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Supplemental: The Questions in the Investigation that Led to a "Motion to Compel Discovery"

On March 2nd, 2018 a settlement was proposed between Verizon NY, and the NY Department of Public Service, (NYPSC), the Communications Workers of America, CWA District 1, and "PULP", Public Utility Law Project, and others, to end an investigation which started in 2016. However, this was part of a series of proceedings over the last 5 years at the NYPSC.

The settlement was divided into two tracks, one dealing with the deteriorating networks and the lack of upgrades and maintenance, and the second focusing on Verizon NY's cross-subsidies with wireless, the massive financial losses, and the flows of money and payments of Verizon and other cell carriers to Verizon New York.

Unfortunately, the Verizon NY proposed settlement with the State has eliminated the multi-billion dollar investigation--directly harming the State's communications infrastructure, all customers, competition and the economy.

We, New Networks Institute and the IRREGULATORS, are calling for an 'extension' of the comments period that passed (which ended April 16th with no serious public notification), a halt to this settlement and the continuation of the investigation, enhanced to incorporate issues that were never addressed, which we will discuss in other documents.

Our Interest: Almost of these questions were derived from New Networks Institute's previous reports from 2012-2014 – and the questions asked and the responses by Verizon have corroborated and enhanced our knowledge base.

Every state and incumbent phone company has the same issues and impacts: This investigation is not simply about Verizon or New York, but impacts every communications service—wireline, wireless, broadband, internet or even cable TV in all states. And worse, the findings could also impact actions at the FCC that are currently underway or are in court.

The Requests and Some Comments

The rest of this document supplies the requests and some of the analysis by the CWA lawyer as well as some of the original links/findings from our work. None of this information or investigation is part of the current proposed settlement. Moreover, the Verizon responses show that there is still further need for immediate investigations and actions taken to fix this massive multi-billion dollar shell game.

NOTE: Some of the responses by Verizon to this motion were highlighted in the CWA consultant's analysis of March 24, 2017

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Retail Service Quality Processes and Programs	))))	**Case 16-C-0122**

MOTION TO COMPEL DISCOVERY

In January 2017, CWA's lawyer (one of the parties) filed with the State to compel Verizon New York to answer basic questions and to examine: (We paraphrase)

1) The corporate focus to "shut off the copper" and not maintain the infrastructure.
2) The massive financial cross-subsidies of the wireless business via the wireline, utility networks.
3) The manipulation of the accounting to create massive, annual billion dollar losses, used for harmful public policies
4) The fractional payments made by Verizon Wireless and what the other wireless companies, AT&T and Sprint paid to Verizon New York for use of the networks.

Unless noted, we are quoting directly from the Motion to Compel Discovery document; our comments will be marked as "**IRREGULATORS".**

And Note: Verizon decided to stonewall the investigation and needed to be taken to court to compel the company to respond.

Motion to Compel Discovery, January 18th, 2017

> "This Motion seeks to compel Verizon to provide full responses to four information requests. Request I seeks documents concerning public statements by Verizon executives on the policies and practices governing the copper system; Request II seeks financial information which establishes the allocation of expenses and revenues as between Verizon copper and non-copper systems; Request III seeks financial information about payments made to Verizon New York by Verizon Wireless, Sprint and AT&T which reflect discriminatory pricing practices as between the copper, non-copper and wireless systems, and; Request IV seeks income statements for Verizon Communications wireline reporting segments which establish the accuracy of Verizon's reported profit or loss."

Request I. Please provide all internal documents which use, analyze or comment on the phrases “kill the copper”, “cut the copper”, and/or “pot of gold” as used in the quoted remarks of Verizon CEO McAdam.

Please provide all internal documents which use, analyze or comment on the phrases “Wireline capital-and I won't get the number but it's pretty substantial-is being spent on the Wireline side of the house to support the Wireless growth.” and/or “Wireline capital is being spent on the Wireline side to support the Wireless growth”; “support the wireless growth”; “on the Wireline books”, as used in the quoted remarks of Verizon Executive Vice President and Chief Financial Office Shammo”

IRREGULATORS: In this Huffington Post article, 01/24/2014**, “Want to Know What Verizon and AT&T Really Tell Their Investors?”** we summarized a collection of statements by Verizon CEO Lowell McAdam and CFO Fran Shammo referred to by CWA.

In June 2012 McAdam told investors that killing the copper was a “pot of gold“:

> “But the vision that I have is we are going into the copper plant areas, and every place we have FiOS, we are going to kill the copper. We are going to just take it out of service, and we are going to move those services onto FiOS. We have got parallel networks in way too many places now, so that is a pot of gold in my view.”

And in 2012, Fran Shammo, former Verizon CFO that the wireless company’s construction expenses have been charged to the wireline business.

> “The fact of the matter is Wireline capital—and I won’t get the number but it’s pretty substantial—is being spent on the Wireline side of the house to support the Wireless growth. So the IP backbone, the data transmission, fiber to the cell, that is all on the Wireline books but it’s all being built for the Wireless Company.”

IRREGULATORS: This would be for all Verizon states. AT&T made similar announcements that the wireline budget has been funding the wireless deployments.

CWA Discussion: Mr. McAdam's use of the specified phrases are prima facie evidence of a Verizon policy intended to cause the deterioration and demise of the copper system. Internal documents which analyze Verizon attempts to “kill the copper” etc., et. al., are necessary to understand the extent and effect of such policies.

Similarly, Mr. Shammo's statements are relevant and material. Verizon asserts that it loses money alleging that it’s “net income in New York is and has been “underwater” by a substantial amount” and that “ its financial position in the State became increasingly strained by competitive revenue losses and the high fixed costs associated with operating a landline network.

Mr. Shammo's statements are prima facie evidence of Verizon efforts to charge the copper system for costs actually incurred for the wireless system. They directly undercut its Initial Testimony. If such misallocations are taking place the Commission and the parties have a right to know. If the alleged “high fixed costs associated with operating a landline network” are actually inflated by Verizon's decision to place wireless expenses on the wireline books the Commission and the parties need to know. Such actions cast doubt on the accuracy of Verizon's economic assertions about the copper system and Commission reliance on them. Documents concerning such misallocations are relevant and material.”

Request II seeks Verizon billing and payment records for the years 2008, 2013 and 2015. It flows from repeated CWA efforts to determine the actual revenues and expenses attributable to the copper system. It is indisputable that the Commission is seeking information on the copper system's investment levels, deteriorated physical condition and financial condition including actual revenues and expenses.

These concerns are clearly stated in the Order: “Verizon’s copper service quality for non-Core customers does not meet Commission standards”. “approximately 2.7 million of Verizon’s current customers are left relying on an aging copper network with what is alleged to be sub-par service quality.” “whether Verizon is actively taking measures to retain these customers and keep the copper network viable, have now become a focus for the Commission

Verizon has refused to provide data for the copper system. It repeatedly takes the position that data for the copper system standing alone is not available. “As a general matter, Verizon has stated in numerous responses that its financial data is generally not designed to distinguish between the costs of copper and fiber networks.”

Verizon's failure to respond to CWA's repeated requests for copper-specific information on capital and operating expenses leaves an enormous gap in the record. In the face of this recalcitrance, CWA has sought to develop information that could establish the actual expenses and revenues of the copper and non-copper systems. To do so it requires basic financial information that is possessed only by Verizon. The billing and payment records can be analyzed to produce relevant evidence on the shares of revenue and expense attributable to the copper and non-copper systems. CWA has the technical capacity to perform such analysis.

Request II would provide sufficient information to CWA to permit accurate assessments of the revenues and expenditures attributable to Verizon's copper and non-copper systems which would clarify and explain crucial issues in this proceeding.

IRREGULATORS: This request is already answered in the Verizon annual reports as they detail the revenues and expenses in minutia.

First, both the State and CWA did not understand that the accounting rules in place had been manipulated to have 'local service' and the copper networks pay the majority of expenses for the other lines of business; it also didn't understand that the annual report supplies most of the basic information about how the 'copper-based' 'intrastate' access lines, as well as the fiber optic lines, have all been manipulated in every aspect.

For example, the copper lines being counted are only POTS, local phone service lines, and it left out all of the other 'copper wires' used for Business Data Services (Special Access) like alarm circuits. And the fiber optic lines are NOT counted as lines, even though Verizon has been able to have the fiber optics construction be mostly paid by the 'intrastate', local service, copper-based wired side.

However, we were not privvy to the information that was redacted, which may have added some depth.

We did full reports on the flows of expenses and how they were manipulated.

- **Report: The Hartman Memorandum** proves that the FCC's own cost allocation rules created massive financial cross subsidies between and among the state-based wired utilities, and the companies' other lines of business, such as special access, or the wireless service.
- **Report: Verizon New York 2016 Annual Report: Follow the Money: Financial Analysis and Implications**

These reports also address the issue of 'losing money'; it is caused by a manipulation of the FCC's cost accounting rules which place the majority of expenses into local service, as detailed in the Hartman Memorandum

IMPORTANT NOTE: The FCC's rules 'froze' the expenses to reflect the allocation to be paid by the different lines of business for the year 2000, 18 years ago. In 2000, Local Service was 65% of revenues and paid 65% of expenses. In 2016, Local Service was 23% of revenues but still pays 60% of most expenses.

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CWA: Request III seeks information about revenues received by Verizon from Verizon Wireless, Sprint and AT&T. These revenues are a crucial part for determining whether Verizon, including the copper and fiber systems, actually makes or loses money. It is equally important to assess whether its public statements are accurate and whether the Commission's longstanding reliance on them is justified.

Verizon is unequivocal in its assertions, in this proceeding, that it loses money. "net income in New York is and has been 'underwater' by a substantial amount" that "its financial position in the State became increasingly strained by competitive revenue losses and the high fixed costs associated with operating a landline network."; and that "In short, the company is losing about a billion dollars annually in New York."

The existence of such putative losses have been used as justification for Verizon's financial and human disinvestment in the copper system and the consequent deterioration in service quality. The Commission highlighted the need for inquiry into this issue by asking "whether Verizon is actively taking measures to retain these customers and keep the copper network viable"; and "what efforts the Company is making to ensure the continued viability of the copper network."; and "The Commission has recognized an expectation that the Company will continue to invest in its New York regulated operations".

Third, CWA seeks information concerning revenues received by Verizon New York from Verizon Wireless, AT&T and Sprint which establish whether pricing practices are discriminatory or non-discriminatory and how they affect allegations of business losses.

Request III. In 2011 Verizon filed Consolidated Financial Statements that disclosed total payments received by Verizon New York from Verizon Wireless, Inc., AT&T, Inc. and Sprint (and/or Sprint Nextel Corp.) Please provide that information, for the years 2011 through 2015, using the same definitions as were utilized in the Consolidated Financial Statements.

IRREGULATORS: In 2010 we uncovered that Verizon NY (and the other Verizon states) had a paragraph that supposedly gave the payments made by AT&T and Sprint to Verizon NY and elsewhere supposed the Verizon Wireless payments. Based on the number of estimated customers, Verizon appears to be paying a fraction of what these other companies paid. The responses by Verizon were way screwier than what this SEC-filed financial report seems to imply about payments for 'network access and billing'

Verizon New York Inc. As of December 31, 2010 and 2009

Financial instruments that subject us to concentrations of credit risk consist primarily of trade receivables. Concentrations of credit risk with respect to trade receivables, other than those from AT&T Inc. (AT&T) and Sprint Nextel Corporation (Sprint), are limited due to the large number of customers. We generated revenues from services provided to AT&T and Sprint (primarily network access and billing and collection) of $237 million and $104 million in 2010 and $279 million and $119 million in 2009, respectively.

	(dollars in millions)	
At December 31,	**2010**	2009
Operating revenues:		
Verizon Wireless Inc.	**95**	78

CWA Discussion: Misallocated or distorted or inconsistent revenue practices that enhance or cause a stated revenue loss are material, relevant and essential to the creation of a full record, and to Commission remedies in this proceeding. It is equally important to the continued viability of Commission policies which underly this proceeding.

It is noteworthy that the Commission has accepted Verizon's assertion of massive\ revenue losses as the foundation for its deregulation policies and repeated that assumption in the Order when it referenced “declining resources” as part of the continuing Commission concern over competition and deregulation.

There is public evidence that Verizon has policies and practices which produce different revenues for similar services as between Verizon Wireless on the one hand, and Sprint and AT&T on the other. Such policies and practices would significantly distort the economic condition of Verizon NY.

Request IV seeks information about Verizon transactions which establish the bases for the dramatic contrast between reported profits earned by Verizon Communications' Wireline division and the reported losses of Verizon New York. Verizon repeatedly asserts that it operates at a substantial loss. “Verizon’s net income in New York is and has been “underwater” by a substantial amount” that “its financial position in the State became increasingly strained by competitive revenue losses and the high fixed costs associated with operating a landline network.”; and that ““In short, the company is losing about a billion dollars annually in New York.”

Information about the actual reported numbers will either confirm these\ assertions or test their accuracy, an important element of the analysis of potential\ misallocation as among Verizon New York and its parent Verizon Communications,

This inquiry began with: “4. For the years 2009 through 2015, Verizon New York reported Net Operating Revenues (operating revenues less operating expenses) of more than negative $9 billion. During the same period, parent Verizon Communication’s Wireline division reported a positive $6.8 billion in Operating Profits Before Taxes.

A. Explain in detail the approximately $15.8 billion gap between Verizon New York’s parent wireline division’s reported positive Operating Profits Before Taxes and Verizon New York’s reported losses during the 2009-2015 period. Verizon's response disputed the relevancy of the requested information and asserted that such information for over 200 reporting segments would be unduly burdensome.

The disparity between the reported profits and the reported losses is enormous. The actual data which was used to compile these contradictory statements will establish the accuracy of the statements, and the repeated assertions by Verizon NY that its wireline business loses money. The Commission has relied on these broad statements as a crucial reason for previous deregulation policies. If untrue the policies at issue in this proceeding must be reformed.

IRREGULATORS: We repeat; none of this information or investigation is part of the current proposed settlement.