

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on April 18, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 10-C-0202 - Verizon Service Quality Improvement Plan -
Waiver Relating to November and December 2012
Performance.

ORDER GRANTING REQUEST

(Issued and Effective April 19, 2013)

BY THE COMMISSION:

INTRODUCTION

On February 28, 2013, Verizon New York Inc. (Verizon or the Company) requested that the Commission forego institution of a penalty action for failure to comply in November and December 2012 with the Out-of-Service Troubles Lasting Greater than 24 Hours (OOS>24) repair metric in the Company's Service Quality Improvement Plan (SQIP)¹ applicable to core customers in its New York City, Long Island and Midstate regions. The Company ascribes the cause of its non-compliance to the

¹ Case 10-C-0202, Verizon New York Inc. - Service Quality Improvement Plan, Order Adopting Verizon New York Inc.'s Revised Service Quality Improvement Plan with Modifications (issued December 17, 2010) (SQIP Order).

devastating damage and destruction resulting from Hurricane Sandy. It claims that its compliance failures are the inevitable result of the disruption caused by Hurricane Sandy, occurred during a severe storm when service standards are suspended under Commission rules (16 NYCRR §603.1(c)), and knowing failure, or neglect, of its obligations, required for a penalty action (Public Service Law §25), did not occur.

In this Order, we grant the Company's request. It is acknowledged that an unprecedented storm caused unusual and pervasive devastation that severely damaged and destroyed the Company's infrastructure. It established a crisis situation that required substantial emergency response and restoration to the entire customer base in the New York City, Long Island and Midstate regions. Under these conditions, our exemption from the OOS>24 repair metric designed to govern during normal operations (16 NYCRR §603.1(c)) would apply and we would not impose a penalty for failure to achieve the OOS>24 repair metric specifically for core customers. Verizon substantially augmented its work force and has maintained the high work force levels; it deployed its technicians for 12 hour and 7 day, or 10 hour and 6 day, work weeks through the end of December; and, it provided work-arounds to supply telecommunications capability to its customers and replaced facilities with fiber optic cable to improve service.

We conclude that, in November and December, 2012, Verizon restored service to its core customers, in an effective manner. Given the destruction in the aftermath of Hurricane Sandy, under our rule, the OOS>24 repair metric for core customers should not apply, and we will not pursue any penalty for failure to comply with the OOS>24 repair metric for core customers after Hurricane Sandy.

BACKGROUND

The OOS>24 repair metric measures monthly percentage of out-of-service reports, or troubles, that are not resolved, or cleared, in 24 hours; the monthly performance standard for each of the five Verizon regions is 20% or less unresolved troubles (16 NYCRR §603). The Commission's rules provide that service quality standards apply to quality of service under normal operating conditions and do not apply to performance achieved during periods of emergency, catastrophe, natural disaster, or severe storm affecting large numbers of consumers (16 NYCRR §603.1(c)). Verizon's SQIP OOS>24 repair metric reports indicate that the Company missed the metric in November in its New York City (28.17%), Long Island (27.15%) and Midstate² (23.92%) regions and in December in its New York City (30.23%) and Long Island (24.50%) regions.

The Commission adopted its SQIP Order because of Verizon's declining service quality during the transition to a competitive market. It concluded that modernization of service quality standards was reasonable in recognition of the availability of competitive alternatives and customer choice among providers; a focus on core customers would make possible protection of the most vulnerable customers or customers without competitive alternatives; and, the limitation to customers requiring protection the most was necessary, in view of declining resources as Verizon continues to lose market share and revenues to cable and wireless alternatives.

Given Verizon's declining repair performance, the Commission explicitly incorporated penalty provisions pursuant

² Westchester, Putnam, Orange, Rockland, and part of Dutchess Counties.

to PSL §25(2)³ in the SQIP. Under PSL §25(2), if Verizon fails to meet the monthly 20% OOS>24, or SA>48, threshold in any region, we determined that we would issue an order to show cause why the Commission should not institute a penalty action pursuant to PSL §25.⁴

As of December 31, 2012, Verizon served approximately 298,346 core customers, or about 7.7% of Verizon's 3,877,247 total customers. The SQIP defines core customers as Lifeline customers; special needs customers, that is, elderly, blind, or the disabled; and business and residential customers living in areas lacking competitive wireline alternatives to Verizon service. Approximately 129,830 core customers are located in New York City, 15,824 in Long Island, and 15,653 in Midstate. The average percentage of core customers in Verizon's service territory has ranged between 7.7% and 8%, since the initiation of its SQIP in March 2011. Essentially, core customers are dropping off Verizon's system at the same rate as its other customers, so that the ratio of core to non-core customers remains stable over time.

PETITION

The petition states that Verizon's failure to comply with the OOS>24 standard is a direct result of the devastating damage that Hurricane Sandy caused to people and structures, including the Company's central offices and outside plant facilities. It states that its inability to repair service for more than 20% of its core customers is the consequence of

³ PSL §25(2) allows for a \$100,000 penalty per occurrence if the company knowingly fails or neglects to obey or comply with an order adopted under authority of this chapter.

⁴ SQIP Order, p. 18.

destruction caused by Hurricane Sandy and not the result of knowing failure or neglect of the company's obligations, as PSL §25 requires. It notes that, under Commission rules, service quality standards relate only to quality of service under normal operating conditions and do not establish performance levels for periods of natural disasters or severe storms (16 NYCRR §603.1(c)). It points out that the Commission previously granted waivers of the OOS>24 standard under SQIP in 2011 following Hurricane Irene and other events. The Company claims that it responded rapidly and effectively to the challenges posed by Hurricane Sandy, made significant headway against the huge backlog of troubles, and significantly mitigated the storm's impact on its customers. Verizon advances several arguments in support of its claims: (1) severity of Hurricane Sandy; (2) impact of Hurricane Sandy on Verizon's activities and facilities; (3) impact of Hurricane Sandy on trouble reports and maintenance load; (4) challenges to recovery; (5) response to the disaster; and (5) trouble clearing performance.

Hurricane Sandy's Destruction

Verizon describes the hurricane-strength wind gusts, flooding, highest tides, and unprecedented storm surge in New York City and Long Island and the tropical storm force winds in the Midstate region. It provides extracts from several news reports and press releases issued by Governor Andrew Cuomo describing the scope and scale of the damage that Hurricane Sandy causes.

Verizon's Facilities

Verizon states that, as of October 20, 2012, 1.7 million customers lost commercial power; after electric companies began to repair their facilities, on November 4, 2012, 500,000, customers remained without power and, on November 11, 2012, 150,000 customers remained without power. Four of its

central offices (three in the New York City area and one in the Long Island region) went out of service due to severe flooding and were restored to operation by November 9, 2012; as of October 31, 2012, 71 central offices (5 in New York City, 40 in Long Island, and 26 in Midstate) used generators for power.

The list of destroyed and damaged facilities includes: 132 major cable failures, involving at peak 9,000 trouble reports; and between 2,000 and 3,000 minor cable failures with some 10,000 to 12,000 additional trouble reports. Over 4,800 drop wires and 1,000 poles were down, as of November 10, 2012; dozens of remote terminals exchanging traffic between fiber feeder and copper distribution plant switched to battery or generator power or went dead; on November 1, 2012, over 200,000 FiOS Optical Network Terminals were out of service.

Widespread destruction of aerial plant due to high winds is the primary cause of outages in the largely non-coastal Midstate region. The erosion of copper cables due to saltwater immersion from coastal flooding in the worst hit areas of New York City and Long Island resulted in destruction of the Company's facilities.

Trouble Reports and Maintenance Load

Verizon asserts that the massive destruction of its facilities led to unprecedented levels of service problems for its customers. OOS troubles spiked significantly for core customers, compared to the 2012 average prior to the Hurricane; and, a massive influx of trouble reports from the entire customer base poured into Verizon. The Company notes that, in November, its statewide maintenance load increased two to three times above normal in early November, its New York City load more than doubled, its Long Island and Midstate loads more than tripled. These loads declined to roughly normal levels at the end of December, after completions of restoration work.

Verizon's remaining appendices submitted to its petition graph the moving averages of incoming and completed maintenance load and impact on each day's maintenance load.

Recovery Challenges

Verizon states that the magnitude of the challenge of restoring its facilities resulted from a number of factors. Service restoration efforts could not begin until electric utilities restored power and eliminated dangers from downed electrical lines; storm damage made it difficult, if not impossible, to obtain access to customers' premises or terminals; many buildings remained uninhabitable; flooding damaged equipment in many apartment or office buildings; and, the Company needed unusually large quantities of supplies (multiplexers and cables) to replace its severely damaged or destroyed facilities.

Recovery Response

Verizon states that it augmented its workforce by declaring a state of emergency under its collective bargaining agreements on October 31 in Manhattan, Queens and Staten Island, extended on November 3 to the remainder of New York City, Long Island and the Midstate area. This declaration provided greater flexibility to require overtime work and enabled installation, maintenance and construction technicians to work 12 hours per day, 7 days a week. On November 27, the Company cut back the hours to ten hours a day, six days a week, except for Midstate, moving to eight hours a day, six days a week. The declaration continued up to the year-end holiday period (December 22, 2012). The Company reassigned workers from outside the affected area, approximately 650 technicians from November 6 to December 22, 2012.

As an interim remedy, Verizon distributed over 2,900 Home Phone Connect devices allowing a customer to make and

receive calls over the Verizon Wireless network, while remaining a Verizon customer. It provided a 1,000 Verizon Jetpack Mobile Hotspots, providing 4G broadband connectivity, for connection of up to ten devices at once. It provided free call-forwarding to alternative locations to over 7,000 customers and small business lines. It initiated a plan to replace severely damaged or destroyed copper facilities with new fiber optic lines.

Trouble Clearance

Verizon states that, through use of overtime and diversion of resources from less-impacted areas, Verizon achieved close-out rates of two to six times normal levels. After an initial delay, Verizon states that after an initial delay due to access issues and power outages, the Company's restorations ramped up to keep pace with the incoming load and succeeded in resolving service troubles down to closer-to-normal levels at the end of December.

DISCUSSION

No doubt the immensity of Hurricane Sandy and its destructive aftermath caused severe damage to Verizon's facilities and loss of service to thousands of customers. The extent of the damage to electric utilities, the State's infrastructure and residential and business structures impeded at first, and then slowed, the restoration of service to all Verizon's customers, including core customers, located in the New York City, Long Island and Midstate regions.

Under these conditions, it is reasonable to recognize that the natural disaster and storm exemption (16 NYCRR Part 603.1(c)) is triggered to suspend the application of the Commission's OOS>24 repair metric to core customers during November and December 2012. Similarly, we will not require the penalty established for failure to comply with the OOS>24 repair

metric for core customers for November and December 2012, due to the abnormal conditions confronting Verizon in its efforts to restore service.

The prioritization of core customers for service works effectively in normal operating conditions. During storm conditions, Verizon is required to evaluate and prioritize the restoration of its services to a number of critical customers, including core customers, hospitals, and first responders.

Verizon is obligated to return core customers specifically and its entire customer base to normal service as quickly as possible after a major storm. The evidence presented and evaluated by the Department of Public Service Staff (Staff) indicates that: Verizon acquired and maintained a substantial workforce very quickly to restore service and has continued to retain a high level of service technicians through mid-March 2013; a declaration of an emergency enabled the Company to require overtime in November and most of December 2012 to assist in service restoration. The Company provided wireless service devices to its customers to continue telecommunications service and, to establish a more advanced network, it embarked on a major deployment of fiber optic cable to replace the damages and destroyed copper network. Accordingly, we determine that these factors support our conclusion that Verizon took actions to accelerate restoration of service in the aftermath of significant damage and destruction to its network, that the enormity of the trouble reports and magnitude of the storm response prevented the Company from complying with the OOS>24 repair metric for its core customers, and that no penalty is warranted for this failure to comply.

The Commission orders:

1. Verizon New York Inc. is exempt from compliance with the standard for service repairs within 24 hours for its core customers in the aftermath of Hurricane Sandy for the month of November 2012 in the New York City, Long Island, and Midstate regions and for December 2012 for the New York City and Long Island regions.

2. This proceeding is continued.

By the Commission,

(SIGNED)

JEFFREY C. COHEN
Acting Secretary