

PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.
PO. Box 10787
Albany, NY 12201 - 5787
Tel: 518.281.5991 Fax 518.286.2392
Email: gnorlander@utilityproject.org

Via Email

December 19, 2014

Hon. Katherine Burgess, Secretary
New York State Department of Public Service
Public Service Commission
Three Empire Plaza
Albany, NY 12223

Dear Secretary Burgess:

Thank you for the opportunity to make this submission prior to your *de novo* consideration of the release under FOIL of requested records of the Department of Public Service containing certain information from Time Warner Cable and Comcast, and the supplemental information recently submitted to you by those utilities to you. Due to time constraints I will not review the history of the matter or the details of the latest submissions claiming competitive injury from release of the records, which appear repetitious. I rely on the determinations of ALJ insofar as records have been directed to be released, and upon my prior submissions of October 20 and 24, 2014, which address, *inter alia*, Verizon's comments, your questions regarding certain issues, and the legal standard applicable to claims of trade secret exemption from the general obligation to provide records under FOIL.

I wish to emphasize and call your attention to the following matters.

The records requested are not trade secrets *under FOIL* and are not exempt from release. As shown in my prior submissions, a trade secret exemption under FOIL should be more narrowly defined than the utilities urge. Until recently it made no difference whether records were labelled trade secret or other confidential material, as the Commission policy favors openness and transparency, and both categories of exemptions were believed to require a showing of cognizable¹ and substantial competitive injury. The category distinction will be relevant, however, if the recent decision in *Verizon New York Inc. v. Public Service Commission*, Slip Op. (N.Y. Sup. Ct., July 31, 2014), *appeal pending*, is upheld on appeal, because it would require no showing of cognizable substantial competitive injury for trade secrets.²

Judge Prestemon adhered to Commission practice which until now has employed a broad definition of trade secret based on the Restatement of Torts hornbook. In rejecting our argument that a narrower

¹ Competitive injury flowing from release of records showing discriminatory practices or redlining, for example, should not be cognizable.

² See Cullen & Dyckman Blog, *Recent Albany County Supreme Court Decision Calls into Question the New York State Public Service Commission's Framework for Making Trade Secret Determinations*, October 2, 2014, available at <http://www.cullenanddyckman.com/news-advisories-82.html>.

standard applies to the release of government records, rather than the tort law standard, Judge Prestemon cited a decision the Court of Appeals, *New York Tel. Co. v. Public Service Commission*.³ In that decision, however, the Court only said in a footnote that “[a] useful and widely adopted definition of a trade secret is that which was set out in Restatement of Torts (§ 757....” The Court remanded the matter to the Commission and did not actually consider or decide on the merits the FOIL definition of trade secret or discuss the FOIA standard. A footnote mention of a “helpful” hornbook definition is not a precatory holding on the merits that the tort law definition is the right standard for release of generally public government records under FOIL. A subsequent decision cited by Judge Prestemon, *Ashland Management v. Janien*,⁴ was between private tort litigants and did not involve the exemption from release of public documents under FOIL. In *Encore Coll v. Auxiliary Serv*, 87 N.Y.2d 410, 419-420 (1995), when squarely faced with defining the FOIL confidential information exception, which like the trade secret exception in the same statutory section has no definition in the FOIL statute, the New York Court of Appeals examined the FOIA definition of confidential commercial information, and followed it. When the issue is eventually presented to the Court of Appeals regarding the trade secret exemption from release of public documents under FOIL, the decisional methodology of looking to FOIA precedents involving release of public records⁵ claimed to be trade secret, and not the hornbook standard for trade secret protection of private information in private tort litigation, as between a company and a former employee, is likely to be followed in order to vindicate the broad public interest in openness of government records. Meanwhile, given the possible importance of applying a proper test for trade secret exemptions under FOIL, the FOIA standard should be applied. Under that standard the utilities have not established that the records they seek to exempt from disclosure are trade secrets, and thus, under the standard of the recent court decision in *Verizon*, they must prove that the release will cause cognizable substantial competitive injury. The utilities failed to satisfy that burden.

Comcast and Time Warner have not met their burden of proof to show cognizable competitive injury from release of broadband expansion plans. The assertions of competitive harm are unconvincing and in any event the claimed potential harm is not cognizable. It is Commission policy to encourage competitive forces in an open marketplace to improve service and lower rates with less direct regulatory oversight. Even accepting the dubious claims that the records requested could be of use to competitors, keeping such facts and plans and practices confidential may work to limit the competitive playing field, divide markets, and insulate providers from open territory, price, and service competition. Thus, any claim of “injury” from public disclosure is not cognizable under the Commission’s regulatory paradigm.⁶

³ 56 N.Y.2d 213, 219, n. 3 (1982).

⁴ 82 N.Y.2d 395 (1993). The Court said, “[t]here is no generally accepted definition of a trade secret but that found in section 757 of Restatement of Torts, Comment (b) has been cited with approval by this and other courts,” citing a series of cases involving private litigants and the New York Telephone case, which, upon examination, only said it was a helpful definition and did not decide the merits of a claimed trade secret under FOIL, which was remanded.

⁵ Public Service Law (§ 16, subd 1), provides: “All proceedings of the commission and all documents and records in its possession shall be public records.” While FOIL allows limited exemptions, the inherently public nature of the information warrants using the narrow FOIA standard for trade secrets rather than the more expansive Restatement standard applicable to information that is inherently private.

⁶ The current competition regime is set forth in Case 05-C-0616 - *Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services*, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings (Issued and Effective April 11, 2006) (Comp III Order).

Such “injury” is actually to be expected and actively encouraged under the Commission’s policies. The remedy for such “injury” is not allowing companies to secretly expand into niche markets where they cream skim and harvest customer wallets with market power, but to expand areas where real competition might emerge, stimulate more competition, lower prices, and encourage better services from companies actively vying for new customers in new areas.

Under state law, the public interest is to make cable service ubiquitous. There can be no competitive injury from release of information as to the plans to expand cable service, as expansion of cable service and expansion of markets for services provided over cable is a Commission duty and goal.⁷ Records that may reveal a company’s intended progress toward that goal in its service territories – or lack of intent to make progress in penetration to underserved areas, are not legitimately confidential in light of the statutory and Commission universal service goals. Like extension of cable service, it is a state goal to achieve rapid ubiquitous rollout of broadband service, which in the case of cable, rides on the same lines as the cable lines which provide regulated TV and phone service.⁸ The utilities have not shown that their rollout of broadband service is separate from the predicate rollout of cable and phone service. If the argument for confidentiality is that armed with knowledge of where the next mile of cable will be strung will give other providers using alternative technological platforms a chance to offer lower prices and better services than the cable company will offer to new subscribers, then that is consistent with declared Commission policies for intermodal competition for new customers in expanded service areas, just as it is consistent with Commission policy to promote intermodal competition for current customers in existing areas.

The claims that the broadband plans contain competitively damaging information are belied by the fact that Time Warner has disclosed detailed plans for broadband expansion in its applications for state funding to expand its networks. Those plans show the county, location, street, zip code, houses passed and so forth. Information regarding 2014 state funding of \$5,258,231 under the NY Works budget appropriation for Time Warner broadband expansion to pass 4104 households with expected service to 2400 new customers is attached.⁹ Our analysis of that information shows the subsidized expansion is occurring in areas that have significantly higher incomes than the county average: 73% of the planned

<http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={DE5DAC8C-CB50-4CAE-90BE-A5A56DB6DE99}>.

⁷ PSL § 215.2(d) confers power upon the Commission to: (d) prescribe standards for the construction and operation of cable television systems, which standards shall be designed to promote (i) safe, adequate and reliable service to subscribers, (ii) the construction and operation of systems consistent with most advanced state of the art, (iii) a construction schedule providing for maximum penetration as rapidly as possible within the limitations of economic feasibility, (iv) the construction of systems with the maximum practicable channel capacity, facilities for local program origination, facilities to provide service in areas conforming to various community interests, facilities with the technical capacity for interconnection with other systems within regions as established in the commission's statewide plan and facilities capable of transmitting signals from subscribers to the cable television company or to other points; and (v) the prompt handling of inquiries, complaints and requests for repairs;”

⁸ The Commission has jurisdiction over broadband under PSL § 91.1 which, after establishing criteria for phone service over phone lines stipulates that “any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order of the commission.” Broadband service is rendered over phone lines and in connection with phone service under double play and with TV service in triple play packages.

⁹ See Attachment A.

line extensions are in zip codes with median incomes higher than the respective county average.¹⁰ Time Warner has no cognizable injury in releasing its own plans for unsubsidized broadband expansion, even if they may reveal information that in theory might spur other competition, or reveal practices contrary to state universal service goals.

Respectfully submitted,



Gerald A. Norlander

Cc: via email

Andrew M. Klein, Esq.
Klein Law Group PLLC
AKlein@KleinLawpllc.com

Maureen O. Helmer, Esq.
Hiscock & Barclay, LLP
mhelmer@hblaw.com

Joseph A. Post, Esq.
Verizon
joseph.a.post@verizon.com

¹⁰ See Attachment B, showing comparisons between county average income and average income in the zip codes where Time Warner will be expanding its network with state aid.

ATTACHMENT A – TIME WARNER BROADBAND GRANT

C. Time Warner Cable Broadband (Y591)

February 20, 2014

General Project Plan

- Grantee:** Time Warner Cable, Inc. (“TWC” or the “Company”)
- ESD Investment:** A grant of up to \$5,258,231 to be used for a portion of the cost to install or upgrade existing broadband networks to expand broadband access and increase capacity.
- Project Location:** This is a multi-region project. Please see Table C (attached) for project locations.
- Proposed Project:** Installation of a state-of-the-art fiber and coaxial, or Radio Frequency Over Glass (RFOG) network to bring high-speed broadband to unserved areas indicated in Table C.
- Project Type:** Infrastructure development
- Regional Council:** The Central New York, Mid-Hudson, Mohawk Valley, New York City, North Country, Southern Tier, and Western New York Regional Councils have been made aware of this item. The Incentive Proposal was accepted on October 24, 2013. The project is consistent with the Regional Councils’ plans to expand high-speed Internet, stimulate local business growth and job creation, and enhance the economic well-being of the regions.

Background:

Industry – Time Warner Cable, Inc. is among the largest providers of video, high-speed data and voice services in the United States, providing access to entertainment and information for over 15 million customers.

Company History – Formed in 1989, through the merger of Time Inc.'s cable television company, American Television and Communications Corp., and Warner Cable, a division of Warner Communications, Time Warner Cable, Inc. offers data, video and voice services to businesses of all sizes, cell tower backhaul services to wireless carriers, information technology solutions and cloud services. The Company also provides customers with exclusive, local, all-news TV channels in New York, North Carolina and Texas that provide viewers with content targeted to their community interests and concerns.

Ownership – TWC is a publicly-traded on the New York Stock Exchange.

Size – TWC serves 15.2 million customers in 29 states, and employs more than 51,000

C. Time Warner Cable Broadband (Y591)

February 20, 2014

people across the U.S.

Market — Access to the Internet can be achieved by a number of different technologies. The definition of broadband is determined by the data transmission speeds in both directions. Download speeds refer to data which is received, such as accessing websites, receiving files through email, streaming video, and using cloud-based services. Upload speeds refer to data which is transmitted to another user or to a website or cloud-based service. Average consumers typically use broadband for downloading data, making download speeds the standard measure for broadband access.

Broadband service is facilitated by either wireline or wireless technologies. Wireline services require a physical cable connection to provide connectivity, while wireless services are transmitted using antennas and wireless receivers similar to how radio transmissions are carried. Although there are a number of different wireless technologies, many wireless broadband providers use a hybrid model of providing service, as a wireline (usually fiber) connection is required at some point in the network.

In New York State, broadband service is provided by the following categories of service providers:

- Cable — 16 Providers, (Provides service to 94% of the state)
- DSL — 38 Providers, (Provides service to 92% of the state - Speeds: 768kbps — 25 mbps)
- Fiber — 26 Providers, (12 business only)
- Fixed Wireless- 12 Providers reporting coverage, (Serves 5% of the state — Speeds - 1.5 mbps — 100 mbps)
- Mobile Wireless- 6 providers (Speeds: 768 kbps — 12 mbps)
- Satellite Providers- 4 providers

ESD Involvement — In March 2013, eighteen broadband projects were selected to receive Connect NY Broadband grants totaling \$25 million based on the support of the Regional Economic Development Councils. In addition, 4 North Country Broadband Project Sponsors received more than \$6 million from Round 2 of the Regional Economic Development Council Grants to expand broadband in the North Country Region.

Past ESD Support — This is the first ESD grant to the Company.

The Project:

Completion — December 2014

Activity —TWC will deploy a state-of-the-art fiber and coaxial (or RFOG) network to bring

C. Time Warner Cable Broadband (Y591)

February 20, 2014

high-speed broadband to unserved areas.

Results – Expand broadband Services to 4,104 households, 8 businesses and 2 Community Anchor institutions. See Table A, which describes all Key Indicators.

Financing Uses	Amount	Financing Sources	Amount	Percent
Engineering/ Site Prep	\$6,304,814	ESD Grant	\$5,258,231	75%
Equipment	706,161	Company Equity	1,752,744	25%
Total Project Costs	\$7,010,975	Total Project	\$7,010,975	100%

Grantee Contact: Charlie Williams
Vice President
Time Warner Cable, Inc.
60 Columbus Circle
New York, NY 10023
Phone: (518) 640-8579

Project Team:

Origination	Angela Liotta
Project Management	Angela Liotta
Contractor & Supplier Diversity	Elizabeth Gocs
Finance	Ross Freeman
Environmental	Soo Kang

Financial Terms and Conditions:

1. Upon execution of the grant disbursement agreement, the Company shall reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will be obligated to advise ESD of any materially adverse changes in its financial condition prior to disbursement.
3. The Company will be required to contribute at least 10% of the total project cost in the form of equity contributed after the Company's written acceptance of ESD's offer and contribute at least 10% of total project costs in the form of in-kind. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
4. Up to \$5,258,231 will be disbursed to the Grantee no more frequently than quarterly during the course of design and/or construction and upon completion of project key

C. Time Warner Cable Broadband (Y591)

February 20, 2014

indicators, and in proportion to ESD's funding share, assuming that all project approvals have been completed and funds are available. The final 10% of the grant will be disbursed upon completion of the facility and upon meeting all project key indicators, as evidenced by a certificate of occupancy. Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require.

ESD will be entitled to recoup all or part of ESD's grant if the Recipient fails to reach, to a degree acceptable to ESD milestones as agreed upon in Table A, which lists key indicators for infrastructure work, and Table B, which lists the major network build-out phases and quarterly milestones of the entire project.

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after March 5, 2013, to be considered eligible project costs. All disbursements must be requested by April 1, 2016.

5. Grant Funds are to be used for the following:
 - i. To fund the construction or improvement of all facilities required to provide broadband service.
 - ii. For Installing or upgrading existing broadband facilities on a one-time, capital improvement basis in order to expand broadband access and increase capacity.
 - iii. To fund the cost of long-term leases (greater than 1 year) of facilities required to provide broadband service.
 - iv. To fund reasonable make-ready expenses incurred as a result of providing broadband service.

6. Eligible Expense Categories
 - i. Network & Access Equipment Costs: Include switches, video headends, optical equipment, digital line concentrators, digital subscriber line access multiplexers, middleware, video-on-demand equipment, radio equipment, data routing equipment, etc.
 - ii. Outside Plant Costs: Includes cable (aerial, buried, underground, and submarine), fiber, conduit systems, poles, network interface devices and reasonable make-ready costs.
 - iii. Tower Costs: Includes the cost of constructing new buildings and renovating existing buildings, as well as any site preparation costs.
 - iv. Customer Premises Equipment: Includes wireless subscriber units, modems, set-top boxes, and routers (if CPE will be provided at no cost to subscribers.)
 - v. Professional Services: Includes site engineering, project management, and consultant services costs involved in designing and constructing the proposed

C. Time Warner Cable Broadband (Y591)

February 20, 2014

- project.
 - vi. Testing: Includes items such as testing, network and IT systems, user devices, servers, lab furnishing and test generators.
 - vii. Other Upfront Costs: Includes any other upfront costs not covered in the other categories, such as site preparation.
7. Compliance with National Electrical Safety Code (NESC): All pole attachments shall comply with the National Electrical Safety Code (NESC) requirements. Connect NY grant recipients shall ensure that the attachment of fiber and equipment is designed, constructed, operated, and maintained in accordance with all applicable provisions of the most current and accepted criteria of the National Electrical Safety Code (NESC) and all applicable and current electrical and safety requirements of any State or local governmental entity.
8. Broadband Mapping Program Compliance: Recipients shall provide to the NYS Broadband Program Office (or designated agent) address-level broadband build-out data that indicates the location of new broadband services within the recipient's entire service area.
9. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$5,258,231, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

Non-Discrimination and Contractor and Supplier Diversity:

ESD's Non-discrimination and Contractor and Supplier Diversity policy will apply to the Project. The Company shall be required to use good faith efforts to achieve an overall Minority and Women Business Enterprise (MWBE) Participation goal of 15%, related to the total value of ESD's funding, and to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project.

Statutory Basis – NY Works:

The project was authorized in the 2013-2014 New York State budget. No residential relocation is required as there are no families or individuals residing on the site.

Additional Submissions to Directors:

Table A – Key Indicators

Table B – Milestones

Table C – Project Locations

Project Finance Memorandum

Table A: Project Description: The following table lists the key indicators for your infrastructure project upon completion of your project. Indicators will be required to be reported cumulatively from award inception to the end of the project on a quarterly basis.

Project Description- Access and Subscriber Information	Key Indicator	Municipality	Total Number Upon Completion of Project
Residential/Business – the following information is for the last- mile services to homes and businesses	Number of Households Passed		4,104
	Estimated Number of New Residential Subscribers		2,400
	Number of Business Passed		8
	Estimated Number of New Business Subscribers		8
	Speed Tiers Available / Pricing		See Table C
Community Anchor Institutions – the following information is for the last-mile service to Community Anchor Institutions	Number of Community Anchor Institutions Passed		2
	<ul style="list-style-type: none"> • Schools K-12 		0
	<ul style="list-style-type: none"> • Colleges, Universities or other Institutions of Higher Education 		0
	<ul style="list-style-type: none"> • Libraries 		2
	<ul style="list-style-type: none"> • Medical/ Healthcare Providers 		0
	<ul style="list-style-type: none"> • Public Safety Entities 		0
	<ul style="list-style-type: none"> • Other 		0
Speed Tiers Available / Pricing		See Table C	
Infrastructure Key Indicators – the following information provides key indicators as they relate to your infrastructure project	New Network Miles Deployed		248
	Existing Network Miles Upgraded		N/A
	Number of Miles of New Fiber		35
	Number of New Wireless Links		N/A
	Number of New Towers		N/A
	Number of New Interconnection Points		0
	Number of Wireless Hotspots Provided		N/A
Impact and Adoption – the following information demonstrates how the project addresses barriers to adoption	Subsidies		
	<ul style="list-style-type: none"> • Reduced Price Internet through NYC Connected Learning 		1
	<ul style="list-style-type: none"> • Reduced Price Internet in upstate cities through Connect to 		1

	Compete		
	Digital Literacy Programs and Training Programs <ul style="list-style-type: none"> • NYC Learning Labs through 2024; • National broadband awareness efforts through PSA Partnered with the Broadband Opportunities Coalition		40 1 1
Company Employment Commitment	Permanent Full- Time Employees		0
	Contractor Full-Time Employees		0

Table B: Project Milestones

The following table lists the major network build-out phases and milestones that can demonstrate the entire project will be substantially complete by the end of December 2014. The table considers project areas such as: a) network design; b) securing all relevant licenses and agreements; c) site preparation; d) inside plant deployment; e) outside plan deployment; f) deployment of business & operational support systems; g) network testing; f) network operational.

Time Period	Quarter	Milestones	Narrative Explanation (if any)
Year 1	Qtr. 1	<ul style="list-style-type: none"> • Begin work on the segments indicated in Table D within 60 days of the award 	
	Qtr. 2	<ul style="list-style-type: none"> • 60 Days Pole Attachments, "Make Ready" Work, Permits • 45 Days Construction 	
	Qtr. 3	<ul style="list-style-type: none"> • Splicing, Activation, Network Testing 	
	Qtr. 4	<ul style="list-style-type: none"> • Activate Networks – including “walk out”, Design and Pole Attachment Applications 	
Year 2	Qtr 1	<ul style="list-style-type: none"> • Complete Construction 	

Table C: Project Locations

Order	PROJECT AREA	Municipality	County	Zip Code
1	Erdman Hill	Mansfield town	Cattaraugus	14731
2	State Rt 30 Blue Jay Campsites	Tupper Lake town	Franklin	12986
3	1170 Left Pine Brook Rd	Walton town	Delaware	13856
4	Ridge Rd.	Veteran town	Chemung	14845
5	1070 Albro Rd	Marathon village	Cortland	13803
6	Mile Block Road, south to Milestrip	Brant town	Erie	14111
7	Johnstown Rd	Gouverneur town	St. Lawrence	13642
8	West Hill Rd EA11231	Marshall town	Oneida	13328
9	State Rt 170 EA 12272	Little Falls city	Herkimer	13365
10	638 Moxley	Jefferson town	Schoharie	12093
11	Grafton	Grafton town	Rensselaer	12138
12	Stafford Rd.	Veteran town	Chemung	14845
13	Murphey	Cambria town	Niagara	14094
14	West Lake Road Town of Scipio	Fleming town	Cayuga	13147
15	9840 State Rt 12 EA 11304	Steuben town	Oneida	13438
16	Babcock Hollow Rd	Bath town	Steuben	14810
17	Pine Hill / Rogers & Dike	Hornby town	Steuben	14830
18	Emmonsburg Rd	Salisbury town	Herkimer	13454
19	Darien	Colden town	Erie	14080
20	Heath	Colden town	Erie	14069
21	Turner Road	Schoharie town	Schoharie	12157
22	Thomas Rd	Veteran town	Chemung	14845
23	101 Edwards Rd	Pitcairn town	St. Lawrence	13648
24	2189 NY Route 11 (MDR Builders)	Kirkwood town	Broome	13795
25	Mile Block Road	Brant town	Erie	14111
26	Swartwood Hill Rd.	Erin town	Chemung	14838
27	Terry Hill Rd.	Veteran town	Chemung	14845
28	383 Tompkins Hill Rd	Jefferson town	Schoharie	12093
30	7097 Star Rd NO11204	Ellenburg town	Clinton	12934
31	Borst Road	Seward town	Schoharie	12043
32	Mile Block Road, north to Cain Rd.	Brant town	Erie	14111
33	860 Middle Rd	Veteran town	Chemung	14845
34	Pray Rd NO 12061	Fleming town	Cayuga	13147
35	Okara Lakes	Webb town	Herkimer	13472
36	Burr	Boston town	Erie	14170
37	County Route 41	Hornby town	Steuben	14830
38	628 Prosser Hill Rd	Kiantone town	Chautauqua	14701

39	Wangum Rd	Moira town	Franklin	12957
40	5353 Paddleford Rd EA12350	Eaton town	Madison	13334
41	Larkin Rd	Fenner town	Madison	13035
42	Roberts Rd,Bennet Rd,Albany Rd	Litchfield town	Herkimer	13456
43	197 McIlwee Rd	Oswegatchie town	St. Lawrence	13654
44	Rt 13 Town of Williamstown	Williamstown town	Oswego	13493
45	Denning Builds	Denning town	Ulster	12725
46	Taylor Rd	Exeter town	Otsego	13439
47	County Rt 46 and County Rt. 20	Theresa town	Jefferson	13691
48	Mormon Hollow / Pine Hill & Taft	Hornby town	Steuben	14830
49	North Brookfield EA11285	Brookfield town	Madison	13314
50	Lighthouse Lane EA12413	Forestport town	Oneida	13338
51	Rt 29, Peck Rd, Gods Way	Salisbury town	Herkimer	13454
52	Braley	Porter town	Niagara	14131
53	Carlisle	Carlisle town	Schoharie	12160

**ATTACHMENT B – ANALYSIS OF MEDIAN INCOMES IN TIME
WARNER BROADBAND EXPANSION ZIP CODES WITH COUNTY
MEDIAN INCOMES**

Table C: Project Locations

Order	PROJECT AREA	Municipality	County	Zip Code	Median Household Income	County Median Household Income	Over / Under County Median
1	Erdman Hill	Mansfield town	Cattaraugus	14731	\$54,625	\$41,387	Over
2	State Rt 30 Blue Jay Campsites	Tupper Lake town	Franklin	12986	\$55,221	\$45,547	Over
3	1170 Left Pine Brook Rd	Walton town	Delaware	13856	\$38,730	\$41,122	Under
4	Ridge Rd.	Veteran town	Chemung	14845	\$61,005	\$47,309	Over
5	1070 Albro Rd	Marathon village	Cortland	13803	\$51,593	\$47,122	Over
6	Mile Block Road, south to Milestrip	Brant town	Erie	14111	\$56,413	\$50,563	Over
7	Johnstown Rd	Gouverneur town	St. Lawrence	13642	\$40,218	\$44,216	Under
8	West Hill Rd EA11231	Marshall town	Oneida	13328	\$59,265	\$47,191	Over
9	State Rt 170 EA 12272	Little Falls city	Herkimer	13365	\$43,425	\$43,722	Under
10	638 Moxley	Jefferson town	Schoharie	12093	\$56,563	\$52,770	Over
11	Grafton	Grafton town	Rensselaer	12138	\$65,857	\$59,818	Over
12	Stafford Rd.	Veteran town	Chemung	14845	\$61,005	\$47,309	Over
13	Murphey	Cambria town	Niagara	14094	\$49,849	\$47,909	Over
14	West Lake Road Town of Scipio	Fleming town	Cayuga	13147	\$80,139	\$50,544	Over
15	9840 State Rt 12 EA 11304	Steuben town	Oneida	13438	\$54,514	\$47,191	Over
16	Babcock Hollow Rd	Bath town	Steuben	14810	\$43,750	\$46,730	Under
17	Pine Hill / Rogers & Dike	Hornby town	Steuben	14830	\$51,902	\$46,730	Over

18	Emmonsburg Rd	Salisbury town	Herkimer	13454	\$38,688	\$43,722	Under
19	Darien	Colden town	Erie	14080	\$61,569	\$50,563	Over
20	Heath	Colden town	Erie	14069	\$62,768	\$50,563	Over
21	Turner Road	Schoharie town	Schoharie	12157	\$60,560	\$52,770	Over
22	Thomas Rd	Veteran town	Chemung	14845	\$61,005	\$47,309	Over
23	101 Edwards Rd	Pitcairn town	St. Lawrence	13648	\$45,000	\$44,216	Over
24	2189 NY Route 11 (MDR Builders)	Kirkwood town	Broome	13795	\$51,604	\$45,463	Over
25	Mile Block Road	Brant town	Erie	14111	\$56,413	\$50,563	Over
26	Swartwood Hill Rd.	Erin town	Chemung	14838	\$55,045	\$47,309	Over
27	Terry Hill Rd.	Veteran town	Chemung	14845	\$61,005	\$47,309	Over
28	383 Tompkins Hill Rd	Jefferson town	Schoharie	12093	\$56,563	\$52,770	Over
30	7097 Star Rd NO11204	Ellenburg town	Clinton	12934	\$35,500	\$50,420	Under
31	Borst Road	Seward town	Schoharie	12043	\$49,589	\$52,770	Under
32	Mile Block Road, north to Cain Rd.	Brant town	Erie	14111	\$56,413	\$50,563	Over
33	860 Middle Rd	Veteran town	Chemung	14845	\$61,005	\$47,309	Over
34	Pray Rd NO 12061	Fleming town	Cayuga	13147	\$80,139	\$50,544	Over
35	Okara Lakes	Webb town	Herkimer	13472	\$67,768	\$43,722	Over
36	Burr	Boston town	Erie	14170	\$62,396	\$50,563	Over
37	County Route 41	Hornby town	Steuben	14830	\$51,902	\$46,730	Over
38	628 Prosser Hill Rd	Kiantone town	Chautauqua	14701	\$35,997	\$42,380	Under
39	Wangum Rd	Moira town	Franklin	12957	\$31,368	\$45,547	Under

40	5353 Paddleford Rd EA12350	Eaton town	Madison	13334	\$67,500	\$51,344	Over
41	Larkin Rd	Fenner town	Madison	13035	\$65,556	\$51,344	Over
42	Roberts Rd, Bennet Rd, Albany Rd	Litchfield town	Herkimer	13456	\$57,292	\$43,722	Over
43	197 McIlwee Rd	Oswegatchie town	St. Lawrence	13654	\$46,833	\$44,216	Over
44	Rt 13 Town of Williamstown	Williamstown town	Oswego	13493	\$43,750	\$46,584	Under
45	Denning Builds	Denning town	Ulster	12725	\$49,375	\$58,188	Under
46	Taylor Rd	Exeter town	Otsego	13439	\$43,750	\$49,042	Under
47	County Rt 46 and County Rt. 20	Theresa town	Jefferson	13691	\$51,851	\$46,316	Over
48	Mormon Hollow / Pine Hill & Taft	Hornby town	Steuben	14830	\$51,902	\$46,730	Over
49	North Brookfield EA11285	Brookfield town	Madison	13314	\$42,639	\$51,344	Under
50	Lighthouse Lane EA12413	Forestport town	Oneida	13338	\$50,625	\$47,191	Over
51	Rt 29, Peck Rd, Gods Way	Salisbury town	Herkimer	13454	\$38,688	\$43,722	Under
52	Braley	Porter town	Niagara	14131	\$57,500	\$47,909	Over
53	Carlisle	Carlisle town	Schoharie	12160	\$56,923	\$52,770	Over

Total Under Median Household Income	14
Total Over Median Household Income	<u>38</u>
Grand Total	<u>52</u>
Percent Over Median Household Income	73.1%