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March 7, 2014

Honorable Andrew Cuomo
Governor of New York
Executive Chamber
State Capital
Albany, NY 12224

RE: Utility Deregulation in the 2014-15 Executive Budget

Dear Governor Cuomo:

Andrew —

I am writing to you to express my strong opposition to Part R of S.6357-B / A.8557-B, the Transportation and Economic Development (TED) bill of the 2014-15 Executive Budget, because it would unnecessarily abandon numerous consumer protections. I respectfully request, therefore, that it be removed from the Executive Budget.

As you know, Part R would authorize the New York State Public Service Commission (PSC) to do what it calls “streamlining” of the process for 1) overseeing telephone corporations, 2) reviewing violations of the shared metering law, and 3) confirming cable franchises.

I. Deregulation of Landline Telephony

With respect to landline telephone service, “streamlining” of the process really equates to eliminating effective oversight by allowing the PSC to waive or forebear existing statutory requirements for basic landline telephone service, including mergers and transfers of control, uniform pricing requirements, non discriminatory rates, rate filing, price transparency, rate review, and rate modification.

Under Part R, the PSC would be allowed to waive the requirement (Section 100 of the Public Service Law) that the PSC reject approval to any purchase or transfer of control of telecommunications lines unless the acquisition is in the “public interest.” Given the possible merger of Comcast and Time-Warner Cable, this proposal could have significant impact. There is no good reason from a consumer protection perspective to allow a waiver for the “public interest” requirement.

Part R would allow the PSC to waive the requirement (Sections 91.2 of the Public Service Law) that wireline service must be based on a non-discriminatory basis by telephone companies. Under forbearance, it is possible that rural consumers could be charged much higher rates than consumers from other parts of the state.

Under this proposal, the PSC would be allowed to waive the following requirements (Sections 92.29a), (b), and (c) of the Public Service Law):

- Companies must notify both the PSC and the public of changes in rates for basic phone services;
- Companies must file new schedules prior to implementing rate changes;
- PSC must conduct a hearing, review and issue an order for major rate increases over 2.5%.

This bill would also allow a forbearance of the requirements (Sections 92.3 & 3-a of the Public Service Law) that requires a company to negotiate lower rates for members of the military and their families.

Overall, this proposed budget language regarding basic telephone service is based on a false premise that complete deregulation will lead to more intense competition and, therefore, better service. Based on the evidence to this point – and I reference years of declining and/or substandard service quality – deregulation has not improved telephone service for New York’s consumers of landline telephone services.

II. Removal of Protections Against Shared Meter Conditions

As you know, sec. 52 of the public service law (the “shared meter law”) was enacted to protect residential tenants from accidental or purposeful shifting by landlords of energy costs from common areas to tenants’ bills. The law provides that residential electric and gas customers cannot be required by landlords or tenants to pay for energy service to areas outside their dwelling unit(s) – a “shared meter situation”. Under the law, tenants may request an inspection of a suspected shared meter situation, and if such a condition is discovered, the PSC can order the adjustment of prior energy bills and impose a fine of requiring the landlord to pay the previous year’s energy charges.

Under current law, landlords can petition the PSC to reduce the fine of paying the previous year’s energy charges by up to 75%. With the goal of reducing the need for landlords to apply for such a reduction, TED bill Part R’s language would automatically set the fine at only 25% of the previous year’s energy charges, without requiring the landlord to petition for such a reduction in the fine. Furthermore, tenants would now be required to petition the PSC for a higher fine against the landlord responsible for such a shared meter condition.

Generally, where the law places a burden upon a party to apply for relief from a fine arising from a violation of public policy, the party that could reasonably be inferred to have knowledge of or culpability for the violation, or has disproportionate economic strength, is the one upon whom the burden is placed. Part R however overturns such a common sense rule by placing the burden

upon the tenant, rather than upon the party who is responsible for the wiring or piping that shifted the energy costs upon the tenant, or who could reasonably be assumed to know of the shared meter condition. Furthermore, for low-income tenants, such a shifting of burdens means that after being overcharged for energy usage, they will then need to spend more money to petition the PSC for relief from the excess energy charges levied in violation of the law. This is not "streamlining," it is evisceration of a core consumer protection law.

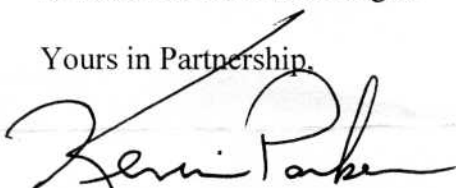
III. Deregulation of the Cable Television Franchise Approval Process

As the New York Times pointed out on January 14 of this year, federal regulators will pay close attention to the Time Warner Cable-Comcast merger. At the federal level, such an analysis will focus primarily upon traditional anti-trust principles such as increased "market power" in the television market, and upon newer principles such as "reduction of choice" and broadband market dominance. At the state and local level, the cable company is often simultaneously the dominant municipal (and perhaps statewide) broadband provider, the dominant player in the television market, and a dominant player in the telephone services market. A reduction of PSC scrutiny of mergers, renewals or transfers of cable systems must pass a far higher standard than simply an assertion that competition will alleviate any market dominance. That standard is not met by a simple assertion that such a reduction would save a portion of the \$846,000 claimed in the Executive Budget.

IV. Conclusion

In conclusion, the Public Service Commission plays a central role in safeguarding consumers, workers and companies from unsafe, inadequate or unreasonable provision of service(s) by public utilities in New York State, and this proposal does not advance that mission. The \$846,000 (or 1% of the PSC annual expenses) this proposal is estimated to save taxpayers is not worth weakening consumer protections--which in the end will cost more than just money. For the above reasons, I respectfully oppose Part R in the TED Article VII Budget bill and ask that it be removed from the Budget.

Yours in Partnership,



KEVIN PARKER

cc: Senator George Maziarz, Chair – Energy & Telecommunications
Assemblyman James Brennan, Chair – Corporations, Authorities & Commissions
Senator Andrea Stewart-Cousins
Senator Liz Krueger
Senator Michael Gianaris
Louie Tobias
Robert Master, Political Director - CWA District One