

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on January 15, 2009

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman  
Maureen F. Harris, dissenting in part  
Robert E. Curry, Jr.  
James L. Larocca

CASE 08-V-0835 - In the Matter of Verizon New York Inc.'s Network  
Review Plan.

ORDER REQUIRING CHANGES TO THE  
NETWORK REVIEW PLAN SUBMITTED BY VERIZON NEW YORK INC.

(Issued and Effective January 29, 2008)

BY THE COMMISSION:

INTRODUCTION

In response to concerns regarding grounding and bonding of its fiber-to-the-premises service (FiOS), Verizon New York Inc. (Verizon) submitted a Network Review Plan (Plan) to remediate past installations and better manage its installations prospectively. On November 3, 2008, we issued an Order (November Order) approving the Plan with modifications intended to address the remediation of non-conforming past installations and also improve the quality of future installations.

On November 21, 2008, Verizon filed its Revised Network Review Plan (Revised Plan). This order finds Verizon's Revised Plan is not compliant with the November Order and directs Verizon to make further modifications to its Plan.

BACKGROUND

On July 15, 2008, in response to staff's concerns, Verizon submitted a Plan to remediate deficient past installations, require inspections of new FiOS installations and provide additional training for its technicians. The Commission sought public comments on the Plan, and held a technical conference to assist parties in formulating their comments. In our November order we strengthened the original Plan by requiring the following modifications:

1. All new installations are to be inspected in any month and region that fail to meet performance thresholds (95% compliance with safety regulations and 100% presence of a ground and bond).
2. For installations found to have no ground, the remediation period is shortened to 10 days.
3. Verizon is to file a revised sampling procedure for new installations.
4. We will require enforceable milestones for the remediation of past installations.
5. For no access situations more specific customer notification requirements are set forth.

Verizon filed its Revised Network Review Plan (Revised Plan) on November 21, 2008.

DISCUSSION

In the original Plan Verizon committed to using its best efforts to ensure that, on a monthly basis, 95% or more of new installations comply with its installation procedures for grounding. There was no requirement, however, to conduct full inspections within a market area as a consequence of failing to meet the standard in any month. In addressing the scope of inspections, the November Order found that a more aggressive inspection program was needed to ensure that new installations

were meeting quality thresholds. The November Order also established an additional threshold requiring inspection and remediation of all installations in any month and region that fail to meet those thresholds.

Verizon's Revised Plan incorporates the new performance thresholds as well as conditions by which full inspection in a failing market area could be avoided based on a demonstration to the Director of the Office of Telecommunications, upon review of a root cause analysis, consistent with the November Order<sup>1</sup>. However, because Verizon's Revised Plan "adopts the following Network Review Plan as a *prospective* modification to the Plan", an issue arises as to whether Verizon's failure to meet performance thresholds during the months after August 1<sup>st</sup> and before the issuance of the November Order would require inspection of all new installations in the market areas that failed. In discussions with staff, Verizon has indicated that it does not intend to inspect all new installations in market areas that failed the thresholds (i.e., 95% compliance and 100% presence of a ground and bond) in August, September, October and part of November.

Our goal, expressed in the November Order, is to improve the quality of all FiOS installations and ensure that they provide safe and adequate service. In the November order we modified the Plan as filed by Verizon to that end; we also adopted a basic distinction, proposed by the Company, which provided for remediation of past and new installations.<sup>2</sup> Under the Plan, the term "new installations" was defined as those

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<sup>1</sup> Verizon's Revised Network Review Plan, at §§8(a) and 8(b).

<sup>2</sup> November Order, p. 3.

installations done after August 1, 2008 and "past installations" are those done before August 1, 2008.<sup>3</sup> The November Order similarly defines "new" installations as those made after August 1, 2008 and establishes that all new installations that fail our modified thresholds are to be inspected in any month and region.<sup>4</sup> Having adopted the distinctions between "new" and "past" installations and the definition of "new installations," it is clear that we intended that our modifications for full inspections in any month and region were to apply as of the effective date of the Plan, August 1, 2008. Verizon's Revised Plan, however, fails to give the term "new installation" its proper meaning and creates a significant gap in the levels of protection afforded by the November Order by excluding installations done after August 1, 2008 and before the release of our November Order.

Verizon's interpretation of the requirement, to implement the revised performance thresholds and associated consequences only prospectively, essentially makes the Plan unaccountable for poor performance in certain market areas for August, September, October and part of November's installations.<sup>5</sup> While gradual improvement in performance over the life of the Plan is expected, disqualifying installations which occurred during the Plan's initial months, while it was being evaluated and considered for approval, would prevent a significant number of customers from benefiting from the protections intended in

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<sup>3</sup> Id. at §1.

<sup>4</sup> See November Order, pp. 7 and 24

<sup>5</sup> The impact of this decision would be the inspection of 28,000 ONTs installed during the first three months of the Plan.

the approved Plan. Because of the significant level of non-compliant new installations observed in August, September and October,<sup>6</sup> it is important that all installations in certain market areas be inspected.

We disagree with Verizon's assertion to staff that the revised approach should not apply to the failed August, September, October and November installations. Requiring those installations to be inspected pursuant to the regime established by our November Order is consistent with the plain language of the Plan, noted above, and assures that installations made during that time should properly be subject to the same safety requirements as the others.

Therefore, we require Verizon to modify the Revised Plan to clarify that the requirement that all new installations be inspected in any month and region that fails to meet the ordered performance thresholds, is applicable to monthly new installation performance since August 1, 2008. The Company should also modify its database and all previous and future monthly reports to the Department so that performance is measured and reported pursuant to the revised performance thresholds since August 1, 2008. The reported information should include the number of new installations required to be inspected by market area for failure to meet the revised thresholds.

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<sup>6</sup> In August, 15 of the 16 market areas failed the approved thresholds; in September, 7 of the 16 market areas failed the approved thresholds; and, in October, 6 of the 16 market areas failed the approved thresholds.

The Commission orders:

1. Verizon New York Inc. shall file a revised Network Review Plan consistent with the foregoing order by February 6, 2009, and shall serve the filing on the active parties in this proceeding.

2. Verizon shall specify in its Revised Network Review Plan that the requirement that all new installations be inspected in any month and region that fail to meet the revised performance thresholds applies to monthly performance since August 1, 2008, the Plan's inception date.

3. Verizon shall modify its database and the monthly reports it submits to the Department so that performance is measured and reported pursuant to the revised performance thresholds since August 1, 2008, for each market area.

4. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING  
Secretary