

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Ensuring Customer Premises Equipment)	PS Docket No. 14-174
Power for Continuity of Communications)	
)	
Technology Transitions)	GN Docket No. 13-5
)	
Policies and Rules Governing Retirement)	RM-11358
Of Copper Loops by Incumbent Local)	
Exchange Carriers)	
)	
Special Access for Price Cap Local)	WC Docket No. 05-25
Exchange Carriers)	
)	
AT&T Corporation Petition for)	RM-10593
Rulemaking to Reform Regulation of)	
Incumbent Local Exchange Carrier)	
Rates for Interstate Special Access)	
Services)	

**Comments of
Communications Workers of America**

Debbie Goldman
George Kohl
501 Third St. N.W.
Washington, D.C. 20001
(202) 434-1194 (phone)
(202) 434-1201 (fax)
dgoldman@cwa-union.org

Scott Rubin
Counsel to CWA
333 Oak Lane
Bloomsburg, PA 17815
(570) 387-1893
scott.j.rubin@gmail.com

February 5, 2015

EXECUTIVE SUMMARY

Our nation is in the midst of a communications technology transition that will take place over a number of years. We are moving from circuit-switched wireline networks running on copper loops to all-Internet Protocol (IP) networks using copper, co-axial cable, fiber, and wireless infrastructure. The Commission has recognized that even as communications technologies change, the fundamental goals of communications policy remain the same: to ensure that all Americans, regardless of income or geography, have access to affordable, reliable, high quality voice and broadband services; to incent investment in job-creating high-speed networks; to promote public safety; and to protect consumers. We would add the critical role that a skilled, career communications workforce, one with workers' rights and protections on the job, plays in advancing these core values.

In the *National Broadband Plan*, the Commission established a national policy goal of universal, high-speed broadband to all American households, businesses, and institutions. In the five years since adoption of the *National Broadband Plan*, we have made progress toward that goal, and many communities now have access to competing carriers offering advanced telecommunications services capable of transferring the video- and data-rich applications on the Internet. But all too many communities, households, and businesses continue to sit on the wrong side of the digital divide, with little or no access to high-speed broadband and deteriorating service on the legacy, once ubiquitous copper network. Something is wrong here.

Clearly, competition is working for some communities. In a competitive model, profit-seeking companies target capital to investments with the highest potential return. And so, people in Austin TX or Raleigh-Durham now or in the near future will have access to two, three, or even four competing high-speed wireline providers. But at the same time, people in Buffalo NY or

rural Pennsylvania and in too many rural areas, smaller cities, and lower-income communities have no fiber connectivity and declining service on their copper network. Something is wrong here.

The Commission has a clear statutory mandate to provide to *all* people of the United States affordable, quality telecommunications services with adequate facilities and to adopt policies to make available to all Americans advanced telecommunications capability. In this proceeding, the Commission seeks to promote these objectives by updating its rules and policies concerning continuity of power, copper retirement, and service discontinuances governed by section 214 of the Communications Act. Verizon's attempt to circumvent Commission service discontinuance rules by replacing storm-damaged copper networks with inferior fixed-wireless Voice Link on Fire Island NY and several New Jersey barrier islands demonstrated the need for Commission rules and oversight to protect consumers against harmful network downgrades and network abandonment. The "de facto" discontinuance and impairment of telecommunications service in so many rural areas, smaller urban areas, and low-income communities demand that the Commission establish clear standards for what would constitute adequate substitute for retail services when a carrier seeks to discontinue, reduce or impair service in connection with a technology transition. The increasing frequency and scope with which the Commission considers copper retirement notices underscore the need to clarify the copper retirement policies.

In the "old" monopoly days, the Commission and state regulators could demand that when telecommunications companies' deployed new technology providing new services to customers, those network upgrades would be deployed to benefit all consumers and communities. In today's competitive environment, the Commission can use its rulemaking authority to strengthen the economic case for high-speed broadband expansion (the "carrot") and to block network

downgrades and abandonment that leave consumers worse off (the “stick”). The Commission’s copper retirement and service discontinuance rules should be designed with this carrot (encouraging high-speed wireline investment) and stick (discouraging network downgrades and abandonment) approach.

Copper Retirement Rules. CWA submits that very different rules should apply to network upgrades, network downgrades, and network abandonments. The Commission correctly notes that its policies should encourage fiber upgrades and that there should be regulatory incentives for providers to deploy fiber. As such, incumbent LECs should not be required to operate both copper and fiber networks indefinitely. The copper retirement regulations should provide different notice requirements and procedures for copper retirements that result from an upgrade to fiber optic facilities, as opposed to copper retirements that result in a downgrade (or complete loss) of functionality. Particularly, in the latter case, it should not be assumed that the retirement will go into effect automatically, that the retirement is in the public interest, or that there will not be significant harm to consumers and public safety if the retirement occurs. Even when copper is being upgraded to fiber, the notice to retail customers must give consumers enough time to upgrade or replace CPE and otherwise make arrangements with service providers who rely on the telecommunications network (such as security alarm and medical alert services).

Copper Discontinuance. In this proceeding, the Commission appropriately seeks to define what would constitute an “adequate substitute for retail services” when a carrier seeks to discontinue, reduce or impair in connection with a technology transition. CWA urges the Commission to adopt specific, minimum standards that must be met by a telecommunications network serving a wire center (or a municipality within a rural wire center) before network service can be discontinued, reduced, or impaired. Minimum standards should be set in at least

six specific areas: reliable and accurate access to E911; constant availability, including during storms and emergencies; adequate call quality; compatibility with health and safety services that use the network; adequate data transmission capability; and affordability.

DeFacto Copper Retirement and Discontinuance. Some incumbent LECs are engaging in “de facto” copper retirement and “de facto” copper service discontinuance by neglecting their copper facilities. In these comments, we provide evidence of Verizon’s effective abandonment of copper networks and customers in many regions where it has not deployed its all-fiber network and FairPoint Communications’ disinvestment in its copper network. We reserve the right to provide further evidence of “de facto” copper discontinuance in further comments in this proceeding. The Commission cannot allow an incumbent LEC to avoid its Section 214 discontinuance obligations simply by failing to submit a Section 214 application. Incumbent LECs that adopt policies and practices that effectively abandon copper network services but fail to request permission to do so are in violation of Section 214 service discontinuance rules, and should be subject to Commission enforcement action.

Further, the Commission erroneously abandoned its service quality data collection program after 2009, and should adopt a new program of service quality data collection covering all telecommunications and broadband providers in order to have the data it needs to ensure its policies promote the enduring values of consumer protection, universal service, public safety and national security, and competition.

TABLE OF CONTENTS

Executive Summary

- I. Introduction.....1
- II. Copper Retirement Policies Should Encourage Network Upgrades and Protect Consumers6
- III. Copper Discontinuance Rules Should Be Based on Six Essential Characteristics of the Telecommunications Network12
- IV. The Commission Should Apply Section 214 Service Discontinuance Authority to “De Facto” Copper Discontinuance and Collect Data on “De Facto” Retirement/Discontinuance.....20
 - A. Evidence of “De Facto” Copper Discontinuance: Verizon Disinvestment in Maintenance and Service in non-FiOS Urban and Rural Areas.....22
 - B. Additional Evidence of “De Facto” Copper Discontinuance: FairPoint Communications in New England32
 - C. The Commission Needs Good Data to Make Good Policy and Should Re-Institute a Service Quality Data Collection Program from all Telecommunications and Broadband Providers.....34
- V. Conclusion39

Attachment

I. INTRODUCTION

Our nation is in the midst of a communications technology transition, one that will take place over a number of years, as we move from circuit-switched wireline networks running on copper loops to all-Internet Protocol (IP) networks using copper, co-axial cable, fiber, and wireless infrastructure. The Commission has recognized that even as communications technologies change, the fundamental goals of communications policy remain the same. In the *Technology Transition Order*, the Commission endorsed four principles that embody these enduring values: consumer protection, universal service, public safety and national security, and competition.¹ We would add the critical role that a skilled, career communications workforce, one with workers' rights and protections on the job, plays in advancing these core values.

The Communications Workers of America (“CWA”) represents 700,000 workers in communications, media, airlines, manufacturing and public service. CWA members work in all sectors of the communications industry, including wireline, wireless, and video. CWA members build, maintain, and service networks and customers using circuit and IP technologies connected to copper, coaxial cable, fiber, and wireless networks. The vast majority of CWA members work for companies that the Commission, in this proceeding, identifies as incumbent local exchange carriers, companies that have transformed themselves into broadband and, in some cases, video and wireless providers. CWA members, as workers and consumers of communications services, have a deep interest in this proceeding. Since 2007, CWA’s Speed Matters campaign has promoted policies to advance affordable high-speed Internet to all Americans.²

¹ *Technology Transitions, et al.* GN Docket No. 13-5, et al., Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, Jan. 31, 2014 (rel), ¶ 1 (“*Technology Transitions Order*”).

² See <http://www.speedmatters.org>

It is within the framework of this technology transition that the Commission seeks to update its rules that apply to incumbent local exchange carriers (“incumbent LECs” or “ILECs”) regarding network changes and discontinuance of services. It is important to place this particular proceeding – a review of the Commission’s network change and copper retirement rules developed largely for a monopoly environment – in the broader context of today’s competitive market structure for voice and broadband service. Today, the incumbent local exchange carriers are the non-dominant players in the market for wired broadband and video services, and due to wireless substitution and cable entry into the voice telephony market, their wireline networks serve fewer than one-third (and in some states fewer than 20 percent) of customer locations in their incumbent local exchange footprints. Cable providers dominate the broadband market, providing 89 percent of broadband connections as measured by the Commission’s recently updated 25 megabits per second (Mbps) downstream and 3 Mbps upstream speed benchmark. Even when the Internet access market is expanded to include slower speeds (3 Mbps/768 Kbps), cable providers still have 64 percent of the Internet access market. Together, AT&T and Verizon have about 12 million video customers, representing 12 percent of the pay-TV market. (Video serves as the major economic driver for broadband expansion). Cable telephony has more than 30 million customers. As consumers have dropped wireline for wireless for voice (44 percent of households are wireless-only for voice), the number of wireline voice customers on the incumbent local exchange carriers’ networks has declined by half over the past ten years to 66 million customers.³ Given the non-dominant market position of the incumbent local exchange

³ Cable providers have 27,767,000 (89 percent) of the 31,192,000 wired broadband connections at speeds greater than 25 Mbps downstream, and 50,236,000 of the 78,175,000 wired broadband connections at speeds greater than 3 Mbps downstream/768 Kbps upstream as of Dec. 31, 2013. *See* FCC, *Internet Access Services: Status as of December 31, 2013*, Tables 7 and 8, Oct. 2014. AT&T has about 6 million video customers and Verizon has 5.6 million. There are about 101 million video households. *See* Verizon Communications Press Release, “Verizon Reports High-Quality Customer Additions in 4Q, Caps Year in Position to Drive Continued Growth,” Jan. 22, 2015 (available at <http://www.verizon.com/about/news/verizon-reports-high-quality-customer-additions-4q-caps-year->

carriers, the Commission must be mindful that disparate regulatory treatment of carriers competing in the same markets distorts economic incentives for investment.

And yet -- the incumbent local exchange carriers are the carrier-of-last-resort for 66 million customers, half (31 million) of whom are residential households and half (35 million) are business customers.⁴ Many of these 66 million customers have no alternative to the incumbent LECs' copper circuit-switched wireline network for quality, reliable voice telephony and Internet access service. These 66 million customers represent a significant number of households, businesses, and institutions in rural and urban America. It is the responsibility of this Commission to ensure that these consumers do not lose their essential communications link simply because carriers divert resources to customers and technologies that promise a higher return on capital. Verizon's attempt to circumvent Commission service discontinuance rules by replacing storm-damaged copper networks with inferior fixed-wireless Voice Link in Fire Island NY and several New Jersey barrier islands powerfully demonstrated the need for Commission rules and oversight to protect consumers against harmful network downgrades and network abandonment.⁵ These must be blocked.

The challenge the Commission faces in this proceeding, therefore, is how to balance two important, and often competing, objectives: 1) encouraging private sector investment in advanced broadband networks; and 2) protecting consumers who continue to depend upon

[position-drive-continued/](#)); AT&T, Investor Briefing, 4th Quarter (2014) Earnings, Jan. 27, 2015 (available at http://www.att.com/Investor/Earnings/4q14/ib_4q14.pdf); FCC, 15th Video Competition Report, MB Docket No. 12-203, July 22, 2013 (rel); FCC, *Local Telephone Competition: Status as of December 31, 2013*, Table 6; Centers for Disease Control and Prevention, national Center for Health Statistics, U.S. Department of Health and Human Services, "Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January – June 2014 (available at <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201412.pdf>).

⁴ FCC, *Local Telephone Competition: Status as of December 31, 2013*, Tables 9, 10, 11.

⁵ Comments of Communications Workers of America, WC Docket No. 13-150 and Comp. Pol. File No. 1115, July 24, 2013.

circuit-switched copper networks. Competition complicates but does not resolve the tension between these competing objectives. Competition drives capital to those markets that promise the highest return on investment. This is good news for consumers in places like Austin TX or Raleigh-Durham NC where AT&T and Google (and in Durham, Frontier Communications as well) are building or have announced plans to build all-fiber networks to compete with Time Warner Cable.⁶ But this leaves behind the 55 million Americans who lack access to advanced broadband networks (using the Commission's updated 25 megabits per second (Mbps) downstream and 3 Mbps upstream broadband speed benchmarks.) Over half of all rural Americans lack access to 25 Mbps/3Mbps service. And more than 55 percent of all Americans lack competitive choice for 25/3 Mbps service.⁷

To be sure, the so-called incumbent local exchange carriers that are the object of this proceeding have transformed themselves into broadband and in some cases video and wireless providers. They are investing tens of billions of dollars every year to upgrade their networks for the data- and video-intensive digital applications that consumers, businesses, schools, health care facilities, government agencies, and other organizations need to drive economic growth, jobs, and improvements in education, health care, environmental protection, public safety, entertainment, and civic participation. For example, Verizon has built its all-fiber FiOS network

⁶ See AT&T Press Release, "U-Verse with AT&T GigaPower Launches Today in Part of Research Triangle and Winston-Salem," Dec. 8, 2014 (available at <http://www.prnewswire.com/news-releases/u-verse-with-att-gigapowersm-launches-today-in-parts-of-the-research-triangle-and-winston-salem-300005791.html>); Google Official Blog, "Google Fiber is Coming to Atlanta, Charlotte, Nashville, and Raleigh-Durham," Jan. 27, 2015 (available at <http://googleblog.blogspot.com/2015/01/google-fiber-new-metro-areas.html>); Sean Buckley, "Frontier Steps into the 1 Gig Game in Durham NC," *Fierce Wireless*, Oct. 27, 2014 (available at <http://www.fiercetelecom.com/story/frontier-steps-1-gig-broadband-game-durham-nc/2014-10-27>). Time Warner Cable also serves the Raleigh-Durham area.

⁷ FCC News Release, "FCC Finds U.S. Broadband Deployment Not Keeping Pace," Jan. 29, 2015; FCC Fact Sheet, "FCC Chairman Tom Wheeler: More Competition Needed in High-Speed Broadband and Marketplace," Sept. 4, 2014. See also David N. Beede, U.S. Department of Commerce, Economics and Statistics Administration, "Competition Among U.S. Broadband Providers," OCE Issue Brief # 01-14, Dec. 2014.

to more than 16 million customer locations in its local exchange footprint. AT&T has announced plans to build (and has begun the initial deployment of) its GigaPower all-fiber network in up to 100 cities. CenturyLink has deployed all-fiber networks in parts of Omaha, Las Vegas, and Salt Lake City, with plans to expand to 13 other cities. Windstream plans an all-fiber deployment in Lincoln NE. Frontier has announced plans for a gigabit network in Raleigh-Durham NC, and already operates fiber networks in Washington and Oregon that it purchased from Verizon.⁸ Consumers, businesses, and institutions in the metropolitan areas where incumbent local exchange carriers have built all-fiber networks have the benefits of competitive choice for high-speed broadband.

Despite this progress, as the Commission concluded in its most recent 2015 Broadband Progress Report, broadband is not being deployed in a “reasonable and timely fashion” and therefore the Commission must take “immediate action,” as mandated by Section 706 of the Telecommunications Act of 1996, to promote the deployment of advanced telecommunications capability to all Americans.⁹ Too many Americans are being left on the wrong side of the digital divide.

⁸ Verizon Communications Press Release, “Verizon Reports High-Quality Customer Additions in 4Q, Caps Year in Position to Drive Continued Growth,” Jan. 22, 2015 (available at <http://www.verizon.com/about/news/verizon-reports-high-quality-customer-additions-4q-caps-year-position-drive-continued/>); AT&T Press Release, “AT&T Eyes 200 U.S. Cities and Municipalities for its Ultra-Fast Fiber Network, April 21, 2014 (available at http://about.att.com/story/att_eyes_100_u_s_cities_and_municipalities_for_its_ultra_fast_fiber_network.html#); Century Link Press Release, “CenturyLink expands its gigabit services to 16 cities, delivering broadband speeds up to 1 gigabit per second,” Aug. 15, 2014 (available at <http://news.centurylink.com/news/centurylink-expands-its-gigabit-service-to-16-cities-delivering-broadband-speeds-up-to-1-gigabit-per-second>); Sean Buckley, “Frontier Steps into the 1 Gig Game in Durham NC,” *Fierce Wireless*, Oct. 27, 2014 (available at <http://www.fiercetelecom.com/story/frontier-steps-1-gig-broadband-game-durham-nc/2014-10-27>); Windstream Press Release, “Windstream announces next-generation TV entertainment service, Kinetic,” Oct. 2, 2014 (available at http://news.windstream.com/article_display.cfm?article_id=1576).

⁹FCC, *2015 Broadband Progress Report and Notice of Inquiry of Immediate Action to Accelerate Deployment*, GN Docket No. 14-126, Feb. 4, 2015 (rel).

In this proceeding, the Commission appropriately acknowledges that incumbent LECs that have upgraded their networks should not be required to maintain two networks indefinitely, but should be subject to strengthened public notice and comment provisions to protect consumers during the transition. The Commission also properly proposes to make explicit the standards it will use in evaluating carrier requests to discontinue copper service. In these comments, CWA proposes six minimum criteria for evaluation of a discontinuance application: 1) reliable and accurate access to E-9-1-1; 2) constant availability, including during storms and emergencies; 3) adequate call quality; 4) compatibility with health and safety services that use the network; 5) adequate data transmission capability; and 6) affordability. In addition, the Commission correctly acknowledges that some carriers are engaged in “de facto” copper retirement and service discontinuance. Such “de facto” copper retirement and service discontinuance must be recognized for what it is – reduction, impairment, and abandonment of service – subject to the Commission’s copper retirement and Section 214 service discontinuance rules.

Finally, CWA supports the Commission’s Declaratory Ruling that accompanied this NPRM, clarifying that the analysis under section 214 discontinuance rules focuses on a functional test of the service provided, not simply a narrow reading of the relevant language in the tariff.¹⁰

II. Copper Retirement Policies Should Encourage Network Upgrades and Protect Consumers

The Commission properly recognizes that this is an appropriate time to revisit the regulations governing the retirement of copper in order to encourage fiber upgrades and protect consumers during this period of technology transitions. The Commission correctly notes that its policies should encourage fiber upgrades and that there should be regulatory incentives for providers to deploy fiber. NPRM ¶ 15. As such, incumbent LECs should not be required to

¹⁰ NPRM ¶¶114-118.

operate both copper and fiber networks indefinitely. NPRM ¶ 15. At the same time, the Commission accurately states that its existing Part 51 copper retirement regulations do not "sufficiently protect[] our core values given the increase in frequency and volume of copper retirements and the concurrently growing impact on consumers and competition." NPRM ¶ 14 CWA submits, however, that the proposed changes in the Commission's Part 51 copper retirement rules do not differentiate between network upgrades, network downgrades, and network abandonments. Unfortunately, proposed section 51.332, as written, would apply the same rules to all of these circumstances. In this section, CWA therefore proposes some modifications to the NPRM's proposed Part 51 rule changes, changes that we believe are consistent with the Commission's stated goal of encouraging fiber deployment and protecting consumers during the technology transition.

The Commission's existing regulations apply to "the retirement of copper loops or copper subloops, and the replacement of such loops with fiber-to-the-home loops or fiber-to-the-curb loops." 47 CFR § 51.325(a)(4) (emphasis added); see also 47 CFR § 51.331(c). Importantly, the existing regulations apply only to the upgrade from copper to fiber optic facilities. In those circumstances, other carriers, but not retail customers, are given notice of the upgrade in facilities. Carriers have a limited amount of time to object to the upgrade, and the objection can delay the upgrade only for a short period of time.

While the Commission's discussion of the need to update its copper retirement regulations consistently discusses upgrading copper facilities to fiber (see, e.g., NPRM ¶¶ 15, 19-21), the proposed regulation is not so limited. Specifically, the proposed regulation defines a copper retirement as "removal or disabling of copper loops, subloops, or the feeder portion of

such loops or subloops, or the replacement of such loops with fiber-to-the-home loops or fiber-to-the-curb loops" Proposed § 51.332(a) (emphasis added).

The change in definition does two things. First, it adds the feeder portion of copper loops, an issue on which CWA takes no position. Second, and very importantly, it changes "and" to "or." Under the existing regulation, the limited notice requirement applies only when copper is being upgraded to fiber. Under the proposed regulation, the same procedures would apply without regard to why copper is being removed -- it could be a removal as a result of an upgrade to fiber, but it also could be a removal to replace the copper with an inferior voice-only service (such as Verizon's Voice Link service), or even the complete abandonment of facilities.¹¹

CWA respectfully submits that very different rules should apply to network upgrades, network downgrades, and network abandonments. Unfortunately, proposed section 51.332, as written, would apply the same rules to all of these circumstances.

Lumping together these diverse circumstances is particularly egregious because, under the proposed rule, retail customers would not have the right to file objections to the change. Only interconnecting carriers could object, while retail customers would be permitted to file comments that would not have the legal effect of either stopping the change or forcing further procedures by the Commission. CWA considers this type of procedure to be appropriate for network upgrades, but not for downgrades or abandonments.

Moreover, the notice to customers in the proposed regulation appears to be contrary to the Commission's existing regulation regarding changes in carrier technology or facilities. The Commission already recognizes that changes in carrier facilities or technology have the potential

¹¹ CWA recognizes that the NPRM has a separate section discussing copper discontinuance. The definition of a copper retirement in the proposed regulation, however, is so broad that it also would include a copper discontinuance (that is, the complete abandonment of service).

to require retail customers to modify or upgrade customer premises equipment (CPE). Section 68.110 requires that when a carrier makes "changes in its communications facilities, equipment, operations or procedures," it must give written notice to retail customers of the change if the "changes can be reasonably expected to render any customer's terminal equipment incompatible with the communications facilities of the provider of wireline telecommunications, or require modification or alteration of such terminal equipment, or otherwise materially affect its use or performance."¹² Moreover, that notice must be given in enough time to "allow the customer an opportunity to maintain uninterrupted service." 47 CFR § 68.110(b).

One of the critically important provisions in Section 68.110 is that there is not a pre-defined notice period. Rather, notice must be given to customers in sufficient time to allow the customer an opportunity to upgrade or replace CPE. If the incompatible equipment is an alarm system, for example, enough notice must be provided to allow the alarm company to upgrade equipment for all affected customers in the wire center, or for those customers to have new alarm systems installed. If CPE compatible with the network change is not readily available, then the change cannot be made until such equipment is available to the customers.

CWA supports the notice procedure in Section 68.110 and believes that the procedure should be cross-referenced or reiterated in the proposed copper retirement regulation (proposed Section 51.332). As proposed, Section 51.332(c) states that the purpose of notifying customers of the retirement of copper facilities is to "provide sufficient information to enable the retail customer to make an informed decision as to whether to continue subscribing to the service to be

¹² The regulations define "terminal equipment" as "communications equipment located on customer premises at the end of a communications link, used to permit the stations involved to accomplish the provision of telecommunications or information services." 47 CFR § 68.3. In other words, essentially all CPE (telephones, fax machines, alarm systems, medical alert devices, computers, credit card machines, and so on) are "terminal equipment."

affected by the planned network change." This provision is not sufficient, as it assumes at least two critical facts that may not be accurate: (1) that the copper retirement is part of an upgrade that will provide enhanced functionality for customers, and (2) that alternate services are available from other providers if the customer is dissatisfied.

These may be accurate assumptions when copper is being upgraded to fiber (since fiber upgrades should not result in a loss of functionality).¹³ These assumptions, however, are likely to be false when copper is being retired as part of a service downgrade or abandonment. In such instances, customers are faced with having to completely forego an important telecommunications function that may be critical to their health or safety, such as a security alarm or medical alert device, or even reliable access to E911. For example, CWA has explained the serious deficiencies with Verizon's Voice Link service as follows:

Voice Link represents a step backwards in communications services. It will result in unreasonable consumer harm. Voice Link does not support data services such as DSL, dial-up Internet, collect calls, calling cards, medical alert, security alarm services, DVRs, fax machines, third-party long-distance services, and credit card machines, and it is incompatible with Video Relay services. The issue of consumer harm is not hypothetical. Already, the New York Attorney General, AARP, 134 local and state elected officials from 68 municipalities in New York State, 18 public safety officials, and 424 Fire Island residents and small business owners have submitted detailed comments to the New York Public Service Commission citing specific examples of consumer hardship, the lack of availability and adequacy of alternative services, and increased charges for alternative services that they have experienced as a result of Verizon's decision to replace landline service with Voice Link.¹⁴

¹³ Even with a fiber upgrade, however, adequate customer notice is extremely important. For example, AT&T cautions that many, but not all, medical alert monitoring services are compatible with U-verse and that customers should "notify your medical alert provider of your switch to U-verse Voice service and your scheduled U-verse installation date." AT&T, Using U-verse Voice with a monitored home alarm or medical device, < <http://www.att.com/esupport/article.jsp?sid=KB401852&cv=814> >, last accessed 2/2/2015.

¹⁴ Comments of Communications Workers of America in WC Docket No. 13-150 and Comp. Pol. File No. 1115 (July 24, 2013), pp. i-ii.

Similarly, the Alarm Industry Communications Committee has warned this Commission about the inadequate public safety protection of some of the downgraded technologies, writing:

Verizon's proposed Voice Link service is not a reasonable substitute for POTS service over copper facilities. As acknowledged by Verizon, Voice Link is not compatible with alarm services or medical alert systems. Among other deficiencies, Voice Link does not adequately transmit the signals used by alarm systems and medical alert systems and it does not have sufficient back-up power. ... Moreover, it appears that Voice Link will not provide reliable and timely access to E911 service.¹⁵

New York State's Attorney General succinctly summarized these concerns to the New York Public Service Commission, when he wrote: "Replacing wireline networks with a wireless Voice Link service would deprive customers of the ability to continue using wireline-dependent services such as fax machines, alarm systems, medical alert devices, and Digital Subscriber Line Internet access that serve as essential security and commercial needs as well as enable participation in 21st century digital communications on the Internet."¹⁶

In summary, CWA submits that the regulations should provide different notice requirements and procedures for copper retirements that result from an upgrade to fiber optic facilities, as opposed to copper retirements that result in a downgrade (or complete loss) of functionality. Particularly, in the latter case, it should not be assumed that the retirement will go into effect automatically, that the retirement is in the public interest, or that there will not be significant harm to consumers and public safety if the retirement occurs.

Even when copper is being upgraded to fiber, the notice to retail customers must give consumers enough time to upgrade or replace CPE and otherwise make arrangements with

¹⁵ Comments of the Alarm Industry Communications Committee in WC Docket No. 13-150 and Comp. Pol. File No. 1115 (July 29, 2013).

¹⁶ Comments of Eric T. Schneiderman, Attorney General of the State of New York, Tariff filing by Verizon New York, Inc. to introduce language under which Verizon could discontinue its current wireline service offerings in a specified area and instead offer wireless services as its sole offering in the area, Case 13-C-0197, July 2, 2013, (<http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={25BC0202-A4AD-4675-9C62-9DE59A294341}>).

service providers who rely on the telecommunications network (such as security alarm and medical alert services). The critical issue for some customers is not whether to continue buying service from the carrier (as the proposed regulation assumes), but whether changes must be made in CPE or other services to be compatible with the new network technology. Thus, CWA recommends that the focus on consumer use of the network that currently appears in Section 68.110 of the regulations should be mirrored in the copper upgrade notice requirements to retail consumers.

III. Copper Discontinuance Rules Should Be Based on Six Essential Characteristics of the Telecommunications Network

Section 214 of the Communications Act requires carriers to obtain prior Commission approval of any discontinuance, reduction, or impairment of service to all or a portion of a community. Specifically, Section 214(a), 47 U.S.C. § 214(a), provides in relevant part:

No carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby; except that the Commission may, upon appropriate request being made, authorize temporary or emergency discontinuance, reduction, or impairment of service, or partial discontinuance, reduction, or impairment of service, without regard to the provisions of this section. ... Provided, however, That nothing in this section shall be construed to require a certificate or other authorization from the Commission for any installation, replacement, or other changes in plant, operation, or equipment, other than new construction, which will not impair the adequacy or quality of service provided.

In evaluating a Section 214 service discontinuance application, the Commission considers, among other factors, 1) whether customers or other end users are able to receive the service or a reasonable substitute from another carrier; 2) whether the public convenience and necessity is otherwise adversely affected; 3) the need for the service; 4) the need for the particular facilities; 5) the existence, availability, and adequacy of alternatives; and 6) increased

charges for alternative services.¹⁷ These factors provide the Commission with a good starting point in its evaluation of a Section 214 discontinuance petition.

In this NPRM, the Commission appropriately seeks to define what would constitute an “adequate substitute for retail services” when a carrier seeks to discontinue, reduce or impair in connection with a technology transition. Beginning in paragraph 94 of the NPRM, the Commission seeks comment on the factors it should consider as “an adequate substitute for retail services” when a carrier seeks to discontinue, reduce or impair retail services. The Commission lists the following characteristics of existing, copper-based wireline networks:

1. Network capacity,
2. Call quality,
3. Device interoperability,
4. Service for the deaf and disabled,
5. System availability,
6. PSAP and 9-1-1 service,
7. Cybersecurity,
8. Call persistence,
9. Call functionality, and
10. Wireline coverage.

Initially, CWA strongly supports the Commission's intention to "focus this inquiry, in particular, on consumer products." The telecommunications industry and consumers both need to know the minimum service characteristics they can expect from the telecommunications network.

Importantly, the minimum required functionalities of the network that are determined in this portion of the inquiry also will be vitally important in determining whether service has been reduced or impaired without the receipt of the prior Commission approval required under Section 214. The NPRM refers to these as "de facto copper retirements," but in fact they are unlawful

¹⁷ FCC, *Public Notice*, “Comments Invited on Application of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services,” WC Docket No. 13-150, Comp. Pol. File No. 115, June 28, 2013.

reductions and impairments of service without prior Commission approval, in violation of Section 214.¹⁸

CWA generally supports the criteria listed by the Commission in the NPRM, but respectfully suggests that the criteria (or at least their presentation) are not consistent with the Commission's declared intention to focus on "consumer products" and determine "what constitutes an adequate substitute for consumers for a discontinued retail service." NPRM ¶ 93.

CWA suggests that from the point of view of retail customers, the criteria listed above can be combined and reworded into the following six essential characteristics of the telecommunications network:

1. Reliable and accurate access to E911,
2. Constant availability, including during storms and emergencies,
3. Adequate call quality,
4. Compatibility with health and safety services that use the network,
5. Adequate data transmission capability, and
6. Affordable to consumers.

Reliable and accurate access to E911. This standard encompasses several important network characteristics. First, it requires that a dial-tone is available at all times (as described more fully in the second characteristic). Second, it requires that facilities are adequately maintained so that "phantom" 911 signals are not transmitted.¹⁹ Third, it requires that when a

¹⁸ CWA discusses the de facto retirement issue in the next section of its Comments.

¹⁹ An investigation by the Wyoming Public Service Commission described the frightening consequences when a network fails this critical test: "Common problems included poor telephone service quality, phantom ringing, static and fuzzy sounds on the lines, no dial tone, and safety concerns because of people with health conditions but without the inability to call 911 or contact anyone else. Examples included: a. an antelope hunter who was accidentally shot, but the telephone could not be used to make a call; b. phantom 911 calls when no one actually called, requiring the Sheriff's office to drive the 55 miles (round trip) only to find no emergency was called in; c. concern that the Sheriff's office had indicated sometimes they would not make the drive in response to a 911 call because they surmised it was a phantom call." *In The Matter Of The Commission's Investigation On Its Own Motion Into The Quality And Reliability Of Tele-Communications Service Provided By Qwest Corporation (Now d/b/a Centurylink QC) In Its Certificated Territories In Wyoming*, 2014 Wyo. PUC LEXIS 92 (Wy. Pub. Serv. Comm'n, Mar. 18, 2014).

911 call is placed the caller's location can be determined accurately, even if the caller is in a large or multi-unit building and unable to provide an accurate location.

Constant availability. The requirement means that whenever a consumer needs to make a call (or otherwise use the network), the network is available. Some state utility regulators have standards that require minimum levels of performance. For example, the Pennsylvania Public Utility Commission requires the following minimum levels of service during peak periods: 98% of calls provided a dial tone within three seconds, 97% of correctly dialed intraoffice calls are completed, and 96% of correctly dialed interoffice calls are completed.²⁰ CWA submits that the ability to access a dial tone within three seconds 98% of the time during the busy season - busy hour should be the minimally acceptable level of service for a network. A substantially similar standard already is used for wireline networks in at least 18 states.

A critically important part of an availability standard is to ensure that the dial tone remains available during storms, emergencies, and extended electricity outages. The Commission is well aware of this concern, particularly with networks that do not rely on central office power through copper lines. The Commission suggests elsewhere in the NPRM that battery backup of at least eight hours (and perhaps as much as the 24 hours provided by some carriers) would be the minimum required for service availability during power outages. NPRM ¶ 35. CWA concurs that an eight-hour standard should be the minimum requirement to ensure adequate service during emergency conditions.

²⁰ 52 Pa. Code § 63.61. At least 17 other states have the same, or substantially similar, standard (98% of attempts within 3 seconds) for providing adequate dial tone service. See Ala. Admin. Code r. 770-X-5-.21; 3 Alaska Admin. Code 52.310 (98.5%); Code of Dela. Regs. 26-4000-4003; Ga. Comp. Rules & Regs. r. 515-12-1-.18; Code of Hawaii Regs. 6-80; 199 Iowa Admin. Code 22.5; Code of Md. Regs. 20.45.05.04 (98.5% year-round and 95% during busy hour); Minn. Rules 7810.5300; Mont. Admin. Rules 38.5.3371; Neb. Admin. Code Title 291, Ch. 5; 17.11.22.17 N. Mex. Admin. Code; Ore. Admin. Rules 860-023-0055; Admin. Regs. of S. Dak. 20:10:33:05; Tenn. Comp. Rules & Regs. R. 1220-4-2-.37; 16 Tex. Admin. Code § 26.54 (98% year round and 96% in busy hour); Utah Admin. Code R746-340-7; Wash. Admin. Code § 480-120-401.

Adequate call quality. Consumers expect their voice communications to be clear, understandable, and free of distortion. Several states have adopted standards in this regard that can serve as a model for this Commission to set minimum call quality standards. For example, the Regulatory Commission of Alaska has the following requirement:

Telephone utilities shall furnish and maintain in their service areas the necessary plant, equipment and facilities to provide modern, adequate, sufficient and efficient transmission of communications for any given grade of service between customers. Transmission for a given grade of service must be at adequate volume levels and free of excessive distortion. Levels of noise and cross-talk must not impair communications. The loss objective of trunks must be consistent with the requirements of the nationwide switching plan, and overall transmission losses within each trunk group may not vary by more than plus or minus two decibels.²¹

Similar standards exist in other states.²²

Compatibility with health and safety services. Consumers rely heavily on the ability of other services and devices to operate in conjunction with the telecommunications network. As discussed by CWA in section 2, above, and in the NPRM, some of those devices are essential to public health and safety. These include, for example, security alarms, medical alert services, and devices to assist deaf and hearing-impaired people communicate with others. In addition, business consumers often rely on the network to work seamlessly with devices that are essential to their business operations, such as fax machines and credit card interfaces.

The Commission should ensure that the functions provided by these devices and services will continue to be available to consumers before allowing a discontinuance, reduction, or

²¹ 3 Alaska Admin. Code 52.260.

²² See, e.g., Ala. Admin. Code r. 770-X-5-.21; Ga. Comp. Rules & Regs. r. 515-12-1-.23; 199 Iowa Admin. Code 22.5; Code of Md. Regs. 20.45.05.06; Minn. Rules 7810.5500; Neb. Admin. Code Title 291, Ch. 5; 52 Pa. Code § 63.63.

impairment of service. In addition, as discussed elsewhere, Section 68.110 of the Commission's regulations requires customer notification before any network change can be made.²³

Adequate data transmission capability. The Commission recently updated its broadband benchmark speeds to 25 megabits per second (Mbps) for downloads and 3 Mbps for uploads.²⁴ Moreover, as Chairman Tom Wheeler has stated: “meaningful competition for high-speed wired broadband is lacking and Americans need more competitive choices for faster and better connections, both to take advantage of today’s new services, and to incentivize the development of tomorrow’s innovations.”²⁵ The Commission must ensure that consumers have competitive choice for broadband transmission at the minimum benchmark speeds that it has adopted.

Affordable to consumers. Section 254 of the Communications Act requires the Commission to ensure that “quality services should be available at just, reasonable, and affordable rates” to all consumers.²⁶ As the Commission recently explained, it is vitally important that in making decisions, the Commission be able to ensure that its actions are consistent with universal service principles, including the deployment “in all regions of the Nation’ networks capable of providing affordable voice and broadband services that are reasonably comparable -- in terms of rates and quality -- to voice and broadband in urban areas.”²⁷

²³ See NPRM ¶¶ 70 and 117 and Section II, above.

²⁴ “Broadband deployment in the United States – especially in rural areas – is failing to keep pace with today’s advanced high-quality, voice, data, graphics and video offerings,” according to the FCC’s 2015 Broadband Progress Report. See FCC News Release, “FCC Finds U.S. Broadband Deployment Not Keeping Pace,” Jan. 29, 2015.

²⁵ Prepared remarks of FCC Chairman Tom Wheeler, “The Facts and Future of Broadband Competition,” 1776 Headquarters, Washington, D.C., Sept. 4, 2014 (available at <http://www.fcc.gov/document/chairman-remarks-facts-and-future-broadband-competition>).

²⁶ 47 U.S.C. § 254(b)(1); see also 47 U.S.C. § 254(i).

²⁷ *In re Connect America Fund, Universal Service Reform - Mobility Fund et al.*, 29 FCC Rcd 7051, 7093 (F.C.C. June 10, 2014).

Thus, the affordability of service to consumers within a community must be considered one of the essential elements of telecommunications service. If the service is not affordable, then the Commission and carriers have failed to meet their obligations to provide ubiquitous, high-quality telecommunications service throughout the United States. As the Commission has stated: "The 'ubiquity and reliability of the nation's telecommunications network' are critical to ensuring the nationwide availability of dependable telephone service. One of the seminal objectives of the Communications Act is 'to make available, so far as possible, to all the people of the United States, . . . a rapid, efficient, Nation-wide and world-wide wire and radio communication services with adequate facilities.'"²⁸ In making that statement, the Commission specifically noted the requirements of Section 254(b), which it recognized directed the Commission "to adopt policies that preserve and advance universal access to reliable and affordable telecommunications and information services."²⁹

CWA also would emphasize that these six minimum standards should be met for each wire center (where multiple wire centers serve a municipality) or for each municipality (where a wire center serves multiple municipalities). Section 214 expressly states that a carrier must ensure that service is not discontinued, reduced, or impaired to a "community, or part of a community" without prior Commission approval. In urban areas, a telecommunications "community" could be defined by the wire center. In rural areas, however, a single wire center might serve numerous distinct municipalities or unincorporated areas. To ensure compliance with Section 214 -- which requires the Commission to make an evaluation for each part of a

²⁸ *In re Petition for Declaratory Ruling of Securus Technologies, Inc.*, 28 FCC Rcd 13913, 13916 (F.C.C. Sept. 26, 2013) (footnotes omitted)

²⁹ *Id.*, fn. 26.

community -- CWA believes it would be reasonable to evaluate the discontinuance, reduction, or impairment of service at the smallest feasible unit.

That is, every consumer in the United States should have access to some form of telecommunications that has (at a minimum) the six essential characteristics discussed above. Moreover, these characteristics should be available without regard to the technology or physical facilities used by the carrier.

The Commission is well aware that certain technologies do not currently provide all of these services, while other technologies are able to meet all of these basic requirements. In particular, properly maintained wireline service (whether through copper or fiber optic facilities) should be able to meet all of these requirements, as long as the fiber optic service is accompanied by adequate battery backup. In contrast, however, the Commission is equally aware that some telecommunications providers (particularly wireless carriers) do not meet all of these minimum standards, particularly as they relate to E911 accuracy, availability during severe storms, or affordability.³⁰

Similarly, other technologies (such as cable telephony and Voice-over-Internet Protocol, VoIP) may experience outages during adverse weather conditions. For example, cable telephony

³⁰ On January 29, 2015, the Commission adopted a plan that would require only 40% of E-911 calls from wireless phones to provide accurate location information in multi-unit buildings, but with a goal of improving that accuracy to 60% over time. Even with that improvement, however, it still would mean that 2 out of every 5 wireless calls from multi-unit buildings might not be accurately located.

For example, roughly one in four cell towers were inoperable during Superstorm Sandy. Jennifer Martinez, "House Dems push for hearing on Sandy's effect on communications networks," Hillicon Valley (The Hill's Technology Blog), November 19, 2012, available at: <http://thehill.com/blogs/hillicon-valley/technology/268741-house-dems-call-for-hearing-on-affect-hurricane-sandy-had-on-communications-networks>. See also "Cellphone Networks Overwhelmed After Blast in Boston," Michael B. Farrell, Boston Globe, April 17, 2013. <http://www.bostonglobe.com/business/2013/04/16/cellphone-networks-overwhelmed-blast-aftermath/wq7AX6AvnEemM35XTH152K/story.html>.

See Comments of Communications Workers of America in WC Docket No. 13-150 and Comp. Pol. File No. 1115 (July 24, 2013), pp. 11-12, citing a customer who was forced to switch to wireless services after Superstorm Sandy and complained about poor service quality and "our cost for phone and internet service has more than tripled."

providers include warnings to their customers, such as: “Service (including 911/emergency services) may not function after an extended power outage”³¹ and “Modem uses household electrical power to operate. Telephone service, including access to e911 service, will not be available during a power outage without a battery or if the modem is moved or inoperable. New modem installs do not come with a battery.”³² This Commission also has posted a consumer warning on this issue: “VoIP service may not work during a power outage, or when the Internet connection fails or becomes overloaded.”³³

In summary, CWA urges the Commission to adopt specific, minimum standards that must be met by a telecommunications network serving a wire center (or a municipality within a rural wire center) before network service can be discontinued, reduced, or impaired. Minimum standards should be set in at least six specific areas, as explained more fully above: reliable and accurate access to E911; constant availability, including during storms and emergencies; adequate call quality; compatibility with health and safety services that use the network; adequate data transmission capability; and affordability.

IV. The Commission Should Apply Commission Section 214 Service Discontinuance Authority to “De Facto” Copper Discontinuance and Collect Data on “De Facto” Retirement/Discontinuance

In this proceeding, the Commission raises concerns about whether incumbent LECs (local exchange carriers) in some circumstances are neglecting copper to the point where it is no longer reliably usable, and if so, whether the Commission should extend its copper retirement

³¹ <http://wwwb.comcast.com/home-phone-service.html>

³² www.cox.com/battery; http://www.cox.com/residential/phone/terms-and-conditions.cox#Phone-item-cdt_essential.

³³ <http://www.fcc.gov/guides/voip-and-911-service>.

rules to cover “de facto” copper retirement.³⁴ There is strong evidence that some incumbent LECs are engaging in “de facto” copper retirement *and* “de facto” copper service discontinuance. In geographic areas in which incumbent LECs have upgraded their networks, the Commission’s strengthened consumer notification network change requirements (see Section II *supra*) should also apply to “de facto” copper retirement. Customers that are told they must migrate from copper to fiber or circuit to IP switching, for example, must be given adequate notice and time to ensure that their home health monitors, alarms, fax machines, etc. are compatible with the digital or fiber network. Such policies will facilitate the transition to and investment in more advanced networks in a manner that protects customers, public safety, competition, and universal service.

In this section, we focus on those geographic areas in which incumbent LECs have *not* upgraded their networks for high-speed broadband. In these areas, incumbents LECs that are “neglecting copper to the point where it is no longer reliably usable” are engaging in “de facto” discontinuance or impairment of service without prior Commission approval in violation of Section 214. This is much more serious than a mere “retirement” of plant; it is an abrogation of a carrier’s legal obligation to provide unimpaired service to the public. The Commission cannot allow an incumbent LEC to avoid its Section 214 discontinuance obligations simply by failing to submit a Section 214 application. If an incumbent LEC lets the copper plant and service to copper customers deteriorate to the point that it has effectively “discontinued, reduced, or impaired” service, the Commission must insist that the incumbent LEC either file a Section 214 application (along with notice to customers under 47 CFR § 68.110) or continue to maintain the copper network and provide timely, quality service to customers using that network. Incumbent LECs that adopt policies and practices that effectively abandon copper network services but fail

³⁴ NPRM ¶¶ 19, 53-54.

to request permission to do so are in violation of Section 214 service discontinuance rules, and should be subject to Commission enforcement action.

A. Evidence of “De Facto” Copper Discontinuance: Verizon Disinvestment in Maintenance and Service in non-FiOS Urban and Rural Areas

Verizon Communications (“Verizon”) is the poster child for “de facto” copper discontinuance, neglecting copper and copper-network customers in the non-FiOS areas in its local exchange footprint, leaving many urban and rural customers in these areas with poor voice and slow or no broadband service. Verizon’s incumbent local exchange footprint covers significant portions of eight northeastern states (Massachusetts, New Jersey, New York, Rhode Island, Delaware, Pennsylvania, Maryland, Virginia, and a small portion of Connecticut), Washington, DC, and smaller areas in southern California, Florida, and Texas. Verizon has built its state-of-the-art all-fiber network to about two-thirds of the customer locations in its incumbent local exchange footprint, reaching 16.8 million customer locations as of Dec. 31, 2014. Verizon FiOS service is profitable, generating \$12.7 billion in revenue in 2014, and successfully competes against incumbent cable companies with its triple play of video, broadband, and voice services. As of year-end 2014, Verizon reported 6.6 million FiOS Internet and 5.7 million FiOS video subscribers, with 41 percent and 36 percent penetration rates, respectively.³⁵ Where Verizon has chosen to build its fiber network, competition between the incumbent cable company and Verizon’s FiOS service drives investment and innovation, providing consumers with choice and access to 100 mbps or more downstream Internet speeds.

³⁵ Verizon Communications, Condensed Consolidated Statements of Income, 4Q2014 (available at <http://www.verizon.com/about/news/verizon-reports-high-quality-customer-additions-4q-caps-year-position-drive-continued/>); Verizon Communications Press Release, “Verizon Reports High-Quality Customer Additions in 4Q, Caps Year in Position to Drive Continued Growth,” Jan. 22, 2015 (available at <http://www.verizon.com/about/news/verizon-reports-high-quality-customer-additions-4q-caps-year-position-drive-continued/>)

But one-third of Verizon customers in its local exchange footprint – as many as eight million customer locations -- do not have access to Verizon’s all-fiber network. This includes customers in the cities of Boston, Baltimore, Buffalo, Albany, and Syracuse. In those metropolitan areas, Verizon deployed its all-fiber network in the higher-income surrounding suburban communities, but not in the cities themselves, leaving those residents, businesses, and community institutions on the wrong side of the digital divide.³⁶ (See Attachment A) Verizon has not built fiber to many other urban areas and towns in its footprint, including the entire metropolitan areas of Binghamton NY (population 248,000), Erie PA (population 280,000), and Scranton-Wilkes-Barre-Hazleton PA (population 562,000), among others.³⁷ Verizon has made it clear that it currently does not plan to expand its FiOS build. In January 2015, Verizon EVP and Chief Financial Officer Fran Shammo reiterated that pledge, telling financial analysts that “we are getting to the end of our committed build around FiOS” and therefore will “curtail Cap Ex on the Wireline side.”³⁸

Where Verizon has built its FiOS network, it has migrated 800,000 customers from copper to fiber, and plans to move another 200,000 in 2015.³⁹ As discussed in section II, the

³⁶ Communications Workers of America, *Slamming the Door on Our High-Speed Future*. See Letter from Monica Desai, Counsel to Communications Workers of America to Ms. Marlene Dortch, Secretary, In the Matter of Cellco Partnership d/b/a Verizon Wireless and Spectrum Co LLC for Consent to Transfer Licenses, WT Docket No. 12-4, May 31, 2012.

³⁷ Population estimates are for metropolitan areas for 2013 from the U.S. Census Bureau, www.census.gov/popest/data/metro/totals/2013/CBSA-EST2013-alldata.html.

³⁸ Thomson Reuters Streets Event Edited Transcript, VZ - 4Q2014 Verizon Communications Inc. Earnings Call, Jan. 22, 2015, p.15 (available at <http://www.verizon.com/about/investors/quarterly-reports/4q-2014-quarter-earnings-conference-call-webcast/>).

³⁹ *Id.*, Verizon Communications, Condensed Consolidated Statements of Income, 4Q2014 (available at <http://www.verizon.com/about/news/verizon-reports-high-quality-customer-additions-4q-caps-year-position-drive-continued/>); Verizon Communications Press Release, “Verizon Reports High-Quality Customer Additions in 4Q, Caps Year in Position to Drive Continued Growth,” Jan. 22, 2015 (available at <http://www.verizon.com/about/news/verizon-reports-high-quality-customer-additions-4q-caps-year-position-drive-continued/>).

Commission should not require incumbent LECs such as Verizon to maintain two parallel networks. The Commission's proposed and strengthened *network change* public notice requirements and public comment period – incorporating the proposed changes we recommend in Section II above -- provide the proper balance between policies that encourage upgrading of networks while at the same time protecting consumers, public safety, universal service, and competition. Our discussion of Verizon's "de facto" copper discontinuance policies focuses on geographic areas in its local exchange footprint where Verizon has not deployed an all-fiber infrastructure. Through many conversations with our members who work at Verizon, CWA has gathered information regarding Verizon policies and practices that are relevant to this proceeding.

In these non-FiOS areas, Verizon has adopted a policy of "de facto copper discontinuance." It does not maintain the copper plant. When cable fails and customers report service outages or service-affecting troubles, Verizon does not provide prompt restoration and repair of service to its copper customers, frequently setting up service appointments seven to 10 days after the trouble or out-of-service report. When technicians report that the source of the problem is faulty cable, Verizon does not allocate resources to repair the cable. Rather, Verizon instructs technicians to "jerry rig" a solution using buried service or cross-connect wire, resulting in repeated trouble and out-of-service reports. In some locations, Verizon creates multiple barriers for customers who do not want to accept the inferior, fixed-wireless Voice Link service as an alternative to repair of their copper line service. Below we describe Verizon policies and practices in its non-FiOS footprint that lead to "de facto" copper service discontinuance without prior Section 214 authorization.

1. Verizon Inadequate Investment in Maintenance and Repair of Copper Facilities

Verizon allocates insufficient capital and operating funds to support preventive maintenance and repair of copper facilities. Verizon has all but abandoned a preventive maintenance program on its copper network. In the past, Verizon did routine testing to identify and repair problems with outside plant. This has been eliminated, resulting in deteriorating copper facilities. Verizon has slashed (and in some places effectively eliminated) budgeting for the Infrastructure Improvement Program to maintain and repair the copper plant. When customers call in an out-of-service or service-affecting trouble report and technicians isolate the source of the problem in a faulty cable affecting multiple customers, Verizon frequently does not approve cable replacement. Rather, technicians are instructed to “jerry rig” solutions, using drop or buried-service wire to bypass the bad cable, which breaks down more quickly, resulting in multiple repeat out-of-service or service-affecting trouble reports from customers. In some areas, Verizon technicians are instructed to tell customers with service problems that a repair to the line will take three days, but switching to fixed wireless Voice Link will restore service immediately. In central Pennsylvania, for example, some customers who refused Voice Link were left with no service. Voice Link is incompatible with DSL, home health monitors, fax machines, alarm systems, and other services.⁴⁰ In many places, Verizon has neglected its remote systems. There is no routine maintenance on the electronic equipment (“pair gains”) in the remote terminals (subscriber loop carriers or SLCs). Verizon no longer routinely does quarterly checks of batteries in many remote terminals or routine battery replacement.

⁴⁰ Verizon technicians have been instructed not to make the Voice Link offer to customers that use alarm systems, health monitors, faxes, and home security systems.

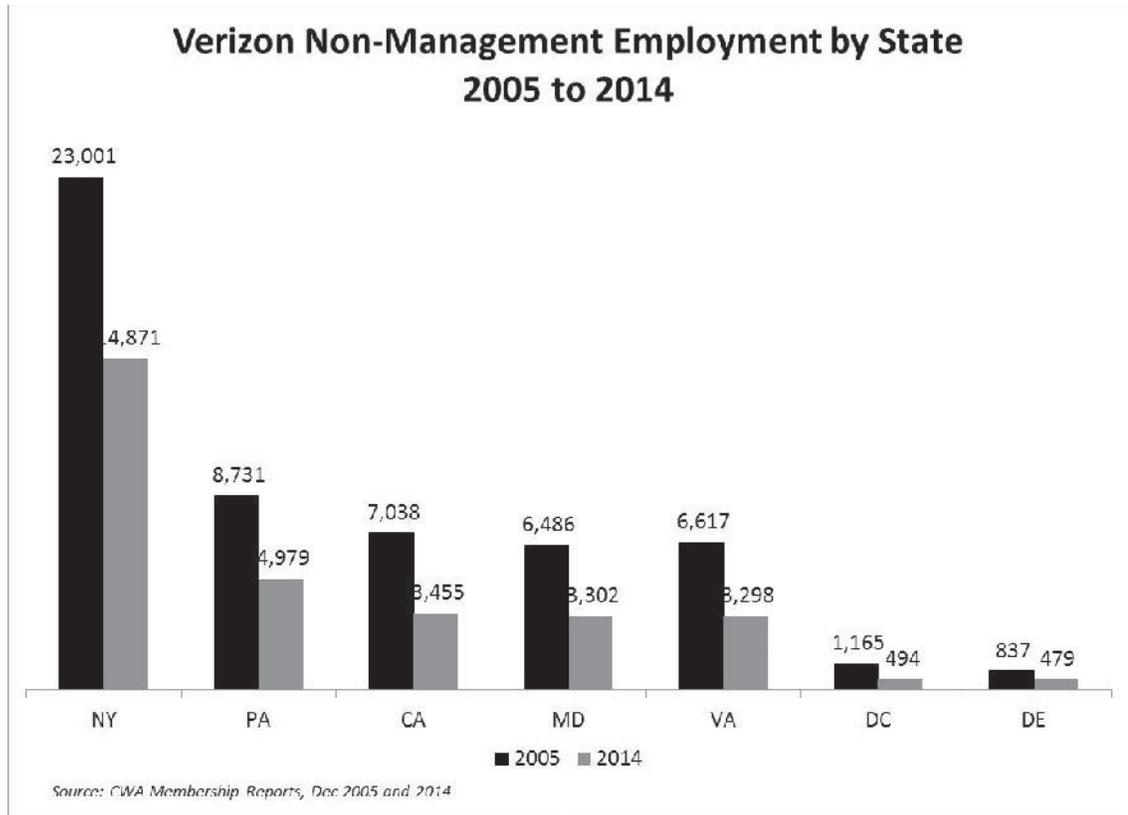
2. Verizon Long Delays in Service Restoration and Repair.

In many jurisdictions, Verizon schedules technicians to respond to copper network service outages and service-affecting trouble reports seven to 10 days after the customer reports the problem. Verizon gives priority to repair of service outages and trouble reports on fiber lines. In upstate New York, for example, a 600-pair cable sat on the ground untouched for two weeks before Verizon dispatched a crew to restore service. On eastern Long Island, customers were out of service for two weeks after a major cable failure. In that instance, technicians recommended replacing the bad cable, but Verizon did not approve the budget, and technicians had to go back to repair the system as best they could in a wet, marshy area. In late January, there were more than 14,000 back orders of trouble and installation in Pennsylvania, with dispatch appointments pushed back 10 days. In Maryland, copper customers routinely wait seven to 10 days for an appointment, but Verizon offers FiOS customers same-day installation. These are not isolated examples; rather, these situations take place routinely across the Verizon non-FiOS footprint.

3. Verizon Inadequate Staffing to Maintain and Repair Copper Facilities

Verizon has significantly reduced its technician workforce and there are not enough personnel to repair copper service, particularly when there is a major outage due to a storm or a major cable cut. Verizon has virtually eliminated preventive maintenance crews. In some areas, such as eastern Long Island, Maryland, and Pennsylvania, Verizon has permanently or temporarily transferred technicians from copper-only areas to work on the FiOS build in New York City, Washington, D.C., and Philadelphia, respectively. CWA represents the Verizon non-management workforce of technicians, customer service representatives, and repair bureau employees in New York, Pennsylvania, Delaware, Maryland, Virginia, Washington DC, Texas, and California. (The International Brotherhood of Electrical Workers, IBEW, represents Verizon

non-management technicians in Massachusetts, Rhode Island, New Jersey, and Florida.) Over the past nine years, Verizon slashed its CWA-represented non-management workforce from 53,875 in 2005 to 30,878 in 2014, as shown in the following chart. This represents a reduction of 23,000 employees (43 percent) installing, repairing, maintaining, and serving customers.



3. State Deregulation Policies Do Not Adequately Protect Verizon Copper Customers

States have reduced or eliminated state regulatory commission oversight of Verizon service quality. The weakening or elimination of state regulatory oversight of Verizon service performance has given Verizon a free ride to neglect its investment in and service to its copper customers. We provide examples from two states, New York and Delaware.

New York. In New York, the Public Service Commission (NY PSC) has virtually abandoned its responsibility to ensure that Verizon copper network customers receive quality service. In a proceeding establishing what the NY PSC euphemistically calls the “Service Quality Improvement Plan” the NY PSC eliminated most service quality reporting and standards for all but a narrow set of what it calls “core” customers who are defined as Lifeline customers, people with medical conditions, special needs customers (the elderly, blind, and disabled), and customers living in areas with no competitive wireline alternatives. These “core” customers cover about eight percent of Verizon New York customers. There is no PSC data collection or oversight of service quality provided to the other 92 percent of Verizon NY customers. The so-called Service Quality Improvement Plan took effect in January 2011. Even with the relaxed standards and limited scope of coverage, Verizon New York has repeatedly failed to meet critical service quality benchmarks.

For example, the NY PSC requires Verizon to restore service to 80 percent of “core” customers – elderly, disabled, poor customers with no other wireline option -- within 24 hours. Prompt restoration of service for these customers can be a matter of life or death. Yet, based on the limited publicly available data, Verizon failed to meet this benchmark in New York City, where most “core” customers live, in the first quarter of 2013, again in July 2013, and in January and March 2014.⁴¹ More recent and comprehensive data on Verizon service quality performance

⁴¹ Verizon New York Inc. Quality of Service Provided by Local Exchange Companies in New York State, First Quarter 2013 Service Quality Report., Filed Session of May 16, 2013, Case 10-C-0202; Letter from Keefe B. Clemons, Verizon General Counsel – Northeast Region to the Honorable Kathleen H. Burgess, Secretary, New York State Public Service Commission, Feb. 7, 2014, Case 10-C-0202; Letter from Keefe B. Clemons, Verizon General Counsel – Northeast Region to the Honorable Kathleen H. Burgess, Secretary, New York State Public Service Commission, April 23, 2013, Case 10-C-0202; Letter from Richard Bozskik, Verizon Director –Regulatory –NY to Mr. Chad G. Hume, Director, Office of Telecommunications, New York State Department of Public Service, April 29, 2014 (A link to these documents is available at <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=10-C-0202&submit=Search+by+Case+Number>).

to “core” customers is not available to the public at this time, per Verizon’s request.⁴² Since 2011, the New York PSC has fined Verizon three times for failure to meet the weakened service quality standards.

In 2012, the New York Attorney General with support from consumer and labor organizations petitioned the New York PSC to adopt more stringent service quality standards to address the deteriorating quality of Verizon service. In its Order Resolving Petition and Requiring Further Investigation, the New York PSC opened yet another phase of its investigation into modifications in the service quality plan with proposals to strengthen Verizon’s focus on business customers and address “prolonged out-of-service conditions for Core customers.” Buried in a footnote in that Order, the Commission makes this devastating statement about Verizon’s neglect of service to “non-Core” customers, the other 92 percent: “Data submitted to Department Staff on a semi-annual basis for non-Core customers and carrier-to-carrier data indicates that non-Core customer service quality has not improved from poor pre-SQIP levels.”⁴³ Unfortunately, the data is not public.

In July 2013, the Communications Workers of America, AARP, Consumers Union, Citizen Action of New York, Common Cause, 12 New York mayors and county executives, 56 state legislators, and one member of Congress petitioned the New York Public Service Commission to conduct a thorough investigation of deregulation in New York, specifically citing

⁴² Letter from Joseph A. Post, Verizon Deputy General Counsel New York to Ms. Donna Giliberto, Records Access Officers, New York Public Service Commission, Oct. 9, 2014 (A link to these documents is available at <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=10-C-0202&submit=Search+by+Case+Number>).

⁴³ See New York Public Service Commission, Order Resolving Petition and Requiring Further Investigation, Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.’s, Service Quality Improvement Plan, Jan. 18, 2013, p.21 fn. 26. (The Order and complete record for this proceeding is available at <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=10-C-0202&submit=Search+by+Case+Number>).

Verizon's refusal to upgrade networks beyond the New York metropolitan area and upstate suburban communities and its failure to provide quality service to its non-FiOS customers. The New York PSC has indicated its intention to incorporate that Petition into its Study of the State of Telecommunications in New York.⁴⁴

Delaware. Delaware represents an even more extreme case of Verizon disinvestment in non-fiber facilities, one that foretells what could happen absent FCC Section 214 enforcement of "de facto" service discontinuance. Verizon is the incumbent local exchange carrier in most Delaware communities. Verizon has built its all-fiber network to only a handful of communities in the state, and has not deployed its fiber network in Wilmington, Delaware's largest city. In 2013, Delaware passed HB96, a Verizon-backed deregulatory statute that virtually eliminated Verizon's carrier-of-last-resort obligations. That statute allows Verizon to "abandon or discontinue, in whole or in part" telecommunications service anywhere there is at least one alternate provider of wireline (including VoIP) or wired voice service. The statute relieves Verizon of any obligation to "establish, construct, maintain, operate or extend its existing facilities" where there is an alternate wireline or wired provider of voice service.⁴⁵ According to the FCC's most recent *Local Telephony Report*, at year-end 2013 there were still 186,000

⁴⁴ Connect New York Coalition, Petition Seeking An Order of the Public Service Commission Commencing A Proceeding to Consider Issues Pertaining to Telecommunications Services, July 1, 2014. The NY Public Service Commission has incorporated the petition into its Study of the State of Telecommunications in New York, Case No. 14-00874. (The record for Case No. 14-00874 is available at <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=14-00874&submit=Search+by+Case+Number>).

⁴⁵ The statute states that "A public utility that provides telecommunications services may abandon or discontinue, in whole or in part, the provision of any competitive retail telecommunications services." 26 Del. Code § 203A(c). The statute defines a "competitive service" as any service where there is at least one unaffiliated alternative provider of telephone service where an "alternative provider of telephone service" can be a wireline, wireless, or VoIP provider. *Id.* § 705. Further, the statute states that "a telecommunications service provider is not required to establish, construct, maintain, operate or extend its existing facilities where the potential customers to be served have service available from one or more alternative providers of wireline or wireless communications." *Id.* § 204(b).

switched access line incumbent local exchange carrier customers in Delaware.⁴⁶ Yet, it appears to be Verizon policy in Delaware to refuse to fix these customers' wireline service if the repair requires *any* replacement of faulty plant. In a recent situation, for example, Verizon did not approve a \$3,800 request to repair faulty cable by "jerry rigging" a solution with buried service wire. Further, Verizon in Delaware is under no obligation to provide wireline service to any new customer or new development. It appears that Verizon imposes a fee on any developer who wants Verizon to design and build infrastructure in a new development. The FCC should recognize Verizon policy in Delaware for what it is: "de facto" abandonment of the copper plant, with substantial harm to consumers, yet without any formal Section 214 discontinuance application or customer notice.

Moreover, this Commission recently fined Verizon \$2 million for failure to investigate rural call completion problems. This is additional evidence of Verizon's neglect of rural consumers.⁴⁷

As we have demonstrated, Verizon policy and practice have led to "de facto" discontinuance, reduction, and impairment of copper network service in non-FiOS areas of its footprint. Such policies are contrary to the Commission's technology transition principles and do not provide the economic "stick" to incent Verizon to invest in its wireline networks beyond its existing FiOS commitments. While we have highlighted Verizon's policies and practices in its non-FiOS footprint in the northeast, other incumbent LECs have also adopted policies and practices of disinvestment in their copper networks.

⁴⁶ FCC, Industry Analysis Division, *Local Telephony Competition: Status as of Dec.31, 2013*, Table 9.

⁴⁷ FCC, Adopting Order, In the Matter of Verizon, File No. EB-IHD-14-00014821, Jan. 26, 2015

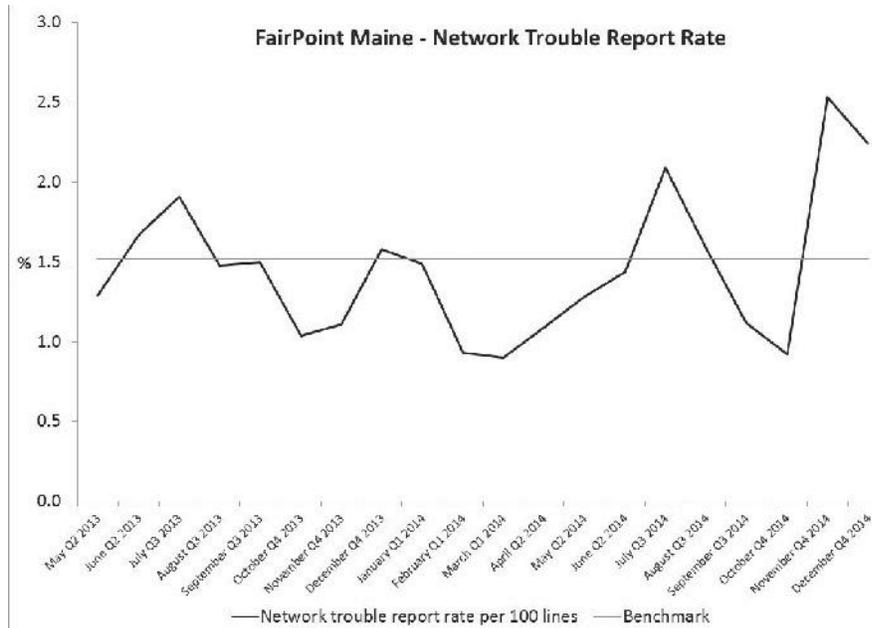
B. Additional Evidence of “De Facto” Copper Discontinuance: FairPoint Communications in New England

In 2008, Verizon sold its 1.5 million access lines in the largely rural states of Maine, New Hampshire, and Vermont to FairPoint Communications. Since that time, FairPoint has struggled to provide quality service to customers and invest in network upgrades to provide high-speed Internet access. The disastrous initial cutover from Verizon to FairPoint systems is now legendary, with thousands of customers losing service and experiencing billing problems. In 2011, FairPoint declared bankruptcy. FairPoint reorganized its financial structure, and has recently returned to what one analyst calls “an industry-leading job of stabilizing revenues over the past two quarters.” Yet, FairPoint has continued to neglect its copper plant with a 35 percent reduction in capital spending and has cut the front-line workforce from more than 4,000 in 2008 to 3,200 in 2013.⁴⁸

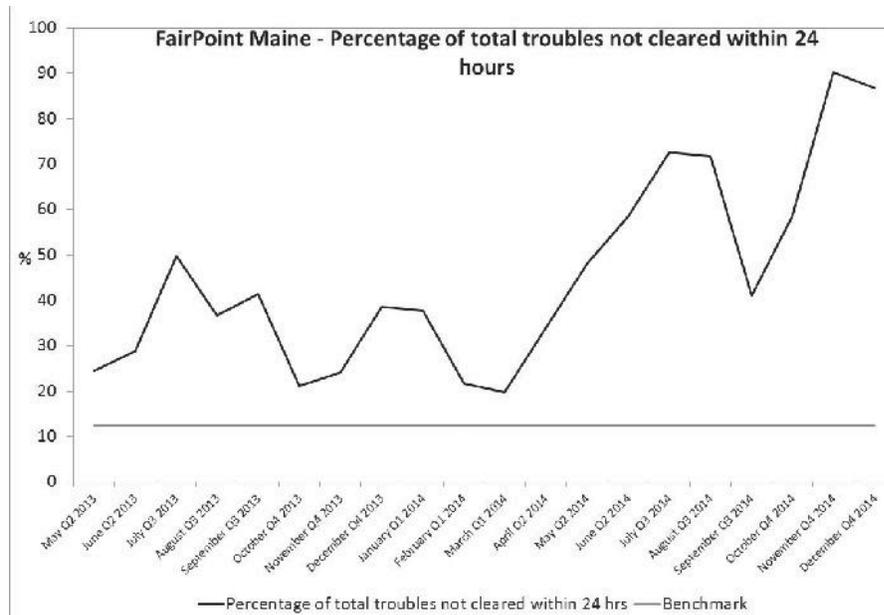
The Maine Public Service Commission is one of the few state regulatory commissions that continues to collect data and maintain service quality performance benchmarks. The data reveal significant service quality problems that reflect inadequate maintenance and repair of the copper plant and insufficient staff to resolve problems. Between May 2013 and October 2014, FairPoint exceeded the Maine benchmark for trouble reports seven times, missed the benchmark for timely clearance of trouble reports every single month, and exceeded the benchmark for meeting installation appointments in 15 of those months.⁴⁹ (See charts that follow.)

⁴⁸ See John Downey, “FairPoint Faces Enduring Debt, Service Headaches,” *Charlotte Business Journal*, Sept. 11, 2009; Bloomberg News, “FairPoint, Buyer of Verizon Unit, Files for Bankruptcy Protection,” Oct. 26, 2009.; “Upgrading to Buy; \$14 Target As 2014 Catalysts Await,” December 6, 2013, Christopher King, Stifel, Nicolaus & Company; FairPoint SEC Form 10-K for the years ending Dec. 31, 2009 and 2013; FairPoint Investor Presentation, Sept. 2014 (Cap ex was \$198 million in 2010 dropping to \$128 million in 2013).

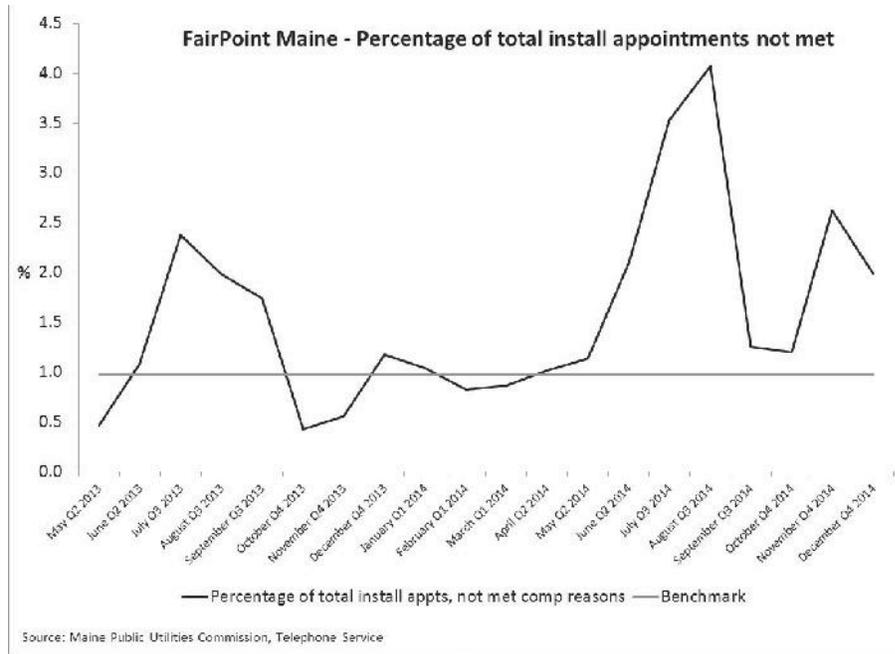
⁴⁹ Data from Maine PUC, Telephone Service Quality Reports, www.maine.gov/cgi-bin/mpuc/scorecard.pl.



Source: Maine Public Utilities Commission, Telephone Service Quality



Source: Maine Public Utilities Commission, Telephone Service Quality



While CWA in these comments has focused on “de facto” service discontinuance by Verizon and Fair Point Communications, CWA reserves the right to provide additional information in subsequent filings in this proceeding regarding “de facto” retirement and discontinuance by other incumbent LECs.

C. The Commission Needs Good Data to Make Good Policy and Should Re-Institute a Service Quality Data Collection Program from all Telecommunications and Broadband Providers

While the qualitative evidence is clear that Verizon, FairPoint, and in some cases other incumbent local exchange carriers, have adopted policies and practices that systematically neglect copper facilities and customers on the copper networks, the Commission no longer collects the data it needs to supplement the evidence that we, and we anticipate other commentators, provide of “de facto” copper retirement and service discontinuance. The year 2009 was the last year that the Commission required the price cap incumbent local exchange

carriers to report service quality data.⁵⁰ As a result, the Commission, as well as state regulators, other policymakers, consumer organizations, and most important, consumers, no longer have access to a national, longitudinal database that documents and compares the quality of service provided by price cap incumbent local exchange carriers and provides critical information to assess the quality of the telecommunications infrastructure. Moreover, the vast majority of states no longer collect and make available to the public on a routine basis service quality data.

Good policy requires good data, yet the Commission's misguided cancellation of its ARMIS service quality data collection program deprives the Commission of the information it needs to ensure that the technology transition protects the enduring values of consumer protection, public safety, competition, and universal quality service. As part of this proceeding, the Commission should issue a data request to incumbent LECs to collect service quality data, make this data publicly available, and reinstitute its program of ARMIS service quality reporting on an industry-wide basis going forward.

Beginning in 1991, the Commission required the price cap incumbent local exchange carriers to submit data that tracked the number of customers reporting trouble on the line ("trouble reports"), subsequent trouble on the line ("repeat trouble reports"), service outages and repeat service outages ("out-of-service trouble reports" and "repeat out-of-service-trouble reports"), average service installation and repair intervals, the number of missed installation appointments, and customer complaints. The Commission required price cap LECs to submit the data for each state in which they operated for local residential and business customers, initially

⁵⁰ The Commission adopted its *Service Quality Order* dismantling the ARMIS service quality data in Sept. 2008 but the price cap companies at that time made a voluntary commitment to continue to collect and publicly report the data through Sept. 2010. See FCC, Memorandum Opinion and Order, In the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, WC Docket Nos. 08-190, 07-139, 07-204, 07-203, 07-21., Sept. 6, 2008 (rel).

on a quarterly but subsequently on an annual basis. The data was available on the Commission's website in a user friendly format.⁵¹

The ARMIS service quality data, while certainly not flawless because it was self-reported, at least provided the Commission, state regulators, and the public with a measure of objective information to assess the quality of the network and service to customers. Carriers that neglected network maintenance and scrimped on service typically showed high levels of trouble and out-of-service reports, and carriers that repeatedly "jerry rigged" solutions typically showed even higher levels of repeat trouble and out-of-service reports. Carriers that pushed installation dates out many days reported long installation intervals. Conversely, carriers that invested in the maintenance and repair of their networks, adequate staffing, and quality customer service reported lower levels of initial and repeat trouble and out-of-service reports, fewer consumer complaints, and shorter installation and repair intervals.

When the Commission, in response to various ILEC petitions, took the misguided step to forbear from the ARMIS service quality data collection program in its 2008 *Service Quality Data Order*, it nevertheless acknowledged the value of its ARMIS service quality reports, and concluded that this information would be even more valuable if extended industry-wide. The Commission therefore conditioned approval of the ILEC service quality reporting forbearance petitions on an agreement by reporting carriers to continue collecting service quality and customer satisfaction data for a 24-month period, through the end of 2009. The Commission reasoned that this condition would ensure continuity in data collection, and afford the Commission a "reasonable period of time" to adopt industry-wide reporting requirements. The Commission linked its forbearance of ARMIS service quality reporting to the development of a

⁵¹ The data through 2009 when the program ended is still available on the Commission website at <http://fjallfoss.fcc.gov/eafs7/PresetMenu.cfm>.

more comprehensive service quality reporting program applicable to all “facilities-based broadband and telecommunications carriers.” Concurrent with the adoption of the *Service Quality Data Order*, the Commission issued a Notice of Proposed Rulemaking with the tentative conclusion that it should collect service quality and customer satisfaction basis from the entire relevant industry.⁵²

Unfortunately, the Commission never took action on the proposed rulemaking, and in 2010, over the objections of CWA, state regulators, and consumer organizations, the Commission let its service quality data collection program die, leaving the Commission, state regulators, and the public with no objective, national base of information to evaluate the quality of service that telecommunications and broadband consumers receive, information that the Commission needs in this instant proceeding and going forward.⁵³ To fill this critical gap, the Commission should issue a comprehensive data request as part of this proceeding to ascertain the quality of all retail telecommunications networks and service to customers. In addition, the

⁵² “We recognize the potential for such [service quality and customer satisfaction] information to help consumers make informed choices in a competitive market. We find...that to make truly informed choices, consumers would need to have the relevant service quality information from all the relevant providers...We note that reporting carriers have committed to continue collecting service quality and customer satisfaction data, and to filing that data publicly...for twenty four months from the effective date of this order. This will ensure continuity with regard to the service quality and customer satisfaction data that the Commission has collected up to this point, and afford the Commission a reasonable period to consider whether to adopt such industry-wide reporting requirements. We therefore adopt that as a condition of our forbearance here” In the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Memorandum Opinion and Order and Notice of Proposed Rulemaking, WC Docket Nos. 08-190, 07-139, 07-204, 07-203, 07-21, Sept. 6, 2008 (“*Service Quality Data Order*”), para 12, 33-36.

⁵³ See Communications Workers of America Comments, *In the Matter of Petition of AT&T, Inc. for Forbearance Under 47 U.S.C. §160(c) from Enforcement of Certain of the Commission’s ARMIS Reporting Requirements*, WC Docket No. 07-139, Aug. 20, 2007; Communications Workers of America Reply Comments, *In the Matter of Review of Wireline Competition Bureau Data Practices*, SC Docket No. 10-132, Aug. 13, 2010. See also Comments of California Public Utilities Commission and the People of the State of California, *In the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering*, SC Docket No. 09-190, Nov. 14, 2008; Comments of Free Press, *Service Quality Data Proceeding*, WC Docket No. 09-190, Nov. 16, 2008; Reply Comments of the Massachusetts Office of the Attorney General, *Service Quality Data Proceeding*, WC Docket No. 09-190, Dec. 15, 2008; Comments of the Texas Office of Public Utility Counsel, *Service Quality Data Proceeding*, WC Docket No. 09-190, Nov. 14, 2008; Comments of the Michigan Public Service Commission, *In the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering*, WC Docket No. 08-190, Nov. 13, 2008; Reply Comments of the New Jersey Division of Rate Counsel, *In the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering*, WC Docket No. 08-190, Dec. 12, 2008.

Commission should adopt an industry-wide service quality data collection program that includes information on trouble and out-of-service reports, service and installation intervals, and customer complaints. All telecommunications and broadband providers should be subject to the service quality data collection program.

The Commission’s reasoning in the *Service Quality Data Order* was based on the faulty assumption that competition alone would serve to protect consumers. But as we have demonstrated, in a competitive environment, profit-seeking telecommunications carriers target investment to areas and customers that promise the highest return on investment. That is the logic of competition in a market-based system, a logic that leaves less-profitable customers behind. But the Commission has the statutory mandate to ensure that *all* people in *all* communities have access to quality, affordable telecommunications services. The preamble to the Communications Act of 1934 makes clear that it is the responsibility of the Commission “to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.”⁵⁴

The Commission needs good data to make good policy. The Commission lacks the data it needs to assess the existence, extent, and impact of “de facto” copper retirement and “de facto” copper service discontinuance in this proceeding and going forward. States for the most part do not collect publicly accessible data. The Commission should fill this gap and reinstitute its ARMIS service quality and customer satisfaction data collection program on an industry-wide basis.

⁵⁴ 47 U.S.C. 151(1).

V. Conclusion

For the reasons set forth above, Communications Workers of America supports the Commission's initiatives to ensure that all homes, businesses, and institutions in the United States have access to affordable, world-class telecommunications services. The Commission should continue to encourage the upgrade of networks to use advanced facilities and technologies, and at the same time must ensure that carriers are not permitted to abandon (either legally or unlawfully through neglect) the provision of high-quality affordable service to other communities. De facto discontinuance and impairment of telecommunications service is becoming more common in rural areas, smaller urban areas, and communities at the lower end of the income scale. The Commission must act now to stop this pernicious practice and ensure that competition does not leave stranded some of those who most need access to the economic and educational benefits of advanced technologies.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Debbie Goldman". The signature is written in black ink and is positioned above a solid horizontal line.

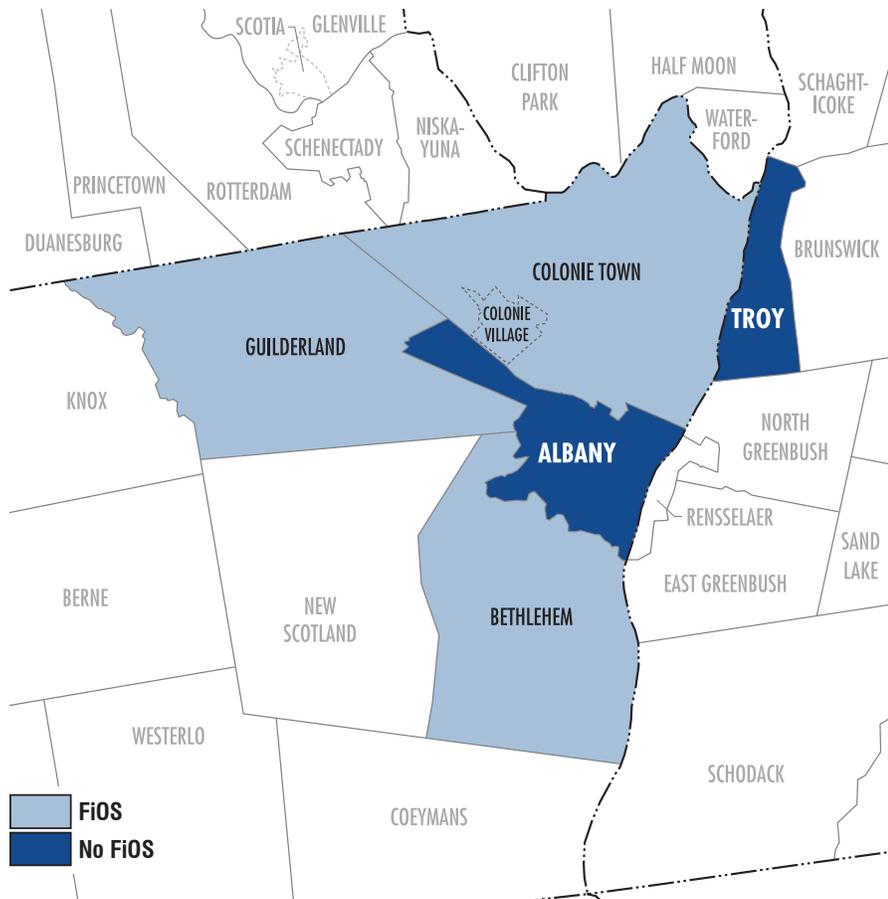
Debbie Goldman
Communications Workers of America

February 5, 2015

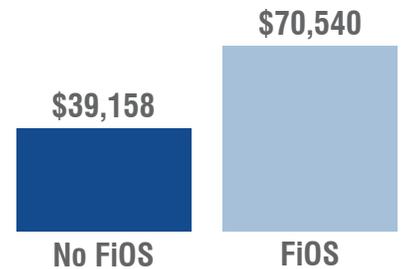
ATTACHMENT

ALBANY

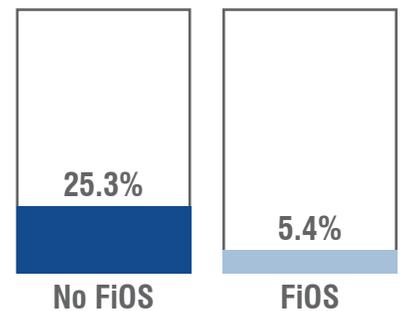
The Empire State's capital city has no FiOS



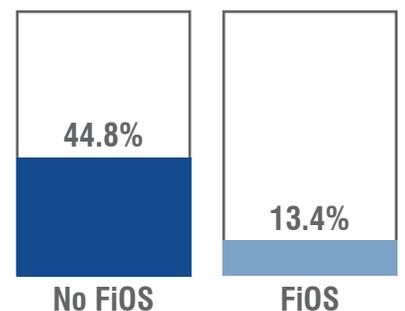
MEDIAN HOUSEHOLD INCOME



POVERTY RATE



% MINORITY



“This type of agreement is not in the best interest of those who need to get and stay connected the most: low income communities and families. This is a step backwards in bridging the digital divide, and builds an additional socioeconomic barrier.”

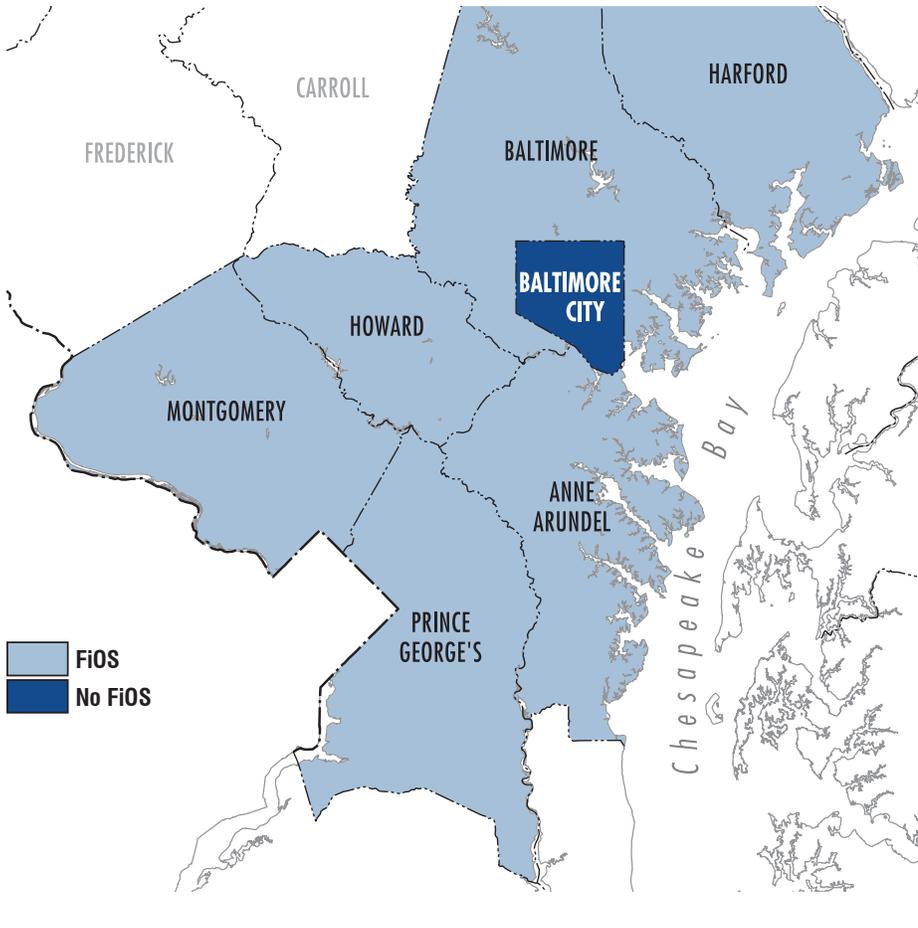
—Carolyn McLaughlin, Albany Common Council President

“The deal before the Federal Communications Commission between Verizon and Time Warner and other cable giants will leave Albany residents behind. Unless serious changes are made to the deal, I’m afraid Albany residents will be faced with higher prices and inferior services for Internet, telephone, and cable than in the surrounding communities, making it that much harder to encourage people to live in and start businesses in Albany.”

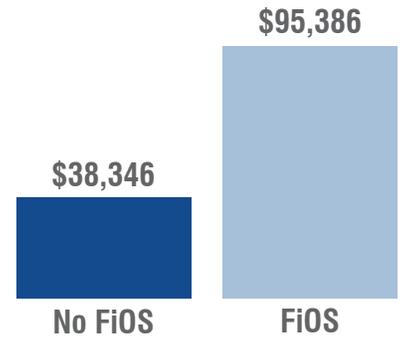
— Richard Conti, Albany Common Council, 6th Ward

BALTIMORE

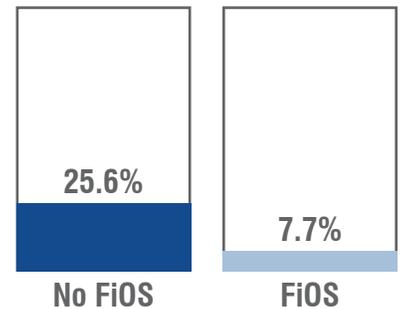
Left behind as FiOS spreads to six surrounding counties



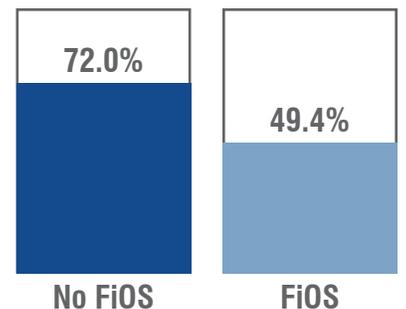
MEDIAN HOUSEHOLD INCOME



POVERTY RATE



% MINORITY

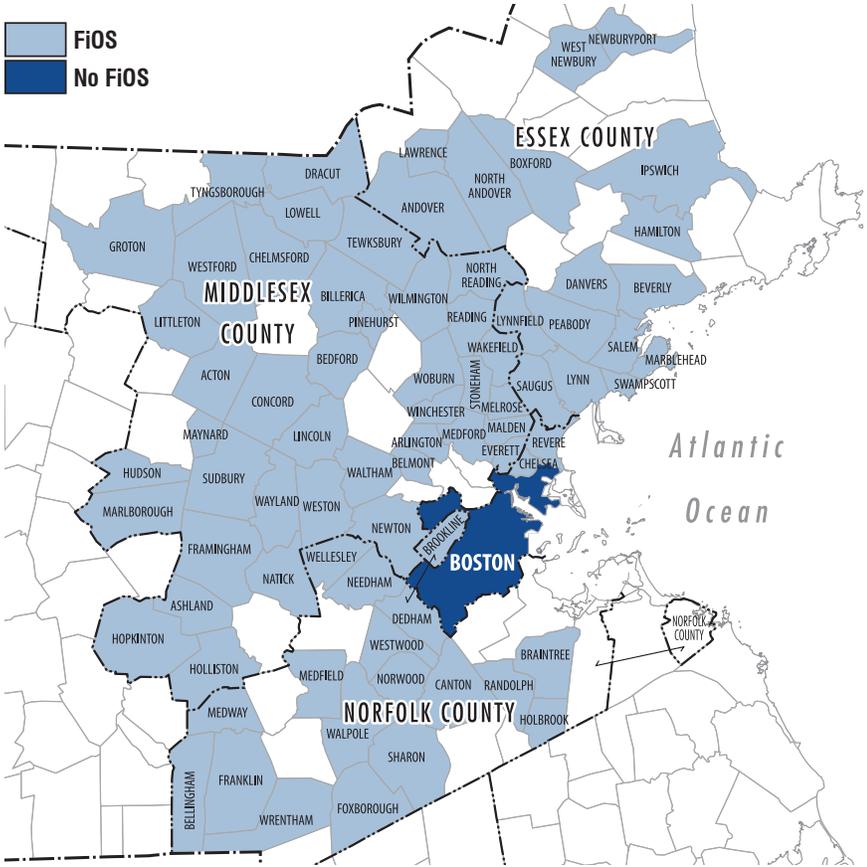


“High-speed, fiber optic networks are vital for economic competitiveness... Other advanced industrialized nations have already deployed fiber-optic networks on a large-scale; they recognize that high-speed fiber is the competitive infrastructure of the 21st century. Much of the suburban areas outside of Baltimore have FiOS. The City of Baltimore will never get a fiber-optic network if this deal is approved, which concerns me greatly. I am not willing to see Baltimore permanently relegated to the wrong side of the digital divide.”
 — Baltimore City Councilman William H. Cole IV

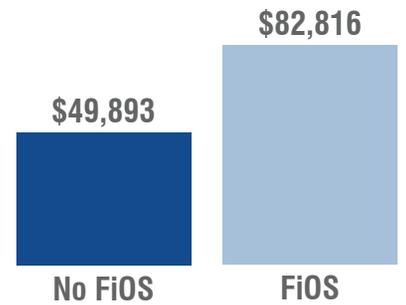
“The quadruple play services are not luxuries; in the 21st century, they are essential services. Yet without any competition, the Verizon/Time Warner/Comcast quasi-monopoly will extract high economic rents by forcing up prices and reducing service quality.”
 — Elbridge James, NAACP Maryland State Conference

BOSTON

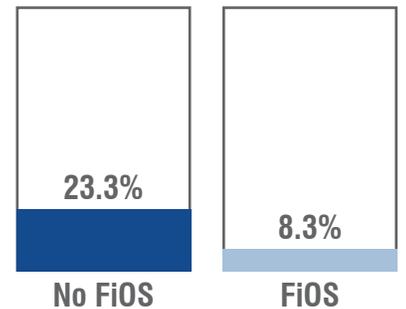
No internet revolution



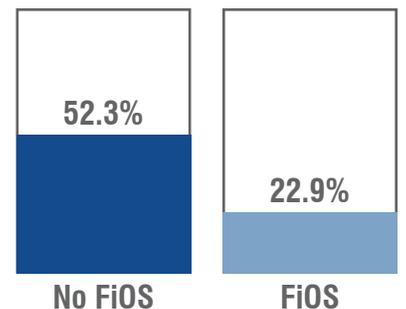
MEDIAN HOUSEHOLD INCOME



POVERTY RATE



% MINORITY



“The decision to bypass Boston disproportionately impacts minority and lower-income residents, small businesses, seniors and neighborhoods. It also hurts the city’s ability to attract jobs. In order to protect the public interest, we join together to urge the FCC to condition any approval of the Verizon/cable Transaction on specific guarantees that Verizon will expand its FiOS...including development throughout the city of Boston and the surrounding areas that do not have access to FiOS.”

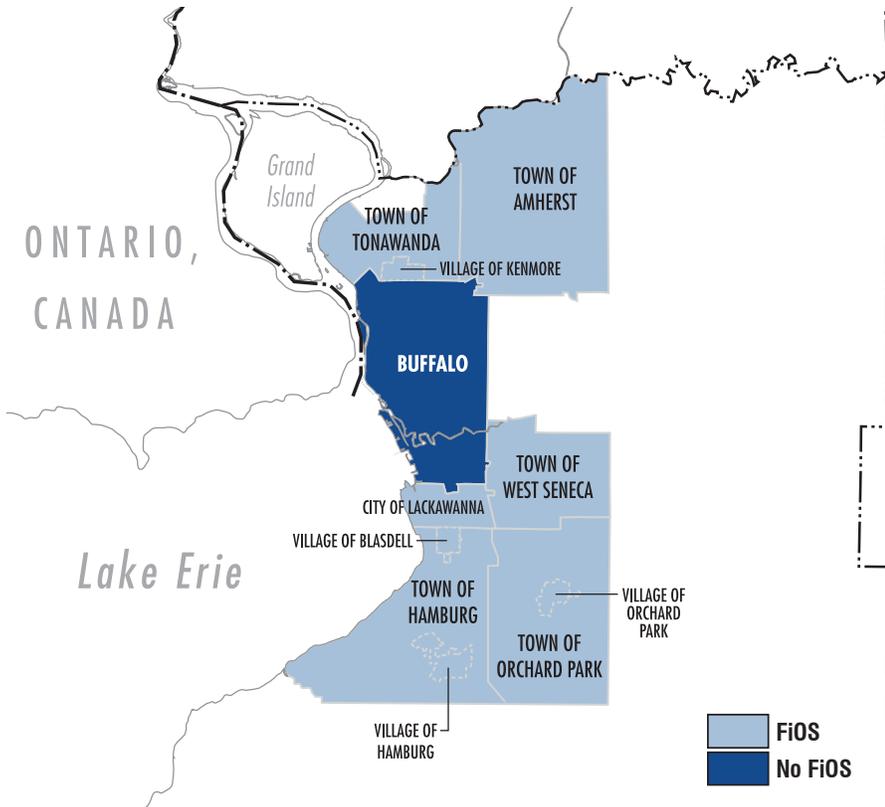
— Representatives of 15 Massachusetts community organizations

“Put simply, the City is concerned that these transactions are designed to ensure that Verizon and Comcast collaborate and never compete in Boston, thereby effectively depriving our communities, citizens, small businesses, schools, hospitals and educational facilities the benefits of video and broadband competition that is available in most of eastern Massachusetts’ surrounding suburbs and in other parts of the country.”

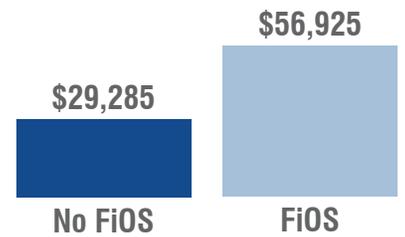
— Mayor Thomas M. Menino

BUFFALO

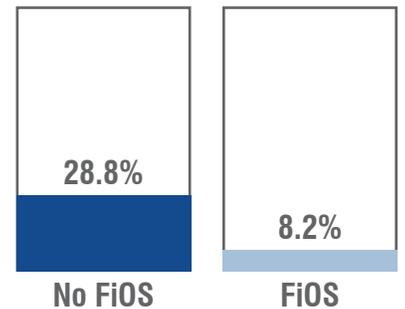
Hit hard by the digital divide



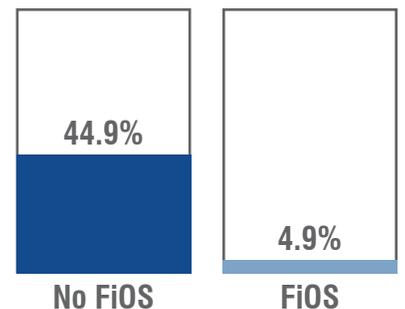
MEDIAN HOUSEHOLD INCOME



POVERTY RATE



% MINORITY



“In today’s economy, having access to affordable high-speed internet is as important for success—for communities and individuals—as having electricity. If the Federal Communications Commission approves of Verizon’s new scheme with cable companies, fiber-optic technology might never come to Buffalo or the other towns in Erie County that have been passed over, and neither would real competition.... This deal creates collusion, not competition.”

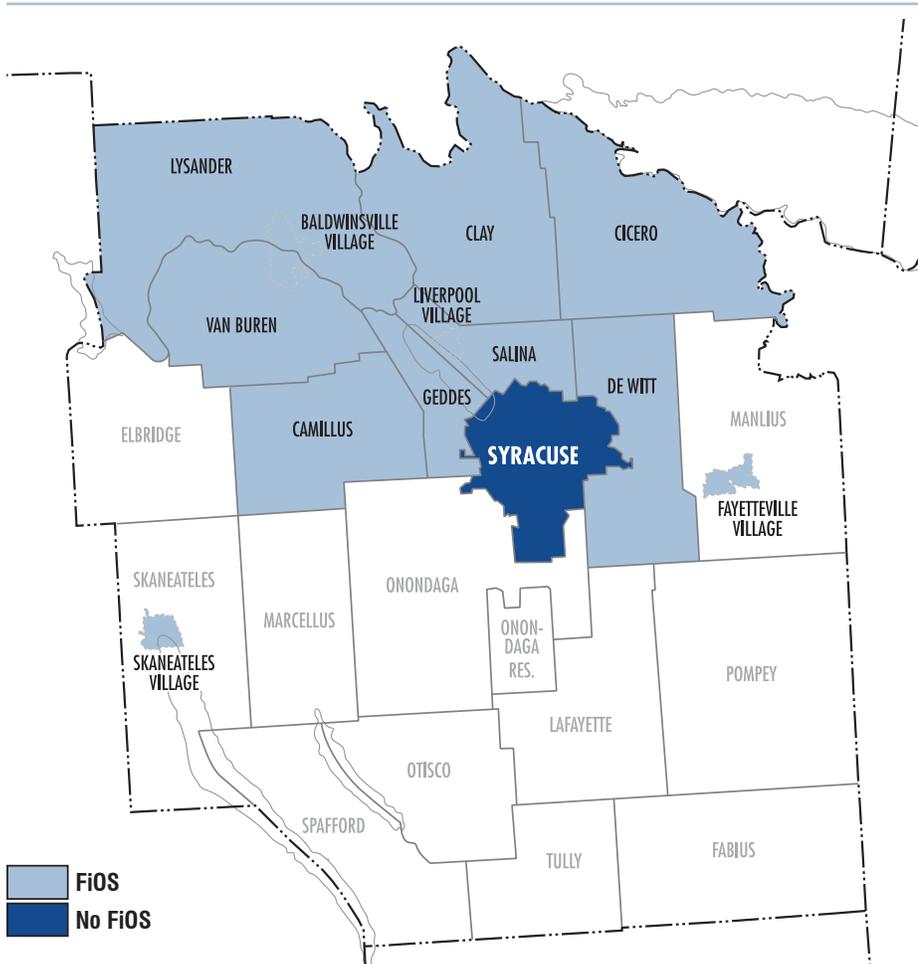
— New York State Assemblymember Sean Ryan

“Verizon specifically has expanded its FiOS network to ten suburbs of the Buffalo area but has not built into our urban neighborhoods. This situation has created an unbalanced market for cable and broadband services in the City of Buffalo with little competition.... When the private market places barriers to access or competition fails to produce outcomes that serve the greatest number of people we can only conclude that steps must be taken to alleviate those impediments.”

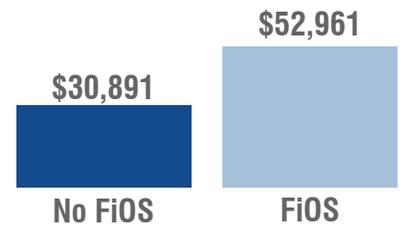
— Congressman Brian Higgins

SYRACUSE

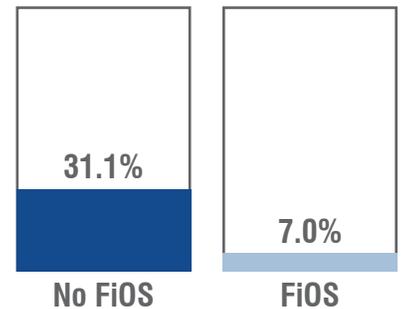
Surrounded by high speed—but none for the city



MEDIAN HOUSEHOLD INCOME



POVERTY RATE



“Over the past few years, we have watched as Verizon Communications has built its all fiber FiOS network in 14 suburban communities.... Consumers benefit from competitive choice; small businesses benefit from truly high-speed connections to suppliers and customers; schools and hospitals benefit from education and health-related applications; communications workers benefit from the jobs building, maintaining, and servicing networks; and families and communities benefit from the 21st century jobs and expanded tax base. But to date, the residents and small businesses in Syracuse have not been able to reap these benefits.”

— Syracuse community organizations and elected officials including
 Legislator Monica Williams, Councilor Bob Dougherty, Councilor Helen Hudson,
 Councilor Jean Kessner and School Board President Burrill Wells

% MINORITY

