

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

ORDER ADOPTING TERMS OF JOINT PROPOSAL

Issued and Effective: July 12, 2018

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on July 12, 2018

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Gregg C. Sayre
Diane X. Burman
James S. Alesi

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BY THE COMMISSION:

INTRODUCTION

On March 21, 2016, the Commission issued an Order initiating this proceeding to examine whether changes to Verizon New York Inc.'s (Verizon or the Company) service quality oversight are necessary. To that end, the Commission envisioned that this proceeding would explore whether competition is providing a sufficient incentive for Verizon to maintain its non-Core customer service quality, why certain non-Core customers are not exercising choice, what efforts Verizon is making to retain those customers, and what efforts the Company is making to ensure the continued viability of the copper

network.¹ The Commission noted that this investigation would necessarily include an examination as to the state of the copper system and whether Verizon's investment in its network has been sufficient to provide adequate levels of service to consumers of regulated services.

In this Order we consider and approve the terms of a joint proposal (Joint Proposal or JP) filed on March 2, 2018, by and on behalf of Verizon, the Department of Public Service trial staff (Staff), the Communications Workers of America, District 1 (CWA), and the Public Utility Law Project of New York, Inc. (PULP) (collectively the Signatory Parties).²

As discussed more fully in the body of this Order, the Commission finds that the recommendations made in the Joint Proposal are consistent with Commission and State policy, are within the range of likely outcomes or compare favorably with the likely result had the matters been resolved through a fully litigated proceeding, rest on a rational basis, and are, in all respects, consistent with the public interest.³

¹ Case 16-C-0122, Order Initiating Proceeding to Review Verizon New York Inc.'s Service Quality (issued March 21, 2016) (Initiating Order), p. 2.

² Other parties to this proceeding that have not asserted any position regarding the Joint Proposal include the Utility Intervention Unit, Division of Consumer Protection, Department of State (UIU), Connect New York Coalition, and the City of Syracuse.

³ Cases 90-M-0255, et al., Proceeding on Motion of the Commission Concerning its Procedures for Settlement and Stipulation Agreements, Opinion 92-2 (issued March 24, 1992).

BACKGROUND

Verizon is the largest incumbent local exchange carrier in New York State, serving approximately 2.14 million voice-only access lines from 539 central office entities (COEs).⁴ For years, the Company operated under a cost-of-service rate-of-return regulatory regime where the Commission set its rates and allowed the Company to recover its costs and earn a reasonable rate of return. During that time, Verizon was required to report on all service quality metrics set forth in 16 NYCRR Part 603 for all its customers, including Customer Trouble Report Rate (CTRR) data, timeliness of repairs and installations, responsiveness of customer call centers, and network call completion performance.⁵

However, the emergence of a competitive telephone market in New York led the Commission to implement new incentive-based regulatory regimes. With the advent of the Performance Regulatory Plan in 1992, rate-of-return regulation of Verizon ceased, and its service quality was subject to a series of performance metrics enforced by rebates or penalties.⁶ The Performance Regulatory Plan was followed by the Verizon Incentive Plan, which sought to maintain adequate service

⁴ Case 18-C-0219, In the Matter of Quality of Service Provided by Local Exchange Companies in New York State, Verizon First Quarter 2018 Service Quality Report (filed May 21, 2018), pp. 1-2.

⁵ Pursuant to 16 NYCRR §603.4, all telephone companies are required to report on CTRR performance, but only companies with more than 500,000 access lines are required to report on the other service standard metrics.

⁶ Case 92-C-0665, Proceeding on Motion of the Commission to Investigate Performance-Based Incentive Regulatory Plans for New York Telephone Company - Track 2, Opinion and Order Concerning Performance Regulatory Plan, Opinion 95-13 (issued August 16, 1995).

quality through a structure of rate flexibility and customer credits tied to minimum State-wide service quality requirements.⁷ Several years later, to address the Company's poor service quality performance in many of its repair service areas, the Commission implemented a Service Improvement Plan (SIP) that, among other things, targeted Verizon's maintenance, repair and investment in areas of Queens, Nassau, Suffolk, and Westchester Counties.⁸

In December 2009, after Verizon experienced ongoing problems in responding to requests for out-of-service repairs within 24 hours, the Company filed a Service Quality Improvement Plan (SQIP) to address the timeliness of its repair performance. In 2010, after Verizon filed a revised SQIP pursuant to a Commission order,⁹ the Commission approved the Company's revised SQIP with modifications.¹⁰ The revised SQIP streamlined the Company's service quality reporting requirements to focus on

⁷ Case 00-C-1945, et al., Proceeding on Motion of the Commission to Consider Cost Recovery by Verizon and to Investigate the Future Regulatory Framework, Order Instituting Verizon Incentive Plan (issued February 27, 2002).

⁸ Case 03-C-0971, Verizon New York Inc.'s Retail Service Quality Processes and Programs, Order Adopting Service Improvement Plan (issued March 31, 2008).

⁹ Case 10-C-0202, Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Service Quality Improvement Plan, Order Directing Verizon New York Inc. to File a Revised Service Quality Improvement Plan (issued June 22, 2010).

¹⁰ Case 10-C-0202, supra n. 8, Order Adopting Verizon New York Inc.'s Revised Service Quality Improvement Plan with Modifications (issued December 17, 2010).

"[C]ore customers"¹¹ who have limited recourse available to them in the face of poor service quality, other than traditional regulatory oversight. Although Verizon was still required to measure, collect and retain the data necessary to calculate all performance metrics, the SQIP required the Company only to report on metrics regarding CTRR, timeliness of repair, and repair center answer time for Core customers.

With respect to Verizon's non-Core customers, the Commission anticipated that the Company would seek to maintain adequate service quality for those residential customers who had a choice of competitive wireline service providers. The Commission also determined that Verizon had the added incentive of retaining market share, revenues and margins associated with customers on its copper network for investment in next generation facilities. For example, in response to Voice over Internet Protocol (VoIP) and wireless competition in New York, the Company made capital investments to deploy its advanced fiber-to-the-premises (FTTP) network, branded as "FiOS."¹²

In response to a 2012 petition filed by the Attorney General of the State of New York, the Commission reaffirmed that the focus of Verizon's regulatory measures would be on service quality for Core customers.¹³ Rejecting the Attorney General's position that the SQIP was ineffective and that competition from

¹¹ "Core" customers are defined as those residential and business customers without wireline competitive choice, so-called "white spot areas" on a map of competitive service areas, those on Lifeline and those customers who are characterized as having special needs (e.g., those with medical conditions, or who are elderly, blind or disabled).

¹² Initiating Order, p. 5.

¹³ Case 10-C-0202, supra, n. 9, Order Resolving Petition and Requiring Further Investigation (issued January 18, 2013).

other providers did not provide an incentive for Verizon to maintain the service quality levels the Commission expected, the Commission concluded that the underlying premise in support of the SQIP, to protect Verizon's wireline residential customers most in need of protection in the face of declining resources and increasing competition, was still compelling.¹⁴ The Commission found that choice for residential customers had not diminished; that the residential market had become more robust; and that Verizon continued to lose market share and revenues to both cable and wireless alternatives."¹⁵ The Commission also noted that Verizon had taken steps in response to competitive pressures, including deploying fiber networks.¹⁶ The Commission decided to continue allowing Verizon to streamline or eliminate many of its service quality reporting requirements for non-Core customers because, in the Commission's view at that time, this approach struck the appropriate regulatory balance.¹⁷

In 2014, the Department initiated Case 14-C-0370, In the Matter of a Study of the State of Telecommunications in New York State, to examine the availability and adoption of voice, video, and broadband services offered across all platforms.¹⁸ This review included the Department Staff's Assessment of

¹⁴ Id., p. 2.

¹⁵ Id., p. 2.

¹⁶ Id., p. 22.

¹⁷ Id., p. 26.

¹⁸ Case 14-C-0370, In the Matter of a Study on the State of Telecommunications in New York State, Letter from Chair Zibelman to Legislative Leaders (March 28, 2014); Letter from Chair Zibelman to Legislative Leaders (May 13, 2014); Letter of Chair Zibelman to R. Master (October 28, 2014).

Telecommunications Service (Assessment),¹⁹ as well as the record produced through Public Statement Hearings, Technical Conferences, and comments from interested stakeholders and the public at large.²⁰

When it commenced this proceeding, the Commission explained that the record adduced in Case 14-C-0370 ultimately formed a basis upon which the Commission can take actions in this proceeding that are designed to ensure continued access to state of the art telecommunications services, for all New York consumers.²¹ In the Order initiating this proceeding, the Commission noted that Verizon has publicly indicated that it no longer planned to expand its fiber network beyond areas it currently serves.²² The Commission also noted that the pace of the Company's access line losses had recently slowed down and fewer customers, both Core and non-Core, were leaving its network.²³ The Commission also found that the record in Case 14-C-0370 was replete with comments stating that Verizon's copper service quality for non-Core customers was not meeting Commission standards and that Verizon's unwillingness to expand its FiOS service any further was creating two classes of

¹⁹ Case 14-C-0370, In the Matter of a Study of the State of Telecommunications in New York State, Staff Assessment of Telecommunications Services (filed June 23, 2015).

²⁰ Id., Notice Seeking Comments (June 23, 2015), p. 4.

²¹ Initiating Order, pp. 1-2.

²² On January 7, 2014, Verizon Chairman and CEO Lowell McAdam, said at the Citi Internet Media & Telecommunications Conference: "We're expanding not the footprint of FiOS, but the penetration of the buildings within FiOS." Available at: <https://www.verizon.com/about/investors/citi-2014-internet-media-telecommunications-conference>. Initiating Order, p. 6, n. 13.

²³ Id., pp. 6-7.

customers, those with access to an FTTP network and those without it.²⁴ The Commission noted that the same comments stated that those without access to Verizon's modern fiber network lacked the same competitive choices as those in areas where FiOS has been deployed.

The Commission stated that it was initiating this proceeding to investigate the Company's service quality processes and programs pertaining to all its regulated customers to determine if modification of Verizon's revised SQIP was warranted. The Commission concluded that the seeming failure of Verizon's wireline telephone service to meet long-standing Commission service quality objectives, despite the existence of competition, necessitated such an inquiry. Absent further fiber deployment, the Commission found that its service quality oversight of Verizon had reached another turning point, and that the underlying premise for the continuation of Verizon's service quality focus on Core customers had been called into question. Thus, in this proceeding, the Commission's focus is on whether Verizon's customers will or are able to exercise competitive options, and whether Verizon is actively taking measures to retain these customers and keep the copper network viable.

PROCEDURAL HISTORY

When it commenced this proceeding, the Commission ordered the Company to provide specific information and data on its service quality, its efforts to retain customers still reliant on its copper network, its efforts to maintain the continued viability of the copper network, and information related to Verizon's actions to assess and adjust its performance, service quality and the reliability of its systems.

²⁴ Id., p. 7.

Verizon was ordered to respond to these information and/or data requests (including supporting testimony and exhibits) within 60 days of the date the order was issued (i.e., within 60 days of March 21, 2016). The Commission's order also granted the Secretary sole discretion to extend the deadlines set forth set by the Commission.

On May 10, 2016, Verizon sought an extension of time, asserting that a strike called on April 13, 2016, by the labor unions representing approximately 36,000 Verizon employees in the Northeast and Mid-Atlantic regions had interfered with the Company's ability to timely and completely respond to the Commission's order. On May 12, 2016, the Secretary granted Verizon's request for an extension until 45 days following the end of the work stoppage.

Thereafter, on May 18, 2016, CWA sought reconsideration of the Secretary's grant of an extension of time. Connect New York supported CWA's motion, and Verizon filed papers in opposition. The Secretary denied CWA's motion on June 2, 2016, and notified Verizon that, because the work stoppage had ended on June 2, 2016, Verizon's responses to the Commission's order were due on July 18, 2016.

On June 7, 2016, a procedural conference was held before the Administrative Law Judge (ALJ) presiding in this case. On July 8, 2016, Verizon sought an additional two-week extension, and that motion was opposed by CWA. On July 12, 2016, the Secretary granted Verizon a second extension. On August 1, 2016, Verizon filed its initial testimony and associated exhibits, which included materials filed under claims of confidentiality.

Thereafter, the parties engaged in discovery. Some of the information produced by Verizon during discovery was subject

to claims of confidentiality. To allow discovery to proceed in a timely fashion, on August 4, 2016, a Ruling Adopting a Protective Order was issued. On August 11, 2016, a second procedural conference was held. Verizon filed corrected testimony on August 22, 2016, and filed a corrected Exhibit H on August 30, 2016. On September 13, 2016, Verizon filed a corrected Exhibit K. A Ruling Adopting a Modified Protective Order was issued on September 13, 2016. On October 7, 2016, the ALJ issued a Ruling Establishing a Litigation Schedule, including the filing of responsive testimony and an evidentiary hearing. On October 17, 2016, Verizon filed second-corrected testimony and a second-corrected Exhibit K.

After discovery between the parties, and certain motion practice, a Ruling on Schedule was issued on March 9, 2017, requiring the filing of Staff and intervenor testimony on March 24, and rebuttal testimony on May 24, 2017. Staff and CWA filed testimony on March 24, 2017, and Verizon filed reply testimony on May 24, 2017.

On June 13, 2017, pursuant to Commission Rule 16 NYCRR §3.9, Verizon filed and served a Notice of Settlement Discussions. Thereafter, the parties held a number of settlement discussions and all active parties to the proceeding participated in those discussions. While not disclosing the substance of those sessions, the parties to the JP describe the settlement discussions as having been full and frank and reflecting a wide range of interests and views.²⁵ After a considerable negotiations period, and as a result of those settlement discussions, four of the active parties, including Verizon, Staff, CWA and PULP reached agreement on a proposed

²⁵ Joint Proposal, p. 9.

settlement (the Sponsors). On March 2, 2018, Verizon filed the JP containing terms intended to achieve a full resolution of the issues in this case. No party opposes the JP.²⁶

SAPA and Public Comments

Pursuant to the State Administrative Procedures Act, a notice was published in the State Register on April 13, 2016 (SAPA 16-C-0122SP1). In addition, a Notice Soliciting Public Comments on the JP was issued on March 22, 2018. Twenty-one public comments have been filed in the Department's Document and Matter Management System in relation to this proceeding.

The most extensive comments were filed on behalf of an organization called New Networks Institute - IRREGULATORS (New Networks). New Networks has alleged generally that Verizon has intentionally allowed its copper-based utility networks to deteriorate. New Networks also asserts that, by taking advantage of outdated Federal Communications Commission cost accounting rules, Verizon has, beginning in 2012, diverted billions of dollars from its state-regulated wireline businesses and used those funds to improperly cross-subsidize Verizon's wireless affiliate businesses.

Opposing the JP because its terms do not address Verizon's financial practices, New Networks argues that proceeding was supposed to involve an investigation into Verizon's claimed financial losses. New Networks asserts that, instead of investigating Verizon's financial abuses, the JP instead covers up the most egregious issues that directly affect all Verizon customers.

²⁶ Two other parties, the City of Syracuse (Syracuse) and the UIU, participated in the settlement discussions, but have taken no formal position on the JP. The Connect New York Coalition also has not taken any formal position on the JP.

New Networks asserts that, by siphoning resources from its wireline businesses in order to subsidize its unregulated wireless businesses, Verizon has harmed wireline customers on a massive scale and in every state, by allowing wireline service quality to deteriorate, by frustrating the more widespread deployment of broadband, and in multiple other ways.

New Networks also argues that, because Verizon covers about 9 million households and businesses, the limited broadband fiber deployments to be performed by Verizon under the terms of the Joint Proposal are insignificant. By imposing only modest obligations on Verizon, and by leaving out the more critical investigation of the wireless cross-subsidies, New Networks argues that the terms of the JP fail to accomplish the purposes of this proceeding. Instead of adopting the terms of the JP, New Networks urges the Commission to continue investigating Verizon's financial practices, and asks that Verizon be required to reimburse its wireline customers for the monies Verizon has diverted to its wireless affiliates.

Twenty other commenters urged the Commission to require Verizon to adequately maintain existing telephone land lines, pay phones and related infrastructure because they are more reliable in an emergency than cell phones. Commenters complained that, rather than maintain its copper-based systems in response to customer complaints about bad service, Verizon has instead knowingly failed to maintain landline service in order to force customers to switch to more expensive wireless service. They allege that Verizon has used bully tactics to aggressively sell its fiber-based service to customers that prefer traditional service. These commenters argue that Verizon's shift away from copper has more to do with preserving bloated corporate profits than ensuring quality telephone

service. They urge the Commission to require Verizon to continue maintaining the more reliable copper-based phone systems.

THE JOINT PROPOSAL

The terms of the JP, if approved by the Commission, would obligate Verizon to (1) extend its high-speed broadband service to approximately 32,000 additional premises in New York State; (2) identify 100 copper-fed building locations in New York City with a high incidence of repair visits by technicians and replace the existing copper facilities to those locations with fiber optics (either fiber-to-the-premises or digital loop carrier; (3) actively cooperate with CWA-represented service technicians in remediating Upstate copper plant; and (4) remedy 64,000 double pole conditions throughout Verizon's New York service territory. A more detailed description of the terms of the JP is set forth in the discussion below.

In pre-filed testimony, the Company generally testified that the SQIP should not be altered or expanded because the factual and policy rationales for which the Commission adopted the SQIP remain valid, its performance under the SQIP has been excellent, and it continues to invest heavily in its network infrastructure, including its copper network. Verizon asserted that issues relating to fiber deployment and the provision of broadband service do not require or warrant any change to the SQIP. According to Verizon's initial testimony, competition is playing its appropriate role with respect to service quality for non-Core customers. The Company maintained the Commission can respond to discrete service quality issues,

as it has in the past, by using targeted solutions that do not require changing its basic regulatory framework.²⁷

In general, Staff testified that Verizon's service quality performance for non-Core customers is not meeting the Commission's service quality standards and that this state of affairs, coupled with the Company's decision not to expand its FTTP network into many areas served by the copper network, raised concerns that Verizon is no longer competing aggressively to retain its non-Core customers, and service quality of the copper network is continuing to degrade. Based on its analysis of Verizon's performance, Staff testified that additional regulatory intervention is necessary.²⁸ Among other things, Staff recommended that reporting under the SQIP be changed to include service quality reporting data for both Core and non-Core customers and to extend the current penalty regime to also protect non-Core customers.

With respect to service quality, CWA generally testified that Verizon is not focusing investments on the upkeep of its aging copper network. Like Staff, CWA recommended several changes to the Company's service quality reporting requirements. In its reply testimony, Verizon disagreed with Staff's and CWA's analyses and positions, maintained that the evidence shows it continues to provide high-quality services to all its customers, and urged the Commission to allow the SQIP to remain in effect without change.

The JP does not purport to modify, amend or supplant the existing Verizon service quality standards set forth in the SQIP adopted by the Commission in Case 10-C-0202 for Core

²⁷ See, generally, Initial Panel Testimony of Verizon New York Inc. (Redacted Version), pp. 30-59.

²⁸ Staff Service Quality Panel Testimony, pp. 36-37.

customers.²⁹ Staff notes that the JP instead builds upon the important protections customers are afforded under the existing SQIP. Verizon emphasizes that the JP imposes upon it a number of definite and significant network management commitments that, when implemented, will directly improve service quality or advance the public interest in other ways and supplement the existing SQIP. Overall, Verizon characterizes the JP as a pragmatic and carefully crafted compromise among the widely varying interests and litigation positions of the parties.³⁰

Verizon notes the importance of Staff's sponsorship of the JP, given Staff's mission to advance the public interest and ensure Verizon's customers receive safe and adequate service at just and reasonable rates. Verizon also notes that no active party opposes the JP, and that Syracuse and UIU were each able to participate in discovery, review Verizon's responses to discovery requests, and participate in the settlement discussions.

The terms of the JP and the parties' positions with respect to discrete provisions of the JP are more fully discussed below.

LEGAL AUTHORITY

Under PSL §91(1), "[e]very...telephone corporation shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable." Pursuant to PSL §96(1), "[t]he Commission may of its own motion investigate or make inquiry in a manner to be determined by it as to any act done or omitted to be done by any ... telephone corporation..." In addition, the

²⁹ Staff Statement in Support, p. 6.

³⁰ Verizon Statement in Support, p. 10.

Commission can determine whether repairs or improvements are required. PSL §98 provides that "[w]henver the commission shall be of opinion, after a hearing...that repairs or improvements to...any telephone line ought reasonably to be made ... in order to promote the convenience of the public ... or in order to secure adequate service or facilities for...telephonic communications, the commission shall make and serve an order directing that such repairs [or] improvements ... be made within a reasonable time and in a manner to be specified therein and every ... telephone corporation is ... required and directed to make all repairs [or] improvements ... required..."³¹

The Commission's standard for reviewing settlement agreements such as this Joint Proposal here, is found in Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines (Settlement Guidelines).³² The Commission's Settlement Guidelines state that all decisions, including those to adopt the terms and conditions of a Joint Proposal must be just and reasonable and in the public interest. In addition to compliance with proper procedures, determining whether the terms of the Joint Proposal are in the public interest involves substantive consideration as well.

³¹ Under the PSL, the Commission may not only initiate an investigation, require the filing of testimony and convene hearings, as appropriate, to address disputed factual issues with respect to any direction to Verizon to make specific improvements, but may also, if necessary, institute an enforcement proceeding to compel such improvements. See, PSL §§96, 98, and 24.

³² Cases 90-M-0255 and 92-M-0138, Proceeding on Motion of the Commission Concerning its Procedures for Settlement and Stipulation Agreements, Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines (issued March 24, 1992).

DISCUSSION

Under the terms of the JP, Verizon will expand its fiber and hybrid fiber-copper networks in areas of upstate New York, the Hudson Valley, and on Long Island. Verizon will also upgrade its existing copper system in numerous locations within New York City. These changes and others will result in the availability of higher quality, more reliable telephone service and will increase Verizon's competitive presence in several economically important telecommunications markets in New York State.

Where a Joint Proposal has been submitted, the Commission's review is to determine whether the terms and conditions are in the public interest. Through this Order and discussed in detail below the Commission determines that the terms and conditions of the JP will improve service quality for a broad range of customers. As described, these measures include remediation of existing copper-based outside plant, the deployment of substantial amounts of new fiber-optic facilities (with the increased reliability, resistance to deterioration, and capability of supporting a broader range of services that are characteristic of such facilities), and a "Plant Pride" program that will encourage Verizon technicians to report plant problems observed on a day-to-day basis, and will impose on Verizon specific obligations concerning its responses to such reports. As such, through this Order, the Commission finds that approval of the JP is in the public interest.

System Expansions Beyond Verizon's Participation in the State's Broadband Program

As part of a State-supported public/private partnership to bring high speed internet access to all New Yorkers, Verizon Communications was one of a number of companies

awarded grants under the \$500 million New NY Broadband Program. Early this year, it was announced that Verizon has been awarded State grants totaling \$70,706,207 under this program. These grants, combined with a \$35,936,580 commitment from Verizon, will be used to extend Verizon's fiber-based broadband internet service to customers in the Capital Region, Central New York, North Country, and Southern Tier regions of New York State.³³

In addition to its obligations under the broadband grants program, under the JP in this proceeding, Verizon will be committed to extend its fiber-based broadband service to additional households within or near the census blocks for which the broadband grants have been awarded. Verizon anticipates approximately 20,500 additional households would benefit from these provisions of the JP. Under other terms of the JP, Verizon would be further committed to provide fiber-based broadband services (including fiber-based voice services) to 10,000-12,000 additional residential and business customer premises on Long Island and within Verizon's Upstate Reporting Region.

As a result, in total, the JP will lead to the extension of Verizon's broadband network to a total of approximately 32,000 additional households, in upstate New York, on Long Island, and in the Hudson Valley.

Staff states that the terms and conditions of the JP will address the Commission's major policy objectives in this proceeding. These fiber-based system expansions will result in higher quality, more reliable service for customers in numerous geographic locations, at the same rates, terms and conditions

³³ <https://www.governor.ny.gov/news/governor-cuomo-announces-round-iii-nation-leading-new-ny-broadband-program-bring-high-speed>

presently available statewide, and will foster increased commercial competition for such services.³⁴ In addition, Verizon will bring these fiber and hybrid fiber-copper networks to currently underserved customers in New York State.³⁵ Finally, these extensions of Verizon's fiber network will increase Verizon's competitive presence in economically important regions of New York State.

By enabling Verizon to provide high-speed broadband services (over 100 Mbps) that traditional copper networks cannot achieve or reliably support, these fiber buildouts will result in improved services, and improved service quality, in upstate areas that may presently be limited to much slower Digital Subscriber Line (DSL) services from incumbent telephone carriers.³⁶ The Commission notes that CWA, an entity that was initially opposed to Verizon, also supports these provisions of the JP, describing them as a significant improvement for thousands of customers as well as an important precedent for continuing efforts to expand broadband access in New York.³⁷

Verizon stresses that its commitments under the JP to extend its fiber network would be in addition to the work it will undertake using State broadband grant moneys, and notes that these further extensions of the Company's fiber

³⁴ Initiating Order, p. 6; Staff Service Quality Panel Testimony, pp. 42-43. Both Staff and PULP note that such upgraded broadband fiber and fiber-copper hybrid networks are more reliable and less prone to weather-related outages. Staff Statement in Support, p. 8 and n. 16 (citing Staff Service Quality Panel Testimony, pp. 20-21); PULP Statement in Support, p. 5.

³⁵ Initiating Order, pp. 6-8.

³⁶ Initiating Order, p. 10; Staff Statement in Support, p. 8.

³⁷ CWA Statement in Support, p. 9.

infrastructure would lead to significant improvements in the quality and reliability of the voice services available to households that accept such service.³⁸

The Commission agrees that the additional fiber deployment proposed in the JP addresses certain service quality issues that gave rise to this proceeding. The terms of the JP will enable Verizon to leverage its work under the State broadband grant program to further extend its fiber network to underserved areas more efficiently. By facilitating the extension of broadband service Upstate, in the Hudson Valley, and on Long Island, the JP will tangibly benefit consumers in rural and major market areas with increased service options, improved customer service quality, and greater choice. Such outcomes are fully consistent with the Commission's policy objectives.

Remediation of Copper Plant

The JP would commit Verizon to identify 100 copper-fed building locations in New York City with a high incidence of repair visits by technicians. Verizon would be committed to replace the existing copper facilities to those locations with fiber optics (either Fiber to the Premises or Digital Loop Carrier), within a target period of two years. The JP recognizes that compliance with this two-year timeline could potentially be subject to delays caused by access issues. If, after using reasonable efforts, Verizon is unable to gain access to some of the locations, those locations would be deleted from the list and an equal number of other locations will be added to the list. This will provide Verizon needed flexibility to

³⁸ Verizon Statement in Support, pp. 11-12.

timely complete the identified upgrades without undue delay due to access issues beyond Verizon's control.³⁹

This provision of the JP would directly address service quality issues with respect to Verizon's copper network in New York City, where the Company had indicated that it would not be conducting any further extension of its existing fiber network. As Staff points out, the proposed copper plant remediation program would ensure that customers in New York City, served by copper networks needing the most repairs, will gain access to more reliable service through incremental deployment of fiber optics.

CTRR Remediation Program

Verizon would be obliged to undertake a Targeted CTRR Remediation Plan for its copper system. These terms of the JP directly address concerns voiced by Staff in testimony regarding excessive CTRR rates at a number of Verizon's COEs. The Commission's CTRR standards measure troubles reported by customers on a particular telephone number or line.⁴⁰ Under the Commission regulations, there are two CTRR metrics: one used to measure the performance of individual central office switches and associated network elements, and one used to measure aggregate company-wide performance.⁴¹

Within two years of Commission adoption of the terms of the JP, Verizon would be obligated to identify and remediate copper plant conditions in 54 COEs that failed, during 2017, to

³⁹ JP, pp. 1-2.

⁴⁰ Staff Service Quality Panel, pp. 11-12.

⁴¹ 16 NYCRR §603.3(b).

meet customer service metrics for CTRR.⁴² Verizon would undertake new capital and operating expenditures to remediate copper plant, including outside plant and/or central office equipment, as necessary to eliminate the failure of those 54 COEs to meet the CTRR customer service performance standards.⁴³ Verizon's expenditures will be prioritized to remediate the conditions affecting the greatest number of customers first.

Both Staff and the Company state that this approach to remediating underperforming facilities is similar to previous successful efforts in improving the quality of customer service provided by targeted COEs.⁴⁴ Verification of Verizon's remedial work will be achieved through periodic reporting by Verizon. In addition, for the two years following adoption of the Joint Proposal, Staff will provide the Commission with quarterly updates on Verizon's progress in meeting its obligations under the JP.⁴⁵ Such reports will include analysis of Verizon's filings, as well as field audit results as appropriate.⁴⁶

⁴² The 54 COEs that would be remediated under the JP include all COEs that either missed the CTRR<5.5 performance standard in four or more months, or missed the standard in three months and had at least one CTRR Service Inquiry Report (SIR). Staff SIS, p. 9. See Staff Service Quality Panel Direct Testimony, Exh. OT-9, p. 11 of 13 (listing 53 candidate COEs identified by Staff and recommended for a targeted CTRR remediation program).

⁴³ Joint Proposal, p. 2, §IV.

⁴⁴ Staff Service Quality Panel Direct Testimony, pp. 21-22; Staff Statement in Support, pp. 9-10 (citing Case 13-C-0161, In the Matter of Quality of Service provided by Local Exchange Companies in New York State, Order Regarding Remediation Plan (issued June 13, 2014)).

⁴⁵ Staff Statement in Support, p. 13.

⁴⁶ Staff Statement in Support, p. 13.

Plant Pride Program

The JP would establish a Plant Pride Program (PPP) under which CWA technicians can submit, through Verizon's National Operations Quality Inspection system, reports of plant conditions needing additional maintenance. After submission, Verizon would be committed to reviewing the reports and finally resolving at least 75% of the submissions within 90 days. Final resolution may consist of repair, replacement, or a reasonable conclusion that no further action is appropriate, as Verizon determines. The reporting employees will be advised of the final resolution. In addition, Verizon will keep detailed records of each submission and Verizon and CWA will jointly review the submissions on a quarterly basis. Technicians will be informed of the availability of this reporting system, and kept informed of the results of the program. The PPP will end at the earlier of four years after it is initiated, or upon completion of all of Verizon's other obligations under the JP.

In support of the JP, CWA states that the PPP will provide a regularized process for specific improvements in copper system conditions.⁴⁷ Staff states that the PPP will certainly result in the identification and repair of additional copper network troubles and therefore, directly support enhanced service quality, which is the overall goal of Staff and the Commission in this proceeding. The PPP is directly related to concerns expressed in CWA's testimony about the need to perform necessary maintenance on Verizon's copper facilities. It will

⁴⁷ CWA Statement in Support, p. 9.

make good use of the knowledge of Company technicians as to where such work is needed to ensure quality customer service.⁴⁸

Double Pole Removal

Verizon is the largest telephone company pole owner in New York State. Under the JP, Verizon would be committed to remedy 64,000 double pole conditions over a four-year period, commencing as of the date of this order.⁴⁹ Staff notes that, while not strictly addressed to service quality, this effort will result in a major decrease in double pole conditions in Verizon's service territory, accomplishing a goal long encouraged by the Commission and DPS Staff.⁵⁰ The Company notes that eliminating double pole conditions would serve the public interest by addressing a network issue of significant concern to the Commission, to local governments, and to many of the State's residents.⁵¹

The Commission has a general policy against double pole conditions.⁵² In 2008, based on concerns over unnecessary costs and public safety and numerous complaints concerning incomplete facility transfers, the Commission commenced a

⁴⁸ See, e.g., Testimony of Robert Master, pp. 1-2; Testimony of Colleen Munch, pp. 5-6; Testimony of Ron Mangeri, pp. 4-9.

⁴⁹ Joint Proposal, §VII, p. 3.

⁵⁰ Staff Statement in Support, p. 11.

⁵¹ Verizon Statement in Support, p. 15, n. 27.

⁵² Case 13-E-0239, Examination of Certain Practices of National Grid Regarding Electric Service, Order Denying Petition (issued February 21, 2014) (noting the Commission's general policy against double pole situations).

generic proceeding to investigate double poles.⁵³ Subsequently, the Commission adopted an order approving the implementation of a standardized facility and equipment transfer (SAFET) program for all pole owners and attaching entities. The SAFET program was established to enhance the coordination, communication, monitoring, and notification process necessary to complete facility and equipment transfers on utility poles owned by electric and telephone companies and speed the removal of old poles.⁵⁴

The terms of the JP in this case will advance the important policy goals previously articulated by the Commission in these earlier Orders. While not within the scope of the particular service quality concerns articulated by the Commission when it commenced this proceeding, we nonetheless find that these terms of the JP will advance the public interest. The remedying of 64,000 double pole conditions over a four-year period will be a substantial step forward in addressing this problem.

Battery Replacement

The JP would require Verizon to inspect and remediate and/or replace batteries in backup power systems serving first responder/public safety entities such as hospitals, Public

⁵³ Case 08-M-0593, Proceeding on Motion of the Commission to Evaluate a Standardized Facility and Equipment Transfer Program, Order Initiating Proceeding (issued June 5, 2008) (double poles lead to added costs and inefficiencies and affect public safety).

⁵⁴ Case 08-M-0593, supra, Order Adopting Implementation of a Standardized Facility and Equipment Transfer Program (issued May 25, 2011).

Service Answering Points (PSAPs)⁵⁵ and police stations.⁵⁶ Batteries at remote terminals serving such critical customers will be identified by Verizon and will be inspected within six months of this order. New batteries will be ordered and installed as necessary.

Staff states this work will improve service quality for customers served from such remote terminals because extended battery life mitigates outages caused by commercial power failure. Thus, Staff argues, these provisions advance the Commission's ultimate goal in this proceeding - to see an improvement in Verizon's service quality generally.⁵⁷ PULP also notes that this work should mitigate any outages suffered by such customers, improve service quality, and buttress public safety.

The Commission has previously described the State's strong interest in maintaining reliable telecommunications networks that enable communications that are vital in the provision of essential public services -- e.g., public safety, security and health care. Reliable telecommunications are needed to avert and respond to man-made and natural disasters, and we have long recognized that State and local emergency response organizations depend on reliable telecommunications to marshal resources and direct recovery efforts. Individuals also

⁵⁵ A PSAP is an answering location for 9-1-1 calls originating in a given area that are requesting emergency assistance from police, ambulance and/or firefighting services. See <https://www.fcc.gov/general/9-1-1-master-psap-registry>

⁵⁶ Joint Proposal, p. 3. Verizon clarifies that these batteries provide back-up power to electronic systems located in Remote Terminals (such as Digital Loop Carrier systems) in cases of commercial power outages. Verizon Statement in Support, n. 26.

⁵⁷ Staff Statement in Support, p. 12.

rely on public communications networks for their own safety and peace of mind in emergency situations. Finally, the Commission has a responsibility to ensure that the public has ubiquitous access to effective and efficient 911/E911 emergency calling capabilities that meet the needs of emergency response organizations.⁵⁸

In sum, these terms of the JP are entirely consistent with ensuring the reliable operation of backup communications systems to allow first responders and other critical personnel to promptly respond when needed, even in the event of a power outage.

Public Comments

The Commission declines to follow New Networks' recommendations to reject the JP, continue investigating Verizon's financial practices, and require that wireline customers be reimbursed for the alleged improper cross-subsidization of Verizon's wireless affiliates. The Commission's primary objectives in this proceeding were to investigate and evaluate the quality of service Verizon is providing to its customers (Core and non-Core). More particularly, this proceeding was commenced when changing circumstances called into question the Commission's premise for continuing Verizon's service quality focus on Core customers. The Commission was concerned by Verizon's announced plans to stop expanding its fiber network beyond areas currently served. The Commission also pointed to data indicating fewer customers

⁵⁸ Case 03-C-1285, Complaint of Frontier Telephone, Order Establishing Balanced Regulatory Framework for Vonage Holding Corporation (issued May 21, 2004), p. 28-29.

were leaving Verizon's networks.⁵⁹ Given these indications, and the fact that more than 2 million of Verizon's current customers remain reliant on an aging copper network, the Commission decided to examine whether changes to Verizon's service quality oversight are necessary. The Commission recognized that this investigation would inherently include an examination as to the state of the copper system and whether Verizon's investment in its network has been sufficient to provide adequate levels of service to consumers on regulated services. But, the Commission did not state any intention to revisit rate-of-return regulation. The Commission did recognize an expectation that the Company will continue to invest in its New York regulated operations as the Public Service Law unequivocally requires Verizon to provide adequate service. The Commission also made it clear that it would take the necessary action under the Public Service Law to address shortcomings if the market fails to provide Verizon an appropriate incentive to meet its statutory obligations. That said, the Commission has broad authority under the Public Service Law to initiate further investigations if the circumstances so warrant.

The Commission focus has long been on ensuring compliance with minimum standards of service quality for customers lacking competitive choice. The Commission has previously investigated claims that Verizon has not been adequately investing in its copper network. In that context, the Commission has acknowledged that, in response to technological advances, the telecommunications landscape has changed dramatically. The Commission has also recognized that, in evaluating Verizon's performance, it must consider the extent

⁵⁹ Initiating Order, pp. 6-7.

to which investment in the legacy copper network would be cost effective when that network is becoming competitively and technologically obsolete.⁶⁰

The terms of the JP will implement specific improvements in Verizon's system that will directly improve the service quality deficiencies that led to the commencement of this proceeding. In light of all this, we disagree with New Network's recommendation to reject the Joint Proposal. The terms of the JP should result in service quality improvements that promote the public interest.

Moreover, with regard to other commenters' complaints about Verizon's maintenance of its copper network and being forced onto more expensive wireless and fiber networks, the Commission notes that Verizon is required to offer its tariff services and tariffed-based rates regardless of the type of network delivering the telephone call. Notwithstanding the foregoing, the Commission has long recognized the benefits and resiliency of the fiber network over the older vintage copper network and we note here that the JP will further that goal.

Finally, in the Commission's Initiating Order, we raised the question of whether "Verizon's service quality processes and programs pertaining to all the Company's regulated customers" are sufficient "to determine if modification of Verizon's revised SQIP is warranted."⁶¹ In light of the JP's terms and conditions being approved herein, the Commission does not believe any changes are required at this time. However, as

⁶⁰ Case 10-C-0202, Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Service Quality Improvement Plan, Order Resolving Petition and Requiring Further Investigation (issued January 18, 2013), p. 26.

⁶¹ Initiating Order, p. 8.

indicated above, the Commission is free to review Verizon Service Quality Improvement Plan at any time and initiate an investigation to determine if further actions by the Commission are necessary. Staff will also continue to report on Verizon's quarterly service quality results and can recommend further corrective action or changes in the future.

CONCLUSION

The Commission finds from our review of the record that the JP provides a fair balancing of the interests of the Company and its customers. The provisions of the JP will result in significant infrastructure investments by the Company that are designed to improve service quality for Verizon customers in both urban and rural areas across the State. In doing so, the JP addresses the underlying service quality issues that gave rise to this proceeding and that were otherwise identified in pre-filed testimony. The terms of the JP will significantly expand Verizon's fiber-based services, improve its copper network, remedy double pole conditions in its service territory, and improve continuity of services to remote terminal locations serving critical customers, all of which promote Commission and State policies. Finally, the JP is unopposed and supported by diverse parties with normally adverse interests. Accordingly, in considering the entire proposal and by applying the factors found in our Settlement Guidelines, we find that adoption of the terms of the JP is in the public interest.

The Commission orders:

1. The terms of the Joint Proposal filed on March 2, 2018, by and on behalf of Verizon, the Department of Public Service trial staff, the Communications Workers of America, District 1, and the Public Utility Law Project of New York,

Inc., attached to this order as Appendix A, are adopted and made part of this order.

2. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

3. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

JOINT PROPOSAL

ADDITIONAL FIBER DEPLOYMENT

I. Participation in State's Broadband Program.

Verizon has bid for grants under the State Broadband Program Office/CAF auction. To the extent that any such grants are awarded to Verizon, the company commits to making fiber-based broadband service available to certain additional households in the areas covered by such grants, beyond the households to which Verizon is required to make service available under the terms of the grants (the "Additional Households"). Based on grants awarded by the BPO to date, Verizon estimates that the total number of Additional Households will be a minimum of approximately 14,000, and a maximum of approximately 20,500. The 6,500-household difference between the minimum and maximum represents Additional Households to which Verizon will make service available if it is awarded a grant for certain census blocks in the Mohawk area. Grants for those census blocks have not yet been awarded by the BPO, and they may be awarded to Verizon. These approximately 6,500 premises will be included as Additional Households if, but only if, Verizon is awarded the grants for the Mohawk-area census blocks referred to above.

II. Deployment in Long Island and Upstate.

Verizon will make fiber-based services available to a total of 10,000 – 12,000 residence and business customer premises in the Long Island and Upstate Reporting Region within one year of Commission adoption of the Joint Proposal. These premises are in addition to any residences or businesses receiving such services pursuant to BPO grants or "Additional Households" as set forth in Section I. Approximately 7,000 of those premises will be in Long Island and approximately 4,000 will be in Midstate and Upstate.

REMEDIATION OF COPPER PLANT

III. Targeted Remediation Program for New York City Copper Cables.

Verizon will identify 100 copper-fed building locations in New York City with a high incidence of repair visits by technicians and will replace the existing copper facilities to those locations with fiber optics (either fiber-to-the-premises or DLC). Verizon will make reasonable efforts to prioritize such deployment.

Verizon's obligations under this provision will be subject to the company's ability to secure access to buildings to perform the necessary work. Verizon will use reasonable efforts to secure such access. If Verizon is

unable to obtain access to some of the locations, those locations will be deleted from the list and an equal number of other locations will be added to the list of premises covered by this section.

Subject to delays caused by access issues, Verizon's target for completing this work will be two years from Commission adoption of the Joint Proposal.

IV. CTRR Remediation Plan.

Under this initiative, Verizon will identify and remediate copper plant conditions in central office entities ("COEs") that meet the criteria set forth below. Verizon has reviewed CTRR data for the period January 2017 to December 2017. Based on that data, 54 offices were identified that either missed the CTRR<5.5 performance standard in four or more months, or missed the standard in three months and had at least one CTRR Service Inquiry Report. The CTRR remediation plan will apply to those 54 offices.

New capital and operating expenditures will be made by Verizon with respect to outside plant and/or central office equipment associated with those COEs, to the extent necessary to eliminate the failure to meet the performance standards set forth above.

The expenditures will be prioritized to remediate conditions affecting the greatest number of customers first.

Remediation efforts will be completed within two years of Commission adoption of the Joint Proposal.

PLANT PRIDE PROGRAM

V. Plant Pride Program.

Within 60 days of Commission adoption of the Joint Proposal, Verizon will implement a Plant Pride Program ("PPP") through which technicians can submit plant conditions needing additional maintenance through Verizon's National Operations Quality Inspection ("NOQI") system or a successor system.

Verizon will review the submissions to NOQI, and within 90 days of receiving a submission under the PPP, will, in accordance with the following paragraph, perform plant rehabilitation or maintenance as deemed necessary by Verizon to address the reported conditions.

Verizon will resolve at least 75% of the submissions within the 90-day period, but that percentage may be reasonably adjusted by Verizon based on the number of submissions received and the CTRR results achieved. Final resolution may consist of repair, replacement, or a reasonable

conclusion that no further action is appropriate as Verizon determines. Reporting employees will be advised of the final resolution.

Verizon will also maintain detailed records concerning the status of each submission, and will review the results with CWA on a quarterly basis. The issues to be discussed at such reviews will include the volume of submissions, their quality, the number of conditions remedied and, in general, whether the program is achieving its objectives. These meetings will be led by the applicable Verizon region leaders and the CWA Area/District leadership, and no more than three additional representatives each from Verizon and the CWA will attend.

Technicians will be educated on the availability of this system and will be kept informed of the results through communications at the garage level, including dedicated space to publish local results (such as before and after photographs).

Garage communications sessions will continue to be held and additional measures will be taken to ensure technicians are aware of the NOQI system and the ability to report plant conditions through it. NOQI will be the primary mechanism for reporting and tracking activity for the PPP.

Absent agreement of CWA and Verizon to continue it, the Plant Pride Program will end at the earlier of four years after it is initiated, or upon completion of all of Verizon's other obligations under this Joint Proposal.

OTHER MEASURES

VI. Remediation Program for Batteries Providing Back-up Power to Remote Terminals ("RTs") during Commercial Power Outages.

Batteries at RTs serving critical customers (hospitals, PSAPs, police stations) will be identified and will be inspected within six months of Commission adoption of the Joint Proposal.

New batteries will be ordered and installed as necessary.

VII. Double Pole Removal Effort.

Verizon will remedy 64,000 double pole conditions over a four-year period commencing with the Commission adoption of the Joint Proposal.

VIII. Consolidation of Central Office Entities ("COEs").

In order to prevent single incidents in small COEs from unduly influencing reported CTRR metrics, remote COEs serving ≤ 500 lines will be consolidated into host switches for CTRR reporting purposes.

MISCELLANEOUS

IX. Force Majeure.

Verizon may, with notice to other parties, ask the Commission to delay its obligations under this Joint Proposal in the event that its full performance is prevented by circumstances beyond the company's reasonable control.

X. Reporting Obligations.

Verizon will periodically submit to Staff a Report of its progress in meeting its obligations under this Joint Proposal. The content and frequency of such Reports will be determined through discussions between Staff and Verizon, after consultation with other Parties, following the adoption of the Joint Proposal by the Commission. The Reports will also be made available to parties to this proceeding consistent with the terms and conditions of the Revised Protective Order, subject to the provisions of that order. No designation by Verizon of the contents of a Report made pursuant to this paragraph as confidential pursuant to the Revised Protective Order, will affect, prevent or limit in any way the discussion of or disclosure by any person of any information not derived from such report, including such information discussed at a meeting held pursuant to Section V of this Joint Proposal.