It's All Interconnected: Oversight and Action is Required to Protect Verizon New York Telephone Customers and Expand Broadband Services

Public Utility Law Project of New York, Inc.

Authors

Bruce Kushnick
Executive Director,
New Networks

Assisted by David C. Bergmann
Telecom Policy Consulting for Consumers

May 13, 2014

Major Sections

- Introduction
- Executive Summary
- The Future of Telecommunications: Asserting and Regaining the Rights of Customers, Including Low-Income Consumers in New York State
- Time to Clean House: Getting New York and America Wired, Opening the Networks to Competition and Protecting the Rights of Customers
- A Brief History of Residential, Fiber Optic Broadband in New York State
- **Data and Research** — Verizon NY's Financial Relationships with Customers and with Verizon’s Affiliate Companies: Verizon Online, Verizon Business, and Verizon Services, et al.
- **APPENDIX 1** — About the Authors and Organizations
- **APPENDIX 2** — Descriptions of Verizon NY and its Affiliate Companies
- **APPENDIX 3** — Time Line of Verizon NY’s Deregulatory Orders

For More Information:

- Gerald A. Norlander, gnorland44@gmail.com
- Bruce Kushnick, bruce@newnetworks.com
- David Bergmann**,** david.c.bergmann@gmail.com

Acknowledgements: PULP analysts include William Yates. New Networks’ experts and advisors include Fred Goldstein, Alexander Goldman, W. Scott McCollough, Esq, Dana Spiegel, Chuck Sherwood, Paul Hartman, Joly MacFie, and Thomas Allibone.

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PART I Introduction

1.0 Introduction

This report supplies previously unexamined data and new analysis based on primary source information from Verizon New York (VNY) and offers a new alternative path to the future of communications in New York State and the rest of the country. It is focused on residential low income customer issues, but also generally addresses Verizon New York's communications services in New York State. This includes deployment of advanced services, network investment and maintenance, trends in subscribership for telephone and availability of broadband services, prices paid by low-income Lifeline-eligible customers, the implications of business practices for residential and business customers, and recommendations for action and increased public oversight.

VNY is the incumbent provider of telecommunications services for most of New York State. The networks over which these services ride is commonly known as the Public Switched Telephone Networks ("PSTN") or "the utility" networks.[1] In addition to telephone service, Verizon provides broadband and Internet services via Digital Subscriber Lines (DSL) and FiOS products, including cable television service in localities where it has cable television franchises. Wireless services are provided by its affiliate Verizon Wireless. Appendix 2 gives full descriptions of Verizon Communications, the holding company ("Verizon Corporate"), VNY and Verizon's primary affiliates that do business with VNY.

Verizon NY has been allowed to raise the basic telephone phone rates and ancillary services of the utility residential "Plain Old Telephone Services" ("POTS") by the NYPSC multiple times. Starting in 2006 prices increased 84% for basic service. Inside wire maintenance and other services like non-published numbers increased 100%-300%. These increases were permitted by regulators because of expected 'massive deployment in fiber optics' and perceived need for 'financial relief' from losses. From 2009-2013, Verizon New York reported losses of over $11 billion dollars, with an income tax benefit to Verizon Communications of $5 billion. Thus, VNY paid no state of Federal income tax for the last five years or more.

The deployment of FiOS started in the 2005-2007 timeframe in earnest. But by 2010, Verizon Corporate announced that it would stop expanding Verizon FiOS services, except

[1] Note: Verizon New York has had other names in the past. In 1984, NYNEX was created and controlled New York Telephone, which became NYNEX-New York. Then NYNEX merged with Bell Atlantic in 1997 and the state-based utility became Bell Atlantic-New York. Bell Atlantic merged with GTE and created Verizon Communications, in 2000, and the new name was Verizon New York.

for commitments within its existing TV franchise areas.[2] And in these areas that were not upgraded, Verizon Wireless has a marketing agreement with cable companies to bundle Verizon Wireless' service with the cable companies' wired cable, phone, broadband and Internet service.[3]

Then in 2012, Verizon announced plans to ''kill the copper,'' referring to the wireline service received by most VNY telephone customers.[4] Wireline customers in upgraded areas would be migrated to FiOS; customers outside those areas would be relegated to wireless services, starting with areas where the company has decided they do not want to upgrade to FiOS and do not want to maintain copper line service.

On May 7th 2014, Verizon New York filed with the FCC's Wireline Competition Bureau a "Short Term Network Change Notification", which states "Verizon plans to retire copper facilities (feeder, distribution and loops) and to serve all customers over a fiber infrastructure," in Bell Harbor Queens, New York City. There will be no hearings, no formal process, and all has been accepted by the FCC as part of a simple 'network change'.[5] It is too soon to know if there will be legal challenges against this practice.[6]

Verizon has also been seeking deregulation in New York State to remove or lessen regulation of local telephone service (and other services), citing as justification competition and customer migration to "IP" (Internet protocol-based) telephone service and wireless services.

This same deregulation effort is also occurring on the federal level at the FCC, currently driven by AT&T's petition to start trials based on the advent of IP-based services.[7]

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[2] http://online.wsj.com/news/articles/SB10001424052702303410404575151773432729614.

[3] http://usatoday30.usatoday.com/money/industries/technology/story/2012-08-16/Verizon-cable-companies/57093934/1

[4] http://www.media-alliance.org/downloads/Verizon_Kill_Copper.pdf.

[5] http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-326960A1.docx

[6] Different parts of VNY's services and business practices are controlled by different laws and regulations. VNY's utility networks and local service are regulated by the New York Public Service Commission, ("NYPSC"), while the FCC has jurisdiction over services defined as "interstate", such as broadband. Telecommunications laws and regulations are beholden to the Telecommunications Act of 1934 (as amended in 1996), while other activities of the company fall under state corporation law, local municipality regulations, the Securities and Exchange ("SEC') laws and even the IRS. However, through continuing deregulation, as well as the transition to Internet-based services (known as "IP" for "Internet Protocol"), the regulations, oversight and obligations are now in flux or are being removed or 'forebeared', meaning that the law is still in place but not enforceable.

[7] http://connected.att.com/external/publicpolicyviewsnews/WMU_FN_ATT_Reply_Comments_4_9_2014.pdf.

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This report has five basic parts.

- **Executive Summary —** Highlights of the primary findings

- **The Future of Telecommunications: Asserting and Regaining the Rights of Customers, Including Low-Income Consumers In New York State —** Using Verizon data, recommendations are made for the public interest, focusing on Verizon's low-income customers.

- **Time to Clean House: Getting New York and America Wired, Opening the Networks to Competition and Protecting the Rights of Customers —** Based on Verizon's financial statements and business practices, recommendations focus on the broader issues of the telecommunications landscape, the impacts on the deployment of broadband, and competition in New York City, New York State, with the goal of creating change.

- **A Brief History of Residential Fiber Optic Broadband in New York State**

- **Verizon New York Data and Research:** This report relies on Verizon-supplied information and examines VNY's financial statements, based on Verizon's own SEC-filed state-based reports, VNY's financial annual reports submitted to the New York State Public Service Commission ("NYSPSC"), the FCC's "ARMIS"[9] and "Statistics of Common Carriers" ("SOCC") as well as related information, such as Verizon Communications' financial information, the companies' statements, and transcripts of investor briefings.

[9] ARMIS, Automated Reporting Management Information System

Table of Contents

Part I Introduction

1.0 Introduction

1.1 Executive Summary

1.2 The Future of Telecommunications: Asserting and Regaining the Rights of Customers, Including Low-Income Consumers in New York State

1.3 Time to Clean House: Getting New York and America Wired, Opening the Networks to Competition and Protecting the Rights of Customers

1.4 A Brief History of Broadband Deployment in New York State

Part II Verizon New York Rate Increases for Local Service

2.0 Residential POTS Rate Increases were for Fiber Optics and to Make Up for Financial Losses

2.1 Local Service has had Numerous Rate Increases, 1980-2014

2.2 What happened to POTS Charges from 1980-2014?

2.3 How Much was Collected Since 2006 from the Rate Increases?

PART III Verizon New York Financials: Revenues, Expenses, Profits and Losses

3.0 Four Sets of Books Tell Different Stories When Compared

3.1 Examining Verizon’s Corporate Financial Statements Compared to Verizon NY

3.2 A Deeper Look at Verizon Communications vs Verizon New York and the Other Verizon States

3.3 Verizon Communications Wireline “Mass Market” Revenues Shows only Profits.

3.4 Verizon’s Other States Show Wireline Losses as Well.

PART IV Tracking Verizon’s Financial Statements

4.0 Comparing Verizon SEC-Report and PSC-Annual Shows Major Differences

4.1 FCC SOCC’s Verizon New York (VNY) Information — Revenues, Expenses and Losses 2009-2014

4.2 PSC-Annual Report on Verizon New York (VNY) — Financial Losses 2009-2014

4.3 SEC-Reports for Verizon New York Losses and Tax Benefits, 2007-2010

Part V Verizon NY and the Affiliate Transaction Revenues and Expenses

5.0 The Affiliates and the Losses Generated

5.1 Mismatches of the SEC-Report and SEC-Report for 2010

5.2 Affiliate Transactions and Verizon New York, 1999-2010

5.3 Who is Verizon Services?

PART VI Wireless Affiliates and Payments to Verizon New York

6.0 Wireless Payments to Verizon New York

6.1 Comparing AT&T Access Charges to Verizon Wireless Payments

6.2 SEC-Report: Payments by AT&T, Verizon and Sprint

6.3 Estimate of AT&T, Verizon and Sprint Wireless Subscribers in New York

6.4 Average Payment to VNY per New York State Wireless Customer by Carrier

6.5 Is Verizon Wireless Paying VNY for Advertising, Customer Names and Customer Acquisition?

6.6 Transfer of Wireline Construction Budgets for Wireless

Part VII Examining the Revenues in Detail

7.0 “LD Consolidation”, “Black Hole Revenues”: PSC-Annual vs SEC-Report

7.1 LD Consolidation Is Most Likely the Affiliate Transactions or the Subsidiaries Bought in 2008.

7.2 The Names Don’t Match.

7.3 Overall Verizon New York Revenues, Expenses and Profits — Local Service, Access Fees and Non-Regulated, 2009-2012

7.4 Changes in Revenues

7.5 Non-Regulated Revenues

7.6 Revenues and Expenses for 2012

7.7 Overall State Regulated Revenues and Expenses

Part VIII Special Access

8.0 Regulated Special Access

8.1 Other Special Access Buckets: Regulated vs Black Hole Revenues

8.2 Special Access: Is Verizon Wireless Paying Less Than Competitors?

8.3 Special Access on the Regulated Books vs the Rest of the Books

8.4 Switched Access Line Declines vs Total Lines

Part IX Fiber Optics and Construction Budgets

9.0 Verizon New York Capital Expenditures, 1991-2012

9.1 Verizon New York Wireline Construction Expenditures: FIOS

9.2 Comparing the SEC-Report and PSC-Annual Capital Expenditure Budgets

Part X **Verizon’s’ FiOS Services, Cable TV, Broadband, Internet or Phone, Ride Over a Title II, Telecommunications Common Carriage Network.**

PART XI **Legal and Regulatory Policy Issues**

11.0 Implications of the Report’s Findings

11.2 Internet and Broadband

11.3 What is FiOS in New York?

11.4 Utility Status

11.5 Eligible Telecommunications Carrier (ETC) Status

11.6 Shutting Off the Wires, Substituting Wireless and then FiOS

Part XII **FiOS vs the Copper Networks in New York City and State**

12.0 How Many Municipalities are being Served?

12.1 How Many Customers have or Can Get FIOS as of 2014?

12.2 Scorecard of New York City FiOS Franchise, April 2013

12.3 Verizon Claims It is on Track for Wiring New York City with FiOS.

12.4 The Math: FiOS Coverage in New York and CT

12.5 New York State is Mostly Copper-Based.

12.6 Were Construction Budgets Moved to Fund FIOS out of Utility Construction Budgets?

Part XIII **Affiliates and Verizon New York — An Actual Bill**

13.0 Affiliates and an Actual Verizon New York Small Business Bill

13.1 Issues Surrounding this Verizon NY Customer Bill and the Affiliates

13.2 The Flows of Money

13.3 Taxes

13.4 Truth in Billing, Truth in Advertising Issues

Part XIV Time Warner and the Social Contract

14.0 The “Social Contract” was an Actual Agreement between the FCC and the Cable Companies.

14.1 The Charges Were Supposed to End in the Year 2000 — 14 Years Ago

14.2 Calculation on Customers and Charges

14.3 Schools Wired or “Universal Service” Payments

14.4 Time Warner’s Financials: Affiliate Transactions Issues

14.5 Comparing the Revenues and Expenses

14.6 Revenues per Customer Vs Costs

14.7 Time Warner’s “Triple Play” Charges to Customers

14.8 Implications

Appendix I The Authors

Appendix 2 Verizon New York and Affiliate Descriptions.

Appendix 3 A History of Verizon Regulation in New York (2006-2014)

EXHIBITS

Exhibit 1	VNY Lifeline Support Amounts
Exhibit 2	VNY Lifeline Subscribership, by Month, 2012
Exhibit 3	NY State PSC on Verizon’s “Modernization Plan”, 1992
Exhibit 4	Verizon New York, Local Residential Service Prices, 1980-2013
Exhibit 5	Increases to Local “Dial Tone” Service and Inside Wiring, 2005-2013
Exhibit 6	Summarizing the Availability of Data on Verizon New York, 1934-2012
Exhibit 7	Verizon Corporate Annual Report Highlights, 2013
Exhibit 8	Verizon Corporate Annual Report Highlights, 2011
Exhibit 9	VNY Revenues, Expenses, Losses and Income Tax Benefits, 2009-2013
Exhibit 10	Verizon Communications Wireline Mass Market Revenues, 2009-2011
Exhibit 11	Verizon Communications Wireline Mass Market Lines 2009-2011
Exhibit 12	Verizon Losses & Tax Benefit in 5 States, 2009-2010
Exhibit 13	Comparing Verizon SEC-Report with Verizon PSC-Annual, 2010
Exhibit 14	Verizon New York’s Revenues, Expenses and Losses, 2004-2007
Exhibit 15	VNY Revenues, Expenses, Losses and Income Tax Benefits, 2009-2013
Exhibit 16	Verizon Losses and Tax Benefit 2007-2010
Exhibit 17	Affiliate Transactions, Verizon New York, 2009-2010, SEC-Report
Exhibit 18	Affiliate Transactions, Revenues to Verizon NY PSC-Annual, 2010
Exhibit 19	Affiliate Transaction Expenses, 2010 PSC-Annual

EXHIBITS

Exhibit 20	Comparing the Affiliate Payment to VNY Listed in the SEC-Report and the PSC-Annual for 2010
Exhibit 21	Verizon New York Revenues vs the Affiliate Expenses, 1999-2010
Exhibit 22	Verizon Services Expenses for Verizon, New York, 2009-2010
Exhibit 23	Verizon, AT&T and Sprint Wireless Subscribers, 2008-2010
Exhibit 24	Verizon Wireless Payments to VNY vs AT&T and Sprint, 2009-2010
Exhibit 25	Estimated New York State Wireless Subscribers, 2009-2010
Exhibit 26	Average Payment per Subscriber to VNY
Exhibit 27	Excerpt: Verizon PSC Filed Annual Report with LD Consolidation, 2009
Exhibit 28	Verizon New York “LD Consolidation”, 2009
Exhibit 29	Verizon New York Operating Revenues, 2010
Exhibit 30	Verizon New York Access Revenues, 2009-2012
Exhibit 31	VNY Local Service, Access and Non-Regulated Services, 2012
Exhibit 32	Local Service, Access and Non-Regulated Services, as a Percentage, 2012
Exhibit 33	Verizon New York Regulated Utility Revenues and Expenses, 2009
Exhibit 34	Verizon New York, Regulated Access Revenues, 2009
Exhibit 37	Special Access, as Part of the State-Based Utility Accounting, 2006-2013
Exhibit 36	Verizon New York Access Line Accounting, 2006-2013
Exhibit 37	Verizon New York Access Lines, FCC, 2006-2007
Exhibit 38	Verizon New York Capital Expenditures for Selected Years, 1992-2012

EXHIBIT

Exhibit 39	Verizon New York Capital Expenditures, 2010
Exhibit 40	Revenues & Capital Expenditures: SEC vs State Utility Accounting, 2009
Exhibit 41	New York City Population and Franchise, April, 2013
Exhibit 42	NYC and State Housing Units, Businesses and FiOS Deployment
Exhibit 43	Verizon Communications Capital Expenditures during FIOS Deployment, 2000-2010
Exhibit 44	Verizon New York Small Business Bill, Mark Up, 2011
Exhibit 45	List of Charges with “0”, VNY Regular POTs Service “Dialtone”
Exhibit 46	Time Warner 2012 Annual Report: Residential Service Revenues
Exhibit 47	Time Warner 2012 Annual Report: Residential Service Expenses
Exhibit 48	Time Warner, Average Costs Charged to Customers, per Month, 2012
Exhibit 49	Time Warner, Average Costs to Offer Service per Month, 2012
Exhibit 50	Time Warner, Costs to Offer, Cost to the Customers, Profit Margin, 2012
Exhibit 51	Time Warner Triple Play, New York City, 2012-2014

CHARTS

Chart 1	Verizon Local Service, 1980-2013
Chart 2	Comparing VNY, Revenues, Expenses and Losses, 2005-2013
Chart 3	Affiliate Transactions and Verizon New York 1999-2010
Chart 4	Verizon NY Local, Access and Non-Regulated, 2009-2012
Chart 5	Verizon New York, Revenues, Expenses and Profits, 2012
Chart 6	Verizon New York, Regulated Special Access Revenues, 2009
Chart 7	Verizon New York Capital Expenditures, 1992-2012
Chart 8	Revenues & Capital Expenditures: SEC vs State Utility, 2009
Chart 9	Time Warner Average Revenue vs Costs

Executive Summary

Verizon New York, Inc., (VNY) is the incumbent wireline state-based utility provider that controls New York State's Public Switched Telephone Networks ("PSTN"). VNY is a wholly owned subsidiary of Verizon Communications, Inc.[10]

Verizon New York Rates for Telephone Service

- Since 2006, VNY has imposed multiple rate increases on residential and business local service, as well as increased the prices for 'ancillary services', such as inside wiring and non-published numbers. The NYPSC allowed these increases in reliance upon Verizon's claims of 'massive deployments of fiber optics' and financial losses, among other reasons.

- Based on actual New York City customer phone bills, since 2006 the price of residential 'dial tone' service (one line item on the bill) went up 84%, while other services, such as inside wire maintenance, went up 132%.

- Since 1980, if a customer kept the same Verizon NY local service in New York City, the total price increased 598%.[11]

- Based on Verizon New York's information about the number of telephone access lines in service, from 2006 to 2013, price increases approved by the NYPSC allowed VNY to collect an estimated $2.4 billion more for the 'dialtone' line. There were $1.4 to $2.0 billion more in additional charges for optional or ancillary services, such as Caller ID, inside wiring and non-published numbers. Including estimated taxes, the total added charges since 2006 amount approximately $4.4 billion. The increases to 'basic service' alone added over $500.00 in additional charges per customer from 2006-2013.

[10] See Appendix 2 for the definitions of VNY and the affiliate companies of Verizon Communications, Inc.
[11] Using the CPI or inflation as a barometer of price increases for POTS service is not useful. The network costs especially for the copper-based networks have been continually declining, while CPI assumes the costs always go up. The copper-based networks have been fully depreciated, while staff, especially for this part of the network, has decreased over 70% since 1984. Thus, if it keeps up with inflation or the CPI, that proves that the costs to offer the service has nothing to do with the cost to customers.

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VNY has Multiple Financial Books

Although it is part of a larger holding company structure, VNY prepares financial reports of its revenues and expenses for various purposes, including the following, which are or were publicly available:

- **"PSC-Annual"** — The annual report to the NYPSC
- **"SEC-Report"** — The SEC-filed state-based annual and quarterly financial reports for Verizon New York provided to shareholders/bondholders (which stopped in 2010).
- **The "Corporate Annual"** — Verizon Communications, the holding company's 10-K and quarterly reports provided to the SEC and shareholders. These consolidate VNY data with other affiliates and states.
- **The FCC's "ARMIS" and "SOCC" Reports** — contain information reported to the FCC by the holding companies' telephone companies and state-based telephone companies' information, which use the USOA (Uniform System of Accounts) guidelines. The FCC stopped publishing this information in as of 2007.

Other financial records may be made available through voluntary disclosure or discovery in the course of rate review and other regulatory proceedings. The NYPSC has not publicly reviewed in detail the expenses, revenues, and returns on investment of VNY for many years.

Different Financial Books Tell Different Stories.

There are anomalies in the treatment of major items in the various financial reports.

- "**Black Hole Revenues"**[12] — The VNY SEC-Report indicates billions of dollars of additional revenues in comparison with the state-based PSC-Annual. In 2010, there was an extra $2.2 billion of VNY revenues in the SEC-Report.
- Significant affiliate transactions payments or expenses to VNY do not reconcile for any affiliate listed in the SEC-Report vs the PSC-Annual.
- The FCC data was based on the PSC-Annual information, and left out extra revenues that would have been reported in the SEC-Report; i.e., the FCC's information never gave a complete picture of the revenues of VNY in any year.

[12] According to Wikipedia, a "black hole" is "defined as a region of spacetime from which gravity prevents anything, including light, from escaping." In short, the term refers to an unknowable void. http://en.wikipedia.org/wiki/Black_hole

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FiOS Rides over a "Title II", Common Carriage, Telecommunications Network.

- Verizon's FiOS TV, phone, Internet and broadband service products ride over a Fiber-to-the-Premises (FTTP) network.
- This FTTP network, as stated in the Verizon New York City FiOS TV franchise, is categorized as a "Title II", common carriage, telecommunications service, as opposed to a 'Title VI" (cable TV service) or a "Title I" ("information" service). These "Titles" refers to the Telecommunications Act of 1996 and they are critical as to whether and how the services are regulated.
- This classification of FTTP as a Title II service appears to be in every Verizon FiOS TV cable franchise nationwide.
- "FiOS" is not the fiber optic wire; it is a brand name of a Verizon product that uses the FTTP networks.
- Verizon invokes its powers as a telephone corporation under the NY Transportation Corporations Law to install the fiber optic wire over private property, or use the public rights-of-way.
- Regulated Side Paying Most of the Construction Costs. While VNY's SEC-Report showed billions more revenues in 2009 and 2010 compared to the PSC-Annual reports, the capital expenditures are almost identical; i.e., in 2010, the SEC books had $2.2 billion in additional revenues but no additional construction budget.

How Many Can Get FiOS? How Much is Still Copper?

- Verizon claimed that at the end of 2013, it had 3.7 million 'premises' covered in New York and parts of Connecticut. VNY's territory covers approximately 9 million residential housing units and businesses; this means that in New York State, VNY has 'passed' 40% of the potential customers.
- Verizon's New York City cable franchise covers 3.4 million residential customers and Verizon claims that it is on track to complete the cable franchise requirement of 100% households passed by the required deadline of July 2014.
- Verizon's Corporate "take up rate" for FiOS service ranges from 35%-40% nationwide for their high-speed Internet service and their cable TV service. If so, this means that VNY has, at most, 1.5 million FiOS customers in New York State and therefore the majority of the VNY customers are probably still copper-based. (Note: the TV service may not be available in some FIOS-deployed areas.)
- On November, 27, 2013, Verizon New York claimed that they are in 183 municipalities in the NY State and that there were no plans for expansion.[13] Verizon NY covers 90% of the State's 996 municipalities and therefore only 20% of the State's towns and cities are getting upgraded.

[13] http://wamc.org/post/mayor-elect-city-leaders-call-verizon-fios-albany

Missing Data

- VNY claims that the company is "losing" lines. From 2009-2012, the company claims it lost 48% of its POTS access lines.
- However, for the year 2007, the FCC's data showed that one category, POTS services, (sometimes referred to as "switched access lines") constituted only 15% of the VNY total lines in service. Other lines, commonly called 'special access' lines, were increasing, not decreasing.
- There is no accounting of the total number of lines in service — copper or fiber — in the State of New York. This would include all business lines, special access lines, lines with DSL or FIOS or any other type of circuit.
- Moreover, it is unclear whether copper-based lines that have DSL over them (or some other business lines with additional services), or wholesale-lines where the wire is leased to a competitive company, are included in the access line accounting.

Claimed Financial Losses in VNY Reports to NYPSC

PSC-Annual reports indicate VNY has been losing money every year since 2004 and Verizon NY appears to have paid no state or Federal income taxes. Over the last five years, 2009 to 2013, Verizon New York PSC-Annual reports showed VNY lost $11 billion dollars and had a $5 billion income tax benefit, with an average loss from 2009-2013 of over $2.1 billion a year and an income tax benefit to its corporate parent of $1 billion annually.

Expenses Paid by VNY to or for the Benefit of Verizon Communication's (the Holding Company) Affiliates

- The losses reported by VNY in its PSC-Annual reports can be attributed to several factors, including the affiliates' dealings with VNY.
- The SEC-Report for the years 2009 and 2010 indicate that a holding company affiliate, Verizon Services,[14] which provides legal, regulatory, public relations, lobbying and other services, charged Verizon New York $3.7 billion dollars.[15]
- Are expenses for the benefit of Verizon Wireless charged to VNY wireline services? According to Verizon EVP and Chief Financial Officer (CFO) Fran Shammo, Verizon Wireless' "IP backbone, the data transmission, fiber to the cell, that is all on the Wireline books but it's all being built for the Wireless Company".[16]

[14] See Appendix 3
[15] http://www.verizon.com/investor/DocServlet?doc=otc_ny_4q_2010.pdf
[16] Thomson Reuters Edited Transcript, Verizon at Goldman Sachs Communacopia Conference, Sept. 20, 2012, http://www22.verizon.com/investor/DocServlet?doc=goldman_vz_transcript_092012.pdf

Claimed Losses of Local Service Lines and Allocation of Non-Regulated Service and Access Revenues.

- VNY asserts that the total number of switched, basic POTS access lines has declined 48% from 2006 through 2012, according to the PSC-Annual data. However, the FCC’s last SOCC reports shows that POTS was only 15% of the total lines in service and that there were increases in total lines from 2006-2007.

- VNY’s non-regulated revenues increased 144% from 2009 through 2012, from $507 million to $1.084 billion. This category historically was for optional services, such as voice mail and inside wire maintenance. This rapid growth may be from the migration of customers off of POTS copper wires and onto FiOS phone and other services, such as wireless or cable VOIP. But it is not clear cut at all and there is no specific information about these large increases in VNY revenues from telephone customers for non-regulated services provided over the same lines installed to provide regulated phone service, the costs of which are apparently allocated to the regulated side.

Verizon Wireless and the Ties to VNY

- Through 2013, Verizon Wireless had a joint venture with the British firm, Vodaphone, called “Cellco”, that was doing business as Verizon Wireless, with Verizon Communications owning the majority at 55% and in control of the company’s deployment of services. Verizon Wireless bought out Vodaphone in 2014, but has been and continues to be ostensibly a stand-alone company competing, like other wireless providers, directly with VNY’s wireline business.
- All “wireless” services are eventually connected to wires, from the cell towers to hot spots: a “wireless” call is picked up at these spots at the ends of the transmission, but in the middle, the traffic normally travels over special access wires.
- Verizon Wireless’s connection to VNY’s networks:

    - Wireline facilities are built for the benefit of Verizon Wireless (and other wireless companies) yet appear to be part of the VNY wireline construction budgets.
    - Verizon Wireless appears to be paying a fraction of what other wireless competitors, such as Sprint, would pay for ‘special access’ fees, based on the SEC-Report for 2009 and 2010.
    - VNY appears to be transferring wireline customers to Verizon Wireless without any compensation, when VNY claims that repairing the copper wires is ‘uneconomical’.
    - Verizon Wireless has marketing, advertising and other benefits from the wireline company and there are no clear payments or royalties from the wireless company to VNY.

Special Access and Access Fees

- Special access services use dedicated internal networks that handle wireline and wireless broadband, Internet and video traffic for Verizon NY, Verizon affiliates and other companies.
- VNY special access revenues eclipsed 'local service revenues', but have been paying only 1/3 of the network expenses at least after 2009 (the years data was available).
- The FCC's data on special access, which ended in 2007, only examined the 'regulated' special access services found in the PSC-Annual reports.
- Additional 'financial buckets' of special access revenues may be in the SEC-Report but are 'black hole revenues'.
- There are no additional construction budgets or payments for these additional special access services 'buckets' in the SEC-Report for 2009-2010.
- We estimate that special access revenues on the regulated side, nationwide, was $23 billion; however, the non-regulated revenues that are in these 'additional buckets' could bring the total over $40 billion in 2013.

Time Warner and Comcast Cable Issues

- In 1995, the FCC created the "Social Contract" — an Order to grant the cable companies financial assistance for upgrades of the cable plant for new services, as well as fixing quality-of-service issues. Time Warner[17] and Comcast[18], among others, could charge basic cable subscribers up to $5 a month extra on cable bills. The Social Contract was supposed to expire in the year 2000. After 2000, there was no oversight or investigations and the companies never lowered their rates to remove this extra federally-added charge on customers' bills.
- In the Social Contract, the companies also committed to bring the high-speed Internet to schools in their franchise areas. Schools were all supposed to be given free cable modem service, a free cable modem — and would even get the inside wiring at cost.
- By the end of 2013, this means customers paid about $61 billion from 1996-2013. However, $49 billion of this was charged since 2000. Without audits, it is impossible to tell the exact amount. On average, customers paid about $60 a year or about $771 extra since 2000.[19]
- Profit margins on "Triple Play" services. According to Time Warner's 2012 Annual Report, high-speed Internet services' average cost to the customer was $44.07, and the voice service, (which is Internet-based) cost $34.06 to offer. However, since these costs are incremental, the costs to the company were $1.34 a month to offer the high-

[17] http://www.newnetworks.com/Social%20Contract%20fcc95478.doc
[18] http://transition.fcc.gov/Bureaus/Cable/News_Releases/1997/nrcb7021.txt
[19] For the calculations for the Social Contract, see Section XIII

speed service, and only $9.46 to offer the voice service, which sells for $34 including long distance and calling features.

- Rate Increases after the “Triple Play” Promotion. In a Time Warner Triple Play bundle offered in New York City in 2012, with an advertised price of $99.00, after one year the actual price was 56% higher. The ‘cable set-top box’ was not included in the advertised price and was $9.99, while the Internet modem, also a separate fee, was $5.99 in 2012, it had a rate increase of 140%.

PULP WHITE PAPER

THE FUTURE OF TELECOMUNICATIONS: ASSERTING AND REGAINING THE RIGHTS OF CONSUMERS, INCLUDING LOW-INCOME CONSUMERS, IN NEW YORK STATE.

Since 2006, Verizon New York (VNY) has been granted major rate increases for basic residential POTS customers, including low income families, by the New York State Public Service Commission (NYPSC). These increases on both basic service as well as all ancillary services, were for "massive deployment in fiber optics" and because of claimed major financial losses. At the same time, Verizon has been pushing deregulatory bills to remove the obligations to provide wired phone service and in areas where it chose not to maintain the copper, allow it to force customers onto wireless or to cable VOIP (Voice-Over-the-Internet-Protocol). Verizon has an agreement to bundle the wireless services with the cable bundle in non-upgraded areas. And many have complained that Verizon New York has been cherry-picking more affluent communities, while neglecting low income areas, in the deployment of FiOS.

Verizon's own data shows that VNY has only 183 communities that will be upgraded to fiber, but this is about 20% of the estimated towns and cities in the VNY territory.[20] But it appears that low income areas were doubly harmed.

In May 2012, a group of nine mayors from upstate cities outlined how Verizon had been 'redlining poor and minority communities'. *Stop the Cap* wrote:

> "Virtually every mayor in the urban centers of upstate New York is accusing Verizon Communications of redlining poor and minority communities when deciding where to provide its fiber-to-the-home service FiOS…The mayors are upset that Verizon has chosen to target its limited FiOS network primarily on affluent suburbs surrounding upstate New York City centers."
>
> "'Verizon has not built its all-fiber FiOS network in any of our densely-populated cities. Not in Albany, Buffalo, Syracuse, Binghamton, Kingston, Elmira or Troy,' the mayors say. 'Yet, Verizon has expanded its FiOS network to the suburbs ringing Buffalo, Albany, Troy, and Syracuse, as well as many places in the Hudson Valley, and most of downstate New York. As a result, the residents and businesses in our cities are disadvantaged relative to

[20] There are 996 towns and cities in New York State. Based on FCC data, we estimate that Verizon NY has 90% of the incumbent, wired telephone utility coverage in New York. See Part XII

> their more affluent suburban neighbors who have access to Verizon's FiOS, providing competitive choice in high-speed Internet and video services."[21]

This issue has been both a down-state as well as up-state issue. On April 26, 2013, now-Mayor Bill De Blasio, as New York City Advocate, released a statement:

> "Public Advocate Bill de Blasio today assailed the City and Verizon for falling behind schedule in providing access to high-speed Internet, especially in the lowest-income communities. Five years into one of the biggest franchise agreements issued by the city, roughly half of homes still have no access to fiber network connections—most of them concentrated in low-income areas like Upper Manhattan, the South Bronx, Western Queens and Central Brooklyn."[22]

All of these actions have a disproportionate impact on low income workers and families, seniors and adversely affect communities' economic health.

But more importantly, the increases in rates for basic POTS service to these low income customers were justified in order to pay for fiber optic infrastructure that many, if not most, will never receive. The increases should never have been imposed in the first place: Telephone customers should not be funding facilities for cable services, wireless services or Internet services. As the report discusses, telephone customers should also not be required to fund other Verizon affiliate companies.

The acknowledged Verizon plans to 'kill the copper' directly harm those who depend on it today; small businesses, communities that have not been upgraded, and seniors who are not rushing to drop their land lines for wireless replacements to fiber. The failure to upgrade these areas also means that in low-income areas there are other harms. Many communities don't have the benefits of cable competition to lower prices or the high-speed fiber optic networks to use — for which they are paying.

Low Income Issues

Of New York's 19.65 million people, 14.9%, or 2.9 million, were below the federal poverty level in 2013.[23] However, Lifeline eligibility includes more than those below the poverty lines.

[21] http://stopthecap.com/2012/05/22/nine-upstate-ny-mayors-accuse-verizon-of-avoiding-urban-poor-in-fiber-upgrades/
[22] http://archive.advocate.nyc.gov/verizon
[23] http://quickfacts.census.gov/qfd/states/36000.html.

Low-income consumers generally are less able to afford broadband service, or live in areas where that service is not available from VNY.

And again, all VNY consumers paid for facilities to provide broadband. That includes Lifeline customers.

Further, there are some 2.75 million New Yorkers 65 years or older.[24] About 11.3% of those — or almost 330,000 million — live in poverty.[25]

Seniors will also be further impacted if Verizon New York is allowed to 'kill the copper' and force customers outside the FiOS area onto wireless or to a cable VOIP provider who, as a result of this market division, will have a monopoly on wired telephone service. According to a Pew survey, 77% of older adults have a cell phone, up from 69% in April 2012.[26] But despite these gains, only 13% of seniors' households were considered "wireless only" by the Center for Disease Control's (CDC), statistics for 2013.[27] Seniors also continue to lag behind younger Americans when it comes to tech adoption. And many seniors remain largely unattached from online and mobile life — 41% do not use the Internet at all, 53% do not have broadband access at home, and 23% do not use cell phones.[28] Most seniors continue to not be "wired",[29] which means that in VNY territory they are subject to Verizon's marketing strategies and plans for the future of the networks. As described in the Report, these include not expanding FiOS and, in fact, "killing the copper" that is left, thus abandoning customers outside the FiOS footprint and requiring customers within the footprint to take FiOS.

The FCC Lifeline program provides assistance to only some of the qualifying low-income telephone customers.[30] Specifically, VNY serves few Lifeline customers. In 2013 in New York, there were 1.33 million Lifeline customers.[31] This was only 40% of the eligible low-income customers. And, of the Lifeline customers in the State, only 176,000 were VNY Lifeline customers, as seen in Exhibit 2.

Also,, Exhibit 1 shows that VNY collected almost $27 million federal Lifeline dollars in 2010, but only $22 million in 2012, with (it appears) a drop to $15 million in 2013.

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[24] http://quickfacts.census.gov/qfd/states/36000.html
[25] http://ams.nyscommunityaction.org/Resources/Documents/News/NYSCAAs_2013_Poverty_Report.pdf at 5.
[26] http://www.pewinternet.org/2014/04/03/older-adults-and-technology-use/.
[27] http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201312.pdf
[28] Ibid.
[29] Ibid.
[30] http://www.fcc.gov/encycloped[30]ia/lifeline-public-service-announcements-psas.
[31]http://www.usac.org/about/tools/fcc/filings/2014/Q1/LI08%20Lifeline%20Subscribers%20by%20State%20or%20Jurisdiction.xlsx.
[33] 2013 (9 months annualized)

Exhibit 1
VNY Lifeline Support Amounts
(In the Thousands)

	2010	2011	2012	2013[33]
Lifeline	$26,549	$25,335	$22,305	$15,140

(Source: USAC 2Q14 FCC filing, Appendix L01[34])

VNY Lifeline subscribership, as reported to the NYPSC, declined throughout 2012.[35]

Exhibit 2
VNY Lifeline Subscribership, by Month, 2012

Month	Lifeline subscribers
January	207,034
February	205,449
March	203,938
April	202,330
May	200,463
June	197,317
July	195,282
August	187,927
September	180,638
October	180,276
November	179,153
December	176,791

Low-income customers were and continue to be devastated by the 2008 recession. But additional harm comes from the "harvesting" of POTs residential customers by VNY, where the company has hit them with multiple rate increases, and a serious lack of wired competition has caused many to make the reasonable choice between two high-priced alternatives for telephone service — wireless and wireline — when they could afford only one. Many went wireless-only (so-called "cutting the cord"), for their voice telephony. These factors, in the context of New York regulation, have led New York to rank relatively low in the percentage of the state's Lifeline customers being served by incumbent carriers.[36]

In order to protect and better the lot of New York's low-income and other customers, Public Utility Law Project makes the following recommendations.

[34] http://www.usac.org/about/tools/fcc/filings/2014/Q2/LI01%20Low%20Income%20Support%20Projected%20by%20State%20by%20Study%20Area%20-%202Q2014.xlsx
[35] http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=10-01709
[36] http://www.usac.org/_res/documents/about/pdf/annual-reports/usac-annual-report-2013.pdf..

The Recommendations Are Made Because:

- Low income and Lifeline basic service (POTS) customers have paid excess phone charges in the form of rate increases since 2006 for ‘deployments in fiber optics’ and losses when they have not received the promised upgrades.
- The mayors of major upstate, New York cities as well as New York City have recognized that low income areas have not been served and VNY has announced it is not planning on expanding FiOS passed its current deployments.
- Verizon has announced its plans to ‘shut off the copper’ wiring in areas that have not been upgraded and replace the utility networks with a wireless service.

The Recommendations

In order to protect, assert and regain the rights of low income customers, who have the right to ‘just and reasonable’ utility rates and who pay for fiber optic upgrades for cable, high-speed Internet and digital phone service — that they may never want, much less get we recommend that State and federal regulators and legislators expeditiously:

- Investigate why low income residential basic rate utility customers were charged for fiber optic services they may never receive, as well as why the rates they pay fund the deployment and development of non-regulated services.

- Investigate FIOS deployment in the State of New York including how many communities are upgraded and whether Verizon has properly served low income and minority communities.

- Investigate the issues surrounding the proper maintenance and availability of utility-based wired services, including maintaining the copper networks.

- Investigate exactly how many lines VNY has in service, what types of lines they are, and what are they being used for. How many customers are actually using FiOS or another provider for cable, broadband, Internet or are using the copper wires for any service including voice and data applications? This is especially important in areas where Verizon is planning on shutting off the copper.

- Examine the ties between the VNY regulated utility and Verizon Wireless and other affiliates. Is Verizon Wireless profiting from the VNY rate increases for regulated phone service, the lack of broadband construction, and the Verizon Wireless deal with the cable companies to divide their markets where Verizon doesn’t upgrade?

- The harms to Lifeline customers and those who are Lifeline-eligible, should be especially examined. Are they overcharged? Did Verizon add ‘fiber optic’ upgrades to the cost of their services when painting a picture of their unprofitability for the

NYPSC and tax authorities, while recording overall profits on their wireline and wireless services? Have the increases for Verizon wired services forced POTS customers off of the networks prematurely?

At a minimum, the following principles should be observed:

- VNY should not be permitted to withdraw facilities and thereby cease providing current wired telephone service to any location without approval by state and federal regulators.

- VNY should be required to deploy wireline high-speed Internet access to all of its territory. Alternatively, VNY should be required to present a binding schedule for completing that task and a showing of the results for broadband availability of its rate increases for basic service since those increases were authorized by the NY PSC starting in 2006.

- VNY should be required to provide voice telephony and high-speed Internet access of reasonable quality at just and reasonable rates, based on appropriate cost allocation in an IP network.

- Verizon should be required to provide broadband Internet access consistent with the FCC’s Open Internet Principles.

- State and federal regulators should retain and regain the ability to address service, billing and other complaints against VNY’s service, and should examine financial statements, and investigate affiliate transactions.

NEW NETWORKS

TIME TO CLEAN HOUSE: GETTING NEW YORK AND AMERICA WIRED, OPENING THE NETWORKS TO COMPETITION AND PROTECTING THE RIGHTS OF CUSTOMERS.

We are at the end game in telecommunications regulation in New York State and America. After the Sandy storm that ravaged the East Coast, including parts of New York State, Verizon, the incumbent utility telecommunications provider, claimed that it was no longer economical to repair damage to existing copper-based communications networks. Petitions were filed in New York, New Jersey and at the FCC to no longer have obligations to provide wired service and replace it with wireless service, using another non-regulated affiliate company's network, Verizon Wireless. This breaks a requirement, a covenant with customers to provide service that was established as part of the Telecommunications Act of 1934, as we demonstrate below.

But this is only one of many harmful trends.

- Verizon NY has announced that the company has stopped expanding the upgrades to fiber optic services affecting the majority of municipalities New York State.[53]
- Verizon's plan is to 'shut off the copper' and in areas that were not upgraded, force customers onto their wireless service; in upgraded areas they will shut off the copper and force customers onto these upgraded services, in this case FiOS.[54]
- Verizon and AT&T's plan is to 'deregulate', meaning get rid of all regulations, obligations and oversight, and they are doing this state-by-state, as well as at the FCC with AT&T's "IP Transition" proposal.[55]

[53] http://www.fiercetelecom.com/story/verizons-stalled-fios-expansion-will-drive-consumers-cable/2013-12-12
[54] http://www.huffingtonpost.com/bruce-kushnick/are-you-in-a-verizon-or-a_b_3737177.html
[55] http://www.huffingtonpost.com/bruce-kushnick/2014-the-end-game-in-tele_b_4533510.html

- In New York State, non-basic service has already been deregulated and there are proposals to eliminate most regulation on basic service. And in 2014, Verizon attempted to pass a deregulation bill by slipping it into the State's annual budget.

And the consequences to customers are:

- Prices will continue to rise on all services.
- There will be no high-speed competitive broadband or Internet service.
- There will be no cable competition in most of the state.
- A lack of serious competition for business customers will get worse as most of the competitors have been relegated to only using the deteriorating copper networks.[60]
- There will be little or no 'quality of service' requirements left.
- If the customer's phone line breaks, VNY will have no obligation to fix it; the customer will either have to accept a wireless substitute or the cable company's VOIP service, (with the caveat that many cable companies do not sell stand alone local residential telephone service).

This report uses rarely examined, yet publicly available data from Verizon New York's own financials that have been filed with the SEC, the NYPSC, and the FCC, as the primary source materials to outline an alternative path to stop this deregulatory juggernaut. We believe this never seen before data and analysis can be used to return the rights of customers, as well as lower prices, bring choice and competition back for all communications services, and bring very fast fiber optics to the State — and at reasonable rates.

Residential and Business POTS Customers Were Charged for the Development and Deployment of Verizon's FiOS and Other Affiliates Businesses.

Starting in 2006 through 2009, the New York Public Service Commission agreed to allow Verizon New York multiple rate increases on residential, POTS, (Plain Old Telephone Service) utility customers, not to mention on every ancillary service. And alongside this, businesses also had multiple rate increases.

[60] Because of the previous deregulatory regulations by the FCC, most competitors stopped offering local or DSL service to residential customers around 2005.

By the end of 2013, these rate increases on POTS customers allowed Verizon to collect an estimated extra $2.4 billion from just the basic "dialtone" charges. On top of this, we estimate an additional $1.4-$2.0 billion was garnered from increases on ancillary services, such as inside wiring, non-published numbers or calling features. Including estimated additional taxes, fees and surcharges, the total added charges since 2006 is estimated to be more than $4.4 billion — and counting.

These increases were granted by the NYPSC because of 'deployment investments in fiber optics' and 'sub-par financial' results. The State also claimed that these excess increases were being done to align the price of basic telephone service with the underlying 'costs' of offering that service.

It appears, however, that much of the increases were created by transactions with Verizon's own affiliate companies, such as Verizon Wireless, Verizon Online, and the other Verizon subsidiaries.

Verizon New York has Multiple Financial Books and They Tell Different Stories.

Utility corporations typically maintain separate books for accounting, tax and regulatory purposes. Verizon NY has multiple financial books: there are the state-based SEC-reports, that are given to investors, annual reports submitted to the New York Public Service Commission (PSC-Annual) sometimes referred to as the 'regulated' books for the utility networks), and the financial information submitted to the FCC.

- **Black Hole Revenues** — When comparing the SEC and PSC reports of VNY, we found that the SEC-filed report, in 2009, had $2.7 billion dollars more than the PSC-annual report for the same year. The SEC books stated a total revenue of $7.8 billion for 2009 while the PSC regulated books only showed $5.1 billion. We call this difference '**black hole revenues'** as there was no description of what is in this 'financial' bucket.
- **The FCC's Data on VNY in the "ARMIS" and "Statistics of Common Carrier"** reports never included any of these extra black hole revenues — i.e., the FCC's data only matched the regulated books.
- **Data Shut Down** — Not only do the financial books not match in basic information, but the FCC data stopped being published in 2007; the SEC-state-based financials stopped being published in 2010, and the PSC-filed annual reports leaves out an additional 50% of the revenues.
- **Whole Classes of Information Are Non-Existent or Being Manipulated** — When Verizon New York claims it is 'losing lines', the only 'access lines' that are being counted are the "POTS" lines and it is a subset of all of the other copper and fiber optic lines in use. There is no actual accounting of 'total lines' in service, leaving out

FiOS lines, DSL lines, or other classes known as ‘special access’, which can be data lines including broadband or Internet services over a copper wire.

FiOS Rides over a Title II, Common Carriage, Fiber Optic Telecommunications Network.

Verizon’s New York City’s current cable franchise, as well as the franchises for other Verizon franchises in other states, from DC to New Jersey — all detail that at the core of Verizon’s cable, Internet and broadband networks is a “Title II”, common carriage, telecommunications service. And it appears this was done for two reasons — it gets all of the powers of the utility, including the rights-of-way that are part of the telecommunications utility service, but it also may charge the copper-based POTs utility customers for the development and deployment of FiOS.

‘Title II’ is part of the Telecommunications Act of 1934 (as amended in 1996) and it is a classification that is being debated in the current federal communications regulatory environment. A cable TV service is known as “Title VI”, while Internet and broadband services are known as “Title I”, an ‘information’ service. Each Title dictates the FCC regulations and obligations applied to these services.

‘Title I’ information services are not open to competitors to use the networks and there are no ‘common carriage’ obligations. Title I providers generally believe it is their networks to do with what they want. During the last decade, the FCC reclassified broadband as an ‘information service’, which led to the current “Net Neutrality” discussions. In states, Title I could override the quality of service laws and requirements to offer phone service — because if it is a “Title I” service, it is not telecommunications.

Tracking the Fiber Optic Deployments — Construction Budgets were Placed on the ‘Regulated Side’.

Comparing the 2009 SEC and PSC financial reports not only revealed an extra $2.7 billion in the SEC statements for VNY, but the construction budgets for both SEC and PSC reports were almost identical, indicating that the ‘black hole revenues’ shown in the SEC report were achieved with no major added expense. Apparently, expenses were placed in the ‘regulated’ books filed with the state commission, but not the associated revenues. This further indicates that the POTS customers are paying for the fiber optic construction. Subsequently, there were no further public reports that would allow this comparison.

Massive Losses Reported for the Last Decade: Verizon Paid No Taxes.

Examining publicly available VNY financial reports confirmed that the company has had losses for over a decade, and they were massive. Over the last five years, Verizon NY showed over $11 billion in losses, about $2.1 billion annually, with an income tax benefit of

$1 billion that is used by Verizon Communications, the parent holding company to offset its tax liabilities. This also means Verizon New York paid no taxes, even though the company had $7.2 billion in revenues in 2010, the last year the information was available.

Isn't Verizon's FiOS profitable? Verizon Communications' corporate annual reports for the last five years show no losses in wireline services, and in fact they were profitable. However, in examining Verizon's SEC-filed, state-based 4th quarter results for 2010, in four other states — NJ, MA, RI and PA — we found all of these state-based companies reported they were losing money.

Moreover, why are New York's residential POTS customers, who use the aging copper wires, paying rate increases for the development and deployment of FIOS — a cable, phone, broadband and Internet service? And if the Verizon Communications, the parent company, showed no losses, how can Verizon's largest state-networks be losing billions of dollars annually, with Verizon New York having lost over $11 billion in the last 5 years.

Massive Wireline Financial Losses, Affiliate Transactions

In examining the $11 billion in VNY losses in the last five years we examined the 'affiliate transactions', which are the revenues paid or monies being charged to Verizon New York from the various Verizon subsidiaries, such as Verizon Online, Verizon Business, or Verizon Wireless, among others.

- **Verizon Wireless** — It would appear that at least a portion of Verizon Wireless's construction budgets for its cell towers were included in the 'wireline' budgets, and also that it's use of wires and services known as 'special access' at a significantly discounted rate in comparison to what VNY charges it's wireless competitors.
- **Verizon Services** — are the corporate expenses and other marketing and resources to Verizon NY and it appears to be charging Verizon for everything from the lobbying money used to hire lobbyists to raise customers' rate, or executive pay to even foundation grant money.
- **Special Access Services** — There are multiple financial areas called special access, and the expenses for these services may be disproportionately added to the regulated, local service books. There are also areas that are not-regulated and are most likely part of the "black hole revenues".

These large affiliate transactions may be causing the major wireline losses reported by VNY to the NY PSC and there have been no public audits of these transactions by either the state commission or the FCC and yet it the losses were invoked to help win multiple rate increases from POTS customers.

It’s All Interconnected.

The Dismantling the State-Based Utility by the Affiliates.

Verizon New York is the state-based utility, commonly known as the Public Switched Telephone Network, PSTN. The original copper wires were put in for one service, phone service, and everyone received service as everyone was paying for it. Moreover, over the last 30 years, these wires were supposed to be replaced with fiber optic lines. As we just discussed, POTS customers have been paying large sums for upgrades — even if they may never get any upgraded service.

Starting in the 1990’s the phone companies added new lines of business, including Internet service, (originally via ‘dial up’), and broadband service, such as DSL service, which uses the copper wire, long distance service and more recently cable TV service — all traveling over the same exact wire. However, it appears that major costs stayed with the regulated POTS customers while the revenues are recorded by separate subsidiaries not paying for full use of the networks or construction, but a fraction of the costs other competitors would pay. More importantly, the POTS customers act as defacto investors for new products, which are moved out of the state regulated ‘utility’, creating major apparent losses without the customer benefiting.

Moreover, if the costs of the wires are largely paid by one service, why should other services be able to also charge retail — adding $30-$60 dollars per service, but without having to pay for the upgrading and maintaining of the networks. i.e.; cable, broadband and Internet service all get to charge additional retail rates, but their costs are just incremental and a fraction of the retail costs charged to customers.

As we discuss, the Time Warner Cable’s financials have a clear version of this. The cable service is paying most of the expenses while the affiliate services, such as high-speed Internet are only paying incremental charges; the high-speed Internet costs the customer an average of $44.00 but Time Warner Cable’s cost to offer the service — as stated in their 2012 annual report —was $1.24 a month.

Verizon’s FiOS products appear to have the same cost model. The expenses for capital expenditures were made to be Title II, so that they could have the costs flow into the utility while Verizon Corporate claims that FiOS’s profits flow into a separate subsidiary and the ‘assets’ created, i.e., the FTTP network, Verizon claims is private property for personal use.

But it’s worse because one of Verizon’s largest ‘competitors’ is — Verizon. Verizon FiOS Internet and phone competes with Verizon New York’s DSL and the utility POTS phone service.

It’s All Interconnected.

What is the Relationship between Verizon Wireless’ Profits and the Wireline Losses?

There has been a multi-year campaign by Verizon to get rid of regulations, not upgrade or maintain the wires and move customers onto the less regulated wireless service — because it makes the company more money, even though this is not better for servicing cities, states or the customers they serve.

While the other FiOS affiliates for broadband, Internet and cable are causing large losses, and their profits don’t appear to be used to upgrade the FTTP, Title II networks, the plan has been to continuously raise rates to force customers off the copper and onto wireless.

As we discussed, Verizon Corporate has stated that Verizon Wireless’s construction was being paid for by the wireline side — and there are no line items to reimburse VNY for this construction in either the PSC-Annual or SEC-Reports. Also Verizon Wireless appears to not be paying market prices for the use of the networks; in both cases these add expenses leading to the VNY’s losses, which are then used to raise rates.

And because there is no serious local phone competition, POTS customers either get gouged, commonly known as ‘harvesting’, or go to wireless and drop their phone line.

But, there’s a catch. Verizon Wireless not only has 40%-50% of the subscribers of the wireless market, but since Verizon New York owns and controls the ‘special access’ wires, it is in a position to give financial advantages to the affiliate wireless service.

Verizon knows that if the customer drops their wireline — Verizon still makes on every wireless call, even if the customer goes to another wireless provider because Verizon New York has a monopoly on the “special access” wired services and most competitors are forced to use these services. And the big secret is that even in the non-upgraded areas, where Verizon has claimed that they will ‘kill the copper’, the special access wires are not being ‘shut off’.

Verizon makes money in any scenario as the wireless company also has a deal with the cable companies to bundle their wireless service with the cable offerings in areas that they are not being upgraded.

The State has never examined the collusive ties of the wireline and wireless affiliates, nor examined this sub-plot — that Verizon New York and the affiliates have strategically planned steps that have allowed them to continuously a) harvest POTS customers, b) drain the utility that c) raises rates based on losses generated by the affiliates and d) forces customers onto more expensive wireless products and services.

And finally, Verizon uses these ‘massive losses to then get rid of regulations, claiming that there is competition and everyone is leaving and going to wireless.

Removing Regulation Via the IP-Transition.

On the national level, AT&T has the exact same plan. AT&T’s “IP Transition” petition at the FCC claims that everything is going Internet and wireless — and that there is a technology change a foot, but the real goal is to get rid of all regulations. The Internet is classified as ‘Title I”, an ‘information’ service. And so converting the current telecommunications wires and services to IP is not about a technology change but shutting off 25% of the copper networks and migrating the customers to wireless using their own the special access wired services in their territories. In fact, Verizon and AT&T never competed for wireline services, including special access. They have an apparent ‘truce’ to work on parallel tracks to reduce regulations and customer service obligations.

Over the last five years they have created ‘model’ legislation through a group called the American Legislative Exchange Council (ALEC) that was designed to remove all regulations claiming that ‘the Internet (VOIP) should not be regulated’. That really means the companies should not be regulated. This lets them retain control over the wires and whether they can or will ‘shut off the copper’. And the goal is to remove ‘the duty to serve’, meaning no company has an obligation to offer phone service.

With little or no state or federal auditing, investigations or oversight, over 30 states have already deregulated parts, if not all of the state-based regulation. In New York non-basic service has been deregulated and efforts have been made to eliminate most regulation on basic service.

Next Steps and Recommendations.

- **Refunds and Lower Prices —** POTS customers are paying for the development and deployment of FiOS cable, Internet, etc. This includes low income families, small business and municipalities. And it is clear that the losses being outlined and the ‘deployment in fiber optics’ were not done to benefit all POTS customers. Their rates should be lowered because there is no play to deploy more fiber.

- **Audit the Affiliate Transactions and the Flows of Money —** Including all monies from POTS diverted to help fund the wireless deployment. Have Verizon’s FiOS products or Verizon Wireless not paid what other competitors would pay? And were the ‘losses’ caused by Verizon’s wireline affiliates? Without audits we can’t get these answers.

- **Investigate Verizon New York’s Multi-Year Record of Not Paying Income Taxes —** Verizon’s SEC and PSC filings all show that VNY has lost billions and paid no income taxes.

- **Everyone Gets Wired: The FTTP Networks are Part of the State Utility and Common Carriage —** The FTTP networks that FiOS uses are Title II and POTS customers are paying for these networks, not the shareholders. The idea that Verizon New York will pick and choose who gets it, even though they charge every customer extra for it is contrary to its duty to service all without discrimination.

- **Audit the Condition of the Copper and have Verizon Maintain the Networks Until They are Upgraded —** It is evident that VNY has failed to properly maintain their networks, and it is used as an excuse to force customers onto wireless of FiOS. The State needs to know what happened and what didn’t happen in terms of maintenance and repairs.

- **Ask the FCC to Open the Fiber Optic Networks Immediately —** FiOS is selectively deploying a fiber optic, FTTP, common carriage telecommunications network service and POTS customers are paying billions for the upgrades. The FCC should investigate the customers’ funding of broadband and the commitments to wire entire states or schools and libraries. The FCC should not allow Verizon’s affiliate companies to charge content providers more or allow the reclassification of customer-funded fiber optic networks to erase duties of a telecommunications service. When the FCC closed the networks to direct competition and the ability of the companies to buy services at wholesale rates, it never examined the basic issue of who actually is funding the networks**.**

- **We Need More Data —** Basic data is needed, such as the total number of actual lines in service in Verizon New York (and its affiliate) and total revenues. While the State policies rely on “competition”, basic service probably couldn’t have increased 84% if there were other companies offering standalone local service. After the demise of local competition, there has been no replacement of policies that assumed local phone competition.

- **Surveys are Needed —** How many customers are still using the copper wires? How many are on fiber or are they ‘wireless only’ **—** meaning no wires at all. The most quoted data by the Center for Disease Control (CDC) only examines residential voice calling and not data lines, like alarm circuits or DSL and there are no business lines counted.

  If the plan is to start shutting off the copper wires, we need to know how many people are being affected, especially groups that heavily depend on the wires such as seniors and small businesses. And we cannot rely on phone companies to supply this information nor the current regulatory bodies.

- **Customer Advocacy in Regulatory Proceedings and Upstate-DownState Coordination.** There is no independent State Advocate and New York City’s phone

rates are set in Albany and deregulation bills are in the State legislature. We need a an independent state-wide advocate’s office, as well as a coordinated effort by the New York City Advocate’s Office, to be effective in protecting the rights of ALL residential and business customers.

Long Term

Separate the Affiliates from the Wires.

- The unscrutinized ‘vertical integration’ of Verizon’s affiliates harms the State’s communications infrastructure, economic growth and customers.
- Verizon Wireless, Verizon Online, and Verizon Business should be required to return the FTTP networks, including the special access networks, and all other assets to the state utility.
- Audit all payments from VNY to Verizon Services and other affiliates, which determine if the utility is profitable.
- The network should be ‘opened’ to all forms of competitors, and it should be a fiber optic-based utility.
- Require Verizon’s affiliate companies using the VNY facilities to pay what all of the competitors are paying, and require a fair level of contributions for VNY’s costs.

In short, it is time to restore customers’ rights, choice, lower prices and to provide everyone very-high-speed broadband at reasonable rates.

1.4 A Brief History of Verizon Broadband in New York State

Verizon New York previously was part of one of the original seven Bell holding companies called “NYNEX” and then called New York Telephone. In 1991, NYNEX gave the New York State Public Service Commission (NYPSC) a report titled, "The Network of Tomorrow: Guidelines for Fiber Deployment in the Loop" that outlined “a vision” of how New York Telephone would rewire the entire state with fiber-optic 'feeders’ and would have about 16% of the state wired with fiber by the year 2000. (A "feeder" is the connection that centralizes all of the local telephone lines from a few city blocks, or for an apartment building.)

Exhibit 3 is an excerpt from the New York Public Service Commission’s Staff Report in the “Proceeding to Evaluate NY Telephone’s Network Modernization Plans.”[61]

Exhibit 3

IV. NYT's Network Modernization Plans
Comparisons of Plans

New York Telephone's
Current Capital Plan vs. Vision for the Future
(December 1991)

	Current Capital Plan	*Vision for the Future*	
	1995	*1995*	*2000*
% Lines served by digital switches	90%	100%	100%
% Lines served by common channel signaling	90%	100%	100%
% Lines ISDN-compatible	16%	50%	100%
% Fiber in interoffice connections	80%	100%	100%
% Fiber in feeder cables	NA	11%	24%
% Fiber in local distribution plant	NA	7%	16%

Summary

NYT has a vision of the network in the year 2000 that is guided and supported by the Network Evolution Plan produced by its subsidiary, NYNEX Telesector Resources Group. The vision is one of a network which would take advantage of a host of advanced technologies and systems to integrate the company's operations, achieve cost efficiencies, and deliver a wide array of new services to the public more rapidly and reliably than is currently possible. The company's Baseline modernization effort is moving the network in the direction of the vision but is not sufficient to achieve all of the vision by the year 2000. Nevertheless,

In 1993, the NYNEX Annual Report announced that fiber optic broadband-capable networks would be deployed starting in 1996, of which 1.1-1.6 million lines were slated for New York State.[62]

[61] New York Public Service Commission Staff Report, Case 91-C-0485, *Proceeding to Evaluate NY Telephone’s Network Modernization Plans*, November 4th, 1992.
[62] NYNEX 1993 Annual Report: NYNEX had announced 330,000 lines in MA, and 60,000 for RI and that would mean that New York would represent the remaining NYNEX territory fiber optic deployment in 1993.

> “We’re prepared to install between 1.5 and 2 million fiber-optic lines through 1996 to begin building our portion of the Information Superhighway."[63]

The NYNEX 1993 Annual Report also discussed “fiber to the curb” deployments to 130,000 telephone customers by 1994.[64]

> “Fiber to the curb systems brings fiber-optic cable into the “local Loop”, the final link between customers and our networks. In 1993, NYNEX’s progress in deploying fiber technology continued when we signed an agreement with Raynet Corporation to purchase FTTC hardware and software for 130,000 subscriber lines through next year.”[65]

In 1997, in a proceeding to determine the price of “unbundled network elements”, (which are the wholesale rates for competitors who want to rent the wires and/or parts of local service and offer their own brand of service) the NYPSC confirmed that the NYNEX plan was to upgrade the networks to 100% fiber optics.[66] The NYPSC said, therefore, the costs for services to *all* Verizon competitors had been based on this plan to upgrade all of the parts of the networks to fiber optics. It also noted that competitors who only wanted ‘narrowband’, i.e., phone lines just for phone service, should not be paying for these ‘fiber optic broadband upgrades. ("TELRIC" is the term used to describe the price for the using the phone networks by competitors.)

> "New York Telephone, in contrast, contemplated all-fiber feeder. To state the argument in general terms, New York Telephone’s adversaries contended that a more costly fiber technology was being installed to support New York Telephone’s broadband system, which requires the use of fiber rather than copper, and that purchasers of narrowband network elements should not be required to bear its costs. New York Telephone, for its part, contended that fiber had become the technology of choice even for a narrowband, voice-only system and that a forward-looking construct (of the sort required by a TELRIC analysis) would use fiber even to determine the costs of narrowband.
>
> "We adopted New York Telephone’s position and used, as an input, 100% fiber feeder. In doing so, we noted that this had been among the most highly contested issues in the proceeding and acknowledged the **"incontrovertible evidence"** that New York Telephone contemplated installing a broadband system and that fiber and associated equipment were needed for that system. We went on, however, to distinguish between that statement and the

[63] NYNEX 1993 Annual Report
[64] Ibid.
[65] http://www.newnetworks.com/nynexfibercurb1993.htm
[66] From NYPSC 97-14, page 10, CASES 95-C-0657, 94-C-0095, and 91-C-14

> conclusion that New York Telephone was installing fiber solely or even primarily for the purpose of advancing its broadband plans."[67] (Emphasis added)

The bottom line is that New York Telephone had a plan to have 100% of the copper networks be upgraded to fiber optics circa 1991-1997.

Moreover, according to a report by the Communications Workers of America (CWA) filed with the NYPSC in 2002, the merger of NYNEX and Bell Atlantic in 1997 included conditions that then-New York Telephone would spend an "additional" $1 billion in infrastructure improvements and hire more staff to improve service quality.[68]

> "As a condition of the Bell Atlantic-NYNEX merger, the PSC required the company to make a commitment to "hire between 750 and 1,000 additional employees prior to December 31, 1997, for the purpose of addressing service quality problems…"
>
> "As another condition of the Bell Atlantic-NYNEX merger, the PSC required the company to make a commitment to "invest an additional $1 billion in service-related infrastructure improvements over the next five (5) years, including at least one-half of the amount within the next two (2) years on capital projects to improve service quality throughout New York State, particularly in areas where service quality is currently most significantly below standards."

However, by 2002, it became clear that Verizon New York was not going to upgrade the networks and the condition of the networks was in question. CWA detailed that VNY construction budgets had been sliced in half in a report filed with New York Public Service Commission in 2002.[69]

> "In 2002, Verizon has cut its construction budget significantly. In the first half of 2002, Verizon reduced its capital expenditures by $803 million or 56% compared to the first half of last year. Verizon also has transferred many workers out of construction across the entire state. In many instances, Verizon has halted construction work."

CWA continued, outlining that in New York City, Verizon was putting in "band-aid" fixes throughout the boroughs.

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[67] Ibid.
[68] http://newnetworks.com/cwareportaugust2002.htm
[69] Ibid.

> "Verizon does not supply enough clean copper pairs to enable technicians to properly install new customer lines or replace defective pairs on existing customer lines. Instead of supplying clean copper pairs, Verizon utilizes a "short term" technological fix in order to get customers back in service quickly. The technology involves installing a special piece of equipment called an AML (asynchronous multi-line) or DAML (digital asynchronous multi-line)."

The report goes on to explain that these short-term fixes on phone lines could not support DSL.

> "However, the AML/DAML quick fix causes many problems. The AML/DAML technology adversely affects customers because it can compromise the use of faxes and modems….AML/DAMLs also cannot support DSL service. … Also, competitors seeking to provide DSL to Verizon’s voice customers via line sharing cannot do so where an AML/DAML exists on a customer’s loop. Use of these temporary fixes therefore interferes with CLEC efforts to compete with Verizon in the DSL market."

In 2004, a *Fortune* headline read:

> “Ivan Seidenberg, CEO of Verizon, vows to overpower the cable guys by plowing billions into a '90s-style broadband buildout. But will he really? Or is the most powerful man in telecom pulling a megabluff?”[70]

The deployment of FiOS started in the 2005-2007 timeframe in earnest, as opposed to being tested or simply announced.

According to a Verizon New York press release in March 2014, Verizon claims to have 3.7 million ‘homes and businesses’ ‘passed’ in New York and Connecticut (combining the two states’ data). There was no data supplied to give the actual number of ‘homes and businesses’ in the Verizon NY territories. Apparently, ‘premises passed’, means that there is a FiOS wire somewhere near a customer’s premise, but it is not necessarily connected to any home or office.

> “Verizon (NYSE: VZ) may have curtailed any new FiOS expansions, but in Connecticut and New York it continued to put the fiber to the premises (FTTP)-based service into the hands of more users, making it available to a

[70] http://money.cnn.com/magazines/fortune/fortune_archive/2004/05/31/370724/

> total of 3.7 million homes and businesses in both states as of the end of 2013."[71]

On November, 27, 2013, Verizon New York claimed that there are 183 municipalities in the state and that there are no plans for expansion.[73] Verizon NY covers 90% of the State's 996 municipalities and therefore only 20% of the State's towns and cities are getting any upgrades.

Moreover, Verizon's "take up rate" for FiOS the service ranges from 35%-40% nationwide for their Internet service and their TV service. (Note that the TV service may not be available in some FIOS areas.) This means that VNY has, at most, 1.5 million FiOS customers and therefore the majority the VNY's customers are probably still copper-based.

And the 'premises passed' statistics are also in question. Telephone union installers from CWA and IBEW have described how Verizon New Jersey listed communities as having FIOS, but it does not mean that all the homes and offices can actually get the service as the upgrades may have only been in some, if not all buildings. This has also been corroborated by customers of Verizon in New Jersey.[74]

[71] http://www.fiercetelecom.com/story/verizon-extends-fios-37m-more-homes-and-businesses-connecticut-new-york/2014-03-20

[73] http://wamc.org/post/mayor-elect-city-leaders-call-verizon-fios-albany

[74] In 2013, New Networks was contacted by a number of New Jersey residents in multiple municipalities who commented that our list of 'have' and 'have not' communities that was generated from Verizon NJ's own list of FiOS capable municipalities could not get the services in various 'have' communities. http://iwantmyfiber.com/find-your-town-verizon-nj-fiber-optic-have-and-have-nots/

Part II Verizon New York Rate Increases for Local Telephone Service

2.0 Residential POTS Rate Increases Were Justified by Fiber Optic Expenses and Claimed Financial Losses.

In June 2009, the NYPSC granted VNY a rate increase for residential POTS customers. The NYPSC press release explains the rate increase was due to "massive deployment of fiber optics" and because VNY was "in need of financial relief" due to major losses:

> "'We are always concerned about the impacts on ratepayers of any rate increase, especially in times of economic stress,' said Commission Chairman Garry Brown. 'Nevertheless, there are certain increases in Verizon's costs that have to be recognized. This is especially important given the magnitude of the company's capital investment program, including its ***massive deployment of fiber optics*** in New York. We encourage Verizon to make appropriate investments in New York, and these minor rate increases will allow those investments to continue'." (Emphasis added).[75]

The NYPSC Order also indicates the Commission granted the rate request because VNY was experiencing major financial losses.

> "Verizon's financial condition is 'relevant' when the Commission considers pricing changes because "the state has an interest in a viable company.... there seems to be little question that the company is in need of financial relief; Verizon reported an overall intrastate return of a negative 4.89% in 2006 and its reported intrastate return on common equity was a negative 73.6%."
>
> "For 2007, Verizon reported an overall intrastate return of negative 6.24% and a return on common equity of negative 46.0%." [76]

The Order granting the rate increase noted that 2008 was also problematic:

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[75] NYPSC Press Release: CASE 09-C-0327 – *Minor Rate Filing of Verizon New York Inc. to Increase the Monthly Charges for Residence Local Exchange Access Lines (1MR and 1FR) by $1.95 per month,* State of New York, 6/19/09 http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={3C0D0FC7-606A-4CD3-B360-EA19179D2008}

[76] NY PSC, *Verizon New York Inc., Order Regarding Tariff Filing* (June 18, 2009) http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={A1D3F278-9475-4A77-87F6-9276A41EDB78}.

> "Verizon recently submitted its 2008 Annual Report showing that its earnings continue to be depressed. Specifically for 2008, the company reported a negative overall rate of return of 6.70%, a negative return on common equity of 48.66% and negative intrastate earnings of $396 million."[77] (Emphasis added by author)

This was but one of a series of increase requests that started in 2006, as acknowledged by the PSC:

> "The Competition III Order[78] authorized annual increases of up to $2.00 [per month] to Verizon's residential flat-rate service (1FR) up to a cap rate of $23.00, and increases of up to $2.00 for two years to Verizon's residential message-rate service (1MR). In July 2006 and June 2007, Verizon implemented increases to these services in compliance with that Order. The 2006 and 2007 filings increased the 1FR monthly rates in each group by either $2.00 or an amount to bring the rate up to the $23 cap, and the monthly 1MR rates by $1.24 and $2.00, respectively. In March 2008, Verizon proposed additional increases to its 1FR service in compliance with the Comp III Order, and further increases to its 1MR service, beyond what was authorized in that Order. In a June 18, 2008 Order, the Commission authorized these increases based on the company's need for financial relief and allowed the tariff pages to into effect."[79]

The PSC's rationale for these increases in 2006 was that the price of basic telephone service should be aligned with the underlying 'costs' of offering that service.

> "It is clear that Verizon and Frontier are under sufficient competitive pressure to obviate legacy cost-of-service regulation, and that approach is increasingly questionable for the other telephone corporations as well. This policy statement and order is our response to those developments.

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[77] The losses presented differ from the SEC filings. There is a match of sorts with the losses discussed by the NYPSC and VNY's SEC 4th quarter losses for 2008. In 2008, VNY showed a net loss of $350 million and $348 million in 2007. While not an exact match, the $396 million in loss for 2008 quoted by the State is close to SEC filing. (Verizon NY's original filing to the NYPSC for 2008 does not appear to be available online.)

[78] Case 05-C-0616 - *Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings* (Issued and Effective April 11, 2006). (Comp III Order).

[79] Case 08-C-0372 - *Tariff Filing of Verizon New York Inc. to Increase the Monthly Charges for Residence Local Exchange Access Lines, Approved as Recommended and so Ordered By the Commission* (Issued and Effective June 18, 2008).

> "Therefore, we will require that incumbents continue to offer a "basic service" and that such service should continue to be subject to a regulated cap. To better align basic rates with underlying costs and realign the balance between customers who benefit from choice and incumbents, some of whom are experiencing sub-par financial results, this order authorizes increases for basic rates."[80]

By 2006, the State Commission decided to allow Verizon "unlimited flexibility" for pricing all of the other optional or ancillary services, stating that the market was competitive and competition would be a sufficient substitute for price regulation of non-basic services.

> "For services other than basic services, with a few minor exceptions, we grant Verizon-NY and Frontier of Rochester unlimited flexibility, subject to service territory price uniformity to protect customers in non-competitive areas. These actions are consistent with our long-standing commitment to rely on competition, where feasible, as the most efficient way of achieving just and reasonable rates. It also takes a significant step toward treating providers in like circumstances similarly."[81]

And in granting the 2008 rate increase, the NYPSC said there were 'dual financial pressures', as in the 2006 increase about the fiber optic investments and financial losses of basic service.

> "This is especially important given the magnitude of the company's capital investment program, including its massive deployment of fiber... There seems to be little question that the company is in need of financial relief; Verizon reported an overall intrastate return of a negative 4.89% in 2006 and its reported intrastate return on common equity was a negative 73.6%."[82]

These increases were for residential customers only. Verizon proposed other increases over the last decade. For example, on May 13, 2013, the NYPSC denied the addition of a new surcharge on the bill that would be direct revenues to Verizon.

> "Verizon New York Inc. (Verizon or the Company) filed tariff amendments to implement a monthly per line $0.99 Municipal Construction Surcharge. The purpose of the surcharge is to recoup some of the costs to relocate

[80] Case 05-C-0616, page 129
[81] Ibid.
[82] Cases 06-C-0897 - *Pricing Flexibility For Verizon's Business Services, and 07-C-0610 – Further Amended Tariff Filing of Verizon New York Inc. to Implement Pricing Flexibility for Non-Basic Services, Order Denying Request for 25% Pricing Flexibility and Allowing For a 10% Increase to Certain Business Rates* (Issued January 17, 2008).

> facilities that are in public rights-of-way to accommodate street repairs, public construction projects, or other activities required for the public health or convenience."[83]

Verizon New York's rationale for the requested surcharge was construction additions, which was rejected by the State.

> "For example, capital investments for plant additions or replacing aging infrastructure do not constitute unpredictable, volatile costs sufficient to justify the use of a surcharge mechanism".[84]

This $.99 cent charge alone would have increased Verizon NY revenue by $38 million dollars per year.

> "The Company estimates that the Municipal Construction Surcharge would apply to a total of 3.2 million access lines and that the estimated revenue impact is $38 million per year."[85]

But the Commission recognized that Verizon had already received multiple increases for residential and business telephone service.

> "We note that we have already granted Verizon considerable pricing flexibility for many services, under which it is authorized to increase its revenues, if it so chooses. For example, in the Competition III Order,[86] Verizon was given unlimited pricing flexibility for nearly all non-basic residential services. Subsequent to that Order, Verizon was afforded additional pricing flexibility in its offerings of packages, promotional offers and discount plans. Additionally, through various Orders, the Commission granted Verizon varying amounts of pricing flexibility for business services, including: 1) a one-time 10% increase to business services that do not already have flexibility,[87] 2) individual case billing arrangements; 3) 5% percent annual increases on business local services; 4) 25% annual

[83] http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={C8CDB490-4D49-42F5-B037-008E4A2411EA}
[84] Ibid.
[85] Ibid.
[86] Case 05-C-0616, *Transition to Intermodal Competition, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings* (issued April 11, 2006)(Competition III Order)
[87] Case 06-C-0897and Case 07-C-0610, Verizon New York Inc. - *Pricing Flexibility, Order Denying Request for 25% Pricing Flexibility and Allowing for a 10% Increase to Certain Business Rates* (issued January 17, 2008)

> flexibility for high capacity and interoffice private line services; and 5) the ability to flexibly price all of its business packages."
>
> "Taken together, Verizon is authorized to increase many and various business and Residential rates to raise revenue."[88]

Subsequently, Verizon added the charge to the unregulated bills of its FiOS customers.[89]

2.1 Local Verizon New York Service has had Repeated Rate Increases, 1980-2013

Since 1980, charges for VNY local service have gone up 598% in New York City, as told by actual phone bills. Chart 1 graphically presents the data in Exhibit 4.

Chart 1

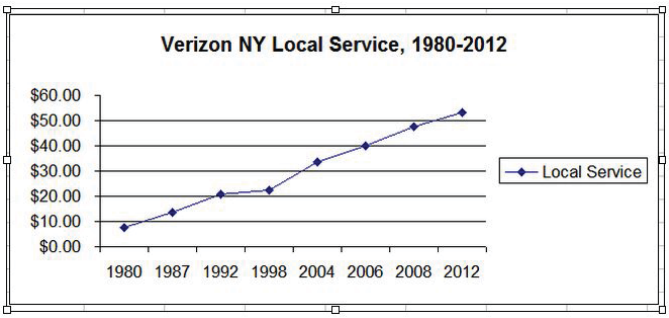

Exhibit 4
Verizon New York, Local Residential Service Prices, 1980-2012

	1980	1987	1992	1998	2004	2006	2008	2012	Increase	Since 2004
Untimed Message	$6.04	$7.44	$6.60	$6.60	$8.61	$9.85	$13.85	$15.80	162%	84%
Wire Maintenance	$1.24	$0.95	$1.51	$1.49	$3.45	$4.48	$5.99	$7.99	544%	132%
FCC Line Charge	0	$2.00	$3.50	$3.50	$6.38	$6.40	$6.42	$6.87	244%	8%
E911	0		$0.35	$0.35	$1.00	$1.00	$1.00	$1.00	186%	0%
DA @ 3 calls (6 free)	($0.30)	$0.92	$1.58	$1.58	$2.81	$4.39	$4.42	$5.97	2090%	112%
Local Number Portability					$0.23					
Call Allowance	($4.00)	$0.90	$5.09	$5.09	$5.47	$7.20	$7.90	$7.90	298%	44%
Universal Service Charge	0				$0.62	$0.74	$0.73	$1.11	79%	79%
Surcharges				$1.56	$1.67	$1.86	$2.46	$3.02	94%	81%
Total Before State-Local	$6.98	$12.21	$18.63	$20.17	$30.24	$35.92	$42.77	$46.64	568%	54%
State, Local, Federal	$0.65	$1.37	$2.10	$2.27	$3.40	$4.18	$4.81	$6.61	917%	94%
Total	**$7.63**	**$13.58**	**$20.73**	**$22.44**	**$33.64**	**$40.10**	**$47.58**	**$53.25**		
Cumulative Increases:		**60%**	**144%**	**165%**	**297%**	**426%**	**524%**	**598%**		

(Sources: Aunt Ethel's Verizon phone bills from Brooklyn New York, and other New York City bills.)

[88] Ibid.
[89] From New York City FiOS broadband and Internet bill, August, 2013

2.2 What Happened to POTS Charges from 1980-2014?

As previously discussed, the NYPSC repeatedly approved increases for the "Basic Rate" for POTS service, which increased by 84% since 2006. However, these rates are just one line item on an actual bill and they do not include any of the taxes, fees, surcharges or other charges, some of which are required as part of local service.

In 1980, New York Telephone's residential local service was a bundle of local calling (there was a $4.00 allowance of free calls), six free directory assistance calls (if the calls weren't used there was a $.30 cent credit), inside wire maintenance, and phone rental was included for about $8.50. (The calculations used do not include the phone rental.)

Another additional charge local phone bill charge was the FCC Line Charge. Along with the 'Access Recovery Charge' (ARC), that was added in 2011, Verizon New York's Line Charge is $6.87.

In New York City, the total taxes on this one charge, the FCC Line Charge, are over 38% as there is a 3% Federal tax, as well as 11.6+% added for state and local taxes, as well as a Federal Universal Service Fund charge at 16.4% (current rate), and 7% in municipal and other 'surcharges' — bringing the total to $9.62 for just this one set of additional charges by 2013.[90]

Other Changes: As shown in Exhibit 4:

- There are no longer any directory assistance calls included in VNY basic service and each call for directory assistance now costs $1.50, not counting taxes, fees and surcharges. It costs a carrier $.15-$.25 a call to provide the service.[91]
- "Inside Wire Maintenance" is deregulated and the price went from $1.24 (which was the cost in the bundle in 1980) to $7.99 by 2012.
- The local 'calling allowance' was dropped and the cost per call increased, including the removal of 'time of day' discounts.
- E911, at $1.00 a month was added; VNY is the provider.
- Optional calling features, such as Caller ID and voicemail, are deregulated and they can range from $4.00-$9.50 a month. However, such calling features cost pennies a month to offer.[92]

[90] We have adjusted the taxes and surcharges as found on bills for the years in question, as they have shifted/increased in multiple ways. And they can even vary on the bills as the companies don't always apply them correctly. Also, some are tax-on-tax additions or they can vary by carrier.
[91] New Networks interviews with providers in 2000-2004.
[92] *Report of the Florida Public Service Commission on the Relationships Among the Costs and Charges Associated with providing Basic Local Service, Intrastate Access and other Service by the Local Exchange Companies in Compliance with Chapter 98-277, Section (2) 1 Laws of Florida*, February 19, 1999

- The total price for local service never lowered, even as previously included services became separate charges. In 1982, the phone rental and inside wire maintenance were 'deregulated'. They had specific costs that were included in the total local service cost. When they were separated from local service, the total price of local service never decreased, even though the 'component parts' were removed.[93]

When all of these other services were 'deregulated', the PSC granted Verizon New York "unlimited flexibility" in what can be charged for non-basic service.

2.3 How Much Was Collected Since the PSC Allowed the Rate Increase to Offset Broadband Rollout Costs and Financial Losses

Exhibit 5 gives the revenue total for the series of VNY increases for basic service and 'inside wiring'. This exhibit takes the price of service as told by phone bills for inside wiring and "Dialtone", — the line item sometimes called 'basic service', and uses the actual number of lines from the FCC's ARMIS data from 2006-2007, and the total POTS lines for residential and business customers came from the PSC-Annual from 2009 through 2012.

We used inside wiring expenses as the model of ancillary services because it once was part of the original local service costs, but also to illustrate the increases that occurred to all ancillary services, from Call Waiting to non-published numbers. This is because there is no existing information on the installed base of these services — i.e., how many customers, in any specific year, had any of these services and what price were they charged.

Exhibit 5
Increases to Local "Dial Tone" Service and Inside Wiring, 2005-2013

	2006	2007	2008	2009	2010	2011	2012	2013	total
Dialtone	$1.24	$3.24	$5.24	$5.24	$5.24	$7.19	$7.19	$7.19	$501.24
inside wire	$1.03	$1.79	$2.54	$2.54	$2.54	$4.54	$4.54	$4.54	$288.66
lines	7,900,000	7,200,000	5,500,000	5,900,000	5,300,000	4,116,624	3,533,025	3,300,000	
rate increa	$117,552,000	$279,936,000	$345,840,000	$370,992,000	$333,264,000	$355,182,319	$304,829,397	$284,724,000	$2,392,319,716
increase ir	$97,644,000	$154,224,000	$167,640,000	$179,832,000	$161,544,000	$224,273,676	$192,479,202	$179,784,000	$1,357,420,878
total	$215,196,000	$434,160,000	$513,480,000	$550,824,000	$494,808,000	$579,455,994	$497,308,599	$464,508,000	$3,749,740,593
taxes	$38,735,280	$78,148,800	$92,426,400	$99,148,320	$89,065,440	$104,302,079	$89,515,548	$83,611,440	$674,953,307
								Total	$4,424,693,900

[93] VNY customers were charged for amortization of the undepreciated capital cost of inside wire, and they did not receive a credit of over collections for that purpose. See: *Kessel v PSC*, 193 A.D.2d 339 (1993), available at http://bit.ly/1rgrIDA.

It’s All Interconnected.

Examining the increases we find that from 2005-2013

- If a customer had local service since 2005, the rate increases to basic dialtone cost them $501.24 per year; inside wire added an additional $288.66.
- Verizon collected $2.4 billion dollars from the increases to local service on POTS customers. Adding inside wiring, as well as the additional taxes, customers paid an estimated $4.4 billion extra.

There are a host of caveats. Not everyone buys inside wiring and other ancillary services also had increases. Also, many POTS customers may have migrated to various service “bundles”, with increased charges for phone service extras such as Caller ID, voice mail or Call Waiting incorporated in the bundled prices. Without the ‘installed base’ we can only estimate the revenue enhancement from deregulation of VNY’s optional services.

NOTE: We are using this as a low ball surrogate as the amount of additional revenues would apply to all of these other services, from Call Waiting to non-published numbers.

PART III Verizon New York Financial Statement and Reports: Revenues, Expenses, Profits and Losses.

3.0 Four Sets of Books Tell Different Stories When Compared.

We reviewed four different sets of publicly available financial accounting information from Verizon Communications (Verizon Corporate) and Verizon New York. This public information is not complete and so there are many caveats.

- **"Verizon Corporate"** — Verizon Communications, Inc., the holding company, publishes annual and quarterly reports that are required by the Security & Exchange Commission. (SEC). These include financial information for Verizon's affiliate companies or investments. In 2009, Verizon had investments in 365 companies located in 150 countries.
    - Verizon Corporate files a consolidated SEC-Report which lacks sufficient granularity to ascertain details of the revenues and expenses of Verizon New York.
- **"PSC-Annual"** — Verizon New York's annual reports are required to be submitted to the NY Public Service Commission. This information represents the original "regulated" books for the State utility.
- **"SEC-Report**"— Verizon New York's previously filed SEC annual and quarterly reports provided to investors.
    - Verizon New York **stopped publishing this data in 2003**, then restarted in 2008 and **ended again in 2010**.
- **"FCC ARMIS**" **and the Statistics of Common Carriers (SOCC)** —The FCC collected data supplied by the Corporate holding company and states' telephone companies, such as Verizon New York, and it was published in annual FCC reports.
    - This **data stopped being made public in 2007** and what is published are 'highlights' at best.

This is the availability schedule for the various data sets.[94]

[94] The FCC's "Statistics of Common Carriers" started in 1934, so we are assuming that the other sources most likely been available or established near the same timeframe.

Exhibit 6
Summarizing the Availability of Data on Verizon New York, 1934-2012

	1934	2003	2007	2008	2009	2010	2011	2012
SEC Report	1934	2003	**STOP**	2008	2009	2010	**STOP**	
FCC	1934	2003	2007	**STOP**				
PSC	1934	2003	**STOP**		2009	2010	2011	2012

As we will discuss, information supplied in one set of books doesn't match the other sets of books for the same year or does not cover specific areas with enough detail to be useful.

3.1 Examining Verizon Communications' Financial Statements Compared with those of Verizon New York

First, we will examine Verizon Communications' (which we will identify as "Verizon Corporate") overall financial health to contrast the findings we will be discussing for Verizon New York.

Verizon Communications is a holding company that controls the state based Public Switched Telephone Networks (PSTN) utilities in the original Bell Atlantic, NYNEX and GTE territories (with some lines sold off over the last 15 years). Verizon is in more than 150 countries and according to the Verizon New York's annual report, filed with the NYPSC for 2009, VNY listed 367 companies that Verizon Communications had an investment "interest of 5% or more".[96]

> "Verizon Communications Inc. (NYSE, Nasdaq: VZ), headquartered in New York, is a global leader in delivering broadband and other wireless and wireline communications services to consumer, business, government and wholesale customers. Verizon Wireless operates America's most reliable wireless network, with nearly 103 million retail connections nationwide. Verizon also provides converged communications, information and entertainment services over America's most advanced fiber-optic network, and delivers integrated business solutions to customers in more than 150 countries. A Dow 30 company with more than $120 billion in 2013 revenues, Verizon employs a diverse workforce of 176,800."[97]

[96] http://newnetworks.com/verizons-companies-and-investments-2009/
[97] http://newscenter.verizon.com/corporate/news-articles/2014/04-17-chris-formant-joins-verizon-enterprise-business/

Verizon Communications Annual Report Information

The following exhibit is excerpted from Verizon's corporate 2013 Annual Report.[98] It shows major gains in all "corporate highlights" categories.

Exhibit 7
Verizon Corporate Annual Report Highlights, 2013

Corporate Highlights

- $22.2 billion in free cash flow (non-GAAP)
- 4.1% growth in operating revenues
- 18.6% total shareholder return
- 2.9% annual dividend increase
- 4.5 million wireless retail net additions*
- 0.97% wireless retail postpaid churn
- 49.5% wireless segment EBITDA service margin (non-GAAP)
- 8.0% growth in wireless retail service revenues
- 648,000 FiOS Internet subscriber net additions
- 536,000 FiOS Video subscriber net additions
- 14.7% growth in FiOS revenues
- 4.9% growth in wireline consumer retail revenues

* Excludes acquisitions and adjustments

In 2013 there was 14.7% growth in FiOS revenues, and almost 5% growth in "wireline consumer retail revenues," not to mention the $22 billion in 'cash flow'. 2012 had similar results.

The Verizon Communications 20100 Annual Report, filed with the SEC, also had strong, profitable financials, with FIOS being part of the wireline markets.[99]

Exhibit 8
Verizon Corporate Annual Report Highlights, 2011

CORPORATE HIGHLIGHTS

- $13.5 billion in free cash flow (non-GAAP)
- 6.2% growth in adjusted revenues (non-GAAP)
- 18.2% total shareowner return
- 2.6% annual dividend increase
- 5.4 million new wireless connections
- 0.95% wireless postpaid churn
- 6.3% growth in wireless retail service revenue
- 21.0% growth in wireless data revenue
- 735,000 new FiOS Internet connections
- 701,000 new FiOS Video connections
- 20.1% growth in FiOS revenue
- 15.2% growth in enterprise strategic services revenue

This 2011 Annual Report showed a 20% growth in FiOS revenues, which are part of the wireline revenues and 18.2% total shareowner return. No losses appear, anywhere.

3.2 A Deeper Look at Verizon Communications vs Verizon New York and the Other Verizon States

In contrast, over the last five years, 2009-2013, and using the PSC-Annual reports we find that Verizon New York reported financial losses of more than $11 billion and due to these losses, VNY had an income tax benefit, on average, of $1 billion a year, which lowered the Verizon Corporate tax liabilities.

The SEC-Report losses were somewhat smaller, with Verizon New York only losing $2.2 billion in 2010 with a Federal income tax benefit of $716 million. (SEC reports for VNY were not published past the year 2010.)

Exhibit 9
Verizon NY Revenues, Expenses, Losses and Income Tax Benefits, 2009-2013[281]
(In the Millions)

	2009	2010	2011	2012	2013	Total	Avg.
PSC Annual							
Losses	$(1,117)	$(2,257)	$(2,367)	$(2,618)	$(2,696)	$(11,055)	$(2,211)
Income Tax Benefit	$ (669)	$ (974)	$(1,062)	$(1,161)	$(1,196)	$(5,062)	$(1,012)
Losses SEC							
Losses	$(971)	$(2200)					
Income Tax Benefit	$(379)	$(716)					

3.3 Verizon Communications Reports on Wireline "Mass Market" Revenues Show Only Profits.

The details of Verizon Communications Annual Report for 2011 (covering also 2009 and 2010) showed no loss of revenues and even profits for the wireline 'Mass Market', while other categories of services, such as Global Wholesale, had losses. (Global Wholesale, from 2009-2011, lost $1.56 billion.) [282]

[281] Sources: Verizon New York PSC-Annual reports, 2009-2012 (2013 is an estimate by New Networks.) SEC-Report uses the Verizon New York 4th quarter report for 2010.
[282] Verizon Communications 2011 Annual Report: "Global Wholesale provides communications services including data, voice and local dial tone and broadband services primarily to local, long distance and other carriers that use our facilities to provide services to their customers."

Exhibit 10
Verizon Communications Wireline Mass Market Revenues, 2009-2011
(In the Millions)

	2009	2010	2011
Mass Markets	$16,115	$16,256	$16,337
Global Wholesale	$9,533	$8,746	$7,973
EBITDA	23.1%	22.4%	23.1%

In Exhibit 9 Verizon New York showed only losses. And yet, in Exhibit 10, Verizon Communications wireline services, which includes Verizon New York, there are no losses. How can this be?

Here is a clue to this. The next exhibit shows that the "switched access lines", i.e., the utility POTS services, have declined while 'broadband lines' (sometimes called broadband connections) increased. Verizon apparently makes a distinction as the "broadband lines" are not part of the accounting of lines given to the public. These "broadband lines" include DSL or the FiOS brand of services from Internet, cable TV or broadband services can also be bundled with phone service.

Exhibit 11
Verizon Communications Wireline Mass Market Lines (Connections), 2009-2011
(In the Thousands)

	2009	2010	2011
Broadband lines	14,196	15,946	17,660
Switch Lines	28,323	26,001	24,137

Verizon's wireline services for these areas of business are referred to as "Mass Markets".

> **"Mass Markets"** Mass Markets operations provide local exchange (basic service and end-user access) and long distance (including regional toll) voice services, broadband services (including high-speed Internet, FiOS Internet and FiOS Video) to residential and small business subscribers."[283]

Reading the details of the financial reports by year we see that the 'local exchange revenues', which include the 'switched access lines' are losing money but the FiOS services, using the fiber optic networks, are profitable.

> **"2011 Compared to 2010** -Mass Markets revenues increased slightly during 2011 compared to 2010 primarily due to the expansion of consumer and small

[283] Verizon Communications 2011 Annual Report

business FiOS services (Voice, Internet, Video), partially offset by the continued decline of local exchange revenues. "

"2010 Compared to 2009 -The increase in Mass Markets revenue during 2010 compared to 2009 was primarily driven by the expansion of consumer and small business FiOS services (Voice, Internet and Video), which are typically sold in bundles, partially offset by the decline of local exchange revenues principally as a result of a decline in switched access lines."[284]

3.4 Verizon's Other States Reports Show Wireline Losses as Well.

From 2009-2010, Verizon's other state-based SEC 4th quarter reports revealed losses as well. Verizon, New York had the largest losses with $2.2 billion in just 2010. In the state of New Jersey, Verizon claimed to have lost $786 million for the years 2009 and 2010 and received an income tax benefit of $321 million. These losses appear to be common throughout the Verizon territories as in just 2 years, 2009 and 2010, New England Telephone (Massachusetts & Rhode Island) claimed to have lost $1.2 billion and had a tax benefit of $477 million while Verizon Pennsylvania claimed $202 million in losses and a tax benefit of $62 million.

Exhibit 12
Verizon Losses & Tax Benefit in 5 States, 2009-2010
(In the Millions)

		Losses		Tax Benefit		2-Year Total	
		2009	**2010**	**2009**	**2010**	**Loss**	**Savings**
New Jersey		-$355	-$431	$161	$160	-$786	$321
New York		-$971	-$2,200	$379	$716	-$3,171	$1,095
New England (MA, RI)		-$345	-$877	$164	$313	-$1,222	$477
Pennsylvania		-$41	-$161	$23	$39	-$202	$62
Total by Year		-$1712	-$3,669	$727	$1,228		
2-Year Total						-$5,381	$1,955

NOTE: Massachusetts and Rhode Island are combined because they are part of "New England Telephone" which was part of the original regional Bell Company, NYNEX.

[284] Ibid.

PART IV Tracking Verizon's Financials

4.0 Comparing the Verizon SEC-Report and PSC-Annual Shows Major Differences

Below is an excerpt from the Verizon New York PSC-Annual report to the NYPSC for the year ending December, 31, 2010 which highlights the revenues, expenses and losses, as well as the "tax benefits".

- **Column 1** is the SEC filed Annual Report ("SEC-Report"), "Bondholders" is the description in this PSC-Annual excerpt for 'investors'.
- **Column 2** is the information supplied to the State. ("PSC-Annual")
- **"Difference"** are the differences in revenues, expenses, and losses.

Exhibit 13
Comparing Verizon SEC-Report with Verizon PSC-Annual, 2010
(In the Millions)

	A	B	C	D
1	**Verizon New York Income Statement for the Year 2010**			
2		**1**	**2**	
3		**Annual**	**Annual**	
4		**Report to**	**Report To**	**Difference**
5		**Bondholders**	**The PSC**	
6				
7	**Operating Revenues**	$ 7,221	$ 4,982	$ 2,239
8	**Operating Expenses**	$ 9,100	$ 7,240	$ 1,860
9	**Net Operating Revenues**	$ (1,879)	$ (2,257)	$ 378
10				
11	**Income before Taxes**	$ (2,200)	$ (2,458)	$ 258
12				
13	**Provision for Income Taxes**	$ (716)	$ (974)	$ 258
14				
15	**Cash Flows from Investing Activities**			
16	Capital expenditures	$ (1,216)	$ (1,204)	$ (12)

Differences:

- In 2010, Verizon New York's SEC-Report had revenues of $7.2 billion, but the PSC-Annual only showed about $4.98 billion, a difference of $2.24 billion.
- Both set of books had losses but the PSC-Annual had a loss of $2.46 billion, and a 'provision for income taxes' (income tax benefit) of $974 million; the SEC-Report had $258 million less in losses.

Data Issues:

- **The FCC Data does Not Include the SEC-Annual Revenues —** The FCC's state-based data that was reported by VNY in the FCC's SOCC and ARMIS reports is based on the PSC-Annual data and never included the SEC filed information. In this case, the FCC data would not have reflected the $2.24 billion difference with the SEC-Report vs the PSC-Annual report for 2009.

- **Different Financial Books Tell Different Stories —** The regulatory books, GAAP financials, and the USOA accounting standards vary but all examine the information in different formats or depending on what they cover.

Next, we examine the question of the flows of money and how the VNY apparent losses in the PSC-Annual are generated.

4.1 FCC SOCC's Verizon New York (VNY) Information — Revenues, Expenses and Losses 2004-2007

First we will go through the years 2004 through 2007 using the FCC's Statistics of Common Carrier (SOCC) information. We do this because there is no publicly available SEC-Report or PSC-Annual information for these years.[285]

Exhibit 14
Verizon New York's Revenues, Expenses and Losses, FCC SOCC Report, 2004-2007
(In the Thousands)

	2004	2005	2006	2007
Revenue	$ 6,874,880	$ 6,475,016	$ 6,079,877	$ 5,768,081
Expenses	$ 7,291,505	$ 7,257,344	$ 7,320,927	$ 7,294,405
Loss	$ (416,625)	$ (782,327)	$ (1,241,050)	$(1,526,324)

The FCC reports indicate there were extensive VNY losses starting in at least 2004 through 2007. The FCC's data for these years do not include the SEC filed revenues but match the PSC-Annual information provided in later years.

4.2 PSC-Annual Report on Verizon New York (VNY) – Financial Losses 2009-2014

Next, we examine Verizon New York's financial statements in the PSC-Annual reports to the New York Public Service Commission.[286] According to those reports, over the five years 2009-2013, Verizon New York's average revenue per year was $5.02 billion, their expenses

[286] http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=10-01709

averaged $7.3 billion so VNY averaged a $2.2 billion loss, with $1.01 billion tax benefit per year.

Chart 2
Comparing Verizon New York, Revenues, Expenses and Losses, 2005-2013

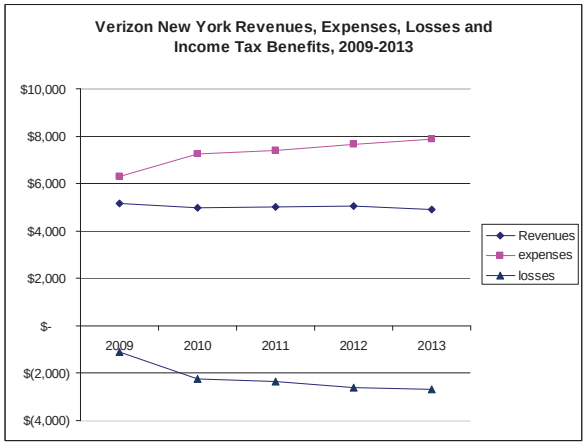

Exhibit 15
Verizon New York Revenues, Expenses, Losses and Income Tax Benefits, 2009-2013
(In the Millions)

	2009	2010	2011	2012	2013	Change	Total	Avg.
Revenues	$5,176	$4,982	$5,022	$5,039	$4,888	-5.6%	$25,107	$5,021
Expenses	6,293	$7,240	$7,389	$7,657	$7,886	25.3%	$36,464	$7,293
Losses	($1,117)	($2,257)	($2,367)	($2,618)	($2,696)	141.4%	($11,055)	($2,211)
Income Tax Benefit	($669)	($974)	($1,062)	($1,161)	($1,196)	78.8%	($5,062)	($1,012)

Source: See Footnote 70

The VNY PSC Report Trend Lines Over the Last Five Years:

- Revenues decreased 5%.
- Expenses increased 25%
- Losses increased 141%
- The 'income tax benefit' increased 78%

Conclusion:

- Verizon New York paid no Federal income taxes for the last 5 years.
- Verizon, Inc., the corporate parent, received an "income tax benefit" of $5 billion.

- Starting in 2006, Verizon cited these losses as a reason to raise POTS rates multiple times.

4.3 SEC-Reports for Verizon New York Losses and Tax Benefits, 2007-2010

Over a four year period, 2007-2010, Verizon New York claimed in its SEC-filed 4th quarter reports to have lost $4.25 billion and received an 'income tax benefit' of $1.74 billion. In just one year, 2010, the company showed a $2.2 billion loss and a tax benefit of $716 million.

Exhibit 16
Verizon Losses and Tax Benefit 2007-2010
(In the Millions)

	Loss	Tax Benefit
2010	-$2,200	$716
2009	-$971	$379
2008	-$528	$178
2007	-$549	$201
Total	**($4,248)**	**$1,474**

Conclusion:

In conclusion, the SEC-Report numbers show that the VNY loss trend lines are similar to the PSC-Annual report information. However, in every year, the PSC-Annual losses were significantly larger.

Part V Verizon NY Affiliate Transaction Revenues and Expenses

5.0 The Affiliates and the Losses Generated

The next exhibit is taken directly from the Verizon New York 4th quarter SEC-Report in 2010[287], the last year the company published state-based financial reports.[288] The affiliate companies are Verizon's subsidiaries that either provide services to Verizon NY, raising its costs, or receives services from Verizon New York, raising its revenues.[289]

Exhibit 17
Affiliate Transactions with Verizon, New York, 2009-2010
(In the Millions)

Operating Revenues:	**2009**	**2010**	**Total**
Verizon Business	$351	$275	$626
Verizon Wireless Inc.	$78	$95	$173
Verizon Services	$56	$59	$115
Verizon Internet	$648	$706	$1,354
Long Distance	0	0	0
Operating Telephone	$ 2		$2
Other	$1	$ 1	$2
Total	$1,136	$1,136	$2,272
Operating Expenses:	**2009**	**2010**	
Verizon Services	$2,036	$1,710	$3,746
Internet Services			
Data Services Inc.	$ 240	$ 249	$489
Connected Solutions.			
Operating Telephone	$ 835	$637	$1,472
Verizon Wireless Inc.	$5	$4	$9
Long distance rec.			
Verizon Business	$4	$4	$8
Total	$3,120	$2,604	$5,724

(Source, Verizon New York 4th Quarter SEC-Report)

[287] VNY 4th quarter report 2010
[288] VNY claims that there is no obligation to file these SEC-Report past 2003, and filed with the SEC and discuss this in their PSC-annual reports in 2011.
[289] See Appendix 1 for details of the affiliates listed in Verizon's SEC-Report for 2010.

It’s All Interconnected.

While many may assume Verizon is all one entity, Verizon has hundreds of divisions and other companies in its holding company structure that interact, charging each other for services. The SEC-Report from 2010 shows that Verizon Wireless, Verizon Business, Verizon Internet, and Verizon Long Distance pay Verizon New York fees for services, for example, for use of the networks, or for placing their charges on a customer’s bill.

However, a pattern emerges when we compare the affiliate revenues (Exhibit 18) and expenses (Exhibit 19) in the PSC-Annual reports with the SEC-Report for the same year, 2010.

Exhibit 18
Affiliate Transactions, Revenues to Verizon NY PSC-Annual, 2010

Cellco Partnership	$30,450,819
Empire City Subway Co	1,479,537
Vz Business Global LLC	22,914,401
Vz Global Networks Inc.	8,655,291
Vz Corporate Services Corp	29,270,127
Vz Corporate Services Group	5,366,675
Vz Data Services Inc.	11,471,465
Vz Services Operations Inc.	405,690
Vz Capital Corp	885,088
Vz Online LLC	766,012,603
Vz Long Distance LLC	71,536,937
Vz Select Services Inc.	5,155,880
Vz Services Corp	37,263,706
Vz California Inc.	2,103,439
Vz Delaware LLC	155,104
Vz New England Inc.	17,585,313
Vz Maryland Inc.	512,295
Vz New Jersey Inc.	623,249
Vz Pennsylvania Inc.	17,607,657
Vz Virginia Inc.	775,300
Vz Florida LLC	1,245,940
Vz North LLC	314,083
GTE Southwest	799,547
Vz South	173,016
All Other Affiliates under 100K	361,641
Total Affiliates	$ 1,033,124,803

Exhibit 19
Affiliate Transaction Expenses, 2010
PSC-Annual

Cellco Partnership	$3,830,914
Empire City Subway Co	95,278,432
Exchange Indemnity Co	60,530,941
Telesector Resources Group Inc.	1,168,953
Vz Business Global LLC	471,642
Vz Business Network Services Inc.	56,582,745
Vz Corporate Services Corp	304,331,755
Vz Corporate Services Group	231,929,448
Vz Corporate Resources Group	53,332,526
Vz Data Services Inc.	249,354,505
Bell Atlantic Administrative Services	2,050,146
Vz Network Funding Corp	429,328
Vz Select Services Inc.	3,248,160
Vz Services Corp	1,015,604,738
Vz Services Operations Inc.	21,627,025
Vz Services Organization Inc.	96,866,901
Vz North Inc.	104,426,258
GTE Southwest Incorporated	1,322,776
Vz California Inc.	767,597
Vz South Inc.	679,166
Vz Florida LLC	2,378,328
Vz New England Inc.	95,190,954
Vz Maryland Inc.	268,076
Vz New Jersey Inc.	2,393,026
Vz Pennsylvania Inc.	4,470,869
Vz Virginia Inc.	8,853,038
All Other Affiliates under 100K	166,808
Total	2,417,555,055

5.2 Mismatches of the SEC-Report and SEC-Annual for 2010

Comparing a few line items of the affiliate reports clarifies the mismatch of the data in the SEC-Reports vs the PSC-Annual Reports.

Exhibit 20
Comparing the Affiliate Transaction Payment to VNY Listed in the SEC-Report and the PSC-Annual for 2010
(In the Millions)

SEC-Report	Amount	PSC-Annual	Amount
Verizon Wireless Inc.	$95	Cellco Partnership	$30
Verizon Internet	$706	Vz Online LLC	$766
Long Distance	$0	Vz Long Distance LLC	$71

Above is a comparison of the payments from the affiliates to Verizon New York.

- **The names aren't the same —** Verizon Wireless and Cellco are the same company. But is Verizon Internet the same as Verizon Online?
- **The amounts aren't the same —** Verizon Wireless is paying $95 million according to the SEC report, while "Cellco" is paying $30 million in the PSC-Annual. (NOTE: "Cellco" was the official name of Verizon Communications' previous partnership of with Vodaphone, which was doing business under "Verizon Wireless".)
- **Almost none of the affiliate transactions listed in the PSC-Annual or Match the SEC-Report in name or amount —** There is no explanation why the names or the amounts don't match, and only one or two could be considered even close to matching.

5.2 Affiliate Transactions and Verizon New York, 1999-2010

Verizon's affiliate revenues and expenses have changed over the 15 years. This exhibit compares Verizon New York's "Total Revenues" (SEC-Report) and expenses to and from the Verizon affiliates. In 1999, affiliate transaction expenses were only 16% of the total revenues from affiliates, but by 2010 the expenses paid to the affiliates were more than double the revenues from them. (As mentioned, 2010 was the last publicly available SEC-based state report.)

Chart 3

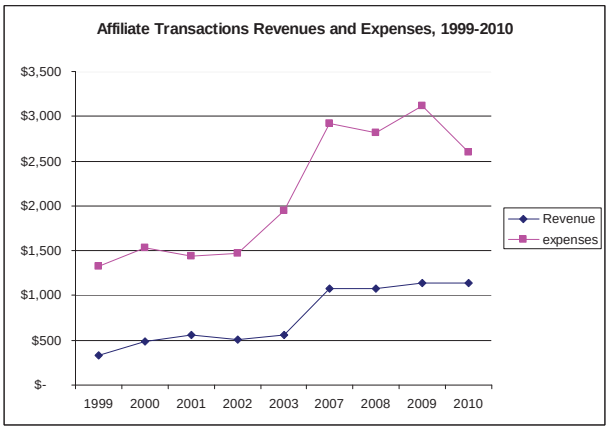

Exhibit 21
Verizon New York Revenues and Affiliate Expenses, SEC-REPORT 1999-2010
(In the Millions)

Affiliate	1999	2000	2001	2002	2003	2007	2008	2009	2010	Change
Revenue	$ 330	$ 486	$ 556	$ 504	$ 556	$1,073	$1,076	$1,136	$1,136	244%
Expenses	$1,323	$1,537	$1,437	$1,468	$1,946	$2,917	$2,821	$3,120	$2,604	97%
Total Revenues										
Revenues	8,424	$8,421	$8,340	$7,859	$7,330	$8,617	$8,225	$7,840	$7,221	-14%
Expenses	$6,827	$7,299	$8,068	$7,579	$8,330	$8,869	$8,519	$ 8,535	$9,100	33%
Affiliate Expenses /Total Revenue	16%	18%	17%	19%	27%	34%	34%	40%	36%	

(Source: Verizon New York SEC Annual Reports 1999-2010)

As previously discussed, Verizon stopped publishing their SEC reports in 2003, then started again in 2008, and stopped in 2010. Accordingly, there is no more recent data publicly available regarding the affiliate transactions, although there is still affiliate transaction information in the PSC-Annual reports.

5.3 Who is Verizon Services?

As seen in Exhibit 19, the largest expenses paid by Verizon New York to its affiliates are to “Verizon Services”. Exhibit 22 highlights 2009 and 2010 (from the SEC-Report for 2010) and shows a $3.7 billion charge from Verizon Services in expenses for just those two years.

Verizon Services is the corporate headquarters expenses. It is an unregulated entity that charges other Verizon business units for items that include corporate finance, external affairs, legal, media relations, employee communications and corporate advertising.

Exhibit 22
Verizon Services Expenses for Verizon, New York, 2009-2010
(In the Millions)

	2009	2010	Total
Verizon Services	$2,036	$1,710	$3,746

Verizon New York's 4th Quarter 2010 state-based SEC-Report states:

> "We have contractual arrangements with Verizon Services for the provision of various centralized services. These services are divided into two broad categories. The first category is comprised of network related services which generally benefit only Verizon's operating telephone subsidiaries. These services include marketing, sales, legal, accounting, finance, data processing, materials management, procurement, labor relations, and staff support for various network operations. The second category is comprised of overhead and support services which generally benefit all subsidiaries of Verizon. Such services include corporate governance, corporate finance, external affairs, legal, media relations, employee communications, corporate advertising, human resources, treasury, and rent expenses associated with the rental of facilities and equipment. Costs may be either directly assigned to one subsidiary or allocated to more than one subsidiary based on functional reviews of the work performed."[290]

To illustrate the complexity of Verizon's affiliate relationships, the following was included in the Verizon, New York 2010 SEC year end filing, discussing the roles of "Verizon Services Group," "Verizon Services Corp.," and "Verizon Corporate Services Group":

> "The consolidated financial statements include the accounts of Verizon New York Inc. and its subsidiaries. All significant intercompany accounts and transactions have been eliminated. We have a 66-2/3% ownership interest in Telesector Resources Group, Inc. (d/b/a Verizon Services Group) and share voting rights equally with the other owner, Verizon New England Inc. (Verizon New England), which is a wholly owned subsidiary of NYNEX. Verizon Services Group operates in conjunction with Verizon Services Corp. and Verizon Corporate Services Group Inc. (collectively known as Verizon Services) to provide various centralized services on behalf of Verizon's subsidiaries. We use the equity method of accounting for our investment in Verizon Services Group."

[290] http://www.verizon.com/investor/DocServlet?doc=otc_ny_4q_2010.pdf

PART VI: Specific Affiliate Companies and Payments to VNY

6.0 Verizon Wireless Payments to Verizon New York

According to Verizon Communications Inc.’s 2010 Annual Report, Verizon’s overall domestic wireless revenues were $60 billion for 2009 and $63 billion for 2010, with 89 million customers in 2009 and 94 million in 2010. In 2012, the company’s 2010 Annual Report showed $76 billion in domestic wireless company revenues with 98 million connections.

Verizon Wireless is a separate company. Up through 2013, it was a joint venture of the British firm Vodaphone and Verizon Communications, doing business as “Verizon Wireless”, and controlled by Verizon. Following the buyout of Vodaphone’s interest, Verizon now wholly owns Verizon Wireless.

Verizon Wireless, like other wireless providers, pays Verizon New York for use of the wireline networks, for construction of the fiber optic wires that go to every cell tower, (which are sometimes called “(special access”) and for advertising and marketing. For example, Verizon Wireless inserts its advertisements in the utility wireline telephone bill.

Items of interest include:

- **Access Fees and Billing and Collections** — There are connection fees paid for by Verizon Wireless to VNY for completing calls and billing services.
- **Advertising and Marketing** — As mentioned, when VNY sends out inserts with the local phone bill, many times it advertises the wireless service.
- **Construction Budgets** — Almost all wireless services connect to a wireline networks, from the cell towers and cell sites to a specific hot spot. Wireless companies should pay a fair share of costs incurred to handle wireless traffic from the cell towers.

6.1 Comparing AT&T Access Fee vs Verizon Wireless Payments to VNY

Verizon Wireless (as well as AT&T and Sprint) makes payments to Verizon New York called access fees. Some are “special access” fees for facilities wholly dedicated to the wireless provider. Others include billing and collection fees. The Benton Foundation explains special access fees this way:

> "Special access rates are the wholesale prices that large telephone companies — Verizon, AT&T, and Qwest — charge cell phone companies and smaller carriers for entree to their high-speed digital circuits. Special access circuits play a significant role in the availability and pricing of broadband service. For many broadband providers, including small incumbent LECs, cable companies and wireless broadband providers, the cost of purchasing these high-capacity circuits is a significant expense of offering broadband service, particularly in small, rural communities."[292]

Charges for "Billing & Collections" are a wide array of services that can include the accounting of wireless traffic from multiple carriers, including details of the time and calling information required to do billing.[293] These services can be related to special access services or end user telephone bills.

6.2 SEC-Report: Payments by AT&T, Verizon and Sprint

It is possible to compare the access fees that are paid by Verizon Wireless to VNY with fees paid by competitor wireless services companies, AT&T and Sprint. In 2010, Verizon Wireless had 94.1 million subscribers, AT&T Wireless had 95.5 million subscribers and Sprint-Nextel had 44.5 million nationwide.[294]

Exhibit 23
Verizon, AT&T and Sprint Wireless Subscribers, 2008-2010[295]
(In the Thousands)

	2009	2010
Verizon	89,172	94,135
AT&T	85,120	95,536
Sprint	39,953	44,521

[292] Benton Foundation, Ensure that Special Access Rates, Terms and Conditions are Just and Reasonable, http://benton.org/node/33292

[293] Two examples of Billing and Collections,
Centurylinkhttp://www.centurylink.com/wholesale/pcat/thirdpartybillcollectsvcs.html
Cingular Wirelesshttp://www.consusgroup.com/previews/271279/

[294] This information was derived from the 2010 SEC annual reports for the corporate holding companies of Verizon AT&T and Sprint

[295] Sources:
- Verizon: 2010 EX-13 7 dex13: Portions of Verizon's Annual Report to Shareowners
- AT&T EX-13 8 ex13, AT&T INC. 2010 Annual Report
- Sprint FORM 10-K Sprint Nextel Corporation , For the fiscal year ended December 31, 2010

The following information is in Verizon New York's SEC 2010 4th quarter filing's discussion of the access and billing and collection fees paid by Sprint/Nextel and AT&T.

> "Concentrations of credit risk with respect to trade receivables, other than those from AT&T Inc. (AT&T) and Sprint Nextel Corporation (Sprint), are limited due to the large number of customers. We generated revenues from services provided to AT&T and Sprint (primarily network access and billing and collection) of $237 million and $104 million in 2010 and $279 million and $119 million in 2009, respectively."[296]

The Verizon New York 2010 4th Quarter SEC filing explains that Verizon Wireless' revenue payment to VNY is for "network access and billing and collections".

> "Verizon Wireless: Our operating revenues include transactions with Verizon Wireless Inc. (Verizon Wireless) associated with the provision of local and network access services, billing and collection services and from interconnection agreements. These revenues are earned from Verizon Wireless who provides wireless voice and data services, paging services and equipment sales to their customers." [297]

As shown in Exhibit 24, Verizon New York's 2010 SEC-Report shows that Verizon Wireless paid only $78 million to Verizon New York in 2009 and only $95 million in 2010. Verizon Wireless paid about $200 million less than AT&T Wireless paid in 2009, even though AT&T and Verizon have virtually the same numbers of subscribers. Verizon Wireless paid even less than Sprint, which has less than half of the subscribers of Verizon Wireless.

Exhibit 24
Verizon Wireless Payments to Verizon NY, Compared to AT&T and Sprint, 2009-2010
(In the Millions)

	2009	2010	2 Year Total	AT&T	Verizon Underpay
Verizon Wireless	$78	$95	$173	$343	$377
AT&T	$279	$237	$516		
Sprint	$119	$104	$223		

There is no indication that VNY provided more services to AT&T and Sprint than it did to Verizon Wireless. However, we can not determine from this information, which is taken

[296] Verizon, New York SEC Annual Report for the Year ending December 31, 2010
[297] Verizon New York, for the year ending December 31, 2010, page 21

directly from the Verizon NY SEC-Report, the specific charges that constitute these payments to VNY.

6.3 Estimate of AT&T, Verizon and Sprint Wireless Subscribers in New York

The previous exhibit used Census data for national and state populations and the FCC's data on telecommunications revenue by state. This next exhibit supplies New York State wireless customers by carrier.

We estimate that Verizon Wireless customers account for 6.6% of the national whole, as shown in estimate below.[298]

Exhibit 25
Estimated New York State Wireless Subscribers, 2009-2010
(In the Thousands)

	2009	2010
Verizon	5,885	6,213
AT&T	5,618	6,305
Sprint	2,637	2,938

6.4 Average Payment to VNY per New York State Wireless Customer by Carrier

It would appear that Verizon Wireless paid 72% less than AT&T or Sprint in 2009 and 58% less in 2010 to Verizon New York.

Exhibit 26
Estimated Average Annual Payment per Subscriber to VNY

	2009	2010	2009	2010
Verizon	$13.22	$15.29		
AT&T	$49.66	$37.62	3.76x	2.46x
Sprint	$45.77	$35.39	3.46x	2.31x

[298] We base this estimate on the following:

- 6.4% is the New York State portion of the US census of population, as of 2007 –(Source: *Time Almanac*, 2009)
- 6.8% FCC, Table 15.5:Total Telecommunications Revenues by State: For New York for the year 2005, Trends in Telephone Service, published 2008. We note that the FCC stopped publishing their data in 2007.

Caveats

- There is no detailed data on Verizon Wireless payments to Verizon New York.
- There is no detailed data on payments by Sprint/Nextel or AT&T to Verizon New York.
- We assume Verizon has a larger market share of the wireless markets in their incumbent territories, including New York.
- We are using Verizon New York data for 2010 because since then the company stopped publishing its state-based annual reports to the SEC, and such data is not in the PSC-Annual reports.
- It is unclear exactly what is covered in these payments. For example, AT&T could be paying for connecting their long distance service.

6.5 Is Verizon Wireless Paying VNY Fair Compensation for Advertising, Customer Names and Customer Acquisition?

There are no reciprocal payments itemized in the SEC-Reports from Verizon Wireless to Verizon New York for advertising or marketing fees, even though there are clear indications, e.g., the bill inserts where Verizon Wireless is marketing and advertising to VNY's wireline customers.

a) Marketing & Advertising Use of Customer Names, Lists, Free Advertising

There are numerous services for Verizon Wireless that warrant further scrutiny**.**

- Is Verizon New York's list of customers' names, addresses and other pertinent information about the customer used for the benefit of Verizon Wireless?[299]
- Are Verizon New York's phone bill inserts and advertising inserts used for the benefit of Verizon Wireless?

b) Are Verizon New York's Utility POTS Customers being Migrated to Verizon Wireless? — Customer Acquisition.

Customer acquisition is the cost to a wireless carrier to secure a new customer or have a customer return after leaving.[300] While each company is different, Leap Wireless and

[299] The sale of customer lists is prohibited: "No telegraph corporation or telephone corporation shall sell or offer for sale any names and/or addresses of any of its customers whose listings have been omitted from the telephone company's published directory at the request of the customer." N.Y. Public Service Law 91.5.
[300] NOTE: CPGA is the *Cost Per Gross Addition* (*CPGA*) *Definition* | Investopedia
http://www.investopedia.com/terms/c/cpga.asp

Clearwire,[301] for example, averaged $150-250 dollars per customer in 2011-2012 for customer acquisition expense.[302]

After the Sandy "Superstorm", Verizon New York simply started began to transfer its wireline customers to an affiliated company, Verizon Wireless. Verizon Wireless is "upselling"' the customers to a wireless broadband service, Jet Pack, which is being sold to those who previously had DSL service over the old copper wire but can no longer get this service.[303] There is also the issue of whether Verizon New York is 'reselling' Verizon Wireless service, (using Voice Link, a 2G-styled wireless service that cannot handle data applications), when it supplants unrepaired copper service with a Verizon Wireless service.

6.6 Use of Wireline Construction Budgets for Wireless

Fran Shammo, Verizon's Executive Vice President and Chief Financial Officer stated to investor representatives that wireline construction budgets have been diverted to charge regulated wireline budgets for the less regulated wireless affiliate's construction needs.

> "The fact of the matter is Wireline capital — and I won't get the number but it's pretty substantial — is being spent on the Wireline side of the house to support the Wireless growth. So the IP backbone, the data transmission, fiber to the cell, that is all on the Wireline books but it's all being built for the Wireless Company." [304]

The wireless-wireline construction budget relationship has surfaced in other contexts. Multiple press releases by Verizon pertaining to Verizon New York wireline construction expenditures outline how wireless towers are now deemed to be part of the 'wired construction' budgets.

[301] Clearwire paid from 143-242 in 2012. http://www.fiercewireless.com/story/clearwire-confirms-verizon-bid-spectrum-still-aims-sprint-deal/2013-04-25.
[302] Leap wireless paid $228 per customer in 2011, http://www.leapwireless.com/ar2011/downloads/Leap_4Charts+PM_050112.pdf.
[303] New Networks interviewed numerous Fire Island Verizon residential and business customers in 2013.
[304] Thomson Reuters Edited Transcript, Verizon at Goldman Sachs Communacopia Conference, Sept. 20, 2012, http://www22.verizon.com/investor/DocServlet?doc=goldman_vz_transcript_092012.pdf.

It's All Interconnected.

The headline of the Verizon NY press release reads:

> **"**Verizon Invested More than $1.5 Billion in New York's Wireline Communications, IT Infrastructure in 2011."[305]

The text states, however, that the fiber optic cell towers for wireless services are a wired product.

> "Accelerated deployment of fiber-optic links to wireless carriers' cell sites throughout New York as these carriers expand their infrastructure to meet ever-growing demand for wireless broadband and advanced 4G services. In 2011, Verizon deployed fiber optics to connect 1,848 of these sites in the state."[306]

In 2013, Verizon issued an almost identical press release, and while the headline about the wireline construction budget stayed the same, this new release added Connecticut expenditures, perhaps masking Verizon's shrinking investment in New York.

> "Verizon Invested More than $1.5 Billion on New York's and Connecticut's Wireline Communications, IT Infrastructure in 2012."[307]

And again the wireless network expansion is concededly funded through the VNY wireline construction budgets.

> "Continued deployment of fiber-optic links to wireless providers' cell sites throughout New York and Connecticut, as these carriers expand their infrastructure to meet ever-growing demand for wireless broadband and advanced 4G services. In 2012, Verizon deployed fiber optics to connect 867 of these sites in the two states."[308]

This use of VNY wireline budgets to support buildout of wireless services appears to be a Verizon-wide practice. In 2011 then-president of Verizon New Jersey, Dennis Bone gave a speech on the future of telecommunications in the state. He was quoted as saying that

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[305] Press Release, "Verizon, Verizon Invested More Than $1.5 Billion in New York's Wireline Communications, IT Infrastructure in 2011", Feb., 12, 2012 http://www.bizjournals.com/prnewswire/press_releases/2012/02/15/NY54012.
[306] Ibid.
[307] Press Release, "Verizon, Verizon Invested More Than $1.5 Billion on New York's and Connecticut's Wireline Communications, IT Infrastructure in 2012," Feb. 25, 2013 http://newscenter.verizon.com/corporate/news-articles/2013/02-25-ny-ct-infrastructure-investment/.
[308] Ibid.

landlines are now relics and that Verizon is investing in its broadband networks, including wireless. Note the apparent distinction between 'land lines' and 'broadband networks'.

> "Landlines are also becoming relics, Bone said, noting Verizon has lost 60 percent of its traditional landline business in the past decade. Meanwhile, Verizon is heavily investing in its broadband network, pumping $3.5 billion in New Jersey into the network over the past five years. The future also includes the full roll-out of the 4G wireless network by 2013, offering up to 10 times faster connectivity and less latency than current 3G networks."[309]

Why was the Verizon New Jersey President, who ran the wired network, promoting wireless deployments, which are offered by a different company that Verizon New Jersey does not control and is supposed to be working with at arms-length? Based on these statements, it appears that the utility company was spending money on Verizon Wireless' 4G wireless networks. The article states:

> "deployment of fiber-optic links to wireless providers' cell sites throughout New Jersey as these carriers expand their infrastructure to meet ever-growing demand for wireless broadband and advanced 4G services. In 2010, Verizon deployed fiber optics to connect more than 1,660 of these sites."[310]

Does this mean that Verizon, New Jersey, the wireline utility, was charging local phone customers for construction budgets used to expand the wireless networks?

In interviews with IBEW staff in New Jersey during 2012, we were told that instead of upgrading the wireline services, including DSL, the staff was being put on projects to build out the wireless networks throughout the state. Ratepayers pay rates that include network maintenance costs that were contemplated by regulators when rates were last set but which may never be incurred, as in New York or New Jersey. POTS ratepayers may have funded new, expensive wireless service that is not subject to price regulation and which can earn unlimited returns.

[309] Local Talk News, "New Jersey Must Prepare Itself for Rapid Advances in Telecommunications Technology to Capitalize on Business Opportunities," May 5, 2011, http://localtalknews.com/state/news/862-new-jersey-must-prepare-itself-for-rapid-advances-in-telecommunications-technology-to-capitalize-on-business-opportunities.html.
[310] Ibid.

Part VII Examining the Revenues in Detail

7.0 "Black Hole Revenues" and "LD Consolidation": Comparing PSC-Annual to SEC-Report

Comparing the SEC-Report with the PSC-Annual report, there is a major difference in revenues, the bulk of which is something called "LD Consolidation". In 2009 it was $2.587 billion in revenues and the related expenses are $1.732 billion, showing a profit margin of approximately 33%.

We call LD Consolidation "Black Hole Revenues" because there is no information about this line item in either the SEC or PSC reports.

Exhibit 27
Excerpt from Verizon NY PSC Filed Annual Report with LD Consolidation, 2009

Revenues	
1) Annual Report to PSC	5,176
Empire City Subway Co. (Ltd) accounts	10
→ LD consolidation	2,587
Uncollectibles Included in Exp (see #2)	67
Annual Report to Bondholders	7,840
Expenses	
2) Annual Report to PSC (Done)	6,293
Empire City Subway Co. (Ltd) accounts	(17)
Reclass Affilate MKUP from Non Oper to Oper Exp (See #3)	15
Uncollectibles Included in Exp (see #1)	67
Other Costs of sales/Service (See #3)	1
(G)/L on Sale of Oper Assets (See #3)	(38)
Other State and Local Tax (See #3)	472
Other G&A Expense (See #3)	8
Gross Receipts Tax (See #3)	4
→ LD consolidation	1,732
Annual Report to Bondholders	8,534

Exhibit 28
Verizon New York Revenues and Expenses and "LD Consolidation", 2009
(In the Millions)

Revenues	$7,840
Expenses	$8,534
LD Consolidation Revenues	$2,587
LD Consolidation Expenses	$1,732
Difference	$855
Margin	33.00%

7.1 "LD Consolidation" Most Likely Represents the Affiliate Transactions or the Subsidiaries Bought in 2008.

In 2008, Verizon New York bought or merged with Verizon Long Distance, Verizon Enterprise Solutions and Verizon Advanced Data Info (VADI).

From the Verizon NY PSC-Annual 2009:

- "Verizon Long Distance LLC — Provides long distance services to the consumer market — 100%"
- "Verizon Enterprise Solutions LLC — Provides long distance services to the business market — 100%"

> "Note: The last two items (LD and Enterprise Solutions) were acquired on 12/31/2008."

However, the 2010 SEC-Report explains this in a different way and also mentioned a company called Verizon Advanced Data Info, "VADI".

> "In December 2008, Verizon long distance, a provider of regional toll and long distance services, merged with Verizon New York.
>
> "On September 28th, 2008, the equity interest of Verizon Advanced Data Info (VADI) a provider of new exchange access services and a wholly owned subsidiary of Verizon was merged into Verizon New York."

7.2 The Names Don't Match.

The Verizon NY 2010 SEC-Report lists a company called Verizon Internet Services, Inc. and it would appear to be the same company as "VADI".

> **"Verizon Internet Services Inc.** "Our operating revenues include transactions with Verizon Internet Services Inc. (Verizon Internet Services) associated with the provision of network access and billing and collection services. These revenues are earned from Verizon Internet Services who utilizes our facilities to provide Internet access services to their customers."

As we will discuss, when attempting to map the flows of money among the Verizon entities the differences in these financial books reveal a number of serious issues. However, it would appear that this company is doing billing and collections and network access, which would also be Special Access and it could be part of the "LD Consolidation" revenues — the black hole revenues.

7.3 Overall Verizon New York Revenues, Expenses and Profits --- Local Service, Access Fees and Non-Regulated, 2009-2012

The revenue areas of the PSC-Annual reports classified in the following buckets:

- **Local Network Services Revenues** (Local service from the utility) — This includes basic local service. Other local exchange service includes “Calling Features”.
- **Network Access Services Revenues** — Access payments and regulated special access payments.
- **Long Distance Network Service Revenues** — From long distance calls within the state of New York made or received by Verizon New York customers.
- **Miscellaneous Revenues** — Typically services that were previously regulated but are no longer, including voicemail and inside wire maintenance.
- **Uncollectible Revenues** — Monies where the company wasn’t paid for billed services.

Exhibit 29 reproduces the page listing all of the revenues in the PSC-Annual report for the years 2009 and 2010.

Exhibit 29
Verizon New York Operating Revenues, 2009 and 2010

42. OPERATING REVENUES				
Line No.	Item (a)		This Year Total (b)	Last Year Total (c)
	LOCAL NETWORK SERVICES REVENUES			
1	5001	Basic Area	1,431,319,969	$1,611,426,857
2	5002	Optional Extended Area Service	0	0
3	5003	Cellular Mobile	56,698,365	66,827,797
4	5004	Other Mobile Services	0	0
5	5010	Public Telephone	0	0
6	5040	Local Private Line	95,461,427	99,125,063
7	5050	Customer Premises	0	2,155,811
8	5060	Other Local Exchange	393,123,418	459,834,987
9	5069	Other Local Exchange Settlements	0	0
10		Total Local Network Services Revenues	1,976,603,179	2,239,370,515
	NETWORK ACCESS SERVICES REVENUES			
11	5081	End User	450,904,038	501,362,756
12	5082	Switched Access	159,663,458	164,313,609
13	5083	Special Access	1,339,680,356	1,293,349,556
14	5084	State Access	170,533,345	214,888,551
15		Total Access Services Revenues	2,120,781,198	2,173,914,471
	LONG DISTANCE NETWORK SERVICES REVENUES			
16	5100	Long Distance Message	58,969,770	62,415,493
17	5111	Long Distance Inward-Only	(3,856)	(19,407)
18	5112	Long Distance Outward-Only	1,432,552	2,011,683
19	5121	Subvoice Grade Long Distance Private Network	3,152,009	5,026,597
20	5122	Voice Grade Long Distance Private Network	11,540,009	13,816,584
21	5123	Audio Program Grade Long Distance Private Network	0	0
22	5124	Video Program Grade Long Distance Private Network	0	0
23	5125	Digital Transmission Long Distance Private Network	54,885,203	53,680,071
24	5126	Long Distance Private Network Switching	0	0
25	5128	Other Long Distance Private Network	0	0
26	5129	Other Long Distance Private Network Settlements	0	0
27	5160	Other Long Distance	0	0
28	5169	Other Long Distance Settlements	297,119	655,442
29		Total Long Distance Network Services Revenues	130,272,806	137,586,464
	MISCELLANEOUS REVENUES			
30	5230	Directory	32,378,047	37,680,396
31	5240	Rent	356,442,477	443,725,468
32	5250	Corporate Operations	0	0
33	5261	Special Billing Arrangements	(585,581)	52,253
34	5262	Customer Operations	1,275	91
35	5263	Plant Operations	769,792	1,125,240
36	5264	Other Incidental Regulated	39,244,701	35,582,397
37	5269	Other Settlements	0	0
38	5270.1	Interstate Billing and Collection	58,882,499	0
39	5270.2	Intrastate Billing and Collection	20,451,444	82,855,142
40	5280	Nonregulated	507,324,528	363,182,341
41		Total Miscellaneous Revenues	1,014,909,181	964,203,327
	UNCOLLECTIBLE REVENUES			
42	5301	Uncollectible-Telecommunications	52,374,352	48,742,901
43	5302	Uncollectible-Other	14,235,334	13,025,753
44		Total Uncollectible Revenues	66,609,686	61,768,654
45		TOTAL OPERATING REVENUES	5,175,956,679	$5,453,306,123
46	FOOTNOTE: USF Revenues $.....		XXXXXXXXXX	XXXXXXXXXX
47		Recorded in Account:	XXXXXXXXXX	XXXXXXXXXX

The numbers on the left side, starting with 5001 are the standard Uniform System of Accounts (USOA numbers) that have been used for decades at both the FCC as well as the State commissions, including the NYPSC.

When one examines Exhibit 29, one will see no FiOS Broadband, no Internet or TV categories; parts of their service revenues may or may not show up on this report. And there is not enough information about these products in the PSC financial reports to track the flows of money to and from Verizon New York from the Verizon affiliates.

7.4 Changes in Revenues

As shown in Exhibit 30 and displayed in the next chart, from 2009 through 2012 VNY's non-regulated revenues grew 114%. Access fees have been growing but one category, special access, grew 18% from 2009 through 2012. However, while local service revenues declined 30%, this decline appears to be accompanied and offset by the growth in revenue from non-regulated local service, where, in four years, the revenues went from half-a-billion to $1 billion.

Chart 4

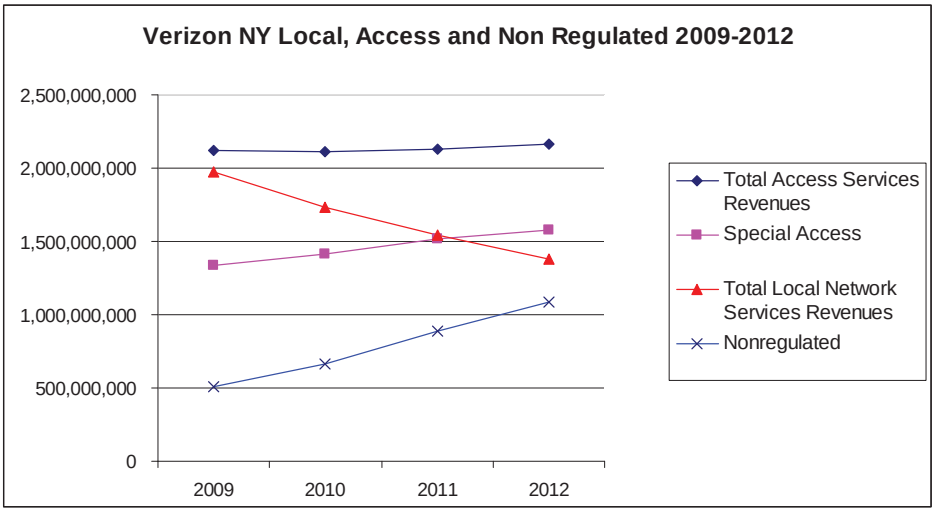


Exhibit 30
Verizon NY Regulated Access Revenues, PSC-Annual Report, 2009-2012

	2009	2010	2011	2012	Change
Total Access Services	$2,120,781,198	$2,109,161,592	$2,132,670,734	$ 2,165,171,279	**2%**
Special Access	$1,339,680,356	$1,414,376,283	$1,519,146,310	$ 1,580,436,909	**18%**
Total Local Network	$1,976,603,179	$1,730,932,492	$1,542,931,776	$ 1,375,749,352	**-30%**
Non-regulated	$ 507,324,528	$ 660,086,132	$ 884,190,220	$ 1,083,902,973	**114%**

7.5 Non-Regulated Revenues

As shown in Exhibit 30, one obvious item for consideration is the growth of non-regulated services, which went from $507 million to $1.083 million, a 114% increase in just 4 years. Historically, this category was for voice mail, inside wire maintenance, or call waiting, Caller ID, etc.

However, it appears that this area might show the effect of the migration of local service POTS customers to the FiOS products, although the phone service does not represent the entire FiOS service but only part of the offering.

7.6 Revenues and Expenses for 2012

By 2012, the Verizon New York revenues for access fees had eclipsed the revenues from regulated-POTS basic local service.

Chart 5

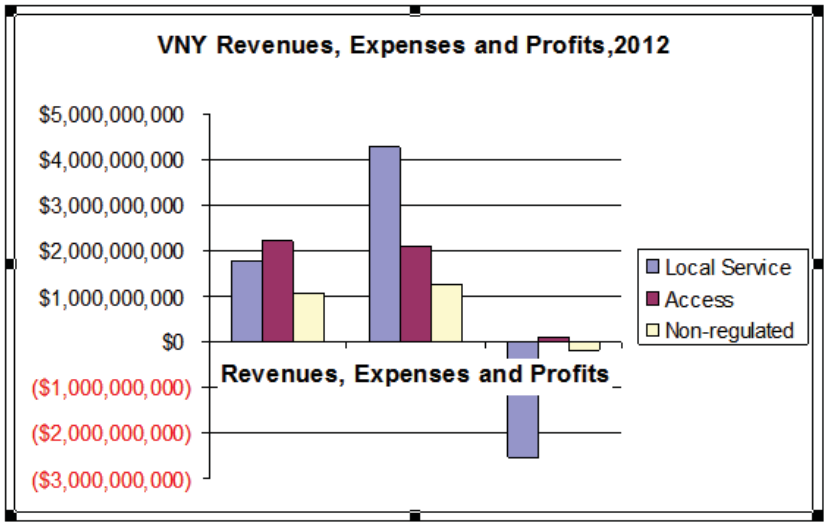


Exhibit 31
VNY Revenues, Expenses and Profits—Local Service, Access and Non-Regulated Services, 2012

	Revenues	Expenses	Profits
Local Service	$ 1,758,142,000	$ 4,283,147,475	$ (2,525,005,476)
Access	$ 2,198,910,719	$ 2,108,604,578	$ 90,306,141
Non-Regulated	$ 1,081,956,488	$ 1,264,850,850	$ (182,894,362)

But the local service expenses were 244% of revenues for local service, while expenses were 96% of revenues for access. Thus the access fee area is profitable, while the utility side that handles local service appears to have lost 144% with a $2.5 billion loss in 2012.

Exhibit 32
VNY Revenues, Expenses and Profits Local Service, Access and Non-Regulated Services, as a Percentage, 2012.

	Expenses	Profits
Local Service	244%	-144%
Access	96%	4%
Non-regulated	117%	-17%

7.7 Overall State Regulated Revenues and Expenses

State regulated revenues and expenses are "separated" between the state (PSC) and federal (FCC) jurisdictions. Exhibit 33 gives a glimpse of how the state local side of the regulated books is paying the lion's share of expenses, from networks costs to corporate operations.

Exhibit 33
Verizon New York Regulated Utility Revenues and Expenses, 2009

	State	Federal	Total without unregulated	State %	Federal %
Total Revenue	$2,534,358,520	$2,198,777,558	$4,733,136,078	54%	46%
Local Service	$1,967,513,614	$9,089,566	$1,976,603,180	100%	0%
Networks Access	$170,725,934	$1,950,055,264	$2,120,781,198	8%	92%
Expenses	$3,647,707,672	$1,844,052,116	$5,491,759,788	66%	34%
Net	($1,113,349,151)	$354,725,443	($758,623,708)	**-144%**	**16%**
	-144%	16%			
Plant Specific	$1,382,073,863	$716,167,037	$2,098,240,900	66%	34%
Plant Non-Specific	$360,151,251	$194,672,401	$554,823,652	65%	35%
Corp. Operations	$532,192,602	$259,977,526	$792,170,128	67%	33%
Subtotal	$2,895,291,339	$1,430,256,886	$4,325,548,225	67%	33%
Deprec. & Amort	$752,416,333	$413,795,230	$1,166,211,563	65%	35%
Total Expenses	$3,647,707,672	$1,844,052,116	$5,491,759,788	66%	34%

Let's go through this slowly:

- "State" — State Regulated Financials
- "Federal" — Interstate Regulated Revenues
- "Total without Unregulated" — The total revenues and expenses when state and federal are combined.

- “State %” — Compares the state total revenues and expenses with the other categories.
- “Federal %”— Compares the total federal revenues and expenses with the other categories.

Reading Across:

- Total Local Service Revenue — There was a total of $4.7 billion in revenues, and State represented 54%, while Federal was 46%. On the expense side, State had 66% of the expenses, while Federal had 34%.
- However, when we look at the “Net”, we find that State service lost 144% while Federal was profitable with a 16% gain. For all of the expenses listed, the local side paid 66% of the expenses, but on the Federal side, the ‘access’ side, paid only 34%.

Other Details of the State Regulated vs the Federal Regulated Revenues:

- There was only a 13% difference between the State and Federal revenues.
- The Net had a 132% difference, with the Federal side showing a margin of $355 million as compared to a loss of $1.1 billion on the State side.
- Network Access: The local regulated side only shows $171 million in revenue while the Federal side has $1.9 billion with the Federal side getting 92% of the revenues. (See Part 8.0 below.)
- The State overall expenses were 144% of revenues as compared to the Federal being only 84%
- All of the expenses on the State side are 65% of total expenses, including plant, or corporate operations.

The conclusion: The “State” side, the regulated local service side, is paying the majority of expenses as compared to the “Federal”, interstate side.

Part VIII Special Access

8.0 Regulated Special Access

A closer look at the 'access' revenues in the next exhibit reveals that 92% of the $2.1 billion collected in access service revenues goes to the federal side. The bulk are special access revenues at $1.3 billion, as compared to the $170 million for the 'state' access charges.

Exhibit 34
Verizon New York, Regulated Access Revenues, 2009

	State	Federal	Total	State vs Total
5081 End User		$ 450,904,038		
5082 Switched Access		$ 159,663,458		
5083 Special Access		$ 1,339,680,356		
5084 State Access	$170,533,345			
Total	$170,533,345	$ 1,950,247,852	$2,120,781,198	8%

- There are no specific break outs of the costs allocated to each financial bucket.

8.1 Special Access Buckets: Regulated vs "Black Hole" Revenues

The revenues for special access in the 2009 PSC-Annual information are from the original special access for "TDM" services. This is as opposed to "IP" (Internet Protocol) digital special access services.

Thus, FIOS, the Internet, broadband, video and TV services, as well as Verizon Wireless all use special access wires and services. There is no indication that these revenues are part of the special access 'regulated' books.

As we stated above, there appears to be a 'black hole revenue' area that is found in the SEC-Report financials of $2.7 billion in 2009, and it would appear that revenues from these access services (or some portion) can be found in this 'black hole' area.

For example, if Verizon Online services are included, this would mean that there was an additional $648 million for just 2009 in the "black hole revenues" and would not be part of the regulated books.

Verizon Business, one of the affiliates, is using 'network access' as well as Verizon Wireless. These are services bought from Verizon New York that pay revenues. And most of these are fiber optic-based. This means that this revenue is most likely not reported in the regulated

side. (We do not know if 'Verizon Business' is the same as 'Verizon Business Enterprise', which was one of the companies merged into Verizon New York.)

These are Verizon's explanation of the revenues that were paid to Verizon New York, from Verizon Business and Verizon Wireless in the 2010 SEC-Report.

> **"Verizon Business:** Our operating revenues include transactions with Verizon Business associated with the provision of network access services, wholesale interconnection service agreements and from billing and collection services.
>
> Our operating expenses also include transactions with Verizon Business. We recognize costs associated with interconnection agreements and capacity services agreements.
>
> **"Verizon Wireless Inc.** Our operating revenues include transactions with Verizon Wireless Inc. (Verizon Wireless) associated with the provision of local and network access services, billing and collection services and from interconnection agreements. These revenues are earned from Verizon Wireless who provides wireless voice and data services, paging services and equipment sales to their customers."

8.2 Special Access: Is Verizon Wireless Paying Less Than Competitors to VNY?

We addressed this issue previously, but in the 'Special Access' category, it becomes even more pertinent. The following information is in VNY's SEC 2010 4th quarter discussion of the access and billing and collection fees paid by Sprint/Nextel and AT&T:

> "Concentrations of credit risk with respect to trade receivables, other than those from AT&T Inc. (AT&T) and Sprint Nextel Corporation (Sprint), are limited due to the large number of customers. We generated revenues from services provided to AT&T and Sprint (primarily network access and billing and collection) of $237 million and $104 million in 2010 and $279 million and $119 million in 2009, respectively."[311]

The VNY 2010 4th quarter SEC filing explains that Verizon Wireless' revenue payments to VNY are for "network access and billing and collections". [312]

[311] Verizon, New York SEC Annual Report for the Year ending December 31, 2010.
[312] Verizon New York, for the year ending December 31, 2010, page 21

> “Verizon Wireless: Our operating revenues include transactions with Verizon Wireless Inc. (Verizon Wireless) associated with the provision of local and network access services, billing and collection services and from interconnection agreements. These revenues are earned from Verizon Wireless who provides wireless voice and data services, paging services and equipment sales to their customers.”

VNY’s 2010 SEC-Report shows that Verizon Wireless paid $78 million in 2009 and $95 million in 2010. Verizon Wireless paid about $200 million less than AT&T paid in 2009, even though AT&T and Verizon have virtually the same numbers of subscribers nationally. Verizon Wireless paid even less than Sprint, which has less than half of the subscribers of Verizon Wireless. There is no indication that VNY provided more services to AT&T or Sprint than it provided to Verizon Wireless.

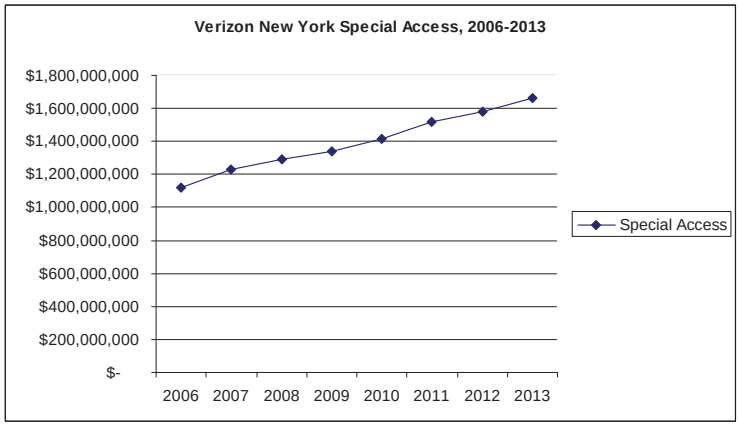
8.3 Special Access on the Regulated Books vs the Other Books

The Verizon New York data brings up a whole series of questions. The FCC stopped publishing any data about special access in 2007. However, based on the PSC-Annual special access information and tracking by year, the numbers simply don’t add up and it appears that the special access data from the FCC is leaving out revenues on the state level, but also ‘black hole’ revenues that could also be special access.

According to the FCC’s last published data, New York State represented about 7% of Verizon’s national special access lines and minutes. Verizon New York’s special access revenues in New York has increased 48% since 2006.

Using this data, this would mean that by the end of 2013, nationwide, the regulated side of special access could be approximately $23.4 billion.

Chart 6



This gives the special access revenues that are part of Verizon New York's regulated books and the probable size of the "total" regulated, special access markets for the U.S.[313]

Exhibit 35
Special Access, as Part of the State-Based Utility Accounting, 2006-2013
(In the Millions)

	2006	2007	2008	2009	2010	2011	2012	2013
Verizon NY	$ 1,121	$ 1,229	$ 1,293	$ 1,340	$ 1,414	$1,519	$1,580	$ 1,659
Total US Revenues	$15,986	$17,486	$18,360	$ 9,278	$20,242	$21,254	$22,317	$23,433
		9.7%	5.2%	3.6%	5.6%	7.4%	4.0%	5.0%

It appears that the FCC has never included any of the affiliate transactions or the black hole revenues that appeared in the Verizon New York SEC-Report in any year.

With wireless having major growth and with the installation of fiber optics wires to the cell towers, which are special access but are not price capped or rate-of-return regulated and would not be covered in the regulated PSC-Annual books, as well as the growth in broadband, Internet or video services and traffic over the networks, which again, are not part of the regulated books but are special access, the revenues could literally be double the amount for 2013.

[313] 2013 is a New Networks' estimate.

We estimate that in 2013, nationwide, special access revenues could have been over $45 billion dollars. This figure contradicts most other industry analysis because they are based on the FCC's statistics as a starting point.[314]

8.4 Access Line Declines vs Total Lines

To close this loop about the financial accounting we need to examine the access line accounting. Verizon's has both regulated books, as well as different accounting areas, such as the black hole revenues, which have no specifics.

Access line accounting used by Verizon New York also shows that there is a correlation between the numbers presented to the public and the actual lines in service.

This exhibit supplies Verizon, New York's supplied "Switched Access Lines", the types of lines for the accounting of POTS customers. [315]

Exhibit 36
Verizon New York Access Line Accounting, 2006-2013
(In the Millions)

	2006	2007	2008	2009	2010	2011	2012	2013
Access Lines	7.9	7.2	6.5	5.9	5.3	4.1	3.5	**3.3**

But these numbers only account for the POTS, Plain Old Telephone Service, customers and there are other categories of lines that reflect the other revenues that have not been made public.

This next exhibit from the FCC's SOCC report for 2007, shows that there was an additional accounting of 'non-switched' lines, for a total of 46.8 million lines in just New York State; switched access only constituted 15% of lines in service in the year 2007.

We also added 2006 from the FCC SOCC report, which shows that while the 'main access lines' and other switched lines declined from 2006, total lines increased in 2006 through 2007 from 43 million to 47 million access lines.

[314] http://www.huffingtonpost.com/bruce-kushnick/special-excess-the-secret_b_4714439.html
[315] The information in Exhibit 36 is taken directly from a) the FCC's last SOCC report for the years 2006 and 2007; b) the SEC-Report for 2008-2010, c) the PSC-Annuals for 2011 and 2012, and New Networks estimated the line accounting for 2013.

Exhibit 37
Verizon New York Access Lines, 2006-2007

		2007	2006
Switched Access Lines in Service:			
Main Access Lines		4,658,451	5,116,406
PBX & Centrex Trunks		460,379	463,709
Centrex Extensions		999,354	963,213
Other Switched Access Lines		1,064,404	1,417,158
Total Switched Access Lines		7,182,588	7,960,486
Central Office Switches Excluding Remote Switches		301	301
Remote Switches		300	299
Central Office Switches		601	600
Basic Rate ISDN Control Channels		62,486	67,019
Primary Rate ISDN Control Channels		14,952	14,442
Access Lines in Service by Customer:			
Business Switched Access Lines:	Single Line	145,466	151,497
	Multiline/Other Than Payphone	2,677,605	2,799,836
	Payphone Lines	88,614	99,305
Residential Switched Access Lines:	Lifeline	263,473	276,013
	Non-Lifeline/Primary	3,584,790	4,137,632
	Non-Lifeline - Non-Primary	422,640	496,203
Total Switched Access Lines		7,182,588	7,960,486
Special Access Lines (Non-Switched):	Analog (4kHz or Equiv)	25,765	27,279
	Digital (64kbps or Equiv)	39,615,573	35,005,428
Total Access Lines (Switched and Special)		46,823,926	42,993,193
Local Private Lines		595,918	592,305

(FCC Statistics of Common Carriers, for the Year Ending December, 31, 2007)

One must ask: Where are the 40 million other lines in Verizon New York? There is no data provided in either the SEC-Report or the PSC-Annual Report or the FCC about the total number of VNY lines in use in the State of New York past the year 2007, the last accounting available from the FCC.

However, these missing lines also reflect directly onto the revenues in the non-regulated and black hole areas as the revenues are generated via a wire— a communications line, whether it is copper or fiber.

Part IX Fiber Optics and Construction Budgets

9.0 Verizon New York Capital Expenditures, 1991-2012

Chart 7 presents construction budgets from 1991 through 2012 for Verizon NY, with the horizontal bar being the 'average' based on this 21 year time-frame. This is based on the data in Exhibit 38.

Chart 7

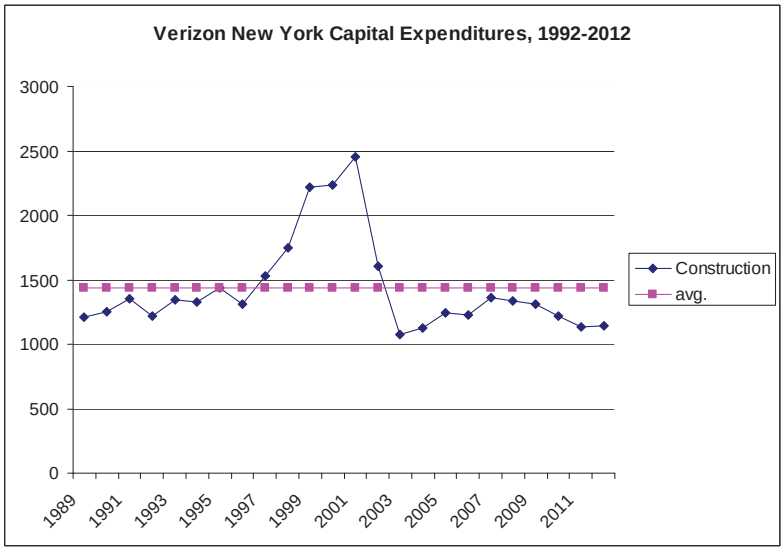


Exhibit 38 shows the capital expenditures for selected years, taken directly from the SEC-Reports, the FCC's ARMIS data and the PSC-Annual reports.

Exhibit 38
Verizon New York Capital Expenditures for Selected Years, 1992-2012[316]
(In the Millions)

	1992	1996	2000	2004	2008	2012
Construction	$ 1,221	$ 1,308	$ 2,235	$1,126	$ 1,335	$1,141

We omitted 2013 because Verizon' construction information combined New York and Connecticut and it cannot be determined how much was spent in New York State alone.[317]

[316] For space issues, we only showed every 4 years.
[317] Verizon Connecticut covers Greenwich and Byram and we do not know the capital expenditures for the state.

9.1 Verizon New York Wireline Construction Expenditures: FIOS

Below is an excerpt from Verizon New York’s press release discussing wireline construction budget expenditures for 2011 in New York (and Connecticut). It features FiOS TV, (a cable service), FiOS Internet (an information service), Home Monitoring, and wireless and businesses services).

> “Verizon's major wireline infrastructure programs last year included:[318]
>
> - Continued deployment of the company's award-winning, 100 percent fiber-optic FiOS TV and FiOS Internet services. In 2011, Verizon extended FiOS service to more consumers and businesses in the state, with the services available to nearly 3 million New York homes and businesses at year's end.
> - Launched Home Monitoring & Control, which provides customers with remote access, control and monitoring of doors, thermostat controls, appliances and home-energy use.
> - Accelerated deployment of fiber-optic links to wireless carriers' cell sites throughout New York as these carriers expand their infrastructure to meet ever-growing demand for wireless broadband and advanced 4G services. In 2011, Verizon deployed fiber optics to connect 1,848 of these sites in the state.
> - Verizon Enterprise Solutions oversees all of Verizon's solutions for business and government customers, including its portfolio of enterprise mobility, cloud and IT, strategic networking and advanced communications offerings; specialized solutions for key industries such as health care, travel and transportation, retail, utilities and financial services; IT consulting services; and the company's full range of global wholesale offerings.

9.2 Comparing the SEC-Report and PSC-Annual Capital Expenditure Budgets

Comparing the SEC-Report vs PSC-Annual financials for construction budgets we find that Verizon New York’s SEC-Report shows $1.2 billion was spent, and it is virtually identical to the PSC-Annual report; there is only a $12 million difference — about 1%.

[318] http://newscenter2.verizon.com/press-releases/verizon/2012/verizon-invested-more-than-6.html

Exhibit 39
Verizon New York Capital Expenditures, 2010
(In the Millions)

	A	B	C	D
1	Verizon New York Income Statement for the Year 2010			
2		1	2	
3		Annual	Annual	
4		Report to	Report To	Difference
5		Bondholders	The PSC	
6				
7	Operating Revenues	$ 7,221	$ 4,982	$ 2,239
15	Cash Flows from Investing Activities			
16	Capital expenditures	$ (1,216)	$ (1,204)	$ (12)

And this happened in every year. Comparing the VNY's SEC-Report filed 4th quarter 2009 report with Verizon New York's State-Annual reports for revenues and construction budgets we find that SEC-books showed $7.8 billion in revenues while the State-Annual report showed only $5.2 billion in revenues. An additional $2.7 (rounded) billion in revenues is not shown in the PSC-Annual reports.

However, the total construction budgets in both sets of books were almost identical; thus, at least $2.7 billion in revenues had no discernable additional construction expenditures.

Chart 8

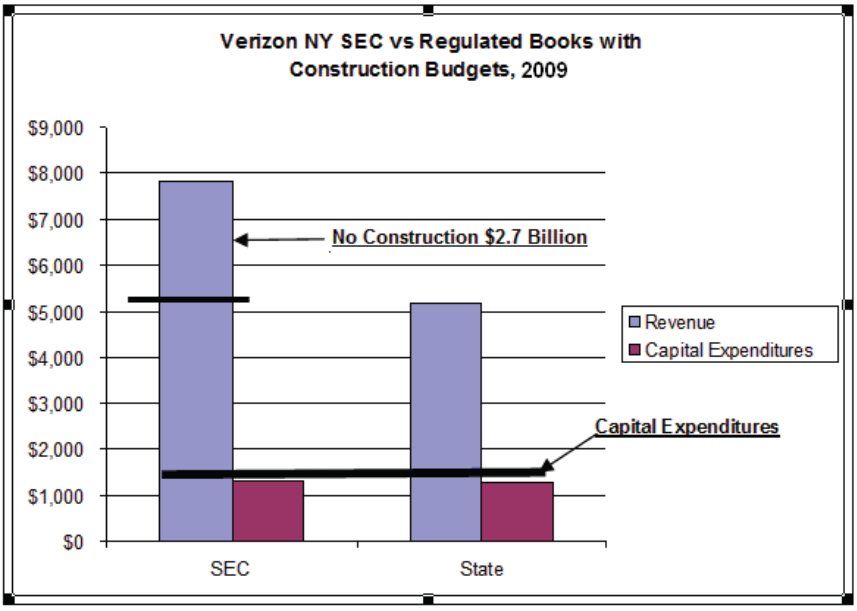


Exhibit 40
Revenues and Capital Expenditures: SEC vs State Utility Accounting, 2009
(In the Millions)

	SEC	State	Difference
Revenue	$7,840	$5,176	$2,664
Capital Expenditures	$1,315	$1,305	$10

Part X: Verizon’s’ FiOS Services, Cable TV, Broadband, Internet or Phone, Rides Over a Title II, Common Carriage, Telecommunications Network.

Below is an excerpt taken directly from Verizon NJ’s current franchise agreement with the New Jersey Board of Public Utilities, acknowledging that Verizon’s FiOS rides over a Title II, fiber optic, common carriage telecommunication service. Verizon New Jersey’s cable franchise agreement details this fact.

> “Verizon NJ has been upgrading its telecommunications facilities in large portions of its telecommunications service territory so that cable television services may be provided over these facilities. This upgrade consists of deploying fiber optic facilities directly to the subscriber premises. The construction of Verizon NJ’s fiber-to-the-premises FTTP network (the FTTP network) is being performed under the authority of Title II of the Communications Act of 1934 and under the appropriate state telecommunications authority granted to Verizon NJ by the Board and under chapters 3 and 17 of the Department of Public Utilities Act of 1948. The FTTP network uses fiber optic cable and optical electronics to directly link homes to the Verizon NJ networks.
>
> “Pursuant to the NJSA 45:5A-15, telecommunication service providers currently authorized to provide service in New Jersey do not require approval to upgrade their facilities for the provision of cable television service.
>
> “As such any construction being performed in the public rights of way is being undertaken pursuant to Verizon NJ authority as a telecommunication service provider.”
>
> > b) Provide, as appendices to this section, system construction specifications. If not applicable, please explain why.
>
> “Not applicable. Pursuant to N.J.S.A. 48:5A-15, telecommunication service provided currently authorized to provide service in New Jersey do not require approval to upgrade their facilities for the provision of cable television service
>
> “As noted, Verizon N has been upgrading substantial portions of its telecommunications network with FTTP technology as a common carrier pursuant to Title II of the Communications Act of 1934 and in accordance with its authority to operate granted Board and in accordance with Chapter 3 and 17 of Title 48 (N/.J/.S.A : 48)

> "As such, any construction being performed in the public rights of way is being undertaken pursuant to Verizon NJ's authority as a telecommunication service provider."[319]

The Verizon New Jersey FiOS cable franchise clearly gives the intent of having the public switched telephone networks, the PSTN, as the primary network that Verizon's FiOS services travel over.

The Verizon New York City cable franchise also makes it clear that Verizon's FiOS services is riding over a "FTTP" fiber to the premises, service that Verizon ambiguously contends is provided under Title II of the federal Telecommunications Act, common carriage, the New York State Transportation Corporations Law, § 27, giving telephone companies power to install lines; or Title VI, of the Telecommunications Act, relating to cable television:

> "WHEREAS, the Franchisee is in the process of upgrading its existing Telecommunications Services (as hereinafter defined) and Information Services (as hereinafter defined) network through the installation of the FTTP Network (as hereinafter defined) in the Franchise Area (as hereinafter defined) which transmits Non-Cable Services pursuant to authority determined by Franchisee to have been granted by Section 27 of the New York Transportation Corporations Law, as amended, and Title II of the Communications Act, which Non-Cable Services are not subject to the Cable Law (as hereinafter defined) or Title VI of the Communications Act; and WHEREAS, the FTTP Network will occupy the Public Rights-of-Way (as hereinafter defined) within the City, and Franchisee desires to use portions of the FTTP Network to provide Cable Services (as hereinafter defined) throughout the entire territorial boundaries of the Franchise Area; and
>
> 1.24. FTTP Network: The Franchisee's fiber-to-the-premise telecommunications network in the Franchise Area as described in the Application

Using Title II, common carriage, and Section 27 of the New York Transportation Corporations Law for telecommunications services gives Verizon all of the 'rights-of-way', such as power to enter upon private property to install fiber lines, and other benefits of the utility, including regulated rate increases to POTS customers for the 'massive deployment of fiber optics.

The power of a telephone company to install FiOS lines can be invoked for other services as Verizon stated in its DC cable franchise, from 2007.

[319] http://www.verizon.com/about/community/nj_swf_renewal.htm

> "Verizon began the construction of its Title II FTTP network in 2004; Therefore Verizon was able to initiate cable service to some residences after the execution of the cable franchise agreement." [320]

The Verizon District of Columbia's Cable Franchise outlines the extent of Verizon's FiOS deployment and highlights that Verizon used the same justification— installation of Title II telecommunications facilities — to install fiber optic lines in multiple jurisdictions.[321]

As of August 3, 2007, affiliates of VZ DC hold cable television franchises (both local and state issued) covering 835 jurisdictions in areas of Texas, Indiana, Virginia, Maryland, Florida, California, Pennsylvania, New York, New Jersey, Delaware and Massachusetts, Oregon, and Rhode Island. As of the end of June, 2007, FiOS TV service was available to more than 3.9 million premises in 12 of the states where the Fiber to the Premises (FTTP) network is being constructed: California, Delaware, Florida, Indiana, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Texas and Virginia. 515,000 customers subscribed to FiOS TV as of the end of June 2007.

Verizon affiliates currently hold cable franchise agreements in the following local franchising authorities in the State of Maryland: Howard County, Montgomery County, Barnesville Town, Brookeville Town, Chevy Chase Town, Chevy Chase Section 5 Village, Chevy Chase Section 3 Village, Chevy Chase View Town, Garrett Park Town, Glen Echo Town, Kensington Town, Laytonsville Town, Martin's Additions Village, North Chevy Chase Village, Poolesville Town, Somerset Town, Takoma Park City, Washington Grove Town, Prince Georges County, Berwyn Heights, Bladensburg, Brentwood, Cheverly, College Park, Colmar Manor, Cottage City, District Heights, Edmonston, Glenarden, Greenbelt, Hyattsville, Landover Hills, Morningside, Mt. Rainier, New Carrollton, North Brentwood, Riverdale Park, Seat Pleasant, University Park, Upper Marlboro, City of Bowie, City of Laurel, Anne Arundel County, City of Annapolis, Baltimore County, Anne Arundel County, City of Annapolis, Baltimore County and Highland Beach.

Verizon affiliates currently hold cable franchise agreements in the following local franchising authorities in the Commonwealth of Virginia: Arlington County, Fairfax County, Town of Vienna, Town of Herndon, City of Falls Church, City of Fairfax, Town of Clifton, Prince William County, Town of Dumfries, Loudoun County, Town of Leesburg, Spotsylvania County, City of Fredericksburg, Henrico County, Chesterfield County, City of Richmond, City of Virginia Beach and City of Newport News.

Verizon currently provides cable service in Montgomery County, Maryland; the cable franchise agreement was effective as of November 28, 2006 and Verizon initiated cable service in the County on December 5, 2006. Verizon also provides cable service in Fairfax County, Virginia; the cable franchise agreement was effective as of October 1, 2005 and Verizon initiated cable service in the County on November 25, 2005. In both counties, Verizon began the construction of its Title II FTTP network in late 2004. Therefore, Verizon was able to initiate cable service to some residents soon after the execution of a cable franchise agreement.

[320] Before the District of Columbia Application for Cable Television Franchise by Verizon, Washington, DC, Inc. 8/29/07
[321] Ibid.

It’s All Interconnected.

Let us be very clear. This describes a fiber optic, FTTP network that is a telecommunications service as part of the Telecommunications Act of 1934. And Verizon DC was not seeking permission for building these networks, only to use the networks, once installed, for cable TV service.

> **The proposed cable service will be provided over VZ DC’s FTTP network, an extension and enhancement of the existing telecommunications network. A general description of the construction of the FTTP network is provided in Attachment 4.**
>
> **VZ DC will install its FTTP network as a common carrier pursuant to Title II of the Communications Act of 1934, as amended, in accordance with its authority under DC and Federal law. Accordingly, VZ DC is not seeking authority through this Application to construct the FTTP network, but rather is seeking a franchise to use the FTTP network, once installed, to provide cable services in the District.**

The next section will examine some of the implications of Verizon deploying a Title II, telecommunications, common carriage, Fiber-to-the-Premises (FTTP) service where FiOS products — cable TV, high-speed Internet and VoIP phone service, are using these networks.

PART XI Legal and Regulatory Policy Issues

11.0 Implications of the Report’s Findings

The findings of this report call into question the regulatory framework of Verizon New York’s and America’s telecommunications, Internet, broadband and cable service regulatory operations.

- Verizon’s FiOS services are not the wires: “FiOS” is a ‘brand’ name of a group of products — cable TV, Internet, and a voice over Internet protocol (VoIP) service.
- According to Verizon’s own cable franchise, the service travels over a fiber optic wire, ‘FTTP’ (which stands for “Fiber-To-The-Premises”), and is defined as a “Title II”, telecommunications, common carriage service, based on the Telecommunications Act of 1934 (as amended in 1996).
- In New York, this FTTP network has been funded since 2006 by various rate increases on residential and business ‘basic service’, sometimes called “POTS”, Plain Old Telephone Service” voice phone service that is provided by VNY, the state-based utility subsidiary of Verizon Communications. The rate increases in New York were granted, in part, based on Verizon’s claim it was for ‘massive deployment in fiber optics’.

Verizon has argued that FiOS broadband and Internet are “information” services, which are classified as “Title I”, while FiOS cable TV service would be “Title VI”. With notable exception, VoIP, the phone service, is also “Title I”. A Title I ‘information service’ generally and lacks the same obligations as Title II telecommunications.

- Is Verizon NY charging POTS customers for information services or the development of a cable service?
- Do these services contribute fairly to VNY fair use of the networks?
- If customers funded the Verizon FTTP in New York and it is Title II, does that mean that the FTTP, fiber optic lines are part of the regulated utility — as compared to being a ‘separate’ business whose revenues go into different financial books of less regulated affiliates?
- If it is Title II and funded by customers, does that mean that everyone within the VNY territory should be able to get an FTTP high-speed fiber optic service because of the utility’s statutory and common law obligation to serve?
- What are the repercussions for low income customers and customers in areas without fiber lines?

These distinctions and classifications of the networks and the traffic over them are at the heart of major current communications issues.

First, the issue of these networks being Title II or an information service directly relates to the current Open Internet Order at the FCC and Net Neutrality, which is supposed to provide safeguards to make sure that a customer's Internet service is not degraded or slowed or impacted in any way.[322]

In 2005, the FCC ruled that broadband, which was telecommunications, and Internet access, which was an information service, would be reclassified and joined as an 'information' service.[323]

In the Net Neutrality debate, those calling for the 'reclassification' of broadband to Title II believe this would assure that Net Neutrality is enforceable as the broadband component of telecom obligations and network owners would be required to serve all — including competing companies — at reasonable prices without discrimination.

At the same time, in defiance of so-called net neutrality incumbent phone and cable companies, now want to charge major content providers premiums for data delivery to their customers, leading to protests from Netflix and others.[324]

Second, it is also at the heart of the "IP transition" from "TDM" to IP networks. (Note: "TDM" is the term used for 'telecommunications' services.) AT&T has filed a petition at the FCC to start trials to 'close down' or sunset the phone networks, and remake them as "IP information" networks. This would allow AT&T to evade basic telecommunications obligations, such as 'carrier of last resort', so it would no longer have to provide phone service in their telecommunications franchise area.[325]

Third, it is about competition, including the rights of competitors, such as other local phone competitors (Competitive Local Exchange Companies) and independent Internet Service Providers (ISPs) and even wireless competitors to use and interface with the networks.

In 2013, AT&T sent letters to numerous competitors that the old TDM services on AT&T's networks, which handle the competitors' voice and data traffic, known as 'special access', were being replaced and going to "IP". AT&T was no longer going to offer long term

[322] http://time.com/82409/wheeler-net-neutrality/.
[323] http://www.convergedigest.com/2005/08/fcc-eliminates-mandated-line-sharing.html
[324] http://www.latinpost.com/articles/11698/20140503/net-neutrality-netflix-goes-directly-to-the-fcc-as-google-yahoo-and-other-may-launch-a-sopa-style-protest.htm
[325] http://www.latinpost.com/articles/11698/20140503/net-neutrality-netflix-goes-directly-to-the-fcc-as-google-yahoo-and-other-may-launch-a-sopa-style-protest.htm

contracts for those services. The FCC stepped in and started an investigation and halted AT&T's transition.[326]

The legal and regulatory landscape relating to the state-based telecommunications utilities and their obligations, which include Title II and common carriage, as well as some of the laws and regulations that pertain to Internet, broadband and FiOS services are described below.

However as of this writing, the FCC's Open Internet rules, the IP-transition and state laws are in flux.

For a timeline of legal events in New York, covering the rate increases, among other actions, please see APPENDIX 3.

11.2 Internet and Broadband

- The FCC regulates common carriers through Title II of the Telecom Act of 1934. Beginning in 2005, the FCC ruled that broadband Internet access service (referred to here as Internet access or high-speed Internet) was an "information service", subject only to Title I regulation.[328]
- That distinction was upheld by the US Supreme Court in *Brand X* as a reasonable, but not necessarily the most reasonable, interpretation of the Telecom Act.[329]
- In 2010, the FCC promulgated rules to ban discrimination by Internet providers against end users and against application providers, and to require disclosing their terms and conditions of service.
- In early 2014, the DC Circuit Court of Appeals decided the appeal from the FCC rules, in *Verizon v FCC*.[330] The Court held that the FCC was bound by the earlier decision that

[326] http://www.fiercetelecom.com/story/fcc-delays-atts-special-access-request/2013-12-10

[328] The Telecommunications Act of 1934 (as amended in 1996), defines "Information service" as: "The offering of a capability for generating, acquiring, storing, transforming, :processing, retrieving, utilizing, or making available information via telecommunications." (Title I, Section 3(20) of the 1934 Act)

[329] http://www.techlawjournal.com/topstories/2005/20050627b.asp

[330] http://www.cadc.uscourts.gov/internet/opinions.nsf/3AF8B4D938CDEEA685257C6000532062/$file/11-1355-1474943.pdf

> Internet access was an information service, and that information services thus could not be subject to common carrier, Title II anti-discrimination rules.

Among the many questions that remain without an FCC answer:

- Is VoIP a telecommunications service?
- Will the FCC reclassify Internet access as a telecommunications service — at least, in part subject to Title II?

11.3 What is FiOS in New York?

As an on-line dictionary states, FiOS:

> “Stands for "Fiber Optic Service." FiOS is a data communications service provided by Verizon that uses fiber optic cables to transfer data. FiOS is called a "Fiber to the Premises," or FTTP service, since it brings fiber optic data transmission to residential homes as well as businesses. Since fiber optic technology sends data via pulses of light, it is the fastest method of transferring data.
>
> While FiOS is currently used primarily for Internet access, it can also be used for digital cable and voice over IP (VoIP) services. For this reason, FiOS is considered to be a potential competitor to both cable and Internet Service Providers.[331]

Whether “FiOS” Internet access is an information service – not subject to Title II – or a telecommunications service, subject to Title II, or some combination of I and II, the question remains, what about the digital cable service Verizon provides over those fiber facilities? Similarly, what about VoIP? And then there are the services provided by cable providers like Comcast and Time Warner.

- The treatment of information services should be as equal as possible under existing law, notwithstanding the Act’s distinctions among information and telecommunications services, the specific directions for wireless in §332 and for cable in Title VI, but all should be regulated to protect consumers.

[331] http://www.techterms.com/definition/fios.

- The FCC's Open Internet rules could be a significant step to ensuring consumer protection for Internet users, or it could end up being nothing more than window dressing.[332]

11.4 Utility Status

- VNY is a public utility.
    - Under long-standing New York law, utilities have an obligation to provide service to all within their service area.[333]
    - As public utilities, incumbent telecom companies in New York have franchises from local governments that previously, exclusively allowed them to be the sole provider in their franchise area. That franchise eroded over the years, and now there are alternatives – not necessarily substitutes — available in much, but not all, of the VNY franchise areas.[334]
    - As a common carrier, Verizon is subject to federal and state law for withdrawal of facilities and services.[335]
    - VNY is the dominant provider – in terms of facilities, customers and revenues — of telecom and information services, taken together, in its New York franchise areas.
    - Verizon retains many of the classic capabilities of utilities in New York, including access to public rights-of-way and the right to exercise eminent domain to require private property and easements.

Under Federal law, only Title II services are subject to the four enduring values — public safety, universal service, competition, and consumer protection"[336] of public utility service as shown by *Verizon v. FCC*.[337]

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[332] See http://www.fcc.gov/guides/open-internet.

[333] *New York, ex rel. C. Perceval, , v. The Public Service Commission for the First District and The New York Edison Company,* Supreme Court of New York, Appellate Division, First Department, 163 A.D. 705; 148 N.Y.S. 583; 1914 N.Y. App. Div. LEXIS 6955 (1914).

[334] Whether that represents "competition" has varying answers, depending on the analytical framework – e.g., antitrust -- and the "boots on the ground" experience in specific geographic markets.

[335] E.g., 47 USC § 214.

[336] See FCC 14-5 (rel. January 31, 2014) ("Transition Trials Order"), ¶ 23.

[337] http://www.cadc.uscourts.gov/internet/opinions.nsf/3AF8B4D938CDEEA685257C6000532062/$file/11-1355-1474943.pdf

11.5 Eligible Telecommunications Carrier (ETC) Status

- Defined in 47 USC 214(e)

- VNY is an ETC.[338]
- Time Warner is also an ETC in New York.[339]
- Once granted, ETC status can only be relinquished with NYPSC approval,[340] and only if there is another ETC serving the area.[341]
- Obligations of ETC status:

    - An ETC must offer, throughout the service area, the services that are supported by the Federal Universal Service Fund, FUSF.[342]
    - This includes Lifeline service, which is supported by the FUSF.[343]
    - The current definition of supported services is in 47 CFR § 54.101(a), which provides:

> "*Services designated for support.* Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part."

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[338] Case 94-C-0095 - *Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market, Order Designating Eligible Telecommunications Carriers, et al*., (Issued and Effective December 1, 1997). http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={E6A32BE5-A6D5-4DC1-A8CA-5AFD4D231B4B}.

[339] Case 94-C-0095 - *Order Designating Competitive Local Exchange Carriers as Eligible Telecommunications Carriers, Service Areas, and Granting Waivers* (Issued and Effective December 24, 1997). http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={CF9F28CB-B827-479D-BC2C-E8EA22BC08FB}.

[340] 47 USC §214(e)(4).

[341] Ibid.

[342] §214(e)(1).

[343] 47 USC § 254(a)(3); see 47 CFR § 54.505.

- Lifeline service is intended to be a shared goal of both federal and state governments.[344]
- Lifeline service is one tool to achieve affordable service – both telecommunications and information services -- for low-income customers.

11.6 Shutting Off the Wires, Substituting Wireless and then FiOS

After Superstorm Sandy, VNY proposed to substitute its Voice Link wireless service[345] for Verizon wireline service provided over facilities on Fire Island that Verizon deemed too costly to replace or repair.[346] It was unclear how that solution addressed VNY's ETC obligations. After public outcry, VNY proposed to use FiOS to restore service on the island. It remains unclear how this solution addresses VNY's ETC obligations.[347]

- It has not been determined that either Voice Link alone or FiOS meets the ETC standards.
- Specifically, there has been no determination that the prices Lifeline customers have to pay for the Voice Link or FiOS service (including voice telephony), even if reduced by the federal Lifeline support amount ($9.25),[348] meet the requirements of §254 for affordable service.[349]
- It appears that VNY has required Lifeline customers resident in multiple dwelling units (MDUs) where it has installed FiOS to subscribe to the lowest tier of FiOS, which is substantially higher in price than the VNY voice service it replaced.
- Voice Link does not itself allow current-standard Internet access or broadband service.
- The ETC issue is one involving federal law and state commission responsibilities, and has not been adequately addressed at either the federal or the state level in New York.

[344] 47 USC § 254.

[345] VNY said it was reselling Verizon Wireless service.

[346] The NYPSC proceeding is still open.

[347] Verizon in New Jersey has so far proposed only Voice Link for the Barrier Islands. No proceeding is pending there, however, despite a 2013 request by AARP.

[348] http://www.fcc.gov/guides/lifeline-and-link-affordable-telephone-service-income-eligible-consumers.

[349] 47 USC §254(b)(1).

Part XII FiOS, Copper and New York City and State

Key Terms:

- **"Passed"** — A phone company wire is somewhere near by.[350]
- **"Households" Passed —** Number of "housing units" near this phone company wire.
- **"Premises" Passed —** Number of households and businesses passed.
- **"Locations"** — Number of households and businesses passed.
- **"Businesses" —** Number of businesses passed.
- **"Take Up Rates"—** Percentage of actual subscribers.

12.0 How Many Municipalities are being Served by VNY FIOS?

According to *Newsday*, January 31, 2014, Verizon spokesman John J. Bonomo stated that Verizon had commitments to deploy FiOS fiber optic services in 182 communities.

> "Bonomo said the company is required to complete fiber-optic 'buildouts' in about 182 New York State communities where Verizon holds franchise contracts."[351]

In an interview on *WAMC* radio, November, 27, 2013, Bonomo claimed there are 183 municipalities in VNY's service territory that do or should be able to receive FiOS TV and the others FiOS products. VNY had no plans for expansion beyond these commitments.

> "But right now we have commitments to 183 municipalities where we need to complete 100% of our network. So we want to make sure that we make good on those commitments before we reach out and get new commitments. Of franchises in other communities, namely like Albany."[352]

According to Wikipedia, there are a total of 996 towns and cities in New York State.

> "This is a **list of towns in New York**. As of the 2010 United States population census, the 62 counties of New York State are subdivided into 932 towns and 62 cities."[353]

[350] Based on numerous interviews (and emails) with IBEW and CWA FiOS installers, a wire can be down the block, a few blocks away, or in some areas of New Jersey, the wiring can be in a 'central office' (a building that aggregates the wires in a neighborhood) or along a highway and be counted as passed.
[351] http://www.newsday.com/long-island/towns/brookhaven-officials-want-fios-expansion-1.6919245
[352] http://wamc.org/post/mayor-elect-city-leaders-call-verizon-fios-albany
[353] http://en.wikipedia.org/wiki/List_of_towns_in_New_York

With an estimate of 90% of coverage of New York State households by Verizon New York, based on the FCC's access line accounting, (see the next section), this would mean that 20% of towns have been or are being upgraded by Verizon New York for FiOS. (Verizon has only two towns in CT, Greenwich and Byram.)

11.2 How Many Customers Have or Can Get FIOS as of 2014?

According to Verizon New York's press release, Verizon has passed 3.7 million **premises** (business and residential) in New York State and their holdings in Connecticut.

> "Continuing deployment of the company's award-winning, 100 percent fiber-optic FiOS TV and FiOS Internet services. At year's end, FiOS services were available to more than 3.7 million homes and businesses in the two states New York and CT."[354]

11.3 Scorecard of New York City FiOS Franchise, April 2013

In April 2013, then-NYC Consumer Advocate De Blasio released a fact sheet outlining that Verizon was only half- done with the deployment of FiOS cable TV in New York City.[355]

Exhibit 31
New York City Population and Franchise, April, 2013

Borough	Population *	Housing Units*	Housing Units w/ Access to Fiber Broadband	% of Total Housing Units w/ Access to Fiber Broadband
Manhattan	1,585,873	847,090	423,000	49.9%
Brooklyn	2,504,700	1,000,293	404,000	40.4%
Bronx	1,385,108	511,896	235,000	45.9%
Queens	2,230,722	835,127	488,000	58.4%
Staten Island	468,730	176,656	168,000	95.1%
Total	**8,175,133**	**3,371,062**	**1,718,000**	**51.0%**

* Based on 2010 Census data

On April 26, 2013, the press release read:

> "Public Advocate Bill de Blasio today assailed the City and Verizon for falling behind schedule in providing access to high-speed Internet, especially in the lowest-income communities. Five years into one of the biggest franchise agreements issued by the city, roughly half of homes still have no access to fiber network connections—most of them concentrated in low-

[354] http://newscenter.verizon.com/corporate/news-articles/2014/03-19-ny-ct-2013-telecom-infrastructure-investment/#sthash.Iyddxe52.dpuf

[355] http://advocate.nyc.gov/sites/advocate.nyc.gov/files/FactSheet-FiberAvailability.pdf

> income areas like Upper Manhattan, the South Bronx, Western Queens and Central Brooklyn."[356]

11.4 Verizon Claims They Are on Now Track for Wiring All of NYC with FiOS.

According to a Verizon Interview in *The New York World*, March 28, 2014

> "Verizon is on pace to meet our obligations called for in the franchise agreement to run an all-fiber network throughout the entire five boroughs," said company spokesperson John Bonomo in an emailed statement. "We will complete the premises passed portion of the FiOS build in 2014, meaning we will have fiber up and down each street and avenue in the entire city, providing meaningful competition that benefits all City residents."[357]

11.5 The Math: FiOS Coverage in New York and CT.

The following supplies the raw census information for New York City and New York State's housing units and businesses.[358] (We've excluded the Connecticut portion which only includes Greenwich and Byram, CT.[359])

Exhibit 42
New York City and State Housing Units, Businesses and FiOS Deployment

	NYC	NY State	Verizon NY	Without NYC	Without NYC
Housing Units	3,371,062	8,123,051	7,310,746	3,939,684	54%
Business	944,129	1,956,733	1,761,060	816,931	46%
	4,315,191	10,079,784	9,071,806	4,756,615	52%
FIOS covered		41%	3,700,000		

- There are 3.4 million residential units and 944,000 businesses in New York City, while there are about 10.1 million business and residences, total, in New York State.
- Verizon New York covers approximately 90% of the state's population, based on using FCC-supplied data on phone lines.[360] This means that there are about 9.1 million 'premises'.

[356] http://archive.advocate.nyc.gov/verizon
[357] http://www.thenewyorkworld.com/2014/03/27/verizon/
[358] http://quickfacts.census.gov/qfd/states/36/3651000.html
[359] http://en.wikipedia.org/wiki/New_York_Telephone

- Outside of New York City, there are 3.94 million housing units and 816,931 businesses in New York State — 4.76 million total 'premises'.
- Basic math suggests that Verizon New York has passed about 41% of the 'premises' with FiOS in its New York State service territories.

There are obvious problems with these numbers that are not easily explained. If Verizon New York is on track to finish New York City, with having 3.4 million housing units passed, (not to mention the 944,000 businesses), then where does that leave the rest of the State's customers, which include residential and business customers?

11.6 Uptake Issues: New York State is Mostly Copper-Based.

According to Verizon Communications Annual Report for the year ending December 31, 2013, of the premises passed nationwide Verizon had about 40% 'penetration rate for FiOS Internet and 35% for FiOS video. i.e., FiOS Internet and broadband are sold separately from the cable TV services in some areas.

> "As of December 31, 2013, we achieved penetration rates of 39.5% and 35.0% for FiOS Internet and FiOS Video, respectively, compared to penetration rates of 37.3% and 33.3% for FiOS Internet and FiOS Video, respectively, at December 31, 2012."[361]

This means that of their 3.7 million households and businesses passed, Verizon NY only has, at best, only 40% are actual customers – 1.48 million customers.

We have not found public data on the total number of VNY copper lines in service. All that is available are the number of POTS customers from the 2012 PSC-Annual Report. Using just that statistic, the majority of lines, over 55%, are still copper.

11.7 VNY Utility Construction Budgets Funded FIOS Deployment

There is no separate data about the percentage of VNY expenditures for fiber optics vs for maintenance of the copper networks. However, we examined the issue nationally based on Verizon's statements for the deployment of FiOS, and found that there was no financial

[360] Using the FCC's Trends in Telephone Service for the years 1999-2004, Verizon New York had 90.3% of the total lines (called "Loops"). We used this timeframe as it represented a period before serious decline of lines from technology substitution. http://www.fcc.gov/reports?filter_terms[]=225

[361] http://www.sec.gov/Archives/edgar/data/732712/000119312514073266/d622994dex13.htm

bump to fund FiOS so the telephone utility construction budgets, starting in 2006, must have funded FiOS.[362]

This next exhibit is taken from Verizon Communications wireline construction budgets from 2000 through 2010 and shows that the PSTN funding was most likely slashed in half — i.e. that the copper utility plant’s budget was diverted to deploy fiber optic FiOS. There was no upward expense “bump”. corresponding to Verizon’s claim that they would or have spent at least $3.8 billion annually — a total of $23 billion. Nowhere to be found is there a significant increase in the Verizon national construction budgets.

For example, for 2010, the FIOS budget would have been 53%; the remaining part left for the utility would have been 47%.

Exhibit 43
Verizon Communications Capital Expenditures during FIOS Deployment, 2000-2010

A	B	C	D	E	F	G	H	I	J	K	L
	2000	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
Verizon	$ 12,119	$ 11,480	$ 8,004	$ 6,820	$ 7,118	$ 8,276	$10,259	$ 10,956	$ 9,757	$ 8,892	$ 7,269
FIOS						$ 3,833	$ 3,833	$ 3,833	$ 3,833	$ 3,833	$ 3,833
PSTN						$ 4,443	$ 6,426	$ 7,123	$ 5,924	$ 5,059	$ 3,436
% spent on PSTN						54%	63%	65%	61%	57%	47%
FIOS BUMP						$ 12,109	$14,092	$ 14,789	$13,590	$ 12,725	$ 11,102

After the Sandy storm in October 2012, Lowell McAdam, Chairman and CEO of Verizon Communications, speaking at the Citi Global Internet Media and Telecommunications Conference in January 2013, said that Verizon's new "mantra" is "Don't fix the copper wires":

> “When we had the impact of Sandy, our mantra was you will not fix copper. So if copper got into any kind of a damaged situation and FiOS was in the vicinity, or we could run FiOS down an adjacent street and get into there, we would cut the copper out of service.”[363]

Moreover, there has been an overall decline in spending by Verizon Communications on wireline construction, copper or fiber. In 2013, the company expanded its initiatives in Europe, Asia, Africa and South America.

[362] http://www.huffingtonpost.com/bruce-kushnick/the-great-verizon-fios-ripoff_b_1529287.html
[363] http://newnetworks.com/verizoncitijan2013a.pdf

> “Although overall Wireline capital expenditures declined in 2013 compared to 2012 primarily as a result of decreased legacy spending requirements and a decline in spending on our FiOS network, we furthered our Global IP network expansion initiatives into Europe, Asia, Africa and South America, as well as the continued deployment of the industry’s first commercial 100G Gbps technology on U.S. and European backbone routes. More than 13,000 100G Ultra-Long-Haul route miles were added to the global IP network in 2013, and we plan to further extend our 100G technology in 2014.”[364]

[364] http://www.sec.gov/Archives/edgar/data/732712/000119312514073266/d622994d10k.htm

Part XIII Affiliates and Verizon New York — An Actual Bill

13.0 Affiliate Service Charges on an Actual Verizon New York Small Business Bill

The following is with a mark-up of a small business single-line phone bill that had multiple affiliate charges. This bill is from a Verizon New York utility customer who thought he had just a standard business line.

The affiliates appear to have taken over the bill.

- Verizon New York, which is the utility providing the line, is not even mentioned on the bill.
- The bill has charges from different Verizon affiliate companies/partners
  - Verizon Online
  - Verizon Business — (which is referred to as ‘Verizon Enterprise Solutions’ (VES) though elsewhere on the bill it calls the package ‘Verizon Solutions’. The names don’t match those on the bill.
  - Verizon Long Distance — There is unlimited long distance, which is rated at $13.00 but nowhere is there a break out of ‘interstate’ (crossing state lines) vs. ‘intrastate’ (within the state boundraries) which matters for tax issues.
  - Intuit — This charge is for a web related service by a non-affiliated company.

Exhibit 44: Verizon New York Small Business Bill, Mark Up, 2011

verizon

Phone Number	Account Number	Date Due	Page
718-XXX-XXXX	718 XXXXXXXXXX	7/11/11	3 of 4

Rammed: Only Needs "Basic"

Due Date Wrong

Verizon Solutions for Business Includes:

- Solutions Bundle Main Line – 2 Yr 58.00

(includes $13.00 for long distance on all lines included in the bundle)

Makes No Calls

- Voice Line
- Calling Features
- Unlimited Nationwide Calling

High Speed Internet 47.99

NYdw SLDP 3_5MD 2YR PROMO –46.00

($5.00 off LD, $41.00 off Internet)

$59.99

Questions? No Charge since 1990's

Rammed: Doesn't Have Computer

Verizon Online Account

XXXXXXXXXXXX

Additional Services

Additional Services include items you selected that are not included in your bundle.

Rammed: Doesn't Have Computer

Dates Don't Match Due Date

What Happens After Discounts?

Local & Long Distance Taxes Merged

"VES" is not Verizon Solutions for Business

Paying Verizon's Taxes

Two Universal Fund Charges

Breakdown of Charges

Can't Find on Web Site

Verizon Solutions for Business Jun 16 – Jul 15

Verizon Solutions for Business	105.99
NYdw SLDP 3_5MD 2YR PROMO	–46.00
Total Verizon Solutions for Business	**$59.99**

Where's Dialtone?

Voice Additional Services

Monthly charge for dial tone Jun 16 – Jul 15	.00
Anonymous Call Rejection Jun 16 – Jul 15	.00
Touch–tone Jun 16 – Jul 15	.00
Call Answering Business Jun 16 – Jul 15	.00
Business Link Rewards Program Jun 16 – Jul 15	.00
VES FirmRate Advantage M– 12/10/10	.00
Minimum Spend Levels (COMM)	$0.00

Baloney Charge

VES Federal Access Charge	1.60
Total Voice Additional Services	**$1.60**

Internet Additional Services

Intuit WebListings Premium Apr 13 – May 12	14.99
Website Gold Hosting Apr 13 – May 12	19.99
Intuit WebListings Premium May 13 – Jun 12	14.99
Website Gold Hosting May 13 – Jun 12	19.99
Total Internet Additional Services	**$69.96**

Specials and Promotions

WS Gold_WL or Plat 1YR CR thru Dec 16, 2011	–34.98
($34.98 off Internet)	
Total Specials and Promotions	**–$34.98**

Taxes, Fees & Other Charges

ice

Federal Tax	.18
State and Local taxes	5.67
VES NY State Tax	.07
VES NY Local Tax	.08
County emergency services surcharge	1.00
FCC Line Charge	6.35
Municipal Surcharge	1.17
NY State/MTA Surcharge	1.75
NY Gross Income Tax Surcharge	.20
NY Gross Receipts Tax Surcharge – Long Distance	.41
Federal Universal Service Fund Surcharge	.95
VES Universal Service Fund Surcharge	.20
VES NY Gross receipts surcharge	.05
VES NY Metropolitan Transit Authority Surcharge	.02
Total Taxes, Fees & Other Charges	**$18.10**

Truth in Billing Violation

13.1 Issues Surrounding this Verizon NY Customer Bill and the Affiliates.

This list of charges indicates that Verizon New York’s regular business POTs utility service, as seen with no charge for “dialtone”, is being circumvented by these affiliates.

Exhibit 45
List of Charges with “0” Verizon New York’s Regular POTs Service, “Dialtone”, 2011

Monthly charge for dial tone Jun 16 – Jul 15	.00
Anonymous Call Rejection Jun 16 – Jul 15	.00
Touch–tone Jun 16 – Jul 15	.00
Call Answering Business Jun 16 – Jul 15	.00
Business Link Rewards Program Jun 16 – Jul 15	.00
VES FirmRate Advantage M– 12/10/10	.00
Minimum Spend Levels (COMM)	$0.00

It could be that this person had these services prior to the new services being put on the bill.

13.2 The Flows of Money

- It could be that Verizon’s affiliates are acting like a CLEC, (Competitive Local Exchange Company) where the monies are paid to the separate subsidiary and then these companies rent the line from Verizon New York — i.e., Verizon’s Business Solutions receives retail payments, and it pays some part back to Verizon to wholesale the line.
- Or it could be that Verizon New York receives the money but then pays fees to Verizon Enterprise Solutions, which is listed in the PSC-Annual as supplying long distance to business, as well as has revenue splits to Verizon Online if their charges do.
- The Verizon affiliates appear to have a preferential deal as these funds would not go into the Verizon ‘regulated’ books but end up in the SEC-Report “black hole” revenues. Thus, the affiliates may be not paying what competitors pay — or have a volume discount that only they can use. Or that they are given special privileges that only the affiliates can use these networks, such as Line sharing of the DSL.
- Access Line Accounting — If this is a ‘CLEC line” it is no longer counted in the Verizon switched access line counts, i.e.— this is no longer a VNY POTS customer.
- Access Line Accounting — Since it has DSL on the line, it, too may be another reason that it is not be counted as a switched access line.
- It is impossible to figure out where all of the monies are in the books. Using the USOA accounting standard, would mean that different parts of the DSL line, the calling features, the Intuit web site, the ‘online revenues’, won’t be counted as ‘local service’ or even part of other buckets like “other revenues’ for the DSL line.

13.3 Taxes

- There is no clear explanation of these taxes. The taxes and surcharges are mixed via multiple affiliates with no identification of how these charges are applied.
- Example: There are two Universal Service Fund charges; one charge is for $.92 cents and it is overcharged by $.03 as it is applied to the FCC Line Charge. The second charge, which is $.20, should be applied to the “Unlimited Long Distance”.
- There are no ‘breakouts’ of the long distance service interstate-vs intrastate, and the $.20 can’t be correct. They appear to be ‘undercharging’ the USF. If the split of interstate-intrastate is 60%-40%, and the USF for this month (July 2011) was 14.4%, on the total that would be $1.87.
- The undercharging on this charge may mean that the company is not paying the proper amount of USF to the government, while overcharging the customer on the other service.
- There are a number of taxes, fees and surcharges that are charged to Verizon New York, but as is indicated, they are ‘pass-throughs’ to the customer, in addition to the basic rate.

13.4 Truth in Billing, Truth in Advertising Issues

- There are a host of issues, from the simple fact that there are multiple names for Verizon Enterprise Solutions or that the name “Verizon New York” doesn’t appear anywhere on the VNY bill.

.

But the bottom line is that this customer was a POTS business customer who was put on services from the affiliates that he did not order, need or could even use and it cost the customer over $50 extra a month for years. Without oversight of the affiliate transactions, there is no tracking of any of these issues. Meanwhile, the customers may be shunted to affiliates.

On a large scale:

- **Ramming —** is when a customer is charged by an incumbent affiliate for a service they did not order, need, want or can even use.
- **Cramming —** is when a customer is charged for a service from a third-party that uses the billing of the incumbent bill to charge customers for a service they did not order, need, want or can even use, such as the ‘Intuit” web service on this bill.

Part XIV Time Warner and the Social Contract

14.0 The “Social Contract” was an Actual Agreement between the FCC and the Cable Companies.

In the 1990s, the cable companies informed the FCC that they needed rate increases to pay for upgrades of the cable plant for new services, as well as fixing quality-of-service issues. There were over 900 rate cases pending at the FCC by 1995.[365] The original cable franchises were only for one service, 'cable services,' but the companies wanted new revenues from broadband, Internet and even phone service.

In 1995, the FCC created the “Social Contract” — an Order to grant the cable companies financial assistance in the form of additional federally sponsored rate increases, where the cable companies, Time Warner[366] and Comcast[367], among others, could charge basic cable subscribers up to $5 a month extra on cable bills. The Social Contract was supposed to expire in the year 2000. After 2000, there was no oversight or investigations. The companies never lowered their rates to remove this extra federally-added charge on customers’ bills.

We estimate that from 1996 through 2013, cable customers paid approximately $58 billion because of this Order. (Of this, $42 billion of this was charged since 2000.)

In the Social Contract, the companies also committed to bring the Internet to schools in their franchise areas. Schools were all to be given free cable modem service, a free cable modem — and would receive the inside wiring at cost. The Comcast Social Contract states:

> "Comcast will provide a free service connection to each public and private school located within 200 feet of Comcast's activated cable plant. Comcast will provide a service connection at cost to public and private schools beyond 200 feet of its activated cable plant. Comcast will also provide a free modem and free modem service to all such schools within a year after Comcast makes personal computer-based Internet access service via cable commercially available to residential customers. Free cable service, including basic and enhanced basic service, and service offered on migrated and new product tiers, will be provided to all connected public and private schools. ...Additional internal wiring to serve additional outlets in any school will be provided at cost. Such wiring will be provided at no charge if Comcast is able

[365] http://transition.fcc.gov/Bureaus/Cable/Orders/1995/fcc95478.txt ;
[366] http://www.newnetworks.com/Social%20Contract%20fcc95478.doc
[367] http://transition.fcc.gov/Bureaus/Cable/News_Releases/1997/nrcb7021.txt

> to coordinate installation with other comparable electrical wiring installation being done in new or rehabilitated schools." [368]

Moreover, the Time Warner "Social Contract" specifically states that the first modem, (the electronic box designed to let the customer use the Internet), is free, and all of the other modems in the school will be 'at cost.'

> "If requested, each school will receive one free modem to use this service with additional modems provided at cost."

14.1 The Charges Were Supposed to End in the Year 2000 — 14 Years Ago

There has been no formal investigation by the FCC or in the states. We know of no state or cable franchise where the price of basic service went down $5.00 a month to remove this extra fee, above and beyond basic service fees, or where an allowed rate increase took into account the end of the $5.00 charge.

The original agreement was for five years. Time Warner was supposed to spend $4 billion on their networks. According to the Order: [369]

> "The Social Contract is for a term of five years. From 1995 through 2000, Time Warner is required to invest $4 billion to rebuild and upgrade all of its domestic cable systems, including deployment of fiber optic technology, increased channel capacity and improved system reliability and signal quality."

14.2 Calculation on Customers and Charges

With a national average of 63 million customers annually from 1996-2013[370] the estimated Social Contract payments were $280 million dollars extra a month — $3.7 billion a year. By the end of 2013, this means has customers paid about $61 billion extra from 1996-2013. However, $49 billion of this was charged since 2000. Without audits, it is impossible to tell the exact amount. On average, customers paid about $60 a year or about $771 extra since 2000.[371]

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[368] Ibid.
[369] http://transition.fcc.gov/Bureaus/Cable/Orders/1995/fcc95478.txt.
[370] http://www.ncta.com/Stats/BasicCableSubscribers.aspx.
[371] We used the NCTA cable association information for annual subscribers and there was a ramp of charges from 1995-2000. To calculate any cable company, or specifically any franchise, the number of subscribers per year would be needed.

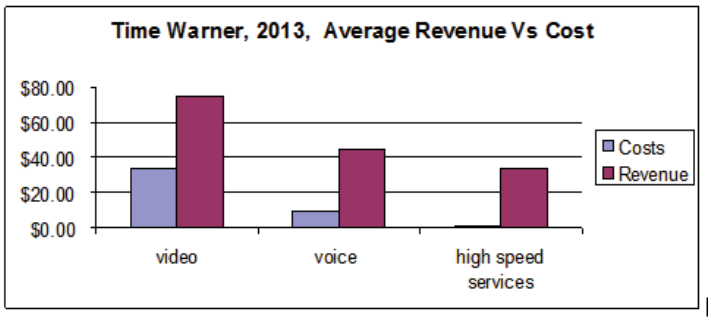
14.3 Schools Wired or “Universal Service” Payments

We could find no detailed analysis in any city of the fulfillment of the Social Contract and the wiring of schools. Moreover, notice the word "requested" in the quote on cable modems. Based on interviews with auditors of school districts' telecommunications bills, including E-Rate recipients, it is clear that most schools were never informed of this option as most schools did not get the free modem and service, much less the rest 'at cost.'[372]

14.4 Time Warner’s Financials: Affiliate Transactions Issues

In that context, we can examine a single cableco’s financials. Time Warner Cable Annual Report information for the year 2012 shows that the majority of expenses are placed in the basic cable and video service financial area, and other services, such as the high-speed Internet service, are paying a fraction of the overall expenses.[373]

Chart 9



14.5 Comparing the Revenues and Expenses

Time Warner’s 2012 Annual Report, shows that high-speed Internet services brought in over $5 billion in 2011, shown in Exhibit 46. Time Warner high-speed data expenses were $185 million annually, as shown in Exhibit 47.

[372] David Schofield, Partner, NSA – Network Sourcing Advisors, Thomas Allibone, President LTC Consulting.
[373] http://www.sec.gov/Archives/edgar/data/1377013/000119312513062081/d483194d10k.htm.

Exhibit 46
Time Warner 2012 Annual Report: Residential Service Revenues
(In the Millions)

REVENUES	2012[a]	2011
Video	$10,917	$10,589
High-speed data	$5,090	$4,476
Voice	$2,104	$1,979
Other	$64	$49
Total residential services	$18,175	$17,093

Exhibit 47
Time Warner 2012 Annual Report: Residential Service Expenses
(In the Millions)

EXPENSES	2012[a]	2011
Video programming	$4,621	$4,342
Employee[a]	$2,865	$2,621
High-speed data	$185	$170
Voice	$614	$595
Video franchise and other fees[b]	$519	$500
Other direct operating costs[a]	$1,138	$910
Total	$9,942	$9,138

14.6 Revenues per Customer Vs Costs.

According to Time Warner's 2012 Annual Report's financials, customers were charged on average $44.07 for high-speed Internet and $34.06 for voice service.

Exhibit 48
Time Warner, Average Costs Charged to Customers, Per Month, 2012

Video	$74.90
High-speed data	$44.07
Voice	$34.06

However, as shown in Exhibit 49, since these costs are incremental, the costs to the company were $1.34 a month to offer the high-speed Internet service, and only $9.46 to offer the voice service, which includes long distance and calling features.

Exhibit 49
Time Warner, Average Costs to Offer Service per Month, 2012

Average monthly video programming costs	$33.60
Average monthly voice costs per voice subscriber	$9.46
Average cost for high-speed services	$1.34

There is another way of looking at this data. The next exhibit shows the profit margins for the services. It cost $33.60 to offer cable and the price to the customer is $74.90, making the profit margin 123% above the costs. The high-speed Internet profit margin is 2,442%, however, if the company charged only $2.68 a month for high-speed service, they would still have 100% profit margin.

Exhibit 50
Time Warner, Costs to Offer, Cost to the Customer Profit Margin, 2012

	Cost To Offer	Price To Customer	Profit Per Customer Item	Profit Margin
Video	$33.60	$74.90	$41.30	123%
Voice	$9.46	$44.07	$34.61	366%
High-speed data	$1.34	$34.06	$32.72	2442%

14.7 Time Warner’s 'Triple Play' Charges to Customers

This next exhibit highlights the total charges as well as taxes, fees and surcharges that appear on a standard Time Warner Triple Play in New York City.[374] This includes basic high-speed Internet service, cable TV service and “Digital Home Phone” service.

[374] http://newnetworks.com/timewarnertripleplaybill.htm

Exhibit 51
Time Warner Triple Play, New York City, 2012-2014
(From Actual Bills)

	June 2012	April 2014	Increase
Equipment			
Package Allocation	$ 0.01		
Remote	$ 0.25		
Converter	$ 9.99		
Total:	$10.25	$ 11.25	9.8%
Internet Modem Lease	$ 2.50	$ 5.99	140%
Advertised Price	$99.00		
All The Best Triple Play			
Digital Home Phone Svc	$23.67	$ 25.15	6%
Basic Service	$12.10	$ 12.63	4%
Standard Service	$26.09	$ 28.47	9%
DTV – (renamed Variety Pass)	$ 6.26	$ 7.22	15%
Package Allocation	$ 0.01	$ 0.01	0%
Standard Internet	$30.77	$ 36.51	19%
Taxes, Fees Surcharges			
Franchise Fee	$3.58	$ 4.34	21%
FCC Regulatory Fee - Cable	$0.09		
Federal Universal Service Fund	$0.90	$ 1.14	27%
State And Local Sales Tax	$1.96	$ 2.30	32%
State And Local Telecom Excise Tax	$1.11	$ 1.17	5%
Regulatory Recovery Fee - State	$0.30	$ 0.59	97%
E-911 Fee	$1.00	$ 1.00	0%
Mctd 186e	$0.15	$ 0.16	7%
Public Access Fee	$0.90	$ 1.23	37%
Regulatory Recovery Fee-federal	$0.21		
state USF – Added 2014		$ 0.02	
Total	**$121.95**	**$156.18**	
Late Fee		$ 8.50	

- The advertised price to customers in 2012 was $99.00, yet the total bill came to $121.95 — an additional 22 percent.

- After one year the total bill went to $156.18, an overall increase of 28%. This includes the ending of the 1-year promotion as well as increases in many of the charges. Some charges, such as the 'Internet modem lease' had a 140% increase.
- We note that the 'late fee' is $8.50 in 2014.

The difference in the advertised price in 2012 to the actual price in 2014 was 56%. The company also notes that buying the Triple Play saved money in 2014. The bill states:

"Enjoy the $28.20 you saved over retail rates this month."

Other charges added to the $99.00 Triple Play are:

- **Cable Set-Top Box** — The Triple Play at $99.00 does not come with the 'set-top box', which is the device that allows you to receive cable service; this adds an additional $9.99 fee.[375]
- **Internet Modem** — The Triple Play at $99.00 does not include cable modem that is required to access on the Internet.
- **Cable Franchise Fee**— "State regulations do not require that there be a franchise fee for cable television service." [376] Most of the cable companies claim that they pay franchise fees when in fact, it is passed through so customers pay additional charges.
- **Regulatory Recovery Fee** — "These charges are not mandated by state or federal authorities and are therefore not charged separately by all telephone companies." [377]
- **Universal Service**— "This line item appears when a company chooses to recover its USF contributions directly from its customers by billing them this charge. The FCC does not require this charge to be passed on to customers." [378]
- **Telecom Excise Tax** — "Unlike the sales tax, the excise tax is imposed on the telecommunications provider, but it may be passed through to the consumers of the service and appear on their monthly bill." [379]

14.8 Implications

Time Warner and Comcast have announced they plan to merge and there will be hearings nationwide to review the current franchise agreements and approve the mergers.

[375] http://newnetworks.com/timewarnertripleplaybill.htm
[376] http://www.tax.ny.gov/pdf/stats/policy_special/telecommunications/2009/taxation_of_the_telecommunications_industry_in_ny_state_october_2009.pdf
[377] http://www3.dps.ny.gov/W/PSCWeb.nsf/All/72BA9EC4CC879AFA85257687006F3AB8?OpenDocument
[378] http://www.fcc.gov/guides/universal-service-program-schools-and-libraries
[379] http://www.tax.ny.gov/pdf/stats/policy_special/telecommunications/2009/taxation_of_the_telecommunications_industry_in_ny_state_october_2009.pdf

It’s All Interconnected.

The Social Contract, the charges on the current Triple Play bills (as well as the advertising), and the revenues and profit from these services are all tied together and bring up a series of issues:

- **Did Time Warner and Comcast Stop Billing the Extra $5.00 per Month after 2000?**

The Time Warner Contract expired in 2000. Did the companies continue to collect the extra $5.00 a month—and if so, why? Shouldn’t the charges have stopped if the contract was over?

- **Did Time Warner and Comcast Wire All the Schools and Libraries in Their Regions?**

Comcast’s contract:

> “Comcast will provide a free service connection to each public and private school located within 200 feet of Comcast's activated cable plant… Comcast will offer 250 public libraries a free cable modem and free unlimited cable modem service through each modem.”[380]

If the companies continued to collect the extra charges, did they continue to supply free services to the schools and libraries, and were those service ‘upgraded’ if the monies were still being collected?

- **Profits on High-speed Services vs the Social Contract**

The Social Contract was also for upgrades of the cable networks. With a profit margin of 2442% for high speed Internet, if the monies were still being collected post 2000, are customers being overcharged to fund massive profits?

- **High-speed Profits Vs What Competitors Would Pay.**

Time Warner’s internal costs for offering high-speed Internet is $1.24 a month. No independent Internet Service Provider (ISP) would be charged only $1.24 a month to offer competitive Internet or high-speed services. These profits clearly indicate that Time Warner is giving its own ISP major financial subsidies and advantages that harm any other competitors.

In the case of Netflix and its ISP, Cogent, or the other competitors whose business requires access and use of the cable networks at ‘competitive prices’, this suggests there is no level

[380] http://transition.fcc.gov/Bureaus/Cable/News_Releases/1997/nrcb7021.txt

playing field for competitors, something that has made the news recently with the deal between Netflix and Comcast.

Wired Magazine's headline summarizes the issue:

"Why the Comcast-Netflix Pact Threatens Our Internet Future"[381]

Simply put, Comcast wants to charge content providers extra to use their networks and they can do this by using their own ISP and broadband services vs competitors offering services.

If customers paid for these upgrades to the cable networks via the Social Contract as an extra 'hidden fee on basic cable service', and NetFlix gets charged more for service, this means that they may raise customers' rates to use Netflix. (As of May 9th, 2014, Netflix has sent out a notice of a $1.00 a month increase.)

- **The Cost of Basic Cable Service vs the Profits of the Cable Triple Play Affiliates.**

With a profit margin of 2243% for high-speed Internet, it may be that, like Verizon, Time Warner has been using changes for the basic cable service to fund most of the expenses for network improvements, while the affiliate services are paying only small incremental costs. This raises the rate of basic cable services, but also doesn't address the fact that the cablecos do not include mandatory, required other parts of the business such as the 'cable-set-top box', (which is now about $10.00 and used to be included in the cost of basic cable service).

This directly harms customers who may just want 'cable service' at a reasonable price.

Recommendations: Every Municipality with a Time Warner or Comcast Franchise Should:

- Require an audit to determine if the Social Contract, at $5.00 a month is still being collected and if so it should be removed and the company should refund excess charges.
- Require a full audit to examine whether all school and libraries were wired and if so what was deployed and if so were they upgraded over the last 14 years.
- If the schools were required to 'request' the service, did the companies' provide adequate notification that these programs are available by the cable companies?
- Audits should also be done of whether the schools and libraries paid extra to other providers for services that could have been supplied for free or at cost.

[381] http://www.wired.com/2014/02/comcast-netflix/

- All charges that are not ‘mandated’ should be removed or included in the advertised price for service.
- The profits of the various services, like and high-speed Internet should be examined to see if the services have contributed revenues at ‘market prices’ or if they are not, is the failure of contributing to the cost of the cable line anti-competitive that harms customers and competition. Also, this audit should include whether the costs to ‘basic rate’ customers have been inflated because the other areas have not contributed their fair share.

APPENDIX 1

Public Utility Law Project of New York, Inc.

The Public Utility Law Project of New York, Inc., is a 501c3 nonprofit organization that has been advocating for universal service, affordability, and customer protection for New York State utility consumers since 1981.

Our mission is to educate the public about its legal rights as utility consumers; engage in research and advocacy; and provide legal representation for low-income utility consumers in electric, natural gas, telephone, and other utility related matters. We also publish a utility law manual as a guide for advocates on utility and energy law issues, and conduct training on preventing utility terminations and the rights of utility consumers.[382]

Gerald Norlander, Esq., Executive Director Gerald Norlander, Esq. joined New York's Utility Project in 1989 and has served as Executive Director since 2000. Previously, Mr. Norlander was Executive Director of Westchester Legal Services and was a Smith Fellow at the Legal Aid Society of Westchester County. He is a member of the bar of the State of New York, three U.S. District Courts, the Courts of Appeals for the Second Circuit and the District of Columbia, and the United States Supreme Court. He received his Juris Doctorate from the University of Minnesota.[383]

David Bergmann, worked as an attorney and then Assistant Consumers' Counsel for the Office of the Ohio Consumers' Counsel, the state's residential utility consumer advocate, for almost 30 years. In 2007 he received the "Outstanding Service Award," the first of its kind, from the National Association of State Utility Consumer Advocates (NASUCA), a non-profit, national organization of state offices in more than 40 states and the District of Columbia designated to represent consumers in state and federal utility proceedings. NASUCA stated that "His passion for helping to protect consumers has spread across the country through his role as a key organizer of federal telecommunications work performed on behalf of the nation's telephone consumers." In 2011, David started Telecom Policy Consulting for Consumers.[384]

[382] http://utilityproject.org/about/
[383] http://utilityproject.org/about/staff-board/
[384] http://www.occ.ohio.gov/news/2007/pressrelease.php?date=11192007

New Networks

New Networks (NN) was established in 1992 and over the last decade has created a team independent experts, auditors and lawyers to work on projects. With our ability to uncover never seen before phone company data, and an unsurpassed telecommunications expertise, New Networks is committed to restructure telecommunications, getting America wired and wireless, bringing back competition, lowering prices and returning customers' rights and the phone companies' obligations.[385]

Highlights: 2012-2014

- In 2012, NN acted as a consultant to Stow Creek and Greenwich, New Jersey communities as Verizon NJ had failed to properly maintain the wires or do any upgrades — and the communities are in a nuclear plant evacuation zone. In 2013, Verizon was forced to wire these towns.
- In 2013, New Networks' report was used as a centerpiece in a FOIL request and a call for an investigation by Common Cause, Consumer Union, Communications Workers of America and Fire Island association pertaining to Verizon's plan to shut off the copper wires and replace it with Verizon Wireless services. We helped Fire Island residents to get Verizon to commit to upgrading Fire Island by Memorial Day, 2014.
- In 2014, New Networks, working with the Public Utility Law Project, has written a new report based on data from Verizon New York.
- New Networks' experts, with the help from outside counsel, have created multiple class action suits and filed comments with the FCC, SEC, IRS and state commissions.

Bruce Kushnick, Executive Director of New Networks has been a telecom analyst for over 30 years. If you ever used a touchtone phone, saw the phone number of the caller or listened to a recording over the last three decades, odds are Bruce Kushnick had something to do with it. In 1985, as Senior Telecom Analyst for IDC/Link, (a subsidiary of International Data Corp), Kushnick's 1985 report (a best seller) predicted that the addition of new technologies and new networks would change the way America used communications. In 1992, Kushnick helped to invent and deploy the first 3-digit phone service, "511" with Cox Newspapers. In 1992, Kushnick also started New Networks Institute; in 2002 Kushnick was one of the founders that established Teletruth, a telecom advocacy group that was a member of the FCC's Consumer Advisory Committee.[386]

[385] http://newnetworks.com/mission-statement/bibliography/
[386] http://newnetworks.com/vita-bruce-kushnick-new-networks-institute/

APPENDIX 2[387]

Verizon New York

Verizon New York Inc. (Verizon New York or the Company) and its wholly owned subsidiaries, Empire City Subway Ltd, Bell Atlantic Communications and NYNEX Long Distance Company are wholly owned subsidiaries of NYNEX Corporation (NYNEX), which is a wholly owned subsidiary of Verizon Communications Inc. (Verizon). Empire City Subway Ltd is primarily in the business of leasing underground conduit in Manhattan, New York (NY) and the Bronx, NY, principally to us, but also to other companies in the telecommunications business. NYNEX Long Distance is a provider of regional toll and long distance services. We currently serve a territory consisting of Local Access and Transport Areas (LATA) in New York, as well as a small portion of Connecticut (Greenwich and Byram only). We have one reportable segment which provides domestic wireline telecommunications services. We currently provide three basic types of telecommunications services:

Verizon Communications, Inc.

Verizon Communications Inc. (NYSE, Nasdaq: VZ), headquartered in New York, is a global leader in delivering broadband and other wireless and wireline communications services to consumer, business, government and wholesale customers. Verizon Wireless operates America's most reliable wireless network, with nearly 103 million retail connections nationwide. Verizon also provides converged communications, information and entertainment services over America's most advanced fiber-optic network, and delivers integrated business solutions to customers in more than 150 countries. A Dow 30 company with more than $120 billion in 2013 revenues, Verizon employs a diverse workforce of 176,800.[388]

Verizon Wireless Inc.

Our operating revenues include transactions with Verizon Wireless Inc. (Verizon Wireless) associated with the provision of local and network access services, billing and collection services and from interconnection agreements. These revenues are earned from Verizon Wireless who provides wireless voice and data services, paging services and equipment sales to their customers.

[387] Verizon New York 4th quarter report, 2010

[388] http://newscenter.verizon.com/corporate/news-articles/2014/04-17-chris-formant-joins-verizon-enterprise-business/

Our operating expenses also include transactions with Verizon Wireless. We recognize costs associated with wireless voice and data services and for interconnection agreements.

Verizon Services

Our operating revenues include transactions with Verizon Services (including Verizon Services Corp., Verizon Services Group and Verizon Corporate Services Group Inc., and Verizon Long Distance) for the provision of local telephone service and for the rental of facilities and equipment.

We have contractual arrangements with Verizon Services for the provision of various centralized services. These services are divided into two broad categories. The first category is comprised of network related services which generally benefit only Verizon’s operating telephone subsidiaries. These services include marketing, sales, legal, accounting, finance, data processing, materials management, procurement, labor relations, and staff support for various network operations. The second category is comprised of overhead and support services which generally benefit all subsidiaries of Verizon. Such services include corporate governance, corporate finance, external affairs, legal, media relations, employee communications, corporate advertising, human resources, treasury, and rent expenses associated with the rental of facilities and equipment. Costs may be either directly assigned to one subsidiary or allocated to more than one subsidiary based on functional reviews of the work performed.

Verizon Operating Telephone Companies

Our operating revenues and expenses include transactions with other Verizon operating telephone companies. Revenues and expenses associated with transactions with these affiliates are primarily earned from the rental of facilities and equipment.

Verizon Data Services Inc.

Verizon Data Services Inc. provides data processing services, software application development and maintenance, which generally benefits Verizon’s operating telephone subsidiaries, including us. We are charged for these affiliated transactions based on proportional cost allocation methodologies.

Other Affiliates

Other operating revenues primarily include miscellaneous items of income resulting from transactions with other affiliates. These transactions include primarily the provision of local and network access services and rental of facilities and equipment.

Verizon Network Funding Corp. and Verizon Financial Services LLC

We recognize interest expense/income in connection with contractual agreements with affiliated companies, Verizon Network Funding Corp. and Verizon Financial Services LLC, for the provision of short-term financing and cash management services.

APPENDIX 3

History of Telecommunications Deregulation in New York (2006-2014) (with links)

The following includes PSC Orders, New York statutory changes, and FCC proceedings.

2006: PSC granted Verizon "substantial pricing flexibility for residential services." Case 05-C-0616 - *Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services*, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings (Issued and Effective April 11, 2006) (Comp III Order) http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={DE5DAC8C-CB50-4CAE-90BE-A5A56DB6DE99}.

2008: PSC granted 10% pricing flexibility for business services. Case 06-C-0897 - *Pricing Flexibility For Verizon's Business Services*, and 07-C-0610 – *Further Amended Tariff Filing of Verizon New York Inc. to Implement Pricing Flexibility for Non-Basic Services*, Order Denying Request for 25% Pricing Flexibility and Allowing For a 10% Increase to Certain Business Rates (Issued January 17, 2008), http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={F4AA9058-5D11-47DB-A380-7A90D895E96E}.

2008: PSC allowed residential basic service rate increases. Case 08-C-0372. *Tariff Filing of Verizon New York Inc. to Increase the Monthly Charges for Residence Local Exchange Access Lines*, Approved as Recommended and so Ordered By the Commission (Issued and Effective June 18, 2008) http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={905E0793-798B-4BE9-A2FE-37465301784A}.

2009: PSC allowed residential rate increases. Case 09-C-0327, *Minor Rate Filing of Verizon New York Inc. to Increase the Monthly Charges for Residence Local Exchange Access Lines (1MR and 1FR) by $1.95 per month*, http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=09-C-0327&submit=Search+by+Case+Number ; Press Release, NY PSC, Verizon Granted Residential Rate Increase (June 18, 2009) https://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/Web/B849A020314983A3852575D900530827/$File/pr09054.pdf?OpenElemen.

2009: In a report released by the FCC at the end of December 2009 entitled "Quality of Service of Incumbent Local Exchange Carriers," Verizon ranked poorly across all of its territories. The report covered the service quality of Verizon (including Verizon GTE, Verizon North, and Verizon South), AT&T (including AT&T Ameritech,

AT&T BellSouth, AT&T Pacific, AT&T). http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-295377A1.pdf.

2010: Verizon asked the FCC for "forbearance" from unbundling requirements in New York City and five other Metropolitan Statistical Areas ("MSAs"), due to the supposed level of competition there. Based on an intervening negative FCC decision for Qwest in Phoenix, Verizon withdrew the application in 2010, and has not renewed it. See http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-10-1665A1.pdf. [389]

2010: The PSC reduced Verizon's service quality standards. Case 10-C-0202, *Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Service Quality Improvement Plan*, Order Adopting Verizon New York Inc. to File a Revised Service Quality Improvement Plan with Modifications (Issued and Effective June 22, 2010) ("Verizon SQIP Order"), http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={871A4F68-1DDA-481C-8B4A-90CCE0D1D90A}.

2011: The PSC allowed Verizon to alter its partial payment allocation process. Case 10-C-0609, *In the Matter of the Petition of Verizon New York Inc. for Waiver of New York Code of Rules and Regulations, Title 16, §§ 606.4 and 606.5, as Modified by July 1, 1992 Settlement Agreement, as Amended, Pertaining to Billing Categories and Partial Payments*, Order Directing Tariff Amendment (Issued and Effective May 19, 2011), http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={BBDB3CC2-7CF7-45C3-9F5B-DD24630F06AF}.

2012: The PSC allowed Verizon, and then others, to curtail delivery of phonebooks to customers. Case 10-C-0215, *Petition of Verizon New York Inc. for Waiver of NYCRR, Title 16, Section 602.10(b) Pertaining to the Distribution of Telephone Directories.* Order Granting Waiver with Conditions (Issued and Effective October 15, 2010) ("Verizon Directory Order"), http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={92CCFF43-305D-4A71-9CA3-3277A4FEC467} ; Case 12-C-0060 - *Petition of Frontier Communications Local Exchange Carriers for Waiver of the Requirements of 16 NYCRR Section 602.10(b) Regarding the Distribution of Telephone Directories.* Order Granting Waiver (Issued and Effective May 17, 2012) ("Frontier Directory Order") http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={92CCFF43-305D-4A71-9CA3-3277A4FEC467} .

[389] The PSC filed comments in that proceeding. See http://apps.fcc.gov/ecfs/document/view?id=6519124399.

2013: The PSC limited the reach of existing service standards. Case 10-C-02, *Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Service Quality Improvement Plan*, Order Resolving Petition and Requiring Further Investigation (Issued and Effective January 18, 2013) (denying Attorney General's request for modification of the SQIP to include all of the Verizon customers, core and non-core, restating that only core customers are in need of additional protections) http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={09F15BF8-0998-428A-958E-DD471A2B8254}

2013: The PSC denied Verizon's request to establish a municipal construction surcharge. Case 13-C-0145, *Tariff Filing by Verizon New York Inc. to add a Municipal Construction Surcharge*, Order Denying Tariff Filing (Issued and Effective May 16, 2013), http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7BC8CDB490-4D49-42F5-B037-008E4A2411EA%7D

2013: PSC Staff reports viewed Verizon service quality under the SQIP in the negative. 2013 Verizon SQ: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7B3DADCB12-4CAB-47BB-A117-3F75DC8D1EAD%7D

2013: After the 2012 impact of Superstorm Sandy, the PSC allowed interim approval for Verizon's plans to transition its wireline customers on Fire Island to wireless service, but later cancelled a Verizon report after Verizon said it would put FiOS onto Fire Island. http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={D48D09CF-FBFD-464F-93A8-A31039861D76} The PSC opened a generic docket on telecom carriers' responses to such disruptive events. Case No. 13-M-0025, *In the Matter of Outages Caused by Superstorm Sandy*, Report on Telecommunications Network Following Superstorm Sandy. http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={5902AAA4-774E-4ECC-9877-0B31E6EF8126}.

2013: Post- Sandy, the PSC allowed Verizon to be exempt from penalties for 24-hour service outages. Case No. 10-C-0202, http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={6C227099-F923-4583-ABCD-CB005314A34A}

2013: Public Law 92-g enacted; allows deregulation of non-basic service. http://www3.dps.ny.gov/W/PSCWeb.nsf/All/49C70372D3F0C00285257C5500586A23?OpenDocument .

It’s All Interconnected.

2014: Budget bill would have allowed PSC to “forbear from” telecom regulation.
http://publications.budget.ny.gov/eBudget1415/fy1415artVIIbills/TEDArticleVII.pdf.