 November 2009, as well as attached NYSPSC Order dated 20 July 2010; and the State of New Jersey Department of Environmental Protection water quality certifications dated 7 June 2011 (WFD 110001 Modification), and 12 January 2010 (Permit Numbers 0901-08-000.1, WFD 080002, WFD 080003), and this permit's General Conditions and its Special Conditions (A) through (Y).

Regulated Project Location:

IN: New York and New Jersey Harbor, Kill Van Kull Channel, New Jersey Pierhead Channel, Port Jersey Channel, Anchorage Channel, Buttermilk Channel, Red Hook Channel, Bay Ridge Channel, Gowanus Creek Channel

AT: New York City, Borough of Brooklyn, Kings County, New York State and the City Of Bayonne, Hudson County, New Jersey

Permit Conditions:

General Conditions:

1. The initial time limit for completing the work authorized herein, including complete removal of all temporary works, ends on April 12, 2013. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached and made part of this permit, if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been

PERMIT NUMBER: NAN-2008-01564-M3

JUL 07 2011

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

(A) The permittee and their contractors shall install the herein permitted three (3) submarine electric transmission cables within the Congressionally-authorized Red Hook Navigation Channel fifteen (15) feet below the existing channel bottom within the current western shoal between cable stations 261+00 and 287+00. Notwithstanding the initial construction period provisions of General Condition 1 of this permit, upon prior written notice (The permittee shall receive and acknowledge the U.S. Army Corps of Engineers published public notice for the proposed maintenance dredging of Red Hook Channel); the permittee, at its own cost, shall temporarily remove the herein authorized three (3) submarine electric transmission cables [To facilitate this required removal, clamshell bucket dredging is permitted with upland disposal of all dredged materials at a State-approved disposal location] so that the U.S. Army Corps of Engineers can safely perform required maintenance dredging of the Red Hook Navigation Channel. Upon subsequent written notice from the issuing office of this permit that needed maintenance dredging is completed, the permittee may reinstall the herein authorized three (3) submarine electric transmission cable sections which were removed, but the permittee shall, at its own cost, then bury the herein authorized three (3) submarine electric transmission cables to the required minimum depth (measured to top of each of the three cables) of -48 feet, Mean Lower Low Water [MLLW] datum. To facilitate this re-installation at the proper burial depth, clamshell bucket dredging is permitted with upland disposal of all dredged materials at a State-approved disposal location. [We recognize the permittee's stated intent to use at their own cost the U.S. Army Corps of Engineers' future maintenance dredging contractor to perform the cable burial work.]

(B) The permittee understands and agrees that, if future operations by the United States of America require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his/her authorized representative, said structures or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States of America. No claim shall be made against the United States of America on account of any such removal or alteration.

(C) The submarine electric transmission cables shall be installed to a minimum of eight (8) feet (measured to the top of each cable) below the following Congressionally-authorized Federal Navigation Channel project

PERMIT NUMBER: NAN-2008-01564-M3

JUL 07 2011

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

depths, except as allowed below; with a minimum of four (4) feet of final cover over each cable throughout:

1. Kill Van Kull Federal Navigation Channel is Congressionally-authorized to -50 feet, Mean Lower Low Water (MLLW) datum; minimum required burial depth is -58 feet, MLLW datum;
2. New Jersey Pierhead Federal Navigation Channel is Congressionally-authorized to -20 feet MLLW datum; minimum required burial depth is -28 feet, MLLW datum;
3. Port Jersey Federal Navigation Channel is Congressionally-authorized to -50 feet MLLW datum; minimum required burial depth is -58 feet, MLLW datum;
4. Anchorage Channel Federal Navigation Channel is Congressionally-authorized to -45 feet MLLW datum; minimum required burial depth is -53 feet, MLLW datum
5. Buttermilk Federal Navigation Channel is Congressionally-authorized to -40 feet MLLW datum; minimum required burial depth is -48 feet, MLLW datum
6. Red Hook Federal Navigation Channel is Congressionally-authorized to -50 feet MLLW datum for its southern third, but construction of the 50-foot reach is indefinitely deferred. For the purposes of this issued permit, the authorized depth shall be the previous -40 feet, MLLW datum, except as provided for in Special Condition (A) of this issued permit; ultimate minimum required burial depth is -48 feet, MLLW datum;
7. Bay Ridge Federal Navigation Channel is Congressionally-authorized to -50 feet MLLW datum, but construction of the 50-foot channel is indefinitely deferred. For the purposes of this issued permit, the authorized depth shall be the previous -40 feet, MLLW datum; minimum required burial depth is -48 feet, MLLW datum;
8. Gowanus Creek Federal Navigation Channel is Congressionally-authorized to -30 feet MLLW datum; minimum required burial depth is -38 feet, MLLW datum.

(D) The permittee and their contractors shall install the herein authorized three (3) submarine electric transmission cables a minimum of eleven (11) feet below the present bottom depth of Federal Anchorages 20E, 20F, 20G and any other anchorage or fleeting areas on the published NOAA nautical charts.

(E) The permittee and their contractors shall maintain throughout a minimum final cover of four (4) feet over the herein authorized three (3) submarine electric transmission cables.

(F) The permittee and their contractors shall be responsible for complying with the special conditions and/or stipulations incorporated into the attached New York State Public Service Commission and State of

PERMIT NUMBER: NAN-2008-01564-M3

JUL 07 2011

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

New Jersey Department of Environmental Protection issued certificates, permits, and orders as listed on Pages 3 and 4 of this permit. The permittee's or their contractors' failure to comply with all of the special conditions and stipulations contained within these attached authorizations may be grounds for suspending or revoking this permit. The permittee shall inform this office if there are any material changes to the terms or special conditions contained within these listed authorizations.

(G) The permittee and their contractors shall only construct the herein authorized temporary cofferdam on the New Jersey side between June 1 and January 31 to ensure minimal impacts to winter flounder's Essential Fish Habitat under the Magnuson Stevens Act. Work within the constructed cofferdam can be performed at any time.

(H) The permittee and their contractors shall only construct the herein authorized temporary cofferdams on the New York side between April 1 and November 14 of any calendar year. Work within the constructed cofferdams can be performed at any time.

(I) The permittee and their contractors shall only conduct submarine electric transmission cable installation activities between June 1 and November 30 of any calendar year.

(J) The permittee and their contractors may conduct surveying and sampling work, marking and locating of the herein authorized three (3) submarine electric transmission cables, mobilization and demobilization of equipment at any time.

(K) The permittee and their contractors shall dispose of all drilling residues and sediments associated with the horizontal directional drilling activities at a State-approved upland site.

(L) The permittee shall maintain at all work sites and aboard all work vessels, a complete copy (including drawings and attachments) of this issued permit, including any future modifications.

(M) The permittee shall submit to U.S. Coast Guard Sector New York's Waterways Management Division ATTN: Jeff Yunker ([Jeff.M.Yunker@uscg.mil](mailto:Jeff.M.Yunker@uscg.mil)) a completed U.S. Coast Guard Sector New York Project Notification Form (attached) a minimum of 30 calendar days prior to the start date of the in-water work, or, if it is impracticable to submit the form 30 calendar days prior to the start date, the permittee shall submit the form and obtain the U.S. Coast Guard's approval of its submitted form prior to the commencement of in-water construction work. Included in this U.S. Coast Guard Sector New York form should be the latitude and longitude positions for any



PERMIT NUMBER: NAN-2008-01564-M3

JUL 07 2011

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

additional requested test borings or sampling locations associated with the installation of the here-in authorized three (3) submarine electric transmission cables, and the foot print for the cable laying vessel(s) and associated anchor/buoys.

(N) The permittee shall notify the U.S. Coast Guard Sector New York's Waterways Management Division ATTN: Jeff Yunker ([Jeff.M.Yunker@uscg.mil](mailto:Jeff.M.Yunker@uscg.mil)) a minimum of 30 days prior to any requested movement of Federal Channel marker buoys, if necessary for the installation of any portion of the herein authorized three (3) submarine electric transmission cables.

(O) The permittee shall perform progress briefings to the U.S. Coast Guard Sector New York-led Port of New York & New Jersey Harbor Operations Steering Committee and/or the Port of New York & New Jersey Harbor Operations full committee, including a detailed description and proposed timelines for the installation of the herein authorized three (3) submarine electric transmission cables.

(P) The permittee shall submit to the U.S. Coast Guard Sector New York's Waterways Management Division ATTN: Jeff Yunker ([Jeff.M.Yunker@uscg.mil](mailto:Jeff.M.Yunker@uscg.mil)) the latitude and longitude position for each turning point in each of the herein authorized three (3) submarine electric transmission cables at least 30 calendar days prior to briefing the Port of New York & New Jersey Harbor Operations Committees.

(Q) The permittee shall notify the National Oceanic and Atmospheric Administration of completion of the installation of the herein authorized three (3) submarine electric transmission cables and their as-built depths and location specifications so that National Oceanic and Atmospheric Administration's National Ocean Service may initiate the appropriate nautical chart modifications. The information may be faxed to (301)713-4516 or mailed to the following address:

National Oceanic and Atmospheric Administration  
National Ocean Service  
N/CS261, Marine Chart Division  
Nautical Data Branch, Station 7317  
1315 East-West Highway  
Silver Springs, MD 20910-3282

(R) The permittee shall submit written verification to the U.S. Army Corps of Engineers, New York District Regulatory Branch, that it has transmitted required notifications and made the presentations required by the U.S. Coast Guard Sector New York and the National Oceanic and Atmospheric Administration, National Ocean Service, as described in Special

PERMIT NUMBER: NAN-2008-01564-M3

JUL 07 2011

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

Conditions (M) through (Q), and (V) within (5) calendar days of making each such notification. Verification shall be delivered to the following address:

Chief, Regulatory Branch  
New York District Corps of Engineers  
Jacob K. Javits Federal Building Room 1937  
New York, New York 10278-0090  
Fax Machine 212-264-4260

(S) The permittee's contractors shall use a closed clamshell environmental dredging bucket to dredge all soft, fine-grained materials. The closed clamshell environmental bucket shall be used until refusal, at which time a clam shell digging bucket or dredging excavator may be used for hard material.

(T) The permittee shall, within six (6) months from completion of the herein authorized three (3) submarine electric transmission cables' construction activities, submit to U.S. Army Corps of Engineers, New York District Regulatory Branch one digital copy and two (2) paper copies of a post-installation survey showing the as-built depths and locations of the herein authorized three (3) submarine electric transmission cables, with all Federal Navigation Channels and Federal Anchorages shown. The permittee shall highlight on the required submittals all deviations from required burial depths or authorized locations of the herein authorized three (3) submarine electric transmission cables. This information will be delivered to the address provided in Special Condition (R).

(U) In the event that, during the course of the installation of the herein authorized three (3) submarine electric transmission cables, the permittee encounters a situation in which, due to geologic conditions, topographic features, or buried obstructions, the permitted burial depths within the limits of the Federal Navigation Channels or Federal Anchorages, or the minimum four (4) feet of required final cable cover has not been achieved but is within 10% of the required burial depth, the permittee shall provide the U.S. Army Corps of Engineers, New York District Regulatory Branch with the location, length, and achieved depth no later than the next business day for review (exceedance of greater than 10% shall be considered a non-compliance matter and shall warrant immediate notification to the New York District, Chief of Western Permits Section at (917)790-8418). The Corps of Engineers will use this submitted information to determine if any remedial measures are warranted. Required notifications shall be addressed or faxed to the following two units:

Chief, Western Permits Section  
New York District Corps of Engineers  
Jacob K. Javits Federal Building

PERMIT NUMBER: NAN-2008-01564-M3

JUL 07 2011

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

New York, New York 10278-0090  
Fax Machine 212-264-4260

Chief, Operations Technical Support Section  
New York District Corps of Engineers  
Jacob K. Javits Federal Building  
New York, New York 10278-0090  
Fax Machine 212-264-4260

(V) The permittee and their contractors shall minimize impacts to the users of Federal Navigation Channels and Federal Anchorages. The herein authorized work may be delayed due to the needs of commercial shipping. Specific requirements for the cables' installation vessel(s) will be established by the U.S. Coast Guard Sector New York after the contractor provides the cables' installation details to the U.S. Coast Guard Sector New York Waterways Management Division ATTN: Jeff Yunker (Jeff.M.Yunker@uscg.mil). A pre-installation meeting may be scheduled by the U.S. Coast Guard with the contractor and representatives from the maritime industry prior to beginning the installation of the herein authorized three (3) submarine electric transmission cables.

(W) The permittee and their contractors shall coordinate all in-water activities within the Buttermilk Channel Federal Navigation Channel with the New York District of the U.S. Army Corps of Engineers to ensure the activities authorized by this permit shall not impede the upcoming Fiscal Year 2011 Federal maintenance dredging operations. The permittee and their contractors shall be prepared to move on demand any equipment that may interfere with the Federal maintenance dredging operations. The coordination point-of-contact (POC) for the U.S. Army Corps of Engineers is Mr. Randall Hintz, Chief of Operations Support Branch, (917) 790-8550.

(X) The permittee shall remove the three (3) submarine electric transmission cables authorized herein from the waterways within two (2) years of the cables being removed from service. The permittee may apply to the U.S. Army Corps of Engineers to leave the three (3) inactive cables in place, but leaving the three cables must not result in long-term adverse impact to the harbor and/or harbor resources, and the cables can not unreasonably interfere with other uses of the seabed.

(Y) The permittee shall permanently post high visibility signage, on weatherproof materials of no less than 6-foot-wide and 4-foot-high, along all shorelines where the three (3) submarine electric transmission cables enter/exit a waterway, warning of the presence of the three (3) submarine electric transmission cable crossings.

PERMIT NUMBER: NAN-2008-01564-M3

JUL 07 2011

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
  - (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403).
  - (X) Section 404 of the Clean Water Act (33 U.S. Code 1344).
  - ( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization:
  - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability: in issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.
  - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Permit Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of This Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
  - a. You fail to comply with the terms and conditions of this permit.
  - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
  - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such

PERMIT NUMBER: NAN-2008-01564-M3

JUL 07 2011

PERMITTEE: Bayonne Energy Center, LLC, C/o Pure Energy Resources, LLC

directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the U.S. Army Corps of Engineers will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

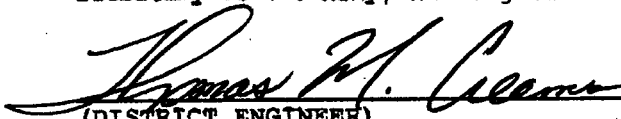
  
(PERMITTEE) Bayonne Energy Center, LLC

7/7/11  
(DATE)

  
(PERMITTEE) Bayonne Energy Center, LLC

7/6/11  
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
(DISTRICT ENGINEER) 7 Jul 2011

JUL 07 2011  
(DATE)

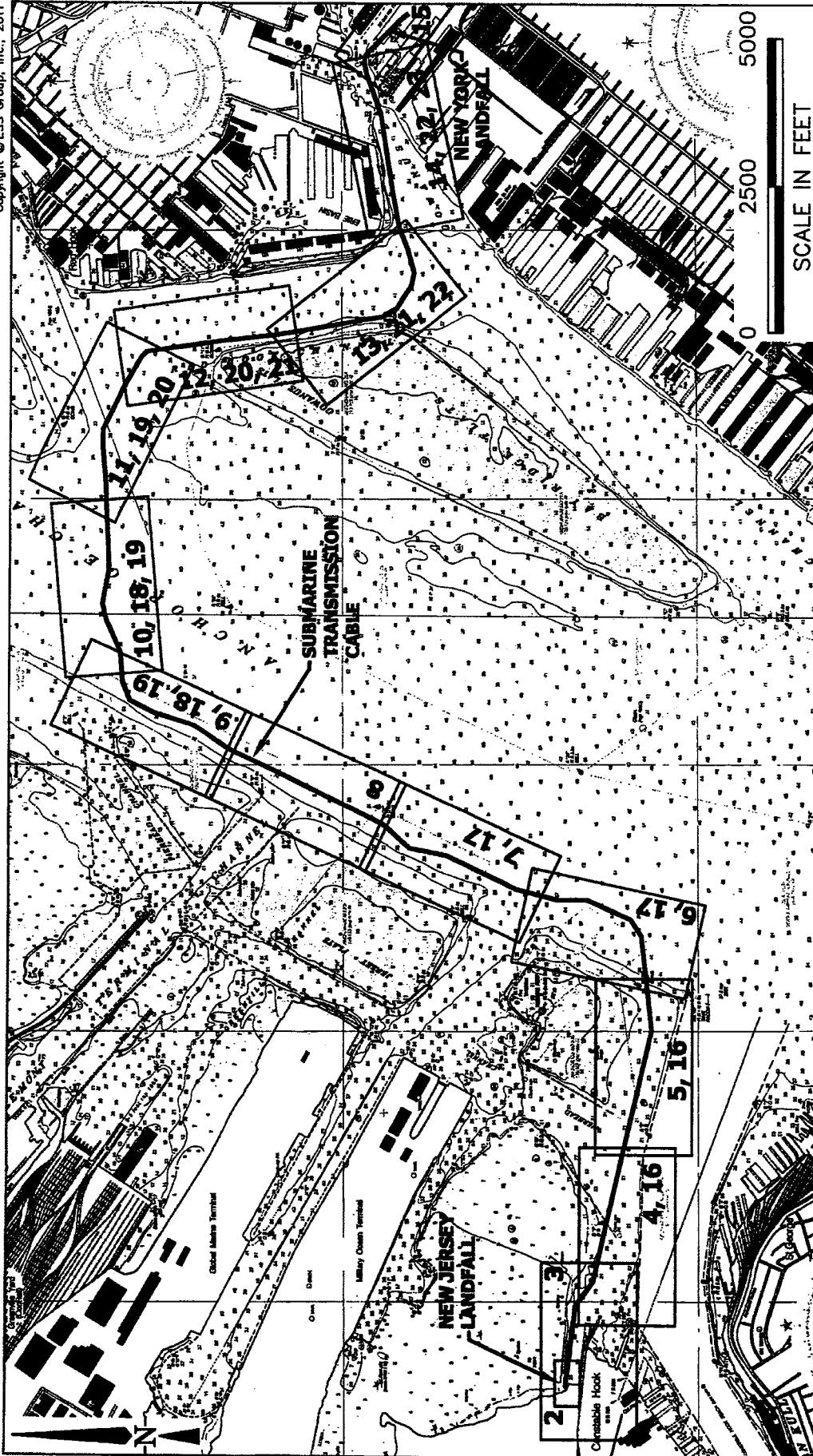
### For and In behalf of

JOHN R. BOULÉ II  
Colonel, Corps of Engineers  
District Commander

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below. A copy of the permit signed by the transferee should be sent to this office.

\_\_\_\_\_  
(TRANSFEEE)

\_\_\_\_\_  
(DATE)

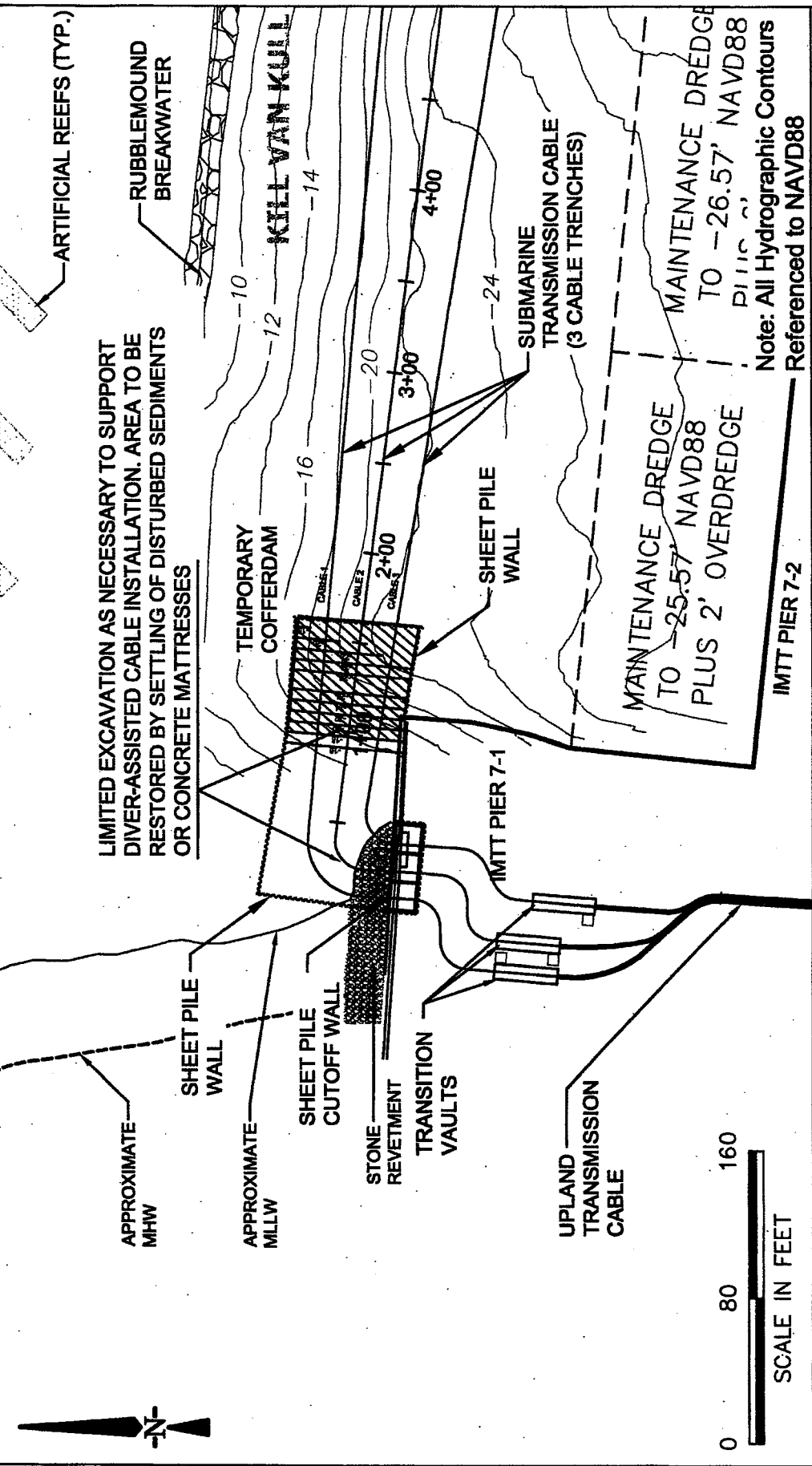


Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project Key Plan - NAVD88 Plan Set		SHEET NO. 1 OF 35
			DATE: 6/25/11
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC		PROJECT NO. P273-026

JUL 07 2011

1145-2-303b (Bayonne Energy Center, LLC/ NY&NJ Harbor /Buried Submarine Cables  
USACE FILE: NAN-2008-01564-M3

DATE: Jul 06, 2011 - 1:37PM  
FILENAME: H:\P273\_Pure Energy NYC\008\_USACE\P273-US11.dwg  
Copyright © ESS Group, Inc., 2011



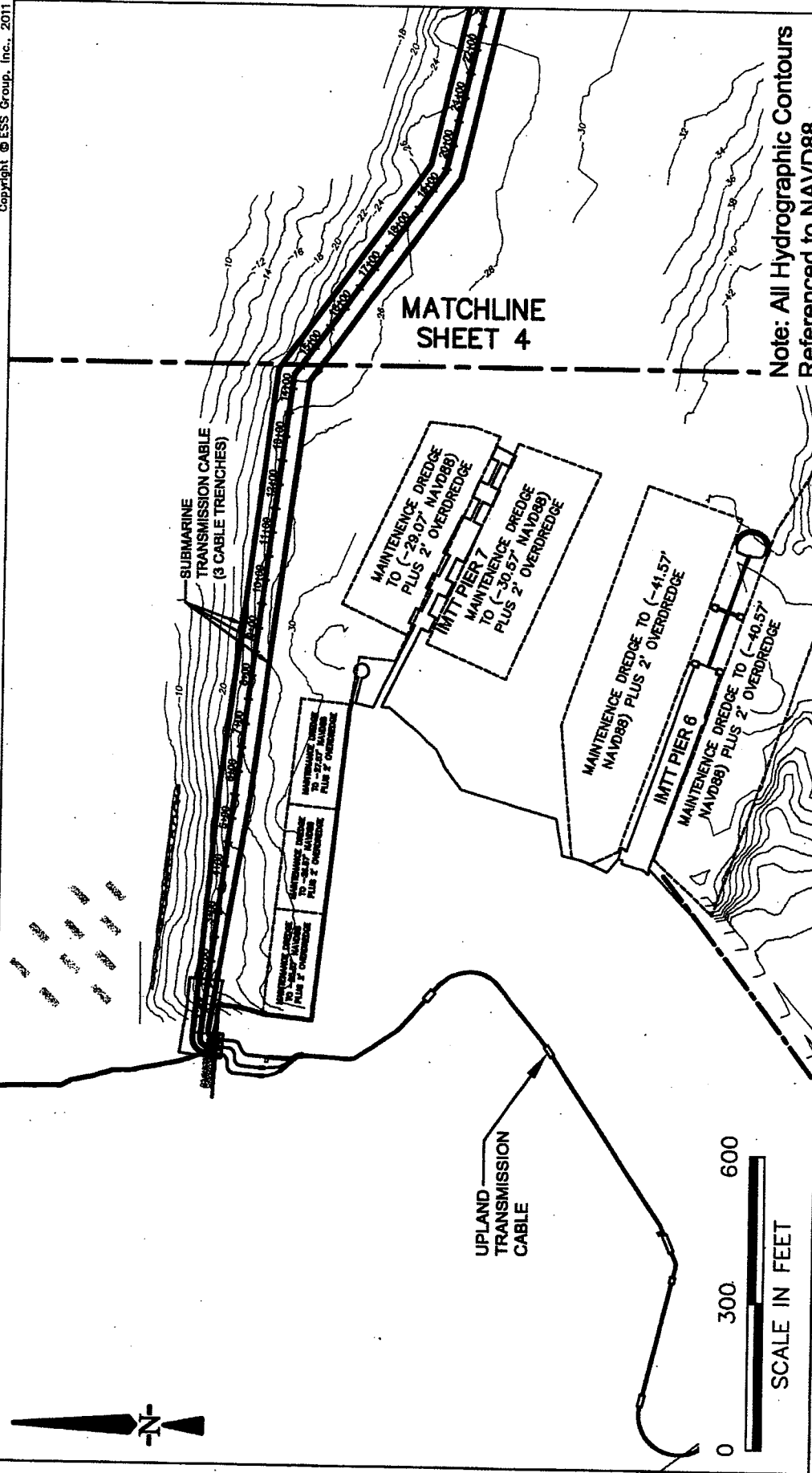
Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project New Jersey Landfall	
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC	
SHEET NO. 2 OF 35		DATE: 6/25/11
PROJECT NO. P273-026		

ESS



JUL 07 2011

Copyright © ESS Group, Inc., 2011



Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project		SHEET NO. 3 OF 35
			DATE: 6/25/11
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC		PROJECT NO. P273-026





JUL 07 2011

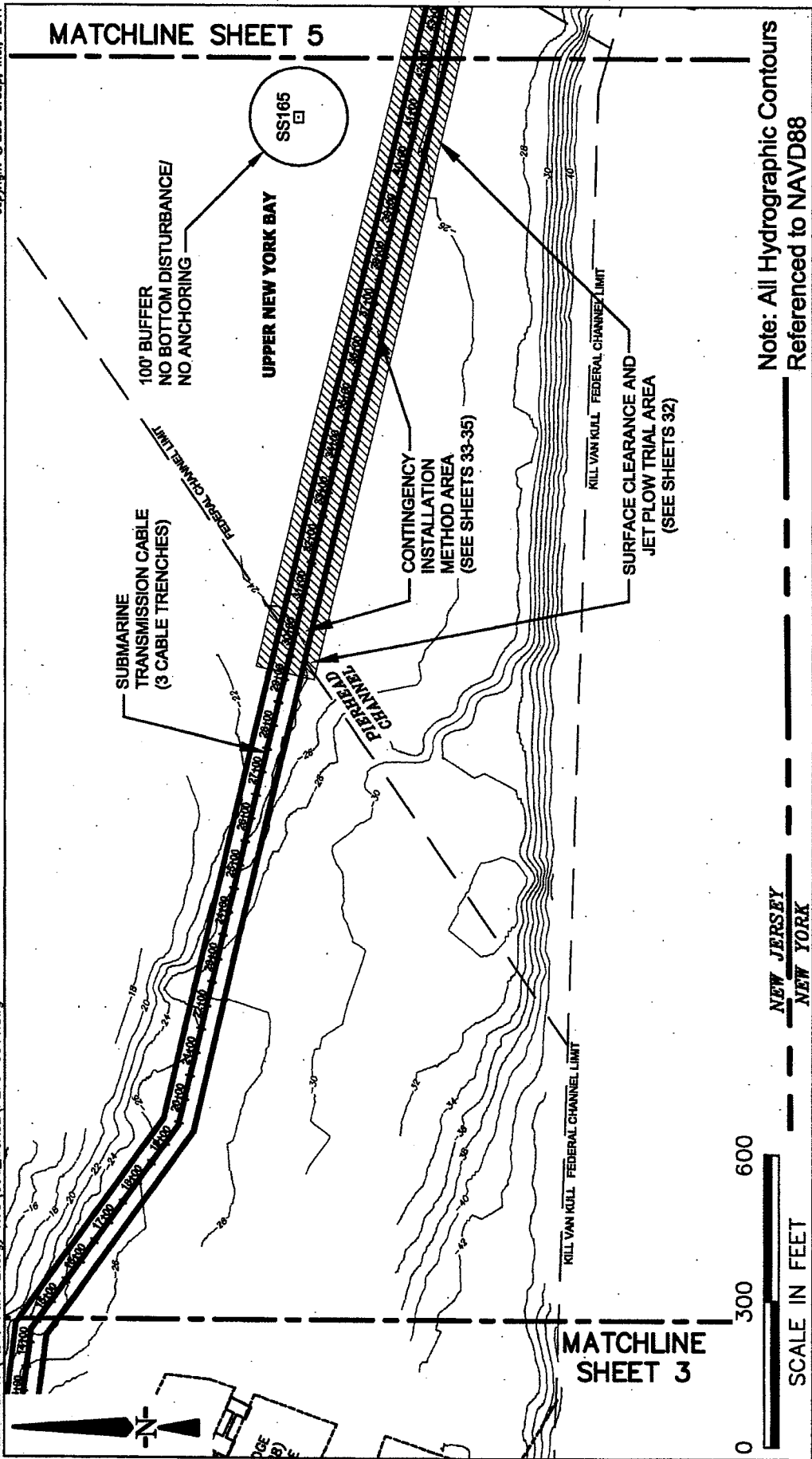
1145-2-303b (Bayonne Energy Center, LLC/ NY&NJ Harbor /Buried Submarine Cables

USACE FILE: NAN-2008-01564-M3

DATE: Jul 06, 2011 - 1:38PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg

Copyright © ESS Group, Inc., 2011



Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable

Submarine Transmission Cable System  
Bayonne Energy Center Project

SHEET NO.  
4 OF 35

DATE:  
6/25/11

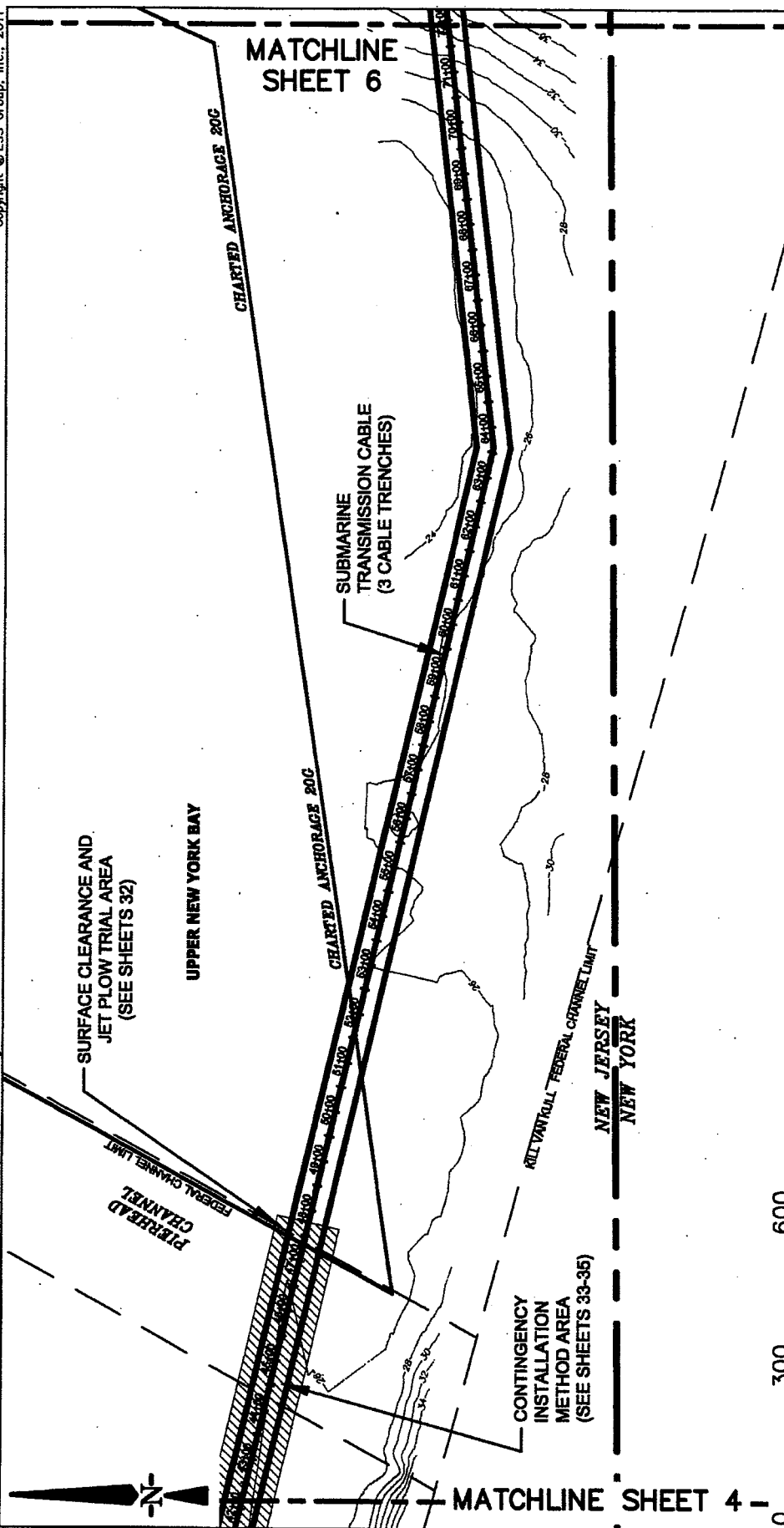
PROJECT NO.  
P273-026

At: Bayonne, New Jersey & Brooklyn, New York  
In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
Applicant: Bayonne Energy Center, LLC



DATE: Jul 06, 2011 - 1:38PM  
FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg

Copyright © ESS Group, Inc., 2011



Note: All Hydrographic Contours  
Referenced to NAVD88

Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project		SHEET NO. 5 OF 35
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC		DATE: 6/25/11
			PROJECT NO. P273-026



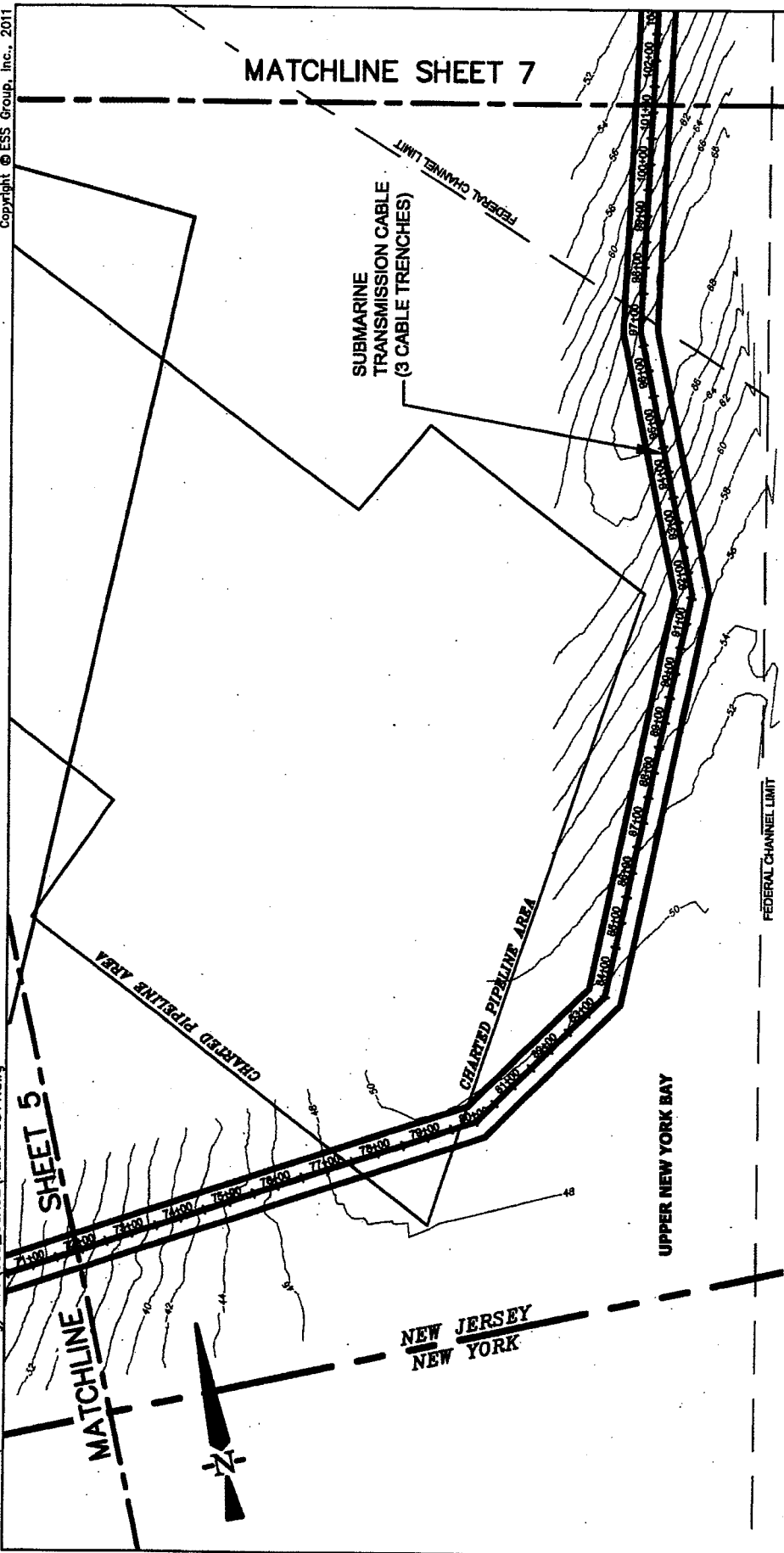
1145-2-303b (Bayonne Energy Center, LLC/ NY&NJ Harbor /Buried Submarine Cables  
USACE FILE: NAN-2008-01564-M3

JUL 07 2011

DATE: Jul 06, 2011 - 1:38PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg

Copyright © ESS Group, Inc., 2011



Note: All Hydrographic Contours  
Referenced to NAVD88

ANCHORAGE CHANNEL

<b>SHEET NO.</b> 6 OF 35	<b>Submarine Transmission Cable System</b> <b>Bayonne Energy Center Project</b>	<b>Purpose:</b> Construct, Operate, and Maintain a Submarine Transmission Cable
<b>DATE:</b> 6/25/11	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC	
<b>PROJECT NO.</b> P273-026		

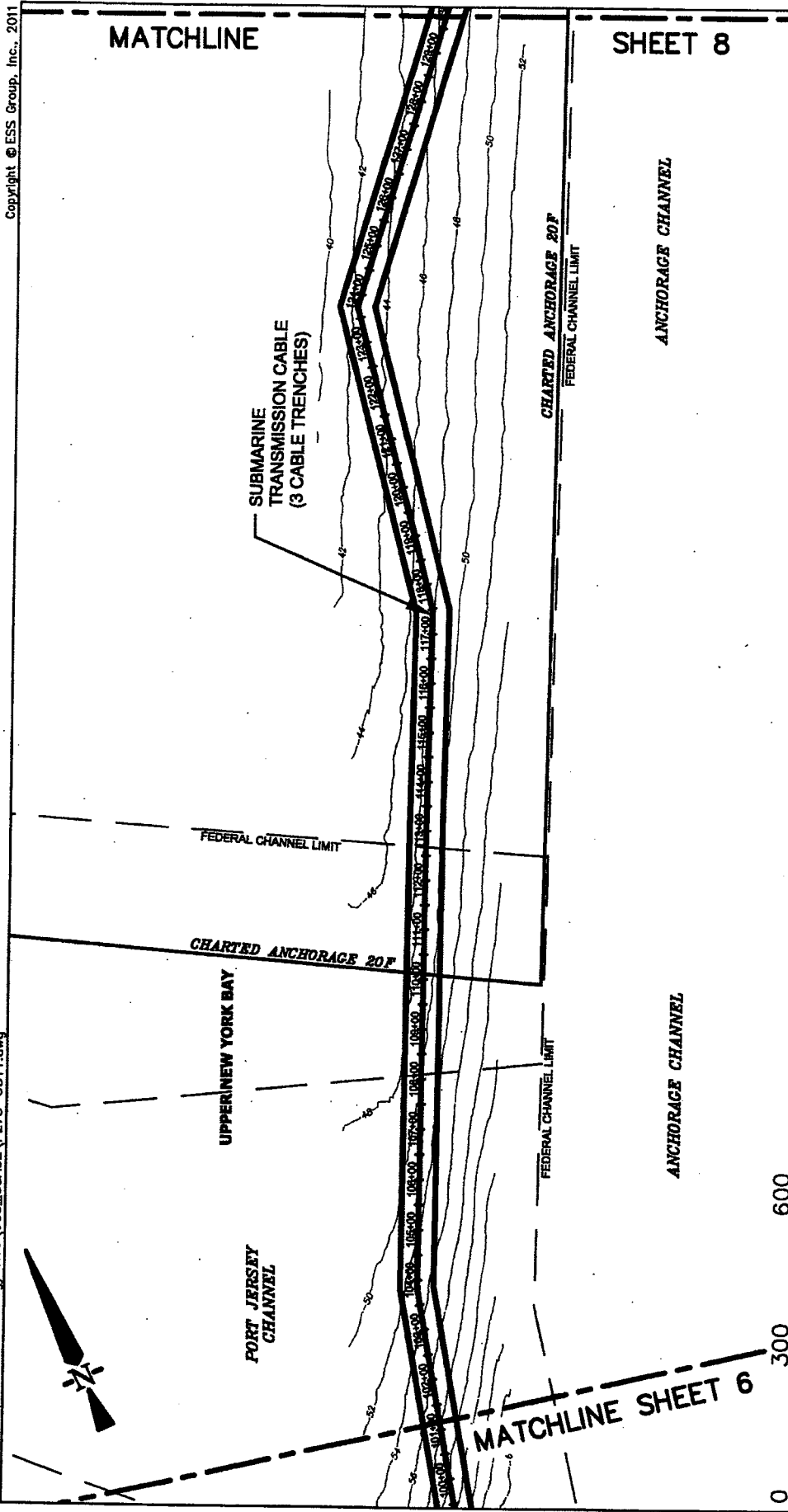


JUL 07 2011

1145-2-303b (Bayonne Energy Center, LLC/ NY&NJ Harbor /Buried Submarine Cables  
USACE FILE: NAN-2008-01564-M3

DATE: Jul 06, 2011 - 1:38PM  
FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg

Copyright © ESS Group, Inc., 2011



SHEET 8

Note: All Hydrographic Contours  
Referenced to NAVD88

Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project		SHEET NO. 7 OF 35
			DATE: 6/25/11
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC		PROJECT NO. P273-026



ESS

JUL 07 2011

USACE FILE: NAN-2008-01564-M3

Copyright © ESS Group, Inc., 2011



**Note: All Hydrographic Contours Referenced to NAVD88.**

**Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable**

## Submarine Transmission Cable System Bayonne Energy Center Project

**SHEET NO.**  
**8 OF 35**

**DATE:**  
**6/25/13**

**PROJECT NO.**  
**P273-026**

**At:** Bayonne, New Jersey & Brooklyn, New York  
**In:** Kill Van Kull, Upper New York Bay, Gowanus Bay  
**Applicant:** Bayonne Energy Center, LLC

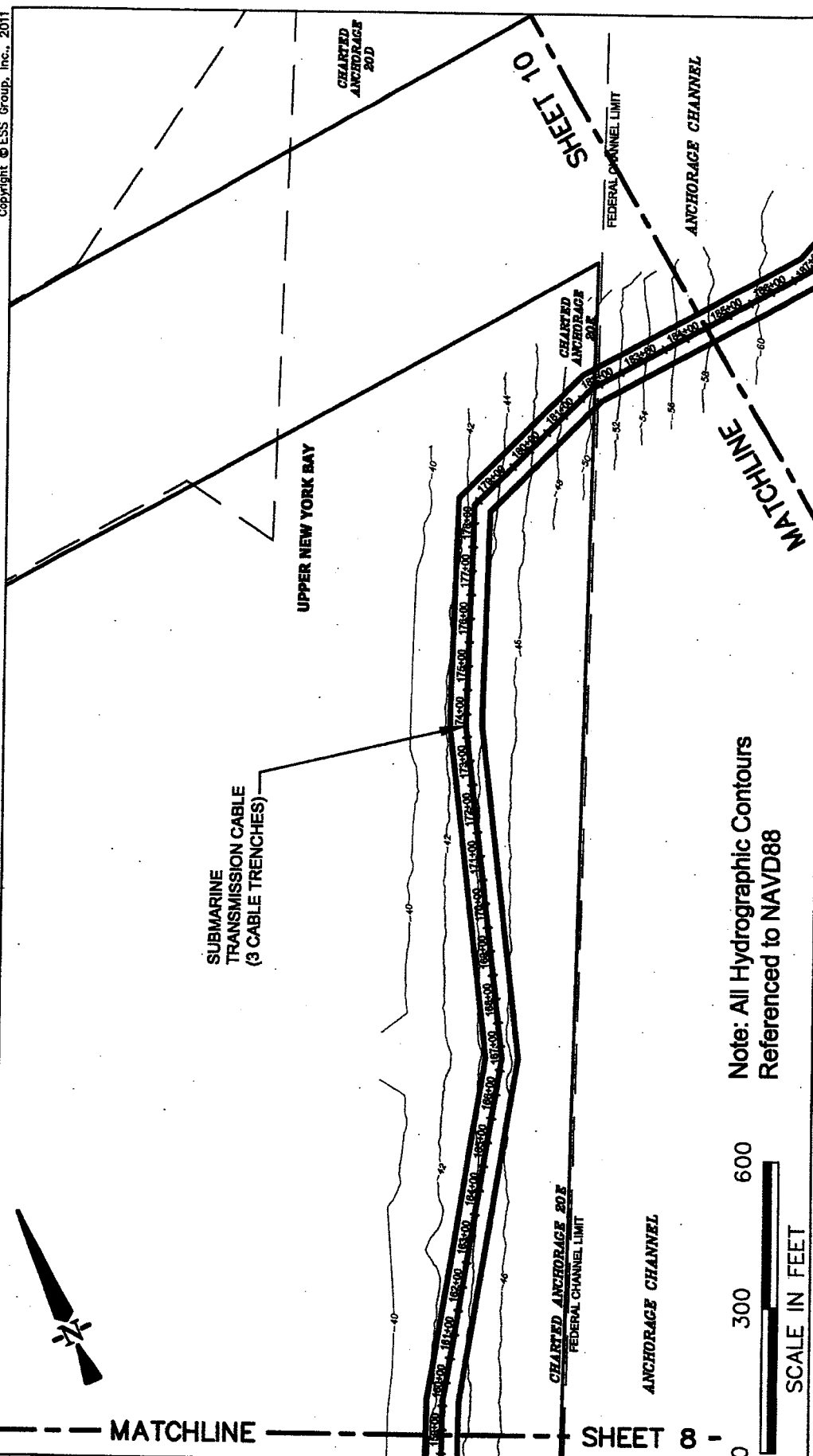
**ESS**

JUL 07 2011

USACE FILE: NAN-2008-01564-M3

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg

Copyright © ESS Group, Inc., 2011



**Note: All Hydrographic Contours  
Referenced to NAVD88**

**SCALE IN FEET**

**Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable**

## Submarine Transmission Cable System Bayonne Energy Center Project

**SHEET NO.**  
**9 OF 35**

DATE: \_\_\_\_\_

**PROJECT NO.**  
**P273-026**

**At: Bayonne, New Jersey & Brooklyn, New York**  
**In: Kill Van Kull, Upper New York Bay, Gowanus Bay**  
**Applicant: Bayonne Energy Center, LLC**

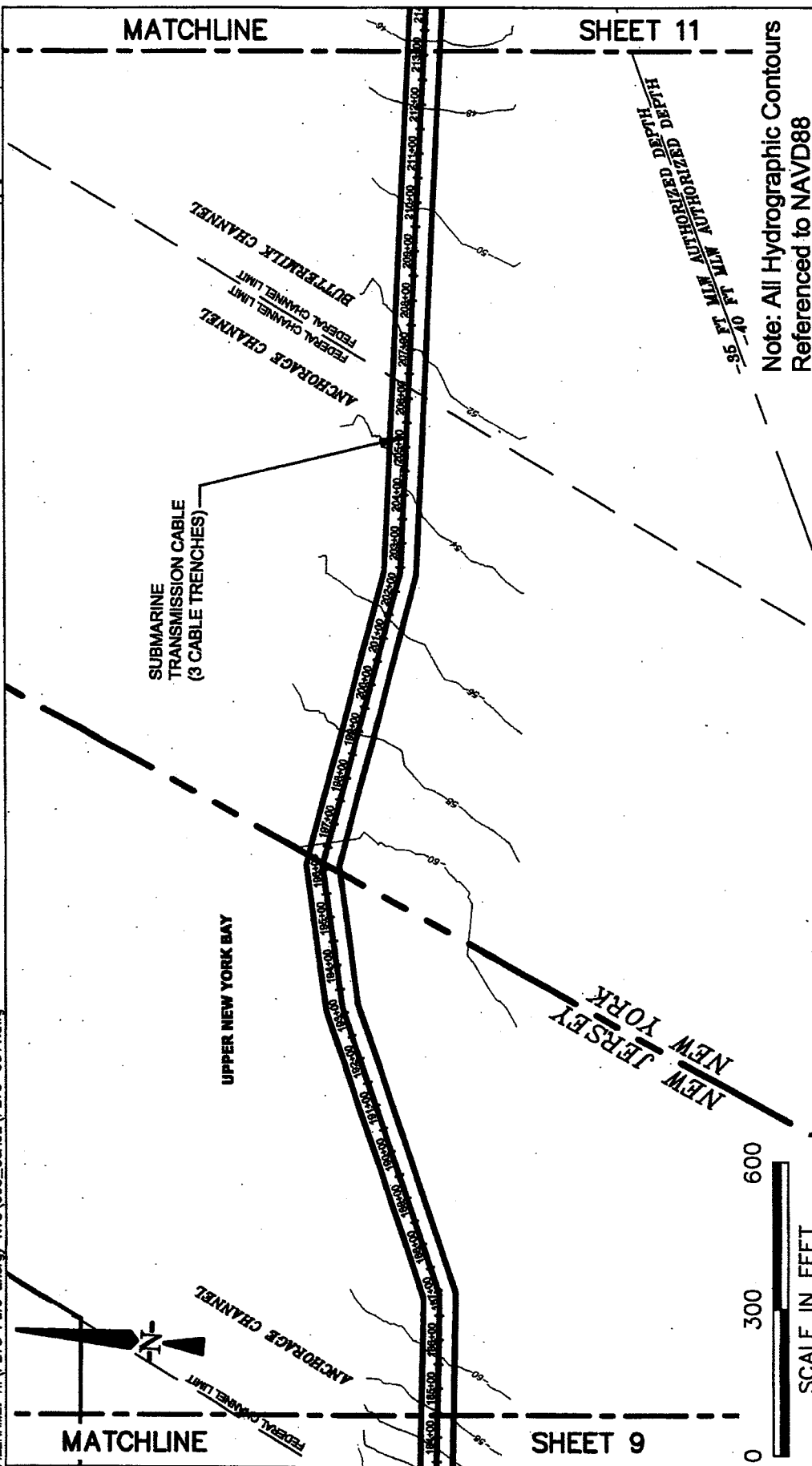


JUL 07 2011

1145-2-303b (Bayonne Energy Center, LLC/ NY&NJ Harbor /Buried Submarine Cables  
USACE FILE: NAN-2008-01564-M3

DATE: Jul 06, 2011 - 1:39PM  
FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg

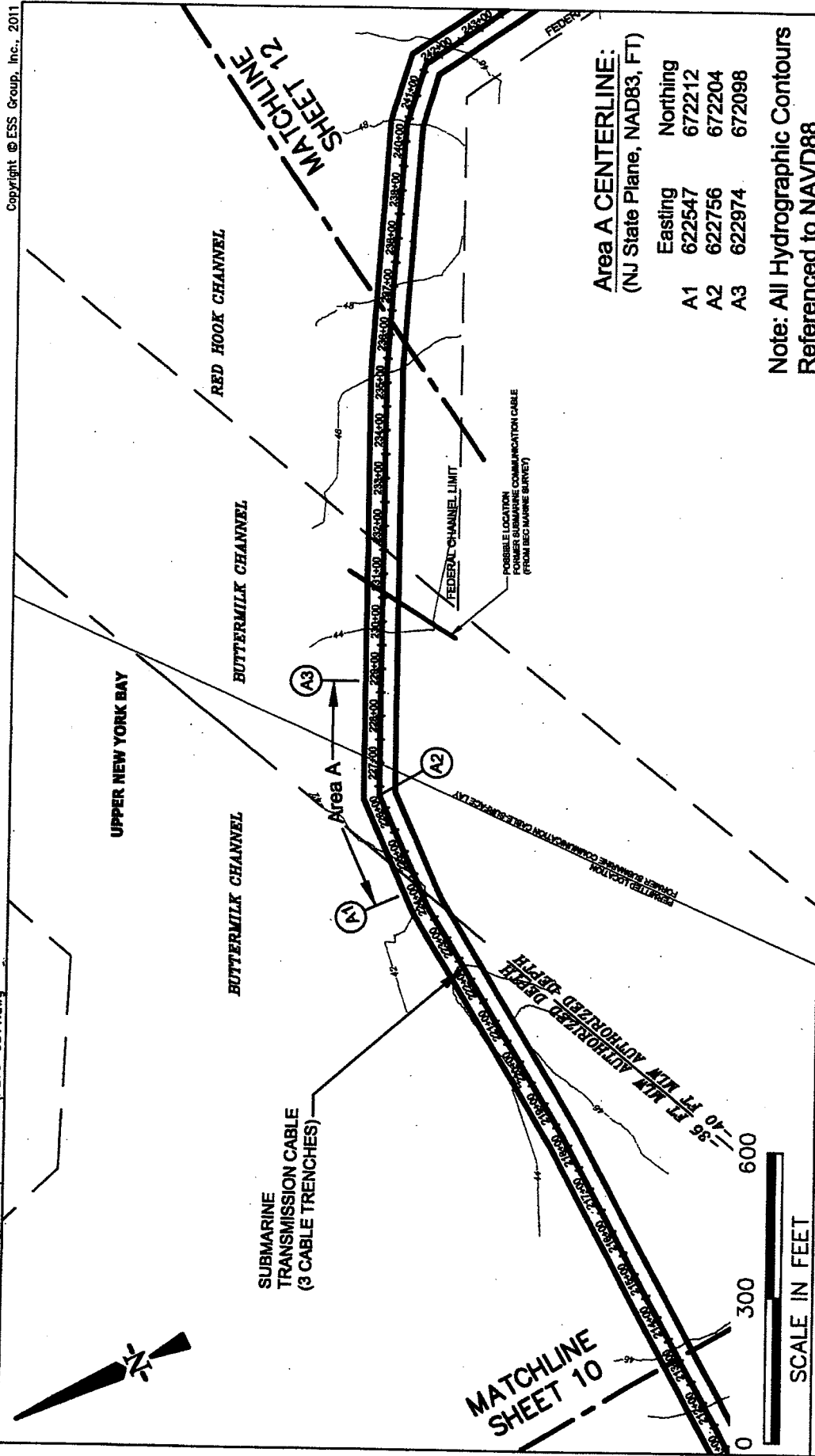
Copyright © ESS Group, Inc., 2011



SHEET NO. 10 OF 35	Submarine Transmission Cable System Bayonne Energy Center Project		
	DATE: 6/25/11		
PROJECT NO. P273-026	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC		



ESS



**Area A CENTERLINE:**  
 (NJ State Plane, NAD83, FT)

	Easting	Northing
A1	622547	672212
A2	622756	672204
A3	622974	672098

Note: All Hydrographic Contours  
 Referenced to NAVD88

Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project	
	SHEET NO. 11 OF 35	
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC	
	DATE: 6/25/11	
	PROJECT NO. P273-026	



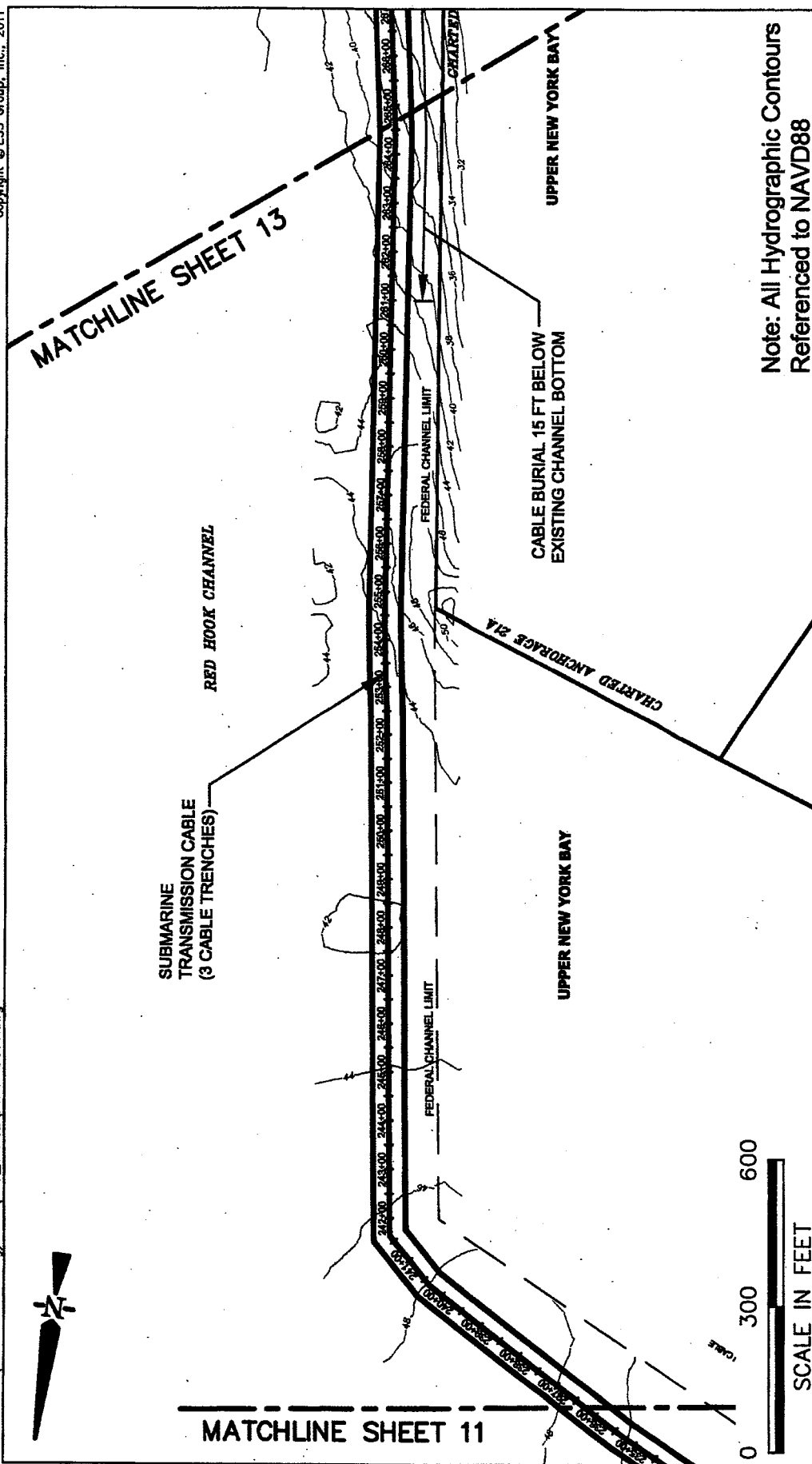


1145-2-303b (Bayonne Energy Center, LLC/ NY&NJ Harbor /Buried Submarine Cables  
USACE FILE: NAN-2008-01564-M3

JUL 07 2011

DATE: Jul 08, 2011 - 1:38PM  
FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg

Copyright © ESS Group, Inc., 2011

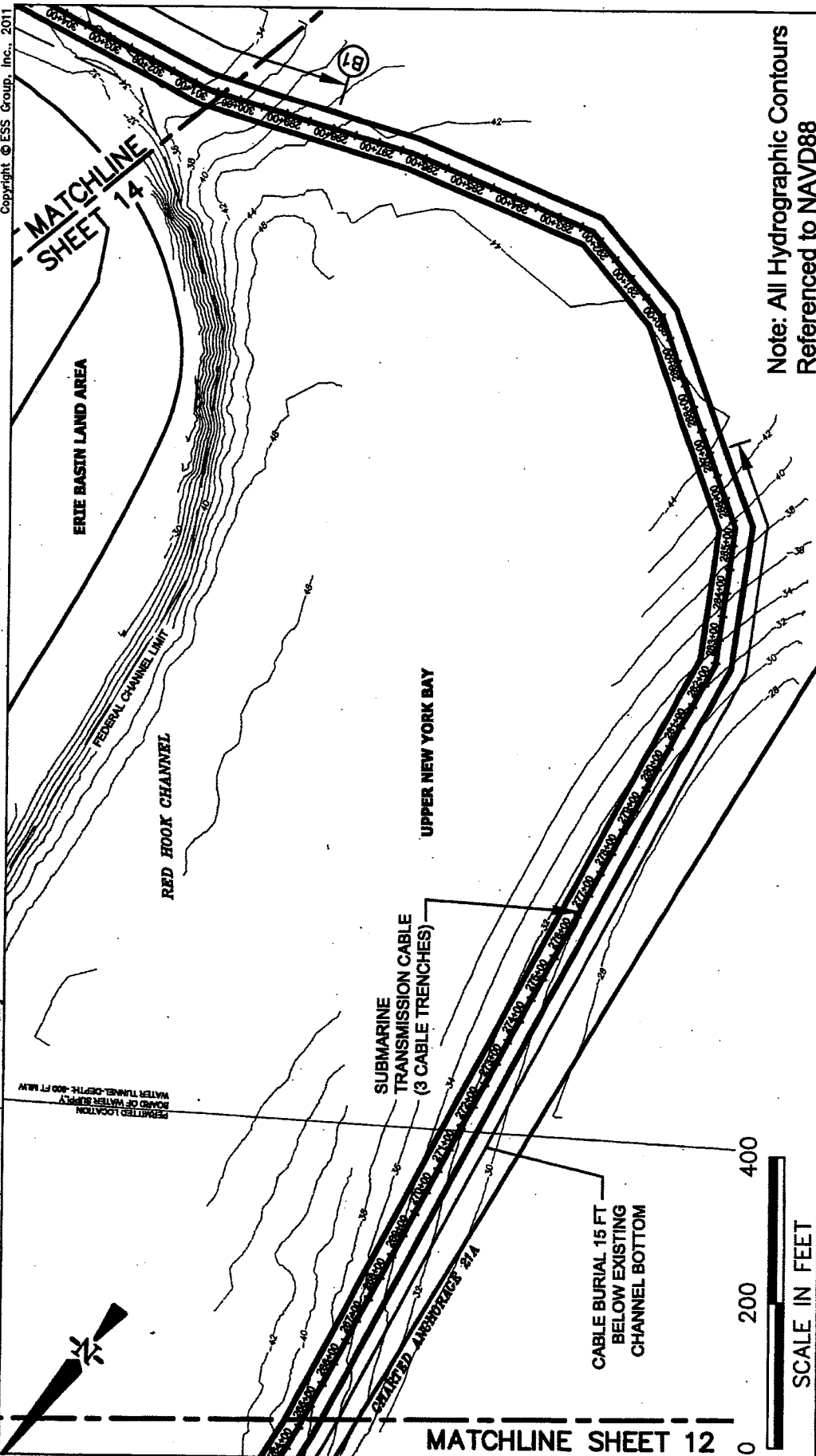


Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project	
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC	
SHEET NO. 12 OF 35		DATE: 6/25/11
PROJECT NO. P273-026		



JUL 07 2011

DATE: Jul 06, 2011 - 1:36PM  
 FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg  
 Copyright © ESS Group, Inc., 2011

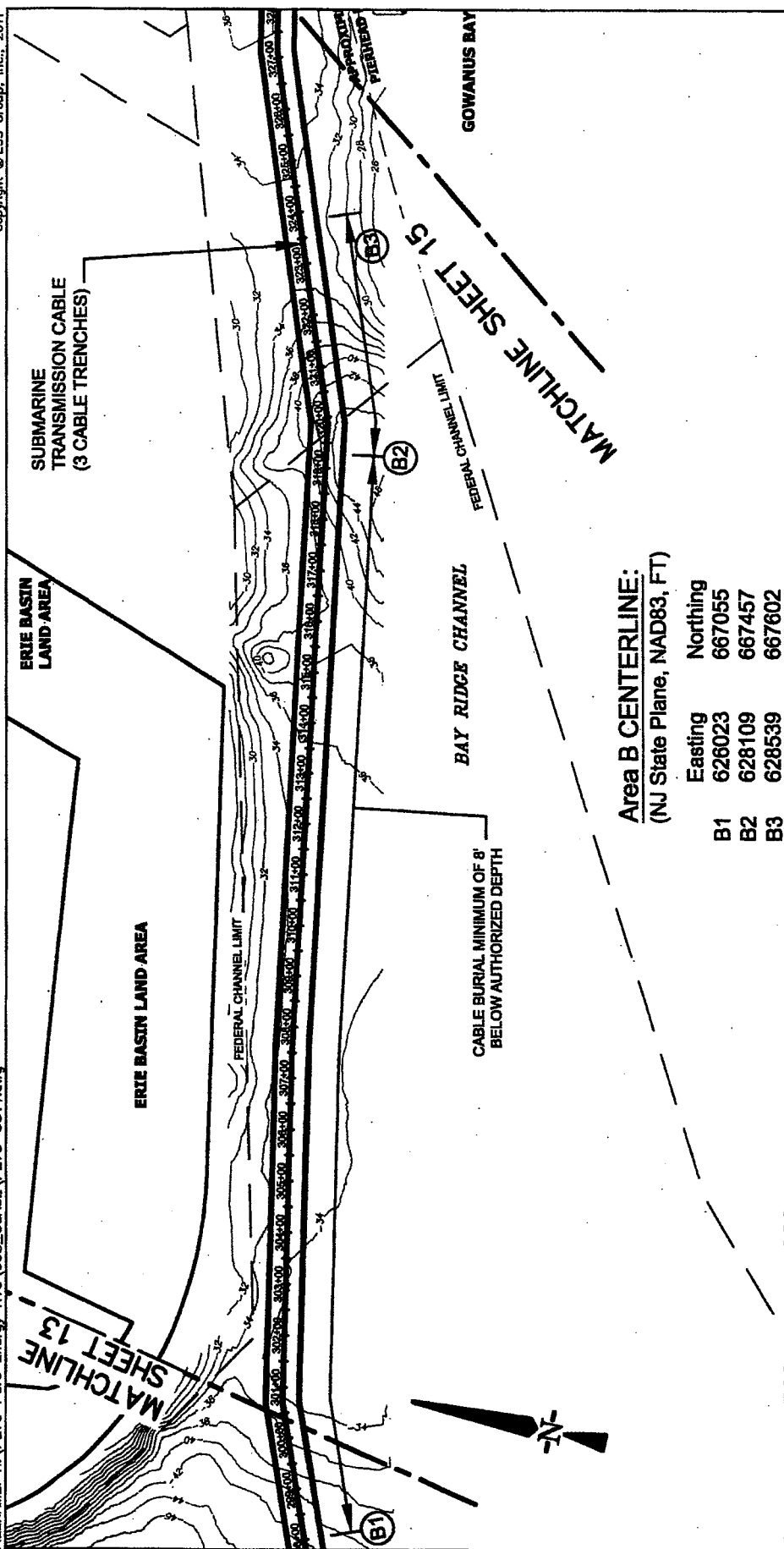


Note: All Hydrographic Contours  
 Referenced to NAVD88

Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project		
	SHEET NO. 13 OF 35	DATE: 6/25/11	PROJECT NO. P273-026
At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC			

JUL 07 2011

Copyright © ESS Group, Inc., 2011



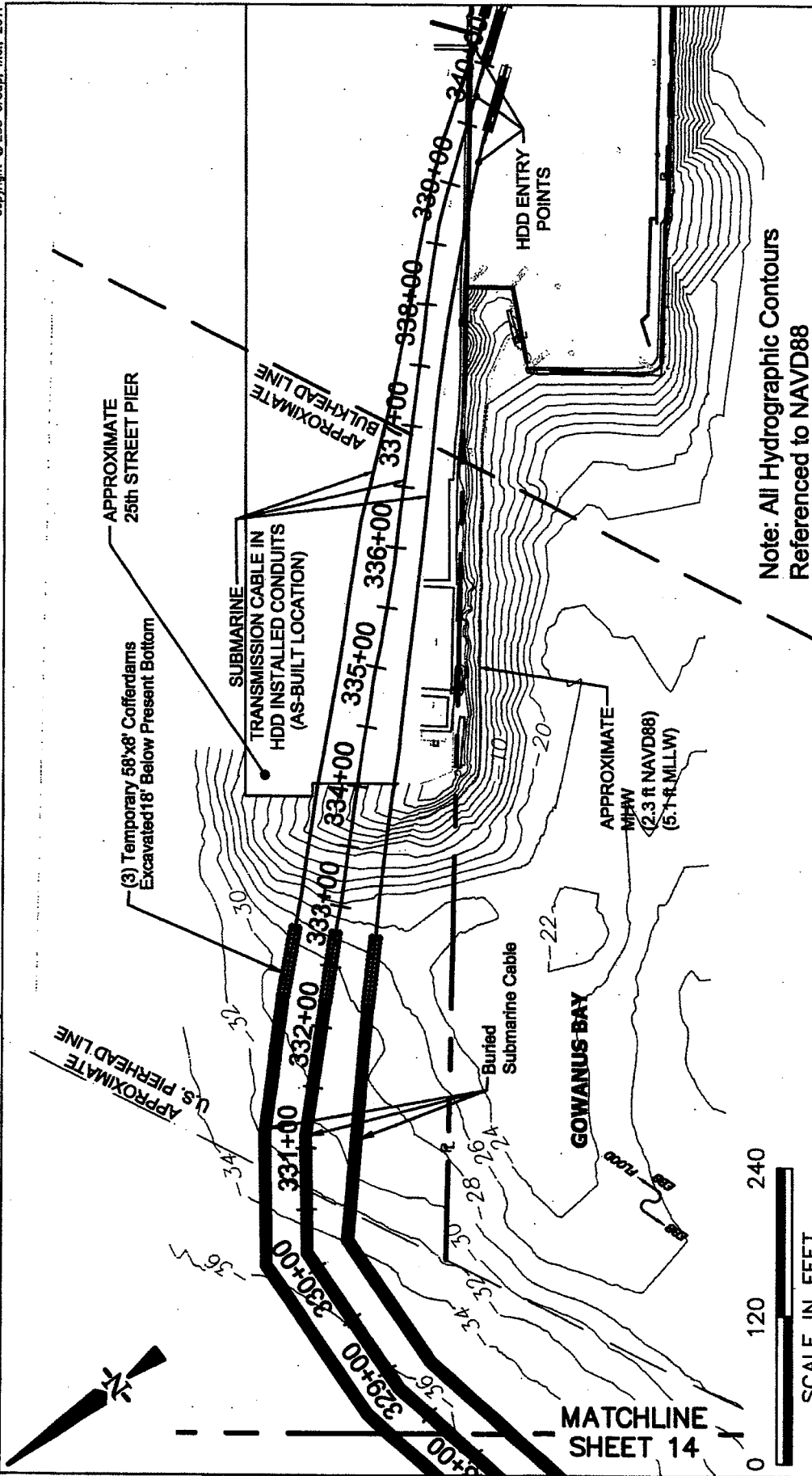
**Note: All Hydrographic Contours  
Referenced to NAVD88**

<b>Purpose:</b> Construct, Operate, and Maintain a Submarine Transmission Cable	<b>Submarine Transmission Cable System</b> <b>Bayonne Energy Center Project</b>	<b>SHEET NO.</b> <b>14 OF 35</b>
		<b>DATE:</b> <b>6/25/11</b>
	<b>At:</b> Bayonne, New Jersey & Brooklyn, New York <b>In:</b> Kill Van Kull, Upper New York Bay, Gowanus Bay <b>Applicant:</b> Bayonne Energy Center, LLC	<b>PROJECT NO.</b> <b>P273-026</b>



JUL 07 2011

DATE: Jul 06, 2011 - 1:37PM  
 FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg  
 Copyright © ESS Group, Inc., 2011



Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project	SHEET NO. 15 OF 35
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC	DATE: 6/25/11 PROJECT NO. P273-026

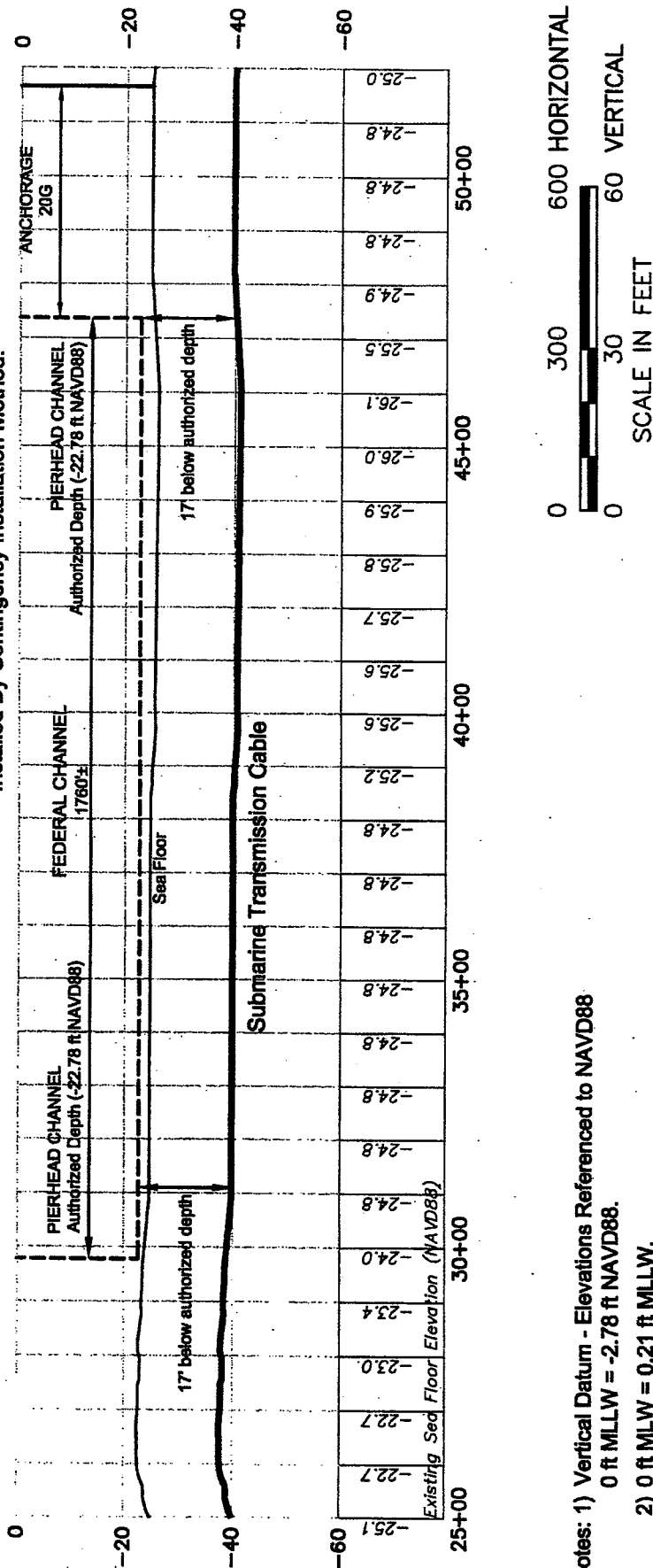
1145-2-303b (Bayonne Energy Center, LLC/ NY&NJ Harbor /Buried Submarine Cables  
USACE FILE: NAN-2008-01564-M3

JUL 07 2011

DATE: Jul 06, 2011 - 1:37PM  
FILENAME: H:\P273\_Pure Energy NYC\008\_USACE\P273-US11.dwg  
Copyright © ESS Group, Inc., 2011

Hydrographic Contours Along The Submarine Transmission Cable Route Were Surveyed To Mean Lower Low Water Based On NOAA Observed Tides At The Battery, New York (Station No. 8518750). These Contours Are From A Marine Survey Conducted For The BEC Project Between January 23, February 5, August 7, 2008, September 10, 2009, And December 18-19, 2010. These Represent Conditions Existing At That Time. Contours Converted To NAVD88 Based On Tidal Benchmark At The Battery, New York (Station No. 8518750).

Profile Represents Submarine Cable Installed By Jet Plow Embedment. Refer To Sheet 34 For Profile Showing Cable Installed By Contingency Installation Method.



Notes: 1) Vertical Datum - Elevations Referenced to NAVD88  
0 ft MLW = -2.78 ft NAVD88.  
2) 0 ft MLW = 0.21 ft MLLW.

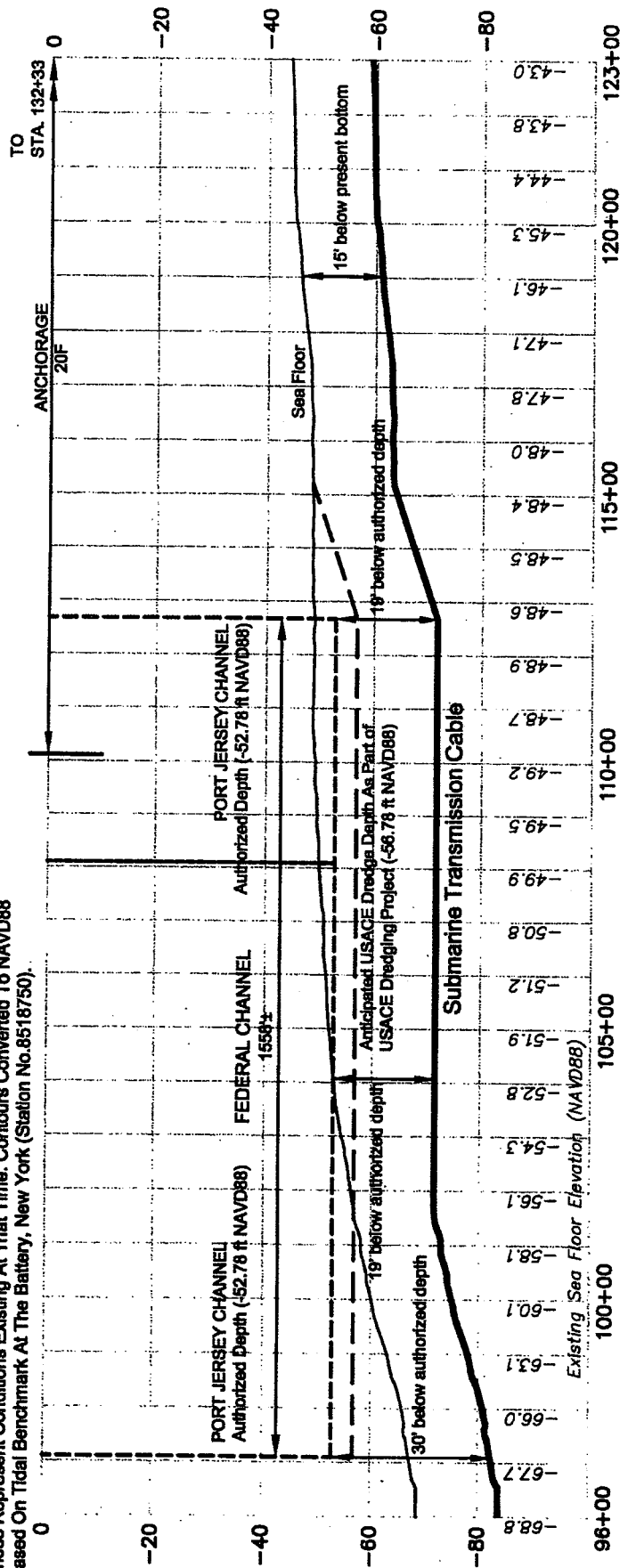
Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project		SHEET NO. 16 OF 35
	Middle Cable Profile at Pierhead Channel Crossing - Jet Plow Installation		DATE: 6/25/11
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC		PROJECT NO. P273-026



DATE: Jul 06, 2011 -- 1:37PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg

Hydrographic Contours Along The Submarine Transmission Cable Route Were Surveyed To Mean Lower Low Water Based On NOAA Observed Tides At The Battery, New York (Station No. 8518750). These Contours Are From A Marine Survey Conducted For The BEC Project Between January 23, February 5, August 7, 2006, September 10, 2009, And December 18-19, 2010. These Represent Conditions Existing At That Time. Contours Converted To NAVD88 Based On Tidal Benchmark At The Battery, New York (Station No.8518750).



Notes: 1) Vertical Datum - Elevations Referenced to NAVD88  
0 ft MLLW = -2.78 ft NAVD88.  
2) 0 ft MLW = 0.21 ft MLLW.

Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project Middle Cable Profile at Port Jersey Channel Crossing	SHEET NO. 17 OF 35
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC	DATE: 6/25/11
		PROJECT NO. P273-026



JUL 07 2011

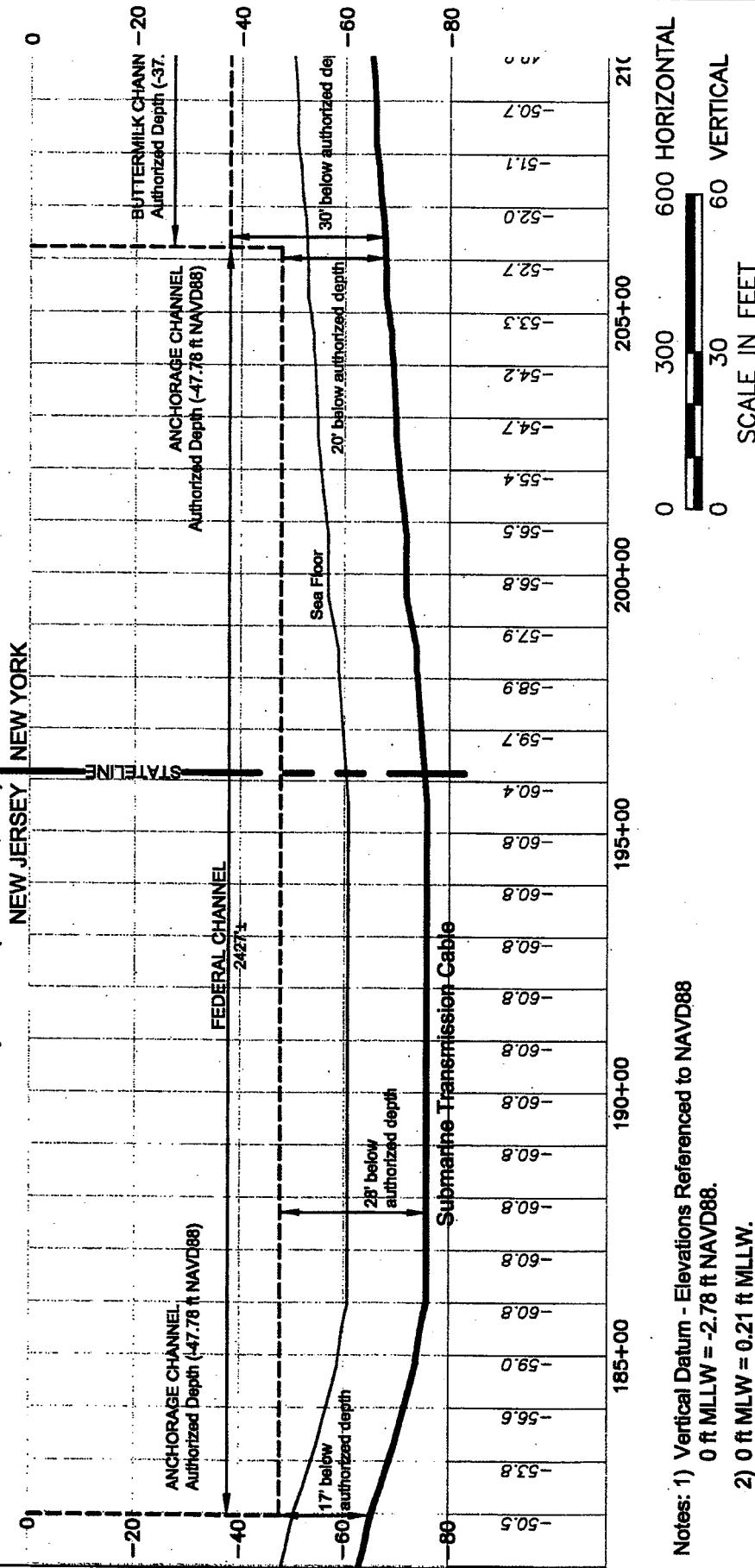
USACE FILE: NAN-2008-01564-M3

DATE: Jul 06, 2011 - 1:37PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg

Copyright © ESS Group, Inc., 2011

Hydrographic Contours Along The Submarine Transmission Cable Route Were Surveyed To Mean Lower Low Water Based On NOAA Observed Tides At The Battery, New York (Station No. 8518750). These Contours Are From A Marine Survey Conducted For The BEC Project Between January 23, February 5, August 7, 2008, September 10, 2009, And December 18-19, 2010. These Represent Conditions Existing At That Time. Contours Converted To NAVD88 Based On Tidal Benchmark At The Battery, New York (Station No. 8518750).



Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable

Submarine Transmission Cable System  
Bayonne Energy Center Project  
Middle Cable Profile Within Anchorage Channel Crossing

SHEET NO.  
18 OF 35

DATE:  
6/25/11

PROJECT NO.  
P273-026

At: Bayonne, New Jersey & Brooklyn, New York  
In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
Applicant: Bayonne Energy Center, LLC

ESS

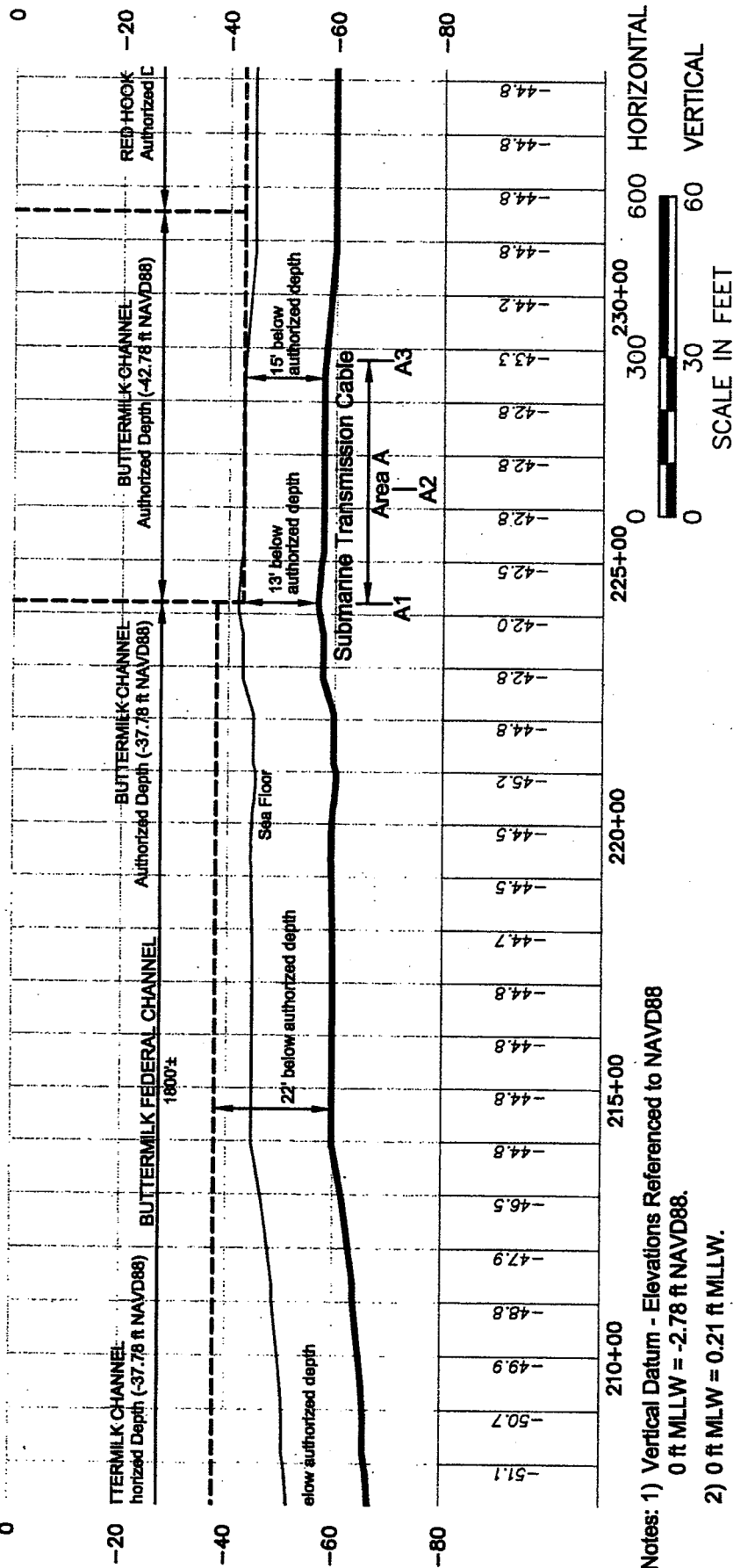


DATE: Jul 06, 2011 -- 1:37PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg

Copyright © ESS Group, Inc., 2011

Hydrographic Contours Along The Submarine Transmission Cable Route Were Surveyed To Mean Lower Low Water Based On NOAA Observed Tides At The Battery, New York (Station No. 8518750). These Contours Are From A Marine Survey Conducted For The BEC Project Between January 23, February 5, August 7, 2008, September 10, 2008, And December 18-19, 2010. These Represent Conditions Existing At That Time. Contours Converted To NAVD88 Based On Tidal Benchmark At The Battery, New York (Station No. 8518750).



Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable

Submarine Transmission Cable System  
Bayonne Energy Center Project  
Middle Cable Profile Within Buttermilk Channel

At: Bayonne, New Jersey & Brooklyn, New York  
In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
Applicant: Bayonne Energy Center, LLC

SHEET NO.  
19 OF 35

DATE:  
6/25/11

PROJECT NO.  
P273-026





1145-2-303b (Bayonne Energy Center, LLC/ NY&NJ Harbor /Buried Submarine Cables  
USACE FILE: NAN-2008-01564-M3

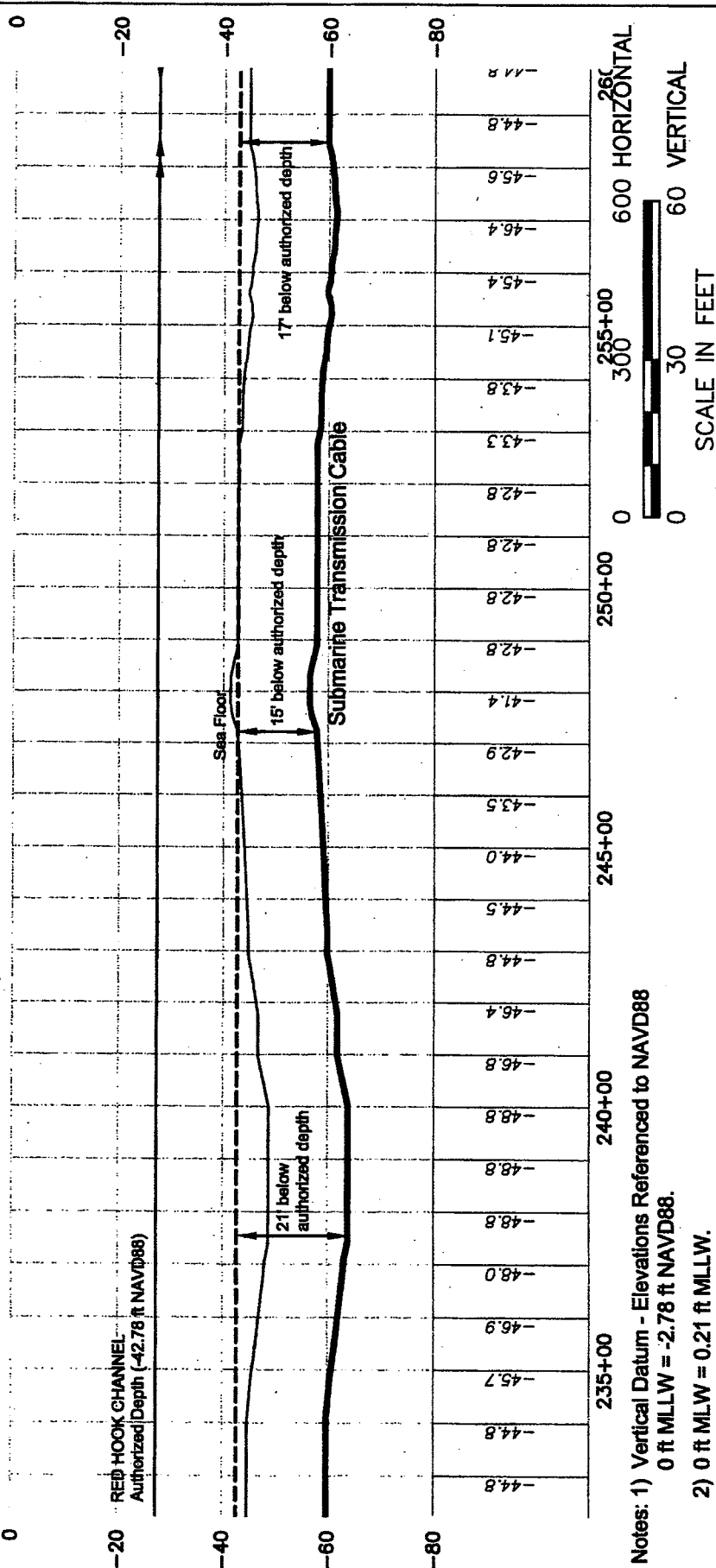
JUL 07 2011

DATE: Jul 06, 2011 - 1:38PM

FILENAME: H:\P273\_Pure\_Energy\_NYC\008\_USACE\P273-US11.dwg

Copyright © ESS Group, Inc., 2011

Hydrographic Contours Along The Submarine Transmission Cable Route Were Surveyed To Mean Lower Low Water Based On NOAA Observed Tides At The Battery, New York (Station No. 8518750). These Contours Are From A Marine Survey Conducted For The BEC Project Between January 23, February 5, August 7, 2008, September 10, 2008, And December 18-19, 2010. These Represent Conditions Existing At That Time. Contours Converted To NAVD88 Based On Tidal Benchmark At The Battery, New York (Station No.8518750).



Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project	
	Middle Cable Profile Within Red Hook Channel - 1 of 2	
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC	
SHEET NO. 20 OF 35		DATE: 6/25/11
PROJECT NO. P273-026		

Copyright © ESS Group, Inc., 2011

RED HOOK CHANNEL

Sea Floor

Channel Limit

15' below present bottom  
11' below authorized depth

2' below authorized depth

Cable burial 15' below existing channel bottom

260+00 265+00 270+00 275+00 280+00 285+00

-44.8 -43.0 -40.9 -39.4 -38.8 -38.1 -36.8 -35.8 -34.5 -33.8 -32.8 -32.4 -31.9 -31.3 -30.8 -30.5 -30.2 -30.2 -30.6 -31.3 -32.2 -34.2 -36.5 -38.6 -41.4 -43.9

0 30 60

SCALE IN FEET

Notes: 1) Vertical Datum - Elevations Referenced to NAVD88  
0 ft MLLW = -2.78 ft NAVD88.  
2) 0 ft MLLW = 0.21 ft MLLW.

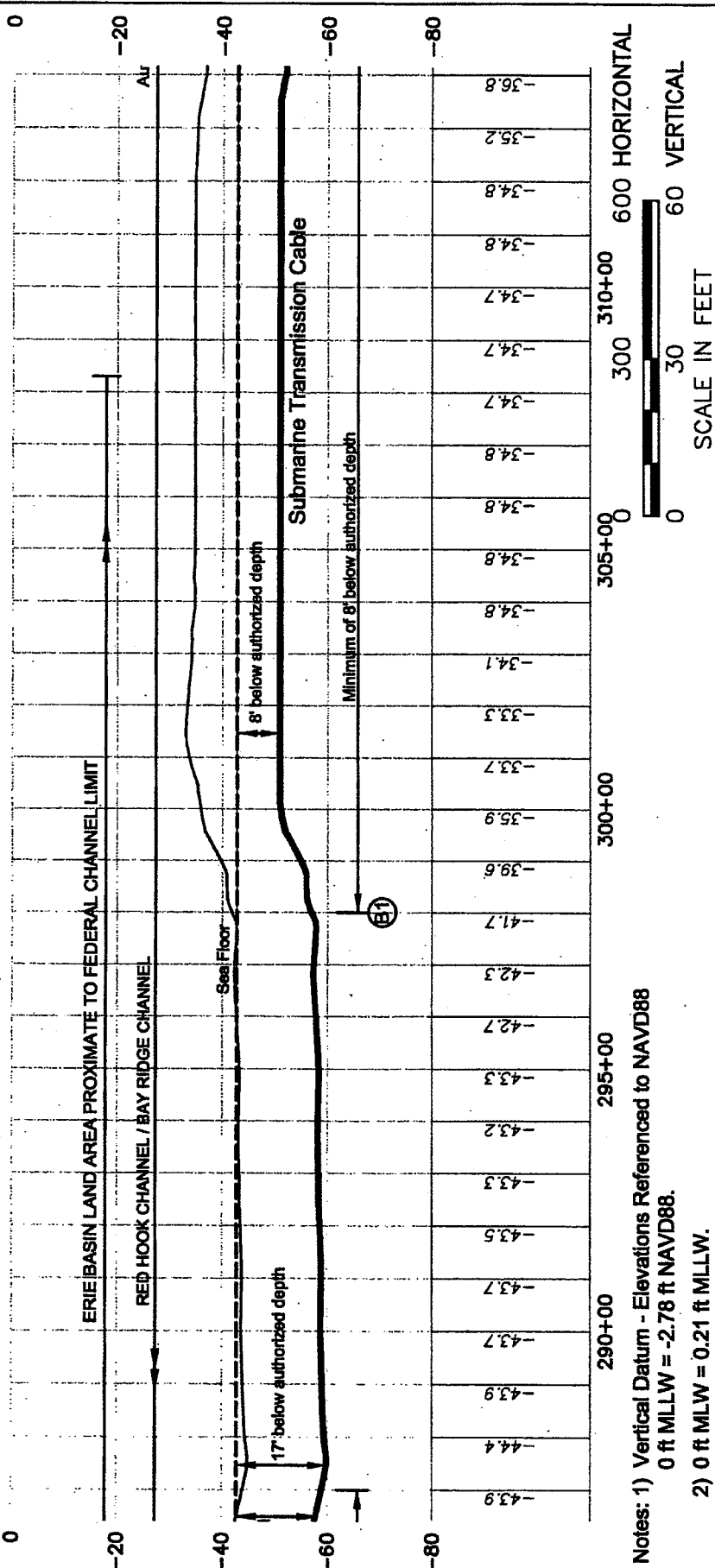
2)  $0 \text{ ft MLW} = 0.21 \text{ ft MLLW}$ .

<b>Purpose:</b> Construct, Operate, and Maintain a Submarine Transmission Cable	<p align="center"> <b>Submarine Transmission Cable System</b>  <b>Bayonne Energy Center Project</b>   <b>Middle Cable Profile Within Red Hook Channel - 2 of 2</b> </p>	<b>SHEET NO.</b> <b>21 OF 35</b>
		<b>DATE:</b> <b>6/25/11</b>
		<b>PROJECT NO.</b> <b>P273-026</b>



DATE: Jul 06, 2011 - 1:38PM  
 FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg  
 Copyright © ESS Group, Inc., 2011

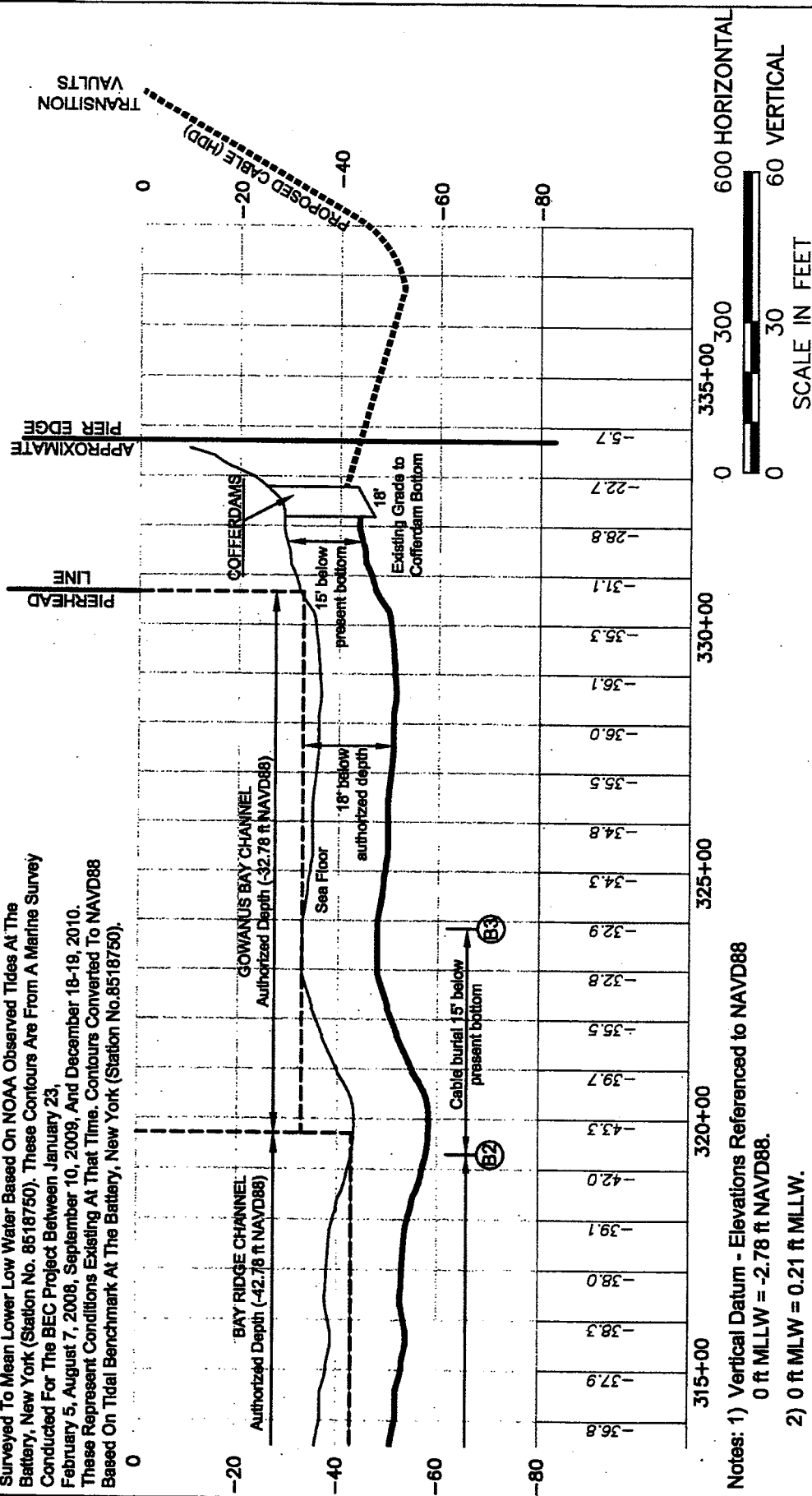
Hydrographic Contours Along The Submarine Transmission Cable Route Were Surveyed To Mean Lower Low Water Based On NOAA Observed Tides At The Battery, New York (Station No. 8518750). These Contours Are From A Marine Survey Conducted For The BEC Project Between January 23, February 5, August 7, 2008, September 10, 2008, And December 18-19, 2010. These Represent Conditions Existing At That Time. Contours Converted To NAVD88 Based On Tidal Benchmark At The Battery, New York (Station No.8518750).



Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project	
	Middle Cable Profile Within Bay Ridge Channel (Gowanus Bay Section)	
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC	
SHEET NO. 22 OF 35		DATE: 6/25/11
PROJECT NO. P273-026		

DATE: Jul 06, 2011 - 1:37PM  
 FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11.dwg  
 Copyright © ESS Group, Inc., 2011

Hydrographic Contours Along The Submarine Transmission Cable Route Were Surveyed To Mean Lower Low Water Based On NOAA Observed Tides At The Battery, New York (Station No. 8518750). These Contours Are From A Marine Survey Conducted For The BEC Project Between January 23, February 5, August 7, 2008, September 10, 2009, And December 18-19, 2010. These Represent Conditions Existing At That Time. Contours Converted To NAVD88 Based On Tidal Benchmark At The Battery, New York (Station No.8518750).



Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project		SHEET NO. 23 OF 35
	Middle Cable Profile Within Bay Ridge Channel (Gowanus Bay Section)		DATE: 6/25/11
	At: Bayonne, New Jersey & Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC		PROJECT NO. P273-026

JUL 07 2011

DATE: Jul 06, 2011 -- 2:27PM

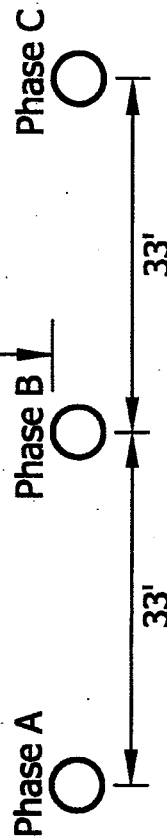
FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Details.dwg

Copyright © ESS Group, Inc., 2011

Water Line

Sea Floor

As Shown in Cable Profiles (Sheets 16 - 23)



Scale: N.T.S.

Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable

Submarine Transmission Cable System  
Bayonne Energy Center Project

Typical Submarine Cable Cross-Section Detail

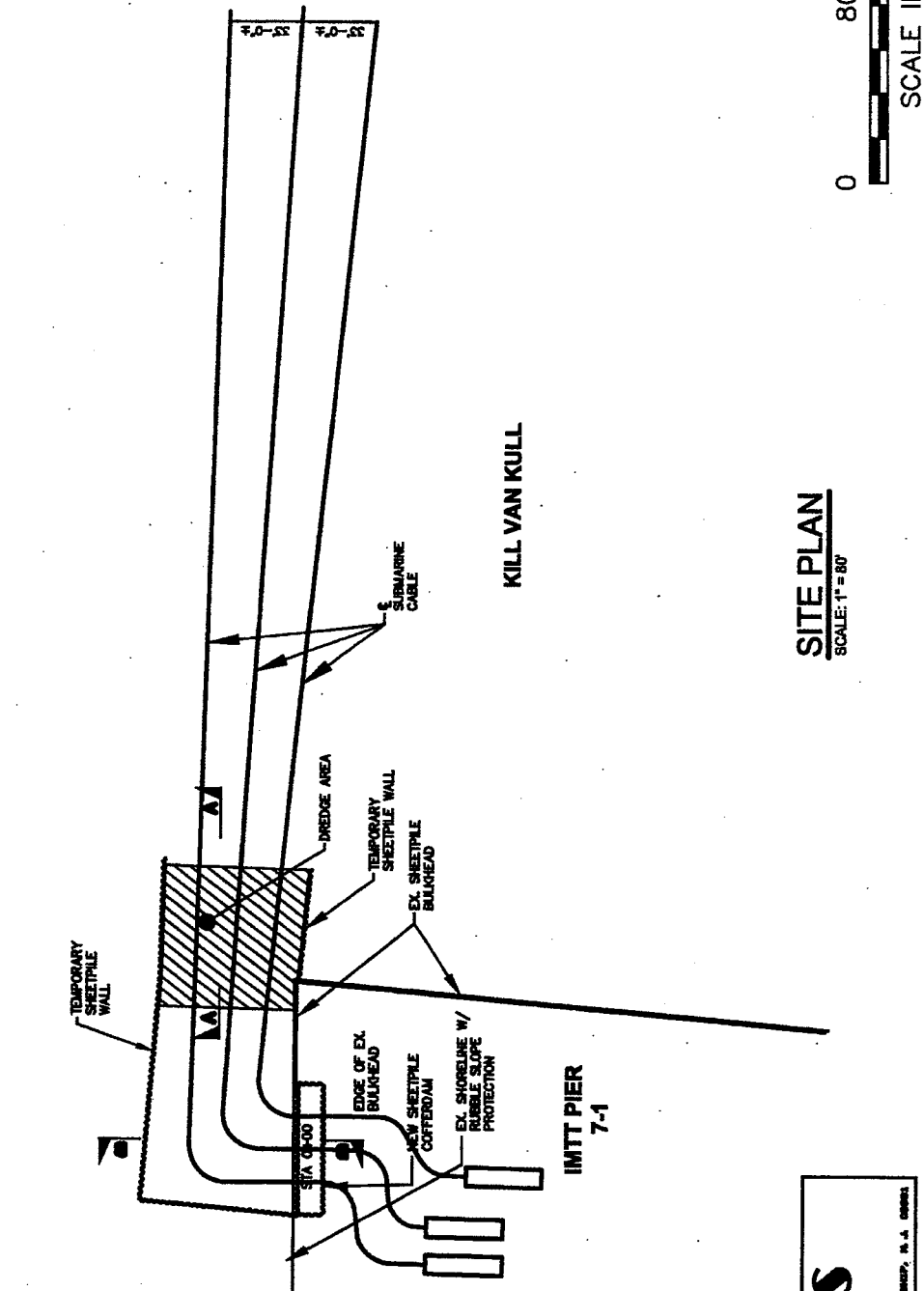
At: Bayonne, New Jersey & Brooklyn, New York  
In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
Applicant: Bayonne Energy Center, LLC

SHEET NO.  
24 OF 35

DATE:  
6/25/11

PROJECT NO.  
P273-026





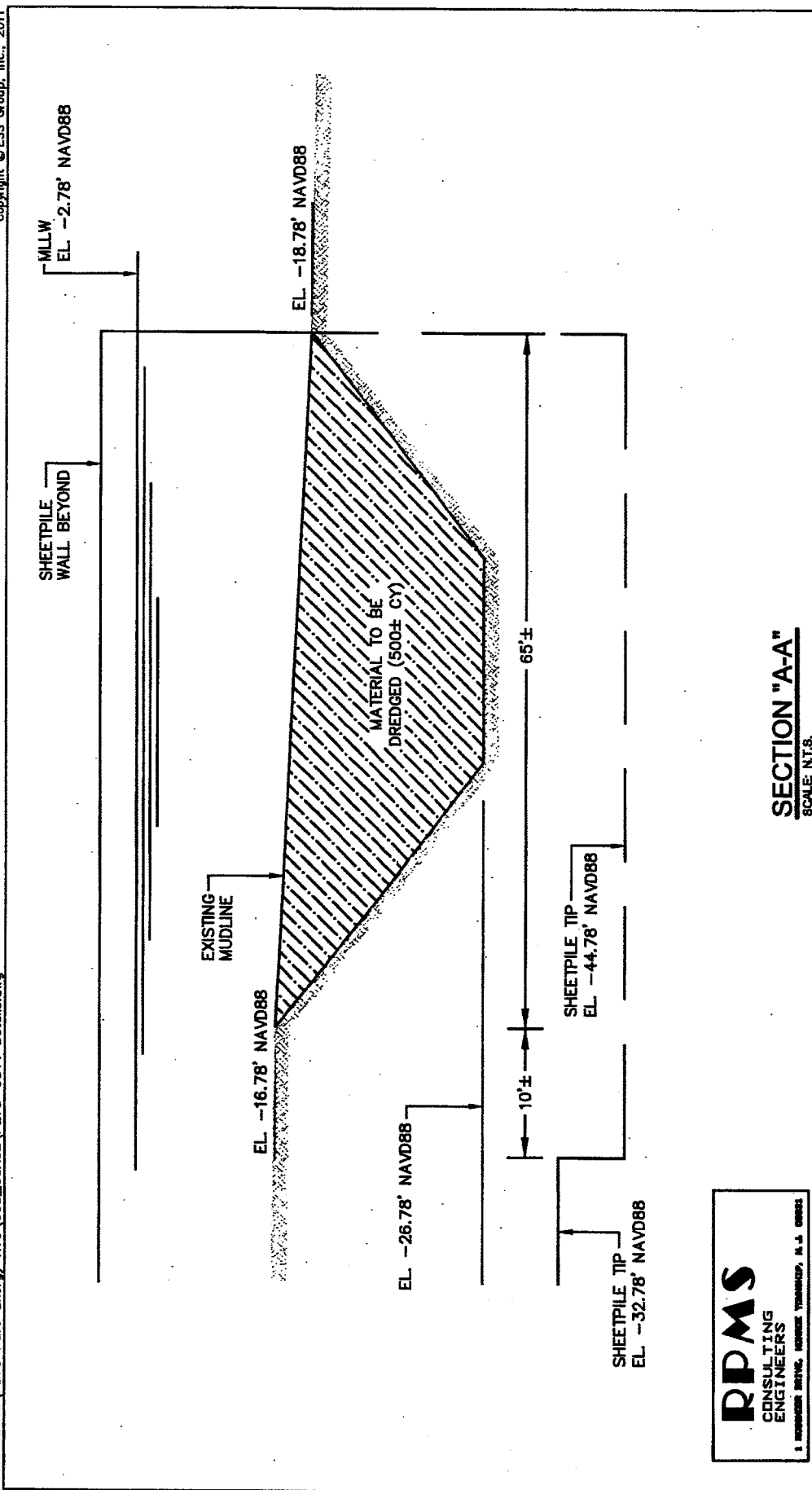
Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project New Jersey Landfall Temporary Cofferdam Details - 1 of 3	
	SHEET NO. 25 OF 35	DATE: 6/25/11
	PROJECT NO. P273-026	

At: Bayonne, New Jersey & Brooklyn, New York  
In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
Applicant: Bayonne Energy Center, LLC

DATE: Jul 06, 2011 - 2:30PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Details.dwg

Copyright © ESS Group, Inc., 2011



**RPM'S**  
CONSULTING  
ENGINEERS

**SECTION "A-A"**  
SCALE: N.T.S.

<b>Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable</b>	<b>Submarine Transmission Cable System Bayonne Energy Center Project New Jersey Landfall Temporary Cofferdam Details - 2 of 3</b>	<b>SHEET NO.</b> <b>26 OF 35</b>
		<b>DATE:</b> <b>6/25/11</b>
		<b>PROJECT NO.</b> <b>P273-026</b>
		<b>At: Bayonne, New Jersey &amp; Brooklyn, New York</b> <b>In: Kill Van Kull, Upper New York Bay, Gowanus Bay</b> <b>Applicant: Bayonne Energy Center, LLC</b>

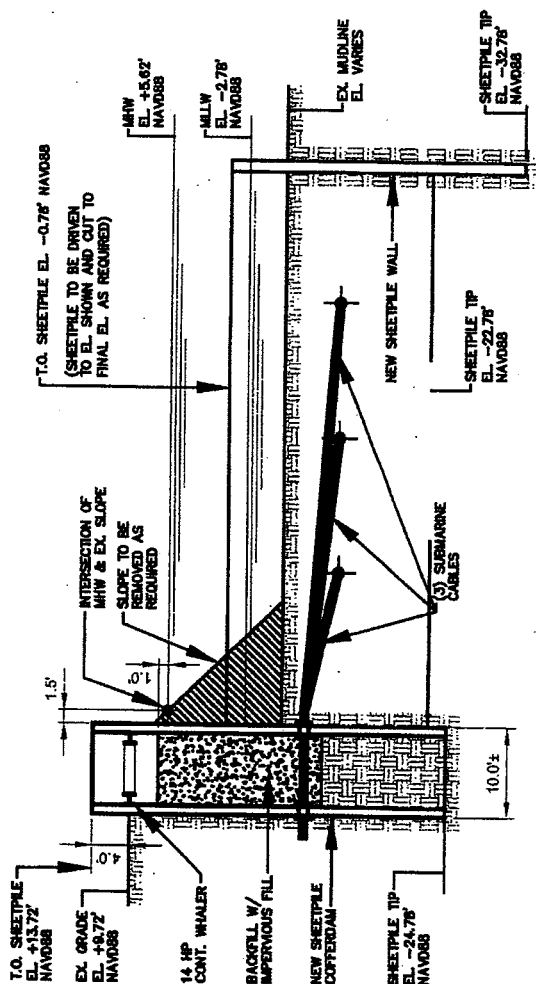


JUL 07 2011

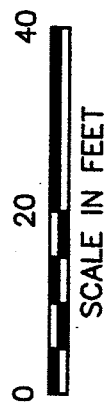
DATE: Jul 06, 2011 - 2:30PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Details.dwg

Copyright © ESS Group, Inc., 2011



**SECTION "B-B"**  
**SCALE: 1" = 20'**



**RDMS**  
**CONSULTING**  
**ENGINEERS**

Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	<div>Submarine Transmission Cable System Bayonne Energy Center Project New Jersey Landfall Temporary Cofferdam Details - 3 of 3</div>	SHEET NO. 27 OF 35
		DATE: 6/25/11
		PROJECT NO. P273-026
	<div>At: Bayonne, New Jersey &amp; Brooklyn, New York In: Kill Van Kull, Upper New York Bay, Gowanus Bay Applicant: Bayonne Energy Center, LLC</div>	

SSJ



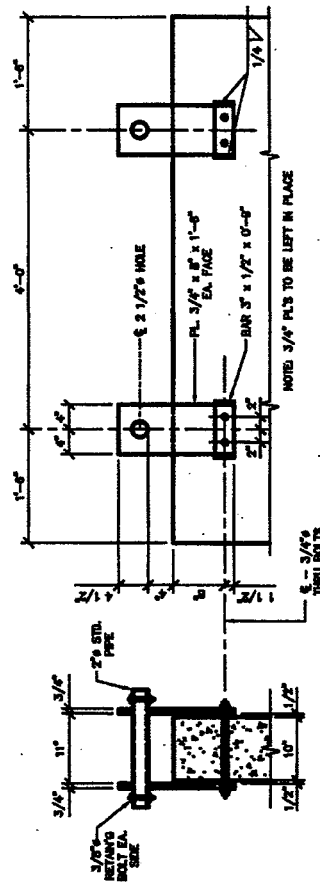
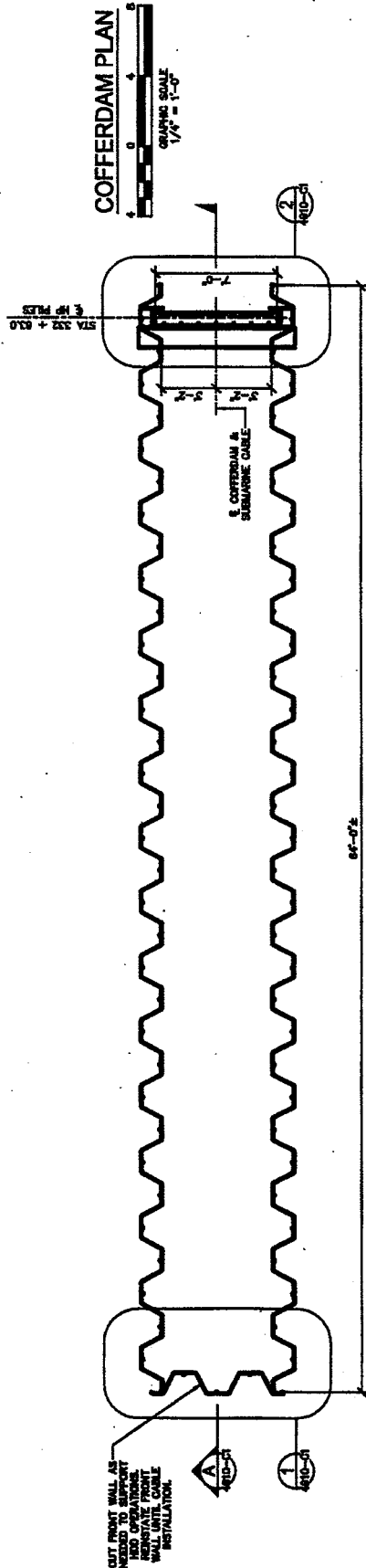


JUL 07 2011

1145-2-303b (Bayonne Energy Center, LLC/ NY&NJ Harbor /Buried Submarine Cables  
USACE FILE: NAN-2008-01564-M3

DATE: Jul 08, 2011 -- 2:18PM  
FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Details\_RPMS.dwg

Copyright © ESS Group, Inc., 2011



### LOWER PRECAST LIFTING HARDWARE



BAYONNE ENERGY CENTER, LLC BAYONNE ENERGY CENTER PROJECT SITE PLAN, COFFERDAM PLAN & DETAILS	
DESIGNED BY	4910-SP1
CHECKED BY	
APPROVED BY	
DATE	
PROJECT NO.	
SHEET NO.	

**RPMS**  
CONSULTING  
ENGINEERS

1. REVISIONS: NONE. (REVISIONS, N.Y.C. 2011)

Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable

Submarine Transmission Cable System  
Bayonne Energy Center Project  
New York Landfall Temporary Cofferdam Detail - 1 of 4

SHEET NO.  
28 OF 35

DATE:  
6/25/11

PROJECT NO.  
P273-026

At: Bayonne, New Jersey & Brooklyn, New York  
In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
Applicant: Bayonne Energy Center, LLC



**ESS**

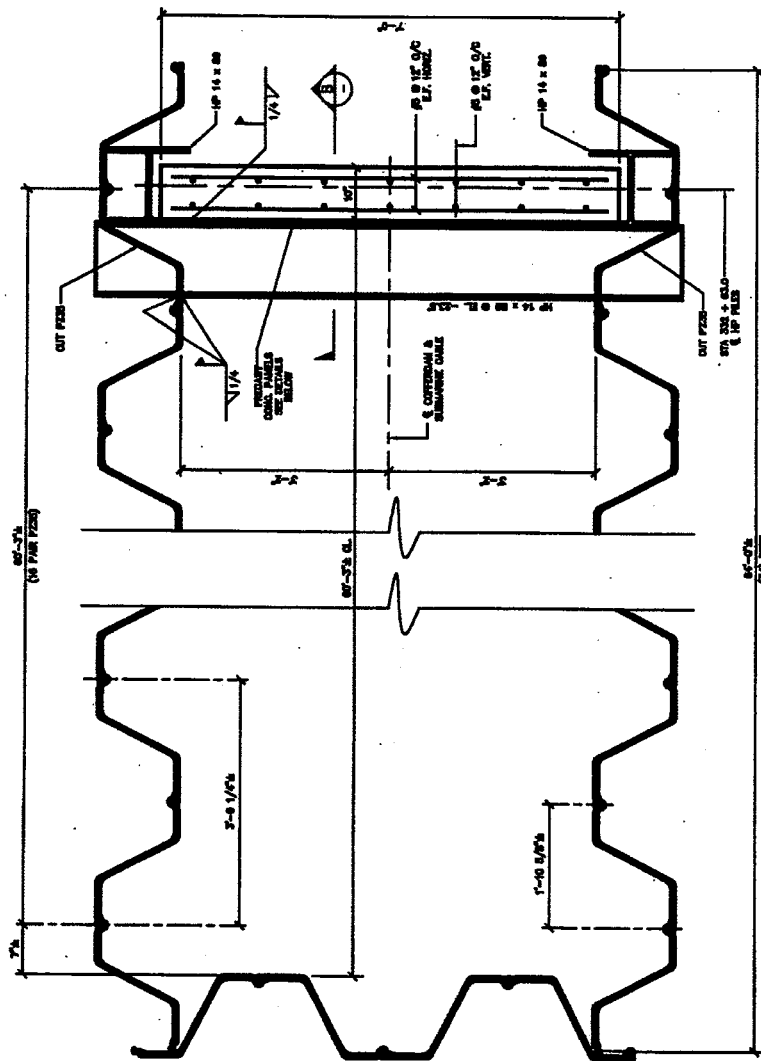
1145-2-303b (Bayonne Energy Center, LLC/ NY&NJ Harbor /Buried Submarine Cables  
USACE FILE: NAN-2008-01564-M3

JUL 07 2011

DATE: Jul 06, 2011 - 2:08PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Details\_RPMS.dwg

Copyright © ESS Group, Inc., 2011



DETAIL 1



DETAIL 2



Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable

Submarine Transmission Cable System  
Bayonne Energy Center Project  
New York Landfall Temporary Cofferdam Detail - 2 of 4

At: Bayonne, New Jersey & Brooklyn, New York  
In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
Applicant: Bayonne Energy Center, LLC

SHEET NO.  
29 OF 35

DATE:  
6/25/11

PROJECT NO.  
P273-026

BAYONNE ENERGY CENTER, LLC BAYONNE ENERGY CENTER PROJECT COFFERDAM EXTERIOR & DETAILS	
DESIGNED BY	ROBERT P. PERLA
CHECKED BY	J. J. JAMES
DATE	6/25/11
PROJECT NO.	4910-C1

**RPMS**  
CONSULTING  
ENGINEERS  
10000 BAYVIEW DRIVE, SUITE 200, BAYVIEW, N.J. 07008

ESS



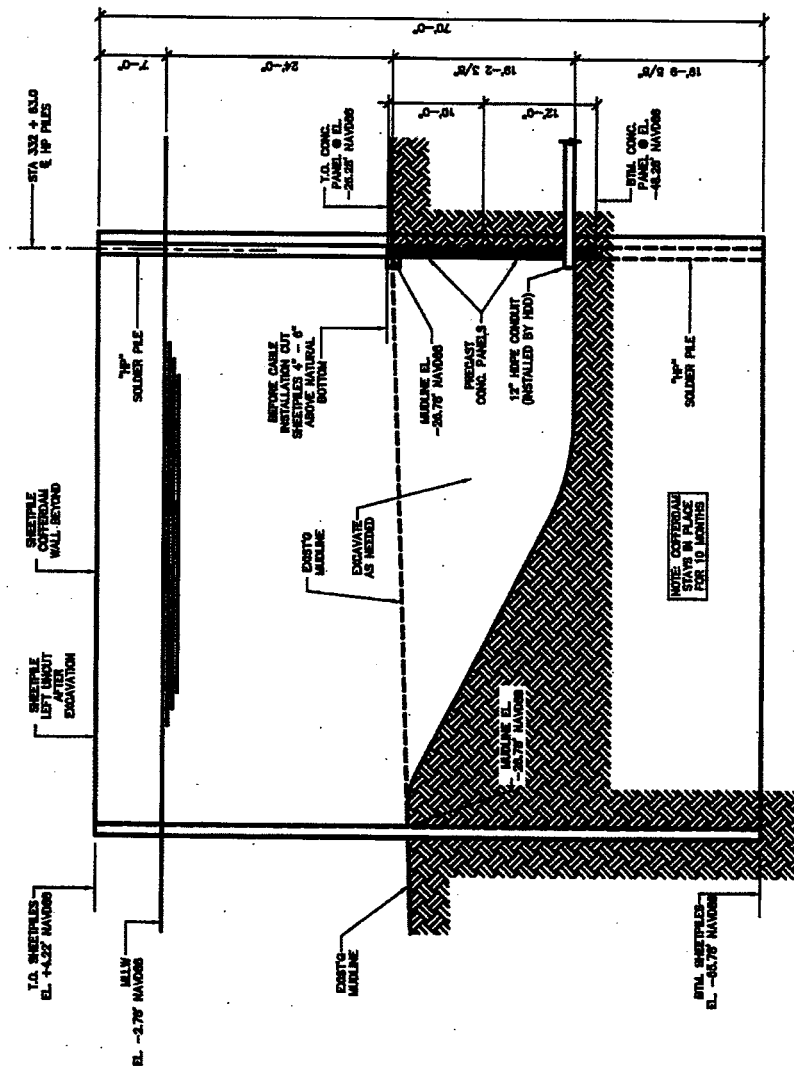
**JUL 07 2011**

USACE FILE: NAN-2008-01564-M3

DATE: Jul 06, 2011 -- 2:08PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Details\_RPMS.dwg

Copyright © ESS Group, Inc., 2011



## SECTION

**A**  
4910-821



**RPM'S**  
CONSULTING

BAYTONE ENERGY CENTER, LLC BAYTONE ENERGY CENTER PROJECT		OFFSHORE SECTIONS & DETAILS	
DATE	10/10/01	BY	ROBERT P. PERLA
SCALE	1/4" = 1'-0"	CHECKED BY	ROBERT P. PERLA
PROJECT NO.	1010-01	DATE	10/10/01

## PurposeConstruct, Operate, and Maintain a Submarine Transmission Cable

**Submarine Transmission Cable System  
Bayonne Energy Center Project  
New York Landfall Temporary Cofferdam Detail - 3 of 4**

**SHEET NO.**  
**30 OF 35**

**DATE:**  
**6/25/11**

**PROJECT NO.**  
**P273-026**

**At: Bayonne, New Jersey & Brooklyn, New York**  
**In: Kill Van Kull, Upper New York Bay, Gowanus Bay**  
**Applicant: Bayonne Energy Center, LLC**



FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Details\_RPMS.dwg

Copyright © ESS Group, Inc., 2011

[illegible]

**Submarine Transmission Cable System  
Bayonne Energy Center Project  
New York Landfall Temporary Cofferdam Detail - 4 of 4**

**SHEET NO.**  
**31 OF 35**

**DATE:**  
**6/25/11**

**PROJECT NO.**  
**P273-026**

At: Bayonne, New Jersey & Brooklyn, New York  
In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
Applicant: Bayonne Energy Center, LLC

JUL 07 2011

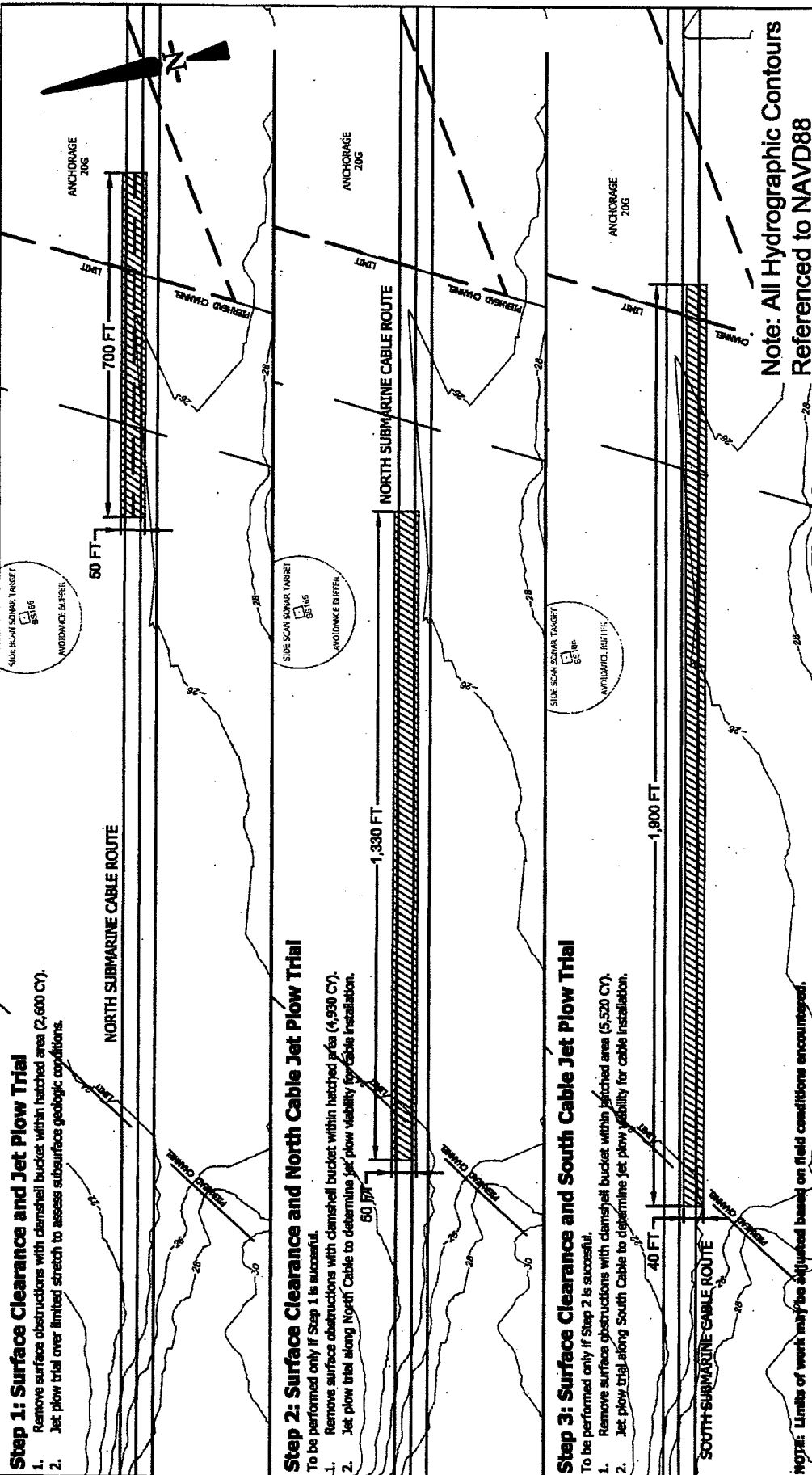
DATE: Jul 06, 2011 - 2:43PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Detail Jet Plow Trial.dwg

Copyright © ESS Group, Inc., 2011

### Step 1: Surface Clearance and Jet Plow Trial

1. Remove surface obstructions with clamshell bucket within hatched area (2,600 CY).
2. Jet plow trial over limited stretch to assess subsurface geologic conditions.



### Step 2: Surface Clearance and North Cable Jet Plow Trial

- To be performed only if Step 1 is successful.
1. Remove surface obstructions with clamshell bucket within hatched area (4,930 CY).
  2. Jet plow trial along North Cable to determine jet plow viability for cable installation.

### Step 3: Surface Clearance and South Cable Jet Plow Trial

- To be performed only if Step 2 is successful.
1. Remove surface obstructions with clamshell bucket within hatched area (5,520 CY).
  2. Jet plow trial along South Cable to determine jet plow viability for cable installation.

NOTE: Limits of work may be adjusted based on field conditions encountered.

Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable

Submarine Transmission Cable System  
 Bayonne Energy Center Project  
 Pierhead Channel - Surface Clearance And Jet Plow Trial

SHEET NO.  
 32 OF 35

DATE:  
 6/25/11

PROJECT NO.  
 P273-026

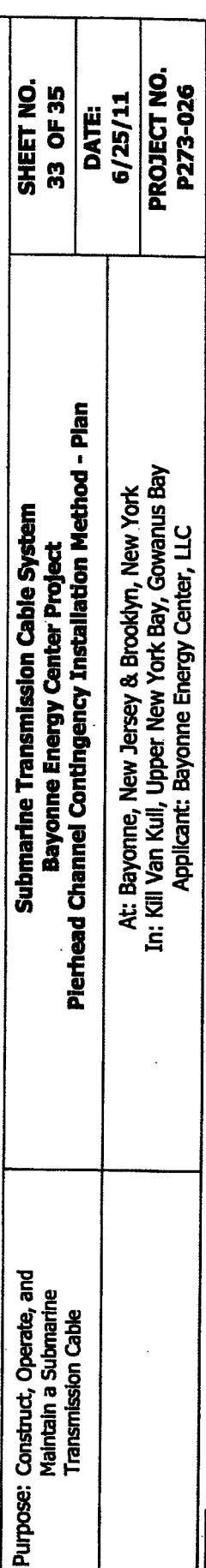
At: Bayonne, New Jersey & Brooklyn, New York  
 In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
 Applicant: Bayonne Energy Center, LLC



## JUL 07 2011

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Contingency Details.dwg

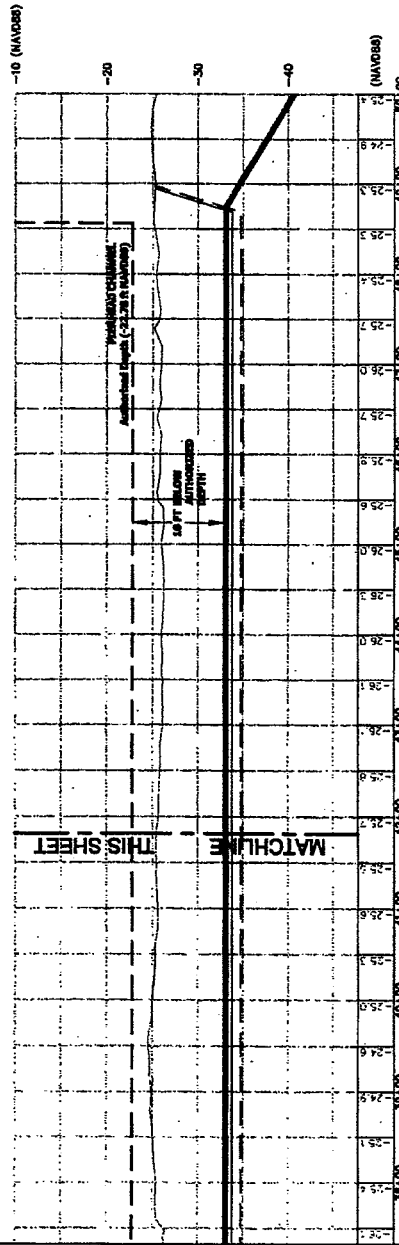
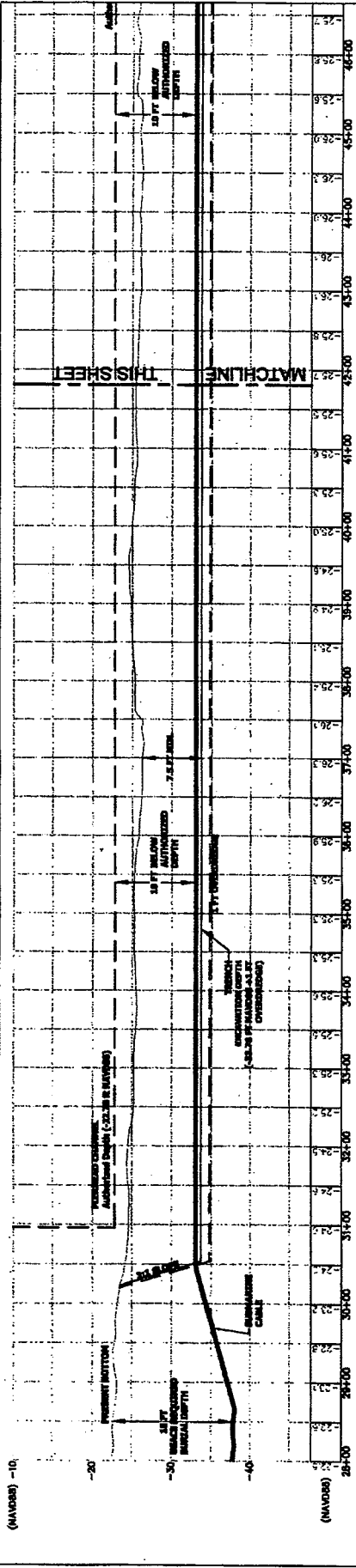
Copyright © ESS Group, Inc., 2011

**SSI**

DATE: Jul 06, 2011 - 2:34PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Contingency Details.dwg

Copyright © ESS Group, Inc., 2011



HORIZONTAL SCALE (IN FEET)

0 200 400

0 20 40

VERTICAL SCALE (IN FEET)

Contingency Installation Dredge Volume Estimates:

Surface Clearance

Contingency Installation - Remove Top 2 FT

Contingency Installation - Remaining Material

Contingency Installation - Reuse As Protective Cover

See Sheet 32

14,210 CY

29,740 CY

21,000 CY

Purpose: Construct, Operate, and  
 Maintain a Submarine  
 Transmission Cable

Submarine Transmission Cable System  
 Bayonne Energy Center Project  
 Pierhead Channel Contingency Installation Method - Profile

SHEET NO.  
 34 OF 35

DATE:  
 6/25/11

PROJECT NO.  
 P273-026

At: Bayonne, New Jersey & Brooklyn, New York  
 In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
 Applicant: Bayonne Energy Center, LLC

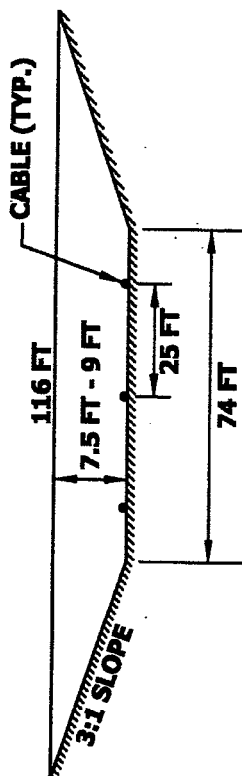


JUL 07 2011

DATE: Jul 06, 2011 - 2:35PM

FILENAME: H:\P273 Pure Energy NYC\008\_USACE\P273-US11 Contingency Details.dwg

Copyright © ESS Group, Inc., 2011



**TYPICAL TRENCH SECTION**

N.T.S

Purpose: Construct, Operate, and Maintain a Submarine Transmission Cable	Submarine Transmission Cable System Bayonne Energy Center Project Pierhead Channel Contingency Installation Method - Section	SHEET NO. 35 OF 35
		DATE: 6/25/11
		PROJECT NO. P273-026

At: Bayonne, New Jersey & Brooklyn, New York  
In: Kill Van Kull, Upper New York Bay, Gowanus Bay  
Applicant: Bayonne Energy Center, LLC





STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on April 14, 2011

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman  
Patricia L. Acampora  
Maureen F. Harris  
Robert E. Curry, Jr.  
James L. Larocca

*NYS PSC Permit*

CASE 08-T-1245 - Application of Bayonne Energy Center, LLC for a Certificate of Environmental Compatibility and Public Need for the Construction of the New York State Portion (Kings County) of a 6.6 Mile, 345 kV AC, 3 Phase Circuit Submarine Electric Transmission Facility Pursuant to Article VII of the PSL.

ORDER AMENDING CERTIFICATE AND  
APPROVING CONSTRUCTION PLANS

(Issued and Effective April 19, 2011)

BY THE COMMISSION:

INTRODUCTION

On March 28, 2011, Bayonne Energy Center, LLC (BEC) submitted a petition to amend its Certificate of Environmental Compatibility and Public Need (Certificate), issued pursuant to Article VII of the Public Service Law (PSL) on November 12, 2009 (Petition). In addition, BEC requests an amendment to the Water Quality Certification (WQC) issued pursuant to Section 401 of the Clean Water Act in conjunction with the Certificate. BEC proposes these amendments to incorporate two limited submarine route deviations, and the inclusion of an additional constituent appropriate for water quality monitoring. In this order, we

grant BEC's Petition, and direct the necessary modifications to the Certificate and WQC.

#### BACKGROUND

On November 12, 2009, we granted a Certificate to BEC for the construction of the New York State portion (Kings County) of a 6.6 Mile, 345 kV AC, 3 Phase Circuit Submarine Electric Transmission Facility (Project). The submarine electric cable will extend approximately 2.5 miles under New York State waters, and will provide a dedicated connection between a new 512 MW simple-cycle natural gas-fired generating facility in Bayonne, New Jersey and the Consolidated Edison Company of New York, Inc. (Con Edison) Gowanus substation in Brooklyn. The Certificate was issued with conditions, including a requirement that BEC submit for public review and Commission approval, an Environmental Management & Construction Plan (EM&CP) detailing the proposed facility design, and construction and environmental controls.

On May 17, 2010, BEC submitted an EM&CP for the construction of Segment 2 of the Project, including detailed maps, practices and procedures regarding a preconstruction submarine grapnel run, construction of the upland cable and transition vaults, installation of the submarine transmission cable via jet plow embedment, construction of the electrical interconnection within the Gowanus Substation, removal of the temporary cofferdams, and backfilling of the dredged temporary cofferdam area with clean sand. On July 20, 2010, the Segment 2 EM&CP was approved.

On February 23, 2011, BEC filed a request for modifications to the approved Segment 2 EM&CP to include changes to the underwater route at two locations, and to incorporate additional water quality monitoring for the Poly Aromatic

Hydrocarbon (PAH) constituent Phenanthrene. BEC also requested corresponding changes to the WQC issued pursuant to Section 401 of the federal Clean Water Act.

In response to BEC's petition to modify the approved Segment 2 EM&CP, the New York State Department of Environmental Conservation (DEC) submitted comments requesting the modification of the Certificate to include water quality monitoring for Phenanthrene. Since Phenanthrene was not previously identified in the list of constituents for water quality monitoring, DEC requested that BEC petition the Commission to amend the Article VII Certificate Conditions, the Water Quality Certification and any other corresponding documents, to ensure that the changes are reflected in the record and in compliance documentation. No other comments on the petition were received within the 15 day comment period that ended on March 10, 2011. On March 18, 2011, BEC filed revisions to the Segment 2 EM&CP in order to incorporate and address DEC's comments.

#### THE PETITION

On March 28, 2011, BEC submitted the Petition to amend the Certificate Conditions, the Suspended Sediment/ Water Quality Monitoring Plan, and the WQC to require water sample monitoring and reporting related to the constituent Phenanthrene. In addition, BEC requests approval of the modifications to the Segment 2 EM&CP filed on February 23, 2011, and supplemented on March 18, 2011, that include two submarine routing changes.

As a result of pre-construction route clearance operations along the permitted submarine cable route, BEC identified certain areas where bottom sediment conditions or debris fields may limit the ability of the jet plow to install

the submarine cable. BEC indicates that the proposed route modifications provide for two minor submarine cable route deviations in New York State waters that are the minimum necessary to avoid the obstructions encountered along two short portions of the route.

The two modified route areas in New York waters, referred to as NY-1 and NY-2, are described by BEC as follows:

NY-1: This route adjustment is located in the area where the BEC Submarine Cable Route crosses the New Jersey-New York state line and Anchorage Channel. Initial debris removal efforts removed the frame of a railroad car from the bottom in this area. Further diver investigations found debris piles (concrete block, rebar, wood) in an area approximately 230 feet by 210 feet in size. The proposed route adjustment shifts the BEC Submarine Cable Route approximately 175 feet north of the permitted route.

NY-2: This route adjustment is located at the southern end of Red Hook Channel in New York State waters. Pre lay grapnel run PLGR and diver investigation indicated areas of very dense clay material and sedimentary rock in the mid-channel and eastern side of the channel. These materials were not encountered on the west side of the channel. BEC used additional diver investigations to investigate possible route adjustments and determine the extent of the dense materials encountered along the permitted route. These investigations led to the proposed route adjustment alignment, which is approximately 1,000 feet west of the permitted route.

#### DISCUSSION AND CONCLUSION

The State Historic Preservation Office (SHPO) of the New York Office of Parks, Recreation, and Historic Preservation was notified by BEC on February 15, 2011, regarding the marine archaeologist's recommendations for avoiding one area north and outside of the proposed modified route. BEC has modified its alignment to avoid this location. We note that the contingency provisions of Certificate Condition No. 70 apply in the event

that unanticipated cultural resources are encountered during facility installation.

Notice of the Petition was published on March 13, 2011, and March 20, 2011, in the New York Post, and no comments were received. Except for the comments provided by DEC on the Segment 2 EM&CP revisions, no other comments were received.

The submarine route modifications in New York waters proposed by BEC are minor and represent the minimum deviation required to avoid obstructions encountered during pre-construction activities along the underwater route. The planned route modifications represent a small (approximately 2%) increase in the overall length of the BEC submarine cable route. In New York waters, the planned route adjustments increase the submarine cable route length by approximately 800 feet. These short modifications are the minimum necessary due to environmental and engineering constraints. Based on the review of submissions by BEC, we find that there is no significant increase in environmental impacts due to the minor relocation of the underwater facilities at the two identified locations. We therefore approve the modifications to the Segment 2 EM&CP proposed by BEC.

Due to the proposed route deviations, sediment samples were collected and analyzed by BEC to assess physical properties, consistent with previously approved protocols. Sediment samples were also collected and tested for total PAH, as requested by DEC on December 23, 2010. The sediment testing results were submitted to the Department of Public Service and DEC. BEC consulted with both agencies regarding the results. Based on the results of the total PAH sediment analysis, DEC requested that the analyte Phenanthrene be added to the suite of parameters to be analyzed during construction-related water quality monitoring. This parameter has been added to the

revised Suspended Sediment/Water Quality Monitoring Plan submitted on February 23, 2011, with the Segment 2 EM&CP revisions. DEC also requested one additional pre- and post-installation benthic sampling location on the modified route along the eastern edge of Red Hook Flats. This additional sampling location has also been added to the Pre- and Post-Installation Benthic Community and Sediment Monitoring Plan, as revised in the EM&CP changes submitted on February 23, 2011.

The inclusion of the new Water Quality Monitoring requirement for Phenanthrene and addition of a sampling location will further ensure water quality impacts are properly identified and minimized. Therefore, we approve the amendments to the Certificate and corresponding documents to reflect these new requirements.

The Commission orders:

1. The Segment 2 Environmental Management and Construction Plan (EM&CP), approved on July 20, 2010, is amended to include the modifications filed by Bayonne Energy Center, LLC on February 23, 2011, and March 18, 2011.

2. The Certificate of Environmental Compatibility and Public Need (Certificate), issued on November 12, 2009, is amended to include a revised Certificate Condition No. 61 that reads as follows:

61. Water Quality Limits and Monitoring:

a. During the jet plow installation of the cable, the concentrations of the chemical constituents listed in the table below measured in the samples collected 500 feet downcurrent of the jet plow shall not exceed the greater of: (A) the levels set forth in the table below or (B) 1.3 times the highest ambient background level measured during the same sampling day at the up-current background station at the same depth as the downcurrent sample.

Constituent	Standard or Guidance Value (ug/L)
Dissolved arsenic	36
Dissolved cadmium	7.7
Dissolved copper	7.9
Dissolved Lead	204
Total Mercury	0.05
PCBs per aroclor	0.2
Phenanthrene	14

b. All water quality laboratory analyses required in this Certificate must be conducted by a laboratory certified by the New York State Department of Health. If the compliance criteria described in Condition 61(a) are exceeded at any time during the installation, additional water quality sampling shall take place at the location of the exceedance for subsequent cable installation passes. If mercury contamination is detected in the field blanks, additional sampling shall be required using EPA method 1669.

3. The Suspended Sediment/Water Quality Monitoring Plan for Jet Flow Embedment Operations, approved on November 12, 2009, is amended to include a revised table on p. 4 that reads as follows:

Constituent	Method	Method Detection Limit
Hardness	Method 6020	460 ug/L
Total PCBs	Method 8082	0.020 ug/L (per Aroclor)
Total Mercury	Method 245.7 or Method 1631	0.005 ug/L
Total and dissolved Arsenic	Method 6020	1.0 ug/L
Total and dissolved Cadmium	Method 6020	0.2 ug/L
Total and dissolved Copper	Method 6020	0.2 ug/L
Total and dissolved Lead	Method 6020	0.2 ug/L
Phenanthrene	Method 8270C PAH-SIM	10 ng/L (full 1 Liter volume required)

4. The terms of the §401 Water Quality Certification, pursuant to §401 of the Clean Water Act, 33 U.S.C. §1341(a) (1),

CASE 08-T-1245

and Public Service Law Article VII are adopted as included in Appendix 1, and it is hereby certified that if BEC complies with all conditions contained in the Certificate and this order, construction of the facility will comply with the applicable requirements of §§301, 302, 306, and 307 of the Clean Water Act, as amended, and will not violate New York State Water Quality standards and requirements.

5. This proceeding is continued.

By the Commission,

*Jaclyn A. Brillling*

Digitally Signed by Secretary  
New York Public Service Commission

JACLYN A. BRILLING  
Secretary



Appendix 1

§ 401 WATER QUALITY CERTIFICATION

NEW YORK STATE PUBLIC SERVICE COMMISSION  
WATER QUALITY CERTIFICATION

Pursuant to: Section 401 of the Clean Water Act, 33 U.S.C. § 1341 (a) (1); Article VII of the New York State Public Service Law; 16 NYCRR Subpart 85-2; and 6 NYCRR Section 608.9.

Certification Issued to: Bayonne Energy Center, LLC  
c/o ArcLight Capital Partners, LLC, 200  
Clarendon Street, 55th Floor, Boston,  
MA 02117,

-and-

c/o Hess Corporation, One Hess Plaza,  
Woodbridge, NJ 07095.

Facility Description

Bayonne Energy Center, LLC ("BEC") proposes to construct, operate, and maintain a 6.6-mile, 345 kilovolt alternating current (345 kV AC), 3 phase circuit, submarine electric transmission facility. The facility will run under the sea floor of Upper New York Bay and will connect BEC's electric generation facility in Bayonne, New Jersey to the Consolidated Edison Company of New York, Inc., Gowanus Substation in Brooklyn, New York. The details and justification for the Facility are contained in the administrative record before the Public Service Commission in Case 08-T-1245.

Location of Facility

The Facility will consist of a 6.6-mile, 345 kV AC, 3 phase circuit, submarine electric transmission cable and related equipment. All of the Facility will be buried except for a short portion of the upland transmission cable and associated electrical interconnection equipment within the existing Consolidated Edison Gowanus Substation. The proposed Facility route lies underneath the sea floor of the Upper New York Bay and underneath the 25th Street Pier in Brooklyn, New York. No streams or freshwater wetlands are crossed. The right-of-way will be maintained in accordance with the Environmental Management and Construction Plan ("EM&CP") for the proposed line, and the Certificate of Environmental Compatibility and Public Need (the "Certificate").

Certification

The New York State Public Service Commission certifies pursuant to § 401 of the Clean Water Act, 33 U.S.C. § 1341(a)(1), and Article VII of the New York State Public Service Law, 16 NYCRR Subpart 85-2, and 6 NYCRR Section 608.9, that if BEC submits an acceptable EM&CP and complies with the conditions stated below, construction of the Facility will comply with the applicable requirements of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and will not violate New York State water quality standards and requirements. This certification is issued in conjunction with the Certificate issued to BEC in Case 08-T-1245, and any EM&CP as approved.

Water Quality

During the jet plow installation of the cable, the concentrations of the chemical constituents listed below, as measured in the samples collected 500 feet down-current of the jet plow shall not exceed the greater of: (A) the levels set forth in the table below or (B) 1.3 times the highest ambient background level measured during the same sampling day at the up-current background station at the same depth as the down-current sample.

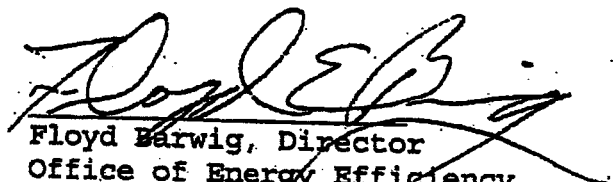
Constituent	Standard or Guidance Value (ug/L)
Dissolved arsenic	36
Dissolved cadmium	7.7
Dissolved copper	7.9
Dissolved Lead	204
Total Mercury	0.05
PCBs per aroclor	0.2
Phenanthrene	14

All water quality laboratory analyses required in this Certification must be conducted by a laboratory certified by the New York State Department of Health. If the compliance criteria described above are exceeded at any time during the installation, additional water quality sampling shall take place at the location of the exceedance for subsequent cable installation passes.

Conditions

1. No in-water work shall commence until all pre-construction conditions relating to such work contained in the Certificate have been met to the satisfaction of the New York State Public Service Commission.
2. Construction and operation of the Facility shall at all times be in conformance with the application in Case 08-T-1245, to the degree not superseded by the Certificate, and all conditions of approval contained in the Certificate.
3. Construction and operation of the Facility shall at all times be in conformance with the terms and conditions of the Joint Proposal dated October 5, 2009, and filed in Case 08-T-1245, to the degree not superseded by the Certificate.
4. Construction and operation of the Facility shall at all times be in conformance with the EM&CP, and all conditions incorporated in any order approving the EM&CP, in Case 08-T-1245.
5. BEC shall provide a copy of this certification to the U.S. Army Corps of Engineers along with a copy of the application, Joint Proposal, Certificate, EM&CP, and order approving the EM&CP (and all subsequent EM&CPs and approval orders) in Case 08-T-1245 so that the U.S. Army Corps of Engineers will have a complete record of the conditions that apply hereto.
6. BEC shall provide to all construction contractors complete copies of the Article VII Certificate, the approved EM&CP, and this certification.

Certified by:

  
Floyd Barwig, Director  
Office of Energy Efficiency  
and the Environment  
New York State Department of  
Public Service  
Three Empire State Plaza  
Albany, New York 12223



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation

Mail Code 501-02A, PO Box 420

Trenton, New Jersey 08625-0420

Tel: (609) 777-0454 Fax: (609) 777-3656

[www.state.nj.us/dep/landuse](http://www.state.nj.us/dep/landuse)

CHRIS CHRISTIE  
GOVERNOR

KIM GUADAGNO  
LT. GOVERNOR

BOB MARTIN  
COMMISSIONER

JUN 07 2011

Brian G. Martin  
ArcLight Capital Partners, LLC  
200 Claredon Pl. - 55<sup>th</sup> Floor  
Boston, MA 02117

RE: Waterfront Development Permit Modification  
DLUR File No.: 0901-08-0001.1  
Activity No.: WFD 110001 Modification  
Applicant: Bayonne Energy Center, LLC  
Block: 482 Lot: 9  
City of Bayonne, Hudson County

Dear Mr. Martin:

This is in response to your request of April 4, 2011 regarding the modification of a Waterfront Development Permit IP Upland and In Water to construct a 512 megawatt electric power generating/transmission facility and installation of electric transmission cables crossing the Kill Van Kull, Upper New York Bay and Gowanus Bay in the City of Bayonne, Hudson County, New Jersey.

This modification is for only in water activities relating to the installation methods of the submarine cable and the route of the cable. Specifically, this modification includes the following:

1) Pierhead Channel Jet Plow Trial. This trial will assess the effectiveness of the previously approved jet plow installation method and will consist of three separate trial stages within the Pierhead Channel. The first jet plow trial stage will be approximately 700 feet in length by 50 feet wide and generate 2,600 cubic yards of dredge material. If successful, the second stage will commence stretching 1,330 feet in length by 50 feet wide, generating 4,930 cubic yards of dredge material. If the second stage is successful, the third stage will commence stretching 1,900 feet by 40 feet wide while generating approximately 5,520 cubic yards of material. All dredge material will be disposed of at an acceptable upland disposal facility as outlined in the conditions below. If all three jet plow trial stages prove successful, the submarine cable will be installed as previously approved by the Department.

2) Contingency Installation Method. If the jet plow trial stages outlined above fail, Bayonne Energy will install the submarine cable within the Pierhead Channel by excavation. This method will result in the removal of approximately 57,000 cubic yards of dredge material. The material removed from the channel will be processed at an approved upland disposal facility. Once the cable is successfully installed, it will be covered with clean

Page 2  
Bayonne Energy Center, LLC  
DLUR File No.: 0901-08-0001.1 WFD 110001 Modification

JUN 07 2011

material. The use of this method will only be implemented if the jet plow method fails. In addition, this method will only be utilized in the Pierhead Channel.

3) Cable Route Adjustments. The route of the submarine cable will be adjusted at four specific locations in an effort to avoid obstructions. The four cable route adjustments are illustrated on the plans referenced below.

The modifications are illustrated on five (5) sheets, all dated May 30, 2011, unrevised (unless otherwise noted), all signed by Robert P. Perla and collectively entitled "Bayonne Energy Center, LLC;"

"Bayonne Energy Center Project, Submarine Transmission Cable Plans, Submarine Transmission Cable Route," DRAWING No. M-1, M-2 and M-3;

"Pierhead Channel Bayonne, NJ, Pierhead Channel Crossing, Proposed Surface Clearance and Jet Plow Trial," DRAWING No. M-4, last revised May 24, 2011; and

"Pierhead Channel Bayonne, NJ, Pierhead Channel Crossing, Contingency Installation Method," DRAWING No. M-5, last revised May 24, 2011.

The Division of Land Use Regulation has reviewed the above referenced request and provisionally approves the modifications contingent upon compliance with the below listed conditions:

**DREDGING CONDITIONS:**

1. Dredging is prohibited from February 1<sup>st</sup> to May 31<sup>st</sup> of any given year in order to protect winter flounder early life stages.
2. Dredging of soft, fine-grained material shall be accomplished using a closed clamshell environmental bucket.
3. A closed clamshell environmental bucket shall be used until refusal at which time a clam shell digging bucket or dredge excavator may be used to complete the project.
4. The permittee shall employ the services of an independent dredging inspector to monitor dredging activities twice per week. The permittee shall submit the resume of the dredging inspector to the Department for review and receive written approval prior to the initiation of dredging.
5. The dredge shall be operated so as to control the rate of descent of the bucket so as to maximize the vertical cut of the clamshell bucket while not penetrating the sediment beyond the vertical dimension of the open bucket (i.e. overfilling the bucket). This will reduce the amount of free water in the dredged material, will avoid overfilling the bucket, and minimize the number of dredge bucket cycles needed to complete the dredging contract. The dredging contractor shall use appropriate software and sensors on the dredging equipment to ensure consistent compliance with this condition during the entire dredging operation. The independent dredging inspector shall monitor the operation of the software and sensors during the inspections required by Condition #16 of this authorization. Any malfunction of the software and sensors on the dredge at any time shall be immediately reported to the independent dredging inspector and the permittee by the dredging contractor and shall be immediately repaired to working order.

JUN 07 2011

6. The closed clamshell environmental bucket shall be equipped with sensors to ensure complete closure of the bucket before lifting the bucket. Said sensors shall be operational during the entire dredging operation.
7. Where a closed clamshell environmental bucket is required, it shall be lifted slowly through the water, at a rate of 2 feet per second or less.
8. Dredged material shall be placed deliberately in the barge in order to prevent spillage of material overboard.
9. No Barge Overflow applies to the dredging of Maintenance/Holocene sediments.
10. All barges or scows used to transport sediment shall be of solid hull construction or be sealed with concrete.
11. The gunwales of the dredge scows shall not be rinsed or hosed during dredging except to the extent necessary to ensure the safety of workers maneuvering on the dredge scow.
12. All decant water holding scows shall be water tight and of solid hull construction.
13. Decant water from this project may only be discharged within the Pierhead Channel in close proximity to the dredging contract area. Discharge to another receiving waterbody requires prior approval from the Department, and may require a New Jersey Discharge Pollutant Elimination System/Discharge to Surface Water (NJDPES/DSW) permit.
14. All decant water shall be held in the decant holding scow a minimum of 24 hours after the last addition of water to the decant holding scow. Said water contained in the decant holding scow may only be discharge after this mandatory 24 hour retention time.  
  
Should the contractor wish to reduce the required holding time, the contractor shall demonstrate that the reduced holding time is sufficient to meet a total suspended solids (TSS) background value of 30 mg/L. This TSS action level is consistent with the ambient TSS results presented in the NY District study entitled "NY and NJ Harbor Deepening Project - Total Suspended Solids (TSS) Monitoring, Interim Report" (January 2006). The total suspended solids shall be determined through gravimetric analysis. No discharge shall be permitted from the decant holding scow until the results of the gravimetric analysis have confirmed that the 30 mg/L background level has been achieved. No additional water shall be added to the decant holding scow between the time of sample acquisition and discharge. Upon successful demonstration that the reduced holding time is sufficient to meet the TSS background level of 30 mg/L, the monitoring of TSS may be suspended and the demonstrated settling time shall replace the 24 hour minimum. A successful demonstration of the reduced holding time efficiency shall be determined once three consecutive TSS analyses have confirmed that the 30 mg/L action level has been achieved by the reduced holding time.  
  
Should the contractor wish to demonstrate this reduced holding time, all records including time of last addition of decant water into the scow, time of TSS sampling and the results of TSS sampling shall be submitted to the NJDEP as soon as they become available, together with a request for a reduced holding time.
15. During pumping of the decant water from the holding scow, great care shall be taken to avoid re-suspending or pumping sediment which has settled in the decant holding scow.

JUN 07 2011

16. The dredging contractor shall complete and submit the attached Dewatering Form to the independent dredging inspector on a weekly basis as part of the Quality Control Report provided to the permittee. Said Dewatering Form shall be certified by the independent dredging inspector that they have witnessed the dewatering process during the preceding week. The permittee shall submit the completed Dewatering Form with appropriate certifications by fax to the Office of Dredging and Sediment Technology for the preceding week.
17. The independent dredging inspector shall perform inspections of the dredging contract a minimum of twice per week using the attached WQC Field Inspector form. The permittee shall submit the completed inspection forms to the NJDEP on at least a weekly basis.
18. The permittee shall submit to ODST a post-dredge hydrographic survey taken before transmission lines are covered with reuse material.
19. **REPORTING REQUIREMENTS:** At the completion of this contract, the permittee shall submit the following information to the Department. This information shall be submitted within six months of contract completion.
  - Start and finish date of project
  - Completed "Notice of Completion of Work" attached.

**ACCEPTABLE USE DETERMINATION**

The conditions imposed herein serve to address the dredged material management plan of the maximum volume of 57,000 cubic yards of sediment that will be removed during both the Jet Plow Trail and Contingency Installation Method.

**For material that is to be removed during the Jet Plow Trail/Contingency Installation Method:**

20. Material removed during the Jet Plow Trail will be delivered via scow to the Clean Earth Inc. dredge material processing facility at either the Koppers Seaboard Site, or the Claremont Street Site. Clean Earth Inc. shall comply with applicable AUD Authorizations and Waterfront Development Permits Issues for these facilities. The material will be processed with a minimum 8% Portland cement and stockpiled in 2,500 cubic yard piles. The piles will be sampled at a frequency of 1 analytical sampling consisting of a 5-point grab.

Each of the above referenced samples shall be analyzed for grain size, percent moisture and total organic carbon. In addition, composites shall be tested for bulk sediment chemistry. The specific analytes which must be tested for include semi-volatile organics, PCBs and aroclors, pesticides, metals, Hexavalent and Trivalent Chromium. The specific analytes required by NJ can be found at the following:

- [http://www.nj.gov/dep/srp/regs/rs/rs\\_appendix1.pdf](http://www.nj.gov/dep/srp/regs/rs/rs_appendix1.pdf)
- Hexavalent and Trivalent Chromium

21. **Prior to placement at a beneficial upland placement site Clean Earth must receive approval from ODST for each 2,500 cubic yard pile.**

The PDM is conditionally acceptable for placement at the following upland placement sites:

**DuPont Grasselli Site**

The designated contractor shall comply with all conditions specified in the October 15, 2010 Remedial Action Work Plan Approval, and any amendments thereto. The

JUN 07 2011

designated contractor shall comply with all conditions specified in the document entitled "Protocol for Review, Certification and Acceptance of Off-Site Recyclable Fill Materials" dated April 5, 2011, and approved by the Site Remediation Program on April 6, 2011.

**Brookfield Landfill Closure Project**

The permittee has provided the Department a conditional acceptance letter from Brookfield Landfill Closure Project located in Staten Island. Placement of material from this project at the Brookfield Landfill Closure Project site is addressed in separate authorizations and approvals issued by the New York State Department of Conservation.

22. All trucks used to transport processed dredged material to the above referenced placement sites shall be tarped pursuant to the applicable State DOT requirements or applicable regulatory agency requirements.
23. If the permittee elects to dispose/use the dredged material from this project at an alternate location, written authorization must be obtained from the Office of Dredging and Sediment Technology prior to the transport of any dredged material to said alternate disposal location. Any alternate disposal/use location must obtain all required state, local and federal permits before the Office would grant a modification of this permit to transport dredged material to the alternate location.

**For material removed during the Contingency Installation Method that meets ERM values:**

24. The permittee shall comply with the testing protocol and operating conditions of the attached "Protocol for Identification, Sampling and Management of Beneficial Re-Use Material pending Placement as Final Cover after Cable Installation," dated May 31, 2011.
25. Material that is to be used as cover for the transmission lines will be unloaded and stockpiled at the Clean Earth Inc. dredge material processing facility at either the Koppers Seaboard Site, or the Claremont Street Site. Clean Earth Inc. shall comply with applicable AUD Authorizations and Waterfront Development Permits issues for these facilities.
26. Within two days of unloading from scows, the permittee shall sample the 2,500 cubic yard piles at a 5 point grab per 1 analytical sample frequency. The sampling protocol and required analytes are the same as listed above. These results shall be compared to the ERM for Sediment Quality Screening benchmarks and provided to ODST for review. If the ERM values are exceeded, the material shall be placed at an approved upland placement site.
27. Two weeks prior to re-use a cover for the transmission line, the permittee shall perform a second round of sampling as per the above condition. The sampling protocol and required analytes are the same as listed above. These results shall be compared to the ERM for Sediment Quality Screening benchmarks and provided to ODST for review. If the ERM values are exceeded, the material shall be placed at an approved upland placement site.

**MATERIAL REUSE CONDITIONS:**

28. The permittee shall comply with the attached "Protocol for Placement of Cover material (Clean Sand/Stone and Beneficial Re-Use Material) after Cable Installation," dated May 31, 2011.
29. Certified clean sand or stone shall be used if ERM values are exceeded.

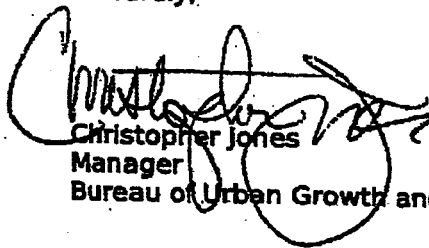


JUN 07 2011

30. The permittee shall provide ODST with a construction schedule for the material reuse two weeks prior to its commencement.
31. After completion of placement of the cover material, a hydrographic survey shall be submitted to ODST.

A copy of this permit modification has been appended to the original permit. Please be advised that all other conditions of the original permit and subsequent modifications are to remain in force. If you have any questions concerning this letter, please do not hesitate to contact Kimberly Kerkuska of my staff at (609) 777-0454.

Sincerely,



Christopher Jones  
Manager  
Bureau of Urban Growth and Redevelopment

**Attachments**

- c: NJDEP, Office of Dredging and Sediment Technology, attn: Gary Nickerson  
AMEC Earth & Environmental, attn: Charles R. Harman  
Wilentz, Goldman & Spitzer, P.A., attn: Lawrence F. Jacobs

**BEC** Construction Management, LLC 5/31/2011

**Bayonne Energy Center, LLC**  
c/o ArcLight Capital Services, LLC  
200 Clarendon Street, 55<sup>th</sup> Floor  
Boston, MA 02117

**Bayonne Energy Center Project**

**Protocol for Placement of Cover Material (Clean Sand/Stone and Beneficial Re-Use Material) after Cable Installation**

1. Prior to placement, a series of placement locations will be mapped out along the excavated trench and entered into the dredge plant navigation and bucket positioning system to allow for accurate placement of the backfill material.
2. The dredge plant will be equipped with appropriate software and sensors on the dredging equipment to control the positioning and rate of descent of the bucket.
3. The dredge plant will spud down adjacent to the cable trench in Pierhead Channel using DGPS for accurate positioning. The dredge plant will be equipped with the following buckets:
  - Environmental Clamshell Bucket: To be used for placement of certified clean sand protective layer and for that portion of the beneficial reuse material that can be placed in the bucket for removal from the scow without refusal.
  - Clamshell Digging Bucket: To be used for placement of the beneficial reuse material that cannot be removed from the scow using the environmental clamshell bucket.
4. The scow carrying the backfill material will be brought alongside the dredge plant and secured.
5. Material will be removed from the scow and the dredge plant will be swung into position over planned placement location using the DGPS bucket positioning software.
6. The bucket will be lowered through the water column at a controlled rate of 2 feet per second or less to a point 2 to 3 feet above the trench bottom.
7. The bucket will be opened to allow the material to fall into the placement location.
8. The bucket will be lifted to the surface at a controlled rate of 2 feet per second.
9. Steps 5 through 8 are repeated until the next placement location exceeds the reach of the dredge plant.
10. The dredge plant will move to its next location and spud down to repeat steps 4 through 9.
11. After completion of backfill material placement, a hydrographic survey will be completed to verify no backfill material is shallower than -20 feet MLW.

#8146223.1

  
**BEC** Construction Management, LLC 5/31/2011

**Bayonne Energy Center, LLC**  
c/o ArcLight Capital Services, LLC  
200 Clarendon Street, 55<sup>th</sup> Floor  
Boston, MA 02117

**Bayonne Energy Center Project**  
**Protocol for Identification, Sampling and Management of Beneficial Re-Use Material pending**  
**Placement as Final Cover after Cable Installation**

1. In the event that BEC proceeds with the Contingency Installation Method, that is, the excavation of a dredge box for the placement of the cable, BEC proposes to utilize acceptable dredged material as final protective cover for the cable consistent with this protocol. *Note: this protocol only applies to dredged material removed as part of the Contingency Installation Method; all material removed from the Jet Plow Trial Surface Clearance will be delivered to Clean Earth for processing, if necessary, and final disposition.*
2. The BEC Dredging Inspector will make visual observations of the dredged material as it is placed in scows and make a preliminary determination as to whether the dredge material is appropriate for re-use as cover material. Dredged material primarily consisting of sand and gravel will be designated as presumptive re-use material; Dredged material primarily consisting of sediment, fine-grained material, or muck will be directed for processing and disposition as Processed Dredge Material (PDM).
3. All the dredged material will be delivered to Clean Earth's operations at the former Koppers/Seaboard Site in Kearny or to Clean Earth's operations at the Claremont Street Site in Jersey City. The presumptive re-use material will be managed in accordance with this protocol and the remaining dredged material will be processed appropriately by Clean Earth.
4. The presumptive re-use material will be dewatered in the scows at the dredging site and then delivered to either the former Koppers/Seaboard Site or the Claremont Street Site, where it will be placed upland in piles of approximately 2,500 cubic yards (cy) each. These temporary piles will be segregated from other non-BEC Project materials. Any runoff from the temporary piles will be managed by Clean Earth in a manner consistent with its permits and approvals.
5. **First analytical screening for re-use:** Within two (2) days of stockpiling, each 2,500 cy pile of presumptive re-use material will be sampled for laboratory analysis and subsequent comparison to the Effects Range-Median (ERM) for Sediment Quality Screening Benchmarks. Sampling will be collected at a frequency of 1 analytical sample consisting of a 5-point grab per each 2,500 cy.
6. If the sampling results from the first analytical screening demonstrate that a pile of the presumptive re-use material is compliant with the ERM then the pile of the presumptive re-use material will be consolidated along with other ERM compliant piles. The sampling results from the first analytical screening will be submitted to NJDEP's Office of Dredging and Sediment Technology (ODST) for review and approval. BEC's objective is to obtain a total of 21,000 cy of consolidated presumptive re-use material, which is the volume sufficient to provide three (3) feet of final protective cover for the cable.
7. The consolidated presumptive re-use material will be segregated from other materials at the facility. Any runoff from the consolidated presumptive re-use material will be managed by Clean Earth in a manner consistent with its permits and approvals.

#6146201.1  
#6146201.3

8. **Second analytical screening for re-use:** Approximately 2 weeks prior to the planned start of backfilling operations, the consolidated presumptive re-use material will be sampled for laboratory analysis for comparison to the ERM. Sampling will be collected at a frequency of 1 analytical sample consisting of a 5-point grab per each 2,500 cy.
9. If the sampling results from the second analytical screening demonstrate compliance with the ERM then the material will be designated for re-used as the final protective cover for the cable. The sampling results from the second analytical screening will be submitted to ODST for review and approval.
10. If a pile of presumptive re-use material does not comply with the ERM based upon the sampling results of the first analytical screening, or if any portion of consolidated presumptive re-use material does not comply with the ERM based upon the second analytical screening, then that material will be removed from the area for stockpiling and will be processed appropriately by Clean Earth.
11. In the event that BEC does not generate an appropriate volume of re-use material using this procedure, BEC proposes to supplement the final protective cover with the necessary volume of certified clean sand/stone.
12. The placement of the re-use material will be consistent with the "Procedure for Placement of Cover Material (Clean Sand/Stone and Beneficial Re-Use Material) after Cable Installation".

# NOTICE OF COMPLETION OF DREDGING

Date: \_\_\_\_\_  
New Jersey Department of Environmental Protection  
Office of Dredging and Sediment Technology  
P.O. Box 028  
401 East State Street  
Trenton, NJ 08625

Attn: NJDEP, ODST, Project Manager FAX: (609) 777-1914

Re: NJDEP Permit No. \_\_\_\_\_  
Insert project title: \_\_\_\_\_  
Location of Dredging: \_\_\_\_\_

Dear Sir/Madam:

I hereby serve notice that the DREDGING allowed by the above referenced permit has been completed as of \_\_\_\_\_, 20\_\_\_\_.

The dredged material was removed via mechanical \_\_\_\_\_ or hydraulic \_\_\_\_\_ dredging (check one).

The dredged material was/is being dewatered with discharge into \_\_\_\_\_.

The actual quantity of material dredged was \_\_\_\_\_ cys. The dredged material was taken to:

1. \_\_\_\_\_ cys was taken to the Historic Area Remediation Site.
2. \_\_\_\_\_ cys used on site as per NJDEP Permit(s) # \_\_\_\_\_ (specify the type of permit(s)).
3. \_\_\_\_\_ cys was taken to \_\_\_\_\_ for beneficial reuse.
4. \_\_\_\_\_ cys was taken to \_\_\_\_\_ for disposal.
5. \_\_\_\_\_ cys was taken to \_\_\_\_\_ for beach nourishment.

\_\_\_\_\_  
Signature of the Permittee

\_\_\_\_\_  
Signature of the Contractor (if any)

\_\_\_\_\_  
Permittee's Name (Printed)

\_\_\_\_\_  
Contractor's Name (Printed)

\_\_\_\_\_  
Name of Permitted Agency/Entity

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City State ZIP

\_\_\_\_\_  
City State ZIP

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Telephone

**NYSDEC/NJDEP WQC FIELD OFFICE INSPECTOR'S FORM**

Inspector Name: \_\_\_\_\_

Date/Time of Inspection: \_\_\_\_\_

USACE Contract Number: \_\_\_\_\_

Contract Reach: \_\_\_\_\_

Dredge Name: \_\_\_\_\_

State(s) Permit(s) on Dredge (Y/N): \_\_\_\_\_

NYSDEC PERMIT "Notice" on Dredge (Y/N): \_\_\_\_\_

Inspection of Dredge Bucket (Prior to Initial Use):

Type of Bucket: \_\_\_\_\_

Is the appropriate bucket being used as per State WQC? (Y/N): \_\_\_\_\_

Is the environmental bucket equipped with appropriate software/sensors to ensure complete closure of the bucket? (Y/N) \_\_\_\_\_

Is the bucket operator controlling the rate of descent so as to maximize the vertical cut, while also controlling over penetration? (Y/N) \_\_\_\_\_

Description of Bucket: \_\_\_\_\_

Are all flaps (if appropriate) intact and appear operable? (Y/N): \_\_\_\_\_

Comments and additional actions taken on initial inspection: \_\_\_\_\_

Inspection of Dredge Bucket During Construction:

Type of Bucket: \_\_\_\_\_

Is the appropriate bucket being used as per State WQC? (Y/N): \_\_\_\_\_

Are sensors and software fully operational during dredging? (Y/N) \_\_\_\_\_

Describe software/sensors monitored by NY District rep. \_\_\_\_\_

Description of Bucket: \_\_\_\_\_

Are all flaps (if appropriate) intact and appear operable? (Y/N): \_\_\_\_\_

Observed approximate Hoist Speed (ft/sec): \_\_\_\_\_

Comments and additional actions taken on inspection: \_\_\_\_\_

Has there been any observance of Barge Overflow of any contaminated, non-HARS, and non-Rock Dredged Material? (Y/N): \_\_\_\_\_

Is dredged material placed deliberately in barge in order to prevent spillage of material overboard? (Y/N): \_\_\_\_\_

Is sediment transport barge of solid hull construction or sealed with concrete, except as permitted for aquatic placement? (Y/N): \_\_\_\_\_

Were gunwales rinsed or hosed during inspection? (Y/N): \_\_\_\_\_

Is dredging occurring during the WQC specific "no dredging" time and area restrictions? (Y/N): \_\_\_\_\_

Have silt curtains been placed where specified in WQC? (Y/N): \_\_\_\_\_

Additional Actions and Comments: \_\_\_\_\_

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on July 15, 2010

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman  
Patricia L. Acampora  
Robert E. Curry, Jr.  
James L. Larocca

CASE 08-T-1245 - Application of Bayonne Energy Center, LLC for a Certificate of Environmental Compatibility and Public Need for the Construction of the New York State Portion (Kings County) of a 6.6 Mile, 345 kV AC, 3 Phase Circuit Submarine Electric Transmission Facility Pursuant to Article VII of the PSL.

ORDER GRANTING APPROVAL OF  
ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION PLAN  
SEGMENT 2

(Issued and Effective July 20, 2010)

BY THE COMMISSION:

INTRODUCTION

On November 12, 2009, the Commission issued an Order Adopting Joint Proposal and Granting Certificate of Environmental Compatibility and Public Need (Certificate) to Bayonne Energy Center, LLC (BEC), pursuant to Article VII of the PSL, for the construction of the New York State portion (Kings County) of a 6.6 Mile, 345 kV AC, 3 Phase Circuit Submarine Electric Transmission Facility (Project). The submarine electric cable will extend approximately 2.5 miles under New York waters, and will provide a dedicated connection between a new 512 MW simple-cycle natural gas-fired generating facility in Bayonne, New Jersey and the Consolidated Edison Company of New York, Inc. (Con Edison) Gowanus substation in Brooklyn.

The Certificate was issued with several requirements for compliance, as recommended by signatory parties to the Joint Proposal, including a requirement that BEC submit for public review and Commission approval, plans detailing the facility design, construction and environmental controls (i.e., the Environmental Management and Construction Plan (EM&CP)). On May 17, 2010, BEC submitted an EM&CP for construction of Segment 2 of the transmission facility.<sup>1</sup> The Segment 2 EM&CP includes detailed maps, practices and procedures regarding a preconstruction grapnel run, construction of the upland cable and transition vaults, installation of the submarine transmission cable via jet plow embedment, construction of the electrical interconnection within the Gowanus Substation, removal of the temporary cofferdams, and backfilling of the dredged temporary cofferdam area with clean sand.

BEC also requests a minor route change based on new survey information delineating the boundaries of privately owned underwater lands near the certified Submarine Cable Route. In order to avoid these private lands, BEC has stated that the Submarine Cable Route in Gowanus Bay will deviate approximately 150 feet maximum over a distance of 2000 feet from the certified Submarine Cable Route, as allowed by Certificate Conditions 29 and 30. According to BEC, the planned route deviation is the minimum extent necessary for engineering reasons and will maintain compliance with requirements for depth of installation.

---

<sup>1</sup> We previously approved, by order dated March 25, 2010, an EM&CP for segment 1, which included the New York landfall, Horizontal Directional Drilling, temporary cofferdam installation and dredging within the cofferdam.



A notice that the EM&CP was filed for the second segment of the Project was published in the New York Post on May 17, 2010. The notice solicited comments on the proposed EM&CP within 30 days. On June 7, 2010, the Department of Public Service Staff (DPS Staff) submitted comments regarding the Segment 2 EM&CP. On June 15, 2010, BEC submitted responses to DPS Staff's comments. The DEC submitted comments on June 16, 2010. No other comments were received during the 30-day comment period, which ended on June 16, 2010.

#### COMMENTS

##### DPS Staff

DPS Staff reviewed the detailed arrangement and construction plans for the facilities, and identified several issues. BEC responded to those issues on June 15, 2010. In response to Staff's concern that the Segment 2 EM&CP did not include a plan for use of concrete mattresses and dredging, as required by Condition 37d of the Certificate, BEC indicated that, in the unlikely event that the use of concrete mattresses and dredging become necessary, it will submit a plan as an addendum to the Segment 2 EM&CP and the plan will be subject to a 30-day public comment period and subsequent ruling by the Public Service Commission.

BEC addressed DPS Staff's concerns regarding handling and analysis of excavated soils and evaluating their potential for re-use as backfill. Any excavated soils exhibiting evidence of contamination will be stockpiled, sampled, and analyzed separately from soils not exhibiting evidence of contamination. BEC agreed to collect composite samples of any soils planned for re-use, and to submit samples for analysis of all parameters for which soil cleanup objectives are listed in 6 NYCRR Part 375 and TAGM 4046 (or its successor). Additionally, soil samples will

be collected and analyzed by Hampton Clarke-Veritech Laboratory (HC-V), which is a New York State-certified analytical laboratory located in Fairfield, New Jersey. BEC agreed to implement quality assurance/quality control (QA/QC) measures for soil sample analysis, including collection and analysis of duplicate samples, analysis of trip and field blank samples, storage of samples in pre-cleaned sample jars at approximately 4 degrees Centigrade, and transport of samples to the HC-V Laboratory under strict chain-of-custody procedures. BEC also agreed to provide DPS Staff with documentation, not less than 30 days prior to backfilling the cofferdam locations, that confirms the proposed fill materials are from a DEC-certified "virgin source."

In response to DPS Staff's and DEC's inquiries regarding the rationale for the proposed location of the pre-installation jet plow trials, BEC explained that the location was selected because it is in a central location along the installation route, it provides adequate area for maneuvering the cable laying vessel and the survey vessels, sediment types in this location are representative of those in other portions of the route, and tidal currents flow across rather than parallel to the route in the proposed location. Although the area near the mouth of Gowanus Bay is predicted to represent worst case suspended sediment concentrations, and therefore would be a recommended location for pre-installation jet plow trials, sampling of sediments in that area indicated the presence of Class C sediments and BEC elected to avoid multiple disruptions of the sediment. DPS Staff supports the pre-installation jet plow trial route selected by BEC and agrees with BEC's rationale for minimizing the disruption of sediments near the mouth of Gowanus Bay.

DPS Staff expressed concerns regarding the proposed jet plowing and water quality monitoring. Specifically, DPS

CASE 08-T-1245

Staff requested that BEC notify the DEC and DPS Staff prior to initializing jet plow installation and provide progress reports and changes in the jet plow installation schedule. DPS Staff also requested that BEC clarify the proposed methods for determining up-current and down-current orientation during water quality monitoring. BEC agreed to notify the DEC and DPS Staff prior to initializing jet plow installation. Tidal currents will be recorded at the time of water quality monitoring based on predicted tide information and field observations. DEC also raised similar concerns and has requested confirmation of the trial results in the area of the greatest sediment concentration (Gowanus Bay). In response to DPS Staff's inquiry regarding the schedule for inspections of sedimentation controls in upland construction areas, BEC proposed regularly scheduled inspections by the contractor weekly and immediately following every storm event.

DPS Staff requested the resume of M/S Hawkeye LLC, which is the Contractor that will perform the high voltage work at Con Edison properties. According to BEC's response, Hawkeye LLC, as a subcontractor to ABB, will perform ductbank and upland cable installation prior to the actual point of interconnect at the Gowanus Substation. ABB is the ductbank and upland cable installation Contractor. BEC confirmed that Hawkeye LLC is an approved Con Edison contractor.

DEC

On June 16, 2010, DEC provided comments on the Segment 2 EM&CP. BEC submitted their responses to DEC comments on June 22, 2010. The DEC expressed concerns regarding the methods for cable burial in the channel to depths required by the Army Corps of Engineers (ACOE). Specifically, the DEC requested that BEC provide methods for dredging and dredged material handling in the event that dredging will be necessary for achieving the burial depths specified in the ACOE permit. In its response, BEC provides

Special Conditions (B), (C), and (S) of the ACOE permit issued on April 12, 2010. Special Conditions (B) and (C) specify burial depth requirements for the BEC submarine transmission cable along Federal Navigation Channels. Special Condition (S) describes a contingency plan in the event that, due to geologic conditions, topographic features, or buried obstructions, the permitted burial depths within the limits of the Federal Navigation channels have not been achieved but are within 10% of the authorized burial depth. According to Special Condition (S), any failure to achieve the minimum authorized burial depth by more than 10% shall be considered an issue of non-compliance with the ACOE permit.

In their response to the DEC's comments, BEC states that they have evaluated the required burial depths specified in the ACOE permit and they anticipate that they will be able to achieve all required burial depths with the jet plow. Should dredging be required in the New York portion of the route, BEC states that information on the volume of material to be removed, the proposed equipment and procedures for dredging, and the interim and ultimate placement of the dredge material will be provided to DPS Staff and DEC.

In response to DEC's concerns regarding the construction schedule for assessment of the jet plow trial results and subsequent adjustments to jet plow operating conditions, BEC clarified that the construction schedule provided in the Segment 2 EM&CP was prepared under the assumption that the jet plow trials will demonstrate that Total Suspended Sediments (TSS) threshold guidance criterion will be satisfied and no adjustments to the jet plow operation will be required. In the event that the TSS threshold guidance criterion are not met, BEC agrees to report such conditions and work with DPS Staff and DEC to evaluate and implement reasonable modifications to the jet plow operating conditions. BEC anticipates that the data evaluation and implementation of

reasonable modifications to the jet plow operating conditions can be completed within one or two days. DEC recommends that at least three days should be allocated for evaluation of the data and implementation of reasonable modifications prior to jet plow installation, in case the best-case scenarios are not achieved during the jet plow trials.

The DEC made several comments regarding the Draft Benthic Mitigation Plan, included as Appendix I to the Segment 2 EM&CP. Specifically, DEC inquired about the proposed methodology for statistical analysis of community similarities; advised that pre- and post-construction sampling of benthic community populations should be conducted during corresponding seasons to minimize the effects of seasonal fluctuations on the survey; and identified measures for benthic community mitigation, if necessary. BEC agreed to conduct pre- and post-construction sampling at a consistent time (either June or late September) to minimize the effects of seasonal population variability on the study. BEC will use a percent similarity (PS) statistical measure to monitor benthic populations over time and evaluate the post-construction benthic community recovery. In the event that mitigation of the benthic community is necessary, BEC agrees to develop and implement appropriate mitigation measures in consultation with DEC.

In response to DEC's request, BEC agreed that all laboratory analyses conducted to support project efforts in New York State will be conducted by a laboratory certified by the New York State Department of Health.

#### DISCUSSION AND CONCLUSION

The Segment 2 EM&CP did not include a plan for use of concrete mattresses and dredging, as required by Condition 37.d of the Certificate. Should the use of concrete mattresses or dredging become necessary during the course of Segment 2

activities, BEC shall submit a plan as an addendum to the Segment 2 EM&CP. Any plan for dredging operations shall include information on the volume of material to be removed, the proposed equipment and procedures for dredging, and the interim and ultimate placement of the dredge material.

In the event that the TSS threshold guidance criteria are not met during jet plow trials, BEC agrees to report such conditions and to work with DPS Staff and DEC to evaluate and implement reasonable modifications to the jet plow operating conditions. However, BEC contends that evaluation of the TSS data and implementation of reasonable modification may be achieved in one to two days. DEC recommends that at least three days should be allocated for evaluation of the data and implementation of reasonable modifications prior to jet plow installation.

DPS Staff suggests that if all TSS threshold guidance criteria are satisfied for the entire jet plow trials, BEC should be permitted to begin jet plow installation operations immediately following notification to DPS Staff and DEC of the jet plow trial monitoring results. However, in the event TSS threshold guidance criteria are not met during any part of the jet plow trials, at least three days should be allocated for evaluation of the data and implementation of reasonable modifications prior to commencement of jet plow installation. We conclude that the three day period provides adequate time for DPS Staff and DEC to evaluate the TSS data and consult with BEC to implement reasonable modifications, and will not unreasonably delay the commencement of installation of the submarine cable system.

The comments of DPS Staff and DEC have been adequately addressed. We will require that the additional information, as discussed above, be incorporated into the EM&CP and that BEC

submit the revised EM&CP to the Secretary for acceptance before commencing work.

Regarding BEC's request for a minor route change in the Submarine Cable Route in Gowanus Bay, we agree that the proposed route deviation is the minimum extent necessary for engineering reasons and will maintain compliance with requirements for depth of installation. In addition, the proposed route deviation will not increase the risk of significant environmental impacts to the project area and will not create a conflict with any specific provision of the Certificate. Therefore, we approve of the minor route change proposed by BEC.

The Commission orders:

1. The Environmental Management and Construction Plan (EM&CP), submitted by Bayonne Energy Center LLC (BEC), for Segment 2 is approved, subject to the following conditions:
  - (a) BEC shall incorporate the additional information provided in the responses to comments and in the body of this order into the EM&CP, and submit the revised EM&CP to the Secretary for acceptance, prior to commencing construction activity for Segment 2.
  - (b) The environmental Inspector shall be on site, as required by Certificate Condition 68, at all times during construction activities within water bodies, and waterfront areas.
  - (c) In the event that the use of concrete mattresses and dredging becomes necessary, BEC shall submit a plan as an Addendum to the Segment 2 EM&CP that includes, at a minimum, information on the volume of material to be removed, the proposed equipment

and procedures for dredging, and the interim and ultimate placement of the dredge material.

- (d) In the event TSS threshold guidance criteria are not met during any part of the jet plow trials:
- (i) a consultation period not to exceed three days will be allocated for evaluation of the data and implementation of reasonable modifications prior to commencement of jet plow installation;
  - and, (ii) jet plow installation may not commence without the written consent of the DPS Staff Director, Office of Energy Efficiency and the Environment, following notice and consultation with DEC.
2. The minor route change proposed by BEC is approved.
3. This proceeding is continued.

By the Commission,

*Jaclyn A. Brillling*

Digitally Signed by Secretary  
New York Public Service Commission

JACLYN A. BRILLING  
Secretary



STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on November 12, 2009

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman  
Patricia L. Acampora  
Maureen F. Harris  
Robert E. Curry, Jr.  
James L. Larocca

CASE 08-T-1245 - Application of Bayonne Energy Center, LLC for a Certificate of Environmental Compatibility and Public Need for the Construction of the New York State Portion (Kings County) of a 6.6 Mile, 345 kV AC, 3 Phase Circuit Submarine Electric Transmission Facility Pursuant to Article VII of the PSL.

ORDER ADOPTING THE TERMS OF A JOINT PROPOSAL  
AND GRANTING CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED, WITH CONDITIONS, AND CLEAN  
WATER ACT §401 WATER QUALITY CERTIFICATION

(Issued and Effective November 12, 2009)

BY THE COMMISSION:

INTRODUCTION

On October 17, 2008, Bayonne Energy Center, LLC (BEC, Applicant) filed its application for a certificate of environmental compatibility and public need for an electric transmission facility, pursuant to Public Service Law (PSL) Article VII (the Application).<sup>1</sup> The Applicant proposes the construction, operation and maintenance of the New York State portion of the Bayonne Energy Center Project (Project), a 345 kilovolt (kV) alternating current (AC) submarine electric cable system, associated upland cable, and interconnection equipment (collectively, the Facility). On October 5, 2009,

<sup>1</sup> The Application refers to the documents filed on October 17, 2008 and the subsequent supplemental filings submitted December 5, 2008 and January 21, 2009 deemed in compliance with PSL §122 as of January 21, 2009 by letter of the Secretary to the Commission (Secretary) dated January 29, 2009.

Appendix B

PROPOSED § 401 WATER QUALITY CERTIFICATION

NEW YORK STATE PUBLIC SERVICE COMMISSION  
WATER QUALITY CERTIFICATION

Pursuant to: Section 401 of the Clean Water Act, 33 U.S.C. § 1341 (a)(1); Article VII of the New York State Public Service Law; 16 NYCRR Subpart 85-2; and 6 NYCRR Section 608.9.

Certification Issued to: Bayonne Energy Center, LLC  
c/o Pure Energy Resources, LLC  
25 Mall Road, Suite 100  
Burlington, MA 01803

Facility Description

Bayonne Energy Center, LLC ("BEC") proposes to construct, operate, and maintain a 6.6-mile, 345 kilovolt alternating current (345 kV AC), 3 phase circuit, submarine electric transmission facility. The facility will run under the sea floor of Upper New York Bay and will connect BEC's electric generation facility in Bayonne, New Jersey to the Consolidated Edison Company of New York, Inc., Gowanus Substation in Brooklyn, New York. The details and justification for the Facility are contained in the administrative record before the Public Service Commission in Case 08-T-1245.

Location of Facility

The Facility will consist of a 6.6-mile, 345 kV AC, 3 phase circuit, submarine electric transmission cable and related equipment. All of the Facility will be buried except for a short portion of the upland transmission cable and associated electrical interconnection equipment within the existing Consolidated Edison Gowanus Substation. The proposed Facility route lies underneath the sea floor of the Upper New York Bay and underneath the 25th Street Pier in Brooklyn, New York. No streams or freshwater wetlands are crossed. The right-of-way will be maintained in accordance with the Environmental Management and Construction Plan ("EM&CP") for the proposed line, and the Certificate of Environmental Compatibility and Public Need (the "Certificate").

Certification

The New York State Public Service Commission certifies pursuant to § 401 of the Clean Water Act, 33 U.S.C. § 1341(a)(1), and Article VII of the New York State Public Service Law, 16 NYCRR Subpart 85-2, and 6 NYCRR Section 608.9, that if BEC submits an acceptable EM&CP and complies with the conditions stated below, construction of the Facility will comply with the applicable requirements of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and will not violate New York State water quality standards and requirements. This certification is issued in conjunction with the Certificate issued to BEC in Case 08-T-1245, and any EM&CP as approved.

Water Quality:

During the jet plow installation of the cable, the concentrations of the chemical constituents listed below, as measured in the samples collected 500 feet down-current of the jet plow shall not exceed the greater of: (A) the levels set forth in the table below or (B) 1.3 times the highest ambient background

level measured during the same sampling day at the up-current background station at the same depth as the down-current sample.

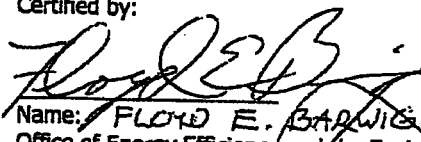
Constituent	Standard or Guidance Value (ug/L)
Dissolved arsenic	36
Dissolved cadmium	7.7
Dissolved copper	7.9
Dissolved Lead	204
Total Mercury	0.05
PCBs per aroclor	0.2

All water quality laboratory analyses required in this Certification must be conducted by a laboratory certified by the New York State Department of Health. If the compliance criteria described above are exceeded at any time during the installation, additional water quality sampling shall take place at the location of the exceedance for subsequent cable installation passes.

#### Conditions

1. No in-water work shall commence until all pre-construction conditions relating to such work contained in the Certificate have been met to the satisfaction of the New York State Public Service Commission.
2. Construction and operation of the Facility shall at all times be in conformance with the application in Case 08-T-1245, to the degree not superseded by the Certificate, and all conditions of approval contained in the Certificate.
3. Construction and operation of the Facility shall at all times be in conformance with the terms and conditions of the Joint Proposal dated October 5, 2009, and filed in Case 08-T-1245, to the degree not superseded by the Certificate.
4. Construction and operation of the Facility shall at all times be in conformance with the EM&CP, and all conditions incorporated in any order approving the EM&CP, in Case 08-T-1245.
5. BEC shall provide a copy of this certification to the U.S. Army Corps of Engineers along with a copy of the application, Joint Proposal, Certificate, EM&CP, and order approving the EM&CP (and all subsequent EM&CPs and approval orders) in Case 08-T-1245 so that the U.S. Army Corps of Engineers will have a complete record of the conditions that apply hereto.
6. BEC shall provide to all construction contractors complete copies of the Article VII Certificate, the approved EM&CP, and this certification.

Certified by:

  
 Name: FLOYD E. BARWIG  
 Office of Energy Efficiency and the Environment  
 New York State Department of Public Service  
 Three Empire State Plaza  
 Albany, New York 12223



STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

DAVID A. PATERSON  
GOVERNOR

LORRAINE A. CORTÉS-VÁZQUEZ  
SECRETARY OF STATE

March 31, 2009

Mr. Payson R. Whitney, III, PE  
Senior Engineer - Land Development & Engineering  
ESS Group, Inc.  
888 Worcester Street - Suite 240  
Wellesley, Massachusetts 02482

Re: F-2008-0886  
U.S. Army Corps of Engineers/New York District Permit  
Application NAN-2008-1564-WCA - Bayonne Energy Center  
(Case #08-T-1245)  
Construct, operate and maintain a 512 MW electric operating  
facility and the installation of a 345 kv submarine transmission  
Cable across and in the bed in Upper NY Bay & Gowanus Bay.  
Gowanus Bay, City of Brooklyn, Kings County  
General Concurrence

Dear Mr. Whitney:

The Department of State received your Federal Consistency Assessment Form and consistency certification and supporting information for this proposal on November 18, 2008.

The Department of State has determined that this proposal meets the Department's general consistency concurrence criteria. Therefore, further review of the proposed activity by the Department of State, and the Department's concurrence with an individual consistency certification for the proposed activity, are not required.

This General Concurrence is without prejudice to and does not obviate the need to obtain all other applicable licenses, permits, other forms of authorization or approval that may be required pursuant to existing State statutes including permission from the New York State Office of General Services for the use of the New York State-owned underwater lands and permits from the New York State Department of Environmental Conservation and furnishing that department the information necessary for crafting those permits.

When communicating with us regarding this matter, please contact us at (518) 474-6000 and refer to our file #F-2008-0886.

Sincerely,

Jeff Zappieri  
Supervisor of Consistency Review  
Office of Coastal, Local Government  
and Community Sustainability

JZ/dc

cc: COE/New York District - George Nieves/James Cannon  
DEC Environmental Permits - Betsy Hohenstein  
DEC/Region 2 - John Cryan  
NYS OGS - Al Bauder  
NYS PSC - Philipose Philip  
NYC WRP - Eddie Greenfield



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF LAND USE REGULATION  
501 East State Street, Station Plaza 5, 2<sup>nd</sup> Floor  
P.O. Box 439, Trenton, New Jersey 08625-0439  
Fax: (609) 777-3656 or (609) 292-8115  
www.state.nj.us/dep/landuse



PERMIT

In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the limitations, terms and conditions listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.

Approval Date

JAN 12 2010

Expiration Date

JAN 12 2015

Permit Number/s  
0901-08-0001.1  
WFD 080002, WFD 080003

Type of Approval/s  
Waterfront Development IP Upland, Waterfront  
Development IP In Water and Water Quality Certificate

Enabling Statute/s  
N.J.S.A. 12:5-3  
N.J.S.A. 58:10A

Applicant

Bayonne Energy Center, LLC attn: Neil Collins  
25 Mall Road - Suite 100  
Burlington, MA 01803

Site Location

Block: 482 Lot: 9  
City of Bayonne, Hudson County, New Jersey

Bayonne Energy Center will construct a 512 megawatt electric power generating and transmission facility located within Lot 9 of Block 482 in the City of Bayonne, Hudson County, New Jersey. The upland portion of the project consists of an electric power generating station and installation of 0.6 miles of three electric transmission cables. The in water component of this project consists of three 6.3 mile long electric transmission cables installed via jet plow embedment crossing the Kill Van Kull, Upper New York Bay and Gowanus Bay making landfall south of the Lafarge Cement Brooklyn Terminal in New York connecting to the New York Independent Operator electrical grid.

This permit is authorized under, and in compliance with the following Rules on Coastal Zone Management, N.J.A.C. 7:7E-1.1 et seq., specifically: *Finfish migratory pathways* 7:7E-3.5, *Navigation channels* 7:7E-3.7, *Ports* 7:7E-3.11, *Filled waters edge* 7:7E-3.23, *Historic and Archaeological Resources* 7:7E-3.36, *Endangered or threatened wildlife or vegetation species habitats* 7:7E-3.38, *Special urban areas* 7:7E-3.43, *New dredging* 7:7E-4.7, Subchapter 5 and 5A *Impervious and vegetative cover limits*, *Energy facility use rule* 7:7E-7.4, *Dredge material placement on land* 7:7E-7.12, *Marine fish and fisheries* 7:7E-8.2, *Air quality* 7:7E-8.10 and *Public trust rights* 7:7E-8.11.

By issuance of this permit, the State of New Jersey does not relinquish tidelands ownership or claim to any portion of the subject property or adjacent properties. The permittee shall allow an authorized Division representative the right to inspect the construction pursuant to N.J.A.C. 7:7E-1.5(b)4.

Prepared by

Kimberly Kefkuska  
Senior Geologist

THIS PERMIT IS NOT EFFECTIVE AND NO CONSTRUCTION APPROVED BY THIS PERMIT, OR OTHER REGULATED ACTIVITY, MAY BE UNDERTAKEN UNTIL THE APPLICANT HAS SATISFIED ALL PRE-CONSTRUCTION CONDITIONS AS SET FORTH IN THIS PERMIT.

Received or Recorded by County Clerk

This permit is not valid unless authorizing signature appears on the last page.

**STANDARD CONDITIONS:**

1. **Extent of approval:**
  - a. This document grants permission to perform certain activities that are regulated by the State of New Jersey. The approved work is described by the text of this permit and is further detailed by the approved drawings listed herein. All work must conform to the requirements, conditions and limitations of this permit and all approved drawings.
  - b. If you alter the project without prior approval, or expand work beyond the description of this permit, you may be in violation of State law and may be subject to fines and penalties. Approved work may be altered only with the prior written approval of the Department.
  - c. You must keep a copy of this permit and all approved drawings readily available for inspection at the work site.
2. **Acceptance of permit:** If you begin any activity approved by this permit, you thereby accept this document in its entirety, and the responsibility to comply with the terms and conditions. If you do not accept or agree with this document in its entirety, do not begin construction. You are entitled to request an appeal within a limited time as detailed on the attached *Administrative Hearing Request Checklist and Tracking Form*.
3. **Recording with County Clerk:** You must record this permit in the Office of the County Clerk for each county involved in this project. You must also mail or fax a copy of the front page of this permit to the Department showing the received stamp from each County Clerk within 30 days of the issuance date.
4. **Notice of Construction:** You must notify the Department in writing at least 7 days before you begin any work approved by this permit by submitting the attached construction report. The Construction Reports are also available at [www.nj.gov/dep/landuse](http://www.nj.gov/dep/landuse).
5. **Expiration date:** All activities authorized by this permit must be completed by the expiration date shown on the first page unless otherwise extended by the Division. At that time, this permit will automatically become invalid and none of the approved work may begin or continue until a replacement permit is granted. (Some permits may qualify for an extension of the expiration date. Please contact the Department for further information.)
6. **Rights of the State:**
  - a. This permit is revocable and subject to modification by the State with due cause.
  - b. Representatives from the State have the statutory authority to enter and inspect this site to confirm compliance with this permit and may suspend construction or initiate enforcement action if work does not comply with this permit.
  - c. This permit does not grant property rights. The issuance of this permit shall not affect any action by the State on future applications, nor affect the title or ownership of property, nor make the State a party in any suit or question of ownership.
7. **Other responsibilities:** You must obtain all necessary local, Federal and other State approvals before you begin work. All work must be stabilized in accordance with the *Standards for Soil Erosion and Sediment Control in New Jersey*, and all fill material must be free of toxic pollutants in toxic amounts as defined in section 307 of the Federal Act.

**SPECIAL CONDITIONS IN ADDITION TO THE STANDARD CONDITIONS:**

8. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of this permit.

9. Consistency with the Areawide Water Quality Management Plan

The Division of Land Use Regulation has not reviewed this application for consistency with the Areawide Water Quality Management Plan and the issuance of this permit shall not be construed as an approval of any wastewater management plan for this project or site. There shall be no construction of any sewage generating structures unless and until the proposed development has been found to be consistent with the appropriate areawide water quality management plan.

10. Any regulated activities undertaken on the site before a copy of this recorded restriction is submitted to the Department will be considered in violation of the implementing rules and this permit
11. All necessary local, Federal, and other State approvals must be obtained by the applicant prior to the commencement of the herein-permitted activities. Approvals from the following may be required: The US Army Corps of Engineers and the Bureau of Tidelands Management, NJDEP for the proposed project.
12. All sediment barriers and other soil erosion control measures shall be installed prior to commencing any clearing, grading or construction onsite, and shall be maintained in proper working condition throughout the entire duration of the project.
13. In order to protect Shortnose Sturgeon within the Kill Van Kull, Upper New York Bay and Gowanus Bay, no in-water filling, pile-driving, or sediment generating activities are permitted within any watercourse onsite between March 1<sup>st</sup> through June 30<sup>th</sup> of each year. Furthermore, any activity outside a watercourse, which would likely introduce sediment into the watercourse and/or increase its turbidity, is also prohibited during this period. The Department reserves the right to suspend all regulated activities onsite should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition.
14. This area is a documented and suitable habitat for Shortnose Sturgeon, a federally listed endangered species. Therefore, the permittee shall report any new sturgeon sightings to the Endangered and Nongame Species Program, New Jersey Department of Environmental Protection at (609) 292-9400.
15. Mitigation is required for the State open water impacts associated the installation of the electric transmission cables that are located in an existing mitigation area approved under Division file No. 0901-02-0008.6 WFD 060002 on August 2, 2007. Therefore, within 30 days of the issuance of this permit, the permittee must submit a mitigation plan for these impacts to the Division of Land Use Regulation for review and approval. Prior to commencement of any regulated activities authorized by this permit, the Division must approve of the proposed mitigation project in writing. Failure to comply with this condition will subject the permittee to appropriate enforcement action.
16. The drawings hereby approved are seven (7) sheets, prepared by RPMS Consulting Engineers, all dated November 16, 2009, unrevised (unless otherwise noted), collectively entitled, "Bayonne Energy Center, LLC, Bayonne Energy Center Project, Submarine Transmission Cable Plans;"

"Submarine Transmission Cable Route," DRAWING No. 1;

"Upland Cable Route," DRAWING No. 2;

- "New Jersey Landfall," DRAWING No. 3;
- "Submarine Cable Route," DRAWING No. 4;
- "Submarine Cable Route, Landfall Dredge Plan," DRAWING No. 5; and
- "Submarine Cable Route Details," DRAWING No. 6, last revised December 9, 2009.

"CLIENT/PROJECT TITLE, PURE ENERGY RESOURCES DEVELOPMENT, BAYONNE ENERGY CENTER, 401 HOOK ROAD, BAYONNE, NJ 07002, GENERAL ARRANGEMENT SITE PLAN, WORLEYPARSONS DWG. NO. BECP-1-DW-111-002-101," date signed November 16, 2009 and prepared by Worley Parsons.

**PROJECT SPECIFIC DREDGING CONDITIONS:**

17. Within 30 days of permit issuance, the permittee shall submit the following for review and approval:
  - A sampling and analysis plan for the material that will be removed from within the cofferdam.
  - A proposed sampling and analysis plan that will characterize the material in the newly added section of the transmission cable route. As a reference, the plan should be similar to the testing and analysis that was approved in the April 24, 2008, letter to Bryan C. Natale of the ESS Group, Inc.
18. Sediment data from the cofferdam and the transmission route shall be provided to the Office of Dredging and Sediment Technology 1 month prior to the commencement of dredging.
19. Dredging and coffer dam installation is prohibited from February 1<sup>st</sup> to May 31<sup>st</sup> of any given year in order to protect winter flounder early life stages.
20. Dredging of soft, fine-grained material shall be accomplished using a closed clamshell environmental bucket.
21. A closed clamshell environmental bucket shall be used until refusal at which time a clam shell digging bucket or dredge excavator may be used to complete the project.
22. The permittee shall employ the services of an independent dredging inspector to monitor dredging activities twice per week. The permittee shall submit the resume of the dredging inspector to the Department for review and receive written approval prior to the initiation of dredging.
23. The dredge shall be operated so as to control the rate of descent of the bucket so as to maximize the vertical cut of the clamshell bucket while not penetrating the sediment beyond the vertical dimension of the open bucket (i.e. overfilling the bucket). This will reduce the amount of free water in the dredged material, will avoid overfilling the bucket, and minimize the number of dredge bucket cycles needed to complete the dredging contract. The dredging contractor shall use appropriate software and sensors on the dredging equipment to ensure consistent compliance with this condition during the entire dredging operation. The independent dredging inspector shall monitor the operation of the software and sensors during the inspections required by Condition #34 of this authorization. Any malfunction of the software and sensors on the dredge at any time shall be immediately reported to the independent dredging inspector and the permittee by the dredging contractor and shall be immediately repaired to working order.



24. The closed clamshell environmental bucket shall be equipped with sensors to ensure complete closure of the bucket before lifting the bucket. Said sensors shall be operational during the entire dredging operation.
25. Where a closed clamshell environmental bucket is required, it shall be lifted slowly through the water, at a rate of 2 feet per second or less.
26. Dredged material shall be placed deliberately in the barge in order to prevent spillage of material overboard.
27. A "No Barge Overflow" applies to the dredging of Maintenance/Holocene sediments. "Barge Overflow" is permitted for the dredging of Pleistocene sediments only.
28. All barges or scows used to transport sediment shall be of solid hull construction or be sealed with concrete.
29. The gunwales of the dredge scows shall not be rinsed or hosed during dredging except to the extent necessary to ensure the safety of workers maneuvering on the dredge scow.
30. All decant water holding scows shall be water tight and of solid hull construction.
31. Decant water from this project may only be discharged within the Kill Van Kull in close proximity to the dredging contract area. Discharge to another receiving waterbody requires prior approval from the Department, and may require a New Jersey Discharge Pollutant Elimination System/Discharge to Surface Water (NJDPES/DSW) permit.
32. All decant water shall be held in the decant holding scow a minimum of 24 hours after the last addition of water to the decant holding scow. Said water contained in the decant holding scow may only be discharge after this mandatory 24 hour retention time.

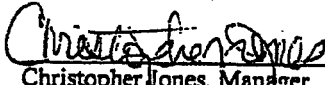
Should the contractor wish to reduce the required holding time, the contractor shall demonstrate that the reduced holding time is sufficient to meet a total suspended solids (TSS) background value of 30 mg/L. This TSS action level is consistent with the ambient TSS results presented in the NY District study entitled "NY and NJ Harbor Deepening Project - Total Suspended Solids (TSS) Monitoring, Interim Report" (January 2006). The total suspended solids shall be determined through gravimetric analysis. No discharge shall be permitted from the decant holding scow until the results of the gravimetric analysis have confirmed that the 30 mg/L background level has been achieved. No additional water shall be added to the decant holding scow between the time of sample acquisition and discharge. Upon successful demonstration that the reduced holding time is sufficient to meet the TSS background level of 30 mg/L, the monitoring of TSS may be suspended and the demonstrated settling time shall replace the 24 hour minimum. A successful demonstration of the reduced holding time efficiency shall be determined once three consecutive TSS analyses have confirmed that the 30 mg/L action level has been achieved by the reduced holding time.

Should the contractor wish to demonstrate this reduced holding time, all records including time of last addition of decant water into the scow, time of TSS sampling and the results of TSS sampling shall be submitted to the NJDEP as soon as they become available, together with a request for a reduced holding time.

33. During pumping of the decant water from the holding scow, great care shall be taken to avoid re-suspending or pumping sediment which has settled in the decant holding scow.
34. The dredging contractor shall complete and submit the attached Dewatering Form to the independent dredging inspector on a weekly basis as part of the Quality Control Report provided to the permittee. Said Dewatering Form shall be certified by the independent dredging inspector that they have witnessed the dewatering process during the preceding week. The permittee shall submit the completed Dewatering Form with appropriate certifications by fax to the Office of Dredging and Sediment Technology for the preceding week.
35. The independent dredging inspector shall perform inspections of the dredging contract a minimum of twice per week using the attached WQC Field Inspector form. The permittee shall submit the completed inspection forms to the NJDEP on at least a weekly basis.
36. REPORTING REQUIREMENTS: At the completion of this contract, the permittee shall submit the following information to the Department. This information shall be submitted within six months of contract completion.
  - Start and finish date of project
  - Post-dredge hydrographic survey
  - Completed "Notice of Completion of Work" attached.

**ACCEPTABLE USE DETERMINATION**

37. The permittee has provided the Department a conditional acceptance letter from Waste Management Grows for the 500 cubic yards of material that will be dredged from within the cofferdam.
38. All trucks used to transport processed dredged material to the above referenced placement sites shall be tarped pursuant to the applicable State DOT requirements or applicable regulatory agency requirements.
39. If the permittee elects to dispose/use the dredged material from this project at an alternate location, written authorization must be obtained from the Office of Dredging and Sediment Technology prior to the transport of any dredged material to said alternate disposal location. Any alternate disposal/use location must obtain all required state, local and federal permits before the Office would grant a modification of this permit to transport dredged material to the alternate location.

  
Christopher Jones, Manager  
Bureau of Urban Growth and Redevelopment

1/12/10  
Date

- C: City of Bayonne Construction Official  
Gary Nickerson, Office of Dredging and Sediment Technology, NJDEP  
Applicant w/ attachments  
AMEC Earth & Environmental attn: Charles Harman w/ attachments



### Coast Guard Sector New York Project Notification Form

Instructions: Type or print clearly and email to [Jeff.M.Yunker@uscg.mil](mailto:Jeff.M.Yunker@uscg.mil) or fax to (718) 354-4190. USCG notification, review and approval will generally take a MINIMUM of 5 business days. Authorization to proceed will not be given until five (5) days after Coast Guard approval is granted. This timeline also applies to any revisions to an approved project. Applicants must plan accordingly. Authorization is granted under the Ports and Waterways Safety Act (33 USC 1225(a)(2)(C)). Violations of required safety measures may subject you to civil penalty proceedings in accordance with 33 CFR 1.07.

#### Notification is required for all projects:

1. Within any charted or Federal Channel, 2. Outside of the Pierhead Line on the East and Hudson Rivers, Upper New York Bay, and The Narrows, 3. Within the highlighted waters of the western Long Island Sound approach to NY Harbor (see attachment). 4. Diving Operations within the VTS AOR (bulkhead / ship inspections, etc and not within any channel) need only be reported to the VTS 15 minutes before beginning and upon completion at 718.354.4088. 5. Side-scan, towed sonar, or other surveys, conducted as per the Inland Navigation Rules, within the VTS AOR need to check in with VTS NY as above. These surveys outside the VTS AOR do not need Coast Guard approval.

Requests for Notice to Mariners outside of these work areas must be faxed to 617.223.8073 or emailed to [LNM@d1.uscg.mil](mailto:LNM@d1.uscg.mil).

#### INLAND NAVIGATION RULES APPLY TO ALL PROJECTS.

Failure to properly notify the Coast Guard WILL result in project delay.

Administrative Point of Contact:			
Address:			
Phone:		Fax:	
Project Location:			
Project Description:			
Start Date:	Finish Date:	Work Days: (M-F, M-Sat, etc.)	Work Hours:
Position of Equipment (detailed physical description):			
Vessels on Scene (Include Vessel name, description, State Registration number):			
24-hr On-Scene Point of Contact:			

Rev: 19 June 2007

## **EXHIBIT C**

**Empire Wind 1  
Case 21-T-0366  
Appendix Z  
Decommissioning Plan Part 2**

**REV1**

**REDACTED**

# **Empire Wind 1 Project Case #21-T-0366**

## **Decommissioning Plan Part 2**

Prepared for:



Empire Offshore Wind LLC  
600 Washington Blvd Suite 800  
Stamford, Connecticut 06901

Prepared by:



10 Post Office Square, Suite 1100  
Boston, MA 02109

**May 2024**

## TABLE OF CONTENTS

1.	INTRODUCTION .....	1
2.	DECOMMISSIONING PROCESS.....	3
2.1	Offshore Decommissioning .....	4
2.1.1	Offshore Decommissioning Alternatives .....	5
3.	DECOMMISSIONING COST ESTIMATES .....	7
3.1	Cost Estimates .....	7
3.2	Assumptions.....	7
3.2.1	General .....	8
3.2.2	Offshore, Submarine Transmission Line Equipment.....	8
4.	FINANCIAL CAPABILITY AND SECURITIES FOR DECOMMISSIONING.....	8
4.1	Applicant's Owners' Experience in Decommissioning.....	8
4.2	Financial Resources and Strength .....	9
4.3	Project-Specific Financial Security Commitments.....	10
4.3.1	Terms and Conditions of the New York State Area Letter of Credit.....	10

## TABLES

Table 2-1. Alternatives Analysis for Offshore Decommissioning Activities.....	6
Table 3-1. Decommissioning Cost Estimates for Offshore Project Components.....	7
Table 4-1. Equinor Credit Rating .....	9
Table 4-2. Equinor Selected Consolidated Financial Data – Balance Sheet and Income Statement.....	9
Table 4-3. Equinor Selected Consolidated Cash Flow Data – Finds from Operations and Debt Issuances.....	9

## ACRONYMS AND ABBREVIATIONS

Applicant	Empire Offshore Wind LLC
BOEM	Bureau of Ocean Energy Management
Certificate	Certificate of Environmental Compatibility and Public Need
Commission	New York State Public Service Commission
Con Edison	Consolidated Edison Company of New York, Inc.
DPS	New York State Department of Public Service
EM&CP	Environmental Management and Construction Plan
Empire	Empire Offshore Wind LLC
EW 1	Empire Wind 1
HDD	horizontal directional drill
HVAC	high-voltage alternating-current
kV	kilovolts
km	kilometers
Lease Area	Renewable Energy Lease Area OCS-A 0512
LICFA	Long Island Commercial Fishing Association
m	meters
mi	miles
nm	nautical miles
NYCDEP	New York City Department of Environmental Protection
NYCDOT	New York City Department of Transportation
NYCSBS	New York City Department of Small Business Services
NYISO	New York Independent System Operator, Inc.
NYS	New York State
NYSDEC	New York State Department of Environmental Conservation
NYSDOS	New York State Department of State
NYSOGS	New York State Office of General Services
NYSPSC	New York State Public Service Commission
POI	Point of Interconnection
Project	Portions of the EW 1 Project transmission system located within the State of New York
PSL	New York State Public Service Law
SBMT	South Brooklyn Marine Terminal



## 1. INTRODUCTION

Empire Offshore Wind LLC (Empire, or the Certificate Holder) proposes to construct and operate the Empire Wind 1 (EW 1) Project as one of two separate offshore wind projects, both to be located within the Bureau of Ocean Energy Management (BOEM) designated Renewable Energy Lease Area OCS-A 0512 (Lease Area). The proposed transmission system for the EW 1 Project will connect the offshore wind farm to the point of interconnection (POI) and will include 230-kilovolt (kV) export and 345-kV interconnection lines traversing a total of approximately 17.5 miles (mi) (15.2 nautical miles [nm] or 28.2 kilometers [km]) within the State of New York. An electric transmission line with a design capacity of 125 kV or more, extending a distance of 1 mile or more, is subject to review and approval by the New York State (NYS) Public Service Commission (Commission or NYSPSC) as a major electric transmission facility. This application was submitted to the Commission pursuant to Article VII of the New York Public Service Law (PSL) for the portions of the EW 1 Project transmission system that are located within the State of New York (collectively, the Project). The Project will interconnect to the New York State Transmission System operated by the New York Independent System Operator, Inc. (NYISO) at the Gowanus 345-kV Substation (the point of interconnection, or POI). The Gowanus 345-kV Substation is owned by the Consolidated Edison Company of New York, Inc. (Con Edison). The Project's onshore facilities, including the onshore cable route, onshore substation, and the POI, are located entirely within Brooklyn, Kings County, New York.

The Article VII components of the EW 1 Project include:

- Two three-core 230-kV high-voltage alternating-current (HVAC) submarine export cables located within an approximately 15.1-nm (27.9-km)-long submarine export cable corridor from the boundary of New York State waters 3 nm (5.6 km) offshore to the cable landfall in Brooklyn, New York.
- A 0.2-mi (0.3-km)-long onshore cable route and substation including:
  - Two three-core 230-kV HVAC EW 1 onshore export cables buried underground from the cable landfall either directly to the cable terminations or to a vault within the onshore substation
  - An onshore substation located at the South Brooklyn Marine Terminal (SBMT), which will increase the voltage to 345 kV for the onshore interconnection cables
  - Two 345-kV cable circuits, each with three single-core HVAC onshore interconnection cables, buried underground from the onshore substation to the POI.

This Decommissioning Plan is included in Part 2A and Part 2B (in-water work) of the Environmental Management and Construction Plan (EM&CP) developed for the Project. The Decommissioning Plan is developed in accordance with the Certificate of Environmental Compatibility and Public Need (Certificate), specifically conditions Z1 and Z2 (copied below). This Decommissioning Plan also addresses commitments made by Empire in its Article VII application (Section 4.1.3.3).

<b>Certificate Condition Z1</b>
---------------------------------

As part of decommissioning, the Certificate Holder shall survey and use best efforts to remove installed cable protection measures that are within 2 ft of the seabed surface.

### **Certificate Condition Z2**

The Certificate Holder shall prepare a Decommissioning Plan, for inclusion in the EM&CP for the applicable Segment. The Certificate Holder shall provide the Decommissioning Plan to the DPS Staff, NYSDEC, NYSOGS, LICFA, NYSDOS NYCDEP, NYCDOT, and NYCSBS at least forty-five (45) days prior to filing the EM&CP for the applicable Segment for review and comment. The Decommissioning Plan shall include: (i) the anticipated life of the Project; (ii) estimates of the decommissioning costs (in current dollars scrap and resale value cannot be used for offsetting decommissioning costs) for each of: (a) that portion of the submarine export cable route from the boundary of New York State territorial waters to the mean high water line (the "New York State Area"); and (b) the onshore facilities; (iii) letters of credit or performance bond with surety will be available for decommissioning and restoration as provided in the Plan; (iv) an analysis of the options for decommissioning the Project, including any cable protection measures used, and restoring the Project Area, including any decommissioning methods and potential impacts to the environment and fishermen for each option; (v) if applicable, how the Certificate Holder will address impacts of leaving any portion of the Project in place, including but not limited to, potential impacts to fishermen, fisheries, and other environmental resources, etc.; and (vi) procedures and timeframes for notifying landowners along the route about decommissioning activities. An outline of the Decommissioning Plan is attached as Appendix K to the Joint Proposal.

- a. The decommissioning estimates contained in the Decommissioning Plan shall be updated based on the as-built Project, to reflect inflation, and any other increases due to labor or other costs, by a qualified independent engineer licensed in the State of New York, after one year of Project operation, and every fifth year thereafter provided that the Certificate Holder may submit an attestation with appropriate justification if there are no material changes to the previously filed decommissioning estimates. Such updates shall be filed (one year after commercial operation date and every fifth year thereafter), with the Secretary to the Commission. Scrap and re-sale value cannot be used for offsetting of decommissioning costs in the required estimate updates. The value of the letters of credit secured for decommissioning purposes shall never be reduced below the initial Decommissioning Cost Estimate.
- b. The Certificate Holder shall work with DPS Staff, and/or the NYSOGS to craft a letter of credit that will establish a right for the Commission and/or NYSOGS to draw on an irrevocable letter of credit in the event of the Certificate Holder's failure to timely decommission the facilities located in the New York State Area and for the State to use such funds to restore that area in accordance with the Decommissioning Plan (the "New York State Area Letter of Credit"). The New York State Area Letter of Credit shall state on its face that it is held by and for the sole benefit of the Commission and/or NYSOGS.

- c. The Certificate Holder shall engage the services of an independent trustee and enter into a Standby Trust Agreement for the administration of the funds from the Letter of Credit. The form of the Standby Trust Agreements shall be included as part of the EM&CP with proof of obtaining the relevant security.
- d. The Letter of Credit shall provide that the beneficiaries thereof may, subject to the cure provisions set forth in Condition Z3, exercise their right to draw on it and enter the Project area and carry out the Decommissioning Plan in accordance with the terms of the Letter of Credit following the occurrence of any of the events set forth in subsection (i) hereof:
  - i. Decommissioning will commence if: (1) the Project's construction has halted for a period of 12 continuous months, unless the 12-month period of inactivity is the result of reasonably unforeseen circumstances, recommencement is being actively pursued in good faith by the Certificate Holder, the period of inactivity is due to a Force Majeure event, or the Certificate Holder otherwise obtains approval from the Commission for such construction inactivity; or (2) after commercial operation of the Project, if the Project has not generated electricity for a period of 12 continuous months, unless the 12-month period of no energy output is due to a Force Majeure event or the result of a repair, restoration, or improvement to an integral part of the Project that affects the generation of electricity and that repair, restoration, or improvement is being actively pursued in good faith by the Certificate Holder, or the Certificate Holder otherwise obtains approval from the Commission for the Project to not generate electricity for such period of time. The Certificate Holder shall file notice with the Secretary within 30 days of becoming aware of any condition which precipitates Certificate Holder's request, if it is anticipated that repairs or completion of construction (or similar) will extend beyond a 12-month inactive period; written notice shall also be provided to: (1) DPS Staff, NYSDEC, NYSDOT, and NYSDOS, and (2) adjoining landowners of planned decommissioning and site restoration activities prior to commencement of those activities.

The commercial lifespan of the EW 1 Project is expected to be 35 years, based on the design life of the Project components. In addition to this Decommissioning Plan prepared for the EM&CP, Empire will prepare a post-operations decommissioning plan near the end of commercial operations. The post-operations plan will be developed based on review of the environmental and socioeconomic factors at the time and will include strategy and methodology that is appropriate at the time. The post-operations plan will be subject to review and approval by BOEM, which will include public comment and agency consultation.

## 2. DECOMMISSIONING PROCESS

The following sections outline the processes for decommissioning the Project components in Part 2A and Part 2B EM&CP based on the present day understanding of available decommissioning approaches. Environmental impacts from decommissioning activities are expected to be similar to those associated with construction of the Project, as detailed within the EM&CP. Additional decommissioning plans will be

included in Part 1 (onshore, below-grade) and Part 3 (onshore, above-grade/ substation) EM&CPs. Prior to commencing the activities and processes described within this Decommissioning Plan, Empire will notify New York State Office of General Services (NYSOGS) of planned decommissioning activities. Notifications will be delivered by mail both 6 months and 2 weeks prior to commencement of decommissioning and will include direction on where to find additional detail on the Decommissioning Plan, activities and potential impacts. In addition to direct mail, notice will also be provided in local news outlets.

The Certificate (Certificate Condition [CC] A10) allows the filing and review of the EM&CP to be segmented to facilitate construction sequencing and scheduling, provided that with its first EM&CP filing, Empire identifies the remaining EM&CP segments of on-land components of the project that do not require other permits. Empire's EM&CP for in-water work is segmented into two parts (each, a "Part") because of the anticipated timeframes to obtain the necessary approvals. Each EM&CP Part will be submitted as the following separate filings to the Department of Public Service (DPS):

- EM&CP Part 2A, which addresses all in-water work activities from the pierhead line (KP 0.6) out to KP 28 (New York State boundary), including submarine cable pre-installation and installation activities, including offshore cable jointing, as well as operations and maintenance (O&M) and decommissioning of the installed project components offshore.
- EM&CP Part 2B, which addresses all in-water work activities from the edge of the bulkhead between 29<sup>th</sup> Street and 35<sup>th</sup> Street out to the pierhead line (KP 0.6), including in-water structure removal and installation, scour protection, dredging, and submarine cable pre-installation and installation activities, onshore cable splicing and pulling, as well as operations and maintenance (O&M) and decommissioning of the installed project components offshore.

This Decommissioning Plan is intended to cover Part 2A and 2B; one letter of credit will be issued to cover the decommissioning costs for both Parts as detailed in Table 2.

## 2.1 Offshore Decommissioning

Per Certificate Condition Z2, for the purpose of this Decommissioning Plan the offshore facilities are defined as that portion of the submarine export cables from the boundary of New York State territorial waters to the mean high water line (the "New York State Area").

The sequence for removal of the cables is anticipated to be as follows:

- Identify cables and/or cable sections to be removed, and confirm said cables have been deenergized, tested for zero energy, grounded and energy sources locked out as necessary.
- Perform UXO survey prior to removal.
- Cable protection may be retrieved by first using mass flow excavation to clear sediment from the cable protection (i.e., concrete mattress, rock bags, or rock berms). Once uncovered, a recovery tool (grab tool) will be used to lift the cable protection and place it on the vessel.

- The buried cables may be retrieved using mass flow excavation or a grapnel to lift them from the seabed. Alternatively, or in addition, it may be necessary to use a remote operating vehicle to cut and/or attach a lifting attachment to the cable so that it can be removed and placed on the vessel.
- The recovery vessel will either 'peel out' the cable as it moves backwards along the cable route while picking it up on the winch or cable engines, or, if the seabed is very stiff, it may first underrun the cable with a suspended sheave block to lift the cable from the seabed. The use of a suspended sheave block could be carried out before by a separate vessel, such as a tug, prior to the recovery vessel 'peeling out' the cable.
- The recovery vessel will either spool the recovered cable into a carousel or chop it into lengths as it is brought onboard.
- The cable will be transported to shore and reused (preferred option), recycled, or disposed of depending on condition of cable.
- The cable removal area will naturally backfill over time. No active backfill is anticipated.

Per Certificate Condition Z1, Empire will also survey and use best efforts to remove installed cable protection measures that are within 2 ft of the seabed surface.

The portion of the submarine export cables where they make landfall at the bulkhead along the shoreline at SBMT will either be removed or cut and decommissioned in place. A decision on which decommissioning method used will be made at the time of decommissioning, based on factors such as the condition of the bulkhead at the time of decommissioning, agreements with the applicable landowner, and future site uses.

If the complete removal of the submarine export cables in New York State is not possible or not selected as the preferred decommissioning method, the cables may be decommissioned and abandoned in place subject to appropriate Agency approval. In such a case, per Certificate Condition Z1, Empire will use best efforts to remove installed cable protection measures that are within 2 ft of the seabed.

### **2.1.1 Offshore Decommissioning Alternatives**

The anticipated treatment of the offshore facilities is described in Section 2.1. Per Certificate Condition Z2, included in Table 1 is an analysis of the potential alternatives, or options, for decommissioning the Project offshore facilities. The analysis includes alternative methods and potential impacts to the environment and fishermen for each option. The alternatives evaluated include decommissioning in place, or removal.

Table 2-1. Alternatives Analysis for Offshore Decommissioning Activities

Remain in Place	Removal
<b>Submarine Export Cables</b>	
<p>Under this alternative the submarine export cables would be decommissioned and remain in place.</p> <p><u>Environmental Impacts:</u> This alternative would avoid disturbance of benthic habitats and turbidity, and temporary impacts, including to the fishing community, from vessel activity on the water. This alternative would have the potential over time for surface exposure of the cables to fishing gear and anchors. The decommissioned cables would be marked on navigation charts. Even if the cables are decommissioned in place, Empire will make best efforts to remove installed cable protection measures that are within 2 ft of the seabed (see below), therefore some bottom disturbance and temporary vessel activity may occur along the Project route.</p>	<p>This alternative would include removing the submarine export cables as described above in Section 2.1.</p> <p><u>Environmental Impacts:</u> The removal process and resulting environmental impacts would be similar to the cable installation process, but in reverse order. Measures to avoid or minimize impacts, including to other mariners and the fishing community, would be similar to those used during cable installation. Once removed, the cables would also be removed from navigation charts.</p>
<b>Cable Protection Measures</b>	
<p>Under this alternative, the installed cable protection measures would remain in place. This alternative would only be implemented if the submarine export cables are also decommissioned and remain in place (see above).</p> <p><u>Environmental Impacts:</u> There would be no environmental impacts under this alternative. Benthic habitats would not be disturbed and there would be no impacts on mariners or the fishing community from temporary vessel activity. The location of cable protection measures would not change from that marked on as-built drawings and navigation charts after the initial installation.</p>	<p>This alternative would include removing the installed cable protection measures that are within 2 ft of the seabed surface. Activities and vessels required for the removal process would be similar to the installation process. Per Certificate Condition Z1, cable protection measures would need to be removed within 2 ft of the seabed surface unless consultation with NYSDEC and NYSDPS indicates leaving them in place would be preferred.</p> <p><u>Environmental Impacts:</u> Environmental impacts from cable protection removal would be similar to the installation process. Removal would result in limited, temporary impacts to sediment, benthic habitat, and fisheries, as well as to mariners and the fishing community from vessel activities. Measures to avoid or minimize impacts, including to other mariners and the fishing community, would be similar to those used during cable installation. Once removed, the cable protection measures would also be removed from navigation charts.</p>

### 3. DECOMMISSIONING COST ESTIMATES

#### 3.1 Cost Estimates

The Project is expected to incur costs for removal and disposal of facilities associated with the offshore components of the Project. The equipment is expected to have scrap value; however, the scrap value is not factored into the cost estimate described in Section 3.

The total cost to decommission the offshore components of the Project in New York at the end of the approximate 35-year operational life (excluding salvage values) are presented in Table 2. Decommissioning cost assumptions are presented in Section 3.2.

Table 3-1. Decommissioning Cost Estimates for Offshore Project Components

Item/Activity/Effort	Total Cost	Part 2A	Part 2B
<b>Offshore Components of the Project</b>			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
<b>OVERALL TOTAL ESTIMATE</b>	[REDACTED]	[REDACTED]	[REDACTED]

**Note:** Costs are presented in USD.

Per Certificate Condition Z2, using a qualified independent engineer licensed in the State of New York, Empire will update the cost estimates included in this plan based on the as-built Project to reflect inflation and any other increases due to labor or other costs. Such updates will be prepared after one year of Project operation, and every fifth year thereafter, provided that Empire may also submit a certification with appropriate justification if there are no material changes to the previously filed decommissioning estimates. Such updates will be filed (one year after commercial operation date and every fifth year thereafter), with the Secretary to the Commission. Scrap and re-sale value cannot be used to offset decommissioning costs in the required estimate updates. The value of the security instrument placed for decommissioning purposes shall never be reduced below the initial Decommissioning Cost Estimate for decommissioning of the applicable facilities.

#### 3.2 Assumptions

In addition to other assumptions noted herein, the following key assumptions were utilized to generate the decommissioning cost estimates presented in Section 3.1.

### 3.2.1 General

- Costs are presented in current (2024) dollars and are based on Equinor's 2024 internal model for decommissioning cost for offshore projects).
- Cost estimates include allowances for project labor.
- Cost estimates include mobilization/demobilization, direct, and indirect costs. Contingency is listed separately.
- Market conditions may result in cost variations at the time of contract execution.

### 3.2.2 Offshore, Submarine Transmission Line Equipment

- At the time of the preparation of the EM&CP, the assumption is that the offshore HVAC submarine export cables will either be fully or partially removed from the seabed or decommissioned in situ. Cable and seabed conditions and impacts to the environment over time, along with other factors, will be reviewed during the life of the Project and at the time of decommissioning to determine the export cable decommissioning approach. In the years prior to the start of decommissioning, surveys and inspection activities may be carried out, such that the findings may be used to inform the preferred approach for decommissioning and detailed decommissioning design studies. Prior to initiation of decommissioning, Empire will consult with the appropriate regulatory agency(ies) to determine if assets should be removed or abandoned in-situ, time of year restrictions associated with potential removal work, proper mariner notification, and other such decommissioning activities.
- As part of decommissioning, Empire will survey and use best efforts to remove the installed cable protection measures that are within 2 ft of the seabed surface. However, if, at the time of decommissioning, after gathering input from the appropriate regulatory agency(ies), it may be agreed that it is in the best interest of New York State to allow any such equipment to remain.
- Unless otherwise required by the relevant city, state, or federal agencies, the portion of the HVAC submarine export cables approaching landfall to the SBMT will be removed and any openings in the bulkhead will be permanently sealed.

## 4. FINANCIAL CAPABILITY AND SECURITIES FOR DECOMMISSIONING

Empire Wind 1 is owned and operated by Equinor, and as such, decommissioning will be financed on-balance sheet by Equinor. Equinor's financial strength will ensure that sufficient funding will be available and that financing issues will not give cause to delays in decommissioning. Additional details on financial strength are provided in the subsequent sections to demonstrate the company's capacity to finance decommissioning activities.

### 4.1 Applicant's Owners' Experience in Decommissioning

Equinor has significant experience in decommissioning offshore infrastructure, including wind projects. For instance, Equinor decommissioned one complete turbine at Havøygavlen wind farm (2008) and subsequently installed a new turbine. Equinor also decommissioned the Utsira onshore wind hydrogen test



plant in 2010, followed by connection of the onshore wind turbine to the open grid. Equinor also has vast experience decommissioning large and complex oil and gas industry projects in the offshore environment.

## 4.2 Financial Resources and Strength

Equinor is a globally renowned and stable energy company that exhibits notable financial strength derived from its diversified operations and strategic initiatives. With a robust balance sheet, Equinor has demonstrated a consistent ability to generate substantial revenue and profit that reflect the financial strength needed to fully execute, own, operate and responsibly decommission large scale energy projects in the ordinary course of its business. Equinor's prudent financial management practices have enabled it to maintain a healthy credit rating and access to capital for future growth. Furthermore, Equinor is a publicly traded company and is actively transitioning towards renewable energy and low-carbon solutions, positioning itself favorably in an evolving energy landscape, which enhances its long-term financial sustainability.

Financial and cash flow data for Equinor is provided in Table 4-1, Table 4-2, and Table 4-3.

Table 4-1. Equinor Credit Rating

Sponsor	S&P	Moody's

Table 4-2. Equinor Selected Consolidated Financial Data – Balance Sheet and Income Statement

Data Source	Millions of Dollars (USD)		
	2023	2022	2021
<b>Balance Sheet Data</b>			
<b>Income Statement Data</b>			

Table 4-3. Equinor Selected Consolidated Cash Flow Data – Finds from Operations and Debt Issuances

Data Source	Millions of Dollars (USD)		
	2023	2022	2021

Data Source	Millions of Dollars (USD)		
	2023	2022	2021
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Equinor is one of the largest offshore wind developers in the United States and is actively developing Empire Wind 1. Once completed, it will produce electricity to power homes in New York and will help generate economic output to New York.

### 4.3 Project-Specific Financial Security Commitments

Per Certificate Condition Z2.b, Empire shall make available a letter of credit, performance bond with surety, or a mutually acceptable method of security, including without limitation a parental company guarantee with a dollar amount covered by Equinor US Holdings Inc. for decommissioning and restoration as provided in the Plan. To the extent a Letter of Credit is proposed for decommissioning security, Empire will work with DPS Staff, New York City, and NYSOGS to craft a letter of credit that will establish a right for NYSOGS and/or an agency or instrumentality of NYC to draw on an irrevocable letter of credit in the event of Empire's failure to timely decommission the facilities located in the New York State Area and restore that area in accordance with this Decommissioning Plan (the "New York State Area Letter of Credit").

Per Certificate Condition Z2.c, Empire will engage the services of an independent trustee and enter into a Standby Trust Agreement for the administration of the funds from the New York State Area Letter of Credit. The Certificate Holder is working on securing the Standby Trust Agreements.

#### 4.3.1 Terms and Conditions of the New York State Area Letter of Credit

Per Certificate Condition Z2.d, to the extent a Letter of Credit is proposed for decommissioning security, the New York State Area Letter of Credit shall provide that the beneficiaries thereof may, subject to the cure provisions set forth in Certificate Condition Z3, exercise their right to draw on it following the occurrence of any of the events set forth below:

- Decommissioning will commence if: (1) the Project's construction has halted for a period of 12 continuous months, unless the 12-month period of inactivity is the result of reasonably unforeseen circumstances, recommencement is being actively pursued in good faith by the Empire, the period of inactivity is due to a Force Majeure event, or Empire otherwise obtains approval from the Commission for such construction inactivity; or (2) after commercial operation of the Project, if the Project has not generated electricity for a period of 12 continuous months, unless the 12-month period of no energy output is due to a Force Majeure event or the result of a repair, restoration, or improvement to an integral part of the Project that affects the generation of electricity and that repair, restoration, or improvement is being actively pursued in good faith by Empire, or Empire otherwise obtains approval from the Commission for the Project to not generate electricity for such period of time. Empire shall file notice with the Secretary if it is anticipated that repairs or completion of construction (or similar) will extend beyond a 12-month inactive period; written

notice shall also be provided to: (1) DPS Staff, NYSDEC, NYSDOT, and NYSDOS, and (2) and adjoining landowners of planned decommissioning and site restoration activities prior to commencement of those activities.



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES

WA Harriman State Campus  
Albany, N Y 12227  
(518) 474-5711

RP27-SAU

Dated  
February 28, 2025

**NOTICE OF TENTATIVE SPECIAL FRANCHISE FULL VALUE**  
For New York City assessment roll to be filed in 2025

Bayonne Energy Center LLC 110000  
C/O Ellen Allman, Director, Asset Managemen  
401 Hook Road  
Bayonne, NJ 07002

Hearing Date and Location:  
April 03, 2025 at 10:00 am  
CR 125, Bldg 9, 1st Floor  
WA Harriman State Campus  
Albany, New York

The State Office of Real Property Tax Services has determined the tentative special franchise full values for the following assessing unit(s) at the amounts shown below. The full values were determined in accordance with Article 6 of the Real Property Tax Law and Part 8197 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The full values include both the value of the tangible property situated in, upon, under or above public streets, highways, waters and other public places and the value of the franchise, right, authority or permission to occupy such public streets, highways, waters and other public places.

The State Office or its duly authorized representative will conduct a hearing in its office in the City of Albany on the day indicated above as the "Hearing Date" to hear any complaints concerning such full values. Complaints must be filed in accordance with the procedure provided in Section 610 of the Real Property Tax Law. In order for a complaint to be considered by the State Office, a complainant must:

- (1) Specify its objections to the tentative special franchise full values on Form RP-7141 available from the Office of Real Property Tax Services.
- (2) Serve its complaint to the State Office at least ten (10) days prior to the hearing date. Service may be made in person or by mail.
- (3) Serve a copy of the complaint upon the appropriate assessing unit(s).
- (4) File with the State Office, at least five (5) days prior to the hearing date, an affidavit stating in substance that the copy required in step 3 above has been served.

	Full Value Number	Full Value Tentative	Pct Change From Prior Roll
Borough of Brooklyn, Kings County	110000-6101	\$71,947,865	7.6

David Ange  
Real Property Services Administrator 2

Note: The amounts of the special franchise full values set forth in this notice are "tentative" and must not be entered on the assessment roll. The final full values for entry on the assessment roll will be transmitted at a later date.



## RESOLUTION 25-22

**WHEREAS**, the State Board of Real Property Tax Services has the power to determine the final special franchise full value or assessment for which a complaint has been filed pursuant to section 614 of the Real Property Tax Law; and

**WHEREAS**, on February 28, 2025, the tentative special franchise full values for Consolidated Edison Company were determined by the Office of Real Property Tax Services (ORPTS); and

**WHEREAS**, pursuant to section 608 of the Real Property Tax Law notices of the tentative special franchise full values and the scheduled hearing dates were duly mailed on February 28, 2025

**WHEREAS**, complaints (#SF-25-46), dated March 24, 2025 were filed by Consolidated Edison Company as specified in section 610 of the Real Property Tax Law and 20 NYCRR 8197-4.2; and

**WHEREAS**, hearings pursuant to section 612 of the Real Property Tax Law and 20 NYCRR 8197-4.2 were held with regard to the complaints on April 03, 2025; and

**WHEREAS**, appearances on behalf of Consolidated Edison Company were not made at the April 03, 2025 hearing; and

**WHEREAS**, the Hearing Officer has filed reports dated April 29, 2025; and

**WHEREAS**, ORPTS staff has reviewed the complaints, filed a report regarding such review and has made recommendations. The results of the review are summarized in the memorandum to the State Board, Agenda Item II, dated May 16, 2025; and

**WHEREAS**, the State Board has reviewed the abovementioned staff reports and recommendations and accepts the factual conclusions and recommendations contained therein; now therefore, be it

25-22

-2-

**RESOLVED**, that the State Board hereby adopts staff's factual conclusions and recommendations as Findings and Determinations of the State Board, to the same extent as if fully set forth herein; and, be it further

**RESOLVED**, that the State Board concludes that the final 2025 final special franchise full values as set forth in List No. SF-25-46, on file in the ORPTS, are determined to be the final full values, and that such full values be certified to the affected municipalities to be used as the special franchise full values on the respective 2025 assessment roll.

Voting in favor:

Voting against:

Abstaining:

Absent:

STATE OF NEW YORK    )  
                                      ) ss:  
COUNTY OF ALBANY    )

I, Rachel Ingalsbe, Acting Secretary of the State Board of Real Property Tax Services, do hereby certify that the foregoing is a true copy, and the whole thereof, of a resolution duly adopted by the State Board on June 04, 2025.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed the official seal of said Board of Real Property Tax Services this 4<sup>th</sup> day of June 2025.

---

Rachel Ingalsbe, Director of the Office of Real  
Property Tax Services

LAW OFFICES

**PODELL, SCHWARTZ, SCHECHTER & BANFIELD, LLP**

605 THIRD AVENUE  
NEW YORK, NY 10158

(212) 883-6500  
FAX: (212) 883-6518  
WWW.PSSB-LAW.COM

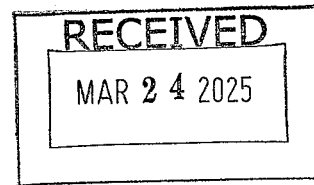
SENIOR COUNSEL  
ALLAN C. SCHWARTZ

COUNSEL  
JAY ARTHUR GOLDBERG  
DARA IRYAMI

March 21, 2025

**BY FEDERAL EXPRESS**

NYS Tax Department  
ORPTS – EXEC  
W.A. Harriman Campus  
Albany, NY 12227-0801



Re: Consolidated Edison Company of New York, Inc.  
Complaint on Tentative Special Franchise Full Values  
For the Year 2025

To Whom It May Concern:

Enclosed are three copies of Consolidated Edison's Complaint on Tentative Special Franchise Full Values For the Year 2025.

Please note that proof of service of the Complaint on the City of New York will be submitted under separate cover.

Thank you for your attention.

Please contact me if you have any questions or need additional information.

Very truly yours,

PODELL, SCHWARTZ, SCHECHTER &  
BANFIELD LLP

A handwritten signature in black ink, appearing to read "Gary Schuller".

By: Gary Schuller

Enc.

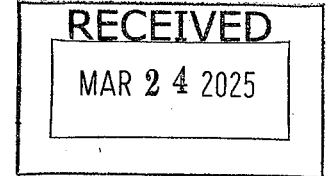


**New York State Department of Taxation and Finance  
Office of Real Property Tax Services  
Complaint on Tentative Special Franchise Full Values  
for the year 2025**

*All relevant parts of the complaint form must be completed. Submit any additional documentation which supports your complaint. Serve an original and two copies of this complaint on the Commissioner and one copy on each adverse party. Service may be made in person or by mail.*

DO NOT WRITE IN THIS SPACE FOR ORPTS USE ONLY	
Complaint Number <b>SF-25-46</b>	Hearing Date <b>04/03/25</b>

**PART ONE: GENERAL INFORMATION**



**1. Special Franchise Owners: Complete this section.**

**a. Complainant Information**

Consolidated Edison Company of New York, Inc.

Company Name

4 Irving Place, New York, NY 10003

Street Address, City, State, Zip

(212 ) 460-4682

(212 ) 534-4086

Telephone Number

Fax Number

**b. List of Assessing Units and Company's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>County Name(s)</u>	<u>Assessing Unit(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Company's Estimate of Full Value</u>
	SEE	ATTACHED	

**2. Assessing Units: Complete this section.**

**a. Complainant Information**

Assessing Unit Name

Street Address, City, State, Zip

( )

( )

Telephone Number

Fax Number

**b. List of Companies and Assessing Unit's Estimates of Full Value (Attach additional sheets, if needed.)**

<u>Company Name(s)</u>	<u>ORPTS Tentative Full Value</u>	<u>Assessing Unit's Estimate of Full Value</u>



**PART ONE: GENERAL INFORMATION (Cont.)****3. Designation of Representative (Optional)**

I, STEPHANIE MERRITT on behalf of complainant, hereby designate  
Gary Schuller (see below) to act as my representative in any and all proceedings for  
 purposes of reviewing the tentative special franchise full value(s) for the year 2025.

3/19/25

Date

Stephanie J. Merritt  
 Signature of Complainant

Name, Address and Telephone Number of Representative:

Podell, Schwartz, Schechter & Banfield LLP

Contact Person and Title

605 Third Avenue, 18th Floor, New York, NY 10158

Street Address, City, State, Zip

(212 ) 883-6500 x215

Telephone Number

(212 ) 883-6518

Fax Number

**4. Service on Adverse Party (Check one)**

A copy of the complaint form and any supporting documentation must be served on each adverse party.

Have you attached the affidavit of service? ☐ Yes ☒ No

If no, the affidavit of service must be filed with the Assistant to the State Board at least five (5) days prior to the hearing date.

**PART TWO: GROUNDS FOR COMPLAINT**  
*(Check one or more)*

☒ **A. Improper Full Value**

Full value of property is erroneous.

☒ **B. Unlawful Full Value**

1. Tangible property included in value is not special franchise property.
2. Tangible property is owned by a municipal corporation.
3. Value includes property that is exempt.

**PART THREE: INFORMATION NECESSARY TO DETERMINE  
SPECIAL FRANCHISE FULL VALUE OF PROPERTY**  
*(Check and complete one or more)*

You must provide information to support the value of property claimed in Part One, section 1.b. for special franchise owners, or, section 2.b. for assessing units. You must supply facts, figures, calculations and underlying assumptions that support your position.

☐ **1. Inventory**

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

☒ **2. Valuation**  
See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

☒ **3. Other**  
See Attached

*(If additional explanation or documentation is necessary, please attach - # of attached pages \_\_\_\_.)*

**PART FOUR: CERTIFICATION**

I certify that I have read the foregoing complaint and know the contents thereof, that the facts stated therein are true and correct to the best of my knowledge, information and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false statements.

3/19/25

Date

Stephanie J. Meritt

Signature and Title

**Clear Form**

This complaint form and supporting documentation must be mailed/served at least ten (10) days before the hearing date to:

NYS TAX DEPARTMENT  
ORPTS - EXEC  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0801

Please refer to the "Notice of Tentative Special Franchise Full Values" which specifies the complaint submission deadline. Specific supporting documentation must be provided in accordance with §610 of the Real Property Tax Law. A copy of the complaint form and documentation must be served on each adverse party. An affidavit of this service must be filed with the Commissioner at the above address no later than five (5) days before the hearing date.

**Form RP-7141  
2025**

**PART ONE**

**1.b.**

<b>County Name(s)</b>	<b>Assessing Unit(s)</b>	<b>Full Value Number</b>	<b>ORPTS Tentative Full Value</b>	<b>Company's Estimate of Full Value</b>
Bronx	City of New York	110701-6001	\$4,552,653,212	\$2,275,000,000
Kings	City of New York	110701-6101	\$7,362,503,847	\$3,650,000,000
New York	City of New York	110701-6201	\$12,903,809,327	\$6,450,000,000
Queens	City of New York	110701-6301	\$6,971,569,139	\$3,480,000,000
Richmond	City of New York	110701-6401	\$1,914,310,493	\$950,000,000

**Form RP-7141  
2025**

**PART ONE**

**1.b.**

<b>County Name(s)</b>	<b>Assessing Unit(s)</b>	<b>Full Value Number</b>	<b>ORPTS Tentative Full Value</b>	<b>Company's Estimate of Full Value</b>
Bronx	City of New York	110702-6001	\$2,659,237,005	\$1,300,000,000
New York	City of New York	110702-6201	\$3,385,716,532	\$1,650,000,000
Queens	City of New York	110702-6301	\$2,031,523,700	\$1,000,000,000
Richmond	City of New York	110702-6401	\$139,515	\$50,000

Form RP-7141  
2025

PART ONE

1.b.

County Name(s)	Assessing Unit(s)	Full Value	ORPTS Tentative Full Value	Company's Estimate of Full Value
New York	City of New York	110703-6201	\$1,135,317,904	\$550,000,000

Attachment to Form RP-7174 (2025)

For the reasons stated in petitions filed with the Supreme Court, Albany County (see e.g. Index No. 907759-23), Complainant believes the tentative full values are excessive and illegal in that, among other things, they do not reflect the full extent of the depreciation, including economic obsolescence, from which the property suffers, and they include the value of property not owned by Complainant.

Also, enactment of the Climate Leadership and Community Protection Act (L. 2019 ch. 106) and New York City Local Law 97 of 2019 evince a long-term government effort to restrict the sale and use of fossil fuel forms of energy imposing significant additional external obsolescence on Complainant's special franchise property.



OFFICE OF COUNSEL

## Memorandum

DATE: February 19, 2025

TO: State Board of Real Property Tax Services

FROM: Hearing Officer Maria Matos

SUBJECT: January 16, 2025, Hearing scheduled for Tentative Special Franchise Full Values for assessment roll to be filed in 2025

### Introduction

I was designated Hearing Officer for a hearing scheduled on January 16, 2025, regarding certain tentative special franchise full values and assessments for the 2025 assessment roll. This report addresses complaint numbers SF-25-01 and SF-25-02 filed on behalf of Liberty Utilities, formerly known as New York American Water Company, Inc. a/k/a New York Water Service Corporation, Long Island Water Corporation and Aqua New York of Sea Cliff, Inc. (“Liberty”), SF-25-04 filed by SLIC Network Solutions, Inc (“Slic”), and the following complaints: SF-25-05 by Cablevision of Ossining, SF-25-06 by Suffolk Cable of Shelter Island, SF-25-07 by CSC Acquisition MA, SF-25-08 by Cblvsn. System, L.I. Corp., SF-25-09 by Cblvsn. System, L.I. Corp., SF-25-10 by Cablevision of Rockland/Ramapo, SF-25-11 by Cblvsn System Great Neck Corp., and SF-25-12 Cblvsn System Great Neck Corp. Complaints SF-25-05 through SF-25-12 are Cablevision subsidiaries and/or affiliates and are referenced herein as the “Cablevision complainants”.

While complaint number SF-25-03 filed by Corning Natural Gas Corporation (“Corning”), was originally scheduled for January 16, 2025, the complaint was moved to hearing date January 30, 2025.

In complaint SF-25-01 Liberty objects to the tentative special franchise full value (assessment numbers 240800-2824; 206300-532201; 206300-535001; 227600-282023; 227600-282025 as determined by the Office of Real Property Tax Services of the New York



State Department of Taxation and Finance (“ORPTS”) and set forth in its notices dated December 5, 2024.

In complaint SF-25-02, Liberty objects to the tentative special franchise full value (assessment numbers 240800-282243; 240800-282415; 227600-282003; 227600-282005; 227600-282021; 227600-282027; 227600-282035; 232100-282417 as determined by the Office of Real Property Tax Services of the New York State Department of Taxation and Finance (“ORPTS”) and set forth in its notices dated December 5, 2024.

In complaint SF-25-04, Slic objects to the tentative special franchise full value (assessment number 701360-2218, as determined by ORPTS and set forth in its notice dated December 10, 2024.

The Cablevision Complainants referenced in complaints SF-25-05 through SF-25-12 failed to provide copies of the Notices of Tentative Special Franchise Full Value that its various subsidiaries and/or affiliates are challenging.

### **Appearances**

Complaints SF-25-01 and SF-25-02 were filed on behalf of Liberty by Cullen and Dykman, LLP (Robert J. Sorge, Karen I. Levin and Michael G. Hrankiowskyj). No appearances were made although proper service of the complaints was effected.

Hodgson Russ, LLP (“Ingram firm”) by Henry A. Zomerfeld, Esq., who appeared at the hearing, filed complaint SF-25-04 on behalf of Slic.

Cyavash Ahmadi, who appeared at the hearing, filed complaints SF-25-05 through and including SF-25-12 for the Cablevision Complainants. Also, appearing for Cablevision were Cablevision employees Diane Cates, John Lambana, Laura La Neve and David Prebut. However, other than the arguments elicited by Mr. Ahmadi and Ms. Cates, none of the parties testified on behalf of Cablevision.

Tobias Lake appeared on behalf of the New York State Department of Taxation and Finance. Also present were Office of Real Property Tax Services of the New York State Department of Taxation and Finance employees Daria Scholten, Margaret Owens, Katie Mastroianni, Mary Malaty, Swetha Khatokar, Rebecca Bellard, Dave Ange and Erica Foley. Other than arguments elicited by Mr. Lake and Ms. Bellard, no one testified on behalf of the Department.

### **Hearing**

During the hearing held on January 16, 2025, the Department agreed that it would rescind its assessed value for the assessed property referenced in complaint SF-25-

04, commenced by Slic.

Mr. Ahmadi and Ms. Cates argued on behalf of the Cablevision Complainants in complaints SF-25-05 through SF-25-12 that most of the assessed properties were aerial built and the assessment was overly excessive in relation to Cablevision's actual costs. Also, Cablevision argued that there were costs that should have been deducted from the assessment, including embedded software costs that should be excluded from the total costs per mile, because they are custom embedded software. Cablevision also argued that intangible costs and fiber or cable plant that are not physically present any longer should be deducted as well as depreciation.

### **Standards of Review and Law**

Pursuant to 20 NYCRR §8197-4.2(a), either an owner of special franchise property or an assessing unit in which special franchise property is located may obtain administrative review of a tentative assessment or full value of such property by serving a complaint as specified in Real Property Tax Law § 610. However, if such a complaint is not supported by documentation or is otherwise inconsistent with the requirements of the section, the Tax Commissioner will recommend to the State Board of Real Property Tax Services (the "State Board") that the tentative special franchise assessments or full values be established as final. Moreover, each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted. 20 NYCRR 8197-4.2(b)(1). Additionally, there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint. 20 NYCRR 8197-4.2(b)(2).

The hearing resulting from a complaint shall not constitute an adjudicatory proceeding subject to Article 3 of the State Administrative Procedure Act. 20 NYCRR 8197-4.2(c)(1). The Tax Commissioner's designee as hearing officer shall rule on any procedural matters arising at the hearing and shall report to the State Board on these matters and any legal issues raised in any complaint. *Id.*

Special franchise property is 'specialty' property, and reproduction cost new less depreciation ("RCNLD") is a proper valuation methodology for specialty property. Moreover, the valuation methodology for special franchises, as set forth in the Rules for Real Property Tax Administration, has been judicially approved (Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, 65 N.Y.2d 472, 482 N.E.2d 77, 492 N.Y.S.2d 598 (1985), *cert. den.* 475 U.S. 1082, 106 S.Ct. 1461, 89 L.Ed.2d 718 (1986); National Fuel Gas Distribution Corp. v. SBEA, 117 A.D.2d 948, 499 N.Y.S.2d 260 (3d Dept. 1986)).

An assessor's judgment as to value is presumed to be correct and a complainant bears

the burden of proof to show that the judgment was incorrect (People ex rel. Jamaica Water Supply Co. v. State Board of Tax Commissioners, 196 N.Y. 39, 53, 89 N.E. 581 [1909]). A petitioner challenging the accuracy of a tax valuation has the initial burden to rebut the presumption that the assessor's valuation is correct by introducing substantial evidence that the property was overvalued (see Matter of Bass v. Tax Commn. of City of N.Y., 179 A.D.2d 387, 578 N.Y.S.2d 158 [1st Dept.1992]; the presumption of validity of an assessment by the taxing authority is rebutted where credible evidence to the contrary is received; see Matter of FMC Corp., 92 N.Y.2d 179, 188, 677 N.Y.S.2d 269, 699 N.E.2d 893 [a "petitioner (must) demonstrate the existence of a valid and credible dispute regarding valuation"]; see also Matter of Alexander's Dept. Store of Val. Stream v. Board of Assessors, 227 A.D.2d 549, 550, 642 N.Y.S.2d 940 [2d Dept.1996]).

As noted in Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 (2013):

"In the context of tax assessment cases, the 'substantial evidence' standard merely requires that petitioner demonstrate the existence of a valid and credible dispute regarding valuation" (Thomas, 96 A.D.3d at 1413, 946 N.Y.S.2d 336, quoting FMC Corp. /Peroxygen Chems. Div., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893; see East Med. Ctr., L.P., 16 A.D.3d at 1120, 791 N.Y.S.2d 778). In such a proceeding, "substantial evidence will most often consist of a detailed, competent appraisal based on standard, accepted appraisal techniques and prepared by a qualified appraiser" (Matter of Niagara Mohawk Power Corp. v. Assessor of Town of Geddes, 92 N.Y.2d 192, 196, 677 N.Y.S.2d 275, 699 N.E.2d 899)."

Where the taxpayer successfully meets its burden and rebuts the presumption that the assessing authority's valuation is correct, a court must then "weigh the entire record, including evidence of claimed deficiencies in the assessment, to determine whether petitioner has established by a preponderance of the evidence that its property has been overvalued" (Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893); Roth v. City of Syracuse, 21 N.Y.3d 411, 995 N.E.2d 123 [2013]; see also Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 [2013], *supra*). The term "preponderance of the evidence" means that "upon all the evidence [considered]... the facts asserted by the [taxpayer] are more probably true than false." (Nissho-Iwai Co., Ltd. v. M/T Stolt Lion, 719 F.2d 34, 38, 1984 A.M.C. 2611 (2d Cir. 1983); see also U.S. v. Fatico, 458 F. Supp. 388, 403, 3 Fed. R. Evid. Serv. 391 (E.D. N.Y. 1978), *judgment aff'd*, 603 F.2d 1053 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073, 100 S.Ct. 1018, 62 L.Ed.2d 755 (1980)). It should be noted that a complainant who claims a factual basis for objection but fails to provide substantiating evidence does not warrant a reduction in his or her assessment (People ex rel. Buffalo R.P. Ry Co. v. Carmichael, 64 Misc. 271, 118 N.Y.S. 354 [Sup. Ct. Erie Co. 1909], *aff'd*. 139 App. Div. 925, 125 N.Y.S. 1151 [4th Dept. 1920]).

Assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit (see Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment, 73 AD2d 31, 36, affd 53 NY2d 975) and any claimed constitutional violations should be asserted in a CPLR article 78 proceeding (see Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors, 197 AD2d 620, 622, lv denied 83 NY2d 759); Consol. Edison Co. of New York Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d 8, 10, 690 N.Y.S.2d 755 [1999]). Pursuant to RPTL § 744(1), evidence on the issue of whether a special franchise assessment is unequal shall be limited to the state equalization rate or special equalization rate used in determining the final special franchise assessment under review, and such equalization rate or special equalization rate shall be binding and conclusive on the parties upon any such issue.

### **Liberty complaints (SF-24-03 and SF-24-04):**

#### **Allegations**

In 2024, I reported on Complaints SF-24-03 and SF-24-04 which were brought on behalf of Liberty in connection with a hearing scheduled on March 28, 2024. Prior to that, in 2023, I reported on Complaints SF-23-01 and SF-23-02 filed on behalf of Liberty Utilities in connection with a hearing scheduled on January 12, 2023. Before then, in 2022, I reported on Complaints SF-22-06 and SF-22-07 which Liberty filed in connection with hearings scheduled on March 24, 2022. Complaints SF-25-01 and SF-25-02 are substantially identical to Complaints SF-24-03, SF-24-04, SF-23-01, SF-23-02, SF-22-06 and SF-22-07, differing only with respect to the tentative full values or assessments challenged.

Complaints SF-25-01 and SF-25-02 include allegations by Liberty that ORPTS: (1) misapplied the RCNLD methodology resulting in excessive assessment; (2) incorrectly and inappropriately applied a third-party index to trend original book costs resulting in overvaluation of the special franchise property; (3) deducted an insufficient sum for physical depreciation; (4) deducted an insufficient sum for economic (external) obsolescence; (5) deducted an insufficient sum for functional obsolescence; (6) failed to recognize the underutilization of Liberty's property; (7) failed to adequately recognize functional obsolescence of Liberty's special franchise property; (8) instead of using the original cost of the asset, used a "random" RCN depreciation floor for water machinery and equipment without an appraisal basis for the use; (9) inappropriately applied salvage factors in determining value of Liberty's special franchise property; (10) applied the wrong percentage adjustment to its assets; (11) arbitrarily, capriciously, improperly and unlawfully fixed and determined the assessment of the special franchise property in a discriminatory and unwarranted manner resulting in excessive and confiscatory amount at a sum in excess of its assessment; (12) violated the state and federal constitutions' equal protection clauses in

its alleged disparate treatment of complainant; and (13) denied Liberty substantive due process under the state and federal constitutions.

### **Analysis**

ORPTS' judgment as to the tentative full values or assessments are presumed correct. (People ex rel. Jamaica Water Supply Co. v. State Board of Tax Commissioners, 196 N.Y. at 53. Liberty has the initial burden to rebut the presumption that ORPTS' valuation is correct by introducing substantial evidence that the property was overvalued (see Matter of Bass v. Tax Commn. of City of N.Y., 179 A.D.2d at 387. Liberty has failed to rebut the presumption of validity.

In support of its complaints, Liberty included the same exhibits that it used in support of its previous years' complaints, namely a memorandum by Paul Normand of Management Applications Consulting, Inc. ("Consulting Co."), dated April 13, 2023, referencing a "Depreciation Study @ 12/31/2021" ("Memo"). According to the Memo, the Consulting Co. was asked to review Liberty's records and prepare an analysis of the "appropriate net salvage value for the mains account." The Memo refers to the analysis in its assertion that there has been an increase in negative salvage value with respect to both the mains and is much more negative than the salvage parameters used by ORPTS.

While Liberty provided in its complaint an estimate of full value for each assessing unit, as called for on the complaint form and as required by 20 NYCRR 8197-4.2(b)(1) and 20 NYCRR 8197-4.2(b)(2), it is insufficient to rebut the presumption that ORPTS' valuation is correct. Liberty has failed to provide specific documentation to support its opinions of value or an explanation of how those opinions may be derived from the documentation it submitted. Significantly, the documentation that Liberty submitted in support of its complaints is not specific to any of the challenged tentative assessments or full values. Liberty failed to introduce substantial evidence that the special franchise property was overvalued. It is not enough for Liberty to simply assert that each tentative assessment or full value must be divided by a specific fraction because it believes ORPTS is generally allowing insufficient physical depreciation in the form of negative salvage percentages for its water mains and hydrants and for economic obsolescence of its systems as wholes, and inappropriately employing a depreciation floor below which further physical depreciation is not allowed. Moreover, Liberty's claim that ORPTS' application of RCNLD methodology is flawed as it is well settled that special franchise property is 'specialty' property, and RCNLD is a proper valuation methodology for specialty property, Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, supra. Accordingly, Complaints SF-25-01 and SF-25-02 are rejected.

Moreover, this hearing is not the proper forum for Liberty's constitutional claims since assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its

full value than other properties within the same taxing unit (see, Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment, 73 AD2d at 36) and any claimed constitutional violations should be asserted in a CPLR article 78 proceeding (see, Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors, 197 AD2d at 622; Consol. Edison Co. of New York Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d at 10). Furthermore, Liberty has not provided any evidence in support of its claims.

**Slic complaint SF-25-04:**

**Allegations:**

As previously stated, ORPTS agrees that it would rescind its assessed value for the assessed property referenced in complaint SF-25-04 because the special property that ORPTS was assessing has not yet been constructed. Consequently, Slic's complaint should be granted.

**Cablevision's complaints SF-25-05 through and including SF-25-12**

**Allegations:**

In each of the referenced identical complaints, the Cablevision Complainants allege that ORPTS overstated the value of its fiber optic cable by using a cost of \$50,000 per fiber mile when its average actual cost per fiber mile of inventory is \$19,000 multiplied by the number of miles of a new build in the assessing units. The Cablevision Complainants also assert that its estimate includes a reduction in overall value for dark fiber and/or assets that are no longer in service and further excludes the value of software and/or other intangibles. The Complainants' proposed value is based on \$19,000 per mile of fiber optic cable, multiplied by the relevant number of miles, with an 8% yearly depreciation.

Cablevision failed to meet its burden of rebutting the presumption that ORPTS' valuation was correct. The Cablevision Complaints are not supported by documentation and are otherwise inconsistent with the requirements specified in Real Property Tax Law § 610. Indeed, the Cablevision Complainants failed to, at a minimum, attach copies of the Notices of Tentative Special Franchise Full Value that are the subject of their complaints. Importantly, the Cablevision Complainants failed to provide any legal basis for ignoring a long line of case law approving ORPTS' valuation methodology for special franchises (Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, 65 N.Y.2d 472, 482 N.E.2d 77, 492 N.Y.S.2d 598 (1985), *cert. den.* 475 U.S. 1082, 106 S.Ct. 1461, 89 L.Ed.2d 718 (1986); National Fuel Gas Distribution Corp. v. SBEA, 117 A.D.2d 948, 499 N.Y.S.2d 260 (3d Dept. 1986)). Each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of value, and an explanation of how that opinion is derived from the

documentation submitted. 20 NYCRR 8197-4.2(b)(1). Additionally, there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint. 20 NYCRR 8197-4.2(b)(2). The Cablevision Complainants failed to provide any support for their purported valuation. Indeed, the Cablevision Complainants failed to submit any support for the proposition that the actual cost of the special franchise property should be applied or that an 8 percent depreciation of its property should be applied.

Moreover, the Cablevision Complainants request for additional time to provide an opinion of the proper value of its special franchise should be denied as contrary to RPTL §610, requiring that, each complaint provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted. 20 NYCRR 8197-4.2(b)(1). Additionally, there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint. 20 NYCRR 8197-4.2(b)(2).

## **Conclusion**

Based on the foregoing, except as to Complainant Slic whose complaint should be granted as indicated above, I find no legal basis upon which to recommend changes to the tentative special franchise full values at issue herein. There were no procedural matters upon which to report.



## Department of Taxation and Finance

OFFICE OF COUNSEL

### **Memorandum**

March 28, 2025

TO: State Board of Real Property Tax Services

FROM: Hearing Officer Bruce Lennard

SUBJECT: Report on Complaint SF-25-03 filed on Tentative Special Franchise Full Values for the Year 2025

### **Introduction**

I was designated as the Hearing Officer for a hearing held on January 30, 2025, to hear complaints on certain Notices of Tentative Special Franchise Full Values to be filed in 2025. This report addresses Complaint SF-25-03 filed by Corning Natural Gas Corporation (hereinafter, “Corning”). Service of the complaint appears to have been affected on each adverse party.

Complaint SF-25-03 objects to tentative special franchise full value 111900-4603 of Corning’s tangible property situated in, upon, under or above public streets, highways, waters and other public places in the City of Corning, Steuben County, and of Corning’s franchise, right, authority or permission to occupy such places, as determined by the Office of Real Property Tax Services of the New York State Department of Taxation and Finance (“ORPTS”) and set forth in its corresponding Notice of Tentative Special Franchise Full Value, dated December 10, 2024.

### **Standards of Review and Law**

Per 20 NYCRR 8197-4.2(a), a complainant, either an owner of special franchise property or an assessing unit in which special franchise property is located, may obtain administrative review of a tentative assessment or full value of such property by serving a complaint as specified in Real Property Tax Law § 610. However, if such a complaint is not supported by documentation or is otherwise inconsistent with the requirements of this section, the Tax Commissioner will recommend to the State Board of Real Property Tax Services (the “State Board”) that the tentative special franchise assessments or full values be established as final. Moreover, per 20 NYCRR 8197-4.2(b)(1), each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of



value, and an explanation of how that opinion is derived from the documentation submitted. Additionally, per 20 NYCRR 8197-4.2(b)(2), there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint.

Per 20 NYCRR 8197-4.2(c)(1), the hearing resulting from a complaint shall not constitute an adjudicatory proceeding subject to Article 3 of the State Administrative Procedure Act. The Tax Commissioner's designee as hearing officer shall rule on any procedural matters arising at the hearing and shall report to the State Board on these matters and any legal issues raised in any complaint.

Special franchise property is 'specialty' property, and reproduction cost new less depreciation ("RCNLD") is a proper valuation methodology for specialty property. Moreover, the valuation methodology for special franchises, as set forth in the Rules for Real Property Tax Administration, has been judicially approved (Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, 65 N.Y.2d 472, 482 N.E.2d 77, 492 N.Y.S.2d 598 (1985), *cert. den.* 475 U.S. 1082, 106 S.Ct. 1461, 89 L.Ed.2d 718 (1986); National Fuel Gas Distribution Corp. v. SBEA, 117 A.D.2d 948, 499 N.Y.S.2d 260 (3d Dept. 1986)).

An assessor's judgment as to value is presumed to be correct and a complainant bears the burden of proof to show that the judgment was incorrect (People ex rel. Jamaica Water Supply Co. v. State Board of Tax Commissioners, 196 N.Y. 39, 53, 89 N.E. 581 (Court of Appeals 1909)). A petitioner challenging the accuracy of a tax valuation has the initial burden to rebut the presumption that the assessor's valuation is correct by introducing credible evidence that the property was overvalued (see Matter of Bass v. Tax Commn. of City of N.Y., 179 A.D.2d 387, 387, 578 N.Y.S.2d 158 [1st Dept.1992]; the presumption of validity of an assessment by the taxing authority is rebutted where credible evidence to the contrary is received (see Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893 [a "petitioner (must) demonstrate the existence of a valid and credible dispute regarding valuation"]; see also Matter of Alexander's Dept. Store of Val. Stream v. Board of Assessors, 227 A.D.2d 549, 550, 642 N.Y.S.2d 940 (2d Dept.1996)).

As noted in Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 (2013):

"In the context of tax assessment cases, the 'substantial evidence' standard merely requires that petitioner demonstrate the existence of a valid and credible dispute regarding valuation" (Thomas, 96 A.D.3d at 1413, 946 N.Y.S.2d 336, quoting FMC Corp. /Peroxygen Chems. Div./, 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893; see East Med. Ctr., L.P., 16 A.D.3d at 1120, 791 N.Y.S.2d 778). In such a proceeding, "substantial evidence will most often consist of a detailed, competent appraisal based on standard, accepted appraisal techniques and prepared by a qualified appraiser" (Matter of Niagara Mohawk Power Corp. v. Assessor of Town of Geddes, 92 N.Y.2d 192, 196, 677 N.Y.S.2d 275, 699 N.E.2d 899)."

Where the taxpayer successfully meets its burden and rebuts the presumption that the assessing authority's valuation is correct, a court must then "weigh the entire record, including evidence of claimed deficiencies in the assessment, to determine whether petitioner has established by a preponderance of the evidence that its property has been overvalued" (Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893); Roth v. City of Syracuse, 21 N.Y.3d 411, 995 N.E.2d 123 [2013]; see also Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 [2013], *supra*). The term "preponderance of the evidence" means that "upon all the evidence [considered]... the facts asserted by the [taxpayer] are more probably true than false." (Nissho-Iwai Co., Ltd. v. M/T Stolt Lion, 719 F.2d 34, 38, 1984 A.M.C. 2611 (2d Cir. 1983); see also U.S. v. Fatico, 458 F. Supp. 388, 403, 3 Fed. R. Evid. Serv. 391 (E.D. N.Y. 1978), *judgment aff'd*, 603 F.2d 1053 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073, 100 S.Ct. 1018, 62 L.Ed.2d 755 (1980)). It should be noted that a complainant who claims a factual basis for objection but fails to provide substantiating evidence does not warrant a reduction in his or her assessment (People ex rel. Buffalo R.P. Ry Co. v. Carmichael, 64 Misc. 271, 118 N.Y.S. 354 (Sup. Ct. Erie Co. 1909), *aff'd*, 139 App. Div. 925, 125 N.Y.S. 1151 (4th Dept. 1920)).

Assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit (see, Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment, 73 AD2d 31, 36, *aff'd* 53 NY2d 975) and any claimed constitutional violations should be asserted in a CPLR article 78 proceeding (see, Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors, 197 AD2d 620, 622, *lv denied* 83 NY2d 759). Consol. Edison Co. of New York Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d 8, 10, 690 N.Y.S.2d 755 (1999). Per RPTL § 744(1), evidence on the issue of whether a special franchise assessment is unequal shall be limited to the state equalization rate or special equalization rate used in determining the final special franchise assessment under review, and such equalization rate or special equalization rate shall be binding and conclusive on the parties upon any such issue.

### **Allegations**

In the complaint, Corning alleges that it misclassified its property when filing its annual reports with ORPTS for the years 2014 through 2023. Corning alleges that it reported the relevant property as "Distribution Mains – Other" when it should have reported that property to ORPTS as "Distribution Mains – Plastic." The company alleges that, had it correctly reported the relevant property to ORPTS, it would have been assessed at a lower value. The complaint further alleges that the depreciable lives of Corning's assets should be accelerated "because of the New York State Climate Act."

### **Analysis**

At the hearing, Corning stated that it was using the hearing as an opportunity to correct its error to reclassify its steel gas mains to plastic, and to have all of its special franchise property

depreciated for RCNLD purposes over remaining useful lives that do not exceed 27 years because the application of the Climate Act will make its gas assets of no value in the year 2050. Corning explained that it started with a cost basis of \$21,180,000 and that it adjusted this cost basis back to the year 2014 to \$6,580,169.40 for the misclassification of its distribution mains.

In response, ORPTS testified that it met with Corning on October 24, 2024, regarding its inventory reported for the past ten years that were in its generic distribution mains account instead of its subcategory of distribution mains that are plastic. ORPTS, thereafter, gave Corning a two-week deadline to submit corrected reports but these corrected reports were not received until November 13, 2024, which was less than one month prior to the Special Franchise notices being sent out. ORPTS maintains that there was not enough time to evaluate the new reports for the 2025 roll year. ORPTS also stated that Corning's \$6,580,169.40 figure also includes property that is in the private right of way and, thus, not special franchise property. Corning did not dispute this assertion at the hearing.

In a further written response to the complaint, ORPTS explains that 20 NYCRR 8197-2.10(a) requires that gas companies such as Corning submit their annual reports by April 30 and that the special franchise property at issue herein was reported as "Distribution Mains – Other" for 10 years, including the year 2024 (which was used to produce the 2025 special franchise values). ORPTS points out that, although Corning now contends that the classification of the property in its annual report was an error, that alleged error was not discovered by the company and reported to ORPTS until well past the deadline for filing annual reports with ORPTS. ORPTS also maintains that, to the extent Corning asserts that the New York State Climate Act requires an adjustment to the value of its properties, any such adjustment would take the form of economic obsolescence and not a reduction in the depreciable lives of the company's property as Corning asserts. ORPTS asserts that the company was, in fact, granted economic obsolescence by ORPTS upon filing a timely request and that it has not offered any explanation of why it is entitled to additional economic obsolescence beyond what was already granted.

Based on the foregoing, I conclude that Corning has not rebutted the presumption that ORPTS's judgment is correct as to the full value of the special franchise property contemplated herein based on the annual reports Corning submitted by April 30, 2024. While it is true that Corning late submitted supposed corrected reports, there remains the un rebutted testimony that Corning's \$6,580,169.40 figure also includes property that is in the private right of way and, thus, not special franchise property. Therefore, Corning's opinion of the proper value of the property is not supported by credible evidence and its explanation of how it derived its opinion is deficient. Finally, Corning has not cited to any authority for the proposition that the New York State Climate Act requires an adjustment to the value of its properties though depreciation changes versus economic obsolescence.

## **Conclusion**

I find no legal basis upon which to recommend changes to tentative special franchise full value number 111900-4603, as set forth by ORPTS in its Notice of Tentative Special Franchise Full Value, dated December 10, 2024. Therefore, I recommend that these tentative special franchise full values be established as final. There was no procedural matter upon which to report.



## Department of Taxation and Finance

OFFICE OF COUNSEL

### **Memorandum**

March 28, 2025

TO: State Board of Real Property Tax Services

FROM: Hearing Officer Bruce Lennard

SUBJECT: Report on Complaint SF-25-13 filed on Tentative Special Franchise Full Values for the Year 2025

### **Introduction**

I was designated as the Hearing Officer for a hearing held on January 30, 2025, to hear complaints on certain Notices of Tentative Special Franchise Full Values to be filed in 2025. This report addresses Complaint SF-25-13 filed by Liberty Utilities (New York Water) Corp (hereinafter, "Liberty"). Service of the complaint appears to have been affected on each adverse party.

Complaint SF-25-13 objects to tentative special franchise full values 227600-2820, 207320-2824, 240800-2806, 240800-2822, 240800-2824, 232100-2820 and 232100-2824 of Liberty's tangible property situated in, upon, under or above public streets, highways, waters and other public places in the City of Glen Cove and certain towns and villages in Nassau County, and of Liberty's franchise, right, authority or permission to occupy such places, as determined by the Office of Real Property Tax Services of the New York State Department of Taxation and Finance ("ORPTS") and set forth in its corresponding Notices of Tentative Special Franchise Full Value, dated December 19, 2024.

### **Standards of Review and Law**

Per 20 NYCRR 8197-4.2(a), a complainant, either an owner of special franchise property or an assessing unit in which special franchise property is located, may obtain administrative review of a tentative assessment or full value of such property by serving a complaint as specified in Real Property Tax Law § 610. However, if such a complaint is not supported by documentation or is otherwise inconsistent with the requirements of this section, the Tax Commissioner will recommend to the State Board of Real Property Tax Services (the "State Board") that the tentative

special franchise assessments or full values be established as final. Moreover, per 20 NYCRR 8197-4.2(b)(1), each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted. Additionally, per 20 NYCRR 8197-4.2(b)(2), there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint.

Per 20 NYCRR 8197-4.2(c)(1), the hearing resulting from a complaint shall not constitute an adjudicatory proceeding subject to Article 3 of the State Administrative Procedure Act. The Tax Commissioner's designee as hearing officer shall rule on any procedural matters arising at the hearing and shall report to the State Board on these matters and any legal issues raised in any complaint.

Special franchise property is 'specialty' property, and reproduction cost new less depreciation ("RCNLD") is a proper valuation methodology for specialty property. Moreover, the valuation methodology for special franchises, as set forth in the Rules for Real Property Tax Administration, has been judicially approved (Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, 65 N.Y.2d 472, 482 N.E.2d 77, 492 N.Y.S.2d 598 (1985), *cert. den.* 475 U.S. 1082, 106 S.Ct. 1461, 89 L.Ed.2d 718 (1986); National Fuel Gas Distribution Corp. v. SBEA, 117 A.D.2d 948, 499 N.Y.S.2d 260 (3d Dept. 1986)).

An assessor's judgment as to value is presumed to be correct and a complainant bears the burden of proof to show that the judgment was incorrect (People ex rel. Jamaica Water Supply Co. v. State Board of Tax Commissioners, 196 N.Y. 39, 53, 89 N.E. 581 (Court of Appeals 1909)). A petitioner challenging the accuracy of a tax valuation has the initial burden to rebut the presumption that the assessor's valuation is correct by introducing credible evidence that the property was overvalued (see Matter of Bass v. Tax Commn. of City of N.Y., 179 A.D.2d 387, 387, 578 N.Y.S.2d 158 [1st Dept.1992]; the presumption of validity of an assessment by the taxing authority is rebutted where credible evidence to the contrary is received (see Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893 [a "petitioner (must) demonstrate the existence of a valid and credible dispute regarding valuation"]; see also Matter of Alexander's Dept. Store of Val. Stream v. Board of Assessors, 227 A.D.2d 549, 550, 642 N.Y.S.2d 940 (2d Dept.1996)).

As noted in Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 (2013):

"In the context of tax assessment cases, the 'substantial evidence' standard merely requires that petitioner demonstrate the existence of a valid and credible dispute regarding valuation" (Thomas, 96 A.D.3d at 1413, 946 N.Y.S.2d 336, quoting FMC Corp. /Peroxygen Chems. Div./, 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893; see East Med. Ctr., L.P., 16 A.D.3d at 1120, 791 N.Y.S.2d 778). In such a proceeding, "substantial evidence will most often consist of a detailed, competent

appraisal based on standard, accepted appraisal techniques and prepared by a qualified appraiser” (Matter of Niagara Mohawk Power Corp. v. Assessor of Town of Geddes, 92 N.Y.2d 192, 196, 677 N.Y.S.2d 275, 699 N.E.2d 899).”

Where the taxpayer successfully meets its burden and rebuts the presumption that the assessing authority’s valuation is correct, a court must then “weigh the entire record, including evidence of claimed deficiencies in the assessment, to determine whether petitioner has established by a preponderance of the evidence that its property has been overvalued” (Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893); Roth v. City of Syracuse, 21 N.Y.3d 411, 995 N.E.2d 123 [2013]; see also Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 [2013], *supra*). The term “preponderance of the evidence” means that “upon all the evidence [considered]... the facts asserted by the [taxpayer] are more probably true than false.” (Nissho-Iwai Co., Ltd. v. M/T Stolt Lion, 719 F.2d 34, 38, 1984 A.M.C. 2611 (2d Cir. 1983); see also U.S. v. Fatico, 458 F. Supp. 388, 403, 3 Fed. R. Evid. Serv. 391 (E.D. N.Y. 1978), *judgment aff’d*, 603 F.2d 1053 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073, 100 S.Ct. 1018, 62 L.Ed.2d 755 (1980)). It should be noted that a complainant who claims a factual basis for objection but fails to provide substantiating evidence does not warrant a reduction in his or her assessment (People ex rel. Buffalo R.P. Ry Co. v. Carmichael, 64 Misc. 271, 118 N.Y.S. 354 (Sup. Ct. Erie Co. 1909), *aff’d*, 139 App. Div. 925, 125 N.Y.S. 1151 (4th Dept. 1920)).

Assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit (see, Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment, 73 AD2d 31, 36, *aff’d* 53 NY2d 975) and any claimed constitutional violations should be asserted in a CPLR article 78 proceeding (see, Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors, 197 AD2d 620, 622, *lv denied* 83 NY2d 759). Consol. Edison Co. of New York Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d 8, 10, 690 N.Y.S.2d 755 (1999). Per RPTL § 744(1), evidence on the issue of whether a special franchise assessment is unequal shall be limited to the state equalization rate or special equalization rate used in determining the final special franchise assessment under review, and such equalization rate or special equalization rate shall be binding and conclusive on the parties upon any such issue.

### **Allegations**

In the complaint, Liberty alleges that ORPTS: (1) misapplied the RCNLD methodology; (2) incorrectly and inappropriately applied a third-party index to trend original book costs resulting in overvaluation of the special franchise property; (3) deducted an insufficient sum for physical depreciation; (4) deducted an insufficient sum for economic (external) obsolescence; (5) deducted an insufficient sum for functional obsolescence; (6) failed to recognize the underutilization of Complainant’s property; (7) instead of using the original cost of the asset, used a “random” RCN depreciation floor for water machinery and equipment without an appraisal basis for the use; (8) inappropriately applied salvage factors in determining value of Complainant’s special franchise property; (9) applied the wrong percentage adjustment to its assets; (10) arbitrarily, capriciously,

improperly and unlawfully determined and fixed the valuation of the special franchise property in a discriminatory and unwarranted manner resulting in excessive and confiscatory sums; (11) violated the state and federal constitutions' equal protection clauses; and (12) denied Complainant substantive due process under the state and federal constitutions..

### **Analysis**

Liberty did not appear at the hearing. In support of its allegations, Liberty, as Exhibit A to its complaint, provided two April 13, 2023 memoranda from Management Applications Consulting, Inc., that, for mains and hydrants, respectively, provide cost of removal and salvage analyses based upon a review of Liberty's records that support an increase in negative net salvage values for each. In this regard, the memoranda recommend that, for purposes of valuing Liberty's special franchise property, ORPTS should adjust the net salvage percentages by asset account that it uses to determinate the appropriate amount of physical depreciation an asset has incurred. Specifically, for the mains accounts, it is recommended that ORPTS apply salvage factors between negative 20% and negative 75% or at least the Public Service Commission ("PSC")-approved salvage factor of negative 40%; and, for the hydrants accounts, it is recommended that ORPTS apply a salvage factor of negative 90% or at least the PSC-approved salvage factor of negative 60%.

In its complaint, Liberty provided claimed full values of the special franchise property for each assessing unit based on what it describes as the latest inventory information from ORPTS with adjustments for net negative salvage, the depreciation floor and economic obsolescence. With regard to the depreciation floor, Liberty claims that ORPTS should not apply a random depreciation floor to its "water property" that, once fully depreciated, is no longer included in the "rate base as an earning asset". Liberty also contends there is no appraisal basis for the application of a random depreciation floor.

Liberty's claimed full values are, for each assessing unit, approximately 25% of the tentative special franchise full values set forth by ORPTS in its notices. Liberty has not, however, provided specific documentation to support its claimed full values, or an explanation of how those claimed amounts may be derived from the documentation that was submitted. In fact, the documentation provided is not specific to the challenged tentative special franchise full values. It is not enough for Liberty to assert that the tentative special franchise full values must be divided by four (25%) because it believes ORPTS is generally allowing insufficient physical depreciation in the form of negative salvage percentages for its water mains and hydrants and for economic obsolescence of its systems as well as inappropriately employing a depreciation floor below which further physical depreciation is not allowed. The information that Liberty included with its complaints in this regard does not constitute credible evidence that the property was overvalued. Finally, this hearing was not the proper forum for Liberty's various constitutional claims, and it did not provide any evidence in support of those claims, in any event.



## **Conclusion**

I find no legal basis upon which to recommend changes to tentative special franchise full values 227600-2820, 207320-2824, 240800-2806, 240800-2822, 240800-2824, 232100-2820 and 232100-2824, as set forth by ORPTS in its Notice of Tentative Special Franchise Full Value, dated December 19, 2024. Therefore, I recommend that these tentative special franchise full values be established as final. There was no procedural matter upon which to report.



OFFICE OF COUNSEL

## **Memorandum**

April 4, 2025

TO: State Board of Real Property Tax Services

FROM: Hearing Officer Bruce Lennard

SUBJECT: Report on Complaints SF-25-14, SF-25-15, and SF-25-16 filed on Tentative Special Franchise Full Values for the Year 2025

### **Introduction**

I was designated as the Hearing Officer for a hearing held on January 30, 2025, to hear complaints on certain Notices of Tentative Special Franchise Full Values to be filed in 2025. This report addresses Complaints SF-25-14, SF-25-15, and SF-25-16 filed by CSC Acquisition MA, Cblvsn System L.I. Corp, and Cblvsn System Great Neck Corp, respectively, (collectively, “Cablevision”). Service of all the complaints appears to have been affected on each adverse party.

Complaints SF-25-14, SF-25-15, and SF-24-16 object to tentative special franchise full value numbers 927350-2820, 911200-2822, 923500-2806, 923500-2810, 923500-2820, 923500-2822 and 923500-2824 of Cablevision’s tangible property situated in, upon, under or above public streets, highways, waters and other public places in various cities, towns and villages in Nassau County, and of Cablevision’s franchise, right, authority or permission to occupy such places, as determined by the Office of Real Property Tax Services (“ORPTS”) and set forth in its corresponding Notices of Tentative Special Franchise Full Value, dated December 19, 2024.

### **Standards of Review and Law**

Per 20 NYCRR 8197-4.2(a), a complainant, either an owner of special franchise property or an assessing unit in which special franchise property is located, may obtain administrative review of a tentative assessment or full value of such property by serving a complaint as specified in Real Property Tax Law § 610. However, if such a complaint is not supported by documentation or is otherwise inconsistent with the requirements of this section, the Tax Commissioner will recommend to the State Board of Real Property Tax Services (the “State Board”) that the tentative special franchise assessments or full values be established as final. Moreover, per 20 NYCRR

8197-4.2(b)(1), each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted. Additionally, per 20 NYCRR 8197-4.2(b)(2), there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint.

Per 20 NYCRR 8197-4.2(c)(1), the hearing resulting from a complaint shall not constitute an adjudicatory proceeding subject to Article 3 of the State Administrative Procedure Act. The Tax Commissioner's designee as hearing officer shall rule on any procedural matters arising at the hearing and shall report to the State Board on these matters and any legal issues raised in any complaint.

Special franchise property is 'specialty' property, and reproduction cost new less depreciation ("RCNLD") is a proper valuation methodology for specialty property. Moreover, the valuation methodology for special franchises, as set forth in the Rules for Real Property Tax Administration, has been judicially approved (Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, 65 N.Y.2d 472, 482 N.E.2d 77, 492 N.Y.S.2d 598 (1985), *cert. den.* 475 U.S. 1082, 106 S.Ct. 1461, 89 L.Ed.2d 718 (1986); National Fuel Gas Distribution Corp. v. SBEA, 117 A.D.2d 948, 499 N.Y.S.2d 260 (3d Dept. 1986)).

An assessor's judgment as to value is presumed to be correct and a complainant bears the burden of proof to show that the judgment was incorrect (People ex rel. Jamaica Water Supply Co. v. State Board of Tax Commissioners, 196 N.Y. 39, 53, 89 N.E. 581 (Court of Appeals 1909)). A petitioner challenging the accuracy of a tax valuation has the initial burden to rebut the presumption that the assessor's valuation is correct by introducing credible evidence that the property was overvalued (see Matter of Bass v. Tax Commn. of City of N.Y., 179 A.D.2d 387, 387, 578 N.Y.S.2d 158 [1st Dept.1992]; the presumption of validity of an assessment by the taxing authority is rebutted where credible evidence to the contrary is received (see Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893 [a "petitioner (must) demonstrate the existence of a valid and credible dispute regarding valuation"]; see also Matter of Alexander's Dept. Store of Val. Stream v. Board of Assessors, 227 A.D.2d 549, 550, 642 N.Y.S.2d 940 (2d Dept.1996)).

As noted in Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 (2013):

"In the context of tax assessment cases, the 'substantial evidence' standard merely requires that petitioner demonstrate the existence of a valid and credible dispute regarding valuation" (Thomas, 96 A.D.3d at 1413, 946 N.Y.S.2d 336, quoting FMC Corp. /Peroxygen Chems. Div., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893; see East Med. Ctr., L.P., 16 A.D.3d at 1120, 791 N.Y.S.2d 778). In such a proceeding, "substantial evidence will most often consist of a detailed, competent appraisal based on standard, accepted appraisal techniques and prepared by a

qualified appraiser” (Matter of Niagara Mohawk Power Corp. v. Assessor of Town of Geddes, 92 N.Y.2d 192, 196, 677 N.Y.S.2d 275, 699 N.E.2d 899).”

Where the taxpayer successfully meets its burden and rebuts the presumption that the assessing authority’s valuation is correct, a court must then “weigh the entire record, including evidence of claimed deficiencies in the assessment, to determine whether petitioner has established by a preponderance of the evidence that its property has been overvalued” (Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893); Roth v. City of Syracuse, 21 N.Y.3d 411, 995 N.E.2d 123 [2013]; see also Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 [2013], *supra*). The term “preponderance of the evidence” means that “upon all the evidence [considered]... the facts asserted by the [taxpayer] are more probably true than false.” (Nissho-Iwai Co., Ltd. v. M/T Stolt Lion, 719 F.2d 34, 38, 1984 A.M.C. 2611 (2d Cir. 1983); see also U.S. v. Fatico, 458 F. Supp. 388, 403, 3 Fed. R. Evid. Serv. 391 (E.D. N.Y. 1978), *judgment aff’d*, 603 F.2d 1053 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073, 100 S.Ct. 1018, 62 L.Ed.2d 755 (1980)). It should be noted that a complainant who claims a factual basis for objection but fails to provide substantiating evidence does not warrant a reduction in his or her assessment (People ex rel. Buffalo R.P. Ry Co. v. Carmichael, 64 Misc. 271, 118 N.Y.S. 354 (Sup. Ct. Erie Co. 1909), *aff’d*. 139 App. Div. 925, 125 N.Y.S. 1151 (4th Dept. 1920)).

Assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit (see, Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment, 73 AD2d 31, 36, *aff’d* 53 NY2d 975) and any claimed constitutional violations should be asserted in a CPLR article 78 proceeding (see, Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors, 197 AD2d 620, 622, *lv denied* 83 NY2d 759). Consol. Edison Co. of New York Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d 8, 10, 690 N.Y.S.2d 755 (1999). Per RPTL § 744(1), evidence on the issue of whether a special franchise assessment is unequal shall be limited to the state equalization rate or special equalization rate used in determining the final special franchise assessment under review, and such equalization rate or special equalization rate shall be binding and conclusive on the parties upon any such issue.

### **Allegations**

In each of the complaints, Cablevision alleges that: (1) ORPTS overstated the value of its fiber optic network by assigning a value of approximately \$50,000 per mile to that property; (2) its actual cost per mile was approximately \$35,000; (3) this figure must be further reduced for obsolete and/or under-utilized plant; (4) this figure must be further reduced by 15% based on studies performed by its valuation expert; (5) this figure “is believed to include” bundled intangible costs for software licenses (6%), indefeasible rights to use (5%), and contractor premiums for retainage and warranties on labor and materials (8%) which costs do not constitute special franchise or real property; and (6) its final cost was, therefore, approximately \$22,750 per mile.

## **Analysis**

Cablevision claims that it arrived at its “ultimate opinion of value” by: (1) starting with the 2023 special franchise value of its fiber optic network, as determined by ORPTS; (2) depreciating that value for two years, for a total of 15%; (3) adding the value of its 2022 expansion of its network, depreciated by 8% for one year; and (4) adding the undepreciated value of its 2023 expansion of its network. Cablevision’s values of its 2022 and 2023 expansions were based on the products of miles added to the network in each year times its claimed final cost per mile of \$22,750, per its Exhibit A to its complaints. This claimed final cost per mile includes the downward adjustments described in Cablevision’s allegations.

With regard to the 15% reduction purportedly based on studies performed by Cablevision’s valuation expert, its Exhibits B to its complaints are not a report of this expert but an email in which the expert concludes that, “[w]hile our study is not yet complete on the replacement cost and bundles intangible cost”, he estimates that approximately 85% of older “vintage” material is not only obsolete but also significantly under-used as customers favor “fiber technology” and that new fiber builds should be discounted 15% to account for “already assessed and under-utilized duplicate plant”. The expert also suggests that estimated discounts should also include bundled intangible costs for software licenses at 4% to 6%, indefeasible rights to use at 3% to 5%, and contractor premiums for retainage and warranties on labor and materials at 5% to 8%. The expert concludes that a discount to a “new fiber build” would equate to a conservative 30% reduction from reported costs and that, if “duplicate plant” were to be removed from an assessment, the discount would “approximate roughly 15% for bundled intangible costs”. The email at Cablevision’s Exhibit B contains no data to support the expert’s conclusions.

At the hearing on its complaints, Cablevision did not call witnesses but did explain that it determines its actual costs from “actual invoice build costs from the contractors that install the cable” and that it uses a competitive bidding process to limit their expenses in installing the fiber optic cable. Cablevision did not, however, provide any such actual invoices as evidence at the hearing.

In response to the complaints of Cablevision, ORPTS explained that special franchise assessments for cable television companies are determined based on the average cost per mile of fiber optic cable within the industry, not the actual cost incurred by any one company, and that it has determined that the average cost per mile for installing fiber optic cable in downstate areas is approximately \$50,000. ORPTS further explained that average cost is based on reports submitted by all cable companies, as well as industry indices in its possession. ORPTS maintained that, as the complaints at issue all deal with fiber optic cable located in downstate areas and the cost per mile used to value Cablevision’s property is the same cost per mile used to value the same type of property of other cable companies when that property is located in downstate areas, Cablevision’s property was valued consistently with the way ORPTS values all other fiber optic cable owned by cable television companies. Cablevision countered by pointing out that New York law favors the use of actual cost figures instead of “abstract” cost estimates.

ORPTS also explained that its regulations do not require cable television companies to submit their actual cost incurred in installing fiber optic cable, only their average cost per mile. Therefore, ORPTS was not able to value the property using the actual cost incurred. Even assuming that ORPTS were to value cable television property using the actual cost incurred by the company, ORPTS argued, Cablevision did not provide any support to indicate that \$22,750 per mile is the actual cost incurred by the company when installing fiber optic cable. Noting that the annual reports submitted by Cablevision indicated that the company's overall labor costs had not increased since 2019, ORPTS concluded that, even assuming that it was able to value the company's property using the actual costs incurred by the company, the veracity of the costs reported by the company to ORPTS are highly suspect.

According to ORPTS, to the extent Cablevision asserts that its property should be depreciated by 8% per year, ORPTS depreciates fiber optic cable owned by cable television companies using a straight-line depreciation through 80% of the property's useful life, and a second straight-line depreciation through 120% of the property's useful life. In the case of the aerial fiber optic cables that are at issue in these complaints, the property has a 15-year service life and a -10 salvage factor. For the first 10 years that the property is in service, ORPTS determined depreciation at 7.33% per year, which is then reduced to 2.5% per year as the property gets closer to the end of its useful life. This depreciation schedule is from ORPTS' depreciation study and is applicable to all aerial fiber optic cable owned by all cable television companies in downstate areas. ORPTS uses the same depreciation schedule for all fiber optic cable owned by cable television companies. ORPTS argues that Cablevision did not provide any support for their proposed 8% per year depreciation schedule and that Cablevision did not timely apply for the use of alternative valuation components, as required by 20 NYCRR 8197-2.8, and did not request any functional or economic obsolescence.

Based on the foregoing, I conclude that Cablevision has not introduced credible evidence to rebut the presumption that ORPTS's judgment is correct as to the full values of the special franchise property contemplated herein. Cablevision has not provided any documentation to support its opinion of the proper value of this property nor an explanation of how that opinion may be derived from documentation submitted. In particular, Cablevision's Exhibit A is merely a spreadsheet that indicates its calculations using its premises as set forth above. Exhibit A provides no basis to conclude that Cablevision's depreciation amounts are correct or that the franchise property includes bundled intangible costs for software licenses, indefeasible rights to use, or contractor premiums for retainage and warranties on labor and materials. Exhibit A also does not provide any basis for Cablevision's percentage reductions for these items. Cablevision's Exhibit B also provides no basis to support its conclusions. In fact, the discussion of older vintage material being not only obsolete but also significantly under-used as customers favor fiber technology is not on point as there is no indication in these complaints of any older vintage material being included in the special franchise full values especially with respect to Cablevision's 2022 and 2023 build outs. Therefore, the conclusion that new fiber builds should be discounted 15% to account for already assessed and under-utilized duplicate plan is not appropriate here. Moreover, the conclusion that estimated discounts should also include bundled intangible costs for software

licenses at 4% to 6%, indefeasible rights to use at 3% to 5%, and contractor premiums for retainage and warranties on labor and materials at 5% to 8% are wholly unsupported by any empirical evidence. It follows that no good explanation is available of how Cablevision's opinion may be derived from documentation submitted.

### **Conclusion**

I find no legal basis upon which to recommend changes to tentative special franchise full value numbers 927350-2820, 911200-2822, 923500-2806, 923500-2810, 923500-2820, 923500-2822 and 923500-2824, as set forth by ORPTS in its Notices of Tentative Special Franchise Full Value, dated December 19, 2024. Therefore, I recommend that these tentative special franchise full values be established as final. There was no procedural matter upon which to report.



## Department of Taxation and Finance

OFFICE OF COUNSEL

### Memorandum

April 23, 2025

TO: State Board of Real Property Tax Services

FROM: Hearing Officer Bruce Lennard

SUBJECT: Report on Complaints SF-25-17 and SF-25-18 filed on Tentative Special Franchise Assessments and Full Values for the Year 2025

### **Introduction**

I was designated as the Hearing Officer for a hearing held on March 20, 2025, to hear complaints on a Notice of Tentative Special Franchise Assessment and Notice of Tentative Special Franchise Full Value to be filed in 2025. This report addresses Complaints SF-25-17 and SF-25-18 filed by Millennium Pipeline Company, LLC (“Millennium”). Service of all the complaints appears to have been affected on each adverse party. Millennium did not attend the hearing.

Complaint SF-25-17 objects to tentative special franchise assessment numbers 810700-1230, 810700-4656, and 810700-4936 of Millennium’s tangible property situated in, upon, under or above public streets, highways, waters and other public places in various towns in Delaware County, Steuben County, and Tioga County and of Millennium’s franchise, right, authority or permission to occupy such places, as determined by the Office of Real Property Tax Services (“ORPTS”) and set forth in its Notice of Tentative Special Franchise Assessment, dated February 12, 2025.

Complaint SF-25-18 objects to tentative special franchise full value numbers 810700-0324, 810700-0330, 810700-0332, 810700-0350, 810700-0734, 810700-0740, 810700-1236, 810700-3328, 810700-3332, 810700-3338, 810700-3350, 810700-3354, 810700-3356, 810700-3926, 810700-4630, 810700-4646, 810700-4826, 810700-4830, 810700-4834, and 810700-4838 of Millennium’s tangible property situated in, upon, under or above public streets, highways, waters and other public places in various towns and villages in Broome County, Chemung County, Delaware County, Orange County, Rockland County, Steuben County, and Sullivan County and of Millennium’s franchise, right, authority or permission to occupy such places, as determined by



ORPTS and set forth in its Notice of Tentative Special Franchise Full Value, dated February 12, 2025.

### **Standards of Review and Law**

Per 20 NYCRR 8197-4.2(a), a complainant, either an owner of special franchise property or an assessing unit in which special franchise property is located, may obtain administrative review of a tentative assessment or full value of such property by serving a complaint as specified in Real Property Tax Law § 610. However, if such a complaint is not supported by documentation or is otherwise inconsistent with the requirements of this section, the Tax Commissioner will recommend to the State Board of Real Property Tax Services (the “State Board”) that the tentative special franchise assessments or full values be established as final. Moreover, per 20 NYCRR 8197-4.2(b)(1), each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted. Additionally, per 20 NYCRR 8197-4.2(b)(2), there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint.

Per 20 NYCRR 8197-4.2(c)(1), the hearing resulting from a complaint shall not constitute an adjudicatory proceeding subject to Article 3 of the State Administrative Procedure Act. The Tax Commissioner’s designee as hearing officer shall rule on any procedural matters arising at the hearing and shall report to the State Board on these matters and any legal issues raised in any complaint.

Special franchise property is ‘specialty’ property, and reproduction cost new less depreciation (“RCNLD”) is a proper valuation methodology for specialty property. Moreover, the valuation methodology for special franchises, as set forth in the Rules for Real Property Tax Administration, has been judicially approved (Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, 65 N.Y.2d 472, 482 N.E.2d 77, 492 N.Y.S.2d 598 (1985), *cert. den.* 475 U.S. 1082, 106 S.Ct. 1461, 89 L.Ed.2d 718 (1986); National Fuel Gas Distribution Corp. v. SBEA, 117 A.D.2d 948, 499 N.Y.S.2d 260 (3d Dept. 1986)).

An assessor’s judgment as to value is presumed to be correct and a complainant bears the burden of proof to show that the judgment was incorrect (People ex rel. Jamaica Water Supply Co. v. State Board of Tax Commissioners, 196 N.Y. 39, 53, 89 N.E. 581 (Court of Appeals 1909)). A petitioner challenging the accuracy of a tax valuation has the initial burden to rebut the presumption that the assessor’s valuation is correct by introducing credible evidence that the property was overvalued (see Matter of Bass v. Tax Commn. of City of N.Y., 179 A.D.2d 387, 387, 578 N.Y.S.2d 158 [1st Dept.1992]; the presumption of validity of an assessment by the taxing authority is rebutted where credible evidence to the contrary is received (see Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893 [a “petitioner (must) demonstrate the existence of a valid and credible dispute regarding valuation”]; see also Matter of Alexander’s Dept. Store of Val. Stream v. Board of Assessors, 227 A.D.2d 549, 550, 642 N.Y.S.2d 940 (2d

Dept.1996)).

As noted in Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 (2013):

“In the context of tax assessment cases, the ‘substantial evidence’ standard merely requires that petitioner demonstrate the existence of a valid and credible dispute regarding valuation” (Thomas, 96 A.D.3d at 1413, 946 N.Y.S.2d 336, quoting FMC Corp. /Peroxygen Chems. Div./, 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893; see East Med. Ctr., L.P., 16 A.D.3d at 1120, 791 N.Y.S.2d 778). In such a proceeding, “substantial evidence will most often consist of a detailed, competent appraisal based on standard, accepted appraisal techniques and prepared by a qualified appraiser” (Matter of Niagara Mohawk Power Corp. v. Assessor of Town of Geddes, 92 N.Y.2d 192, 196, 677 N.Y.S.2d 275, 699 N.E.2d 899).”

Where the taxpayer successfully meets its burden and rebuts the presumption that the assessing authority’s valuation is correct, a court must then “weigh the entire record, including evidence of claimed deficiencies in the assessment, to determine whether petitioner has established by a preponderance of the evidence that its property has been overvalued” (Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893); Roth v. City of Syracuse, 21 N.Y.3d 411, 995 N.E.2d 123 [2013]; see also Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 [2013], *supra*). The term “preponderance of the evidence” means that “upon all the evidence [considered]... the facts asserted by the [taxpayer] are more probably true than false.” (Nissho-Iwai Co., Ltd. v. M/T Stolt Lion, 719 F.2d 34, 38, 1984 A.M.C. 2611 (2d Cir. 1983); see also U.S. v. Fatico, 458 F. Supp. 388, 403, 3 Fed. R. Evid. Serv. 391 (E.D. N.Y. 1978), *judgment aff’d*, 603 F.2d 1053 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073, 100 S.Ct. 1018, 62 L.Ed.2d 755 (1980)). It should be noted that a complainant who claims a factual basis for objection but fails to provide substantiating evidence does not warrant a reduction in his or her assessment (People ex rel. Buffalo R.P. Ry Co. v. Carmichael, 64 Misc. 271, 118 N.Y.S. 354 (Sup. Ct. Erie Co. 1909), *aff’d*, 139 App. Div. 925, 125 N.Y.S. 1151 (4th Dept. 1920)).

Assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit (see, Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment, 73 AD2d 31, 36, *aff’d* 53 NY2d 975) and any claimed constitutional violations should be asserted in a CPLR article 78 proceeding (see, Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors, 197 AD2d 620, 622, *lv denied* 83 NY2d 759). Consol. Edison Co. of New York Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d 8, 10, 690 N.Y.S.2d 755 (1999). Per RPTL § 744(1), evidence on the issue of whether a special franchise assessment is unequal shall be limited to the state equalization rate or special equalization rate used in determining the final special franchise assessment under review, and such equalization rate or special equalization rate shall be binding and conclusive on the parties upon any such issue.

## **Allegations**

In both of the complaints, Millennium alleges that ORPTS: (1) misapplied the RCNLD methodology; (2) incorrectly and inappropriately applied a third-party index to trend original book costs resulting in overvaluation of the special franchise property; (3) failed to apply correct construction costs and appropriate adjustments for costs related to unnecessary or unusual construction, among other allegedly inappropriate adjustments; (4) failed to consider the costs associated with safety and regulatory compliance; (5) inappropriately valued the intangible property associated with Millennium's tangible property; (6) failed to properly reduce the property value to consider economic (external) obsolescence; (7) deducted an insufficient sum for functional obsolescence; (8) incorrectly applied a 50-year service life for gas transmission lines and field lines as opposed to the Federal Energy Regulatory Commission's 30-year service life applicable to the same property; (9) failed to acknowledge the impact of the Climate Leadership and Community Protection Act upon the service life of Millennium's property; (10) failed to recognize the underutilization of its property; (11) inappropriately applied salvage factors in determining the value of its special franchise property; (12) arbitrarily, capriciously, improperly and unlawfully determined and fixed the valuation of the special franchise property in a discriminatory and unwarranted manner resulting in excessive and confiscatory sums; (13) violated the state and federal constitutions' equal protection clauses; (14) violated the interstate commerce clause of the federal constitution; and (15) deprived Millennium of its property without due process of law and took its property for public use without just compensation.

## **Analysis**

Though Millennium provided in its complaints estimates of full values for each assessing unit, it did not provide documentation to support its opinions of value or any explanation of how its opinions may be derived from documentation submitted. Therefore, Millennium did not introduce substantial evidence that its special franchise property was overvalued and the complaints are insufficient to rebut the presumption that ORPTS' valuations are correct.

To the extent Millennium alleges that it was improperly denied economic and functional obsolescence, and was entitled to use some alternative valuation component, ORPTS indicated that Millennium did not request any obsolescence or the use of an alternative valuation component in its annual report and the complaints do not contain an explanation of why such a request was not submitted with those reports and does not allege that such failure was due to circumstances beyond the control of the owner.

Finally, this hearing is not the proper forum for Millennium's various constitutional claims since assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit. *See Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment*, 73 AD2d at 36. Any claimed constitutional violations should be asserted in a CPLR article 78 proceeding. *See Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors*, 197 AD2d at 622; *Consol. Edison Co. of New York*

Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d at 10. Also, Millennium did not provide any evidence in support of its claims.

Based on the foregoing, I conclude that Millennium has not introduced credible evidence to rebut the presumption that ORPTS's judgment is correct as to the assessments and full values of the special franchise property contemplated herein.

### **Conclusion**

I find no legal basis upon which to recommend changes to tentative special franchise assessment numbers 810700-1230, 810700-4656, and 810700-4936 or tentative special franchise full value numbers 810700-0324, 810700-0330, 810700-0332, 810700-0350, 810700-0734, 810700-0740, 810700-1236, 810700-3328, 810700-3332, 810700-3338, 810700-3350, 810700-3354, 810700-3356, 810700-3926, 810700-4630, 810700-4646, 810700-4826, 810700-4830, 810700-4834, and 810700-4838, as set forth by ORPTS in its corresponding Notice of Tentative Special Franchise Assessment and Notice of Tentative Special Franchise Full Value, each dated February 12, 2025. Therefore, I recommend that these tentative special franchise assessments and full values be established as final. There was no procedural matter upon which to report.



## Department of Taxation and Finance

OFFICE OF COUNSEL

### Memorandum

April 23, 2025

TO: State Board of Real Property Tax Services

FROM: Hearing Officer Bruce Lennard

SUBJECT: Report on Complaints SF-25-19, SF-25-20, SF-25-21, SF-25-22, SF-25-23, SF-25-24, SF-25-25, SF-25-26, SF-25-27, SF-25-28, SF-25-29, SF-25-30, SF-25-31, SF-25-32, SF-25-33, SF-25-34, SF-25-35, SF-25-36, SF-25-37, SF-25-38, SF-25-39, SF-25-40, SF-25-41, and SF-25-42 filed on Tentative Special Franchise Assessments and Full Values for the Year 2025

### Introduction

I was designated as the Hearing Officer for a hearing held on March 20, 2025, to hear complaints on certain Notices of Tentative Special Franchise Assessments and Notices of Tentative Special Franchise Full Values to be filed in 2025. This report addresses Complaints SF-25-19, SF-25-20, SF-25-21, SF-25-22, SF-25-23, SF-25-24, SF-25-25, SF-25-26, SF-25-27, SF-25-28, SF-25-29, SF-25-30, SF-25-31, SF-25-32, SF-25-33, SF-25-34, SF-25-35, SF-25-36, SF-25-37, SF-25-38, SF-25-39, SF-25-40, SF-25-41, and SF-25-42 collectively filed by Cablevision. Service of all the complaints appears to have been affected on each adverse party.

These complaints object to tentative special franchise assessment numbers 906050-4726, 906040-4724, 906000-5538, 904000-4722, 943550-4720, 943820-4722, 927340-4724, 927340-4738, 927350-5528, 910350-5510, 910350-5514, 910350-5524, 910350-5538, 928300-5512, 928300-5522, 928300-5534, and 943560-4734 and tentative special franchise full value numbers 919120-3350, 919120-3920, 919120-3924, 919120-3926, 923500-2805, 902000-1320, 902000-1324, 902000-1326, 902000-1336, 902000-1338, 902000-1342, 902000-1352, 902000-1354, 902000-1358, 943570-4728, 943580-4732, 943580-4736, 944740-4728, 946100-1302, 946100-1328, 946100-1330, 946100-1332, 946100-1334, 946100-1346, 946100-1356, 946100-3311, 946100-3320, 946100-3324, 946100-3340, 946100-3346, 946100-3348, 946100-3358, 946100-3726, 946100-5122, 946100-5132, 946100-5136, 946100-5142, 948000-3322, 948000-3332, 948000-3338, 948000-3354, 948000-3356, 927340-4730, 927340-4736, 927350-5548, 910350-5526, 910350-5532, 910350-5544, 910350-5548, 910350-5550, 928300-3726, 928300-3922,

928300-3926, 928300-3928, 928300-5520, 928300-5526, 928300-5536, 928300-5542, and 943560-4728 of Cablevision's tangible property situated in, upon, under or above public streets, highways, waters and other public places in various cities, towns and villages in Orange County, Rockland County, Nassau County, Suffolk County, Westchester County, Dutchess County, Putnam County and Ulster County and of Cablevision's franchise, right, authority or permission to occupy such places, as determined by the Office of Real Property Tax Services ("ORPTS") and set forth in its corresponding Notices of Tentative Special Franchise Assessments and Notices of Tentative Special Franchise Full Values, dated February 12, 2025.

### **Standards of Review and Law**

Per 20 NYCRR 8197-4.2(a), a complainant, either an owner of special franchise property or an assessing unit in which special franchise property is located, may obtain administrative review of a tentative assessment or full value of such property by serving a complaint as specified in Real Property Tax Law § 610. However, if such a complaint is not supported by documentation or is otherwise inconsistent with the requirements of this section, the Tax Commissioner will recommend to the State Board of Real Property Tax Services (the "State Board") that the tentative special franchise assessments or full values be established as final. Moreover, per 20 NYCRR 8197-4.2(b)(1), each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted. Additionally, per 20 NYCRR 8197-4.2(b)(2), there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint.

Per 20 NYCRR 8197-4.2(c)(1), the hearing resulting from a complaint shall not constitute an adjudicatory proceeding subject to Article 3 of the State Administrative Procedure Act. The Tax Commissioner's designee as hearing officer shall rule on any procedural matters arising at the hearing and shall report to the State Board on these matters and any legal issues raised in any complaint.

Special franchise property is 'specialty' property, and reproduction cost new less depreciation ("RCNLD") is a proper valuation methodology for specialty property. Moreover, the valuation methodology for special franchises, as set forth in the Rules for Real Property Tax Administration, has been judicially approved (Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, 65 N.Y.2d 472, 482 N.E.2d 77, 492 N.Y.S.2d 598 (1985), *cert. den.* 475 U.S. 1082, 106 S.Ct. 1461, 89 L.Ed.2d 718 (1986); National Fuel Gas Distribution Corp. v. SBEA, 117 A.D.2d 948, 499 N.Y.S.2d 260 (3d Dept. 1986)).

An assessor's judgment as to value is presumed to be correct and a complainant bears the burden of proof to show that the judgment was incorrect (People ex rel. Jamaica Water Supply Co. v. State Board of Tax Commissioners, 196 N.Y. 39, 53, 89 N.E. 581 (Court of Appeals 1909)). A petitioner challenging the accuracy of a tax valuation has the initial burden to rebut the presumption that the assessor's valuation is correct by introducing credible evidence that the

property was overvalued (see Matter of Bass v. Tax Commn. of City of N.Y., 179 A.D.2d 387, 387, 578 N.Y.S.2d 158 [1st Dept.1992]; the presumption of validity of an assessment by the taxing authority is rebutted where credible evidence to the contrary is received (see Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893 [a “petitioner (must) demonstrate the existence of a valid and credible dispute regarding valuation”]; see also Matter of Alexander’s Dept. Store of Val. Stream v. Board of Assessors, 227 A.D.2d 549, 550, 642 N.Y.S.2d 940 (2d Dept.1996)).

As noted in Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 (2013):

“In the context of tax assessment cases, the ‘substantial evidence’ standard merely requires that petitioner demonstrate the existence of a valid and credible dispute regarding valuation” (Thomas, 96 A.D.3d at 1413, 946 N.Y.S.2d 336, quoting FMC Corp. /Peroxygen Chems. Div./, 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893; see East Med. Ctr., L.P., 16 A.D.3d at 1120, 791 N.Y.S.2d 778). In such a proceeding, “substantial evidence will most often consist of a detailed, competent appraisal based on standard, accepted appraisal techniques and prepared by a qualified appraiser” (Matter of Niagara Mohawk Power Corp. v. Assessor of Town of Geddes, 92 N.Y.2d 192, 196, 677 N.Y.S.2d 275, 699 N.E.2d 899).”

Where the taxpayer successfully meets its burden and rebuts the presumption that the assessing authority’s valuation is correct, a court must then “weigh the entire record, including evidence of claimed deficiencies in the assessment, to determine whether petitioner has established by a preponderance of the evidence that its property has been overvalued” (Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893); Roth v. City of Syracuse, 21 N.Y.3d 411, 995 N.E.2d 123 [2013]; see also Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 [2013], *supra*). The term “preponderance of the evidence” means that “upon all the evidence [considered]... the facts asserted by the [taxpayer] are more probably true than false.” (Nissho-Iwai Co., Ltd. v. M/T Stolt Lion, 719 F.2d 34, 38, 1984 A.M.C. 2611 (2d Cir. 1983); see also U.S. v. Fatico, 458 F. Supp. 388, 403, 3 Fed. R. Evid. Serv. 391 (E.D. N.Y. 1978), *judgment aff’d*, 603 F.2d 1053 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073, 100 S.Ct. 1018, 62 L.Ed.2d 755 (1980)). It should be noted that a complainant who claims a factual basis for objection but fails to provide substantiating evidence does not warrant a reduction in his or her assessment (People ex rel. Buffalo R.P. Ry Co. v. Carmichael, 64 Misc. 271, 118 N.Y.S. 354 (Sup. Ct. Erie Co. 1909), *aff’d*, 139 App. Div. 925, 125 N.Y.S. 1151 (4th Dept. 1920)).

Assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit (see, Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment, 73 AD2d 31, 36, *aff’d* 53 NY2d 975) and any claimed constitutional violations should be asserted in a CPLR article 78 proceeding (see, Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors, 197 AD2d 620, 622, *lv denied*

83 NY2d 759). Consol. Edison Co. of New York Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d 8, 10, 690 N.Y.S.2d 755 (1999). Per RPTL § 744(1), evidence on the issue of whether a special franchise assessment is unequal shall be limited to the state equalization rate or special equalization rate used in determining the final special franchise assessment under review, and such equalization rate or special equalization rate shall be binding and conclusive on the parties upon any such issue.

### **Allegations**

In each of the complaints, Cablevision alleges that: (1) ORPTS overstated the value of its fiber optic network by assigning a value of approximately \$50,000 per mile to that property; (2) its actual cost per mile was approximately \$35,000; (3) this figure must be further reduced for obsolete and/or under-utilized plant; (4) this figure must be further reduced by 15% based on studies performed by its valuation expert; (5) this figure “is believed to include” bundled intangible costs for software licenses (6%), indefeasible rights to use (5%), and contractor premiums for retainage and warranties on labor and materials (8%) which costs do not constitute special franchise or real property; and (6) its final cost was, therefore, approximately \$22,750 per mile.

### **Analysis**

Cablevision claims that it arrived at its “ultimate opinion of value” by: (1) starting with the 2023 special franchise value of its fiber optic network, as determined by ORPTS; (2) depreciating that value for two years, for a total of 15%; (3) adding the value of its 2022 expansion of its network, depreciated by 8% for one year; and (4) adding the un-depreciated value of its 2023 expansion of its network. Cablevision’s values of its 2022 and 2023 expansions were based on the products of miles added to the network in each year and its claimed final cost per mile of \$22,750, per its Exhibit A to its complaints. This claimed final cost per mile includes the downward adjustments described in Cablevision’s allegations.

With regard to the 15% reduction purportedly based on studies performed by Cablevision’s valuation expert, its Exhibits B to its complaints are not a report of this expert but an email in which the expert concludes that, “[w]hile our study is not yet complete on the replacement cost and bundled intangible cost”, he estimates that approximately 85% of older “vintage” material is not only obsolete but also significantly under-used as customers favor “fiber technology” and that new fiber builds should be discounted 15% to account for “already assessed and under-utilized duplicate plant”. The expert also suggests that estimated discounts should also include bundled intangible costs for software licenses at 4% to 6%, indefeasible rights to use at 3% to 5%, and contractor premiums for retainage and warranties on labor and materials at 5% to 8%. The expert concludes that a discount to a “new fiber build” would equate to a conservative 30% reduction from reported costs and that, if “duplicate plant” were to be removed from an assessment, the discount would “approximate roughly 15% for bundled intangible costs”. The email at Cablevision’s Exhibit B contains no data to support the expert’s conclusions.

At the hearing on its complaints, Cablevision did not call witnesses but did explain that it determines its actual costs from “actual invoice build costs from the contractors that install the



cable” and that it uses a competitive bidding process to limit their expenses in installing the fiber optic cable. Cablevision did not, however, provide any such actual invoices as evidence at the hearing.

In response to the complaints of Cablevision, ORPTS explained that special franchise assessments for cable television companies are determined based on the average cost per mile of fiber optic cable within the industry, not the actual cost incurred by any one company, and that it has determined that the average cost per mile for installing fiber optic cable in downstate areas is between \$50,000 and \$55,000 and, for upstate areas, between \$30,000 and \$35,000. ORPTS further explained that average original costs are based on reports submitted by all cable companies, as well as industry indices in its possession. ORPTS maintained that, as the complaints at issue deal with fiber optic cable located in both downstate and upstate areas and the cost per mile used to value Cablevision’s property is the same cost per mile used to value the same type of property of other cable companies when that property is located in similar areas, Cablevision’s property was valued consistently with the way ORPTS values all other fiber optic cable owned by cable television companies. Cablevision countered by pointing out that New York law favors the use of actual cost figures instead of “abstract” cost estimates.

ORPTS also explained that its regulations do not require cable television companies to submit their actual cost incurred in installing fiber optic cable, only their average cost per mile. Therefore, ORPTS was not able to value the property using the actual cost incurred. Even assuming that ORPTS were to value cable television property using the actual cost incurred by the company, ORPTS argued, Cablevision did not provide any support to indicate that \$22,750 per mile is the actual cost incurred by the company when installing fiber optic cable. Noting that the annual reports submitted by Cablevision indicated that the company’s overall labor costs had not increased since 2019, ORPTS concluded that, even assuming that it was able to value the company’s property using the actual costs incurred by the company, the veracity of the costs reported by the company to ORPTS are “highly suspect”.

According to ORPTS, to the extent Cablevision asserts that its property should be depreciated by 15% per year, ORPTS depreciates fiber optic cable owned by cable television companies using a straight-line depreciation through 80% of the property’s useful life, and a second straight-line depreciation through 120% of the property’s useful life. In the case of the aerial fiber optic cables that are at issue in these complaints, the property has a 15-year service life and a negative 10 salvage factor. For the first 10 years that the property is in service, ORPTS determined depreciation at 7.33% per year which is then reduced to 2.5% per year as the property gets closer to the end of its useful life. This depreciation schedule is from ORPTS’ depreciation study and is applicable to all aerial fiber optic cable owned by all cable television companies in downstate areas. ORPTS uses the same depreciation schedule for all fiber optic cable owned by cable television companies. ORPTS argues that Cablevision did not provide any support for their proposed 15% per year depreciation schedule and that Cablevision did not timely apply for the use of alternative valuation components, as required by 20 NYCRR 8197-2.8, and did not request any functional or economic obsolescence.

Finally, ORPTS explains, to the extent Cablevision claims that 47 USC 521 et. seq. and RPTL § 626 are in conflict and/or entitle it to a credit against its real property tax, that issue is not relevant to the present proceeding. In certain circumstances, RPTL 626 entitles owners of special franchise property to a credit against their taxes from the taxing authority (i.e. the town, village, city, or county). However, the Department plays no role in that process.

Based on the foregoing, I conclude that Cablevision has not introduced credible evidence to rebut the presumption that ORPTS's judgment is correct as to the assessments and full values of the special franchise property contemplated herein. Cablevision has not provided any documentation to support its opinion of the proper value of this property nor an explanation of how that opinion may be derived from documentation submitted. Cablevision's Exhibit A is merely a spreadsheet that indicates its calculations using its premises as set forth above. Exhibit A provides no basis to conclude that Cablevision's depreciation amounts are correct or that the franchise property includes bundled intangible costs for software licenses, indefeasible rights to use, or contractor premiums for retainage and warranties on labor and materials. Exhibit A also does not provide any basis for Cablevision's percentage reductions for these items. Cablevision's Exhibit B also provides no basis to support its conclusions. In fact, the discussion of older vintage material being not only obsolete but also significantly under-used as customers favor fiber technology is not on point as there is no indication in these complaints of any older vintage material being included in the special franchise assessments or full values especially with respect to Cablevision's 2022 and 2023 buildouts. Therefore, the conclusion that new fiber builds should be discounted 15% to account for already assessed and under-utilized duplicate plan is not appropriate here. Moreover, the conclusion that estimated discounts should also include bundled intangible costs for software licenses at 4% to 6%, indefeasible rights to use at 3% to 5%, and contractor premiums for retainage and warranties on labor and materials at 5% to 8% are wholly unsupported by any empirical evidence. It follows that no good explanation is available for how Cablevision's opinion may be derived from documentation submitted.

Finally, in its complaints, Cablevision states that, to the extent that RPTL § 626 provides a credit against any property tax based on any special franchise assessment or full value complained of herein, it claims entitlement to such credit. Such claims for credit are outside the scope and purpose of this report.

### **Conclusion**

I find no legal basis upon which to recommend changes to tentative special franchise assessment numbers 906050-4726, 906040-4724, 906000-5538, 904000-4722, 943550-4720, 943820-4722, 927340-4724, 927340-4738, 927350-5528, 910350-5510, 910350-5514, 910350-5524, 910350-5538, 928300-5512, 928300-5522, 928300-5534, and 943560-4734 or tentative special franchise full value numbers 919120-3350, 919120-3920, 919120-3924, 919120-3926, 923500-2805, 902000-1320, 902000-1324, 902000-1326, 902000-1336, 902000-1338, 902000-1342, 902000-1352, 902000-1354, 902000-1358, 943570-4728, 943580-4732, 943580-4736, 944740-4728, 946100-1302, 946100-1328, 946100-1330, 946100-1332, 946100-1334, 946100-1346, 946100-1356, 946100-3311, 946100-3320, 946100-3324, 946100-3340, 946100-3346,

946100-3348, 946100-3358, 946100-3726, 946100-5122, 946100-5132, 946100-5136, 946100-5142, 948000-3322, 948000-3332, 948000-3338, 948000-3354, 948000-3356, 927340-4730, 927340-4736, 927350-5548, 910350-5526, 910350-5532, 910350-5544, 910350-5548, 910350-5550, 928300-3726, 928300-3922, 928300-3926, 928300-3928, 928300-5520, 928300-5526, 928300-5536, 928300-5542, and 943560-4728, as set forth by ORPTS in its Notices of Tentative Special Franchise Assessments and Notices of Tentative Special Franchise Full Values, all dated February 12, 2025. Therefore, I recommend that these tentative special franchise assessments and full values be established as final. There was no procedural matter upon which to report.



## Department of Taxation and Finance

OFFICE OF COUNSEL

### Memorandum

April 23, 2025

TO: State Board of Real Property Tax Services

FROM: Hearing Officer Bruce Lennard

SUBJECT: Report on Complaints SF-25-43 and SF-25-44 filed on Tentative Special Franchise Assessments and Full Values for the Year 2025

### **Introduction**

I was designated as the Hearing Officer for a hearing held on March 20, 2025, to hear complaints on a Notice of Tentative Special Franchise Assessment and Notice of Tentative Special Franchise Full Value to be filed in 2025. This report addresses Complaints SF-25-43 and SF-25-44 filed by SLIC Network Solutions, Inc (“SLIC”). Service of all the complaints appears to have been affected on each adverse party.

Complaint SF-25-43 is construed to object to tentative special franchise assessment numbers 701360-1636 and 701360-5236 of SLIC’s tangible property situated in, upon, under or above public streets, highways, waters and other public places in towns of Constable and Stony Creek, in Franklin County and Warren County, respectively, and of SLIC’s franchise, right, authority or permission to occupy such places, as determined by the Office of Real Property Tax Services (“ORPTS”) and set forth in its Notice of Tentative Special Franchise Assessment, dated February 12, 2025.

Complaint SF-25-44 objects to tentative special franchise full value numbers 701360-0920, 701360-0922, 701360-0924, 701360-0934, 701360-0936, 701360-0938, 701360-0940, 701360-0942, 701360-0944, 701360-4012, 701360-4020, 701360-4022, 701360-4024, 701360-4026, 701360-4028, 701360-4032, 701360-4036, 701360-4046, 701360-4048, 701360-4050, 701360-4052, 701360-4056, 701360-4058, 701360-4062, 701360-4064, 701360-4066, 701360-4068, 701360-4070, 701360-4074, 701360-4078, 701360-4080, 701360-4082, 701360-1520, 701360-1522, 701360-1524, 701360-1526, 701360-1530, 701360-1532, 701360-1534, 701360-1536, 701360-1538, 701360-1540, 701360-1542, 701360-1546, 701360-1548, 701360-1552, 701360-1620, 701360-1622, 701360-1624, 701360-1626, 701360-1628, 701360-1634, 701360-1638,

701360-1640, 701360-1642, 701360-1648, 701360-1650, 701360-1654, 701360-1656, 701360-2032, 701360-3842, 701360-4120, 701360-5222, 701360-5224, 701360-5230, 701360-5238, 701360-5240, 701360-5320, 701360-5322, 701360-5324, 701360-5326, 701360-5328, 701360-5330, 701360-5332, 701360-5334, 701360-5336, 701360-5338, 701360-5340, 701360-5346, 701360-5348, and 701360-5352 of SLIC's tangible property situated in, upon, under or above public streets, highways, waters and other public places in the City of Ogdensburg and various towns in St. Lawrence County, Essex County, Franklin County, Hamilton County, Rennselaer County, Saratoga County, Warren County, and Washington County and of SLIC's franchise, right, authority or permission to occupy such places, as determined by ORPTS and set forth in its Notice of Tentative Special Franchise Full Value, dated February 12, 2025.

### **Standards of Review and Law**

Per 20 NYCRR 8197-4.2(a), a complainant, either an owner of special franchise property or an assessing unit in which special franchise property is located, may obtain administrative review of a tentative assessment or full value of such property by serving a complaint as specified in Real Property Tax Law § 610. However, if such a complaint is not supported by documentation or is otherwise inconsistent with the requirements of this section, the Tax Commissioner will recommend to the State Board of Real Property Tax Services (the "State Board") that the tentative special franchise assessments or full values be established as final. Moreover, per 20 NYCRR 8197-4.2(b)(1), each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted. Additionally, per 20 NYCRR 8197-4.2(b)(2), there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint.

Per 20 NYCRR 8197-4.2(c)(1), the hearing resulting from a complaint shall not constitute an adjudicatory proceeding subject to Article 3 of the State Administrative Procedure Act. The Tax Commissioner's designee as hearing officer shall rule on any procedural matters arising at the hearing and shall report to the State Board on these matters and any legal issues raised in any complaint.

Special franchise property is 'specialty' property, and reproduction cost new less depreciation ("RCNLD") is a proper valuation methodology for specialty property. Moreover, the valuation methodology for special franchises, as set forth in the Rules for Real Property Tax Administration, has been judicially approved (Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, 65 N.Y.2d 472, 482 N.E.2d 77, 492 N.Y.S.2d 598 (1985), *cert. den.* 475 U.S. 1082, 106 S.Ct. 1461, 89 L.Ed.2d 718 (1986); National Fuel Gas Distribution Corp. v. SBEA, 117 A.D.2d 948, 499 N.Y.S.2d 260 (3d Dept. 1986)).

An assessor's judgment as to value is presumed to be correct and a complainant bears the burden of proof to show that the judgment was incorrect (People ex rel. Jamaica Water Supply Co. v. State Board of Tax Commissioners, 196 N.Y. 39, 53, 89 N.E. 581 (Court of Appeals 1909)). A

petitioner challenging the accuracy of a tax valuation has the initial burden to rebut the presumption that the assessor's valuation is correct by introducing credible evidence that the property was overvalued (see Matter of Bass v. Tax Commn. of City of N.Y., 179 A.D.2d 387, 387, 578 N.Y.S.2d 158 [1st Dept.1992]; the presumption of validity of an assessment by the taxing authority is rebutted where credible evidence to the contrary is received (see Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893 [a "petitioner (must) demonstrate the existence of a valid and credible dispute regarding valuation"]; see also Matter of Alexander's Dept. Store of Val. Stream v. Board of Assessors, 227 A.D.2d 549, 550, 642 N.Y.S.2d 940 (2d Dept.1996)).

As noted in Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 (2013):

"In the context of tax assessment cases, the 'substantial evidence' standard merely requires that petitioner demonstrate the existence of a valid and credible dispute regarding valuation" (Thomas, 96 A.D.3d at 1413, 946 N.Y.S.2d 336, quoting FMC Corp. /Peroxygen Chems. Div., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893; see East Med. Ctr., L.P., 16 A.D.3d at 1120, 791 N.Y.S.2d 778). In such a proceeding, "substantial evidence will most often consist of a detailed, competent appraisal based on standard, accepted appraisal techniques and prepared by a qualified appraiser" (Matter of Niagara Mohawk Power Corp. v. Assessor of Town of Geddes, 92 N.Y.2d 192, 196, 677 N.Y.S.2d 275, 699 N.E.2d 899)."

Where the taxpayer successfully meets its burden and rebuts the presumption that the assessing authority's valuation is correct, a court must then "weigh the entire record, including evidence of claimed deficiencies in the assessment, to determine whether petitioner has established by a preponderance of the evidence that its property has been overvalued" (Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893); Roth v. City of Syracuse, 21 N.Y.3d 411, 995 N.E.2d 123 [2013]; see also Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 [2013], *supra*). The term "preponderance of the evidence" means that "upon all the evidence [considered]... the facts asserted by the [taxpayer] are more probably true than false." (Nissho-Iwai Co., Ltd. v. M/T Stolt Lion, 719 F.2d 34, 38, 1984 A.M.C. 2611 (2d Cir. 1983); see also U.S. v. Fatico, 458 F. Supp. 388, 403, 3 Fed. R. Evid. Serv. 391 (E.D. N.Y. 1978), *judgment aff'd*, 603 F.2d 1053 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073, 100 S.Ct. 1018, 62 L.Ed.2d 755 (1980)). It should be noted that a complainant who claims a factual basis for objection but fails to provide substantiating evidence does not warrant a reduction in his or her assessment (People ex rel. Buffalo R.P. Ry Co. v. Carmichael, 64 Misc. 271, 118 N.Y.S. 354 (Sup. Ct. Erie Co. 1909), *aff'd*. 139 App. Div. 925, 125 N.Y.S. 1151 (4th Dept. 1920)).

Assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit (see, Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment, 73 AD2d 31, 36, *aff'd* 53 NY2d 975) and any claimed constitutional

violations should be asserted in a CPLR article 78 proceeding (see, Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors, 197 AD2d 620, 622, lv denied 83 NY2d 759). Consol. Edison Co. of New York Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d 8, 10, 690 N.Y.S.2d 755 (1999). Per RPTL § 744(1), evidence on the issue of whether a special franchise assessment is unequal shall be limited to the state equalization rate or special equalization rate used in determining the final special franchise assessment under review, and such equalization rate or special equalization rate shall be binding and conclusive on the parties upon any such issue.

### **Allegations**

SLIC articulates no allegations in, and includes no information or documentation with, complaint SF-25-43. In complaint SF-25-44, however, SLIC includes a Notice of Tentative Special Franchise Assessment and a Notice of Tentative Special Franchise Full Value, both dated February 12, 2025, along with its opinions of the proper values of the special franchise property at issue in both notices. This report construes complaint SF-25-43 to complain against the Notice of Tentative Special Franchise Assessment referred to herein on the same grounds as articulated in complaint SF-25-44.

In complaint SF-25-44, SLIC alleges that: (1) its values should be based only on its contributions and not external third-party grant funding; (2) “surviving dollars” (company-funded dollars) should be interpreted to mean the economically feasible portion of its plant with grant-funded dollars equating to the economically infeasible portion of its plant; (3) ORPTS denied its application for obsolescence without justification; and (4) to the extent ORPTS sets values for any property that is neither fully constructed or operational, such work in progress is not a taxable asset and such values should be stricken.

### **Analysis**

Regarding basing its values only on its company contributions, SLIC maintains that its contributions are 20% of the value of its special franchise property and 80% of this value is attributable to grant funding. In SLIC’s view, grant funding (or subsidy) amounts are the result of an open, competitive, market-based auction and represent the portion of the overall project cost that made the project otherwise not economically feasible. As such, SLIC contends, the surviving-dollar amounts represent what can reasonably be expected to be replaced in the replacement-cost-new-less-depreciation (RCNLD) valuation methodology. SLIC suggests that including the 80% attributable to grant funding in valuations is tantamount to taxing a subsidy as real property and that ORPTS must use appropriate cost inputs to yield proper outputs for taxation purposes – that the value of the plant cannot be greater than the value of the enterprise.

At Exhibit A to complaint SF-25-44, SLIC sets forth its valuations of its special franchise property included in the Notice of Tentative Special Franchise Assessment and the Notice of Tentative Special Franchise Full Value. SLIC does not, however, provide information to support the valuations including facts, figures, calculations and underlying assumptions to support its valuations, except the 20% position described above. Facts, figures, calculations and underlying

assumptions to support valuations are required.

Though SLIC's arguments suggest a market-based approach to valuation, it also contends that, under the RCNLD methodology, the value of the grant dollars it received is the best estimate of the economic obsolescence resident in the replacement cost new. Under this view, to develop a fair valuation of the property, the value of this external obsolescence should be subtracted from the replacement cost new as ignoring economic obsolescence leads to an overstatement of value.

Title 20 NYCRR § 8197-2.8(b) defines economic obsolescence as the loss in value of property caused by an impairment in desirability or useful life resulting from factors external to the property. SLIC maintains, however, that the difference between a company's private investment and the total investment also represents external obsolescence. SLIC's contention that the difference between a company's private investment and the total investment, i.e., the grant dollars, represents external obsolescence is rejected as this difference does not necessarily equate directly to a quantifiable loss in value caused by an impairment in desirability or useful life, especially on a year-in and year-out basis.

Per 20 NYCRR § 8197-4.2(a), if a complaint is not supported by documentation or is otherwise inconsistent with the requirements of this section, the Tax Commissioner will recommend to the State Board that the tentative special franchise assessments or full values be established as final. In this regard, 20 NYCRR § 8197-4.2(b)(1) provides that each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted. Moreover, 20 NYCRR § 8197-4.2(b)(2) provides that, in a complaint, there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint. In this matter, SLIC has not met these requirements. Specifically, SLIC has provided no documentation to support its opinions of value or any explanations of how those opinions are derived from the documentation submitted. In fact, in complaint SF-25-43, SLIC included no information or documentation at all. On the question of whether ORPTS improperly included SLIC's work-in-progress resulting in taxation on conceptual buildouts, SLIC also provided no evidence to support this claim. Accordingly, SLIC's complaint is rejected on these bases as well.

Based on the foregoing, I conclude that SLIC has not introduced credible evidence to rebut the presumption that ORPTS's judgment is correct as to the assessments and full values of the special franchise property contemplated herein.

## **Conclusion**

I find no legal basis upon which to recommend changes to tentative special franchise assessment numbers 701360-1636 and 701360-5236 or tentative special franchise full value numbers 701360-0920, 701360-0922, 701360-0924, 701360-0934, 701360-0936, 701360-0938, 701360-0940, 701360-0942, 701360-0944, 701360-4012, 701360-4020, 701360-4022, 701360-4024, 701360-4026, 701360-4028, 701360-4032, 701360-4036, 701360-4046, 701360-4048,



701360-4050, 701360-4052, 701360-4056, 701360-4058, 701360-4062, 701360-4064, 701360-4066, 701360-4068, 701360-4070, 701360-4074, 701360-4078, 701360-4080, 701360-4082, 701360-1520, 701360-1522, 701360-1524, 701360-1526, 701360-1530, 701360-1532, 701360-1534, 701360-1536, 701360-1538, 701360-1540, 701360-1542, 701360-1546, 701360-1548, 701360-1552, 701360-1620, 701360-1622, 701360-1624, 701360-1626, 701360-1628, 701360-1634, 701360-1638, 701360-1640, 701360-1642, 701360-1648, 701360-1650, 701360-1654, 701360-1656, 701360-2032, 701360-3842, 701360-4120, 701360-5222, 701360-5224, 701360-5230, 701360-5238, 701360-5240, 701360-5320, 701360-5322, 701360-5324, 701360-5326, 701360-5328, 701360-5330, 701360-5332, 701360-5334, 701360-5336, 701360-5338, 701360-5340, 701360-5346, 701360-5348, and 701360-5352, as set forth by ORPTS in its corresponding Notice of Tentative Special Franchise Assessment and Notice of Tentative Special Franchise Full Value, each dated February 12, 2025. Therefore, I recommend that these tentative special franchise assessments and full values be established as final. There was no procedural matter upon which to report.



## Department of Taxation and Finance

OFFICE OF COUNSEL

### **Memorandum**

April 29, 2025

TO: State Board of Real Property Tax Services

FROM: Hearing Officer Bruce Lennard

SUBJECT: Report on Complaint SF-25-45 filed on a Tentative Special Franchise Full Value for the Year 2025

### **Introduction**

I was designated as the Hearing Officer for a hearing held on April 3, 2025, to hear complaints on a Notice of Tentative Special Franchise Full Value to be filed in 2025. This report addresses Complaint SF-25-45 filed by Bayonne Energy Center LLC (“Bayonne”). Service of the complaint appears to have been affected on the adverse party.

Complaint SF-25-45 objects to tentative special franchise full value number 110000-6101 of Bayonne’s tangible property situated in, upon, under or above public streets, highways, waters and other public places in the Borough of Brooklyn, in King County and Bayonne’s franchise, right, authority or permission to occupy such places, as determined by the Office of Real Property Tax Services (“ORPTS”) and set forth in its Notice of Tentative Special Franchise Full Value, dated February 28, 2025.

### **Standards of Review and Law**

Per 20 NYCRR 8197-4.2(a), a complainant, either an owner of special franchise property or an assessing unit in which special franchise property is located, may obtain administrative review of a tentative assessment or full value of such property by serving a complaint as specified in Real Property Tax Law § 610. However, if such a complaint is not supported by documentation or is otherwise inconsistent with the requirements of this section, the Tax Commissioner will recommend to the State Board of Real Property Tax Services (the “State Board”) that the tentative special franchise assessments or full values be established as final. Moreover, per 20 NYCRR 8197-4.2(b)(1), each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of

value, and an explanation of how that opinion is derived from the documentation submitted. Additionally, per 20 NYCRR 8197-4.2(b)(2), there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint.

Per 20 NYCRR 8197-4.2(c)(1), the hearing resulting from a complaint shall not constitute an adjudicatory proceeding subject to Article 3 of the State Administrative Procedure Act. The Tax Commissioner's designee as hearing officer shall rule on any procedural matters arising at the hearing and shall report to the State Board on these matters and any legal issues raised in any complaint.

Special franchise property is 'specialty' property, and reproduction cost new less depreciation ("RCNLD") is a proper valuation methodology for specialty property. Moreover, the valuation methodology for special franchises, as set forth in the Rules for Real Property Tax Administration, has been judicially approved (Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, 65 N.Y.2d 472, 482 N.E.2d 77, 492 N.Y.S.2d 598 (1985), *cert. den.* 475 U.S. 1082, 106 S.Ct. 1461, 89 L.Ed.2d 718 (1986); National Fuel Gas Distribution Corp. v. SBEA, 117 A.D.2d 948, 499 N.Y.S.2d 260 (3d Dept. 1986)).

An assessor's judgment as to value is presumed to be correct and a complainant bears the burden of proof to show that the judgment was incorrect (People ex rel. Jamaica Water Supply Co. v. State Board of Tax Commissioners, 196 N.Y. 39, 53, 89 N.E. 581 (Court of Appeals 1909)). A petitioner challenging the accuracy of a tax valuation has the initial burden to rebut the presumption that the assessor's valuation is correct by introducing credible evidence that the property was overvalued (see Matter of Bass v. Tax Commn. of City of N.Y., 179 A.D.2d 387, 387, 578 N.Y.S.2d 158 [1st Dept.1992]; the presumption of validity of an assessment by the taxing authority is rebutted where credible evidence to the contrary is received (see Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893 [a "petitioner (must) demonstrate the existence of a valid and credible dispute regarding valuation"]; see also Matter of Alexander's Dept. Store of Val. Stream v. Board of Assessors, 227 A.D.2d 549, 550, 642 N.Y.S.2d 940 (2d Dept.1996)).

As noted in Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 (2013):

"In the context of tax assessment cases, the 'substantial evidence' standard merely requires that petitioner demonstrate the existence of a valid and credible dispute regarding valuation" (Thomas, 96 A.D.3d at 1413, 946 N.Y.S.2d 336, quoting FMC Corp. /Peroxygen Chems. Div./, 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893; see East Med. Ctr., L.P., 16 A.D.3d at 1120, 791 N.Y.S.2d 778). In such a proceeding, "substantial evidence will most often consist of a detailed, competent appraisal based on standard, accepted appraisal techniques and prepared by a qualified appraiser" (Matter of Niagara Mohawk Power Corp. v. Assessor of Town of Geddes, 92 N.Y.2d 192, 196, 677 N.Y.S.2d 275, 699 N.E.2d 899)."

Where the taxpayer successfully meets its burden and rebuts the presumption that the assessing authority's valuation is correct, a court must then "weigh the entire record, including evidence of claimed deficiencies in the assessment, to determine whether petitioner has established by a preponderance of the evidence that its property has been overvalued" (Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893); Roth v. City of Syracuse, 21 N.Y.3d 411, 995 N.E.2d 123 [2013]; see also Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 [2013], *supra*). The term "preponderance of the evidence" means that "upon all the evidence [considered]... the facts asserted by the [taxpayer] are more probably true than false." (Nissho-Iwai Co., Ltd. v. M/T Stolt Lion, 719 F.2d 34, 38, 1984 A.M.C. 2611 (2d Cir. 1983); see also U.S. v. Fatico, 458 F. Supp. 388, 403, 3 Fed. R. Evid. Serv. 391 (E.D. N.Y. 1978), *judgment aff'd*, 603 F.2d 1053 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073, 100 S.Ct. 1018, 62 L.Ed.2d 755 (1980)). It should be noted that a complainant who claims a factual basis for objection but fails to provide substantiating evidence does not warrant a reduction in his or her assessment (People ex rel. Buffalo R.P. Ry Co. v. Carmichael, 64 Misc. 271, 118 N.Y.S. 354 (Sup. Ct. Erie Co. 1909), *aff'd*, 139 App. Div. 925, 125 N.Y.S. 1151 (4th Dept. 1920)).

Assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit (see, Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment, 73 AD2d 31, 36, *aff'd* 53 NY2d 975) and any claimed constitutional violations should be asserted in a CPLR article 78 proceeding (see, Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors, 197 AD2d 620, 622, *lv denied* 83 NY2d 759). Consol. Edison Co. of New York Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d 8, 10, 690 N.Y.S.2d 755 (1999). Per RPTL § 744(1), evidence on the issue of whether a special franchise assessment is unequal shall be limited to the state equalization rate or special equalization rate used in determining the final special franchise assessment under review, and such equalization rate or special equalization rate shall be binding and conclusive on the parties upon any such issue.

### **Allegations**

In complaint SF-25-45, Bayonne alleges that ORPTS: (1) misapplied the RCNLD methodology; (2) included costs that were unusual and extraordinary and incurred as the result of unforeseen events; (3) failed to apply proper adjustments for costs related to unnecessary or unusual construction, duplication, re-design, relocation and extraordinary time schedules; (4) improperly trended its reported unadjusted original costs; (5) deducted an insufficient sum for physical depreciation; (6) deducted an insufficient sum for economic (external) obsolescence; (7) deducted an insufficient sum for functional obsolescence; (8) used an inadequate net salvage percentage that does not accurately reflect the negative salvage value of submarine cables; (9) failed to acknowledge that the company is required by the United States Army Corps of Engineers to remove the subject special franchise property within two years of the termination of its permit agreement; (10) failed to recognize that the subject property is a "generator lead" and not a utility transmission line; (11) arbitrarily, capriciously, improperly and unlawfully determined and fixed

the valuation of the special franchise property in a discriminatory and unwarranted manner resulting in excessive and confiscatory sums; (12) violated the state and federal constitutions' equal protection clauses and RPTL section 305; and (13) denied Complainant substantive due process under the state and federal constitutions and took Complainants property for a public use without rendering just compensation.

### **Analysis**

In support of its allegation that ORPTS failed to acknowledge that it is required by the Corps of Engineers to remove the subject special franchise property within two years of the termination of its permit agreement, Bayonne provided, as Exhibit B to its complaint, a copy of the Corps of Engineers' permit, with attachments. This permit authorized Bayonne to install the three submarine electric transmission cables at issue herein in accordance with specified various terms and conditions. A special condition of the permit is that Bayonne must remove the three submarine electric transmission cables authorized by the permit within two years "of the cables being removed from service" but that it may apply to the Corps of Engineers to leave the inactive cables in place so long as doing so does not result in long-term adverse impact to the harbor or harbor resources or unreasonably interfere with other uses of the seabed.

At the hearing, Bayonne presented testimony that, because it is an independent power producer, it did not believe the Corps of Engineers would approve it leaving its inactive cables in place after their decommissioning because, if the Corps of Engineers wanted the cables removed years later, Bayonne may not be "an entity that is going to be around". Thus, the Corps of Engineers would have no recourse if it wanted the cables removed "twenty or thirty years down the road." Bayonne also presented testimony that its cables may interfere with other uses of the seabed and was, in fact, "interfering with other uses of the seabed today" such as dredging operations. In this latter regard, the testimony indicated that Bayonne had to survey the entirety of its cables and provide that information to dredge operators so they would not "grab the cable" and that Bayonne's cables limited the depth of dredging, in one instance. The testimony also indicated that Bayonne is in discussions with the Corps of Engineers about possibly relocating a section of cable in connection with deepening the harbor and that there are "a lot of offshore wind projects that are looking to interconnect into the New York City electrical grid and a large number of them would need to cross [its] cables". Ultimately, Bayonne contended that it was unreasonable to assume the Corps of Engineers would allow it to leave the inactive cables in place and that their removal was Bayonne's operating assumption.

The special condition of the Corps of Engineers' permit does not, by its terms, require Bayonne to remove the special franchise property as Bayonne alleges. Instead, their removal is largely speculative as there is no indication in the record of this complaint that Bayonne intends to remove the cables from service. Moreover, the Corps of Engineers may, in fact, approve a request to leave the cables in place after they are decommissioned. It is only its assumption that Bayonne will not be allowed to leave its cables in place. Notably, the removal of the cables is also not required by the permit expiring, as alleged. It follows, therefore, that Bayonne's Exhibit A, its decommissioning and salvage plan, does not establish a net salvage value that must be subtracted

from the value of the cables as they may not be decommissioned and salvaged.

Additionally, Bayonne provided no information as to the decommissioning of its “accompany generator facilities” such that the cables will cease functionality. Therefore, Bayonne’s argument that ORPTS failed to recognize that the subject property is a “generator lead” and not a utility transmission line is rejected. In this regard, both of Bayonne’s exhibits describe the cables as transmission lines or cables, in any event.

Bayonne did not otherwise provide evidence to establish its other allegations.

For its part, ORPTS provided that Bayonne did not request functional obsolescence, and no supporting utilization study was submitted that would allow ORPTS to substantiate functional obsolescence on its property. ORPTS also pointed out that economic (external) obsolescence was also not requested by Bayonne and, therefore, no such obsolescence was granted. Additionally, ORPTS indicated that it values all like property in the same manner and disagrees with Bayonne’s suggestion that ORPTS disparately treated its property when compared with other similarly situated special franchise property.

Finally, this hearing is not the proper forum for Bayonne’s various constitutional claims since assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit and any claimed constitutional violations should be asserted in a CPLR Article 78 proceeding.

Based on the foregoing, I conclude that Bayonne has not introduced credible evidence to rebut the presumption that ORPTS’s judgment is correct as to the full value of the special franchise property contemplated herein.

### **Conclusion**

I find no legal basis upon which to recommend changes to tentative special franchise full value number 110000-6101, as set forth by ORPTS in its corresponding Notice of Tentative Special Franchise Full Value, dated February 28, 2025. Therefore, I recommend that this tentative special franchise full value be established as final. There was no procedural matter upon which to report.



## Department of Taxation and Finance

OFFICE OF COUNSEL

### **Memorandum**

April 29, 2025

TO: State Board of Real Property Tax Services

FROM: Hearing Officer Bruce Lennard

SUBJECT: Report on Complaint SF-25-46 filed on Tentative Special Franchise Full Values for the Year 2025

### **Introduction**

I was designated as the Hearing Officer for a hearing held on April 3, 2025, to hear complaints on a Notice of Tentative Special Franchise Full Value to be filed in 2025. This report addresses Complaint SF-25-46 filed by Consolidated Edison Company of New York, Inc. (“Con Ed”). Service of the complaint appears to have been not timely made on the relevant assessing unit (New York City). Additionally, Con Ed did not appear at the hearing.

Complaint SF-25-46 objects to tentative special franchise full value numbers 110701-6001, 110701-6101, 110701-6201, 110701-6301, 110701-6401, 110702-6001, 110702-6201, 110702-6301, 110702-6401, 110703-6201, 110704-6001, 110704-6101, 110704-6201, and 110704-6301 of Con Ed’s tangible property situated in, upon, under or above public streets, highways, waters and other public places in the boroughs of Bronx, Brooklyn, Manhattan, Queens, and Staten Island in the counties of Bronx, Kings, New York, Queens, and Richmond, as the case may be, and Con Ed’s franchise, right, authority or permission to occupy such places, as determined by the Office of Real Property Tax Services (“ORPTS”) and set forth in its Notices of Tentative Special Franchise Full Value, dated February 28, 2025.

### **Standards of Review and Law**

Per 20 NYCRR 8197-4.2(a), a complainant, either an owner of special franchise property or an assessing unit in which special franchise property is located, may obtain administrative review of a tentative assessment or full value of such property by serving a complaint as specified in Real Property Tax Law § 610. However, if such a complaint is not supported by documentation or is otherwise inconsistent with the requirements of this section, the Tax Commissioner will

recommend to the State Board of Real Property Tax Services (the “State Board”) that the tentative special franchise assessments or full values be established as final. Moreover, per 20 NYCRR 8197-4.2(b)(1), each complaint must provide, at a minimum, an opinion of the proper value of the special franchise as of the appropriate valuation date, documentation to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted. Additionally, per 20 NYCRR 8197-4.2(b)(2), there must be a separate opinion of value and explanation of that opinion for each tentative assessment or full value which is a subject of that complaint.

Per 20 NYCRR 8197-4.2(c)(1), the hearing resulting from a complaint shall not constitute an adjudicatory proceeding subject to Article 3 of the State Administrative Procedure Act. The Tax Commissioner’s designee as hearing officer shall rule on any procedural matters arising at the hearing and shall report to the State Board on these matters and any legal issues raised in any complaint.

Special franchise property is ‘specialty’ property, and reproduction cost new less depreciation (“RCNLD”) is a proper valuation methodology for specialty property. Moreover, the valuation methodology for special franchises, as set forth in the Rules for Real Property Tax Administration, has been judicially approved (Brooklyn Union Gas Co. v. State Board of Equalization and Assessment, 65 N.Y.2d 472, 482 N.E.2d 77, 492 N.Y.S.2d 598 (1985), *cert. den.* 475 U.S. 1082, 106 S.Ct. 1461, 89 L.Ed.2d 718 (1986); National Fuel Gas Distribution Corp. v. SBEA, 117 A.D.2d 948, 499 N.Y.S.2d 260 (3d Dept. 1986)).

An assessor’s judgment as to value is presumed to be correct and a complainant bears the burden of proof to show that the judgment was incorrect (People ex rel. Jamaica Water Supply Co. v. State Board of Tax Commissioners, 196 N.Y. 39, 53, 89 N.E. 581 (Court of Appeals 1909)). A petitioner challenging the accuracy of a tax valuation has the initial burden to rebut the presumption that the assessor’s valuation is correct by introducing credible evidence that the property was overvalued (see Matter of Bass v. Tax Commn. of City of N.Y., 179 A.D.2d 387, 387, 578 N.Y.S.2d 158 [1st Dept.1992]; the presumption of validity of an assessment by the taxing authority is rebutted where credible evidence to the contrary is received (see Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893 [a “petitioner (must) demonstrate the existence of a valid and credible dispute regarding valuation”]; see also Matter of Alexander’s Dept. Store of Val. Stream v. Board of Assessors, 227 A.D.2d 549, 550, 642 N.Y.S.2d 940 (2d Dept.1996)).

As noted in Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 (2013):

“In the context of tax assessment cases, the ‘substantial evidence’ standard merely requires that petitioner demonstrate the existence of a valid and credible dispute regarding valuation” (Thomas, 96 A.D.3d at 1413, 946 N.Y.S.2d 336, quoting FMC Corp. /Peroxygen Chems. Div., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893; see East Med. Ctr., L.P., 16 A.D.3d at 1120, 791 N.Y.S.2d 778). In such a



proceeding, “substantial evidence will most often consist of a detailed, competent appraisal based on standard, accepted appraisal techniques and prepared by a qualified appraiser” (Matter of Niagara Mohawk Power Corp. v. Assessor of Town of Geddes, 92 N.Y.2d 192, 196, 677 N.Y.S.2d 275, 699 N.E.2d 899).”

Where the taxpayer successfully meets its burden and rebuts the presumption that the assessing authority’s valuation is correct, a court must then “weigh the entire record, including evidence of claimed deficiencies in the assessment, to determine whether petitioner has established by a preponderance of the evidence that its property has been overvalued” (Matter of FMC Corp., 92 N.Y.2d at 188, 677 N.Y.S.2d 269, 699 N.E.2d 893); Roth v. City of Syracuse, 21 N.Y.3d 411, 995 N.E.2d 123 [2013]; see also Board of Managers of French Oaks Condominium v. Town of Amherst, 103 A.D.3d 1102, 958 N.Y.S.2d 808 [2013], *supra*). The term “preponderance of the evidence” means that “upon all the evidence [considered]... the facts asserted by the [taxpayer] are more probably true than false.” (Nissho-Iwai Co., Ltd. v. M/T Stolt Lion, 719 F.2d 34, 38, 1984 A.M.C. 2611 (2d Cir. 1983); see also U.S. v. Fatico, 458 F. Supp. 388, 403, 3 Fed. R. Evid. Serv. 391 (E.D. N.Y. 1978), *judgment aff’d*, 603 F.2d 1053 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073, 100 S.Ct. 1018, 62 L.Ed.2d 755 (1980)). It should be noted that a complainant who claims a factual basis for objection but fails to provide substantiating evidence does not warrant a reduction in his or her assessment (People ex rel. Buffalo R.P. Ry Co. v. Carmichael, 64 Misc. 271, 118 N.Y.S. 354 (Sup. Ct. Erie Co. 1909), *aff’d*, 139 App. Div. 925, 125 N.Y.S. 1151 (4th Dept. 1920)).

Assessment review proceedings involving the issue of inequality are limited to determining whether the property at issue has been assessed at a different percentage of its full value than other properties within the same taxing unit (see, Matter of Consolidated Edison Co. v State Bd. of Equalization & Assessment, 73 AD2d 31, 36, *aff’d* 53 NY2d 975) and any claimed constitutional violations should be asserted in a CPLR article 78 proceeding (see, Matter of Board of Mgrs. of Acorn Ponds at N. Hills Condominium No. 3 v Board of Assessors, 197 AD2d 620, 622, *lv denied* 83 NY2d 759). Consol. Edison Co. of New York Inc. v. State Bd. of Real Prop. Servs., 255 A.D.2d 8, 10, 690 N.Y.S.2d 755 (1999). Per RPTL § 744(1), evidence on the issue of whether a special franchise assessment is unequal shall be limited to the state equalization rate or special equalization rate used in determining the final special franchise assessment under review, and such equalization rate or special equalization rate shall be binding and conclusive on the parties upon any such issue.

### **Allegations**

In complaint SF-25-46, Con Ed alleges that: (1) the tentative full values at issue are excessive and illegal in that, among other things, they do not reflect the full extent of depreciation, including economic obsolescence, from which the property suffers and they include property not owned by Con Ed; and (2) the Climate Leadership and Community Protection Act (L. 2019 ch. 106) and New York City Local Law 97 of 2019 evince a long-term government effort to restrict the sale and use of fossil fuel forms of energy imposing significant additional external obsolescence on its special franchise property.

## **Analysis**

Con Ed has failed to meet the pleading requirements required by the Department's regulations and has failed to rebut the presumption of validity that applies to ORPTS' tentative full values. While Con Ed provided with its complaint an estimate of full value for each assessing unit, it did not meet the other basic pleading requirements set forth in regulations. Specifically, although the complaint provides the required "opinion of the property value of the special franchise as of the appropriate valuation date" it does not provide the required "documentation to support that opinion of value, and an explanation of how that opinion is derived from the documentation submitted." 20 NYCRR 8197-4.2(b)(1). *See also* 20 NYCRR 8197-4.2(b)(2). Therefore, the complaint is rejected as insufficient.

Additionally, Con Ed's complaint is not signed by its chief executive officer or legal representative. Instead, the complaint is signed by Stephanie Merritt, who is listed on the Notices of Tentative Special Franchise Full Value as Con Ed's Tax Director. There is no indication in the complaint, or otherwise, that Ms. Merritt was authorized in writing to sign the complaint. As per 20 NYCRR 8197-4.2(b)(1), "[t]he complaint shall be in writing on a form prescribed by ORPTS and signed by the chief executive officer or legal representative of the complainant, or by a person authorized in writing by either of those individuals to file such a complaint." Therefore, the complaint is rejected on this basis, as well.

Finally, the complaint is rejected for untimely service. Special franchise complaints are required to be served on the Department and on assessing units at least ten days before the day specified for the hearing. RPTL 610(1). The affidavit of service filed by Con Ed indicates that the complaint was served on the relevant assessing unit (New York City) on March 25, 2025, nine days before the day specified for the hearing.

## **Conclusion**

I find no legal basis upon which to recommend changes to tentative special franchise full value numbers 110701-6001, 110701-6101, 110701-6201, 110701-6301, 110701-6401, 110702-6001, 110702-6201, 110702-6301, 110702-6401, 110703-6201, 110704-6001, 110704-6101, 110704-6201, and 110704-6301, as set forth by ORPTS in its corresponding Notices of Tentative Special Franchise Full Value, each dated February 28, 2025. Therefore, I recommend that these tentative special franchise full values be established as final. There was no procedural matter upon which to report.



## Department of Taxation and Finance

### MEMORANDUM

**TO:** State Board Members  
**FROM:** Ms. Ingalsbe  
**SUBJECT:** STAR Exemption Appeals - General Discussion ,  
**DATE:** May 14, 2025

#### Purpose

The purpose of this memorandum is to present a general discussion of the principles applicable to the review of the STAR exemption appeals that are presented in the next Agenda Item. The exemptions in question were denied by the staff of the Department of Taxation and Finance on the basis that the applicable age, income and/or residency requirement was not satisfied.

Since these appeals involve the financial history of particular persons - particularly, information obtained from income tax returns that by law must be protected from public disclosure - we recommend that they be considered in Executive Session as authorized by Public Officers Law§ 105(1)(f).

#### Background

The STAR exemption is authorized by section 425 of the Real Property Tax Law. Its central eligibility requirements are as follows:

a. Basic STAR Exemption

In order for a property owner to be eligible for a Basic STAR exemption:

- the property must be the primary residence of the owner(s), and
- the combined income of the owner(s) and spouse(s) who reside on the property may not be more than \$250,000<sup>1</sup> for the applicable income tax year.

b. Enhanced STAR Exemption

In order for a property owner to be eligible for an Enhanced STAR exemption:

---

<sup>1</sup> It may bear mention that the income limit for the Basic STAR credit is \$500,000. Appellants whose incomes are over \$250,000 but not over \$500,000 may switch to the Basic STAR credit if they wish, but that has no bearing on their eligibility for a Basic STAR exemption. The State Board only has jurisdiction over exemption appeals.

- the property must be the primary residence of the owner(s),
- all owners must be at least 65 years of age (with two limited exceptions specified below), and
- the combined income of the owner(s) and spouse(s) who reside on the property may not be more than a formula-based limit (specified below) for the applicable income tax year.<sup>2</sup>

As noted above, the law provides that property cannot receive an Enhanced STAR exemption unless all of the owners are at least age 65, but it also provides two limited exceptions to this requirement.

One exception is that if property is owned by a married couple or by siblings, only one of them must be at least age 65.

The other exception is that when property owned by a married couple is receiving the exemption because one spouse is at least age 65, and that spouse dies, the exemption may be continued if the surviving spouse is at least age 62.

c. Definition of Income

For STAR purposes, income means adjusted gross income for federal income tax purposes for the applicable income tax year, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity.

d. Parameters applicable to today's appeals

The appeals presented to you today involve STAR exemptions for the 2024 assessment roll.

By law, eligibility for STAR exemptions on a 2024 roll must be based upon the following parameters:

- Income eligibility for both the Basic and Enhanced STAR exemptions is based on the 2022 income tax year.
- The income limit is \$250,000 for the Basic STAR exemption and \$98,700 for the Enhanced STAR exemption, and
- Age eligibility for the Enhanced STAR exemption is determined as of December 31, 2024.

<sup>2</sup> Property owners who fail to satisfy the age or income requirements for Enhanced STAR may still receive a Basic STAR exemption as long as their incomes do not exceed \$250,000.

## Discussion

When Tax Department staff determined that a property was not eligible to receive a STAR exemption, the property owners were notified that they had the opportunity to appeal the decision to the Commissioner. Where an appeal to the Commissioner was denied, the property owners were notified they had the opportunity to apply for review by the State Board.

The next Agenda Item presents several such appeals for your consideration. Each memorandum is accompanied by a copy of the appellant's submission<sup>3</sup> and a draft resolution we shall ask you to adopt.

Before you take up these specific appeals, please be aware that their details cannot be discussed in a public forum because they involve information obtained from income tax returns, and as such, are subject to the secrecy protections of Tax Law§ 697(e).

That being so, we respectfully request that a Board member make a motion pursuant to Public Officers Law§ 105(1)(f) calling for these appeals to be considered in Executive Session on the basis that they involve the financial history of particular persons. If such a motion should be made and seconded, we would recommend its approval.

<sup>3</sup> If an appellant included a copy of a tax return or similar documentation that had no bearing upon their STAR eligibility (e.g., if they provided their 2023 return when only their 2022 income is relevant), we would remove it before forwarding the submission to you due to its sensitivity.

Agenda Items IV and V have been intentionally omitted from this packet to protect confidential information of private individuals.