



NEW YORK
STATE OF
OPPORTUNITY.

**Department
of Public Service**

Eligible Telecommunications Carrier (ETC) Designation

Dave Cramer
Utility Analyst 3, Office of Telecommunications
Department of Public Service

Wireline ETC Certification in New York

What is an ETC?

- Section 214 of the Communications Act of 1934, as amended, requires state commissions to designate eligible telecommunications carriers (ETCs)
- ETC designation was originally designed to determine carrier eligibility to receive federal universal service funding to support low-income customers (Lifeline)
- ETCs are facilities-based wireline telecommunications companies that provide voice-grade access to the public-switched network or its functional equivalent



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New York Is a Federal Default State

- **New York Public Service Commission (PSC) certifies eligible carriers as ETCs based on FCC rules and regulations**
 - **Code of Federal Regulations 47 CFR §§54.101 through 54.207**



Wireline ETC Certification in New York

NYS ETC Designation Process

1. Obtain Certificate of Public Convenience and Necessity (CPCN) as a facilities-based provider of telephone service with authority to provide local exchange service
 - For more information on the CPCN, visit the [DPS website](#)
 - Approved tariff that meets all FCC ETC requirements
 - Voice grade access to the public switched network
 - Voice telephony service
 - Access to emergency services, including to E911
 - Local usage Lifeline and free toll limitation services for qualifying low-income customers



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NYS ETC Designation Process

2. File a separate petition requesting ETC designation
 - Commission Order approving ETC designation
 - ETC designation can be granted concurrent with CPCN approval
 - Approval timeframe is wholly dependent on when carrier submits needed information and the time to the next Commission Session



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Three Scenarios for New NY Broadband Program Awardees

- **Carrier Is an existing ETC – Not Expanding Telephone Service Area**
 - All ETCs have a defined telephone service area
 - No expansion, then no further action needed by the Commission
- **Carrier Is an existing ETC – Expanding Telephone Service Area**
 - FCC requires carrier to get statements of public interest from the new telephone service areas
 - Once the carrier submits statements of public interest to DPS staff, an amendment to its ETC designation can be presented to the Commission for approval
- **Carrier is seeking ETC designation for the first time**
 - Carrier must submit an ETC petition to DPS staff, including a defined telephone service area and a CPCN application if necessary
 - Once all information is submitted to DPS staff, the ETC designation request can be processed and presented to the Commission for approval



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Cable Television Franchising NYS Department of Public Service

Carol McTague
Utility Analyst 3, Office of Telecommunications
Department of Public Service

PSC Authority

- **Section 221 of Public Service Law:**
 - No cable operator can provide service without Certificate of Confirmation
- **Section 222 of Public Service Law:**
 - No transfer, renewal or amendment of any franchise, or any transfer of control of a franchise or Certificate of Confirmation... shall be effective without the prior approval of the Commission
- 16 NYCRR Parts 890-898

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 15, 2016

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman

CASE 16-V-0189 - Petition of Time Warner Cable Northeast LLC for
a Certificate of Confirmation for its Franchise
with the Town of Scipio, Cayuga County.

ORDER AND CERTIFICATE OF CONFIRMATION

(Issued and Effective June 22, 2016)

BY THE COMMISSION:

INTRODUCTION

On March 28, 2016, Time Warner Cable Northeast LLC
(Time Warner Cable) filed a petition, pursuant to Public Service
Law (PSL) §221, requesting issuance of a Certificate of
Confirmation for a cable television franchise awarded by the
Town of Scipio, Cayuga County (Town). The Town authorized Time
Warner Cable to provide cable service by Resolution approved by
its Town Board of Trustees on April 8, 2015, after a duly
noticed public hearing was held the same date. The term of the
Order is

Certificate of Confirmation

Cable Franchising

- **All franchises are *non-exclusive***
 - a community may have more than one service provider
- **When a franchise expires, the company has a presumption to renew their agreement (they can't be “kicked” out)**
- **Cable television franchises apply to cable television service only – not broadband or telephone service**



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Franchising Process

Negotiation



Public Hearing



Resolution



State
Certification

- **Issues to be discussed:**
 - Primary service area
 - Level playing field issues should there be another company already in the municipality



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Franchising Process

- **Waivers of Primary Service area subject to PSC approval**
- **A franchise cannot be unreasonably be denied by a municipality**
- **Franchise must comply with franchise standards found in Parts 895, 896**



Where is the Provider Required to Serve?

- PSC Regulations Part 895.5 requires 35 homes per aerial mile of cable plant
- Number/homes can be negotiated
- PSC has granted a number of limited-area franchises
- Level playing field issues if competitive





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Pole Attachments & Make-Ready

Karen Geduldig
Director, Office of Telecommunications
Department of Public Service

Public Service Commission & Utility Pole Administration

- **Public Service Law Section 119-a**
 - “The commission shall prescribe just and reasonable rates, terms and conditions for attachments to utility poles and the use of utility ducts, trenches and conduits. . . .”



Public Service Commission & Utility Pole Administration

- **Case 03-M-0432 Aug. 6, 2004** - Proceeding on Motion of the Commission Concerning Certain Pole Attachment Issues, Order Adopting Policy Statement on Pole Attachments, Aug. 6, 2004
 - Governs wireline attachments to utility poles
 - Clarifies and streamlines attachment process to promote deployment of competitive telecommunications networks
 - Creates an opt-in regime
 - “The [Policy Statement] should govern the relationship between attachers and utilities unless they mutually agree otherwise”



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PSC Order Adopting Policy Statement on Pole Attachments contd.

- **Timelines** (see end slide)
- **Make Ready Estimates and Charges**
 - **Make ready cost estimates provided in 14 days**
 - **Make ready completed 45 days from payment**
 - **Unit costs are *not* subject to negotiation**
 - **Costs are posted on pole owner website and in pole attachment agreements**



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PSC Order Adopting Policy Statement on Pole Attachments contd.

- **Rearrangements and the “But For” Rule**
 - New attacher pays for all rearrangements needed as a result of new attachment
 - Attacher who causes another to be non-compliant must pay cost of remediation
- **Standard Pole Attachment Agreements and Operating Procedures**
 - Pole owners establish standard Pole Attachment Agreements and Operating Procedures
 - New/additional terms can be negotiated
 - Such terms should be made available to all



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PSC Order Adopting Policy Statement on Pole Attachments contd.

- **Dispute Resolution Process**

- Parties must attempt to resolve disputes internally for at least 22 days before appealing to the Commission's dispute resolution process
 - 10 days at intermediate level in Company; 12 days with Company Ombudsman
 - Dispute resolution initiated by filing with Commission Secretary
 - Generally, work continues during dispute *unless* dispute is over location or form of attachment



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PSC Order Adopting Policy Statement on Pole Attachments contd.

- **Overlashing**
- **Temporary Boxing of Poles**
- **Extension Arms and Attachments**
 - **Permitted with certain considerations**
 - **Cost avoidance, notice**
 - **Must adhere to safety standards**
- **Audits and Inspections**
- **Drop Poles**

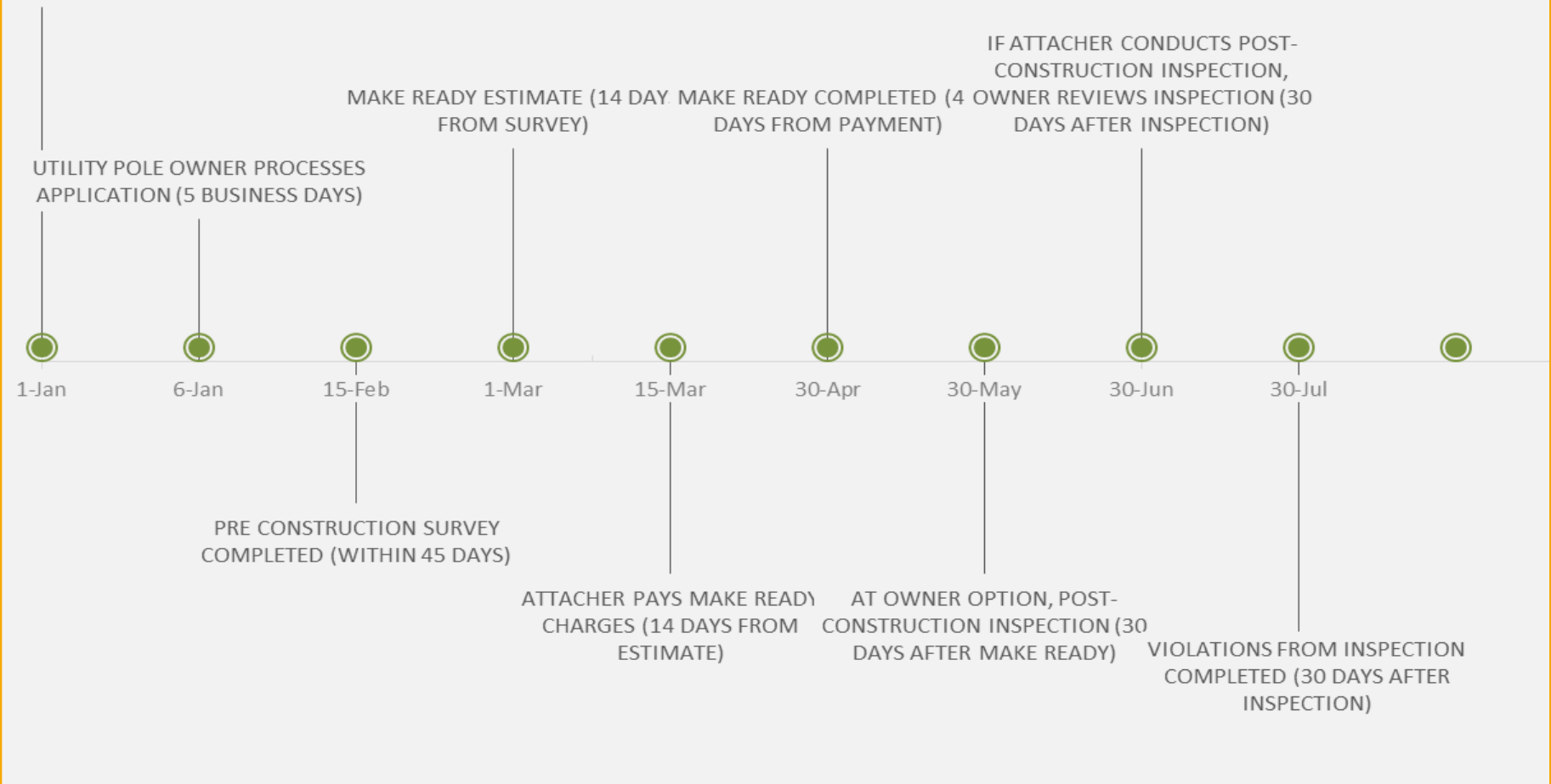


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Timelines

APPLICATION TO UTILITY POLE OWNER



Resources

For more information on ETC Designation, Cable Franchising and Pole Attachments...

Visit:

Public Service Commission website
Telecommunications Section



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