

EXHIBIT A

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modifications to Service Quality Rules	R.11-12-001
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**EMERGENCY MOTION OF THE UTILITY REFORM NETWORK (TURN)
URGING THE COMMISSION TO TAKE IMMEDIATE ACTION TO PROTECT
VERIZON CUSTOMERS AND PREVENT FURTHER DETERIORATION OF
VERIZON'S LANDLINE NETWORK**

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I. INTRODUCTION

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, The Utility Reform Network ("TURN") hereby requests the Commission to take immediate action to protect the interests of Verizon California's customers and prevent further deterioration of Verizon's landline network. This motion is appropriately filed in R.11-12-001 because the actions of Verizon addressed herein are directly related to issues within the scope of this docket. Verizon is engaging in business practices that are contrary to its statutory obligation to provide adequate service and are harmful to the interests of its California customers. Specifically, Verizon is deliberately neglecting the repair and maintenance of its copper network with the explicit goal of migrating basic telephone service customers who experience service problems. These migrations are often without the customers' knowledge or consent. Moreover, Verizon is migrating these customers to a largely deregulated fiber-based telephone service that is inferior to basic phone service in certain key respects. TURN urges the Commission to immediately implement the remedies, discussed below in Sections III and VIII, to prevent further unlawful deterioration of Verizon's copper network and protect the interests of Verizon's California customers.

II. SUMMARY OF VERIZON'S ACTIONS TO DEGRADE SERVICE QUALITY.

A key set of issues in this case, as outlined in the Assigned Commissioner's September 24, 2012 Scoping Memo and Ruling in R.11-12-001 ("Scoping Memo"), relates to adequacy of telephone plant, including whether telecommunications facilities are being appropriately maintained, whether services are provided in a manner consistent with

public safety, and whether company business practices affect service quality experienced by customers.¹ As a regulated telephone corporation and carrier of last resort, Verizon is obligated to maintain adequate facilities, including performing repairs necessary to provide basic telephone service of reasonable quality to its customers.² As demonstrated below through information already in the record, complaints submitted to the CPUC by Verizon's California customers from cities such as Long Beach, Cerritos and Torrance (addressed in this motion) and evidence about Verizon's business practices in other states, TURN will show that Verizon has failed to meet its statutory obligation to furnish and maintain adequate facilities necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public. Specifically:

- 1) Verizon does not adequately repair and maintain the copper network necessary to provide regulated basic telephone service (and other telecommunications services). Instead, Verizon deliberately allows its regulated network to deteriorate.
- 2) In some cases, Verizon refuses to repair the copper plant necessary to provide regulated landline telephone service when basic telephone service customers request repair.
- 3) Verizon has a policy and practice of surreptitiously "migrating" unwitting California basic phone service customers who request service repair away from their phone service of choice to other Verizon services, such as FiOS (which is a largely deregulated VoIP phone service) and possibly to a new fixed wireless service called Voice Link. Customers are migrated to FiOS in neighborhoods where fiber has been installed with planned migration to Voice Link in non-FiOS neighborhoods. In the case of FiOS migration, at least some customers are not informed that they are being migrated. Furthermore, customers are not informed of the ramifications of being moved from regulated basic phone service to a largely deregulated VoIP phone service, with diminished consumer protections, that is inferior to basic phone service

¹ Scoping Memo, pp. 4-5, 5-6, 9.

² PU Code §451, cited in Scoping Memo, p. 9.

in certain important respects, including superior reliability during prolonged power outages.

- 4) It is unclear whether a trouble ticket is always generated when a customer calls in requesting repair and is migrated to FiOS, or whether only an installation order for FiOS is created. If trouble tickets are not generated it would have the effect of reducing the number of trouble tickets and reduce the magnitude of service quality problems reflected in Verizon's service quality reports to the Commission, pursuant to G.O. 133-C.
- 5) Verizon misleads or lies to basic phone service customers who request service repair about its attempts to migrate them to a different service. Verizon does not always inform customers that they are being migrated to FiOS. In some instances, Verizon has migrated senior citizens without their consent.
- 6) Many customers who call repair centers to have their copper-based landline service repaired become upset when Verizon tries to install FiOS instead of repairing the phone line.
- 7) Regarding Verizon's desire to migrate customers to Voice Link, a customer of basic telephone service who makes two calls to a Verizon repair center for outside plant problems within six months is deemed a "chronic customer." Nationally, it is Verizon's goal to migrate "chronic customers" to Voice Link, in lieu of maintaining and repairing copper plant and there is no reason to think that this national goal will not be pursued in California.

Verizon's efforts to deceive customers and its policies and practices pertaining to inadequate maintenance, and customer migration instead of repair are directly tied to this docket because these deceptive practices occur as a result of a basic telephone service customer contacting Verizon to request phone service repair. These issues are addressed in more detail in Section V of this Motion.

As discussed in Sections VI and VII, Verizon's policy and practice of failing to maintain and repair service and then "migrating" customers away from copper-based landline to FiOS or Voice Link in California is similar to Verizon's efforts in New York, New Jersey and the District of Columbia to abandon copper plant and force customers to Voice Link. These efforts have been opposed by numerous parties, including the New York Attorney General's Office, CWA District 1, AARP, first responders, Competitive Local Exchange Carriers (CLECs), the D.C. Office of People's Counsel, elected officials and thousands of residents of the communities where Verizon is refusing to restore copper-based landline telephone service.

Further, in Section VI we address the harm to customers caused by Verizon's business practices aimed at customer migration through deliberate neglect of its network. Basic telephone service customers migrated to FiOS lose valued regulatory protections. FiOS is a fiber-based Voice over Internet Protocol (VoIP) service. Given recent state legislative action, carriers like Verizon will likely assert that digital voice service offered through FiOS is not subject to most of the universal service and consumer protection requirements that apply to non-VoIP, copper-based landline basic telephone service. As further explained in Section VI, Voice Link is a newly introduced fixed wireless service that is functionally inferior to regulated, non-VoIP, copper-based landline telephone service in several key respects. Both FiOS and Voice Link rely on the public power system and during lengthy power outages, phone service -- including access to 911 -- will cease to operate when the batteries at a customer's home are depleted.

The need for immediate Commission action to prevent further unlawful degradation of Verizon's network and put a halt to Verizon's unscrupulous treatment of its

basic telephone service customers is clear. In Section VIII of this motion, TURN recommends actions that the Commission should take to preserve service quality and protect Verizon's customers.

III. SUMMARY OF REQUESTED RELIEF

TURN requests that the Commission take the following actions.

- 1) The Commission should issue an order requiring Verizon to: 1) repair the service of copper-based landline telephone service customers who contact the repair center; 2) restore copper-based service to customers who wished to retain it but were migrated to FiOS or Voice Link; and 3) cease the deceptive and misleading marketing practices reported by Verizon customers in their complaints to the Commission. (See Attachment 1 and Section V of this motion.)
- 2) The Commission should investigate whether, and to what extent, Verizon's customer migration practices and failure to maintain the copper network in certain communities take unfair advantage of senior citizens, customers on low incomes and limited English speaking populations.
- 3) The Commission should require Verizon to provide data, by location, on the number of customers who have been migrated and where the data indicates even minor concentrations of customer migrations, those areas should be included in the examination into the adequacy of Verizon's network maintenance and investment described in the September 24, 2012 Scoping Memo.
- 4) The Commission should determine whether a customer call to Verizon's repair line results in Verizon generating a trouble ticket when the customer is voluntarily or involuntarily migrated. There are indications in the customer complaints that trouble tickets may not be generated in all instances. If this is the case, the data reported by Verizon pursuant to Commission service quality reporting requirements may be misleading and may understate Verizon service quality problems.
- 5) The Commission should require Verizon to provide proof that customers who have been migrated to FiOS "receive the same voice service at the exact same monthly price" and continue to be "subject to the same

regulatory oversight as the customer's previous copper-based service" as previously represented to the Commission by Verizon.³

- 6) Once the Commission issues the order to cease and desist its misleading marketing practices, Verizon should be required to submit to the Commission all information provided to customers pertaining to customer migration and all training material, customer representative scripts, technician scripts and other directions to Verizon employees regarding its copper repair and customer migration practices.
- 7) The Commission should verify whether Verizon has complied with the requirements of D.10-01-026 and provided customers migrated to FiOS or Voice Link with mandated information on back-up power requirements for these services to function during power outages.
- 8) The Commission should move promptly to prevent further unlawful deterioration of Verizon's network. In accordance with the Scoping Memo in this docket, the Commission should move as quickly as possible to fully investigate whether Verizon (and AT&T) is adequately maintaining its copper network. This requires issuance of the RFP as described in the September 24, 2012 Assigned Commissioner's Ruling and Scoping Memo.
- 9) As part of the Commission's investigation, Verizon should be required to provide the CPUC with data regarding the number of employees transferred to Voice Link and hired to provide Voice Link. Verizon should be required to provide CPUC with data regarding the expenditures for customer migration and investment in Voice Link so that the Commission can compare the resources Verizon has devoted to migrating customers with the resources Verizon has devoted to maintaining its copper-based basic telephone service.

IV. THE RECORD TO DATE ALREADY SHOWS THAT VERIZON HAS FAILED TO MEET IT'S STATUTORY OBLIGATIONS TO PROVIDE ADEQUATE SERVICE.

As the September 24, 2012 Scoping Memo recognizes, Public Utilities Code ("PU Code") § 451 requires all utilities, including Verizon, to:

³ R.11-12-001, Reply Declaration of Thomas Maguire for Verizon California, March 12, 2012, para. 8. ("Maguire Declaration").

[f]urnish and maintain such *adequate*, efficient, just, and reasonable service, instrumentalities, equipment, and *facilities, including telephone facilities*, as defined in Section 54.1 of the Civil Code, *as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.*⁴ (*emphasis added*)

Further, both the Order Instituting Rulemaking (“OIR”) and Scoping Memo in this docket acknowledge that the Commission has a statutory duty to ensure that telephone corporations such as Verizon provide customer service that meets “reasonable statewide service quality standards including, but not limited to, standards regarding network technical quality, customer service, installation, repair and billing” under PU Code § 2896.⁵ The Scoping Memo states that the Commission “has a responsibility to ensure that services overseen by the Commission are provided in a manner consistent with the public safety.”⁶

The OIR contains evidence suggesting that Verizon has not adequately maintained its landline network and has failed to comply with the service quality standards set forth in G.O. 133-C. The OIR included as an attachment the March 2011 Communications Division Staff Report (“CD Report”) which states that Verizon “did not meet the Out-of-Service repair standard for all of the reporting months of 2010.”⁷ The CD report documents the facts that during the Southern California storms of December 2010, Verizon had approximately 73,047 storm related trouble tickets, of which 18,262 (25 percent) were not cleared within six days and that approximately 7,100 lines (10 percent)

⁴ PU Code §451, cited in Scoping Memo, p. 9.

⁵ See, OIR, p. 2; Scoping Memo, p. 5; both citing D.09-07-019, p. 12, PU Code § 2896.

⁶ Scoping Memo, p. 5-6.

⁷ OIR, p. 6; California Public Utilities Commission, Communications Division, *Report on Telephone Carrier Service Quality for the Year 2010*,” March 2011, p. 7.

were still not repaired for at least two weeks.⁸ The Scoping Memo states that one conclusion that might be drawn from the CD Report is that “existing competitive forces and minimal standards are not sufficient to provide the service quality the Commission is required to ensure, and the level of public safety the Commission is committed to upholding.”⁹

Further evidence of Verizon’s failure to adequately maintain its facilities was presented at the Commission’s January 31, 2013 Workshop, and addressed in both the Post Workshop Comments of the Communications Workers of America, District 9 and the Post-Workshop Comments of TURN and CALTEL. Attachment 1 to CWA’s comments contains pictures illustrating Verizon’s poor maintenance practices in both Chico and Southern California, including improperly secured and exposed cable covered by a plastic bag.¹⁰ The TURN/CALTEL comments quote Verizon’s Chief Financial Officer, Fran Shammo, on the company’s business plan to degrade copper facilities:

Then the third strategic thing we are doing that I think improves our margins is we are really proactively going after these copper customers in the FiOS footprint and moving them to FiOS. So if you are a voice copper customer and you call in that says you are having trouble on your line, when we go out to repair that we are actually moving you to the FiOS product. We are not repairing the copper anymore.¹¹

The TURN/CALTEL comments also memorialized information presented at the workshop

⁸ CD Report, p. 12.

⁹ Scoping Memo, p. 6.

¹⁰ R. 11-12-001, Post-Workshop Comments of the Communications Workers of America, District 9 February 28, 2012, Attachment 1.

¹¹ R. 11-12-001, Post-Workshop Comments of The Utility Reform Network (TURN) and CALTEL ("TURN/CALTEL Post-Workshop Comments") February 28, 2012, p. 1, citing to THOMSON REUTERS STREETEVENTS EDITED TRANSCRIPT VZ – Verizon at Oppenheimer Holdings, Inc. Technology, Internet & Communications Conference, AUGUST 15, 2012, p. 12.

http://www.22.verizon.com/idc/groups/public/documents/adacct/oppenheimer_vz_transcript.pdf

regarding the adequacy of Verizon's workforce. From 2006-2012 Verizon reduced its California workforce by over 2,600 employees.¹² Moreover, while Verizon claimed to have increased its technical staff, in reality those positions were due to the hiring of non-union *inside plant* technicians who have been trained to exclusively work in the home to install FiOS,¹³ but *not* trained to repair and maintain outside plant. Instead, Verizon has *reduced* the staff that have the experience and training necessary to maintain outside plant.¹⁴ Further, at the workshop and as reflected in the TURN/CALTEL Comments, TURN described information provided to TURN by a Verizon service technician from a rural area of Southern California to make the point that there is a relationship between investment, staffing, service quality and Verizon's policy to "migrate" customers away from copper-based non-VoIP landline to fiber. Specifically, approximately two-and-one half years ago Verizon stopped routinely inspecting and maintaining batteries in remote terminals necessary for landline service to function during power outages. This essential maintenance work has become sporadic and is now carried out by non-union, contract employees. When customers lose phone service, they contact the Verizon repair line and are told that it could take up to two weeks to "get someone out there" to restore service, but that the customer could switch to FiOS and get the service right away.¹⁵

The purpose of the workshop was to provide Commission staff with the information necessary to develop an RFP as the first step in the process of the Commission engaging an independent expert to assess whether Verizon and AT&T are

¹² TURN/CALTEL Post-Workshop Comments, p. 2.

¹³ *Id.*, p. 2-3.

¹⁴ *Id.*, p. 3.

¹⁵ *Id.*, p. 15.

adequately maintaining their outside plant.¹⁶ Already, before the RFP has even been issued, the Commission has evidence showing that Verizon's outside plant is not being maintained. Now, based on further information provided below in Section V, it is clear that Verizon is taking advantage of its own decision to allow its facilities to deteriorate as a prelude to trying to force customers to abandon their regulated landline telephone service when service quality becomes unacceptable. The Commission cannot allow this situation to continue.

V. NEW EVIDENCE CONFIRMS THAT VERIZON IS ACTIVELY IMPLEMENTING A STRATEGY TO FORGO NECESSARY MAINTENANCE AND, INSTEAD, FORCE CALIFORNIA PHONE SERVICE CUSTOMERS TO MIGRATE TO NON-COPPER SERVICES.

Since late 2011, Verizon has implemented a program both nationally and in California to “migrate” copper-based basic telephone service customers away from services provided on the copper network and over to services provided on the fiber facilities that are used to provide FiOS.¹⁷ Migration is triggered when customers with copper-based telephone service contact a Verizon repair center to report problems and request service repair. Repeat calls to the repair center result in a one-way ticket to FiOS. TURN refers to situations where a customer does not wish to “migrate” and prefers to continue receiving phone service over copper-based landlines as “forced migration” or “involuntary migration.” Verizon’s migration program has been expanded nationally to involve migration of copper landline phone customers to a fixed wireless service called

¹⁶ R.11-12-001, Administrative Law Judge’s Ruling On The January 31, 2013 Workshop, January 18, 2013, p. 1.

¹⁷ R.11-12-001, Reply Declaration of Thomas Maguire for Verizon California, March 12, 2012, at paras. 10, 26 and 19. (“Maguire Declaration”).

Voice Link in areas where FiOS has not been deployed.¹⁸

A. Verizon Customer Migration Complaints to the Commission Show the Need for Immediate Action in this Docket to Protect Customers and Prevent Further Degradation of Verizon’s Network.

The fact that Verizon’s customer migration policy with respect to FiOS has been in effect in California since at least 2012 is reflected in complaints to the Commission from Verizon California customers in 2012 and 2013. TURN obtained copies of the complaints on January 29, 2014, stripped of information that would identify complainants, pursuant to a request to the Commission’s Consumer Affairs Branch (CAB). While individual customers are not identified, the complaints mentioned the cities of Long Beach (Case No. 290514, August 2013), Cerritos (Case No. 209246, February 2012) and Torrance (Case No. 296113, October 2013). The complaints obtained by TURN are included as Attachment 1 to this pleading. CAB reported 15 complaints regarding Verizon customer migration in 2012 and 17 complaints in 2013. Evidence of Verizon’s company-wide policies and research on customer complaints being only the “tip of the iceberg” suggest that it is highly likely that many more Verizon customers share the views of the customers who complained to the Commission. Indeed, at least two complaints noted that other people in their neighborhood had experienced the same problems with Verizon’s migration practices.¹⁹

Verizon’s policy is to migrate those customers who are deemed “chronic” customers because they have contacted Verizon’s repair line and required two truck rolls

¹⁸ See, for example, *Communications Daily*, May 13, 2013, p. 10.. It is not yet clear when Verizon will deploy Voice Link – and migrate customers to Voice Link - in California, but CWA District 9, representing Verizon California employees, apparently believes that it will occur here shortly, if it has not already begun. http://district9.cwa-union.org/news/entry/beware_of_verizons_voice_link#.UyJFQ16d7eY

¹⁹ See Case No. 264765, March 2013 and Case No. 274947, May 2013.

during a six-month period.²⁰ This criterion is telling because *it is Verizon's decision to reduce or eliminate necessary maintenance of its copper network that is causing the network to deteriorate and the resulting service quality problems that prompt customers to request repair.* This point was echoed by one complaint which stated “[o]ur concern is that they are deliberately allowing network issues to occur to force customers into buying their services. We are not the first family we know of with a Verizon phone line to experience this issue.”²¹ The information provided by Verizon customers in complaints to the CPUC during 2012 and 2013 underscores the need for immediate Commission action to protect Verizon customers and prevent further unlawful deterioration of Verizon’s copper landline network.

Involuntary or forced migration of customers to FiOS is particularly concerning to TURN because many of these customers are unaware that they are being migrated by Verizon from a regulated telephone service to FiOS, a VoIP telephone service that Verizon will likely claim is now largely unregulated and devoid of key consumer protections pursuant to SB 1161. This concern is reflected in complaints to the Commission stating that the customers do not want to be migrated to FiOS because they do not want to subscribe to an unregulated telephone service.²²

Verizon has represented to the Commission that customers who subscribe to only voice service who are migrated to the fiber platform receive “the same voice service at the

²⁰ Fran Shammo, Verizon Communications Inc. Executive Vice President and Chief Financial Officer, Thompson Reuters StreetEvents, Edited Transcript, VZ – Verizon at Bank of America/Merrill Lynch 2012 Media, Communications and Entertainment conference, September 12, 2012, p. 8 (“Shammo, 12/12/2012.”) http://www.verizon.com/investor/DocServlet?doc=bofa_vz_transcript_091212.pdf

²¹ Case No. 274947, May 2013.

²² See, for example, Case No. 267321 (March 2013); Case No. 269927, April 2013; Case No. 263807, February 2013, the customer “is adamant about keeping his service analog as VoIP is not a regulated service;” and Case No. 290514, August 2013.

exact same monthly price” and “would not be converted to VoIP and thus would be subject to the same regulatory oversight as the customer’s previous copper-based voice service.”²³ Verizon’s representations to the financial community and the experience of customers who have complained to the CPUC tell a different story. For example, Verizon Executive Vice President and Chief Financial Officer Fran Shammo stated:

So if I can take that chronic customer and move them to FiOS, I deplete the amount of operational expense to keep that customer on and now I have moved them over to the FiOS network where they get the benefits of FiOS digital voice [sic], which is clearer.²⁴

Verizon’s web site provides this description of FiOS Digital Voice: FiOS Digital Voice is a specific type of Voice Over Internet Protocol (VoIP).²⁵

Customer complaints demonstrate that Verizon has not permitted all customers who are migrated to retain or return to their existing service. For example, according to two complaints submitted to the Commission's Consumer Affairs Branch (CAB), in 2012 Verizon California executive Margaret Serjak sent a letter to California customers informing them that due to "landline service issues" in their area customers needed to transition to FiOS.²⁶ One of these complainants informed the Commission that the letter said "[t]his transition will be no charge to us and we keep our current service at the same rate by calling their representative."²⁷ But when speaking with a Verizon representative, the complainant was told that "their current service would not be connected to it [the fiber]

²³ Maguire Declaration, para. 8.

²⁴ Shammo, 12/12/2012, p. 8.

²⁵

<http://www.verizon.com/support/residential/phone/homephone/general+support/fios+voice+service/fvs/121150.htm>

²⁶ Case No., 213503, March, 2012 and Case Number 239620, September 2012.

²⁷ Case No. 239620, September, 2012. Other complainants also stated that they were told that if they migrated from the copper network to Verizon’s fiber network they had to subscribe to FiOS. See, for example, Case Nos. 209246 (February 2012) and 214029 (March 2012).

if they elect to keep it." The complainant characterized Verizon's customer migration effort as "a classic bait and switch practice," with the true intent of moving customers to FiOS. Another customer told the CPUC that "Verizon has a rule that if a home has FiOS installed for internet and television it must move the copper wire landline telephone service to FiOS telephone."²⁸

In essence, line-by-line, Verizon is eliminating the regulated basic telephone service which, as a carrier of last resort, a telephone corporation, pursuant to its Certificate of Public Convenience and Necessity (CPCN), it is obligated to provide. Several complainants reported that they were told that once they were migrated to FiOS, their copper facilities would not be reconnected despite the desire of the customers to retain or return to regulated copper-based telephone service.²⁹ For example, one customer told the Commission that,

[a]ll three of the Verizon FiOS techs that have been here have told me that the copper lines can be used but Verizon is trying to remove them to eliminate options/competition by controlling everything through the Fios [sic] network.

Request of CPUC: Help me to get the phone service connected through the original copper lines.³⁰

Another customer was very upset about Verizon removing copper lines.³¹ The customer stated that s/he has had Verizon copper based phone lines and/or DSL services from 2006 to March 2013. On 3/12/13, the customer ordered new services from Verizon and Verizon came out the same day to install the new services. At the time, the customer "did not know that Verizon removed my copper phone lines without my knowledge when

²⁸ Case No. 205545 (January 2012).

²⁹ See for example, Case no 305339 (December 2013), 267321 (March 2013), Case No. 263807, (February 2013); Case No. 269927 (March 2013).

³⁰ Case No. 258489 (January 2013).

³¹ Case No. 267321 (March 2013).

I requested additional services. I was not made aware that they would be doing this and would not have agreed to it.” The customer reported that,

Verizon told me that there was no going back to my old services, that my copper lines were pulled from my house when I added services (I looked outside and my copper lines are still there) [.] Verizon stated that they will not convert customers back once this change was made as they are migrating people and it was too costly for Verizon to put back my previous services.

The customer’s complaint further stated:

Request of CPUC: I never authorized Verizon to REMOVE my copper lines, only to add services. I am unhappy with the new services and want my old services put back. This is not impossible, just “costly” according to Verizon. This is fraud. They advertise that if you are unhappy with the services you can cancel anytime. However, they do not advise you that if you cancel you will not be able to get your old services back, nor will you ever be able to obtain services from anyone else. I WANT MY ORIGINAL COPPER LAND LINE AND DSL REINSTALLED.³²

Another complaint from December 2013 tells the story of a customer who requested to have the fiber service discontinued and to be returned to copper landline service because the fiber service did not work with LifeAlert or the security system during power outages. A work order was submitted to transfer service back to copper, and the customer was assured it would take “from a few minutes to 4 hours” to restore the copper line:

However that was not the case. We were out of phone service for 4 entire days. I contacted Verizon about no phone service. Within minutes the phone service was restored. I asked them if the phone service was going to be the COPPER line. They assured me that it was going to be as we ordered (Copper Line). Since November 22, 2013 I continue to have fiber line. I have called Verizon time after time and now it is unfortunate that they say they cannot restore my line to copper. Verizon has continued to deny my request and take me on a wild goose chase. Request of CPUC: Have Verizon restore my Land Line to Copper.³³

There is evidence from the complaints that senior citizens have been switched to

³² Id. See, also, Case No. 305339 (December 2013) and Case No. 267321 (March 2013).

³³ Case No. 305339 (December 2013).

FiOS without their consent and without fully understanding what had happened. One household thought that Internet and television were being switched to FiOS and that the telephone service would remain on the copper line. The person who assisted the household and filed the complaint stated:

The residents at this address are over 90 years old & need the more reliable service and 911 access. When I called to explain the phone stopped working I call [sic] the copper line repair. The person told me that the phone was now on FiOS and I would be transferred. I asked to speak with a supervisor and was put on hold for 1 hour and 45 minutes before I hung up. Later in the day the phone started to work.

....
Request of CPUC: 1. Verify that 310-375-xxxx is a copper line
2. If the line is FiOS have verizon change it to copper which was our original agreement.
3. I lost 2 billable hour [sic], please have Verizon compensate me for my lost income.³⁴

Another complaint, filed by the Verizon customer's grandchild, states that Verizon suspended the grandmother's telephone service "due to the fact that she has not upgraded to their FiOS service. She is an elderly woman and does not wish to be forced into having something that is one, falsely represented and two, something she does not require." The complainant states that Verizon has informed them that the woman will be without service unless the customer converts to FiOS.³⁵

At least one Lifeline customer has submitted complaints about Verizon's forced migration practices. The customer called Verizon to transfer landline telephone service to a new address:

³⁴ Case No. 296113, (October 2013).

³⁵ Case No. 214029 (March 2012). See also Case No. 284424 (July 2013). Verizon migrated a 96 year old woman to FiOS. On July 25, 2013, Verizon technicians disconnected the copper line, but did not finish the FiOS installation, left the site and left the woman with no telephone service. The woman's daughter worked frantically to have Verizon restore service, spending over three hours on the phone with Verizon, had a repair scheduled and then cancelled and was told that the phone could not be repaired until August 1. Verizon provided the elderly woman with a cell phone which she cannot use because she is hard of hearing.

I was then informed that Verizon starting this month will no longer provide just landline service and you also need to purchase Fios [sic] internet also. I have been on the Lifeline program for over 7 years and now they are forcing me to get their internet as well. I can not afford Fios [sic]. This is wrong and they need to stop this as the apartment we are moving to only has Verizon as a carrier.³⁶

The experience of customers that have filed complaints with the Commission provides further support for the evidence presented in comments and at the January 2012 workshop that Verizon applies a double standard to repairing the copper-based phone service versus FiOS installation. Verizon is quick to offer FiOS installation, but the requested repair of copper-based phone service is subject to long delays. For example, one complaint stated,

A person named xxxxx from Verizon is threatening that if we don't switch over to digital and get rid of copper that their response time for fixing any phone problems will go from 1 to two days too [sic] two weeks. I assume they must be doing this with all businesses. I thought the Public Utility Commission should know that Verizon is trying to pressure their customers into making a change based on withholding repair services for two weeks. Since they have a monopoly on local phone service this seems to be against public policy and not in the best interest for consumer protection.³⁷

Yet another complaint states:

Consumer states that it took almost 12 days for a technician to repair the service. She states that the reason for the delay is to try and get her to upgrade to FiOS [sic], which she wishes not to have.³⁸

Another concern raised in the customer complaints (and shared by TURN) is that copper-based phone service is more reliable than FiOS during prolonged power outages. During a power outage, FiOS requires back-up power at the customer premises to function. For example, one customer stated that s/he wanted to maintain a landline

³⁶ Case No. 218704 (March 2012).

³⁷ Case No. 228780 (May 2012).

³⁸ Case No. 256604 (January 2013).

copper telephone service and have FiOS installed for Internet and television, but that “Verizon has a rule that if a home has FIOS installed for internet and television it must move the copper wire landline telephone service to FiOS telephone.” The customer’s request to the CPUC: “Copper wire landline telephone service works even during an electric power outage while FIOS service fails during an electric power outage.”³⁹ As discussed above, another complaint from December 2013 notes that the customer desired to be returned to copper landline phone service because the fiber service did not work with LifeAlert or a security system during power outages.⁴⁰

The complaints show that it is unclear whether or not the requests to Verizon for repair of copper-based phone service that trigger customer migration are recorded as trouble tickets, and thus reflected in the data Verizon provides to the CPUC. For instance, one complaint describes a process of requesting repair, Verizon insisting on installing a FiOS package the customer didn’t want, the customer receiving an unannounced visit from a Verizon sub-contractor and then being told that the repair was cancelled.⁴¹ Another customer called Verizon to report “terrible static” on their phone line. S/he received an e-mail and text stating Verizon would be at the home to fix the problem between 8 a.m. and noon, but Verizon did not show up as promised. At 3:20 p.m., the customer contacted Verizon and was told, “...the ticket was on hold to install Fios! I never requested or was told about fios [sic].” Another Verizon employee repaired the copper line, but told the customer that they had to get Verizon to cancel the FiOS order or they “would lose everything he did.” That is exactly what happened. The customer and her husband contacted Verizon, were on hold for three hours, the problem was not fixed and

³⁹ Case No. 205545 (January 2012).

⁴⁰ Case No. 305339 (December 2013).

⁴¹ Case No. 209246 (February 2012)

they had no phone service. This was a dire situation given that the customer's husband "...had major open heart surgery a few months ago. this [sic] is the only line our drs [sic] have to contact him and verify appointments. Verizon is aware of this but obviously doesn't care."⁴²

It is clear that customers often do not fully understand that they are being migrated to FiOS. Many of the complaints state the view that Verizon is using deceptive or coercive practices to convince customers to migrate to FiOS.⁴³ It is also unclear whether most customers are aware of the implications of being transferred to a service that is possibly unregulated and is reliant upon backup power that may run out during prolonged power outages. TURN is concerned that customer confusion over Verizon's customer migration practices is even more acute for customers who are not fluent in English.

B. Migration to Voice Link Will Raise Similar Concerns for Customers.

As discussed earlier, Verizon's migration program has been expanded nationally to involve migration of copper landline phone customers to a fixed wireless service called Voice Link in areas where FiOS has not been deployed. It is not clear when Voice Link will be offered in California. But the CPUC must be vigilant and ensure that the problems identified in customer complaints about Verizon's forced migration practices do not make a repeat appearance when Voice Link arrives. In an interview with *Communications Daily*, Verizon Senior Vice President for National Operations Support Thomas Maguire

⁴² Case No. 225475 (May 2012).

⁴³ See Case No. 203887 (January, 2012), Case No. 209246 (February 2012), Case No. 213503 (March 2012), Case Nos. 2262941 and 228780 (May 2012), Case No. 239620 (September 2012), 260172 (January 2013), 267321 (March 2013) and 271319 (April 2013).

stated that Voice Link is aimed at migrating customers away from copper networks in areas where it does not install FiOS.

The Migration was ‘humming along’ but Verizon knew it didn’t have fiber everywhere, which led Maguire to examine alternatives for those copper customers encountering problems. ‘It dawned on me that our wireless’ networks are ‘everywhere,’ he said. ‘I started looking at ways we could then use the wireless technology.’ Voice Link was then born. Then Sandy hit, he said, accelerating the process in New York.⁴⁴

Verizon has stopped deploying FiOS in new areas.⁴⁵ Thus, Voice Link will be targeted to areas of Verizon’s territory where FiOS was not deployed, including rural areas where a properly maintained copper telephone network is the most reliable communication option for customers, particularly during power outages. There is substantial evidence, from customer complaints, comments and information presented at the January 2012 Workshop that Verizon is not adequately maintaining its copper network, and telling customers that migration to FiOS is *fait accompli*. The message customers have heard from Verizon is, we have no intention of repairing or maintaining your copper-based phone service and you have no choice but to move to FiOS. For Verizon customers in rural areas, there is no fiber from Verizon and there never will be fiber from Verizon. In addition, wireless service – including fixed wireless riding on Verizon’s LTE network (i.e., Voice Link) – is not a ubiquitous option and provides inferior E911 access and reduced functionality (discussed further in Section VI). Importantly, like FiOS, during prolonged power outages Voice Link service will cease to function since most back-up batteries currently provide power for only four hours.

⁴⁴ *Communications Daily*, May 13, 2013, p. 10, op. cit.

⁴⁵ See, for example, “First Phase Of Verizon FiOS Build Coming To An End, Company will now focus on improving uptake in existing markets,” DSL Reports.com, January 2, 2010 <http://www.dslreports.com/shownews/106349>

With respect to customer migration to both FiOS and Voice Link, it cannot be emphasized enough that it is Verizon's purposeful failure to adequately maintain its network and perform necessary repairs that drives Verizon's customer migration policy and unethical business practices. These actions violate Verizon's obligations under the PU Code, the Commission's rules and the requirements of Verizon's CPCN.

VI. VERIZON CUSTOMERS ARE HARMED BY FORCED MIGRATION TO FIOS OR VOICE LINK.

Verizon's practice of allowing its copper network to deteriorate and then attempting to migrate basic telephone service customers to either FiOS or Voice Link without notice, explanation or choice is harmful to the public.

FiOS is a VoIP service under PU Code § 710. Therefore, it is likely that Verizon will argue that customers who are migrated from copper-based landline service to FiOS lose many of the regulatory and universal service protections they receive as non-VoIP landline telephone service customers. The only remaining regulatory protections for FiOS phone service customers are contained in a small list of narrow exceptions, with deregulation being the rule. For example, the Commission can only respond *informally* to customer complaints regarding FiOS (PU Code Sec. 710.(f)); the Commission likely has limited/no authority to require Verizon to provide FiOS service at just and reasonable prices (PU Code Sec. 710 (b)) It is unclear whether customers migrated to FiOS phone service would receive the regulatory protections applied to copper-based basic phone service, and as discussed below, the Commission does not currently have the authority to require Verizon to provide more robust battery back-up power to ensure that phone and data services continue to work during lengthy power outages, courtesy of SB 1161 (PU

Code Sec. 710 (c)(6)).

Voice Link is a new type of fixed wireless service that is inferior to non-VoIP landline service in a number of key respects. As discussed in more detail below, the deficiencies of Voice Link compared to copper-based landline phone service are numerous. In the aftermath of Hurricane Sandy, a storm that heavily damaged communities in Verizon's service territory in New Jersey Barrier Islands and parts of Fire Island in New York, Verizon attempted to replace its landline, copper-based phone service with Voice Link. Verizon subsequently filed applications with the FCC, proposing to discontinue providing domestic telecommunications service in these locations, and substitute Voice Link in its stead.⁴⁶ In response to political pressure stemming from immense public dissatisfaction with Voice Link, Verizon has since indicated that it will deploy FiOS in addition to Voice Link in some parts of Fire Island.⁴⁷

TURN has reviewed Verizon's proposed tariff filings, and the pleadings and public comments filed in a proceeding before the New York Public Service Commission,⁴⁸ Verizon's FCC applications and the comments and ex partes filed in response, and AARP's request for an investigation in New Jersey. In reviewing Verizon's tariff filings in New York, the New York Public Service Commission stated that Voice Link service is "materially different" from copper-based landline service, noting that Voice Link is incompatible with fax machines, medical alert and home security monitoring systems and

⁴⁶ Before the Federal Communications Commission, WC Docket No. 13-149, Comp. Pol File No. 112, WC Docket No. 13-150, Comp. Pol File No. 1115, 214 Applications of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services.

⁴⁷ See, for example, "Verizon Reverses Fire Island Stance, Offers Fiber Service," *Bloomberg*, September 10, 2013, [Verizon Reverses Fire Island Stance, Offers Fiber Service](#)

⁴⁸ State of New York Public Service Commission, Case-13-C-1097 – "Tariff filing by Verizon New York to Introduce language under which Verizon could discontinue its current wireline service offerings in a specified area and instead offer a wireless service as its sole offering in the area."

credit card machines. Digital Subscriber Line service (“DSL”), is not available with Voice Link. Unlike Verizon’s landline services, Voice Link service requires the use of mandatory 10 digit dialing within an area code. Voice Link does not allow customers to make calls to “certain specialized area codes, such as 900 or central office codes, such as 976 or 950.” Voice Link will not allow customers to accept collect calls and calls cannot be made to the operator by dialing “0.”⁴⁹ Verizon’s Voice Link Terms of Service for New York state that the service “is not compatible with fax machines, DVR services, credit card machines, medical alert or other monitoring services or High Speed or DSL Internet services.”⁵⁰

In public comments to the NYPSC, Suffolk County First Responders and the Elected Officials in 68 Municipalities raise significant concerns about the provision of 9-1-1 service over Voice Link. They note that customer location information programmed into a Voice Link unit becomes unreliable if the customer moves and takes the Voice Link unit with them because there is no automatic updating of location information when a Voice Link unit is moved. The First Responders state:

Verizon’s most recent “Revised Terms of Service” (filed June 12, 2013) has an entire section - containing five distinct disclaimers – regarding “Limitations on 911 Emergency Services.” In addition to the limitations discussed above, the Terms of Service warn the customer that “using the Service may be subject to network congestion and/or reduced routing or processing speed.”⁵¹

The Elected Officials state:

Information about a customer’s location is not updated when a customer moves

⁴⁹ NYPSC Case-13-C-1097, Notice Inviting Comments, (Issued May 21, 2013), p. 2.

⁵⁰ Verizon Voice Link Terms of Service, 1.b. Attached to a June 10, 2013 letter from Verizon Deputy General Counsel – New York, Joseph A. Post to Jeffrey C. Cohen, Acting Secretary, New York State Public Service Commission.

⁵¹ See NYPSC Case 13-C-0197, July 2, 2013 Comments filed by Suffolk County First Responders, p. 1-2.

<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=42688#>

and brings the Voice Link equipment along. Although the Commission described Voice Link as remaining “stationary at one location in the customer’s premises,” it is Municipalities’ understanding that there is no obstacle to consumers taking their Voice Link equipment to new residences if they choose to do so. A consumer who relocates and who brings the Voice Link equipment will be “bringing” the geographic location of the original Voice Link location erroneously to the new location. If the customer then calls E-9-1-1 from her new home, the 9-1-1 agency will see the prior customer’s location. Further exacerbating this threat to public safety is the fact that many consumers receive paperless billing, meaning that Verizon may not be aware that its consumer has re-located.

In sharp contrast with the limited capabilities of Voice Link, with wireline service, a customer’s 9-1-1 location is permanently and inalterably linked to the location to which the service is provided. Furthermore, with “conventional” mobile wireless service, a consumer’s wireless phone is programmed to transmit the user’s location of the nearest cell tower. With the more limited wireless capability of Voice Link, such information will not be communicated.⁵²

Further, as the New Jersey Division of Rate Counsel, the National Association of State Utility Consumer Advocates and TURN (“New Jersey DRC et. al.”) pointed out to the FCC, because the Voice Link service does not provide a broadband connection, it also is not compatible with Video Relay services.⁵³ Video Relay service is extremely important for members of the deaf and disabled community because it allows customers with learning disabilities to communicate using American Sign Language instead of texting.⁵⁴

Allowing Verizon to forcibly migrate copper landline basic telephone service customers to Voice Link would be detrimental to public safety and therefore contrary to the Commission’s obligation to ensure that services are provided in a manner consistent

⁵² See NYPSC Case 13-C-0197, July 9, 2013 Corrected Comments From Elected Officials in 68 Municipalities, p. 4, *emphasis* in the original, footnotes omitted.

⁵³ Before the Federal Communications Commission, WC Docket No. 13-149, Comp. Pol File No. 112, WC Docket No. 13-150, Comp. Pol File No. 1115, 214 Applications of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services, Initial Comments of The New Jersey Division of Rate Counsel, National Association of State Utility Consumer Advocates, and The Utility Reform Network, p. 11. For a description of how video relay service functions and its reliance on broadband, see <http://www.fcc.gov/guides/video-relay-services>

⁵⁴ For the FCC’s description of the importance of Video Relay Service see <http://www.fcc.gov/guides/video-relay-services>

with public safety as described in the Scoping Memo and OIR.

In addition, and very importantly, both Voice Link and FiOS rely on power supplied by the electric power grid. During a power outage both services rely on batteries at the customer premises, making both services less reliable than copper-based, non-VoIP landline service during lengthy power outages. This point was emphasized by the Suffolk County first responders and in the comments submitted to the NYPSC by Elected Officials in 68 Municipalities. The Elected Officials stated:

Voice Link is not as reliable as is Verizon's conventional copper-based telephone service. Except in rare instances, Verizon's copper-based service continues to operate during power outages. Consumers' ability to reach public safety is always essential and, during black-outs and other extreme weather conditions, arguably even more so.⁵⁵

As noted above, Verizon will likely claim that pursuant to PU Code Section 710(c)(6) the Commission currently does not have the authority to require Verizon to upgrade its battery back-up either at the customer premises or network power back-up for FiOS. Thus, when Verizon deliberately allows its copper network to deteriorate, it leaves customers little choice and customers who desire the robust level of reliability afforded by copper-based basic telephone service will lose the right to choose the service, that when properly maintained, is most likely to continually function during prolonged power outages.

As discussed below, customers in the areas of New York and New Jersey, where Verizon is attempting to discontinue providing copper-based landline phone service and force customers to move to Voice Link, are vehemently opposed to Verizon's proposal.

⁵⁵ See NYPSC Case 13-C-0197, July 11, 2013 Corrected Comments from Elected Officials in 68 Municipalities, p. 3.
<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=42688#>

The NYPSC web site pages dedicated to Verizon's Voice Link proposal lists over 1,700 public comments. In poring over these pages, one is hard pressed to find a single commenter who supported Verizon's plan. The practice of deliberately allowing the regulated network to fall into disrepair and then using that as an excuse to move customers to Voice Link eliminates a competitive choice that customers value highly.

Verizon's objective is to let its regulated copper network deteriorate to a level that is beyond repair. As the network deteriorates and customers experience problems, Verizon will try hard to push customers off of its regulated landline phone service and over to either unregulated FiOS or Voice Link, a service that is clearly inferior to copper-based landline phone service. The upshot is that customers who would rather continue to receive regulated, copper-based landline service lose that option.

VII. VERIZON'S PRACTICES IN CALIFORNIA ARE PART OF A NATIONAL STRATEGY, AS EVIDENCE BY ITS ACTIONS IN NEW YORK, NEW JERSEY AND THE DISTRICT OF COLUMBIA

Verizon's actions in California are part of a national corporate pattern of failing to maintain and repair its copper network. This pattern became abundantly clear with Verizon's refusal to repair copper-based service in the District of Columbia (D.C.) and Verizon's attempts to forcibly migrate customers to Voice Link following Hurricane Sandy.

A. Verizon Forced Migration to FiOS

A recent order issued by the Public Service Commission of the District of Columbia (PSCDC) affirms that Verizon's practice in California of refusing to repair copper-based service and using calls to repair centers as a means of migrating customers to fiber services was also implemented in D.C. Order No. 17313 was issued December 9,

2013, following an investigation into the reliability of Verizon's Washington, D.C. telecommunications infrastructure, initiated pursuant to a petition by the Office of People's Counsel (OPC).⁵⁶ The investigation examined key service quality issues, including whether a service degradation problem exists, whether Verizon adequately maintains the copper infrastructure in place and serving customers and the customer service training implemented for customer service representatives by Verizon D.C.⁵⁷ Key allegations raised by OPC in its petition and by members of the community in comments and statements to the PSCDC were virtually identical to the issues raised by TURN in this motion - namely, Verizon deliberately let its D.C. network deteriorate and when customers requested repair, Verizon moved them over to fiber instead of repairing their copper-based phone service.⁵⁸

In Order No. 17313, the PSCDC determined that there were deficiencies in Verizon DC's maintenance, repair times, repeat trouble rate, training of technicians and customer service. The PSCDC found that Verizon DC did not fully comply with the terms of its 2008 price cap settlement agreement which requires Verizon DC to "maintain the copper infrastructure in use and serving customers."⁵⁹ With respect to customer service the Order No. 1713 directed Verizon DC:

[t]o review its training materials to ensure that its customer service representatives are not making it unnecessarily difficult for copper service customers to obtain the repairs they are requesting and to make adjustments to its training, where necessary, to ensure that all customers are receiving quality service over copper

⁵⁶ Public Service Commission of the District of Columbia ("PSCDC"), *Formal Case No. 1090, In the Matter of the Investigation into the Reliability of Verizon Washington, DC's Telecommunications Infrastructure*, Order No. 17313, Rel. December 9, 2013.

⁵⁷ PSCDC, *Formal Case No. 1090, Order No. 17389*, February 24, 2013, para. 2.

⁵⁸ See, for example, Response of the Office of People's Counsel in Opposition to the Application of Verizon, DC Inc.'s Application for Reconsideration of Order No. 17313 (PUBLIC), January 15, 2014, p. 10-13.

⁵⁹ PSCDC, Order No. 17313, paras. 270, 348.

facilities without undue marketing pressure to change to fiber facilities or FiOS service.⁶⁰

Verizon was also directed to submit a remedial plan to address service quality issues.

Verizon appealed the order. In rejecting Verizon's contention that the commission erred, the PSCDC stated, "there is substantial evidence in the record to support the Commission's finding that Verizon DC is not maintaining the copper network."⁶¹ Furthermore, the PSCDC rejected Verizon's contention that the requirement to review and potentially adjust training scripts was unsupported by record evidence.⁶² The PSCDC forcefully rejected that contention:

However, the Commission's directives to Verizon DC regarding its customer service representative training materials address issues that are related to the maintenance of the copper infrastructure for those customers who are still receiving services over copper facilities. Through these directives, the Commission seeks to ensure that customers who have copper service that needs to be repaired are not directed to other services in lieu of having their copper service repaired.⁶³

B. Forced Migration to Voice Link

Documents filed at the New York Public Service Commission ("NYPS"), the New Jersey Board of Public Utilities ("New Jersey BPU") and the Federal Communications Commission demonstrate that Verizon is using Sandy as an opportunity to implement its corporate strategy of allowing the copper to deteriorate, refusing to repair its infrastructure, and attempting to force customers to migrate to Voice Link.

⁶⁰ PSCDC, Formal Case No. 1090, Order No. 17389, op. cit., paras. 41, 42.

⁶¹ PSCDC, Order No.17389, op. cit. para. 32.

⁶² Id., para 35.

⁶³ Id., para. 42.

In the aftermath of Sandy, Verizon failed to repair its facilities for several months, and then approached the NYPSC proposing to replace its damaged copper facilities with Voice Link wireless service, and requesting expedited approval and a waiver of newspaper publication so that it could restore telephone service on Fire Island “as rapidly as possible.”⁶⁴ And as noted above, Verizon has filed an application at the Federal Communications Commission seeking authority to discontinue traditional landline service in these areas, rather than rebuild the infrastructure.⁶⁵ However, the New York Attorney General’s office (“NY AG”) and CWA District 1 have provided evidence that Verizon is violating the terms of a New York Public Service Commission (“NYPSC”) Order granting limited authority for Verizon to offer Voice Link *only in areas where landlines were lost due to Sandy*. The NY AG and CWA District 1 have shown that Verizon is telling customers in other rural areas of New York State *not impacted by Sandy* that Verizon will not repair landline facilities and, instead, customers will be migrated to Voice Link.⁶⁶ The NY AG has argued that the circumstances cited by Verizon as a reason to replace copper facilities with Voice Link is a situation of Verizon’s own making:

It is clear that Verizon is leveraging the storm damage from Sandy as part of its long-term strategy to abandon its copper networks by substituting Voice Link for POTS service on western Fire Island and forcing customers to accept wireless Voice Link wherever it does not build FiOS. Verizon’s failure to make prompt repairs to its Fire Island facilities during the seven months following Sandy left the

⁶⁴ May 3, 2013 Verizon tariff filing, cover letter to Jeffrey Cohen, Acting Secretary, NYPSC, from Keefe B. Clemons, Verizon General Counsel - Northeast Region.

⁶⁵ Before the Federal Communications Commission, In the Matter of Section 63.71 Application of Verizon New York Inc. and Verizon New Jersey Inc. For Authority Pursuant to Section 214 of the Communications Act of 1934, As Amended To Discontinue Provision of Service, Section 63.71, Application of Verizon New York Inc. and Verizon New Jersey Inc., WC Docket No. 13-149 Comp.-Pol File No. 1112 and WC Docket No. 13-150 Comp. Pol File No. 1115, Filed/Accepted June 7, 2013.

⁶⁶ See, State of New York, Office of the Attorney General, *Emergency Petition of New York Attorney General Eric T. Schneiderman for an Order Preventing Verizon From Illegally Installing Voice Link Service in Violation of Its Tariff and the Commission’s May 16, 2013 Order.*

Commission little choice but to provide temporary approval of Voice Link so that customers would have some form of telephone service during the 2013 summer beach season. However, this “temporary approval” should not be expanded to allow Verizon to avoid its ILEC obligations permanently, on Fire Island or anywhere else in New York.⁶⁷

Similarly, with respect to the New Jersey barrier islands, as New Jersey DRC et. al. documented in comments to the FCC, other utilities serving the area – including cable companies - suffered extensive damage to infrastructure during Hurricane Sandy. Yet they repaired their networks and restored service. And, “[o]nly Verizon, without evidentiary support, is seeking to jettison its obligations to provide safe, proper and adequate service to the public.”⁶⁸ Moreover, XO Communications has submitted evidence to the FCC demonstrating that Verizon misrepresented the facts regarding the extent to which copper plant in significant buildings located in Manhattan was damaged beyond repair by the hurricane. In fact, according to XO, much of the plant was still functional and certainly capable of being repaired, and Verizon has attempted to use Sandy as a pretext to eliminate its provision of copper-based services essential for competitors (and their customers) and replace the plant with fiber that is not subject to competitive requirements that apply to copper facilities.⁶⁹ All of these pieces put together point to one thing: Verizon is trying to use the damage inflicted by Hurricane Sandy as a means of

⁶⁷ NYPSC CASE 13-C-0197, Comments of Eric T. Schneiderman, Attorney General of the State of New York, July 2, 2013, p. 10-11.

⁶⁸ Initial Comments of New Jersey DRC et. al. to the FCC, p. 21 and Attachment A.

⁶⁹ Before the Federal Communications Commission, In the Matter of: Petition of BellSouth Corporation for Special Temporary Authority and Waiver To Support Disaster Planning and Response, Petition of Verizon for Special Temporary Authority and Waiver To Support Disaster Planning and Response, Petition of Qwest Communications International Inc. for Special Temporary Authority and Waiver To Support Disaster Planning and Response (WC Docket No. 06-63), and Petitions for Rulemaking and Clarification Regarding the Commission’s Rules Applicable to Retirement of Copper Loops and Copper Subloops (RM-11358), XO Communications Services, LLC’s Objection to Verizon’s Invocation of the Limited Waiver and Special Temporary Authority Granted in the Order Issued *In the Matter of Petition of BellSouth Corporation for Special Temporary Authority and Waiver To Support Disaster Planning and Response* and Request for a Cease and Desist Order, July 1, 2013.

furthering its ambition to “kill the copper” and avoid its legal obligation to properly maintain and repair its network.

The behavior of Verizon in D.C., New York and New Jersey is directly related to the situation in California because Verizon is employing similar practices here, as explained in Section IV and V. In California, D.C. and in the areas damaged by Sandy, it is clear that Verizon is implementing its national corporate objective of deliberately allowing its regulated copper network to deteriorate and using the resulting service problems to force customers to migrate to other services that are either not regulated or are less functional than copper-based voice phone service. The Commission must take immediate action to protect the interests of Verizon’s California customers and prevent further degradation of Verizon’s copper-based landline network.

VIII. THE COMMISSION SHOULD IMMEDIATELY TAKE THE FOLLOWING ACTIONS TO PROTECT THE INTERESTS OF VERIZON’S CUSTOMERS AND PREVENT FURTHER DETERIORATION OF VERIZON’S NETWORK.

Verizon’s failure to properly maintain its network and repair service as requested by its customers is deeply harmful to the public interest. TURN urges the Commission to take immediate steps to prevent further deterioration of Verizon’s network and to protect the interests of Verizon customers.

TURN requests that the Commission take the following actions.

- The Commission should issue an order requiring Verizon to: 1) repair the service of copper-based landline telephone service customers who contact the repair center; 2) restore copper-based service to customers who wished to retain it but were migrated to FiOS or Voice Link; and 3) cease the deceptive and misleading marketing practices reported by

Verizon customers in their complaints to the Commission. (See Attachment 1 and Section V of this motion.)

- The Commission should investigate whether, and to what extent, Verizon’s customer migration practices and failure to maintain the copper network in certain communities take unfair advantage of senior citizens, customers on low incomes and limited English speaking populations.
- The Commission should require Verizon to provide data, by location, on the number of customers who have been migrated and where the data indicates even minor concentrations of customer migrations, those areas should be included in the examination into the adequacy of Verizon’s network maintenance and investment described in the September 24, 2012 Scoping Memo.
- The Commission should determine whether a customer call to Verizon’s repair line results in Verizon generating a trouble ticket when the customer is voluntarily or involuntarily migrated. There are indications in the customer complaints that trouble tickets may not be generated in all instances. If this is the case, the data reported by Verizon pursuant to Commission service quality reporting requirements may be misleading and may understate Verizon service quality problems.
- The Commission should require Verizon to provide proof that customers who have been migrated to FiOS “receive the same voice service at the exact same monthly price” and continue to be “subject to the same regulatory oversight as the customer’s previous copper-based service” as previously represented to the Commission by Verizon.⁷⁰
- Once the Commission issues the order for Verizon to cease and desist its misleading marketing practices, Verizon should be required to submit to the Commission all information provided to customers pertaining to customer migration and all training material, customer representative scripts, technician scripts and other directions to Verizon employees regarding its copper repair and customer migration practices.
- The Commission should verify whether Verizon has complied with the requirements of D.10-01-026 and provided customers migrated to FiOS or Voice Link with mandated information on back-up power requirements for these services to function during power outages.

⁷⁰ R.11-12-001, Reply Declaration of Thomas Maguire for Verizon California, March 12, 2012, para. 8. (“Maguire Declaration”).

- The Commission should move promptly to prevent further unlawful deterioration of Verizon’s network. In accordance with the Scoping Memo in this docket, the Commission should move as quickly as possible to fully investigate whether Verizon (and AT&T) is adequately maintaining it’s copper network. This requires issuance of the RFP as described in the September 24, 2012 Assigned Commissioner’s Ruling and Scoping Memo. In preparing the RFP, the Commission should ensure that the scope of the investigation encompasses the issues raised in this motion.

- As part of the Commission’s investigation, Verizon should be required to provide the CPUC with data regarding the number of employees transferred to Voice Link and hired to provide Voice Link. Verizon should be required to provide CPUC with data regarding the expenditures for customer migration and investment in Voice Link so that the Commission can compare the resources Verizon has devoted to migrating customers with the resources Verizon has devoted to maintaining its copper-based basic telephone service.

IX. CONCLUSION

The Commission has an obligation to ensure that carriers such as Verizon maintain adequate facilities and provide reliable service. It is clear that Verizon is failing to adequately maintain its network and using deceptive practices in the course of migrating customers away from their preferred basic telephone service. The Commission should immediately take the actions recommended by TURN to prevent further degradation of Verizon’s network and protect the interests of Verizon’s customers

Dated: March 17, 2014

Respectfully submitted,

/S/ Regina Costa

Regina Costa
Telecommunications Research Director

Attachment 1

Complaints Provided to TURN by the Commission's Consumer Affairs
Branch, January 29, 2014

YEAR 2012

Month	Case Number	Comment
January	205545	<p>Complaint / Concern: I wish to maintain my landline copper wire telephone service and get FIOS installed in my home for internet and television. I have 3 telephone lines at the residence, (805) xxx-xxxx, (805) xxx-xxxx and (805) xxx-xxxx.</p> <p>Utility Comment: Verizon has a rule that if a home has FIOS installed for internet and television it must move the copper wire landline telephone service to FIOS.</p> <p>Request of CPUC: Copper wire landline telephone service works even during an electric power outage while FIOS service fails during an electric power outage.</p> <p>FIOS is an ip-based phone service that will fail if the internet fails. One of my telephones is rotary dial (pulse). FIOS telephone service does not support rotary (pulse) dialing. Landline allows seven digit dialing for local calls while FIOS does not.</p> <p>Utility Name: Verizon</p>
	203887	<p>Complaint / Concern: our condo complex changed to fios for cable only it is a bulk acc. i had an existing land line phone and internet serv thru verizon on the copper side. they told me i had to convert to fios for these services as they would no longer be maintaining the copper lines. i was only paying 45 monthly to verizon prior, fios quoted me 89.99 for same serice. i was told their is no reason why i couldnt keep my copper line services i had before with verizon other then they have just decided in my complex to not allow it . Im not sure what verizon is doing in my community is even legal. thanks for your attention</p> <p>Utility Comment: verizon would only say that in my community they would no longer be maintaining the copper lines, they tried to tell me that my hoa had signed up to convert all cable, phone and internet services to be fios. which the board denies, they only signed up to convert the cable to fios, everything else was an individual choice as to what services are offered in our area. also when i told verizon that i wouldnt switch to fiosthey didnt inform me iwould loose my ability to have the same phone # that i have had for 9 years , i was told that i have a legal right to maintain my same phone # when i change phone company</p>
	205553	<p>Request of CPUC: look into what is going on with the fios service practices in my community, our board is having daily complaints from shareholders who feel they are being railroaded into switching everything to fios at a big increase in price.</p> <p>Utility Comment: My wife called for me and was put on hold, transferred multiple times and spent a total of over an hour and a half and no one helped her. Miraculously somehow the modem turned back on and have been able to use today. We honestly think Verizon is flipping switches or something and feel they need to be investigated. The internet is only on intermitently. They have also been hounding us weekly to switch to FIOS. Apparently we have no choice as what we currently have does not work, nor does the company want to resolve their issues. That is why we are filing a formal complaint.</p> <p>Request of CPUC: We would like for the CPUC to review the Verizon territory (open it up so it is not territorial) and allow customers who are VERY dissatisfied with their service to be able to choose another service other than the cable company in our area. This has been ongoing for years and sooooo tired of it. Am actually contemplating seeking legal service counsel on t</p>

Complaint / Concern: Our home phone goes out every time it rains. In the 7 1/2 years weve lived in this house, weve complained about this about 10 times and had at least 4 service calls. The last Verizon tech explained that the equipment or lines in our neighborhood are old and that the only way to fix the problem permanently is to upgrade to Fios. Each time the phone is out for about a week. I have great trouble even reporting the problem (long hold times on the phone, Verizon troubleshooting website wont even recognize the phone # as a Verizon phone #, live chat person says he cant help with service issues, etc etc etc.) The last live chat person suggested I go next door to a neighbors house to call Verizon to report the problem. Pretty funny. I attached a Word doc with screen shots of the transcript of the last live chat. (Where Verizon web site said I could

Utility Comment: They have no explanation.

Request of CPUC: I would like Verizon to fix to lines or equipment that provides our phone service so that we wont be without a home phone for long stretches throughout the winter.

January = 4

February 209246 Complaint / Concern: Verizon refuses to repair copper line telephone
Utility Comment: They insist to change over to FIOS package with 444 long distance service.

Request of CPUC: Remind them that customers need not be bullied around and that they are thus are performing unethical practices subject to fines.

Utility Name: Verizon

Complaint / Concern: Bad telephone connection reported to Verizon at 1-888-558-1565 on February 2, 2012. In spite of repeated complaints, promised repair cancelations and reneged repair schedules by Verizon, I am still having

Utility Comment: They insist on installing a 444 long distance FIOS package that I dont need which will ultimately be more expensive than the simple installation of a watertight seal at the present Copper wire connection which will solve the present condition as explained to me by their Fiber Network Field Tech. I placed numerous calls with Verizon including calls into a Missouri Office but either got disconnected, transferred to different departments or plainly ignored. I have had an unannounced visit from their subcontractor E-Link. They wanted to dig and trench from the side walk next to a LIVE gas line without city permit. I contacted Cerritos City Hall and their engineer Fred was very concerned about that and advised me not to allow them to proceed. The crew left and Verizon

Request of CPUC: Fine Verizon for coercion, strong arm and unethical practices and force them to serve their customers appropriately, deliver reliable service without hassling the customer and adjust their bill to compensate for non provided daily service. I should not do their scheduling and planning nor should I provide them with quality assurance and city or other code and regulatory requirements. I have not been contacted by any Verizon representative to explain the scope of the work involved and who is responsible for the different construction phases. I have therefore canceled all services with Verizon and

Complaint / Concern: On April 12 2012 I called Verizon customer service in order to transfer my landline service as we are moving across town at the end of this month. I was then informed that Verizon starting this month will no longer provide just landline service and you also need to purchase their Fios internet also. I have been on the Lifeline program for over 7 years and now they are forcing me to get their internet as well. I can not afford Fios. This is wrong and they need to stop this as the apartment we are moving to only has Verizon as a Utility Comment: They said there is nothing they can do.
Request of CPUC: To inform/regulate Verizon that low income families need Lifeline so in case of emergencies we have a way to call for help. I would think this practice goes against with what Verizon signed in order to be able to have Lifeline. Once again another corporation trying to make money from the poor.

February = 2

Complaint / Concern: I received a letter that said that "There have been landline service issues in your area recently and we want to apologize if you have been inconvenienced. Network reliability and your experience as a Verizon customer are important, and thats why Verizon needs to transition your service to the most advanced technology available--fiber optics." When I called to schedule an appointment, as the letter said, I find that they basically have lied on the letter and just was to put fiber optics in, even though I do not want to get Fios. I dont have to subscribe to it but then again, why would I want to have it installed if I Utility Comment: Just that I didnt have to get Fios, they just wanted to install the equipment so that it was there should I change my mind in the future.
Request of CPUC: Have them cease and desist from sending misleading letters that look like they want to upgrade my existing service to serve me better

Complaint / Concern: Verizon has suspended my grandmothers telephone service due to the fact that she has not upgraded to their FiOs service. She pays her bills on time and just does not wish to have this service. She is an elderly woman and does not wish to be forced into having something that is one, falsely represented and two, something she does not require.
Utility Comment: It is not a true FiOs system and it is what is called fiber to the source. This is not a true fiber optics system. It is being falsely advertised as such. Unless they rewire her entire home, it is not what they are claiming. They said unfortunately she will be without service unless she converts.
Request of CPUC: Dont let Verizon force customers into taking a service that is not needed. Make sure they provide the services that were paid for without

Consumer Writes: "On April 12 2012 I called Verizon customer service in order to transfer my landline service as we are moving across town at the end of this month. I was then informed that Verizon starting this month will no longer provide just landline service and you also need to purchase their Fios internet also. I have been on the Lifeline program for over 7 years and now they are forcing me to get their internet as well. I can not afford Fios. This is wrong and they need to stop this as the apartment we are moving to only has Verizon as a

Utility Comment: They said there is nothing they can do.

Request of CPUC: To inform/regulate Verizon that low income families need Lifeline so in case of emergencies we have a way to call for help. I would think this practice goes against with what Verizon signed in order to be able to have Lifeline. Once again another corporation trying to make money from the poor.

March = 3

April = 0

Complaint / Concern: I called repair because my phone had terrible static. Appt. sched. for Sat. 5/26. i got an email and text stating they would be at my home to fix the problem between 8-noon. no show, at 3:20pm i called, ticket was on hold to install Fios! I never requested or was told about fios. This a.m. someone came out, fixed the statis, restored my old copper line to work but said i had to get

May 225475

Verizon to cancel the fios order or id loose everything he did. This morning i called the number that was provided to me by the verizon repair guy, i held for 2 hours and my husband held for 1 hour while they supposedly fixed the problem, not fixed, no phone at all now!! Tonight, I held again and kept getting switched from one dept to the next, talked to someone then get disconnected. We keep getting the run around, nothing fixed, they had my call back number and no one

Utility Comment: see above, no help, they keep blamiing it on differencnt dept.s within verizon but that doesnt get my phone fixed. my home line 714-xxx-xxxx is Request of CPUC: please contact verizon and have them fix my home line 714-xxx-xxxx!!! i dont know where else to turn. my husband had major open heart surgery a few months ago. this is the only line our drs have to contact him and verify appts. verizon is aware of this but obviously doesnt care!!

May = 1

June 226294

consumer is seeking to have verizon cease solicitation of fios and to correct/assure quality of service-

227745

Complaint / Concern: My phone and internet will be converted to FIOS service. Utility Comment: That this is "Forced Migration" and if I do not accept I will be disconnected and must find another service provider.

Request of CPUC: Stop it.

Utility Name: Verizon

228780

A person named xxxxx from Verizon is threatening that if we dont switch over to digital and get rid of copper that their response time for fixing any phone problems will go from 1 to two days too two weeks.

I assume they must be doing this with all businesses. I thought the Public Utility Commission should know that Verizon is trying to pressure their customers into making a change based on withholding repair services for two weeks.

Since they have a monopoly on local phone service this seems to be against public policy and not in the best interest for consumer protection.

June = 3

July = 0

August = 0

consumer is told they must migrate to fios or the service they have will remain impaired-

Complaint / Concern: I got this letter from Margaret Serjak, California Region President of Verizon telling us that we need to transition our existing service to their fiber optics (FIOS) to resolve the landline service issues in your area. This transition will be no charge to us and we keep our current service at the same rate by calling their representative.

September 239620

Utility Comment: I called this number 877-505-5190 today (9/3/12) and spoke to Steve. According to him, all they are going to do is insert this fiber optics line to our current line but our current service will not get connected to it if we elect to keep it. The only time we will get connected is when we switch to FIOS.
Request of CPUC: I think this is a classic bait and switch practice; the letter and their representative are telling us two different things. Ive been having this on going issue with Verizon since we moved in this area in 2007 just because I dont

September = 1
October = 0

Consumer Writes: " My concern is that Verizon is committing fraud by saying that certain services are "not available" in certain areas, even though those services clearly already exist. I currently have my copper wire home phone service and DSL Internet Service with Verizon. I wanted to upgrade my DSL speed from the current 0.5-1.0 Mbps speed to the higher 1.5-15 Mbps. Yet when I went to their web site to do this, they said this service was "not available" at any speed. How can it be "not available" if I already have this service? Further, I found that my telephone service as I have it now was no longer "available". The technology and infrastructure for the service I want is in place. They just dont want to do it and fraudulently state that its "not available"
Utility Comment: They told me very simply (through a web chat) that only the services listed on their web site for my address were the only services that were "available" (regardless of the fact that these services are already being delivered to my address). They said that if I wanted to upgrade or change any of the services I currently have, I would need to upgrade to their FiOS system, which would be much more expensive.

November 251251

Request of CPUC: Have them admit their fraud, and force them to continue making available the services that they clearly already have in place. If a service

November = 1
December = 0

TOTAL = 15

YEAR 2013

Month	Case Number	Comment
JAN	258489	<p>Complaint / Concern: Verizon is refusing to connect a home phone line to my existing copper lines coming to my property (Plain Old Telephone Service, POTS), they will only offer phone service through their Fios fiber optic system. The initial order was placed January 7 and after much discussion I was told at that time that they would connect through the copper lines as I insisted on this. Since that initial order they have sent 3 different service techs that only work with the Fios system, not the original copper lines. In the last two weeks I have talked with 37 different Verizon people and spent over 28 1/2 hours on the phone with them trying to resolve this.</p> <p>Utility Comment: I have been told so many different things by so many different people that I have lost track. The latest is that they will only connect a phone service through the Fios fiber optic system, even though the original copper wires still come to my house and are live, i.e. they have a voltage. All three of the Verizon Fios techs that have been here have told me that the copper lines can be used but Verizon is trying to remove them to eliminate options/competition by controlling everything through the Fios network.</p> <p>Request of CPUC: Help me to get the phone service connected through the original copper lines.</p>
	260172	<p>Complaint / Concern: My phone line for alarm service went dead intermittently one day causing the alarm to beep on and off, so I called Verizon Repair. I was forwarded to a Dept that tried to sell me upgraded service. I told them I was not interested. I scheduled a Repair Tech to come out. No one showed. Today Verizon tried to convert my phone to FIOS with a phony service request. My son is very sick after surgery. I NEVER ORDERED A PHONE UPGRADE. I learned that someone had falsified records at Verizon stating that I called repeatedly about trouble on line. In 15+ years I have never reported trouble. Verizon is falsifying reports as an excuse to upgrade service. They are intentionally doctoring records and causing problems to line to justify upgrade regardless of timing or problems. If not home today Verizon would have changed my phone service without permission, disrupting my phone and internet. They admit my internet modem/router wouldnt have functioned and my phone system would not have operated.</p> <p>Utility Comment: They have done absolutely nothing!</p> <p>Request of CPUC: To investigate the practices at Verizon to coerce customers to upgrade to FIOS by falsifying service reports and intentionally causing problems to lines. As well as frauduently scheduling service upgrades without the consent or knowledge of the customer. These actions are outrageous and quite likely illegal.</p>
	256604	<p>Received consumer's complaint that service was out for 12 days. Consumer states that it took almost 12 days for a technician to repair the service. She states that the reason for the delay is to try and get her to upgrade to FIOS, which she wishes not to have. She stated that due to the outage this caused for her router to be destroyed. Please see letter attached.</p>

Please investigate, contact consumer and respond to the CPUC with resolution.

January = 3

Feb 263807

Consumer contacted the CPUC Public Advisors Office about a matter with Verizon. He states the jacks in his apartment had been "dismantled" and made inoperable by Verizon in order to install FIOS. He says that he wants to keep the copper wiring and did not order phone or internet service only CABLE. He was told by the technician that he could not be switched back. He is adamant about keeping his service analog as VoIP is not a regulated service

FEB = 1

March 267321

Complaint / Concern: I WANT TO MAKE THIS CLEAR THAT THIS IS AN ISSUE OF TELEPHONE AND DSL SERVICE OVER COPPER LINES FOR WHICH THE PUC HAS JURISDICTION. I have had copper based phone line and/or DSL services with Verizon from 2006 to 3/12/13. On 3/12/13, I ordered new services from Verizon. Verizon came out the same day to install the new services. At the time, I did not know that Verizon removed my copper phone lines without my knowledge when I requested additional services. I was not made aware that they would be doing this and would not have agreed to it. The advertisements from Verizon state that if I am unhappy, I can cancel services anytime. I am unhappy with my new services and called Verizon today 3/18/13 to cancel services and get my old services back (copper land line and DSL). They told me that once I upgraded services I cannot go back because it was too costly for Verizon.

Utility Comment: Verizon told me there was no going back to my old services, that my copper lines were pulled from my house when I added services. (I looked outside and my copper lines are still there) Verizon stated that they will not convert customers back once this change was made as they are migrating people and it was too costly for Verizon to put back my previous services. This is not reasonable or fair. If I am unhappy with the service, I can cancel anytime and I should be able to go back to how things were. We had an internet outage last night and I was unable to use the telephone. If this was an emergency, we would have Request of CPUC: I never authorized Verizon to REMOVE my copper lines, only to add services. I am unhappy with the new services and want my old services put back. This is not impossible, just "costly" according to Verizon. This is fraud. They advertise that if you are unhappy with the services you can cancel anytime. However, they do not advise you that if you cancel, you will not be able to get your old services back, nor will you ever be able to obtain services from anyone else. I WANT MY ORIGINAL COPPER LAND LINE AND DSL REINSTALLED.

Complaint / Concern: My telephone has been out of order since early Dec. They sent out techs to fix it and it would work for a few days. Finally one tech said it was unfixable. They arranged for my service to be moved to the fiber optic Vios service. They placed conduit to my house and said the tech would come Jan.11. They had to cancel the appt. and said some one would call me. They have never called me. I have called them and made appt.s and the techs either do not show up or they are the wrong type and can not install my service. The bills come regularly though. I had my service disconnected today because I cant spend hours on the phone with them every week. My people in my neighborhood have this problem. Thank you.

Utility Comment: See above.

Request of CPUC: Fine them heavily.

Make them come out and install my service.

A personal apology from CEO Lowell C. McAdam.

March = 2

April

271319

CONSUMER VERY UPSET THAT VERIZON IS MARKETING "FIOS" TO CONSUMER'S IN AN UNETHICAL MANNER. THIS INCLUDES:

-MISREPRESENTING / DISGUIISING THE REAL REASON FOR MARKETING CALL, INSTEAD STATING IT WAS ABOUT A "ROUTINE MAINTENANCE / REPAIR ISSUE;

-NO CHANGE TO CONSUMER'S SERVICE;

-DIGGING A TRENCH ON THE CONSUMER'S PROPERTY;

-DRILLED HOLES INTO THE SIDE OF CONSUMER'S HOME AND RUNNING A THICK COIL UP THE SIDE OF HOME;

-UTILIZING CONSUMER'S WATER AND WATER HOSE WITHOUT PERMISSION;

-NO COST TO CONSUMER;

***CONSUMER SEEKS COMPENSATION FOR WATER THEFT, LOSS OF DESTROYED PLANT, REMOVAL OF VERIZON CABLE ON THEIR GARAGE, COMPLETE RESTORATION OF PROPERTY TO ORIGINAL CONDITION AND COMPENSATION FOR LOST WAGES.

LASTLY, CONSUMER WANTS VERIZON TO CEASE AND DESIST IN IT'S UNETHICAL TACTICS TO FORCE CONSUMER'S TO ACCEPT FIOS SERVICE****

269927

Complaint / Concern: Phone company changed my phone to a digital VOIP service without my consent and without informing me and will not correct their error.

Utility Comment: "Cannot go back" to previous phone service.

Request of CPUC: Force them to reinstate my previous phone service. Cite them for changing phone service without consent or notification and refusing to correct their mistake.

271319

consumer alleges that Verizon did not specifically say they were changing lines to "FIOS" but that only new lines were needed to improve transmission, and she NEVER requested nor ordered this service, regardless what Verizon claims; rather thought she was simply accomodating them to replace new lines only at their expense (maintenance, etc.,) which is what they stated was necessary.

April = 3

May 274947 Complaint / Concern: Verizon operates our telephone land-line. We pay for DSL Extreme for our internet connection. Lately we have been having trouble accessing the internet.

Utility Comment: When we call Verizon they apologize for the difficulty caused by their lines, and suggest that we switch to Verizon FiOS, which is more expensive than our current DSL connection. We believe it is a scam to force us into buying FiOS. Even if we did switch over to FiOS, we would have to have a section of concrete in the front yard destroyed and repaved in order to access Verizon FiOS.

We do not want FiOS, we have told Verizon "no" several times. Our internet accessibility continues to decline and is sometimes non-existent. Our concern is that they are deliberately allowing network issues to occur to force customers into buying their services. We are not the first family we know of with a Verizon phone line to experience this issues.

Request of CPUC: I would like the issue to be investigated to determine whether Verizon is abusing their duty to their customers in their position as a monopoly.

May = 1

June 281786 Complaint / Concern: I wish Margaret Serjak regional VP at Verizon was ethical in her marketing practices. Her company and staffers who work for the company lie to people in order to get people to switch to Fios. Her auto call says were sorry for phone line issues and we would like you to switch to Fios, but copper phone service is working ok for my family. I know Verizon has a fiscal interest to get people to switch over, but many people in our state are content with POTS (copper).

Utility Comment: Nothing, I did reach them through Facebook and their social media manager never sent a reply back.

Request of CPUC: Prohibit Verizon from sending emails or phone calls saying the phone service has issues when copper phone service is working all right. Misleading marketing is not ethical in trying to get people to switch over.

June = 1

July 284424 Complaint / Concern: NO PHONE SERVICE TO A 96 YEAR OLD WOMAN WHO LIVES ALONE

Verizon telephone service is upgrading the area to fios. They contacted my mother whos account) above I have referenced telling her that they were going to change her phone service from a copper line to fios on 7/25/2013. The technicians came and started the job but stopped half way and left the job undone. Her copper line phone service had been disconnected and she is without a phone. She is 96 years old. Last year she fell in the middle of the night she was able to call me and say my name. I went over to her house and she was near death. Had that happened last night I would have found her dead when I went over to her house because I could not reach her.

Utility Comment: I have spent in total over 3 hours trying to get someone who could get her phone service back. She does not have a cell phone as she is hard of hearing and cannot hear on one. I last night I got a run around as I did not have her account number. I finally got to a representative who tried to help but couldnt due to that catch 22, a supervisor was "too busy to be bothered with that problem" I called back this morning and was able to schedule a visit for this afternoon. When I called because no one showed up found out they had cancelled the order for today. I went through the automated phone system, had a representative who tried to help and she told me it would take until August 1st before they could come out. I asked for a supervisor and got the "billing" supervisor who said the same thing. He then connected me to Verizon cell phone service to get a cell phone for her.

Request of CPUC: I would like the CPUC to investigate and then heavily fine the company because if they can do this to my mother then the corporate mentality of for profit without a mortal compass wins.

July = 1

Complaint / Concern: Over the past several months, I have requested the start of non-fiber, PUC-regulated copper service that utilizes pre-existing (and available) copper wire pairs from the street, and that works with my pre-existing phone jacks.

August 290514 Utility Comment: They claim that because a Verizon installed an ONT box to provide video, as provided for by the HOA, they are now unwilling to allow copper service anymore, in an attempt to push customers over to fiber, which can be unregulated and must utilize only one single RJ-11 jack located inconveniently alongside the ONT box.

Request of CPUC: Order and direct Verizon Communications, as a natural monopoly and the incumbant carrier in the City of Long Beach, to connect POTS (plain old ttelephone service) using PUC-regulated copper lines that utilize my pre-existing phone jacks in my bedroom and living room area, and disregard the presence of the ONT box. This mixed service is called multi-media service.

Utility Name: Verizon Communications

August = 1

Sept = 0

Complaint / Concern: On Sep 21 the phone stop working. My understanding at time the Internet connect & TV was switched to FIOS was that the phone would stay on the copper line. The residents at this address are over 90 years old & I need the more reliable service & 911 access. When I called to explain that the phone stopped working I call the copper line repair. The person told me that the phone was now on FIOS & I would be transferred. I asked to speak with a supervisor & was put on hold for 1 hour & 45 minutes before I hung up. Later in the day the phone started to work.

October 296113 Utility Comment: I never spoke to a live person. I tried their chat, explained the problem, but the canned chat responses did not solve my problem.

Request of CPUC: 1. Verify that 310-375-xxxx is a copper line
2. If the line is FIOS have verizon change it to copper which was our original agreement.

3. I lost 2 billable hour, please have verizon compensate me for my lost income.
Utility Name: verizon

299060 Consumer says that he is on the do not call list and he continues to be contacted. He says that Verizon technicians have come twice to install FIOS which he has never requested. Consumer seeks to be removed from all lists. Please investigate his concerns. Contact both the consumer and PUC with your investigation results and a resolution.... Thank You

October = 2

Nov = 0

December 306393 Complaint / Concern: I was a customer of Verizon and in October, I called them to schedule a change of address because I was moving in November. It was agreed they would switch me over with no charge, but they did not provide TV service at our new home, so they said they would cancel that portion of our service no charge. They also told me I would have to switch from DSL to FIOS and add in a home phone line, even if I never used it, that was my only option. Over the next 2 weeks, I spent over 14 hours on the phone trying to get our internet working, they said they sent 4 technicians out, but twice they didn't show up and there was NEVER a technician in my home. I called and complained and they told me that they would not be able to get it to work and that they would cancel my service. I inquired further and they insisted and promised I would not receive a cancellation charge or ANY other related fees. Dec. 15th, I received a bill for \$206. 85 for cancellation fees and other related charges.

Utility Comment: I called Verizon right at 8:00am when they opened on December 16th, I spoke with 4 people before I found someone that said they would help me. I explained to her the problem and not only was she rude, she told me they were valid charges, that she was the only person that could help me and that she wouldnt be doing anything. I told her I was so upset and she told me my only option was to let it go into collections. That makes no sense! I would never ruin my credit on their behalf. I begged to talk to someone else or for her to listen to my story. She ended the conversation while I was still talking and then hung up on me. I called back again and the same thing happened. I am so upset. This seems to be the only option to voice my complain and have a chance at having the bill reversed.

305339 Complaint / Concern: On November 22, 2013 I requested to have Fiber Optics discontinued and restore COPPER Land Line Services. Fiber Optics does not work on LIFE ALERT and/or SECURITY Systems in a Power Outage.

Utility Comment: On the 22nd of November they submitted a work order to change FIBER to COPPER line. Verizon manager assured me it will take from a few minutes to 4 hrs to restore the COPPER line. However that was not the case. We were out of phone service for 4 entire days. I contacted Verizon about no phone service. Within minutes the phone service was restored. I asked them if the phone service was going to be the COPPER line. They assured me that it was going to be as ordered (Copper Line). Since November 22, 2013 I continue to have fiber optic line. I have called Verizon time after time and now it is unfortunate they say they cannot restore my line to Copper. Verizon has continued to deny my request and take me on a wild goose chase.

Request of CPUC: Have Verizon restore my Land Line to Copper

December = 2

Total = 17

EXHIBIT B

**BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to
Evaluate Telecommunications
Corporations Service Quality
Performance and Consider Modification
to Service Quality Rules.

Rulemaking 11-12-001

**AMENDED RESPONSE OF THE
COMMUNICATIONS WORKERS OF AMERICA, DISTRICT 9, ON THE
EMERGENCY MOTION OF TURN URGING THE COMMISSION TO TAKE
IMMEDIATE ACTION TO PROTECT VERIZON CUSTOMERS AND
PREVENT FURTHER DETERIORATION OF VERIZON'S LANDLINE
NETWORK**

April 16, 2014

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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PREVENT FURTHER DETERIORATION OF VERIZON'S LANDLINE
NETWORK**

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, and the Administrative Law Judge's ruling extending time for filing responses to this motion, the Communications Workers of America, District 9 ("CWA"), respectfully submits this Response to TURN's Emergency Motion Urging the Commission to Take Immediate Action to Protect Verizon Customers and Prevent Further Deterioration of Verizon's Landline Network ("Motion").

I. CWA SUPPORTS TURN'S MOTION AND REQUESTED RELIEF

Verizon has a statutory duty to furnish and maintain adequate facilities necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.¹ This proceeding focuses on the adequacy of Verizon's (and AT&T's) service and whether it is providing reliable telecommunications

¹ Pub. Util. Code § 451.

service of sufficient quality to ensure public safety and meet its obligations under state law and Commission directives.²

In its Motion, TURN asserts that Verizon is “engaging in business practices that are contrary to its statutory obligation to provide adequate service and harmful to the interests of its California customers.”³ TURN provides examples of Verizon deliberately neglecting the repair and maintenance of its copper network in order to migrate customers off of the copper network and onto fiber. CWA, in this Response, provides more evidence of Verizon’s practice of forcibly migrating customers onto fiber.

Fiber networks provide new and improved advanced digital services that benefit consumers, businesses, and public institutions. CWA supports Verizon’s expansion of its fiber-based high-speed broadband and video FiOS service to homes, businesses, and institutions. However, Verizon has stopped its FiOS build, leaving many customers in its service area on the wrong side of the digital divide. In those areas in which Verizon has deployed its fiber network, it is now forcing customers onto its fiber network and Voice Link without the Commission having full knowledge of the effects of that migration on its customers. CWA believes *forced* migration from copper to fiber without the benefits of regulatory oversight to protect consumers is premature. Any migration to non-copper networks must require full disclosure about that network’s capabilities while providing regulatory oversight to ensure consumer protections. As CWA explains below, the Commission should

² Scoping Memo, p. 9.

³ TURN Emergency Motion, p. 2.

require Verizon to participate in the FCC’s technology transitions trial prior to any *forced* migration from copper to fiber or Voice Link. Therefore, CWA supports TURN’s Motion and asks the Commission to grant the requested relief in order to protect Verizon’s customers.⁴

II. VERIZON IS FORCIBLY MOVING CUSTOMERS OFF OF COPPER

TURN’s Motion provides evidence from customers showing that Verizon is actively implementing a strategy to forego necessary copper network maintenance and force phone service customers onto fiber.⁵ In fact, CWA members who are Verizon employees are currently being trained to use the “Fiber is the Only Fix” process, which mandates that Verizon’s fiber network (FiOS) is the only repair solution for voice only customers who are frequently impacted by service trouble on the copper network and are eligible for fiber service.⁶

The “Fiber is the Only Fix” process requires that copper-based landline customers who have two or more repair dispatches in one year are tagged as “chronic” customers.⁷ Customers who are in close proximity to each other and are in a FiOS–eligible area and the area requires at least one repair dispatch per year are tagged as “cluster” customers.⁸ If a chronic or cluster customer calls for a repair, a “ghost” migrate order is created in addition to the trouble ticket.⁹

⁴ *Id.* pp. 32-34.

⁵ *Id.* pp. 11-20.

⁶ Attachment A, Declaration of Ellen West, ¶ 4, 5.

⁷ *Id.*, at ¶ 6.

⁸ *Id.*

⁹ *Id.*

When a tagged chronic or cluster customer calls for a repair, a Verizon employee will offer to transfer the customer to FiOS and advises the customer that the FiOS service will not change the customer's current voice services, calling plans, or rates.¹⁰ At that time, if the customer refuses to migrate to FiOS, a Verizon representative will advise the customer that Verizon is no longer repairing copper lines in that area, so the only option is to migrate to fiber.¹¹ If the customer still refuses to migrate to fiber, Verizon will disconnect the customer's service within 15 days.¹²

Verizon's practice of forcing copper-based landline customers off of the regulated copper network and onto fiber may harm customers who seek the security of the copper-based phone service. Indeed, TURN's Motion contains several complaints from customers who are unaware that fiber telephone service may provide different services.¹³ In fact, FiOS depends on back-up power in a power outage.¹⁴ As statutorily mandated, Verizon should fully disclose the fiber network's capabilities and limitations as compared to the copper network, especially with regard to the back-up power feature. It is premature to forcibly migrate customers off of copper-based landlines and onto fiber, when the effects of the migration are unknown and the necessary consumer protections are not in place. Moreover, Verizon is engaging in deceptive practices, which may harm its customers and violates its statutory duties to provide adequate service.

¹⁰ *Id.* at ¶ 7.

¹¹ *Id.* at ¶ 8.

¹² *Id.*

¹³ TURN Emergency Motion, p. 19.

¹⁴ *Id.*, at p. 18.

III. VERIZON IS EMPLOYING VOICE LINK IN CALIFORNIA

TURN's Motion describes a fixed wireless service called "Voice Link," which has been deployed in several states, including New York and New Jersey.¹⁵ However, TURN does not know when Voice Link will be offered in California.¹⁶ As of December 31, 2013, Verizon had migrated 78 customers to Voice Link in California.¹⁷ While 78 migrations is not evidence of a state-wide expansion, it is evidence that the Voice Link exists in California. As TURN's motion documents, Voice Link offers inferior service to copper landline service. Voice Link service is incompatible with fax machines, credit card machines, medical alert and home security monitoring systems, does not allow DSL service, or allow a customer to accept collect calls or call the operator by dialing "0."¹⁸ Voice Link is also not compatible with Video Relay services for members of the deaf and disabled community.¹⁹ Most importantly, 911 services are unreliable if a customer moves the Voice Link unit to a new location.²⁰

If Verizon uses the same practice of forced migration onto the Voice Link wireless system that it currently uses onto the fiber network, Verizon customers will see a marked degradation in services. Verizon has stopped building out and installing FiOS and may deploy Voice Link where FiOS is unavailable²¹ The Commission must stop Verizon from forcing customers off of the copper-based

¹⁵ *Id.*, pp. 22-23.

¹⁶ *Id.* p. 20.

¹⁷ Attachment A, Declaration of Ellen West, ¶ 9.

¹⁸ TURN Emergency Motion, p. 24.

¹⁹ *Id.* p. 25.

²⁰ *Id.* p. 24.

²¹ *Id.* p. 21.

landline and onto Voice Link. Immediate action could nip this problem in the bud and stop an all-out statewide expansion of Voice Link and abandonment of the copper network, like Verizon attempted in New York after Hurricane Sandy.²²

VI. VERIZON SHOULD PARTICIPATE IN IP TRANSITION TRIALS AT THE FCC

In January 2014, the FCC initiated a proceeding inviting a diverse set of experiments and data collection initiatives that will allow the FCC and the public to evaluate how customers are affected by the technology transitions that are transforming our nation's voice communications services.²³ The proceeding asks providers to submit detailed proposals to test real-world applications of planned changes in technology that are likely to have tangible effects on consumers.²⁴ These voluntary service-based experiments will examine the impacts of replacing existing communications technologies with IP-based alternatives in discrete geographic areas.²⁵ In fact, AT&T has already proposed to conduct trials in two wire centers, one in rural Carbon Hill, Alabama and the other in suburban Del Ray, Florida.²⁶ In conducting these trials, the FCC will consult with the state public utilities commission affected by the trials, thus ensuring transparency and stakeholder involvement.²⁷

²² *Id.* pp. 29-30.

²³ *Technology Transitions*, et al. GN Docket No. 13-5 et al., Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Jan. 31, 2014.

²⁴ *Id.* at p. 4.

²⁵ *Id.*

²⁶ FCC, *Public Notice*, "Commission Seeks Comment on AT&T's Proposal for Service-Based Technology Transitions Experiments," Feb. 28, 2014 (rel).

²⁷ *Id.* at p. 13.

In order to determine how customers are affected by transitioning from a copper-based and time division multiplex (TDM) switched network to fiber or wireless networks, the Commission should require Verizon to join the FCC Technology Transition trials and propose a trial in a wire center located in California. Then the Commission can collect data on the effects of transitioning customers off of copper and onto fiber. This information will provide key information for adapting existing consumer protections for regulated copper service to those necessary during future migrations to fiber or wireless. Until then, Verizon should be prohibited from *forcibly* migrating customers onto fiber and Voice Link.

V. CONCLUSION

The Commission should grant TURN's requested actions as it is premature for Verizon to *forcibly* migrate customers onto fiber and Voice Link. The Commission should also require Verizon to join the FCC IP transition trial in order to gather data needed to protect Verizon's customers.

ATTACHMENT A

**DECLARATION OF ELLEN WEST
CWA, District 9**

I, Ellen West, declare the following:

1. My name is Ellen West. My address is 12215 Telegraph Road, Suite 210, Santa Fe Springs, CA 90670. My office phone number is 562-944-1300. My email address is ewest@cwa-union.org.
2. I am employed by the Communications Workers of America (“CWA” or “Union”) District 9 as the Area Director assigned to the Southern California Office. My duties include negotiating collective bargaining contracts; assisting Staff in grievances and arbitrations; supervising Union Staff Representatives and performing various daily administrative duties.
3. One of the duties I am assigned is the Bargaining and Daily Oversight of the Verizon Bargaining Unit. I interact with the Verizon Locals as well as Verizon Labor Relations on the day to day issues.
4. CWA members employed by Verizon have informed me that Verizon is training its technicians to forcibly move customers off of the copper network and onto FiOS through a process called “Fiber is the Only Fix.”
5. “Fiber is the Only Fix” mandates that Verizon’s fiber network (FiOS) is the only repair solution for voice only customers who are frequently impacted by service trouble on the copper network and are eligible for fiber service.
6. Copper-based landline customers who have 2 or more repair dispatches in a year are tagged as “chronic” customers. Customers who are in close proximity to each other and are in a FiOS-eligible area and the area requires at least one repair dispatch per year are tagged as “cluster” customers. If a chronic or cluster customer calls for a repair, a “ghost” migrate order is created in addition to the trouble ticket.
7. If a tagged chronic or cluster customer calls for a repair, a Verizon employee will offer to transfer the customer to FiOS and advises the customer that the FiOS service will not change the customer’s current voice services, calling plans, or rates.

8. If the customer refuses to migrate to FiOS, a Verizon representative will advise the customer that Verizon is no longer repairing copper lines in that area, so the only option is to migrate to fiber. If the customer still refuses to migrate to fiber, Verizon will disconnect the customer's service within 15 days.
9. By December 31, 2013, Verizon had migrated a total of 78 California customers to Voice Link.
10. I have personal knowledge of the facts and representations in the portions of the testimony sponsored and, if called upon to testify, could and would do so.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: April 11, 2014 Signed: Ellen West
At: Santa Fe Springs, Calif

EXHIBIT C



Telephone Carrier Service Quality Report

March 2011



**Communications Division
Report on Telephone Carrier Service Quality for the Year 2010**

I. Executive Summary

This report is prepared by the Communications Division (CD) pursuant to General Order (G.O.) 133-C §7 -Staff Investigations and Additional Reporting Requirements - which provides that staff may investigate any company that does not meet a minimum service quality reporting standard level, and any major service interruption, and may also recommend the Commission institute an investigation into a carrier's performance and alleged failure to meet the reporting service level for six or more consecutive months. There are no penalties if a carrier does not meet the minimum standards.

This report discusses telephone wireline carrier service quality in 2010 based on data submitted pursuant the 2010 G.O. 133-C, and AT&T-California's and Verizon California's service outages that resulted from rain storms in their respective service areas in Southern California beginning in late December 2010.

G.O. 133-C has five standards to measure telephone service quality that primarily apply to residential customers and small businesses with 5 or fewer lines: 1) Service Installation time (within 5-days), 2) Meeting Installation Commitments 95% of the time, 3) % of Trouble Reports per number of lines, 4) Out-of-Service Restoration Time (90% within 24 hours) for outages that were within the control of the utility, and 5) Answer Time to reach a live operator (80% of calls in less than 60 seconds). Measures 1-5 apply to the small local exchange companies (Small LECs) and measures 3-5 apply to the four large phone companies and competitive local carriers regulated under the Uniform Regulatory Framework (URF), collectively referred to as URF Carriers. Twenty seven wireline carriers (4 large, 8 CLEC, and 15 small LECs) submitted G.O. 133-C reports.

CD believes that the Trouble Ticket and Out-of-Service measures are the most important standards because they have public safety implications, relating to a customer's ability to make and receive calls. The following is a summary of carrier's performance in meeting the service quality standards, beginning with three standards that apply to all carriers.

Trouble Reports

All of the twenty seven wireline carriers met the Customer Trouble Report standard of between 6% and 10% per 100 lines, depending on the size of the reporting company.

Out-of-Service

This standard proved the most difficult for carriers to meet, with the small telephone companies reporting the best results, and the four URF ILECs having the worst performance. Only one URF ILEC, SureWest, met this standard of restoring service within 24 hours 90% of the time, and that was in just four out of twelve months. AT&T, Verizon and Frontier never attained the 90% standard, with ATT lagging the quartet with restoral rates in 2010 ranging from 33% to 54%.

Regarding the eight CLECs, only three met the standard in six or more months of the year, and the other five met the standard in three or less months of the year. Conversely, thirteen of the fifteen small LECs met the standard between 9 and 12 months of the year. Most notably, Ducor, Frontier of the Southwest, Kerman, Sierra and Siskiyou met the standard in all twelve months of 2010. The remaining two small LECs met the standard for at least half of the year.

Operator Answer Time

None of the URF ILECs were able to meet the Answer Time goal of routing callers to a live operator within 60 seconds for each quarter of the year, SureWest achieved the goal 3 of 4 quarters in 2010, Citizens and AT&T achieved the goal 2 of 4 quarters, and Verizon did not meet the standard in any quarter.

Five of the eight CLECs met the Answer Time standard in all four quarters of 2010. One company met the goal 3 of 4 quarters, one company did not meet it in any quarter, and one company did not report anything.

Only 9 of the fifteen Small LECs provided Answer Time data, for 2010. All 9 of these reporting companies met the Answer Time standard.

The following two standards apply only to the small LECs. Of the fifteen companies, fourteen reported for all twelve months of the year. Frontier Communications of the Southwest had been acquired by Frontier Communications from Verizon earlier in 2010, and only reported for the last six months of the year.

Installation Interval

All of the fourteen small LECs that reported for the full year met the standard of installing service in five days or less in each of the twelve months. Frontier Communications of the Southwest met the standard in each of the six months reported.

Installation Commitments

Eleven of the fifteen small LECs met the standard to keep installation appointments 95% of the time for each of the twelve months, and the remaining three companies that

reported for all twelve months met the goal in eleven of the twelve months. Frontier Communications of the Southwest met the standard in each of the six months reported.

Winter Rainstorms in Southern California

The rainstorms in late-December 2010 and early-January 2011 in Southern California caused severe flooding in the service areas of AT&T and Verizon and over 250,000 people lost telecommunications service. The time that it took to restore service in these areas was not reflected in AT&T's and Verizon's out-of-service restoration time statistics because these outages are considered to be outside of the control of the companies and excluded from the calculation. To respond to the high number of service outages that resulted from the storm, both companies reassigned staff to restore service. AT&T also increased overtime for field repair personnel and hired more seasonal employees in anticipation of more storms. Verizon made software enhancements to their dispatch system and increased employee training.

Differences in How Carriers Calculate Measures and Report Data

After reviewing the G.O. 133-C reports and raw data submitted by the carriers and additional storm-related information, CD observes that there are differing interpretations for the treatment of excluded events in calculating Out-of-Service intervals, particularly during states of emergency. There is no definition of when a state or emergency ends, allowing subjectivity in calculating service restoration times.

Some carriers like Verizon, incorrectly included data and video services in calculating Trouble Tickets and Out-of-Service repair intervals, which are only supposed to reflect voice services. Some carriers do not provide raw data, as required, or the raw data was incomplete. Finally the details in the raw data lack sufficient specificity to allow staff to reproduce the carrier's reported results and verify that the reported data was calculated in compliance with applicable rules.

CD's Recommendations

Given that the three of the five largest telephone wireline carriers in the state did not meet the Out-of-Service standard of restoring service within 24 hours 90% of the time in any month of the year, and other carriers had varying degrees of difficulty meeting this standard and the operator answer time standard, CD believes that a review of G.O. 133-C is needed. Due to the public safety aspects of having quality, reliable service, the Commission should follow –up to examine why service quality standards are not being met and what needs to be done so that wireline carrier can provide reliable service to customers

CD recommends that the Commission initiate an Order Instituting Investigation (OII), and/or an Order Instituting Rulemaking (OIR) to review the G.O. 133-C standards, particularly with regards to Out-of-Service restoration times and assess why carriers consistently could not meet this standard, why carriers are not regularly meeting the

operator answer time standard of 60 seconds or less, consider adopting new standards or modify existing standards, and consider penalty mechanisms for companies that consistently fail to meet one or more standards.

II. Background

The California Public Utilities Commission (Commission) adopted Service Quality (SQ) reporting measures and standards in G.O. 133-C through Decision (D.) 09-07-019 on July 9, 2009 as a result of Rulemaking (R.) 02-12-004. This Rulemaking was opened in December 2002 to review and revise the G.O. 133-B service quality measures and standards. G.O. 133-C and D.09-07-019 relied on the changes in regulatory policies adopted in D.06-08-030 that favored a reliance on increased market competition as opposed to regulatory intervention to ensure quality services were provided to California consumers.

G.O. 133-C adopted five standards to measure service quality: (1) telephone installation intervals (2) installation commitments (3) customer trouble reports (4) out of service repair intervals and (5) billing, non-billing and trouble answer times. Measurements 1-5 apply to small local exchange carriers (or Small LECs), measures 3-5 apply to Uniform Regulated Framework (URF) incumbent local exchange carriers (URF ILECs) and competitive local exchange carriers (CLECs) [collectively referred to as URF carriers].

In addition to the reports, carriers are required to provide the underlying raw data used in calculating the reported results for every measure except answer times. Wireless carriers, voice over internet protocol (VoIP) carriers, resellers, and any ILEC or CLEC with less than 5,000 customers [unless they are a carrier of last resort] are exempt from reporting any of the five service quality measures required by G.O. 133-C. However, wireless carriers are required to provide coverage maps on both their websites and at their retail locations.

The service quality results are calculated on a monthly basis and reported quarterly, except for the Answer Time standard, which is calculated quarterly and reported annually on February 15th.

Twenty seven telephone carriers filed G.O. 133-C reports that had data on them for 2010, and CD posted these on the CPUC's website at [Telecommunications Carrier' Service Quality Reports](#) .

III. G.O. 133-C Reported Service Quality Performance for Calendar Year 2010

The G.O. 133-C telephone service quality standards adopted in D. 09-07-019 primarily apply to residential customers and small businesses, defined as those with five or fewer lines, and are as follows:

- **Telephone Installation Intervals.** Installation interval is the period between a customer requesting basic service, and the service becoming operational. The standard is 5 days or less. This measure applies only to residential and small business customers. All reporting carriers are required to provide the underlying raw data for this measure.
- **Installation Commitments.** Installation commitments reflect a carrier meeting its promised installation date (customer actions which prevent carrier completion will not be considered missed). The standard is 95% or greater. This measure applies only to residential and small business customers. All reporting carriers are required to provide the underlying raw data for this measure.
- **Customer Trouble Reports.** Customer Trouble Reports are reports by customers and users expressing dissatisfaction with telephone company services. This measure applies to residential and business customers. The standard is a ceiling of (a) 6 trouble reports per 100 working lines for reporting units with 3,000 or more lines, (b) 8 reports per hundred working lines for units with 1,001 – 2,999 lines, and (c) 10 reports per hundred working lines for units with less than 1,000 lines. Only general rate case ILECs and facilities based URF carriers with 5,000 or more lines, along with URF carriers with less than 5,000 lines that are carriers of last resort are required to report this measure. All reporting carriers are required to provide the underlying raw data for this measure.
- **Out of Service Repair Intervals.** The out of service repair interval is a measure of the time between a carrier receiving an out of service trouble report and the time the service is restored for outages that were within a carriers control (e.g. did not occur on a Sunday, Federal Holiday, or during a catastrophic event). This measurement applies only to residential and small businesses customers. The standard is 90% of the reports restored in 24 hours or less. Only general rate case ILECs and facilities based URF carriers with 5,000 or more lines, along with URF carriers with less than 5,000 lines that are carriers of last resort are required to report this measure. All reporting carriers are required to provide the underlying raw data for this measure. The reported data is compiled monthly and reported quarterly. The Attachment to this report summarizes the out of service restoral results for the reporting carriers.
- **Answer Times.** The answer time measure is a measure of billing, non-billing, and trouble report call answer times. This measure excludes specialized business account representatives that were established to address the needs of a single large business customer or group of such customers. The standard is 80% of the calls being answered by a live agent in 60 seconds, or 80% of the calls being routed to a live agent within 60 seconds if an automated voice response system is used. Only general rate case ILECs and facilities based URF carriers with 5,000 or more lines, along with URF carriers with less than 5,000 lines that are carriers of last resort are required to report this measure.

IV. Summary of Results

Uniform Regulatory Framework Carriers (URF)

Customer Trouble Reports

The four URF ILECs (AT&T, Verizon, Citizens, and SureWest) all met the standard of having no more than 6 to 10 trouble reports per 100 lines based upon their respective line counts for each of the twelve months.

Out of Service Repair Intervals.

All of the URF ILECs had difficulty meeting the Out of Service Repair Interval standard in 2010.

SureWest, (42,000 access lines) met the Commission's goal of restoring service in 24 hours or less 90% of the time for four months of the year, and nearly made the goal for two months of the year (86% and 88%) . For the remaining six months of the year, their restorals within 24 hours were between 71% and 83%. SureWest's average monthly restoral time was 15-23 hours in 8 of 12 months, and in the remaining months the restoral time ranged from 27 – 69 hours.

Citizens of California (127,000 access lines) never achieved the goal of restoring service in 24 hours or less 90% of the time, but came close at 89% in one month. Citizens typically restored service in 24 hours or less between 71% and 84% of the time. Citizen's average monthly restoral time was 13 to 23 hours in 7 of the 12 months, and between 25 to 27 hours in the remaining 5 months.

Verizon (2.7 million access lines) also did not meet the goal of restoring service in 24 hours or less 90% of the time in any month of 2010; although it nearly reached the standard in two months (85% and 89%). Typically Verizon restored service in 24 hours or less between 60% and 80% of the time. Verizon's average monthly restoral time was between 15 and 23 hours nine out of twelve months and between 25 and 35 hours the remaining three months.

AT&T (7.6 Million access lines) did not meet the goal of restoring service in 24 hours or less 90% of the time in any month of 2010. In its best month, AT&T restored service in under 24 hrs just 76% of the time. Conversely in its worst month, AT&T only restored service in less than 24 hours 32% of the time. Typically AT&T restored service in under 24 hours between 33% and 54% of the time. AT&T's average monthly restoral time took between 28 and 55 hours nine out of twelve months and 18 to 23 hours in the remaining three months.

AT&T restated its reported data to Commission staff several times during the year, as result of inaccuracies in the data for various reasons. Additionally there were, and still are, interpretational differences between CD staff and AT&T regarding AT&T's practice of selectively excluding or including data in their reported results. G.O. 133-C provides that when outages occur on a Sunday, a Federal holiday, or during a catastrophic event, the time that it takes to restore service during these times is excluded from the service restoral time calculation.

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AT&T wants to include in its reported results any service restoral that is made within 24 hours, regardless of whether the outage occurred during a day and/or event that is supposed to be excluded from the calculation. However, AT&T would exclude from the measurement calculation those service restoral times that exceeded 24 hours for outages that occurred during a day or event. CD believes that AT&T's approach is inconsistent and does not comply with the G.O. 133-C requirement that outages that occur on a Sunday, Federal holiday, or during an excluded event should be excluded from the measurement calculation regardless of the time that it took to repair the outage.

Answer Times.

None of the URF carriers achieved the Answer Time goal of routing customers to a live operator in 60 seconds or less 80% of the time in all four quarters. SureWest did the best in this category achieving the goal for 3 of the 4 quarters in 2010. Citizens and AT&T achieved the goal two of the four quarters, with the performance in the remaining quarters ranging from 68% – 79%. Verizon failed to meet the 80% standard in all four quarters of 2010, with results ranging from 60% - 75%.

Competitive Local Exchange Carriers

Customer Trouble Reports.

All of the 8 reporting CLECs met the standard of less than 6 to 10 trouble reports per 100 lines for all 12 months. The number of trouble reports per 100 lines to be reported is dependent upon the number of lines served by a reporting unit.

Out of Service Repair Intervals.

None of the eight reporting CLECs met standard of 90% within 24 hours in each of the 12 months in 2010.

Electric Lightwave LLC (19,990 access lines), met the standard on average for 10 of the 12 months. For the other two months they repaired service within 24 hours 83%-88% of the time. The average monthly restoral time ranged from 5 hours to 13 hours.

Advanced Telecom (11,026 access lines) met the standard in 9 months of the year, and restored service within 24 hours on average between 86% to 89% of the time for the remaining three months. Average monthly restoral times for Advanced Telecom ranged from 5 hours to 10 hours.

Cox California (687,290 access lines) met the standard in 6 months of the year. In the remaining 6 months, Cox restored service within 24 hours on average between 83% to 88% of the time. Average monthly restoral time for Cox ranged from 6 hours to 11 hours.

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AT&T Communications of California (an affiliate of AT&T California with 1,625 access lines) met the standard in 3 of 12 months. In 5 months they restored service within 24 hours 82% - 86% of the time, and 35% to 64% for the remaining 4 months.. On average AT&T Communications' monthly service restoral times ranged from 4 hours to 18 hours for nine months of the year, and 22 to 52 hours for the remaining three months.

Astound Broadband (18,609 access lines) met the standard in two 12 months of the year and their restored service within 24 hours on average 83%-89% of the time in the other ten months. The average monthly restoral time for Astound Broadband was between 11 hours and 64 hours.

Access Point (335 access lines) met the standard in only two of the 12 months in 2010, while they restored service in under 24 hours on average 83% of the time in one month and between 20% and 55% of the time during the remaining 9 months. Access Point demonstrated the widest range of average monthly restoral times, they were between 10 and 123 hours.

Charter Fiberlink (180,339 access lines) met the standard in one month. They restored service within 24 hours on average 82% - 89% of the time during five months and on average 73% - 80% of the time for the remaining six months. . Charter Fiberlink's average monthly restoral time ranged from 11 - 20 hours during the year.

TelePacific (76,551 access lines) did not meet the standard in any month of the year. TelePacific restored service in less than 24 hours on average only 25% - 60% of the time during 2010. Their monthly average restoral time ranged from 38 hours to 151 hours.

Answer Times

The following three CLECs that did not meet the Trouble Report Answer Time standard (80% contact with an operator in less than 60 seconds) for all four quarters: 1) Electric Lightwave, 2) Astound Broadband, and 3) Cox California. Electric Lightwave met the standard three of the four quarters of the year. Astound did not meet the standard in any quarter. Cox did not report the measure at all.

Small Local Exchange Carriers

The fifteen small local exchange carriers (Small LECs) for the most part met or exceeded the standards for Installation Intervals, Installation Commitments, Customer Trouble Reports, Answer Times, and Out of Service restoral times for the months reported. One of the companies, Frontier Communications of the Southwest (Frontier SW) had recently been acquired by Frontier Communications from Verizon and only reported results for the last six months of the year.

Telephone Installation Intervals.

Fourteen Small LECs achieved installation intervals of 5 days or less for all in each twelve months of 2010. Frontier SW met this standard for each of the six months reported.

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Installation Commitments.

Thirteen of the Small LECs met this standard in each of the twelve months. Three companies, Winterhaven, Foresthill, and Frontier Communications West Coast met the standard in 11 months of the year. Frontier Communications SW met this standard during five of the six months reported.

Customer Trouble Reports.

All fourteen of Small LECs that reported for the full year met the standard based upon their line counts, for each month of the year. Frontier Communications SW met the standard in each of the six months that they reported.

Out of Service Repair Intervals.

Four of the fifteen Small LEC's, Ducor, , Kerman, Sierra, and Siskiyou met the standard to restore service within 24 hours 90% of the time in each of the 12 months . Frontier Communications SW met the standard in each of the six months reported. The average monthly outage duration for these five companies ranged from 1 hour to 10 hours.

Five companies, Calaveras, Cal-Ore, Happy Valley, Ponderosa, and Winterhaven met the standard in eleven months, with service restoral times in the remaining month ranging from 60% to 88%. The average monthly outage duration for these carriers ranged from 1 hour to 22 hours.

Two companies, Volcano and Hornitos met the standard in ten months, with their service restoral times during the remaining two months ranging from 75% to 88%. Their average monthly restoral time ranged from 2 hours to 23 hours.

Two companies, Frontier Communications West Coast and Foresthill met the standard for nine months with the balance of the year demonstrating restorals in the range of 79% to 89%. The monthly average outage duration for these two carriers ranged from 3 hours to 16 hours.

One company, Pinnacles, was only met the standard in seven months of the year, and restored service within 24 hours 50% - 83% of the time during the remaining five months. The average monthly duration of Pinnacles' outages ranged from 4 hours to 36 hours.

Answer Times

Nine of the Small LECs provided answer time data, and all met the standard for each of the 4 quarters of 2010. Six carriers: Calaveras Telephone, Ducor Telephone, Cal-Ore Telephone, Pinnacles Telephone, Ponderosa Telephone, and Siskiyou Telephone, did not report this information with their 4th quarter G.O. 133-C filing.

Performance Improvement Plans Submitted by Carriers

G.O. 133-C § 7 allows staff to require carriers with two or more measures below the reporting service level in one year, or with one measure below the industry average (e.g., service restoration $90\% \leq 24$ hours) to meet with staff and present proposals to improve performance.

Because all four URF ILECs failed to meet the service restoration standard for out of service repairs, staff asked for their plans to improve performance. Three of the carriers provided performance improvement plans.

AT&T stated that it would improve service restoration times by increasing overtime hours, borrowing personnel from other workgroups and assigning them to maintenance fieldwork, while also increasing their seasonal workforce in anticipation of possible storms.

Verizon will improve restoration times by hiring contractors, workforce reassignments, software enhancements to better dispatch out of service tickets, and providing performance education to staff.

Citizens will improve restoration times by implementing additional reporting procedures for trouble tickets, revise their monitoring and communications process with outside technicians, and increase work hours to meet the workload.

SureWest has not provided a performance improvement plan to CD.

V. Service Quality and the Storms of 2010

In December 2010, a series of rainstorms battered Southern California resulting in flooding that caused over 250,000 people to lose telecommunications service for various periods of time. These rainstorms caused then Governor Arnold Schwarzenegger to declare states of emergency in twelve counties in Southern California. Because the outages were significant in their impact on consumers, Senator Alex Padilla held a hearing on February 4, 2011. The following section provides some information on the outages and telecommunications carriers' service restoral efforts. As a note, G.O. 133-C excludes *states of emergency* from the service restoral time statistics discussed in the prior section.

Carrier Responsiveness

Aging of Outages

AT&T had 187,159 outages, with a peak of 78,000 outstanding repair tickets for one day on January 1, 2011. 58% of its out of service tickets (109,000) were completed within four days and 78% (145,587) were completed within ten days. Approximately 800 lines remained out of service at the 30 day mark. AT&T reports that its maintenance load of tickets had returned to normal levels (between 8,000 and 10,000) as of January 22, 2011.

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Verizon had approximately 73,047 storm related trouble tickets (both out of service and noise on the line) peaking at 30,860. Verizon's aging information showed that 41% (30,263) of the trouble tickets were cleared within 24 hours, and 75% (54,785) cleared within six days. Approximately 7,100 lines were out of service or having other problems for at least two weeks. Verizon reported that all of their storm related outages had been repaired as of January 28, 2011.

Carriers Actions in Response to the 2010 Storms

AT&T responded to the storm damage by: increasing overtime, moving 140 installation and maintenance technicians from the Bay Area to the Central Valley and Southern California, re-assigning 600 Construction and Engineering technicians to repair services, and redirecting 170 First Mile technicians to backup repair technicians. Also AT&T brought in 242 technicians from out of state, and re-hired 87 retirees which AT&T states will remain until the storm season ends. Additionally AT&T offered affected customers call forwarding to another telephone number, and if the outage lasted more than 24 hours, a credit to their bill.

Verizon extended workforce schedules to 10 hour days, six days a week, hired contractors, brought in technicians from other states, and redeployed internal staff from non-impacted sections of their company to assist in the repair effort. Verizon also provided affected customers call forwarding to another telephone number.

Both AT&T and Verizon stated that their priority for restoring service, was business or medical customer first, and residential customers thereafter.

VI. Communications Division Observations

After reviewing carriers' information, G.O. 133-C reports, raw data, and meeting with the carriers, CD has the following observations:

- There are different interpretations regarding calculating out of service intervals and the treatment of excludable events in the calculation (e.g., count all repairs made \leq 24 hours, even those made during excluded events, but exclude from the calculation the service restoration times $>$ 24 hours made during an excluded event).
- There is a lack of specificity as to when a state of emergency ends, introducing subjectivity in calculating results.
- There are differing interpretations on whether a state of emergency constitutes an exemption for reporting anything for the entire company for one or more months, i.e., should a state of emergency definition be similar to a catastrophic event (e.g., 3% of total company access lines).
- Some carriers like, Verizon, include non-voice grade results (data/video) with small business and residential trouble tickets as well as out of service repair tickets that are only supposed to include voice services.
- Not all carriers provided raw data.

Communications Division

- The details in raw data do not contain sufficient specificity for staff to replicate carrier calculations.
- AT&T did not provide complete raw data that corresponded to the total number of outage tickets reported.
- Some carriers did not report data for each service quality measure.

VII. Communications Division Recommendations

Since some carriers are regularly failing to meet the service restoration time and trouble ticket answer time standards, CD recommends that the Commission initiate an Order Instituting Investigation (OII), and an Order Instituting Rulemaking (OIR) to address carriers' compliance with the service quality rules and evaluate whether:

- The adopted standards are appropriate and reasonable,
- Changes to the measures are needed,
- New standards should be adopted, or existing standards changed/ modified/ eliminated,
- More definition is necessary for calculating service restoration time intervals when states of emergency are declared,
- There should be any exclusions at all in calculating service restoration times,
- Standards are needed regarding the form and content of raw data.
- A penalty mechanism should be included for substandard service quality performance.

The recommended OII/OIR also would provide a forum for the Commission to get input from carriers as to what impediments they are faced with in regularly meeting the service restoration and answer time standards. The Commission could assess whether special requirements are necessary for reporting to staff the effects of severe storm or other catastrophic events and actions taken to restore service. Currently carriers do not have specific obligations to provide storm damage progress reports to the Commission, and the data provided was lacking in consistency and completeness.

EXHIBIT D

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Evaluate
Telecommunications Corporations Service
Quality Performance and Consider
Modification to Service Quality Rules.

FILED
PUBLIC UTILITIES COMMISSION
DECEMBER 1, 2011
SAN FRANCISCO OFFICE
RULEMAKING 11-12-001

ORDER INSTITUTING RULEMAKING

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ORDER INSTITUTING RULEMAKING

1. Summary

Public Utilities (P.U.) Code § 451 requires that telecommunications carriers provide a level of service “...as necessary to promote the safety, health, comfort, and convenience of its patrons...and the public.” In Decision (D.) 09-07-019 issued on July 9, 2009, the California Public Utilities Commission (Commission) adopted General Order (GO) 133-C which contains a minimum set of service quality standards and measures for installation, maintenance, and operator services for local exchange telephone services. The Commission has a statutory duty to ensure that telephone corporations provide customer service that includes reasonable statewide service quality standards including, but not limited to, standards regarding network technical quality, customer service, installation, repair and billing. (D.09-07-019 at 12, P.U. Code § 2896.)

In March 2011, the Communications Division (CD) issued a report pursuant to GO 133-C § 7 regarding the quality of telephone service provided by wireline telephone corporations in 2010. (Attachment A to this Order). The report noted the substandard results reported in the GO 133-C service quality reports filed by the carriers in 2010. Additionally, the report provided information regarding the responses of Pacific Bell Telephone Company dba AT&T California (AT&T) and Verizon California Inc. (Verizon) to the outage event that affected approximately 250,000 customers in Southern California during the winter storms of December 2010 and January 2011. The Southern California outage event was not reflected in AT&T’s and Verizon’s GO 133-C service quality reports for December 2010 or January 2011 because current rules

exempt carriers from reporting outages caused by a catastrophic event¹. The report also provided CD's observations with regard to GO 133-C service quality reporting. For example, carriers have different interpretations of the calculation methods of the measures, and the underlying raw data submitted to the Commission were often incomplete or not in a format that allowed staff to reproduce carriers' reported results. CD recommended opening an Order Instituting Rulemaking (OIR) to address carriers' compliance issues and to re-evaluate the existing service quality measures and standards.

The Commission received letters from industry parties regarding CD's March 2011 Report. All except Verizon endorsed the opening of a rulemaking to review carrier service quality performance. In addition, the non-carrier parties suggested that network degradation due to deferred or no maintenance was the primary cause of the extended outages during the winter storms of December 2010 through January 2011, as well as AT&T and Verizon's inability to meet the Out-of-Service (OOS) repair goals in 2010. Additionally, the Competitive Local Exchange Carriers (CLECs) stated that there are competitive implications for poor service quality because of their reliance on the Incumbent Local Exchange Carrier (ILEC) copper facilities.

The Commission opens this rulemaking proceeding to review telecommunications carriers' performance in meeting GO 133-C service quality performance standards in 2010, and to assess whether the existing GO 133-C service quality standards and measures meet the goals of the Commission, are

¹ GO 133-C defines catastrophic event as: "an event where there is a declaration of a state of emergency by a federal or state authority, and a widespread service outage (an

Footnote continued on next page

relevant to the current regulatory environment and market, and whether there is a need to establish a penalty mechanism for substandard service quality performance. The questions posed and the answers we elicit are intended to address the issues of this rulemaking.

2. Background

2.1. Decision Implementing Service Quality Measures

Decision (D.) 09-07-019 adopted GO 133-C which revised the service quality rules, measures and standards established under GO 133-B.

The Commission adopted five minimum sets of service quality measures for installation, maintenance and operator answer time for local exchange telephone service. The goal of these service quality measures was to ensure that telecommunications carriers provide relevant information to the Commission so that it may adequately protect California customers and the public interest. All of the GO 133-C service quality measures apply to rural telephone companies regulated under rate-of-return regulations commonly known as General Rate Case Incumbent Local Exchange Carriers (GRC ILECs). However, only three of the measures -- Customer Trouble Reports, Out-of-Service Report and Answer Time -- are applicable to ILECs and Competitive Local Exchange Carriers (CLECs) with 5000 or more customers regulated under the Uniform Regulatory Framework (URF).² Resellers and Wireless carriers are not subject to GO 133-C reporting. The current GO 133-C service quality measures are the following:

outage affecting at least 3% of the carrier's customers in the state) are circumstances beyond the carrier's control."

² D.09-07-019 at 54. An URF CLEC with less than 5000 customers and authorized as a Carrier of Last Resort (COLR) is required to report Customer Trouble Report, Out-of-Service Report and Answer Time.

1. **Installation Intervals** – This measures the amount of time to install basic telephone service. The minimum standard is five (5) business days.
2. **Installation Commitments** – This measures the number of service installation commitments each carrier meets and excludes those instances where customer actions prevent the carrier from meeting the installation commitment. The minimum standard is 95% of the time.
3. **Customer Trouble Report** – This measures the number of all trouble reports each carrier receives from customers in relation to lines or equipment. Carriers should have no more than 6 trouble reports per 100 lines for reporting units with 3,000 or more lines, no more than 8 reports per 100 lines for units with 1,001-2,999 lines, and no more than 10 reports per hundred lines for units with 1,000 or less lines. The carrier collects the data monthly and reports it to the Commission quarterly.
4. **Out-of-Service Report** – This measure reflects how long a customer may have to wait to have service repaired. The minimum standard is 90% of a carrier's out-of-service repair requests should be completed within 24 hours.
5. **Answer Time** – This measure reflects how quickly a customer can expect to speak with a live agent when calling a carrier's business office regarding an issue. The minimum standard is 80% of calls should reach a live agent in 60 seconds or less (with a menu option to reach a live agent).

In addition, carriers are required to provide the Commission with the underlying raw data for all the reporting measures except Answer Times. All reports and raw data are to be compiled monthly and reported quarterly, and are due 45 days after the end of the quarter, except for Answer Times which are compiled quarterly and reported annually on February 15th of the following year.

2.2. March 2011 Staff Service Quality Report

In March 2011, CD prepared a report pursuant to GO 133-C § 7 regarding the quality of telephone service provided by wireline telephone companies in 2010. (Attachment A to this Order). The report, *Telephone Carrier Service Quality for the Year 2010*, was distributed to the Commissioners and the California Legislature and is attached to this Order. The findings and conclusions in the report were based on the GO 133-C service quality measures submitted by a total of 27 telephone carriers; URF ILECs (4), URF CLECs (8), and the GRC ILECs (15). The report also addressed the responses of Pacific Bell Telephone Company dba AT&T California (AT&T) and Verizon California Inc. (Verizon) to the severe winter storms that caused wide-spread service outages in Southern California during the months of December 2010 and January 2011.

1. CD staff's report regarding the carrier reports for GO 133-C Service Quality measures:
 - a. **Installation Intervals** – All of the fourteen GRC ILECs that reported for the full year met the standard of installing service in five days or less in each of the twelve months. Two of the four URF ILECs met the standard in each of the six months reported.
 - b. **Installation Commitments** – Eleven of the fifteen GRC ILECs met the standard to keep installation appointments 95% of the time for each of the twelve months, and the remaining three companies that reported for all twelve months met the goal in eleven of the twelve months.
 - c. **Customer Trouble Report** – All of the twenty-seven carriers met the Customer Trouble Report standard of between 6% and 10% per 100 lines, depending on the size of the reporting company.
 - d. **Out-of-Service Report** - CD's report showed that among the URF ILECs, AT&T, Verizon, and Frontier Communications of California (Frontier) did not meet the Out-of-Service (OOS)

repair standard for all of the reporting months of 2010. However, SureWest Telephone (SureWest) met the OOS standard for four of the twelve reporting months. With regard to URF CLECs, only three out of eight met the OOS minimum standard for six or more months in 2010. Among the fifteen GRC ILECs, thirteen carriers met the OOS minimum standard for at least nine months or all the reporting months of 2010. In addition, CD compared all of the carrier's first Quarter 2011 OOS results with their first Quarter 2010 OOS results and found compliance levels remained generally the same. None of the URF CLECs met the minimum OOS standard.

- e. **Answer Time** – CD also found substandard results for this measure. SureWest met the goal for three of the four quarters, AT&T and Frontier met it for two quarters, and Verizon did not meet it in any quarter. A majority of the URF CLECs met all the four reporting quarters of 2010. Only six of the GRC ILECs met all four quarters of 2010.

2. CD staff's report regarding AT&T's and Verizon's responses to the service outages caused by the winter storms of December 2010 and January 2011.

In December 2010 and early January 2011, a series of severe rainstorms battered Southern California, resulting in flooding that led to the Governor's declaration of state of emergency in twelve counties in Southern California. These rainstorms caused over 250,000 AT&T and Verizon customers to lose telecommunications service for various periods of time. The outage event attracted State Senator Alex Padilla's attention, and he requested that the Commission obtain additional information regarding the carriers' service restoration efforts. On February 4, 2011, the Senate Energy, Utilities and Commerce Committee chaired by Senator Padilla held a hearing because of the significant impact of the outages on customers.

From Senator Padilla's hearing inquiry, CD noted that, although approximately 50% of the affected customers had service restored within four days, many customers remained without service for ten days, and in some cases for as long as 30 days. CD observed in its March 2011 report that the December 2010 GO 133-C service quality report did not include outage information for the December 2010 rainstorm events in Southern California. This was due to the order's specific exclusion of data compiled during catastrophic events. CD also cited in its report that GO 133-C lacked specificity as to when a state of emergency ended, what information should be included in the raw data to support carriers' reported results, and in what format the raw data should be submitted to allow CD to reproduce carrier results. For example, one carrier provided raw data that included less than one half of the service tickets received for the First Quarter 2010, and in numerous other instances, carriers provided raw data in a PDF or picture format that did not show the formula for the underlying calculations.

In 2010, CD found that AT&T's first and second quarter supporting raw data files were truncated and required several re-runs and resubmissions of the data to provide a full reporting of Out-of-Service repair tickets. CD's staff recommended in its report that the Commission open an OII or OIR to review the service quality standards, and specifically address why some carriers consistently could not or did not meet the Out-of-Service Repair or Answer Time standards in 2010, and to consider whether to adopt new standards, modify current standards and adopt penalty mechanisms.

2.3. Telephone Service Outage Letters to the Commission

The Commission received eight letters from industry parties regarding CD's March 2011 Report.³ All non-carrier commenters suggested that network degradation due to deferred/no maintenance was the cause of extended outages during the storms of December 2010 and January 2011, as well as AT&T and Verizon's inability to meet the OOS repair goal in 2010. Additionally, all commenters except Verizon endorsed the opening of a rulemaking to review carrier service quality performance, while CLECs also stated there are competitive implications for poor service quality given their reliance on ILEC copper facilities.

On May 2, 2011, The Utility Reform Network (TURN) submitted a letter to Commission President Michael Peevey supporting CD's recommendation for a Service Quality OII/OIR. TURN alleged that AT&T had a long history of service outage problems in California, AT&T and Verizon have incentives to invest and maintain equipment in states that have more oversight than California, and inadequate maintenance of wireline equipment contributed to the extended duration of service outages during the storms of occurring in December 2010 and January 2011.

As evidence of AT&T's long history of service quality problems, TURN's letter cited a complaint filed in 2001 by the Office of Ratepayer Advocates,

³ The Utility Reform Network (TURN) (5/2/11), California Association of Competitive Telecommunications Companies (CALTEL) (5/6/11), Small Business California (SB-CAL) (5/9/11), Disability Rights Advocates (DisabRA) (5/9/11), Division of Ratepayer Advocates (DRA) (5/10/11), Utility Consumers' Action Network (UCAN) (5/13/11), Verizon California (5/18/11), and AT&T California (5/18/11).

currently known as the Division of Ratepayer Advocates (DRA), which resulted in the Commission instituting a 29.3 hour restoral standard for initial repairs, and a \$300,000 penalty for each month that AT&T did not meet the standard. In response, AT&T stated, that under the old OOS standards of 29.3 hours to repair for initial tickets, and 39.4 hours for repeat tickets, it met the standard five out of seven years for initial tickets, and seven of seven years for repeat tickets.

TURN referenced in its letter the testimony given by the Communications Workers of America (CWA) at Senator Padilla's February 4, 2011 hearing as support for its charge that AT&T and Verizon are incentivized to invest and maintain equipment in states with more oversight than California, TURN stated that since penalties were removed from performance in California, AT&T and Verizon have not met the repair time standard in any period

CALTEL agreed with TURN and noted that deteriorating wireline facilities were the root of AT&T and Verizon's inability to meet the 24-hour restoral standard, and cited as examples, two San Francisco fire-houses losing 911 connectivity due to wireline failure.

AT&T countered TURN's claim by stating that it invested \$2.1 billion dollars in its wireline network during 2009 and 2010. AT&T also stated that the majority of its customers that lost service during the storms were restored within four days. Verizon stated that they have invested \$600 million dollars annually for the last several years into their network and that TURN has no evidence that inadequate maintenance was a factor in outage duration during the storms, and that dissatisfied customers can choose other providers.

TURN, CALTEL and DRA all provided recommendations on how the Commission can improve telephone service quality including:

1. Require telecommunications networks to comply with generally accepted industry performance standards (e.g., Telcordia/Bellcore standards);
2. Engage a consultant to perform engineering and operational audits of any ILECs that has an average below 60% of customer OOS or trouble reports within 24 hours during any 12-month period based on GO 133-C performance standards; and
3. Collect and publish monthly reports detailing whether ILECs have met wholesale performance standards.
4. Levy fines for failure to meet retail service quality standards. CLECs fines should take into consideration inter-dependence on ILEC performance.
5. Investigate AT&T and Verizon's outside plant maintenance and investment practices.

CALTEL additionally argued that since CLECs rely on copper facilities owned by URF ILECs, deteriorating facilities and extended out-of-service repair times negatively impact customer choice by increasing costs of CLECs through compensating customers to restore confidence in their service. If this confidence cannot be restored, it creates an anti-competitive environment by removing CLECs as a viable alternative to the URF ILECs.

3. Preliminary Scoping Memo

As required by Rule 7.1(d)⁴ of the Commission's Rules of Practice and Procedure, this Order Instituting Rulemaking (OIR) includes a Preliminary

⁴ "Rulemakings. An order instituting rulemaking shall preliminarily determine the category and need for hearing and shall attach a preliminary scoping memo. The preliminary determination is not appealable, but shall be confirmed or changed by

Footnote continued on next page

Scoping Memo. In this Preliminary Scoping Memo, we describe the issues to be considered in this proceeding and the timetable for resolving the proceeding.

3.1. Issues

Public Utilities (P.U.) Code § 451 requires that telecommunications carriers provide a level of service “...as necessary to promote the safety, health, comfort, and convenience of its patrons...and the public.” The Commission has a statutory duty to ensure that telephone corporations provide customer service that includes reasonable statewide service quality standards including, but not limited to, standards regarding network technical quality, customer service, installation, repair and billing. (D.09-07-019 *at* 12, P.U. Code § 2896.)

This OIR is opened to review the performance of telecommunications corporations in meeting GO 133-C service quality performance standards in 2010-2011, and to assess whether service quality measures adopted in D. 09-07-019/GO 133-C:

- Meet the goals of the service quality measures (i.e., ensure that telecommunications carriers provide the level of service required by P.U. Code § 451);
- Provide consumers with relevant information to make informed communications service purchase decisions;
- Are relevant to today’s regulatory environment and market;
- Need additional measures and/or penalty mechanisms added; and

assigned Commissioner’s ruling pursuant to Rule 7.3, and such ruling as to the category is subject to appeal under Rule 7.6.”

- Should be revised to cover wholesale interconnection services as well as retail. If so, what revisions should be made?

Below are the questions to help guide filings regarding the issues identified above:

1. Are the adopted GO 133-C service quality standards appropriate and reasonable? If not, should new service quality standards be adopted or should existing standards be modified or eliminated?
2. Should additional Out-of-Service standards be established for Out-of-Service events in excess of 24 hours?
3. Why are many of the URF carriers consistently missing the service quality measurement standards for (a) Out-of-Service Repairs, and (b) Answer Times?
4. The current service quality standards and measures focus on retail customers. Should standards be adopted for wholesale service? If so, what should these standards and measures be?
5. Is it appropriate to implement a penalty mechanism when standards are not met? If so, what should it be?
6. Should exemptions be allowed for calculating reported service quality results for State of Emergency, Catastrophic Events and events beyond the control of the utility management? If so, should there be limitations on the geographic area(s) covered and/or the duration of the exemption?
7. Should carriers provide the Commission with additional service quality data in the aftermath of a catastrophic event? If so, what additional data is appropriate?
8. What other reporting requirements or measures are appropriate to evaluate quality of service?

9. Should the Commission hire a network consultant to:
a) review and evaluate the service quality results; b) to evaluate and monitor telecommunications carrier's infrastructure, investments and manpower to improve service quality; and c) to help the Commission determine "best practices"? If so how should they be funded and who should administer the contract(s)?
10. Are competitive market forces sufficient to ensure service quality? What, if any, are the barriers to switching to other services and service providers if a customer is dissatisfied with the quality of wireline telephone service offered by their current provider?
11. How do carriers prioritize repairs between classes of customers, (e.g., retail vs. wholesale and business vs. residential) types of technologies, and types of services? Should residential service be given top priority for repair due to public safety and universal service obligations associated with residential service?
12. Is the service quality information posted at the Commission's website sufficient to provide consumers with the relevant information to make informed communications service purchasing decisions?
13. Should the Commission adopt service quality reporting standards for Wireless carriers?
14. Are there cost-effective engineering and design standards available that would prevent or better mitigate the effects of outages due to storms and other disruptions? If so, what are they?
15. Is the wireline network designed and maintained so as to minimize the duration of outages due to catastrophic events? If not, what should be done to rectify that?

16. Is the wireline network being properly maintained to serve Californians and the California economy? Is wireline service in California comparable to service in other states that have penalties for failure to maintain service or incentive regulation for service quality?
17. Are there any economic, regulatory, physical, or other barriers or disincentives that stifle or discourage wireline maintenance? What are the consequences of poor wireline maintenance? What can and should be done to foster proper and timely wireline maintenance?

We intend for the scope of this rulemaking to be broad, and accordingly grant the assigned Commissioner and assigned Administrative Law Judge (ALJ) discretion to revise the scope to include other relevant issues that may arise in answering these questions. This order invites parties to provide relevant information regarding the questions listed above.

3.2. Preliminary Schedule

The preliminary schedule is set forth below. We delegate to the assigned Commissioner and the ALJ the authority to set other dates in the proceeding or modify those below as necessary.

Day 1	Order Instituting Rulemaking issued
Day 20	Deadline for requests to be on service list
Day 46	Initial Comments filed and served
Day 61	Reply Comments filed and served

The determination on the need for further procedural measures, including the scheduling of a pre-hearing conference, discovery, technical workshops, and/or evidentiary hearings will be made in one or more rulings issued by the Assigned Commissioner. Any party who believes that an evidentiary hearing is required shall file a motion requesting such a hearing no later than ten business

days after the filing of reply comments. Any such motion must identify and describe (i) the material issues of fact, (ii) the evidence the party proposes to introduce at the requested hearing, and (iii) the schedule for conducting the hearing. Any right that a party may otherwise have to an evidentiary hearing will be waived if the party does not submit a timely motion requesting an evidentiary hearing.

Following receipt of any such motions, the assigned Commissioner and ALJ shall determine the need for and extent of further procedural steps that are necessary to develop an adequate record to resolve this rulemaking, and shall issue rulings providing guidance to parties, as warranted.

This proceeding will conform to the statutory case management deadline for quasi-legislative matters set forth in Pub. Util. Code § 1701.5.

4. Category of Proceeding and Need for Hearing

Rule 7.1(d) of the Commission's Rules of Practice and Procedure provides that the order instituting rulemaking "shall preliminarily determine the category and need for hearing..." This rulemaking is preliminarily determined to be quasi-legislative, as that term is defined in Rule 1.3(d). We anticipate that the issues in this proceeding may be resolved through a combination of filed comments and workshops. It is preliminarily determined that hearings are not necessary. Any person who objects to the preliminary categorization of this OIR as "quasi-legislative" or to the preliminary hearing determination, shall state the objections in their opening comments. The assigned Commissioner will determine the need for hearing and will make a final category determination in the scoping memo; this final determination as to category is subject to appeal as specified in Rule 7.6(a).

5. Service of OIR, Creation of Service List, and Subscription Service

We will serve this OIR on all telecommunications corporations including commercial mobile radio service providers and on the following:

- The service list in R.02-12-004; and
- Organizations listed in Attachment B.⁵

Such service of the OIR does not confer party status in this proceeding upon any person or entity, and does not result in that person or entity is being placed on the service list for this proceeding.

The Commission will create an official service list for this proceeding, which will be available at http://www.cpuc.ca.gov/published/service_lists. We anticipate that the official service list will be posted before the first filing deadline in this proceeding. Before serving documents at any time during this proceeding, parties shall ensure they are using the most up-to-date official service list by checking the Commission's website prior to each service date.

While all telephone corporations may be bound by the outcome of this proceeding, only those who notify us that they wish to be on the service list will be accorded service by others until a final decision is issued.

If you want to participate in the Rulemaking or simply to monitor it, follow the procedures set forth below. To ensure you receive all documents, send your request within 20 days after the OIR is published. The Commission's Process Office will update the official service list on the Commission's website as necessary.

⁵ The organizations listed in Attachment B are those that submitted responses to the March 2011 Staff Report.

Within 20 days of the publication of this OIR, any person may ask to be added to the official service list. Send your request to the Process Office. You may use e-mail (Process_Office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102). Include the following information:

- Docket Number of this Investigation & Rulemaking;
- Name (and party represented, if applicable);
- Postal Address;
- Telephone Number;
- E-mail Address; and
- Desired Status (Party, State Service, or Information Only).⁶

If you want to be added to the official service list as a non-party (that is, as State Service or Information Only), follow the instructions in Section 6.1.

[NOTE: edit if the section number changes] above at any time.

5.1. Updating Information

Once you are on the official service list, you must ensure that the information you have provided is up-to-date. To change your postal address, telephone number, e-mail address, or the name of your representative, send the change to the Process Office by letter or e-mail, and send a copy to everyone on the official service list.

⁶ If you want to file comments or otherwise actively participate, choose “Party” status. If you do not want to actively participate but want to follow events and filings as they occur, choose “State Service” status if you are an employee of the State of California; otherwise, choose “Information Only” status.

5.2. Serving and Filing Documents

When you serve a document, use the official service list published at the Commission's website as of the date of service. You must comply with Rules 1.9 and 1.10 when you serve a document to be filed with the Commission's Docket Office.

The Commission encourages electronic filing and e-mail service in this Rulemaking. You may find information about electronic filing at <http://www.cpuc.ca.gov/PUC/efiling>. E-mail service is governed by Rule 1.10. If you use e-mail service, you must also provide a paper copy to the assigned Commissioner and ALJ. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. The paper copy should be double-sided. E-mail service of documents must occur no later than 5:00 p.m. on the date that service is scheduled to occur.

If you have questions about the Commission's filing and service procedures, contact the Docket Office.

5.3. Subscription Service

This proceeding can also be monitored by subscribing in order to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission's website at <http://subscribecpuc.cpuc.ca.gov/>.

6. Public Advisor

Any person or entity interested in participating in this Rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055 or

(866) 849-8391, or e-mail public.advisor.la@cpuc.ca.gov. The TYY number is (866) 836-7825.

7. Intervenor Compensation

Any party that expects to claim intervenor compensation for its participation in this Rulemaking shall file its notice of intent to claim intervenor compensation no later than 30 days after the first prehearing conference or pursuant to a date set forth in a later ruling which may be issued by the assigned Commissioner or assigned ALJ.

8. Ex parte Communications

Pursuant to Rule 8.3(a), ex parte communications will be allowed in this quasi-legislative proceeding without restriction or reporting requirement.

Therefore, **IT IS ORDERED** that:

1. A Rulemaking is instituted on the Commission's own motion to address the service quality performance of telecommunications corporations and to determine whether modifications to service quality standards are appropriate and, if so, what those should be.
2. The issues to be initially considered in this proceeding are set forth in the body of this order and the Preliminary Scoping Memo.
3. The schedule for this rulemaking is as set forth in the body of this order.
4. The assigned Commissioner or assigned Administrative Law Judge may adjust the schedule and refine the scope of the proceeding as needed.
5. This rulemaking is preliminarily determined to be quasi-legislative, as that term is defined in Rule 1.3(d). It is preliminarily determined that evidentiary hearings are not needed in this proceeding. Any persons objecting to the preliminary categorization of rulemaking as "quasi-legislative" or to the

preliminary determination that evidentiary hearings are not necessary shall state their objections in their opening comments.

6. The Executive Director shall cause this Order Instituting Rulemaking to be served on all telecommunications corporations, including commercial mobile radio service providers and on the following:

- The service list for Rulemaking 02-12-004; and
- Organizations listed in Attachment B.

7. Interested persons shall follow the directions in the body of this Order Instituting Rulemaking to become a party or be placed on the official service list.

8. Any party that expects to request intervenor compensation for its participation in this rulemaking shall file its notice of intent to claim intervenor compensation in accordance with Rule 17.1 of the Commission's Rules of Practice and Procedure, no later than 30 days after the first prehearing conference or pursuant to a date set forth in a later ruling which may be issued by the assigned Commissioner or assigned Administrative Law Judge.

This order is effective today.

Dated December 1, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

[R1112001 Attachments A-B](#)

EXHIBIT E

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July 15, 2013

Mr. David J. Collins
Executive Secretary
Public Service Commission of Maryland
6 St. Paul St., 16th Floor
Baltimore, MD 21202-6806

RE: Case No. 9133
In the Matter of Appropriate forms of Regulating Telephone Companies
Case No. 9114
Investigation into Verizon Maryland Service Performance and Service Quality
Standards

Dear Mr. Collins:

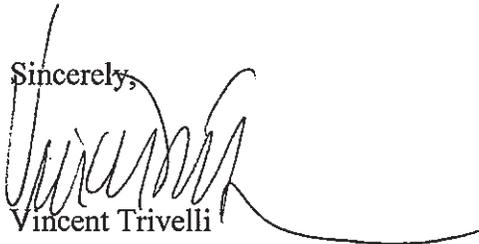
On behalf of the Communications Workers of America, AFL-CIO (CWA) this is a follow up to my correspondence of February 15th in response to Staff Counsel's position regarding Verizon's obligation to file an annual operational plan and monthly service quality reports, pursuant to Paragraph 52 of the AFOR. CWA's position remains unchanged in believing that Verizon is obligated to file these annual operational plans and monthly service quality reports.

Additionally, based on information and belief, Verizon is intending to introduce Voice Link in Maryland as a replacement for providing service over their copper infrastructure. Voice Link is a voice only wireless technology that is a significant step backwards for customers who have traditional copper wired technology. As detailed in CWA's recent Comments to the Public Service Commission of New York State (attached as Exhibit 1) and to the Federal Communications Commission (attached as Exhibit 2) the problems for customers associated with the introduction of Voice Link are numerous, including but not limited to a lack of reliability, risk to public safety, loss of customer access to a wide range of communications options (including fax transmissions, point-of-sale credit card services) and Digital Subscriber Line (DSL) internet access.

CWA urges the Commission to ensure that Verizon Maryland provide the Commission with all information regarding this technology and to require Verizon to obtain approval prior to the utilization of Voice Link in Maryland.

Page 2 of 2
Case Nos. 9133 and 9114
July 15, 2013

Please feel free to contact me if you have any questions or concerns regarding this matter.

Sincerely,

Vincent Trivelli

cc: Jeffrey A. Rackow, Esq.
Marta D. Harting, Esq.
Lloyd J. Spivak, Esq.
Theresa V. Czarski, Esq. / Paula M. Carmody, Esq.
Peter Q. Nyce, Jr., Esq.

Appendix A.



STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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 service as its sole offering in the area.)

Case 13-C-0197

COMMENTS OF THE COMMUNICATIONS WORKERS OF AMERICA

I. Introduction

The Communications Workers of America (CWA), representing more than 68,000 union members in New York State, including more than 14,000 at Verizon, hereby submits comments in response to the Public Service Commission's ("Commission" or "PSC") Notice Inviting Comments, issued May 21, 2013. CWA has an interest in this proceeding as the representative of Verizon NY frontline employees who build, maintain, and service the Company's telecommunications networks. CWA members are also consumers of Verizon NY's telecommunications and information services at their residences throughout the state. CWA members have unique knowledge of the role that Verizon New York's inadequate investment in

facilities maintenance contributes to the deterioration of the Company's wired (copper) infrastructure.

CWA submitted comments to the Commission on May 16, 2013, opposing Verizon's proposed tariff and the Company's attempt to put that tariff into effect on short notice. CWA commends the Commission, in its Order issued May 16, 2013,¹ from preventing the tariff, in its original form, from becoming effective on May 18, 2013 and for providing an opportunity for additional comments. However, while the PSC suspended the tariff language in Section 3 (b) that would have permitted Verizon to offer wireless service as its sole service in an area when it "demonstrates that the use of wireless to serve specified customers, or groups of customers, is otherwise reasonable in light of the geographic location, the availability of competitive facilities to serve those customers or groups of customers, or in light of other criteria acceptable to the Commission," the Commission did not suspend the first clause of that section, which provides that Verizon make wireless its sole offering "if the company: (a) certifies and demonstrates that a substantial portion of its facilities in the area is destroyed, rendered unusable, or beyond reasonable repair." While, at present, Verizon has only asked to rely on this new tariff language to serve customers in the western portion of Fire Island, the tariff – both those sections that the Commission has permitted to become effective and the language that it suspended – could potentially apply to significant portions of New York State.

In a roundtable discussion convened by CWA on May 31, 2013, CWA-represented frontline Verizon outside plant technicians shared their experiences concerning the implementation of the Company's policies on outside plant repairs and the role that intentional

¹ Case 13-C-0197 - Tariff filing by Verizon New York Inc. to introduce use of wireless technology as an alternative to repairing damaged facilities, Order Conditionally Approving Tariff Amendments in Part, Revising in Part, and Directing Further Comments, Issued and Effective May 16, 2013 (hereinafter, "Order").

neglect and inadequate maintenance played in the failure of copper plant during, and in the many months following, Superstorm Sandy. They also related their experiences and concerns with how this neglected maintenance relates to Verizon New York's Voice Link deployment plans. These first-hand experiences are referenced throughout these comments.

II. Voice Link is a significant step backwards for customers who have traditional copper wired telecommunications service and a complete abdication of Verizon NY's promises to modernize its telecommunications network

A. Voice Link lacks reliability

Voice Link service will be far less reliable than a properly maintained wired network. During Superstorm Sandy, even with storm damage to some wires, the great majority of telephone service provided over Verizon's traditional copper network remained unaffected. This is because the transmission of Verizon's signal to customers' homes and businesses and the operation of traditional wired telephone handsets at those locations are unaffected by the loss of AC power.

At the same time, as soon as a cable customer lost power, they simultaneously lost phone service. Similarly, even if their cell tower remained unaffected, wireless customers had only a short time until their devices ran out of power; even before then, the spike in usage on wireless networks caused many calls to be blocked or dropped. Voice Link would fare no better during a power outage.

However, even under normal conditions, Voice Link will be less reliable than wired facilities (given reasonable maintenance). Customers do not have their own dedicated connection to the public switched telephone network (PSTN), and coverage at individual locations varies considerably. Calls are more likely to be blocked or dropped due to poor signal strength or at

times of high usage. It is CWA's understanding, moreover, that Voice Link is provided over older 1X wireless technology, which Verizon itself now considers largely obsolete.²

These concerns are reflected in the reported experience of customers who have used Voice Link; as Suffolk County legislator Thomas Barraga has already informed the Commission, "Residents and business owners who had Voice Link installed after Sandy say the connection is unstable and unreliable."³ Fire Island residents' public comments show that VoiceLink service is not as reliable as wireline service. For example, R. Sackoff wrote "... the sound is like talking on a cell phone – it is not clear and it breaks up. My landline service was clear and intelligible... I am a senior and although I have a cell phone, I prefer not to be without a landline. Cell service on FI can be spotty, at best."⁴ CWA notes that complaints about Voice Link from customers on Fire Island continue to pour in to the Commission – and customers are only just beginning to have the opportunity to use the service under peak summer conditions.

B. Voice Link poses significant risks for public safety

In seeking to justify the use of Voice Link as the sole voice service option for customers on the western portion of Fire Island, Verizon has assured the Commission that it will restore wired service "on an as-needed basis" to firehouses, police stations, and other municipal buildings. Sampedro Revised Certification at ¶ 6. But Voice Link poses threats to the safety of customers in their homes and businesses that won't be addressed by these limited restorations of

² On an investors' call last year, Verizon CEO Lowell McAdams referred to "1X" as being an early version of wireless technology – superseded by 2G, 3G and now, in an "exponential leap in capability," by LTE service. See, Remarks of Lowell McAdam, Chairman and CEO, Verizon Communications, Inc., at Guggenheim Securities Symposium, June 21, 2012, accessed at http://www.phillipdampier.com/documents/vz-guggen_6_21_12.pdf, June 12, 2013.

³ Letter from Thomas F. Barraga, 11th District, Suffolk County Legislature, May 16, 2013.

⁴ Public Comment of R. Sackoff, Fire Island resident, 6/19/13 accessed at <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={F1DB8EBD-574D-4AE4-8338-1BF4D7157D94}>

wired service. The Fire Chief of Fair Harbor on Fire Island has written to express his concerns. He states, “There is no doubt that the replacement of permanent land lines with a wireless service will compromise [communication of emergencies] and thus the safety and lives of our residents.”

As discussed above, Voice Link will leave customers without reliable service during power outages, adverse weather conditions, and whenever Verizon Wireless experiences heavy calling. In addition, regardless of conditions, Voice Link does not support various applications that customers rely on for their health and safety, including home health monitoring systems,⁵ such as LifeAlert. Just recently, despite facing the prospect of a prolonged period with no telephone service, the elderly residents of an 81-unit building in lower Manhattan soundly rejected Verizon’s proposal to serve them with Voice Link after learning that the service did not support LifeAlert – a service being used by residents. Similarly, Voice Link is also incompatible with various fire and security alarm systems that consumers rely on to keep them secure and safe in their homes.

Voice Link also poses a direct threat to public safety with respect to E-911 services. When the Voice Link unit is installed at the customer’s premises, the customer’s location is programmed into the unit. So long as the unit remains at that particular location, the information is presumably valid and will direct first responders to the correct address in the event of an emergency. However, the unit itself is completely portable and requires no special expertise to relocate. Once customers become aware of this capability, it is predictable that Voice Link units will be relocated from one apartment to another without notification to Verizon. Then, when

⁵ Verizon New York, Inc., “Voice Link Terms of Service,” filed May 20, 2013, “in compliance with the Commission’s May 16, 2013 “Order Conditionally Approving Tariff Amendments in Part, Revising in Part, and Directing Further Comments” (hereinafter, First Revised Service Agreement), at 2. On June 10, 2013, Verizon filed another revision of this document – making it somewhat of a moving target. As far as CWA can determine, the information referenced in these comments is approximately the same in both versions.

someone calls 911 from the customer's new home, first responders will still be dispatched to the former location, associated with the Voice Link unit. Verizon apparently acknowledges this as a potential problem, as it includes a warning against relocating the device on page 6 of its Revised Service Agreement. However, if a customer does not read the Agreement thoroughly or simply disregards the warning, there is a serious risk to the health and safety of persons who rely on that relocated device.

C. With Voice Link service, customers lose access to a wide range of data communications options that are central to modern commercial activity and economic development opportunities

In addition to the fact that Voice Link does not work with monitoring systems that protect consumers' health and safety, it also does not support data applications that consumers rely upon in their daily lives, like fax transmissions for getting documents or images to a doctor, schools, or potential employer on an expedited basis. Residential customers are not the only ones likely to be adversely affected by Verizon's abandonment of wired telephone service. Businesses – and particularly the small-to-medium sized business that are the engines of the economy in many parts of the state – will lose critical capabilities. Notably, Voice Link does not support point-of-sale credit card devices that work over ordinary wired dial-up access lines. It is unrealistic to expect any business in today's economy to revert to "cash-only" operation. Alternative data services may not even be available in likely Voice Link locations, but even if they are, they are likely to be less reliable and secure, and certainly more costly.

Moreover, Verizon has disclosed that Voice Link:

- will require customers who presently live in areas that support 7-digit dialing to convert to 10-digit dialing;

- does not support calls to specialized exchanges (500, 700, 900, 950, 976);
- does not permit the customer to reach an operator by dialing “0” or to place other operator-assisted calls (00, 01, or 0+);
- does not support “dial-around” calls (e.g., 10-10-XXXX);
- does not allow the Customer to accept collect calls or third number billed calls;
- does not permit customers to make international calls (unless they have previously arranged with Verizon for an International Calling Plan); and
- does not support DVRs.⁶

Each of these limitations diminishes the utility of the customer’s service. They interfere with the customer’s ability to access competitor services, isolate family members who depend on collect or international calling, and create additional barriers for those with disabilities.

D. Customers forced to obtain broadband from Verizon Wireless for Internet access services will pay much higher prices (for anything other than minimal usage) relative to customers with access to wired broadband services

Voice Link does not support Digital Subscriber Line (DSL) service. Thus, years after statewide broadband deployment became a priority for New York State, and with the Internet having become central to the daily lives of most households and businesses in the 21st century, Verizon proposes to replace customers’ wired service with service that does not support any form of broadband Internet access service. This is a huge step backwards.

Some may argue that Verizon New York’s customers have “competitive” alternatives. In many cases, this will not be the case. Many of the remote and rural locations where Verizon would likely propose to substitute Voice Link do not have a cable company presence. Without DSL, customers would be forced to look to wireless broadband providers. Even where available, this is a far more expensive option. Unlike DSL, wireless broadband service, such as Verizon Wireless’s 4G LTE HomeFusion service, is not available on an unmetered basis (i.e., prices are

⁶ Revised Service Agreement, at 2.

subject to data caps and all usage over cap results in an additional charge). Customers forced to take HomeFusion service find that even when they actively suppress their usage, the cost of this service is easily two-to-three times what they would pay for DSL.⁷ In other words, they get less and pay more. If a customer uses 4G LTE for wireless broadband, they are subject to data caps, making their broadband service far more expensive than DSL.

Even where cable companies provide Internet access, Verizon's withdrawal of DSL will harm consumers. For years, providers have touted the benefits of competition for consumers. If the ILEC-cable duopoly is reduced by one formerly ubiquitous provider, cable becomes a local monopoly for wireline Internet access service. CWA technicians have observed that in areas where Verizon does not offer FiOS (but where Verizon customers may get DSL), cable company rates are often significantly higher than in areas where FiOS is offered. If DSL is no longer available to customers in a particular area, there is every reason to expect that cable companies will respond by raising their prices even higher.

Rural customers are not the only ones who may lose the opportunity for wired broadband competition. In New York City, Verizon's FiOS network may not be wired in apartment buildings that are already being served by cable. If Verizon allows the copper cables that provide both voice and DSL service to such buildings to fail, customers will lose their only alternative to the cable company's service. Moreover, during the years in which Verizon is still completing its FiOS buildout in New York City, customers who are in non-FiOS areas will have no competitive alternative to cable.

⁷ In a recent case in Pennsylvania, a Verizon customer moved to a new residence and requested DSL, a service he had used at his former home. After a prolonged wait, the customer was informed that Verizon was not going to deploy wired broadband Internet access service (either FiOS or DSL) in his new area, but that he could subscribe to a Verizon Wireless broadband Internet access service designed for in-home (non-mobile) use. His detailed account comparing this service (disfavorably) to DSL is contained in an affidavit filed with the Pennsylvania Public Utility Commission. See, Affidavit of David K. Ebersole, Jr., September 7, 2013, In re Petition of David K. Ebersole, Jr. and the Office of Consumer Advocate for a Declaratory Ruling, P-2012-2323362.

III. The criteria Verizon New York proposes in its Voice Link tariff would give it the incentive to accelerate the deterioration of its copper facilities, through neglected maintenance, and would result over time in highly unequal service offerings for customers in different parts of the state.

A. Verizon has different stories for different audiences.

In the Public Policy blog on its website, Verizon discusses Voice Link deployment exclusively as a response to emergency conditions and the need to restore service on Fire Island; it dismisses broader concerns as alarmist.⁸ Yet Verizon plainly does have broader plans for Voice Link deployment, as its proposed tariff makes clear.

The tariff Verizon filed with the Commission to authorize substitution of Voice Link for its traditional wired service makes clear that the Company does not consider Voice Link merely as a response for restoring service on an emergency basis to areas affected by unusual natural disasters, such as Superstorm Sandy. However, because the stated criteria are so broad and vague, it is less clear where and under what conditions Verizon actually anticipates making this voice-only, wireless service its sole basic service offering.

CWA members were among the first to hear of Verizon's Voice Link plans. Under terms of the CWA/Verizon collective bargaining agreement, Verizon must notify the union six months in advance of an employment-impacting technological change. In a "Technological Change Notice" dated November 30, 2012, Verizon's Director of Labor Relations wrote to union leaders, stating:

Commencing in June 2013, the Consumer and Business Mass Markets organization plans to offer a device(s) utilizing wireless technology to Verizon New York Inc. (the "Company") voice-only copper network residential customers who have experienced multiple outside plant repair problems, are located in an area with a high incidence of outside plant repair problems or where there is

⁸ <http://publicpolicy.verizon.com/blog/entry/the-fire-island-voice-link-solution>, accessed June 12, 2013.

major storm damage to outside plant facilities (such as with flooding), or are served by manufacturer-distributed outside plant equipment that lacks adequate repair parts to ensure timely repairs and reliable service. This option may also be offered to new customers who are at increased risk of service problems, are served by manufacturer-discontinued outside plant equipment, are in locations that lack existing network infrastructure or where there is major storm damage to outside plant facilities.⁹

The tariff, by contrast, proposes the following criteria:

The Telephone Company may offer service using wireless as its sole service offering in an area if the company: (a) certifies and demonstrates that a substantial portion of its facilities in the area is destroyed, rendered unusable, or beyond reasonable repair; or (b) demonstrates that the use of wireless to serve specified customers, or groups of customers, is otherwise reasonable in light of the geographic location, the availability of competitive facilities to serve those customers or groups of customers, or in light of other criteria acceptable to the Commission.¹⁰

One significant discrepancy between these two versions is whether Voice Link is considered a customer “option” or a service that Verizon will offer as its sole service in an area. Another difference is that the Technological Change Notice states that the Company intends to promote the use of Voice Link to avoid fixing “high incidence” plant repair problems, whereas the tariff language points to more acute situations where facilities are “destroyed, rendered unusable, or beyond reasonable repair.” Additionally, unlike the Technological Change Notice, the tariff language Verizon has proposed would open up the possibility of Voice Link deployment for a host of additional (and not very well specified) reasons (i.e., when it is “otherwise reasonable in light of the geographic location, the availability of competitive facilities to serve those customers or groups of customers, or in light of other criteria acceptable to the Commission”).

And, finally, this is what Verizon CEO has said when he’s talking to investors:

⁹Letter from Guy R. Sorrentino, Director, Labor Relations, to Gladys Finnigan, Downstate Area Directory, District 1, re: “Technological Change Notice,” November 30, 2012.

¹⁰As noted earlier, the Commission has suspended the language in clause (b) only.

The vision that I have is we are going into the copper plant areas and every place we have FiOS, we are going to kill the copper. We are going to just take it out of service and we are going to move those services onto FiOS. We have got parallel networks in way too many places now, so that is a pot of gold in my view. And then in other areas that are more rural and more sparsely populated, we have got LTE built that will handle all of those services and so we are going to cut the copper off there. We are going to do it over wireless.¹¹

Of course, Voice Link isn't LTE and doesn't support any of the broadband capabilities that LTE supports.

The Commission needs to get the real story on Verizon New York's plans for Voice Link and to take an leadership role in setting the ground rules for any future expansion of the service as Verizon NY's sole service offering.

B. The Commission should require Verizon to provide detailed information to justify any instance in which it proposes to abandon wireline facilities claimed to be "beyond reasonable repair."

Under the proposed tariff, Verizon would be permitted to offer Voice Link service "in an area" if it "certifies and demonstrates that a substantial portion of its facilities in the area is destroyed, rendered unusable, or beyond reasonable repair." Whether the conditions on Fire Island meet this standard is something that the Commission is presently investigating. However, it is unconscionable that Verizon be permitted to selectively abandon facilities – and the customers they serve – because of deterioration that is largely due to its own neglect.

Here, again, the Commission has the opportunity and obligation to dig deeper. What factors are contributing to the deterioration of the Company's facilities? What measures has taken Verizon to protect copper wires against further deterioration? Does Verizon take revenues

¹¹ Remarks of Lowell McAdam, Chairman and CEO, Verizon Communications, Inc., at Guggenheim Securities Symposium, June 21, 2012, accessed at http://www.phillipdampier.com/documents/vz-guggen_6_21_12.pdf, June 12, 2013.

for a given area into account in making its decisions about maintenance expenditures and the prioritization of repairs? How do these decisions comport with the state and federal policies intended to ensure that low-income and rural customers get comparable service at reasonable rates? These are just a few of the important questions that deserve to be investigated. These are questions that the PSC should be assessing, as the independent and impartial agency entrusted with safeguarding the public interest with respect to the delivery of telecommunications services.

C. The Commission should be encouraging competition, not facilitating Verizon's withdrawal of wired service from customers based on "geography" or the presence of competitor facilities

Verizon NY proposes even broader criteria for substituting Voice Link as its sole service offering based on "geographic," "competitive," and "other" conditions, i.e., when the Company "demonstrates that the use of wireless to serve specified customers, or groups of customers, is otherwise reasonable in light of the geographic location, the availability of competitive facilities to serve those customers or groups of customers, or in light of other criteria acceptable to the Commission."

With respect to these additional criteria (as with the "beyond reasonable repair" standard previously discussed), Verizon NY seems to be asking for authority to drop wired voice service for its customers on a very granular basis – down to the individual customer level. It is hard to imagine how the Commission can ensure the fair and non-discriminatory treatment of customers when Verizon proposes to define service options in this manner.

Verizon's proposed redefinition of its basic service obligation raises many questions: How does Verizon propose to demonstrate that the use of wireless is "reasonable in light of geographic location"? For more than a century, Verizon has maintained a comprehensive wired

network throughout its local exchange footprint in New York State. What, now, provides the basis for identifying a location, on geographic criteria alone, as a “reasonable” place to offer only wireless service?

The so-called competitive basis for withdrawing wired service is even more troubling. There is no definition of “competitive facilities.” One does not know whether there would be a single other provider, whether that provider would be expected to have or to assume an obligation to serve all customers on reasonable and non-discriminatory terms, or whether the services provided over the alternative facilities are reasonable competitive substitutes for the services customers would lose by Verizon’s decision to substitute Voice Link. Would consumers confronted with the limitations of the Voice Link service abandon their Verizon service for wired cable offerings – and how would this further division of the market between a wired cable company and an ILEC focused on wireless services affect consumers’ ability to obtain affordable telecommunications services throughout the state? What happens to competitor services that depend on interconnection with and access to Verizon’s wired network (and that have a legal entitlement to those capabilities under Sections 251 and 252 of the 1996 Telecommunications Act)?

These are only a sampling of the difficult questions that the Commission – and not Verizon unilaterally – must investigate more thoroughly.

IV. Notwithstanding the extreme weather conditions that occurred during Superstorm Sandy, much of what caused Verizon New York’s copper network facilities to fail can be attributed to a conscious decision by the Company to neglect the maintenance of those facilities.

As portrayed by Verizon New York, the deterioration of its copper wired network is inevitable. This is simply not the case. Every day, Verizon makes affirmative decisions to forgo the routine maintenance and repair of cables and wires that, under conditions of neglect, eventually fail.

The damage done by Superstorm Sandy was extraordinary in some locations, but it was not all unavoidable. This is true both as to above-ground wires and those buried in underground conduit. As the Attorney General points out in his initial opposition to the Voice Link tariff, the Commission should investigate whether Verizon has taken reasonable measures to protect the integrity of its outside plant against extreme (although not unanticipated) weather conditions.¹² He notes, “Perhaps such storm hardening of Verizon’s wireline service would provide more reliable and better public service than Voice Link.”¹³

First-hand accounts from customers on Fire Island attest to the fact that Verizon’s neglect of its facilities (and of its customers’ needs) contributed to the damage that it now conveniently blames on the storm. Susan Papa, a customer from Ocean View, writes:

I must draw your attention to the numerous complaints, documented communications and expressed frustrations that existed LONG BEFORE Hurricane Sandy. Verizon had literally abandoned holes they dug for “repair” of land lines. We continually asked for these unsafe, pretty large holes to be closed or made safe. No action was taken. It seems to me that the plan to abandon copper wire was in place long before Hurricane Sandy. And I conclude that these abandoned holes and half-repairs exacerbated the damage to their copper wire infrastructure; they were trying to sneak out of town, and then were blessed with a storm of enormous proportions that seemingly excused them from acting responsibly.¹⁴

¹² Attorney General Letter, p. 3.

¹³ Id.

¹⁴ Letter from Susan L. Papa, Ocean Beach, NY, posted to electronic case file June 10, 2013.

Based on their experience, CWA's technicians throughout the state have confirmed that this pattern of neglect is not unique to Fire Island. Verizon has not shown any interest in fortifying its outside plant against weather-related damage. To the contrary, Verizon has adopted policies that affirmatively contribute to the deterioration of its facilities. Verizon has cut back significantly on preventive maintenance; moreover, it delays responding to repair calls from customers served over its copper wires and actively encourages employees to avoid fixing damaged facilities that they encounter in the course of other work.

Damage to wire in underground conduits is also largely attributable to Verizon's poor maintenance practices. During Superstorm Sandy, various cables in lower Manhattan failed when the conduits where they were located became flooded and water entered cables. A standard industry practice for protecting cables from water damage is to use air pressure to keep water from entering the surrounding conduit. However, according to a technician with 22 years' experience, Verizon has made severe cuts in the work force responsible for monitoring and repairing problems with air pressurization. As a result, storm-related damage to wires continues to increase.

On Fire Island, prior to Sandy, Verizon had failed properly to maintain or replace copper cable as it deteriorated or failed over time. Instead, Verizon sent technicians to clear immediate troubles without replacing bad cable. Technicians would move customers onto new pairs knowing that these pairs were likely to fail because the network cable was badly deteriorated. Verizon would not give technicians the time or the resources properly to maintain or replace the cables on Fire Island. Verizon did not properly maintain cross-boxes or terminals above ground either. The company would not replace faulty cross-boxes or terminals. Instead, similar to cable, technicians would move customers to other pairs within the failing cross-box or terminal.

Air pressure to prevent water intrusion into cables was also improperly maintained on Fire Island. In addition to providing poor quality day-to-day service, these shoddy practices increased the networks' vulnerability to storm damage. By failing to replace cable casings, Verizon allowed greater water intrusion into the cables when Sandy hit Fire Island.

The Commission may recall that CWA, along with the Attorney General and other consumer advocates, presented extensive evidence concerning the need to strengthen review of service quality throughout the state.¹⁵ CWA's evidence showed that – for more than a decade – Verizon had stopped investing in its copper network, and that it was actively suppressing repair and maintenance efforts. The continued deterioration of VZ-NY's facilities is further evidence that the highly aggregated data under the SQIP is not working to protect consumers.

V. The Commission needs to ensure that VZ-NY does not use Voice Link to redline insular, rural, high-cost, and low-income communities with respect to access to service reliability or access to advanced telecommunications services.

The Commission needs to take an affirmative role in ensuring that all consumers in New York have access to reliable and reasonably priced voice and data telecommunications services, including advanced services. Section 254(b) of the Telecommunications Act of 1996 states several core Universal Service Principles, including,

(3) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at

¹⁵ CWA was an active participant in the proceedings in Case 10-C-0202 that were triggered by the Attorney General's April 25, 2012 petition requesting modification of Verizon New York Inc.'s Service Quality Improvement Plan (SQIP).

rates that are reasonably comparable to rates charged for similar services in urban areas.

States, in partnership with the FCC, play a direct role in furthering these universal service objectives.

Verizon's approach to providing service in New York clearly violates universal service and Carrier of Last Resort principles. While choosing to deploy FiOS in only selective areas of the state, Verizon has allowed plant for its copper wired network to deteriorate. When customers not served by FiOS develop service problems due to neglect of their facilities, Verizon proposes to give them a voice-only fixed wireless service that does not support advanced telecommunications and information services. Although the base price for Voice Link is pegged to Verizon's voice telecommunications services, the fact that it is of lower overall reliability and doesn't support data applications or DSL means that the rate isn't for a reasonably comparable service. If the customer has to pay extra – and most likely a lot more – for a stand-alone service that replaces these functionalities, then the rates are no longer reasonably comparable.

The Commission has also raised an important question about whether Verizon's substitution of Voice Link is compatible with its obligation as an "Eligible Telecommunications Carrier" ("ETC"). ETC status is conferred upon telephone companies, on a state-by-state basis, in order to certify their eligibility to receive federal funds in support of universal service. Verizon is an ETC throughout its service territory in New York State. As the Commission states in its Order, the proposed substitution of Voice Link for Verizon's wired service "introduces market exit issues, which should be reviewed further. For example, Verizon, as an eligible telecommunication carrier (ETC), must make a showing that there is another ETC to take its

place.”¹⁶ There are many locations in New York – including Fire Island – where Verizon is, in fact, the sole ETC.

Even if the PSC believes that modifications to the way Verizon fulfills its public service obligation are warranted by changes in competition or technology, it needs to lead the way in developing framework that will permit this to occur without harm to the public interest – such that all customers retain their ability to get fully capable telecommunications service at reasonable and affordable rates, and that there is no unequal or discriminatory treatment of any customers or customer groups. Developing such a framework will necessarily require detail study and input from all affected interests.

VI. Verizon New York has marketed Voice Link to customers beyond Fire Island, without obtaining prior approval from the Commission

While Verizon New York has gone through the motions of invoking Commission review of its proposal to expand Voice Link to areas beyond Fire Island, in reality it is forging ahead with efforts to deploy the service in other locations as well. CWA’s June 26, 2013 letter¹⁷ and the Attorney General’s June 26, 2013 emergency petition¹⁸ alerted the Commission that Verizon is installing VoiceLink in violation of the Commission’s order. Verizon has performed a few dozen installations in New York City, including attempting to force an 81 unit senior residence on Manhattan’s Lower East Side (referenced above) onto wireless service.

¹⁶ Order at 10.

¹⁷ CWA Letter to the Honorable Jeffrey Cohen, Acting Secretary, Case 13-C-0197, June 26, 2013 (“CWA June 26 Letter”).

¹⁸ Emergency Petition of New York Attorney General Eric T. Schneiderman for an Order Preventing Verizon from Illegally Installing Voice Link Service in Violation of Its Tariff and the Commission’s May 16, 2013 Order, Case 13-C-0197, June 26, 2013 (“Attorney General Petition”).

Verizon's disregard for the Commission's authority appears to be furthest advanced in the Hudson Valley. On June 13, 2013, Verizon delivered 500 VoiceLink devices to the Monticello garage. Verizon began training technicians to install VoiceLink on Friday, June 21, 2013. Verizon informed technicians that the large population of summer residents in the area will be transferred to VoiceLink if they call for service. CWA expects that if the pattern of customer service calls from previous years remains the same this year, several hundred customers in the Monticello area will be moved to VoiceLink service this summer. Verizon began VoiceLink installations in that area on June 21, 2013. Two customers were serviced that day. Both refused VoiceLink installations. It appears that at least one of these two customers repeatedly attempted to get Verizon to install landline service, and was told to accept VoiceLink service. As the Attorney General's petition notes, Verizon is not warning customers adequately about VoiceLink's many service limitations. Instead, the company appears to be pressuring customers to accept VoiceLink.¹⁹

In New York City, Verizon technicians were repeatedly turned away by customers who want landline service and attempted to get Verizon to install or repair their copper access line. In addition to dozens of installations before the Commission's order in this proceeding, in mid-May, just days before the Commission's order, Verizon New York sent technicians to a building at 308 E. 8th St. in lower Manhattan, in response to a service outage at that location. The work order called for the technician to install Voice Link. It turned out that the building contained 81 units for elderly residents, and residents in depended on their LifeAlert (medical alert) service – a service that does not work over Voice Link. The residents soundly rejected the Voice Link installation. The management of the residence had repeatedly approached Verizon for normal

¹⁹ *Id.* See Affidavit of Joshua Michaeli attached to Attorney General Petition dated June 25, 2013.

repair service, but Verizon kept delaying and telling the residents that they would need to accept VoiceLink or have no service at all./ Eventually, after the building management kept complaining, Verizon agreed to restore wireline service to the building.

The Company's suggestion that it is offering Voice Link on a purely voluntary basis is disingenuous if customers' only alternative is to remain without service. Verizon is also failing properly to warn customers about the many VoiceLink service limitations. The Commission should direct Verizon New York to make necessary repairs in the Company's wired infrastructure to maintain service in accordance with its existing service obligations.

Verizon's disregard for obtaining the required regulatory authorizations to abandon its existing facilities has been further demonstrated by the fact that it neglected to file the required Section 214 application with the FCC until June 7, 2013,²⁰ more than a month after its tariff filing and many months after it conceived of its plan to abandon its wires on Fire Island and parts of New Jersey. Section 214 exists to ensure that the FCC conducts a requires a carrier to seek authorization from the FCC *before* it discontinue[s], reduce[s], or impair[s] service to a community," so that the FCC can first determine that "neither the present nor future public convenience and necessity will be adversely affected thereby." Verizon's after-the-fact filing flouts this core requirement in federal law.

VII. Conclusion

Voice Link is by all accounts – including Verizon's – an inferior service and one that does not support voice and data functionalities that are available to customers throughout the

²⁰ Section 214 Application of Verizon New York Inc. and Verizon New Jersey Inc., filed June 7, 2013.

state over Verizon's wired network. The wireless access provided with Voice Link is also less reliable than properly maintained copper connections.

The deterioration of outside plant that Verizon relies on as justification for substituting VL is a problem largely of its own making, as it has long neglected and continues to neglect the maintenance and repair of its network facilities. This is true of Fire Island, but it is also true in areas throughout New York State where Verizon's own action (or inaction) would provide a convenient excuse for it to abandon its wired service. Over time, the selective abandonment of wired service would result in highly unequal service offerings for customers in different parts of the state. Thus, the Commission should reconsider and reject the revision of Verizon's service obligation, in Verizon's Tariff PSC No. 1, that would permit the Company to substitute Voice Link as its sole service when "a substantial portion of its facilities in the area is destroyed, rendered unusable, or beyond reasonable repair." Rather than encourage VZ to continue the neglect of its infrastructure, the Commission should insist that VZ maintain and repair these facilities.

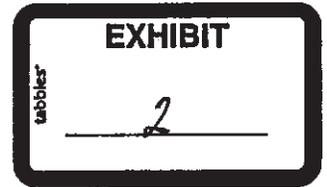
The Commission should also reject outright Verizon's broader criteria for expansion of Voice Link based on "geographic location, the availability of competitive facilities ... [or] other criteria." This "standard" is nothing more than a thinly veiled dismantling of Verizon's public service obligations. If the PSC believes that modifications to the way Verizon fulfills its public service obligation are warranted by changes in competition or technology, it needs to lead the way in developing framework that will permit this to occur without harm to the public interest – protecting service quality and reliability, the availability to voice, data, and broadband capabilities, and the right of customers throughout the state to receive such services at just,

reasonable, and nondiscriminatory rates. Developing such a framework will necessarily require detailed study and input from all affected interests.

CWA reiterates the concerns raised in our June 26, 2013 letter informing the Commission of Verizon's disregard for the Commission's Order limiting VoiceLink installations to the western portion of Fire Island for this summer. As we noted in that letter, the Commission should take immediate action to enforce the limitations placed on Verizon Voice Link deployment; require Verizon to maintain the integrity of its wired facilities; correct its ongoing anti-consumer practices and end its arrogant disregard for the Commission's directive.²¹

Finally, CWA restates its long-standing support for expansion of Verizon's FiOS network to more communities in New York state. Unlike VoiceLink, FiOS represents an investment in the future, providing the high-speed bandwidth needed for economic development, improvements in education, health care, and public safety, and driving competition leading to lower prices and innovative services. Commission policies should be designed to incent Verizon to make additional investments in FiOS expansion, rather allowing Verizon to abandon its copper plant and substitute wireless services like VoiceLink that represent backwards steps in communications services

²¹ CWA June 16 Letter.



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

In the Matter of)
)
Technology Transitions Policy) WC Docket No. 13-5
Task Force Seeks Comment on)
Potential Trials)
)
)

**Comments of
Communications Workers of America**

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July 8, 2013

I. The Commission Should Adopt Technology Trials with Six Public Interest Objectives, Including the Impact of the New Technology on Jobs and Workers

The Communications Workers of America (“CWA”) submits these comments in response to the Commission’s *Trials Public Notice* seeking comment on proposals to move forward with real-world technology transition trials. The Commission explains that the purpose of the trials is to gather a factual record to help determine what policies are appropriate to promote investment and innovation while protecting consumers, promoting competition, and ensuring that emerging all-Internet Protocol (IP) networks remain resilient. The Commission seeks comment on several potential trials relating to three technology transitions: from copper to fiber, from wireline to wireless, and from time-division multiplexing (TDM) to IP.¹

CWA represents 700,000 workers in communications, media, airlines, manufacturing and public service. CWA represents employees in all segments of the communications industry, including wireline, wireless, and cable companies providing voice, data, and video services. CWA members and their families have a vital interest in this proceeding as workers in the industry and as consumers of communications services.

CWA supports the Commission’s proposal to move forward with real-world technology trials. The transition from copper to fiber, wireline to wireless, and TDM to IP networks is taking place, and it is imperative that the Commission adopt policies that foster the statutory and public interest goals of communications policy to ensure network reliability, public safety, universal affordable quality service, consumer protections and job-creating investments in high-speed

¹ FCC, *Public Notice*, “Technology Transitions Policy Task Force Seeks Comment on Potential Trials,” WC Docket No. 13-5, May 10, 2013 (rel) (*Trials Public Notice*); FCC, *Public Notice*, Comment Cycle Established for Technology Transitions Policy Task Force Public Notice Regarding Potential Trials,” WC Docket No. 13-5, May 24, 2013 (rel).

broadband networks. In a previous submission, CWA articulated Six Public Interest Principles that should guide the Commission as it moves forward in examining the appropriate regulatory framework for an all-IP environment. We reiterate those Principles here as appropriate objectives for the technology transition trials: 1) stimulate investment in high-speed networks; 2) support quality jobs in the telecommunications industry; 3) promote quality, affordable service to all Americans; 4) ensure network reliability; 4) promote public safety; and 4) protect consumers.²

The Commission's *Trials Public Notice* references some of these objectives as those it aims to test in the trials, specifically citing policies to promote investment, innovation, protect consumers and competition, and ensure network resiliency.³ In order to evaluate the impact of the trials on these objectives, the Commission must add an additional focus: the impact of the technology trials on workers and jobs in the telecommunications industry. In order to protect consumers, maximize innovation, ensure network resiliency, and ensure that investment benefits consumers and communities, the Commission has a direct interest in making sure that telecommunications carriers build on existing investments in a skilled, career workforce and minimize displacement of that workforce.

More than 850,000 men and women are employed directly in the telecommunications network industry. The Bureau of Labor Statistics classifies about 717,000 (83 percent) of these employees as "non-supervisory" employees. These are the frontline workers who build, maintain, and service the wired and wireless communications networks.⁴ Historically, the

² Letter from Debbie Goldman to Marlene H. Dortch, In the Matter of AT&T Petition to Launch Proceeding Concerning the TDM-to-IP Transition; Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution, GN Docket No. 12-353, March 5, 2013.

³ *Id.*, p.1.

⁴ Bureau of Labor Statistic, Current Employment Statistics, April 2013.

telecommunications industry provided relatively high-wage, career employment for workers, partly because of the skilled nature of the work, but also because of the relatively high union density.⁵

Change is a constant for the frontline workers in this dynamic industry. The question is whether change will benefit or displace workers in the industry. Over the years, CWA has negotiated provisions with our employers to train workers on new technologies, to ensure that these retrained workers can transfer into jobs in the growing segments of the company, and to adopt other adjustment policies so workers have been able to grow their careers rather than suffer unemployment and displacement as technologies and lines of business change. Such programs create a win-win for employers, workers, consumers, and communities. Employees are able to build careers and maintain good jobs; employers benefit from a high-skilled, loyal workforce; consumers receive the quality service they deserve from well-trained, motivated technicians and customer service employees; and communities benefit from the stable good jobs provided by responsible employers.

Unfortunately, not all telecom employers have taken this responsible path to change. Some employers have used the introduction of new technology as an excuse to contract the work out to vendors, many of whom are located offshore, or to move the work to non-union subsidiaries, blocking the opportunity of the existing workforce to transfer into jobs in the

⁵ See Vicky Lovell, Heidi Hartmann, and Jessica Koski, *Making the Right Call: Jobs and Diversity in the Communications and Media Sector*, Washington, D.C.: Institute for Women's Policy Research, 2006 (available at <http://www.iwpr.org/publications/pubs/making-the-right-call-jobs-and-diversity-in-the-communications-and-media-sector>); Jeffrey H. Keefe, *Racing to the Bottom: How antiquated public policy is destroying the best jobs in telecommunications*, Washington, D.C.: Economic Policy Institute, 2005 (available at http://www.epi.org/publication/book_racing/); Rosemary Batt, Virginia Doellgast, and Hyunji Kwon, *The U.S. Call Center Industry: National Benchmarking Report*, Ithaca NY: Cornell University School of Industrial and Labor Relations, 2004 (available at <http://www.ilr.cornell.edu/globalcallcenter/research/upload/US-CC-report.pdf>);

growing segments of the company. Such policies do not serve the public interest in good jobs, stable communities, and quality service.

We have seen in the telecommunications industry that incumbents respond to competitive threats. When they respond with more investment, better service, and lower prices, the result is a virtuous circle of consumer benefits. In contrast, we have also seen the negative impact on consumers when the response is a cut in service, the offshoring and degradation of jobs, and the disruption of career ladders. It is in the best interest of all to ensure that the low-road employment policies do not become the dominant market driver.

The Commission can help ensure that the transition from wired to wireless, copper to fiber, and TDM to IP networks protects consumers' interest in a high-skilled, motivated work force providing quality telecom services in a number of ways. First, the Commission should collect data on employment as part of the factual record it develops during the trials. What impact does each of these trials have on the quantity (e.g. number by job function) and quality (e.g. wages, benefits, union representation, training) of jobs? How do job requirements change? What jobs are eliminated and what jobs are created as a result of the new technologies and networks? How did companies retrain and redeploy workers from the old to new technologies and networks? What are best practices that will help ease the transition in moving from trials to larger scale deployments? The Commission should require carriers that participate in the technology transition trials to provide information to the Commission so that it can answer these and other related questions.

Second, the Commission should require trial participants to provide a workforce deployment plan with the goal of maximizing the employment opportunities and minimizing the

displacement of current workers. For example, the Commission should not authorize any trial that would result in the outsourcing to domestic or offshore vendors of work currently performed by the company's own employees, or the movement of work into a subsidiary that does not provide transfer rights for existing workers. As this proceeding moves forward, CWA will provide additional detail to supplement these general recommendations. At this point, we emphasize that the Commission can play an important role in ensuring that employers take the responsible human resource approach to this technology transition, one that recognizes the value of skilled, career employees to the provision of quality, affordable, resilient communications services and one that minimizes the disruption caused by these changes.

In the remainder of our comments, we focus on some of the more specific questions that the Commission asks about two proposed technology trials: 1) wireline to wireless; and 2) geographic all-IP trials.

II. Wireline to Wireless Trial: The Commission Must Ensure that Consumers Do Not Lose Essential Communications Capabilities as Carriers Substitute Wireless-Only Service for Wireline Service and that Wireless Build-Out Drives Further Investment in High-Speed Wired Networks

AT&T has indicated that it intends to seek authority to serve some current wireline customers, mostly in rural areas, with a wireless-only product.⁶ Verizon has not waited for Commission authority, and is currently replacing copper based services damaged by Hurricane Sandy on Fire Island, New York and on several New Jersey barrier island with a fixed wireless

⁶ See *Trials Public Notice*, p. 8 (citing AT&T Wire Center Trials Petition, p.9, which explains that AT&T will offer wireless communications alternatives to customers living in particularly high-cost areas, including its Mobile Premises Services, which allows customers to make calls using ordinary wireline handsets connected to wireless base stations.)

service called Voice Link.⁷ In addition, Verizon has begun to encourage voice-only customers that have experienced multiple outside plant repair problems to switch to Voice Link.⁸ The New York Public Service Commission (NY PSC) suspended Verizon's proposed tariff related to Voice Link outside of western Fire Island, pending a more thorough review,⁹ yet it appears that Verizon has ignored the NY PSC and is moving ahead with some Voice Link deployments beyond western Fire Island.¹⁰ It is also CWA's understanding that Verizon is moving forward with Voice Link deployments to voice-only customers with chronic repair problems and to customers in neighborhoods with chronic repair problems in other states in its local exchange

⁷ Verizon filed a Section 214 discontinuance petition with this Commission on June 7, 2013, only after it had begun its Voice Link installations on Fire Island and the New Jersey barrier islands. The Commission has recently put that Section 214 discontinuance notice out for public comments. *See* Section 63.71 Application of Verizon New York Inc. and Verizon New Jersey Inc. for Authority Pursuant to Section 214 of the Communications Act of 1934, As Amended to Discontinue the Provision of Service, WC Docket No. 13-150 and Comp. Pol. File No. 1115, June 7, 2013, p.2 ("Verizon Section 214 Notice"). *See also* 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. 1115, June 28, 2013.

⁸ *See* Comments of the Communications Workers of America, 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 (available at <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={A6F1856B-B595-4178-8242-172FD3E32EEC}>); 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}>); Comments of AARP, 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 (available at <https://docs.google.com/a/cwa-union.org/file/d/0B3IY8WmqQATedzJENXd1SzBEcW8/edit>) ("Verizon Voice Link Tariff Proceeding")

⁹ *See* State of New York Public Service Commission, Notice Inviting Comments, 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, May 21, 2013 (available at <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={6FF2EF26-F8D2-4ECF-B58C-4EE68AB5B971}>).

¹⁰ *See* Emergency Petition of New York Attorney General Eric T. Schneiderman for an Order Preventing Verizon from Illegally Installing Voice Link Service in Violation of Its Tariff and the Commission's May 16, 2013 Order, Verizon Voice Link Tariff Proceeding, Case 13-c-0197, June 26, 2013; Reply of New York Attorney General Eric T. Schneiderman to Verizon's Response to the Attorney General's Emergency Petition, July 2, 2013; Letter from Chris Shelton, Vice President, CWA District 1 to Jeffrey Cohen, Verizon Voice Link Tariff Proceeding, Case 13-C-0197, June 26, 2013 (all these documents can be accessed at the New York Public Service Commission website at <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=13-C->

footprint, including but not limited to Virginia, California, Texas, Florida, Maryland, Washington, D.C., and Pennsylvania.

Voice Link is a fixed wireless service that uses regular home telephone handsets and existing wiring and jacks within the customer's home.¹¹ Although Verizon claims that Voice Link provides voice service just like traditional landline service, in fact Voice Link is not compatible with fax machines, medical alert, home security monitoring systems, and credit card machines.¹² Voice Link does not enable data transmission, so a Voice Link customer cannot get either dial-up or DSL Internet access, nor can a deaf or hard of hearing person use the highly popular video relay service or IP Relay service with a Voice Link service. Unlike landline service, Voice Link has no back-up power, and in times of power outages, wireless service is susceptible to cell tower power outages, congestion, and batteries running low. Voice Link does not allow customers to accept collect calls, calls to the operator by dialing "O," does not permit customers to make international calls, does not support "dial around," does not support specialized exchanges, and DVRs. Voice Link does not offer the back-up power of traditional landline service. In terms of E911, the customer's location is programmed into the unit. But because the unit is completely portable, it is highly likely that a customer may move the unit to another location.¹³ (See Attachment A, "CWA District 1 Comments to the Public Service Commission in New York on Voice Link.")

0197&submit=Search+by+Case+Number).

¹¹ See Section 63.71 Application of Verizon New York Inc. and Verizon New Jersey Inc. for Authority Pursuant to Section 214 of the Communications Act of 1934, As Amended to Discontinue the Provision of Service, WC Docket No. 13-150 and Comp. Pol. File No. 1115, June 7, 2013, p.2.

¹² New York Public Service Commission, Order Conditionally Approving Tariff Amendments in part, Revising in Part, and Directing Further Comments, Case 13-C-0197, May 16, 2013, page 6.

¹³ Verizon New York, Inc. "Voice Link Terms of Service," filed May 20, 2013, Verizon Voice Link Tariff Proceeding, Case 13-C-0197. Voice Link filed a revision of this document on June 10, 2013.

In light of these limitations, this Commission's proposal to conduct trials to assess the impact on residential and business customers of wireless substitution takes on critical importance. It is clear that Voice Link, the fixed wireless technology that Verizon is using to replace landline service, does not provide the same capabilities to residential and business customers. Voice Link represents a step backwards. The issue of network reliability during power outages must be resolved. Moreover, because it does not offer data transmission capabilities, a customer must rely either on cable (if available) or more expensive alternatives such as satellite or wireless broadband.

Wireless substitution raises key policy issues that the Commission must consider in the context of a trial. First, what is the impact of wireless substitution on public safety and network reliability? Unlike wireline systems, wireless networks are not hard-wired into an independent power source at the incumbent carrier's central office, and thus wireless networks are vulnerable to loss of power during weather emergencies and power outages. Wireless networks are also subject to network congestion. CWA fully supports the Commission's proposal to require trial participants to describe how they plan to address service continuity issues in the event of a power outage. The Commission should require trial participants to collect and provide to the Commission publicly-available data on the real-life experiences of wireless-only households during power outages. The Commission should also require trial participants to collect and provide to the Commission publicly-available network reliability data that goes beyond the current reliability measures that the Commission collects for wireline services, including but not limited to the number of dropped and blocked wireless calls and data sessions for participants.

Second, the Commission must collect data on the impact of wireless substitution on the build-out of fiber into more communities and neighborhoods. While wireless 4G LTE networks may provide an economically efficient means to connect consumers and small businesses in low-density rural areas to voice and data communications networks, wireless is simply not a substitute for the high-capacity fiber networks necessary to transmit the video and data-rich applications of the 21st century information society. Wired and wireless networks complement each other; they are not substitutes.¹⁴ Wireless networks cannot provide the capacity that community anchor institutions such as schools, libraries, medical centers, E911 centers, and other public service providers need going forward. Businesses seek locations with high-speed fiber networks; communities with only 4G LTG connections will find themselves economically isolated, without the potential for job growth in the high-tech economy. As AT&T CEO Randall Stephenson recently explained: “[T]he more wireless we become, the more fixed-line dependent we become...All of those cell sites [are] connected by fiber and Ethernet. Basically all you’re doing is building this big massive fixed-line network with wireless antennas hanging on the end. So the ability to have all this fiber deployed around the country is really powerful.”¹⁵

Verizon has announced that it will not expand its all-fiber FiOS network beyond the approximately 19 million households in its footprint where it has either completed or has franchise commitments to complete its FiOS build.¹⁶ That leaves about one-third of consumers

¹⁴ The Institute for Local Self-Reliance has a two-page fact sheet designed for a popular audience that explains the opportunities and limitations of wireless Internet. See Institute for Local Self-Reliance, *Wireless Internet 101* (available at <http://www.ilsr.org/wp-content/uploads/2013/06/wireless-fact-sheet-101.pdf>).

¹⁵ Connie Guglielmo, “AT&T’s Big Call: Randall Stephenson on the I-Phone, His Wireless Ambitions, and the Next Best Thing,” *Forbes*, Jan. 2, 2013 (available at <http://www.forbes.com/sites/connieguglielmo/2013/01/02/atts-big-call-randall-stephenson-on-the-iphone-his-wireless-ambitions-and-the-next-big-thing/>).

¹⁶ See *VZ-Verizon at JPMorgan Global Technology, Media and Telecom Conference*, THOMSON REUTERS STREETEVENTS, Edited Transcript, May 14, 2013, p. 10.

and small businesses in the Verizon footprint, including the cities of Buffalo, Boston, Baltimore, Albany, and Syracuse, on the wrong side of the digital divide.¹⁷ AT&T's Project Velocity IP Initiative initially projected an expansion of its high-speed U-Verse fiber-to-the-neighborhood network to reach 57 million or 75 percent of wireline customer locations in its footprint and an additional one-million business locations.¹⁸

As part of its wireline to wireless trial, the Commission should require trial participants to provide data to assess whether the wireless substitution creates economies of scope that incent investment in high-speed wired networks providing service not only to cell towers but also to community anchor institutions, consumers, and small businesses. In this way, the Commission will be able to gather valuable data to drive policies that create market-based incentives for carriers to invest in building fiber networks deeper into the neighborhoods.

CWA now turns to answer some of the specific questions the Commission asks in the *Trials Public Notice* regarding the wireline to wireless trial.

Scope. CWA supports the Commission's proposal to conduct the wireline to wireless trial at the wire center level, to limit the number of geographic areas for the trial to one inside and one outside the LEC's wireline service territory, to provide customers the option of participating in the trial and the right to switch back to their previous wireline product if they so choose. The

¹⁷ See Communications Workers of America, "Slamming the Door on Our High-Speed Future," WT Docket 12-4 (available at <http://apps.fcc.gov/ecfs/document/view?id=7021923219>).

¹⁸ AT&T announced it would invest an additional \$14 billion -- \$6 million in wireline, \$8 billion in wireless -- over the next three years, on top of its previously announced capital commitments. AT&T Press Release, "AT&T to Invest \$14 Billion to Significantly Expand Wireless and Wireline Broadband Networks, Support Future IP Growth and New Services," Nov. 7, 2012 (available at <http://www.att.com/gen/press-room?pid=23506&cdvn=news&newsarticleid=35661>).

Commission must ensure that participating carriers provide full disclosure to customers prior to the trial.¹⁹

Data. As noted above, the Commission should collect data on the employment impact of the wireline to wireless trials, data related to investment and expansion of high-speed wired and wireless broadband networks, and network reliability and public safety.²⁰ CWA concurs with the Commission's proposal to collect data on customer churn, subscriber counts, disconnects, gross additions, average revenue per user (ARPU), counts of customers switching back to wireline service, customer service complaints, service visits, actual customer data speeds by month and separately for each geographic area and product.²¹ In addition, the Commission should collect pricing data and actual expenditures by different classes of customers on wired, wireless, and bundled voice and data services. The Commission's proposal to conduct a consumer survey should provide valuable information, particularly if it is conducted by an independent source and seeks information from wireless and wireline customers regarding voice, data, and video services. The Commission should also collect data on the impact of wireless substitution on fiber deployment to anchor institutions (schools, libraries, government institutions, health care facilities) and to residential/small business customers in the trial areas. Finally, the Commission should collect data on the impact of the trials on competition in the delivery of high-speed broadband and video services.

¹⁹ *Trials Public Notice*, p. 9.

²⁰ See page 4 of these comments.

²¹ *Trials Public Notice*, 8-9.

III. The Commission Should Seek Public Comment on the Carriers' Detailed Road Map for Geographic All-IP Trials

In the *Trials Public Notice*, the Commission asks carriers interested in pursuing such a trial to submit a more detailed, comprehensive roadmap of the trial, including the data to be collected, the rules that would need to be waived, and the role of the states. CWA previously submitted comments on AT&T's general proposal regarding an "all IP" wire center trial and requests that those comments be incorporated into this proceeding and that carriers incorporate our recommendations into the more detailed plans they provide to the Commission.²² (*See* Appendix B. "CWA Letter Submitted in Response to AT&T TDM-to-IP Transition Petition.") The Commission must provide the public an opportunity to comment on the more detailed plan on how the trials will work, the design of the trial, data to be collected, and rules that would be waived. At this time, we reiterate the points that we have made earlier in these comments. Any trial must include a workforce deployment plan that details how the trial participants plan to retrain and redeploy the existing workforce to build, maintain, and service all-IP networks, and it must include detailed data collection on the impact of the trial on the quantity and quality of jobs. The trial must also address the significant issues related to IP network reliability and public safety in periods of power outages, given the fact that IP networks lack their own back-up power source. Finally, as noted in our earlier comments on the AT&T TDM-to-IP transition, such a trial provides the Commission with the opportunity to establish a level-playing field of regulation that applies to all IP network carriers. At the same time, the Commission should proceed cautiously with any proposal that proposes substituting a procurement model for existing "federal and state

²² Letter from Debbie Goldman to Marlene H. Dortch, In the Matter of AT&T Petition to Launch Proceeding Concerning the TDM-to-IP Transition; Petition of the National Telecommunications Cooperative Association for a

service-obligations rules,” such as state-mandated carrier-of-last resort obligations and federal ETC obligations.²³

IV. Conclusion

The transition from wired to wireless, copper to fiber, TDM to IP networks is already happening. The Commission should move forward expeditiously with carefully designed trials to obtain the data that it needs to ensure that the statutory goals of the Communications Act “to make available, so far as possible, to all the people of the United States...a rapid, efficient, Nationwide, and worldwide wire and communications service with adequate facilities at reasonable charges”²⁴ and the goals of the Telecommunications Act of 1996 “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies”²⁵ continue to drive our communications policy.

Respectfully Submitted,



Debbie Goldman
Telecommunications Policy Director
Communications Workers of America

Dated: July 8, 2013

Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution, GN Docket No. 12-353, March 5, 2013.

²³ *Id.*, p. 5.

²⁴ 47 U.S.C. Sec. 151(1).

²⁵ Preamble to Telecommunications Act of 1996, Public Law 104-104, Feb. 8, 1996.

Appendix B.

Communications
Workers of America
AFL-CIO, CLC

501 Third Street, N.W.
Washington, D.C. 20001-2797
202/434-1100



March 5, 2013

By ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: In the Matter of AT&T Petition to Launch Proceeding Concerning the TDM-to-IP Transition; Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution. GN Docket No. 12-353

Dear Ms. Dortch:

The Communications Workers of America (“CWA”) submits this letter in the Commission’s proceeding established in response to petitions submitted by AT&T and the National Telecommunications Cooperative Association (“NCTA”) urging the Commission to alter policies to respond to the ongoing technological transition of voice networks.¹ Specifically, the AT&T Petition requests that the Commission conduct trials in select wire centers chosen by participating incumbent local exchange carriers (“ILECs”) “to understand the technological and policy dimensions of the TDM-to-IP transition and, in the process, to identify the regulatory reforms needed to promote consumer interests and preserve private incentives to upgrade America’s broadband infrastructure.”² The NCTA Petition asks the Commission to “initiate a rulemaking to examine the means of promoting the ongoing evolution of the Public Switched Network” from TDM to IP, and to seek comment on which regulations should be eliminated, retained, or changed to ensure the statutory objectives of consumer protection, competition, and universal service.³

¹ Public Notice, “Pleading Cycle Established on AT&T and NTCA Petitions,” GN Docket No. 12-353.

² AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353, Nov. 7, 2012, at 1 (“AT&T Petition”).

³ Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolutions, GN Docket No. 12-353, Nov. 19, 2012, at 1 (“NCTA Petition”).

CWA represents 700,000 workers in communications, media, airlines, manufacturing, and public service. CWA represents employees in all segments of the communications industry, including wireline, wireless, and cable companies providing voice, data, and video services. CWA members and their families have a vital interest in this proceeding as workers in the industry and as consumers of communications services.

More than six years ago, CWA launched our Speed Matters campaign to promote the deployment of affordable, quality high-speed broadband networks to all Americans.⁴ While our nation has made much progress in the intervening years, the United States still trails 32 other nations in the capacity and reach of our high-speed broadband networks.⁵ As the Commission has acknowledged, broadband deployment is “*the great infrastructure challenge of the early 21st century*,”⁶ one our nation must address to ensure economic growth and to unleash the unlimited potential of the Internet to improve education, health care, public safety, environmental protection, civic participation, and make the vast knowledge of human society available to people almost instantaneously over the Internet. Most important for our democracy and our nation’s commitment to equal economic opportunity, our public and private policies must ensure that all households, businesses, schools, libraries, medical facilities, first responders, government agencies, and other community anchor institutions have affordable access to truly high-speed networks, regardless of geography, race, or income. Promoting job-creating investment in universal, affordable, high quality wired and wireless broadband is truly *the great infrastructure challenge of the early 21st century*.

In the United States, it is largely private capital that will finance the hundreds of billions of dollars necessary to build-out and maintain high-speed broadband networks. Therefore, it is critical that our nation’s regulatory policies create the appropriate environment to support job-creating investment in next-generation high-speed broadband networks. For example, it makes no sense in this highly competitive environment to maintain rules that apply differently to carriers that provide the same service simply because the carrier historically was regulated

⁴ See Speed Matters: High Speed Internet for all Americans at <http://www.speedmatters.org>

⁵ According to Speedtest.net, the average download speed in the United States is 15.93 Mbps, which trails 32 other countries including Lithuania (36.76 Mbps), South Korea (35.68 Mbps), Japan (33.38 Mbps), Romania (28.16 Mbps), Sweden (28.11 Mbps), United Kingdom (19.26 Mbps), Germany (18.46 Mbps) and Canada (16.15 Mbps). See Speedtest.net. Speedtest.net describes its methodology as follows: “Based on millions of recent test results from [Speedtest.net](http://www.speedtest.net), this index compares and ranks consumer download speeds around the globe. The value is the rolling mean throughput in Mbps over the past 30 days where the mean distance between the client and the server is less than 300 miles. See [speedtest.net](http://www.netindex.com/) (available at <http://www.netindex.com/>), accessed Feb. 25, 2013. It is likely that Speedtest.net overstates the average download speed in the United States. According to the FCC’s most recent report, 42 percent of residential U.S. Internet users’ fixed connections are less than 3 Mbps download, 769 kbps upload, while another 19 percent connect at speeds between 3 and 6 Mbps download, 1.5 Mbps upload. See FCC, *Internet Access Services: Status as of Dec. 31, 2011*, Figure 2 at 3, Feb. 2013.

⁶ FCC, *Connecting America: The National Broadband Plan*, 2010, at 3 (“National Broadband Plan”).

under a different Title of the Communications Act. Similarly, it makes no sense to require some industry players to meet important public safety and network reliability obligations, service quality standards, and measures to protect consumers while other industry players are not required to meet these standards. In addition, it makes no sense to require incumbent local exchange carriers to maintain TDM networks simply for purposes of technology-specific interconnection rules. These legacy policies distort the market and allow carriers to engage in regulatory arbitrage. The AT&T and NCTA Petitions provide the Commission and interested parties the opportunity to reform the current regulatory framework to set a level playing field that applies to all providers of communications services.

As the Commission evaluates the appropriate regulatory framework for an all-IP world, the statutory public interest goals of communications policy to ensure network reliability, public safety, universal affordable quality service, and job-creating investment remain as relevant as ever. CWA concurs with consumer, public interest, and state regulatory commission commentators who explain that these goals are technology neutral; they do not go away simply because the switching technology or network facilities change.⁷ The starting point for the Commission remains, as always, the purposes articulated in the 1934 Communications Act and later updated in the Telecommunications Act of 1996. As stated in the 1934 Communications Act, the purpose of the Act is to regulate

“...interstate and foreign commerce in communications by wire and radio so as to make available, so far as possible, to all the people of the United States...a rapid, efficient, Nationwide, and world wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communications.”⁸

The Telecommunications Act of 1996 reaffirmed these basic goals, and made explicit that the purpose of the Act is “to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”⁹

CWA believes that Six Public Interest Principles should guide the Commission as it re-examines the regulatory framework appropriate for an all-IP competitive communications system. The Six Public Interest Principles should guide Commission policies to: 1) stimulate investment in high-speed networks; 2) support quality jobs in the telecommunications

⁷ See Comments of AARP, Comments of Free Press, Comments of Public Knowledge, Comments of National Association of Regulatory Utility Commissioners, WC Docket No. 12-353, all dated Jan. 28, 2013.

⁸ 47 U.S.C. Sec. 151(1).

⁹ Preamble to Telecommunications Act of 1996, Public Law 104-104, Feb. 8, 1996.

industry; 3) promote quality, affordable service to all Americans; 4) ensure network reliability; 4) promote public safety; and 4) protect consumers. We elaborate below.

1. Stimulate investment in high-speed networks. Despite progress, there are still 19 million U.S. households with no broadband access at home. Most U.S. broadband networks are too slow for the video- and data-rich applications available today and in the near-future. The U.S. ranks 33rd in the world in average broadband speed, only 40 percent of U.S. households can access broadband at the speeds used by the FCC in its definition of broadband, and fewer than four percent have a broadband connection at 25 Mbps or greater download speed.¹⁰

Since it is private capital that will build, upgrade, and maintain our next-generation networks, the Commission must ensure that our public policies incent providers to invest in higher-capacity wired and wireless networks, and most important, to push fiber deeper and deeper into the neighborhood. Even our wireless networks depend upon getting fiber deeper into the network. As AT&T CEO Randall Stephenson recently explained: “[T]he more wireless we become, the more fixed-line dependent we become...All of those cell sites [are] connected by fiber and Ethernet. Basically all you’re doing is building this big massive fixed-line network with wireless antennas hanging on the end. So the ability to have all this fiber deployed around the country is really powerful.”¹¹

2. Support Quality Jobs in the Telecommunications Industry. Today, over 1.1 million men and women work directly in the telecommunications industry, building, maintaining, and servicing networks. About half this number (564,000) work in wired telecommunications and the other half (541,000) are employed in wireless, satellite, and other telecommunications services. About one-third of these workers are women, 14 percent are African American, about 10 percent are Hispanic, and about six percent are Asian.¹² Historically, telecommunications provided relatively high-wage, career employment for workers, partly because of the skilled nature of the work, but also because of the relatively high union density.

With the transition from TDM to IP switches and other facilities, the jobs for workers in the industry will change. Change is a constant in the high-tech telecommunications industry. The question is whether change will benefit or displace workers in the industry. Over the years, CWA has negotiated provisions with our employers to train workers on new technologies and to adopt other adjustment policies so workers have been able to grow their careers rather than

¹⁰ FCC, *Internet Access Services: Status as of Dec. 31, 2011*, Figure 11 at 31 (for residential connection speeds), Feb. 2013 and FCC, *Eighth Broadband Progress Report*, Aug. 21, 2012 at 12 (for number of households without broadband access).

¹¹ Connie Guglielmo, “AT&T’s Big Call: Randall Stephenson on the I-Phone, His Wireless Ambitions, and the Next Best Thing,” *Forbes*, Jan. 2, 2013 (available at <http://www.forbes.com/sites/connieguglielmo/2013/01/02/atts-big-call-randall-stephenson-on-the-iphone-his-wireless-ambitions-and-the-next-big-thing/>).

¹² U.S. Bureau of Labor Statistics, Current Population Survey, 2012.

suffer unemployment and displacement. The IP transition should be no different. The introduction of new technology must not be an excuse to displace workers or send work to outside vendors, including those located offshore.

The Commission can help ensure that the IP Transition benefits workers in the industry by collecting data on employment developments. In particular, any trial of the TDM to IP transition should include a workforce deployment plan with the goal of maximizing the employment opportunities and minimizing the displacement of current workers.

3. Promote Quality, Affordable Service to all Americans. The core principle that all Americans should have access to quality, affordable advanced communications services is essential to maintain a vibrant democracy, equitable economy, and socially engaged polity. Moreover, the principles are statutorily mandated in the 1996 Telecommunications Act.¹³ The Commission began the process of updating this mandate for a competitive environment with its recent *ICC/USF Reform Order*.¹⁴ The AT&T Petition proposes substituting a procurement model for existing “federal and state service-obligation rules,” such as state-mandated carrier-of-last resort obligations and federal ETC obligations.¹⁵ The Commission should proceed cautiously with such proposals; besides the jurisdictional issues this raises regarding state commission authority,¹⁶ a procurement model poses difficult issues regarding stranded investment and the potential that a successful bidder might later choose to abandon its obligations, leaving consumers without critical communications infrastructure.

4. Ensure Network Reliability. Wireless and IP networks do not provide the same level of reliability as the copper circuit-switched network, with its connections to a power source in the central office. Other commentators have noted the critical failure of networks in the recent *derecho* storm in the Mid-Atlantic portion of the country and during Superstorm Sandy in the fall of 2012. In light of global warming, such environmental disasters will only increase in the years ahead. The Commission has initiated investigations and hearings about these network failures as a first step toward developing more comprehensive standards to ensure and enforce network reliability.

5. Promote Public Safety. The failure of Verizon’s 911 service during the summer 2012 *derecho* highlights the need to ensure regulatory oversight over emergency services and to update the rules for IP and wireless networks.

¹³ 47 U.S.C. Sec. 254, 706.

¹⁴ See Report and Order and Further Notice of Proposed Rulemaking, *Connect America Fund et al.*, 26 FCC Rcd 17663, 2011.

¹⁵ AT&T Petition at 15-19.

¹⁶ See Comments of the National Association of Regulatory Commissioners, WC Docket No. 12-353, Jan. 28, 2013.

6. Protect Consumers. Consumer protections such as slamming and cramming rules, truth-in-billing, quality of service benchmarks, and data reporting should apply to all service providers, regardless of technology. CWA has been particularly concerned about the Commission's failure to update its service quality reporting rules to apply to all carriers, depriving consumers and policymakers of critical information needed to ensure quality service.¹⁷ During a period of regulatory experimentation, it is especially important for the Commission to collect data and make it available to the public in order to assess the impact of rule changes.

The AT&T and NCTA Petitions, and the comments of other parties, raise other important issues, including the regulatory definition of VoIP service and the role for state regulatory authority over VoIP and other IP-enabled services. In the *IP-Enabled Services* proceeding, CWA submitted extensive comments to demonstrate that VoIP is a telecommunications service under the terms of the Communications Act, as amended, and state jurisdiction over voice communications does not evaporate with VoIP service. CWA requests that those comments be incorporated into the record in this proceeding.¹⁸

Finally, CWA looks forward to the opportunity to supplement these general comments with more specific recommendations as the Commission moves forward in consideration of the AT&T and NCTA petitions.

Respectfully submitted,



Debbie Goldman
Communications Workers of America

¹⁷ In its 2008 *Service Quality Data Order*, the Commission concluded that it would be valuable to collect service quality data from all carriers, but has not acted on that conclusion and in 2010 allowed incumbent local exchange carriers to stop submitting certain service quality data to the Commission. See CWA Comments, In the Review of Wireline Competition Bureau Data Collection Practices, WC Docket No. 10-132, Aug. 13, 2010. See also In the Matter of Petition of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, 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, Petition of Qwest Corporation for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of for Forbearance Frontier and Citizens ILECs Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Verizon for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, WC Dockets Nos. 08-190, 07-139, 07-204, 07-273; Sept. 6, 2008 (rel), para 12 ("Service Quality Data Order").

¹⁸ Comments of Communications Workers of America, *In the Matter of IP-Enabled Services*, WC Docket no. 04-36, May 28, 2004.

EXHIBIT F

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND**

In the Matter of the Commission's Inquiry
Into Verizon Maryland Inc.'s Provision of
Local Exchange Telephone Service Over
Fiber Optic Facilities

Case No. 9123

**Pre-Filed Direct Testimony
of
Scott C. Lundquist
On Behalf of the
Maryland Office of People's Counsel**

PUBLIC VERSION

June 19, 2008

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I. INTRODUCTION OF WITNESS

Q. Please state your name and business address.

A. My name is Scott C. Lundquist. My business address is QSI Consulting, 53 Cottage St., Natick, Massachusetts 01760.

Q. Have you previously appeared as an expert witness before the Maryland Public Service Commission (“Commission”)?

A. Yes. In 2001, I testified on behalf of OPC in Case No. 8879, *Re: Investigation into Rates for Unbundled Network Elements Pursuant to the Telecommunications Act of 1996*, which addressed the recurring cost studies prepared by Verizon Maryland for its unbundled network element (“UNE”) offerings.

Q. What is QSI Consulting, Inc. and what is your position with the firm?

A. QSI Consulting, Inc. (“QSI”) is a consulting firm specializing in litigation and regulatory support, business case analysis, and modeling in telecommunications and other utility industries. QSI's consultants provide services to a wide array of clients, including state regulatory commissions, state agencies and legislatures, telecommunications companies (landline, wireless and cable companies), and law firms. I serve as a Consultant to QSI.

- 1 **Q. Please describe your professional experience and education.**
- 2 A. I have prepared a summary of my professional experience and education, which is
- 3 provided in Appendix 1 attached to this testimony.

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II. PURPOSE OF TESTIMONY

Q. What is the purpose of your testimony?

A. QSI has been engaged by OPC to assist in the investigation of certain policies and practices of Verizon Maryland Inc. (“Verizon Maryland,” “Verizon,” or “the Company”) pertaining to its provisioning of regulated voice telephone services in Maryland, over its advanced fiber-to-the-premises (“FTTP”) network commonly referred to as “FiOS” (Fiber Optic Service).¹ My testimony sets forth my assessments and recommendations to the Commission based on the information obtained thus far, via discovery and independent research. To the extent necessary OPC may further address issues subject to this investigation based on the testimony submissions of other parties in its rebuttal and surrebuttal testimony.

¹ More precisely, FiOS is Verizon’s brand for marketing the Internet Access and other services provided over the FTTP network. However, in its 2007 Annual Report, Verizon has used the term FiOS to refer to the FTTP network as well as the services delivered over that network, and occasionally I will do the same in my testimony for convenience.

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III. SUMMARY OF TESTIMONY AND RECOMMENDATIONS

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Q. Please summarize your testimony and recommendations.

5

A. The Commission opened this proceeding in response to OPC's August 9, 2007 *Petition* seeking an investigation of Verizon's practices and procedures concerning the provisioning local exchange telephone service over fiber optic facilities. In that *Petition*, OPC raised concerns about Verizon's conversion of residential consumers' *regulated* voice telephone service from copper to fiber optic facilities in the course of Verizon's satisfying consumers' requests to obtain FiOS Internet service, which is an *unregulated*, non-telecommunications service provided by the Verizon affiliate, Verizon Online. My testimony presents the results of OPC's investigation to date, including my preliminary assessments and recommendations to the Commission.

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As an initial matter, it is clear that Verizon views its FiOS Internet service, as well as its newer FiOS TV service, as important growth markets. From a strategic perspective, Verizon considers its FiOS/FTTP network deployment as a key element in an on-going transformation of its wireline services business. As the scale and customer volumes of the FTTP network increase over time, Verizon anticipates that the FTTP network will eventually produce lower per-unit operating costs than the traditional network. As part of this transformation, Verizon intends to expand its use of the FTTP network to provide its wireline voice telephone services. However, instead of marketing an FTTP-based voice

1 telephone product to its customers as a technologically-advanced alternative to
2 traditional telephone service, Verizon has elected to migrate its voice customers
3 over to FTTP on what can be characterized as a “stealth” basis: within its existing
4 tariffs and prices, on a customer-by-customer basis, and – as I explain at length in
5 my testimony – without sufficient notice and disclosure to the affected customers
6 that their voice service is being migrated. To this end, Verizon routinely migrates
7 the voice telephone service of consumers who purchase its FiOS services onto its
8 FTTP network. Even customers who have elected to try FiOS Internet service on
9 a “thirty-day money-back guarantee” basis have had their voice service
10 permanently reconfigured to the FTTP network. Verizon also migrates certain
11 customers to the FTTP network as part of a targeted program where Verizon
12 considers it more cost effective than to repair existing copper facilities..

13

14 Once a Maryland residential customer’s voice line has been migrated to the FTTP
15 network, it has been altered in several significant respects, including:

16

17 (1) Their service has been moved from a copper drop line to a fiber drop line;

18

19 (2) Certain telephones and other customer-premises equipment (“CPE”), such
20 as security and fire alarm monitoring devices, that were connected via the
21 copper line, may not work properly with the FTTP network.

21

22 (3) Their telephone service has been converted from Verizon-supplied
23 electrical power to customer-provided power, which is subject to any
commercial power interruptions the customer may experience; and

1 (4) The customer is now responsible for monitoring the status of the battery in
2 the battery back-up unit (“BBU”) and replacing it when necessary.

3
4 Moreover, once the copper drop has been disconnected, the customer can no
5 longer order Digital Subscriber Line (“DSL”)-based broadband Internet access
6 services, either those offered by Verizon or its competitors. While DSL services
7 are not regulated by the Commission, they remain one of the most-used forms of
8 broadband Internet access.

9
10 From a consumer protection perspective, the most troubling aspect of Verizon’s
11 voice migration to FTTP practices is that it is generally failing to adequately
12 inform customers about the migration and its consequences. Verizon contends
13 that FiOS customers receive “abundant” notification of voice migration to FTTP,
14 and points to the fact that it provides numerous statements in a variety of media,
15 including webpages on the Verizon.com website, hardcopy materials delivered to
16 customers’ homes, and during verbal interactions with Verizon customer service
17 personnel and technicians, that address certain aspects of migration. However, as
18 I demonstrate through a detailed review and analysis of these various forms of
19 customer communication, those disclosures, where they occur at all, generally fall
20 well short of what is needed to ensure that consumers are receiving clear and
21 conspicuous notice concerning voice migration to FTTP and its impacts. Later in
22 my testimony, I present a model disclosure statement that would provide adequate
23 customer notice of Verizon’s voice migration policy, provided that the notice was

1 displayed prominently within Verizon’s FiOS advertising and ordering documents
2 and webpages.

3
4 OPC’s investigation has also made it clear that Verizon generally is not obtaining
5 a customer’s informed consent before proceeding with the voice migration to
6 FTTP. Apart from the insufficient disclosures issue (which in itself limits the
7 degree to which “informed” consent can be obtained), Verizon does not seek a
8 customer’s written authorization for voice migration, and in most ordering sales
9 channels, it does not obtain any other verifiable form of customer consent, such as
10 having the customer initial next to an acknowledgment of a voice migration
11 disclosure statement. Similarly, Verizon does not appear to obtain any specific,
12 overt consent to voice migration when a customer orders a FiOS service via a
13 telephone call to a Verizon service center.

14
15 My preliminary conclusion is that there are several steps that the Commission
16 should take to ensure that Maryland consumers can make fully informed choices
17 and are not harmed by Verizon’s policy of migrating its voice customers to the
18 FTTP network whenever they order a FiOS service.

19
20 First, the Commission should direct Verizon to modify its customer notifications
21 and disclosures concerning voice migrations to FTTP, so that all customers are
22 made fully aware that this change is taken place and realize the consequences of
23 that change to their voice services. To that end, I recommend that the

1 Commission require Verizon to post the model customer notification that I
2 present in this testimony in prominent positions within each of the webpages and
3 on documents that Maryland consumers will typically review in the course of
4 making a decision whether to purchase a FiOS service. In addition, I recommend
5 that Verizon repeat that notification in the customer’s first telephone bill sent after
6 the voice migration, e.g. via a bill insert.

7
8 Second, after ensuring that its customers are fully informed about the voice
9 migration process, Verizon should be required to obtain verifiable consent from
10 consumers to migrate their voice telephone service to fiber facilities. For online
11 orders and any written forms used by Verizon or its sales agents, consumers
12 should be asked whether they understand and consent to the migration of their
13 voice telephone services to the FTTP network, as explained in the model
14 customer disclosure statement, and provide verifiable consent in the form of
15 written initials (for hardcopy forms) or checking off an appropriate box (for on-
16 line forms). For telephone orders, after being informed of the change by the
17 Verizon representative during the call, consumers should be explicitly asked
18 whether they consent to the migration of their voice telephone service to the
19 FTTP network.

20
21 OPC has also investigated the potential anticompetitive impacts of Verizon’s
22 FiOS installation procedures, that primarily have to do with the disposition of the
23 copper “drop” (i.e., the wire running from Verizon’s street-level network, into the

1 customer's premises). We have confirmed that up until October 2007, Verizon's
2 former practice during FiOS installations in Maryland was to entirely remove the
3 copper drop if it was aerial, and disconnect it and keep it in place if it was buried.
4 Since that time, Verizon has disconnected, but retained in place, both aerial and
5 copper drops, when it performs a FiOS installation and associated voice migration
6 to FTTP in Maryland.

7
8 Once disconnected, those copper drops are no longer an active component of the
9 network, and are not subject to any on-going monitoring or maintenance by
10 Verizon. However, they do appear to remain available for future re-connection
11 and re-use, upon a consumer's request to obtain a copper UNE-based voice
12 service from a CLEC, for an indefinite period of time. Accordingly, my
13 conclusion is that Verizon's current copper drop procedures do not equate to a
14 "retirement" of copper facilities. Moreover, there does not appear to be a
15 compelling need for the Commission to adopt any new rules concerning
16 Verizon's copper facilities retirements at this time. However, the Commission
17 should continue to monitor Verizon's treatment of copper facilities that are
18 disconnected due to FiOS service installations, and stand ready to take action if
19 Verizon begins to retire such plant in a manner that adversely impacts Maryland
20 consumers' ability to obtain regulated telecommunications services.

21
22 We have confirmed that Verizon does not impose any charges on either
23 consumers or competitive service providers ("CLECs") when it needs to re-

1 connect a copper drop (and thus, restore a working copper loop), in the event that
2 a customer who has been migrated to FTTP wishes to obtain voice service from a
3 CLEC. However, the absence of a connected copper loop after a FiOS
4 installation causes a more complicated ordering and provisioning process to ensue
5 in that situation, compared to the stream-lined processes that can take place if the
6 consumer has remained connected to the Verizon POTS network via a copper
7 loop (and drop). Specifically, the CLEC has to submit at least two “Local Service
8 Requests” (i.e., wholesale orders) to Verizon – one to request re-connection of the
9 copper loop, and a second to migrate the customer (via the hot-cut and number
10 porting) – while Verizon must dispatch a technician to the customer’s home to
11 physically re-connect the copper loop. These extra procedures increase the
12 CLEC’s transaction costs, and could cause the residential consumer to experience
13 a delay in their requested changeover of service to the CLEC, compared to the
14 time it would have taken had Verizon not previously migrated the customer’s
15 voice service to the FTTP network. The consumer may attribute that delay to the
16 CLEC, tarnishing the new customer relationship and the customer’s confidence in
17 competitive carriers’ ability to provide telephone service comparable to Verizon.
18 To the extent that the CLECs participating in this case supply evidence to show
19 that the “two LSR” issue is a significant problem in Maryland, the Commission
20 may wish to direct Verizon to work with the CLECs to find a workaround
21 solution to minimize any delay to consumers seeking to obtain a competitive local
22 telephone service.

23

1 **IV. VERIZON MARYLAND’S PROVISION OF LOCAL EXCHANGE**
2 **TELEPHONE SERVICE OVER FIBER OPTIC FACILITIES**3
4 **Q. What has prompted the Commission to open this proceeding?**

5 A. The Commission opened this proceeding in response to OPC’s August 9, 2007
6 petition to the Commission² seeking an investigation of Verizon’s practices and
7 procedures concerning the provisioning of local exchange telephone service over
8 fiber optic facilities. In that Petition, OPC raised concerns about Verizon’s
9 conversion of residential consumers’ *regulated* voice telephone service from
10 copper to fiber optic facilities in the course of Verizon’s satisfying consumers’
11 requests to obtain FiOS Internet service, which is an *unregulated*, non-
12 telecommunications service provided by the Verizon affiliate, Verizon Online.³
13 On August 31, 2007, Verizon filed a Response and Motion to Dismiss to OPC’s
14 Petition⁴ that attempted to rebut many of OPC’s assertions. In reply to Verizon’s
15 Response and Motion to Dismiss, OPC filed a comprehensive response to
16 Verizon,⁵ that supplied further support for OPC’s request for a full investigation
17 and evidentiary hearings. After reviewing and considering these filings, the

² *Request of the Office of People’s Counsel for an Investigation into Verizon Maryland Inc’s Provision of Local Exchange Telephone Service over Fiber Optic Facilities*, August 9, 2007 (“OPC Petition”).

³ While the OPC petition focused on FiOS Internet service, the same issues arise in connection with the installation of Verizon’s FiOS TV service, which also an unregulated service provided by a Verizon Affiliate.

⁴ *Verizon Maryland Inc.’s Response to the Request of the Office of People’s Counsel for an Investigation into Verizon Maryland Inc.’s Provision of Local Exchange Telephone Service over Fiber Optic Facilities*, August 31, 2007 (“Verizon’s Response to OPC’s Petition”).

⁵ *Office of the People’s Counsel Response to Verizon-Maryland Inc.’s Answer and Motion to Dismiss to the Request of the Office of the People’s Counsel for an Investigation into Verizon Maryland Inc’s Provision of Local Exchange Telephone Service over Fiber Optic Facilities*, September 14, 2007 (“OPC’s Response to Verizon”).

1 Commission issued a letter on October 24, 2007 that docketed OPC’s request as
2 Case No. 9123, and delegated the authority to conduct proceedings to the
3 Commission’s Hearing Examiner Division. On November 16, 2007, Verizon
4 filed a Reply Memorandum seeking to respond to OPC’s September 14th filing.⁶
5

6 **V. VERIZON’S FIOS INSTALLATION PROCESS AND MIGRATION OF**
7 **VOICE TELEPHONE SERVICE TO FIBER**
8

9 **Verizon routinely migrates the existing regulated voice telephone services of**
10 **Maryland consumers to the FTTP network when those consumers place an order for**
11 **unregulated FiOS Internet and/or TV services.**
12

13 **Q. Mr. Lundquist, can you provide a brief overview of Verizon’s “FiOS”**
14 **services and the fiber-to-the-premises deployment program that underlies**
15 **them?**

16 A. Yes. “FiOS” is Verizon’s brand name for certain fiber optic-based services⁷ that
17 are delivered over the fiber-to-the-premises (“FTTP”) network that it has been
18 deploying on a nationwide basis since 2004.⁸ Verizon’s current FiOS services are
19 as follows:

- 20 • **FiOS Internet Service.** This provides high-speed digital connections for
21 computer access to the Internet, and is offered in both residential and

⁶ *Memorandum in Support of Motion for Leave to Reply to the Office of People’s Counsel’s (“OPC”) Response to Verizon’s Response to the Request of the Office of People’s Counsel for an Investigation into Verizon Maryland Inc.’s Provision of Local Exchange Telephone Service Over Fiber Optic Facilities*, November 16, 2007 (“Reply Memorandum”).

⁷ Hence FiOS, Fiber Optic Service.

⁸ In its 2007 Annual Report, Verizon has used the term FiOS to refer to the FTTP network as well as the services delivered over that network, and occasionally I will do the same in my testimony for convenience.

1 business versions. The residential service is offered in a variety of speed
2 and pricing packages that Verizon may change from time to time –
3 currently, Verizon offers four service packages ranging from 5 Mbps/2
4 Mbps at \$42.99 per month, up to 30 Mbps/15 Mbps at \$139.95 per
5 month.⁹ In Maryland as elsewhere in Verizon’s territory, FiOS Internet
6 service is not available ubiquitously, but rather is being made available as
7 the FTTP network is rolled out. This service is not regulated by the
8 Commission or the FCC, and generally competes with other forms of
9 Internet access that include digital subscriber line (“DSL”) services
10 offered by Verizon and other providers, cable modem services, and
11 wireless ISP (“WISP”) services, among others.

12 • **FiOS TV Service.** This provides digital broadcast television, both in
13 traditional NTSC format and high-definition HDTV format, as well on-
14 demand pay-per-view (“PPV”) and digital video recording (“DVR”)
15 capabilities. The core service, FiOS TV Premier, is currently offered at
16 \$47.99 per month, but additional charges apply for such items as the set-
17 top box, DVR, and premium channels.¹⁰ This service is not regulated by

⁹ Speeds are expressed in terms of typical download / upload speeds (e.g., 5 Mbps downstream / 2 Mbps upstream); the prices indicated are under annual plans, other pricing plans are also available. See Verizon FiOS “Packages and Prices” webpage, <http://www22.verizon.com/content/consumerfios/packages+and+prices/packages+and+prices.htm> (accessed 5/28/08). I have reproduced this webpage in my Exhibit SCL-1.

¹⁰ See the Verizon webpage “Verizon FiOS TV – Packages and Prices,” <http://www22.verizon.com/content/fios/tv/packages+and+prices/packages+and+prices.htm> (accessed 5/31/08). This webpage is reproduced in my Exhibit SCL-2.

1 the Commission, but is subject to FCC regulation, as well as local
2 franchising requirements in many areas.¹¹

3 • **FTTP-based voice telephone service.** Central to this proceeding is the
4 fact that Verizon is increasingly using the FTTP network to provide its
5 wireline voice telephone services. According to Verizon, it does not
6 advertise, market, or sell voice service provided via the FTTP-network
7 under the FiOS brand, and FTTP-based voice telephone service is not
8 available on a standalone basis.¹² Instead Verizon views its FTTP based
9 voice telephone service as an alternative arrangement for furnishing the
10 voice telephone services offered out of its existing local exchange services
11 tariffs.¹³ Pursuant to this view, Verizon automatically migrates the voice
12 telephone service of consumers who purchase its FiOS services to its
13 FTTP network.¹⁴ Verizon also has a targeted program to migrate certain
14 customers to voice-only service on its FTTP network, where Verizon
15 considers it more cost effective than repair existing copper facilities that
16 may be malfunctioning.¹⁵ These services are, of course, regulated by the
17 Commission.

18

¹¹ See, e.g., Verizon's discussion of franchising in page 34 of the Verizon Communications Inc. 2007 Annual Report, which is provided in my Exhibit SCL-3.

¹² Verizon's Response to OPC's Petition, at paras. 1 and 16.

¹³ *Id.*, at paras. 1-2.

¹⁴ See OPC Petition at 6; see also OPC's Response to Verizon at 7.

¹⁵ See Verizon's Response to OPC's Petition at para. 14.

1 In its 2007 Annual Report, Verizon reported that on a nation-wide basis, its FTTP
2 network passes more than 9.3-million homes, and serves some 1.5-million FiOS
3 Internet customers and 943,000 FiOS TV customers.¹⁶ Verizon claims
4 penetration rates of 20.6% and 16.0% for FiOS Internet and FiOS TV,
5 respectively, “across the markets where we have been selling those services.”¹⁷

6
7 Most importantly, Verizon has enjoyed rapid growth rates for both services: in
8 2007 alone, Verizon acquired some 854,000 FiOS Internet subscribers,
9 comprising over half (57%) of its total FiOS Internet customers; and 736,000
10 FiOS TV customers, over three-quarters (78%) of that customer base.¹⁸ These
11 growth rates are particularly striking when viewed relative to the 0.8% decrease
12 Verizon reported in traditional wireline services revenue in 2007, which Verizon
13 claims was “primarily driven by lower demand and usage of our basic local
14 exchange and accompanying services.”

15
16 Not only does Verizon view its FiOS services as important growth markets, it also
17 expects the FTTP network to eventually produce lower per-unit operating costs:

18 With our deployment of the FiOS network, we expect to realize savings
19 in annual, ongoing operating expenses as a result of efficiencies gained
20 from fiber network facilities. As the deployment of the FiOS network

¹⁶ Verizon Communications, Inc. 2007 Annual Report (print version), at pages 18 and 24. The 2007 Annual Report was downloaded from <http://investor.verizon.com/financial/annual/2007/download.html> on 5/31/08.

¹⁷ *Id.*, at page 24.

¹⁸ *Id.*

1 gains scale and installation and automation improvements occur, costs
2 per home connected are expected to decline.¹⁹
3

4 From a strategic perspective, Verizon considers its FiOS/FTTP network
5 deployment as a key element in an on-going transformation of its wireline
6 services business.²⁰ As expressed in a proprietary 2007 Verizon Method &
7 Procedure Release (“M&P”) document:

8 <<BEGIN PROPRIETARY
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16 PROPRIETARY>>²¹ END

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18 It is too early to tell how successful Verizon ultimately will be in pursuing the
19 FiOS/FTTP network strategy. However, as I shall address at length in my
20 testimony, it is clear that certain Verizon policies and practices arising from this
21 strategy are having adverse impacts on consumers, and need to be addressed by
22 the Commission. In order to understand these issues clearly, we need to review
23 the details of the FiOS installation process, to which I now turn.

24

¹⁹ *Id.*, at page 18.
²⁰ See, e.g., the “Chairman’s Letter to Shareholders” that prefaces Verizon’s 2007 Annual Report.
²¹ “Customer’s Requesting Return to Copper” Document No. 2006-00804-MDP, Issue D, Issue Date 5/15/06, Revised Date 10/11/2007 (Bates Nos. 000001-000004), (hereafter, “*Customer’s Requesting Return to Copper M&P*”), at page 2 (Bates No. 000002). Verizon provided this document as an attachment to its December 21, 2007 Supplemental Response to “Intervenors” [Covad and XO’s] Data Request 1-37. I have provided this document in my Proprietary Exhibit SCL-4.

1 **Q. Can you summarize the installation process that Verizon currently**
2 **undertakes when a Maryland residential customer asks to subscribe to**
3 **Verizon’s FiOS Internet and/or TV service?**

4 A. Yes. Verizon has described the FiOS installation process in publicly-available
5 materials on its website, as well as in public and certain allegedly proprietary
6 documents supplied in response to discovery by OPC and other parties.²² My
7 understanding of the key elements of that process, as expressed in Verizon's
8 public descriptions, is as follows:²³

- 9 • Install a fiber drop line. A prerequisite to any FiOS installation is the
10 placement of a fiber optic cable “drop” line from the street to the
11 customer’s premises (i.e., house or apartment); the fiber drop may be
12 either buried below-ground or an overhead wire (“aerial”), and is
13 ordinarily routed along the same path as the existing copper drop line.
14 Ordinarily, the fiber drop is installed a few days prior to the premises visit
15 by the Verizon technician to install the FiOS service.

²² See, e.g., Verizon FiOS Internet Service Guide, supplied as an attachment to Verizon Response to Staff Data Request 1-21 (Bates Nos. 000017-000033); Verizon webpage “Verizon FiOS Internet FAQs: Installation,” <http://www22.verizon.com/content/consumerfios/faqs/faqs.htm> (accessed May 28, 2008); and Verizon webpage “Verizon FiOS Internet Installation,” <http://www22.verizon.com/content/consumerfios/about+installation/about+installation.htm> (accessed May 28, 2008). These documents are reproduced in my Exhibits SCL-5, SCL-6, and SCL-7, respectively. The FiOS installation process is defined in detail in the *Method & Procedure Release* “FiOS Voice and Data Installation Process for I&M Technicians,” Doc. No. 2006-00844-MDP, Issue E, Issue Date 10/19/07 (hereafter, “*FiOS Voice and Data Installation M&P*”). Verizon provided this document as an attachment to Verizon Response to OPC 2-15 (Bates Nos. 000400 – 000544). It is reproduced in my Proprietary Exhibit SCL-8.

²³ This description assumes that the customer’s premises has not already been connected to the FTTP network. If a customer already subscribes to one FiOS service and orders another, then the FTTP network installation steps will already have occurred and will not be repeated.

- 1 • Disconnect the copper drop line. When the technician installs the fiber
2 drop, he/she also disconnects the customer’s existing copper drop line
3 from the Network Interface Device (“NID”).²⁴ In Maryland, Verizon’s
4 current practice is to leave the copper drop in place, unused, indefinitely.²⁵
5 Later in my testimony, I will address Verizon’s copper drop-related
6 practices in more detail.
- 7 • Install an ONT. On the actual day of the FiOS installation, the Verizon
8 technician places an Optical Network Terminal (“ONT”) onto either the
9 outside or the inside of the customer’s house. The ONT contains the
10 termination of the fiber drop, and converts the light-encoded data signals
11 transmitted within Verizon’s fiber optic network to the electrical signals
12 transmitted via the home’s inside wiring to the customer’s telephone(s)
13 and/or personal computer(s). For voice service, the ONT replaces the
14 traditional NID. The ONT is plugged into an ordinary indoor electrical
15 outlet and draws a small amount of electrical power from the customer’s
16 power source. It also contains a Battery Backup Unit (“BBU”) which is
17 intended to provide a limited-duration alternative power source in the
18 event that the customer’s commercial electrical power is interrupted.
- 19 • Assess/install inside wiring. The technician will evaluate the customer’s
20 existing inside wiring (“ISW”) for its suitability to use with the FiOS

²⁴ The NID is a small passive device that connects the copper drop to the customer’s inside wiring.

²⁵ Verizon Response to OPC Data Request 2-16. This response is reproduced in my Exhibit SCL-9.

1 service, and can install new inside wiring (coaxial or CAT5) from the
2 ONT to the router or (for FiOS TV) set-top box. The technician will also
3 install any wall jacks that may be required.

4 • Set-up and activate the service. When a customer has ordered Verizon
5 FiOS Internet service, the technician will install and configure a Verizon
6 Online-provided router, connect and configure the customer's primary
7 computer (and additional computers, at extra cost), and activate the FiOS
8 Internet service. For a FiOS TV installation, the technician will connect
9 up to three televisions, install the set-top boxes, and program the FiOS TV
10 remote control.

11 • Migrate the customer's voice service to the FTTP network. As part of the
12 routine procedures prescribed by Verizon, the technician will also
13 "migrate" (i.e., move) the customer's voice telephone service from the
14 prior copper drop line, onto the FTTP network. If the customer has
15 multiple voice [telephone lines] billed to their Verizon account, then all
16 lines will be migrated.²⁶ As I shall explain later in my testimony, the
17 customer is not presented with a choice concerning whether to have those
18 services migrated to FTTP. Moreover, these are regulated services
19 provided by Verizon, that are being impacted by the customer's decision
20 to order one or more non-regulated services from Verizon's affiliate (e.g.,
21 Verizon OnLine).

²⁶ However, if a customer has a voice service provided by a CLEC via a Verizon wholesale service (e.g., unbundled copper loop), the customer's copper drop will remain connected and that voice service will not be migrated.

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Q. How is the customer’s voice telephone service affected by its migration to the FTTP network?

A. From the customer’s point of view, there are several consequences resulting from the migration of their telephone service(s) to the FTTP network:

- (1) Their service has been moved from a copper drop line to a fiber drop line;
- (2) Certain telephones and other customer-premises equipment (“CPE”), such as security and fire alarm monitoring devices, that were connected via the copper line, may not work properly with the FTTP network.
- (3) Their telephone service has been converted from Verizon-supplied electrical power to customer-provided power, which is subject to any commercial power interruptions the customer may experience;
- (4) The customer is now responsible for monitoring the status of the battery in the BBU and replacing it when necessary.

Q. Does the disconnection of the copper drop also affect the customer’s ability to obtain other services?

A. Yes, it does. Once the copper drop has been disconnected, the customer can no longer order Digital Subscriber Line (“DSL”)-based broadband Internet access services, either those offered by Verizon or its competitors. While DSL services are not regulated by the Commission, they remain one of the most-used forms of broadband Internet access.

1 **Q. In the event of a commercial power outage, how long will the Battery Backup**
2 **Unit be able to provide backup power to allow an affected customer to place**
3 **and receive telephone calls?**

4 A. According to Verizon, the duration over which the Battery Backup Unit (“BBU”)
5 can supply electrical power to support voice telephone service will vary
6 depending upon operating conditions. Verizon states that:

7 ...four (4) hours was the lower operating extreme for the BBU under
8 extremely cold conditions (e.g., [-]20 degrees Celsius or lower). At the
9 other extreme, the BBU can support voice service for as many as 11
10 hours under normal operating conditions; however, the BBU generally is
11 expected last eight (8) hours. As Verizon gained experience with FiOS
12 and the BBU, Verizon determined that it could rely upon the eight-hour
13 support time under normal operating conditions as the standard support
14 time for the BBU.²⁷

15
16 However, the “support time” refers to potential use of the telephone (including
17 time when the telephone is “on-hook” and not being used), rather than the time
18 available for actual calling/receiving calls (“talk time”), which can be
19 significantly shorter. According to one Verizon Maryland customer, who happens
20 to be a telecommunications consultant, the support time in actual experience is six
21 hours, with less available talk time.²⁸

22
23 **Q. Are calls to emergency E-911 services subject to the limits of the battery**
24 **backup power, in the same way that ordinary telephone calls are?**

²⁷ Verizon Response to Staff Data Request No. 2-1. This response, including Verizon’s attached “proprietary document” is reproduced in my Exhibit SCL-10 (public response) and Proprietary Exhibit SCL-11, respectively.

²⁸ March 12, 2008 Declaration of Robert Loube. I have reproduced Dr. Loube’s Declaration in my Exhibit SCL-12.

1 A. Yes, they certainly are. If a commercial power outage lasts longer than the span
2 over which the BBU's battery can support voice calls, than the customer will lose
3 the ability to make emergency E-911 calls as well as other voice calls. This is an
4 important distinction from ordinary copper-based POTS telephone service, which
5 is powered by the telephone company, and thus remains able to receive and place
6 voice calls, including calls to E-911 during emergencies, in the event that a
7 customer loses their commercial power.

8

9 **Q. Has Verizon admitted that its policy and practice is to migrate its customers'**
10 **existing voice telephone services to the FTTP network, whenever customers**
11 **order FiOS Internet and/or FiOS TV service?**

12 A. Yes. For example, in response to OPC discovery, Verizon said the following:

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Verizon states that residential customers who subscribe to FiOS Internet or TV and whose existing voice service is provisioned over copper will have their voice service migrated to the FTTP network.²⁹

18 Indeed, in the quotation from the 2007 *Customer's Requesting Return to Copper*
19 M&P document I referenced earlier in my testimony, Verizon characterizes the
20 voice migration as <<BEGIN PROPRIETARY [REDACTED]

21

22

23

[REDACTED]
[REDACTED]
[REDACTED] **END PROPRIETARY>>**

24

This confirms statements by OPC in its initial request for investigation filings that consumers are

²⁹ Verizon's Response to OPC Data Request No. 2-1. This response is reproduced in my Exhibit SCL-13.

1 being automatically migrated to fiber facilities.³⁰ A review of Verizon’s other
2 M&P document that <<BEGIN PROPRIETARY [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED] END PROPRIETARY>>.³¹

7

8 **Q. Could a Verizon customer who ordered a FiOS service refuse to have their**
9 **voice service migrated to the FTTP network?**

10
11 A. As a practical matter, it appears extremely difficult for a customer to do that, not
12 only because the customer is not afforded an explicit choice about migration, but
13 also because – as I shall explain at length later in my testimony – Verizon
14 generally fails to properly disclose the voice migration process and its
15 consequences, so that its customers would not be in a position to make an
16 informed decision.

17

18 Moreover, as Verizon characterizes its response to that situation, it would not
19 simply accept a customer’s request to forego migration and keep their voice

³⁰ OPC Petition at 6; OPC’s Response to Verizon at 7 (“Verizon does not deny that when consumers order the unregulated FiOS Internet or TV services of its affiliate, in conjunction with the installation of those services via fiber facilities, the regulated voice service of existing customers is automatically switched from copper facilities to fiber facilities.”).

³¹ Verizon Proprietary Document *FiOS Voice and Data Installation Process for I&M Technicians*, Doc. No. 2006-00844-MDP, Issue E, Issue Date 10/19/07 (reproduced in my Proprietary Exhibit SCL-8).

1 services on copper, but instead would subject the customer to a problem-
2 resolution process with copper provisioning as a last resort:

3 On the rare occasion where a FiOS subscriber requests to have voice
4 service provisioned over copper, Verizon reminds the customer that
5 fiber transport is a transformational technology providing next
6 generation speed and services and makes every attempt to identify and
7 understand the nature of the customer's request. If the customer's issue
8 cannot be resolved, Verizon will provision the voice service over
9 copper.³²
10

11 Verizon has provided more details concerning its procedures in a closely-similar
12 situation, namely when a customer who has been migrated to FTTP requests to
13 have their voice services returned to copper facilities. The M&P document
14 *Customer's Requesting Return to Copper* sets forth <<BEGIN PROPRIETARY

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]³³ [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]³⁴

³² Verizon Response to OPC Data Request No. 2-1 (reproduced in my Exhibit SCL-13).
³³ *Customer's Requesting Return to Copper*, Document No. 2006-00804-MDP, Issue D, Issue Date 5/15/06, Revised Date 10/11/2007 (Bates Nos. 000001-000004) (reproduced in my Proprietary Exhibit SCL-4), at page 2 (Bates No. 000002).
³⁴ *Id.*, at page 3 (Bates No. 000003).

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED] [REDACTED] END PROPRIETARY>³⁵ I

6 find this highly troubling, given that the document expressly <<BEGIN
 7 PROPRIETARY [REDACTED]
 8 [REDACTED]
 9 [REDACTED] END PROPRIETARY>>

10 Clearly, Verizon is willing to go to great lengths to keep its customers on the
 11 FTTP network once it has installed the fiber drop and associated customer
 12 premises equipment (i.e., ONT and BBU). This may help to explain why only --
 13 <<BEGIN PROPRIETARY [REDACTED]
 14 [REDACTED] END PROPRIETARY>> have requested that Verizon return their
 15 voice services to copper.³⁷

17 **Q. Has Verizon offered to have customers in Maryland try its FiOS Internet/TV**
 18 **services on a “money-back guarantee” basis?**

19 A. Yes. In 2007, Verizon offered a “30-day money-back guarantee” to customers
 20 ordering FiOS Internet service, as shown in a “FAQs” (i.e., “frequently-asked

³⁵ *Id.*, at page 3 (Bates No. 000003).

³⁶ *Id.*, at page 2 (Bates No. 000002).

³⁷ Verizon Response to OPC Data Request No. 3-1. This proprietary response is reproduced in my Proprietary Exhibit SCL-14.

1 questions”) webpage supplied in Verizon’s August 31, 2007 Response to OPC.

2 That webpage stated the following:

3 2. Is there a money-back guarantee with Verizon FiOS Internet Service?
4 Yes. Our 30-day money-back guarantee provides that if, for any reason,
5 you are not completely satisfied with Verizon FiOS Internet Service, you
6 may cancel your FiOS Internet Service within 30 days of your
7 installation date and receive a refund for any charges you have paid to
8 Verizon Online. We only ask that you return the router and any other
9 equipment that we have given you within 30 days of cancellation to
10 avoid being charged an equipment fee or to ensure accurate credit for
11 equipment you have already purchased. Please note: Current Verizon
12 Online High Speed Internet Service customers who move to FiOS
13 Internet service will have their Verizon Online High Speed Internet
14 permanently disabled after their FiOS conversion.³⁸
15

16 In response to OPC discovery asking whether the 30-day money-back guarantee
17 was still in effect for FiOS Internet and/or TV services, Verizon entered an
18 objection, but also stated that “the 30-day money-back guarantee for FiOS
19 Internet ended in September 2007.”³⁹ In a supplemental response, Verizon stated
20 that “the 30-day money-back guarantee for FiOS TV is believed to have ended in
21 mid/late 2007.”⁴⁰ Nevertheless, in Section 8 of Verizon’s current Terms of
22 Service agreement for Internet Access Services (which encompasses both FiOS
23 Internet Service and Verizon’s DSL-based “High Speed Internet Service”), there
24 is a Money Back Guarantee clause setting forth terms that apply “If we provide a

³⁸ Verizon webpage “Verizon FiOS Internet FAQs” (URL: <http://www22.verizon.com/content/consumerfios/faqs/faqs.htm>, as of 8/14/07), provided as Exhibit C to Verizon’s Response to OPC.

³⁹ Verizon Response to OPC Data Request No. 4-1. This response is reproduced in my Exhibit SCL-15.

⁴⁰ Verizon’s March 7, 2008 Supplemental Response to OPC Data Request No. 4-1. This response is reproduced in my Exhibit SCL-16.

1 money back guarantee ("MBG") for your Service” – suggesting that Verizon may
2 continue to offer a money-back guarantee for FiOS Internet Service at least from
3 time to time.⁴¹

4

5 **Q. Does the presence of a “money-back guarantee” imply to customers that**
6 **their voice service will be restored to its prior condition if they discontinue**
7 **the FiOS service within the specified time limit of the guarantee?**

8 A. Yes. The impression created by a “money-back guarantee” is that the customer
9 can try out the FiOS service at no risk, financial or otherwise, and that if they
10 elect to cancel the service within the allotted timeframe, then there will be no
11 consequences to them on a going-forward basis. This impression is reinforced by
12 the particular language used in the “FAQs” version of the money-back guarantee I
13 quoted earlier, namely that “We only ask that you return the router and any other
14 equipment that we have given you within 30 days of cancellation...” Surely a
15 reasonable customer could infer that, if Verizon seeks return of its equipment,
16 then all would be restored to its condition before the FiOS service was tried.

17

18 This however, is not what happens: instead, once the customer has Verizon’s
19 FiOS service installed, even on what appears to be a no-risk, trial basis, the
20 customer’s voice services will become permanently⁴² migrated to Verizon’s

⁴¹ See Verizon Online Terms of Service, version 8.1, effective March 4, 2008, at Section 8.3 Money Back Guarantee. This agreement was downloaded from <http://www.verizon.net> on May 30, 2008, and is reproduced in my Exhibit SCL-17.

⁴² Verizon’s Response to OPC Data Request No. 2-5 took issue with a characterization that telephone service is “permanently altered” in this instance. I believe it certainly is a “permanent”

1 FTTP network, their copper drop remains disconnected, and they will be unable to
2 obtain copper-based voice telephone service and DSL Internet access services
3 from a Verizon competitor unless and until a Verizon technician reconnects the
4 copper drop. While presumably Verizon would prefer to have the customer
5 continue to subscribe to the FiOS Internet or TV service it has installed, in the
6 absence of adequate disclosure and customer consent (as I discuss separately later
7 in my testimony), a FiOS money-back guarantee can have the effect that the
8 customers orders an unregulated FiOS service, cancels it within the “money-back
9 guarantee” time limit, and ends up with a permanent change to their regulated
10 telephone service that they did not intend to get.

11

12 **Q. In addition to the voice migration that occurs in conjunction with FiOS**
13 **service installations, has Verizon migrated other residential telephone**
14 **customers in Maryland to the FTTP network?**

15 A. Yes. In Verizon’s August 2007 Response to OPC’s Petition,⁴³ Verizon identified
16 an on-going program to migrate certain voice telephone subscribers to the FTTP
17 network. In response to OPC discovery (and OPC’s March 21, 2008 Motion to
18 Compel),⁴⁴ Verizon has provided further details of this “targeted migration”
19 program. Under this program, which Verizon says is frequently referred to

alteration, in the sense of an alteration that will continue forward indefinitely unless/until the customer affirmatively takes action to reverse it. I have reproduced Verizon’s data response in my Exhibit SCL-18.

⁴³ See Verizon’s Response to OPC’s Petition, at para. 14.

⁴⁴ Motion of the Office of People’s Counsel to Compel Discovery Responses from Verizon Maryland Inc., filed March 21, 2008 (“OPC Motion to Compel”).

1 internally as the “Network Migration to Fiber process, Verizon has established
2 certain criteria to identify voice telephone customers who may be eligible for
3 migration from the copper network to the FTTP network. These criteria are as
4 follows:^{45, 46} <<BEGIN PROPRIETARY

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
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16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED] **END**
22 **PROPRIETARY>>**⁴⁷ The target migration program <<BEGIN
23 **PROPRIETARY** [REDACTED]
24 [REDACTED]

⁴⁵ See Verizon’s May 14, 2008 Supplemental and Compelled Response to OPC Data Request No. 2-9(c). I have reproduced the entirety of Verizon’s textual response to OPC Data Request No. 2-9, including its compelled response to part 9(c), in my Proprietary Exhibit SCL-19.

⁴⁶ The criteria are also stated at pages 1-2 (Bates Nos. 000664-000665) of Verizon’s proprietary document “Network Migration to Fiber – DRC” Document No. 2007-00084-MDP, Issue F, Issue Date 2/19/07, Revised Date 11/27/07 (Bates Nos. 000664-000682), hereafter referred to as the *Network Migration to Fiber M&P*. Verizon originally provided this document as an attachment to Verizon Response to OPC Data Request No. 2-9. I have reproduced it in my Proprietary Exhibit SCL-20.

⁴⁷ Verizon Response to OPC Data Request No. 9 (reproduced in Proprietary Exhibit SCL-19).

1 [REDACTED]
2 [REDACTED]
3 [REDACTED] **END PROPRIETARY>>** Verizon's governing internal M&P
4 document <<**BEGIN PROPRIETARY** [REDACTED]
5 [REDACTED] **END PROPRIETARY>>**targeted migration plan.⁴⁸

6
7 OPC attempted to determine which other exchanges have been impacted by the
8 program, as well as the total number of residential customer migrated to fiber
9 under the program. However, neither information is available, because Verizon's
10 compelled response to OPC Data Request No. 9(g) is still outstanding, despite
11 being ordered by the Hearings Examiner to provide it; and OPC's request to
12 compel Verizon to respond to OPC Data Request No. 9(h) was denied by the
13 Hearings Examiner.⁴⁹ The absence of this information limits OPC's ability to
14 evaluate the overall impact of this program on Maryland's residential telephone
15 subscribers. However, given that the program <<**BEGIN PROPRIETARY**
16 [REDACTED]
17 [REDACTED]
18 [REDACTED] **END PROPRIETARY>>**
19 my preliminary conclusion is that the program is likely not creating any improper
20 discrimination in the availability of FTTP-based voice telephone service.⁵⁰

⁴⁸ *Network Migration to Fiber M&P*, at page 14 (Bates No. 000677).

⁴⁹ Hearing Examiner's Ruling on Open Discovery Motions, April 29, 2008, at page 2.

⁵⁰ OPC raised this issue for investigation in this case at page 7 of its September 14, 2007 Response to Verizon.

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One aspect of the program does remain troubling, which is the degree to which Verizon explains to candidate customers the consequences of FTTP migration and thus whether it obtains sufficiently informed consent. Verizon has claimed that “Customers targeted for migration ultimately are migrated to the FTTP network only after **electing** to take advantage of the migration and are **not** migrated to the FTTP network without their consent” (emphasis in original).⁵¹ However, this characterization seems at odds with the instructions Verizon has supplied to the personnel who make the initial contact with a customer targeted for the migration program.

<<BEGIN PROPRIETARY [REDACTED]
[REDACTED]
[REDACTED]⁵² [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

⁵¹ Verizon Response to OPC Data Request No. 2-10. This response is reproduced in my Exhibit SCL-21.

⁵² The Verizon unit handling <<BEGIN PROPRIETARY [REDACTED]
[REDACTED] END PROPRIETARY>>

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED] **END PROPRIETARY>>** It is

possible that some additional information is provided concerning those changes

when the subscriber is<<**BEGIN PROPRIETARY** [REDACTED]

[REDACTED]

[REDACTED] **END**

PROPRIETARY>> to effect the FTTP migration. However, based on the

minimal information provided in conjunction with Verizon's FiOS service

installations (which I discuss in detail below), it does not appear that customers

targeted under this program will be provided sufficient information to make an

informed decision whether to accept an FTTP migration, if it was presented as a

choice for them to make.

⁵³ See *Network Migration to Fiber* M&P Document (reproduced in my Proprietary Exhibit SCL-20), at page 5 (Bates No. 000668).

1 **VI. VERIZON’S CUSTOMER NOTICE AND CONSENT PROCEDURES FOR**
2 **VOICE MIGRATION TO FIBER**

3
4 **Verizon has applied inadequate procedures for customer notice and consent in**
5 **connection with its policy of routinely migrating the existing voice telephone services**
6 **of Maryland consumers to the FTTP network when those customers place an order**
7 **for unregulated FiOS Internet and/or TV services.**
8

9 **Q. Has Verizon claimed that it provides sufficient notification to customers who**
10 **may order FiOS Internet and/or TV services that their existing voice services**
11 **will be migrated to the FTTP network?**

12 A. Yes. Verizon has addressed the adequacy of its customer notice and consent
13 procedures relative to voice migration in both its Response to OPC (at para. 11)
14 and its Reply Memorandum (pages 7-10). In the latter filing, Verizon states that:

15 FiOS customers receive abundant notification of voice migration to fiber
16 and consent to the voice migration when they subscribe to FiOS
17 services.⁵⁴
18

19 **Q. What standards should the Commission apply when evaluating the adequacy**
20 **of Verizon’s notice relative to voice migration?**

21 A. In its initial Petition and its Response to Verizon, OPC has cited Sections 8-404
22 through 8-406 of Maryland’s public utility statutes, which prohibit an
23 unauthorized change in a customer’s telecommunications service options and
24 require conspicuous notice of service changes to customers.⁵⁵ I am not an
25 attorney and therefore will not offer a legal opinion on the applicability of those
26 statutes to this case. However, it is clear to me that the consumer protection

⁵⁴ Reply Memorandum, at page 7.

⁵⁵ MD ANN. CODE Public Utilities Companies Article, §§ 8-404(3), 8-405(3), 8-406(b) and 8-406(d) (1999).

1 concerns that motivated adoption of those statutes do arise in this instance,
2 because Verizon's voice migration policy has a significant impact on customers'
3 regulated telephone services.

4
5 Another source of guidance in this area is the Federal Trade Commission
6 ("FTC"), which regulates (among other things) certain aspects of commercial
7 sales and advertising. The FTC has published a "Policy Statement on Deception"
8 which sets forth the principles it applies to enforcement actions against potentially
9 deceptive acts or practices in the commercial arena.⁵⁶ When construed in an
10 affirmative manner (i.e., what a firm can do to avoid engaging in a potentially
11 deceptive act or practice), these principles can be summarized as: avoid making
12 any material representations, omissions or practices that are likely to mislead a
13 consumer acting reasonably in the circumstances, to the consumer's detriment.⁵⁷
14 The FTC also has incorporated those principles in another document, "Dot-Com
15 Disclosures," that is intended to provide guidance to businesses who engage in
16 on-line advertising.⁵⁸ Therein, after stating that "same consumer protection laws
17 that apply to commercial activities in other media apply online," the FTC
18 summarizes its disclosure requirements as follows:

19 Disclosures that are required to prevent an ad from being misleading, to
20 ensure that consumers receive material information about the terms of a

⁵⁶ FTC Policy Statement on Deception, August 14, 1983, <http://www.ftc.gov/bcp/policystmt/ad-decept.htm> (accessed 5/21/2008). This document is reproduced in my Exhibit SCL-22.

⁵⁷ *Id.*, at page 6.

⁵⁸ FTC, "Dot-Com Disclosures: Information on On-Line Advertising," <http://www.ftc.gov/bcp/online/pubs/buspubs/dotcom/index.shtml> (accessed 5/21/2008). This document is reproduced in my Exhibit SCL-23.

1 transaction or to further public policy goals, must be clear and
2 conspicuous. In evaluating whether disclosures are likely to be clear and
3 conspicuous in online ads, advertisers should consider the *placement* of
4 the disclosure in an ad and its *proximity* to the relevant claim.
5 Additional considerations include: the *prominence* of the disclosure;
6 whether items in other parts of the ad *distract attention* from the
7 disclosure; whether the ad is so lengthy that the disclosure needs to be
8 *repeated*; whether disclosures in audio messages are presented in an
9 adequate *volume and cadence* and visual disclosures appear for a
10 sufficient *duration*; and, whether the language of the disclosure is
11 *understandable* to the intended audience.⁵⁹
12

13 In order for Maryland consumers to make informed choices concerning the
14 regulated telephone services they are purchasing from Verizon, Verizon has a
15 responsibility to fully disclose its voice migration policy and its service impacts to
16 prospective buyers of FiOS services, in line with these general principles.
17 Specifically, Verizon should include a clear, and conspicuous customer notice
18 addressing the change of their voice telephone service in (1) the advertising and
19 promotional materials directed to prospective FiOS service customers, (2) within
20 the ordering process for FiOS services, (3) in the “Welcome Kit” received after
21 installation is completed and (4) on or with (via a bill insert) the customer’s first
22 telephone services bill after the service migration, that explicitly informs
23 customers of the change in an understandable manner and completely explains the
24 consequences of voice migration to the customer. The notice should be formatted
25 and positioned sufficiently prominently so that consumers can be reasonably
26 expected to see and review it in the course of their interactions with Verizon.
27

⁵⁹ *Id.*, at page 1.

1 **Q. Can you provide a specific example of a customer notice that would meet**
2 **your recommendations?**

3 A. Yes. The following is a model disclosure statement that would provide adequate
4 customer notice of Verizon’s voice migration policy, provided that the notice was
5 displayed prominently within Verizon’s FiOS advertising and ordering documents
6 and webpages:

7 **Migration of Your Existing Verizon Voice Telephone**
8 **Service**

9 During the installation of your FiOS Internet or FIOS TV service,
10 Verizon will also upgrade your existing Verizon voice telephone
11 service,⁶⁰ by moving the service from traditional copper facilities
12 onto the FiOS fiber optic network. No charges will apply for this
13 upgrade. However, it will impact your voice telephone service in
14 three ways:

15 (1) In contrast to a traditional corded telephone, the electrical
16 power for all services provided on the Verizon FiOS network,
17 including your upgraded voice telephone service, must be
18 supplied by you, the customer. To provide the power to
19 operate your voice telephone service, the Verizon technician
20 will plug the FiOS unit installed at your home (the “Optical
21 Network Unit” or “ONT”) into a nearby standard electrical
22 outlet.
23 24

25 (2) In the event that your house loses electrical power, a battery
26 unit in the ONT will supply back-up power for standard voice
27 telephone service (but not Voice Over IP services), including
28 E-911 emergency calls, for up to eight (8) hours total time,
29 whether or not you are placing or receiving calls. You will be
30 responsible for monitoring the status of the backup battery and
31 periodically replacing it when necessary.
32 33

⁶⁰ If you have more than one Verizon voice telephone line billed to your account, each line will be upgraded to fiber as described.

1 (3) Certain telephones, answering machines and other telephone
2 equipment not meeting industry standards may not work with
3 your voice telephone service provided on the Verizon FiOS
4 network.
5

6 (4) The copper telephone line running into your home will be
7 disconnected as part of the FiOS installation process, and will impact
8 your ability utilize services that require a copper telephone line to
9 operate such as telephone services from other providers and Digital
10 Subscriber Line (“DSL”) services used for home computer
11 broadband access to the Internet.

12
13 (4) If you previously subscribed to Verizon’s DSL service, your
14 DSL line will be permanently disconnected after the FiOS
15 upgrade.
16

17
18 I recommend that the Commission require Verizon to supply this form of
19 customer notice as an integral part of each of Verizon’s FiOS ordering
20 procedures, as well as including it in the advertising and promotional materials for
21 its FiOS services.
22

23 **Q. How does Verizon’s actual customer notice addressing fiber voice migration**
24 **compare to your recommended notice?**

25 A. As I shall demonstrate in this section of my testimony, Verizon’s actual notice to
26 customers concerning voice migration to its FTTP network falls far short of these
27 standards. Because Verizon utilizes multiple sales channels to sell FiOS and
28 continually issues a variety of FiOS advertising and promotional materials,
29 Verizon can (and does) point to numerous documents and webpages as
30 “notifying” customers about voice migration. However, I have found these

1 materials to be inadequate for notification purposes because their discussions of
2 voice migration (where they occur at all) are cursory, incomplete, ambiguous,
3 and/or insufficiently prominent. I will now turn to reviewing these deficiencies in
4 detail.

5

6 **Q. What are the specific forms of notification that Verizon contends that it uses**
7 **to inform customers that their voice telephone service will be migrated to the**
8 **FTTP network when they order FiOS Internet and/or TV service?**

9 A. Verizon has addressed this issue in its August 31, 2007 Response to the OPC
10 Petition,⁶¹ its November 16, 2007 Reply Memorandum,⁶² and in responses to
11 OPC and Staff discovery on this matter.⁶³ Verizon summarized its voice
12 migration notification measures in Verizon Response to OPC Data Request No. 2-
13 2, stating (in relevant part):⁶⁴

14 As explained in detail in Verizon's responsive pleadings filed on August
15 31, 2007 and November 16, 2007, Maryland consumers receive multiple
16 forms of written and verbal notification that FiOS customers will receive
17 voice services over fiber. The "Packages and Prices" web page advises
18 FiOS Internet customers purchasing voice service that both the Internet
19 and voice services will be provided over fiber. The "About Installation"
20 web page advises that installation will include the migration of "any
21 voice services on the current billing account to the Verizon FiOS
22 network," thus resolving any doubt as to the medium over which voice
23 service will be provided. The same notification is provided again in
24 documents delivered to the customer's premises, and is provided
25 verbally at the time the customer places an order with Verizon's

⁶¹ See Response to the OPC Petition, at para. 11.

⁶² See Reply Memorandum, at pages 7-10.

⁶³ See, e.g., Verizon Responses to Staff Data Request Nos. 1-16 through 1-21, which are reproduced in my Exhibit SCL-24; and Verizon Response to OPC Data Request No. 2-2, reproduced in my Exhibit SCL-25.

⁶⁴ Verizon's full data response is reproduced in my Exhibit SCL-25.

1 customer service representative and again upon installation at the
2 customer's premises.
3

4 Based on that data response, as well as the other Verizon filings and responses
5 that I have just noted, I have compiled the following listing of Verizon webpages,
6 written documents, and additional non-written measures that Verizon appears to
7 consider as constituting its notification to customers that their voice telephone
8 service will be migrated to the FTTP network when they order FiOS Internet
9 and/or TV service:

- 10 • Verizon FiOS “Packages and Prices” webpage;⁶⁵
- 11 • Verizon FiOS “About Installation” webpage;⁶⁶
- 12 • Verizon “FiOS Internet” webpage;⁶⁷
- 13 • Verizon “FiOS Internet Service Guide;”⁶⁸
- 14 • Verizon “FiOS Internet User Guide;”⁶⁹
- 15 • Verizon “FiOS TV User Guide;”⁷⁰

⁶⁵ The URL for this webpage is:
<http://www22.verizon.com/content/consumerfios/packages+and+prices/packages+and+prices.htm>
(as of 5/28/08). This webpage is reproduced in my Exhibit SCL-1. An earlier, different version
of this webpage had been provided in Exhibit G to Verizon’s August 31, 2007 Response to OPC.

⁶⁶ The URL for this webpage is:
<http://www22.verizon.com/content/consumerfios/about+installation/about+installation.htm> (as of
5/28/08). This webpage is reproduced in my Exhibit SCL-7.

⁶⁷ The URL for this webpage is: <http://www22.verizon.com/content/ConsumerFios/> (as of
5/28/08). This webpage, including the “Disclaimer” text revealed after clicking on a “View the
Verizon FiOS Internet Disclaimer” button, is reproduced in my Exhibit SCL-26.

⁶⁸ This document was provided as an attachment to Verizon’s Response to Staff Data Request No.
1-21 (Bates Nos. 000017-000033). I have provided this document in my Exhibit SCL-5.

⁶⁹ Verizon provided this document as an attachment to its Response to Staff Data Request No. 1-
21 (Bates Numbers 000034-000087). I have reproduced this document in Exhibit SCL-27.

⁷⁰ Verizon provided this document as an attachment to its Response to Staff Data Request 1-21
(Bates Numbers 000088-000155). I have reproduced this document in Exhibit SCL-28.

- 1 • Sales forms used by sales agents for door-to-door sales and at Maryland
2 special events;⁷¹
- 3 • Computerized ordering systems used by sales agents at kiosks and “big
4 box” retailers where Verizon FiOS services are sold;
- 5 • Verbal notifications during telephone service orders and FiOS
6 installations; and
- 7 • “Notification” supplied within website video showing a FiOS installation.

8

9 My Exhibit includes copies of each of the documents and webpages I have just
10 listed. One caveat is that each of these items is subject to change, as Verizon
11 alters the format and/or substance of these documents and webpages.. In fact, one
12 webpage that Verizon specifically cited as providing “clear and conspicuous”
13 written notice in its Response to OPC,⁷² the “Verizon FiOS – Good News”
14 webpage,⁷³ is no longer posted on Verizon’s website and apparently has been
15 superseded.⁷⁴ While I have attempted to rely upon the most current version of
16 each document/webpage cited above as I prepared my prefiled testimony, I

⁷¹ Verizon’s Response to Staff Data Request No. 1-23, at Bates No. 000188-189, and 000190-000191. These sales forms are reproduced in my Exhibit SCL-38.

⁷² See Verizon’s Response to OPC, at para. 11.

⁷³ The URL for this page was:
https://www22.verizon.com/FiOSForHome/Channels/FiOS/DoublePlay_Landing.aspx (as of 8/6/07). It was supplied in Exhibit A to OPC’s Petition.

⁷⁴ Its successor appears to be the<<BEGIN PROPRIETARY [REDACTED] END PROPRIETARY>> of Verizon’s proprietary document “FiOS Triple Play .net Standalone Site” provided as an attachment to its response to Staff Data Request No. 2-5, reproduced in my Exhibit SCL-35.

1 reserve the right to update my testimony at hearing to reflect any further changes
2 in them that may occur in the intervening months.

3

4 **Q. Do any of the written forms of notification that Verizon contends that it uses**
5 **to inform customers that their voice telephone service will be migrated to the**
6 **FTTP network when they order FiOS Internet and/or TV service contain a**
7 **separate section explicitly highlighting and detailing the voice telephone**
8 **service migration?**

9 A. No, they do not. As I shall describe in my testimony, the notices that are made
10 are generally placed in the “fine print” section of the document or webpage,
11 together with unrelated terms and conditions having to do with the particular
12 FiOS service being ordered.

13

14 **Q. Do any of the written forms of notification that Verizon contends that it uses**
15 **to inform customers that their voice telephone service will be migrated to the**
16 **FTTP network when they order FiOS Internet and/or TV service contain**
17 **language or links such as “Important Information About Change To Your**
18 **Telephone Service” or “Information About Your Telephone Service”,**
19 **directing the customer to access such information?**

20 A. No, I have not found any instance in which Verizon has segregated the
21 information addressing voice migration in that manner.

22

1 **Q. Please describe the notice supplied on the Verizon FiOS “Packages and**
2 **Prices” webpage.**

3 A. The “Packages and Prices” webpage is a two-page summary of the pricing plans
4 and speeds available for Verizon’s FiOS Internet services.⁷⁵ The webpage
5 contains three paragraphs of terms and conditions of service, the last of which
6 reads as follows:

7 Voice service for FiOS customers is provisioned over fiber. A battery
8 unit will supply back-up power for standard voice service (but not Voice
9 Over IP services), including E -911, for up to eight hours. Power for
10 services provided on the Verizon FiOS network must be supplied by
11 customer. Customer is responsible for backup battery replacement.
12 Backup battery does not supply power for Internet, VOIP, or video
13 services. In case of power failure, 911 service (except through VOIP)
14 will be available until backup battery expires. Certain telephones,
15 answering machines and other telephone equipment not meeting
16 industry standards may not work with service provided on the Verizon
17 FiOS network. ©2008 Verizon.⁷⁶
18

19 **Q. Did Verizon change the voice migration notice provided on this webpage**
20 **during the course of your investigation?**

21 A. Yes. When I had accessed this webpage in March 2008 in the course of my
22 investigation, the version posted on Verizon’s website at that time had none of the
23 language that I just quoted.⁷⁷ I have supplied a copy of that prior version in my
24 Exhibit SCL-33. Hopefully, this recent expansion in the notice supplied on that

⁷⁵ See Exhibit SCL-1.

⁷⁶ *Id.*

⁷⁷ Verizon FiOS “Packages and Prices” webpage,
<http://www22.verizon.com/content/consumerfios/packages+and+prices/packages+and+prices.htm>
(accessed 3/21/08). I have reproduced this webpage in my Exhibit SCL-29.

1 particular webpage indicates that Verizon is willing to make efforts to improve its
2 disclosures to consumers concerning voice migrations to the FTTP network.

3

4 **Q. Please describe the notice supplied on the Verizon FiOS “About Installation”**
5 **webpage.**

6 A. The “About Installation” webpage is a one-page summary of what takes place
7 during an installation of FiOS service.⁷⁸ Relative to voice migration, it states that
8 the Verizon installer will “Migrate any voice services on the current billing
9 account to the Verizon FiOS network. There is no additional cost for this, and it
10 will not affect your current monthly charges.” The page also contains a link to
11 two videos that demonstrate Verizon’s FiOS service installation procedures.

12

13 **Q. In your opinion, do the statements that you just cited constitute “clear and**
14 **conspicuous” notice?**

15 A. No, they fall short of providing “clear and conspicuous notice” because they do
16 not provide any explanation of what “migrate” means in this context, and the
17 consequences to consumers that arise from the migration – that is, it fails to state
18 that the customer will thereafter be responsible for the battery back-up power, that
19 they will no longer be able to obtain copper-based DSL services from either
20 Verizon or competitive DSL providers, and that certain customer premises
21 equipment may no longer work properly after the migration.

22

⁷⁸ See Exhibit SCL-7. A previous version of this page (dated 8/14/2007) appears in Exhibit B to Verizon’s Response to OPC.

1 **Q. Do either of the video demonstrations of FiOS services installation provide**
2 **“clear and conspicuous” notice that voice services are migrated to fiber?**

3 A. No, they do not. The two videos illustrate the installation procedures that occur
4 when a customer orders FiOS Internet alone,⁷⁹ or in combination with FiOS TV
5 service.⁸⁰ I have reviewed them both (as presented on June 19, 2008), and neither
6 video makes a direct statement to the effect that, in the process of installing the
7 customer’s FiOS service(s), their existing voice telephone line(s) will be migrated
8 to the fiber (FTTP) network. The closest statements in the videos have language
9 such as “The process of upgrading your home data and voice network takes
10 approximately four to six hours.”⁸¹ While this language *alludes to* some
11 unspecified change to the customer’s voice network, it does not directly state that
12 the customer’s voice telephone service is going to be migrated to fiber, and thus it
13 falls far short of providing “clear and conspicuous notice.”

14
15 **Q. Please describe the notice supplied on the Verizon FiOS Internet**
16 **“Disclaimer” webpage.**

⁷⁹ The URL for the pop-up that runs this video is:
<http://www22.verizon.com/content/consumerfios/about+installation/flashcontent/flashcontent.htm>
(accessed 6/19/08).

⁸⁰ The URL for the pop-up that runs this video is:
<http://www22.verizon.com/content/consumerfios/about+installation/HomeInternetTV/HomeInternetTV.htm>
(accessed 6/19/08).

⁸¹ This version is in the FiOS Internet-only installation video; the video demonstrating installation of FiOS Internet and TV service is similar, stating “The process of upgrading your home phone, Internet, and TV service takes approximately four to six hours.”

1 A. The “FiOS Internet Disclaimer” webpage⁸² contains nine lines of text that provide
2 additional details of the terms and conditions for Verizon FiOS Internet service.
3 To view this material from the “FiOS Internet” home page, a consumer must
4 choose a link labeled “View the FiOS Internet disclaimer.” The last lines of the
5 Disclaimer text looks like this:

6 Voice service for FiOS customers is provisioned over fiber. A battery unit will supply back -up power for standard
7 voice service (but not voice over Ip services), including E -911 for up to eight hours. ©2008 Verizon.

8

9 **Q. In your opinion, does that statement constitute “clear and conspicuous**
10 **notice?**

11 A. No. In the first place, the bare statement that “Voice service for FiOS customers
12 is provisioned over fiber” is far too cursory to convey the essential information
13 required to adequately inform customers about a change of their voice telephone
14 service from copper to fiber facilities and its consequences to them. Second, the
15 “Disclaimer” text is supplied in a small font size, approximately 8-point, which
16 diminishes its visibility and conspicuousness. And third, the fact that this notice
17 can be accessed only when the person viewing the website affirmatively chooses
18 to “View the FiOS Internet disclaimer” makes it decidedly *inconspicuous*,
19 because (1) that link label gives no indication that the linked page will be
20 providing any information relevant to the customer’s voice telephone service, and
21 (2) as a matter of definition, a “disclaimer” is a “denial or disavowal of legal

⁸² The URL for this webpage is: <http://www22.verizon.com/content/ConsumerFios/> (as of 5/28/08). This webpage, including the “Disclaimer” text revealed after clicking on a “View the Verizon FiOS Internet Disclaimer” button, is reproduced in my Exhibit SCL-26.

1 claim,”⁸³ not an explanation of terms and conditions of service (as the
2 “disclaimer” webpage actually provides), so that the link label is a misnomer, and
3 does not suggest that *any* terms and conditions of FiOS Internet service (let alone
4 voice telephone service) will appear within the linked text.

5

6 **Q. The next item on your list is the Verizon “FiOS Internet Service Guide.”**
7 **Please describe what Verizon’s Response to OPC’s Petition stated concerning**
8 **the voice migration to fiber notice supplied by that document.**

9 A. Paragraph 11 of the Verizon Response to OPC’s Petition addresses the notice that
10 Verizon provides to FiOS customers about voice telephone service migration to
11 fiber. In that paragraph, Verizon states that: “Written notification is given again
12 in documents delivered to the customer. See Customer Notification Documents,
13 attached as Exhibit E.” Verizon’s Exhibit E contained a reproduction (in two-
14 page per sheet format) of the front and back covers of the Verizon “FiOS Internet
15 Service Guide,” plus pages 4 and 5 of that Service Guide.

16

17 **Q. Is there any discussion about voice telephone service migration to fiber**
18 **within Exhibit E of the Verizon Response?**

19 A. No. None of the Service Guide pages supplied in Exhibit E make any reference
20 whatsoever to the fact that Verizon’s practice is to migrate a customer’s voice
21 telephone service to the fiber (FTTP) network when the customer orders FiOS
22 Internet Service.

⁸³ See the definition of “disclaimer” supplied by the Merriam-Webster on-line dictionary, at <http://www.merriam-webster.com/dictionary/disclaimer> (accessed 3/21/08).

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Q. Is there any discussion of voice telephone service migration to fiber anywhere else in the “FiOS Internet Service Guide,” so that it could be said to provide notice of that migration?

A. No, there is not. Verizon has provided a copy of the entire “FiOS Internet Service Guide” in the document with Bates Numbers 000017-000033, supplied as an attachment to its response to Staff Data Request No. 1-21.⁸⁴ I have reviewed this document, and found that it contains no statement explaining that a FiOS Internet customer’s voice telephone service will be migrated to the fiber (FTTP) network; indeed, the words “migrate,” “migration,” “change” or “changed” do not appear anywhere within the Service Guide. Instead, the Service Guide provides information intended to “explain the equipment installed with your Verizon FiOS Internet,” as its first page (Bates No. 000019) states. Accordingly, the Service Guide’s pages are entitled: a “Welcome to Verizon FiOS Internet” (Bates No. 000019), “FiOS Internet Service Installation Diagrams” (Bates Nos. 000020 and 000021), descriptions of “FiOS Equipment: The Optical Network Terminal (ONT): Your light source” (Bates No. 000022) and “ONT Power Supply Unit (OPSU): Your electricity source (Bates No. 000023), descriptions of the “Battery Backup Unit (BBU)” (Bates Nos. 000024-000027) and the “Verizon FIOS Internet Router” (Bates No. 000029), plus “Troubleshooting Tips” (Bates Nos. 000030-000031). The second “Troubleshooting Tips” page (Bates No. 000031) does refer to voice service – it begins “Voice Service Test: If you’re having

⁸⁴ I have reproduced this document in my Exhibit SCL-5.

1 problems with your voice service, it could be your inside wiring. To find out...”
2 -- and it continues on with instructions on how to test for dial tone and how to
3 contact Verizon for further assistance. However, this reference to voice service
4 does not by any means constitute a notice of voice telephony migration to fiber.

5

6 **Q. Is there any notice of voice telephone service migration to fiber within**
7 **Verizon’s “FiOS Internet User Guide”?**

8 A. No, there is not. Verizon supplied this document an attachment to its response to
9 Staff Data Request 1-21, in Bates Numbers 000034-000087.⁸⁵ I have reviewed
10 this document, and found that, like the Verizon “FiOS Internet Service Guide,” it
11 contains no statement explaining that a FiOS Internet customer’s voice telephone
12 service will be migrated to the fiber (FTTP) network, nor the words “migrate,”
13 “migration,” “change” or “changed” in relation to voice telephone service.

14

15 **Q. What about the similar documentation for Verizon’s TV service, the “FiOS**
16 **TV User Guide”?**

17 A. Verizon supplied its “Verizon FiOS TV User Guide” as an attachment to the
18 response to Staff Data Request 1-21, in Bates Numbers 000088-000155.⁸⁶ I have
19 reviewed this document as well, and found that it also contains no statement
20 explaining that a FiOS Internet customer’s voice service will be migrated to the

⁸⁵ I have reproduced this document in my Exhibit SCL-27.

⁸⁶ I have reproduced this document in my Exhibit SCL-28.

1 fiber (FTTP) network, nor the words “migrate,” “migration,” “change” or
2 “changed” in relation to voice telephone service.

3

4 **Q. Have you been able to assess the verbal notifications concerning voice**
5 **migration that Verizon claims to provide to customers who telephone the**
6 **Verizon business office to order FiOS Internet and/or FiOS TV service?**

7 A. Yes, to the extent that the written talking points or “scripts” that Verizon provides
8 to its customer service representatives accurately reflect the information actually
9 conveyed to Maryland customers. I have reviewed the telephone scripts that
10 Verizon provided as proprietary attachments to its responses to Staff Data
11 Requests No. 2-5 and 2-9, and OPC Data Requests No. 6-4 and 6-5.

12

13 The first proprietary telephone script is entitled “Cofee Consumer BBU Scripting
14 – FiOS Internet – February 27, 2008.”⁸⁷ This script is used by Verizon Maryland
15 customer service representatives when interacting with a Maryland consumer who
16 is ordering FiOS Internet service via a telephone call to a Verizon business
17 office.⁸⁸ The written script is <<BEGIN PROPRIETARY [REDACTED]

18 [REDACTED]

⁸⁷ See Verizon Response to Staff Data Request No. 2-5. I have reproduced this document in my Proprietary Exhibit SCL-30. In the same data response, Verizon also supplied<<BEGIN PROPRIETARY [REDACTED] END PROPRIETARY>> I have also provided this document in Proprietary Exhibit SCL-31.

⁸⁸ This context is set forth in Verizon’s Response to OPC Data Request No. 6-5. This response is provided in my Exhibit SCL-32.

1 [REDACTED]⁸⁹ [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED] **END PROPRIETARY>>**

11
12 Verizon also contends that its customer service representatives routinely follow a
13 <<BEGIN PROPRIETARY [REDACTED]
14 [REDACTED]⁹⁰ [REDACTED]
15 [REDACTED]
16 **END PROPRIETARY>>** This glaring omission confirms that Verizon
17 downplays to its customer service representatives the importance of providing
18 notice and explanation of voice telephone service migration, and implies that
19 those customer service representatives will in turn fail to adequately communicate
20 the consequences of voice telephone service migration to Verizon’s customers.

21

⁸⁹ “Cofee Consumer BBU Scripting – FiOS Internet – February 27, 2008” (reproduced in Proprietary Exhibit SCL-30), at pages 5-6.

⁹⁰ See Verizon Response to Staff Data Request No. 2-9. The “FiOS Disclaimer Checklist” provided as an attachment thereto is also reproduced in my Proprietary Exhibit SCL-33.

1 Finally, Verizon has supplied a proprietary document titled “FiOS TV
2 Scripting,”⁹¹ which sets forth the script followed by Verizon Maryland customer
3 service representatives when interacting with a Maryland consumer who is
4 ordering FiOS TV service via a telephone call to a Verizon business office.

5 While <<BEGIN PROPRIETARY [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 END PROPRIETARY>>.⁹²

9
10 **Q. What notice does Verizon provide concerning voice migration when a**
11 **customer places an on-line order for FiOS Internet and/or TV service via the**
12 **Verizon website?**

13 A. In its response to Staff Data Request No. 2-5, Verizon supplied a <<BEGIN
14 PROPRIETARY [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

⁹¹ See Verizon Response to Staff Data Request No. 2-9. The “FiOS TV Scripting” document provided as an attachment thereto is also reproduced in my Proprietary Exhibit SCL-34. See also Verizon Response to OPC Data Request 6-5 (my Exhibit SCL-33), which explains the application of the scripts.

⁹² See “FiOS TV Scripting” document (my Proprietary Exhibit SCL-34), at pages 2-3. Those sentences are repeated in an order “recap” section at the end of the <<BEGIN PROPRIETARY [REDACTED] END PROPRIETARY>>.

⁹³ This document is reproduced in my Proprietary Exhibit SCL-35.

1 [REDACTED]

2 s [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 • [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED] END PROPRIETARY >>

13
14
15
16
17
18
19
20
21
22
23

Q. Does the notice that you have just described for Verizon’s on-line ordering channel constitute clear and conspicuous notice of the impacts of voice telephone service migration to the fiber (FTTP) network?

A. No. While this notice is an improvement from that associated with Verizon’s other ordering channels, both in terms of the content and its repetition, it nevertheless falls short in several respects. One problem is that the <<BEGIN

PROPRIETARY [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 [REDACTED] **END PROPRIETARY>>** All of these
14 deficiencies could be avoided if Verizon instead applied the complete disclosure
15 statement that I supplied earlier in my testimony.

16
17 **Q. What notice concerning voice migration to FTTP is provided to Maryland**
18 **consumers who order FiOS services via a sales agent at a kiosk or a “big-**
19 **box” retailer?**

20 A. When a Maryland consumer orders a FiOS service at a kiosk or a “big-box”
21 retailer such as Best-Buy, Wal-Mart, etc., their order is handled by a third-party
22 sales agent who uses a computerized ordering system supplied by Verizon, known
23 as the <<**BEGIN PROPRIETARY** [REDACTED] **END**

1 **PROPRIETARY>>**.⁹⁴ In response to OPC discovery, Verizon has provided on a
 2 proprietary basis a <<**BEGIN PROPRIETARY** [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED] **END**

9 **PROPRIETARY>>** ⁹⁶ Once again, this fails to provide an adequate degree of
 10 notice to the consumer to allow them to make an informed decision on whether to
 11 accept migration of their voice service to the FTTP network.

12
 13 **Q. Have you also reviewed Verizon’s FiOS promotional materials to see if they**
 14 **provide clear and conspicuous notice of voice telephone service migration to**
 15 **the fiber (FTTP) network?**

16 A. Yes, I have. Verizon has provided certain printed promotional materials relating
 17 to FiOS Internet, TV, and phone service packages, as attachments to its response
 18 to Staff Data Request 1-25, in Bates Numbers 000179-00187.⁹⁷ Each of the five
 19 letters/flyers supplied therein contain a statement embedded within the “fine-

⁹⁴ Verizon Response to OPC Data Request 7-7. The text response is reproduced in my Exhibit SCL-58.

⁹⁵ The proprietary document “SPOT Training Manual,” was provided as a proprietary attachment to Verizon Response to OPC Data Request 7-7. This document is reproduced in my Proprietary Exhibit SCL-59.

⁹⁶ See *id.*, at page 25.

⁹⁷ These five documents are reproduced in my Exhibit SCL-36.

1 print” section that says either “Verizon FiOS Internet customers purchasing
2 Verizon voice service receive both services over fiber,”⁹⁸ or “Verizon FiOS TV
3 customers purchasing Verizon voice service receive both services over fiber.”⁹⁹
4 However, none of these statements constitute clear and conspicuous notice that a
5 Verizon customer’s existing voice telephone service will be migrated to the fiber
6 (FTTP) network when they order FiOS Internet and/or TV service.

7

8 **Q. Please explain.**

9 A. An initial matter, the positioning and small font size applied to those statements
10 diminish the visibility and conspicuousness of the notice they provide. Moreover,
11 similar to the situation that I just described relative to Verizon’s on-line ordering
12 channel notice, the statements’ wording is also ambiguous rather than clear: the
13 phrase “FiOS Internet customers purchasing Verizon voice service” implies that
14 the customer is ordering a *new* Verizon voice telephone service at the same time
15 as they order FiOS Internet, rather than that they are an existing voice telephone
16 service customer. This implication is created by the use of the present progressive
17 verb tense (“customers purchasing”) that applies to an activity in progress, and
18 could be avoided by rephrasing it as “FiOS Internet customers who already
19 subscribe to Verizon voice telephone service, or plan to do so when ordering
20 FiOS Internet, will receive both services over fiber.”

21

⁹⁸ *Id.*, see Bates Nos. 000182, 000184, and 000186.

⁹⁹ *Id.*, see Bates Nos. 000180 and 000187

1 In fact, two of these promotional documents contain language that create the
2 impression that existing FiOS Internet customers do not have their telephone
3 services running over the fiber (FTTP) network, and thus, are not subject to
4 migration.

5

6 **Q. Please explain how those two promotional documents create the impression**
7 **that FiOS Internet customers do not have their voice service migrated to**
8 **fiber.**

9 A. There are two promotional letters, supplied in Bates Nos. 000183-000184 and
10 000185-000186, respectively, that have a header titled “Verizon FiOS,[®] Fiber-
11 optic TV, Internet and unlimited calling, all together for \$99.99 a month.” I have
12 reproduced them in my Exhibit SCL-36. Each of the letters begins with the
13 following introduction:

14 “Dear
15 Want more from your Internet, TV and phone service?
16 You’re already enjoying state-of-the-art Internet service with Verizon FiOS. Why
17 not let your TV and phone in on the action, too? Find out how a 100% fiber-optic
18 connection straight to your home can do a lot more than just improve your
19 entertainment experience.”
20

21 The target audience for these letters clearly consists of Verizon customers who
22 already subscribe to FiOS Internet service. Yet by entreating them to “let your
23 TV and phone in on the action, too” (emphasis supplied), Verizon appears to be
24 urging those customers to migrate their TV and phone service over to that “100%
25 fiber-optic connection,” which thus implies that *the customer’s phone service had*
26 *not been migrated to fiber previously*. This unfortunate misrepresentation of

1 Verizon’s actual voice telephone service migration practice seriously undercuts
2 any other “notice” that it may be providing to Maryland consumers.

3

4 **Q. Mr. Lundquist, are you aware of any documents that are viewed by**
5 **Maryland consumers as they order Verizon FiOS Internet and/or TV service,**
6 **that could be easily modified to provide clear and conspicuous notice**
7 **concerning voice migration to fiber, but do not currently provide such**
8 **notice?**

9 A. Yes, I am aware of two Verizon documents to which that circumstance applies.
10 They are sales order forms (two pages each) that were supplied as attachments to
11 Verizon’s Response to Staff Data Request No. 1-23, in Bates No. 000188-189,
12 and 000190-000191, respectively. Verizon has indicated that they are used
13 during door-to-door sales in Maryland, as well as at special events in
14 Maryland.¹⁰⁰ The two forms both specifically reference Maryland and are
15 similarly organized, but differ in the precise service packages and offerings they
16 present. I have reproduced these forms in my Exhibit SCL-38. On the first page
17 of each form, there is a box with the title, “Customer Must Initial as the agent
18 covers each installation detail.” The “installation details” for which customer
19 initials are required include such items as:

- 20 • \$29.99 Activation Fee applies to all new customers signing up for FiOS
- 21 Internet;
- 22 • Installation is expected to take a minimum of 4-6 hours; and
- 23 • Prior to installation a fiber line will be run to your home to allow your new
- 24 service to be installed. The line will be run the same as your current

¹⁰⁰ See Verizon Response to Staff Data Request No. 2-6. This response is reproduced in my Exhibit SCL-37.

1 copper line: aerial or buried. Charges will apply if a request is made to
2 change from the existing cable placement.
3

4 In my view, it is a glaring omission that this box, which explicitly requires
5 customer consent on these types of installation details, has no statement about, nor
6 seeks consent for, the migration of the customer’s existing voice service(s) to the
7 fiber (FTTP) network. Adding the complete disclosure statement that I presented
8 earlier in my testimony, and permitting the customer to initial it, would be a
9 simple, cost-effective, and appropriate method to ensure that there has been clear
10 and conspicuous notice, as well as verifiable consent, for those customers who
11 obtain service via the sales agents using these forms.
12

13 **Q. At any point in the FiOS service ordering and installation process, does**
14 **Verizon obtain written authorization from the customer to migrate his/her**
15 **telephone service from its existing configuration (i.e., with a copper drop) to**
16 **the FTTP network?**

17 A. No. OPC has investigated this point in discovery, and confirmed that when
18 Verizon proceeds to fulfill a customer’s request for FiOS Internet and/or TV
19 service, the Company does not obtain a written authorization from that customer
20 acknowledging that they consent to have their voice telephone service migrated
21 from a copper drop to the FTTP network.
22

23 Specifically, in OPC Data Request 2-3 to Verizon, OPC requested that Verizon
24 “provide a copy of any standard consent forms used to document customers’

1 consent to migration of their voice services to the fiber facilities. If no such forms
2 exist, please explain how Verizon Maryland documents its customers' consent to
3 that migration.” In its response, Verizon stated that “There are no ‘standard
4 consent forms’ used to document customers' consent to voice migration to
5 fiber.”¹⁰¹

6

7 **Q. Is it Verizon’s position that it does not need a written authorization from the**
8 **customer to migrate their voice telephone service(s) to the FTTP network?**

9 A. Yes, that appears to be Verizon’s position. In its Response to OPC Data Request
10 No. 2-3, Verizon states further that “The fact that residential customers elect to
11 have FiOS Internet or TV service installed **after** receiving multiple forms of
12 written and verbal notification that their voice service will be migrated to fiber is
13 direct evidence of those customers' consent to the migration.” (Emphasis in
14 original.)

15

16 **Q. In your view, should Verizon be required to obtain verifiable consent from**
17 **the customer before migrating their voice telephone service in the context of**
18 **installing a FiOS service?**

19

20 A. Yes, I believe that obtaining verifiable consent from the customer before
21 migrating their voice telephone service to FTTP is extremely important in this
22 situation. As I have previously discussed in my testimony, Verizon performs the

¹⁰¹ Verizon Response to OPC Data Request No. 2-3. This data response is reproduced in my Exhibit SCL-39.

1 migrations of customers’ regulated voice services in the context of installing one
2 or more unregulated FiOS services. Given the incidental nature of the voice
3 migration from the perspective of the customer, who is focused on obtaining their
4 ordered FiOS services, rather than thinking of potential changes to their voice
5 telephone service, I believe it is crucial that Verizon fully disclose to the customer
6 the voice telephone migration process and its consequences, and then obtain
7 verifiable consent from the customer to undertake the migration. The best way to
8 ensure that customer consent has occurred is to have Verizon present a full
9 disclosure statement, along the lines that I have already discussed, and have the
10 customer affix their initials (or full signature) next to a statement below that
11 disclosure stating that “I have read and understand the above disclosure
12 concerning migration of my voice telephone service to the FTTP network and
13 consent to that migration.”¹⁰²

14

15 **VII. VERIZON’S TREATMENT OF ITS COPPER DROP FACILITIES**
16 **DURING FIOS INSTALLATIONS, AND THEIR COMPETITIVE**
17 **IMPACTS**

18

19 **Verizon’s wholesale service ordering mechanisms do not adequately account for the**
20 **Company’s disconnection of copper drop facilities during a FiOS installation, which**
21 **creates adverse and anticompetitive impacts on CLECs attempting to order a**
22 **copper UNE loop for consumers that have been migrated to the FTTP network.**
23

¹⁰² In the context of an on-line order made by the customer, it should be sufficient for the customer to check a box next to that statement rather than write their initials, as is routinely done for software agreements, for example.

1 Q. What is Verizon’s practice concerning the treatment of the copper drop
2 facilities of consumers who elect to subscribe to FiOS Internet and/or TV
3 service?

4 A. In response to discovery, Verizon has described its current practice as follows:

5 The current practice when moving voice service to fiber is to disconnect
6 the copper drop wire from the NID but otherwise leave the wire in place.
7 This is true both for buried and aerial facilities.¹⁰³
8

9 This practice, of disconnecting, but not physically removing copper drops, is also
10 set forth in Verizon’s current provisioning and maintenance instructions to the
11 field technicians who perform FiOS service installations. Verizon’s <<BEGIN

12 PROPRIETARY [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 END PROPRIETARY>>¹⁰⁴ Similarly, page <<BEGIN PROPRIETARY [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

¹⁰³ Verizon Response to OPC Data Request 2-16 (reproduced in my Exhibit SCL-9). See also Verizon’s Response to Covad and XO’s Data Request 1-45, which contains essentially the same statements. The latter response is reproduced in my Exhibit SCL-40.

¹⁰⁴ See *FiOS Voice and Data Installation Process for I&M Technicians M&P* (reproduced in my Exhibit SCL-8), at page 36 (Bates No. 000435).

¹⁰⁵ *Id.*, at page 39 (Bates No. 000438).

1 [REDACTED]

2 [REDACTED] END PROPRIETARY>>

3

4 **Q. Has Verizon’s practice in Maryland always been to leave the customer’s**
5 **copper drop physically in place during a FiOS installation?**

6 A. No. Verizon has stated “the current practice was adopted on or about October 25,
7 2007.”¹⁰⁶ That practice appears to have been established by <<BEGIN

8 PROPRIETARY [REDACTED]

9 [REDACTED] END PROPRIETARY>>¹⁰⁷

10 Prior to that time, <<BEGIN PROPRIETARY [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]¹⁰⁸ END PROPRIETARY>>

14 According to Verizon, <<BEGIN PROPRIETARY [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

¹⁰⁶ Verizon Response to Covad and XO’s Data Request No. 3-21. This data response is reproduced in my Exhibit SCL-41.

¹⁰⁷ “Copper Drop Removal on FiOS,” Document No. 2005-00351-MDP, Issue B, Issue Date 9/29/05, Revised Date 9/05/07 (hereafter, *Copper Drop Removal on FiOS*, Issue B). Verizon provided this document as a proprietary attachment to Verizon Response to Covad and XO’s Data Request No. 3-10. This document is reproduced in my Proprietary Exhibit SCL-42.

¹⁰⁸ “Copper Drop Removal on FiOS,” Document No. 2005-00351-MDP, Issue A, Issue Date 9/29/05. Verizon provided this document as a proprietary attachment to Verizon Response to Covad and XO’s Data Request No. 3-10. This document is reproduced in my Proprietary Exhibit SCL-43.

1 [REDACTED]¹⁰⁹
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]¹¹⁰ END PROPRIETARY>>

7
8 **Q. Does Verizon perform any periodic maintenance or inspections of the**
9 **copper drops that it disconnects, to ensure that they will be usable at a later**
10 **point in time?**

11 A. No, apparently not. In discovery, OPC asked Verizon how it ensures that disused
12 buried drops will remain in a reusable condition, in the event that residential
13 subscribers later desire to return their telephone service to the copper facilities.
14 Verizon's response states the following:

15 The current practice when moving voice service to fiber is to disconnect
16 the copper drop wire from the NID but otherwise leave it in place. This
17 is true for both buried and aerial facilities. Because the copper remains
18 in place, if a Verizon customer requests that service be returned to
19 copper facilities, Verizon reconnects the copper drop. If Verizon
20 discovers that the facilities are unusable (facilities can degrade over time
21 due to a variety of factors, including weather, age, and structural
22 damage), then Verizon will replace the copper drop. If a customer
23 orders telephone service from a CLEC that uses Verizon copper loops to
24 provide service, Verizon reconnects the existing copper drop.¹¹¹
25

¹⁰⁹ *Copper Drop Removal on FiOS*, Issue B (reproduced in Proprietary Exhibit SCL-42).
¹¹⁰ *FiOS Voice and Data Installation M&P*, Issue E, Issue Date 10/19/07 (reproduced in my Exhibit SCL-9), at page 4 (Bates No. 000403) and pages 36-40 (Bates Nos. 000435-000439).
¹¹¹ Verizon Response to OPC Data Request No. 2-20.

1 Thus, Verizon waits until there is a request to have a particular copper drop
2 reconnected, and at that time determines whether the copper facility is still in
3 usable condition. That being said, this practice appears to conform to the FCC’s
4 interconnection rules that apply to this situation, which state that:

5 “The incumbent LEC must maintain the existing copper loop connected
6 to the particular customer premises after deploying the fiber-to-the-home
7 loop,” but “need not incur any expenses to ensure that the existing
8 copper loop remains capable of transmitting signals prior to receiving a
9 request for access...in which case the incumbent LEC shall restore the
10 copper loop to serviceable condition upon request.”¹¹²
11

12 I note that CLEC intervenors Covad and XO have expressed the same conclusion
13 in their 2007 Petition to the FCC regarding the disposition of ILEC copper
14 facilities.¹¹³

15
16 **Q. OPC’s *Initial Petition* (at pages 7-8) raised the issue of whether Verizon’s**
17 **disposition of copper facilities during FiOS service installations amounted to**
18 **“copper retirements,” have you investigated that issue?**

19 A. Yes. In response to OPC and other party discovery, Verizon has clarified the
20 policies and procedures it applies to copper drops during FiOS service
21 installations in Maryland, as I have just elaborated. Once disconnected, those
22 copper drops are no longer an active component of the network, and are not
23 subject to any on-going monitoring or maintenance by Verizon. However, I have
24 not seen any evidence that they are any more vulnerable to deterioration than

¹¹² See 47 C.F.R. 51-319(a)(3)(iii), subparts (A) and (B).

¹¹³ See XO Communications, LLC, Covad Communications Group, Inc., *et al*, *Petition for Rulemaking*, filed with the FCC on January 18, 2007, at page 18. This Petition is reproduced in my Exhibit SCL-44.

1 copper drops that are still in use, and they do appear to remain available for future
2 re-connection and re-use, upon a consumer’s request to obtain a copper UNE-
3 based voice service from a CLEC, for an indefinite period of time. Accordingly,
4 my conclusion is that Verizon’s current copper drop procedures do not equate to a
5 “retirement” of copper facilities.

6
7 Furthermore, in response to specific questioning concerning its copper retirements
8 policy, Verizon has stated that “Verizon Maryland has not made a determination
9 to retire copper loops”¹¹⁴ and, in a supplemental response, that “Verizon reiterates
10 that it has not made a determination to retire copper loops, feeder, or subloop
11 while it deploys fiber loops.”¹¹⁵ In the event that Verizon does decide to retire
12 any copper loop facilities that are displaced by the FTTP network, CLECs’ ability
13 to provide competitive voice services based on Verizon wholesale loops will still
14 be protected by FCC rules that address that situation. First, the FCC requires an
15 incumbent LEC (“ILEC”) to make public disclosures of its intentions to retire
16 such copper loop facilities, and allows interested parties such as CLECs to oppose
17 an ILEC’s proposed retirements.¹¹⁶ Second, the FCC requires that an ILEC make
18 available to CLECs, on an unbundled basis, a 64-kbps digital channel over the

¹¹⁴ Verizon Response to Covad and XO’s Data Request 1-28. This response is reproduced in my Exhibit SCL-45.

¹¹⁵ Verizon’s December 21, 2007 Supplemental Response to Covad and XO’s Data Request 1-28. This response is reproduced in my Exhibit SCL-46.

¹¹⁶ 47 C.F.R. 51-333 (“Notice of network changes: Short term notice, objections thereto and objections to retirement of copper loops or copper subloops”).

1 fiber loop that is suitable for voice service, whenever the ILEC elects to retire
2 copper loops as a result of an FTTP network overbuild.¹¹⁷

3

4 Moreover, apart from the competitive issues, I do not see any consumer benefits
5 in retaining the copper facilities displaced by Verizon's FiOS service installations
6 in a non-retired, idled state. In particular, while public safety and emergency
7 preparedness would theoretically be enhanced by the presence of physically-
8 separated, redundant telecommunications networks, unless the copper loop
9 facilities displaced by Verizon's FiOS service installations were kept in active use
10 (either by Verizon or a CLEC) as part of actual telecommunications and/or
11 information services, they would not effectively contribute to addressing those
12 concerns.

13

14 **Q. OPC's *Initial Petition* (at pages 7-8) also raised the issue of whether**
15 **Commission rules governing Verizon's retirement of copper facilities should**
16 **be adopted, do you have any comments on this issue?**

17 A. Based on the considerations in my discussion above on Verizon's disposition of
18 copper facilities during FiOS service installations, I do not recommend that the
19 Commission should consider adopting any new rules concerning Verizon's copper
20 facilities retirements at this time. However, the Commission should continue to
21 monitor Verizon's treatment of copper facilities that are disconnected due to FiOS

¹¹⁷ 47 C.F.R. 51-319(a)(3)(iii), subpart (C). See also, *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, FCC CC Docket Nos. 01-338, 96-98, and 98-147, rel. August 21, 2003 ("*Triennial Review Order*"), at paras. 273-284, esp. para. 277.

1 service installations, and stand ready to take action if Verizon begins to retire such
2 plant in a manner that adversely impacts Maryland consumers' ability to obtain
3 regulated telecommunications services.

4

5 **Q. Does the disconnection of consumers' copper drops by Verizon have any**
6 **potential negative consequences for competition in the provision of voice**
7 **telephone services to those consumers?**

8 A. Yes. Verizon states that it does not assess any charge on a consumer or a CLEC
9 in the event that a consumer's copper drop must be reconnected in order to allow
10 a CLEC to obtain a copper unbundled network element ("UNE") loop for the
11 provision of a competitive voice telephone service requested by the consumer.¹¹⁸

12 While the absence of overt charges mitigates one potential issue this area, another
13 problem arises due to the manner in which Verizon's wholesale service ordering
14 mechanisms process a CLEC request for a copper UNE loop to acquire a Verizon
15 customer, when the customer has been migrated to the FTTP network and no
16 longer has a working copper loop in place.

17

18 **Q. Please explain the problem with how Verizon's wholesale service ordering**
19 **and provisioning mechanisms handle a CLEC request for a copper UNE loop**
20 **to acquire a Verizon residential customer, when the customer no longer has a**
21 **working copper loop in place after FiOS has been installed.**

¹¹⁸ Verizon Response to OPC Data Request 3-4; see also Verizon Response to City of Baltimore Data Request 1-2, and Verizon Response to Staff Data Request 1-11. These data responses are reproduced in my Exhibits SCL-47, SCL-48, and SCL-49, respectively.

1 A. In response to a data request propounded by the Administrative Law Judge
2 (“ALJ”) in a 2007 California Public Utilities Commission (“CA PUC”)
3 proceeding, Verizon’s affiliate Verizon California, Inc. supplied an overview of
4 its procedures to re-establish a copper loop (for which the drop has been
5 disconnected pursuant to a FiOS installation) in the event of a CLEC order for a
6 copper UNE loop.¹¹⁹ In the instant case, Verizon has confirmed that its
7 procedures in Maryland adhere to that description:

8 Verizon states that there are no differences between the general
9 procedures described [by Verizon California, Inc.] on pages A-3 and A-
10 4 referenced above and Verizon Maryland’s procedures for ordering (or
11 migrating from FTTP based service) and provisioning a UNE loop.¹²⁰
12

13 The relevant portion of the Verizon California data response reads as follows:¹²¹

- 14 CLEC - UNE Loop Ordering and Provisioning
15
16 1. When a CLEC orders a UNE loop from Verizon (irrespective of whether
17 the customer is currently connected via fiber or copper), it must submit a
18 Local Service Request (LSR) to port the customer’s local number to the
19 CLEC and establish the UNE loop connection.
20

¹¹⁹ “Additional Comments and Information Request Responses of Verizon California, Inc. (U 1002 C),” filed October 17, 2007; Attachment A, Verizon California Inc.’s October 16, 2007 Responses to Additional Information Requests Propounded at the October 5, 2007 Prehearing Conference P at pages A-3 to A-4 (“CLEC - UNE Loop Ordering and Provisioning” section). in *Petition of the California Association of Competitive Telecommunications Companies Pursuant to Public Utilities Code Section 1708.5 to Adopt, Amend, or Repeal Regulations Governing the Retirement by Incumbent Local Exchange Carriers of Copper Loops and Related Facilities Used to Provide Telecommunications Services*, California PUC Docket No. P.07-07-00. The response also describes the process to reconnect a copper drop at a consumer’s request, at page A-3 (“End User/Consumer Return to Copper Process”). The full Verizon California filing is reproduced in my Exhibit SCL-50.

¹²⁰ Verizon Response to OPC Data Request 5-3. This response is reproduced in my Exhibit SCL-51.

¹²¹ See Verizon California, “CLEC - UNE Loop Ordering and Provisioning,” reproduced in my Exhibit SCL-50.

- 1 2. If the customer is currently connected via copper, there may not be a
2 need to dispatch a technician to the customer’s location and in that case
3 the transfer of the copper loop to the CLEC is accomplished by
4 performing a hot-cut in the central office.
5
- 6 3. If the customer is currently connected via FTTP, the CLEC receives a
7 response to its LSR from Verizon that the CLEC must request to have
8 the customer re-connected to the existing copper loop, given that the
9 consumer customer currently being served by fiber is not connected to
10 the copper network.
11
- 12 4. The revised LSR is automatically routed to a customer representative for
13 manual processing.
14 a. The representative will initiate a dispatch of a technician to the
15 customer’s location to re-connect the copper network (whether or
16 not a “copper drop” was removed).
17 b. Once the copper network is re-connected to the customer premises,
18 the CLEC can submit a request to migrate the customer to the CLEC
19 (port the number and perform the hot-cut in the central office).
20 c. Although standard charges apply for Verizon to connect CLECs to
21 new customers, neither CLECs nor customers are charged any extra
22 depending on whether or not a copper drop is in place.
23
- 24 5. While additional activities must be performed to process a fiber-to-
25 copper CLEC request than if the customer was initially on copper, the
26 order is processed within the normal UNE provisioning intervals and in
27 parity with the intervals for connecting Verizon’s own services.
28
29

30 The gist of the problem revealed in this data response is that the absence of a
31 connected copper loop after a FiOS installation causes a more complicated
32 ordering and provisioning process to ensue when a consumer decides to switch
33 their local telephone service from Verizon to a CLEC, compared to the stream-
34 lined “hot-cut” and number porting¹²² processes that can take place if the
35 consumer has remained connected to the Verizon POTS network via a copper
36 loop (and drop).

¹²² Number portability allows a local telephone service customer to retain their existing telephone number when they switch local service providers.

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As suggested by Point 2 of the data response I cited above (“If the customer is currently connected via copper...”), ordinarily when a CLEC is contacted by a residential consumer seeking to switch their local telephone service from Verizon to the CLEC’s competitive offering, the CLEC will often want to do this using the “hot-cut” process, in which the cut-over of service from Verizon to the CLEC will occur on a coordinated, near-simultaneous basis (a “hot-cut”).¹²³ When properly executed, this process can save both companies time and expense, and also benefit the consumer by minimizing the time during which dial-tone is not available. Ordinarily, the CLEC can submit a single LSR to obtain both the copper UNE loop and the number porting to serve the consumer. In the Verizon East region, which includes Maryland, the CLEC would submit a Loop Service With Number Portability LSR for this purpose.¹²⁴

However, when the residential customer’s voice telephone service has been migrated to the FTTP network due to a FiOS installation and there is no working copper loop, the hot-cut process cannot be undertaken directly. Instead, several intervening ordering and provisioning steps have to take place first, including:

¹²³ Verizon’s wholesale services on-line documentation describes the hot-cut as follows: “The term “Hot Cut” is used in the local exchange industry to describe the near -simultaneous disconnection of a Verizon working loop from a port on one carrier's switch, and the reconnection of that loop to a port on a different carrier's switch, without any significant out-of-service period.” See Verizon webpage “Verizon Partner Solutions – Hot Cut Processes,” http://www22.verizon.com/wholesale/business/local/provisioning/coordination/1,,hot_cut,00.html (accessed 4/2/2008). This webpage is reproduced in my Exhibit SCL-52.

¹²⁴ See Verizon webpage “Ordering UNE Services: Loop Service with Number Portability,” <http://www22.verizon.com/wholesale/local/order/services/1,19406,une-uneloopnum,00.html> (accessed 6/17/2008). This webpage is reproduced in my Exhibit SCL-53.

- 1 • “[T]he CLEC must request to have the customer re-connected to the
2 existing copper loop” (see Point 3 of the data response); then,
3
4 • Verizon must “initiate a dispatch of a technician to the customer’s location
5 to re-connect the copper network” (see Point 4a); after which,
6
7 • “the CLEC can submit a request to migrate the customer to the CLEC
8 (port the number and perform the hot-cut in the central office)” (see Point
9 4b).
10

11 Thus in this circumstance, the CLEC has to submit at least two LSRs – one to
12 request re-connection of the copper loop, and a second to migrate the customer
13 (via the hot-cut and number porting), while Verizon must dispatch a technician to
14 the customer’s home to physically re-connect the copper loop (including
15 restoration of the disconnected copper drop).¹²⁵

16

17 **Q. Have any CLECs complained to Verizon that this “Two LSRs” process is**
18 **unduly complex and costly?**

19 A. Yes. Verizon administers a national CLEC User Forum (“CUF”) that allows
20 CLECs to raise concerns about Verizon’s ordering, provisioning and maintenance
21 processes that may affect multiple CLECs, and work towards cooperative
22 resolution. In July 2006, AT&T Texas, who operates as a CLEC in Verizon’s
23 former GTE service territory in Texas, submitted what became CUF Issue #107,
24 “FTTP/Two LSRs,” complaining that Verizon’s FiOS-driven FTTP migrations in

¹²⁵ Moreover, as implied by Point 3 of the data response, if the CLEC initially submits an LSR of the type that is ordinarily used when the consumer is being served by a copper loop (in Maryland, a Loop Service with Number Portability LSR, for example), Verizon’s wholesale ordering system will reject that LSR because there is no connected copper loop. However, the CLEC can avoid this “third LSR” step by checking whether the consumer is served by a copper loop or FTTP during the pre-ordering phase. See, e.g., page 17 of the 2007 CUF Issue #107 that I discuss immediately below.

1 that state were adversely impacting the UNE loop ordering process in the manner
2 that I have just described, “creating unnecessary delays in converting the End
3 User to the CLEC along with the additional cost to the CLEC required to process
4 multiple LSRs for this order activity.”¹²⁶ Rather than reaching a resolution of this
5 issue, the two companies closed it on an “Agree to Disagree” basis in May 2007,
6 while AT&T Texas stated that they might reopen the issue if the volume of
7 affected orders increased.

8

9 **Q. Would the “Two LSRs” process cause a residential consumer in Maryland,**
10 **who had previously undergone a voice migration to FiOS, to experience a**
11 **delay in their requested change of local service providers?**

12

13 A. Yes, that appears to be the case. Like other ILECs, Verizon has in place
14 “standard intervals” (i.e. defined timeframes) for provisioning of wholesale
15 services such as copper UNE loops. These timeframes generally are defined in
16 terms of the maximum number of business days that can elapse between
17 Verizon’s receipt of a valid service order (LSR) from the CLEC and the “due
18 date” on which Verizon has committed to fulfill that order by having the ordered
19 services completed and operational. In Maryland, Verizon’s standard interval for
20 a hot-cut of a 2-wire analog UNE loop is five business days.¹²⁷ Accordingly,

¹²⁶ See Verizon’s “2007 Closed CUF Issues,” Issue #107 FTTP/Two LSRs, downloaded on 6/17/2008 from <http://www22.verizon.com/wholesale/local/cuf/>, at page 16. I have reproduced Issue #107 in my Exhibit SCL-54.

¹²⁷ See Verizon UNE Product Interval Guide, “Hot Cuts” tab, showing the standard interval for VZ-S (which includes Maryland), for 2-wire analog loops on a hot-cut basis as 5 Business Days

1 when a residential consumer who is still connected to Verizon’s network by a
2 copper loop (including drop) seeks to change their local service provider, they can
3 expect to wait five business days plus the number of days it takes the CLEC to
4 process their order and submit the associated LSR (of type Loop Service with
5 Number Portability) to Verizon.

6
7 However, when the residential consumer has undergone a voice migration to
8 FTTP due to a FiOS installation, they would have to wait several additional days,
9 reflecting Verizon’s UNE loop installation interval, because Verizon must first re-
10 connect the consumer’s copper loop, before the clock can start on the hot-cut
11 changeover of service to the CLEC.¹²⁸ In Maryland, Verizon’s standard interval
12 for installation of a (single) 2-wire analog UNE loop is not defined in terms of a
13 specific number of days, but instead reflects the so-called “Greenlight Date,”
14 meaning that it varies depending upon the availability of the Verizon resources
15 needed to complete that installation.¹²⁹ Nevertheless, all other things being equal,
16 those additional days would be experienced by the residential consumer as a delay
17 in their requested changeover of service to the CLEC, compared to the time it
18 would have taken had Verizon not previously migrated the customer’s voice

for an order of 1-10 loops. This document was downloaded on 5/30/08 from Verizon’s “Product Interval Guides” webpage (<http://www22.verizon.com/wholesale/local/order/productintervalguides/1,,00.html>). The “Hot Cuts” tab is reproduced in my Exhibit SCL-55.

¹²⁸ Note that the delay occurs because this additional provisioning step is required, not because Verizon would fail to meet its standard interval or that the interval itself would have changed.

¹²⁹ See Verizon Supplemental Response to Covad and XO’s Data Request 1-44 (issued December 21, 2007) and Verizon Response to Covad and XO’s Data Request 3-13. These responses are reproduced in my Exhibits SCL-56 and SCL-57, respectively.

1 service to the FTTP network. The consumer may attribute that delay to the
2 CLEC, tarnishing the new customer relationship and the customer's confidence in
3 competitive carriers' ability to provide telephone service comparable to Verizon,
4 when in fact it was caused at root by Verizon's decision to disconnect the copper
5 drop and the limited ability of Verizon's wholesale ordering and provisioning
6 systems to respond to that situation.

7

8 **Q. Have the CLEC intervenors in this proceeding supplied information**
9 **concerning their experiences with ordering copper UNE loops and acquiring**
10 **Verizon customers in Maryland in situations where Verizon has previously**
11 **disconnected the customer's copper drop?**

12 A. No, not as I write this testimony. To the extent any of the CLECs participating in
13 this proceeding provide such information in their testimony submissions, and
14 OPC finds it necessary to further address this issue, OPC will do so in its rebuttal
15 and surrebuttal testimony.

16

17

18 **VIII. RECOMMENDATIONS AND CONCLUSION**

19

20 **Q. Mr. Lundquist, based on the information provided in this investigation to**
21 **date and the testimony that you have just presented, what actions do you**
22 **recommend that the Commission take relative to Verizon's voice telephone**
23 **service provided over its FTTP network?**

24

1 A. As I have indicated earlier in my testimony, OPC may find it necessary to further
2 address issues subject to this investigation based on the testimony submissions of
3 other parties, and will do so ,to the extent necessary in its rebuttal and surrebuttal
4 testimony. With that caveat, my preliminary conclusion is that there are several
5 steps that the Commission should take to ensure that Maryland consumers can
6 make fully informed choices and are not harmed by Verizon’s policy of migrating
7 its voice customers to the FiOS/FTTP network whenever they order a FiOS
8 service. The areas that have the greatest impact on Maryland’s residential
9 consumers’ voice telephone service, are Verizon’s notification and consent
10 procedures relative to purchase and installation FiOS products.

11
12 First, Verizon should be direct to modify its customer notifications and disclosure
13 information concerning the migration of voice telephone service from copper to
14 fiber facilities as a result of the purchase and installation of FiOS products service
15 so that all customers are made fully aware that this change is taken place and the
16 consequences of the migration of their voice services to fiber facilities. To that
17 end, I recommend that the Commission require Verizon to post the model
18 customer disclosure statement provided in this testimony, in prominent positions
19 within each of the webpages and on documents that Maryland consumers will
20 typically review in the course of making a decision whether to purchase a FiOS
21 service. Those webpages and documents including the sales forms used in each
22 sales channel, the webpages describing FiOS services and answering “Frequently
23 Asked Questions” (“FAQs”), the FiOS Service Guides, and hardcopy promotional

1 mailings and the welcome package after installation, sent to Verizon customers.
2 In addition, I recommend that Verizon repeat that notification in the customer’s
3 first telephone bill sent after the voice migration, e.g. via a bill insert. Second,
4 after ensuring that its customers are fully informed about the voice migration
5 process, Verizon should be required to obtain verifiable consent from consumers
6 to migrate their voice telephone service to fiber facilities. For online orders and
7 any written forms used by Verizon or its sales agents (such as those used at “big-
8 box” retailers, Verizon wireless stores and kiosks), consumers should be asked
9 whether they understand and consent to the migration of their voice telephone
10 services to the FTTP network, as explained in the model customer disclosure
11 statement, and provide verifiable consent in the form of written initials (for
12 hardcopy forms) or checking off an appropriate box (for on-line forms). For
13 telephone orders, after being informed of the change by the Verizon
14 representative during the call, consumers should be explicitly asked whether they
15 consent to the migration of their voice telephone service to the FTTP network.

16
17 Regarding the anti-competitive impact of how Verizon’s wholesale systems
18 handle LSRs for competitive carrier copper UNE loop orders to acquire Verizon
19 customers who have been migrated to the FTTP network, to the extent that the
20 CLECs participating in this case supply evidence to show that the “two LSR”
21 issue is a significant problem in Maryland, the Commission may wish to direct
22 Verizon to work with the CLECs to find a workaround solution to minimize any
23 delay to consumers seeking to obtain a competitive local telephone service.

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Q. Does this conclude your direct testimony at this time?

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A. Yes.